

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 5<sup>th</sup> March, 2020**

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

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

**PRAYER****NOTICE OF MOTION****PROVISION OF CEMETERY, FUNERAL PARLOURS  
AND CREMATORIA IN ALL COUNTIES**

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker Sir. Let me approach the Chair first.

*(Sen. Dr. Milgo approached the Chair)*

**The Speaker** (Hon. Lusaka): Yes, Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker Sir. I beg to give Notice of the following Motion -

THAT, AWARE THAT under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories; public, community and private land;

FURTHER AWARE THAT, public land is vested in both the County and national governments and is managed on their behalf by the National Land Commission, and that Article 62 (2) clarifies the distribution of public land between the two levels of government.;

COGNIZANT THAT, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of County Governments;

CONCERNED THAT, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as “public” for use as a cemetery with the knowledge that any cemetery or burial-place that is crowded and therefore dangerous to health is defined as constituting a nuisance in the Public Health Act;

NOW THEREFORE, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual

Development Plans (CADP) for Financial Year 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Speaker Sir. I think that this is a Motion that has come very timely, considering that one of the most important aspects of human life---

**The Speaker** (Hon. Lusaka): Order, Sen. (Prof.) Ongeru. It is a Notice of Motion. Next Order.

## STATEMENTS

### MENACE CAUSED BY SECURITY PERSONNEL MANNING BUSINESS PREMISES

**The Speaker** (Hon. Lusaka): Sen. Nyamunga, this Statement is deferred.

*(Statement deferred)*

Sen. (Dr.) Milgo.

Sen. (Dr.) Milgo, are you ready? You seem to be gathering some things.

### MEDICAL INTERVENTIONS TO ADDRESS THE CHALLENGES BROUGHT ABOUT BY DIABETES IN KENYA

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker Sir. I rise, pursuant to Standing Order 47(1), to make a Statement on a matter of general topical concern, namely interventions to address the challenges brought about by diabetes in Kenya.

As you may be aware, the number of Kenyans living with diabetes is rising and deaths from the disease have doubled in the last three decades, according to statistics. A report by the World Health Organization (WHO) in 2016, suggests that one in every 17 Kenyans is diabetic and the International Federation (IF) data figures show that there were 458,900 diabetes cases in 2017.

Mr. Speaker, Sir, diabetes is caused by lack of, or inadequate levels of insulin in the pancreas, hence impairing the body's ability to process glucose. Despite being termed as a lifestyle and manageable disease, especially with regard to Type 2 Diabetes, many more people are still getting diagnosed with it.

The irony is that low income members of society are worst hit by the disease and there are two contributing factors that predispose this group to the disease. First, they lack easy access to information about the disease in terms of how it can be prevented, diagnosed or even managed. Secondly, they lack finances to screen, buy drugs or properly manage the disease, once diagnosed. The high cost of healthcare also prevents Kenyans from seeking medical help, thus leading to severe complications and even death.

Mr. Speaker Sir, the average cost for a single testing strip is KShs50, which translates to approximately KShs200 a day, without considering drugs, insulin, meals and hospital fees.

To curb all these problems, we must put our minds and efforts together so as to raise a healthy and prosperous nation. I wish Universal Health Coverage (UHC), an integral part of the country's efforts geared towards attainment of the desired status of health as elaborated in the Kenya Health Policy (KHP), would be implemented and expanded to cater for more diseases besides the common cold, flu and malaria. It would ensure that Kenyans receive quality, promotive, preventive, curative and rehabilitative health services without suffering financial hardship.

Mr. Speaker Sir, Given the above scenario, my concerns, therefore, are -

(1) What measures can the Government put in place to modify the existing policies to bring on board non-health sectors to encourage prevention of diabetes?

(2) What are the plans to consider subsidizing the cost of diabetes drugs?

(3) What interventions can be put in place to enable the low-income members of the society to access the drugs and information on how to manage the disease?

I would wish to urge the Standing Committee on Health to look at this matter and come up with conclusive recommendations on addressing diabetes in the country.

Thank you.

**Sen. (Prof.) Ongeri:** Thank you, Mr. Speaker, Sir. I rise to support that Statement because it is of great importance to this nation. Diabetes is a non-communicable disease; in other words, it is a preventable condition. It needs not to happen. We need not have the complications that arise out of diabetes.

Mr. Speaker, Sir, there are two types of diabetes; Type 1, where insulin from the pancreas is not being generated in a proper and right manner. This leads to the group of patients who have diabetes as a result of lack of secretion of insulin. There is Type 2 Diabetes, whose patients have insulin release, but the peripheral utilisation of insulin to go to the cell is being hampered because of some resistance to insulin action. We need to separate these two categories. The end results, whether it is Type 1 or 2, is the fact that they will end up with complications leading to heart failure or hypertension, which can cause death at an early age. It is said that if proper education and lifestyle are not encouraged at the home level, we will then have a lot of complications and deaths occurring.

Mr. Speaker, Sir, if you look at the statistics in Kenya today, it is quite clear that most Kenyans are losing their lives either because of the sedentary type of life that they are leading; or they are eating foodstuffs which may increase their weight and fat content and, therefore, bring them problems of hypertension and heart problems. We need to educate Kenyans on the kind of foods we have. We have indigenous foods that do not cause problems. We have gone the *boflo* way; and the kind of latest lifestyle of imitating other cultures, and these are the ones which are bringing us problems.

Therefore, Mr. Speaker, Sir, my message in this Statement is to state, first, that it is a preventable condition. Therefore, the Universal Health Care (UHC) at the county level ought to take active measures to control this element. This is because you can prevent it from occurring. Secondly, those who are already affected by the disease need drugs. Whether it is Type 1, which requires insulin, they will need a lot of drugs and it is expensive. Whether it is Type 2, depending on the type of anti-diabetic drugs you want to use – and there are variety of them, some acting at the liver level and others acting at the cell level – they are expensive. Some of them are still patented drugs and, therefore, they

are not generic drugs which are expensive. An ordinary Kenyan or home cannot access these drugs and, therefore, they tend to give up and die early.

Therefore, Mr. Speaker, Sir, the message in this Statement should be; how do we recognise our county level health centre facilities to give patients with this kind of condition access to these lifesaving drugs? This is the real message of this Statement, and I want to support it.

When, finally, whichever Committee will handle it, Mr. Speaker, Sir, in your own wisdom, we need to come out clearly on how to prevent non-communicable diseases. We must go hard on promotive and preventive type of treatment which is available, cost-effective and cheaper. That way, we can achieve better results and longevity for our nation.

Thank you, Mr. Speaker, Sir.

*(Interruption of debate on Statement)*

**The Speaker** (Hon. Lusaka): Hon. Senators, I have a brief communication before I call the next speaker.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM CHEBIGEN  
HIGH SCHOOL, KERICHO COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Chebigen High School, Kericho County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

Proceed, Sen. Iman.

**Sen. Iman:** Thank you, Mr. Speaker, Sir. First, I join you in welcoming the students from Kericho. This is the right place to be, and you should borrow a leaf from here and apply it when you become either a Senator, a Member of Parliament or any other thing.

*(Resumption of debate on Statement)*

Mr. Speaker, Sir, I support Sen. (Dr.) Milgo's Statement regarding patients with diabetes. The narrative I heard when I was young was that only the elderly suffer from diabetes due to old age or because they are dying. However, the number of children who are dying or living with this non-communicable disease is huge. The children are being left behind as people think that only the old people suffer diabetes. I would like these people to have access to quality care by trained healthcare professionals. They should get access to stable and affordable insulin supplies which should be self-managed through patient education.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me a chance to contribute to this Statement. When it comes to diabetes, it is a silent killer. By the time people realise, the disease has gone too far and it has a lot of damaging effects to the body.

Mr. Speaker, Sir, we have to ensure that we defend our Constitution, especially Article 43, which talks about socio-economic rights. One of the socio-economic rights is that of health; that everyone has a right to attain good health. It is, therefore, in our docket to ensure that we are supporting this Statement so that it works for the common man.

Mr. Speaker, Sir, why do we need to address this issue of diabetes? It is because it has negative effects and impact as it causes damage to the body. For instance, people who are diabetic sometimes get stroke, heart diseases, nerve diseases, eye problems and some are not able to walk well. When someone has all these problems, it has the net effect of making the person unproductive. When one has such an effect, it means that the person will have to look for money for treatment. Managing a diabetic person is very expensive and retrogressive to the economy of the family. Families that have parents or people who are diabetic have big financial problems.

Therefore, Mr. Speaker, Sir, the burden of diabetes takes many families far back. Apart from that, diabetes can even make one lose his job. In a situation where one is diabetic, he is not able to perform. At place of work, when you are unable to perform, your employer will be patient maybe for one or two weeks, and after that, you begin getting letters asking why you are late, or not performing.

In order to avoid such a situation, there is need for county governments to do a massive awareness campaign on diabetes. There is a lacuna in the county governments because if there is a massive campaign on diabetes, then it possible for people to know how to prevent it.

Mr. Speaker, Sir, we have two major types of diabetes. There is type 1 diabetes that affects children and young people and type 2 diabetes that cuts across. There is also a minor type called gestational diabetes which is common in pregnant women but with time it can turn to type 2 diabetes. Therefore, there is need to do a campaign for people to know how they can prevent diabetes, for example, by exercises and ensuring one eats well and reducing sugar intake. People should also take tea or coffee because some research has shown that even teas and coffee can help in preventing diabetes.

This Statement by Sen. (Dr.) Milgo should not be taken for granted. It should go to the next level. County governments should implement what Sen. (Dr.) Milgo wants this Senate to help her achieve.

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

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. In terms of healthcare, diabetes and other problems affect the people at the bottom of the pyramid. That is because of their capacity in terms of affording healthcare.

Since health is devolved, it is time our governors took the matter of diabetes seriously. This is because if people access diabetes drugs, they can live a normal life, especially those that are affected at a younger age. As my colleague has commented, it is not a disease of the old anymore.

If we curb corruption, we will have enough money for the people suffering from diabetes or other ailments because they cannot afford medical care. For the people who

come from the high end of the society, diabetes is not an issue in terms of medication, but it affects majority of Kenyans living below the poverty line.

Mr. Speaker, Sir, I hope you will commit this to the Senate Committee on Health. When that is done, we want our colleagues in that committee to ensure that the Government comes up with a policy, so that people who are suffering from--- It is a lifelong disease anyway. People with diabetes have no option but to live on medication.

Mr. Speaker, Sir, we can improve the quality of our people through providing proper healthcare. I thank Sen. (Dr.) Milgo for bringing this important Statement to the House.

I support.

**The Speaker** (Hon. Lusaka): I cannot see the Senator for Lamu County. Therefore, his Statement is deferred.

STATUS OF THE LAPPSET PRESIDENTIAL SCHOLARSHIP  
PROGRAMME IN LAMU COUNTY

*(Statement deferred)*

STATE OF AHERO AND WEST KANO IRRIGATION SCHEMES

**The Speaker** (Hon. Lusaka): Sen. Nyamunga is also not here. Therefore, we will defer that Statement.

*(Statement deferred)*

UBOMOAJI WA MAKAZI YA WATU WA ENEO LA  
MWAEBWA, KAUNTI YA MOMBASA

**The Speaker** (Hon. Lusaka): Since Sen. Faki is not here, that is deferred.

*(Statement deferred)*

**The Speaker** (Hon. Lusaka): Proceed, Sen. (Dr.) Milgo.

IMPLEMENTATION OF THE NATIONAL LAND  
USE POLICY IN THE COUNTIES

**Sen. (Dr.) Milgo:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the implementation of the national land use policy in the counties.

In the Statement the Committee should-

(1) State how many counties have factored in provisions of the National Land Use Policy as Contained in the Session Paper No. 1 of 2017 in coming up with County Integrated Development Plans (CIDPs).

(2) Explain measures put in place by counties to ensure that land regulations, land use plans and policies are implemented.

(3) State measures put in place to ensure the biodiversity in counties is protected.

**The Speaker** (Hon. Lusaka): Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. This is also a very important Statement from Sen. (Dr.) Milgo.

The issue of land use is very important in this country. There are many times we have had cases of public land being used wrongly. There are situations where private developers have encroached public land.

There is need to ensure that even in the counties, there is a framework for ensuring that when it comes to development, there is a provision on how land needs to be used. For instance, there is need to have a plan of what qualifies to be a church, a school or even a recreation place. In some counties, you will find that all land has been used such that there are no recreational places at all. People become idle and in the process get into behaviour that is not warranted.

There is need for county governments to ensure that in their development plans, they make provisions for schools, hospitals, recreational facilities and all that. This will avoid public land from being grabbed by people who are always hawk-eyed who look out for land that is not being used. This will also ensure that land is used for the purpose for which it is meant.

You will find in some counties that even schools are found in busy or noisy places that are not conducive for learning. This is something that needs to stop, so that land is used in a manner in which it is supposed and according to the initial development plan.

I support.

**Sen. (Prof.) Ongeri:** Mr. Speaker, Sir, land use in Kenya has been one of the most topical issues that over a period of time have either failed miserably because of non-compliance with the rules and regulations governing land.

I had an occasion of being the Ambassador of Kenya to the UN Habitat. One of my last functions was the negotiation of the new urban agenda which now falls under the Sustainable Development Programme (SDP) for this nation. If you are keen, you will notice that land parcels are shrinking particularly in very highly populated areas. Even in areas that are sparsely populated the management of ranches and land in those areas leaves a lot to be desired.

If you notice, in the kind of planning there is in Kenya today, people scramble for the first line plots because they are expected to have value. When we came up with a sustainable policy for land use in this country, it was meant to do what is called spatial planning. Particularly, in the developing urban centres, towns and cities, you need to do spatial planning.

When you do spatial planning, you increase the value of land; whether it will be the first, second, or third row because that kind of spatial planning has the effect of increasing the services available for those who want to use land.

You can maximize land use, instead of leaving people to congregate in one frontline and creating the slums that are now sprawling all over the place. If we are not careful, we may become so inefficient that instead of developing towns and urban centers, we will be developing slums. Slums do not create capital, revenue or anything. If anything else they become a menace because of the health hazards and congestion in those slums that are not able to help anybody to survive in a very competitive economic world.

Mr. Speaker, Sir, land use in Kenya, whether for urban planning, rural agricultural, irrigational, and development purposes must be done in such a way that it is in line with sustainable land use in the United Nations (UN) New Urban Agenda.

This is an important Statement that we need to look at. There must be a buy-in by all county governments. There was a county government forum that participated in sustainable land use in the New Urban Agenda in the New York Conference. In fact we went to South America and I nearly died there because of the altitude and the smog that was coming through the volcanic eruptions. It is an expensive affair.

Mr. Speaker, Sir, my recommendation at this stage is that let the Committee on Lands, Environment, and Natural Resources - with your concurrence Mr. Speaker, Sir - come up now with the latest position of Kenya on land use and escalate this to the county level. Let us see what kind of spatial planning they have developed because these days, this has the effect of attracting capital funding for development in various areas. It is money that can easily be available. Investors can come into the country and invest in activities that have been properly planned and done well.

In Rwanda, when they developed a city, there was a lot of investment in that place. Therefore, there was a lot of capital flowing into Rwanda thereby increasing the Gross Domestic Product (GDP) of that country. Similarly, we can use land as a resource particularly if we follow the regulations and the rules that were set up through the New Urban Agenda in the Sustainable Development Conference that was held in the UN General Assembly.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir, for this opportunity. I want to congratulate Sen. (Dr.) Alice Milgo for this statement on implementation of the national land use policy in counties. Most of my colleagues have alluded to the fact that most of land use has been violated in this country. When most towns were being planned and zoning being done, some areas were classified as agricultural zone areas like where we come from; it was for the good intention and planning purposes in this country.

The reason we have uncontrolled and spiraling developments across our cities is because most of the counties have not adhered to the directions and legal provisions that have been provided by various Acts and laws put in place including the Urban Areas and Cities Act. It is important that our counties try and assist us. If you will remember the upgrading of slums, one of the biggest slum areas in Africa is Kibera slum and many others. It is so sad that when you walk in a small centre anywhere as you travel across the country in Kenya, you must get atleast one or two slum areas that are coming up. This is because of poor land use.

Mr. Speaker, Sir, these are some of the issues that we need to agree. I have seen leaders who have complained that there are places where we have not shown commitment on issues of land use. Some of these issues have gotten their way into the national discourse. It is important that our counties are guided on how they should proceed with the land use policy. When you go to our towns, be it the county headquarters or our small towns, we should at least have orderly and proper planning for our counties.

This is very unique. I hope the Committee on Lands, Environment, and Natural Resources through the Chairperson, Sen. Mwangi Githiomi will ensure they put into



perspective and ensure that counties are held to account so that they adhere to the land use policy. Even the National Land Commission (NLC) and the Ministry of Lands and Physical Planning and the counties as the state actors must agree. The Constitution has classified various ownership and types of lands that we have in this country. I support and think it is a timely proposal or Statement that will assist our counties. They say that if you fail to plan, you are planning to fail.

Thank you, Mr. Speaker, Sir.

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

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. First, I salute the new tremendous industry coming from Sen. (Dr.) Milgo in her performance in the House. Thank you for bringing this very important Statement. Land use policy in this country does not lack legislation, policy and regulation. What it lacks is the goodwill to enforce the existing regulatory structure.

The new Constitution 2010 clearly states that land must be seen as a tool of production. Planning is therefore very important if you want to use land for that purpose. However, we are in a country where nobody cares about what happens to land. In fact, we should not indict the counties because they have not been there for less than 20 years. It is the national Government that has messed up the land policy in this country.

Mr. Speaker, Sir, many times in the National Assembly when I was a Member, policies and sessional papers were brought to the House clearly defining what we need to do with land planning and how to regulate the use of land. What we have seen is a total negation of what ought to be done. If you look at counties like Trans Nzoia, Uasin Gishu and Bungoma which are the bread baskets of this country, you will find that the level of fragmentation of agricultural land in those areas leads you to an inevitable conclusion that Kenya is headed to become a supermarket economy.

Food production is dwindling by the day. Large farms that used to produce a lot of food have been fragmented to a level where they cannot produce anything. We have turned land everywhere into a commercial enterprise with people subdividing and selling land in very small uneconomical pieces yet the law is very clear that in order to subdivide and sell land, you need to go through some regulatory process.

Mr. Speaker, Sir, we have land control boards for agricultural land. We have council permits and permission required for land use. If you drive around the country you will note that anybody with land that touches on a road wakes up in the morning and builds a shop then he starts demanding to be given electricity, water and police to protect him.

Mr. Speaker, Sir, urban centres are designated to bring populations together and give them necessary facilities, such as, schools, hospitals, security, water *et cetera*. However, if you drive from here to Nakuru, there are shops and kiosks everywhere which are littering the whole country. Therefore, the Committee that will bring the answer to Sen. (Dr.) Milgo's question must tell us what collaborative process is there between the national Government and county governments in land regulation and use.

Mr. Speaker, Sir, we also know that the bulk of money for land management in the country is still held at the centre yet we say resources must follow functions. All the urban centres in the country become cities by name. For example, Sen. Kihika's town is struggling to become a city. At the end of the day, they are irritating eyesore slums that nobody wants to look at.

Mr. Speaker, Sir, when we had the upgrading of slums in Kibera, you saw how reckless the now Governor of Kirinyaga played. In stead of going to Kibera to upgrade slums, she went there to commit the monstrous fraud through National Youth Service (NYS). We ended up with nothing done and money lost. Instead of promoting slum upgrading, she was busy telling Kenyans how the former Member of Parliament (MP) of Kibera did nothing when she was also doing nothing.

This country must style up and wake up to the reality that with a country with only 22 per cent of our land classified as arable and high density, and with a population running to 50 million, sooner than later, we will suffer severe stress in the provision of water, food and facilities that the citizenry require. So, my friend, the Chairperson of the Committee on Finance, Commerce and Budget should also weigh on this and make sure that enough resources move from the centre to the counties to ensure regulatory management of land use in the country is put in its rightful place.

Thank you, Sen. (Dr.) Milgo for bringing this matter here. Follow it up to its logical conclusion.

*(Interruption of debate on Statement)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MOI GIRLS KAMUSINGA  
SECONDARY SCHOOL, BUNGOMA COUNTY

**The Speaker** (Hon. Lusaka): Before we proceed, I have a brief Communication to make.

I would like to acknowledge the presence, in both the Speaker's and Public Gallery, this afternoon, of visiting students and teachers from Moi Girl's Kamusinga Secondary School in Bungoma County.

For your information, in my other life, while at the university, I taught there as a non-trained teacher.

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

*(Applause)*

Sen. Wetangula, you can welcome them before I invite Sen. Dullo

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I join in welcoming students and teachers from the mighty county of Bungoma, where yours truly is the Senator and the Speaker hails from.

Mr. Speaker, Sir, Moi Girls Kamusinga is a school that I am particularly proud of. This is because it is a twin school to my old school, Friends School, Kamusinga where I went to high school. It is also a school that has a population that is large enough to qualify to be made a national school. Therefore, you and I should pursue this to assist in this regard.

I feel proud to see the girls here because Bungoma, being one of the most densely populated counties in Kenya, has been on the frontline of supporting girl education from

Early Childhood Development Education (ECDE), to high school and university. We will do everything possible to ensure that our schools do well.

To the girls and teachers, this is the Senate, a House of reason, the 'Upper' House in the Parliament of Kenya and the House that does not tolerate jokers. We encourage you. As some of us retire, we can see Senators, MCAs and Members of the National Assembly among you. When you are here, you will see dynamic female legislators who have walked the same path as you have.

You are welcome. Feel free. The Speaker and I will have an opportunity to talk to you.

Mr. Speaker, Sir, I am also proud to tell the Senate that in my earlier life, as a non-trained teacher, Mr. Speaker was one of my students.

*(Laughter)*

**The Speaker** (Hon. Lusaka): I confirm that it is true. I also confirm that I went to Friends School, Kamusinga, a neighbouring school to Moi Girls Kamusinga.

*(Resumption of debate on Statement)*

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I wish to join you and Sen. Wetangula in welcoming these beautiful girls to the Senate. This is the first time we are having this number of girls visiting the Senate. I wish to tell them that the sky is the limit.

Sen. Wetangula said this morning that the Majority Leader in the County Assembly of Bungoma is a woman and she is the only one in the whole country. So, tomorrow, you can also be the Speaker of the Senate or take over from Sen. Wetangula as a Senator. You will also represent women in the country just like the ladies that you are seeing here. However, that will only work if you work hard today.

I welcome you to the Senate so that you can learn what we do.

Mr. Speaker, Sir, I take this opportunity to support the Statement by Sen. (Dr.) Milgo which is long overdue. The Committee should seriously look into this matter. In most parts of the country policies are disregarded. Procedurally, policy should come before legislation. Unfortunately, we look at policies when legislations are done. So, we are starting from up going down instead of vice versa. That way, we are messing our counties.

I will give an example of Isiolo County. I wish to tell the country that the Ministry of Lands is messing up land policy and legislation and something needs to be done.

I saw that the Law Society of Kenya (LSK) petitioned the National Assembly and the Senate on land issues. Something needs to be done about what is happening in the Ministry and how they are handling land issues. For example, the land in Isiolo County is community land. However, the Cabinet Secretary (CS) colluded with the governor to use adjudication on community land without involving the communities. We have appealed to the Attorney-General and told him that it is illegal but he does not want to listen to us.

Land is the only thing that we have as Kenyans and more so as people from Isiolo County because of the kind of life we lead. We have animals and we are pastoralists. So, if our land is adjudicated to Tom, Dick and Harry, we will not have anywhere to go.

Mr. Speaker, Sir, I support this Statement. I also wish that the Committee on Lands, Environment and Natural Resources will look at this matter and summon the CS to the Committee of the Whole of this House.

**Sen. M. Kajwang’:** Thank you, Mr. Speaker, Sir. I join you and Sen. Wetangula in welcoming the young students from Moi Girls Kamusinga in Bungoma. That revelation that Sen. Wetangula was your teacher and you were his student explains a lot. At times, a teacher is proud when the student does much more than the teacher ever did. You sitting on that Chair and directing Sen. Wetangula must make him proud because, after all, you are his student. It has also been said that students can get out of hand; I do not think that you have gotten to that level.

To the Students from Moi Girls Kamusinga, I want to encourage you that the seat on which the Speaker sits today, he was not born with it. It is not his birth right to sit on it. Any of you can sit on it and scale heights higher than Hon. Lusaka and Sen. Wetangula, and all the Senators in this House. I want to encourage you to work hard and be determined, but also to place God above all else in your endeavors and success will be yours for the taking.

Mr. Speaker, Sir, allow me to comments on the Statement that was brought to the House by Sen. (Dr.) Milgo on the implementation of the National Land Use Policy in Kenya. There is the over-racking land policy that I think was captured in Sessional Paper 1 of 2017. We have got Chapter 5 in our Constitution that talks about land and environment; the Lands Act and the National Lands Commission (NLC).

In Kenya, we have the land question and we still do not have the right answer to it. At the last elections people told us that when it comes to the land question, they have got the solution. Unfortunately, the solutions that we legislated on and captured in our Constitution and in various policies were solutions that were aimed at making happy people who were in the ruling class and are contributing to the land issues in this Republic.

If you look at our policy and approach towards land, ask yourself why Kenya was unable to put a pipeline through Northern Kenya, and it was cheaper to put a pipeline to transport oil through Tanzania, that is, for Uganda. It is because of our policies on land. No one was born on this earth with land attached to his neck. Why have we not considered adopting policies - not exactly what Tanzania has but something close - such that the Government does not have to pay billions of shillings to buy land of which it is a trustee?

We brought to this House a report on cases where the Government bought its own land. If you look at the Standard Gauge Railway (SGR) project, much of the money that went to that project went into buying real and fictitious pieces of land. Our land use policy is crooked and that is why my brother, Sen. Olekina, gets himself in trouble when he tries to defend the interests of the Maasai community. At times he is unaware that the horse has bolted. The Maasai of Kiserian or Rongai is not the same Maasai that was there 50 years ago.

It is through a proper land use policy that we can assure even indigenous communities that, yes, Kiserian or Rongai could be part of traditional Maasai land - even Nairobi, Nyeri and Laikipia are part of traditional Maasai land – but we should not have a system that encourages people to come up with historical claims that can cause anarchy. That can only be done if we have a proper land use policy.

Finally, my challenge is to those who run our counties. The County Government Act requires each county government to develop a spatial plan that will dictate and define how land will be used. Our counties are becoming slums and the people who are contributing to the slum nature of our counties sometimes are the ones who have stolen money from county governments. They are building hotels, shanties and all sorts of structures in the counties with ill begotten money.

There has to be some order. The Committee on Lands, Environment and Natural resources must call all the counties and ask them for progress update on their spatial plans. It is not just the plan itself; we need to see action on implementation. Devolution is now eight years old; let counties not tell us that they are still developing their spatial plans. Some have told us in the Committee on Public Accounts and Investment that they do not have spatial plans.

Finally, Mr. Speaker, Sir, the NLC was a classical failure, and I hope that the Commissioners who are in NLC will do a better job but let us reflect. To the students who have visited the Senate today, if you have got aspirations of owning 50,000 acres of land, remember the question posed by Leo Tolstoy. He asked: "How much land does a man need?" At the end of the day, it is six feet wide and 6 feet deep. Let these students not be bitten by the bug of hunger and greed for land, but the greed and hunger to be good humanity.

Thank you, Mr. Speaker, Sir.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, let me also join you in welcoming the students from Friends School Kamusinga in Bungoma. When I was a young boy, we used to hear that it was one of the good schools in Kenya. I am happy that you guys went to that School yourselves. Welcome young girls.

*(Loud consultations)*

**Sen. Wambua:** I am on a point of order, Mr. Speaker, Sir.

*(Sen. Mahamud remained standing on his feet)*

**The Speaker** (Hon. Lusaka): Order, Sen. Mahamud, take your seat.

**Sen. Wambua:** I heard the Senator for Mandera making reference to some guys and I am wondering who they are in this House.

**The Speaker** (Hon. Lusaka): Sen. Mahamud, there are no guys in the House. Can you address the Senators appropriately?

**Sen. Mahamud:** Mr. Speaker, Sir, if I said 'guys', I meant 'Hon. Members.'

Mr. Speaker, Sir, I am happy with the Statement requested Sen. (Dr.) Alice Milgo. I think that land is a big and emotive issue in this country. Kenyans will continue killing one another because of land. Land policy has not been streamlined for all these years. Implementation is the problem with the current land use policy in place. The advent of the counties has not also helped.

Kenyans must learn from their experiences. We actually have so much to learn. Everybody thinks that they must have a piece of land; there is no land that will be enough for the 47 million Kenyans. Therefore, we must use the land that we have properly.

Counties are mandated to do spatial planning, but I do not think that they have the capacity. The national Government must avail funds to counties and do spatial planning for them. This is because that mandate was taken away from them, if you look at the Land Use Policy. The community land must be registered. I think that the NLC and the Ministry of Lands must register all community land before one actually compulsorily acquires community land, since communities can actually be disadvantaged. This must be dealt with so that we can have proper use for our land.

When you look at how land is acquired in this country, there is an area between Westlands and Rironi, where the land compensation was much higher than the loan that we got from the World Bank. That is why that road is not progressing. Kenyans have become crazy about compensation and there must be a proper way of acquiring land without making it very expensive.

As we look forward to the implementation of the Land Use Policy, we must adjust it to make sure that all the experiences we have gained so far can be taken into account. Land is a serious issue that should be dealt with accordingly.

Thank you, Mr. Speaker, Sir.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity. First, I want to join you and my senior colleague, Sen. Wetangula, in welcoming students from Moi Girls Kamusinga.

I heard this morning from Sen. Wetangula that Bungoma County has 13 elected women Members of County Assembly (MCAs). That is a big plus for Bungoma County. I think that a big population of the students from Kamusinga come from Bungoma. Therefore, it will be safe to say that these girls in the Gallery today hold the promise and the future for Bungoma County. I encourage them to work hard and be focused in the things that they do in and out of school.

Having said that, I want to comment on the Statement by Sen. (Dr.) Alice Milgo. Land in this country has become a serious and emotive issue. It is so serious that I am thinking that this Statement will eventually be committed to the Committee on Lands, Environment and Natural Resources.

It would serve us much better, if the Cabinet Secretary for Lands is made to appear before a Committee of the Whole, because every Senator representing all counties in this country has an issue with land.

Mr. Speaker, Sir, for example, in Kitui County, two weeks ago, the County Government of Kitui advertised subdivision of community land and sharing some portion of land to the Kenya Police Service (KPS). What caught my attention is the Government saying that they are setting aside 2500 acres to settle squatters. I wondered where 2500 acres of land in Kitui County are to settle squatters and where the squatters will come from. There are issues around that. Once land is subdivided and given out, it is lost. It is not like money where you can work and refund. Once you share the land, you have shared it out.

In support of this Statement, I request that the Cabinet Secretary for Lands appears before the Committee of the Whole, so that we bring the issues that we have on land in our counties and deal with them decisively.

I thank you.

**The Speaker** (Hon. Lusaka): Sen. Wamatangi, you have the Floor.

**Sen. Wamatangi:** Thank you, Mr. Speaker, Sir. I join you in welcoming the students from Friends School Kamusinga, together with the Senator for Bungoma, Sen. Wetangula. Although they have left, students from the Speakers' County should have been given an extended stay, to enjoy and revel in the achievements made in this House, noting that, two of the top leaders in this House, the Speaker and Sen. Wetangula who is one of the senior Members of this House, have guided and have been of exemplary performance in this House.

Having said that, I also join my colleagues in support and acknowledgement that the Senator from Bomet County, Sen. (Dr.) Milgo, has brought up a very important issue that ought to have been debated a long time in this House, given the fact that her emphasis is on the role of counties in planning.

Of main concern is the speed and magnitude at which slums and unplanned houses are coming up in our counties. It is noteworthy of emphasizing. For example, if you look at areas like Kitengela, Ongata Rongai within Kajjado, upcoming dwellings like Kikopey in Gilgil and several others, you cannot help but get disturbed at the rate at which unplanned town dwellings are coming up. It is not only on roadsides but also without facilities in the modern day Kenya. You will find a new building comprising of mixed up commercial and residential sections.

I had an opportunity recently to visit Kikopey in Nakuru where the Majority Whip comes from. In the middle of residential dwellings, you have a makeshift hospital and near the hospital is a slaughterhouse. All those places are inaccessible because there is no planning. How can a fire extinguisher access people living in those structures, yet these are permanent buildings which have been approved by the county government to be constructed and the owners have paid for the building licenses? One is left to wonder about our planning and what thoughts we are applying to land use in present day Kenya.

I want to congratulate the same county because, when we went to launch the dry port at Maai Mahiu, I heard the Governor – I hope the Senator is aware of the same – say that they have done proper planning and all developments coming up in the area will be planned according to use in the different areas they have allocated for investors. You can do some logical sensible planning and we can borrow from so many places we have seen.

Mr. Speaker, Sir, if you go to places like the Netherlands, the United Kingdom (UK) and Germany, you cannot help but marvel at how long ago those people embraced proper planning of their countries and cities. You will be wondering how Holland got developed so many years ago, because you will still find space within normal urban dwellings. They have set aside land for various practices and use. That is what we would want to see in modern day Kenya.

It is terrible if you look at what is happening in Nairobi right now. In Kiambu County, which is the County I represent, because of lack of proper planning, my people are uprooting tea and coffee. However, you cannot be proud of the kind of structures that come up along major highways like Kiambu Road. Firstly, investments are done by investors who have only one aim, which is to maximize on their profits.

I laud Sen. (Dr.) Milgo and say that this is done properly. I support.

**The Speaker** (Hon. Lusaka): Finally, Sen. (Dr.) Langat, welcome back.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir. First, I thank you for clearing the air that we were not locked up in Germany. We were safe and are now back. I would like to contribute---

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

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

**Sen. M. Kajwang:** Mr. Speaker, Sir, it is on public record that the Senator for Bomet County has been in Germany, a country that has recorded instances of Coronavirus Disease (COVID-19)? Is it in order to allow the Senator for Bomet County to come back leisurely, sit here and address the House before being subjected to either self-quarantine or Government imposed quarantine for a number of days? Is it in order for him to put our lives at risk?

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Langat, can you clear the air? Were you screened?

**Sen. (Dr.) Langat:** Mr. Speaker, Sir, we were screened thoroughly and declared healthy. I take what Sen. M. Kajwang’ has said to be hate speech which is not healthy at this time of the Building Bridges Initiative (BBI).

Mr. Speaker Sir, allow me to proceed. Land issues in this country are very critical. Unless we handle them carefully, especially now that most land issues are being dealt with by the counties, some people might take advantage of matters to do with land and indigenize them. Land will be regarded to belong to particular communities in some areas, when they sell to other communities.

I would like to contribute and say that issues of land are critical in this country. It is a fact that we are among the poorest countries with regard to planning on land use. Up to this time, establishing some public facilities is becoming a challenge, yet some years back we had land in various places where the Agricultural Development Corporation (ADC) farms were being dished out. To date, people are not ready to surrender some pieces of land for public use.

It is high time that this House relooked at matters to do with land seriously, so that we come up with a better framework, particularly on land use in this country. That is my contribution.

I thank you.

**The Speaker** (Hon. Lusaka): In the interest of time, let us move to the next Statement from Sen. Mwaruma.

UNDERSTAFFING IN SPECIAL UNIT SCHOOLS  
IN TAITA-TAVETA COUNTY

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for me this opportunity to request for this Statement.

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Education on the understaffing of special unit schools in Taita-Taveta County. In the Statement, the Committee should-

(1) Provide a list of all special unit schools in Taita-Taveta, attaching a list of the teachers deployed to the schools and the shortage being experienced; and,

(2) State the steps the Teacher Service Commission (TSC) is taking to ensure that all the special unit schools in Taita-Taveta have enough teachers.

Mr. Speaker, Sir, I was in the county and I discovered that the special unit schools have a shortage of about 200 teachers. Persons with Disabilities (PWDs) are already disadvantaged because they are disabled. When you have a shortage in special schools, it



means that we further marginalize the students who are already disadvantaged due to the disabilities.

Mr. Speaker, Sir, I know that staffing of primary schools is an issue of the national Government; it is not devolved. However, the shortages and the students who are being disadvantaged in terms of getting quality education are in the counties and, therefore, this Statement is well placed here.

I know that our students do not get quality education, yet our Constitution speaks about issues of inclusivity. When we disadvantage students who do not get quality education at the lower levels or the early years of their education, then we do not expect them to compete---

**The Speaker** (Hon. Lusaka): You are now debating on the Statement.

**Sen. Mwaruma:** Mr. Speaker, Sir, I am just adding some---

**The Speaker** (Hon. Lusaka): That is not adding; you are actually expounding and debating.

**Sen. Mwaruma:** Yes.

**The Speaker** (Hon. Lusaka): So, you better stick to what you have brought to the House.

**Sen. Mwaruma:** Mr. Speaker, Sir, I was just saying that we need teachers to be taken to those schools, so that our students who are already disadvantaged, are not marginalized further. We want people like Sen. (Dr.) Musuruve here, who got quality education, so that at the end of the day---

**The Speaker** (Hon. Lusaka): Sen. M. Kajwang', what is your intervention?

**Sen. M. Kajwang':** My apologies, Mr. Speaker, Sir. I wanted to ride on it once Sen. Mwaruma is done.

**The Speaker** (Hon. Lusaka): Okay. Sen. Mwaruma, you should be concluding.

**Sen. Mwaruma:** Mr. Speaker, Sir, this is something that is very close to my heart. This is because I know the way students who are disadvantaged and those who taught and the way other students who are normal are taught is different. So, you can imagine a student who has autism, for example, or a student who has---

**The Speaker** (Hon. Lusaka): You are still getting where I have told you not to go.

**Sen. Mwaruma:** Okay, thank you, Mr. Speaker, Sir. I stand directed.

**The Speaker** (Hon. Lusaka): Proceed, Sen. M. Kajwang'.

**Sen. M. Kajwang':** Mr. Speaker, Sir, Sen. Mwaruma has raised a very important matter which nobody seems to focus on. We have focused on the Early Childhood Development Education (ECDE), which is the preserve of county governments. We have focused on basic education and assumed that it is about primary and secondary education for children with full abilities.

Mr. Speaker, Sir, I would like it to go on record, so that the Committee which you will dedicate this matter to, also responds on the infrastructure allocation to special needs schools in Taita-Taveta. Since this matter affects all the 47 counties, I beg that the relevant Committee does a report for the entire Republic; it will surprise you.

I looked at the infrastructure allocation to basic education in this Republic. It will surprise you that the Ministry of Education in the last financial year, had Kshs1.8 billion allocated to basic education. Out of this money, Kshs200 million went to primary schools, Kshs1.6 billion to secondary schools, while the amount that went to special needs school is negligible. It cannot be determined.

Therefore, Mr. Speaker, Sir, I beg that in addition to staffing, we should look at infrastructure allocation, not just for Taita-Taveta, but for all the 47 counties, including Homa Bay.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to comment on this issue. I want to say before this House that even though I am a PWD, I am not where I am because I was born with a disability. If I was born with a disability, I would not be where I am. I am saying this because what is happening on the ground is very painful.

Sometimes, when you go to special needs schools, you will find that the teachers are not enough. Even the ratio of teacher to child is not enough. These are some of the issues that we have been trying to make a follow up on, in the Standing Committee on Education, where I am a Member. The TSC does not seem to effect anything on the ground. As I speak, there are some PWD teachers who are being retired at 60, yet there is a policy that teachers with disability should retire at 65.

Mr. Speaker, Sir, when you look at Article 53 of our Constitution, it speaks about the rights of children. One of the rights of children is education. It is not just education but free basic education. Even if education is free but there is no teacher, in the classroom, there is no way a child will learn. This is because teachers have a role to play in the lives of children; especially those with special needs.

Children with Special needs without a teacher are directionless because they are initially disadvantaged. They come from homes where sometimes they are disadvantaged because sometimes their parents are not keen about children with special needs. They assume that a child with special needs is a child that belongs to the Government and the Government needs to do something. Therefore, there is need for this Committee to invite the TSC managers to come on board, so that we talk about this issue.

I remember when we went to Senate *Mashinani* in Kitui last year, this issue also came up when we were at the Kitui School for the Deaf. We ventilated on the issue but one year down the line, the TSC has not done anything about it.

When we look at the Special Needs Policy that the President launched, it clearly shows that there a dire need for the area of special needs to be addressed. However, when it comes to implementation, the Government and the TSC seems to be dragging their feet, yet it should not happen in a country that seeks to support the Sustainable Development Goals (SDGs).

Mr. Speaker, Sir, Goal 4 of the SDGs speaks about special needs education. When we talk about SDGs, there is need to ensure that we also help children with special needs, so that they are eventually meaningful in the society.

Mr. Speaker, Sir, I support this Statement. For once, even if I sit in the Standing Committee on Education, where Sen. (Dr.) Langat is my Chairperson, we need to take this seriously, so that the TSC addresses it with all it deserves.

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

*(Interruption of debate on Statement)*

**COMMUNICATIONS FROM THE CHAIR**VISITING DELEGATION FROM ALLIANCE HIGH  
SCHOOL, KIAMBU COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Alliance High School, Kiambu County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

VISITING DELEGATION FROM ZETECH  
UNIVERSITY, NAIROBI/KIAMBU COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I also acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Zetech University, Nairobi/Kiambu County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

For those remaining, we have only 15 minutes for Statements. So, you will have to use about two minutes each.

Proceed, Sen. (Rev.) Waqo.

*(Resumption of debate on Statement)*

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir, for allowing me to support this Statement, as I also welcome the students who are here. My advice to them is that in our Kenya today, the only thing that can really take you far is education. Work hard and excel in your studies, so that even where you will not be seen physically, then your Curriculum Vitae (CV) and your papers will work for you.

Mr. Speaker, Sir, I seek your attention because you are surrounded ---

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

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Kindly proceed, Sen. (Rev.) Waqo.

**Sen. (Rev.) Waqo:** Mr. Temporary Speaker, Sir, we need to give matters education all our attention. All that is happening lately must have had a negative impact on the education system of our country. There has been a lot of interference with the education sector. I believe that the Ministry of Education will address the issue of understaffing that not only affects Taita-Taveta County but the entire country.

I congratulate Sen. Mwaruma for bringing this Statement because he has spoken on behalf of the 47 counties. The issue of shortage of teachers has had some negative impact on our children and their performance in the Kenya Certificate of Primary Education (KCPE) examination. I therefore request that we give this issue more attention, so that the teachers who have graduated but are not yet employed can be given opportunity to serve our children.

Mr Temporary Speaker, Sir, another area that---

*(Sen. (Rev.) Waqo's microphone went off)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Your time is up Sen. (Rev.) Waqo.

Hon. Senators, we only have 15 minutes left for all the Members who would like to contribute to this or any other statement. I therefore request you to limit your contributions to two minutes.

Kindly proceed, Sen. Nyamunga.

**Sen. Nyamunga:** Mr. Temporary Speaker, Sir, I thank you for giving me this opportunity to join you in welcoming the students from the Alliance High School as well as Zetech University. My advice to the students is that the sky is the limit. The Alliance High School is known for its good performance. Many prominent people in this country went to Alliance High School. The Alumni of Alliance High School proudly refer to the school as Alliance High School and not Alliance Boys. May the students take that pride and ensure that they perform well.

Secondly, I would like to support the Statement by Sen. Mwaruma, the Senator for Taita-Taveta County on the fact that we do not have enough special schools. Most of the special schools in the country cater for the deaf and the blind. However, there are so many other students who have different forms of disabilities. The students with disabilities go through a lot of difficulties as they aspire to get education.

The Ministry of Education should have proper data on all the special schools. Apart from getting the number of special needs institutions that we have, it is also important to get the right teachers for the different needs as well as establish the spread across the nation. We should ensure that each and every student who suffers any form of disability is taken care of.

Understaffing in the special schools does not only affect the schools for the deaf and blind in Taita-Taveta County but---

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Your time is up Sen. Nyamunga. Kindly proceed, Sen. Farhiya.

**Sen. Farhiya:** Mr. Temporary Speaker, Sir, I wish to welcome the students from Alliance High School who we used to 'acrossians' when I was a student at the Alliance Girls High School. We expect students from Alliance High School to do a lot of innovations to address the high unemployment rate in the country. I know the boys from the Alliance High School are as intelligent as the girls in the Alliance Girls High School.

We rely on the students from Alliance Boys and Girls High Schools to come up with great innovations, so that we solve the problems that we experience.

It is said that when you find a solution to a problem, money will follow. The motto of the Alliance High School is "Strong to Serve". I therefore urge them to think outside the box and use their intelligence to move this country forward; including eradication of corruption as well as tribalism.

We rely on the youths like the one who are in this Chamber to take this country to the next level when the older generation like us retire. Some of the great Senators who went to the Alliance High School include Sen. Orenge, Sen. Wako and Sen. (Eng.) Maina. I also wish to welcome students from Zetech University and urge them to continue innovating.

Mr. Temporary Speaker, Sir, I congratulate Sen. Mwaruma for bringing the Statement on understaffing in the special needs schools---

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Your time is up, Sen. Farhiya. Kindly proceed, Sen. Wamatangi.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, I join you in welcoming the students from the Alliance High School and Zetech University which are both in Kiambu County. As the Senator for Kiambu County, I would like to inform the students that we are proud of them. They have placed Kiambu County squarely on the map of Kenya with the work that they do. I therefore encourage them to keep the star shining. We are looking forward to better performance by both Alliance Boys and Alliance Girls High School.

My advice to the students from Zetech University is that it is a good sign that Kiambu County has taken the first step in ensuring that we play host to being the centre of innovation. As I welcome them to the Senate, I am sure that they will take the lessons they have learnt here to their institution.

Mr. Temporary Speaker, Sir, I beg to support the Statement by Sen. Mwaruma. The kind of competition and discrimination that we sometimes see during admission in special schools should not be happening. This is a matter that the county governments must take seriously. The education of students with special needs cannot be left to profiteers and the national Government to deal. The county governments need to take up the role of educating students with special needs.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Kindly proceed, Sen. (Eng.) Maina.

**Sen. (Eng.) Maina:** Mr. Temporary Speaker, Sir, I wish to welcome the students of Alliance High School which is a stable of intellectualism and a school of good character. The school has produced great leaders in this country. The motto of the Alliance High School is "Strong to Serve". The boys in that school are taught the importance of serving. I encourage the students to work hard so that they end up in this House. One of them may even end up as a president of this country in future. I hope that the Alliance High School is still as good as it was during my time there. We were groomed to be great leaders in that school.

I remember that when I was a student at the Alliance High School, we would pray at the assembly every morning. I hope that the school still upholds prayer because this country is facing many problems as a result of lack of instilling good virtues in the young generation.

In the old days, teachers such as Mr. Campbell who taught at the Alliance High School were not just ordinary teachers. Those teachers were committed to teaching students.

I hope the education sector will create some schools as models of excellence in this country, so that we can have the Kenya we wish to have.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. (Prof.) Onger, proceed.

**Sen. (Prof.) Onger:** Thank you, Mr. Temporary Speaker, Sir. Let me speak directly on the special needs of children in our schools. The Constitution clearly stipulates that every child has a right to education.

When I was the Minister for Education, we developed Special Needs Policy. What requires to be done is to translate the Policy into action. Action means provision for students who are challenged in many ways. They could be physically, mentally, visually or auditory challenged. In fact, some could go to normal schools like normal children without any difficulty. However, there are those with special difficulty who require special or personal attention. Therefore, they need attendance.

One of the most important things is to have teachers with special interest for these children. If you want their learning outcomes to be achieved, the best thing that can ever happen is to provide for them enough teachers. You cannot just assume that one teacher can handle 30 or 40 children with special needs because it will be a staggering exercise and very difficult to carry out. These people need special attention, education and delivery of knowledge.

Mr. Temporary Speaker, Sir, I support Sen. Mwaruma in his quest for teachers. The Teachers Service Committee (TSC), alongside the county governments that also employ Early Childhood Development Education (ECDE) teachers, must work together to ensure they have enough teachers deployed---

*(Sen. (Prof.) Onger's microphone went off)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Ochillo-Ayacko, proceed.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Temporary Speaker, Sir, for giving the opportunity to give my contribution to Sen. Mwaruma's Statement.

Although students from Alliance Boys High School have left, I also welcome them in absentia. I am an alumnus of the school and it is a good school. I am happy that they have also come here to learn what we do. It was a great school but I do not want to speak much about it because they are absent. It taught us many things and discipline and it has produced technocrats and leaders in this country.

What Sen. Mwaruma has brought by way of Statement is something that is deserving of our consideration. God gives life and decides whether you have special needs or sufficient ability to be on your own except for God's support. Those with the ability and resources to run the nation are also under a duty to look after other people who have special needs. They have to do it because all the available resources belong to God.

Mr. Temporary Speaker, Sir, I support the need which is provided in our Constitution; that we must make provision for students, pupils and all other persons who require special attention. This must be done to those in schools and training institutions, so that in their adult life, they do not have to wholly depend on others.

I support this Statement because it is a good one. Action should be taken pursuant to it.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): The next Statement is by Sen. Mwaruma.

SUPPLY OF TEXTBOOKS AND LEARNING  
MATERIALS TO PUBLIC SCHOOLS

**Sen. Mwaruma:** Mr. Temporary Speaker, Sir, I rise, pursuant to Standing Order No. 48(1), to seek a Statement from the Standing Committee on Education concerning the supply of textbooks and learning materials to public schools.

In the statement, the Committee should-

(1) Provide documentation showing the amount of tuition money allocated to different categories of schools, specifying the amount meant for textbooks *vis-à-vis* the amount of money allocated for other teaching materials like chalk, laboratory equipment and so on.

(2) Explain why schools are being supplied with textbooks that do not fully meet their curriculum requirements.

(3) Explain mechanisms put in place to ensure supply of books and learning materials in public schools are in line with Government policy and devoid of impropriety.

Mr. Temporary Speaker, Sir, I need to offer explanation a bit but not to discuss the Statement. We know that secondary and primary school education is not devolved. It is a national Government function. However, schools are being supplied with textbooks they do not need. The teachers are not even consulted on the type of books that should be supplied.

Secondly, when it comes to the amount of money given in terms of capitation, teachers are complaining that the Government is buying too many textbooks and the schools do not get enough money for other needs. They have many pending bills as a result.

Mr. Temporary Speaker, Sir, remember we are talking about pending bills in in the counties, Government institutions and the private sector. There is creation of pending bills in schools. The suppliers are in our counties. They are not being paid by the schools because too much money is being appropriated for buying textbooks. I hope the Committee on Education will answer appropriately.

I thank you.

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

**Sen. Nyamunga:** Mr. Temporary Speaker, Sir, thank you for this opportunity again. I know that primary education is fully subsidised. For secondary schools, it should be partially subsidised.

It is important for the Ministry of Education to ensure that learning materials are supplied to all schools. In some schools, you will find many materials, just as the Senator has mentioned while in others you will find totally no learning materials. It is not only

learning materials but also textbooks. It is important that it is done uniformly, such that all students have learning materials and the required textbooks.

Students do not need some textbooks they are given. When we were in school, there was only one or two textbooks per subject. Nowadays you find one subject having six or seven textbooks and that is very confusing to the students. It should be uniform. It is important that all learning institutions have learning materials and textbooks required but not in excess in some schools and lacking in several others.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. (Prof.) Ongeru, proceed.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Temporary Speaker, Sir. The supply of schools materials, including textbooks, started because when I was the Minister for Education, I started the free day secondary school. We provided capitation and bought minimum limited number of books and other facilities for the schools. Since then, this has been scaled up. They have also increased the amount of capitation available for every student. What needs to be done is to synchronise the differences between what is sent to schools and what is available in terms of curriculum development and the books that have been cleared for purchase by the Ministry of Education.

One of the biggest drawbacks that I noticed during that time was the fact that people who were given the money picked certain books and left out certain books. Therefore, children were told to bring books from home to fill up the gap that was left.

Mr. Temporary Speaker, Sir, we now have free primary and secondary school education in this country. This has led to 100 per cent transition rates to fill up all the secondary schools, creating a lot of congestion. There has been an increase in the number of students at the secondary level. They should match the large numbers with the supply of textbooks being availed to the students at that level. If we do not do so, we will be compromising the educational standards that we need to achieve at all times. We are also compromising the ability of our learners to pick up the good practices that they need, so that they can apply them appropriately in future.

I do not think that it is fair to congest learners in the classes. I appreciate the difficulties that the Government may be having in giving money for infrastructure development. However, the sooner we address this, the better, so that we have an appropriate student-teacher population and an appropriate student-classroom population. That is the most ideal system of learning, rather than just leaving it open and free for all.

Mr. Temporary Speaker, Sir, as I support this Statement, I ask the Committee to move with speed and correct this.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. I also stand to support the Statement from Sen. Mwaruma that seeks a better explanation about the supply of textbooks and learning materials to public schools.

Textbooks are very critical in terms of the materials that are used by students world over. I remember some years back, when we were going through the education system, there was some sort of static way of using textbooks that were known over time. There was a way that they would be vetted and looked at. You would find very good materials.

Mr. Temporary Speaker, Sir, over and over again we have heard about text books with many mistakes. It appears that they were mass produced in a rush. Do we have the recommendations for textbooks that should be used? Who makes the recommendations? How are they being made? How consistently are they being made over time? It is not just



about having a textbook. You need a textbook that is meant to help you cover certain aspects of the curriculum and understand specific aspects of what is happening within the particular discipline that one is looking at.

Therefore, it is such a serious matter. We need to look at how the content of those textbooks is understood by the students; how they internalize what the textbooks are saying; and if they understand their own education on the basis of those textbooks. This depends on the textbooks they have.

From Sen. Mwaruma's Statement, the Committee on Education needs to have a proper and wide analysis and find out about the problems that are being faced with regard to the production of textbooks. Why is it that there is no regularity about those textbooks? Why is it that there are so many textbooks for a particular single subject at any time?

Mr. Temporary Speaker Sir, we need to go further and look at the content of the textbooks. We need to vet and understand what is going on.

I support this Statement and I am looking forward to the Committee on Education to dwell and look---

*(Sen. (Dr.) Zani's microphone went off)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Your time is up. Proceed, Sen Olekina.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I rise to support this Statement by Sen. Mwaruma in regards to the use of textbook centres and also the system leading to the centralization of everything in this country.

What I would like the request the Committee on Education to note is that even though education for secondary schools is not fully devolved, it is high time we looked at how county governments can develop their education systems. The Ministry of Education should develop the policy and then each county government comes up with their own textbooks. This way, we will help young entrepreneurs in the education sector to get jobs in different counties.

If we do not do this, we will continue centralizing everything. Everything will come from Nairobi and it will be owned by cartels. It is about time to rethink everything, as we talk about the Building Bridges Initiative (BBI). I am sure that earlier on you were talking about the Land Use Policy but now we are talking about the issue of education.

In terms of education, there is nothing that stops county governments. Why do we have County Executive Committee (CEC) members in charge of education? I know that the Constitution only devolves early childhood education, but I think it is about time for the Ministry of Education to figure out how to guide schools in the counties, so that they develop their own textbooks centres.

I know that we had the Office of the County Attorney Bill which was focusing on setting up a county office. We also had the Office of the County Printer Bill. Why can we not then develop systems where each county can be given a department that only produces textbooks that will be suitable for the students in that environment?

I find it a bit hypocritical when you expect a child from an affluent neighbourhood to compete with a child from a village like the one I grew up in. It is about time the Committee on Education engaged in serious consultations with the Ministry of Education. If we transfer functions of an entire county like Nairobi City

County, why can we not transfer these functions of education particularly printing books by the counties, so that we can ensure we that we have a balance?

Sen. Mwaruma has said that a lot of books are stuck in libraries and yet those schools do not even have computer laboratories or laboratory facilities. We need to balance this out.

Mr. Temporary Speaker, Sir, as I support this Statement, I hope that the Committee will think outside the box in line with the kind of sentiments that I have shared on how we can ensure that we support these institutions.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon Senators, I have a communication to make.

*(Interruption of debate on Statement)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM NGINDA GIRLS  
SCHOOL, MURANG'A COUNTY

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting teachers and students from Nginda Girls School, Murang'a County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and my own behalf, wish them I fruitful visit.

I thank you.

*(Applause)*

Proceed, Sen. Cherargei.

*(Resumption of debate on Statement)*

ALLEGED EXTRA-JUDICIAL KILLINGS OF YOUNG  
KENYANS IN NAIROBI CITY COUNTY

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker Sir, for your indulgence. Before I issue my Statement, I join you in welcoming the beautiful girls from Murang'a County and wish them the best as they continue to learn.

Mr. Temporary Speaker, Sir, I had promised the House that I would report back on the issue of extrajudicial killings and enforced disappearances in the country. I have a Statement pursuant to Standing Order 51(1) of the Senate Standing Orders, relating to a matter for which my Committee is responsible.

Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order 51(1) to make a Statement on an issue for which the Committee is responsible, namely the inquiry by the Committee into extrajudicial killings and enforced disappearances in Kenya.

As Senators will recall, during the Sitting of the Senate held on Thursday, 20<sup>th</sup> February, 2020, the Senator for Nairobi City County, Sen. Sakaja, issued a Statement

under Standing Order 47(1), on the extrajudicial killings of young Kenyans in Nairobi City County. This followed the shooting, earlier that week, of Mr. Daniel Mburu, a *boda boda* operator in Embakasi, Nairobi, who was shot at the Mama Lucy Hospital after rushing to the hospital a young girl who had been rescued from drowning in Korogocho River.

At the time, I provided an update on the inquiry which the Committee on Justice, Legal Affairs and Human Rights was undertaking on extrajudicial killings and forced disappearances in Kenya. I undertook to provide a status report on the matter within two weeks.

Mr. Temporary Speaker, Sir, extrajudicial killings refers to the arbitrary deprivation of life by government authorities or individuals, without the sanction of any judicial proceeding or legal process. These executions include deaths resulting from torture or ill-treatment in prison or detention and death resulting from enforced disappearances or excessive use of force by law-enforcement officials among others.

Enforced disappearance is defined in the International Convention for the Protection of All Persons from enforced disappearance as “arrests, detention, abduction or any other form of deprivation of liberty by agents of the State, persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”

Article 26 of the Constitution guarantees every Kenyan the right to life. It specifically states that a person shall not be deprived of life intentionally. The Constitution in Article 48 further requires the State to ensure access to justice for all persons. Article 49 sets out the rights of arrested persons. It grants to every person the right to a fair hearing, including the right to be presumed innocent until the contrary is proved. Article 51 of the Constitution further sets out the rights of persons detained, held in custody or imprisoned.

Extrajudicial killings and enforced disappearances present a grave affront to the Constitution and the administration of justice, in that persons profiled or suspected to have committed crimes are summarily executed without being subjected to the benefit of a fair trial, where evidence may be presented against them and the opportunity to rebut such evidence granted.

Cognizant of its mandate, as set out in the Standing Orders of the Senate, I am pleased to inform the Senate that the Committee has since undertaken site visits and met stakeholders in Mombasa and Kwale counties. The Committee also held a sitting in Nairobi where it met and engaged with human rights, civil society organizations such as Amnesty International, as well as the Independent Policing Oversight Authority (IPOA).

The preliminary observations and findings of the Committee disclose serious gaps in law and in enforcement of the law that have allowed these heinous practices to continue.

These include-

(1) The non-operationalization of the National Coroners Services Act, 2017 and the Prevention of Torture Act, 2017. Despite the President assenting this into law, these two laws have never been operationalized.

(2) The failure by the Inspector-General (IG) of the National Police Service (NPS) to formulate and gazette regulations on the use of force and firearms, as required under the National Police Service Act. We have to note that there are no regulations in place on the use of force and firearms, and that is why some of these firearms are being leased to be used to commit crime.

(3) Overlaps of mandates between the IPOA and the Directorate of Criminal Investigations (DCI) when it comes to investigating cases of arbitrary and unlawful use of lethal force by police officers. The police investigate themselves through the DCI, yet IPOA has been given oversight authority to investigate. Therefore, that was a big challenge because in Kiswahili we say; “*Mganga hajigangi.*” That is why we find police officers investigating.

It was also shocking that the IPOA admitted that they send evidence to ballistic experts, who are police officers. You will remember that there was a police officer who was accused of killing someone in Kisumu but because of change of the serial number of the firearm, that police officer went scot-free.

(4) Lack of independent oversight mechanisms. Kenya Wildlife Service (KWS), Kenya Forest Service (KFS), National Prisons Service and the Kenya Coast Guard Service do not have oversight through the IPOA.

(5) Refusal and/or failure by police officers to cooperate with the IPOA during investigations into extrajudicial killings, including in making available documents, reports and evidence that would be necessary in ensuring full investigations are undertaken.

This is very serious because police who are killer cops operate an online account called ‘Hessy Cops’ where they post individuals that they kill. I am told that in Eastlands there is a *Probox* that is driven around, and young men are rounded up and taken to a particular police station or petrol station and summarily executed.

We were told that between February last year and this year more than 210 Kenyans have been killed through the bullet by trigger-happy police officers. These are very sad statistics that we have as a country.

(6) Failure by police officers to comply with service standards, including in identifying themselves whenever they are carrying out an operation, and ensuring that all police records and registers are correctly, properly, timely and accurately entered, updated and kept.

We were being told of police officers who do not even report to their Officer Commanding Station (OCS) or Officer Commanding Police Division (OCPD). They report to some senior police officers in the country, which is not in line with the police command that has been provided by law.

It is sad that if one is shot by these killer cops, they have to be paid for the bullets used. For example, if they use seven bullets, they have to be paid for the seven bullets. In the slum areas, especially in Eastlands and some parts of Nairobi, they have to be paid Ksh3,000 per bullet. So, if your kin was killed by the killer cops, they tell you that since they used seven bullets, for example, you must pay Ksh21,000.

We were told of cases where the police even disrupt burial committee meetings and ensure that they do not happen. We were even told that some of the killer police officers were caught on camera executing people in broad daylight. They even go ahead to intimidate witnesses.

Our witness protection programme in this country is not as expected. Therefore, they go ahead to intimidate and harass people. What shocked us is the case where some of the killer police have a list. They could come to your house and tell you: “We will kill your brother if you do not pay us Ksh10,000.” That is what is happening in parts of this City and country.

It is so sad and those are very heart-wrecking stories that we were told. I hope that the law is still applicable. The right procedure is to arrest somebody and take them to a court of law, and let the judicial process be followed to conclusion.

Mr. Temporary Speaker, Sir, the Standing Committee on Justice, Legal Affairs and Human Rights plans to continue with its inquiry into this very serious matter and present its final report later during the current Session. I want to ensure the Senators that we shall be tabling our report in the next one or two months.

Among the activities the Committee are-

(1) Site visits to areas within Nairobi City County. We were given areas and police stations, like Kamukunji among others, where these killer cops are known by the public. I cannot mention names here now, but the letter will give the details. We are supposed to visit areas affected by forced disappearances, among them Mathare, Huruma, Kamukunji, Eastleigh, Dandora, Kayole, Mukuru, Korogocho, Kibera, and Githurai.

We also intend to visit some of the police stations. I think Eldoret Central Police station was mentioned among many others. There is a specific petrol station that was mentioned, I think it is called Amana, where they take young people. The killer police officers are so dangerous. Allegedly, they have a *Probox* where they stock weapons. After killing, they use *pangas* and machetes and smear the victims with blood.

(2) Meeting with the Attorney-General, the Chairperson and Members of the National Police Service Commission, the Inspector General of the National Police Service, Mr. Hillary Mutyambai, the Director of Public Prosecutions, Mr. Nordin Haji, the Director of Criminal Investigations, Mr. George Kinoti, and the Chief Registrar of the Judiciary.

They were not able to attend, but on 23<sup>rd</sup> May, we will meet so that we finalise on our report. On 18<sup>th</sup> we will go around Nairobi and also visit Kisumu, specifically, Kondele and Nyalenda. We shall also visit Garissa and Mandera in North Eastern to deal with issues of forced disappearance in the guise of fighting terrorism.

(3) Site visits and meetings with stakeholders in Garissa, Kisumu, Eldoret, Nyeri and other areas of interest to the inquiry.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in undertaking this inquiry. Further, it wishes to thank stakeholders who have so far appeared and made submissions before the Committee.

As I conclude, it is so sad when you listen to stories of women whose children have been forced to disappear at the Coast. It is sad to listen to people who have lost young sons and daughters in this City because of trigger-happy police officers. It is so sad because it is like it is a crime to be poor and young in this country. When you are poor and young, between 14 and 30 years, and live in the slums in this country, you are likely to be killed by the bullets of the trigger-happy police officers.

It is so sad because the age between 14 and 30 years is the time a person should be more productive to the country. However, it looks like it is dangerous to be poor and

young in this country. There is a case at the Mombasa Kenya Defence Forces (KDF) outpost where someone was killed. These are some of the issues we are talking about. We have heard of many mothers who have lost their daughters and sons in Mombasa and North Eastern parts of this country.

Mr. Temporary Speaker, Sir, we urge the Inspector General (IG) of Police and other stakeholders to arrest these individuals, make them face the law and undergo judicial processes. Let us not take life because under Article 26 of the Constitution, the right to life is very important. I assure Members that, as a Committee, we are on top of things.

As I conclude, this Report will not be sufficient because the matter looks more dangerous and lethal. What will resolve this issue of extrajudicial killings and forced disappearances in this country is to form a commission of inquiry to look into it.

I wish I had time to elaborate. There are many cases that have been taken to court involving quite a number of police officers, where people have been shot even after surrendering. It seems as if there is a silent order to shoot to kill in this country that has been issued without the attention of the public. We were even told of a case in Mombasa where a young man had surrendered and knelt. The police went ahead and sprayed him with seven bullets and then planted “evidence” beside him.

We need a more concrete approach to this issue, so that we can resolve it once and for all. We continue to empathize and condole with many families that have become the victims of police brutality and lost their loved ones. We hope that the Witness Protection Programme by the Attorney-General will try and address some of these issues.

I thank you, Mr. Temporary Speaker, Sir, your office and the Senators for this opportunity. I promise that we shall, in the next one or two months, table our final report as the Senate Committee on Justice, Legal Affairs and Human Rights.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Proceed, Sen. Wamatangi.

**Sen. Wamatangi:** Thank you, Mr. Temporary Speaker, Sir. I congratulate the Chairperson of the Committee on Justice, Legal Affairs and Human Rights for that Report. They have undertaken to try and help get to the bottom of this big menace in this country that has been with us since Independence. We cannot debate or discuss this matter as if it is a problem that is just occurring now. It has lived with us all the way through from the days of Pio Gama Pinto, J.M. Kariuki and Dr. Robert Ouko.

The problem continues to the latest days where the young men of Kiambu County have been picked and rounded up in villages, such as Uthiru in Kikuyu town and Kabete, and then in a few days, discovered in a forest in Limuru and Lari. They are dumped there in bundles and bunches of 12 each.

I have seen mothers, fathers, brothers and sisters agonize over the disappearance of their young ones. We have to congratulate the Committee, but also condemn in equal measure the continued practice of not only torture, but also execution.

As I speak, yesterday and the day before, in Ruiru, Kiambu County, there was a demonstration because we have one of our young men who was a *boda boda* rider who is missing. The practice has been most of the time that when somebody goes missing, the next time there will be a message saying: “Go and look for that person somewhere in a mortuary.” I have firsthand experience in this. You will be instructed to go and look around in hospitals if you are the parent. If you do not find them in a hospital, you will go back to the police station and be told to go back and search in the mortuary. As you go

around, you will be directed further to go to the City Mortuary itself and alas! You will find your son there with either bullet wounds or if not, clubbed or bludgeoned to death.

Mr. Temporary Speaker, Sir, I do not know whether Members of this House followed a serialization that was in *The Daily Nation* the other day. A retired police officer was telling a story that happened in his presence. He had accompanied two officers of the now defunct Flying Squad. The officers were pursuing robbers without having gone through proper judicial procedure. In that serialization, those robbers were captured somewhere between the border of Kenya and Tanzania.

The writer, to his amazement, was telling about the methods that were being used to extract information from these young men. One police officer invited them to sit and have a word with him. He was asking them: “*Ehe!* So you steal cars, you do this---” All of a sudden he turned with lightning speed and broke a bottle of soda on the knee of the suspect. His knee joint and cap splintered like plastic, and that is a human being. That man was musing at how, again, they ferried that fellow in that pain without the benefit of even a doctor, all the way up to Nairobi in the rear of a Land Rover.

I am saying this because a friend of mine the other day lost his son. When he disappeared some while back, he sought my assistance. We went round and looked all over. It is only after about two weeks when he was asked to go and find his son who was said to have been last seen in the same place I have mentioned in Ruiru, near a police station. We found the son at the City Mortuary with bullet wounds. What is most amazing is that there will be no explanation wherever you go. You go to this police station or the other, and nobody knows what happened to the person. At the end of the day, your son or brother is dead by being shot. Your work is to go and collect the body, bury it and ask no questions. That is something we cannot condone anymore.

I do not want to take so much time on this since Members have a lot to speak about. Sometime back, because I operate a business here in Nairobi, some individuals, a lady and a man, were sitting at my business premises sipping a soda and having a chat on an afternoon. I will not necessarily mention their names. After a while, they crossed the road to go to a shopping centre at Nairobi West. From there they were never seen again. People looked for them for a while. The next day, the lady was discovered strangled somewhere in Ngong Forest. The man was also discovered somewhere nearby killed in the same method; a bullet wound and strangulation.

For how long will this go on? What is the use of this Constitution if in its most basic it cannot be obeyed? What is most troubling is that, and I say this with tremendous respect to our security forces especially to the police---- I know very good police officers who have reformed since the advent of our Kenya Constitution, 2010.

We know that there are particular IGs of police who have occupied that office since then who have taken seriously to reform. We know that the Independent Policing Oversight Authority (IPOA) has done the best they could. However, there are unrepentant radicals in our police force who have continued to think that human life can be treated with the contempt that they have treated it for all this time. This must come to an end.

Mr. Temporary Speaker, Sir, I think this House, as proposed by the Chairperson of the Senate Committee on Justice, Legal Affairs and Human Rights, must also take a position. When families are pursuing justice after losing their people, the voice of legislators must be heard. When we leave a poor man in a village to follow the mighty

force of the police and there is determined effort to block any evidence, this continues to be a cycle.

Can this House be heard? Can lawyers in this House and the Committee on Justice, Legal Affairs and Human Rights itself be heard? I congratulate lawyers in this country, like Dr. John Khaminwa, who have, on several occasions, volunteered to give *pro bono* services. They have given their services freely to families and victims who have suffered greatly in the hands of unrepentant officers, who have been otherwise entrusted by our law, armed by the taxpayers' money and by the same victims that they murder; they should protect and give us security. This is a very painful subject to discuss, especially coming from Kiambu County, where several of our young people have been victims.

Mr. Temporary Speaker, Sir, when we had the purge on the group that was christened *Mungiki* in Kiambu, yes, that group was a menace to the community around Nairobi and the Mt. Kenya region. However, the indiscriminate manner in which young people were picked and killed *en masse*--- Sometimes a police officer would go to a mother and tell them to their face, "tell your children to watch out," yet there was no system of establishing that their son, daughter or brothers belonged to this group. True to their word, they would disappear that evening, never to be seen again. Mothers went crying all over to police stations saying, "please, please, please, do not---" We have to say no to this at the end of the day.

Mr. Temporary Speaker, Sir, I congratulate the Committee; let that position be taken. I understand that there is a similar cry all over the country. Let justice prevail because we have a new Constitution and a legal system. We cannot have a legal system without a justice system; the two must go hand in hand.

Thank you, Mr. Temporary, Speaker, Sir.

*(Interruption of debate on Statement)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM PIONEER GIRLS  
SCHOOL, MURANG'A COUNTY

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I have a Communication to make. I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Pioneer Girls School, Murang'a County.

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

I thank you.

*(Resumption of debate on Statement)*

Proceed, Sen. Wetangula.



**Sen. Wetangula:** Thank you, Mr. Temporary, Speaker, Sir. I join you in welcoming the students from Murang'a. I encourage them to feel welcome. Your Senator does not seem to be here, but we will speak on his behalf and welcome you.

The Statement that has been made by the Chairperson of the Committee on Justice, Legal Affairs and Human Rights is very important. In this country we have had a checkered history on the observance of human rights. Kenya has been routinely cited by Amnesty International, United Nations (UN) bodies, the European Union (EU) and local human rights bodies for non-observance of the respect for human rights and life.

In the olden days – and I am sure that my distinguished colleague from Siaya County, Sen. Orenge and others, would remember - there was a white policeman in this country who used to shoot people on sight and at will. He was called Robert Shaw. When we were students at the university, if you heard that Robert Shaw was somewhere in town, it was a curfew imposed on students.

*(Laughter)*

This has unfortunately gone on even long after the death of Robert Shaw. It is not Robert, but Patrick Shaw. Robert Shaw is a columnist in the newspapers.

Mr. Temporary Speaker, Sir, when the current Inspector General (IG) came to our Joint Committee with the National Assembly for vetting, I asked him a question about extrajudicial killings. He said, in his words: "That is going to be history. I am going to deal with it firmly and you will never hear of it anymore." We are, in fact, hearing of it now more than ever before; young people are tormented and arrested.

We have no difficulty in fighting crime. We have no difficulty in arresting people where they have transgressed the law. However, subject them to due process; take them to court. I remember three years ago when President Uhuru told the country that Kenya is now almost meeting its quarter of police to population ratio. That means that we have enough policemen and women to control crime, to the extent that you do not have to resort to brutal force and criminality in the name of fighting crime. The Constitution is very clear.

Mr. Temporary Speaker, Sir, when we enacted the 2010 Constitution, we changed the name of the police from a force to a service. The police used to be called a force, and they were notorious for brutal force. There was a squad that used to be called FFU or *Fanya Fujo Uone*. That was part of the police. We have removed 'force' and we are now a service; *Utumishi kwa Wote*, and not *Ukatili kwa wote*. If you go to Majengo and other places that the Senator for Kiambu County and the Chairperson have been counting, you will meet horror stories. Mothers there would tell you how their sons were taken away and castrated, or how their sons were taken away and never seen again. One mother in Majengo told me, "I have two sons, and they have both been castrated by the police. Now they are just there like the Ethiopian eunuch of the Bible."

Mr. Temporary Speaker, Sir, this country has to change. Crime does not help the country because it retards development, but when it is being committed by the watchers, then the lawyers ask: who will watch the watchers? Like the Chairperson said, where the police transgress the law, it is unlikely that they can investigate themselves.

In Uganda, the Baganda have a saying, "*Ekima etesala kwa kibila;*" meaning that a monkey cannot be trusted to investigate the affairs of the forest, because that is where it

lives. It cannot, therefore, investigate or sit on a panel to abolish the forest. It cannot work! The Independent Policing Oversight Authority (IPOA) was created specifically because of these transgressions. Unfortunately, every roadblock has been put in their way. Every frustration has been visited on them until they are not able to investigate.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it, Sen. Farhiya?

**Sen. Farhiya:** Mr. Temporary Speaker, Sir, the Senator has spoken a foreign language, and he never sought your permission to do that. I think that is against the Standing Orders.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, the distinguished Senator is still on a learning curve. When you quote something and explain what it means, our Standing Orders allow that. I said that the Baganda have a saying that, "*Ekima etesela kwa kibila;*" meaning that a monkey cannot investigate the matters of the forest. That is perfectly in order under our Standing Orders. Let me go on.

The IPOA was meant to oversight the police to look at these transgressions, but they have been unable to function. We have the Office of the Ombudsman headed by a former Member of Parliament (MP) called Hon. Kajuju. It is also unable to function. These are constitutional offices with budgets that are supposed to be doing some important work. The Office of the Ombudsman is run by lawyers, but I do not see any cases going to court on the harrowing situations that Sen. Wamatangi and the Chairperson have been describing.

Mr. Temporary Speaker, Sir, I encourage the Chairperson of this Committee and your office to invite the IG to come to the Committee of the Whole House. You should invite those who work with him, including IPOA, to come and tell us why we budget money for them when they cannot work. This country has gone through a terrible history.

The late Tom Mboya was gunned down on the doorstep of a shop opposite Corner House. The Government repeatedly told Kenyans that the late hon. J.M. Kariuki was at the Hilton Hotel in Lusaka, Zambia, while he was in Ngong Forest being eaten by wild animals. The late Dr. Robert Ouko disappeared and the Government told Kenyans that he took a flight to Gambia, but he was found in Got Alila Hill half burned. The Government attempted to tell Kenyans that he had committed suicide. How does a person commit suicide and set himself on fire?

Mr. Temporary Speaker, Sir, when we highlight the late Tom Mboya, G.M. Kariuki, Pio Gama Pinto and Dr. Robert Ouko, they are people in our brackets. What about the ordinary man or boy in the streets whose name nobody remembers? Every time a child is missing and the parent is frantically looking for them everywhere, they receive a phone call telling them to try the mortuary, and the truth is that they will find their son's body there.

The law is clear. If there is a menacing criminal, the police are legally allowed to use a firearm to disarm and disable, but not to kill. The Chairperson will have to ask the Inspector-General of Police to give him a catalogue of how many suspected criminals have been shot to disarm and disable. Police cannot possibly shoot a person to disarm and disable by aiming at the head or heart. That is not disarming and disabling.

Mr. Temporary Speaker, Sir, this country has made major strides in human development. Our only setback is non-observance of human rights, non-respect to human rights and non-respect for the freedom of people. Therefore, I urge the Government to change this trajectory.

You hear what happens to young Muslim boys in Mombasa or in Northern Kenya, where a child leaves to buy something and they never see him or her again. Today, we keep on seeing in the newspapers that Tsavo National Park is now a dumping ground for bodies, including that of Mr. Yebei who was abducted in Turbo and his body found in Tsavo National Park. To date, nobody tells or explains to us who killed him or how he left Turbo to be found in Tsavo National Park. We have other forests, for example, Boni Forest, which has a lot of security problems, and nobody knows how many bodies have been dumped there.

Like the late hon. Martin Shikuku said, may his soul rest in eternal peace, when they dumped the late J.M. Kariuki in Ngong Forest with the hope that hyenas would eat him, even the hyenas knew that he was too respected to be eaten. They did not touch him.

Mr. Temporary Speaker, Sir, we must change. This House, as a defender of counties and the dignity of human beings of this country, must turn up together as one.

When I hear the Senator for Kiambu County talk the way he did, while knowing his record of blindly defending the Jubilee regime in this House, I know things are not well.

*(Laughter)*

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it, Sen. Wamatangi?

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, I have a lot of respect for the Senator for Bungoma County. I was in concurrence with all the things that he was saying. However, he knows that I am not a blind man. At least, my record is clear that I did not come here as a disabled person representing the disabled and neither have I shown any signs that I could be losing my sight since I came here. Is he in order to describe my conduct or the Motions that I have tabled as those that point to a blind man's action by saying that I blindly defend the Government?

My record is clear. I am not only objective, but also principled. I speak facts and what is there. I have never been a bootlicker. So, if blindness in his view constitutes what I do, with due respect, the Senator for Bungoma may be twice as blind.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, it was with a light touch. The distinguished Senator for Kiambu County touched my heart when he was speaking about the young people who have been killed in his constituency and beyond. However, truth be told, and Sen. Orengo can bear me witness, in the last Parliament, when you spoke about the Government, you would have thought that you have electrocuted Sen. Wamatangi. He would limp and attempt to stand up to stop you. However, nowadays, he has transformed from Saul to Paul. We welcome him to be objective, critical and help the people who elected him.

Congratulations my brother for speaking well. If the people of Kiambu heard you, they might make you a governor.

*(Laughter)*

Mr. Temporary Speaker, Sir, I finish by encouraging the Committee on Justice, Legal Affairs and Human Rights to bring monthly or quarterly updates to this House on the status of violations of human rights and killings that are not justified. They cannot be condoned and must be condemned with the same display of courage and depth.

I stop there because I am sure my colleague from Mandera also has a story to tell about the disappearances of children and young persons in the hands of the people who are paid from the taxpayer's money to protect them.

Mr. Temporary Speaker, Sir, in the olden days and even now, when you go to a country like United Kingdom (UK) or Sweden, when you have a problem and you see a policeman, your problem is half solved. However, in Kenya, when you have a problem and you see a policeman, your problem doubles.

*(Interruption of debate on Statement)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THANGIRA UMOJA  
SECONDARY SCHOOL, MURANG'A COUNTY

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I have a Communication to make.

I would like to acknowledge the presence, in the Public Gallery, this afternoon, of visiting students and teachers from Thangira Umoja Secondary School in Murang'a County.

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

*(Applause)*

**Sen. (Eng.) Maina:** Thank you, Mr. Temporary Speaker, Sir. I would like to briefly welcome the students who have visited this House. I would like to tell them that as young people, they should be confident that one day they will be in this House and may be, become the top leaders of this country. They should aim higher and trust in God. They should always remain disciplined and keep away from any misdirection and dangerous things, for example, drugs which pose a danger to them.

*(Resumption of debate on Statement)*

Mr. Temporary Speaker, Sir, I support what the Committee on Justice, Legal Affairs and Human Rights has done. The issue of extrajudicial killings has been historical in the country. A country like Kenya, which has a disciplined force, should not be witnessing these kinds of things. The issues of extrajudicial killings are happening all over.

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

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

At times I have been misunderstood when the youth are branded without any recourse in law and kind of sentenced. One time, I had to personally face a team of inquiry as a Member of Parliament (MP) because I stood firm when about 30 youth died mysteriously. When I faced the inquiry team, I told them that as far as I was concerned, we are in a country where the youth do not have employment, but still we educate more and more. As long as they are not engaged, as a society, we have to tolerate what is happening. The solution is not to brand them the way we do.

Madam Temporary Speaker, I have always held and still hold that position to this day because in my community, branding is still there. I think it is in every community. We have a group in Kisii and I have also heard of *Baghdad* Boys in Nairobi. That is branding of the youth.

We abide by the rule of law, and we are progressing. I do not want to say that Kenya should be on the same standards of the European and Nordic countries where even the Prime Minister walks on the streets and earns a humble salary. We are yet to get there. We are a developing country and have to move at our own pace.

Nevertheless, life is dear. I think one of the Commandments of the Almighty is: "Thou shall not kill". What causes this? The security forces should relook into it because one thing is true. For example, in Nyeri, there is a spot where bodies are always found. Surely, it cannot be by accident. How many people have guns? Extrajudicial killings continue happening and we always talk about them. People always listen to you when you talk, but nothing is done.

I want to put a rider to this. Honestly, in this country, how much do we pay our security forces and especially the policemen and women? How much do we pay primary school teachers? We need equality and equilibrium of things if Kenya is going to be a civilized. Why am I saying this? We need to make an assessment.

How much do we pay our policemen and women, teachers and doctors? Sometimes newly graduated doctors are posted to some places. At times they work overnight attending to casualties when accidents occur. We make laws in this Parliament. When you are elected or nominated, you focus on benefiting yourself without caring about policemen and women, teachers and doctors. We need to be careful because this is causing dissatisfaction amongst our people.

Madam Temporary Speaker, allow me to mention this at this stage. Currently, our policemen and women cannot rent houses anywhere they want. We know of a case of some young man who died – I do not want to say that he was killed – in some estate somewhere. If this country is serious, it must ensure that its uniformed forces are taken care of through housing and everything. The salaries they are given should motivate them, so that they hold moral ground.

We will be cheating ourselves if we underpay people like our policemen and women, teachers and doctors. If we do not pay them well, they will be tempted to do other misadventures, like some of the things we are discussing here because we do not know the causes of extrajudicial killings. The causes are many. They could be political or economic because of the society we are living in. We must relook back and make sure we have a country that---

**Sen. Wetangula:** On a point of information, Madam Temporary Speaker.

**Sen. (Eng.) Maina:** Madam Temporary Speaker, I do not need information because I have enough information on this subject, unless the person has something that comes from some sphere.

**The Temporary Speaker** (Sen. Pareno): Hon. Senator, I do not know how you know what he has to say. I think it is good that you give him a chance to tell you what he wanted to inform you.

**Sen. Wetangula:** Madam Temporary Speaker, I want to inform my distinguished colleague from Nyeri that there cannot be any reasons for extrajudicial killings. An extrajudicial killing is unlawful, period! You cannot assign any reason to it. It is just a crime, period!

**The Temporary Speaker** (Sen. Pareno): Sen. (Eng.) Maina, I guess you will agree with him.

**Sen. (Eng.) Maina:** I agree with him, but there is something I want to tell him. A human being behaves in the manner the society has modeled him. I am not condoning, but when we frustrate our security forces that are armed without knowing their mental capacity---

We have cases where security forces shoot one another, something that was not common in the past. No one condones extrajudicial killings. All we need to do is to ensure that our young boys and girls in security forces and teaching faculties are well catered for.

Madam Temporary Speaker, I also wish to inform the Ford Kenya Party Leader here that as they continue finding ways of making Kenya a better place, they should remember to bring up the issue of inequality that I am talking about, because there are disparities in this country.

You will find somebody who is earning Kshs3 million per month. Compare that with a policeman who earns Kshs16,000 and a teacher who earns Kshs12,000 per month. What society are we creating?

Madam Temporary Speaker, let us come back to the issue of extrajudicial killings. We have had these extrajudicial killings in the history of this country. We have had cases of people like J.M. Kariuki, Pio Gama Pinto and others who died or disappeared. Therefore, we must condemn these kinds of killings. I want to ask the Committee to unearth whatever has happened. More so, I would request the Committee to go deeper and look at the causes of these killings. There must be a reason our society behaves in such a manner. Let us not just come out, record what is happening, condemn it and leave it at that. I would urge the Committee to go deeper and find out the likely causes of this kind of behavior in our society, because it was not there in the past. There are things that have become more pronounced.

Secondly, let us not try to think that laws will make us better as a country. I am getting amazed at the number of times we draft laws. I am sure that even regarding this issue of extrajudicial killings, we are going to resolve to come up with another law to deal with it, just as we have been saying that we should look for laws to make sure that corruption is eradicated in Kenya. We already have beautiful laws in our Constitution. Let them be followed to the letter, and Kenya will be a better place.

Madam Temporary Speaker, the major problem we have is thinking that we need another law each time. I sincerely hope that the Building Bridges Initiative (BBI) will come with up with very good structures. We already have very good laws. I have never

understood why, today, a person who kills somebody goes to court and he is given a bond or bail. He then goes back to the same village to threaten witnesses and relatives of the person he might have killed because he was given a bond. This is the kind of freedom we need to relook at.

Madam Temporary Speaker, some of these extrajudicial killings maybe happening because people know that they will not get justice in courts. They, therefore, resort to these kinds of killings. A society whose population cannot put food on the table, cannot find drugs in a dispensary and where education is a preserve of those who are endowed with wealth, is one that contributes to extrajudicial killings because of frustrations.

It is true that our people in most places can hardly place a meal on the table. I would wish that we address these things as we also address other freedoms we are looking for. Kenya is a great country that is endowed by God. Let us take Kenya back to where it was. There used to be a time when a Kenyan could travel anywhere in the world. We never needed a visa to go anywhere in Europe or America. Today, you are turned upside down in every airport you go. Whenever I go to South Africa I feel a bit depressed because of the kind of questions that one is asked. You are asked: "When are you going back?" I wonder; do they think I want to go to their country to stay there?

(Laughter)

Therefore, let us create the Kenya that we knew, where cattle, wheat, and sheep used to be transported by train from Nanyuki. A country where the Maasais used to deliver their cattle to the Kenya Meat Commission (KMC) and they would be paid on the spot and go back home.

Let us relook and create the Kenya that we knew. Let us go back and create a Kenya that God meant to be, that is, a country with good soil, rainfall and sunshine all year round. We should actually be importing workers because we have enough to pay them, and our children are all well catered for.

Thank you, Madam Temporary Speaker.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I wish to thank the Chairperson of the Committee on Justice, Legal Affairs and Human Rights for doing a good job. People are learning about extrajudicial killings in this country. Other than the case of prominent personalities like Dr. Robert Ouko, who unfortunately during the time of his death his daughter was in my class, and we all mourned with her--- The rest of the country now faces extrajudicial killings.

Madam Temporary Speaker, where I come from, from the time of Independence we have experienced the extrajudicial killings in the name of *shiftas*. Tribal clashes also continue to occur and people are killed as a result of that. Currently, we are facing the *Al Shabaab* militia menace. Our region has faced extrajudicial killings. This issue of people disappearing continues to happen on a daily basis where I come from.

We had a case where 5,000 people died in a week. People who had been put in a concentration camp were left to become dehydrated, and they starved to death. That was very inhuman! You can imagine, in that scorching heat of 40 degrees Celsius; people were being kept in the sun for three days with no food or water. They ended up dying in

large numbers. I lost four relatives in that massacre, and up to today, nothing has been done about the Wagalla massacre. There has been no compensation.

Madam Temporary Speaker, even this time, we will talk about the extrajudicial killings, vent and rant about it, but after all is said and done what happens? We are here as representatives of counties and also of special interests groups. However, if all we do is rant and lament about what is happening and nothing is done about it, we are going nowhere.

A case in point is Mr. Daniel Mburu, the man who took somebody to hospital and then he was shot dead. This man should have been recognized as the hero of the community for saving someone's life, but he ended up being killed. The biggest problem we have in this country is lack of implementation of laws. We should start fearing and respecting the laws we have in this country. We can have all the beautiful laws, but if they are left to rot in the shelves, then all of us are wasting the taxpayers' money passing those laws. The rule of law is very important for any civilized society to progress. We are being told of cases of the police killing people. We pay the police their salaries using taxpayers' money.

Much as we understand that they are paid less, that is something else you can address. However, life is important and all of us need to protect it. Therefore, there is no excuse for anybody to take away somebody's brother, husband, son, uncle, niece *et cetera*. That person who falls down as a result of the bullet is somebody's relative; they do not need to die.

Madam Temporary Speaker, I support this Report. However, let it not be one of those reports that are just noted without an outcome. Otherwise, we would be wasting our time talking about it.

I thank you.

**Sen. Olekina:** Madam Temporary Speaker, I rise to support this Report and make a few comments in terms of what we need to do to ensure that we have a balance.

I was listening to Sen. Wamatangi explaining how most youth disappear. I know that in this country, historically, many armed groups are usually employed by politicians. We are the ones who take advantage of the poor people. So, when the police go out there and try to ensure that the rule of law is followed, some of the youth who are used to intimidate others end up being locked up in the penitentiary somewhere.

Even though there have been so many cases of extrajudicial killings, what are we doing as politicians and businesspeople in this country, who want to control certain quarters, to contribute to that? We must ask ourselves these questions. I was very happy to hear Sen. (Eng.) Maina asking serious questions as to how we are treating these police officers.

I have been on the record saying that the minimum salary that a police officer should get in this country should be Kshs100,000. When you travel to countries like Singapore, you will not see a police officer on the road. However, when you see one, they will be working peacefully and will not bother you. If there is a crime, they will be able to go there. It is a bit hypocritical when we lament on a daily basis that there are so many people being killed, yet we in this House are the ones who come up with legislations and fight for more money for ourselves, yet we do not give a hoot about the police. Even our own bodyguards, the ones who protect us, get peanuts, and we do not care.



Sometimes I ask myself whether these police officers do not have families. I hear people complain so much about the police being allowed to rent houses. If you see the kind of dilapidated houses they live in, you ask yourself how we are supposed to have a sober nation, where people will respect the rule of law and shrewd businesspeople and politicians will not take advantage of the youths; where everybody will have an opportunity to grow and become responsible citizens. If we cannot practice what we preach, the buck stops backs with us.

I want to challenge the Chairperson of the Committee on Justice, Legal Affairs, and Human Rights legal who gave his Report. Yes, the Independent Policing Oversight Authority (IPOA) was set up to deal with various issues. They include to investigate deaths and serious injuries caused by police action, monitor, review and audit investigations and action by the internal affairs unit of the police and to conduct inspection of police premises, among many others.

Madam Temporary Speaker, I want to inform the Committee on Justice, Legal Affairs, and Human Rights that on 14<sup>th</sup> February, 2020, on Valentines Day, there was a special Gazette Notice which designated police stations countrywide. The first thing we need to do is to ensure that when we are talking about a budget, in most cases--- I am happy the Chairperson of Committee on Finance and Budget is here, we can say in this Senate that we know where 10 per cent goes, which is the Kshs360 billion, but we do not know where the 90 per cent go.

When we get into these discussions, since I am seeing that we will end up going into the issue of mediation, the fast thing we need to ask ourselves is: What does the Constitution say in Article 203, in terms of the priorities when the budgets are coming out? This time round we have designated police stations countrywide. In Narok East we have two of them, we have Ildamat police station. You can look at that Gazette Notice and get the coordinates to know where it is. There is also Suswa police station, but let us ask ourselves: In this Budget, how much is being put in there to ensure that the welfare of these police officers and the premises which we are sending the IPOA officer to go and inspect are actually fit for that police officer to be there?

Madam Temporary Speaker, last week, I happened to be arrested and ended up in Kilimani police station. I looked at the police station and the neighborhood; affluent, a concrete jungle with many big buildings worth billions. I looked at the condition of the police station that is supposed to provide security for the people and wondered. We then come here and blame the police for extrajudicial killings, tell them that they are the cause of all these things and call for reports on human rights. What about their own rights? These are the questions that we must ask in this country. If we want proper leadership, we have to ensure that those who are tasked with the responsibility of protecting us---

**The Temporary Speaker (Sen. Pareno):** Sen. Olekina, I hope you are not implying that the police have a right to do extrajudicial killings, even if their conditions are not well taken care of. Their rights are similar to those who are killed. I hope that is not what you want to go on record.

**Sen. Olekina:** Madam Temporary Speaker, what I want to go on record is that, in this country, we are hypocrites. Particularly, we as leaders, do not care about the people who are supposed to protect us. I am not saying that it is their right for them to kill. In my earlier submission I indicated very clearly that historically in this country, the businesspeople and police officers are the ones who hire armed groups. Sen. Farhiya was

talking the youth disappearing on a daily basis. Historically, if you go back to 1964 to 1967, even the *Shifita* warriors were funded by the Somali Government, when the Northern Frontiers wanted to secede. Even today, the *Al Shabaab* are having a field day because in this country, we have got our priorities mixed up.

Madam Temporary Speaker, as we blame the police for extrajudicial killings, the IPOA which has been set up constitutionally has got no teeth. We must ask ourselves: How are we empowering them? I was listening to Sen. (Eng.) Maina talk and what he said is true. For example, a shrewd businessman would go to Maasai land and buy cows cheaply. A Maasai will go and sell meat to the Kenya Meat Commission (KMC), but will never be paid. However, this shrewd business person would get cows sold to him cheaply and use a police officer and a few youth and control the entire system. That same shrewd officer will ensure that person who supervises that department does not pay other people, so that they do not do that business.

To finalize, when the Committee is looking at this, prevention is always better than cure. I would challenge the Chairperson of Committee on Justice, Legal Affairs, and Human Rights his Members to visit the current police stations and ask themselves whether they can stay there. I do not want to explain or give details of the kind of experience that I had in Kilimani police station. I am happy that the Chairperson of the Committee on Justice, Legal Affairs, and Human Right was there and can attest to what I am saying.

We need to champion for better welfare for the police officers and continually encourage them through training. I am sure Sen. Kihika will attest to the fact that in other jurisdictions, veteran officers are supported. The men and women in uniform are supported when they are on duty. When such officers retire, they are given everything because people appreciate what they have done.

Madam Temporary Speaker, in conclusion, I challenge the Chairperson of the Committee on Justice, Legal Affairs and Human Rights to get a copy of the *Special Gazette Notice* dated 14<sup>th</sup> February, 2020. I am sure it will excite him to know that all those police stations are gazetted and will hopefully be built. I hope that we can begin to appreciate what the officers in this country do for us.

I thank you.

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

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, I thank the Chairperson of the Committee on Justice, Legal Affairs and Human Rights for bringing this statement to the Senate. Extra-judicial killings and enforced disappearances have become a norm in this country. Whereas our Constitution has a Chapter on the Bill of Rights which is very elaborate and guarantees everybody the right to life, there is something wrong in the way we enforce the law.

Extra-judicial killings and enforced disappearances happen in the hands of the people who are supposed to enforce the law and protect our citizens. Secondly, crime and terrorism is there, but that is not a reason to harass and injure innocent Kenyan citizens. The police officers have no reason to shoot the people that they perceive as criminals without investigations. Police officers sometimes defend extra-judicial killings as acting in self-defence. However, what constitutes self-defence is debatable.

Madam Temporary Speaker, a lot of crime is committed by our police officers in the name of fighting the Al-Shabaab. Security personnel such as officers attached to the

Anti-Terrorism Unit, military unit and many others are responsible for the enforced disappearance. I hope that the Committee on Justice, Legal Affairs and Human Rights will go to the bottom of this issue and get solutions to extra-judicial killings and enforced disappearances.

The people who are supposed to safeguard Kenyans are making us insecure. It has been argued that the welfare of police officers is not well catered for, but it is not the mistake of the people who end up as victims of extra-judicial killings. I agree that the welfare of police officers needs to be looked into, but that is not a guarantee for them to do extra-judicial killings.

Northern Kenya as well as many other parts of Kenya have a bad experience with the security personnel in the name of fighting terror. The independence of the Independent Policing Oversight Authority (IPOA) that is supposed to be investigating such incidences is not guaranteed. The victims of extra-judicial killings and enforced disappearances are at the mercy of police officers to investigate whatever crime is committed by fellow police officers.

Madam Temporary Speaker, the interim report by the Committee on Justice, Legal Affairs and Human Rights signals some light at the end of the tunnel. As the Committee will be going around the country, I urge them to sample counties in every region so as to get conclusive solutions on how to deal with the menace of extra-judicial killings and enforced disappearances.

I salute the Chairperson of the Committee on Justice, Legal Affairs and Human Rights and his Committee. I appeal to the security agents who are in charge of the security operations of this country to be mindful of the lives of Kenyans. The police officers should not be shooting people aimlessly as was the case at the Mama Lucy Hospital. We should not condone trigger-happy police officers.

The report by the Truth Justice and Reconciliation Commission (TJRC) made recommendations on the issue of extra-judicial killings and enforced disappearances, but it is yet to be implemented. We demand for the implementation of the TJRC report. We have our priorities wrong as a country. We are currently busy discussing the Building Bridges Initiative (BBI) report, but it will not solve all our problems. Extra-judicial killings and enforced disappearances need to be solved by the institutions that are mandated to solve them. The amount of time that we are spending on the BBI report should be cut down so that we deal with serious issues that are facing this country.

Madam Temporary Speaker, I thank you.

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

**Sen. Kihika:** Madam Temporary Speaker, I rise to make a few comments on this report that has been tabled by the Committee on Justice, Legal Affairs and Human Rights. I would like to congratulate our Chairperson who has done a lot of work to ensure that this report was done with speed given the sensitive nature of the statement that was sought by the Senator for Nairobi County, Sen. Sakaja.

I sat in the Committee meetings as different stakeholders made their presentations. We heard from the human rights and civil society organizations as well as IPOA. It was quite shocking to hear the situation on the ground on extra-judicial killings and enforced disappearances. I am surprised that a few of my colleagues are trying to justify extra-judicial killings. The killings cannot be justified in any way, shape or form

just because the welfare of police officers is not being handled. It is despicable. Under no circumstances can we ever justify taking away human life without fair trial.

The extra-judicial killings and enforced disappearances offends the Constitution and administration of law and justice. I cannot under any circumstance understand how it is possible to make a justification for the extra-judicial killings. I invite the Senators who have made those comments to attend one of the hearings and hear the stakeholders such as the civil society and human rights organizations make presentations on what happens in some of the cases. I was overwhelmed when I heard that in some cases, it seems as though we have criminalized poverty. The police officers pick people in the slums and they disappear. The next thing you will hear is that the bodies of the people who were picked by police officers are found. We heard that many bodies are found in the Tsavo National Park and many other areas. The extra-judicial killings have been going on for long. It even seems they have increased and more incidents are happening now.

Madam Temporary Speaker, as a Committee, our work is cut out. I know this is just the beginning and we still intend to go around the country, see this upfront and hear from some of the family members of the witnesses.

I was also surprised to learn that there seems to be a problem because the Independent Policing Oversight Authority (IPOA) lacks jurisdiction in oversighting some bodies. For example, IPOA does not have an over sighting mechanism over the Kenya Forest Services (KFS), the Kenya Wildlife Service (KWS) and the National Police Service (NPS). There is a lot of abuse of power in some of them like the Kenya Coast Guard Services (KCGS). There seems to be a gap, but as Parliament, I believe we shall be called upon to look into this very carefully, so that we help stop these extrajudicial killings.

The IPOA also complained about the overlap of mandate between them and the Directorate of Criminal Investigations (DCI). One of the bigger issues that I caught was that when IPOA is investigating the officers who have been accused, for example, of extrajudicial killings or those sorts of crimes, they do not have an independent forensics laboratory. They have to use laboratories that are run by officers at the DCI. There seems to be conflict there because they can sometimes sit on this evidence, which makes IPOA not to move forward and lead to prosecutions.

Madam Temporary Speaker, I believe that is probably one of the things that as a Committee we will look into and come back to the House wanting to figure out how we can make sure that IPOA is completely independent as far as their investigations and handling of evidence is concerned.

We also heard a lot about how sometimes the police just refuse to comply with the service standards. For example, they fail to identify themselves when people are murdered and are killed this way. Therefore, nobody will know it was the police officers who were involved. By the time the trail leads to them, evidence is sat on and not handed over. Clearly, there are some problems.

There is a huge problem as far extrajudicial killings are concerned. We are a country that prides itself in following the law and enforcing the Constitution. As such, under no circumstances can we then look away or even talk about police welfare as a justification for this.

Yes, I agree that there are issues that need to be resolved as far the police force is concerned because they too need to have better services. At the same time, we cannot and

must not combine the two issues. These are two separate issues that should not in any way lead to one justifying the other. It seems that many youth are falling victim to these extrajudicial killings in Nairobi City and Mombasa County. We heard that sometimes a police lorry drives around picking up youth in slums and they disappear. Eventually, they are found somewhere dead.

Madam Temporary Speaker, what was even more shocking is that the family of the deceased is forced to pay Kshs3,000 for every bullet that is retrieved from the body of the victim. When we talk of extrajudicial killings, we are talking of police on the other end. They have pumped bullets into the youth, the murder investigations commence and the family of this person is forced to pay Kshs3,000 per bullet for the forensics to proceed. It is crazy, inexcusable and does not make sense.

As Sen. (Eng.) Mahamud has said, when we run around talking about the Building Bridges Initiative (BBI) from morning to evening, I also believe and agree that maybe we need to be looking at these more serious issues. Maybe we should even use that money to fund some of these issues. I am talking about issues like a victim's family paying for forensics and the murder was committed under the hands of a police officer. Clearly, our priorities are completely lopsided.

I believe there is a lot that can be done. There are also many gaps in the law as well. IPOA pointed out some of the laws that came into existence back in 2017, but they have not been operationalised. There is a lot that needs to be done. One of the major ones they talked about is the National Coroners Service Act, 2017 that they said would help make it easier for them.

Madam Temporary Speaker, there are gaps in the law as well as enforcement. Ultimately, we must come up with solutions and interventions that will be necessary so that we decisively handle the issues of extrajudicial killings and enforced disappearances.

As a Committee, we look forward to going around the country. We will begin in Nairobi City County in the next few weeks and then proceed to northern and coastal parts of Kenya. I am sure we will see and hear more so that we figure out what is going on. Thereafter, we can determine what interventions need to be put in place so that these insane terrible affronts to the Constitution can stop.

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

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker, for allowing me to add my voice to this important Report. I also congratulate the Chairperson and the Committee for doing this fantastic work and bringing out this to us and the entire nation.

I support this because many lives, especially those of young people, have been taken. It is not only young people who are not going to school whose lives have been taken, but also graduates. The parents of these graduates may have sacrificed a lot and maybe sold all their property like animals in order to educate them. Unfortunately, their lives are taken through these extrajudicial killings.

Madam Temporary Speaker, many parents, relatives and families are still mourning the death of their loved ones, simply because they do not even know how the lives were lost. We know that it is the responsibility of the Government to protect every life. Every life is important in the sight of God who created us yet in our nation, instead of protecting the lives of Kenyans, we give security officers the opportunity just to kill people anyhow.

We know this happens in the city especially the slum areas. However, even in rural areas like the northern parts of Kenya, we have suffered through this. Being from marginalised areas, they keep telling us that they have killed bandits or the people behind a conflict. They always have an excuse which is not right. Kenya has every system in place to protect the lives of its citizens. It is not that we have no policy or systems that are making us lose our young ones. It is because of our carelessness and that the security teams no longer take the lives of our people seriously.

I support this and the idea of the Committee going round the entire nation is a good. I suggest that they not only go to the known places, but also to marginalised areas like the northern parts of Kenya. Let them collect enough information and bring to this House because we are also Kenyans who deserve the same attention as the others.

Madam Temporary Speaker, some of those who have lost their lives were breadwinners of their families. They have left behind young wives and children who cannot even go to school. I believe through the Report that the Committee will gather, we will be able to understand the status of different families who have been left behind; the struggles and challenges they go through.

The Government should take the responsibility of taking care of these families in a small way. It should either educate the children or give them some money to sustain them. This is because it is due to our carelessness that we have lost this huge number of our people.

Madam Temporary Speaker, IPOA has failed us in the past and we cannot trust them anymore. I know that Sen. Olekina and others have also supported the police officers in highlighting the challenges that they go through. It is true that they are going through those challenges, but that does not justify what they do to Kenyans.

Madam Temporary Speaker, most of the time, security personnel have been blamed for many things. When you look at corruption, rape cases and many other unpleasant things happening in our country, they happen through this group. We, therefore, believe that the Committee will give us a report that will solve all our problems and bring to an end the crime that is conducted through the security teams in this country.

Madam Temporary Speaker, I support this and believe that one day we will overcome this particular challenge that has made many Kenyans become so hopeless.

Thank you, Madam Temporary Speaker.

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

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I support Sen. Cherargei's Statement on extra-judicial killings, otherwise known as extra-judicial executions. This does not have a legal basis and should not be condoned in all ways. The fact that the police find young people somewhere, maybe in a crowd where there is commotion, is not reason enough to be trigger happy and kill.

Most of the time when we talk about extra-judicial executions, it happens mostly among the poor. Such things mostly happen in slum areas like Majengo, Mukuru kwa Njenga and Kibra. However, there is also need to realize that when one is poor, it does not criminalize them. The fact that one comes from a poor background does not necessarily mean that whatever they do is not proper. For instance, if the youth are eking out a living and bringing food on the table, they should be supported. There is need for

the police to be very cautious before they get trigger happy. This is because when they kill, there are so many people who are aggrieved, especially mothers.

Madam Temporary Speaker, as a mother, you carry a child for nine months. You take care of that child up to the age when the child can stand on their own. Therefore, it is really painful for mothers when life is just taken away like that. In fact, when there are extra-judicial killings that are not justifiable, the person who really feels the pinch is the mother, because they took care of those children up to that time.

Madam Temporary Speaker, I was just talking to Sen. Wetangula, who told me of a friend of his, who he visited in Majengo. When he reached there, he found a mother saying that her two sons had just been castrated. They were castrated for what? It is very bad and heartless for someone to do that to someone's child without a reason. That is someone who has no feeling at all, and is very callous.

Madam Temporary Speaker, I read in the media about two young men in Mathare – Bernard Odoyo and Victor Okoth – who were just killed when they had alighted from a matatu. May their souls rest in peace wherever they are. There was no justifiable reason why the two of them were killed. They were just suspected of being thugs, and they just died like that. I also want to remember a Good Samaritan who was murdered at Mama Lucy Hospital. May his soul rest in peace.

It is an irony of ironies that a good act can lead to someone being killed. That young man was doing a noble job of taking a child to hospital, but he was killed for no good reason. There is need for investigations to be done. If the police officers have to kill anyone, let it be “legal”.

Even the police officers themselves go through difficult moments because there are instances when they are cornered by thugs. We have had policemen being killed in their houses, especially when the Government decided that they should not stay in the camps, but with the civilians. There is need to consider the security of the police officers. They should even go back to the camps because there is security.

When they are in the camps, they should be catered for. This is because they have feelings because they are human beings. There is need for us Kenyans to strike a balance, so that it is a win-win situation for our police officers and our children. Children should not be killed for no reason.

As I support, I congratulate Sen. Cherargei for coming up with this Statement. A lot of interrogation needs to be done, so that the right thing is done legally.

Before I forget, constitutionally, the State should provide security even for families and people who cannot provide security for their loved ones and families. Article 43(1)(e) speaks on that. There is need for the State to provide security, so that we live in a country where we feel we are secure psychologically and in all ways. If our children live in fear, they will not be productive in this country.

Therefore there is need for us to strike a balance to ensure that we protect our youth and our police officers because some of them are going through a lot of stress that needs to be addressed. The stress is as a result of housing and payments. Sometimes some of them have displaced aggression and go trigger-happy because they vent their frustrations on the wrong people.

Thank you, Madam Temporary Speaker, for giving me this opportunity to air my voice. I support this Statement.

**Sen. Omogeni:** Madam Temporary Speaker, let me first join my colleagues in giving hearty congratulations to Sen. Cherargei, the Chairperson of the Committee on Justice, Legal Affairs and Human Rights for this well documented report.

In a country that respects the rule of law, extrajudicial killing is something that we should never condone. This is happening after we enacted our Constitution in 2010, which gave a lot of hopes to the people of Kenya. It was the hope and expectation of many that with the creation of the Independent Policing Oversight Authority (IPOA), we will never have impunity within the police force. However, if you speak to Kenyans who have been victims of extrajudicial killings, they will tell you that they have never gotten any justice from the IPOA. That is really unfortunate.

There are many institutions that were created under the current Constitution that were supposed to enhance accountability within the police force. You all remember that when Maina Kiai used to be the Chair of the Kenya National Commission on Human Rights (KNCHR), he used to put police officers on toes. That is the time he used to expose incidences of police officers who were killing our youth extra-judicially. If you ask me today, I do not even know the current Chair of the KNCHR. They have gone silent and that is very unfortunate. These are the people who should keep the police officers on toes.

Lawyers will tell you that the role of a policeman or woman is to gather evidence, arrest the perpetrators of any crime, and take them to court for trial and then the court of law will pass a sentence. When you have a situation where police officers want to be investigators, prosecutors and executors, you cannot say that you are in a country that respects the rule of law.

We have been ridiculed in international fora. In 2008, the United Nations (UN) gave a damning report on Kenya on these issues of extra-judicial killings. We were being discussed in New York; shaming our country!

This is something that we, as leaders and representatives of the people, should not tolerate. If we were to look at the weakness surrounding the law, you can never send a thief to catch a thief, it cannot happen. Anytime this happens, a comrade, a colleague of a policeman is the one who will investigate, conduct the arrest and lead the prosecution in court. I think that system has failed.

I urge the Chairperson of the Committee - my good friend Sen. Cherargei - to consider reforms within the law so that we create a totally independent investigative authority that can deal with the issues of extra-judicial killings within the police force. Without that, it will always be a case of brother trying to cover brother; sister trying to cover sister.

It is unfortunate that often times, the people who fall victim to these extrajudicial killings are our youth aged between 15 years and below 30 years. These are the productive youth who we need to rely on in the coming years. It is not right. If we allow this culture to take root, let us not cheat ourselves that our children will be safe. Not at all! When our children leave our houses in the morning, you do not know where they go to. They walk all over this city and they can become victims anywhere.

Madam Temporary Speaker, this is an issue that touches on all of us. It touches on our children and the children of the people that we represent. I remember there was a story I was told about Portugal. The current Secretary General of the UN Mr. Antonio Guterres used to be a Prime Minister in Portugal. Portugal used to have a problem similar



to ours where the police used to have battles with youth in slums. Anytime the police were sent to those slums, the only way they used to deal with them was to kill those who were suspected to be involved in criminal activities.

The then Prime Minister came up with a rehabilitation process. He said that instead of killing those youth they should arrest those who were suspected of being involved in crime. They set up rehabilitation centres for those who were involved in crime because they took drugs. These people were rehabilitated and then taken back to society; and that country changed. If you go to Lisbon now, you will not hear of cases of extra-judicial killings.

Let us accept that some of these youth are involved in crimes because they lack employment and others are abusing drugs. The best way we can deal with these social problems is to see how best to rehabilitate these youth. Instead of saying, “shoot to kill”, let us see ways of arresting those who are abusing drugs. Let those who are taken to court serve their sentences and then we seek ways of rehabilitating them and taking them back to society.

Madam Temporary Speaker, finally, I want to urge the Chairperson of the Committee on Justice, Legal Affairs and Human Rights to put IPOA on their toes. He has the powers to summon IPOA. Let them come to us and give us their scorecard of how many cases they have successfully investigated. How many prosecutions have taken place?

**Sen. Cherargei:** On a point of information, Mr. Temporary Speaker, Sir. I want to inform my learned senior.

**The Temporary Speaker** (Sen. Pareno): It is “Madam.” We seem to have a problem every evening. It is either ‘Mr. Speaker’ being referred to as ‘Madam Speaker’ or ‘Madam Speaker’ being referred to as ‘Mr. Speaker.’

**Sen. Cherargei:** My apologies, Madam Temporary Speaker. I wish to inform my learned Senior Counsel, Sen. Omogeni, that the Independent Policing Oversight Authority (IPOA) appeared before us yesterday, and they have given us those statistics.

As I said when I was talking earlier on, there are documents that were given to us by IPOA, although some are in confidence. There are over 210 documented cases of people who have been killed between February, 2019 and February, 2020.

Nevertheless, Mr. Speaker, I want to assure my colleagues that we shall invite IPOA alongside other agencies. I thought that I should inform him that we have already engaged IPOA. However, we will continue to engage them in the near future.

**The Temporary Speaker** (Sen. Pareno): Sen. Omogeni, you can proceed, although he still went on to refer to ‘Mr. Speaker.’

**Sen. Omogeni:** Madam Temporary Speaker, I think the Chairperson for the Committee on Justice, Legal Affairs and Human Rights is not gender sensitive. What a man can do, a lady can even do better.

I laud that initiative by the Chairperson. I hope you can summon all the constitutional bodies that are supposed to ensure that there is accountability from our police force. As we look at legal reforms, let us put it in the law that any police officer who is convicted of having been involved in extrajudicial killings should personally compensate the families. These police officers know that when you go to court, you sue the Attorney-General, and if there is any judgement that is passed in our courts of law, they will never be personally liable.

Madam Temporary Speaker, let us make it punitive. If you are taken to court, charged and convicted, then we will ensure that you and your family are the ones who will compensate the family that becomes victim, so that we have deterrence. Otherwise, they know that the Attorney-General will look for taxpayers' money and they are left to serve their sentence and walk out free.

Finally, let us also pick the best international practices. In most countries, people are moving away from the notion that those who are found guilty of offences must face the death penalty. Even where people are taken to court, tried and convicted, the death penalty is not an answer. In most countries, the death sentence has been abolished. The police cannot have any excuse of saying that the best way to deal with suspects – because they are not criminals but suspects – is to pull a trigger on them. Let us have a culture where anybody suspected of being involved in any criminal activities is arrested, taken to court and given a chance to be tried. Only those that are found guilty by our courts of law should face sanctions.

With those few remarks, I fully support.

**Sen. Kang'ata:** Thank you, Madam Temporary Speaker. I take this opportunity to support the Statement by the Chairperson of the Senate Committee on Justice, Legal Affairs and Human Rights. This is an important Report that has been prepared by the Committee to which I am a Member.

The reasons I stand to support are, first, Article 2(5) the Kenya Constitution, 2010 provides that international law shall form part of the Kenyan law. Secondly, Article 2 (6) provides that all ratified conventions and treaties are part of the Kenyan law.

Madam Temporary Speaker, we have ratified many human rights conventions that have now become part of international customary law. Therefore, when police officers are involved in torture, forced disappearance and arbitrary execution of innocent civilians, we are not only violating Kenyan law, but also international law, which is part of the Kenyan law. Therefore, the net effect of this Statement is to compel the Senate to oversight the police and ensure that young people are not killed arbitrarily.

Madam Temporary Speaker, when you look at the facts surrounding this matter, you see a situation where a poor *boda boda* rider and a good Samaritan was killed by a police officer for no good reason. However, my brother thought it wise to pursue justice on his behalf. I congratulate him for doing that. He will go far and no one will stop him.

The effort that this House is making to ensure justice for that young person will set a precedent. Going forward, the police will no longer act with impunity once we ensure that justice has been achieved for this young man.

Madam Temporary Speaker, Kayole Region happens to be home to many immigrants from Murang'a County. Eighty per cent of the people who live there trace their roots to Murang'a County. Therefore, when impunity is vested on poor young people by the police in Kayole Estate, I feel bad.

My heart goes out to millions of young people from Murang'a County who have migrated to the city to seek a living. They have come here to hawk and do petty businesses. It is what some politicians call hustling. The real hustlers are in Kayole Estate. So, it is unfair and illegal for police officers to open fire and kill young poor persons. I am happy that this Statement will go a long way to ensure that there is justice for this young person.

Madam Temporary Speaker, the Committee on Justice, Legal Affairs and Human Rights is set to visit regions in Nairobi City County that have been affected by this problem. It is also planning to meet the Attorney-General, the Chairperson and Members of the National Police Service Commission (NPSC) and visit other places, for example, Garissa, Kisumu, Eldoret and Nyeri. We will ensure that the police will no longer conduct these kinds of actions. We will also ensure that the various oversight entities bring to justice every police officer who kills a young person. Therefore, I rise to seek justice for the poor and the oppressed. I thank this Committee for fighting for their rights.

Joseph Hills said that, "I will fight for the rights of the poor persons". Therefore, we will fight for the rights of the oppressed youth. This Committee will be at the fore front to ensure that there is justice.

Thank you and God bless.

**The Temporary Speaker** (Sen. Pareno): We move to the next Statement by the Senate Majority Leader

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 10<sup>TH</sup> MARCH, 2020

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, pursuant to Standing Order No.52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 10<sup>th</sup> March, 2020.

On Tuesday, 10<sup>th</sup> March, 2020, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further directions by the SBC, the Senate will on Tuesday, 10<sup>th</sup> March, 2020 consider Bills scheduled for Second Reading and those at the Committee of the Whole stage. The Senate will also continue with the consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 11<sup>th</sup> March, 2020 and Thursday, 12<sup>th</sup> March, 2020, which is a very important day, the Senate will consider business that will not be concluded on Tuesday and other business scheduled by the SBC.

Madam Temporary Speaker, we have a total of 19 Bills due for Second Reading stage, four of these Bills are due for division and have been listed in the Order Paper. In addition, there are 13 Bills for the Committee of the Whole stage. Additionally, we have another three Bills at the Committee of the Whole stage to consider National Assembly amendments as indicated in the Order Paper at Orders No.12, 13 and 14.

Madam Temporary Speaker, I urge all hon. Senators to avail themselves this afternoon for the voting process which, unfortunately, we are caught by time. However, I hope that on Tuesday, we will do the divisions. We have postponed the divisions for almost two weeks. I urge the Whips, and I am happy the Majority Whip is here, to do a good job together with her counterpart the Minority Whip, to mobilize Members in order to ensure that we dispose of most of these Bills listed in the Order Paper.

I also take this opportunity to remind Chairpersons of respective Standing Committees to hasten consideration and public participation on Bills and file reports to enrich debate at the Second Reading stage, and guide the House when considering amendments during the Committee of the Whole stage.

Madam Temporary Speaker, Sir, I thank you. I hereby lay the Statement on the Table of the House.

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

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, as stated by the Majority Leader, we cannot raise the numbers to do the business as listed in Orders No.8, 9, 10, 11, 12, 13 and 14. Therefore, the Orders stand deferred to another date.

## **BILLS**

*Second Reading*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL  
(NATIONAL ASSEMBLY BILLS NO.13 OF 2018)

*(Bill deferred)*

*Second Reading*

THE SACCO SOCIETIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.1 OF 2018)

*(Bill deferred)*

*Second Reading*

THE FISHERIES MANAGEMENT AND DEVELOPMENT (AMENDMENT)  
BILL (SENATE BILLS NO.22 OF 2019)

*(Bill deferred)*

*Second Reading*

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION  
(AMENDMENT) (NO.3) BILL (NATIONAL  
ASSEMBLY BILLS NO.35 OF 2019)

*(Bill deferred)*

## **COMMITTEE OF THE WHOLE**

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO  
THE OFFICE OF THE COUNTY ATTORNEY BILL  
(SENATE BILLS NO.3 OF 2018)

*(Committee of the Whole deferred)*

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO  
THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL  
(SENATE BILLS NO.22 OF 2018)

*(Committee of the Whole deferred)*

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO  
THE EARLY CHILDHOOD EDUCATION BILL  
(SENATE BILLS NO.26 OF 2018)

*(Committee of the Whole deferred)*

Hon. Senators, let us move on to the next Order.

**BILL**

*Second Reading*

THE LIFESTYLE AUDIT (NO.2) BILL  
(SENATE BILLS NO.21 OF 2019)

*(Sen. Farhiya on 3.3.2020)*

*(Resumption of debate interrupted on 3.3.2020)*

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Kabaka had a remainder of ten minutes to conclude his contribution. He is not here. Therefore, I call upon Sen. (Dr.) Zani to make her contribution.

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I stand to support this Bill. Sen. Farhiya has really been passionate about issues of social audit. Before this Bill came to being, in a very structured way, well thought out and seriously put together, she already mentioned and talked about it for a long time. I am happy as I stand to support this Bill, to congratulate her because she has been able to achieve one of the things she is very passionate about, as we are also very passionate about. We have been talking about this issue without moving forward to create the legislative framework which will allow us to begin to answer and sort out a very important issue of wealth. This is wealth that is meant for specific purposes, but ends up going to wrong places, specifically into people's pockets.

Madam Temporary Speaker, it was only last week on the Floor of the House, that you talked about several counties where their finance offices had been burnt down. The finance officers suggesting that this is another effort to conceal some of the operations in those offices. This is sad remembering why we had devolution and that most of the people who voted for this Constitution voted for it because of the component of devolution. People felt that when things were centralized, some of their services and money was not going right up to their communities; and that this could be solved through devolution.

Yes, we have been going to various conferences, and you hear that there has been development that devolution has brought to the counties. However, they steal a lot of money. The County Public Accounts and Investments Committee (CPAIC) has been calling various State players, asking about this money; cross checking and trying to find out where the money has gone. The suspicion is that the money has gone into people's pockets, despite being envisaged that it will be manifested in the patterns of lifestyle that those people tend to have. Human beings tend to exhibit the money that they have by buying certain things such as expensive cars, houses and all sorts of things and different properties because they have the money.

Madam Temporary Speaker, it is possible to ascertain the ability of somebody's buying power. If it is known that this is a civil servant and he earns this amount of money, then it is possible to simply just go and do a lifestyle audit to see whether he is spending far more than what he earns. Then he has to be asked the critical questions, "Where is this extra money that you are spending coming from?" The cases are many; we have seen even at the level where they have gone to court, we find very glaring stories being explained about how money was being carried in sacks from one place to another; and people who were hairdresser now suddenly having a lot of money.

Therefore, Madam Temporary Speaker, many Kenyans intuitively realize that there is a lot of money that has gone out, that has been taken by people who have not worked for it, and are using it. Therefore, the notion that if we came up with a very streamlined way of understanding, vetting and asking about this---- This is not a new idea; overtime, we hear it being spoken about. We say, "Let us do a lifestyle audit." However, as Sen. Farhiya clearly states in the Bill, especially in the Memorandum of Objects and Reasons that, so far, no such framework has been put into place. I think that is what this Bill intends to do.

Madam Temporary Speaker, this is a very comprehensive Bill and it covers all the areas. I like the way it factors in other bodies and commissions that are involved in the fight against corruption. Just going through what it entails in terms of lifestyle audit, we have all issues, for example, about unexplained wealth, issuing of search warrants, making misleading statements and the penalties for doing this; the discharge of interim freezing order, the explanation that we can have members of the public initiating this process; that we can refer these matters to the Directorate of Public Prosecutions (DPP) at the end of it all so that further action can be taken, all these are very key.

Madam Temporary Speaker, Part Three of the Bill deals with Deferred Prosecution Agreements very comprehensively. The Bill then deals with Part Four, which contains the miscellaneous provisions. Just looking through the various key clauses, I want to zero down to Clause 4, which is clearly talking about the circumstances under which a lifestyle audit may be carried out. They include in Clause 4(1)(a) and (b)-

"A lifestyle audit may be carried out if-

- (a) There are reasons to believe that a public officer or State officer is living beyond an officer's lawfully obtained and reported income;
- (b) The public officer or State Officer is unable to account for the source of income;"

Madam Temporary Speaker, you will remember sometime back even when the vetting exercise was being done within the various forces, some people realized that they

were unable to account for their wealth, and some of them took their lives. That is indicative and the beauty of such a process is that this money can be traced. I discovered that that we have a very good system of transfer of money and tracking that money through the banks and wherever it is put. This money trail can always be checked and you can always follow it through. It is very difficult to expend money and not have somebody follow through and identify exactly where you put that money into.

Madam Temporary Speaker, even for the impeachment trials that we have had on the Floor of this Senate, we have heard of cases where people gave money to their relatives. That money can be traced because we have a whole regime of systems that interlink us. A person's information can be found because they registered for *Huduma Namba*. When you open a bank account, you also provide information. It is very easy to cross-check.

This Bill also seeks to allow immediate family members to be investigated in order to find out whether money was put into their accounts. I hope that we will not have a lacuna in terms of what can happen. Maybe Sen. Farhiya should think about the loopholes in the established marital connection. However, since polyandry is allowed, you could find that there are other family members, for instance wives, who are unknown especially under customary marriage. When I was reading the part about the immediate family, I thought that it needs to be elaborate because we have other people away from the usual family setup that we know.

In cases where, for example, a public state officer has misappropriated money, a lifestyle audit should be done. How is the lifestyle audit to be conducted? There are various bodies that this Bill gives power to undertake the lifestyle audit. These are well enumerated in Clause 5. We have the Kenya Revenue Authority (KRA) established under Section 3 of the Kenya Revenue Act, the responsible commission under Section 3 of the Public Officer Ethics Act and the Ethics and Anti-Corruption Commission (EACC) established under Section 3 of the Ethics and Anti-Corruption Act.

This Bill seeks to strengthen institutions that have been given power according to both Article 10 and Chapter Six of the Constitution. Article 10 talks about the need for transparency, integrity and open systems, so that people know what is happening. Chapter Six is about Leadership and Integrity.

This is a stroke of genius in this Bill. I am sure this is what Sen. Farhiya wanted. Are we going to form another body to do this and are these persons going to train themselves? This is just a stroke of genius where the various organizations that have already been mandated to do this within the Constitution will be given direct permission to do that.

Clause 4 is also important because it is possible to have some sort of witch-hunt. Conditions have been set in some of the sub-clauses under Clause 4, where various steps have to be conducted before carrying out a lifestyle audit. For example, Clause 4(3) states-

- “Before conducting a lifestyle audit, the investigating body shall give the officer-
- (a) a seven day's notice of the nature and reasons for the proposed lifestyle audit;
  - (b) an opportunity to be heard and to make representations in that regard;
  - (c) notice of a right to a review or internal appeal against a lifestyle audit; where applicable;
  - (d) notice of the right to legal representation where applicable;

- (e) notice of the right to cross-examine, where applicable; and
- (f) information and evidence relied upon to make the decision to conduct the lifestyle audit.”

This is important because it will allow some sort of recourse just in case somebody extremely gets out of hand.

Clause 7 is also important because it talks about the search warrants. It provides that an investigating body must apply for a search warrant. In Kenya, you may find that in the process of doing a lifestyle audit, people enhance themselves and get away with everything. It is important for someone to be given a search warrant, so that they know what is happening---

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Zani, you will have a balance of eight minutes when this matter comes up next for debate.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until Tuesday, 10<sup>th</sup> March, 2020, at 2.30 p.m.

The Senate rose at 6.30 p.m.