

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 1<sup>st</sup> December, 2021

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

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

### PRAYER

### COMMUNICATIONS FROM THE CHAIR

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I have two communications to make.

#### ACKNOWLEDGEMENT OF HON. WAHOME, SPEAKER OF NYANDARUA COUNTY ASSEMBLY, IN THE SPEAKERS GALLERY

I would like to acknowledge the presence in the Speaker's Gallery this afternoon of the Speaker of Nyandarua County Assembly, Hon. Wahome who is also the Chairperson of the County Assemblies Forum.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to him and on behalf of the Senate and on my own behalf wish him a fruitful visit.

*(Applause)*

#### VISITING DELEGATION OF STAFF FROM NAROK COUNTY ASSEMBLY

Hon. Senators, secondly, I have a communication to make on a visit by staff from the County Assembly of Narok.

I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff from the County Assembly of Narok. The delegation is at the Senate for one week on a benchmarking visit. I request each member of the delegation to stand when called out so that they can be acknowledged in the Senate usual tradition. The staff are:

Mr. Sankalo Gilisho

Ms. Mary Kimbita

Ms. Irine Saitoti

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Ms. Esther Njenga  
Faith Konyo  
Andrew Lopowos  
Joshua Yegon  
Sylvesta Mael

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

*(Applause)*

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

**Sen. Madzayo:** Asante, Bi. Spika wa Muda. Pia mimi nataka niungane na wewe kwa kuwakaribisha wageni kutoka upande wa Narok, na kusema kwamba, wote waliokuja kujifundisha hapa na kujionea yanayoendelea hapa ndani ya Bunge la Seneti ni mambo ambayo ninauhakika wakati wowote wakirudi nyumbani wataweza kutafakari na kujua ya kwamba waliweza kupata faida ya kuja kutembelea Seneti.

Ni jambo nzuri kuona watu kutoka Narok wamefika hapa leao. Wakati mwingi ni watu wa Nairobi ambao huja hapa. Watu wa kutoka kaunti kama ya Narok, Kilifi na kwingine, ni nadra kwao kupati nafasi kama hii ya kuja kutembelea Bunge la Seneti. Kwa vile ndugu yangu Olekina ambaye ni swahiba wangu mkubwa hayuko hapa, nachukua nafasi hii nikijua ya kwamba angekuwa hapa yapo mengi angeyasema.

Hata hivyo, nitasema Narok *is a great county*. Ni kaunti moja katika Kenya ambayo iko na ushupavu. Ndani ya Bunge, inaongozwa na Sen. Olekina kama Seneta wa Narok. Kuna umuhimu kutambua kwamba utendakazi wake ndani ya hili Bunge la Seneti ni wa hali ya juu sana. Kila akisimama hapa yeye anatetea watu wa Narok.

Ningependa kuunga mkono kwa usema ni wazo nzuri kwa wafanyakazi wa Bunge la Kaunti ya Narok kuja katika Bunge la Seneti ili kujionea mambo yanavyoendeshwa. Asante sana nikitumaini ya kwamba, watakapokuwa wakirudi nyumbani watakuwa wamejifundisha mengi kutoka kwa Bunge la Seneti.

**Sen. Malalah:** Asante sana, Bi. Spika wa Muda. Nilikuwa nimebonyeza kuchangia Hotuba ya Rais, lakini vile umenipatia nafasi, siwezi kukataa kumkaribisha Spika Wahome, ambaye pia ni Mwenyekiti wa Kongamano la Baraza za Maspika.

Pia ningependa kuwakaribisha wafanyikazi wa Bunge la Kaunti ya Narok hapa Seneti.

Kazi kubwa ya Seneti ni kutetea ugatuzi. Mwaka wa 2010 tulipitisha Katiba iliyotupa mamlaka sisi kama nchi kuakikisha ya kwamba rasilimali zimepelekwa mashinani kutumiwa na serikali zetu za gatuzi.

Ni muhimu kwa Seneti na bunge za kaunti kufanya kazi pamoja ili kuendeleza ugatuzi. Ninamhimiza mwenye kiti wa Kongamano la Maspika ya Bunge za Kaunti kuhakikisha wabunge wa kaunti wanafanya kazi yao vizuri ili kuinua hadhi ya bunge zao. Hii ni kwa sababu wabunge wa kaunti hawajibebi na hadhi inayofaa mbunge ambaye amechaguliwa na wananchi. Ninasema hivi kwa sababu wakati mwingine wanapigana na kuvuana nguo katika bunge zao.

Ingekuwa vyema kama tungekuwa na mpangilio fulani ambao ungekuwa unaleta Seneti na bunge za kaunti kufanya kazi pamoja na kujifunza. Mimi nilianza kama

mbunge wa Kaunti ya Kakamega. Nilikuwa naibu wa spika. Kuna changamoto nyingi sana ambazo wabunge wa kaunti hupitia. Sisi kama Maseneta tunafaa tuwasaidie ili waweze kufanya kazi yao vizuri.

Mabunge za kaunti ni jukwaa nzuri ambayo inaweza kusaidia kukuza uongozi wa viongozi siku za usoni. Nimesema nilikuwa mbunge wa Bunge la Kaunti ya Kakamega na sasa hivi mimi ni Seneta. Hapa katika Seneti nimejifunza mambo mengi ya ugatuzi. Mwaka ujao nitawania kiti cha ugavana cha Kaunti ya Kakamega. Kwa hivyo, bunge za kaunti ni jukwaa inayokuza uongozi wa kila ngazi au kiwango chochote. Ninawahimiza MCAs wetu wajue jukwaa hii siyo ya mzaha na wanatakiwa kufanya kazi yao vizuri. Ni jukwaa linakupa mtu tajriba ya kutosha ya kuwania viti vingi hapa nchini baadaye.

Mwisho kabisa, wakazi wa Narok, sisi tunakaa hapa na Mhe. Madzayo na Mhe. Olekina. Hamkufanya makosa kumchagua Seneta wenu kwa sababu yeye hutetea haki zenu na kushughulikia matakwa yenu kwa moyo wake wote. Jambo lolote ambalo linafanyika hapa kwenye Seneti na ambalo linahusu watu wa Narok na jamii ya Wamasai kwa kumla, yeye hakosi kuchangia. Endeleeni kumshika mkono kwa sababu yeye ni kiongozi ambaye atasaidia nchi hii siku za usoni

Bi. Spika wa Muda, kwa hayo machache, ninawakaribisha wageni wetu katika Seneti. Mwenyezi Mungu awabariki sana.

**The Temporary Speaker** (Sen. Pareno): Asante kwa kukaribisha wageni wetu kwa lugha nzuri ya Kiswahili. Lugha ya baba na mama.

*(Laughter)*

So, we move to the next Order.

## MESSAGE FROM THE NATIONAL ASSEMBLY

### PASSAGE OF THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 68 OF 2019)

**The Temporary Speaker** (Sen. Pareno): This was supposed to be a message from the National Assembly, but we will defer it.

*(Message deferred)*

So we move to the next order.

## PETITIONS

**The Temporary Speaker** (Sen. Pareno): A Petition by Committee on Labour and Social Welfare.

### REPORT ON PETITION: STATE OF THE INUA JAMII PROGRAMME

Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by Mr. Taratisio Ileri Kawe regarding the state of the Inua Jamii Programme.

**The Temporary Speaker** (Sen. Pareno): I see that properly we do not have the Chairperson or any Member of the Committee on Labour and Social Welfare. So, we go the next Petition.

*(Petition deferred)*

REPORT ON PETITION: THE RECRUITMENT AND REMUNERATION  
OF EARLY CHILDHOOD DEVELOPMENT EDUCATION (ECDE)  
TEACHERS IN KERICHO COUNTY

Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by Residents of Kericho County and Members representing Early Childhood Development Education (ECDE) Teachers' Association concerning the recruitment and remuneration of Early Childhood Development Education (ECDE) Teachers in Kericho County.

*(Petition deferred)*

PARALYSIS OF OPERATIONS AT NYANDARUA  
COUNTY ASSEMBLY

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, we are reporting on a Petition to the Senate Concerning paralysis of the operation of the County Assembly of Nyandarua.

Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by Hon. James Wahome Ndegwa EBS, the Speaker of Nyandarua County Assembly, concerning paralysis of the operations of the County Assembly of Nyandarua.

As you are aware under Article 119 (1) of the Constitution says:

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

Hon. Senators, the salient issues raised in the said Petition are as follows:

- (1) That on 14<sup>th</sup> December, 2020, Members of the County assembly (MCAs) of Nyandarua were summoned by Governor Francis Thuita Kimemia to convey a message to the Speaker of Nyandarua that the Speaker of Nyandarua was required to be removed from his office with effect from 24<sup>th</sup> December, 2020.
- (2) That the Governor required the Members of County Assembly to sign a Motion of impeachment to remove the Speaker from Office. However, some MCA signed while others declined.
- (3) That the three Motions were filed and moved to impeach the Speaker on 8<sup>th</sup> January, 2021, 8<sup>th</sup> February, 2021 and 8<sup>th</sup> May, 2021. However, the Court intervened and determined that the Motions did not meet the threshold in terms of requisite numbers, that is constitutional and statutory thresholds. To this effect, the resolutions were stayed pending determination and hearing of the Petition by the Speaker of the County Assembly.
- (4) That several Court Orders on the operations of Nyandarua County Assembly have been issued all of which have not been adhered to by Governor Francis Thuita Kimemia and his supporters in the County Assembly.

(5) That under the patronage of Governor Francis Thuita Kimemia, all the police agents in the county, including the County Commissioner, have ensured that the Speaker together with the Members of the County Assembly aligned to him and almost the entire staff establishment cannot access the Assembly buildings, their offices and Chamber thereof.

(6) That the security agents have been allowing armed thugs/goons into the County Assembly building and Chamber with the intention of causing harm to the Speaker.

(7) That the security agents have ensured that the County Assembly Service Board cannot have the contracted security firm operate at the Assembly and have also denied the Board to implement its resolutions to change the locks at the Assembly building and Chamber as the keys thereof are in the hands of strangers.

(8) That the person in charge of the County Government Press, Mr. Mwendwa Njoka who Governor Kimemia boast of having employed, has been allowing complete strangers to publish illegal and unauthorized information which is causing more confusion in the Assembly and the entire County Government.

(9) That with the help of the Governor of Nyandarua County and the police, the Speaker's official vehicle and that of the Clerk Mr. Gideon Muchiri are being driven by strangers without an insurance cover and under the escort of the police. The vehicles assigned to the Speaker is being used by the Governor's family while that of the Clerk is being used by the Deputy Speaker who are not authorized to use them. This has been reported at the Ol Kalou Police Station and to the Government vehicle check unit, but no action has been taken so far.

(10) That the entire County Government of Nyandarua under the Governor has been criminalized and the Constitution, the Law and the court orders do not apply.

(11) That the Speaker, Members of the County Assembly, the board and staff have not had salaries and other allowances for the last four months and others for as many as ten months as Governor Francis Kimemia has restrained his County Executive Committee Member (CECM) for Finance and Economic Development from forwarding the same to the Controller of Budget.

(12) That it is expected that for the few months that the Speaker, the Board and the Clerk had been illegally kept away from the Assembly, there has been massive looting and misappropriation of public funds running into hundreds of millions of Kenya shillings.

(13) That efforts have been made to have this matter resolved, but have not been successful.

The Petitioner, therefore, prays that the Senate investigates these issues and -

- a. Intervenes and ensure that the County Assembly of Nyandarua resumes normalcy and operates at optimum as the same has remained locked down since 29<sup>th</sup> April 2021 and has operated illegally and against court orders for the very few times that it has sat.

- b. Determine the circumstance under which security officers contracted by the County Assembly of Nyandarua were removed from their offices and replaced by police officers sent by the Governor.
- c. Determine the circumstances under which the Government Printer published in the *Kenya Gazette* notices in relation to the operations of the County Assembly that were signed by unauthorized persons.
- d. Conduct a financial audit of both arms of the County Government of Nyandarua, including the status of the office the County Secretary which is held in acting capacity by a person not employed by the County Government.

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. Madzayo:** Asante, Bi Spika wa Muda, kwa kunipa nafasi hii. Ni jambo la kusikitisha sana katika hii *Petition* ambayo imeletwa hapa katika hili Bunge la Seneti.

Nawapa kongole wale waliokuwa na imani na nguvu ya kuona ya kwamba ni lazima jambo hili lifike katika Bunge la Seneti. Seneti itaangalia yale maovu yanayotendwa na Gavana akijifikiria ya kwamba hakuna sheria. Anafikiri yeye ndiye sheria ya mwisho. Kuna sheria na watu wa huko Nyandarua wako na imani nayo.

Ni jambo la kusikitisha kuona ya kwamba mtu anaweza kusimamisha kaunti nzima kutoendelea kwa sababu. Ukisimamisha *County Assembly* ni kama umesimamisha kaunti ya Nyandarua na hakuna kazi yoyote itakayo endelea bila idhini yake. Hauwezi, hata kidogo, kusimamisha matendo ama vile Bunge itakavyofanya kazi yake.

Ni jambo la aibu au kusikitisha kuona ya kwamba watu ambao ni majangili, wasiofanya kazi pale au kuhusika pia wamepeva nafasi ya kwenda ndani ya maofisi, kuangalia, kutembea na kufanya vile wanavyotaka.

Hakuna sheria inayokubalia gari ya Spika kutumiwa na wananchi ambao hawafanyi kazi ndani ya bunge ya kaunti ama bila idhini yake. Haiwezi kutumika kwa sababu gavana amesema itumike na mtu fulani.

Kuna mengi ambayo yameweza kutanguliwa katika hiyo *Petition*. Tunaona kunao umuhimu wa Bunge la Seneti kuingilia kati na kuchukua hatua kuona ya kwamba hilo Bunge la huko nyumbani limeweza kurudi katika hali yake ya kawaida na kuendelea kusaidia wananchi.

Asante, Bi Spika wa Muda.

**The Temporary Speaker** (Sen. Pareno): Sen. Cherargei.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker, for this opportunity. The relationship between a County Assembly and the County Executive must be always complimenting each other.

The design of the Constitution and the devolution architecture was to ensure that County Assemblies and Executives work together in harmony. They do not need to be antagonistic. What we are witnessing in Nyandarua County is not the intention of the devolution for both County Assemblies and Executives operations.

Madam Temporary Speaker, I hope the relevant Committee will look into this matter. It is the Committee of Devolution and Intergovernmental Relations, so that we really understand what is happening. If the county government or County Executive led by Governor hon. Kimemia is the one that is blocking the County Assembly of

Nyandarua from functioning, then there is a problem. It could be the Governor is uncomfortable and thinks that it is a threat if the County Assembly functions.

We really need to know why even the property that is supposed to be used exclusively by the County Assembly Speaker is being directed otherwise. This Petition is important and we need recommendation at the end.

The County Assemblies should be given full autonomy. The danger to the county assembly that we have today is the county executive. This is because they lack the financial autonomy. This has continued to be a threat in the independence and functionality of our county assemblies.

The county assemblies just like the Senate and they play the primary oversight role at the lowest level. We are aware that county governments and governors are normally not comfortable with independent and functional county assemblies.

I can see quite a number of the Members the Committee on Devolution and Intergovernmental Relations. They should propose to us how we can make county assemblies get financial autonomy, such that they have their own vote at the National Treasury. When the budget is approved by the Controller of Budget (CoB), they should access their accounts and their money from the National Treasury such that they do not need to depend on the CECM of finance, or the goodwill of the governor.

Even in my county, the county assembly has been complaining that the county government has ensured that they allocate only county assembly recurrent funds as opposed to developmental funds.

That is why when you go to Nandi County Assembly; the Chamber is yet to be complete. The county assembly is complaining that the county governor normally refuses through the county CECM of Finance to approve and allow the development funds to go to the county assembly.

To ensure that we protect the county assemblies and ensure they maintain independence and functionality, we must ensure that there is independence or financial autonomy so that they can do their job without interference and the threats of the county government. That is what we are seeing in Nyandarua County Government where the County Executive and the County Assembly are fighting each other.

Finally, the County Assembly and the County Executive should know that the ultimate beneficiary of all this should be the common *mwana*chi, the *mama mboga*, and the *bodaboda* riders. Those people who voted us into office should be ultimate and precise beneficiaries so that we do not see that fight.

We hoped this second generation of devolution would not give us these teething problems. I hope the area Senator, Sen. Mwangi, will get a chance to tell this House what is really happening on the ground.

It is good that our brother, Sen. Mwangi, is in the House today. I hope he will get a chance in the Committee and before the House, to give us the way forward. We need those things to stop. I hope the Committee, led by Sen. M. Kajwang, will give us the direction on this matter.

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

**Sen. Dullo:** Thank you, Madam Temporary Speaker. I wish to support this Petition. I think the issues raised in this Petition are very serious. I believe we have institutions that are supposed to be looking at those issues but they have not done

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anything. This is a matter of concern. I think this House needs to look at it and ensure those issues are properly investigated.

Madam Temporary Speaker, you will find many county assemblies in this country in such a situation. A very good example is West Pokot County, whom I know face similar issues. Their speaker was denied access to her office and she appeared before a Committee of this House. It is a matter that the court has already ruled on.

Unfortunately, there is a problem between the speaker and the Clerk of the Assembly. The Clerk has even refused to facilitate the Speaker of the West Pokot County Assembly. The same also happened to Migori County, which is unacceptable.

In this case of Nyandarua County, I know Sen. Mwangi is here and maybe he can elaborate and tell us what is happening. On several occasions, I have heard the Speaker even on national television, complaining about what is happening in Nyandarua County. Unfortunately, nobody has ever taken action against the issues raised by him.

Madam Temporary Speaker, as one of my colleagues has said, we really need to give independence to county assemblies so that they can carry out their oversight responsibilities. I know most of them are arm-twisted, especially when they want to carry out their oversight roles. That is why you see what is happening in Nyandarua County. The allegation of vehicles being used by people who are not authorized, are very serious. I think the institutions mandated to look into this should move with speed and ensure that the vehicles are returned to the right individuals.

Finally, this is a matter that is long overdue. It is paralysing devolution in Nyandarua County Assembly and County Government. We need to move with speed. I know we are going on recess, but the Speaker should be able to give some opening, so that the Committee can look into this matter before we break for Christmas.

Thank you, Madam Temporary Speaker.

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

**Sen. Shiyonga:** Thank you, Madam Temporary Speaker. I join you in welcoming Members of Narok County Assembly. I was given the opportunity, but I was not prepared. I welcome all of them; feel most welcomed in the Senate.

Madam Temporary Speaker, the issue raised on Nyandarua County Assembly by the Petitioner, is a serious matter which needs to be investigated. This is not only for Nyandarua County in particular, but across the country. In these times of devolution, many county assemblies are suffering, especially when it comes to funding and doing the oversight role. County assemblies are dependent on their county executives and many of them are frustrated.

Madam Temporary Speaker, it is my wish and prayer that the Committee on Devolution and Intergovernmental Relations led by Sen. M. Kajwang, moves with speed. They should also allow other Members who want to contribute towards the Petition to join the Committee when they are deliberating on the same. As Senators, this will give us a chance to recommend justice to the petitioner.

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

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I wish to support this Petition. I think this is why we have Senate in this country. We should be able to seize of these issues long before they even come to the Plenary. When they do, we should seize



them in such a way that allows us to participate and get to the solution. As the Senate, we are the keepers of the counties. We are there for counties.

Various Senators from each of the counties, for example, would bring this issue and we allocate time to discuss it. Within the Committee on Devolution and Intergovernmental Relations, this issue is seized of, the various participants are called and the discussion done.

Finally, it has come as a Petition and, therefore, it will get the attention. However, how many counties might want to petition in this way? Some counties might not go down that route. We, as Senate, should be seized of all the issues before they are brought in a form of a petition. Every county has specific issues and problems.

Madam Temporary Speaker, my worry is that when the operations of a county assembly and county government are affected in totality, then what devolution was envisaged for – for the trickledown effect of resources and ensure service delivery is cascaded to the devolved unit level – is completely missed out. Therefore, a lot of time is taken on administration and financial issues. At the same time, millions of people who are waiting for those services end up not getting them in one or two years. Before we know it, the devolution cycle is already finished.

We must find a pragmatic way of seizing of these issues and intervening in real time and in such a way that counties can feel that these issues have been addressed. If they are legal, purely administrative or financial issues, expertise can be added. If they are issues that concern legislative interjection from the Senate, then we must be able to do that in real time. This is because in the five years that the Senate is here, we should be hearing about these issues every single year and report.

As we comment, commit and report on the work of the Committees, then this is exactly what we should expect from the Committee on Devolution and Intergovernmental Relations. That, the health of this county, for example, has issues one, two, three and four. We will always have these issues. We have seen county assemblies sometimes having conflict with the speaker or the executive of that county. We have also seen issues between various levels of government within the devolved units.

This is to say that in any organisation structure, these conflicts will come up but a way has to found for them to be dealt with in full, once and for all. In terms of financial issues, we have even raised the issue of the Integrated Financial Management System (IFMIS) over and over in this Senate. Despite that, we still have issue. We should not have issues of financial impropriety in counties. If we have an input and output system where money has gone in and it can be accounted for, then we need to get to that point.

Madam Temporary Speaker, I think this Petition will bring out some of these issues. I am sure even as we welcome the MCAs from Narok County, they probably have one or two things that resonate with what they are going through.

We are going to the third cycle of devolution. It is important that we get the administrative bit right and then move on to the other substantive issue. How is the trickledown working? Are people getting enough? Is the Ward Fund or the equivalent of that going to the ward? Are we getting the water to the places it should get to? Are we getting food, hospitals, and drugs? That is where the thrust of all these is. Either the county executive, county assembly or the speaker's office in counties, is meant to facilitate and have a well, streamlined system to handle these things in real time.

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Madam Temporary Speaker, there is a time we had even suggested that a Speakers' Hour or a Senators' Speaker Hour because we have it coming in as statements. This will be a time to just talk about our own counties. We talked about what is happening, or the issues affecting in counties, so that we find a solution.

I think the structure that we have now is that of the Committee on Devolution and Intergovernmental Relations. Let them be seized of this matter, depending on where the Petition will go to. As the Committee on Devolution and Intergovernmental Relations keeps seizing of these matters, let them also resolve them in good time. If we do this, counties can then have the required health and quickly turn to matters development. In the end, counties will make the dream of many Kenyans who voted Constitution, 2010 mainly because of devolution, come true

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

**Sen. Malalah:** Thank you, Madam Temporary Speaker. I support the Petition. It is high time that county assemblies operate autonomously.

As I speak, we have experienced a very bad incident in Kakamega County Assembly. There was an impeachment against the Speaker of Kakamega County Assembly. The speaker has taken away the Mace. It is not in the precincts of the Assembly. These are issues that we need to be looking into seriously. It is important to start looking and mentoring our county assemblies.

I am sure this Petition will come before our Committee of Devolution and Intergovernmental Relations where I am a Member. We assure the people of Nyandarua County that we will adjudicate this matter and ensure that we have an amicable solution.

Madam Temporary Speaker, may I ask this House that we are the protectors of devolution. We know that devolution is meant to protect the county executives and the county assemblies. Many at times, the county assemblies depend on the county executives because of the financing model. We need to legislate and amend the Public Finance Management (PFM) Act, 2012 to ensure that when we disburse monies from the National Treasury, let county assembly and county executive each get their money directly.

County assemblies depending on the county executives is what is making the County Executive Committee Members (CECMs) control county assemblies. Therefore, the autonomy of county assemblies is mandatory as envisaged in our Constitution. Most of the drafters of our Constitution led by Sen. Orendo and others are here. They had envisaged a situation whereby we must have separation of powers between the Legislature and the Executive. This must not be watered down in our county assemblies.

Therefore, this matter is before this House and it will get the attention it deserves. I know we are going on recess, but as Committee, we assure that we will adjudicate this matter and come up with an amicable and long lasting solution to county assemblies.

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

Please, let us be short because we need to hear from the Senator for Nyandarua County, whom I am told is not well today.

**Sen. (Eng.) Hargura:** Thank you, Madam Temporary Speaker, for this opportunity to support the Petition.

I know in the case of Nyandarua County, they could not appear before the Committee on County Public Accounts and Investment (CPAIC) because the Speaker

and the Clerk cannot access their offices. That is why they could not even present the responses required of them.

The same situation is still in other counties. I know of Kisii County which has a similar issue although they are sorting it out. The Speaker has been impeached and he has gone to court. West Pokot County is even in a very bad situation, where the Speaker cannot access her office. The West Pokot County Assembly Service Board cannot meet and you do not know how they are actually expending the funds they are allocated as a county assembly.

There is a very serious problem. The way it is moving with the impeachments of speakers, county assemblies are getting into problems. There could be an interference by the county executive in cases where we have discussed with the speakers and the Board Members. As the Senate, it is necessary that we take action and see how we can assist in sorting out this mess which is coming up in county assemblies.

One of the ways that has been suggested is the autonomy of the county assemblies. As the Senate, we have been of assistance. Two years ago, when the financial year lapsed county assemblies could not access whatever balance they did not get. The county executive would take it and not pass it over to the county assembly. Through the County Allocation of Revenue Act (CARA) of the Financial Year 2019/2020, we put a condition that whatever is not received by the end of the financial year, should be carried over even for the county assembly.

Logically, the next step is that we should ensure that the PFM Act, 2012 is amended such that county assemblies get full autonomy from the county executives. It is difficult to oversight a body when it controls your funding.

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

**Sen. Mwangi:** Thank you, Madam Temporary Speaker. This is a serious matter in Nyandarua County and it requires serious the attention of this Senate. This Senate needs to save Nyandarua County Assembly because it has not been operating for the last six months.

Whichever Committee is going to deal with this matter - I presume it is the Committee on Devolution and Intergovernmental Relations - should handle this matter with seriousness. What I am seeing is that there are squabbles within Nyandarua County Assembly. In 2018, they had a similar matter. They had disagreed and tried to impeach the Governor and the speaker, but nothing worked. As old people and because we are of age to sit down and decide on some cases, we agreed that we should never have infighting between the Nyandarua County Assembly its county executive or within the County Government itself.

Madam Temporary Speaker, we have had issues with this County Assembly and they have gone to court more than 20 times. Judgments have been delivered by a court in Nakuru, but they have also not worked. That is why I say that this is not just another matter that is coming to this House. It is a matter that has crippled the Nyandarua County Assembly from working. This matter requires many witnesses who know about this case.

I volunteer to talk to the Committee on Devolution and Intergovernmental Relations when they convene. Every person who is assumed to have information about the source of this infighting should be called by the Committee to give information. This matter cannot end by a few people talking to this Committee. It is deeper than we think.

There is total disagreement between the Speaker and the Governor. The fight is actually not in the county assembly.

The county assembly has their way of looking at this matter, but they are not working independently. The speaker also has his problems. That is why I said that the Committee requires to do serious investigations, to get the facts and data before making a decision. As we talk here, we cannot say so and so is wrong until proper investigations are done; and those who have caused problems have been identified.

We are talking of an Assembly that has not worked for six months. Therefore, it should not even be there because it is not helping the people of Nyandarua County. They have not been able to solve the problem for a long time. It is totally paralysed. Sometimes, the budgets are not passed in good time and workers are not even receiving their salaries. They got their salaries a few days ago. They have been working without having their salaries paid.

The cases in court should also be made to work. The County Government and the County Assembly should sit down and agree on how to deal with this matter. Therefore, I urge the Committee that will deal with this matter to look at it in-depth, so that they can identify the problems that the people of Nyandarua are going through.

Thank you, Madam, Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, pursuant to Standing Order No.232(1) the Petition is hereby committed to the Standing Committee on Devolution and Inter Governmental Relations for its considerations.

In terms of Standing Orders No.232(2) the Committee is required, in not more than 60 calendar days from the time of reading this prayer, to respond to the petitioner by a way of a report addressed to the Petitioner and laid on the Table of the Senate.

*(The Petition was committed to the Standing Committee  
on Devolution and Inter Governmental Relations)*

**The Temporary Speaker** (Sen. Pareno): Sen. Sakaja, we had two reports from your Committee, that is, a report on a Petition by Mr. Taratisio Ileri and a report from the residents of Kericho County. I do not know whether you are ready with the two. If you are ready, kindly respond.

**Sen. Sakaja:** Thank you very much Madam Temporary Speaker. My apologies; I was not here when you called me out for the first time. I was out there with the great Senator of Nakuru and Sen. Omanga in Dandora on Parliamentary work for this Committee. We were looking at the stadium and have seen very good things.

Allow me to give reports on the two Petitions. I will give them concurrently and just a few highlights.

REPORT ON PETITION: STATE OF THE  
*INUA JAMII* PROGRAMME

The first was the Petition regarding the state of *Inua Jamii* Programme. I have advised Sen. Cherargei that it is different from the Statement he requested. He requested for a statement on Kenya Commercial Bank (KCB) management of *Inua Jamii*, but this was by Tartisio.

The Petition raised concerns on the continuous registration of elderly persons who have in the past years turned 70 and are eligible for registration in the *Inua Jamii* Programme; the registration procedure and the timelines as beneficiaries for *Inua Jamii* programmes; the reasons for failure to receive the cash upon eligibility and registration and the status of implementation of the NHIF programme for elderly persons benefitting from *Inua Jamii* Programme and accountability.

The Petitioner also raised concerns on the application of inadequate resources on the implementation of this programme and possible solutions. He called for an urgent audit of the *Inua Jamii* cash transfer programme and as such, humbly prayed that the Senate does two things:

(1) Constitute a Parliamentary Committee to investigate and recommend for a special audit on the expenditures and management of the *Inua Jamii* cash transfer programme

(2) Recommend for and/or undertake any other legal action deemed appropriate for securing the rights and dignity of elderly persons, as well as protect and safeguard public resources.

We held a sitting with the Petitioner, who is a very hardworking Kenyan who is taking advantage of the constitutional provision to petition this House. Mr. Tartisio Ileri Kawe has also brought other petitions. We also held sittings with the State Department for Social Protection, Senior Citizens Affairs and Special Programmes led by the Principal Secretary (PS). We accepted the signed statement by the Cabinet Secretary (CS).

Upon consideration of the submission, because we were all together, and on top of the petitioner coming with some elderly persons from his county on the slopes of the mountain who were evidence of people who have not been enlisted, we noted a number of things. Of course, that the Parliament itself is the process of enacting the Care and Protection of Older Members of Society Bill, 2018. That Bill will also give proper legislative framework to this *Inua Jamii* Programme. So, what is subjective, there is a law and there is a process through which all these cash transfers are given.

The Committee also observed that the *Inua Jamii* Programme Management Information System enhancement exercise aimed at consolidating all the cash transfer programmes for the effective management, including the operations of the contracted payment service providers is ongoing. Therefore, the Ministry is working on that information system to enhance it.

The completion of the above will address the complaints of at least 93,563 registered beneficiaries who are not in the payroll; 21,153 beneficiaries who are not migrated because there were errors in some of the data of these older persons, and any of the beneficiaries whose disbursement was stopped for one reason or another.

Also, the registration of fresh cohort of older persons has not been undertaken since 2017, and there are quite a number who have turned 70 since 2017. There seems to be no immediate plan to undertake further registration of fresh cohort of older persons owing to inadequate funding, and we speak to that in our recommendations.

Then, the implementation of NHIF for persons above 70 years was planned for implementation during 2020/ 2021 Financial Year. However, again, this was hampered by inadequate resources following the budget process. The requirement was Kshs4.9

billion budget requirements by the State Department for Social Protection, Senior Citizens Affairs and Special Programmes, but failed to receive this funding.

The Office of the Auditor-General and the Ministry's Internal Audit Department, undertakes annual audit for *Inua Jamii* Programme. However, the Department is yet to undertake and disseminate any impact assessment of this programme, and that was one of the requests. Following this, the Committee recommends the following-

(1) The State Department for Social Protection and the Ministry of Health to further engage with the National Treasury to actualize the NHIF for the persons above 70. We told them that they must do that and we gave them timelines by when they need to do that. Those above 70 are very few in this country. In fact, according to the 2009 census, because that is the one that I have really analyzed, has not changed much. Those above 50 are only nine per cent. So, Sen. Omogeni and your friends, you need to know each other. You are very few.

(2) The Committee recommends that the State Department for Social Protection, Senior Citizens and Special Programmes reviews its budgeting practices to incorporate data and research evidence for budgeting *Inua Jamii* Programme. This will ensure that the budget needs and gaps in the programme are informed by data and evidence, they are budgeted for and ultimately funded.

They have been making blind requests without knowing based on the trends and the population, the demographic changes and how many people they need to be budgeting for. That is why it is sad that 93,565 older persons are not in the system and 29,135 beneficiaries have not been migrated.

(3) The State Department for Social Protection, Senior Citizens Affairs and Special Programmes undertake a comprehensive impact evaluation of the *Inua Jamii* Programme and reports to the Senate also on the above two issues, including the National Health Insurance Fund (NHIF) within 90 days of the tabling of this Report.

Madam Temporary Speaker, I wish to table the Report now. I will urge the Senators to look at it because there are details, including of your counties and the older persons in your counties.

*(Sen. Sakaja laid the document on the Table)*

#### REPORT ON PETITION: RECRUITMENT AND REMUNERATION OF ECDE TEACHERS IN KERICHO COUNTY

The second one is the Report on the Petition concerning recruitment and remuneration of Early Childhood Development Education (ECDE) teachers in Kericho County. This Petition was reported to the Senate on Wednesday 13<sup>th</sup> October, 2021 by the Speaker of the Senate.

The are issues raised in this Petition, and I am very glad that Sen. Aaron Cheruiyot is keenly listening. On this Petition, we went to his county. The issues were remuneration and welfare of ECDE teachers working in Kericho County.

The petitioners prayed that the Senate intervenes by investigating and enquiring on this matter and make recommendations on-

(a) confirmation of employment of ECDE teachers;

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- (b) Implementation of scheme of service for ECDE teachers; and,
- (c) remuneration package and general welfare of ECDE teachers.

To enable the judicious disposal of this Petition, the Committee resolved to conduct an inquiry on the issues raised, and we did a county visit. The Committee on Labour and Social Welfare is very hardworking. It has very good Members and staff and we did a visit to Kericho, Kisumu and Bomet counties.

We went there on 27<sup>th</sup> October, 2021 and we were accompanied by the area Senator, Sen. Aaron Cheruiyot, MP alias KKK who was a very gracious host. He accompanied us to all the meetings, we dealt with the issue of Early Childhood Development Education (ECDE) and that of James Finley's whose report is coming because there are some underlying issues. We have asked for more information on the issues of tea. The Senator for Nyamira County also wants us to go to his place because of the same issue, but that visit could not happen at the time.

While in Kericho County, we met with the Governor, Hon. (Prof.) Paul Chepkwony, EGH, and his team. Amongst them the County officer, the Chief officer, the County Executive Committee (CEC) in charge of Education, the Petitioners, the Kericho County Public Service Board as well as Members of the committee on Labour, Governance and Social welfare of the Kericho County Assembly.

Madam Temporary Speaker, before I make my observations, allow me to state that Kericho County is very lucky to have the Governor and Senator that they have. Their Governor, Prof. Chepkwony, who says he does not like noise *hapendi kelele* brought everybody; the Chairperson of the Public Service Commission and the petitioners were all there such that you do not ask a question and then you are told to come for an answer in another meeting. All the issues were addressed there and then. The Governor has a good working relationship with the Senator.

We observed the following because we decided to look not just at Kericho County, because it was just an example. We looked at the issue of ECDE teachers across the Republic of Kenya.

(1) There is no uniformity in the remuneration of ECDE teachers across the counties. After we left Kericho, we went to Bomet County. What an ECDE teacher is paid in Kericho County is very different from what they are being paid in Bomet County. I was surprised that Bomet County is even paying more. We would assume Bomet is a smaller County, but they are paying more to the ECD teachers. These are teachers that have been trained together in the same class, but when you go to one county, you discover that an ECDE is earning half of what his or her counterpart is earning in another county.

(2) There exists a working document which is the scheme of service to get to ECDE teacher management. It was presented by the United Nations International Children Emergency Fund (UNICEF) together with different institutions. The Salaries and Remuneration Commission (SRC) and the Council of Governors (COG) came together and came up with a document, but it is not being implemented neither has it been ratified.

(3) ECDE teachers in Kericho County, at that point were working without any scheme of service.

(4) Kericho County Government expressed that they are willing and committed to review ECD teachers' remuneration. I think it is the presence of the Senators I had; very powerful Senators like Sen. Shiyonga and Sen. (Dr.) Milgo. The governor just had to melt and accepted to give them a pay rise in our presence.

The ECDE teachers thank you, Sen. Shiyonga. Those teachers shall forever remember you. Their pay went up by more than Kshs10,000. Sen. Cheruiyot will remind me. They were 1,019 teachers who were not in the system and they agreed to in cooperate them. The County is reviewing its budget to bring a supplementary budget to sort out those teachers in Kericho County.

I am grateful that we went to Kericho. Senators you must be proud that when the Senate goes somewhere it is not in vain. We actually get things done. They committed to implement the existing scheme of service because it is a draft, but we as a Senate, have a role to play and this comes in our recommendations. To address the above, which is part of workers' woes especially by county government staff across the country, because the specific Kericho County issue was sorted out there. They have been put in the payroll officially. They will get their contracts and they have gotten a pay rise. So you need to clap for yourselves.

Madam Temporary Speaker, I would like to inform the whole country that we are considering a proposal in the Committee on Labour and Social Welfare. I hope we have time because as you can see, as time is going Members are focusing elsewhere to the elections. Before March, my Committee will try and bring this amendment to the County Government Act, 2012 to harmonize and standardize remuneration and compensation for all county government workers.

Once we ratify this scheme of service and say that an ECDE teacher needs to be paid a minimum of Kshs15,000 or Kshs20,000, the Senate working closely with the Committee on Finance and Budget will see which counties have got gaps. You may find that Nairobi City County maybe the teachers are being paid Kshs5,000 less and we look at the entire country and we see that in the County Allocation of Revenue Bill how to incorporate that additional amount for those other counties and to ear mark it.

Many counties might be willing, but they do not have wiggle room in their budgets as it is. We commend that the County Government of Kericho has a follow up on its commitment on the issue and its 2021/2022 budget provides the salary increment to attain the minimum salaries in line with the schemes of service. Since they committed on record of the House and the Committee, that will be done.

I hope that the Office of the Clerk of the Senate will transmit to the Council of Governors that working document of the scheme of service for ECDE teachers within three weeks of tabling this report. Once we receive that working document, we shall bring it as a Motion for adoption by Senators, so that the scheme of service for ECDE across the country be ratified by the Senate by resolution. If we do that, we shall have done something meaningful for this country. I beg to lay the report on this petition.

*(Sen. Sakaja laid the document on the Table)*

Thank you very much to the Secretariat they are very useful led by Ms. Mwanate Shaban and the entire team for enabling us to do this. I have three other reports that we

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shall table tomorrow. My Committee and I are going on recess without a backlog. The response on Sen. Dullo's issue is sorted and I will be giving that response tomorrow.

I thank you.

**The Temporary Chairperson** (Sen. Pareno): True enough. We should have committee awards for a job well done by that committee. I will allow short comments on both reports for maximum of 30 minutes.

Proceed Sen. Cherargei.

**Sen. Cherargei:** Madam Temporary Speaker, I congratulate my immediate former Committee of Labor and Social Welfare led by our all-time favorite Chairperson, Sen. Sakaja Johnson Arthur CBS, MP and the Senator of the great County and the future Governor of Nairobi City County.

Madam Temporary Speaker, this issue of *Inua Jamii* is critical. Wherever any Member of this House goes anywhere and meets *wazee* who are over 70 years, they always complain that either they have never been registered or they have never received their cash disbursement. I agree with the recommendation that within 90 days there should be a special audit to know what is happening because you go into the village and *wazee* bring you the ID card and tell you that they have registered, but have not received cash disbursement.

I congratulate the petitioner for bringing this live matter to the House. According to population census of 2019, more than 250,000 Kenyans are Beyond 70 years. The only have one problem with this initiative, the *Inua Jamii* is that there is no proper sensitization of registration. Most of these people are above 70 years and all of us are potential old men and women in future. I have never heard the national Government officers administration, the administration of cells doing a mass sensitization programme the way other programmes have been doing. For example, when the Constituencies Development Fund (CDF) office is issuing bursaries or when there is registration of voters. We need to be given a proper sensitization programme so that as leaders, they can partner with our offices. Why is it hard for them to partner with Senate offices across 47 counties? They can partner with Women Representative and county government offices, so that when they are sensitizing and registering new members that have reached over 70 years, they can be able to do that.

I have noted what the Committee has done is also the issue of timely disbursement. Most of it like KCB has been mentioned, that this money that is accessed---. That is why we need to look for something more accessible even in my local trading center called Mosoriot Township. You are more likely to find a post office than a KCB branch or any other financial branch. We could even use cooperative societies that belong to farmers. If you are giving Kshs2,000 and you have to travel from Mosoriot all the way to Kapsabet or Eldoret you need about Kshs200 to and from. Imagine you are going to withdraw Kshs2,000. You will remain with only Kshs1,800. Most of these old people need to just get something to buy medicine. Some of them have many other diseases that go on and on like cancer and they need energy.

Madam Temporary Speaker, another point I really wanted to make is on the issue of the NHIF programme. I think the Universal Health Coverage (UHC) is very important. The future coming Government, including the "*hustler nation government*" must look on a way of ensuring that we have UHC. I know the National Hospital

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Insurance Fund (Amendment) Bill is coming before the House. These are 250,000 people. You have heard Sen. Sakaja say that these are few people. They can know each other. I saw him say in JKL and I have seen him saying this today here---

I watched because you were there. These are few, 250,000 out of 47,500,000 Kenyans according to the 2019 census. What is hard for the Government to provide them with NHIF cards? You know at that age there are many diseases that might just decide to come. I think we must put in place that we agree with it.

Madam Temporary Speaker, the Committee must really assist us in ensuring that this special audit--- I do not know the resolution of the Committee, whether they have written to the Auditor-General, so that when we come back from the long Christmas Holiday recess, we must be told who has the money.

You know I told the Principal Secretary (PS) who was the former County Commissioner of Mombasa by the name of Mr. Nelson Marwa. He was complaining that some young people like me were withdrawing money. They are becoming old so that they can receive that amount of money. I hope as we make the resolution, the Committee led by Sen. Sakaja has met with the PS. We must be told why because if a PS of such Ministry makes such serious allegations, then there must be proof. What is the role of the DCI and the EACC? It is unbecoming if anybody is abusing this issue of ensuring that they become old and yet they are young. I do not know why young people or people within Government offices would want to benefit from something that they have not. They are not their age. Why would you want to take Kshs2,000 for a 70 year old? That Kshs2,000 means a lot to that retired person.

Madam Temporary Speaker, the Committee has done its bit, but the National Treasury must be blamed. The National Treasury must tell us why there is a delay in disbursements of cash for the *Inua Jamii* Programme. It is very important because when the budget has been appropriated. Why is it that *wazee* who are over 70 who depend on the cash transfers programme when the money has been disbursed to departments and ministries? We know of other programmes such as the issue of the Nutrition Programme, supporting the Orphans and Vulnerable in the Society. I think the National Treasury must ensure that they put measures in place.

Madam Temporary Deputy Speaker, we should also have a natural attrition system of people who have been registered. Maybe at a certain age when you are 70, some beneficiaries have died. What is the system that the Ministry of Public Service and Special Programme has put in place? How do you ensure that if the beneficiaries have died, they are exited from the system, so that you do not pay ghost people?

Secondly, Madam Temporary Speaker, there are people who were not 70 years in 2017. In 2021, they are now 70 years. How do you capture that data? I hope the Chairperson of Committee on Labour and Social Welfare should have sat down and listened to the very serious Solomonic submissions that I am making or he can consult the HANASRD later.

Madam Temporary Speaker, as I was saying, we have somebody who is 69 years today. Does it mean we need to start registration? I thought it should be continuous. Why is it that it is easy to continuously register voters to vote and it is hard to register Kenyans who are attaining 70 years and they become vulnerable because they are sickly? They are old and they need that small amount of money.

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Madam Temporary Speaker is agreeing on how we use a more efficient method of payment, apart from M-Pesa. The M-Pesa that is provided by Safaricom must be audited. We know there are charges that M-Pesa charges before you transfer the money. Who bears this charge? Is it based on the Kshs2,000? Is it the M-Pesa or the Ministry that pays for these charges? So, we need to be told when you use an M-Pesa. There are areas in this country which do not have network. These areas include West Pokot, Tinderet in Nandi, Turkana and many others.

Finally, on the issue of Early Childhood Development Education (ECDE), I think we need to agree and have a uniform payment. I do not know whether the Teachers Service Commission (TSC) or the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post-Primary Education Teachers (KUPPET) should be consulted. In my county, the County Government of Nandi has paid permanent and pensionable ECDE teachers Kshs10,000. That is very little. What can you do with Kshs10,000 today? When you are only paid Kshs10,000 as permanent and pensionable in Nandi-- I really want to thank Sen. Cheruiyot for bringing this issue of ECDE teachers because anywhere you go as a Senator, they will always question why they are in contract or permanent and pensionable and yet they are not being given uniform remuneration. I think, as a Senate, we need to agree on how we can bring uniform remuneration of ECDE teachers.

I thank you, Madam Temporary Speaker, for that indulgence.

**The Temporary Speaker** (Sen. Pareno): I urge the next Senators to take a maximum of three minutes because I can see many Senators want to contribute to this and we only have 30 minutes for purposes these comments. So, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me this opportunity to add my thoughts to these two reports.

On the report that had been presented before the Floor of this House by the Committee led by Sen. Sakaja, it is a very important report. On NHIF, it is actually supposed to cushion the many Kenyans who are not able to pay hospital bills. Health is a very important issue. Even constitutionally, Article 43(1) is very clear that when it comes to health, it is a constitutional right for all Kenyans. There is need to ensure that health services are also extended to people with terminal illnesses. There are people with terminal illnesses who are actually dying in their homes slowly by slowly because they are not able to afford medical costs. We must remember that Kenya is among the countries that signed and ratified the international law that infers that we prioritize the health of everyone.

Madam Temporary Speaker, concerning the issue of cash transfers, there are many deserving Kenyans who are also not receiving cash transfers. They end up not getting the money. There is need for county governments to identify the elderly in their counties, establish a database for them and ensure that they are receiving the cash transfers.

I want to comment on the issue of education. This is because I belong to the Committee on Education. Allow me to say that we have talked many times about the scheme of service in the Committee on Education and we have interrogated quite a number of governors with regard to paying ECDE teachers. It came to our attention that the kind of money ECDE teachers are paid is very little. It is not money that can help sustain themselves and their significant others. I agree with Sen. Sakaja that there is need

to ratify, but before ratification in this House, there is need for public participation to be done so that there is an agreed amount of money that teachers can be paid and stakeholders in education can also be brought on board to bring their thoughts. The ratification can be enriched by stakeholders.

My suggestion is that the Teachers Service Commission (TSC) should be empowered. It should be given more money so that they are able to employ ECDE teachers. The TSC has a way in which they are able to pay teachers according to their grades, education and all that. There is need for a system like that to be devised, so that the Government gives more money to the TSC and given the teeth to ensure---

**The Temporary Speaker** (Sen. Pareno): I give you one more minute.

**Sen. (Dr.) Msuruve:** Thank you Madam Temporary Speaker. Education should be a priority in this country, and that every child should be educated. The Early Childhood Development Education (ECDE) is the cornerstone and foundation of education. Therefore, if we have it wrong as a country, then it will be very difficult for us to straighten a tree when it has already bent. We can have the ECDE as a co-shared function. The Government should support the payment of teachers by sending money to the TSC, so that apart from registering those ECDE teachers, they can also pay them the same way that they pay other teachers. I highly doubt the TSC would pay Kshs.10,000 to the ECDE teachers. It is painful that some of them are paid Kshs10,000 or Kshs8,000.

Madam Temporary Speaker, there is a Senator who has talked of increment. It could be increment by Kshs2,000. This is not deserving. It is demeaning the fraternity of the profession of teaching and should not be the case.

I thank you Madam Temporary Speaker.

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

**Sen Cheruiyot:** Madam Temporary Speaker, I thank you for giving me this chance. I laud the very good work done by this Committee in handling these two petitions that were presented before them. One of particular interest to me is the issue of ECDE teachers, which has been ably observed by the Committee. It is an issue that cuts across all the 47 counties and Republic of Kenya. I agree with the recommendation of the Committee that it is more of a failure on our part more than the county governments in ensuring that we can have a unified scheme of service for the entire 47 county governments, so that we do not have these disparity as it was described by the chairperson, where you have teachers in Nandi, Kericho and Bomet which are three neighbouring counties that share almost every other demographic, but when you look at the disparity in terms of pay for ECDE teachers, it is at great variance.

I agree with the Committee that a notification needs to be sent to the Council of Governors (CoG). I do not know who the CEO is after the previous one, who on many occasions when we had such matters used to be quite diligent in ensuring that when the Senate passes similar recommendations, in no time committees would actually receive proposals from the CoG on what needs to be done. I believe this is work that the current leadership at the CoG can ensure that is proposed to us on what on average would be a similar pace. Sort of akin to what is done with teachers who are teaching in the rest of the lower level education that is unified across the country.

That is a very important aspect that the teachers in Kericho County raised during the visit by this particular Committee. I, therefore, agree with their proposal. As Senator

of this county, I will ensure and see to it that all the binding recommendations which the specific committee in charge of public service in Kericho promised in terms of remuneration and absorbing this number of teachers in the different phases that they outlined for us. We will ensure that we take them to task.

Madam Temporary Speaker, finally, I would like to mention something on this issue of the *Inua Jamii* programme. It is a very noble social welfare support programme, which unfortunately the Government has not been able streamline. The unfortunate thing is that while we hear all these problems and issues that are arising at the head office, it is our sincere most hope that by use of ICT, the Government can actually leverage on it to ensure that all the elderly persons in our country are registered and they are actually captured on the programme, so that these almost 130,000 people that have been left out begin to benefit, such that at the end of life, say for any 70 year old and above are immediately gotten out of the system so that others join the programme, especially with the introduction of this new phase on the National Hospital Insurance Fund (NHIF). When you read the cost that is lacking, only Kshs.4.9 billion---

**The Temporary Speaker** (Sen. Pareno): Your time is up.

Proceed, Sen. Halake.

**Sen. Halake:** Thank you Madam Temporary Speaker. I rise to congratulate and support the Committee on Labour and Social Welfare of the Senate. The issues around *Inua Jamii* and other social protection programmes for our country are wanting. As you know, I also have a statement asking a similar question for other social protection programmes that have been implemented haphazardly, if at all.

Madam Temporary Speaker, we seem to be doing things with immediate reactions. We implement something and there seems to be no plan for continuation and sustainability of these things, therefore, causing more undesired consequences than they should be. While observing that the *Inua Jamii* Programme that was passed in Parliament is enacting the care and protection of older members of the society and that there is also the management information system that is being put in place, it is unfortunate that since 2017 no single person that has turned 70 years has been registered and there does not seem to be plans as per the Committee's report of registering anybody else.

This means that those turning 70 who may be even worse hit than the ones that are in the programme are going to be left out. This means that we are a country that takes care of certain people, but not others. This looks bad and I hope that there are plans to include all elderly persons. I am not also seeing much in the way of the Committee giving certain consequences for non-performance or correction of this. What I have observed since I got into Parliament is that social protection programmes, especially because they are programmes directed at the poor, are not taken so seriously. Perhaps because they are not so important or they not focused or that there are no consequences. How are we going to see things being corrected if at all there is need for correction?

On the issue of ECDE, we know that this is a foundational programme. While we are happy that the Committee managed to secure certain increments, I actually could not help but wonder if that is the right way to do things. That a Committee goes and the Governor in all his philanthropy decides to increase. Is that the Kenya we want? Is it that there are no known systems? Is that a good or a bad thing? While congratulating the Committee, I was a bit saddened that this is how things are done in our counties. That we

come before the governors and they are so mighty that they can just at a sitting decide they can increase. Why did they not increase the salaries before? Is there a system in place or are we going to be relying on the philanthropy, good will and mercy of governors of counties at this point? I congratulate the team for a job well done, but I do not see any consequence that has been put for anyone to change the way things are at the moment and, therefore, this House had better think of making sure that our reports are not just fluffy and we are just giving recommendations that will never see the light of the day.

Madam Temporary Speaker, I support.

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

**Sen. Omogeni:** Madam Temporary Speaker, I join my colleagues in thanking the Senator for Nairobi City County for a job well done. As always, anytime work is sent to Senator Sakaja's Committee he never disappoints. However, there are number of problems that the elderly people are facing under the *Inua Jamii* Programme.

First, there are a number of eligible Kenyans who have not been taken on board this programme especially speaking for Nyamira County. What we expect to hear from the Cabinet Secretary for Labour is that he should put in place mechanisms to ensure that everybody who is above 70 and who is not on pension becomes a beneficiary of this project. Otherwise, it is discrimination and a violation of Article 27 to have a few Kenyans benefitting whereas a number of them who are eligible are left out of the programme.

Secondly, I hope that this Ministry can become digital. What they do is that every three years, they try to do a physical verification on the people who may have passed on and those who are still alive, but I thought that the easiest way to do verification is to have a digital connection between the Ministry and the registrar of births and deaths, so that the moment death is registered then automatically that person is removed from the system.

Otherwise, it is a big problem trying to ask the very elderly people, who are sickly, to travel to a distance of 50 kilometres to go and be counted to confirm that they are not dead. In fact, three weeks ago I had to intervene in Nyamira and request people from my sub-county of Nyansiongo to travel all the way to Kiabonyoru Ward to undertake that exercise within the ward because of the inability of a number of these people to travel that long distance. I hope the Cabinet Secretary (CS) is listening to us and he will do something to streamline so that all Kenyans who are eligible can become beneficiaries.

Madam Temporary Speaker, I can spend a minute on Early the Childhood Development Education (ECDE). These are some of the sector of employees who are facing serious problems in Kenya. That is why I had requested Sen. Sakaja to extend his visit to Nyamira. I have ECDE teachers who are owed arrears by the county government for a total of six months. They were never been paid from October, 2019 to March, 2020.

To date people who are earning Kshs10,000 are still owed arrears by the county government and they are on contract. Their contract comes to an end next year in October. That is not the way we should treat teachers who have diplomas while some have certificates in ECDE. I agree with what Sen. Sakaja has proposed that there is need

for us to streamline the terms of service for the ECDE teachers, so that they are uniform in the whole country and they become permanent and pensionable.

If you have somebody on a three-year contract they cannot even access loans, they are not able to plan their income adequately. That sector has problems and as Senators, we need to find ways of addressing it so that the welfare of these ECDE teachers is taken care of. They are the ones who nurture our young children. If we do not take good care of them then they will not do a good job for these young children.

I thank you Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): We are through with Petitions.  
Next Order.

## PAPERS LAID

### THE 2022 BUDGET POLICY STATEMENT AND RELATED DOCUMENTS

**Sen. Dullo:** Thank you Madam Temporary Speaker. I beg to lay the following papers on the Table of the Senate today, 1<sup>st</sup> December, 2021:-

The 2022 Budget Policy Statement.

The 2022 Medium Term Debt Management Strategy.

The Draft Division of Revenue Bill, 2022.

The Draft County Allocation of Revenue Bill, 2022.

Annual Statutory Report for the CoG

### STATE OF THE JUDICIARY REPORT FOR FY 2020/2021

State of the Judiciary and Administration of Justice Report 2020/2021.

### REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY FUNDS

Report of the Auditor-General on the Financial Statements of Machakos County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Machakos County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kitui County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kitui County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Makueni County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Makueni County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Lamu County Executive for the year ended 30<sup>th</sup> June, 2020.

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Report of the Auditor-General on the Financial Statements of Lamu County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Lamu County Bursary and Scholarship Fund for the year ended 30<sup>th</sup> June, 2019

Report of the Auditor-General on the Financial Statements of Kakamega County Maternal Child Health and Family Planning Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the Financial Statements of Bungoma County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Bungoma County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Bungoma County Disability Empowerment Fund for the year ended 30<sup>th</sup> June, 2019

Report of the Auditor-General on the Financial Statements of Mandera County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Mandera County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Garissa County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor -General on the Financial Statements of Garissa County Assembly for the year ended 30<sup>th</sup> June, 2020

Report of the Auditor -General on the Financial Statements of Vihiga County Assembly Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the Financial Statements of Kericho County Executive Staff Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the Financial Statements of Uasin Gishu County Enterprise Development Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the Financial Statements of Vihiga County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Vihiga County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kisii County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kisii County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Meru County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Meru County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Marsabit County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Marsabit County Assembly for the year ended 30<sup>th</sup> June, 2020.

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



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

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

REPORT ON ETHNIC DIVERSITY AND INCLUSIVITY  
AT THE KMA AND KPA

**Sen. Shiyonga:** Thank you The Temporary Speaker, I beg to lay the following paper on the table of the Senate today 1st December, 2021-

Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on the Ethnic Diversity and inclusivity at the Kenya Maritime Authority (KMA) and the Kenya Ports Authority (KPA).

Thank you Mr. Temporary Speaker.

*(Sen. Shiyonga laid the document on the Table)*

**COMMUNICATION FROM THE CHAIR**

PROCESSING OF THE BUDGET POLICY  
STATEMENT, 2022

**The Temporary Speaker** (Sen. Kinyua): Order, Members. As outlined in the Public Finance Management Act, 2021 and its attendant regulations the budget processing involves preparation of key policy documents for approval by Cabinet and Parliament.

Given that 2022 will be a general election year, preparation of the 2022/23 – 2024/25 Medium-Term Budget will require to be fast-tracked to ensure that the budget estimates are approved by Parliament before it proceeds on recess in preparation for the general elections slated for August, 2022. Resultantly, vide a circular No.8/2021 the National Treasury, set timelines to facilitate finalization and approval of budget policy documents and Bills well ahead of the general elections. You may note that the budget process is likely to be concluded by 15<sup>th</sup> April, 2022.

By a letter Ref. No. Conf.MOF83/02/TY.5/ (52) dated 30<sup>th</sup> November, 2021, and received in the office of the Clerk of the Senate on the same day, the Cabinet Secretary for the National Treasury and Planning submitted the following documents for consideration and approval by Parliament-

- (a) The Budget Policy Statement (BPS), 2022;
- (b) The Medium Term Debt Management Strategy, 2022;
- (c) The Draft Division of Revenue Bill, 2022; and,
- (d) The Draft County Allocation of Revenue Bill, 2022.

Hon. Senators, as you may have noted, the Senate Majority Leader has tabled the BPS for the Financial Year 2022/2023. The BPS sets out the broad strategic priorities and policy goals that will guide the national Government and county governments in

preparing their budgets both for the following financial year and over the medium term. It contains, among other things-

- (i) An assessment of the current state of the economy and the financial outlook over the medium term, including the macro-economic forecasts;
- (ii) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
- (iii) The proposed expenditure limits for the national Government, including those of Parliament and the Judiciary and indicative transfers to county governments;
- (iv) The fiscal responsibility principles and financial objectives over the medium term, including limits on total annual debt; and,
- (v) the proposed division of revenue, including proposed conditional grants, if any.

In a nutshell, it means that any proposal that Senators have regarding the Division of Revenue Bill, the County Allocation of Revenue Bill and the County Grants Bill, which will contain funds for conditional allocations to the counties, should be canvassed and forwarded to the National Treasury for possible factoring in the BPS, failure to which, it will be difficult for changes to be accommodated later on.

Hon. Senators, Section 25(7) of the Public Finance Management Act provides as follows-

“Parliament shall, not later than fourteen days after the Budget Policy Statement is submitted to Parliament, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments.”

Further, Standing Order No.180(4) and (5) requires the Standing Committee on Finance and Budget to deliberate upon and consult the Cabinet Secretary, Ministry of Finance, the Commission on Revenue Allocation (CRA), County Assemblies Forum (CAF) among other stakeholders, and table a report containing its recommendations on the BPS within 12 days, for this case, being not later than 13<sup>th</sup> December, 2021.

Hon. Senators, based on the importance of the BPS and the above timelines, I direct that the BPS be considered by all Standing Committees each concentrating on their respective mandate. The Standing Committees will then forward their recommendations to the Standing Committee on Finance and Budget for consolidation, not later than Thursday, 9<sup>th</sup> December, 2021.

To enable Hon. Senators and the committees to interrogate issues contained in the BPS, the Standing Committee on Finance and Budget has organized a virtual briefing session for all Senators on Monday, 6<sup>th</sup> December, 2021, at 9.30 a.m., *via* video conferencing.

I urge the Standing Committee on Finance and Budget to expedite the process and table its report on or before Monday, 13<sup>th</sup> December, 2021, to enable the Senators to debate and approve the BPS.

Hon. Senators, please note that, pursuant to Section 25(8) of the Public Finance Management Act and Standing Order No.180(8) of the Senate, the Cabinet Secretary for the National Treasury and Planning is expected to take into account resolutions passed by Parliament in finalizing the budget for the relevant financial year.

Hon. Senators, I therefore urge you all to prioritize the scrutiny of the BPS, taking into consideration our most important function of safeguarding devolution.

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I thank you.  
Next Order.  
Proceed, Chairperson, National Cohesion, Equal Opportunity and Regional Integration.

### POINT OF ORDER

#### DELAYED SUBMISSION OF THE BPS TO THE SENATE BY CS TREASURY

**Sen. Sakaja:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Kinyua): What is it Sen. Sakaja?

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, on the Communication which we have received very well, I will say one or two things. I do not know if there is any other Member who would like to say something.

It is very discontending on the timing of this BPS. I do not know how the National Treasury is operating under our good friend Cabinet Secretary (CS) Ukur Yatani who has been a governor.

The BPS is such an important document that is being brought at the tail end of this session. Committees will have to sit and consider line items in their various Departmental Committees and then table a report yet we are going on recess tomorrow. That will necessitate a special sitting. Why is it that this BPS is brought out of time? It is not right for us, as a House, to accept that it is brought when the CS deems it fit and then we have to deal with it. We need to urge this CS to behave better. We want to give meaningful input to BPS as the Senate.

Secondly, the way the trend has been is that the Public Finance Management (PFM) Act, as you mentioned correctly, and the Constitution state that Parliament must report on the BPS. However, we usually send two different reports. There is a report by the Senate and another by the National Assembly. What the CS has been doing is disregarding the report by the Senate and considering the report by the National Assembly.

Mr. Temporary Speaker Sir, you will need to tell us, at a later date how we will deal with it differently this year. Do we have one report that moves from this House to the other House or do we get the report from the National Assembly? It is important that you resolve this matter between you and the Speaker of the National Assembly so that we do not do an exercise in futility. We have other things to do out there. For being an academic exercise while seating, the Chairperson of the Committee on Health is here, will sit with his committee for hours, go through the issues on health in this BPS, only for the CS to take into consideration what comes from the National Assembly.

Mr. Temporary Speaker Sir, kindly at the opportune time, give us guidance on how to deal with this once we have brought our committee reports. Am ready to look at labor issues, social welfare, women, children *et cetera*, whatever is under my mandate, but we do not want to do academic exercises in this House. We take a lot of time. I am sure Sen. Mogeni will call me to sit at the Justice, Legal Affairs and Human Rights Committee (JLAC) and look at the provisions of the BPS for our committee, then all that

goes and is disregarded and only the National Assembly one is taken. This House must pronounce itself on those two matters.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Sakaja. As you have clearly put it, I will communicate at a later date about it.

Proceed, Chairperson, National Cohesion, Equal Opportunity and Regional Integration.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON ETHNIC DIVERSITY AND INCLUSIVITY AT KMA AND KPA

**Sen. Shiyonga:** Thank you, Mr. Temporary Speaker Sir. I beg to give notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on ethnic diversity and inclusivity at the Kenya Maritime Authority (KMA) and Kenya Ports Authority (KPA) laid on the table of the Senate on Wednesday, 1<sup>st</sup> December, 2021.

**The Temporary Speaker** (Sen. Kinyua): Let us move on to the next Order.

## STATEMENTS

### OPERATIONS OF THE NATIONAL IRRIGATION BOARD

Sen. Johnes Mwaruma is not here. Let us proceed to the next Statement.

*(Statement deferred)*

Sen. Cherargei, proceed.

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker Sir, for this opportunity. I have two Statements and I hope you will allow me to read them concurrently, consequently or subsequently.

**The Temporary Speaker** (Sen. Kinyua): Okay, you are allowed.

### UNQUALIFIED PERSONS PRACTICING AS ADVOCATES IN VARIOUS PRIVATE COMPANIES

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48(1) to request a statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding unqualified persons practicing as advocates in various private companies across the country. In the Statement, the Committee should-

(1) Investigate the claims that some private and commercial firms licensed to offer various other services are providing legal services to the public, contrary to the Advocates Act, a case in point being Leo Investment, Chatur Group of Companies and Skyline Investment Limited, which are registered as marketing companies, but are offering legal services.

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(2) Find out whether the staff of the said companies offering legal services are qualified advocates and whether they have been licensed by the relevant regulatory body.

(3) Cause the Law Society of Kenya (LSK) to update the advocates' roll and upload the LSK website to weed out unqualified advocates in order to mitigate further damage to unsuspecting Kenyans.

(4) State the measures, if any, by regulatory agencies such as the LSK, the Attorney-General and the Advocates Complaints Commission (ACC) in safeguarding clients' interest from such illegalities.

That is the end of my first Statement.

#### LAND LEASES IN NANDI COUNTY

Mr. Temporary speaker Sir, with your indulgence, I rise pursuant to Standing Order No.48 (1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the land leases in Nandi County.

In the Statement, the Committee should-

(1) State the acreage of land currently under leasehold in Nandi County, giving the land use status and amount paid by acre to the County Government of Nandi as leasing fees or land rates.

(2) Provide a comprehensive list of land leased by tea estate companies and multinational companies in Nandi County stating their acreage, period of lease and/or date of expiry of the leases.

(3) State the role of the National Land Commission (NLC), the national Government or Ministry of Lands through the national Government and the County Government of Nandi in the issuance and renewal of land leases.

(4) Cause the NLC to audit land owned and or held by the County Government of Nandi for the benefit of residents of the County.

I thank you, Mr. Temporary Speaker.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Cherargei. I can see an interest from Sen. (Dr.) Musuruve. In the interest of time, I will give you three minutes. You want to react to both Statements or only one?

**Sen. (Dr.) Musuruve:** I will react briefly to one Statement. The one Sen. Cherargei is talking about on legal services. I support this Statement because representation is very important. In many instances, you will find that when Kenyans of all walks of life are summoned in court, they must have representation.

It is just in good breath that Kenyans are aware of the people representing them. There is need to have a database and one common pool of all the advocates in this country, so that someone can choose from the list of advocates because if an advocate does not represent you very well and effectively, you might end up losing a deserving case.

Sometimes you might find yourself being judged unfairly. There is need for Kenyans to be wary of people who are masquerading as advocates. There is need to also have their details posted in the internet so that one can just click and know, this is an advocate that deals with different issues. I do not know whether advocates also deal with different issues or just general issues such that if it is a murder case, rape case, land issue or any other case, somebody knows where to go.

I think this is an issue that should be interrogated, and I support it.

**The Temporary Speaker** (Sen. Kinyua): Sen. (Dr.) Mwaura, sijui ulitaka kuongea kuhusu taharifa ipi na karibu sana, tumekukosa sana.

**Sen. (Dr.) Mwaura:** Asante sana. Nashukuru sana kwa sababu nakuona Spika, umechukua hatamu zile nilikuwa nazo kwa hivyo kongole sana kwa sababu lazima tuendeleze Kiswahili kwa sababu ni lugha ya Kitaifa ambayo ni nzuri zaidi.

Nashukuru kurudi hapa tarehe moja Decemba kwa sababu naona kwamba ni jambo la muhimu, hata ingawa naona taa ya manjano imeweza kuwekwa lakini niseme kama singekuwa na mawakili gushi, singewahi rudi hapa. Kwa hiyo, taarifa hii ambayo imewasilishwa na Mweshimiwa Senata wa Nandi, Cherargei, ambaye pia ni wakili, ni muhimu sana kuhakikisha ya kwamba hatuna matapeli ambao wanajifanya kama wao ni mawakili alafu kazi yao ni kuchukua hela za watu na hawaendi kotini. Kwa hivyo ni jambo ambalo linafaa kushughulikiwa zaidi.

Nafikiri kumekuwa na tashwishi sana katika lile shirika la mawakili la *Las Society of Kenya (LSK)*. Nilikuwa na Rais, Bwana Havi. Nina waomba wachukulie hili jambo kuwa muhimu sana kwa sababu tunajua kama mtu yeyote angependa kupata haki, lazima awe na wakili mzuri ili akwende katika kitengo cha mahakama na aweze kuskizwa. Lakini kama mtu yeyote ambaye anafanya biashara zingine zozote anaweza pia kujisimamisha kama wakili na kufanya shughuli ambazo sio za rasmi kwa sababu ni kampuni tu, itakuwa ni jambo ambalo ni la kudhoofisha usawa wa sheria.

Bw. Spika wa Muda, ningependa pia kuchukua mwito huu kusema kwamba, ni vizuri pia mawakili nao wasiwe wanatumia kampuni zao za uwakili kufanya biashara zingine. Nafikiri hiyo ndiyo taswishi ambayo ipo kwa sababu kampuni ya mtu binafsi ina nafasi ya kufanya chochote kile ilhali pia biashara ya uwakili inafaa kusajiliwa rasmi.

Naunga mkono.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. (Dr.) Mwaura. I commit the first Statement to the Standing Committee on Justice, Legal Affairs and Human Rights.

The second Statement is committed to the Standing Committee on Land, Environment and Natural Resources.

*(The Statements were committed to the Standing Committees on Justice, Legal Affairs and Human Rights, and Land, Environment and Natural Resources)*

Hon. Senators, the other Statement is by Sen. Halake. She is not in, therefore, it is deferred.

DISCONTINUATION OF THE SCHOOL FEEDING  
PROGRAMME IN ISIOLO COUNTY  
*(Statement deferred)*

Statements No.5 and No.6 are deferred at the request of Sen. Kwamboka.

STATE OF POLICE STATIONS IN THE COUNTRY  
STATUS OF AN INQUEST INTO THE MURDER OF  
MS. AGNES WANJIRU  
*(Statements deferred)*

**The Temporary Speaker** (Sen. Kinyua): The Chairperson of the Standing Committee on Finance and Budget is not here and this is deferred. The Chairperson, Standing Committee on Health proceed.

#### ACTIVITIES OF THE COMMITTEE ON HEALTH

**(Sen. (Dr.) Mbiti):** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.51(1)(b) of the Senate Standing Orders to make a Statement relating to the activities of the Standing Committee on Health during the third and fourth quarters of the 5<sup>th</sup> Session, that is 1<sup>st</sup> July, 2021 to December 2021.

Mr. Temporary Speaker, Sir, the Senate Standing Committee on Health is established under Standing Order No.218(3) of the Senate Standing Orders and is mandated to consider all matters relating to medical services, public health and sanitation.

During the period of review, the Committee held 80 meetings during which it considered various legislative Proposals, Bills, Statements, Petitions and Queries as set out below.

(a) Legislative Proposals.

The Committee conducted pre-publications scrutiny for two legislative proposals as follows:

(i) The Maternal, Newborn and Child Health Bill sponsored by Sen. Rose Nyamunga.

(ii) The Kenya Medical Supplies Authority (Amendment) Bill sponsored by Sen. Naomi Shiyonga.

The two Bills have since been read the first time and now stand committed to the Committee on Health for consideration and facilitation of public participation in accordance with Standing Order No.140(5) of the Senate Standing Orders.

Mr. Temporary Chairperson, Sir, the Committee considered one Bill during the time of review as indicated; the National Hospital Insurance Fund Amendment Bill (National Assembly Bill 21 of 2021).

The National Hospital Insurance Fund Amendment Bill (National Assembly Bill 21 of 2021) was published vide Gazette Supplement No.91 on 11<sup>th</sup> May, 2021. The National Assembly considered and passed the said Bill with amendments on Wednesday, 29<sup>th</sup> September, 2021. The Bill was then forwarded to the Senate on Wednesday, 13<sup>th</sup> October, 2021.

Mr. Temporary Speaker, Sir, this Bill was read the first time in the Senate on Thursday, 14<sup>th</sup> October, 2021 and thereafter still committed to the Standing Committee on Health for consideration and facilitation of public participation in accordance with the Standing Order No.140(5) of the Senate Standing Orders.

On 30<sup>th</sup> November, 2021, the Committee concluded its consideration and adopted its report and the Committee stage amendments thereon for tabling.

(b) Statements

Mr. Temporary Speaker, Sir, the Committee considered and concluded 12 Senators' requests for Statements during the period under review as follows:

(1) Status of funds allocated to the County Governments, as donations by the International Community, to aid in the fight against the COVID-19 pandemic by Sen. Kwamboka.

(2) Availability of ICU facilities countrywide to handle patients with severe COVID-19 symptoms and other critical illnesses by Sen. Omanga.

(3) Under-reported cases of medical negligence and malpractice by Sen. Iman.

(4) Alleged incident of a patient missing a kidney at Mbagathi Hospital after a surgical operation by Sen. (Dr.) Musuruve.

(5) The status of treatment equipment and facilities at the Mbagathi Referral Hospital by Sen. Kwamboka.

(6) The rollout of the COVID-19 Vaccine (AstraZeneca) and the status of the vaccination campaign in Kenya by Sen. Cherargei.

(7) Authorization of the use of Sputnik Covid-19 vaccine in Kenya by Sen. Were.

(8) Alleged exportation of samples to laboratories outside the country by Sen. Cheruiyot.

(9) Non-remittance of statutory deductions from the staff of the County Government of Nandi County to the National Hospital Insurance Fund (NHIF) by the County Government of Nandi by Sen. Cherargei.

(10) Alleged change of ownership status of the General Kago Funeral Home in Kiambu County by Sen. Were.

(11) Enforcement of rules and regulations to remove toxic paints from Kenya by Sen. (Dr.) Mbito.

(12) Statement on the status of facilities and patient care at the Mbagathi Hospital by Sen. Sakaja.

Further to the above, the Committee sought a statement from the Ministry of Health by its own initiative on the status update on the COVID-19 pandemic situation and implementation of the nationwide COVID-19 vaccine roll-out. Responses from the Ministry of Health on the same formed the basis for the Fourth Progress Report on the COVID-19 Pandemic Situation by the Standing Committee on Health which is due for tabling and adoption by the House.

In addition to the above, the Committee has prioritized the following 13 Statements from Senators in the next session.

(1) Construction of healthcare centres in Kajiado County funded by the African Development Bank (ADB) through the Ministry of Health by Sen. Seneta.

(2) Statement regarding the delay in appointment of a substantive Director General in the Ministry of Health by Sen. Cherargei.

(3) Operationalization of the Counsellors and Psychologists Act, 2014 by Sen. (Dr.) Mwaura.

(4) Investing in mental health care post COVID-19 pandemic by Sen. (Dr.) Mbito.

(5) Mental health in Kenya in view of cessation of movement and curfew currently obtaining in the country by Sen. Kasanga.

(6) State of health care in public health facilities in Kitui County by Sen. Wambua.

(7) State of health care services to cancer patients in public health facilities in counties by Sen. (Dr.) Musuruve.

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(8) Delay in appointment of a substantive Director General in the Ministry of Health by Sen. Cherargei.

(9) Efficacy of COVID-19 vaccines by Sen. Were.

(10) Status of operations of a public health clinic situated in Parklands, Nairobi City County on LR No.209/19441 by Sen. Omanga.

(11) Looming health crisis in Kakamega County exacerbated by the COVID-19 pandemic by Sen. Malala.

(12) Medical negligence at health facilities in Bomet County by Sen. (Dr.) Lang'at.

(13) Third wave of the COVID-19 pandemic and the COVID-19 vaccine by Sen. Khaniri.

(c) Petitions

Mr. Temporary Speaker, Sir, during the period under review, the Committee considered and concluded two Petitions as follows:

(1) Petition on the status of Mkomani Clinic Society trading as Bomu Hospital in Mombasa County by Mr. Ahmed Shahame Mwindani.

(2) The COVID-19 situation in Kisumu County and at Kibos Sugar Factory Limited by Kisumu residents.

Having concluded the matters, the Committee is scheduled to consider and adopt its reports.

In addition to the above, the Committee has partially considered the following Petitions during the period in question.

(1) Petition on the closure of Kyuso Sub County, Kitui County by Hon. Stephen Musili and Hon. Johnson Kanandu.

(2) Petition on NHIF cover for kidney post-transplant medication by Mr. Daniel Ngumi and others.

(3) Petition on the payment of Medical and healthcare costs and provision of health cover for persons living with autoimmune diseases by the NHIF by Mr. Mikeson Mugo.

(4) Petition on the alleged double taxation of pharmacies in Kenya by Mr. Collins A. Omollo.

(5) Petition by Ms. Mario Juma and others on challenges faced by patients suffering from Multiple Sclerosis (MS) and Neuromyelitis Optica (NMO).

With regards to the above, the Committee met with the Petitioners on diverse dates during the period under review. It is now scheduled to receive responses from the relevant stakeholders for purposes of concluding the Petitions. Further, the Committee has scheduled a retreat in the first quarter of 2022 to consider and adopt its reports on all pending Petitions.

(d) Special Audit Report on the Utilization of COVID-19 funds by counties

Mr. Temporary Speaker, Sir, in relation to the Special Audit Report by the Office of the Auditor-General on the utilization of the COVID-19 funds by county governments, the Committee concluded the matter and adopted its Report for tabling and adoption by the House.

During the period under review, the Committee undertook a site visit to the national vaccine depot in Kajiado and the Kajiado County Referral Hospital for purposes

of inspecting the storage facilities of the COVID-19 vaccines and observing the ongoing COVID-19 vaccination exercise.

Mr. Temporary Speaker, Sir, in conclusion, I wish to thank your office and that of the Clerk of the Senate for the support accorded to the Committee in undertaking its work. I also wish to thank the Members of the Committee for their Commitment and diligence in executing the mandate of the Committee.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Sen. (Dr.) Musuruve. In the interest of time, I will give three minutes to every Member.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this time to comment on the Report by the Committee on Health. I commend the Chair, Sen. (Dr.) Mbiti, for bringing the Report on the Floor of this House.

Health is a core issue. It is a devolved function and an issue that affects all Kenyans. Most of the time, we want to know about the health of our citizens, especially given that it is enshrined in the Constitution that everyone has the right to the highest attainable standards of health.

I suppose that the Committee has done a thorough job to investigate on the many queries that have come on the Floor of this House. Some time back, there is a Statement that came from the Mbagathi County Hospital where a patient was missing her kidney. There was also another one from Mama Lucy Kibaki Hospital where babies were missing, and so on. Therefore, it is good when these health issues and the status of county hospitals are brought on the Floor on this House.

County hospitals need to be revamped and thoroughly equipped, so that we do not have Kenyans going out of the country to seek medical help. We need to own our own expertise and train our own medics, so that we avoid medical tourism.

I support the Statement.

The Temporary Speaker (Sen. Kinyua): The Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights.

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

**Sen Omogeni:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.51 (1) (b) of the Senate Standing Orders to make a Statement relating to the activities of the Standing Committee on Justice, Legal Affairs and Human Rights during the third and fourth quarters of the Fifth session, that is, the period from July to December, 2021.

Mr. Temporary Speaker, Sir, the Standing Committee on Justice, Legal affairs and Human Rights is established under Standing Order No.218 (3) of the Senate Standing Orders. It is mandated to look into matters relating to constitutional affairs; the organization and administration of law justice and elections; promotion principles of leadership, ethics and integrity; and looking into agreement treaties and conventions and the implementation of the provisions of the Constitution on human rights.

During the period under review, the Committee held a total of 44 sittings, during which it considered various legislative proposals. It also considered Bills, Statements, Petitions and enquiries. Of the 44 sittings of the Committee, 42 were held by the

Committee while two were joint sittings with the Standing Committee on National Security, Defence and Foreign Relations on matters dealing with county boundary disputes.

Mr. Temporary Speaker, Sir, the Committee transacted the following business during the period under review. On legislative proposals, the Committee undertook pre-publication scrutiny of three legislative Bills, which were referred to the Committee, pursuant to Standing Order No.125 (3) (a) of the Senate Standing Orders.

These were-

- (1) The Election (Amendment) Bill, sponsored by Sen. Kipchumba Murkomen, EGH, MP;
- (2) The Election (Amendment) Bill, sponsored by Sen. Ledama Olekina, MP; and,
- (3) The Penal Code (Amendment) Bill, sponsored by Sen. Abshiro Halake, MP.

Pursuant to Standing Order No.125 (3) (a), the Committee approved the proposals and transmitted its comments thereon to the Hon. Speaker. The three have since been published as Bills and are at various stages of consideration.

Mr. Temporary Speaker, Sir, on Bills, the Committee considered 11 Bills during the period under review. Of these, the Committee adopted and tabled Reports on three Bills, namely:-

- (1) The Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No.33 of 2020).
- (2) The Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021).
- (3) The County Boundaries Bill (Senate Bills No.20 of 2021).

The Committee has further concluded consideration of the following two (2) Bills, and will be tabling the Reports thereon in the coming week-

- (1) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No.21 of 2021).
- (2) The Election (Amendment) (No.3) Bill (Senate Bills No.48 of 2021).

Mr. Temporary Speaker, Sir, the Committee continues with consideration of the following six Bills-

- 1) The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021);
- 2) The Lifestyle Audit Bill (Senate Bills No.36 of 2021);
- 3) The Election (Amendment) Bill (Senate Bills No.42 of 2021);
- 4) The Election (Amendment) (No.2) Bill (Senate Bills No.43 of 2021);
- 5) The Constitution of Kenya (Amendment) Bill (Senate Bills No.46 of 2021).
- 6) The Election Campaign Financing (Amendment) Bill (Senate Bills No.51 of 2021)

The Committee is scheduled to undertake a series of public hearings across the country on the Election (Amendment) Bills and the Constitution of Kenya (Amendment) Bill to ensure compliance with the constitutional requirements on public participation.

Mr. Temporary Speaker, Sir, on Statements, the Committee considered a total of eight Statements sought by Senators during the period under review. Of these, the Committee concluded on the following six Statements-

- (1) Statement sought by Sen. Mutula Kilonzo Junior, MP, on the delays in the appointment of 41 Judges of the High Court and the Court of Appeal. On this

particular matter, the Committee tabled its Report on 19<sup>th</sup> October, 2021, following which the Report was debated and adopted by the Senate.

- (2) Statement sought by Sen. Aaron Cheruiyot, MP, on the closure of Kericho Law Courts.
- (3) Statement sought by Sen. Njeru Ndwiga, EGH, MP on the conduct of police officers enforcing COVID19 curfew regulations.
- (4) Statement sought by Sen. Samson Cherargei, MP, on the delays by the Kenya School of Law (KSL) and the Council of Legal Education (CLE) in processing gazettelement for students who have completed the Advocates Training Programme.
- (5) Statement sought by Sen. Johnes Mwaruma, MP, on the administrative boundary between Taita-Taveta and Makueni Counties.
- (6) Statement sought by Sen. Enoch Wambua, MP, on the preparedness of the Independent Electoral and Boundaries Commission to undertake the 2022 General Elections.

Mr. Temporary Speaker, Sir, the Committee is scheduled to meet with stakeholders in the next week to finalize on the pending two pending Statements, namely,-

- 1) Statement sought by Sen Samson Cherargei, MP on a public apology by the United Kingdom (UK) to the Talai Community of Kenya and compensation for horrendous violations of their rights.
- 2) Statement sought by Sen. Irungu Kang'ata, CBS, MP on the appointment of private law firms to represent the Government in the Building Bridges Initiative (BBI) cases and the payments made to the said law firms.

Mr. Temporary Speaker, Sir, during the period under review, the Committee considered a total of 10 Petitions. Of those, the Committee concluded and tabled its Report on one Petition, that is the Petition by Sammy Muriuki while others are pending before the Committee.

The Committee has concluded consideration of a further seven petitions and is scheduled to adopt the Reports thereon in the coming week and proceed to table the reports thereafter. These are –

- 1) Petition by Reuben Kibegwa Mageuzi on alleged corruption and mismanagement in the Nyamira County Government;
- 2) Petition by Abdalla Suleiman and Elkana Kitur on mass examination failure at the Kenya School of Law;
- 3) Petition by the Kipsigis Community Clans Association on historical injustices against the Kipsigis Community by the colonial government;
- 4) Petition by Peter Barngetuny and Titus Chemase on the arbitrary cancellation of Kimwarer Dam and scaling down of Aror Dam in Elgeyo Marakwet County;
- 5) Petition by Kevin Ndoho on access to justice under the COVID-19 pandemic and the appointment of court reporters;
- 6) Petition by William Amge arap Langat regarding alleged unlawful dispossession of parcel of land No. BARINGO/PEKERRA101/178 in Baringo County; and

- 7) Petition by Taratisio Ileri Kawe on amendment of various provisions of the Constitution and statutes relating to Bail and Bond during criminal investigations and prosecutions.

That leaves the following two Petitions, which the Committee is continuing with stakeholder engagement on –

- 1) Petition by Kimutai arap Chelule and others on the ownership and status of parcels of land L.R. Nos. 3977 and 3978 located at the boundary of Kericho and Kisumu Counties; and
- 2) Petition by Taratisio Ileri Kawe on amendment to the Constitution and other relevant laws on the Election of a Deputy President and a Deputy Governor.

Mr. Temporary Speaker, Sir, on inquiries, during the period under review, the Committee resumed and concluded its inquiry into extrajudicial killings and enforced disappearances in Kenya. The Report of the Committee was tabled in the Senate on 19<sup>th</sup> October, 2021, following which it was debated and adopted by the Senate last week. The Committee has further drafted a proposed Bill; the Security Services Laws (Amendment) Bill, 2021, which comprehensively addresses the legislative gaps identified by the Committee during its inquiry.

Additionally, the Committee continued with its inquiry into the policy, legislative and administrative framework on the fight against corruption in Kenya. On this, the Committee is scheduled to meet with the key actors during the coming recess, following which the Committee shall conclude on the inquiry and tabled its report thereon.

Mr. Temporary Speaker, Sir, on litigation on behalf of the Senate, I wish to state that the Committee continued to monitor closely suits filed in various Courts that have a bearing on the mandate, functions, and operations of the Senate, and to offer its support to the Directorate of Litigation and Compliance in prosecuting or defending the said suits.

Notably, the legal team representing the Senate appeared at the Court of Appeal on 27<sup>th</sup> July, 2021 where it presented its submissions in Civil Appeal E084 of 2021 - The Speaker of the National Assembly of Kenya and Another -vs- The Senate of the Republic of Kenya and Others. In the said appeal, the National Assembly seeks to overturn the Judgment issued by the High Court on 29<sup>th</sup> October, 2020 in Petition No 284 of 2019. The Judgment by the Court of Appeal was issued on Friday, 19<sup>th</sup> November, 2021 and the gains that the Senate had gained from the High Court judgement were substantively reversed. As a Committee, we are completely dissatisfied with the whole of that judgement and, in that regard we will be introducing a Motion to the Senate seeking a resolution to appeal against the said judgment to the Supreme Court of the Republic of Kenya.

In this regard, allow me to commend the Senate team in the said suit in the Court of Appeal that comprised of Sen. James Orengo, EGH, SC, MP; Sen. Okong'o Mogeni, SC, MP; Sen. Mutula Kilonzo Junior, CBS, MP; and Ms. Wangechi Thanji, Legal Counsel. It is our hope that when this matter is presented before the Supreme Court, the gains that the Senate got from the High Court will be restored.

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

Members of the Committee for their diligence in executing the mandate of the Committee.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Omogeni. However, I am concerned that you are speaking as though the work of your Committee has come to an end.

Proceed, Sen. Olekina.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I rise to appreciate the work done by the Committee on Justice, Legal Affairs and Human Rights. I take this opportunity to recognize the presence of the Narok County Assembly administrative staff who have come to visit the Senate.

It will not be good of me to fail to make comments and appreciate them for the good work that they do. Narok County receives about Kshs8.8 billion a year in terms of the sharable revenue and these are the officers who advise the MCAs in the counties to develop good budgets. The amount of work that they do is seldom recognized.

Today, I would like to tell them that I appreciate the work that they do and hope that they can observe how we do things in Parliament. We recognize our secretariat for the good work that they do for us. Otherwise, we would not achieve much as a Senate. We must always do credit to where it is due.

Mr. Temporary Speaker, Sir, I thank you for allowing me to appreciate them and encourage them to visit. I will address the Narok County Assembly soon so I take the opportunity to invite my colleagues to come with me. I will share more details on the planned visit on our platform so that we can share experiences on how we do things.

Secondly, I believe in the separation of powers of the three arms of Government; the Executive, the Legislature and the Judiciary. I appreciate the work that has been done by the Committee on Justice, Legal Affairs and Human Rights in representing and fighting for the independence of this House. The High Court of Kenya found it wise to interpret the law the way it ought to be interpreted in terms of oversight. It will be suicidal if Article 96 of the Constitution gives us the power to oversight on revenue that is allocated to counties but one arm of the Government interprets the law differently.

I encourage the Chairperson of the Committee on Justice, Legal Affairs and Human Rights to fight this battle all the way to the Supreme Court. I encourage the Chairperson of the Committee to continue fighting this battle all the way to the Supreme Court, so that we can have a clear separation of powers.

Mr. Temporary Speaker, Sir, quite often, I hear people criticizing the Judiciary and I take great exception of that because the Judiciary ought to be independent. However, when it meddles into the affairs of the Senate or this arm of Government, then it becomes a little bit tricky. I know we have had a lot of sibling rivalry, but for anyone to say that there is no piece of legislation that affects counties, really beats the purpose as to why we should have an independent Parliament.

I support and appreciate the work carried out by the Committee. I know that the Committee on Justice, Legal Affairs and Human Rights mostly does *pro bono* services representing the Senate in the Judiciary. When you compare to the National Assembly--- This is why we always have to call a spade a spade. There is no reason the Parliamentary Service Commission (PSC) should avail a lot of money to the National Assembly to fight

their battles and yet, on this other hand, just because we have Senior Counsels Sen. Omogeni or Sen. Orengo; Sen. Mutula Kilonzo Jnr. and all the other lawyers, we are seen as people who can handle their own work. It is absolutely ludicrous.

We need to appreciate the role of the Senate. We have to really stand our ground and put our foot down. Funds should be distributed equally to fight our legal battles. There is no reason the National Assembly gets money. We also need money to fight our battles.

Mr. Temporary Speaker, Sir, I support the work and recommend what the Committee on Justice, Legal Affairs and Human Rights has done.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Olekina.

Sen. Farhiya, you may proceed. In the interest of time, I am now giving three minutes to every Senator who will contribute.

**Sen. Farhiya:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to commend the Committee on Justice, Legal Affairs and Human Rights for the great job they have done. I wish to single out the issue on concurrence of Bills between the two Houses. Our legal experts, especially our Senior Counsels, including Sen. Mutula Kilonzo Jnr., have always been at the forefront in ensuring that the Senate gets the justice it deserves.

If we do not have concurrence on Bills, then I think this House might as well close down because it will have no business to transact. Since the High Court landmark ruling that enabled all Bills to be concurred with the Senate, the work of this Senate has started moving forward. Our sister House has started bringing Bills to this side to ensure there is always concurrence.

Mr. Temporary Speaker, Sir, the Senate that was formed in 1963 died a natural death because of the problems such as what we are experiencing now. For devolution to survive in terms of funds allocation, right legislation and support to county assemblies, a vibrant Senate can only be the answer.

I wish to thank all our Counsels, Sen. Omogeni, Sen. Orengo and Sen. Mutula Kilonzo Jnr. for giving *pro bono* services for all the legal work of this House, that enhances the legislation and ensures progress in the Senate from what the Constitution has given us in terms of the legal interpretation.

I also wish to join you in welcoming the members from Narok County Assembly. I wish to tell them that their Senator is vibrant. He is part of the team that ensured that Narok County never loses a single cent. In fact, he was instrumental to ensuring that Narok County gains funds. In whatever other role that he wants, I think he will deliver. You should consider him.

*(Applause)*

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

**Sen. Seneta:** Thank you, Mr. Temporary Speaker, Sir, for also giving me a chance to welcome the delegation from Narok County. I also want to concur with Sen. Olekina that they are doing quite---

**The Temporary Speaker** (Sen. Kinyua): Sen. Seneta, I gave you an opportunity to contribute to the Statement by the Committee on Justice, Legal Affairs and Human Rights.

**Sen. Seneta:** Thank you, Mr. Temporary Speaker, Sir. You definitely know that Kajiado and Narok counties are twin sisters. I am requesting that I just welcome them on your behalf and that of the House.

**The Temporary Speaker** (Sen. Kinyua): Okay. Proceed.

**Sen. Seneta:** Mr. Temporary Speaker, Sir, I just want to quickly welcome them and appreciate the much work that the secretariat can do for the representatives of the people. Most of the time, MCAs are very busy representing the people and so, they may need a lot of research from the secretariat to assist them come up with policies and legislation that can go a long way in helping citizens of Narok County.

I also assure them that they have one of the best representatives in the Senate who is also very vocal. He is not only a representative of Narok County, but all the Maa speaking counties. In fact, when we see him, we see a representative of the Maa people all over the country.

I welcome them and wish them all the best.

Mr. Temporary Speaker, Sir, as for the Statement, I agree that the independence of all institutions is very important. I appreciate the work of the Judiciary and for respecting the independence of all the other arms of Government.

Since I was not present in the morning, may I also take this opportunity to welcome back one of our own colleagues, Sen. (Dr.) Mwaura. I wish him all the best as he rejoins the Senate. I thank the Judiciary for standing for the justice of Members within political parties.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Seneta.

Sen. Sakaja, proceed.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, do I second?

**The Temporary Speaker** (Sen. Kinyua): No, it is not time for your Statement. You had indicated you want to speak.

**Sen. Sakaja:** Yes, Mr. Temporary Speaker, Sir. As much as I have a Statement, I am proud to be a Member of this Committee, very ably led by the Senator for Nyamira County. We have covered a lot of ground and also have an amazing team led by Mr. Charles. I think what Sen. Olekina said must really be emphasized.

The Directorate of Legal Services of the Senate and Ms. Mercy Thanji who goes to court to represent us together with our Senators, have done it because of fidelity to the Constitution. We saw the National Assembly raking up a bill of I think Kshs90 million on the same case, yet our people have gone *pro bono*.

**Sen. Wetangula:** Yes!

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, it is a big shame. I think there must be some limit set or some standard because it is the same PSC. We cannot just throw away taxpayers' money on issues that have been pronounced upon before.

I am proud to be a Member of this Committee and the work that we have been able to do. I know there are many Bills that we are still considering. I hope that Members will still be able to contribute to those Bills next year despite going into politics.



Mr. Speaker, Sir, allow me to also welcome the team from Narok County. That is my county of ancestry, which many people may not know. My ancestors are from there. The name ole Sakaja is from Lolgorian in Kilgoris. That is where you find many Sakajas. You will not find Sakajas in any other part of the country. They then migrated from Lolgorian, but to date, some are still there and I have interests there. They migrated towards western Kenya in Kitale. That is home.

I am very grateful that you have come. My brother, Sen. Olekina, is one of the super Senators that we have in this House. He is always a fighter for your community and Kenyans. *Kitii te nebo. Ashe oleng.*

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Sakaja. I almost wanted to ask you a question, but you answered before you finished. I thought your ancestry was in Trans Nzoia.

Let us have the Chairperson of the Committee on National Cohesion, Equal Opportunity and Regional Integration.

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

**Sen. Shiyonga:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No. 51 (1) (b) to make a Statement on the activities of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration for the period commencing 1<sup>st</sup> July, 2021 to 30<sup>th</sup> November, 2021.

During the period under review, the Committee held a total of 28 sittings. It considered two Statements sought by Sen. Were on recruitment made by the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works from 2013 to date and a Statement by Sen. Githua on the Special Groups Access to Government Procurement Opportunities (AGPO) programme.

The Committee concluded the Statement sought by Sen. Githua having received sufficient responses from the Ministry of National Treasury and Planning and after meeting with the CS, where the Senator was present. The Committee is awaiting the response from the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

With regard to Bills, the Committee concluded public participation on the National Cohesion and Peace Building Bill (Senate Bill No.19 of 2021) and tabled its report in the House.

The Committee is presently considering a petition from Migori County residents regarding continuous exclusion of persons with disabilities (PWDs) in the Migori County budget. The Committee met with the petitioners and will undertake a visit to Migori to meet with the county government and the county assembly committee responsible for matters of budget and finance to deliberate and conclude on the petition.

Mr. Temporary Speaker, Sir, on matters of regional integration, the Committee met with the Ministry of East African Community and Regional Integration to consider issues of infrastructural development and utilities necessary for enhanced integration.

The Committee visited the one-stop border post in Busia to oversight on bottlenecks to integration. During the visit, the Committee also met with the Governor and the Speaker of the County Assembly of Busia to assess the compliance of the Busia County Government and County Assembly with the legal provision of representation of diversity in staffing the county.

The Committee similarly intends to visit the one-stop border post in Malaba to conduct oversight on the challenges affecting integration. It will table a report on its findings once inspection visit is concluded.

During the period under review, the Committee engaged in forums with the National Cohesion and Integration Commission (NCIC) and the Ministry of Interior and Coordination of National Government and considered matters of inter-ethnic and political conflicts. It recommended collaboration strategies to prevent such conflicts, particularly during campaign period and measures to reduce political tension accelerated through the platform of churches and the media. During this forum, a political decency and peace charter was developed for consideration and validation.

Due to the COVID-19 pandemic and continued conflicts, the Committee did not undertake scheduled visits to counties adversely affected by conflict. It has proposed to do county visits in the affected counties during this coming recess.

Mr. Temporary Speaker, Sir, the Committee intends to carry out the following key activities during the next quarter-

- a) undertake county visit in regions affected by conflicts including Marsabit, Mandera, Isiolo, Wajir to address issues of cohesion and county public service diversities that were pended due to COVID-19 pandemic and heightened conflict;
- b) continue to engage with the various stakeholders relevant to its mandate on matters of national cohesion., equal opportunity and inclusivity among other issues;
- c) undertake county visits to Malaba and Isebania on issues of one-stop border post; and,
- d) promote regional integration and undertake a visit to the EAC organs and institutions.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Thank you. Your visit will not be complete without Laikipia County. I heard you mention conflict areas such as Marsabit without mentioning Laikipia.

**Sen. Shiyonga:** Mr. Temporary Speaker, Sir, I agree. We shall do that.

**The Temporary Speaker** (Sen. Kinyua): Let us have the Chairperson, Standing Committee on Labour and Social Welfare, Sen. Sakaja.

ACTIVITIES OF THE COMMITTEE ON  
LABOUR AND SOCIAL WELFARE

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.51 (1) (b) to make a Statement relating to the activities of the Standing Committee on Labour and Social Welfare during the third and fourth quarters of the Fifth Session that is July to December, 2021.

During the period, the Committee has so far held 52 Sittings during which it considered various legislative proposals, Bills, Statements, Petitions and Inquiries. Of these, 49 were Sittings of the Committee, three were joint Sittings with the Standing Committees of National Security, Defense and Foreign Relations, Justice, Human Rights and Legal Affairs on the matter of labour migration, which was very key issue.

The Committee transacted the following business during the period under review-

On Legislative proposals, we undertook pre-publication scrutiny and two of these proposals referred to the Committee. That was the Employment Amendment Bill sponsored by Sen. Cherargei and the Social Assistance Bill sponsored by Sen. Omanga.

Pursuant to Standing Order No.125 (3) (a), we approved these proposals and transmitted them onward with our comments thereon to the hon. Speaker. The proposals have since been published as Bills and are at various stages of consideration.

We considered two Bills during the period under review. Of these, we adopted and tabled a report on the Heritage and Museums Bill that was by Sen. (Dr.) Milgo. We are concluding consideration of the Sports Amendment Bill. We have received a matrix of public participation and proposed amendments.

We were looking at it last Saturday, but felt that proposed amendments from the Ministry of Sports were so many that they would probable change the Bill. We cannot do without Sen. Cheruiyot in there with us.

We have considered 24 Statements sent by Senators. For the record of the House, I will give details. Of these, we have concluded eight. There was one sought by Sen. Kasanga on the Alleged Abusive Treatment of PWDs. We got a response and shared with the Senator.

On the Statement by Sen. Cherargei on the Management of the *Inua Jamii Programme* by KCB, we met the State Department, Senior Citizens Affairs and Special Programs on 3<sup>rd</sup> November, 2021. The questioner was invited. A copy was shared with the Sen. Cherargei, but he was not satisfied. I do not know how we will make him more satisfied.

Mr. Temporary Speaker, Sir, you may need to help us. Sometimes when a Statement comes, I cannot change it since I am not the CS, and that is the end of the response. There are many things in this country that are not satisfying. We get to live with it. We will do one more Sittings on this matter and then close it because we cannot focus on one issue.

On the Statement sought by Sen. Were and Sen. Kasanga on the Welfare of Children, the Committee met the State Department.

The Committee again met the relevant said department on 15<sup>th</sup> December. Both Senators were present and I thank them. We were appraised on the on-going reforms taking place in the care and management of children, especially orphaned and vulnerable children.

Mr. Temporary Speaker, Sir, we noted that issues of children are progressive in nature and we have scheduled periodic meetings with the State Department. Even the

Bible in the book of James says that true religion is taking care of orphans and widows at their point of need.

Sen. Faki had a Statement on the mistreatment of seafarers aboard Chinese owned fishing vessels. We conducted an inquiry and first met the Seafarers Union of Kenya on 1<sup>st</sup> September, 2021. We went to Mombasa and sat down with the Kenya Maritime Authority (KMA), which is responsible for this and regulating maritime issues.

Mr. Temporary Speaker, Sir, we sat with the recruiting agents, union members and officials and the area Senator, who was present. The Committee noted that the response given by the Ministry of Transport, Infrastructure, Housing and Urban Development and Public Works and the presentation by the KMA, and most of the labour relation issues raised by them were being addressed.

However, we discovered that there is more than meets the eye on our seas. Some of the Members of the County Assembly (MCAs) who came -and wherever we go we sit with MCAs - told us that fish is no longer brought to Mombasa. We have a lot of illegal fishing and allegations of no fishing at all.

Mr. Temporary Speaker, Sir, one of the seafarers gave us a story of how they would go out to the sea for months and wait, not fishing, but relaxing, then suddenly one evening, another boat would come and offload some cargo to their ship and they would return back. You can only imagine what that is.

We have not concluded this issue. We have written to the Kenya Coast Guard Service, State Department for Fisheries, Aquaculture and Blue Economy as well as the Directorate of Criminal Investigations (DCI) to report back to us after the investigations of what is happening in our seas.

Mr. Temporary Speaker, Sir, apart from illegal fishing and trawling from other countries, there is also some illegal and fishy business happening in our seas with these trawlers - no pun intended there though.

The fifth one is a Statement sought by Sen. Dullo on the dismissal of staff by Ewaso Nyiro North Development Authority. We considered the Statement at a series of meetings with the aggrieved staff and the Ministry of the East African Community and Regional Development.

**Sen. Olekina:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Olekina? I hope nothing is out of order.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. This is a House of record. I rise on a point of order on Statement of facts. Sen. Sakaja has alluded to very fishy business happening in our seas. It would be important for this country for him to expound a little bit and provide us with facts.

**The Temporary Speaker** (Sen. Kinyua): You are standing on a point of order.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, that Standing Order is in our Standing Orders booklet and Sen. Sakaja knows it. I hope our friends from Narok County can see how well our Clerks assist us in this work. It is on Statement of facts and I will quote it again once I know the Standing Order. I have just been informed and shall read the relevant Standing Order.

Standing Order No.100

Responsibility for statement for fact

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“(1) A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 116 (*Disorderly conduct*) unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

Mr. Temporary Speaker, Sir, our seas are for international trade. On a daily basis, we have ships that come all the way from different parts of the world. Most of them bring fuel, which is a dangerous commodity. Some bring in other commodities because we trade worldwide.

I respect Sen. Sakaja very much because he is a good worker and his Committee, although it is yet to consider some of my Statements. However, for his Committee to allege that there is some fishy business taking place in our seas and yet, the Senator cannot substantiate that statement, is very dangerous.

Mr. Temporary Speaker, Sir, I believe that the good Senator of Nairobi City County will do so. If not, he will suffer the consequences of our Standing Orders.

**The Temporary Speaker** (Sen. Kinyua): Sen. Sakaja.

**Sen. Sakaja:** Thank you, Mr. Temporary Speaker, Sir. I have given him the weapon to use against me by telling him the relevant Standing Order. I think Sen. Olekina was walking in when I was explaining, but while doing an inquiry on issues of labour, there were seafarers who died. Their colleagues explained the circumstances around which their colleagues died at sea.

Mr. Temporary Speaker, Sir, during that hearing, they said that the fishing vessels go to the high seas for months. The seafarers request to fish and they are told to not fish, but relax. Do you want to fish or a salary? That is on the record because Committee meetings are recorded, and that is in our HANSARD.

The seafarers stay there for two or three months and another vessel comes from wherever, offloads cargo onto that vessel and it returns back, claiming that cargo is fish. Considering that Senate is not an investigative agency, we do not have a conclusive report and that is why we mandated the Kenya Coast Guard Service, including the DCI and KMA to give us a report on the on-goings.

Mr. Temporary Speaker, Sir, everyone in Mombasa will tell you that Kenya had the highest quantity of prawns. Sen. Mutula Kilonzo Jnr talked about Tuna fish that is no longer there.

Our Committee together with the Committee on Agriculture, Livestock and Fisheries will get a report from the Kenya Coast Guard Service. We will deal with it as the Senate and solve it.

Mr. Temporary Speaker, Sir, I had moved on to the next one by Sen. Dullo, where she had made reservations on the report that we tabled in this House. We requested for further information from the management and the concerned Ministry. We got personnel files of all these people who were dismissed.

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At our sitting on Saturday, 27<sup>th</sup> November, we deliberated on it and we shall report to the House even tomorrow. We are done with this issue. However, when you bring a Petition or a Statement, you may not be satisfied with the response because that is our work as the Senate. If that is the state of things, the Committee does not have to do exactly what you want.

Mr. Temporary Speaker, Sir, I can bring a Petition to the Committee on Lands, Environment and Natural Resources and tell Sen. Githiomi that my prayer is that all title deeds of certain properties be transferred to my name. The Committee will obviously not do what I want or a certain institution should get unfair treatment.

We will not always be comfortable with the results, but let us respect the Committees when they do their best in the interest of the people. We have actually resolved that issue.

Mr. Temporary Speaker, Sir, there was a statement sought by Sen. Wambua. This is a statement that is very close to your heart, as a former councillor, speaker, *mtu wa mashinani* and chairman of a county council. This was on payment of a one-off honoraria and monthly pension to former councillors.

I know that members from Narok County will be happy to hear this under the defunct Local Authorities. We had a series of meetings with the former councillors, who I respect a lot.

They were led by Dr. Gitau of Nairobi. There was the team of the former Member of County Assembly (MCA) from Highridge and former Deputy Speaker; veterans of mine, including the former deputy mayor, Mr. Ngasha.

Mr. Temporary Speaker, Sir, we have sat with the Ministry of Labour, the Ministry of Devolution and Planning and the National Treasury. First, I commend the Cabinet Secretary (CS) for Devolution and Planning. Hon. Eugene Wamalwa is a great man. When the *Zoom* platform was not working in his office, he said that he would come to my office and use my screen. He came all the way to our office---

**The Temporary Speaker** (Sen. Kinyua): Kindly, state facts.

**Sen. Sakaja:** Yes, that is a fact.

**The Temporary Speaker** (Sen. Kinyua): The Minister?

**Sen. Sakaja:** It is the CS.

**The Temporary Speaker** (Sen. Kinyua): The CS for Devolution is not Hon. Wamalwa.

**Sen. Sakaja:** He was the then CS. We are in tune. Things have changed. He is now in charge of the Ministry of Defence. The then CS of Devolution, Hon. Wamalwa, humbled himself to come to sit in the office twice or thrice as we dealt with these issues.

Hon. Chelugui, the CS for Labour has a heart of gold. He would tell me: "I know that this is what the Cabinet is trying to do, but what can we do?"

Mr. Temporary Speaker, Sir, I wish that I could say the same about the rest. The CS for National Treasury is very practical and realistic, in as much as he dodged a few

times and we even had to issue summons. I really like CS, Ukur Yatani, because we sat in the building that he sits in. You do not call a CS and he says that he has been called to the State House. If you call him again, he says that he has been called to the State House. What State House? We have also been called to State House before.

When the current President was in the National Treasury, I was there as the director of political affairs. Whenever His Excellency Uhuru Kenyatta was called to Parliament by a Committee and he was on his way to the State House, President Kibaki would tell him to deal with Parliament first, because it was important.

However, nowadays, CSs feel like being called to the State House is a privilege. Maybe that is why we need politicians back on those seats. He would tell me: "I am dealing with the people, let me go to Parliament. I shall go to State House because it will always be there."

Mr. Temporary Speaker, Sir, at the meeting on 30<sup>th</sup> September, the National Treasury committed to pay former councilors, who sat for four consecutive terms, a gratuity at the rate provided in a circular of 14<sup>th</sup> October, 1994. This category comprises of 328 former councilors, who will draw a total of Kshs218 million. It is not the amount that we wanted, but it was worth something.

In those meetings, you would see a councilor sitting at a farm. They told us that a former councilor had been employed somewhere as a *shamba* boy. These are the fathers on whom devolution is standing on. We are standing on their shoulders. They are the ones who started this devolution. Many of these defunct councils were collecting more in aggregate than some counties.

Mr. Temporary Speaker, Sir, we must acknowledge these former councilors. All former councilors who sat for less than four consecutive terms were 11,919. They will be paid a gratuity of Kshs200,000 each, and the total cost will amount to Kshs2.3 billion.

I have urged the President to invite all these former councilors to Nyayo Stadium to thank them for their service to this nation and give them a certificate of honour or Head of State Commendation (HSC). They should then add to this Kshs200,000. They will even help him in this process. Councilors are influential wherever they are.

Mr. Temporary Speaker, Sir, moving from that, we noted the Statement by Sen. (Dr.) Langat on the declaration of 719 employees of Finlay Kenya redundant. It touched on two counties, Kericho and Bomet. We conducted county visits to both counties and had sittings the county executives and county assemblies of both counties.

We actually went to James Finlay in Chepkebe, Kericho. We met with the management together with the Kenya Plantation and Agricultural Workers Union (KPAWU) on issues regarding the Statement. We observed that this situation needed a multi-faceted approach to mitigate against the consequences of automation of tea picking in both counties.

We were shocked to learn that Bomet actually produces more tea than Kericho, but Kericho has the brand. It is known. They are neighbours with Bomet. Many people

are losing their livelihoods because of automation and all these machines that are coming in. Each county must have a balance.

Mr. Temporary Speaker, Sir, remember that these huge tea companies are on leases of land that are owned by the people. The counties only hold this land in trust on behalf of the people. They gave them a lease, and so, they cannot say that they will only focus on profits, but not the lives of the people in Kericho and Bomet.

Livelihoods have been lost as evidenced by the fact that a company that had employed 12,000 people now employs 5,000 people; from 12,000 to 5000. The new conversations between county governments, multinationals and the workers on a phased introduction of automation are needed, so as to enhance peaceful and mutual profitable coexistence between multinationals and local communities.

Mr. Temporary Speaker, Sir, I do not know why my secretariat has stopped there. When I went through the Collective Bargaining Agreement (CBA), I realized that tea workers are being taken for a ride. The CBA disaggregates the manual collection. It talks about how much that person is paid, the minimum, *et cetera*. However, there is no provision for those who are picking tea using the machines.

The machines are pulled by two people. Since there is no provision in that CBA, this company has said that this category of work is called field work. So, they pay then based on the field. I was very disappointed that my own uncle, Mr. Atwoli, is the one who signed the agreement between them and the factories. It must be revisited.

These workers in Kericho are being taken for a ride at James Finlay because of that lacuna in the CBA. They need to negotiate on the rate of a machine. That machine probably needs a skill. It is not just pulling a box. The re-negotiation is ongoing, and I hope that my secretariat is listening. This matter is not closed, even if we had put a full stop.

Mr. Temporary Speaker, Sir, my Committee's mandate is extremely wide. I am sure that our visitors are shocked. I am talking about everything.

There was a Statement by Sen. Mutula Kilonzo Jnr. on the directive by the CS of Sports to the sports registrar of the impromptu inspection of the football federation of Kenya (FKF.)

The Committee invited stakeholders, including the Ministry of Sports, who failed to honour invitations and summons. A lot kept going on, and this is a matter that is ongoing. We issued summons to the CS for Sports, who must attend. There is no running away. Delaying is not a tactic; she must still attend.

We held off actualizing the provisions of Section 19 of the Parliamentary Powers and Privileges Act. We can fine her Kshs500,000 which might be little for her, but that is the limit. We need to amend that law. We can fine, ask that they be arrested, or both.

We do not intend to do that. There is no need for that. We gave her time to come back to us. Normally, she is extremely gracious. She must not fear that there is an ulterior



motive in the Senate. We work here for the sake of Kenyans. That oversight is a must. There is no escaping oversight.

Mr. Temporary Speaker, Sir, I will move swiftly. I know that I have taken a lot of time, but we might lack business if I go too quickly. We are still considering the following up on the Statements below-

There was a Statement sought by Sen. Rose Nyamunga on the Status of Kenya Young Employment Opportunities (KYEOP). There was also a Statement sought by Sen. Enock Wambua on rampant dismissal in private and public sectors. This is especially about a gentleman called Malombe of the Kenyatta National Teaching and Referral Hospital. They say that they had sent their response to the Ministry, but the Ministry has not given back a response. The CS for Health actually sent a text. I do not know if it is on that mater, but I will follow it up. Before we go, will have a response.

Another Statement was sought by Sen. Samson Cherargei on the performance of the Kenya national team at the Tokyo Olympics and mismanagement of athletes by the Ministry of Sports

There was a Statement sought by Sen. Johnes Mwaruma on the construction of Dawson Mwanyumba Stadium. I am very upset with Sen. Mwaruma. Whenever many of the Senators here have an issue, I come to their counties. I have gone to Taita-Taveta severally on security issues when I was chairing the Committee on National Security, Defence and Foreign Relations. I have gone to Wajir on the issue of people who had not been paid. We have gone to Solai, Bomet and Kericho counties.

However, when it comes to my county--- Today I had a county visit, just one hour away in Dandora. I was with Sen. Kihika and Sen. Omanga. It is just that that I have in-laws in his county. We will look at the construction of Dawson Mwanyumba stadium. Perhaps, it will not be a county visit, but we will look at it. You must do unto others as you would like them to do unto you. I have been faithful to my colleagues in this House.

Another Statement was sought by Sen. Aaron Cheruiyot on the state of stadia. I also visited the Green Stadium in Kericho. I looked at the stadium in Bomet and we are getting a response on the national ones.

We have visited Kinoru in Meru and quite a number of stadia. As a Committee, we will do one collective report.

There was a request for a Statement by Sen. Olekina on the impending mass sacking of employees at the Kenya Medical Supplies Authority (KEMSA). I have not seen that response. Maybe that is what the Cabinet Secretary (CS) was trying to get me on, but we need to get that response. You cannot say that you have fired them because of the scandal, but the tea girls and the cleaners were not involved. I doubt.

Mr. Temporary Speaker, Sir, now you are militarising the place. There must be a proper answer to that. This is a civilian institution. It is not impending because they have already been sent home. I know that some of them are suffering. You have children's school fees. It is just the anxiety of not having a job. We need to have some more heart in this country.

There was also a Statement by Sen. (Dr.) Langat on the late staff salaries and other unfair labour practices by Bomet Water and Sanitation Company (BOWASCO), and the response came. I have seen this response. It has come from BOWASCO and we will share it with the Member. He will tell us.

On the Statement brought by Sen. Sakaja, this is strange. I cannot seek a Statement from my committee. It was on the inquiry on the status of Dandora and I have just said what we have done. That stadium is amazing.

Mr. Temporary Speaker, Sir, there are so many young people around that area who would have benefited. It is 65 per cent done. It was stopped due to these investigations on alleged misappropriation charged on the former Governor, Hon. Sonko. Gov. Sonko did an amazing job on that stadium. If you look at it, you will be shocked. It is even better than some of the big ones by the national Government. That is what we are going to report to as a Committee.

I spoke to the Director General of the Ethics and Anti-Corruption Commission (EACC), Mr. Twalib. The President himself said that it must go on. I have spoken to the Governor and everyone is willing, but afraid of touching it. What we are going to do as a Senate is to say that the work must be complete. You are wasting three years and the stadium has been equipped.

Mr. Temporary Speaker, Sir, I thank the young people of Dandora. They have made sure not a wire has been touched. There are speakers and a public address system, flood lights, and they are taking care of that place themselves. We are going to give the go-ahead for that completion to be done for whatever amount. Sports is not under Nairobi Metropolitan Services (NMS). It is still under the county. Gov. Ann Kananu, finish that stadium so that next year, I can be sworn in as governor there.

There was the issue of Sen. (Dr.) Lang'at on claims of discrimination against local jobs. They are very many and I cannot list all of them that are still ongoing.

Sen. (Dr.) Ali requested a Statement on delays in payment of work injury benefit and another one on senior personnel at GDC.

On the issue raised by Sen. Were on frustrations faced by the retired public servants or the beneficiaries in pensions department, my friend at the Pensions Department sometimes struggles whenever we have an issue. I am very grateful for the team there at the National Treasury, but, sometimes, the issue is actually the cash.

Mr. Temporary Speaker, Sir, maybe because of the economic situation it could be that our pensions have been raided. I was looking for his name. He is Mr. Karega. He is extremely a great man, as well as the Chief Administrative Secretary (CAS), Hon. Gaichuhie. They are very helpful together with the Principal Secretary (PS).

On misappropriation of staff emoluments and statutory deductions, this we wrote. There are many counties where statutory deductions, and I hope Narok County is not one of them. ~~The Pay as You Earn (PAYE), National Hospital Insurance Fund (NHIF),~~

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National Social Security Fund (NSSF) are not being remitted, including pensions to Lap Fund and Lap Trust. They are very many. So, we have asked for an entire breakdown from NHIF, NSSF and all of the counties that have actually defaulted. The accounting officer must be held personally culpable for diverting that money. It is not your money. It is the people's money.

Mr. Temporary Speaker, Sir, there was the issue of protection of local investors in multinational companies by Sen. Were and Sen. (Dr.) Musuruve on compensation by Mr. Peter Otieno by Sarova Hotels. We are also looking at it. At this point, allow me to urge colleagues that Committees are very serious. Let us avoid bringing a huge Petition on one person. Imagine a whole committee of nine Senators trying to sort out an issue of just one individual.

We should deal with more thematic areas and issues that affect many issues. We will take so much time on one individual. If you just brought it directly to me, for instance, I can make a phone call and we sort that one person. For instance, this one of Sarova Hotels is something easy to solve. I can pick my phone and call my friend, Mr. Jimmy Kariuki, who is the boss of Sarova Hotels and we sort it out. However, because it has come officially, we have to deal with it and have the Senate inquiry on this matter, and we do not have time. The general election is in about 200 days.

Mr. Temporary Speaker, Sir, on Petitions, we have concluded five Petitions and we do not have any pending Petition in my Committee. I am very proud of that.

There was the issue by Sen. Abdul M. Haji on the plight of home workers of Kenya United Steel Company. We finished and have done a report. Mr. Batatisho Ileri Kawe, and I have just heard in the Committee on Justice, Legal Affairs and Human Rights, is a seasoned petitioner.

On the issue concerning *Inua Jamii* Programme, we have done. Mr. Isaak Nyakeriga is another individual on non-payment of salary and failure by county government and we have done.

On recruitment of Early Childhood Education and Development (ECDE) teachers, we have done and I have laid the report. On an individual called Mr. Isaac Matendechere concerning unfair dismissal by Broadways Bakeries, we have done.

Mr. Temporary Speaker, Sir, I said that the elections is in 250 days, six hours 14 minutes and nine seconds. You cannot stop it. In terms of hours, it is 6,006 hours, 360,374 minutes. If you count from one to 21.6 million, we will be on the Elections Day. The inquiries we have had under the period of review, we did, resumed and concluded an inquiry on labour migration and gave a landmark report tabled in this House.

The report was tabled on the 2<sup>nd</sup> November, 2021. It was debated and adopted. This is a serious report. We have lost more than 100 girls in a year going to look for work in Saudi Arabia and coming back in a casket. They are going to look for work outside the country, just to feed their families and fend for themselves, and they are coming back in a

casket. We looked at all the issues including labour attaches, the kind of arrangement between Kenya and Saudi Arabia on the bilateral labour agreements and the need for skilled labour agreement.

Mr. Temporary Speaker, Sir, we looked at the need for safe houses and more labour attaches. There was only one gentleman driving the whole of Saudi Arabia. We need eight on Riyadh and eight in Saudi. We gave a list of recommendations and said that until the Government demonstrates movement towards that, we suspend all labour migration. That is a report that has been adopted by this House and transmitted to the Head of Public Service and the CSs. If any of that is going on, it is illegal.

I know certain unscrupulous people who do not care about our girls. They care about business. They have gone and approached the National Assembly in the same committee to tell them to change the outcome. How do we have two committees doing two different reports? They approached the leadership there. We know people in high positions in this country who are exporting our girls like potatoes. We will name them.

Mr. Temporary Speaker, Sir, let the Government just demonstrate how they are dealing with that. These are people's mothers and sisters. Even just today, in my group from school, I am seeing distress calls. I am not a labour attaché, but there are so many distress calls. We must stand our brand as the Senate. We voted by delegation a resolution of this House suspending that labour migration.

If they demonstrate in a week, we will open it up. If they do in two weeks, we will open it up, but will not allow our girls to go. Every agent, when they send a girl out, gets round USD1500. Instead of seeing a human being, they are seeing USD1500. That we will not allow.

My colleagues in the National Assembly, Kenyans are looking at you. Do not do business with our girls. Just look at our Report and adopt it. There is nothing new. In fact, we asked some of the people we met in Saudi to come and see you. There is nothing new you are going to do. We are more thorough, but let us work together. Ideally, we should have gone together on this inquiry. Let us not sacrifice the lives and livelihoods of Kenyan girls at the altar of money.

We concluded our inquiry in the creative industry. We looked at the issues in the creative industry. Recently when I was one of the guests when *KTN News* was relaunching, I asked the media houses to pay artists their royalties. Musicians need to get their royalties. We sat with the Creative Society of Kenya, the Ministry of ICT and Youth, Communication Authority of Kenya (CAK), Kenya Copyrights Board, Media Owners Association, like Sen. Olekina here, is one of them, Safaricom and content managing organisations.

Mr. Temporary Speaker, Sir, we agreed and I am glad about the journey we started in around 2015 with President Uhuru Kenyatta and my late friend, Bob Collymore. At that time, an artist was getting less than 10 per cent of their own work when you buy a *Skiza* tune. We moved it up to 30 per cent thanks to the efforts of

President Uhuru Kenyatta. From there, now, it has gone up to 41 per cent. They have promised--- in fact, I need to call Ms. Sylvia Mulinge and Mr. Ndegwa now. They said that we are going to have a Christmas gift, and most likely, it can go up to 50 per cent. That is joy and the biggest.

Nowadays, you do not hear people talking about piracy because no one is buying CDs. It is on *Skiza* tunes and *You Tube*. That is the biggest income earners for our artists, more than even shows. We are going to push for that. I hope we will have 50 per cent.

That is our biggest income earner for our artists, more than the shows. We will push for that. I hope we get to the 50 per cent. Ideally, we should have all of it. They used to say that there is an investment by Hauwei on this system that we need to pay off, but now it has been paid.

Mr. Temporary Speaker, Sir, we have had oversight and networking engagements. We have also done many county visits.

I have also mentioned the issue of the Early Childhood Development Education (ECDE). We will get the scheme of service from the Council of Governors (CoG), so that we have a proper and standardised scheme of service for all ECDE teachers across the country. We cannot have one ECDE teacher earning Kshs10,000 and another one earning Kshs30,000 yet they are from the same school and teaching the same thing to our children. There must be a unified scheme of service. As a Senate, we will see how to bridge that gap for the counties that cannot afford that shift in budget.

Mr. Temporary Speaker, Sir, everywhere we go we sit with the counterpart county assembly committees. That is a habit that our committees should engage in.

On the future, we are focused on completing pending business. We have concluded all pending Petitions, follow up on implementation of our resolutions, including the County Governments Retirement Scheme Act. We will have an inquiry on the process. We passed that Bill. It took the Senate a long time to do it because the LapFund and LapTrust could not sit together. They now have to come together under one body. We are following up on this. We gave them a five year transition. We will do a review very soon.

Sports development and management in the country and the transport workers sector is the next place we will look at.

Mr. Temporary Speaker, Sir, I would like to thank your office for the support that you have given this Committee. I am sorry I have taken long, but it is because the mandate of my Committee is extremely wide. I am blessed to have an amazing team of Senators, starting with my Vice-Chairperson, whom I will not visit his stadium because he did not visit mine, Sen. Mwaruma; Sen. (Dr.) Milgo, who was the former Vice-Chairperson, Sen. Mwangi Githiomi who is amazing. Despite challenges in the Committee on Land, Environment and Natural Resources, he is always there to chair the Committee in the unlikely event I am not there. There is also Sen. Shiyonga and Sen. Madzayo, who was the former Chairperson of this Committee in the last Senate. I hope I have not left out any Senator because I will be in trouble.

Sorry I forgot, Sen. (Dr.) Mwaura. He has been off. He is also a Member of my Committee. ~~There is also Sen. Susan Kihika who went with me to Dandora today.~~

In conclusion, allow me to also thank my secretariat, Ms. Mwanate Shaban is the secretariat lead. She is an amazing member of staff. She gets all this work done. There is also a young man called Kevin Kibet who has just started, but has just been given opportunities. Today he was clerking us and he did an amazing job. I have the most professional policy research analyst in East Africa, south of the Sahara, north of the Limpopo called Marale Sande who does amazing work. That is why you see the quality of what we do. I am grateful to Ms. Fatuma Abdi, who is our Audio Officer. The Serjeant-at-Arms that we have are very good. I want to thank them for making our Committee work. I want to tell them to be prepared for the next session. I will not take any jokes; we will do a lot of serious work.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Sakaja. I am only concerned because you quoted the Bible, but your finishing remarks were “an eye for an eye” simply because your Vice-Chair did not visit your stadia. You said that you will not visit his stadia. It is not fair. May be you could reconsider.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, it is likely that he did not visit my stadium because he does not believe in people visiting each other too much. Maybe if I go there, I will be offending him. Anyway, I will be very happy to go there. I love the people of Taita/Taveta. They are amazing people and we will do all we can to make sure that stadium is completed and done well. I will be glad to go there; it is beautiful land with beautiful people.

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to make some brief comments on the work on the Committee on Labour and Social Welfare. Out of all the jobs that this Committee has undertaken, one really touched my heart. This is the one on the issue of former councillors.

I have hosted the former councillors in my home. I have also visited most of them in Kajiado. There are also others from Nakuru who came in. When you see the way these distinguished men and women are living, you really wonder if there is any need to become a public servant. You come here and toil, work hard, but when you go, unless you know someone or you are in a position to change the law, you are forgotten.

Therefore, I really want to appreciate the Committee. I attended several sessions with Sen. Sakaja, including where I personally called certain Cabinet Secretaries to appear. I was very happy when the CS for Labour and Social Protection appeared before the Committee. Ultimately, I was also happy because summonses were issued for the National Treasury Department to appear. I was in the Committee when they were doing it. These are the kinds of things we should do. We should give credit where it is due.

It is important for the people of Kenya to know the work that Sen. Sakaja and his Committee did to ensure that these people retire with dignity. In 2013, when the Transition Authority (TA) was put in place, they did not really care about those people who had served Kenyans for donkey years. Now, when the Members of County Assemblies (MCAs) retire, they are in a position to amend the law and ensure that by the time they leave, they go home with some gratuity and a pension. In fact, nowadays, because of political interests, they are able to get car grants when they come in, just like Members of Parliament. These are among some of the things that require commendation.

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Mr. Temporary Speaker, Sir, just like earlier on the good Senator was talking about the President rewarding distinguished men and women with the Head of State Commendation (HSC), Members of committees should also be rewarded because they stood firm and participated. The way they reward people, you wonder whether you have to know somebody for you to be given a commendation. Mr. President, watch keenly, see the people who are making a difference and reward them for the work they are doing.

I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Olekina. It is true that the Committee has done a good job. From where I sit, when I listen to Sen. Olekina saying that the former councillors are living in abject poverty, for me, you are just preaching to the converted. I know this so well.

What is it Sen. Sakaja?

**Sen. Sakaja:** On a point of order, Mr. Temporary Speaker. I agree with what Sen. Olekina has said. I want to state something extremely important that I missed out, if you allow me.

I have mentioned everyone in my secretariat, but there is one individual who likes hiding because he deals with the media, so he is always behind the camera. Mr. Frank Mutulu has done an amazing work. The stories you have seen on the Senate are the ones he has done. I have had media officers before, but Frank writes the stories, does the pictures and all you do is send it to the media. That is why you find my Committee is always in the newspapers. So, I want to thank Frank very much for the amazing work he does.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Sakaja.

Chairperson, Standing Committee on Land, Environment and Natural Resources, proceed.

ACTIVITIES OF THE COMMITTEE ON LAND,  
ENVIRONMENT AND NATURAL RESOURCES

**Sen. Mwangi:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity.

I rise pursuant to Standing Order No.51(1)(b), to make a Statement on the activities of the Senate Standing Committee on Land, Environment and Natural Resources for the period commencing 1<sup>st</sup> July, 2021 to 30<sup>th</sup> November, 2021.

During the period under review, the Committee held a total of 28 sittings, conducted two inquiries, considered one legislative proposal, one Bill, seven Petitions and five Statements.

In respect to the Bills, the Natural Resources (Benefit Sharing Bill) (Senate Bills No.25 of 2020) was considered by the Committee and a report tabled in this House.

Mr. Temporary Speaker, Sir, during the period under review, the Committee received legislative proposals from the Geology Society of Kenya (GSK) on 2<sup>nd</sup> July, 2021. It has scheduled a retreat to consider the proposals with a view of sponsoring the Bill.

Mr. Temporary Speaker, Sir, the Committee considered the five Statements namely. Statement requested on 25<sup>th</sup> May, 2021 by Sen. Cheruiyot on the status of

construction of Soin/Koru Dam in Kericho and Kisumu counties. It also considered the Statement requested on 6<sup>th</sup> July, 2021 by Sen. (Eng.) Hargura on the registration of community lands under the Community Land Act 2016; the Statement requested on 7<sup>th</sup> July, 2021 by Sen. Faki on poor service provisions and alleged mismanagement by water, sanitation and sewerage companies.

The Committee also considered the Statement requested on 9<sup>th</sup> September, 2021 by Sen. Pareno on incessant human elephant conflict in Nagire area of Ewaso Kedong', Olokirinia and Sairashie in Kajiado County.

Pardo me for that. I am not a Maasai.

We also considered the Statement requested on 21<sup>st</sup> September, 2021 by Sen. Sakaja on the status of water boreholes installed by the Nairobi Metropolitan Services (NMS) across Nairobi City County.

The Committee conclusively dealt and met with relevant stakeholders and Members who sought the Statements. In other instances, the Committee sought written responses and shared them with the respective Members who requested for the Statements.

Mr. Temporary Speaker, Sir, the Committee is currently considering the following six remaining Statements:

(a) Statement requested on 5<sup>th</sup> August, 2021 by Sen. Chebeni on behalf of Sen. Halake regarding the status of Kwamo internally displaced persons resettlement farm in Kajwere. That is in Ol Kalou in Nyandarua County.

(b) Statement requested by Sen. Sakaja on 13<sup>th</sup> October, 2021 on demolition of Martin Luther Primary School in Makadara Constituency, Nairobi City County.

(c) Statement requested by Sen. Cheruiyot on 11<sup>th</sup> November, 2021 regarding land transactions by multinationals without the involvement of the national or county governments.

(d) Statement requested by Sen. Omanga on 11<sup>th</sup> November, 2021 regarding the alleged irregular ownership and use of land referenced as LR No.336/64 originally LR No. 336/12 in Baba Dogo, Nairobi City County.

(e) Statement requested by Sen. Cheruiyot on 10<sup>th</sup> November, 2021 regarding the status of titling of Government learning institutions.

(f) Statement requested by Sen. Kang'ata on 11<sup>th</sup> November, 2021 regarding the progress involved in compensating Kagaa Kilifi land owners group with reference to LR No. 2859 and LR No. 1427 in Kilifi County.

Mr. Temporary Speaker, Sir, the Committee has already commenced inquiries into the Statements and further involved the Senators who requested for these Statements.

The Committee has scheduled meetings with the relevant ministries and county governments among other institutions to interrogate the issues arising.

The Committee is assigned one of the most critical mandate that affects Kenyans, that is matters relating to land and environment. As a result, a high number of Petitions are referred to the Committee. During the period under review, the Committee finalised and tabled 15 Petitions reports in the House. The Committee has commenced inquiries on six Petitions referred to it by the House. The Committee will undertake a report writing retreat on these Petitions before the end of the year and table these reports before next reporting period.



Mr. Temporary Speaker, Sir, as you realise, out of the many Petitions that are brought to this House, half to three quarters come to the Committee on Land and Environment. The Committee has engaged almost every other department of Government trying to sort out the problems that are aligned to land cases. The Committee has gone very far. Since we came here, we have done more than 50 Petitions. You can realise how much work that involves.

In respect of the county visits, in the period under review, the Committee conducted a sight visit to Kitale Primary School following a Petition concerning the alleged illegal alienation of land belonging to Kitale Primary School by a private developer and tabled a report in the House. Thereafter, the Committee conducted another site visit to Makueni County on a Petition concerning the adverse effects of rogue blasting for the construction of Thwake Dam in Makueni County and thereafter tabled a report in the House.

Mr. Temporary Speaker, Sir, when I talk of Kitale Primary School, an individual had alienated land from the school and had even acquired title deed. This case has been even discussed earlier. When Sen. Orengo was the Minister of Lands. He cancelled that title deed. For some reason, this same person went behind the cancellation of the title deed and ensured that he had been given another title deed. These cases are there in this country and should be attended to. We should ensure that all public institutions get title deeds for their land and nobody should be allowed to alienate or excise land from public institutions to their names.

They were tabled in this House and I hope that the recommendations that were made will be implemented as quickly as they can be.

Mr. Temporary Speaker, Sir, the following activities will form part of the Committee's business for the next quarter.

- (1) Publishing legislative proposals it has received from various State organs.
- (2) Engaging the National Treasury and the other stakeholders and the matter of mining royalties and the status of disbursement to communities.
- (3) Preparing reports on petitions pending before the Committee.
- (4) Follow up on the implementation of recommendations of the report it has tabled in the House.

As you realise, we have no Implementation Committee in this House. This Committee will follow up to ensure that the decisions pertaining to lands, environment and natural resources are implemented so that the work we do is useful to Kenyans.

Mr. Temporary Speaker, Sir, I submit.

*(Several Members stood in their place)*

**The Temporary Speaker** (Sen. Kinyua): Order, Members! Chairperson Standing Committee on Finance and Budget.

ACTIVITIES OF THE COMMITTEE ON  
FINANCE AND BUDGET

**Sen. Farhiya:** Thank you, Mr. Temporary Speaker, Sir.

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I rise pursuant to Standing Order No.51(1)(b) to make a Statement on the activities of the Standing Committee on Finance and Budget for the period commencing 1<sup>st</sup> July to 30<sup>th</sup> November, 2021.

During the period under review, the Committee held a total of 32 meetings and considered various Bills, Statements and investigations.

On the matter of Bills, the Committee has considered and tabled reports on-

(a) The Prompt Payment Bill (Senate Bills No. 16 of 2021).

(b) The County Governments Grants Bill, 2021.

(c) The Public Private Partnership Bill (National Assembly Bills No.6 of 2021).

(d) The Committee is considering the County Resource Development Bill, 2021.

The Committee considered and tabled a report in the Senate on Kenya's Public Debt Status and Cash Disbursement Schedule for the Financial Year 2021/2022. This report was debated and adopted by the House with recommendations.

Mr. Temporary Speaker, Sir, the Committee is considering the following statements-

(a) Concerning cushioning of Kenyans from the negative socio-economic impact of COVID-19 caused by the partial lockdown requested by Sen. Millicent Omanga, MP. The Committee has received information from the National Treasury and is to schedule a meeting to deliberate on the matter.

(b) Concerning the merger of Government agencies to form the Kenya Transport and Logistics Network (KTLN) requested by Sen. Aaron Cheruiyot, MP, the Committee has received information from the National Treasury and is to schedule a meeting to deliberate on the matter.

(c) Regarding the status of pending bills at both the national and county governments requested by Sen. (CPA.) Farhiya Haji, MP, the Committee has received a response from the National Treasury. However, the response was inadequate to address the issues raised. The Committee has requested for additional information from the Controller of Budget (CoB) to enable it conclusively deal with the matter.

(d) Regarding a statement on the proposed increase of excise duty on beer made from sorghum, millet, and cassava requested by Sen. Cleophas Malalah, MP, the Committee has received a response from the National Treasury and is to schedule a meeting to deliberate on the matter.

I am also aware that some of these Statements have already been dealt with by the Committee.

(e) Regarding a statement on imposition of Value Added Tax (VAT) on clean and renewable energy products requested by Sen. Abshiro Halake, MP, the Committee has received a response from the National Treasury and is to schedule a meeting to deliberate on the matter. We have deliberated as a Committee and the report will be brought to the House.

(d) Regarding a statement on the measures that the Government has put in place to prevent the sugar millers from collapsing in the wake of the economic hardship arising from COVID-19 pandemic, with specific reference to Sony Company Limited in Migori County requested by Sen. (Dr.) Ochillo-Ayacko, MP, the Committee has received the response from the National Treasury and is to schedule a meeting to consider the matter.

(e) Regarding the efficacy of IFMIS to the County Government Operations Statement requested by Sen. Petronilla Lokorio Were, MP, the Committee considered a response from the National Treasury and found it unsatisfactory. The Committee resolved to extensively interrogate this matter.

The Committee has held meetings with the CoB, CoG, Auditor-General and Governor, Central Bank of Kenya, and the Institute of Certified Public Accountants of Kenya (ICPAK). I am proud to be a member of that institution. They are regular users of the system. Several Members of ICPAK use IFMIS in their role as accountants in Government Ministries, Commission, parastatals and county governments. ICPAK had wide experience in terms of the challenges that are faced by their members in ensuring that things work smoothly.

Based on their experience, they gave us a lot of challenges that users are facing. I can assure you that the engagement with ICPAK was fruitful and engaging. It is a big step forward in terms of ensuring that the system is improved thoroughly. They added value to the input by the Committee.

(f) Regarding Statement on the Status of Pending Payments to Contractors and Suppliers by the Kisumu County Government requested by Sen. Fred Outa, MP, the Committee has requested for information from Kisumu County Government. The information is yet to be submitted.

Continuously, as we complain about Government Ministries not giving information, county governments are following suit. They delay to provide information to the Committee which impacts on the timeline of submission of reports to the Senate. Like in this case, had we received this information in time, we would have been dispensed with this matter. Some of these issues waste time. This House needs to engage in terms of ensuring that such things are addressed adequately.

(g) Regarding the Statement under Standing Order 47(1) on Suspension of the Implementation of the Vihiga County Budget for the Financial year 2021/2022 was made by Sen. George Khaniri, the Standing Committees on Finance and Budget, and Devolution and Intergovernmental Relations visited Vihiga and had a joint meeting on Friday 23<sup>rd</sup> July, 2021, and investigated the matter. A report has been prepared awaiting adoption by the two Committees and be tabled in the Senate.

Mr. Temporary Speaker, Sir, you understand that due to deaths and other Members being out of this House, there were a bit of challenges in the Committee on Devolution and Intergovernmental Relations until three Senators were added; that is, the Senator for Machakos, Senator for Garissa and Sen. Ngugi. They are now beefing up the quorum for this Committee. Otherwise, this Committee was almost stranded. As a result of that, this Committee has delayed submitting the joint Report. The Committee on Finance and Budget would have quorum, while the Committee on Devolution and Intergovernmental Relations had a challenge.

Given that, that challenge has been addressed by admitting more Senators into that Committee, I think that it will be a thing of the past. The Committee will be able to prepare the Report. That report will be tabled with the next report of this Committee.

Mr. Temporary Speaker Sir, regarding the Statement on the status of donor and Government funded projects and programmes in Taita-Taveta County for the financial

years 2017/2018 to 2020/2021 requested by Sen. Johnes Mwaruma, MP, the Committee has requested for the information from the Taita-Taveta County Government. However, the information is yet to be submitted.

You can now understand our challenges. If all the Governors do not submit their reports on time, how are Senate Committees, which are meant to offer oversight to counties, going to dispense their duty? The Committee is seriously following up on this, and a report will be tabled as soon as we get the reports from the respective counties.

Mr. Temporary Speaker, Sir, regarding the Statement on the award of tenders by the National Treasury, specially permitted procurement procedure requested by Sen. Samson Cherargei, MP, the Committee has requested for the information from the National Treasury and Planning. The information is yet to be submitted.

Regarding the Statement on the status of the implementation of the provisions of the Kenya Deposit Insurance Act (2012) requested by Sen. Agnes Muthama, the Committee has requested for the information from the Ministry of National Treasury and Planning. The information is yet to be received.

Mr. Temporary Speaker, Sir, this Statement was fairly straightforward. It is among the last bits of this Report. That is why it is still pending, but I think that they will submit their information on time. The Committee will report on it next time.

The Committee intends to undertake the following activities in the next quarter-

- (1) Investigation on the efficacy of the Integrated Financial Management System (IFMIS) to the county government operations
- (2) Consideration of the County Resource Development Bill (2021)
- (3) Vetting of the Senate nominee to the Equalization Fund Advisory Board in accordance with paragraph 4 (1) (e) of the Public Finance Management (Equalization Fund Administration) Regulations, 2021.
- (4) Consideration of the 2022 Budget Policy Statement and Medium Term Debt Management Strategy.

Mr. Temporary Speaker, Sir, that is one of the issues that you have tabled today. The Committee is already thinking ahead even before that communication came from your office. We are already discussing it and it means that the Committee is ahead of the game.

Like the other Senators, I wish to thank all the Committee Members. The Committee on Finance and Budget has committed Senators who are always punctual. We never lack quorum. We cannot forget our secretariat, which are always supporting us. There is the Committee clerk, the research officer, the legal counsel, the media officer and the Hansard officers. I would like to thank all of them for supporting the Committee and ensuring that the Committee delivered its mandate.

I thank my Chair for steering this Committee in the right direction.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Farhiya.

Next Order.

### MOTION

#### THANKS FOR THE PRESIDENTIAL ADDRESS

THAT, pursuant to Standing Order 24 (6), the Thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Tuesday, 30th November, 2021 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Wednesday, 1st December, 2021 -

i) The Eighth (8th) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Tuesday, 30th November, 2021;

ii) The Eighth (8th) Annual Report (2020), on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;

iii) The Eighth (8th) Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;

iv) The Annual Report to Parliament on the State of National Security, 2021; and

v) The Kenya Business Climate Reforms Milestones Report for the year 2020-2021

*(Sen. Poghiso on 1.12.2021- Morning Sitting)*

*(Resumption of Debate interrupted on 1.12.2021- Morning Sitting)*

**Sen. Farhiya:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to comment on the Presidential Address yesterday. As Kenyans have appreciated, in my personal capacity, I appreciate His Excellency Uhuru Muigai Kenyatta for steering this country in the right direction.

From the submission given by our President, you could see how much passion he has for this country. He is steering this country in the right direction. He has a commitment to this country. He cares about the future of this country. You saw how he read his Address. That was proof of all the development, which I will list here. Our country has developed in leaps, unlike other countries which have developed for 150 or 200 years.

If the right leadership takes over from our President, his legacy will not be taken down the drain. If we get the right President, who is corruption free and will steer this country in the right direction, this country will grow. The economy of this country will flourish. All the youth and everybody else will have employment. We have a young

growing population, and as a result of that, we need leaders who will take the development of this country forward.

During the time of our President, this country has gone from a developing country to middle economy. Let me give you one of the greatest achievements of President Uhuru Kenyatta. It is the tarmacking of roads. If I include the colonial government, imagine doing half of what four administrations have done in ten years.

Mr. Temporary Speaker, Sir, that is such a great achievement. If each and every President did that, we would be far by now in terms of development. The future is only brighter. The only thing that we need to consider as Kenyans is whom do we elect to take over from Uhuru Kenyatta who will take over his legacy and ensure that whatever gains he has made do not go down the drain.

As you are aware, Kenyans are hardworking and enterprising people. That is why our economy is ahead of most of the countries in this region. However, the cost of doing business is being made more expensive because of corruption. If this corruption continues unabated, it means that the development that we are gaining--- If our goods and services become more expensive because of corruption, then the development will start going down. I reiterate that when Kenyans vote, they should vote wisely, so that the right person takes over the reigns of power from President Uhuru Kenyatta---

*(Sen. Farhiya's microphone went off)*

**The Temporary Speaker** (Sen. Kinyua): Sen. Farhiya, you have a balance of 10 minutes when this Motion comes up again for debate.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Kinyua): Hon. Senators, it is now 6.30., p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 2<sup>nd</sup> December, 2021, at 9.30 a.m.

The Senate rose at 6.30 p.m.