

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 30th March, 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITING

The Deputy Speaker (Sen. Kathuri): Serjeant-at-Arms, kindly ring the Quorum Bell for five minutes.

(The Quorum Bell was rung)

Ring again for five more minutes. We have not yet achieved the threshold.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

Hon. Senators, we now have the requisite quorum.
Clerk, let us proceed.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM THE PARLIAMENT OF UGANDA

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from the Parliament of Uganda. The delegation comprises parliamentary officers who are on a benchmarking visit.

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition.

(Several Senators stood at the Bar)

Hon. Senators, find your way to your seat.

(Several Senators walked into the Chamber)

Ms. Sitna Chemisto Cherotich	-	General Counsel (Leader of Delegation)
Mr. Solomon Kirunda	-	Director Litigation
Dr. Robert Tumukwasibwe	-	Assistant Director, Table Office
Mr. Adilo Daniel	-	Assistant Director, Human Resource
Ms. Irene Mirembe	-	Snr. Administrative Assistant, Office of the Clerk
Mr. Ambangira Joshua	-	Human Resource Officer
Mr. Businga Police Fred	-	Principal Administrative Secretary, Office of the Clerk

On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

I thank you.

(Applause)

DEMISE OF HON. KULLOW MAALIM
HASSAN, MP, BANISA CONSTITUENCY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I have another Communication to make concerning the demise of Hon. Kullow Maalim Hassan, MP for Banisa Constituency.

Hon. Senators, it is with deep sorrow that I notify you of the untimely demise of the Member of the National Assembly for Banisa Constituency, the Hon. Kulow Maalim Hassan, MP, that happened on Wednesday, 29th March, 2023 after being involved in a road accident on Saturday, 25th March, 2023, near the Al-Huda Mosque in South “B” Estate, Nairobi.

Hon. Senators, the late Hon. Hassan Kulow Maalim was born in Mandera County. He held a Masters of Science Degree in Development Studies and a Bachelors degree in Education, both from Kenyatta University. He had a Diploma in Education from Siriba Teachers College. The departed colleague studied for the Kenya Advanced Certificate of Education (K.A.C.E.) at Mandera High School where he also sat for his Ordinary Level (0-Level) Education.

He was an accomplished teacher. After graduating from Siriba Teachers College, he taught at Wajir High School before proceeding to Sheikh Ali School in Rhamu, Mandera County, where he also served as the Deputy Principal. Thereafter, he moved to Kigari Teachers College as a lecturer until 1992 when he changed careers and became the Project Coordinator at the Arid Regional Integrated Agency until 1993.

(Several Senators stood at the Bar)

Hon. Senators, proceed to your seats.

(Several Senators walked into the Chamber)

Until his premature demise, the late Hon. Kulow was serving his second term in Parliament. He was first elected as the Member for Banisa Constituency in 2017 on the Economic Freedom Party (EFP) and earned a re-election to the 13th Parliament in August 2022 under the sponsorship of the United Democratic Movement (UDM) Party.

The late Hon Member will be remembered as a dedicated legislator in the National Assembly who served in the Departmental Committee on Trade, Industry and Cooperatives and the Public Accounts Committee (PAC). In the 12th Parliament, the Late Hon. Kulow served in the Departmental Committee on Transport, Public Works and Housing.

Hon. Senators, in accordance with the Islamic tradition, the body of our departed colleague was buried at 1.45 p.m. yesterday, Wednesday 29th March, 2023 at the Muslim Cemetery in Lang'ata which was preceded by *Janaza* Prayers at Masjid Noor Mosque in South 'C', Nairobi.

On behalf of all Senators and the entire staff of the Senate, and on my own behalf, I wish to take this opportunity to condole with the family of Hon. Kulow Maalim, Members of the National Assembly, the people of Banisa Constituency, and all his friends in this most difficult time. The Parliament of Kenya and the nation at large has lost a diligent leader

Hon. Senators, in honour of our departed colleague, I request that in the usual tradition we all stand and observe a moment of silence.

(Hon. Senators stood up in their places and observed a moment of silence)

May the soul of the late Hon. Kulow Maalim Hassan rest in *Jannah*.

I thank you.

Hon. Senators, I will give opportunity to a few Members to condole our departed colleague.

My dashboard is blank. Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, allow me to join you together with the rest of our colleagues in condoling the family of our departed colleague, the Hon. Hassan. He was a very likeable gentleman. A good friend to many of us.

It is sad to know how he eventually met his death. From what I hear, Hon. Hassan loved walking on the streets of this city. It is during one of his mornings strolls that he was knocked down by a motorbike. He was at the Aga Khan Hospital, unfortunately, he succumbed to the injuries yesterday morning.

It is unfortunate that such a gifted leader serving his second term because I know Mr. Deputy Speaker, Sir, you served with him in the National Assembly last term. I met him together with many of the colleagues with whom they served together in the Committee on Transport and Infrastructure of the National Assembly.

On many occasions, we would debate on the politics of the day at the Member's Lounge, the tea area where many afternoons Members do get to engage each other. I

remember fondly engaging him on his side of the political divide verses ours and how we viewed the world differently.

Mr. Deputy Speaker, Sir, it is the way of life for all of us that are on this earth. Therefore, condolences to the people of Banisa for losing their leader and Member that they cherished and elected for the second time last August only for him to depart hardly a few months after they had granted him the mandate to represent them in the august House. What has happened is unfortunate, but it calls on us leaders to reflect and know that there is no certainty.

We live in faith knowing that we are here today, but we are not certain about tomorrow. I wish him well in his journey. I know some of the members of his family. I wish them great comfort during this time of extreme difficulty.

Secondly, I do not know if I am being remiss, but in a minute, I want to welcome the visiting delegation from the Parliament of Uganda who have joined us.

As I have said in this House before, Kenya was granted the opportunity to host the East African Parliamentary Institute (EAPI). If you have driven along Lang'ata Road in Karen, just before the Kenya School of Law (KSL), there is a construction the Parliament of Kenya is undertaking. That is the institute that shall host the training institute of the East African Community (EAC) Parliaments.

On many occasions, apart from visiting Parliament, delegations such as the one we have with us today, will head there for their training.

This is an honour we were given by the Heads of States Summit about two or three years ago. Kenya is quickly expediting that process to ensure in a few years' time, we are able to congregate there and interact.

I say this as a ranking Member who has been around for a while that amongst all the Parliaments of the EAC, our closest friends are the Parliament of Uganda. We interact and play with them during the annual East African Legislative Assembly (EALA) games.

I was looking keenly to see if I can spot any of the footballers we played with. However, the team visiting looks a bit posh. So, they must be members of the golf team. A sport that is a bit more affluent than football which is played by ordinary mortals such as myself.

I wish them well during their stay in Kenya. May they get the optimum during their study and what they are looking forward to get in their interaction with Members of Parliament (MPs) and the staff.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. Hon. Senators, take just two minutes to pass the message you have on the two Communications that I made.

Proceed, Sen. Methu.

An Hon. Senator: Meru or Nyandarua County?

Sen. Methu: Thank you, Mr. Deputy Speaker, Sir. I confirm that I am the Senator for Nyandarua County.

I also join my colleagues in sending my most sincere condolences to the family of Hon. Kulow Hassan Maalim whom I had an opportunity to know. He was a humble leader and a man who had committed his life to serve his people. He was currently serving his second term. This is such a blow to his constituents. It is also a big loss to the family. I ask God to give them comfort to take and bear the loss.

I also pass my sincere condolences to his party the United Democratic Movement (UDM) party, whose party leader is our colleague, Hon. Sen. (Eng.) Ali Roba and the other Members of the party who are here. UDM party is part of the Kenya Kwanza fraternity. I send my most sincere condolence to the family of our departed colleague and ask God to comfort the hearts of the family.

Mr. Deputy Speaker, Sir, if you allow me to send my most sincere condolences to the Pwani University fraternity - where I got my degree. Unfortunately, this afternoon they have lost a number of students who were on their way to Jaramogi Oginga Odinga University for a games event. We have seen a communication form the university which will come to your office a little later. It is such a sad situation.

Parents have sent their children to study in Pwani University in Kilifi County. They came all the way to Naivasha where they were involved in a terrible accident. They were to fly the university flag high in university games. It is sad that they shall go back to their homes in caskets.

I send my sincere condolences to the parents of the departed comrades, the Pwani University fraternity, the students, the teaching and non-teaching staff and for those of us who are alumni of the university. It is a dark cloud over our institution, but I am sure we shall bounce back again.

Finally, I welcome the visiting delegation from the Parliament of Uganda. I confirm with the previous speaker that we enjoyed some bit of warmth from our colleagues, the MPs, whom we were playing football together. They are our friends and brothers. We are hopeful that we shall give and show them our legendary hospitality as a country and Parliament.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Okenyuri.

Sen. Okenyuri: Thank you, Mr. Deputy Speaker, Sir. I was gutted to learn of the demise of the Hon. Kulow. I first met him in my days in the Office of the Deputy President where I worked closely on Technical Vocational Education and Training (TVET) issues in the strategy and delivery unit.

He was a frequent visitor in that department. He was always following up on the development of technical training institutions for the people of Banisa; which was in line with Jubilees agenda of equipping young people with technical skills to solve the issue of unemployment.

Indeed, it is sad. We later reconnected with him in the Senate. He frequently kept checking whether I was nominated. That is how close the relationship was.

Later, I learnt about his demise through our caretaker who was part of the team that rescued him on that day and provided the Closed-Circuit Television (CCTV) that assisted in arresting the *boda boda* rider.

On behalf of the young people and myself, I send my sincere condolences to the family, friends, and people of Banisa Constituency.

I also sent my condolences to the Pwani University comrades who have lost their lives. Once a comrade, always a comrade.

Finally, I welcome the members from the Ugandan Parliament. The last time I was there, most of them thought I was their long-lost sister in Kenya. I told them that I am their sister in Kenya. We welcome you to this Parliament.

The Deputy Speaker (Sen. Kathuri): I am trying to balance both sides.
Proceed, Sen. Kinyua.

(Laughter)

Sen. Kinyua: Asante, Naibu Spika, kwa kuonyesha usawa kwa wote.

Ninataka kuungana na wewe kuleta risala za rambirambi za watu wote wa Kaunti ya Laikipia na kuzipeleka kwa watu wa Banisa kwa kupoteza kiongozi Mheshimiwa Kulow Hassan ambaye tunamfahamu. Alijitolea kufanyia wananchi kazi bila kupendelea upande wowote kama ulivyofanya.

Ninaleta pia risala kutoka familia yangu. Ndugu zetu wanaopeleka bodaboda wanafaa kuwa waangalifu kwa sababu ajali hizi zinatokea kwa watu wengi.

Huyu ni mmoja wetu tunayeletea risala za rambirambi lakini kila siku, watu wetu wanapata ajali hizi na wengi wanakufa. Pia vijana wa bodaboda wanapata maafa.

Wagonjwa wengi katika hospitali zetu ni kwa sababu ya majeraha waliyopata katika ajali za bodaboda. Siku hii ni ya huzuni kwa kuwa tumempoteza kiongozi ambaye tulienzi na sasa tutamkosa. Tunwashukuru watu wa Banisa kwa kumchagua mara ya pili kwa sababu yeye alikuwa mchapa kazi.

Bw. Naibu Spika, ninaungana na wewe kuwakaribisha ndugu zetu kutoka Uganda. Ukitembea Kampala, utawapata wakiongea kwa lugha ya Kiswahili. Wanafahamu lugha hii. Kwa hivyo, tunasema Kiswahili kitukuzwe.

Sisi hapa kwetu tuna ile shule ambayo ilitajwa na Kiongozi wa Wengi ambayo inaitwa Centre for Parliamentary Studies and Training (CPST) itakayokuwa ikifanya mafunzo. Tungeomba mkifika hapo mtembelee huko hata muweze kuona masomo yanavyotekelezwa huko.

Karibuni na muendeleo kucheza golf ambayo ndugu yangu amezungumzia. Mimi pia nimebobeza katika mchezo wa golf na ninajua tutapatana viwanjani.

Kabla hamjaenda nyumbani, mtembelee mbuga zetu za wanyama ndio muweze kuona mambo ambayo tunafanya hapa Kenya. Mpeleke salamu zetu mkirudi nyumbani.

Asante, Bw. Naibu Spika.

The Deputy Speaker (Sen. Kathuri): Sen. Kisang, you may proceed.

Sen. Kisang: Thank you, Mr. Deputy Speaker, Sir. On behalf of the people of Elgeyo Marakwet County and on my own behalf, I wish to convey our condolences to the family of Hon. Hassan. Hassan and I served together in the last Parliament in the National Assembly when he was a Member for Banisa Constituency and he was re-elected for the second term.

It is unfortunate that he lost his life through an accident in South C Estate. We wish the family comfort, peace, strength and also acceptance during this difficult time. You know, it is not easy to accept that you have lost your loved one. I also wish to convey my condolences to the families of the students of Pwani University who lost lives in Naivasha while they were going for a trip to compete with other universities.

Finally, I welcome our colleagues from Uganda. Welcome to Kenya. Kenya is a warm country. We encourage visitors. The college that is in Karen is at an advanced stage. I have seen that they are on the second floor now. So, I believe that you will be coming here regularly for training.

This year in December, I will join you in playing golf also with Sen. Kinyua. You know that is the game for those who are already mature and elderly like us.

God bless you.

The Deputy Speaker (Sen. Kathuri): Sen. Dullo, kindly proceed.

Sen. Dullo: Mr. Deputy Speaker, Sir, I wish to join you and my colleagues in passing my condolences to the family of our colleague that we lost yesterday. Hon. Kullow was known to me. He was a very humble, down to earth legislator and I had known him for the last six years. He was a very hardworking colleague. I know his family, especially the wife by the name Sadia who is working at Kenya Urban Roads Authority (KURA). It is really very sad.

A lot of accidents are taking place in this country as a result of *boda boda*. As a country, we really need to do something about it. It is very unfortunate that one of us was killed by a *boda boda*. It is really unfortunate. It was a very bad accident. Somebody told me the injury was so bad. You cannot imagine how badly the brain was damaged. That is unfortunate.

As Members of Parliament we have insurance, but there are so many Kenyans that are losing their lives. Some of them are getting their legs, hands and other parts of body amputated. Something has to be done because this is not right.

We agree that *boda boda* is the best mode of transport, but we need to take serious action against *boda boda* riders because they cause so many accidents.

We wish the family strength and we pray for our brother to go to - according to us Muslim we say - *Jannah firdaus* that means he goes to the highest heaven.

(Sen. Dullo's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): You know that she has mentioned heaven so let me give her one minute to conclude.

Sen. Dullo: It is not easy. We pray for the family.

I wish also to welcome our colleagues from Uganda. As the Legal Committee, we have received two delegations from Uganda this Session. I hope that we should also reciprocate in visiting Uganda so that we can interact and learn from them. I wish them a nice day and a happy stay in Kenya. I am sure you will learn one or two things from us.

I thank you, Mr. Deputy, Speaker, Sir.

Sen. Mungatana, MGH: Thank you, Mr. Deputy Sir, Sir. I also want to join my colleagues in registering my sincere condolences to our colleague who has left us. This was not an ordinary politician. The fact that in 2017, he was elected on the Economic Freedom Party and then the same person in 2022, he was elected on United Democratic Party, speaks to the fact that it is not about a political party, but we are talking about a solid humble man that people had put a lot of trust in. I want to say very sorry to the people of Banisa. May God give you comfort during this time.

I also want to say sorry to the family, especially the wife and the children because these are the people who are hardest hit. On behalf of our people in Tana River County, we want to join in expressing condolences to our departed colleague and his family.

Having said that, I noted that the cause of this accident was because he used to take walks. That is not very different from what I do. I like running on the road. When you are jogging you notice is that there are hardly any pedestrian movement areas. So---

(Sen. Mungatana's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, kindly note that it is two minutes and also check the light because we have a lot of business today to transact. I want us to at least to get somewhere. However, Sen. Mungatana, MGH, you know you are a senior legislator here. Just one minute and you are the last person that I am adding some more time to speak. Conclude.

Sen. Mungatana, MGH: Thank you, Mr. Deputy Speaker, Sir. I was saying that we have also failed as a Government and as Nairobi City County in providing sufficient pavements where pedestrians can be walking without the fear of these motor cycles. So, this is something that maybe needs to be taken up at this level.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Veronica Maina, you may proceed.

Sen. Veronica Maina: Mr. Deputy Speaker, Sir, let me take this opportunity to offer my deepest condolences to the family of Hon. Hassan Kullow who unfortunately lost his life a few days ago. Before we could recover from that news, he was already buried under the Muslim rites of passage.

He has been described by many of his colleagues at the National Assembly as a very humble and a good man. That is attested to by the fact that he has been voted in twice by the people of Banisa Constituency.

He departed under circumstances which maybe could have been avoided through a road traffic accident with a *boda boda*. We would pray that our Nation reaches a point where we can cease to have as many fatalities as we are having in the Republic of Kenya through traffic road accidents. If we are to learn from the virtues that were exuded by the legislator who has passed on, his life speaks into our lives on virtues of being good, reasonable and humble people who are not afraid to pursue their dreams.

He rose from being a teacher and became a legislator representing the wishes of the people. We offer our prayers and our emotional support to the family, colleagues and to the great people of Banisa Constituency and to his political party the UDM, which is led by one of our own colleagues here at the Senate, we pray that God comforts and grants them grace and---

(Sen. Veronica Maina's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Thank you. Proceed, Sen. Abass.

Sen. Abass: Mr. Deputy Speaker, Sir, I join you to condole with the family and constituents of Banisa Constituency following the demise of hon. Kullow Maalim Hassan.

The late hon. Kullow Hassan was well known to me. We were neighbours from 2017 to 2020 because we lived in the same place in South C. I knew him as a simple man. I was also a classmate to his elder brother.

The late hon. Kullow comes from the far end of Northern Kenya, at the border between Kenya and Ethiopia. Despite it being far, the late used to frequently visit his constituency. He was a hardworking, simple and religious man because he was attached to the Mosque. I am sure the people of his constituency will miss him.

Mr. Deputy Speaker, Sir, on my own behalf and on behalf of the people of Wajir County, I condole with the family. I know he has left a big family of three widows and about 16 children. That is a big number. Many of his children are still young.

We pray that the Almighty God brings them up in the simplest way. May God also place him in Heaven and Paradise or *Jannatul Firdaus*.

Mr. Deputy Speaker, Sir, with those few remarks, I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. Proceed, Sen. Cheptumo.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, allow me to also send my heartfelt condolences to the family, friends and relatives of the late hon. Hassan.

I served with the late hon. Kullow in the National Assembly during the Twelfth Parliament. I can confirm to colleagues here that, indeed, hon. Hassan was very humble, friendly and committed to his work as a Member of Parliament (MP).

We used to have some programmes with him during the Twelfth Parliament. When he had functions at his place, I would send him some money in support and when I had the same at my place, he used to also contribute substantially.

This country has lost an important leader, and of course, the people of Banisa will miss his leadership. We continue to pray for his family, that God continues to uphold and give them peace during this difficult moment.

Mr. Deputy Speaker, Sir, we have a problem of accidents arising from *boda boda*. Today, we are talking about our former colleague because we knew him. However, there are many Kenyans who lose their lives through *boda boda* accidents. There is need to come up with ways and means to ensure that we reduce this, as it has been said by Members.

Finally---

(Sen. Cheptumo's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Your message has reached home, Chairperson of the Committee on National Security, Defence and Foreign Relations.

The last one is Sen. Wakili Sigei.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I join you and the rest of my colleagues in condoling with the family of the late hon. Hassan Kullow and the people of Banisa. On my own behalf and on behalf of the people of Bomet, we wish the family of the late hon. Hassan Kullow God's grace at this difficult time.

It is difficult to explain the circumstances under which hon. Hassan Kullow lost his life. However, the plans that we have as immortals are different from the plans that the Almighty God has for each and every one of us.

It is time for us to reflect upon our lives and also the responsibilities that have been bestowed upon us, as leaders of this country. We should make sure that we do the best while we still have the life that God has granted us.

I wish the people of Banisa and the family of the late hon. Hassan Kullow God's grace to overcome the difficult time of losing one of their loved ones.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you. Let us go to the next order.

PETITION

MISTREATMENT AND HUMAN RIGHTS VIOLATION METED
ON THE FAMILY OF THE LATE HON. JEAN MARIE SERONEY

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey has a Petition to present. Since he is not around, the Petition is deferred.

(Petition deferred)

Let us go to the next Order.

PAPERS LAID

(The Clerk-at-the-Table consulted with the Deputy Speaker)

The Deputy Speaker (Sen. Kathuri): There is a Paper to be laid by the Chairperson of the Committee on Agriculture, Livestock and Fisheries. Do we have any Member of the Committee on Agriculture, Livestock and Fisheries? You can lay the Paper on behalf of your Chair.

REPORT ON THE MUNG BEANS BILL, 2022

Sen. Wamatinga: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, 30th March, 2023-
Report on the Mung Beans Bill (Senate Bills No.13 of 2022)

(Sen. Wamatinga laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): Proceed, Chairperson of the Committee on Labour and Social Welfare.

Sen. Murgor: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to make this Statement. This is a request for Statement on the grabbing of land---

The Deputy Speaker (Sen. Kathuri): Chairperson, Committee on Labour and Social Welfare, there is a Paper that you are supposed to lay. Kindly, approach the Clerks-at-the-Table because we are not yet on Statements. You are ahead of time.

(Sen. Murgor consulted with the Clerk-at-the-Table)

REPORT ON THE EMPLOYMENT (AMENDMENT) BILL, 2022

Sen. Murgor: Sorry. Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today 30th March, 2023-
Report on the Employment (Amendment) Bill (Senate Bills No.11 of 2022)

(Sen. Murgor laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): Let us go to the next Order.
The Chair of Committee on National Security, Defence and Foreign Relations,
Sen. Cheptumo.

NOTICES OF MOTIONS**INTEGRATION OF ETHNIC MINORITIES AND
MARGINALIZED COMMUNITIES IN KENYA**

Sen Cheptumo: Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion -

AWARE THAT, Kenya is a multi-ethnic country with a rich diversity of cultures, languages and traditions;

FURTHER AWARE THAT, ethnic minorities and marginalized communities face significant social, economic and political challenges including discrimination, marginalization and exclusion;

ACKNOWLEDGING THAT Articles 10 (2) b, 21(3), 27, 56, 91(1)(c), 100, 174(e), 177(1)(c), 204(3)(b), 216(4) and the Fifth Schedule to the Constitution of Kenya obligate the state to promote and protect the welfare of ethnic minorities and marginalized communities;

APPRECIATING THAT, the Government has put in place policies, legal and institutional frameworks including affirmative action programs to address the needs of other special interest groups namely children, Persons with Disabilities (PWDS), youth, women and the elderly;

CONCERNED THAT, ethnic minorities and marginalized communities remain largely unaddressed through similar interventions due to lack of an existing national policy and legislative framework;

NOW THEREFORE this Senate resolves that the Ministry of Public Service, Gender and Affirmative Action, the National Gender and Equality Commission and any other relevant State Departments in collaboration with the Council of Governors: -

(i) Initiate measures to identify and address the specific needs and challenges faced by ethnic minorities and marginalized communities in Kenya; and

(ii) Develop and implement a national policy and legislative framework for the integration of ethnic minorities and marginalized communities in Kenya as envisaged in the Constitution of Kenya.

Thank you.

Mr. Speaker, Sir, I have a second Notice of Motion.

**DECLARATION OF CATTLE RUSTLING A NATIONAL
DISASTER AND ESTABLISHMENT OF A
SPECIAL FUND FOR VICTIMS**

Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion -

THAT AWARE THAT, cattle rustling is a major menace and a security threat in the South and North Rift regions and some other regions of the country;

CONCERNED THAT, the menace has since left irreparable and negative socio-economic impact, which include but not limited to an increased number of widows, widowers, orphaned children, poverty, displacement of people - leading to Internally Displaced Persons (IDPS), disruption of educational programs and other economic activities owing to the destruction and or closure of educational, health and other institutions;

FURTHER CONCERNED THAT; the people living in the affected regions have been denied the enjoyment of their social, economic and political rights as guaranteed to them under the Bill of Rights as enshrined in Chapter Four of the Constitution;

NOW THEREFORE, the Senate resolves that the National Government through the Ministry of Interior and National Administration:

- (1) Declares cattle rustling a National Disaster;
- (2) Establish a national task force on cattle rustling to:
 - (i) Investigate the causes of the rampant cattle rustling in the said regions and the country at large;
 - (ii) Establish the extent of loss and damage the cattle rustling menace has occasioned to the communities in all the affected Counties;
- (3) Establish a special fund for mitigating the losses suffered by and in compensating all victims of cattle rustling and settle all internally displaced persons occasioned by the cattle rustling menace.

Thank you, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you. Let us go to the next Order. We have two or three Statements.

Hon. Senators, you will realize that we spend a lot of time on Statements and Members wishing to make comments on them. We are on the Statements hour and it should be followed strictly.

If we save time, we can get to the Motions. Many Members who have Motions on the Order Paper approach the Chair every time requesting whether their Motions can be expended with. Therefore, let us save time as much as possible, so that we get to the real business.

Members take a lot of time to do research and other things on Motions and Bills.
Sen. Okenyuri, proceed.

STATEMENTS

LACK OF A NATIONAL DESIGN AND FRAMEWORK FOR CIVIC EDUCATION IN KENYA

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights on the lack of a National Design and Framework for Civic Education in Kenya, and its implications on the implementation of Section 100 of the County Governments Act, 2012.

In the Statement, the Committee should -

(1) Provide an update on the implementation of Section 100 of the County Governments Act, 2012, which requires each county to establish a civic education programme;

(2) State reasons for the delay in the establishment of civic education programmes in all counties of Kenya, in contravention of the provisions of Article 33 of the Constitution, giving clear timelines for implementation;

(3) State how the contents of the civic education curriculum are being determined, in the absence of a national design and framework for civic education;

(4) State-targeted measures in the short term to establish a national design and framework for civic education in Kenya leveraging the use of information technology; and,

(5) State measures in place to promote public awareness to ensure that the civic education programmes established by counties are aligned and consistent with national goals and objectives.

Thank you, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): As I have just communicated, I will give a few Senators at least to make two-minutes comments on these Statements. Senate Majority Leader, are you trying to control the Chair? Are you even trying to imagine?

The Senate Majority Leader (Sen. Cheruiyot): No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Okay. Proceed, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Okenyuri on matters civic education.

Civic education is a continuous process of acquiring information and experience mostly as far as good governance is concerned. Civic education is not a privilege but a right that should be offered from the county level, given that we have a devolved system of governance.

Over time, this civic education actually enhances good interrelations between people of different ethnic groups and religions. There is much more output when information is relayed.

Mr. Deputy Speaker, Sir, continuous good civic education will help curb issues like what we are currently seeing. As you know, our colleagues are not present because of the current protests that are ongoing. Our youths are actually being misused by some of the politicians. Had they been given good civic education, they would understand how best to address some of the concerns that the Opposition is bringing on table.

It is high time civic education is implemented as Sen. Okenyuri is requesting, so that some of these issues can be addressed. Information is power. With information, these issues will be addressed both in short and long term perspective.

It is so sad in our country today, that lack of information has made Kenyans from different walks of life not to understand what it really entails. I believe good governance is about offering its people education and information that they need.

I support the Statement by Sen. Okenyuri.

The Deputy Speaker (Sen. Kathuri): Thank you. Let us now give a chance to a Senator who has not spoken today. Proceed, Sen. Orwoba.

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I rise to support the Statement by Sen. Okenyuri on civic education.

Our youths are putting *sufurias* on their heads because they want the cost of living to go down. They are doing this because they do not understand how to bring the cost of living down. Their leaders are actually using them.

I was saddened this morning, to see my agemates getting very excited that today they are going for the demonstrations. I asked them how they benefit every time they are done with the demonstrations. Do they actually get something tangible or sustainable? Do their leaders tell them what they have achieved after the *maandamano*?

If we had proper civic education devolved down to the grassroots and households in Imara Daima where we are seeing the demonstrations today, then those youths would refuse to be used. As a matter of fact, the youths will tell the Senators who are not in the House, that instead of going for *maandamano*, they should bring a Bill to Parliament to propose that certain things be done so that the cost of living goes down.

Mr. Deputy Speaker, Sir, through civic education, our youths will understand that at the end of the day, it is not about demonstrating and causing havoc; so that they can be brought to the table for a 'handshake'. They will understand it is about voting for the right leaders.

Today when you look at the Opposition, we only have one Senator there. This one Senator understands what they need to do in order to represent their people. They understand that they need to come to the House where they are drawing a salary and push for issues to do with the cost of living.

As I support Sen. Okenyuri on this Statement on civic education, I think we should even go a step further. It is imperative that we inculcate the culture of educating our children from nursery school on how county assemblies and the Government work. They need to be educated on who needs to do what so that we can have proper changes in this country.

Therefore, it is very sad that we have leaders in this House who actually need civic education, so that they can understand their roles in the House and how they can change the lives of Kenyans. Civic education is much needed in this House.

I support.

The Deputy Speaker (Sen. Kathuri): Sen. Murgor, do you want to comment or we are waiting for your Statement which is the next one on the Order Paper?

(Sen. Murgor spoke off record)

Kindly, proceed.

Sen. Murgor: Thank you, Mr. Deputy Speaker, Sir, for allowing me to make my comments about civic education. Civic education is very important because it empowers people.

My community, the Pokots from West Pokot County, are largely illiterate. Therefore, when it comes to empowerment and information about their rights, they are not aware of anything. So, civic education is key in empowering and enabling them to be aware about their rights.

Sen. Cheptumo gave notice of Motions about the rights of the people in cattle rustling areas. He alluded to the fact that people who live in such areas are not aware about their rights. Therefore, civic education will enable them to be aware of their rights.

It is also a way of passing knowledge to them so that they know what is theirs even within a county.

Civic education should be carried out in counties. County governments should train and educate people on what is in their county and what powers they have with regard to public participation and awareness. Civic education makes people to be united because they have something to stand together for.

I support the Statement.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Kinyua.

Sen. Kinyua: Bw. Spika Wa Muda, ninasimama kuunga mkono taarifa hii. Elimu ya uraia ni muhimu sana katika gatuji zetu. Kama vile inavyosemwa, ujuzi ni nguvu.

Wakati mwingi, raia wanaenda kupewa masomo wakati wa kuna uchaguzi. Hata hivyo, maisha hayaanzi na kuisha na uchaguzi. Kuna mambo mengi sana ambayo yanapaswa kufunzwa.

Wakati huu, watu wanazungumzia sana jinsi gharama ya maisha imepanda. Tukienda kufunza wananchi kuhusu njia bora za ukulima; mbegu au mimea ambayo wanapaswa kupanda na wakati upi, hii ni elimu muhimu ambayo itafaa katika gatuji zetu.

Bw. Spika Wa Muda, Sen. Murgor amedokezea kwamba shida nyingi zinatokana na wananchi kutoelewa na kukosa ufahamu. Hata wakati ambapo tunapaswa kupanda, hatujui ni mbolea gani ambayo tunatakiwa kutumia. Wananchi wanatumia tu kile ambacho ni cha bei rahisi. Hilo ndilo la muhimu kwao. Ni kwa sababu ya kutokuwa na ujuzi na ufahamu wa maneno.

Bw. Naibu Spika, tuizingatie Taarifa iliyoletwa. Tuiwekee maanani, ndiposa wananchi wetu waweze kufahamu na kuelewa. Kama ilivyosemwa, wale wanaofanya maandamano wanawaahidi watu mambo mengi.

Lakini, tutapunguza gharama ya maisha kwa kuwambia wananchi ukweli ya kwamba, mambo yanayotendeka katika ulimwengu yanatuathiri hata sisi. Vita vilivyoko nchi ya Ukraine vinatuathiri hapa Kenya. Ni vizuri tuwambie Wakenya ukweli kuhusu kupanda kwa bei ya mafuta. Ukiangalia, hali ya hewa imebadilika pia.

Viongozi wengi wanachukua fursa kwa sababu wananchi wetu hawaelewi. Badala ya kuwafunza, wanawaongoza katika njia zisizo kuwa za amani na kufanya maandamano ambayo hayatakuwa na manufaa kwao.

Ni vizuri tuwambie watu wakati kama huu wanapaswa kupanda. Hii ni kwa sababu sehemu nyingi za nchi yetu ya Kenya zimenyesha.

Tungekuwa tunaongea vile wanaichi wetu watapata mbolea. Na hiyo mbolea isipelekwe mijini kwa sababu watu walio mijini hawapandi. Tunataka mbole hiyo ipelekwe mashambani. Kwa mfano, mbolea isifikishwe tu Nyahururu, bali ipelekwe Marmanet, Rumuruti, Muhoteti, Kinamba, Matanya na Raburia. Taarifa hii inamaanisha gatuji zetu na sio katika miji peke yake. Hii ni kwa sababu watu wa mijini wanaelewa mambo. Lakini kwa *ground* mambo ni tofauti kwa sababu hapo kuna maneno.

Kwa hivyo, ninaunga mkono Taarifa hiyo. Tuifuatilie na tuangazie yaliyoletwa kwa kindani.

Ninashukuru.

The Deputy Speaker (Sen. Kathuri): Sen. Wakili Sigei, you have the Floor.

Sen. Wakili Sigei: Thank you, Mr. Deputy Speaker, Sir. I support the Statement by Sen. Okenyuri on the need to seek information from county governments and

generally, on the implementation of Section 100 of the County Government's Act that provides for training or civil education.

Mr. Deputy Speaker, Sir, civic education mandates or obligates the residents of each county in this country to understand and appreciate self-governance.

Self-governance can only be understood when the public knows their obligations and of those whom they have put in office in terms of the leadership from the governor and the Member of County Assembly (MCA). It also extends to the national Government.

Section 3 of the County Government Act, 2012, as part of its objectives, provides that the Act obligates the county government to undertake training or education on devolved matters and that the national Government has an obligation to perform on behalf of its citizens.

I know, at the end of this, you will commit this Statement to the Committee on Justice, Legal Affairs and Human Rights. I do not want to pre-empt the extent of the work that the Committee will do. However, I commit that once this Statement is committed to us, we will undertake that work as expected of us, as a Committee.

I note that the concerns in that particular Statement requires an extended approach on the safeguard measures that county governments have put in place. For example, in terms of legislation and ensuring that the provisions of Section 100 are implemented by putting in place policies and training manuals, which the national Government is expected to set up and cascade downwards to the county governments. This will make sure that it is not only put in paper as a requirement in law, but implemented or enabled by the respective county governments passing legislation.

I am not aware of any particular county government that has put in place or pushed to ensure that the provisions of this law are implemented.

I appreciate Sen. Okenyuri for bringing it to the attention of the House and also the relevant Committee.

As we embark to work on the Statement, we will have an opportunity to invite the Committee on Education, which has a mandate to ensure that relevant curriculum or regulatory frameworks are put in place so that people, at their lowest level, understand that the Government that they have put in place has specific obligations.

I know for a fact that a resident from Chemalal, the furthest corner of the county that I represent, does not understand the specific role of the county government, MCA, Member of the National Assembly or Senate. The best they can do is to ask for their rights to be protected by the Senator, MP, MCA or the governor. He or she does not understand beyond the demand for that right, there is an obligation on that particular citizen.

I know for a fact, that once we give them the opportunity to understand, in the course of this particular training, and implementation of this requirement of the law, they will know that they also have a role to play. Once they participate, service delivery to the people will be eased and felt to the lowest level.

Mr. Deputy Speaker, Sir, I support.

I have said, I undertake that we will do the job of the relevant Committee once the Statement is committed to us.

The Deputy Speaker (Sen. Kathuri): Let us give the next two Statements simultaneously by Sen. Murgu, and then Sen. Abbas

Sen. Mungatana MGH: On a point of Order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): What is the point of one?

Sen. Mungatana MGH: Mr. Deputy Speaker, Sir, I want to make a small contribution to this one. I have been on the line. I ask if I can be given a few minutes.

The Deputy Speaker (Sen. Kathuri): How did you know that you were in the line?

Sen. Mungatana MGH: Mr. Deputy Speaker, Sir, because my gadget is showing so, unless we are not---

The Deputy Speaker (Sen. Kathuri): You know, in the spirit of trying to save time, I was limiting the number of speakers on that particular Statement. This is because I have given more than eight Senators a chance to comment on that particular Statement by Sen. Okenyuri.

Sen. Mungatana MGH: Mr. Deputy Speaker, Sir, this affects the entire country.

The Deputy Speaker (Sen. Kathuri): So, can you use one minute?

Sen. Mungatana MGH: Mr. Deputy Speaker, Sir, maybe two minutes.

The Deputy Speaker (Sen. Kathuri): I am keen to hear what you want to say in this matter of national importance. I will give you two minutes.

Sen. Mungatana MGH: Mr. Deputy Speaker, Sir, it is extremely so important.

The Deputy Speaker (Sen. Kathuri): Proceed.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, the person who is regarded as a father of civic education is Mr. Benjamin Franklin. He is the founding father of the American nation, which was a colony of Britain.

Mr. Speaker, he believed that a good and better government will come from good citizens who are well-informed.

I pray that the Committee on Justice, Legal Affairs and Human Rights will look at this Statement keenly. It seeks to set up a framework. This is because a lot of times, civic education in this country is carried out towards the elections in a warped manner towards supporting or opposing Government.

So, I urge that they look into it and think about counties like that of Sen. Murgor's and mine, where there is so much clannism and tribalism. There is no framework for expressing things that are governmental.

Politicians take advantage to lead or mislead people along tribal lines, even making Government or good politics irrelevant. Therefore, we need this Statement like yesterday, to be done in such a way that it translates into reality, especially in some of our counties that are full of clannism and tribal affiliations. Therefore, they make their people look at Government at the national and county levels using their tribal eyes. It makes life very difficult even to do politics at the county and national level.

This is a very good Statement. I pray that they will give it the attention it deserves, so that we can all benefit from this concern that was shown by my very hardworking fellow colleague, Sen. Okenyuri.

I thank you.

The Deputy Speaker (Sen. Kathuri): This Statement has attracted a lot of interest. From where I sit, I know that a Statement cannot solve the issues that you are addressing, Sen. Mungatana. I wish Sen. Okenyuri could come up with a Bill. That would really help because I know we have that challenge of people getting the right information.

People are misled by the media and social media. Right now, social media is misleading everybody.

Sen. Okenyuri, think beyond the Statement. This is just a Statement from the Ministry, which will not be able to sort the real issues. Do you want to make a commitment?

(Sen. Okenyuri spoke off record)

Please, do.

Sen. Okenyuri: Mr. Deputy Speaker, Sir, I want to make a commitment in terms of working with the Members of like mind. I am looking forward to full support, especially now that this is something that should have been done. The closest it got is what Prof. Kibwana was doing. Otherwise, generally, there has not been much on it. So, I am really committed to doing that. I am counting on the support of colleague Senators.

Thank you, Mr. Deputy Speaker.

The Deputy Speaker (Sen. Kathuri): Sen. Murgor, please, proceed.

GRABBING OF LAND BELONGING TO
KANYARKWAT GROUP RANCH

Sen. Murgor: Thank you Mr. Deputy Speaker, Sir, for giving me this opportunity to make this Statement.

Mr. Deputy Speaker Sir, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on grabbing of land belonging to Kanyarkwat Group Ranch in West Pokot County.

In the Statement, the Committee should-

(1) Explain the circumstances under which land belonging to Kanyarkwat Group Ranch, which is a community land, was misallocated.

(2) Clarify whether the correct legal procedure was followed in issuing the below title deeds.

(3) State which beneficiaries are on-

i. Westpokot/Kanyarkwat/6 measuring 800 acres and occupied by 70 households;

ii. Westpokot/Kanyarkwat/7 measuring 1,137 acres and occupied by 200 households; and,

iii. Westpokot/Kanyarkwat/10 measuring 800 acres and occupied by 200 households.

(4) State the measures taken by the Ministry of Lands, Public Works, Housing and Urban Development, if any, to ensure that the land reverts to the County Government or community and the legal action taken against the illegal beneficiaries.

I thank you.

The Deputy Speaker (Sen. Kathuri): The next one by Sen. Abass.

PENDING BILLS IN WAJIR COUNTY

Sen. Abass: Mr. Deputy Speaker, Sir, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Finance and Budget on the status of the pending bills in Wajir County Government.

In the Statement, the Committee should -

(1) State the total amount of the unpaid bills in Wajir County Government, giving a breakdown of these bills since FY 2013/2014 to date, segregating the bills on the basis of development and recurrent expenditure against approved budgetary allocations of the county.

(2) State steps that have been taken to identify any fraudulent or irregular claims among the pending unpaid bills, disclosing how the figures have changed over time including interests charged, stating reasons for the delay in settling the bills.

(3) Give the particulars of statutory institutions, suppliers or contractors affected by the unpaid bills, disclosing the amount owed by the County Government.

(4) State measures put in place by the County Government in ensuring that the statutory institutions, suppliers or contractors are paid, stating timelines if any.

(5) Disclose legal or financial consequences that have arisen as a result of the unpaid bills, stating interventions, if any, to ensure that such delays in payment do not recur in the future.

I thank you.

The Deputy Speaker (Sen. Kathuri): Let us get to the Statement by the Chair of the Committee on Justice, Legal Affairs and Human Rights (JLAHRC) under Standing Order No.56 (1).

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

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.56 (1)(b) of the Senate Standing Orders to issue a Statement on the activities of the Standing Committee on Justice, Legal Affairs and Human Rights for the period 13th October, 2022 to 29th March, 2023.

The Standing Committee on Justice, Legal Affairs and Human Rights is established under Standing Order No. 228 (3) of the Senate Standing Orders and is mandated *inter alia* to consider all matters relating to; constitutional affairs in the organisation, administration of law and justice, elections, promotion of principles of leadership, ethics and integrity, agreements, treaties and conventions and implementation of the provisions of the Constitution and human rights.

Mr. Deputy Speaker, Sir, the Committee, during the First Session of this 13th Parliament and the First Quarter of the Second Session, has undertaken during this period of review, 31 sittings in which it considered various legislative proposals, Bills, Statements, Petitions and Stakeholder engagements as set out below-

(1) Legislative proposals: The Committee undertook the scrutiny of one legislative proposal which was referred to the Committee pursuant to Standing Order No.133 (a) of the Senate Standing Orders. This was the draft Constitution of Kenya (Amendment) Bill sponsored by Sen. Beth Syengo,

MP, seeking to amend the Constitution to give effect to the two-thirds gender principle in elective public bodies.

The Committee proceeded to examine the proposed Bill against the criteria set out in the Standing Orders and held discussions with the sponsor during the consideration of the proposal.

Subsequently, the Committee resolved to recommend to the Honourable Speaker of the Senate to direct that the legislative proposal is accepted and that it be published as a Bill, pursuant to Senate Standing Order No.131 (2).

I am aware that this process is actively going on.

The Committee further considered several Bills which lapsed during the previous term of Parliament and identified some which are due for reintroduction during the current term. These Bills include-

1. The Law of Succession (Amendment) Bill, which is to be sponsored by Sen. Veronica Maina, MP, and Member of the Committee.
2. The Security Laws (Amendment) Bill.
3. The Alternative Dispute Resolution Bill.

Still under Bills, the Committee considered three Bills during the reporting period and tabled the reports thereon in the Senate. These reports were on the Independent Electoral and Boundaries Commission (Amendment) Bill No.49 of 2022, the Parliamentary Powers and Privileges (Amendment) Bill No.5 of 2022, and the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No.7 of 2022).

The IEBC (Amendment) Bill has since been assented to and is under implementation, while the other two Bills are at various stages of consideration in the Senate. This marks 100 per cent completion rate on the consideration and reporting by the Committee on the Bills, which were referred to it in the session.

Under Statements, the Committee has considered four Statements sought by the Senators and referred to the Committee. These Statements are as follows-

1. Statement made by Sen. Cherarkey, MP, on Commemoration of Koitalel Arap Samoei Memorial Day and violation of the human rights of the Talai Community in Kenya.
2. Statement sought by Sen. Munyi Mundigi, MP, on delayed payments to transport providers during and after the August 2022 General Elections by the IEBC in Embu County.
3. Statement sought by Sen. Hamida Kibwana, MP, on access to justice by the family of the late Ms. Ebbie Noelle Samuels.
4. Statement sought by Sen. Crystal Asige, MP, on the status of implementation of the Legal Aid Act No.6 of 2016.

Mr. Deputy Speaker, Sir, on the Statement made by Sen. Cherarkey, MP, the Committee resolved to address the matter holistically and to consider the work previously done on historical injustices in Kenya. This is ongoing work by the Committee, including during the consideration the Petitions presently before and which are discussed later in this Statement.

On the Statement by Sen. Munyi Mundigi, MP, the Committee held a meeting with the IEBC at which a detailed report was submitted on pending payments to service providers in Embu County as well as other pending bills at the IEBC from other service

providers, not only from Embu but across the country, including service providers who also participated during the August 2022 General Elections.

On the Statement sought by Sen. Kibwana, MP, the Committee was scheduled to hold meetings yesterday and today with the key stakeholders to press for action on why action was yet to be undertaken on the persons responsible for Ms. Ebbie's unfortunate demise. Before we could convene the sessions yesterday and today, the Committee was informed that the authorities had already moved swiftly to arrest and present in court the key suspect in the death of the said student.

This is a matter we are closely monitoring as a Committee and we will ensure we follow to its conclusion, so that we can present a report to the House to ensure that justice is not only done, but seen to be done to the family of the student.

Lastly, on the Statement sought by Sen. Crystal Asige, MP, the Committee held a meeting with the National Legal Aid Service (NLAS) at which the Committee was appraised on the status of the implementation of the Legal Aid Act No.6 of 2016 and measures being taken to address the challenges that have hindered its effective rollout.

In considering the said Statements, the respective Senators were invited to attend and participate in the meetings of the Committee and their contributions and participation were dully recorded.

Moving on to Petitions, the Committee has two Petitions referred to it and are undergoing consideration. These Petitions are-

1. Petition by Mr. Paulo Mospei concerning historical injustices suffered by the Torobeek Community.
2. Petition by the Kipsigis Community Clans Organization Members concerning land injustices suffered by the Kipsigis Community.

The Committee has undertaken extensive background and obtained sufficient information on work done on the two Petitions. The Committee is further scheduled to visit Nakuru and Kericho counties on 14th and 15th April, 2023, to meet and receive submissions from petitioners and other stakeholders in the two petitions. Once that is done, we project that we will finalize the reports and have them tabled in the Senate within the 60-day timeline, as provided for by the Standing Orders of this House.

I encourage the Senators who sought for these Statements previously, because we have realised in the course of our background checks that there are various Statements which have been sought on historical and land injustices on various communities affected, to also participate in the process so that we substantively deal with these issues.

On vetting of appointments to public offices, the Committee, during the period under review, undertook the vetting of Hon. Johnson Muthama, who was nominated for appointed to position of Member of Parliamentary Service Commission (PSC) under Article 127(2)(d) of the Constitution.

The Committee tabled its Report in the Senate, and following deliberations, the Senate adopted the report and approved the said appointment of Hon. Johnson Muthama to the PSC. He has reported to office and is undertaking his mandate as a Commissioner and serving the people of Kenya in that capacity.

On stakeholder engagements, the Committee continued to hold regular engagements with its key stakeholders to receive submissions and exchange various legislative and other business under consideration of the Committee, and also on matters committed by the House to the Committee. The Committee has also participated in

activities which the Chairperson and Members of the Committee have previously been invited to represent the Senate including-

1. The launch of the State of the Judiciary and Administration of Justice Annual Report (SOJAR) held at the Supreme Court Grounds on 4th November, 2022.
2. The 16th Annual General Meeting and Conference of Africa Prosecutors Associations (APA) held in Mombasa County on 30th and 31st January, 2023.
3. Consultative Forum with the Selection Panel for the Appointment of the Chairperson and Members of the IEBC, which I had the pleasure of addressing yesterday in the course of performance of their role.

While the Committee had scheduled its induction and work planning retreat in January 2023, the dates coincided with those of CPA Post-Election Seminar. As a result, we had to postpone the Committee induction retreat. This event which has since been reconfigured to a stakeholder engagement retreat, is now scheduled to take place from Monday to Wednesday next week, where Members of the Committee have decided to sacrifice the period within which they are meant to be on recess, in order to deal with serious issues involving this House.

The retreat will be in Naivasha, Nakuru County, during which period the Committee will meet with its key stakeholders, both from the Government and non-state actors, to discuss on respective mandates and areas of convergence, identify legislative gaps and firm up opportunities for collaboration and co-operation during the term of the Thirteenth Parliament.

On county and foreign visits, the Committee is scheduled to undertake its first set of county visits in the coming month in Nakuru and Kericho counties, during which period it will receive stakeholder views on the two Petitions, which I have already addressed this House on previously.

On foreign travel, the Committee participated in the 23rd Commonwealth Conference in March, 2023, in Goa, India.

The topics discussed during the conference were of great relevance to the Committee's mandate. We are finalizing the Report and will be tabling it on the Floor of the House upon resumption from short recess that shall commence at the rise of the House today.

As I conclude, I thank your Office for the support accorded to the Committee in undertaking its work. I also acknowledge the Secretariat support that the Committee has received from the Office of the Clerk during the period under review.

I commend the Members of the Committee who have been very diligent in executing the work of the Committee. I must commend this Committee because it meets every day on Tuesday, Wednesday, and Thursday, starting at 8.00 a.m. to transact the business that has been placed before it.

I, therefore, commend the Members because we have never at any time adjourned any Session of the Committee for want of quorum. I appreciate them for the commitment they have shown to their work and their responsibility.

Mr. Deputy Speaker, I thank you and present the Statement.

(Sen. Wakili Sigei laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): Thank you, the Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights (JLACHR). I thank you for showing that direction. In the Liaison Committee, we unanimously agreed that we need to have Quarterly Reports from the Chairpersons.

A request will be in the Senate Business Committee (SBC) next week, so that Chairpersons can get an opportunity to come and brief the House on the progress of their Committees and what they have done for three months.

Therefore, from the 11th, if that resolution is approved, we will have at least three Chairpersons per week to get at least 10 to 15 minutes to give us an update on the Committee work. Thank you the Chairperson JLACHR for you have shot the first one.

What is it, Sen. Kinyua? Why are you moving your body instead of keying the intervention key?

Sen. Kinyua: Mr. Deputy Speaker, Sir, it is because of the side where I am sitting. I am not used to it. I commend the good work that the Chairperson has done with his Committee. I know that one and the Senate Majority Leader will confirm that previously, that was done. After every three months, the Chairperson would come and give the Report of his Committee.

However, I have listened to one Petition that if my memory serves me right, was brought by Sen. Sang now Governor of Nandi County concerning a certain community in Nandi. I do not know whether it is Talai. It was brought and the Senate Majority Leader would confirm because he was there. It was brought by Governor Sang and again by Sen. Cherarkey.

My worry is this, are we just doing some investigations and then we fill in our shelves or do we need an Implementation Committee, so that they can follow what the Committee has recommended? Instead of us having that Committee, do an investigation and make their recommendation are their resolution followed or we are just doing it? Have we become a talk show in this Senate?

That was my request Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): That is a valid concern. However, now maybe the owner of the Petition is not aware that the Petition was executed by another Senator sometimes back. Therefore, the Chairperson of the Committee will work on it to know whether for sure they need to go back there or whether there is any report which was tabled here. If there is any other report, then the Secretariat can advise you accordingly and you do some other things.

Otherwise, let us now get the Senate Majority Leader. Make your Statement.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 11TH APRIL 2023

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order 57(1), I hereby present the business of the Senate for the week commencing Tuesday, 11th April 2023.

As you are aware, the Senate will proceed on a one-week recess at the rise of the House today until Monday, 10th April, 2023. Regular Sittings of the Senate will resume on 11th April 2023.

There are twenty two (22) Bills that have been published in the Senate. Out of these Bills, nineteen are at the Second Reading Stage and one is at the Committee of the Whole Stage.

One other Bill is undergoing concurrence as contemplated under Article 110 of the Constitution. This Bill will be scheduled for First Reading upon completion of this process by the Speakers of the Houses of Parliament. One Bill was concluded and assented to by His Excellency the President.

As indicated in the Order Paper at Order No.8 and 9, there are Bills scheduled for Division at the Second Reading stage. I urge the Majority and Minority Whips to mobilize the requisite number of Senators, so that voting thereon can take place.

Additionally, I continue to urge Movers of Bills to avail themselves in the Chamber whenever their Bills are scheduled in the Order Paper. I also urge Honourable Senators in accordance with our Constitutional mandate of representing the interests of counties and their governments, to attend Plenary Sittings to contribute to the business before the House.

Concerning Bills that are under consideration by respective Standing Committees, I urge the Committees to expeditiously conclude this process and to table reports pursuant to Standing Order No. 148 (1). On this matter, I implore the Chairperson of the Liaison Committee to intervene, so that reports on these Bills are tabled within the stipulated timelines

With respect to Petitions, the Senate has received ten that have been committed to respective Standing Committees, pursuant to Standing Order No.238(1). Standing Committees are equally urged to process Petitions within the sixty-day period as per the provisions of Standing Order 238 (2).

As I have communicated earlier, two Petitions are already due for reporting by the Standing Committees on Roads and Transportation and on Agriculture, Livestock, and Fisheries. I urge these Committees to hasten consideration of the Petitions and where necessary, seek intervention by the Chairperson of the Liaison Committee, where challenges are being experienced. I also want to assure the Committees that my office is open for consultation in a bid to expedite the performance of their functions.

Statements are increasingly being sought pursuant to Standing Order No.53 and others issued pursuant to Standing Order No.52. I urge Standing Committees to utilize the coming recess to consider and conclude on Statements as well as Bills and Petitions and report back to the House

The Senate Standing Orders were amended to provide for Cabinet Secretaries (CSs) to appear before the Senate to respond to Questions, expound on Government policies and provide reports concerning matters under their dockets.

The amended Standing Orders will take effect on 11th April, 2023. I take this opportunity to thank the honourable Speaker for giving guidelines on the processing of Questions and on measures to operationalize the changes to the Standing Orders.

Yesterday, the Senate passed a Resolution to alter its Calendar for the Second Session to provide for sittings on Wednesdays morning for Cabinet Secretaries to respond to Questions. Given that this is a new legislative process, I join the honourable Speaker in appealing for cooperation from Hon. Senators and urge that we familiarize ourselves with the new procedure, and the guidelines issued by the Speaker, ahead of its application upon resumption of sittings after the short recess.

On Tuesday, 11th April, 2023, the Senate Business Committee (SBC) will consider and approve the business for the day. This will contain business that will not be concluded from today's Order Paper and any other business scheduled by the Senate Business Committee. The Order Paper for Wednesday, 12th April 2023, and for Thursday, 13th April 2023, will contain business that will not be concluded on Tuesday, 11th April 2023, and Wednesday. The SBC will also schedule any other business as well as Petitions and Statements pursuant to the Standing Orders.

As indicated in today's Order Paper at Order No.32, I will move a Motion for the adjournment of the Senate pursuant to the Calendar for the Second Session.

During the recess period, the Easter Holiday will be celebrated. Our Muslim brothers and sisters have already begun observing the Holy month of Ramadhan. I take this opportunity to wish all hon. Senators Ramadhan *Kareem* and a Blessed Easter.

Let us use these religious occasions to undertake an introspection, reconnect with our creator and emerge stronger servants of the people and even reflect on the challenges our country faces.

Mr. Deputy Speaker, Sir, you may have keenly noted that our colleagues – mostly from the Minority side – are not with us this afternoon. I have been informed that most of them are out in the streets protesting. That leaves us in a very difficult situation.

The set-up of Parliament is such that the 47 million of us cannot fit in one room to make a decision on matters that pertain our country. We go through an election to elect a representative to speak and raise issues on your behalf on the Floor of the House. The drafters of our Constitution never anticipated a situation where the representatives abandon the premium platform that they have been given and join the citizens on the streets. It is unfortunate. That is not what we hoped for our democracy.

Mr. Deputy Speaker, Sir, we are aware of the difficult times that our country continues to face. After every election, there are people who will never accept the verdict of the people through the ballot. They then set up new mechanisms of finding a way of resolving electoral issues through extra-constitutional means.

The challenge that is before the President of the Republic, is whether to further perpetuate and inculcate this culture or stick by the position that many are urging him, to stand by the rule of law because he swore by the Bible to defend the Constitution. Defending the Constitution demands that you stay firm when the country is under threat.

Mr. Deputy Speaker, Sir, Kenya is a poor economy. We are trying our best to move the country from a very difficult time, where the economy had been ravaged. The administration that was before us actually demolished all instruments of accountability. As has been said, if the Government was a consumable, then they ate everything that was on the table, including cutlery.

While the economy is being repaired, the same people are back in the streets talking about the cost of living. A few months down the line, when Kenyans were talking about the cost of living, none other than hon. Raila Odinga, told us not to bark like dogs. It is there. He asked us not make noise. Which country does not have debt and so on and so forth?

For us to lose two days every week – Mondays and Thursdays – where citizens cannot go about their duties of nation building; and us ensuring that we work to make our nation a better place, then unfortunately, difficult decisions have to be made. We cannot

be lied to that these are just peaceful demonstrations. There is nothing peaceful about those demonstrations.

You have seen the struggles of our former colleague, Hon. (Prof.) Peter Anyang'-Nyong'o of Kisumu County. I now understand why he was at pains yesterday. He cancelled demonstrations in the morning and in the afternoon – of course after being forced – he said they shall try to demonstrate peacefully.

You have seen what has happened in Kisumu County today. After they looted all the supermarkets, they have now gone to kiosks of ordinary citizens, who do not know what a server is. In fact, most of them voted for these candidates that are mobilizing their supporters to terrorise them. They thought that would be the end of politics and the beginning of nation building.

In conclusion, I wish to urge our colleagues in the Minority side to come back to their senses and stop blackmail and economic terrorism that they are ravaging and running on the people of Kenya. There is no better way to describe what you are doing to your country. You cannot wish to have a better nation that is governed by the rule of law, yet you are out there ensuring other citizens do not enjoy their constitutional rights.

Mr. Deputy Speaker, Sir, the Constitution does not have Article 37 alone. We have said time and again, just like you have the right to picket, please, respect the rights of other citizens who want to go about their duties. This is unfortunate and uncalled for. However, I believe that in the fullness of time, a solution will be found.

The Deputy Speaker (Sen. Kathuri): Thank you, Senate Majority Leader.

Hon. Senators, I want to re-arrange the order of business. Business appearing as Orders No.8, 9 and 10 stand deferred.

BILLS

Second Reading

THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO.6 OF 2022)

(Division)

(Bill deferred)

Second Reading

THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL (SENATE BILLS NO.3 OF 2022)

(Division)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE PARLIAMENTARY POWERS AND PRIVILEGES
(AMENDMENT) BILL (SENATE BILLS NO. 5 OF 2022)

(Committee of the Whole deferred)

The Deputy Speaker (Sen. Kathuri): Let us now go to Order No.11.

BILL

Second Reading

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO.7 OF 2022)

(Sen. Mungatana on 23.3.2023)

(Resumption of debate interrupted on 23.3.2023)

The Deputy Speaker (Sen. Kathuri): The last Sitting is not indicated. Sen. Mungatana moved the Bill and was seconded by the Senate Majority Leader, but he still has a balance of 51 minutes.

Therefore, you either utilise the 51 minutes and discourage other Senators to sit and wait for you or maybe, spend some few minutes and then other Senators can---

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I can assure the Senators in the House that I have no intention of doing 51 minutes. I will be brief because I had said many of the things that I had wanted to say that afternoon. Nonetheless, here is something that I just want to conclude on, having read through Bill.

Mr. Deputy Speaker, Sir, for purposes of reference, the Bill seeks to give life to Article 43 of our Constitution on economic and social rights. I do not believe that it is out of idle duty that the drafters of our Constitution included any phrase, letter, comma or full stop, to be part and parcel of our Constitution.

Despite the fact that Kenyans unanimously voted and agreed that this now be the sovereign document that guides us as a people, it is still under threat and abuse by the people I had earlier on referred to. When our colleagues on the Minority side – specifically those from the Orange Democratic Movement (ODM) Party – ran short of constitutional clauses to defend their bad habits, they normally resort to Article 1, which says sovereignty and power belongs to the people. However, they never read further downwards about what the Article says and what it demands of us and how that power is to be exercised.

As I conclude on this Bill, I do not want to focus my contributions on that. I want us to think through on Article 43 of our Constitution. If you read through, each Kenyan is guaranteed of these rights. Whether you are in Mandera, Marsabit, Kericho, Laikipia, Makuani, Lamu and every corner of this country, you are guaranteed of these rights.

They are supposed to enjoy the highest attainable standards of health, which includes the right to healthcare services and reproductive health and accessible and adequate housing.

We have had this conversation about housing in the last few days. When it has become difficult for our colleagues to demonstrate and an opportunity has presented itself, they have found solace in visiting Kenyans who live in the informal settlements. Of course, many of them live there because of the challenges of life. Perhaps even on a Monday afternoon, you will find them at home because of lack of a working opportunity.

Mr. Deputy Speaker, Sir, we have affordable housing as a key pillar under the manifesto of the Kenya Kwanza administration. One of the programmes that we are implementing is to ensure that subsequently over the years, we shall be able to get rid of Kenyans living in the kind of informal settlements in almost each of our major towns. Previously, it was not ordinary to find slums – as they are referred to – in other parts of the country apart from Nairobi and Nakuru. However, you will agree with me that almost every county of this country now has a slum. That is not what we fought hard for when we were thinking about this Constitution. It is a constitutionally guaranteed right for Kenyans to live in decent housing.

Mr. Deputy Speaker, Sir, secondly, there is freedom from hunger. Reading through this economic and social right, I see the economic blueprint of this administration. We took time to draft solely for the people of Kenya. No wonder, the people of Kenya agreed with President William Ruto. Having listened to all the presidential candidates, President William Ruto was the only one who at least had a clue of what needed to be done in this country despite all the odds that were stacked against him.

Read through the economic and social rights that Kenyans demand be guaranteed to every Kenyan - freedom from hunger. It is unconstitutional for a Kenyan to be hungry. It is not easy to guarantee that right because we are a capitalist country. We are not a socialist nation, where we can say that those that are unable to make ends meet will be fed.

Mr. Deputy Speaker, Sir, what did we promise and what are we doing? We promised that we shall make food affordable and how are we doing that? While our competitors were subsidising manufacturers; the big boys in this town who mill, make their profit but despite charging exorbitant costs to ordinary Kenyans needed to be put in an affirmative programme where they are paid and run it as a subsidy programme.

However, we argued that the easiest way to ensure that ordinary Kenyans afford food and have it on their table easily is by subsidizing production and the farmer. You make sure they are able to produce cheaply. That is what is being done. On top of that, it is not sustainable to just rely on the ordinary farmers in Machakos, Kitui, Kericho and Marsabit to feed the nation.

Mr. Deputy Speaker, Sir, what responsible governments are doing out there and what this administration has begun to do, is to invest in large-scale agriculture. At the end of the day, if the national demand for a grain like rice is 300 million metric tonnes and farmers only produce 120 million metric tonnes. Normally, the deficit is imported and that makes us lose money and less competitive.

The deficit should be produced locally through large-scale agriculture by ensuring that the Government provides land and puts together the infrastructure by constructing

mega dams. We know there is plan that by the end of five years, this administration intends to put more than 400,000 hectares under irrigation; where investors will come and book portions.

Mr. Deputy Speaker, Sir, the first lot of 20,000 hectares is ready in Galana Kulalu as we speak today. A company known as Twiga Feeds is planting maize. That will ensure that unlike the current situation where due to weather conditions and abolishment of the fertilizer subsidy programme in the last five years, many farmers quit the production of maize because it was not economically sustainable then. However, there is 20,000 hectares of maize being planted that will fill the deficit that comes when our farmers produce for us. That deficit, most of which is imported, enriches farmers of other countries in Pakistan, Indonesia, Zambia and all other places where we import our grains.

There is no rocket science because we know how food insecure, we are. We know what the deficit is for each grain crop, whether it is rice, wheat or any other. Whatever grain we continue to import, fertile agriculture land should be provided for them to cultivate, produce and sell to the local *mwananchi* at a lower price. That is part of guaranteeing these economic and social rights. I do not intend to be long on this but in conclusion, allow me to speak on the issue of clean and safe water.

When we resume the Session, one of the Bills I shall move here as the Senate Majority Leader, is the amendment to the Water Act to provide for water purchase agreements, so that investors come and invest in the water sector in this country, use their own money and recover. Kenyans can afford to buy water.

However, the problem in many parts of this country is that even the water that Kenyans are willing to buy, is not available. If we rely on the Government alone to build dams, it will take many years. As the administration, we have ensured that we have generated water purchase agreements. That is part of the Bills we shall be moving here on the Floor of this House when we return.

Mr. Deputy Speaker, Sir, if that Bill is enacted, it will guarantee that in every part of the country, there is access of clean, fresh water. That is part of what is guaranteed here under the economic social rights.

There are many issues touching on social security, but we know what we are doing. Part of amendments that shall come here are those to do with the National Social Security Fund (NSSF) – the ability to save is important so that in your old age, you can take care of yourself. We should not have this business of Kshs200. I have seen people try to oppose that policy move. You look at them and wonder. They do not have to like the administration for them to use common sense.

Mr. Deputy Speaker, Sir, how can you be saving Kshs200 and expect in your old age, when you will be 60 or 70 years, the same amount will sustain you? Unless you are mad! We want to provide reasonable social security that will be well invested, put in place governance structures under our social security fund where in our old age, we shall earn and have a good pension so that we do not disturb our children.

The challenge we continue to have in this country is that when people retire, they turn back to their children who are barely beginning life. Before they even buy their first house, they have to struggle taking care of their parents. It is a vicious cycle of poverty, which the only way to cut and ensure you have a sustainable life, is guaranteeing this right.

Mr. Deputy Speaker, Sir, the same can be said on education, medical treatment and so on and so forth. These are the social rights that are spoken about in Article 43. Sen. Mungatana is guiding us and providing an avenue and a council. When this council is set up, they will tick and see through every Government policy being proposed on this Floor or being implemented by the Executive. They will determine how the policies align and provides avenue for ordinary citizens to enjoy this constitutionally guaranteed right.

I know that there are concerns that have been shared by Members of the Justice, Legal Affairs and Human Rights Committee (JLAC), on either overlapping roles between the council that is being proposed here in this Bill and constitutional commissions like the Kenya National Commission on Human Rights (KNCHR).

Mr. Deputy Speaker, Sir, given the facts of where we are as a country, in some of these things, the more, the merrier. If you can have one or two people checking and ensuring guarantee in terms of budgetary provisions, we will align and divide their duties so that Kenyans do not continue to suffer but enjoy these constitutional provided right. That will be good progress.

I do not want to continue longer than that because there are Members of the Senate who want to speak on this particular Bill. I wish to comment up to this particular point. With those many remarks, I beg to second.

The Deputy Speaker (Sen. Kathuri): Thank you, Senate Majority Leader.

(Question proposed)

Hon. Senators, this is now the time for you to make your contributions to this Bill. Sen. Tabitha Mutinda had made a request to speak on this Bill but she is not in the House.

Sen. Veronica Maina, kindly proceed.

Sen. Veronica Maina: Mr. Deputy Speaker, Sir, we have considered this Bill from the Committee on Justice, Legal Affairs and Human Rights and made certain observations on what has been presented here today.

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

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

Having considered the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill, 2022, and considering the submissions that we have received, there are certain observations that we have made as a Committee. We would be asking, at a later date, that some amendments be considered to be introduced to make the Bill even better.

Mr. Temporary Speaker, Sir, the Bill is timely. This is because it brings into fore or legislates upon very useful social and economic rights which have not been legislated upon.

Article 21(1) and (2) of the Constitution impose a duty on the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms provided for in the Constitution.

The State is also enjoined to take appropriate legislative policy and other measures to set standards to achieve the progressive realization of the rights provided for in Article 43 of the Constitution.

The Committee observed that we required additional or specific standards to be provided for in that Bill, so that we can have a standard on which to measure whether these rights, once provided for, can be measured over time. This is because, it is one thing to say that a Bill has provided for housing of Kenyans and another thing to measure whether two or 100 units of houses are enough.

Mr. Temporary Speaker, Sir, there must be provision of standards to show if we are talking about housing, then at what level of housing are we doing a progressive realisation of that right.

One of the items that have been provided for that would require reconsideration by the Mover of this Bill, Sen. Mungatana, is to consider introducing a set of standards to achieve what is intended by the Bill.

Additionally, we have observed that the social and economic rights are also cross-cutting in nature and they fall in different sectors. So, they cannot be provided for under that Bill in one stroke. They should be addressed maybe through different sectoral legislations so that they become more refined and better. When we are talking about water or finance, they go to the specific sectoral legislation that deal with the finer and minute details of where each social and economic right should fall into.

Mr. Temporary Speaker, Sir, we were also of the view that some of these social economic rights could be existing in various legislations which have been fronted to this House through the Senate Majority Leader from the concerned Ministries and State departments.

For us to comprehensively evaluate whether these social economic rights are provided for, it would also be important that the existing legislations are also analysed so that the gaps can be addressed.

A point in consideration, for instance, would be the fact that, if you look at the Hustler Fund, it addresses the needs of Kenyan citizens. You then ask yourself, what fund would address the manufacturing industry, for us to boost the local industry? Should we not have some legislations that matches the Hustler Fund, to effectively address some of the issues required to support manufacturers within Kenya to produce quality goods and then balance the trade between exports and imports? We will then have incentives for manufacturers through a fund that makes it much easier for people to set manufacturing industries. That is just one of the examples.

Mr. Temporary Speaker, Sir, we noted, under Article 59 of the Constitution, two commissions dealing with human rights. For example, the Kenya National Commission on Human Rights (KNCHR) and the National Gender and Equality Commission (NGEC).

The Bill gives some of the mandate to only one of the commissions while the two commissions have the mandate concerning economic and social rights.

The Bill needs to clarify between the two commissions. How do you distinguish the functions of KNCHR and NGEC? It needs to be clear. Distinct functions need to be assigned to avoid a situation where you have a clash or an overlap of the mandates of the two commissions.

One of the other items that would need to be clarified in the proposed amendments, is that the Bill might tend to replicate functions of KNHCR as set out in Section 8 of KNCHR. It, therefore, needs to bring into fore so that those functions do not collide with the current Bill, so that we do not have a situation where the institutions set by the Bill come into conflict with the KNHCR.

Mr. Temporary, Speaker, Sir, there is no need, as a way of a value add, to replicate the functions. The functions can be housed within one of the Bills, so that they are effectively executed by the relevant commission.

Additionally, there was the issue of Equalization Fund. As a committee, we were of the view that it should not feature within this Bill for obvious reasons. It will create a parallel framework for implementation of the fund which would result in a bit of mix up in terms of the functions of the Equalization Fund being located within that Bill.

Under Article 202 of the Constitution, the Equalization Fund was established to fast-track development in marginalized areas to the extent necessary to bring the quality of service in those areas to the level generally enjoyed by the rest of the nation.

So, if that fund then is located within that Bill, the understanding is that Article 43, is a general Article for all the Kenyans. There are specialized funds for any areas that are not at the same level with the rest of the country.

Therefore, if we locate it within the Bill that is being created to actualize Article 43, then it means that you will either have mixed it with the general fund or you will have disintegrated or muted the Equalization Fund and that can also result into confusion. So, we were of the view that a consideration be made that the Equalization Fund is separated from the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill.

The next issue would be the roles of each level of Government. This is because these rights are supposed to be enforced both at the national and county level.

The Bill should specify who is rolling out the implementation of which level of rights. This way, the responsibilities will be clear to avoid conflicts and a situation where one level of Government leaves their responsibility to the next level and assumes that a certain responsibility will be undertaken at a national level while, in actual fact, it should be implemented or actioned at the county level.

If it is a monitoring Bill that access whether the rights under Article 43 of the Constitution are being implemented effectively, what is the reporting mechanism and requirements under the Bill that should be set out to ensure that it is effectively done by the new law?

Mr. Temporary Speaker, Sir, the Committee also felt that the Bill did not address instances such as insecurity contributed by non-realization of economic and social rights either as a cause or effect of such insecurity and the interventions to be taken to ensure that citizens residing in such areas enjoys the economic and social right as enshrined in the Constitution.

Mr. Temporary Speaker, Sir a case in point which I have heard debated in this house in the last few days is the situation of insecurity which is happening right now in the region of West Pokot and Elgeyo-Marakwet where some Senators have presented situations in this house, feeling that the levels of insecurity are caused by other causative factors like scarcity of resources and clamouring for those resources.

It is not just that area it is prevalent even in other areas. An example is Kitui where we have scarcity of resources and this is driving communities to herd their cattle or camels in other zones and as a result, the scarcity of those resources becomes a major causative factor of insecurity.

The Bill also seems to suggest a separate strategic plan for incorporating socio-economic rights. The County Integrated Development Plan (CI DPs) are expected to integrate all matters related to development within the county. As such an amendment to the County Governments Act would be preferred if the language in Section 108 of the Act is found to not properly capture the obligation under Article 43 of the Constitution.

In effect, when we are looking at legislation that could be amended to bring into life Article 43, then we are looking at that Section 108 to see if there is possibility that it can be amended. It can be beefed up to allow for the County Governments Act, an existing legislation, to just continuously assist in rolling out or having an ecosystem within which these rights can be rolled out.

One of the observations that was done by the Committee is that the development plans, both at the National and county levels of government ought to integrate the realisation of economic and social rights. Therefore, there should be an alignment rather than a separation in planning and allocation of the available resources. It is harnessing the synergy of both the county level of government and the National level of Government.

Then there was also need for clarity on the efficiency of the institutional framework and the oversight mandate of the KNHCR. For this reason, the Committee observed that there is need for a feasibility study to determine the level of implementation of first generation of rights.

I know that the House is conversant with the first generation of rights; that is what is enshrined in the Constitution as the “Bill of Rights”; that being the civil and political rights, and the capacity of that commission to monitor the implementation also of the economic and social rights as proposed in the Bill.

So, there would be need to have a separation so that if we are then mandating the KNCHR to deal with the first generation of rights, then are we saying that we now lift the second generation of rights to the new Bill? Or are we saying that the KNCHR can have an amendment that allows it to then monitor the second generation of rights.

Then there was also need for a national conversation on the concept of progressive realisation of economic and social rights. What is notable is that over decades since this Constitution came into force, there has not been an attempt to start consolidating and implementing or monitoring the realisation of social and economic rights.

Though the Government has been doing quite a bit in this area, there then needs to be an accountable legislative framework that then calls that Article into some form of order or into some form of accountability insofar as its implementation is concerned.

Further, that the oversight mandate of Parliament regarding monitoring and implementation of economic, social and cultural rights should be more clearly provided for under that Bill. This should include the development of indices that Parliament can use to firstly monitor the implementation of economic and social rights by the two levels of government.

Secondly, oversight the work of the national monitoring organisation such as---

The Temporary Speaker (Sen Wakili Sigei): Sen. Veronica Maina, there is an intervention from Sen. Kavindu Muthama.

QUORUM

Sen. Kavindu Muthama: Point of order, Mr. Temporary Speaker, Sir. We have no quorum for this Senate sitting. We have no quorum in the House.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Kavindu Muthama, I believe you are notifying the Temporary Speaker, under Standing Order No.41.

(The Clerk-at-the Table consulted the Chair)

Hon. Senators, I am asking the Clerk under the provisions of Standing Order No.41 to ring the Division Bell for five minutes.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, pursuant to Standing Order No.41 there being no quorum, the Senate stands adjourned until Tuesday 11th April, 2023 at 2.30 p.m.

Sen. Veronica Maina, you will have a balance of four minutes of your presentation when the Senate resumes.

The Senate rose at 5.02 p.m.