

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 9th March, 2022

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

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

PRAYER

PAPERS LAID

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY FUNDS/ COMPANIES

Sen. Sakaja: Mr. Temporary Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, the 9th March, 2022 on behalf of the Senate Majority Leader-

Report of the Auditor General on the financial statement of Kajiado County Youth and Women Enterprise Fund for the year ended 30th June 2020;

Report of the Auditor General on the financial statement of Nairobi City County Assembly Car Loan Scheme Fund for the year ended 30th June 2019;

Report of the Auditor General on the financial statement of Naivasha Water and Sanitation Company Limited for the year ended 30th June 2020;

Report of the Auditor General on the financial statement of Samburu Water and Sanitation Company Limited for the year ended 30th June 2020;

Report of the Auditor General on the financial statement of Nyandarua Water and Sanitation Company Limited for the year ended 30th June 2020;

Report of the Auditor General on the financial statement of Nakuru Rural Water and Sanitation Company Limited for the year ended 30th June 2020;

Report of the Auditor General on the financial statement of Bomet Water and Sanitation Company Limited for the year ended 30th June 2020, and;

Report of the Auditor General on the financial statement of Eldama Ravine Water and Sewerage Company Limited for the year ended 30th June 2020;

(Sen. Sakaja laid the documents on the Table)

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The Temporary Speaker (Sen. Kinyua): Thank you. Proceed, Sen. (Dr.) Milgo.

REPORT ON THE PLIGHT OF ECDE
TEACHERS IN COUNTIES COUNTRYWIDE

Sen. (Dr.) Milgo: Thank you, Mr. Temporary Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, the 9th March, 2022, from the Committee on Education-

Report on the Plight of the ECDE Teachers in Counties Countrywide.

(Sen. (Dr.) Milgo laid the document on the Table)

REPORT ON THE SPECIAL NEEDS EDUCATION
BILL (SENATE BILLS NO. 44 OF 2021)

Mr. Temporary Speaker, Sir, I beg also to lay the following Paper on the Table of the Senate, today, the 9th March, 2022, from the Committee on Education-
Report on the Special Needs Education Bill (Senate Bills No. 44 of 2021).

(Sen. (Dr.) Milgo laid the document on the Table)

Mr. Temporary Speaker, Sir, allow me to make a few comments on the first Statement.

The Temporary Speaker (Sen. Kinyua): Please proceed.

Sen. (Dr.) Milgo: Thank you, Mr. Temporary Speaker, Sir. The Report on the Plight of ECDE Teachers comes on the heels of a Statement that was brought to the Floor of this House by Sen. Wambua of Kitui County on 15th September, 2021.

Apart from that, we have had many petitions coming to this House on the issues of the plight of ECDE teachers. My Committee was able to proceed with that Statement and called on board a number of stakeholders to answer to this issue of ECDE teachers.

(1) We were supposed to investigate reports that most counties pay ECDE teachers below the gazetted Government minimum wage in violation of Article 41(2)(a) of the Constitution.

(2) We were to establish who is responsible for streamlining the terms of service of ECDE teachers as they are currently employed are enumerated under different terms of service with some receiving a stipend instead of salary for work done since 2013.

(3) To establish the progress made by the county governments towards implementing the drafts scheme of service of ECDE teachers that was validated by various relevant agencies or stake holders, including the Teachers Service Commission (TSC), the Salaries and Remuneration Commission (SRC) and the National Treasury.

(4) State the measures put in place to ensure that county governments, including Kitui County engage ECDE teachers on enforceable contracts with clear terms.

Mr. Temporary Speaker, Sir, the Committee embarked on an enquiry into the plight of ECDE teachers in the counties countrywide. During the process, we were able to meet different stakeholders concerned with the matter. Among them was the Council of Governors (CoG), the Ministry of Education (MoE), the National Treasury, TSC and SRC.

What came out of this is that-

(1) We established that recruitment of ECDE teachers is done by county governments from a pool of teachers registered by the TSC. The county governments are supposed to ensure that ECDE teachers recruitment policies are fully implemented.

(2) There is an approved scheme of service, a detailed job description and a remuneration structure for all ECDE teachers.

(3) Whereas the CoG issues advisory to county governments or implementation of ECDE teachers' schemes of service, only eight county governments have fully implemented them and 16 are reported to be at the finalizing stage to bring on board all the teachers that are based on the scheme of service.

While the three county governments have not initiated any process at all to implement ECDE teachers' scheme of service, therefore, these 23 county governments are the ones that are paying ECDE teachers what I call a stipend. Some of them are paid by parents. When children go to school, they are send back home to bring Kshs5 or more to pay their ECDE teachers.

(4) There are 42,457 ECDE teachers employed by the county governments. Out of which, only 13,502 are on permanent and pensionable terms while the remaining 28,955 are employed on contracts.

Mr. Temporary Speaker, Sir, there is a third category of about 4,563 caregivers who are engaged and remunerated by school management boards or Parents Association (PA). The Committee further observed that there is more focus in terms of content and curriculum development on other levels of basic education by the Ministry of Education, the Kenya Institute of Curriculum Development (KICD) and TSC at the expense of the Early Childhood Education (ECE).

You realize that ECDE is the foundation of education. The Competence Based Curriculum (CBC) will be a nightmare for those children to be able to understand what is going on in the upper classes without a proper foundation in ECDE. The Committee also established that ECDE centres have relinquished their physical facilities such as classrooms for use by more primary schools leaving learners congested in one or two rooms and teachers without a staffroom, which complicates efforts to prepare and give lessons.

Some of them are learning in makeshift classrooms. These are very little children. We are trying to change their mindset. We have to provide them with a conducive environment to make them understand that this country loves them, and education is a good thing. So, that when they join the upper classes in a seamless manner. However, we treat very little children badly. We discovered that some of the ECDE centres did not have wash materials and, therefore, the little children are just given a tiny classroom

made of *mabatis*. In some ECDE centres, the children are also asked to borrow wash facilities from neighbouring villagers.

There is no specific budget from the Ministry of Education that is allocated to provide ECDE services and majority of the county governments spend a great percentage of their division sector budgets on bursaries for learners and post account and tertiary levels, which are not devolved functions.

Mr. Temporary Speaker, Sir, it is quite unfortunate that by a slip of the tongue, one of them told us that building wash facilities and building classrooms, one does not get a political mileage as opposed to giving out bursaries. We need to stamp our authority as a House to ensure that the county governments take up the issues of ECDE teachers with the seriousness it deserves.

Based on the observations, the Committee, therefore, recommends the following-

(1) That all the county governments should implement the ECDE teachers' scheme of service, provide budgets for ECDE teachers, salary increments and the CoGs should submit a report to the Senate on the implementation status within 60 days after tabling this report.

(2) CoGs and other education stakeholders should review the job description and roles for the ECDE teachers and submit a revised report to SRC for job evaluation within 90 days from the date of tabling this report.

(3) The CoG, TSC and KICD should within 90 days after tabling this report, establish modalities and create a collaboration framework on ECDE teachers' management, career progression and capacity building. We established that issues of capacity building are a nightmare when it comes to ECDE teachers. Any teacher is going to teach in that ECDE unless we stamp our authority with issues ECDE centres and our learners in those particular areas.

(4) The county governments in collaboration with their respective county assemblies should consider enacting legislations aimed at increasing annual budgetary allocation to the ECDE sector to at least 10 per cent of the county revenue. There is a Motion that I brought to this House some time back speaking on the same issue of 10 per cent of the county revenue. I did this even before becoming Chairperson of the Committee on Education. If that is followed up and we have 10 per cent of county revenue, we shall turn around the education in our counties.

Without a proper foundation, the upper levels of education will be shaky.

(5) Parliament should expedite processing and passage of the County Governments Grants Bill 2021 (Senate Bill No.35 of 2021) that speaks on issues grants. Such that county governments can be given a grant and this same grant should be ring-fenced to ensure that it is used in ECDE centres. Otherwise, there will be a lot of mismanagement and diversion of funds to various other sectors that are not critical.

Like I said, the CoGs or rather the governors would prefer to give out bursaries which will give them political mileage as opposed to paying ECDE teachers which is going to give our little children a foundation for learning. All the time, we keep saying a

country is as good as its education. Without a good education, a country cannot go far because it is there where you get the human resource to drive the economy.

Mr. Temporary Speaker, Sir, as I conclude, I wish to take this opportunity to thank all the Members of the Committee for their immense contribution during the enquiry and consideration of this Statement that culminated in this report. The Committee wishes to thank the office of the Speaker and the Clerk of the Senate for the necessary support exerted to it in the conduct and execution of its mandate.

It is my pleasant duty on behalf of the Standing Committee on Education pursuant to Standing Order No.48.3(b) to present the report of the Standing Committee on Education on the consideration of the Statement on the Plight of ECDE teachers in the counties.

I thank you.

The Temporary Speaker (Sen. Kinyua): Thank you, Madam Chairperson. Those were good observations as well as recommendations.

Let us have the Chairperson of the Standing Committee on Tourism, Trade and Industrialization.

Sen. (Dr.) Milgo: Mr. Temporary Speaker, Sir, you should allow at least one or two comments on this Statement because it has critical issues.

(Loud consultations)

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

The Temporary Speaker (Sen. Kinyua): Order, Members!

What is it, Sen. Sakaja?

Sen. Sakaja: Mr. Temporary Speaker, Sir, even as we thank the Chairperson of the Committee on Education for that good report, I would like to make a few observations. I beg for your indulgence and that of the secretariat to give a way forward to the House.

On 1st December, 2021, the Committee on Labour and Social Welfare tabled a report on the same matter. That was on labour issues around ECDE teachers. The biggest challenge they have across the country are labour issues.

They do not have a harmonized scheme of service implemented and different counties have different standards. You will find that when two classmates who went to a teachers' training college are posted, let us say one is posted in Bomet and another one in Kericho, which are next to each other, one earns twice the amount the other one earns.

Mr. Temporary Speaker, Sir---

Sen. (Dr.) Musuruve: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Kinyua): Sen. (Dr.) Musuruve, Sen. Sakaja is on a point of order.

(Sen. (Dr.) Musuruve spoke off record)

Sen. Sakaja: You cannot inform on a point of order.

(Laughter)

Mr. Temporary Speaker, Sir, in our report, we have similar recommendations. As the Chairperson has noted, there was a working document that was done by the CoG together with the SRC and the TSC for the schemes of service for ECDE teachers which has not been formalized.

The CoG was given three weeks to submit that document to the Senate for presentation, so that it could be considered and ratified. Once we consider and ratify that working document, then it will be binding to the counties.

Thereafter, instead of just asking different counties to budget, because other counties would love to, but because of their fiscal position, they may not be able to add or double the salaries so as to reach that agreed amount.

If the agreed amount is Kshs20,000, and maybe in Marsabit County they are being paid Kshs25,000, but in Nairobi they are being paid Kshs10,000, we should bring Nairobi to Kshs25,000 or Kshs20,000 or whatever that will be agreed upon.

There was need for the Senate thereafter, in the allocation and division of revenue, to earmark certain funds, so that we can harmonize payment of all the ECDE teachers in the country.

My concern is that before the recommendations of the Committee report are dispatched, the secretariat should harmonize them. The CoG will not act and will take it as an excuse and say that there are two conflicting demands for them from the Senate.

Mr. Temporary Speaker, Sir, you know we have a joint secretariat. In the two reports, she has asked the CoG to do something in 60 days, whereas we asked for something to be done in three weeks. Therefore, they should do that first, then based on that, there should be a uniform direction from the Senate to the CoG. That is the direction that you need to give because it is a burning issue. You know how it is in Laikipia.

I have many ECDE schools in Nairobi. The state is terrible because of these teachers. I know that is the case in each and every country. If we do that, then the Senate will not have acted in vain or dealt with it in piecemeal or county by county.

I thank the governors of Kericho and Bomet counties. When we went there, they actually listened to us and immediately issued directions. They brought them up to a certain level of salary. They were doing supplementary budgets.

However, you cannot do that based on the subjectivity on which the governor agrees on and one he does not. That is why the Senate must ratify that working document on the schemes of service.

Mr. Temporary Speaker, Sir, I thank Sen. (Dr.) Milgo. Incidentally, she was with me when we did that because she is also a Member of the Committee on Labour and Social Welfare. The Senate is richer for having her in both the Committee on Education and the Committee on Labour and Social Welfare.

I thank you.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. Sakaja. Let us listen to Sen. Cherargei.

Sen. Cherargei: Mr. Temporary Speaker, Sir, I have a few comments on the report that our able Chairperson of the Committee on Education, Sen. (Dr.) Milgo, has presented before the House.

Last week, I made an impartial appeal that we must have a seamless engagement with the CoG and other stakeholders regarding the issue of ECDE teachers, so that we can have a harmonized scheme of service.

I was in the House when the Sen. Sakaja-led Committee tabled a report. I am happy that Sen. (Dr.) Milgo's committee has given us a raft of recommendations.

One of them is to ensure we have harmonized schemes of service for our ECDE teachers. Another recommendation is to ensure that they get salary increment and personal emoluments as per the law and that they are protected under the labour laws. That is very critical. Another important point that they have made is that the CoG should have a joint approach on the issue of ECDE teachers.

As I had indicated last week, it is a sorry state in Nandi County. The ECDE teachers in Nandi County are paid a salary of Kshs10,000 per month, without personal emoluments and allowances. A sum of Kshs10,000 can do nothing. You cannot pay rent, school fees, National Hospital Insurance Fund (NHIF) or any other statutory deductions. That is what is happening in Nandi County.

I agree with Sen. (Dr.) Milgo, that governors are trying to use ECDE teachers as campaign tools. For example, about a month ago, my governor called all the ECDE teachers in Nandi County. He fed them and then lied that if they vote for him in the nominations, he will renew their terms in June. It is very unfortunate. We should not use our ECDE teachers as a rubberstamp to ascend to political offices.

After feeding, singing campaign songs and promising them heaven on earth, it has never materialized. Their salary is still Kshs10,000 per month. I have heard that other counties are paying even less. We should have a harmonized payment of ECDE teachers.

That is why I requested that even if the CoG does not have a way of developing a harmonized scheme of service, they can consult the TSC and other stakeholders like Kenya National Union of Teachers (KNUT), Kenya Union of Post Primary Education Teachers (KUPPET) and other educationists, so that we can have a joint approach.

The best legacy of the Senate of the Twelfth Parliament, before the next Senate of the third generation of devolution, would be to ensure that we have ECDE teachers on permanent and pensionable terms and harmonized schemes of service. We should avoid people who use ECDE teachers as campaign tools. Therefore, I make a passionate appeal that ECDE teachers be given their rightful share. They must be paid.

Mr. Temporary Speaker, Sir, as I conclude, she has said that governors prefer giving out bursaries because it is more politically convenient to do so. Governors also find it politically convenient to build ECDE centres as opposed to taking care of the human resource of our ECDE teachers. You can have beautiful buildings as ECDE

centres, but with demoralized teachers. Remember they lay the foundation of our children.

ECDE centres are important. They are like daycare givers. You will find a child of two or three years going to the playgroup. They do not even know how to use toilets or take care of themselves. In short, it is the ECDE teachers who co-parent. Therefore, they have a unique place in our society.

I know for Nandi County we do not have enough ECDE centre. It has been a challenge because if we had a proper ECDE centre, our children could even learn through the rainy and cold seasons. I thank the Committee on Education and I look forward to that.

I do not know whether the directive of requesting the COG to give us a way forward will be effective. I think the best legacy is to engage them and ensure they give us a way forward before we go for the general elections on 8th August. It is very important.

Secondly, I can assure you that, in the formation that I am in we will ensure---

The Temporary Speaker (Sen. Kinyua): I want to give a ruling. Sen. Sakaja, the Chairperson of the Committee on Labour and Social Welfare and Sen. (Dr.) Milgo the Chairperson of the Committee on Education, you should harmonize your reports. This is because I heard what Sen. Sakaja said that you are or were a Member. At least, we can then have the same direction instead of both Committees sending different recommendations.

I rule that you sit down and have harmonized recommendations.

(Loud Consultations)

(Sen. Sakaja spoke off record)

The Temporary Speaker (Sen. Kinyua): No. I have ruled him out of order because we cannot be dealing with the COG to give us recommendations. He is out of order.

(Sen. Cherargei spoke off record)

The Temporary Speaker (Sen. Kinyua): No. We are done. The time is over. The last paper is from the Chairperson of the Standing Committee on Tourism, Trade and Industrialization. If the Chairperson is not there, then the Vice-Chairperson, Sen. (Dr.) Musuruve, should proceed.

REPORT ON THE STREET VENDORS (PROTECTION OF LIVELIHOOD)
BILL (SENATE BILLS NO. 7 OF 2021)

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir. Before I lay the Paper, I would like to comment that this Bill seeks to provide a framework to regulate the

business of street vending in the country. It is very clear that we do not have a framework that regulates street vending.

This Bill has specific objectives such as-

- (1) Entrenchment of the rights of informal trading;
- (2) Regulation of informal trading;
- (3) Designation and use of public space for informal trading
- (4) effective organization and regulation of informal traders, and;
- (5) Public participation in the regulation of vending.

Mr. Temporary, Speaker Sir, this Bill was first read on 11th May, 2021 and committed to the Committee on Tourism, Trade and Industrialization pursuant to Article 118 of the Constitution.

The Committee held three sittings. Two of them were in-house so as to get some understanding of the Bill. Thirdly, the Committee engaged the stakeholders. The Committee also held a public hearing on 14th June, 2021 with various stakeholders such as the Institute of Certified Public Accountants of Kenya (ICPAK), COG and National Gender and Equality Commission (NGEC).

On 18th May, 2021, the Committee placed advertisements on local dailies and radios calling for public participation and submissions. Following the advertisement, the Committee received submissions from ICPAK, COG and NGEC. After the submissions, the Committee observed and made the following recommendations-

(1) The Report on the Street Vendors (Protection and Livelihood) Bill (Senate Bills No.7 of 2021) is timely. If enacted, it will provide the much needed framework to regulate the business of street vending.

Mr. Temporary Speaker, it is very clear that when it comes to street vending there is no regulatory framework and this retards the business of the common wananchi who we seek to defend.

(2) The Committee also observed that there was not legal framework and there are also challenges when it comes to street vending. This Bill is timely to ensure that those challenges are brought to an end.

(3) The Committee also observed that the specific objects of the Bill as provided in Clause 3 are in line with Part One and Two of Chapter Four of the Bill on Rights of the Constitution.

(4) The Bill also outlines the respective functions of the National and county governments.

(5) The Committee also observed---

The Temporary Speaker (Sen. Kinyua): Sen (Dr.) Musuruve, you were just supposed to table the reports. I gave you leeway for some few comments, but now you have gone beyond.

Sen (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir. Before I lay the report, I was just bringing on board the fact that the report brings in the functions of the national Government and county governments which are very important in ensuring that street vending is a business which is not ridiculed and is also given a status.

Following your direction, I beg to lay the following Paper on the Table of the Senate today 9th March, 2022-

The Report on the Street Vendors (Protection and Livelihood) Bill (Senate Bills No.7 of 2021).

(Sen. (Dr.) Musuruve laid the document on the Table)

I thank everyone who participated.

The Temporary Speaker (Sen. Kinyua): Next Order.

Proceed, Sen. Iman. You can go to the Dispatch Box.

STATEMENTS

RAMPANT CASES OF MINORS SUFFERING IN THE HANDS OF DOMESTIC WORKERS/HOUSE HELPS

Sen. Iman: Mr. Temporary Speaker, Sir, I rise, pursuant to Standing Order No. 47(1) to make a Statement regarding the rampant but under-reported cases of minors suffering in the hands of domestic workers/house helps.

Last week, there was the incident of young Andy Muiruri Kibe who died from internal injuries he sustained, allegedly from attacks by one Maureen Nyaboke who was the house help. The house help was later arrested and investigations of the incident are still on-going.

In Mombasa, a 21-year-old woman who confessed to filming herself defiling a four-year-old boy and posting it online was sentenced to life in prison by Senior Resident Magistrate, Florence Macharia. The investigating officer of this particular case unearthed how child pornography syndicates collaborate with house helps to abuse children and film the paedophilic acts.

Mr. Temporary Speaker, Sir, early last year, a house help stabbed two minors after a disagreement with her employer who later sacked her. Instead of taking her marching orders kindly after the sack, she stealthily crept back to her employer's residence in her absence and assaulted the same children, ostensibly to get back at their mother.

Mr. Temporary Speaker, Sir, these incidents should remind parents of the dangers their young ones are exposed to by the same people they have entrusted with giving care and security to them. The rate at which minors are being subjected to maltreatment by caregivers is quite alarming, to say the least.

Sadly, these cases and many more remain unreported, yet they have impacted negatively on parents whose minors have fallen victim to such abuse as well as the victims who survive such ordeals. Such abuse often results in problems associated with Adverse Childhood Experiences (ACEs), with a significant increase in the risk of health problems such as heart disease, stroke or even diabetes as well as mental health problems

like anxiety, depression and post-traumatic stress. Indeed, 1 out of 3 diagnosed mental health conditions in adulthood are directly related to ACEs.

Mr. Temporary Speaker, Sir, with such a grim outlook, it is advisable for prospective parents to obtain relevant documentation such as a photocopy of the identification card (ID) of the house help for future reference. Parents are also advised to be aware of such employee's physical/permanent address and telephone contact, as well as any next of kin that can be contacted, should the need present itself. They should also endeavour to take a clear photograph of the employee and make sure to contact the former employer, if any, for relevant information regarding the individual.

However, these recommendations, which could help in checking or reducing such incidences, are often disregarded, especially in middle class households, possibly due to the employer's desperation to get the next house help or due to the legal implications that accompany such measures or inquiries. It is imperative that parents carry out due diligence before onboarding any individual as an employee offering this important service in order to ensure the safety of our children, if for nothing else.

Thank you.

The Temporary Speaker (Sen. Kinyua): Proceed, Sen. Sakaja.

Sen. Sakaja: Thank you, Mr Temporary Speaker, Sir. I initially I wanted to comment on this Statement, then I thought I should not because some Statements just make you upset and angry as a parent. However, our work is not to be angry but to provide solutions.

What is happening in this area of domestic workers is really disheartening. There is a Bill that I brought in 2015, that we passed that created The National Employment Authority that I thought was working as it should. Instead of just looking at external domestic labour migration, even locally, it was supposed to be like the National Employment Bureau where anyone seeking for a job should have been on their data base.

They should vet and accredit such that if today you want a plumber or a house help you will go to that data base where one is accredited and vetted by even the National Intelligence Service (NIS) and then you can get them to your house.

Parents are at a loss; you entrust somebody with your child, you go to work, you are paying them a salary, you do not know what is going to happen. A child is at risk at the place that should be the safest to them; at home. It is extremely disheartening. For those cases that have been discovered, the harshest law should be applied to them.

Mr Temporary Speaker, Sir, as parents and employers, we must look at ourselves. Many employers are mistreating these house helps. I have heard very many cases where these domestic workers are not given food. I know someone who sleeps at the balcony. They are told not to eat what the family is eating. You cannot treat somebody as a second-class person and expect them to treat your child with dignity. These are also human beings. It is a give and take. We need to have sanity in our society.

There has been a serious breakdown in who we are as a people. If there is something urgent that we need to look at as leaders even outside Parliament, is what is this moral breakdown that is happening in our society. From the case of the young lady

on Wangari Maathai Road, which was the ultimate paradox. That expression from the *boda boda* riders was something different.

Mr Temporary Speaker, yesterday I saw a video of Kenyans stealing rice from a truck that had overturned. Decent people stealing sacks of rice and other food stuffs. There was a smartly dressed lady whose husband had opened the boot of their car for her to bring and the person recording was asking why they were stealing.

There is a serious breakdown in our society. We must do soul searching as a country. We have become competitive to a fault. We have no regard for other people. If you want to know the state of a country, look at how people behave on the roads. You just want to get ahead and you can never get ahead when you are trying to get even. It is a serious problem.

I thank you Sen. Iman, for bringing this Statement. I do not know how the authorities can look into everybody's house. There is only so much that the Government, Senators and legislators can do. You cannot legislate on morality. We cannot make a law on kindness or common sense and decency. That, you have people working in your house and you are mistreating, punishing and subjecting them to verbal abuse.

You find some families, every three months there is a new house help. Who is the problem? Is it the house help or you?

As Kenyans, we must ask ourselves that question. Who is the problem when there is this high turn over? Everybody must audit themselves. Look into yourself. What is wrong with us?

I know that there has been an attempt to have certain conversation but the biggest conversation this country should be having is about our morality and who we are as a people. That is where the problem is. Once we address that, our values and our value system will be addressed. No person will be elected President to change our value system. There is no governor who will change your value system. There is no Act of Parliament we can pass here in the Senate called value system, common sense and morality.

We need leadership to talk and find out. Where is the church? Where is the Mosque? Where are the Imams? Where are leaders in the society who can find out what is this that is burning, that makes a young person think that they strip a young woman and express their anger because they are lacking?

We are not demons. Are we animals in this society? Therefore, that Statement should really be an outrage and a call for us as a country to go back to pray unto God, think deeply, soul search and just have a place for decency.

I did not want to comment. I have a three-year-old daughter. I am very happy and honoured that my domestic staff taken care of her very well. They are amazing. Maggy is amazing. I will even mention her name in Parliament. I do not know how many house helps have been mentioned in Parliament. She is amazing and I can rest easy when I know she is at home. It is also because I treat them with respect. What about the rest of us here?

Mr. Temporary Speaker, Sir, I have heard colleagues talking to their Personal Assistants (PAs). You can go under the table if you hear how people here talk to their staff. They talk to them as though they are slaves. If you talk to a professional parliamentary officer like that, how do you talk to your househelp at home? Why do you get shocked when this happens?

The former Speaker of the House of Commons, my friend, Mr. Bercow, has been banned for life from accessing the House of Commons because of bullying. Do we discuss bullying in the work place? Do we talk about it in this Parliament and our corporates?

There is a lot of soul searching that we need to do as society. Let me leave it at that.

The Temporary Speaker (Sen. Kinyua): Sen. Sakaja, did you say he is your friend?

Sen. Sakaja: Mr. Temporary Speaker, Sir, he is an acquaintance. Possibly, an immediate former friend but it is someone I know. It is *tabia mbaya*.

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

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I thank Sen. Iman for bringing this issue to the Floor of this House.

Indeed, there have been many cases of children suffering in the hands of house helps. Some of them have been burnt and others exposed to pornographic pictures, like what Sen. Iman has mentioned. This actually affects the growth of such children. They may live without confidence because of how they are treated by house helps.

I used to teach psychology; the study of the human mind. Sometimes people react to something. For example, if you want to beat someone and you are not able to, you can have displaced aggression elsewhere. House helps sometimes react out of that aggression that they have been maltreated and then end up expressing it on children. It is good to look into how we treat these house helps.

When I came from India after cancer treatment, I was unable to walk for almost three months but I had a house help who was empathetic. She told me that she would not leave my house until I had recovered and able to stand on my own.

When it comes to house helps, it also has to do with their personality. We bracket them as not being fair but not all of them are. Some have displaced aggression and others could be bitter from past events in their lives. We need to strike a rapport with house helps because they matter so much in terms of bringing up our children.

When we are away from our houses, they are the parents who remain there. In the event that they are not happy with their employer, chances of them displacing their anger on children are very high. They can easily harm our children. Some of them may even cause disability. They may hit a child on the floor and trigger mental retardation on that child. As a parent, you may not know what caused the mental retardation.

Mr. Temporary Speaker, Sir, as Sen. Iman has said, it is important to have documentation of house helps and know where they come from. In case you do not know the behaviors of a house help, it is good to use wisdom and put a spy camera somewhere

in the house. This will help you to know whether the house help is worth staying or not. In the event that the video shows a house help maltreating a child, then it becomes a criminal case.

If you have a house help and from the first day of the first week she complains of too much work and that she is unable to do this and that, just let her go. It is better to play it safe for the safety of the children.

Mr, Temporary Speaker, Sir, these are real happenings in our homes. We have to see how to arrest the situation without doing any legislation, because legislation may be difficult.

The Temporary Speaker (Sen. Kinyua): Thank you.

Sen. Halake, please, proceed.

Sen. Halake: Thank you, Mr. Temporary Speaker, Sir. I rise to support the Statement by Sen. Iman. As a young mother, I am sure she is concerned and would like something done about this.

I would like to also mention that there is a general sense of lawlessness, desperation, mental health issues or breakdown that is going on in our society. You saw what happened on Wangari Maathai Road the other day and many other places. People are turning on each other as our police men turn their weapons on people they are supposed to protect. We even have cases of suicide.

Something wrong is happening. Beyond us, looking at the caregivers or domestic workers that are abusing our children, the majority of domestic workers are good people. They work for us and have been of great help especially for us working mothers, to make sure that we come here and work.

There is this general breakdown, lawlessness, lack of values and desperation that our country is experiencing, which is making people take it out on the person close to them. I am not excusing it where criminal offences have been committed but we must look at the wellbeing and welfare of our children. This is especially as more and more mothers go to work. Women have to fend for their children and the only option they have is to leave their children with domestic workers. A majority of domestic workers are very good, decent human beings. The few that have done these things are also part of the society, which is now becoming really desperate.

Mr, Temporary Speaker, Sir, as leaders, I do not know what we need to do. I do not think laws, legislations and statute laws will help us. We need to look at what is happening. Why are our people so desperate as to turn on each other, minors and women? Violence is being normalised at every level. Therefore, we need to get to the bottom of this.

Sen. Iman has done well to highlight this area. Every section should be looked at, where there are these kind of things where we are turning on each other and the people that are most vulnerable. Going forward, there is going to be a scary picture of our country's social fabric disintegrating.

Why is this so? I do not know if it is poverty or just general indiscipline. We need to do something not just as leaders but as a country. We need to start looking at values.

We need to start looking at what is causing this. Is it that when people are desperate, they start to lose humanity and their dignity and that they do not care anymore? We do not know what it is.

Again, there are a lot of mental health issues which cut across every part of the society. This includes our domestic workers, who are perhaps subjected to a lot of stress by ourselves. I am not saying that should then make them do that to our children. There is just general mental health outbreak that is causing some of these things. Otherwise, it would have been something that nobody would do. Even in war, women and children were always spared. How it is that we are now turning on each other, we need to get to the bottom of it. I think looking at our mental health issues would be a good place to start. I do not think any right thinking person would hurt, kill or do these pornographic acts to a child.

Is the access of social media causing these kind of things? Are we seeing a situation where perhaps, the world is becoming a global village and these kind of bad behavior and filters are coming through and we do not know what it is?

Mr. Temporary Speaker, Sir, as leaders, this is something that we should be aware of. We should start thinking of how to lead our country and people as we look at some of these things. This particular one is facing the most vulnerable of our community, which is our children. Something has to be done. I do not believe that something is wrong in our laws because again, laws are as good as what is implemented. Laws tend to be not preventive; most of the time they tend to be curative, meaning that after the person has committed the crime, then it is punishment that ensues. I do not know what it is but it is something we need to look at.

This is coming at a very good time as Sen. Iman has highlighted; at a time when we are coming to the eve of elections. During these elections our attention especially we who are in politics, will be diverted to the elections. What is then going to happen to different people?

Mr. Temporary Speaker, Sir, a few years ago it was the matatus that used to be a problem, now it is the boda boda. The boda boda has been both a sweet and sour issue. They have provided the most efficient transport system. They have contributed to our economy in the sense that *mama mboga* is using the boda boda to get to the market.

It is a very useful service that they are providing, but at the same time, what is causing these stress that they have? Is it that the money is not enough? Is it that they are underemployed as much as they now have an employment? This kind of stress and mental breakdown needs to be looked at. We as leaders need to dig deeper to the cause of these things as opposed to the cure for it.

I hope that we can find a solution because I do not think I stand here to provide a solution but to give my opinion on it and that it is much bigger and more deeply rooted than just the manifestation of it.

Thank you. I support and congratulate Sen. Iman.

The Temporary Speaker (Sen. Kinyua): Sen. Cherargei, proceed on your Statement instead of commenting on this because of time.

PROPOSED INTRODUCTION OF AUTOMATED TEA PLUCKING
MACHINES TO FARMERS IN NANDI AND IN KENYA

Sen. Cherargei: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on the proposed introduction of automated tea plucking machines to farmers in Nandi and in Kenya.

In the Statement, the Committee should-

(1) State why the Government has resolved to introduce the automated tea plucking machines to farmers without considering that thousands of manual labourers will be rendered jobless if these tea plucking machines are introduced in our estates, in Nandi Hill Constituency and other parts in Nandi and across the country.

(2) Provide the exact number of tea plucking machines already acquired by tea estates and companies in Nandi County.

(3) Explain why the Ministry wants to conflict with the labour laws by rendering thousands of labourers jobless without considering their fate and livelihoods if these machines are introduced.

(4) State the status of implementation of the Tea Act, 2020 which was passed by both Houses; the Senate and the National Assembly, which provides for a tea levy on exports and imports of tea. State the total amount of revenue collected and the reasons why it has not helped to standardize and stabilize tea prices in Nandi county and across the country.

Most of the tea estates and companies have introduced these tea plucking machines across the many tea estates in Nandi county and some of the tea companies have already acquired them but some of them are hiding them because they fear public repercussions. We need the Government and the Senate Committee on Agriculture, Livestock and Fisheries to investigate this issue and give a way forward.

I thank you.

The Temporary Speaker (Sen. Kinyua): Thank you. Sen. (Dr.) Milgo, do you want to comment on that?

Sen. (Dr.) Milgo: Mr. Speaker, Sir, let me thank Sen. Cherargei for bringing this Statement. These two issues are very critical.

First, I am sure the chairperson of the Committee on Labour and Social Welfare will be able to expound further on the issue of the tea plucking machines that are being introduced in the factories. However, may be that will be the way to go based on the fact that we sat with them and they explained to us how it is expensive to use manual labour but then our major challenge is the inflation.

Few minutes ago, we got a Statement about abuses by our house helps but looking into that, there is something more than just the physical issues we are looking at. Yesterday, we were treated to the issue of Nairobi kids, something further to that. The more we take away jobs from our people the more we are creating problems to ourselves.

If machines are going to be introduced then something else should be done so that we still need to engage the human resource to manage these machines and at the same time, people should be paid the commensurate amount of funds. We realized on Tuesday that even the two workers that are pushing the heavy machine can easily fall down dead or their hands may not be able to function normally in the future.

We need to streamline issues of the machine before we go into the issue of tea plucking machines in our estates or villages. Otherwise, I support the fact that we need to do investigations further to avoid something that can harm our workers.

The Temporary Speaker (Sen. Kinyua): Chairperson of the Committee on Labour and Social Welfare, Sen. Sakaja, could you comment on the efficiency of the machines?

Sen. Sakaja: Mr. Temporary Speaker, Sir, many Statements that have come today have the labour component. There are issues that we have had a chance to look at and some are ongoing.

As I always say, there are two sides of a coin. Many of the tea companies are operating on leases of Kenyan land whether it is in Nandi County, Kericho or Bomet. There are many multinationals. Actually, Bomet has the largest number, but people do not know that. Kericho is known to be the real home for tea growing.

Normally, you would expect that there is direct return when you are holding that land in trust for the locals. You would expect the locals not just to have priority but then, the number of locals employed should be higher. There must be that return.

Globally, there has been the issue of productivity and competitiveness. My Committee did a visit to James Finlay in Kericho and Bomet counties, it straddles both counties and we could see the catch 22 situation. James Finlay was employing 12,000 people and now it has reduced to 6,000 because of mechanization. If you look at many others like Sasini, most of them have gone fully or partially automated.

There have been questions even in the House of Commons in the British Parliament about not just the efficiency but the effects of those machines on the people. Many of them have been debunked but still when we sat down with these farmers and unions, we could see there is lack of proper engagement and participation.

Mr. Temporary Speaker, Sir, we are doing a report on James Finlay. I must fault the consortium of trade unions, for example, Central Organization of Trade Unions (COTU) for entering into Bargaining Agreements (CBAs) on behalf of tea pluckers. An example of the CBAs has different categories of the workers. There is an amount that is given to a tea plucker per day based on the kilos that they collect. There is also an amount for what they call fieldwork.

I have further discussed with the management of James Finlay. They are fully mechanised yet they are still using a CBA that had no provision for wages on mechanisation. I do not know if you are getting me. Therefore, the worker who is running the mechanised tea-plucking machine is being paid under a CBA of manual labour. Their pay has reduced from Kshs12,000 to Kshs6000 and they are being paid based on field work which is less than the plucking. Therefore, the first thing that COTU and the

leadership of Kericho, Bomet and Nandi must do is to make sure there is a renegotiation of all of those CBAs to incorporate the current technology that is being used there. That is the current situation on the ground.

Mr. Temporary Speaker, Sir, I will table the wage increments on the CBA, which has been above inflation later. On the other side of the debate, when you go to the headquarters of many of these multinationals in London, they do not see Mama Cherotich or Wafula, because there are many people from Western who are doing the tea plucking, they are just seeing a balance sheet, profit and loss.

The more these tea factories become unprofitable, the sooner they will pull the plug. There are certain interventions that the Government must do because this a great source of livelihood and employment.

Sen. Cherargei wants to be the governor of Nandi County and so, he must listen because these are his people. The first thing, there must be specific direction on the Agricultural Policy and the National Tea Policy to stipulate quality standards and parameters of Kenyan teas which are highly sought after but an element of this mechanisation is reducing the quality.

The provisions on The Tea Act, 2020 to enhance value and encourage production of quality, a capacity needs assessment of the tea value chain in Kenya by Kenya Institute of Public Policy Research and Analysis (KIPRA) has been done and that needs to be implemented.

There is need to separate the distinctly different sectors, for example, the large growers, smallholder farmers, the Kenya Tea Development Agency (KTDA), the independent producers and respond to each differently. Fiscal policies should minimize taxes. If we do not subsidise this tea factories and companies from the large growers to the small growers, I promise you in the North Rift, Kericho Bomet, Nandi counties, in the next two or three years, there will be a serious breakdown of that society. This is because they moved from Kshs1200 to Kshs6000 for one company. They could probably go to Kshs3000 yet they are occupying large slots of land.

I see the side of the people. There is the issue of our export *versus* sole returns since 2010. We have all of these and we will be tabling it. However, as a bare minimum, before we address the larger interventions by the national Government on the tea sector, we must have a renegotiation of all the CBAs for the companies that have mechanised because the CBAs are about manual plucking. It cannot be the same. It takes a skill and those machines take a toll. They are not simple things it is also lawn mower. It is not a small thing that is pushed around. So, we must renegotiate and we will give our timelines.

Mr. Temporary Speaker, Sir, I beg your indulgence. As his Statement is responded to by the Committee on Agriculture, Livestock and Fisheries, I will deal with the aspect of the Committee on Labour and Social Welfare in two weeks. We have a retreat in Mombasa next week and my Committee will then bring the full report on James Finlay because that was a direct question that was asked.

James Finlay is a good company. In fact, they asked for our intervention when they wanted to do power production towards subsidizing their costs. However, the

county government of Kericho had sat on that document for so long but I made one phone call to the governor and they got the approval to do the power production in Kericho, which will reduce, at least, their cost. The manager and the team want to help but they are constrained by the vagaries of the economy. We will have a balance. We will give a report that addresses both issues.

The Temporary Speaker (Sen. Kinyua): Sen. Cherargei, what is it?

Sen. Cherargei: Mr. Temporary Speaker, Sir, I would like to inform Sen. Sakaja that in that Statement, there is the aspect of labour.

As at now, when you go to Nandi Hills Constituency, most of the young people are now standing on the road sides because there is an introduction of tea plucking machines which are very heavy. They capture chameleons and all the dirt. It is not the same as plucking using the hands. Therefore, the quality of our tea will also go down.

My worry when tea plucking machines are introduced in parts of Nandi Hills Constituency and Nandi County, in the next one, two, three or five years, young people will not be engaged. Most of them will be idlers and we will see cases of drug abuse, insecurity among many others.

I agree with Sen. Sakaja that there must be a renegotiation of CBA. The famous Secretary-General (SG) Francis Atwoli signed the CBA to sell out our workers. Therefore, he must be called out. He has abandoned the workers and joined politics of the day. They are downtrodden. I know that COTU is one person. Therefore, it must take its rightful position like Congress of South Africa Trade Unions (COSATU) in South Africa, which takes labour issues seriously.

All workers who are watching in Nandi and across the country must know that it is COTU who negotiated their CBA and sold their birthright that would have ensured that they get fair labour practices in our tea companies.

Finally, I talked to some of the tea companies and they are asking me why I am complaining, yet it is COTU who negotiated some of these CBAs to introduce tea plucking machines in Nandi, Kericho, Bomet and many other counties.

Sen. Sakaja: Mr. Temporary Speaker, Sir, I thank him for informing me. I was on the Floor. Based on that information, I want to let him know that in as much as it was the SG who signed it, he did so in his capacity as the leader. You know it is a coalition of different trades, Him coming from the planters and growers union, he signed it back then. Maybe it has not come to his attention that people are suffering and that CBA must be reorganised because he has been busy.

Mechanisation started in the 1980s, when James Finlay in 1982, went to look at a bobber tea harvester. Yes, it is a labour issue because labour cost and tea production is 40 to 50 per cent and that what we have seen.

However, as I have mentioned and from what they are bringing us, for instance, that power generation, the power cost has gone up on 30 per cent. If they improve on that, it will give them a bit of headroom to renegotiate the CBA. This Government is not subsidizing the cost of fertilizer. It has gone up to 130 per cent in the last 10 years because of oil and electricity.

Mr. Temporary Speaker, Sir, there is a lot we can do as a country because we will not stop technology. However, we can make sure that the roll out is slow and phased out. Meanwhile, those who will get the jobs in those mechanised farms are paid well under a renegotiated CBA based on the savings they make from fertilizer, which has gone up 140 per cent and energy, which has gone up 130 per cent.

I am happy and thank Gov. Chepkwony approving power generation in Kericho.

The Temporary Speaker (Sen. Kinyua): Thank you. What is it Sen. M. Kajwang’?

Sen. M. Kajwang’: Mr. Temporary Speaker, Sir, I have been following the conversation and the Statement requested by Sen. Cheragei online. However, because it is difficult to contribute online, I opted to come to the House.

The reason why we ask for Statements on the Floor of the House is to get the response and clarity on policy measures taken by the Executive. It then becomes difficult if we raise the request for a Statement and then as a House we go ahead to respond to it and then we continue to debate and then we go further to name persons who are not members of this House and blame them for some of the problems that are cited in the Statement.

What I thought would be the right approach was for the relevant committee that you are going to decide on to come up with feedback on the three clear and specific issues raised by Sen. Cheragei. Once we get that response, then we can debate the feedback from the Executive.

The reason I rise on a point of order is that I have heard allegations about persons sitting in the Central Organization of Trade Unions (COTU) and signing Collective Bargaining Agreements (CBAs) on behalf of workers. I do not know where that information comes from. That kind of information should be coming from the Executive rather than from fellow Senators.

When we request for a Statement, it is because we do not have Cabinet Secretaries in this House. I was happy when the Chair of the Committee on Labour and Social Welfare concluded by saying that the matter is going to the Committee on Agriculture, Livestock and Fisheries. If it was the Committee on Labour and Social Welfare, then he was completely out of order because he spoke as the Cabinet Secretary for Labour and Social Protection. He had a lot of facts and responded as if he sits in that office.

Let us remember that as Senators, we represent the people and the counties. We do not represent the Executive and we should not be seen to be speaking on behalf of the Executive. We should bring the Cabinet Secretaries to this House to address issues particularly on the Tea Act. Of all the progressive laws that this House has passed, the Tea Act stands as one of the greatest work of legislation.

We need to bring the Cabinet Secretary here and put him to task on the implementation of that Act. Let us not proffer explanations and answers on their behalf. Let us bring those Cabinet Secretaries here.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. M. Kajwang'. I was listening and Sen. Sakaja was just giving information on what he knows. He was not answering anything but just giving information which is in the public domain.

Proceed, Sen. Sakaja, not on that, but on your Statement.

Sen. Sakaja: Mr. Temporary Speaker, Sir, I do not know why Sen. M. Kajwang' is shocked that I have a lot of facts and information, yet he knows that I went to a very good school that he had attended years before me. I am grateful he has come to defend my own uncle.

A Senator is responsible for statements of facts. It is a fact that he signed that CBA. It is also a fact that the same organization will help deal with it, and that is what we are asking for.

FINANCIAL STATUS OF NAIROBI CITY COUNTY IN VIEW OF THE
MEDIUM TERM DEBT MANAGEMENT STRATEGY PAPER

Mr. Temporary Speaker, Sir, pursuant to Standing Order No.48(1), I rise to seek a Statement from the Standing Committee on Finance and Budget on the financial status of the Nairobi City County in view of the medium term debt management strategy paper for the financial year ending 30th June, 2023, recently tabled by the County Government proposing the sale of county assets to honour some of its debt obligations. In the Statement, the Committee led by Sen. Kibiru should-

(1) Provide a detailed status of all the assets and liabilities of the Nairobi City County owned directly, through its agencies and also through the Nairobi Metropolitan Services(NMS) including all assets and liabilities being held under the three.

(2) Outline the strategies put in place by the Nairobi City County towards settling all its debts which now stand at Kshs76.9 billion.

(3) Provide a status report of the Kshs4.4 billion loan owed to the Kenya Commercial Bank (KCB) by the county, including the procedures followed in procuring that loan.

(4) Explain why the County Government is defaulting on its loans that have led to accumulation of penalties and interest which may make the county government lose its credit rating and hinder future borrowing under a new governor.

(5) Explain how the County Government will fund its budget if it implements the proposal to dedicate one of its source revenue, which is cess, to the repayment of a single loan to KCB, considering the underperformance of its own source revenue collected over the years.

This Statement is very urgent. There is an attempt to sell the assets belonging to the people of Nairobi. This must not be allowed to happen even in the intervening period until the governor, the NMS and all these agencies come before the Senate because we protect devolution and the assets of Nairobians and Kenyans.

Mr. Temporary Speaker, Sir, I ask that you direct the Committee to act with speed and that before that is done, not a single centimetre of land and piece of machinery

owned by Nairobians should be allowed for sale to cover assets. This could also be an insidious ploy for other reasons. I will not impute improper motive.

Mr. Temporary Speaker, Sir, this is very urgent. Again, I beg by the power of your Chair that you direct that it is dealt with. In the intervening period, no action should be taken in sale of assets of the people of Nairobi City County.

I thank you.

Sen. M. Kajwang’: Mr. Temporary Speaker, Sir, it will not come to the Committee on Devolution and Intergovernmental Relations because the Statement was directed to the Committee on Finance and Budget.

As someone who has dealt with similar matters in the past, when I Chaired the County Public Accounts and Investments Committee (CPAIC), the then Governor of Nairobi, Hon. Mike Sonko, came before the Senate. He explained the circumstances under which Kshs4 billion, which has now become a Kshs5 billion loan, was incurred.

There are reports that the CPAIC brought to this House with very clear recommendations. Part of what we need to do is to see to the implementation of some of those recommendations. If I recall, the Governor of Nairobi came to the Senate and informed us that a third bank was offering better rates.

The original loan was taken from Equity Bank. Along the way, they made a decision to sell the loan to KCB. Along the way, they again made another decision to sell the loan to United Bank for Africa (UBA).

At a time when we had interest rate controls, the interest rate on this loan was almost 30 per cent when the average interest rate was 12 to 14 per cent. Penal interest had been applied because the county had delayed in making their installments. So, they were paying almost 30 per cent.

To inform Sen. Sakaja, the impact of that penal interest and the interest on that loan, means that everything that is collected from Gikomba Market from our mothers, hustlers and sufferers everyday do not go into developing the city. It goes to refinance that loan.

This is one of the biggest scandals in this country. Nairobi City County is one big crime scene. For the information of the House, tomorrow, we will be meeting the Director General of the NMS, the Governor and the Cabinet Secretary for Lands and Physical Planning in this Chamber.

Crazy things are going on. Land is changing hands. I do not know what happened to our National Land Commission(NLC) and the Nairobi County Assembly. The mandarins in this county are transferring land to individuals at whim. How I wish that the timelines for a report on this particular matter be truncated.

When today’s session started, earlier in the morning, Sen. Wambua had asked the Speaker to direct that some Statements should be responded to in a speedy manner. How I wish that this Statement by Sen. Sakaja could be dealt with within the next seven days. This is because a lot of evil things are going on especially as people are looking at end of term and end of transfer deed. People sitting in those offices are looking at a dark future, politically, after the next general election.

Mr. Temporary Speaker, Sir, would I be in order that you rule that this matter be dealt with within the next seven days, and if possible be addressed not just by the Committee on Finance and Budget but by the Committee of the Whole?

The Temporary Speaker (Sen. Kinyua): Proceed, Sen. Cherargei.

Sen. Cherargei: Thank you, Mr. Temporary Speaker, Sir. It is hard to speak after one of the best chairpersons of CPAIC that we ever had in our term and in the history of the Senate. I have read some of the recommendations. They are very serious and if we were to implement--- I want to wish him well in his future endeavors.

The Temporary Speaker (Sen. Kinyua): He spoke like a CS for Finance; the way he was complaining.

(Laughter)

Please, proceed.

Sen. Cherargei: Mr. Temporary Speaker, Sir, I wish him well. I think he was very effective and they made good recommendations as a Committee. He has spoken well.

Before I was elected, there is a matter I once took to Eldoret High Court where the Nandi County Government then tried internal borrowing. There was a circular issued by the National Treasury that no county would borrow a loan locally or internationally without a guarantee from the national Government. That matter was settled by the Eldoret High Court.

Looking at Nairobi City County, the amount of Kshs76.9 billion is mind boggling. Why would they borrow this amount? What are they doing with it? It looks like - as my brother has said - Nairobi is the theatre of all crimes that are happening and it is making devolution to look bad. No one can give us a way forward on the Kshs76.9 billion acquired through loans.

When the Nairobi Metropolitan Service (NMS) was being formed, we were told that it would assist in the the efficiency and effectiveness of Nairobi City County. What has happened? Corruption has tripled. Corruption is the order of the day in Nairobi City County yet we were told that when you have a military officer taking over Nairobi City County--- In fact through your seat, you ruled then that NMS was not operating within the Constitution. That ruling was made and the courts made the same ruling.

It is very unfortunate we were being told that NMS will be the antidote of the ills in Nairobi; be it corruption, lack of water, sanitation and sewerage, traffic management within the city. Unfortunately, there is the issue of the Kshs76.9 billion.

I heard the Chairperson of the Committee on Devolution and Intergovernmental Relations, Sen. M. Kajwang', saying that the Director-General will appear before the Senate. He is not the Commander of the Armed Forces in the country. A General will only appear before the Commander-in-Chief. He will not appear before a Committee. I think there are procedures within the military.

On the issue of Kenya Commercial Bank (KCB), it has come on crosshairs. You remember the issue of *Inua Jamii*. There is a Statement that Sen. Sakaja's Committee has

on this issue. How can a bank give out Kshs4.4 billion to a county government without proper guarantee by the national Government?

I remember when the former Governor of Nairobi City County, Gov. Mike Sonko, appeared before CPAIC when Sen. M. Kajwang' was chairing, there was an issue of KCB then. When you go everywhere, there are always prints of KCB in some of these allegations of fishy deals within loaning of county governments and issues of *Inua Jamii*. KCB has been mentioned in most of these instances. I think that KCB must come clean because we do not want to get to a situation where we are auctioning the county.

On the issue of assets and liabilities, there is the issue of asset register. We need to consult so that we can know. When the National Lands Commission (NLC) came into place, we were told that the Ministry of Lands had started doing digitalization of land transactions and acquisition.

I remember the Law Society of Kenya tried to resist. We were informed by the NLC that the Ministry of Lands would be digitized. However, when you watch news daily, you will note that there is at least one or two places that grabbing of land is happening in Nairobi. This matter came before the Committee on Health.

As the area Senator has said, we have a problem because people are losing their land. I saw a landowner of European origin being evicted because the land had allegedly been transferred in an irregular manner.

When the Governor appears before this Committee, I do not know whether Maj. General Badi will appear. We do not know because we are not the army and there is protocol to be followed within the army. When he appears, he must tell us what will happen to the Kshs76.9 billion.

Sen. Sakaja is here. We hope he will not pay back this loan if these people do not explain how this loan was acquired. I want to beseech Sen. Sakaja that - God willing if he becomes the Governor - he should not pay this money until we are told what really happened.

I thank you.

The Temporary Speaker (Sen. Kinyua): I direct that this Statement be committed to the Committee on Finance and Budget and the report to be brought in this House within 21 days. So directed.

*(The Statement was committed to the
Committee on Finance and Budget)*

For the convenience of this House, I want to rearrange the business of the House. We now go to order No. 22.

BILLS

(Second Reading)

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL

(SENATE BILLS NO. 29 OF 2020)

The Temporary Speaker (Sen. Kinyua): Sen. (Dr.) Mwaura, is online. Please, proceed. Can you hear us? We cannot get Sen. (Dr.) Mwaura.

Hon. Senators, I will defer Orders No. 8,9,10,11,12,13,14,15,16,17,18,19, 20,21 and 22.

(Bill deferred)

(Second Reading)

THE LANDLORD AND TENANT BILL (NATIONAL ASSEMBLY
BILLS NO. 3 OF 2021)

(Bill deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LAW OF SUCCESSION (AMENDMENT) BILL,
(SENATE BILLS NO. 15 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PRESERVATION OF HUMAN DIGNITY AND PROTECTION
OF ECONOMIC AND SOCIAL RIGHTS BILL
(SENATE BILLS NO. 21 OF 2021)

((Committee of the Whole deferred))

MOTION

ADOPTION OF AUDIT REPORTS FOR COUNTY EXECUTIVES FOR
FYs 2018/2019, 2016/2017, AND 2017/2018 (VOLUMES I, II AND III)

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Reports by the Auditor General on the Financial Statements of the following County Executives for the Financial Year 2018/2019- Embu; Homa-Bay; Kericho; Kilifi; Kirinyaga; Kisii; Kwale; Machakos; Mombasa; Nandi; Baringo; Bomet; Garissa; Kajiado; and West Pokot as contained in Volume 1 of the Report and the following County Executives- Isiolo; Kakamega; Kisumu; Laikipia; Mandera; Marsabit; Nakuru; Narok; Nyandarua; Samburu; Taita Taveta; Trans-Nzoia; Uasin- Gishu; Vihiga; and Wajir, as contained in Volume 2 of the Report, Laid on the Table of the Senate on Thursday 2nd December, 2021.

(Motion deferred)

COMMITTEE OF THE WHOLE

THE ELECTIONS (AMENDMENT) (NO. 3) BILL
(SENATE BILLS NO. 48 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY RESOURCE DEVELOPMENT BILL
(SENATE BILLS NO. 45 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE SPECIAL NEEDS EDUCATION BILL
(SENATE BILLS NO. 44 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE IRRIGATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COMMUNITY GROUPS REGISTRATION BILL
(NATIONAL ASSEMBLY BILLS NO. 20 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL
(SENATE BILLS NO. 7 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL
(SENATE BILLS NO. 53 OF 2021)

(Committee of the Whole deferred)

BILLS

Second Reading

THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL
(SENATE BILLS NO. 51 OF 2021)

(Bill deferred)

Second Reading

THE ELECTIONS (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO. 43 OF 2021)

Bill deferred

Second Reading

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL
(SENATE BILLS NO. 29 OF 2020)

(Bill deferred)

The Temporary Speaker (Sen. Kinyua): We go to Order No.23, I cannot not see the Mover. Order No.24, I cannot see the Mover as well. Order No. 25---
(*Second Reading*)

THE COTTON INDUSTRY DEVELOPMENT BILL
(SENATE BILLS NO. 55 OF 2021)

(*Bill deferred*)

MOTION

FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES

THAT, WHEREAS Kenya is a multi-ethnic and multi-racial country with rich and diverse cultural resources such as traditional medicine and foods, arts, craft, music, dances, dress among others;

AWARE THAT, the Constitution, in its preamble acknowledges the cultural diversity of the Kenyan people who are determined to live in peace and unity as one indivisible sovereign nation whilst, Article 11 of the Kenyan Constitution recognizes culture as the foundation of the nation;

NOTING that, while the Department of Culture under the Ministry of Sports, Culture and Heritage has been playing some of the key roles in promotion of cultural integration, formulation of policies and standards that will guide the development of culture, little information has been available to the Kenyan public;

ACKNOWLEDGING, that culture performs a significant role in the life of a child, the cultural background in which a child is brought up affects the totality of his or her life's activities;

CONCERNED, that our children are losing their sense of identity due to the negative influences due to inadequate cultural identity catalyzed by globalization which has led to catastrophic consequences to the next generation as experienced in our country where a majority of young people are showing symptoms of feeling suicidal, anxious, feeling of hopelessness, anger, violence, feeling isolated, and paranoia;

NOW THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Sports, Culture and Heritage to-

(a)Formulate cultural development policies and initiatives to inculcate stronger community values, safeguard Kenya's heritage, recognize local heroes and promote socio-cultural opportunities in the counties; and

(b)Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties.

(*Motion deferred*)

The Temporary Speaker (Sen. Kinyua): What is out of order, Sen. M. Kajwang’?

POINTS OF ORDER

DEVELOPMENT OF AN APPROPRIATE DIGITAL LEGISLATIVE PLATFORM TO ENSURE SEAMLESS VIRTUAL SITTINGS OF THE SENATE

Sen. M. Kajwang’: Mr. Temporary Speaker, Sir, I sympathize greatly with Sen. (Dr.) Mwaura who repeatedly on the Floor of this House and in the other communication channels we have as Senators, complained about the difficulties in contributing whenever this House is in a hybrid session.

We must be honest with each other. The hybrid session should not just be seen as a voting machine. It only works when people are voting. It does not work when people are contributing.

I have previously tried to contribute online and sometimes even getting the eye of the Speaker is not that easy as it is in the House. Senators need to be given an explanation why two years down the line since the advent of Covid-19, we have not found a proper solution.

A proper legislative platform will ensure confidentiality of our discussions, integrity of our communications and all the other attributes that you need when using technology in such a sensitive setting.

At some point, we were told that we were developing a proprietary platform by the Parliamentary Service Commission which then will replace Zoom that everyone can access. The Legislature in Kenya and the entire world is held in extremely high esteem. Even if that is not implemented in this Parliament, it can be done for the next one. I would not wish that we scrap the hybrid approach. We must make the right investments for the next Parliament. Sen. Mwaura consistently tries to connect and it is for lack of data bundles. Many other Senators sometime try to contribute to the debate but they are unable. I do not want to say that the gentlemen and lady seated at the Clerk's Office only make it work during voting. It is Just that during voting, the Whips of the House work more aggressively.

I hope that when a Member attempts to contribute online, and they are moving a Bill, and there are technology challenges, then that Order is deferred the way you have rightfully done but not dropped. Those who sometime favor the hybrid approach are really suffering. I hope that the administrative arm of this Parliament will give us some assurances. Some of us are experts in this subject and if the way we consult our senior counsel on legal matter, if we just look at the Member of this House there are people with serious competencies on some of this things both in technology and digital platforms. We can provide help *pro bono* so that we can secure the best, the most robust, and efficient solution to avoid the kind of frustrations that Sen. Mwaura and others have been facing.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Kinyua): Sen. Kajwang, you have been heard loud and clear. What is it, Sen. Cherargei?

DELAY IN PROCESSING OF MOTION ON UTILIZATION OF
COVID-19 FUNDS BY 28 COUNTY GOVERNMENTS

Sen. Cherargei: We have a problem with the system even locally. I seek your direction on an issue I raised yesterday regarding Order No. 25 on the Motion Adoption of the Report of the Standing Committee on Health on the Special Audit Report on Utilization of COVID - 19 Funds by 28 County Governments.

I hope that you and other Members of the Senate Business Committee (SBC) have noticed that this Motion has been on the Order Paper for the longest time possible. I thought there was a direction from your Chair that if a Statement, Motion or Bill overstays without action from the Mover of that Motion or Bill, then they are obligated to drop. I have been religiously attending sittings of the House hoping that my bill would be listed. This is the Employment Amendment Act of 2021, which proposes that employers should not call their employees beyond 5.00 pm. Unfortunately, it has not appeared on the Order Paper. I have really wanted to move.

The SBC should liaise with the respective Members for them to put their Orders on the Order Paper on the day that they are available. If people like Sen. Sakaja, Sen. Kajwang, the next Governor of Siaya County, Sen. Orengo, and myself can move our Motions and Bills. We appreciate that most of us are busy with campaigns and meetings but let us not have an Order overstaying on the Order Paper.

Some of us really want to know what happened with the COVID-19 funds. Most Kenyans died while others lost their jobs and business. The COVID-19 funds were supposed to be used to treat them, to ensure their property are aligned and business has humble time to stable. By the time we go to vote, the voters should know if a governor misused the COVID-19 funds, like what happened in Nandi County. Such governors should not take back their seats.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. Cherargei. What is it, Sen. Sakaja?

Sen. Sakaja: Mr. Temporary Speaker, Sir, I have comments to make on both of those issues. The coming of COVID-19 was a curse as well as a blessing. If you remember at that time, I was the first Chairperson of the *ad hoc* COVID-19 Committee. We were the first at that time in the history of this country to sit virtually since people used to sit in the traditional counsel. We were the first one to ever use virtual sittings in the committee. We used the Zoom platform. I remember that at the time, we were the focal point for this country on all matters COVID-19, whether technology, food, energy, transport et cetera.

Very serious companies came and offered the Senate and Parliament solutions that would be more secure as their contribution in dealing with pandemic. I did my part, I connected them. I do not know whether people thought I was looking for tender or

something. They were offering just for us to continue because we had suspended Parliament. We had suspended the voice of the people and they said we cannot suspend since technology can help us.

The virtual sittings have been good for our Committees. I have never seen such quorum as we have experience since COVID-19 when I am chairing Committees. We had Members of that Committee operating from different part of the country; Nyamira, Mombasa, Kajiado and many other place. We were able to conduct our meetings with all the nine Members present online. It has come to a point that instead of using this cheap, free software that is prone to a lot of interference, and instability, we must be creative as a parliament.

We do not even need to engage these big companies, that this now becomes another big tender of billions for Microsoft or Oracle or ACP or those people. There are young people of this country who are capable. We passed the Start-Up Bill (Senate Bills No. 1 of 2021) in this House last year. If you say tomorrow that we are inviting any young people who will do a hacker space to come and innovate for a seamless virtual parliament, you will have hundreds of applications with simulations of what we can do.

Why do we ignore the vibrancy and innovation we have in this country? If you go today to the Nailab or iHub, you will see a lot of innovations by the young people. There are other innovations hubs in Turkana and the Coast. Our young people have these ideas but they know it will be a tender that will go to the Parliamentary Service Commission and the big boys will come in the manner that they have always come and it goes yet our young people can do it.

It is a discussion we should have at the SBS. I do not think you can give directions on that though I am not limiting your powers you can give direction. Since 2018 we have not been able to vote using these electronic devices, what are they here for? These machines that costed hundreds of millions here are not working. Why do we vote through roll call in 2022 yet we should just say yes or no and we vote in a minute?

For all our Bill in the Senate every amendment, every Clause we have to vote and people are lining up to be called from Sen. Dullo to Sen. Wetangula alphabetically yet we have technology. In fact, we need a serious audit of the Parliamentary Service Commission because these facilities should be working. I sympathize with Sen. Mwaura. I agree with Sen. Kajwang who is an expert in this field. Many of us have some expertise here and there in this field. Let us invite and use the strength of our young people. If we told the young people from Nairobi or Homabay to come up with solutions, they will give them to us.

Secondly, from what Sen. Cherargei is saying, the SBC passed that if a person does not Move his or Motion or Bill, it should be dropped. However, this is an important report. Skipping sittings might be a ploy to drop it. We have an exemption on this report. This is about misuse of COVID-19 funds. We do not want it dropped, we want that discussion.

The direction you must give is that if the Chairperson of the Committee on Health is not available to move this report any Member of that Committee should be able to

move it. If there is no Member of that Committee in the next sitting, any Member can move it because the report has been Tabled and we all know how to read. However, let us not use this tactic to evade the discussion around this report. We want it discussed in full detail.

For your information Sen. Cherargei, your Employment (Amendment) Bill has been concluded by Committee on Labour and Social Welfare. Our report is done, we have decided that the Members of this House should come and debate it because it is a very new place in terms of labor relations. The Bill proposes that after working hours, you disconnect. I do not know how some people will implement that. If you are a house help, how do you disconnect? You will not even boil water for your boss at 6p.m. It is an interesting discussion. That is where the world is moving to. We have seen it in Poland and Belgium.

Mr. Temporary Speaker, Sir, we have finished. With your discretion, you can schedule it for debate tomorrow. It can be debated tomorrow since you seem so eager to debate it and we already passed it. By that time, the report will in the House.

However, let us be creative. These young people who are now stealing rice and going into boda boda are degree holders and ideas. We are going to do another tender for a virtual system so that the big boys can do it yet young people can do it. That is the frustration that is leading to decay in our country's fabric. That is why you are seeing them meting it on innocent people.

The Temporary Speaker (Sen. Kinyua): Hon. Senators, we have heard you. What you are saying is very true.

For Order No.25, the Mover is not here. So, this Order is deferred.

MOTION

ADOPTION OF REPORT ON UTILISATION OF COVID-19 FUNDS BY 28 COUNTY GOVERNMENTS

THAT, the Senate adopts the Report of the Standing Committee on Health on the special audit report on utilization of COVID-19 funds by twenty eight (28) county governments, laid on the Table of the Senate on Wednesday, 9th February, 2022.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Kinyua): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Thursday, 10th March, 2022, at 2.30 p.m.

The Senate rose at 4:21 p.m.