

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 15th June, 2022

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

[The Deputy Speaker (Sen. (Prof.) Kamar) in the Chair]

PRAYER

PETITION

LEADERSHIP WRANGLES AND MISMANAGEMENT IN THE HEALTH DEPARTMENT OF UASIN GISHU COUNTY

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, the Petition is from myself. For the convenience of the House, I will read it tomorrow.

(Petition deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators we have papers from the Senate Majority Leader. Sen. Farhiya will lay the documents on his behalf.

PAPERS LAID

Sen. Farhiya: Madam Deputy Speaker, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 15th June, 2022:

NATIONAL TREASURY AND PLANNING REPORT ON THE STATUS OF KENYAN ECONOMY

The National Treasury and Planning report on the status of the Kenyan Economy (June, 2022).

NATIONAL GOVERNMENT BUDGET IMPLEMENTATION REVIEW REPORT FOR FY2021/2022

National Government Budget Implementation Review Report for the first nine months for FY 2021/2022, by the Office of the Controller of Budget.

THE CROPS (MIRAA) REGULATIONS 2022

The Crops (Miraa) Regulations 2022, Legal Notice No. 101 of 9th June, 2022.

THE CROPS (COFFEE) REGULATIONS 2022

The Crops (Coffee) Regulations 2022, Legal Notice No. 102 of 9th June, 2022.

(Sen. Farhiya laid the documents on the table)

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.
Sen. Farhiya, proceed on behalf of the Chairperson of the Rules and Procedure Committee.

REPORT ON THE REVIEW OF THE
STANDING ORDERS OF THE SENATE

Sen. Farhiya: Madam Deputy Speaker, I beg to lay the following Paper on the Table of the Senate, today, Wednesday, 15th June, 2022:

The Fourth Report of the Procedure and Rules Committee on the Review of the Standing Orders of the Senate.

(Sen. Farhiya laid the document on the table)

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you.
Next Order.

Sen. Farhiya for the Vice-Chairperson Committee on Procedure and Rules.
Please, proceed.

NOTICES OF MOTIONS

ADOPTION OF THE REPORT ON THE REVIEW OF
THE STANDING ORDERS OF THE SENATE

Sen. Farhiya: Thank you, Madam Deputy Speaker. I beg to give Notice of the following Motion:

THAT, pursuant to Standing Orders 254 and 255, the Senate approves the Fourth Report of the Procedure and Rules Committee on periodic amendments to the Standing Orders of the Senate, laid on the Table of the Senate, on Tuesday, 14th June, 2022, and pursuant to the provisions of Article 124(1) of the Constitution and Standing Order Nos.255 and 257-

- (i) Resolves to amend its Standing Orders as contained in Appendix 1 to the Report; and,
- (ii) Orders that the amendments to the Standing Orders as contained in Appendix 1 to the Report come into effect at the commencement of the 13th Parliament.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The next Notice of Motion is from the Chairperson of the Sessional Committee on County Public Accounts and Investments.

Let us have the Vice Chairperson.

(Sen. (Eng.) Hargura spoke off record)

Yes, the Notice of Motion is now.

ADOPTION OF REPORTS OF FINANCIAL STATEMENTS OF
VARIOUS COUNTY EXECUTIVES AND COUNTY ASSEMBLIES
FOR FINANCIAL YEARS 2018/2019 AND 2019/2020

Sen. (Eng.) Hargura: Thank you, Madam Deputy Speaker. I beg to give Notice of the following Motion:

THAT, the Senate adopts the Reports of the Sessional Committee on County Public Accounts and Investments on consideration of Reports by the Auditor General on Financial Statements of the following Counties laid on the Table of the Senate on Tuesday 14th June, 2022-

- (i) County Executives of Nyeri, Tharaka Nithi, Murang'a, Kitui, Lamu, Siaya, Busia, Meru, Nyamira, Turkana, Makueni, Bungoma, and Elgeyo-Marakwet for the for the Financial Year 2018/2019 as contained in Volume I of the Report;
- (ii) County Assemblies of Bomet, Taita Taveta, Kilifi, Nyamira and Garissa for the Financial Year 2018/2019 as contained in Volume II of the Report;
- (iii) County Executives of Narok, Kajiado, Kwale, West Pokot, Trans Nzoia, Turkana, Kericho, Busia, Kilifi, Machakos and Kisii for the Financial Year 2019/2020 as contained in Volume III of the Report; and,
- (iv) County Assemblies of Kilifi, Kwale, Taita Taveta, Garissa, Mandera, Kisumu, Mombasa, Kisii and Wajir for Financial Year 2019/2020 as contained in Volume IV of the Report.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.
Next Order!

STATEMENTS

STATE OF HEALTHCARE SERVICES AT GARISSA
COUNTY REFERRAL HOSPITAL

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, pursuant to Standing Order No.48 (1), we have one Statement from Sen. Iman.

Sen. Iman: Thank you, Madam Deputy Speaker. I rise, pursuant to Standing Order No.48 (1), to seek a Statement from the Standing Committee on Health on the state of healthcare services at the Garissa County Referral Hospital.

In the Statement, the Committee should—

(1) Investigate reports of rampant cases of preventable deaths at the facility due to negligence and derelict equipment in recent weeks.

(2) Investigate and report on how the public funds allocated to the facility have been utilized in providing services or undertaking works from 2019 to date.

(3) Outline targeted interventions aimed at improving service provision at the facility and ensuring the hospital is fully operational.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. (Dr.) Musuruve, proceed.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker for the opportunity to support this Statement brought by Sen. Iman.

This is a genuine concern for the people of Garissa County. As a country, we cannot compromise on issues of health. We have to remember that Kenya is among the signatories of the Abuja Declaration that stated that 15 per cent of the national revenue goes to health. Health is enshrined in Article 43(1) of the Constitution; that everyone has the right to the highest attainable standards of health in the country.

The Senator has brought an issue of great concern. Investigations should be done, so that the people of Garissa County have their rights to the highest attainable standards of health.

The issue of derelict equipment should not be taken lightly. Without equipment, then every sector of health – even emergencies – will slacken. If there is no equipment, then emergency services cannot be given to the sick.

The people of Garissa County do not have food and are faced with insecurity; and now if the health system is in dire state, this is a thorn in the flesh. There is need to interrogate this. I do not know how it will be done because the Senate will adjourn *Sine die* tomorrow. The report should be written and given to the next Senate to follow up the case and ensure that the people have their rightful health services.

I support.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Cherargei, proceed.

Sen. Cherargei: Thank you, Madam Deputy Speaker. I support the Statement by Sen. Iman.

One of the most celebrated devolved functions under the Fourth Schedule was the devolution of health. It is very unfortunate that our hospitals are now becoming like mortuaries. Our people do not get medical attention because most counties have mismanaged the health sector.

I empathize and sympathize with the people of Garissa County. It is unfortunate that people die in such a facility. I call upon the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) to also rein in the Garissa County and Referral Hospital to investigate. If there was any criminal negligence, then somebody must be prosecuted.

We cannot devolve billions of shillings to counties, yet there is nothing to show for it. It smacks on the faces of Kenyans. The Senate is the protector of devolution under

Article 96 of the Constitution. Governors are either firing employees or if it is about facilities, they are non-functional in some counties.

In Nandi County, for example, we do not have drugs in all hospitals, starting from Kapsabet County Referral Hospital.

Madam Deputy Speaker, it is very unfortunate that there are no drugs nor doctors in Nandi County. The workers have not been paid and yet, we expect the people to get medical services. The worst case is in Kapsabet County Referral Hospital, where we have lost a number of young women, who are below 30 years old. They have died while giving birth through cesarian section. We have lost several of our mothers and young girls who were trying to give birth.

I visited a family in Kaiboi Sub-County, where a young girl of less than 30 years old died at the operating table while undergoing cesarian section at Kapsabet. There is also another one who used to work with the Nandi County Government, Department of Agriculture. She died because of negligence. There are allegations that medics have left students to conduct cesarian section at Kapsabet County Referral Hospital. There is a case where they left a scalpel as they sewed up a woman after a cesarian operation.

Madam Deputy Speaker, this very serious issue should be investigated. We have talked with the Kenya Medical Practitioners and Dentist Council (KMPDC), to investigate criminal negligence cases at the Kapsabet County Referral Hospital. That should also happen in Garissa.

Madam Deputy Speaker, I know that Uasin Gishu is not faring any better at all. I remember there was a time when they visited health facilities in Uasin Gishu County. Most of the facilities were disfunctional. It smacks that we celebrated. Kenyans were happy that for the first time, the health sector was being managed by the counties. However, Kenyans are begging for it to be taken back to the national Government. People are now saying that we miscalculated by allowing the health function to be devolved. They want the health function to be transferred back to the national Government. It is very unfortunate.

When you ask governors, they will always blame the Kenya Medical Supplies Authority (KEMSA), Parliament and the late disbursement from the National Treasury. However, it does not make sense at all that our people continue dying. Others cannot recover due to lack of drugs and medical attention. I hope that come 9th August, 2022, Kenyans, especially in the counties, will vote with a lot of wisdom. They must vote for people who will ensure that their interest and devolution are protected.

I thank Sen. Iman. She has been one of the few Senators who have done their job well. I hope to see her in future, either in this House or the National Assembly. When we talk about women empowerment, these are the Senators we need to continue legislating in the Republic of Kenya.

Madam Deputy Speaker, I thank you and support the Statement.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Cherargei.

Proceed, Sen. Farhiya.

Sen. Farhiya: Madam Deputy Speaker, I join Sen. Cherargei in congratulating Sen. Iman for bringing this Statement.

Madam Deputy Speaker, I am saddened that Garissa County Referral Hospital has deteriorated. That institution used to be the referral center for the whole of North Eastern Region before devolution. We cannot forgive anybody for running down that institution

because it was at a different level before devolution. I am ashamed that it has degenerated to that level.

Madam Deputy Speaker, one of the criteria for the formula that we passed the last time, was on 17 per cent bed occupancy. The more the people do not go to the hospital to seek services due to their unavailability, the less the resources for the county hospital. Another issue is the National Hospital Insurance Fund (NHIF). The NHIF allocates resources in terms of claims, according to the bed occupancy. That is another lost opportunity.

Madam Deputy Speaker, as a country, whether at national or county level, we should be in the forefront in fighting corruption. Institutions responsible for fighting corruption should rein upon the people that are involved in corrupting and running down of institutions. They should ensure that those people are brought to book.

Madam Deputy Speaker, agriculture and health are the cornerstone of devolution. They are the main things that devolution was all about, by ensuring that services go closer to the people. It is very sad if that is not happening. As you may remember, one of the reasons for impeaching our governor was health. The people of northern Kenya and our country as a whole need to ensure that they elect leaders who have integrity. That will ensure that services are brought closer to people.

Our Constitution has devolved many key functions. We need to give leadership to a responsible crop of leaders who can make a difference to the life of citizens, who live in the respective counties. It is high time that people relate poor services to the election of leaders. If you elect mediocre leaders, surely, expect mediocre services within your counties.

The people in our region need to know that there will be many problems because of perennial droughts. If we do not elect people worth our pen in the ballot, then surely, expect to get dismal services. You will live to regret for the next five years. I am asking Kenyans that it is not only governors, but from the Presidency, all the way to the Member of County Assembly (MCA). Make sure that the person you elect is not your relative, but a person who will make a difference in your life.

I thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Proceed, Sen. Omogeni.

Sen. Omogeni: Madam Deputy Speaker, I join other Senators in applauding Sen. Iman for raising this very important issue that touches on health.

This Senate is almost re-writing the Book of Lamentations. Each week, Senators come here raising issues of concern and the health of people we represent in our counties. I was here three weeks ago seeking a Statement about a young 19-year-old woman, who died at Gesima Health Center, while seeking help to birth a child. Both the child and mother died.

Madam Deputy Speaker, Kenyans pushed for devolution of health services, expecting that governors who would be chief executives within the counties know their people and, therefore, they would take care of health issues of their people.

Madam Deputy Speaker, I sit here and wonder how satisfying it is for somebody to be in leadership if he or she cannot take care of the sick and vulnerable. People go to hospital to seek treatment, so that they do not die. It is like there is no reason for having county governments in place. It is a sad affair. We have spoken about this, but our

governors are not moved or touched; they do not care. The situation is virtually the same in all counties.

That is why some of us who belong to *Azimio la Umoja–One Kenya* Coalition hope that the *Babacare* agenda of the Rt. Hon. Raila Odinga can change the situation. I was personally born in a public hospital.

I received all my vaccinations in that public health centre and that is where I used to go for treatment. The first time I got treatment outside Nyamira was when I joined the University of Nairobi (UoN). That was the first time I sought treatment outside a public health facility.

Nowadays, if you do not have means of seeking treatment in a private health facility, it is like you are destined to die, and that is bad. We need to rethink whether it was wise to devolve health services to counties.

When you go to hospital, a doctor prescribes medicine for you. However, you are asked to buy drugs from some pharmacy out there. Often times, the medicine that is supposed to be in public health facilities is sold in private pharmacies. It is sad.

In a country where people survive on less than a Dollar, the majority of Kenyans do not have money to seek for treatment in private health facilities. This is a matter that should attract the attention of everybody.

I have not heard anything from our brother William. However, collectively as Kenyans, if we care about the health of our people, this is a matter that should attract the attention of those who want to ascend to the presidency of this country. I pray that when “*Baba*” becomes President after 9th August, “*Babacare*” will change the way the poor get treated in public hospitals.

We have travelled to countries like Australia. The elderly who are called senior citizens receive free medical services. Even where there is a prescription for you to buy drugs because you are not able to get them in that facility, if you go to any pharmacy, you get them for free. It is the Government that will settle the bills with the owner of that pharmacy.

However, in this country, we have situations where people seek alternative treatment in private hospitals and are detained. When one dies, members of their family are slapped with bills of over Kshs1 million. If you are not able to pay, the body is detained for more than three months, while some for even 60 days.

We saw the deplorable situation of a health facility in Wajir County. That has pained me.

I have received agonizing stories from the people I represent in Nyamira County that will move you to tears. People seek treatment for conditions that should ordinarily be addressed by the county referral hospitals. However, they do not receive services and there are also no drugs. It is a matter that pains me as somebody who benefited from public health facilities when they were under the national Government. I keep asking myself: did we make a mistake by devolving health services and was it wise? I hope that those who will be privileged to make it back to this House, including Sen. Faki who represents Mombasa County, will revisit this matter. Let us bite the bullet.

The truth is that our people in the counties are not getting quality medical attention. That is the reality. Let us be honest and speak the truth. Governors are our friends but we must speak on behalf of our people by being candid and honest.

Madam Deputy Speaker, I would like to go on record as the Senator for Nyamira that there is a big problem when it comes to issues of receiving treatment and getting medicine from public health facilities. It is a big problem and I hope we can do something to turn this around.

I support.

The Deputy Speaker (Sen. (Prof.) Kamar): Proceed, Sen. Seneta.

Sen. Seneta: Madam Deputy Speaker, from the outset, I would like to congratulate Sen. Iman for bringing such a Statement concerning the people of Garissa County. That is a replica of what is happening in all our counties.

Last week, we had a crisis of human-wildlife conflict in Kajiado. During that incident, women and some men who were doing a peaceful demonstration were shot and killed. Some of them were rushed to a certain dispensary, which I visited yesterday.

The only source of borehole water had broken down a year ago. Up to date, the dispensary buys water for use. The dispensary has no drugs and some equipment to attend to emergency cases of such kind. The health centre is along Mombasa Road, which is busy and in a busy town, but it has no water, drugs and equipment for theatre and other essential items.

The situation applies to many health facilities in our counties. Many health facilities such as dispensaries, health centres and county referral hospitals are in deplorable conditions. They do not have drugs, personnel and water. Some lack electricity and other important facilities that should be in place to give services to the citizens. This is a case that this House should look at.

I am the Vice Chairperson of the Committee on Health. What we need is an Implementation Committee in place immediately, so that some of the Petitions, Statements and Reports that have been tabled in this House are followed up to make sure that the resolutions of this House are implemented.

We have had a number of petitions and done quite number of visits. We have also dealt with a number of Statements and wrote reports. All we need is implementation on the said reports. This is an important case that we should investigate and come up with a report to be implemented by the next Senate. God willing, in case any of these Members seated here come back, they should ensure that we have an Implementation Committee in place immediately to start following up on resolutions of this House, so that they can be corrected.

Otherwise, as many of my colleagues have said, provision of health services should be taken back to the national Government because counties have failed in this particular important function.

Many of our health facilities have not been opened since the inception of devolution.

Madam Deputy Speaker, we have several health facilities that were done by the African Development Bank (ADB). In my County of Kajiado, we have around 50 or 84 health facilities that were done by ADB before devolution came into place. Those facilities have not even been operationalised up to date. Some have not been completed and are just lying idle unopened. Also, those that have been done through the National Government-Constituency Development Fund (NG-CDF) have not been opened nor operationalised by the governors and the county government.

There is a big gap that needs to be addressed because health is a very important basic need that Kenyans need to enjoy. It is a constitutional right. Therefore, this House needs to rethink about health.

In my one year that I have been in the Committee on Health, we have visited several counties. We have also done investigations on several cases of death in those health facilities. We have done several Petitions concerning negligence in our public health facilities. Therefore, there is a gap that needs to be addressed.

As what my other colleagues have said, we need to rethink about health either going back to the national Government or we create an authority that can follow up on the issues of health in our counties because it is a whole crisis.

This is a timely Statement only that it has come almost at the end of our sittings as a House. However, I hope that my Committee will take it as an urgent matter and look at a few issues that relate to this particular case that has been raised by Sen. Iman.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you.

Hon. Senators, that Statement has taken half an hour. I want to hold the participation of Sen. Ndwiga and Sen. (Eng.) Hargura to a later time when we have a Petition on health, which is coming.

I want you to contribute at that point, if you can allow me. We have a good number of Statements that are here. There is one Statement from Sen. Olekina under Standing Order No. 47(1).

MISMANAGEMENT OF THE PETROLEUM SECTOR

Sen. Olekina: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No. 47(1) to make a Statement on an issue of national concern. This has to do with the mismanagement of the petroleum sector.

I hope that my colleagues will pay attention to this Statement because it is something that they should contribute to, so that we can get some sanity into it.

Madam Deputy Speaker, I rise pursuant to Standing Order No. 47(1) to make a Statement on an issue of national concern namely, the mismanagement of the petroleum sector allegedly by officials in the Ministry of Petroleum and Mining.

Yesterday, 14th June, 2022, the Energy and Petroleum Regulatory Authority (EPRA) adjusted upwards the prices of fuel across the country. In the latest adjustment of fuel prices, one litre of petrol will retail at Kshs160 in Nairobi City County, while diesel and kerosene will retail at Kshs140 and Kshs127 respectively.

Madam Deputy Speaker, this is the highest Kenyans have ever had to pay for fuel and the consequences would be dire. There will be skyrocketing of the cost of living. This will further make it difficult for ordinary citizens to afford their day to day life. The ripple effect will be greater. This will be no doubt have a major impact on the lives of citizens.

The role of the Ministry of Energy in addressing the rising fuel prices is critical. The Ministry should explain to Kenyans the additional measures put in place to lower and stabilise fuel prices, if any.

Madam Deputy Speaker, it is however disheartening to see the Ministry of Energy doing nothing significant to address the crisis, including building the capacity of the National Oil Corporation of Kenya (NOCK) in the distribution of fuel.

Instead, the Principal Secretary (PS), State Department of Petroleum and Mining, Mr. Andrew Kamau, has tried to remove the 30 per cent allocation set aside for NOCK to import petroleum into this country.

Madam Deputy Speaker, as a Member of the Standing Committee on Energy, I have sat in numerous meetings where the PS has indicated to us that there were no such things in law that set aside an importation of 30 per cent of petroleum products to the NOCK.

It is after our Committee showed him Legal Notice No.96 of 2010, that he agreed that NOCK can import oil into the country at a minimum of 30 per cent.

Madam Deputy Speaker, this begs the big question. Why is it important for the NOCK to participate in the importation of fuel in the country? The answer is simple. If the NOCK was involved in the importation of fuel today, Kenyans would be paying Kshs30 to Kshs40 less on petroleum products.

This is because NOCK would be able to get into long-term supplier contracts with deep discounts to start with. Additionally, NOCK will be buying in bulk as it has the mandate for maintaining the strategic reserves.

The PS, as the accounting officer, has however stood in the way of the NOCK, preventing it from engaging with strategic investors who are willing to give NOCK a lifeline.

Madam Deputy Speaker, on 10th June, 2022, the Ministry of Petroleum and Mining together with EPRA held a stakeholder's engagement with Oil Marketers' Companies normally referred to as OMC to deliberate on new regulations in the petroleum sector.

Top on the agenda was ways to strangle NOCK. Having realised that NOCK is mandated by law to import at least 30 per cent of petroleum into the country, they have made regulations that will curb NOCK importation at 30 per cent.

Madam Deputy Speaker, initially, it was the minimum of 30 per cent. However, because they have realised that it is within the law and is protected by law, they are now amending the regulations, so that it curbs the importation by NOCK to 30 per cent. This is despite the fact that NOCK, if well capitalized, can import fuel for the whole country at a discount.

The PS advocates for private companies to import fuel into the country. There is nothing wrong with OMCs. However, if a law has set aside 30 per cent to be imported by a State corporation, that ought to be respected.

Madam Deputy Speaker, I urge the Committee on Delegated Legislation led by the distinguished Senator from Mombasa County, Sen. Faki, to revoke those regulations when they are submitted to the Senate. The NOCK should be allowed to import as much as 100 per cent of the fuel consumed in the country.

In 2020, the Principal Secretary (PS) while answering questions before my Committee, the Standing Committee on Energy, indicated that should Tullow Oil leave Kenya, the country would be obligated to pay two billion Dollars because of the capital expenditure spent in the exploration of oil. I can confirm that Kenya would not be obliged to pay anything because the exploration license for Tullow Oil has expired.

The question that I have is why the Principal Secretary indicated that Kenyans would have to pay two billion Dollars to Tullow Oil? The PS has also been on record,

indicating that while we have oil in Turkana, we cannot refine it because the quantities do not allow.

I can confirm that the quantities in Turkana are enough to allow for refining of the product in Kenya. Kenya can refine 120,000 barrels of oil everyday, which would make it be able to meet the consumption of members of the East African Community(EAC).

This would make Kenya and EAC self-reliant on fuel and stop the importation of refined fuel and all the by products that come from refined fuel such as fertilizers.

Madam Deputy Speaker, I would like to mention the process of tendering for the importation of the fuel consumed in Kenya. The Petroleum Act 2019 states that open tendering system means the mode of procurement of petroleum product in Kenya where by, the lowest bidder of any given product is allowed to import on behalf of all other oil marketing companies.

This, however, is not what is happening during the open tendering system. What happens is that the person who bids the lowest on freight and premium on any given products is the one who is given the tender to import. Premium is defined as the profit which the company importing the petroleum product gets.

How does a Ministry make a determination on who gets the tender based on how much profit the company intends to make? I have documentation that shows that at no time does the company indicate how much they bought the product and who they bought from. For anyone doing oversight, no one is able to verify the landed cost because it is shrouded in secrecy.

Madam Deputy Speaker, I hope that this is a matter that will be discussed in detail. There is need for the Government to address the mismanagement of the petroleum sector, immediately, in order to address the suffering faced by citizens in view of the escalating cost of fuel.

I hope that even when we are going on recess, *Sine Die*, it does not mean that Parliament has been dissolved and the Committee can continue working on this matter because Kenyans are expecting us to come here and fight for them to lower their cost of living.

If the prices of petroleum products are going up on a daily basis, and our salaries and those of *mama mbogas* are not going up, how else are we going to expect to live in a good country?

Thank you, Madam Deputy Speaker, for being magnanimous and allowing me to make additional comments on this matter. I hope that future governments that are coming---

The Deputy Speaker (Sen. (Prof.) Kamar): By now you should be winding up.

Sen.Olekina: I am winding up, Madam Deputy Speaker. I hope that future governments that are coming - and I hope it is going to be the government of His Excellency Raila Odinga - will be able to really take these matters seriously to address the cost of living.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you.

Sen. Cherargei, please, proceed.

Sen. Cherargei: Thank you, Madam Deputy Speaker. I think the issue of fuel and National Oil Corporation of Kenya (NOCK) is very serious. You and I come from a region where we depend especially on diesel to do ploughing and farming. When that product goes up, it becomes very expensive.

Yesterday, a litre of petrol went up by Kshs9, from Kshs150 to Kshs159 in Nairobi and it varies across the country. It is shocking going by what Sen. Olekina has tabled in the House that NOCK is only allowed to import 30 per cent and 70 per cent goes to private individuals. That is where corruption is coming in. Therefore, it must be addressed.

Madam Deputy Speaker, out of curiosity, you know this is the ‘handshake’ Government and Sen. Olekina is a close ally of former Prime Minister, Hon. Raila Odinga. I think these are issues that he should have whispered to his big brother, President Uhuru Kenyatta, to address.

That aside, we agree that Kenyans are paining. The cost of living is going fuel is going up, there is the pain at pump, literally. We were told there was Petroleum Levy Fund. We can remember the former Cabinet Secretary (CS) in charge of the Ministry of Energy who later resigned after we censured him as a House because of the skyrocketing prices of fuel.

There was issue of Petroleum Development Levy Fund about which we have never been told what happened. Last time when it came to the House, no one told the nation where the Petroleum Development Levy Fund went. There were allegations that it was being used somewhere else.

I applaud Sen. Olekina on this issue. I agree with him that in as much as the House is adjourning *Sine Die* tomorrow, it does not mean that the Committee cannot prosecute this matter.

Madam Deputy Speaker, the reason and the wisdom of the drafters of the Constitution that Parliament cannot be dissolved was to ensure that one Parliament exists in perpetuity up to the next one. This is so that in case of challenges that are being faced by Kenyans, such as high cost of living and of fuel, Parliament can still reconvene and ensure that such issues are handled.

What Kenyans are seeing in terms of prices of fuel going up; it looks like the problem is the Ministry of Energy and the NOCK. I hope that the necessary agencies and institutions are working so that no one can benefit at the pain of Kenyans. It is very expensive.

The sad reality is that as the cost of living and fuel is going up, the salaries of many public servants, both in private and public are not going up. Even the cost of doing business is going up. Therefore, I want to applaud Sen. Olekina for bringing to the attention of the Senate and the Republic of Kenya that there is much more than needs to be done to address and fix.

I can assure Sen. Olekina that Kenya Kwanza government is siezed of the matter and God willing if we take over power such issues shall become a thing of the past.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. Hon. Senators, we are five, so, let us take exactly three minutes like Sen. Cherargei has done, so that everybody gets a chance.

Sen. (Dr.) Musuruve, the Floor is yours for three minutes.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker. I will take very few minutes on this.

I applaud Sen. Olekina for coming up with this Statement. It is just yesterday night when I heard the announcement that went on media that fuel prices had gone up by Kshs9. That is a lot of money.

You can imagine the many Kenyans who are going to suffer because of oil prices going up. The *boda boda*, *matatu*, passengers and all transport industry will be affected because of this.

The monopoly of deciding the cost of petroleum products should not rest on a private entity or an entity that is not keen about Kenyans. This is because we rely on fuel for very many issues. There is need to address this issue so that we bring down the cost of living. This is because if fuel goes high it means that transport and everything including building and construction will also go high.

If importation of more than 30 percent of fuel can bring down the cost of fuel, then why not? I think that is the way we should go. It should be more than 30 percent and not be capped at 30 percent.

We should look for a mechanism of ensuring that whichever way we have a win-win situation for the many Kenyans who are relying on fuel. We are all affected including us the legislators. If you want to go home for an activity you spend more than Kshs50,000 just on transport only. Forget about even going around from one ward to another.

There is need to see how to help the many suffering Kenyans when it comes to issues of fuel.

Even when Senate adjourns *Sine Die*, there are so many issues that need to come to our attention and I hope that we are going to have special sittings in situations where the issues are too critical that they need to be addressed by Parliament before the next Parliament comes.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Seneta, please, proceed. You have three minutes.

Sen. Seneta: Bi. Naibu Spika, ni ajabu kwamba bado Kamati inayohusika na mambo ya mafuta haijaka chini tangu asubuhi mpaka saa hii kuyazungumzia hayo maneno yanayohusu bei ya mafuta.

Tunajua kwamba bei ya mafuta inapopandishwa, itakuwa imepandisha pia bei ya vyakula, gharama ya kufanya ukulima, gharama ya kusafirisha vyombo vingine vyote ama bei ya kufanya biashara yoyote ile itakuwa imepanda. Gharama ya maisha pia itaendelea kupanda juu.

Tayari, Wakenya walikuwa katika hali ngumu sana ya kimaisha. Wakenya wamekuwa wakisononeka hata kuweza kupata chakula mara mbili kwa siku imekuwa ngumu. Bei ya chakula ya kusafiri na ya ukulima inapokuwa juu, mwananchi wa kawaida kupata hata karo ya kulipia mtoto wa shule inakuwa ngumu sana.

Bi. Naibu Spika, hii *Statement* ilitakiwa kupelekwa kwenye kamati leo na kamati hiyo ilifaa kukaa kesho kwa haraka sana kuweza kuongea na Wizara ya Nishati na Mafuta ili waweze kuhakikisha kwamba wamepata suluhu ya jambo hili. Tusiposuluhisha hili jambo la bei ya mafuta, inaonekana kila Mkenya atawacha gari lake nyumbani. Wakenya hawataweza kufika kazini kwa sababu hawataweza kumudu gharama ya tikiti ama ya kusafirisha bidhaa zao kupeleka kwa soko.

Ningependa kuomba wanakamati wa Kamati ya Kawi waweze kukaa haraka kuzungumzia hili jambo la bei ya mafuta. Wakenya wanahofia ya kwamba itakuwa hali ngumu sana hasa tunapoelekea uchaguzi. Nimesikia ndugu yangu Sen. Olekina akisema

serikali itakayokuja ambayo itakuwa ya “*hustler*” itakuwa imeweza kuzungumzia jambo hili.

Lakini ningependa kumjulisha ndugu---

(Sen. Seneta microphone went off)

The Deputy Speaker (Sen. (Prof.) Kamar): You are beyond four minutes. Sen. Shiyonga, please, proceed.

Sen. Shiyonga: Thank you Madam Deputy Speaker for giving me this opportunity to contribute on this Statement by Sen. Olekina on the management of the petroleum sector especially concerning the price of fuel in Kenya.

I totally agree with Sen. Olekina’s sentiments in the Statement. Like other Kenyans, I am also a concerned citizen because the price of fuel, which was increased just the other day, has been increased again. I do not know why the Government and the Ministry of Energy and Petroleum have closed circuit and is not opening up to tell us what is really happening.

We have an able Ministry, which can run and tell Kenyans exactly what is happening despite the fact that it can regulate and make the petroleum fuel levy adjustable.

We know that when fuel goes up, the standard of living is affected and the price of every commodity goes up. Anything to do with petroleum goes up. This affects lives not only of the rich, but also the poor suffer more.

We are striving to have a developed country. The Nairobi Expressway has been built. If this expressway will be empty because all the vehicles are at home, they do not have fuel, then what is the need of us developing one part of the country and leaving the other?

Madam Deputy Speaker, we have enough fuel, which was discovered in Turkana by the Ministry. The Ministry has also gone silent on the same. This fuel as well as the product of the petroleum can be refined and everything can be able to accommodate Kenyans. It is by luck that God gave us this petroleum to be found in Turkana, so that some of us can open our eyes and ensure that this fuel assists Kenyans other than importing the fuel that we are always depending on.

It is unfortunate to see the price of fuel go up by Kshs9 and yet, the salaries of Kenyans are not increasing and their livelihoods are going down. You can see everyone is being affected. That old lady in the slum or in the village cannot even afford kerosene. Half of the Kenyan population depends on kerosene, which is a by-product of fuel.

Madam Deputy Speaker, as a county, we are being unfair as a country. The Ministry concerned is being totally unfair to Kenyans by not controlling the price of this product.

I want to finish by saying that my president who is coming on board, Hon. Raila Amollo Odinga, I know you are listening wherever you are: The first thing in 100 days that you should ensure is to let this fuel price go down as it used to be when we had the “*nusu mkate*” Government. You used to control a lot of things. I know when you will become the president--- You are a president already although there is a President in place, but you are the incoming president.

Please, control the price of fuel because we need these vehicles on the road. Our mothers at home need to make sure they have their commodities, especially kerosene in their lamps. Everything needs to go down because you have promised us good and we know we shall get good out of all this, fuel being just part of---

(Sen. Shiyonga's microphone went off)

The Deputy Speaker (Sen. (Prof.) Kamar): You are done. Sen. Faki, please, proceed.

Sen. Faki: Asante Bi. Naibu Spika kwa kunipa fursa hii kuchangia Taarifa iliyoletwa Bungeni na Sen. Olekina kuhusiana na ongezeko la mafuta na usimamizi wa mafuta ya petroli katika nchi yetu.

Statement ya Sen. Olekina imegonga ndipo kwa sababu kwa muda wa karibu mwaka mmoja, tumeona bei ya mafuta ikiendelea kupanda. Kwanza tuliambiwa ya kwamba hii shida imesababishwa na vita ambavyo vipo kati ya Russia na Ukraine.

Lakini tumeona ya kwamba vita vinaendelea kwa muda wa miezi minne na hakujakuwa na upungufu wowote wa mafuta haya ambayo yanaongezwa bei mara kwa mara hapa nchini kwetu. Tutakumbuka ya kwamba bei za mafuta ilianza kupanda wakati kiwanda cha Kenya Petroleum Refineries kilipofungwa katika Mji wa Mombasa.

Bi. Naibu wa Spika, hili ndilo jambo ambalo lilipelekea wengi kuagiza mafuta kibinafsi. Hiyo ndiyo inayosabisha mkurupuko wa bei ya mafuta kwa sababu hapakuwa na usimamizi wowote wa bei ya mafuta.

Lazima Bunge la Seneti lishughulikie hili swala ambalo Sen. Olekina amezungumzia. Mimi ninaahidi ya kwamba iwapo Wataleta kanuni zao katika hili Bunge la Seneti, tutazichunguza kwa makini na kuhakikisha kwamba tumeondoa vipengele vyote ambavyo vitaendelea kudhuru Mkenya, kwa kuuziwa mafuta kwa bei ghali. Mafuta yakipanda bei, kila kila kitu kinapanda bei. Sio gharama ya kusafiri, bei ya vyakula na hata gharama ya kufanya biashara.

Mafuta ni kitu muhimu. Ilisemekana kwamba tuko na mafuta katika Kaunti Turkana lakini tungekuwa tumeyaona. Meli moja peke yake ya mafuta ndiyo ilichukuliwa kuenda kusafishwa nje ya inchi. Mpaka leo, hatujaelezwa ilikuwa aje kuhusiana na hayo mafuta.

Swala hili lazima liangaliwe kabla Bunge kuhairishwa kwa sababu ni jambo ambalo linaathiri Wakenya. Sisi ndio tunatarajia kuchaguliwa na Wakenya tarehe tisa Agosti, mwaka huu.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Madzayo, you have the Floor.

Sen. Madzayo: Asante Bi. Naibu wa Spika. Kitu cha kwanza, ninampa kongole ndugu yetu, Sen. Olekina, kwa kuleta hili swala la mafuta.

(Sen. Madzayo cleared his throat)

Utanisamehe kwa sababu kampeni imekuwa nyingi sana. Kwa hivyo, sauti inaenda.

Kila Mkenya anategemea mafuta na maisha ya kila Mkenya yanahusika na mafuta. Unapoooneza bei ya mafuta, unafanya maisha ya Wakenya kuwa mazito sana.

Tunaona kuna uzembe fulani unaoendelea katika Wizaya Kawi. Wale wanaohusika, wakati mwingine wanaongeza bei vile wanavyotaka. Hali hii inafanya maisha ya Wakenya kuwa magumu sana. Tunaelewa kabisa ya kwamba unapoguza mafuta, umeguza maisha ya mwananchi. Utakuwa umeguza bei ya hospitali wagonjwa wanapoenda kutibiwa na bei ya chakula kupanda juu. Vilevile, haiwezekani kufanya maendeleo pasipo matingatinga kuenda katika mashamba.

Bunge huwa halivunjwi; linahairishwa. Tuko na Kamati ambayo inahusika ya mambo ya kawi. Hili swala linapasa kupelekwa katika hiyo Kamati yetu ya Kawi, kuangaliwa na kuhusika katika hii kazi.

Ninampa kongole tena ndugu yangu kwa sababu yeye huwa anaongea mambo ya Wamaasai sana. Leo ameongea habari ya bei ya mafuta. Wamaasai wote ambao kato Kaunti ya Narok, wakae wakijua ya kwamba Sen. Olekina ameweka rekodi kwa hii Nyumba, kwa kuleta Miswada ambayo inasaidia Wamaasai na pia Wakenya kwa jumla.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Nyamunga, please, proceed.

Sen. Nyamunga: Thank you, Madam Deputy Speaker for giving me an opportunity to add my voice to the Statement that has been brought forward by Sen. Olekina. It is very unfortunate.

This morning, I was watching news and saw that the tax regime – the Kenya Revenue Authority (KRA) – had surpassed their target by about Kshs140 billion. It means that they collected more than what was expected of them. Could it be that the tax collected – that seems to be over and above the expectation – is as a result of the pressure that we are putting on the economy and on the people of Kenya?

If the collection surpasses the target by Kshs140 billion, where is this extra money coming from? Why has it not been there before? Why have the other regimes not been collecting more? I am tempted to think that we are overburdening our people because Kshs1 billion is a lot of money. If you talk of Kshs140 billion over and above the expectation, it makes me think that we are overburdening our people. The Government should not be happy that they are over-collecting revenue. Instead, it should look at the plight of our people.

Madam Deputy Speaker, coming back to the oil issue, when there was exploration of oil in this county, all of us were very happy. We had high expectations that we were going to refine the oil that had been discovered in Turkana County. My colleague here has already spoken to that. When the exploration started, Kenyans expected that our lives would be better and that there would be ease in the economy. We expected a lot of growth in this country.

However, from the look of things, it is like we are making no headway. A lot of money that we spent on exploration of oil has gone to waste. We were told that the oil in Turkana County was enough to be explored for over ten years, flowing freely to Kenyans to better their lives. However, that is now a thing of the past.

I come from the Lake Region and we were told that there is a lot of oil deposits around Kisumu area into Nyakach. We were further told of how the oil flows from the upper part going towards the Lake region. This gave Kenyans a lot of hope that if we explored the oil and it is translated to the general economy, the country would do much better and the lives of our people would improve.

Madam Deputy Speaker, any time fuel prices are increased, it affects all Kenyans in every aspect of life. It is very unfortunate that these things happen without explanation. The increase by Kshs9 per litre is a lot of money for a single addition in one month. Last month, it was Kshs5. We do not know what it will be next. We are doing a lot of injustice to our people.

It is not a matter of who is in the Government, ‘*nusu mkate*’ or the ‘handshake.’ This is a very serious matter that touches the lives of our people. We should not take it as a joke because it is not. Kenyans are suffering and we do not have any single explanation for our people. The unfortunate thing is that the additions are done and our people are never alerted.

When things are tough in your and maybe you are engaged in other development issues, you cannot omit all your obligations. You sit your children down and tell them that they will be eating a half loaf of bread instead of the full loaf that they are used to. What we are doing in Kenya is a lot of mismanagement of the people and the economy. It is very unfortunate.

I support the Statement.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Finally, Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Thank you, Madam Deputy Speaker. I thank Sen. Olekina for bringing up this issue. As he has rightfully said, this could be the highest fuel prices we are experiencing in this country.

If you look at what actually constitutes the fuel price, about 50 per cent could be the taxes we are charging. When the landing price increases, any sensitive Government should do something about the taxes. In our case, nothing is being done about the taxes. The only explanation we are given is that there is an increase in the landing price, which is 50 per cent of the price. You then find taxes such as the excise duty and road maintenance levy. There is also the petroleum development levy, which we are told is supposed to cushion us against this kind of increases in prices.

Madam Deputy Speaker, I support this Statement on an issue of national importance. In this kind of a situation, I would like to urge the Energy and Petroleum Authority (EPRA) not to increase prices, but to see how they can use the Petroleum Development Levy (PDF) in order to always stand with cushioning Kenyans instead of giving us price increments wherever there is increase in landing prices. That can take care of Kenyans of all walks of life.

If the Kenya Revenue Authority (KRA) tell us they have generated more than they were supposed to have collected, this means that taxes of Kenyans have increased. When this kind of fuel price increase occurs, they should be the first ones to think of how they can cushion Kenyans against that. We know fuel price affects all sectors of our lives; it can be in transport or production. They should not jump to increase fuel prices like the recent increase by Kshs9 per litre. I believe in this period of time when we are experiencing a lot of hardship, it is very high.

I urge the relevant Authority to see how they can cushion Kenyans because there are mechanisms to do so when it comes to fuel prices.

The Deputy Speaker (Sen. (Prof.) Kamar): Finally, we have Sen. (Prof.) Onger, on line. Please proceed.

Sen. (Prof.) Ongeri: Madam Deputy Speaker, I thank you, for giving me this opportunity to give my views on this matter of petroleum increases in petroleum prices in our country by Kshs9. I can only describe this situation as very pathetic and sad because Kenyans are distressed about the cost of living in our country.

Fuel increase has many facets of increasing household expenses as purchases in the house go up. The transportation sector will also go up. The energy and petroleum sector for lighting our homes will also go up. The most important aspect of it is going to directly affect the agricultural sector because of importation and transportation of raw materials for manufacture of feeds and other things.

Madam Deputy Speaker, you are also an entrepreneur in this area and it is going to be extremely affected. Once this happens without a corresponding subsidy to the farmers, it is going to be a chaotic situation.

Those of us in this Senate cannot accept or approve further increases on petroleum products which directly affect the common *mwananchi*, and by extension, the economy and the manufacturers as well. Considering this has a cascading effect where you find that the prices are going up every other day.

I thank Sen. Olekina for bringing up this Motion. I urge the Government, particularly the Ministry of Petroleum and Mining to be up to the task to ensure Kenyans do not suffer any more any longer.

I thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The next two Statements are under 48(1) from Sen. Cherargei and they look related. So, you will read them both, one after the other.

Sen. Cherargei: Madam Deputy Speaker, I thank you for giving me this opportunity. I have two statements so I will read them concurrently.

GOVERNANCE AND MANAGEMENT MATTERS
AT KISII COUNTY GOVERNMENT

Madam Deputy Speaker, I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Finance and Budget; regarding the governance and management matters at Kisii County Government.

In the Statement, the Committee should:

(1) Give reasons for the failure of the Kisii County Government to remit retirement contributions to the Local Authorities Provident (LAP) fund Local Authorities Pension Fund (LAPTRUST) and County Pensions Fund (CPF) amounting to Kshs2,405,907,247 as at 31st December, 2020, following the National Treasury Circular No. 14/2021, Reference No.IGFR/BP/01/J/69 dated the 28th October, 2021; which disclosed that the Kisii County Government had unremitted retirement contributions of Ksh2, 405,907,247.

(2) Cause an investigation on possible instances of financial impropriety on the part of Kisii County Government in the said matter.

CONFERMENT OF MUNICIPALITY STATUS TO
OGEMBO URBAN AREA, KISII COUNTY

Madam Deputy Speaker, I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the conferment of municipality status to Ogembo Urban Area in Kisii County Government contrary to the Urban Areas and Cities Act of Kenya.

In the Statement, the Committee should:

(1) State the reasons detailing the criteria used in conferring municipality status to Ogembo Urban Area contrary to provisions of Section 9(3) of the Urban Areas and Cities Act, 2011.

(2) State whether the relevant stakeholders, including public participation were involved in the approval process of giving Ogembo Urban Area a town status and whether the tabling of evidence has been undertaken.

I thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, the Statements under 48(1) automatically stand committed to the relevant Committees.

The Statement by Sen. Olekina which was under Standing Order 47(1) is also committed to the relevant Committee. The contributions of Members seemed to point at a Committee to handle the case. I use my discretion to order that it go to a Committee.

If the Senator for Machakos County is not back online, let us proceed to Statements under 47(1) by Sen. (Dr.) Musuruve.

INTERNATIONAL ALBINISM AWARENESS DAY

Sen. (Dr.) Musuruve: Madam Deputy Speaker, I thank you for this opportunity.

I rise pursuant to Standing Order 47(1) to make a Statement on a matter of general topical concern, namely, International Albinism Awareness Day.

Every year on 13th June, the International Albinism Awareness Day (IAAD) is observed in celebration of the human rights of people with albinism and to raise awareness on their health condition.

Albinism happens due to lack of pigmentation (melanin) in the hair, skin and eyes, which makes a person vulnerable to the sun and bright light.

The genesis of IAAD dates recently in the mid-2000s. While it had been reported that persons with albinism globally faced discrimination and stigma, information on cases of physical attacks against persons with albinism was mainly available from countries in Africa.

There were reports of violent attacks and murders of people with albinism in Tanzania. The attacks were fueled by false beliefs that people with albinism possessed magical powers. As a result, in 2015, 70 people were killed and many more harmed.

Due to this, the Tanzania Albinism Society (TAS) and other NGOs came together to lobby for the rights of people with albinism. A reprieve was conveyed when the UN Human Rights Council on 13th June, 2013, adopted the first resolution ever vide Resolution No. A/HRC/RES/23/13, calling for the prevention of attacks and discrimination against persons living with albinism.

The UN Human Rights Council, further through its Resolution No. 26/10 of 26th June, 2014, recommended 13th June to be marked as IAAD. However, the day first became official when the United Nations General Assembly (UNGA) adopted a resolution on 18th December, 2014, that proclaimed 13th June as IAAD, with the first observance taking place on 13th June, 2015.

The theme of the IAAD this year is: United in Making Our Voice Heard. The theme was chosen for various reasons as follows-

- (a) To include voices of persons with albinism to ensure equality;
- (b) To encourage and celebrate unity between the groups of persons living with Albinism;
- (c) To amplify the voices and visibility of persons with albinism in different areas of life; and,
- (d) To highlight the work being done by albinism groups in different parts of the world.

People with albinism just like other PWDs, face deep-seated discrimination. From an early age, they are hidden from the public by their parents, if not abandoned altogether by these parents.

In other cases, and this is more often than not, they end up living with a single parent, mostly the mother. Some fathers, on realizing that their infants have albinism, desert their families and want no association with them.

(Loud consultations)

Madam Deputy Speaker, kindly protect me.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, please consult in low tones so that we can hear what the Member is saying.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker.

Because of this background, most children with albinism develop low self-esteem from a tender age. Apart from the low self-esteem, the lack of melanin in their eyes makes those living with albinism, particularly susceptible to skin cancer as ultraviolet radiation from the sun cannot be absorbed. Insufficient melanin in the eyes also leads to reduced vision.

I take this opportunity to commend people with albinism who have defied the odds and proved to the world that they are able to live a life that is as normal as possible within their perceived disadvantages and are capable of great achievements.

I begin by celebrating Alex Munyere, one of the founders of the Albinism Society of Kenya (ASK). He was a colleague of mine at Kenyatta University where we were both studying special education. His hard work, determination and focus made him acceptable among other students. He was full of confidence and ready to reach out to his classmates who did not have that condition.

I celebrate our own Sen. (Dr.) Isaac Mwaura for being focused on legislative matters and serving Kenyans despite the challenges he goes through, hence being a mentor to many of his type.

I celebrate Justice Grace Mumbi Ngugi, a judge of the High Court of Kenya, who defied the odds and rose up the academic ladder. Justice Grace Mumbi is also a co-founder of the Albinism Foundation of East Africa (AFEA).

The efforts of Goldalyn Kakuya from Kakamega County who hit the headlines in 2017 when she emerged as the best candidate in the Kenya Certificate of Primary Education (KCPE) with 455 marks out of 500, cannot go unmentioned. She defied all odds to be the top student and demonstrated to the world that disability should be celebrated rather than rejected.

As we commemorate this day, I wish to call upon Kenyans in all walks of life to accept PWDs and know that PWDs have the potential to make it and live a productive life as long the environment is enabling.

I call upon all levels of Government to ensure that sunscreen is availed to all persons with albinism.

Madam Deputy Speaker, I wish a belated Happy Albinism Awareness Day to everyone.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I will apply Standing Order No.1 to go back to Petitions and Papers because there are Papers that have to be laid on the Floor of the House. We also have Reports on Petitions that will be laid by the Chairperson of the Standing Committee on Land, Environment and Natural Resources.

PETITION

LEADERSHIP WRANGLES AND MISMANAGEMENT IN THE HEALTH DEPARTMENT OF UASIN GISHU COUNTY

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, the Speaker has received a Petition to the Senate concerning leadership wrangles and mismanagement of the Department of Health in Uasin Gishu County. It reads as follows:

We, the undersigned citizens of the Republic of Kenya and residents of Uasin Gishu County, draw the attention of the Senate to the following-

Lack of leadership and governance in the Department of Health.

(i) THAT there is rampant appointment of officers without following due processes in the Department of Health in Uasin Gishu County where in some cases officers have been appointed by word of mouth.

(ii) THAT there has been no organogram in the Department of Health over the past four years, leading to anxiety and confusion in the chain of command in the Department.

(iii) THAT equipment procured by the county under the Managed Equipment Services (MES) is in use by the Moi Teaching and Referral Hospital (MTRH) which should have its own equipment supplied through the national Government rather than the county government. This has denied other county health facilities the highly needed medical facilities. In particular, the county has donated ICU facilities to MTRH, yet other county facilities are in need of the same equipment.

(iv) THAT there is a high turnover of officers at senior management levels, including chief officers, county directors of health and county health management officers. This situation poses a threat to the quality of health services rendered by the county government.

(v) THAT a Petition for the impeachment of the County Executive Committee Member (CECM) for Health was presented to the County Assembly by members of staff in the Health Department, citing issues of poor leadership, incompetence and abuse of office. However, concerns raised in the Petition have not been resolved by the Assembly.

Lack of integrity in the department of health.

(i) THAT there is financial impropriety and violation of procurement procedures for health services. A case in point involves the purchase of World Bank Sponsored Medical Equipment such as Mama Kits, delivery couches, laptops and others.

(ii) THAT the money allocated in the budget has not been utilised as expected and according to the needs of the department. Such needs include, laboratory reagents, staff promotions, procurement of utility vehicles and completion of stalled projects in the department, including Kesses Sub County Hospital, Ziwa Sub County Hospital, West Maternity Hospital and Moiben Health Centre which have stalled.

(iii) THAT the officers who were suspended in a recent case that involved financial misappropriation for a planned training for healthcare workers in Chebororwa have reported back to work despite being implicated in misappropriation of public funds.

(iv) THAT the department misappropriated the funds directed towards the COVID-19 support. A matter that is in public record and an auditor report record confirms the same.

Poor human resources practises.

(v) THAT there has been a stagnation and freeze on recruitment of staff over the years thereby leading to severe shortage of human resources for health care workers and demoralized staff across all cadres.

Several medical officers have been removed from the payroll or had their salaries stopped unprocedurally as a disciplinary measure on unfounded allegations without following human resource policy guidelines on disciplinary cases. This has led to demoralization of staff in the department and poor service delivery.

Various avenues of assistance has been sought to no avail.

(i) THAT in March 2019, the Union filed a Petition to the county assembly concerning the mismanagement of the department of health.

In June 2019, the county assembly responded, stating that they presented the case on 13th June, 2019, and concluded that the matter was serious and needed to be resolved. However, nothing has been done to date with the limited resources in the county assembly.

In November, 2020, a strike notice was given by the Kenya Union of Clinical Officers (KUCO) and the Kenya Union of Nurses (KUN) concerning matters such as inadequacy of medical equipment and medical cover for front line workers, recruitment of more medical staff and payment of salary arrears among other issues.

The strike began on the 7th December, 2020. The response from the county was to issue letters to health workers citing gross misconduct due to absence from office.

(ii) THAT in February, 2021, the Ministry of Labour, Social Security and Services set up a reconciliatory meeting between the KUCO and the County Government of Uasin Gishu on the 15th February, 2021, to discuss matters such as promotion of clinical officers, payment of withheld salaries and provision of comprehensive medical cover, including other matters.

KUSO was present, but the county did not attend. There was another meeting that was scheduled for 22nd February, 2021 which was again attended by KUSO only.

Certificate of unresolved dispute was then issued for the parties to seek another opportunity for a meeting.

(iii) THAT we have made best effort to have these matters addressed by the relevant authorities, all of which have failed to give a satisfactory response.

(iv) THAT none of these issues raised in this petition is pending in a court of law, constitutional body or any other legal body.

Therefore, your humble petitioners pray that the Senate-

(1) Intervenes for development and adoption of organogram which will facilitate efficient functioning of the department of health in the county;

(2) Intervene to ensure that members of staff due for promotion are awarded the positions they deserve and that proper administrative procedures were adhered to by the management of the county health services.

(3) Recommend for an audit of all existing projects to ascertain their value for money to the public and to investigate the financial impropriety in the use of public funds for projects and programmes of the department of health; and finally,

(4) Investigate and make recommendations on the closure of the revolving pharmacy fund; a facility that has benefited patients suffering from Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS) greatly for several years.

Hon. Senators, the Petition is signed by five members of staff of Uasin Gishu health department; Frank Chepkwony, Dennis Cheruiyot, Dr. Rueben Korir, Musa Mogungey and Isaac Kiptalam.

I thank you, Senators.

Let us now listen to Sen. Hargura.

Sen. (Eng.) Hargura: Thank you, Madam Deputy Speaker. I would like to thank the petitioners from Uasin Gishu who happens to be affected persons because they are staff members.

Health is a devolved function. Among the devolved functions, I believe health is the most important. This is because we know the importance of human health as compared to any other activity of the human being. Without being healthy, we cannot perform any other activity.

It is an important function. Considering this Petition and Statement that we had earlier, we are experiencing challenges at the county level in implementing this function.

Health involves several issues and the Petition covers most of them. It involves developing the necessary infrastructure for provision of health services right from the dispensaries at the local level.

Additionally, we have the health centres at the sub county level, we have level four hospitals and at the county level, we have a referral level five hospital. That is the ideal set up of the infrastructure.

After provision of the necessary buildings, the infrastructure requires proper equipping of those facilities. It requires proper staffing of the facilities with the relevant personnel at all levels and provision of medicines.

Additionally, hospitals require ambulances to refer patients from one level to the other. We need to have all that in place to have a functioning health system.

Unfortunately, this is not the case. For instance, in this case, the personnel system for the whole county is not in place. I wonder how they have been operating because the law requires county executives to submit an organogram for approval. Once it has been approved, the County Public Service Board (CPSB) should use it whenever they receive any indents to employ any staff.

I wonder how the CPSB in Uasin Gishu is operating without organograms, which have been approved and submitted to them to use when they are employing.

On the issue of equipment, we have even heard it earlier when we were discussing the Managed Equipment Services (MES) Report that some of the equipment for Uasin Gishu County has gone to Moi Teaching and Referral Hospital (MTRH) and the payment is being done from the county allocation, which is unfair.

The Government should allocate to its facilities, for example, the Kenyatta National Teaching and Referral Hospital and MTRH which are under the national Government. Level five hospitals should be equipped directly by it because it is in charge. They should not be using the equipment being paid for by the county governments.

The management of personnel is very important, but it is coming out as a problem. I hope the four issues raised by the petitioners will be handled by the relevant Committee. Generally, the health sector is an area which is showing that the county governments are not performing well. It should be the area where they should be performing better than any other because this is human life.

We allocate money here as equitable share. If you take a look at the county budgets, they will tell you most of it goes to the health sector. You will then wonder what it is doing if we have personnel and equipment problems and most importantly, problems in the provision of drugs. In every county there are no drugs and the reason is given is the law that requires them to buy from Kenya Medical Supplies Authority (KEMSA).

Forty-Seven counties cannot be sitting here and if there is a problem with the provision or supply from KEMSA, they are not raising this issue so that we can look at the law and change. It is this Parliament, which passed that requirement that county governments must procure their drugs from KEMSA. If it is not working, we are supposed to get that law and amend it so that county governments with very serious controls in terms of quality and all that can purchase their own drugs.

Sometimes they say they have paid, but KEMSA has no supplies. That is not a reason when we are dealing with human life. Counties have to be proactive. If there is any requirement for any change in law, then Parliament should be petitioned maybe by the Council of Governors (CoG) to have that part changed because they are the ones experiencing the implementation of that law.

The same thing applies to the first statement. In the case of Garissa County, that is a hospital that has a Medical Training College (MTC) with it. If there are problems of personnel, equipment or negligence, you wonder what kind of staff they are training for us. If those who are training the nurses are the ones who are negligent what kind of output, do you expect from them?

I hope the Committee on Health which will handle both the Statement and the Petition, start their work so that what they will not have completed will be taken up by the next Senate.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Proceed, Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker for this opportunity. Allow me to thank the Petitioners for bringing this Petition before us because it their constitutional right to do so. Anyone can petition. We are here to listen to the petitions that come from Kenyans so that we can give an empathic ear and ensure service delivery for everyone.

The Petitioners are justified in coming up with the Petition. One of the issues that have come out clearly - which is also their prayer - is that of promotion. They need to be promoted. They are also praying that there be an audit for all departments in the health sector in Uasin-Gishu County.

Apart from that, there are also praying that there is proper governance in the health sector. These prayers are genuine.

In as much as the Petitioners have come up with this Petition, there is need to also look for a mechanism of ensuring that the Petitioners are protected so that they are not laid off or victimized because they have come out candidly in this Petition. They have tried all offices and avenues and it is not forthcoming and that is why they have come to the Senate.

There is need to ensure even when this matter is taken before the Committee, they ensure protection of the Petitioners. When petitioners come genuinely to the Floor of this House to petition there is need to ensure that they do not lose their jobs at the end of it all.

When they petition it is not about themselves, it is about other workers. It is only that they have the nerve to come out and say, "Yes, despite what may come, we are going to do a petition." It is unfortunate that what is coming out in this Petition is really unfair and wanting. There is need to investigate thoroughly and ensure that there is empirical evidence of the allegations that are coming out of this Petition.

They are talking of verbal employment. Who on earth ever gave verbal employment? Even when house helps are given employment, there is some form of agreement where you agree on a certain rate. There is nothing like verbal employment when it comes to the national and county governments. There is need to interrogate and see who was given verbal employment and were people also paid?

One of the way in which employers encourage their employees is to give them promotion. When you are given promotion for working hard it gives you the incentive to perform. Many organizations have done very well by incentivizing their workers by giving them promotion.

In investigating this Petition, if there are employees who have been stagnant on one position for a very long time, they should be promoted because it is their right. Employees and employers have their own obligations. We have to look for a way in which we can cushion employees wherever they are.

When it comes to issues of payment, apart from Uasin-Gishu county Government, there are some county governments where medics have not been paid for quite some time now. There is need for this Petition to extend to other counties and see if they can pay the medics who have not been paid because it is their right.

It is unfortunate that medics sign the Hippocratic law that makes them even work during odd hours and in hardship situations because they have signed on to save human

lives. Even though they have signed it, we need to make sure that we are not also discouraging, but encourage them to perform their duties.

As we adjourn *sine die*, I hope that some of the urgent issues like these will call for the Senate to come and sort out issues that are affecting the common man until the next Parliament.

I support.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Proceed, Sen. Ndwiga.

Sen. Ndwiga: Thank you, Madam Deputy Speaker. I stand to support this Petition. I wish to draw the attention of the Senate to the fact that the earlier Statement brought by Sen. Iman was also leaning on the same. I would have wished to ride on that Statement earlier, but allow me to do so now.

The health sector in this country is in crisis. We allocate equitable revenue in this House to counties. In most corrupt counties, those resources are used in infrastructure development because that is where you can get your kickbacks earlier at the expense of health services.

As I stand here in this House towards the tail end of the session, Embu County is a perfect example of a failed county in terms of health services.

For the last four months, the Intensive Care Unit (ICU) and High Dependency Unit (HGU) in Embu County have been closed. To date, Embu Level 5 Hospital has no electricity and even water. Can you imagine if you want to visit your patient in that hospital, you carry for them water to drink and water to bathe. It is so sad.

As of now, we thought that was the worst and that was last week. As of today, all the medical facilities in Embu County have been shut down. Every morning, you hear very sad tales of people who are dying in their houses because they have no way of getting medical attention anywhere else apart from private health facilities and they cannot afford those private health facilities. For one to even be admitted, you need to put a deposit of so much. This is so sad. It is not just an Embu County crisis, it is almost a national crisis.

All the medical practitioners in Embu County have raised concerns which I have supported as their Senator. The deductions from their salaries which are meant to go to NHIF and their SACCOs, for the last eight months those deductions have not been remitted to where they belong. As a result of this, most employees in Embu County are being listed in Credit Reference Bureau (CRB) because of a fault which is not theirs.

Madam Deputy Speaker, it is so sad. Unfortunately, this is happening towards the tail end of this Senate. In order to manage the health sector in this country, the solution is not to just get it back to the national Government. No. The solution is that when the next Senate convenes, it should immediately create health boards. All level 5 hospitals should be run by semi-autonomous boards because they can generate their own funds to run themselves. However, Level 4, Level 3, level 2 and level 1, should be run by county health boards. The funds for that board should be allocated directly by the Senate. That is how we will curb all these many problems that we are getting from our own counties.

I do hope that the next Senate will have experienced Senators who know how to handle this situation. This situation is going to be a pandemic, continuous and recurrent for as long as you have new Senators who do not know the problems that the previous Senate experienced.

I do hope that the next Senate will be able to focus specifically on the health of our people. We are allocating money from this House. There is no reason why we cannot specifically hold the director of budget since specifically this money is for health.

We want to specifically see those health boards in the counties throughout the country. This is because if we just release money and expect that the governors and the Members of County Assembly (MCA) will allocate the 15 per cent, which is a requirement to the health sector. This will never happen because our counties have become the bane of corruption. That is why corruption has been devolved so seriously at the expense of the people.

[The Deputy Speaker (Sen. (Prof.) Kamar) left the Chair]

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

Madam Temporary Speaker, many people do not understand the role of Senators. Once the Senate has disbursed money to the counties, we have no capacity to follow it and make sure it has been put to proper use. Hon. Senators do not have that capacity.

Our role is limited to waiting for reports of the Auditor General after they have inspected the county books and the reports are sent to CPAIC. That is where Senators get involved.

Madam Temporary Speaker, the first line of checking accountability is with the county assemblies. It is very clear even in the Constitution. You need to read the Constitution to understand that when it is areas of checking accountability, the first line is the county assemblies. That is where they do the budgeting and is where they should hold the county executive, or the governors to account.

However, when both the county executives and the county assemblies get to bed together, then the people end up suffering. That is why, particularly in the case of Embu right now, I am announcing on the Floor of this House that I would expect as for now, the County Assembly of Embu to reconvene urgently and see where they can get funds to pay the medical officers their dues so that the health facilities in Embu can be opened.

Otherwise, I will condemn whatever is happening in Embu and hold the Governor, the Deputy Governor and his government to account, including to some extent the county assembly. They should also be the ones who are making noise about our hospital facilities being closed. That is the local parliament. It should have reconvened to relook at this issue.

I thank you, Madam Temporary Speaker, for this opportunity.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity to also contribute towards this Petition.

I want to congratulate the petitioners for having trust in this House to come and air their grievances. Lack of security of tenure of medical personnel is a clear indication that the governor does not mean well for the people of his county. This is because if he did, the health staff are the ones who should be enjoying security of tenure so that they can serve people without a lot of pressure. How do you expect people who do not know whether tomorrow they will be fired or not to be diligent, to plan their time in the health centre and to serve their people efficiently?

There was a clear indication from the petitioners that there were some people who were fired because of malpractice. However, they were even reinstated before the conclusion of their case. What does that mean? Was this meant to scare these people who are just there to help the people and to ensure that those who are corrupt are protected?

Who is benefitting from all that loot? I think the Governor is better placed to answer this question.

Madam Temporary Speaker, I find Uasin Gishu County irresponsible for mixing its equipment with those of the national Government facility. They allowed their equipment bought under the MES to be taken to the MTRH, which is a national Government institution. Those are two independent institutions which should not be mixing assets. This is because each institution has its own mandate under the Constitution. Therefore, mixing the equipment shows lack of proper management by the concerned county.

I urge the people of Uasin Gishu County to elect an expert in their field; a better Chief Executive Officer (CEO) who means well for his county. If he is not properly trained to be a CEO of an institution, then he cannot do anything. Corrupt people in the system will continue maneuvering if the governor does not have clout to control them.

By not having security of tenure, people are disenfranchised and do not even have the clout to question anything that goes wrong. Employees in Kenya, including those in Uasin Gishu County, need to understand that there are employment laws that protect them from vultures who are out to destroy their career.

The medical career is noble and medics spend years moiling to get proper education to take care of people's health. When such people are mistreated, what do you expect? It can even cause mental issues just as highlighted in the Bill that was sponsored by Sen. Kasanga, to take care of people with mental health. These are people that you need to take care of. They have skills that ensure people get the right medical care.

Madam Temporary Speaker, there is a mission to ensure that coffers in counties are dried up. Otherwise, what the petitioners are claiming is a serious matter. If we had a Governor who had the interest of his people at heart, then such a thing would never have happened.

All this is happening to ensure that those who are doing their jobs properly, are discharged so that the corrupt ones are reinstated without proper procedures. This will create an environment where no one will ask any questions. Whoever is in power will be left to steal as much as they want, with no consequences at all. It is because there is a high turnover of the people who would raise these issues, since they do not have security of tenure. Lack of an organogram, proper recruitment process and lack of skilled staff creates chaos in any county.

I wish to urge the people of Uasin Gishu County not to elect a corrupt governor. Ensure you vote for somebody who will take care of your health for the next five years. Electing the right governor means your health and roads are secured---

(Sen. Farhiya's microphone went off)

Madam Temporary Speaker, please, give me one more minute to conclude.

The Temporary Speaker (Sen. Nyamunga): You have one minute.

Sen. Farhiya: Thank you, Madam Temporary Speaker. Electing the right governor means your education and health are secured for the next five years. You will also have clean water for the next five years.

The people should also elect Members of the County Assembly (MCAs) who can question the Governor. Not the ones who when there is a problem, they go for a retreat to sorted out the problem. Unless the right questions are asked, then the Governor will have the opportunity to squander your rightful resources, together with those in cahoots with him or her.

The Temporary Speaker (Sen. Nyamunga): Sen. Shiyonga, proceed.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity to support the Petition concerning the leadership wrangles and management in the department of health in Uasin Gishu County. It is not only in Uasin Gishu County, this problem is across the country, especially after health was devolved.

I got the opportunity to work in the Ministry of Health before I joined the Senate. When health was being controlled from the Ministry headquarters, things were better. We thought they would be much better when health was devolved. It seems with small “kings” and “kingdoms” in the counties, people are misusing the opportunities.

We need the devolved functions to work. They can only work if funds follow functions. However, the mismanagement at the county level, especially in the health departments, is wanting. It has made everything cumbersome down to the normal running of the facilities. Facilities at the county level have become scanty and without headway.

We got a boost from the national Government when we had the COVID-19 pandemic. Many county governments tried the much they could. County governments took measures and even tried to equip Intensive Care Units (ICUs). You could see there were problems and we still have them.

The Uasin Gishu County Health Department needs to up its game. The management of the county does not even consider the qualifications, or experience of the people they appoint to head the various sections. I agree that we are also experiencing this in the political world, but people need to go.

We need to go further and interrogate the persons being employed as heads of department in county governments, especially the Ministry of Health. Most ministries and departments need to be headed by experts. If we do so, such people will run the departments in a more appropriate and skilled way and deliver services according to how the citizens should benefit.

Most county governments committed a lot of finances to building structures in the referral hospitals. There is no single day the referral hospitals have ---

Madam Temporary Speaker, am wondering why I am not being seen on the screen and yet these are my last days here.

(Laughter)

I am back on the screens now. That means someone was dozing somewhere because I have never seen this happen. I will go back. My minutes will be added. I will start again.

The Temporary Speaker (Sen. Nyamunga); Sen. Shiyonga, this is not a market.

Sen. Shiyonga: Madam Temporary Speaker, I was not seeing anything.

The Temporary Speaker (Sen. Nyamunga): Kindly continue. I will add you one extra minute, but you cannot start from the beginning.

Sen. Shiyonga: Madam Temporary Speaker, I will not begin again because I know the HANSARD has captured what I have said.

Unskilled people in the name of the County Executive Committee Members (CECM) and officials from the Ministry of Health are running the health departments in the country. Someone picks a relative who may be a mechanical engineer, or a driver and tells him or her to head the health department. How do you head a technical or skilled department when you do not have the necessary skills? This is what is happening. That is why we have many cases of hiring and firing at will in the county governments. That is why you see many cases of corruption in the counties.

Health is a devolved function. People should see the fruits of that department when money is committed to it. We devolved the health function because we wanted our people to access health services. It is what people suffer from most. Further, a majority of Kenyans are in the rural areas. People are not in towns. We devolved the health function so that most people who are sick and in need of medical attention, can access the services.

The MCAs who vet these people should be alive to the fact that they are learned. We want learned people who are academically qualified with skills. If you are interviewing me as a doctor and you want me to run a facility, or provide a service, you should be measured to that level. Not just any person.

We need to balance, especially where services are touching the local *wananchi*. We should protect the health function with both integrity and lack of corruption and nepotism. As much as they are looking for jobs, there is high turnover of officers because of mismanagement. The county governments have been turned into kingdoms. People are running this department as they feel like.

I agree with the petitioners that we need to change how we run our health department and the leadership at the county level. Most of the Governors have become arrogant. They do not respect anything or anyone. They think it is the end of it all. I know many of us will be back here in the Senate. They move around campaigning to be elected to the Senate. They need to know that they need to run the services professionally considering the qualifications---

The Temporary Speaker (Sen. Nyamunga): Sen. Shiyonga, your time is up, but I will give you an extra minute to finalize.

Sen. Shiyonga: Madam Temporary Speaker, let me wind up. When it comes to the issue of poor human resource practices as highlighted in the Petition, it is true that if they are not qualified then we shall have corruption and unqualified people. Medical officers are trained to deal with human lives. We need to have them trained. Have the right people at the right department for the right services for Kenyans.

Madam Temporary Speaker. I support the Petition and congratulate the petitioners.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, pursuant to Standing Order 232(1), the Petition is committed to the Standing Committee on Health, which is the relevant Standing Committee for its consideration.

(The Petition was committed to the Committee on Health)

In terms of Standing Order 232(2), the Committee is required, in not more than 60 days to present its report.

Hon. Members, you understand that we are coming to the tail end of this session, but that is a requirement. We give them 60 days yet we know that we may not have the opportunity to get the results back.

I thank you.

Next Order.

PAPER LAID

SCHEDULE OF CASH DISBURSEMENT TO COUNTY GOVERNMENTS FOR THE FY 2022/2023

Sen. Farhiya: Thank you, Madam Temporary Speaker. I beg to lay the following Paper on the Table of the Senate today, 15th June 2022.

Schedule of Cash Disbursement to County Governments for the Financial Year 2022/2023.

Thank you, Madam Temporary Speaker.

(Sen. Farhiya laid the document on the Table)

COMMUNICATION FROM THE CHAIR

CRITICAL LEGISLATIVE BUSINESS PENDING DIVISION IN THE SENATE

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I have a communication to make first.

As you aware, the Senate is scheduled to proceed on *sine die* adjournment tomorrow, Thursday 16th June 2022, pursuant to the calendar of the Senate that was approved on the 9th February 2022. Looking at the Order Paper this afternoon, we still have a lot of critical legislative business pending at Division. Amongst these are:

- (1) The County Government Additional Allocation Bill, Senate Bills No. 2 of 2022
- (2) The County Governments Additional Allocation Cash Disbursement schedule for Financial Year 2021/2022
- (3) The County Governments Cash Disbursement Schedule for Financial Year 2022/2023
- (4) County Governments Additional Allocation Cash Disbursement schedule for Financial Year 2022/2023
- (5) Approval for the Revised Debt Ceiling for the National Government

Failure by this august House to pass these pieces of legislative business will be a failure on our part to discharge our constitutional mandate and will cripple execution of the functions of the county governments.

Hon. Senators, I, therefore, urge each one of you to take it upon themselves to attend Plenary tomorrow, Thursday 16th June 2022, to enable us to expedite the said legislative business amongst others. At the sitting tomorrow, we will also have an

opportunity to reflect on our journey in the 12th Parliament and to bid each other farewell. The House, therefore, stands guided.

I thank you.

Next Order.

Hon. Senators, we cannot proceed to Order Nos. 8, 9 and 10. Therefore, I defer them.

BILL

Second Reading

THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATION BILL (SENATE BILLS NO. 2 OF 2022)

(Division)

(Bill deferred)

MOTIONS

ADOPTION OF THE REPORT ON THE APPROVAL OF THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS CASH DISBURSEMENT SCHEDULE FOR FY 2021/2022

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the County Governments Additional Allocations Cash Disbursement Schedule for the Financial Year 2021/2022 and approval of the County Governments Additional Allocations Cash Disbursement

(Division)

(Motion deferred)

APPROVAL OF THE REVISED DEBT CEILING FOR THE NATIONAL GOVERNMENT

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the consideration of the Public Finance Management (National Government) (Amendment) Regulations, Legal Notice No. 89 of 2022, laid on the Table of the Senate on Tuesday, 14th June, 2022, and that pursuant to the provisions of section 50(2) of the Public Finance Management Act, the Senate **approves** the amendments to the Public Finance Management (National Government) Regulations, 2015 (Principal Regulations), as effected through Legal Notice No. 89 of 2022, thus varying the Public Debt Ceiling to an amount not exceeding ten trillion shillings.

(Division)

(Motion deferred)

The Temporary Speaker (Sen. Nyamunga): We now move to Order No.11.

ADOPTION OF REPORTS ON FINANCIAL STATEMENTS OF VARIOUS
COUNTY EXECUTIVES/ASSEMBLIES FOR FINANCIAL
YEARS 2018/2019 AND 2019/2020

Sen. (Eng.) Hargura: Madam Temporary Speaker, I beg to move the following Motion-

THAT, the Senate adopts the Reports of the Sessional Committee on County Public Accounts and Investments on consideration of Reports by the Auditor General on Financial Statements of the following Counties laid on the Table of the Senate on Tuesday 14th June, 2022-

(1) County Executives of Nyeri, Tharaka Nithi, Murang'a, Kitui, Lamu, Siaya, Busia, Meru, Nyamira, Turkana, Makueni, Bungoma, and Elgeyo-Marakwet for the for the Financial Year 2018/2019 as contained in Volume I of the Report;

(2) County Assemblies of Bomet, Taita Taveta, Kilifi, Nyamira and Garissa for the Financial Year 2018/2019 as contained in Volume II of the Report;

(3) County Executives of Narok, Kajiado, Kwale, West Pokot, Trans Nzoia, Turkana, Kericho, Busia, Kilifi, Machakos and Kisii for the Financial Year 2019/2020 as contained in Volume III of the Report; and

(4) County Assemblies of Kilifi, Kwale, Taita Taveta, Garissa, Mandera, Kisumu, Mombasa, Kisii and Wajir for Financial Year 2019/2020 as contained in Volume IV of the Report.

Madam Temporary Speaker, the Sessional Committee on County Public Accounts and Investment (CPAIC) is established by the Senate, pursuant to Standing Order No. 220 (3). Its mandate is-

(1) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to county governments;

(2) Pursuant to Article 229(7) and (8) of the Constitution, to examine the reports of the Auditor-General on the annual accounts of county governments;

(3) To examine special reports, if any, of the Auditor-General on county government funds;

(4) To examine the reports, if any, of the Auditor-General on the county public investments; and

(5) To exercise oversight over county public accounts and investments.

The Office of the Auditor-General (OAG) forwards reports on financial operations of county governments and county assemblies for specific financial years to the Senate, pursuant to provisions of Article 229(7) of the Constitution of Kenya. The reports, once tabled, stands committed to the CPAIC.

The CPAIC is the avenue through which the Senate under the provision of Article 96(3) of the Constitution carries out post-scrutiny of the county government budgets.

The Committee has seven Members as approved by the Senate. In pursuit of this function, the Committee held its sittings with the county government executives and

assemblies on various dates during the session, where it considered reports of the Auditor-General.

The Committee undertook some of the sittings at the county level, with the last one being in Mombasa to interrogated counties in the Mombasa Region Audit Hub. The sittings were primarily investigatory. The Committee received evidence from governors of the county executives as well as from the clerks of the county assemblies.

Madam Temporary Speaker, in this Motion, my Committee presents four reports, listed as Volumes I, II, III and IV; that were considered and adopted by the Committee regarding county executives and county assemblies.

The Committee examined the reports of the Auditor-General on the financial statements of both the county executives and county assemblies for financial years 2019/2020 and 2018/2019 and identified various fiduciary risks

In both Financial years 2019/2020 and 2018/2019, the Auditor-General reported that county entities were struggling with provision of documents, an indication of poor record management at the counties. The Committee noted that the entities did not avail the relevant supporting documents to the auditors during the audit exercise. Only a few entities managed to produce them, while appearing before the committee hearing. The very documents could not be supplied to the auditors during the audit exercise.

Madam Temporary Speaker, we have had a lot of problems with counties in regard to this issue. You could get a situation where the auditor says that the documents were not provided during the audit process, which is not a one-day engagement because they have an entry meeting where guidelines of what they intend to do are given. They also have an exit meeting where issues that are outstanding and need to be addressed are highlighted. After that, auditors write a management letter.

Audit process is not a one-day thing because it is a process. It is after the lapse of that period that a draft audit report is done for the Auditor-General to sign. That is still a long period for county entities to address any issues.

The unfortunate thing is that you may find they have not addressed issues or provided documents and it is two years down the line. The question that normally arises is: Why are documents not provided? Is it that they were not there and they get them later, or is it a case of incompetence of their staff? Those are issues that we have always raised with them.

Madam Temporary Speaker, the Committee noted that various county entities did not apply proper accounting practices and their financial statements were characterized by lack of regular reconciliations. This practice resulted in inadequate reporting, thus not presenting an accurate position of their financial operations.

The counties experienced poor record management, reflected by book keeping errors, casting doubt on the suitability of the qualifications of staff in the institutions and accounting department.

Madam Temporary Speaker, one area that has been coming out is the use of the Integrated Financial Management Information System (IFMIS) in reconciliation.

It is almost 10 years down the line, but you will find county entities not procuring through the IFMIS and having their records reconciled with the IFMIS records because auditors have to compare the two. Right now, you can do monthly reconciliation. However, counties do not do that for one reason or another.

Madam Temporary Speaker, the Committee further noted that during the period under review, most counties had weaknesses in executing their budgets. For example, county executives did not adhere to approved budget ceilings set for programme votes and sub-votes. They either over-utilized or under-utilized appropriated funds. In some instances, funds were reallocated to items that were not in the budget, without any prior approval by either the Controller of Budget (CoB) or relevant county assemblies.

We have always insisted on provision of revised or supplementary budgets. However, some county executives change items without referring to the county assemblies, while the law requires county assemblies to pass any changes in the budgets. Supplementary budgets serve as an authority, but they do not do it in most cases.

In addition, county entities experienced delays in Exchequer releases from the National Treasury, thereby hampering programme implementation and budget execution.

The Committee also observed that the county executives had challenges in meeting targets of their own source revenue collection. This could be attributed to a number of factors like challenges in revenue collection automation, lack of updated valuation rolls as well as the effect of COVID-19 pandemic for these particular periods.

We have always insisted that counties should move away from relying on the equitable share and see how they can improve on their own revenue generation because they are in a better position since they have better staffs and resources than the former local authorities.

However, you will realize that some counties are collecting less than what local authorities used to collect. That raises questions as to whether it is actually under-collection or under-reporting what has been collected. That is why we have been insisting that they automate their systems so that the revenue is captured right from the source up to when it is being banked.

The law requires that whatever they collect must be swept to the County Revenue Fund (CRF) account at the Central Bank of Kenya (CBK) before they can now use it, which in some cases they do not do. When you use at the source, then you do not follow that process.

In addition, we discovered that county entities continue to flout various financial laws such as the Public Finance Management Act, 2012, The Public Procurement and Assets Disposal Act 2015; The Public Finance Management (County Governments) Regulations, 2015; The County Government Act, 2012; The Public Audit Act, 2015 and, The Income Tax Act, Cap 470, various circulars from statutory bodies such as the Salaries and Remuneration Commission (SRC) among others.

As indicated in the Committee's earlier reports, a number of county entities continue to make payments outside Integrated Financial Management Information System (IFMIS) platform contrary to the Public Finance Management Act, 2015. The habit of processing transactions outside IFMIS platform could be an avenue to bypass financial controls and may have led to misappropriation of funds.

In addition, most county entities exhibited abuse of imprest from request approval, surrender and recovery. This is a very clear case that we have seen across most entities. You will find counties having imprest outstanding for more than a year. While the law clearly says that if one has been given an imprest, it has to be surrendered within seven days after they have completed the reason for which they have been given the imprest for. However, in the counties, they do not recover the imprest. On top of that

you will find someone with an imprest given another imprest. A case of multiple imprests.

The last case we had was Mombasa County Assembly where one individual had more than Kshs1 million outstanding imprest and multiple imprests. In some cases, those individuals are Members of County Assembly (MCAs). You will find the county assembly staff reluctant or scared to follow them up. You will end up with somebody keeping an imprest for a year and still getting more imprest. There are many areas where we need to follow up and make sure that the law is followed.

As a result, of the highlighted inadequacies, the Auditor-General rendered different opinions ranging from disclaimer, adverse, qualified and very rarely unqualified. Looking at every volume, the report had a section indicated as general observation and recommendations. These are basically fiduciary risks. The section gives a summary of the recurring audit issues across the county entities in these reports.

The general observation and recommendations contained in these reports are as follows-

(1) Failure to submit documents for audit to the Office of the Auditor-General. We have always taken time to read the section of the law in the Public Finance Management Act, which clearly states that if an officer fails to provide documents without any acceptable reason, then it has penalties. We have endeavored to remind them that if it continues, those penalties need to be applied.

(2) Lack of proper accounting and reconciliation, poor record keeping and unauthorized allocation of funds, non-compliance to the relevant laws by the county executives, payments made outside IFMIS which is contrary to the Public Finance Management Act and which has been put in place to make sure that payments can be tracked. However, you find some entities avoiding IFMIS so that they can do irregular payments.

(3) Lack of approved staff establishment. This is an issue that should not have been there. This is because when the county governments are formed, one of the requirements is that they have to have an organogram, which needs to be approved and kept by the County Public Service Board (CPSB) for reference when recruiting.

(4) Payments to the Council of Governors (CoGs) and County Assembly Forums (CAF). They are illegal because when public funds are paid to any entities, there must be a way of following what the entity does with those funds and how they are audited. We have been very clear on this.

In the case of CoGs, the law is clear that they should be financed directly by the National Treasury. However, counties have always been paying them and audit queries have always been raised. We have been insisting that they should desist until there is a law in place.

(5) Delay in project implementation. Lack of updated fixed assets register which has been an area where we fear that counties are going to lose assets especially the ones that have been inherited from the defunct local authorities.

Counties are only giving registers of assets that they have acquired, what they have bought, the roads that they have constructed, the buildings and all that.

In case of lands and what they have inherited, it is a process that has not ended. The Inter-Governmental Technical Relations Committee (IGTRC) has done an audit. It has given a report to every county entity to look at what has been inherited.

It is upon the counties to value and record that. However, none of them has done that valuation. It is an outstanding issue. Counties stand the risk of losing their assets to individuals because they have not been secured.

(6) Irregular use of receipts as source without a fund. This is a case where counties have been collecting funds but they do not sweep it to the CRF or create a fund. For example, when health institutions generate funds, they are supposed to have a fund to deposit their money and use it in that institution but it should be audited separately. However, they do not do that. They just collect the money and spend. So, the fund cannot be audited because the money is not sent to CRF account. It is in a fund that cannot be audited. So, there are still those irregularities.

(7) The issue of pending bills has been a problem, which has always been growing. There is lack of functional internal audit committees in most institutions although there is progress in this area. We have seen most of them having functional Internal Audit Committees. It is however work in progress in most of them.

(8) Lack of risk management policy framework, which is also something auditors have always been picking. There is progress also in some areas.

The report also contains specific recommendations for specific audit queries to each county. Hereby indicated as a chapter in the body of the report.

It is also important to note that all recommendations contained in this report were arrived at through consensus of the Members of the Committee. We rarely vote. We discuss until we agree on the recommendations.

Before I conclude, it is also important to note that the Committee appreciates the determination made by most county entities to appear physically before the Committee to present their responses and submissions.

These acts have made much progress in the oversight role of the county entities as well as helping the management of the counties to understand what is expected of them by the Constitution and the laws in executing their mandate especially on accountability. These efforts have seen a good number of audit queries being resolved because of that engagement.

Madam Temporary Speaker, in conclusion, I wish to register my appreciation to the Office of the Speaker, the Clerk of the Senate and Office of the Auditor-General for facilitating the work of the Committee and thus making the production of these reports possible.

The Committee also appreciates the members of the secretariat and liaison officers from the Office of the Auditor-General, the National Treasury and Ethics and Anti-Corruption Commission (EACC) for their commitment and dedication to duty. They have always been present to engage and guide the Committee.

The National Treasury has always had an officer with us especially when issues are raised about late disbursement of funds and circulars, which are given by National Treasury which result in misrepresentation of audit reports. They are always ready to give us guidance on how the audit should be executed.

In case of EACC, whenever there are issues in previous reports, they are ready to give us updates of what has already been done and how that matter will be resolved. This is because these matters recur in the reports until they are resolved.

Final appreciation goes to the distinguished and dedicated members of the Committee who created time out of their busy schedule to attend an actively processing and final production of these Reports.

Madam Temporary Speaker, on behalf of the Sessional Committee on Public Accounts and Investment (CPAIC) I now urge the Senate to adopt the Reports and recommendations therein.

Noting that we are at the end of the session it will be my prayer that this Report be adopted because last week we adopted the previous one. If these ones are adopted, then we do not need to cross over with it to the 13th Parliament. That way, we will have Reports for the Financial Year 2020/2021 taken up.

If we can clear with these one, that will be good progress for us as a Committee and as a House. It has been said by Sen. Ndwiga when he was contributing to our Petition that the unfortunate situation is that as Senators we allocate money to the counties but we do not have direct oversight role at that level. We only wait for these reports to come and then we interrogate them.

The public expects a lot from us. During the campaign time we have problems explaining what we have been doing as Senators because there is that disconnect. Once we have allocated funds from here we do not have any means of overseeing that fund directly at the county level.

It is for the county assembly to do that. However, the understanding of the Kenyan public has been that leaders such as Members of Parliament (MP's) and governors are involved in development issues but it leaves out the Senators.

We must have a way to see how we can proactively engage and have a mechanism between us and the county assemblies so that we can improve our oversight role. For the last 10 years, we have been asking for an Oversight Fund, which unfortunately could not go through the National Assembly but we still need to see how we can improve on our oversight role.

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

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

Sen. Cherargei: Thank you, Madam Temporary Speaker. Before I second this Motion I have one or two comments to make, having been a ranking Member of CPAIC.

During this period, it has been challenging because colleagues were either participating in nominations or had begun their campaigns. Some had started looking elsewhere or running for governorship and elective seats in the country. To get the numbers that CPAIC needs for meetings was difficult.

I thank a number of governors who found it wise to appear before our Committee and were able to clarify and ensure that the audit queries that were raised by the Auditor-General were given satisfactory answers.

There are a number of governors who decided otherwise in their own volition not to appear and summonses were issued as per the law, the Powers and Privileges Act. A number of them were summoned and most of them did not want to appear.

Madam Temporary Speaker, unfortunately, some of the governors who did not appear before the Committee are running for Senate. I would be interested to see how they will be behaving if they make it to the Senate from August. A number of them refused to appear before our Committee, for example, from North Eastern and Coast region. It will be interesting to see how they will behave once they are in this Chamber.

We need to respect the institutions that were set up. We need to be accountable. It does not break a bone or a leg to appear before a Committee. If the audit query has been raised, can you just show us where the money is. It is as simple as that. It is not as complicated as some of the governors want to make it look.

Maybe those governors have participated in mischief. I thank a number of governors who came to the Committee, answered the questions, provided evidence and clarifications. As a result, those matters were resolved in the presence of the Committee, officers from the Auditor-General's office, Ethics and Anti-Corruption Commission, National Treasury among other officers that the Committee has attached.

There are a number of issues that we have noted having sat as a Member of CPAIC. I know there are a number of challenges that appear across the county executives or county assembly. One is delay in submission of documents to the Auditor-General and there is a period for that. Sen. Farhiya understands because she is well read and has a wealth of experience in the accounting world and finance.

She is well read. As we know, the issue of degrees and having no degrees is bringing many issues in this country. There is a lot of heat. I did not know it was hard to get a degree until the Independent Electoral and Boundaries Commission (IEBC) clearance process started.

It has made most of us politicians be scrutinized before Kenyans. I would not be surprised if somebody would go to court to find out whether I graduated or not. As elected leaders, it has given us a bad name.

Madam Temporary Speaker, what I wanted to emphasise is that there is that timeline period of three months.

Sen. Farhiya: Sen. Omanga was my classmate.

Sen. Cherargei: Sen. Omanga has a witness in the House. In case there is an issue with her then there is a witness who is Sen. Farhiya.

There is that period and it is by default or by design by some counties to delay in submission of those documents. That is why sometime we have demanded for administrative action against officers who delay in submitting those documents the Auditor-General needs.

We have questioned them on the exit and entry meetings and the management letter that is written by the Auditor-General. However, it looks like some counties are on a mischief mission where they ensure that they do not submit those documents for their own reasons. There is mischief going on.

There was a situation involving a governor from North Eastern Kenya. I do not want to name them because a number of votes might get lost. He came to the Committee and told us that the original documents had been swept away by floods, but they had photocopies. Those are some of the challenges.

Sometimes it sounds like comedy when you sit in that Committee. I think that was the current governor of Garissa County, hon. Ali Korane. Those are some of the challenges that include poor documentation and poor record-keeping.

The reallocation of funds also became a challenge. As a Senate, we need to make a radical decision before I come to recommendation. Reallocation is normally violation of Public Finance Management (PFM) Act. We have been lenient because we did not want to take all accounting officers to jail.

We have always directed that apart from administrative action, we want to get from the professional body; the Institute of Certified Public Accountants (ICPAC) why somebody has ICPAC number but goes ahead to violate the law.

Madam Temporary Speaker, recommendations are varied because devolution is still growing. Going into the future, the reallocation of funds should be treated seriously because that is where funds are lost. By the way, this was common to most counties during Covid-19 period. My Vice-Chairperson has alluded to that.

During that period, most counties took advantage and reallocated the funds. When they were asked, they said that it was to allocate the funds for counties. Some of them put it in supplementary budget and ensured that it was approved by the county assembly but others did it the *kienyeji* way.

Human resource continues to be a very big challenge. I do not know how we will handle this. As you transit, there are governors who are serving their final term, new ones coming in while others are being defeated. I have seen governor, hon. Charity Ngilu has decided not to defend her seat again in Kitui County.

In such a situation, when a new governor comes in, he comes with his own people. We are turning counties into employment bureaus.

In such a situation, when a new governor comes in, he comes with his own people. We are turning counties into employment bureaus. That is why we noticed that in most counties the largest percentage goes to recurrent expenditure. For instance, in Nandi County, out of the Kshs7 billion that they get, they use around Kshs5 billion on recurrent expenditure and a huge chunk of that goes to employment and staff remuneration.

That is the biggest challenge that we are facing on the issue of human resource as a whole, for instance, the issues of ethnic balance as provided by the National Cohesion and Integration Commission (NCIC) Act, remuneration, hiring and more so, the issue of casuals and hospital workers. This continues to be a challenge.

On the issue of delay in project management, I do not know how we will approach that issue of project management. As you know, there are governors who are serving their second term, and others who might be defeated in their first term. What happens to those projects?

It has become a challenge to us as a committee because sometimes the governor brings a project status and after we send the auditor to go and verify, we are told some projects were completed and others were retendered. Those are challenges that allow public money to be lost at some instances.

On the issue of project status or project implementation, I do not know how as a Senate we can be creative to ensure we come up with ways on how to handle issues of projects.

For instance, in Nandi County, they were 491 projects in the reports of FY2018/2019/2020. Let me use Nandi because that is where I come from. Out of 491 projects, 310 were yet to start, 100 had stalled, and it was only less than five that were complete. How do we ensure that the issue of projects is being followed to ensure there is value for money?

By the way as a Committee, we have always been telling governors to finish the projects so that *wananchi* get value for their money. There is no value when you construct a public project for ten years. If you are constructing an Early Childhood Development Education (ECDE) Centre for five or three years, there is no value for that

project. That project should be finished within six or eight months so that our people can get value for their money. I think that has been the greatest challenge that we have been facing.

On the issue of pending bills, this issue of projects has brought a very big challenge of pending bills. As we talk, county governments pending bills are approaching Kshs120 billion. We have argued in this House and there was even a National Treasury circular on how we can ensure that this issue of pending bills is resolved once and for all.

The sad part is that most of these people who are doing county projects and county tenders are people who have nothing. Most of them are women, people living with disabilities and the youth that are using Local Purchase Orders (LPOs) to borrow bank loans to finance a county project but they are yet to be paid five years, two years, one year down the line and yet some of their projects have been completed.

I think the proposal is that, in future, we use e-procurement and ensure that there is money through IFMIS. The IFMIS must be linked with e-procurement so that by the time a county awards a tender, that money must be present. If it is an ECDE classroom that has been budgeted at Kshs800,000, the IFMIS must be linked with the e-procurement so that if somebody is given a tender there is money for payment.

That is how we will be able to fix the issue of pending bills. Even in Kisumu County or any other county like Nandi, Mandera, Marsabit counties, there is somebody somewhere who took a loan from a bank, worked on a county project and they have never been paid two, three years down the line. That person is depressed. The bank has confiscated the security that was used to secure that loan. It is very unfortunate. Most of them are the people who earn hand to mouth and they are struggling or they are called the famous hustlers.

Finally, on the recommendation, I think on several occasions as my Vice Chairperson has indicated, we have agreed through consensus but those issues have been captured. We have tried on issues like documentation. It is common in all the 47 counties. We have tried in giving a generic answer to such situations unless they are unique situations.

Finally, is the recommendation on the issue of EACC. We do not have an implementation committee. I remember there was a time we wanted to push for an Implementation Committee. We need some of these issues that we recommend to be picked by Ethics and Anti-Corruption Commission (EACC) and that is why we have an EACC officer who is attached to the Committee to ensure that if there is public money that has been lost and Senate has recommended prosecution and recovery of that money, the agencies like EACC must act.

Secondly, on recommendation on the issue of project follow up status, we need to agree and develop a model where, if as a committee and a Senate the report has been adopted, for instance, that a Project X be completed somewhere in Wajir, there should be follow-up on that project to ensure that it is completed within six months.

Thirdly, on the issue of transition period, especially during electioneering period, we must protect and ensure that the human resource that is in place should be protected.

Finally, on own source revenue, I did indicate yesterday that when most counties appeared, we asked them why in own source revenue they targeted a certain amount and why is your revenue low. My argument on especially in FY2017/2018, was politics.

When it came to FY2020, they were telling us it is because COVID-19. I saw even in one of the leading dailies that KRA failed to collect Kshs1.6 trillion.

It looks like the issue of revenue system within our counties continues to be a challenge. We would like to call upon the counties to diversify their own source revenue to ensure they maximise on collecting those own source revenues so that when they bank with the county treasury that amount money within the own source revenue can be improved.

There is no county that told us with certainty that they collected 100 per cent of their own source revenue. The county governments are mischievously playing with us or playing with the public. Almost all these county revenue systems have leakages. They allegedly claim the system was down, the software was not functioning. In future this audited revenue system must be audited independently. The way the IFMIS was audited before when it was implemented, counties must also give us a report on how they arrive at this revenue collection systems because some of them are losing money and they are not maximising on recovery of that. We know some of these people raise this money for *harambees* and so on.

Looking at this report, I would like to call upon my colleagues to support this report and adopt it. The recommendations are good and we are ready to move forward. I hope in the next Senate the minority side who will chair the CPAIC, probably the *Azimio*, should be able to give us proper direction and recommendations going into the future.

With those many remarks, I beg to second.

(Question proposed)

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for giving me this opportunity to support this Report. I thank the Committee for coming up with this elaborate Report. I also thank Sen. (Eng.) Hargura for the lengthy update. I am happy with the way the Report has been presented. It is in four volumes and each volume gives a section of the counties that were visited.

In the Report, it is very clear that they met county executives and the kind of sittings they had were not just usual sittings. They were investigatory sittings where they investigated how money had been used in counties. This should be done periodically.

The Senate allocates money to counties and the money must follow functions. When the money is sent to counties, county governments should come out clearly and explain if they used the money prudently. This Committee has done a very good job and their effort should be lauded. The investigatory sittings should be done periodically in the next Senate and ensure taxpayer's money is used prudently.

One of the observations made by this Committee is that county executives have weaknesses when it comes to adhering to their budgets. County executives are supposed to come up with a budget every year and to stick to it. The budget should not just exist in books and files while the money is spend differently.

According to this Report, some county executives did not stick to the budgets. That is why sometimes, some county governments are not able to implement the projects that they had started. Every year, every county government must come up with a project that it is going to do. If it is a yearly budget, then county executives need to ensure that they stick to the budget.

Madam Temporary Speaker, the Committee also observed that various financial laws were flouted. This is very serious. Financial laws are there to guide the executives in the manner in which they use the money. I candidly tell the executives that when this Committee goes to the counties to do an investigatory search, it is not that they are after county governments. They are just helping county executives to use the money wisely and ensure service delivery in the counties.

The Senate allocates money to counties but it does not have an oversight fund. This means that Senators cannot individually go to counties to do an oversight of the projects that are taking place there. This is done by this Committee.

Madam Temporary Speaker, I hope that there will be an oversight kitty for Senators in the next Government. This will enable Senators to traverse their counties and investigate whether money that is sent to counties is being used the way it is supposed to. Otherwise, as things stand right now, the Senate has no way of knowing if counties are using the money sent to them in a proper manner.

Money should follow functions. Grants come from different donors and this money goes a long way to bridge budgetary gaps in counties. Grants are welcome because the money that is sent to counties is not enough yet there are some begging issues.

Madam Temporary Speaker, if in the next Senate this Committee continues going to counties to do audit investigations, then pending bills will be a thing of the past. Pending bills are there simply because some governors do not use money prudently or they treat the money as their pocket money or family money and they do not do what is supposed to be done. Public money should be used for service to the public. That is why this Committee has an important mandate. The audit reports are important.

When you look at the Constitution, the Auditor-General has a big role and he or she is appointed to office. The Office of the Auditor-General is a constitutional office and it is mandatory. We have this Office so that he or she can be hawk-eyed when it comes to public funds. Public funds should benefit the public.

In many counties, you will not find basic rights that are enshrined in Article 43 of the Constitution. In some counties, hospitals are dilapidated while some have no medicine. In other hospitals, staff are demotivated and yet the Senate allocates a good amount of money to counties.

I applaud the work of this Committee. I hope that the next Committee on County Public Accounts and Investments will pick up from where the current Committee will stop and ensure service delivery to the public and that money follows functions in counties.

I support this Report.

The Temporary Speaker (Sen. Nyamunga): Sen. Faki, please proceed.

Sen. Faki: Asante, Bi. Spika wa Muda kwa kunipa fursa hii. Kwanza, ningependa kuipongeza Kamati hii kwa kazi kubwa ambayo wamefanya kwa muda waliokuwa nao.

Mimi nilibahatika kuhudumu katika Kamati hii kutoka mwaka wa 2018 mpaka 2020. Katika kipindi hicho, tulifanya kazi kubwa sana kwa sababu zile ripoti zote za mkaguzi kabla ya mwaka wa 2017, zilikuwa hazijachunguzwa bado. Kamati yetu ilihudumu na ikachunguza hizo ripoti zote na tukazileta katika Bunge hili la Seneti.

Tuliidhinisha nyingi ya ripoti hizo lakini jambo la kusikitisha ni kwamba mpaka leo, hakuna hatua yoyote iliyochukuliwa na taasisi za Serikali. Ninazungumzia taasisi

kama vile ofisi ya Auditor-General, Ethics and Anti-Corruption Commission (EACC) na Directorate of Criminal Investigations (DCI). Hizi taasisi zilitakiwa kuchukua hatua kisheria kutokana na ripoti hizo. Ripoti nyingi zilionyesha ubadhirifu mkubwa wa fedha za umma. Ubadhirifu wenyewe ulifanywa na magavana waliokuwa ofisini. Mpaka sasa, wengine wao bado wako ofisini.

Bi. Spika wa Muda, Seneti imefanya kazi kubwa. Hata hivyo, hakuna hatua zozote za kisheria ambazo zimeidhinishwa kwa baadhi ya maafisa waliochukua *imprest* na kukosa kurudisha. Wanatakiwa kushitakuwa na wapokonywe mali yao kulingana na sheria kwa sababu ya kutorudisha *imprest*.

Waliovuja pesa hizi kwa njia moja au nyingine, pia hawajakuchukuliwa hatua. Hii inavunja Kamati moyo kwa sababu Kamati inafanya kazi kubwa, lakini Serikali haichukui hatua yoyote kutokana na ripoti hizo.

Bi. Spika wa Muda, jambo la pili ni kwamba tumeona kuna mkurupuko wa *pending bills*. Madeni ya kaunti zetu yanaongezeka licha ya kwamba kulikuwapo na kamati maalum, ambazo ziliundwa na *Council of Governors (CoG)* pamoja na watu wengine. Walifanya uchunguzi wa madeni haya lakini mpaka leo, madeni yanaendelea kuongezeka.

Haya yote yanatokana na unyonge ambao uko katika mabunge ya kaunti. Tumeona kwamba baadhi ya fedha hazichunguzwi na Seneti. Kwa mfano, fedha ambazo kaunti inakusanya yaani *own source revenue*, haziangaliwi wala matumizi yake kuchunguzwa na Seneti.

Inatakikana utumizi wa fedha hizi uchunguzwe na bunge la kaunti. Kuna unyonge mkubwa katika mabunge haya, hivi kwamba hawawezi kuchunguza hesabu hizo. Hata wakichunguza, wanafanya hivyo kwa uoga. Mwishowe, dhambi nyingi zinatendeka na fedha hizi pasipo kuchunguzwa bunge la kaunti au Seneti.

Bi. Spika wa Muda, pia tumeona ya kwamba ofisi ya *Auditor-General* mara nyingi wanakwenda vitandani na serikali za kaunti. Katika repoti zao unapata mambo ya kuwa mambo yale mazito; mambo yale makubwa ya ubadirifu wa pesa hawayaangazi, bali wanaangazia mambo madogo madogo kama vile kukosa kufanya *bank reconciliation*, kukosa kufanya *cash and bank balances* kwa usawa.

Hayo ni mambo madogo madogo ambayo hayaonyeshi ubadhirifu wa pesa lakini zile fedha nyingi ambazo zinaliwa katika miradi ambayo haikamiliki zote huwa zinazibwa na ofisi ya *Auditor-General* na hivyo inakuwa vugumu kwa Bunge la Senate kuweza kuziangalia kama fedha hizo zimetumika kisawasawa.

Jambo la nne ni kwamba, kwa sasa tunaelekea mwisho wa muhula wa magavana na muhula wa bunge, ipo hatari kwamba zile *projects* ambazo zimeanzishwa na magavana walioko ofisini sasa hazitaweza kukamilishwa na wale magavana ambao watachukua nafasi zile baada ya uchaguzi.

Ipo haja ya Bunge hili kutoa mwongozo hususan kwa wakati huu kwamba miradi yote ambayo imeanzishwa lazima ipewe muda maalum wa kukamilishwa. Hiyo itapunguza ubadirifu wa pesa na vilevile itasaidia wanainchi kupata huduma kwa haraka iwezekanavyo.

Jambo la mwisho ni kuwa, kaunti nyingi zimeshindwa kuongeza maradufu pesa ambazo wanakusanya katika maeneo yao. Kabla ya kuja kwa serikali za kaunti/ugatizi, kulikuwa na mabaraza ya miji na mabaraza ya wilaya ambayo ilikuwa inatumika katika

kutoa huduma kwa wananchi katika sehemu zile. Mabaraza hayo yalikuwa yanakusanya fedha nyingi kiasi ambacho kiliweza kulipa mishahara, kutoa huduma na vilevile kupanga miradi ya maendeleo katika maeneo yao.

Tukiangalia sasa, kaunti nyingi zinategemea pesa zinazotoka kwa Serikali kuu. Hii inazidi kutia unyonge kwa sababu pesa zikichelewa unasikia mishahara haijalipwa, watu hawaji kazi; unaskia mradi umekwama, watu wanagoma. Na hivyo basi, inatatiza huduma.

Kama leo, kuna mambo mawili yamezungumziwa hapabunge kuhusiana na Garissa Teaching and Referral Hospital ambapo huduma zimedorora. Mhe. Sen, Ndwiga ameguzia kwamba katika Kaunti ya Embu pia huduma za afya zimedorora.

Yote imesababishwa na kuwa pesa ambazo zinakusanywa katika maeneo yale hazikusanywi kisawasawa hakujakuwa na *automation* yaani ukusanyaji wa fedha unakwenda katika njia moja ya mfumo wa kitaalam wa kisasa ambao utahakikiska ya kwamba hakuna pesa ambazozinapotea

Lazima maswala haya ya *own source revenue* yaangaziwe katika Seneti ijayo kwa sababu hiyo ndiyo njia pekee yake ya kuweza kuboresha huduma na kuboresha maendeleo katika maeneo ya kaunti hizi.

Kama sivyo, itakuwa tunategemea Serikali kuu na Serikali yenyewe imebainika na kwa sasa hawatunii pesa kulingana na vile tunapitisha hapa kwenye *Cash Disbursement Schedule* ambayo huwa inapitishwa na Bunge la Seneti ili kupeleka pesa katika kaunti hizi.

Maswali haya lazima yaangaziwe katika Seneti Ijayo na zile repoti ambazo zimeletwa na zikapitishwa katika Bunge hili lazima zifanyiwe kazi ama sivyo, Bunge lijalo, jambo la kwanza ni kuwaita Directors wa DCI na EACC waje wajieleze ni sababu gani hizi ripoti ambazo zinatoka katika Bunge la Seneti hazifanyiwi kazi ili kuhakikisha ya kwamaba wale ambao wanafanya ubadhirifu wa pesa za umma wanapelekwa mahakamani na wanahukumiwa kulingana na sheria.

Bi. Spika wa Muda, asante kwa kunipa fursa hii.

The Temporary Speaker (Sen. Nyamunga): Sen. (Eng.) Hargura, you can reply.

Sen. (Eng.) Hargura: Madam Temporary Speaker, I beg to reply to this Motion.

I thank the Senators who contributed to this Motion starting with the Seconder, Sen. Cherargei and the other two Senators, Sen. (Dr.) Musuruve and Sen. Faki.

I would like to highlight a few issues, which have also been in our report, some of which the Members have brought out, and those that I hope will be taken into account when this report has been adopted and submitted to the relevant government authorities.

The first one is the issue of pending bills, which came out in this report. It is difficult to understand how pending bills are generated in county governments, because they receive all the monies they have budgeted for. There is no way they will generate the Pending Bill unless they procure outside their budgets. There is also a requirement that Pending Bills should form the first charge and the National Treasury has always insisted on that. How they generate pending bills after receiving their money is an issue.

Counties prepare itemised budgets. I believe the Controller of Budget, when looking at the requisition and approving their funds, they look at that itemised budget. I do not understand how they do not follow the itemized budget when making payments.

When we had the impeachment of the Governor for Wajir, an issue came out clearly where one of the charges was that financial misappropriation was very clear that

this was what was sent to the Controller of Budget to approve and it was itemized but the payment was for other projects. This means that there are still loopholes somewhere.

We have to make sure that what is approved for payment by the Controller of Budget is what should be released from CRF and what should be paid on the ground. These pending bills come only if once they receive the money, the governors decide to pay for other works or other activities other than the ones they have given requisition for which it is not right.

The other issue is following up of these reports. We have done a lot of work in terms of sitting as Members of this Committee because we used to sit five days a week to make sure that we clear this backlog.

However, once we present these reports and they are brought here, the Senate goes on and approves, then they have very specific recommendations to government entities like EACC to follow up. It takes a long time for that issue to be sorted out which sometimes defeats the purpose for which we do this exercise. There is need to have timelines for other Government institutions once we approve the report here to also follow up and implement these reports.

Madam Temporary Speaker, I request you to defer the putting of the question of this Motion to a later date pursuant to Standing Order No.61 (3).

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, we will defer the putting of the question to tomorrow because it is a matter concerning counties and it seems we do not have the requisite numbers.

(Putting of the Question on the Motion deferred)

Next Order

BILL

Second Reading

THE CHILDREN BILL (NATIONAL ASSEMBLY BILLS NO.38 OF 2021)

The Temporary Speaker (Sen. Nyamunga): The Senate Majority Leader, Sen. Poghisio, you have the floor.

The Senate Majority Leader (Sen. Poghisio): Madam Temporary Speaker, I beg to move that the Children Bill (National Assembly Bills No.38 of 2021) be now read a Second Time. The Children Bill, 2021, was published and passed by the National Assembly with amendments on 24th May, 2022.

This is a Bill for an Act of Parliament to-

- (1) Give effect to Article 53 of the Constitution.
- (2) Make provision for the following:
 - (i) Children's rights.
 - (ii) Parental responsibilities.
 - (iii) Alternative care for children, including guardianship, foster care, placement and adoption, to make provision for care and protection of children and children in conflict with the law.

(3) Make provision for and regulate the administration of children's services.

(4) Establish the National Council for Children's Services and for connected purposes.

Madam Temporary Speaker, this is a fundamental Bill that seeks to protect constitutionally given rights of our children. It will go a long way to safeguard the future of our nation. Destruction of the lives of our children is destruction of the well-being of a nation. This Bill has provided a mechanism for safeguarding the future of our children. It is coming at an important time of the history of Kenya and at a time when social ills are on the rise.

We have examples which include parental negligence of children, violation of children's constitutional rights in institutions and the society which are meant to protect them, abduction and murder of children, child labour and barbarity meted against children, and lastly, sexual abuse of children.

Madam Temporary Speaker, this Bill is straightforward and I would like to ask Hon. Members to support it. It is crucial for all aspects, regions, and political parties notwithstanding. It is important for our children because they are all ours. We will have a law that will help to protect the children. That is why I encourage us to give it 100 per cent support.

This Bill is organized in a manner that I can quickly summarize. Part II of the Bill provides safeguards for the rights and best interests of the child, which cover among others, right to life, parental care, education and all round development of a child irrespective of whether he or she has disability.

Part III further provides for parental obligations towards a child up to attainment of 18 years of age and beyond. Part IV of the Bill proposes a mechanism for administration of children's services, the powers and limitations of the administrative organ, as well as provision for its financial management.

Part VI of the Bill provides for the role of county governments, especially in provision of welfare schemes. Part VII provides for the establishment of children's institutions such as rescue centres, children's responsibilities, children's protection units and charitable institutions. It further regulates activities and management of these institutions as well as the children therein.

Part VIII of the Bill talks about children's courts with powers to handle children matters in a conducive environment for children's justice. Part X provides for guardianship of children and outlines various types of guardianships, powers and dispute resolutions relating to guardianships.

Part XI proposes judicial intervention for care and protection of children. The courts can order for supervision, arrest or penalty in cases of breach of the law. Part XII provides for children in need of care and protection. I am trying to summarize.

Part XIII provides for foster care and placement. This Bill proposes conditions under which foster care may be granted and penalties in case there is breach. Part XIV provides for adoption of children. It stipulates conditions under which adoption of children may be granted and penalties of contravening the provisions.

Part XV provides for children in conflict with the law. It stipulates the rights of a child offender and avoidance of words which cause stigmatization such as conviction and sentence.

Madam Temporary Speaker, I would like to use this opportunity, like I had done earlier, to urge all Senators to contribute to this debate and enrich it, given that the Bill is already before us having been passed by the National Assembly. It is our duty now to conclude it. This Bill will address social ills that children have fallen victim to and also safeguard the future of our society.

With those few remarks, I beg to move and request Sen. Faki to second.

I thank you.

Sen. Faki: Ahsante, Bi. Spika wa Muda, kwa kunipa fursa hii kuunga mkono Mswada wa Mabadiliko ya Sheria ya Watoto ambao umewasilishwa Bungeni na Kiongozi wa Wengi katika Bunge hili la Seneti.

Kwanza kabisa, ningependa kusema kuwa Mswada huu unatilia nguvu Kipengele cha 53 cha Katiba ya Kenya kinachozungumzia haki za watoto. Ni Mswada unaolenga kutia nguvu haki za watoto, majukumu ya wazazi katika malezi ya watoto na njia mbadala za kulea watoto, uhifadhi wa watoto, kulinda watoto na jinsi ya kushughulikia watoto ambao wamekiuka sheria. Kwa sasa, mtoto akifanya makosa, polisi humweka pamoja na watu wazima. Hiyo inahujumu haki za watoto hao kisheria.

Sheria hii inalenga kutoa mwongozo wa usimamizi wa huduma za watoto. Kutakua na baraza la kitaifa la huduma za watoto, yani *the National Children Services Council*, ambalo litaangazia maswala ya watoto.

Mswada huu pia unalenga kulinda haki zilizotolewa kikatiba na mustakabali wa nchi hii kwa sababu watoto ndio watakaokuwa viongozi na kufanya kazi ili kujenga nchi yetu ya Kenya. Kwa hivyo, unalenga kulinda mustakabali wa nchi hii kwa ajili ya siku za usoni.

Vile vile, Mswada huu unanua kuzuia uharibifu wa maisha ya watoto kutokana na uhalifu ama matumizi ya dawa za kulevya na mambo mengine ambayo yanaathiri maisha ya watoto. Iwapo watoto watachiliwa kuingilia dawa za lulevya na mambo mengine, hiyo itadhuru ustawi wa nchi hii kwa sababu hatutakuwa na vijana wa kutegemea siku za usoni ili kuendesha nchi hii.

Mswada huu pia utalinda mustakabali wa watoto na wazazi wao. Kwa sasa, kuna visa vya wazazi kutojali maisha ya watoto wao. Wanakandamiza haki za watoto kwa njia moja au nyingine.

Kwa mfano, kuna watoto ambao walitolewa shuleni kwa sababu walikuwa wamefunga *hijab*. Kuna wasichana wa Kiislamu walioenda shuleni na *hijab* kisha wakatolewa kwa sababu kuna shule ambazo haziruhusu msichana kufunga *hijab* ama kuwa na nywele za rasta ambazo zinaashiria utamaduni wa Rastafari ambao umelindwa kikatiba.

Pia kumekuwa na visa vya utekajinyara na mauji ya watoto. Vile vile, kuna visa vya watoto kujumuishwa kufanya kazi bila kujali kwamba hawajifika umri wa kuajiriwa. Watoto wengine pia wanahujumiwa kimapenzi na kusababishwa kufanya ngono kabla ya muda wao kufika.

Bi. Spika wa Muda, kulinda haki za watoto na kuwawekea masilahi bora ndio lengo kuu la sheria hii. Ni jukumu letu sisi kama *Senate* kuweza kupitisha sheria hii ili kuweza kuona kwamba masilahi ya watoto yamelindwa.

Tumeangalia zile vipengele tofauti vya sheria hii na tunaona kwamba vyote vitasaidia pakubwa. Ni sheria ambayo italinda watoto wetu katika mambo tofauti. Kwa mfano, katika kifungu cha pili, haki za watoto zimetajwa. Watoto wanastahili kupata maisha na malezi bora, licha ya kuwa wana ulemavu au bila.

Tunaona jamii nyingi zikipata mtoto mwenye ulemavu, mara nyingi watoto wale hawapelekwi shule na hawapati huduma za matibabu. Inakuwa ni kama wamelaaniwa. Watoto wote wako sawa na wana haki ya kupata huduma sawa kama watoto.

Malezi ya watoto pia yamezingatiwa na mzazi ana jukumu ya kumlea mtoto wake hadi afike miaka kumi na nane. Vile, kama bado yuko shuleni, anahitajika kuendelea kumsomesha hadi ahitimu masomo yake.

Tunaona pia katika *part 4*, kuna mfumo wa usimamizi wa huduma za watoto. Hili ni jambo zuri. Katika kifungu cha tano, inajumuisha huduma katika serikali za kaunti. Kwamba zitahitajika kuwa na makazi ya watoto ambao watakuwa wamepata shida za kisheria au wamekosa mahali pa hifadhi. Watoto wale watapata hifadhi za kuweza kuwaokoa na kuwalinda kutokana na madhara ya umaskini na maovu mengine ya jamiii.

Kulikuwa na kisa hapa ambapo baadhi ya watoto waliokuweco katika Mji wa Nakuru waliokuwa wakirandaranda walichukuliwa na kutupwa msituni upande wa Nandi. Jambo hili lilikemewa sana na Bunge la Seneti. Kwa hivyo, sheria hii italinda mambo kama hayo yasiweze kutokea kwa watoto wetu kwa siku za usoni.

Pia inatoa mwongozo kwa jukumu la mahakama za watoto kuhusiana na swala hili la watoto. Kuna mahakama maalum za watoto ambazo zinahudumu kuangalia haki za watoto. Kume kuwa na maamuzi tofauti ambayo yametolewa na mahakama hususan kwa watoto ambao ni Waislamu.

Wakati wazazi wa mtoto Muislamu wanaachana, mara nyingi kesi zao huudumiwa na Mahakama ya Kadhi. Inasemekana baadhi ya majaji wa Mahakama wameamua kwamba Mahakama ya Kadhi haina uamuzi kuhusiana na maswala ya watoto.

Ndoa inapovunjika, maswala ya ni nani ataishi na kusomesha watoto yanaibuka wakati uamuzi ule unafanywa na mahakama ile. Inapofanyika vile, inatakikana koti itoe mwongozo kama watoto wataenda kuishi na mama, wataudumiwa vipi, watasomesha vipi na mambo kama hayo.

Kwa sasa, wazazi kama hao wanasababika kupata gharama mara mbili. Wanaenda katika Mahakama ya Kadhi iamue kama kuna talaka au hakuna. Baadaye wanaenda katika Mahakama ya Watoto kushughulikia maswala ya watoto, yaani watasomesha na kusimamiwa na nani.

Hili ni swala ambalo lazima liwekwe wazi kwa sababu wengi wanaona kwamba wakienda katika Mahakama ya Watoto hususan mabibi au wanawake ambao wameolewa, mahakama zile mara nyingi huwa zinatoa maamuzi ambayo inatoa majukumu sawa baina ya mama na baba ya mtoto.

Kulingana na sheria ya kiislamu, jukumu ya malezi kama kutoa pesa za matumizi ya watoto na kuwasomesha lamtegemea baba. Kwa hivyo, tofauti hii lazima iangalie kama inawezekana kuwa na nafasi kuwa na marekebisho. Kwa watoto ambao ni Waislamu, Mahakama ya Kadhi itakapokuwa inaamua maswala ya ndoa, iamue pia na maswala ya nani atayekaa na watoto kulingana na sheria ya kiislamu.

Mwisho kabisa ni kwamba watoto wale watalindwa na sheria ya kiislamu. Kwa hivyo, haiwezekani kwamba upande mmoja umesukumwa kuingia katika Mahakama za Watoto na upande mwingine wamesukumwa kuingia katika Mahakama ya Kadhi. Wakati Kadhi inaaamua maswala ya ndoa, anaamua pia maswala ibuka kama ya maangalizi ya watoto ambao wanatokana na ndoa hili.

Bi, Spika wa Muda, nikimalizia, iwapokuwa ipo sheria ya watoto kwa sasa ina changamoto nyingi. Kwa mfano, ni wakati mtoto amefiliwa na mzazi wake na anchukuliwa na nyanya au babu kuangaliwa.

Mara nyingi huwa ni shida kuwapatia kwa mfano, huduma za afya kupitia kwa bima ya afya kwa sababu watoto wale hawana vitambulisho na vitambulisho vya wazazi wao vimekwisha. Kwa hivyo, ni lazima wapate kitambulisho cha babu ili aweze kuwasimamia kuhusiana na maswala yale. Mara nyingi huwa ni vigumu kupata amri ya mahakama ya kadhi kuweza kuwapa jukumu wazazi wale kuangalia watoto ambao ni wajukuu ambao wamo mkononi mwao.

Nafikiri Sheria hii itafanya mambo hayo kuwa mepesi. Mtu ambaye ameondokewa na mtoto wake na akaachiwa wajukuu kuangalia itakuwa rahisi kupata idhini ya kumwezesha kusimamia watoto wale kikamilifu.

Kuna pia Suala la mahali pa hifadhi ama *rescue centre*. Tumeona watoto wengi wakichukuliwa kwa mfano katika misako mjini na kupelekwa katika vituo vya polisi ambapo wanakaa seli na watu wazima ambao ni kama wazazi wao.

Kama tunavyojua, seli za polisi hazina vyumba tofauti vya wafungwa. Wafungwa wote wanawekwa pamoja kama mahabusu na labda yule mtoto hakufanya uhalifu wowote. Lakini, atakapotoka pale, kwa sababu ameingiliana na wahalifu, anaanza kuwa na hulka za kuwa mhalifu.

Ni vizuri Mswada huu upite ndipo tupate *rescue centres* za kuwahudumia watoto kama hawa ambao wanahitaji huduma lakini hawana mahali pa kupata huduma hizi. Zamani kulikuwa na taasisi nyingi. Kwa mfano, kule Mombasa kulikuwa na *approved school* ambayo ilikuwa inawahudumia watoto kama hao ambao wamechukuliwa barabarani na ambao wameshindwa na shule za kawaida kwenda kusomeshwa masomo ya ufundi katika sehemu zile.

Hivi sasa kutokana na upungufu wa fedha na serikali zetu za kaunti, huduma hii imeeza kugatuliwa lakini hawatowi pesa za kutosha kuzisimamia huduma kama hizi. Kwa hivyo ni bora ninaona jukumu la serikali za kaunti limeangaziwa katika Mswada huu. Itakuwa bora Mswada huu utakapoidhinishwa serikali zetu za kaunti ziweze kutenga fedha fulani za kusimamia mambo kama haya.

Vile vile tunaona kwamba katika miji mingi utapata wako watoto wengi ambao wametumwa kuomba. Utaona wanasimama kwenye mabarabara wakiomba pesa kwa wazazi wao. Inatoa taswira mbaya ya nchi yetu na mji yetu. Kwa hivyo sehemu kama hizi zitasaidia pakubwa kuwachukuwa watoto kama wale waende shule na kufundishwa ufundi. Wakitoka pale watakuwa wananchi wa kuaminika na kusaidia kujenga nchi yetu.

Naunga mkono.

(Question proposed)

The Temporary Speaker (Sen. Nyamunga): Hon. Senators I do not seem to see interest on this Bill. I call the Mover to reply.

The Senate Majority Leader (Sen. Poghisio): Madam Temporary Speaker, I beg to reply. I thank Sen. Faki for seconding. I also appreciate that this is a very important Bill. Members have a chance and they will make it happen for the children of this country.

Children of this country have for the first time in a long time got recognition in law and there will be a better place for children after this Bill.

We hope that the many supporters of this Bill will also be happy that this Nation has come up with such a very comprehensive Bill that gives children an opportunity in life to be considered as children and to be protected; the future of our children.

I beg to reply and request that you defer the putting of the question to a later date pursuant to Standing Order 61(3).

I thank you.

(Putting of the Question on the Bill deferred)

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I will therefore, defer Order Nos. 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 to another date because we do not have the requisite numbers to go through the Divisions.

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
ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS
BILL (SENATE BILLS NO. 21 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LIFESTYLE AUDIT BILL (SENATE BILLS
NO. 36 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 LANDLORD AND TENANT BILL (NATIONAL
ASSEMBLY BILLS NO. 3 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL
(AMENDMENT) BILL (NATIONAL ASSEMBLY
BILLS NO. 32 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE SACCO SOCIETIES (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 55 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE SUSTAINABLE WASTE MANAGEMENT BILL
(NATIONAL ASSEMBLY BILLS NO. 22 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATION
BILL (SENATE BILLS NO. 2 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE CHILDREN BILL (NATIONAL ASSEMBLY
BILLS NO. 38 OF 2021)

(Committee of the Whole deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, there being no other business in the Order Paper, the Senate stands adjourned until tomorrow, Thursday, 16th June, 2022 at 2.30 p.m.

The Senate rose at 6.22 p.m.