

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 19th May 2020 – Afternoon Sitting

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

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

PRAYER

The Temporary Speaker (Sen (Prof.) Kamar): Hon. Senators, we are going to use the Supplementary Order Paper. Proceed, Sen. Ndwiga, Chairperson Committee on Agriculture, Livestock and Fisheries.

PAPERS LAID

REPORT ON LOCUST INVASION IN THE COUNTRY

Sen. Ndwiga: Thank you, Madam Temporary Speaker. I beg to lay the following Paper on the Table of the Senate today, Tuesday, 19th May, 2020.

The Report of the Standing Committee on Agriculture, Livestock and Fisheries on Locust invasion in parts of the country.

(Sen. Ndwiga laid the document on the Table)

The Temporary Speaker (Sen (Prof.) Kamar): Thank you, Senator. The second Paper to be laid is by Sen. Halake on behalf of her Committee.

THE SIXTH PROGRESS REPORT OF THE *AD HOC* COMMITTEE ON THE COVID-19 SITUATION IN KENYA

Sen. Halake: Madam Temporary Speaker, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 19th May, 2020.

The Sixth Progress Report of the *Ad hoc* Committee on COVID-19 situation in Kenya.

(Sen. Halake laid the document on the Table)

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

NOTICES OF MOTIONS

The Temporary Speaker (Sen (Prof.) Kamar): Sen. Halake, issue the Notice on behalf of the Committee.

ADOPTION OF THE SIXTH PROGRESS REPORT OF THE
AD HOC COMMITTEE ON COVID-19 SITUATION IN KENYA

Sen. Halake: Madam Temporary Speaker, I beg to give Notice of the following Motion.

THAT, the Senate adopts the Sixth Progress Report of the *Ad Hoc* Committee on COVID-19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 19th May, 2020.

The Temporary Speaker (Sen (Prof.) Kamar): Sen. Dr. Ali, you have the Floor.

Sen. (Dr.) Ali: On a point of order, Madam Temporary Speaker. The Chief Whip is not wearing the mask properly. Advisory should be given that from today, he wears the mask properly.

The Temporary Speaker (Sen (Prof.) Kamar): Thank you, Sen. (Dr.) Ali. In fact, he came a bit too close with a mask that is not well worn. He is so advised.

Hon. Senators, before we move to Statements, there is one Notice of Motion by the Majority Whip.

Hon. Senators, we are still on Notices of Motion. That is why the Senate Majority Whip rushed here. Before we move to Statements, we will give him an opportunity to give another Notice of Motion.

REMOVAL OF SEN. (PROF.) KINDIKI FROM
OFFICE OF THE DEPUTY SPEAKER, SENATE

Sen. Kang'ata: Madam Temporary Speaker, I beg to give Notice of the following Motion.

THAT, this Senate resolves that Sen. (Prof.) Kindiki be removed from the Office of the Deputy Speaker of the Senate.

The Temporary Speaker (Sen.(Prof.) Kamar): Thank you, Senator. That will be scheduled for debate. There is no debate on it until when it is scheduled.

Next Order.

STATEMENTS

Sen. Were: Thank you, Madam Temporary Speaker. I have two Statements. I will start with the one to be committed to the Committee on Agriculture, Livestock and Fisheries. My second Statement will be to the Senate Committee on Labour and Social Welfare.

STATUS OF GOVERNANCE IN AGRICULTURAL
STATE CORPORATIONS

Pursuant to Standing Order No.48 (1), I seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries, concerning the status of governance of agricultural state corporations.

In the Statement, the Committee should-

(1) Provide information concerning directors appointed in various Agricultural State Corporations since January 2020 and their counties of origin.

(2) The Committee should explain the modalities of nominating an officer to represent the Principal Secretary (PS) of Agriculture in boards of corporations in cases where the PS opts not to sit in person in the boards.

(3) That the Committee should state measures put in place to address the lack of capacity of the Kenya Veterinary Vaccines Production Institute (KEVEVAPI) to produce and supply enough and viable vaccines, especially for foot and mouth disease.

MASS RECRUITMENT OF HEALTH WORKERS BY THE PSC

Pursuant to Standing Order No.48(1), I seek a Statement from the Chairperson of the Senate Committee on Labour and Social Welfare on the mass recruitment exercise of health workers by the Public Service Commission (PSC).

On Friday 8th May, 2020, the PSC advertised a total of 6,003 vacancies in the Ministry of Health (MoH) under the Universal Health Coverage (UHC) programme in *The Daily Nation*.

The vacancies advertised include -

(i) One hundred and ninety-five vacancies at the national level for various cadre of health workers ranging from registered nurses and radiographers, among others.

(ii) Seven hundred and nineteen vacancies in the Nairobi Metropolitan Services for Baringo County, Kirinyaga, Kitui, Lamu and Mombasa counties and 5,089 vacancies in what they called "other counties".

In his Statement, the Chairperson should -

(1) Explain the rationale and circumstance behind the decision by the PSC and the MoH to recruit health workers on behalf of county governments.

(2) Provide the measures that have been put in place to mitigate the risks of conflict of interest and the fragmented chain of command that maybe brought about by the national recruitment of health workers who are domiciled at the county level.

(3) Provide the rationale behind the differentiation of the 719 vacancies advertised for Nairobi Metropolitan services, Baringo, Kirinyaga, Kitui, Lamu and Mombasa counties versus the 5,089 vacancies advertised in "other counties."

(4) Provide clarification on the status of the recruitment in Homa Bay County, including details on the alleged halting of recruitment processes in the county by the PSC.

(5) Provide details of the contractual terms and conditions envisaged under this recruitment.

(6) He should provide the long term sustainability plan for addressing Human Resource for Health (HRH) beyond the stipulated contractual period in this recruitment exercise.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, we are already in Statements under Standing Order No. 48(1). I ask Sen. (Dr.) Mwaura to take the opportunity to seek his then we will come back to Statements under Standing Order No. 47(1).

EXPENDITURE BY MINISTRY OF HEALTH
IN THE FIGHT AGAINST COVID-19 PANDEMIC

Sen. (Dr.) Mwaura: Madam Temporary Speaker, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Health on the alleged expenditure by the Ministry of Health (MoH) in the fight against COVID-19 pandemic.

In the Statement, the Committee should -

(1) Explain how the MoH hired 15 ambulances for Kshs42 million translating to Kshs2.8 million each per month.

(2) Explain how the MoH hired 30 cars using Kshs14.4 million at a rate of Kshs480,000 per month.

(3) Give a breakdown on how Kshs10 million for tea and snacks was supposed to be used.

(4) Explain how donations from Jack Ma were distributed across the country.

(5) Explain how Kenya Medical Supply Agency (KEMSA) got Kshs593 million from Personal Protective Equipment (PPEs) and provide a breakdown of how the monies have been used so far.

(6) Explain how Kshs9 million was used to print travellers' forms, quarantine forms and another Kshs.6.5 million used to buy stationary.

(7) Explain how Kshs70 million was used for communication in a month yet media houses have given a combined airtime worth Kshs150 million.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Sen. Wetangula is not here.

TRAFFIC CONGESTION ALONG THE
BUNGOMA-KANDUYI-MALAVA ROAD

(Statement deferred)

Proceed, Sen. (Dr.) Ali.

POLICE BRUTALITY ON RESIDENTS OF BUTE AND
BIYAMADOW, WAJIR COUNTY

Sen. (Dr.) Ali: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations regarding the brutality meted out by police officers on residents of Bute in Wajir North and Biyamadow area of Wajir South on 5th and 7th May, 2020, respectively.

In the Statement, the Committee should-

(i) Explain why police officers used excessive force, including live bullets on peaceful demonstrations in Bute in Wajir North. They beat up a young man who was just walking around until he was hospitalized in Wajir South, in violation of the law. The live bullets used in Wajir North hit a young man, who is a student in Masinde Muliro University of Science and Technology. Right now, he is lying in the Coptic Hospital here in Nairobi with a fractured leg;

(ii) state the actions taken by the National Police Service (NPS) and Independent Policing Oversight Authority (IPOA) against the police officers involved in the said brutality;

(iii) explain the reasons for erection of four police barriers between Watiti and the other towns in Wajir North Constituency, a distance of 40 kilometers, and clarify whether the move is backed by law; and,

(iv) state the measures put in place to bring to book police officers who have been extorting and demanding bribes from residents of Wajir North, particularly shopkeepers, *boda boda* riders and *matatu* operators who ferry people and goods in those areas.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Sen. Dullo, proceed.

Senators, unless you signal the Chair, I will assume that the Statements will go to the relevant Committees without any additional comments.

Sen. Mwaruma: Madam Temporary Speaker, I wanted to comment on Sen. Were's Statement, but I did not have that opportunity. I thought we were doing all of them, then we comment at the end. If you allow me, I wish to comment on Sen. Were's Statement.

The Temporary Speaker (Sen. (Prof.) Kamar): Normally, we take comments, but I did not see a sign that you wanted to comment.

Sen. Mwaruma: Madam Temporary Speaker, you had given the guidelines before we came in and so, I thought that was the guideline.

The Temporary Speaker (Sen. (Prof.) Kamar): I will allow you to comment on Sen. Were's Statement, so that we do away with it.

Sen. Mwaruma: Madam Temporary Speaker, allow me to comment on the very important Statement by Sen. Were about employment of medical officers by the Public Service Commission (PSC) and yet, the health function is devolved.

Most importantly, I wonder how people who are supposed to do interviews are allowed to go to counties under the current circumstances of cessation of movement.

You reckon that movement is not allowed from one county to another, especially in Nairobi, Mombasa and so on. I wonder how these people, who were shortlisted - because they applied online - are facilitated to move to the areas where they are supposed to do the interviews. I would suggest that those people who were shortlisted can show the police commandants or the people who are supposed to facilitate the movement the names on the shortlist. This will allow them to go for the interviews, so that they are not discriminated.

Madam Temporary Speaker, we do not need to lock out many people who are qualified from accessing employment. We should also not disallow the counties that

require the services of medics. These are now associate essential service providers, even if they are not yet employed.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): On the same Statement, proceed Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Madam Temporary Speaker. I appreciate that during this pandemic of the Coronavirus Disease (COVID-19), the Government considered additional employment of the various medical cadres in various counties to alleviate the acute shortage of workers in these counties. I hope that this will be a permanent feature because the acute shortage of these workers in various counties leaves a lot to be desired. Services may not necessarily be rendered to the people with finality.

Secondly, while employing these people, there must be a level of transparency and accountability. I have heard stories from several counties that may not be pleasant. During this interview process, there is rent-seeking; that most of them seek to get from the prospective candidates, who are likely to get any job from those places.

I urge that our security agencies and the anti-corruption elements focus on various counties that are causing this kind of unfortunate situation. They can save the young people from being asked to pay a lot of money upfront without any justification whatsoever. They should be called to account when they develop these kinds of measures.

Madam Temporary Speaker, I like the method and hope that there will be more vacancies given. Particularly in my county, I want to see more vacancies given to the county to employ more people. The health sector has a very acute shortage of health workers in those areas. Once the funds are available to them, I hope everything will be put into good use without resorting to unorthodox methods.

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

Sen. Were: On a Point of Order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): What is your Point of Order?

Sen. Were: Madam Temporary Speaker, you forgot to give timelines to the Chairpersons of the Standing Committee on Health and Standing Committee on Agriculture, Livestock and Fisheries.

The Temporary Speaker (Sen. (Prof.) Kamar): It is not yet over until it is over.

Sen. Farhiya, proceed.

Sen. Farhiya: Madam Temporary Speaker, I also had a similar comment. Sen. (Dr.) Ali's Statement was not committed to a particular Committee. Was it?

The Temporary Speaker (Sen. (Prof.) Kamar): We went back to clear anybody with comments on Sen. Were's Statement. Let us finish.

Sen. (Dr.) Ali, proceed.

Sen. (Dr.) Ali: Madam Temporary Speaker, while the national Government's job of trying to employ more medical personnel in the counties was commendable, what is happening in some of the counties like mine is pathetic. It is not only rent-seeking; the people who are supposed to be employed come possibly from only one constituency.

The drama in Wajir County right now is that some of the people who are supposedly shortlisted do not even have letters of accreditation from their organizations. They have just finished colleges of nursing, public health or clinical health. They have not even done internships, yet they have been employed.

The County Public Service Board (CPSB) of Wajir County is in dilemma with regard to what to do with such cases. I want the Committee to look into this issue; that if things are sent to the counties, the national Government must make sure that there is fair distribution within the county.

The Temporary Speaker (Sen. (Prof.) Kamar): Is there anybody else who wants to comment on Sen. Were's Statement? I will give the last two minutes to Sen. Halake.

Sen. Halake: Thank you, Madam Temporary Speaker. What Sen. Were has asked is pertinent, especially for this House, whose sole mandate is to ensure that we protect counties and their people.

Taking back some of this human resource for health employment is taking devolution back. Under the guise of COVID-19, governments, both at national and county levels, are taking back powers from devolution, when they should not be doing so.

Sometimes this is necessary and those powers will be given back, but often times they may never be given back. This House must stand up and ensure that under the guise of COVID-19, we do not roll back the gains of devolution.

I support and hope that this will be dealt with immediately. We as the *Ad Hoc* Committee on the COVID-19 situation in Kenya have actually started on this already, but it would be nice to also have the Committee that she has asked the request from to get to the bottom of that as well. We already have a lot of information on that, and we will share.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, as was inquired under Standing Order No.48 (1), we do not necessarily give a timeline to a committee. What we expect is that the relevant committee will go and work on it and bring it as soon as possible. Therefore, I would like to encourage the Committee to deal with this as fast as possible and bring it back to the House.

The other one of Standing Order No.48 (1) was from Sen. (Dr.) Mwaura. Anyone who had a comment and may have felt skipped?

Sen. (Dr.) Ali read his Statement. Yes, Sen. Farhiya.

Sen. Farhiya: Madam Temporary Speaker, I wish to thank Sen. Were for bringing that Statement.

We are all concerned with the police brutality in terms of dealing with the curfew and the rent seeking that is ongoing.

The other day, someone from Eastleigh came to my office and I asked him how he got out. He said that it is only Kshs50. If you give Kshs50 you can get out, so are we creating avenues for rent seeking and yet the President of this country was very categorical that we need to stop corruption for us to have meaningful development in this country? Police are taking advantage of the Coronavirus (COVID-19) lockdown and other issues and using it to rent seek.

Madam Temporary Speaker, these issues must be dealt with decisively, otherwise, the people who are supposed to take care of the good laws that we make are the same guys who are breaking the law. This should not be allowed. I think that these issues need to be looked at in Wajir, and also extended to other counties, because there are a lot of problems around rent seeking by using the curfew and whether someone does not have a mask.

The right procedures should be followed and people should be punished appropriately. This pandemic should not be used as a rent seeking avenue. Everybody is struggling. People have lost employment, people are even struggling to meet their basic needs, and the people who are supposed to be protectors of others are the ones who are taking advantage of these people. I think that this is an issue that we really need to tackle.

Thank you for giving me this opportunity.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Any other comment? That is okay. Again, that stands committed to the Standing Committee on National Security, Defense, and Foreign Relations.

The next Statement is from Sen. Dullo.

TORTURE AND EXTRA-JUDICIAL KILLING OF
ISIOLO COUNTY RESIDENT BY KWS OFFICERS

Sen. Dullo: Thank you, Madam Temporary Speaker. I rise, pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations Regarding the recent torture and extra-judicial killing of a resident of Isiolo County by the name Musa Somo Kanchora by the Kenya Wildlife Services (KWS) officers. In the Statement, the Committee should explain -

(1) The circumstances that lead to the torture and fatal shooting of Mr. Musa Somo Kanchora, a resident of Isiolo County, during an encounter with over 20 KWS officers from Meru County on the morning of 12th May, 2020 at a barrier in Gatucha area in Kinna Ward, Isiolo County, 35 kilometers from the protected area of Meru National Park and Bisanadi Game Reserve.

(2) Urgently investigate and establish the identity of the KWS officers who were present at the scene at the time of the incident, and state what disciplinary action will be taken against them.

(3) State measures put in place to curb the trend of torture, forced disappearance and murder of residents of Isiolo and Samburu counties involving the KWS unit at the protected area of Meru National Park and Bisanadi Game Reserve in light of the fact that so far, five other residents of Kinna in Isiolo County have been killed and ten others have sustained traumatic injuries as a result of torture by KWS officers, while 12 cases of enforced disappearance had been recorded as at December 2019.

(4) Ascertain when the families of all the victims of extra-judicial killings will receive compensation from KWS.

I thank you.

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

Sen. Halake.

Sen. Halake: Thank you, Madam Temporary Speaker, for allowing me to add my voice and congratulate my sister, Sen. Dullo, for bringing this very important Statement on violation of human rights.

In this country, Government protected areas that are protecting wildlife are next to community areas. In fact, more animals are on the community land which is in protected areas.

The KWS usually has statistics, but in this case, as Sen. Dullo has put, it is not just a statistic, it is somebody. Mr. Musa Somo Kanchora, who was shot. Mr. Kanchora is

not just one person. Since the inception of the protected area, so many lives have been lost.

The issue of the conflict between the communities and the armed KWS officers has been ongoing for so long without any resolution. It is about time that the Government started to value human life. The Government should take action against these rogue officers. I myself worked for KWS for a number of years, and at no point is the KWS condoning these kind of killings and wanton destruction of life.

Madam Temporary Speaker, the right to life is sacrosanct and in our Constitution. We must be told how the people of Isiolo and other areas that are adjacent to the protected areas---. I know the Samburu belt, the Maasai Mara belt and the Taita belt are all areas inhabited by communities.

These communities have been looking after these animals, but for them to be killed so carelessly and callously is unacceptable. It is about time that this Committee makes sure that the KWS and other Government agencies do not just extinguish people's lives with the impunity that has happened so far.

Madam Temporary Speaker, the people that are supposed to be protecting lives are the same ones turning on people. We have seen that with the police, in the case that Sen. (Dr.) Ali has just said. We have seen that even right here during the curfew enforcement.

When will Kenyans' lives be taken seriously? I think that this House must really stand up and make sure that the families are compensated, but more importantly that these kinds of extra-judicial killings based on we do not even know what, stop and justice is served to the families.

Thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, that Statement stands, therefore, committed to the Standing Committee on National Security, Defense and Foreign Relations. Again, we encourage them to move as fast as possible, because the timeline is not stipulated in our Standing Orders.

The next Statement by Sen. Halake.

THE FORESEEABLE CHALLENGES OF MEETING THE DEADLINE FOR FILING THE 2019 INCOME TAX RETURNS

Sen. Halake: Madam Temporary Speaker, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the foreseeable challenges of meeting the deadline for filing the 2019 income tax returns by taxpayers in the country.

In the Statement, the Committee should -

(a) State whether there are any plans by the Government to extend the deadline or put in place measures of filing of Income Tax returns given the prevailing circumstances of the Covid-19 pandemic.

We anticipate and, many people have made presentations to some of us, that this may hinder taxpayers with Information Technology (IT) related challenges from accessing Kenya Revenue Authority (KRA) offices for further assistance.

(b) State the measures, if any, that the Government will put in place to ensure that KRA does not unduly punish or penalize Kenyans who will not have met the deadline for

filing their Income Tax returns based on the complexities and challenges of Covid-19, including cessation of movement as well as other income losses that may disadvantage them to access the internet.

The Temporary Speaker (Sen. (Prof.) Kamar: Thank you. That Statement stands committed to the Committee on Finance and Budget. The Committee should also expedite it because of the deadline.

Hon. Senators, we will go back to Statements pursuant to Standing Order No. 47(1). I note that Sen. (Dr.) Musuruve is here. Her Statement, under Standing Order No.48 (1) was stood down because she was not in the list. However, I will give her a chance.

Proceed, Sen. Mwaura.

Sen. (Dr.) Mwaura: Madam Temporary Speaker, should I go ahead to give the other notice?

The Temporary Speaker (Sen. (Prof.) Kamar: Yes.

Sen. (Dr.) Mwaura: Thank you, Madam Temporary Speaker.

EFFECTS OF COVID-19 PANDEMIC ON MICRO AND SMALL ENTERPRISES

Pursuant to Standing Order No. 47(1), I rise to make a Statement on an issue of national concern namely, the effects of COVID-19 pandemic on Micro and Small Enterprises (MSEs).

In the wake of the COVID-19 pandemic, MSEs are staring at mass closures across the 47 counties. This will lead to unprecedented increase in job losses and unemployment.

MSEs are a critical sector of our economy that cannot be ignored. The sector provides jobs to millions who are not absorbed in the white-collar jobs. It contributes to the sustenance of millions of livelihoods across the country and households.

The devastating effects of the COVID-19 on business environment has hit MSEs hard and bread-winners can no longer provide for their families. Consequently, poverty levels are in the short term expected to rise as COVID-19 persists.

Madam Temporary Speaker, across the country, barber shops, salons, tailoring shops, furniture sheds, grocery shops, among others, are not making any revenue. MSEs are struggling to stay afloat and dwindling business prospects are a reality they are facing. This is because people are not moving around and the purchasing power has been reducing by the day, with many now choosing to spend on the bare essentials so to survive. This trend will drive millions in the MSEs sector to poverty.

In order to support this significant sector of our economy during this difficult time, I call upon county governments to suspend the renewal of single business licences for at least three months, or waive them altogether, particularly for any businesses with an annual turnover of less than a million shillings who are the majority.

Madam Temporary Speaker, charges for accessing open air markets, as well as cess for agricultural produce should be suspended for at least three months or waived for the remaining part of the year.

I encourage the Standing Committee on Tourism, Trade and Industrialization to engage the Council of Governors (CoG) and the County Assemblies Forum (CAF) to ensure county governments respond to the pandemic as I have proposed.

I call upon this August House to agree with me.

Further, county assemblies should consider taking legislative interventions to give legal effect to relief measures that I have specified.

Madam Temporary Speaker, the situation is dire. We have seen the national Government trying to give some tax relief to the formal economy. However, we have not seen reciprocal measures from the county governments who are largely in charge of the informal economy which is where most of Kenyans earn their income.

If you go to Windsor Hotel on the northern by-pass, people are using their private vehicles to hawk fruits and vegetables in the street. So, I make a passionate appeal that county governments should also reciprocate. This is because businesses are collapsing and people are hungry. We need to save the economy.

Sen. Malalah: Thank you, Madam Temporary Speaker. I rise to support Sen. Mwaura on the proposals he has made, more specifically on issues of relieving the low income earners at the county level.

We exist in abnormal times. We should put ourselves in the shoes of a common *mwananchi* who is a trader at Khayega Market. The economy is at its low. Therefore, it is important for us to cushion such *wananchi* at these trying moments.

County governments have scaled down their operations. Seventy per cent of their employees are at home because of the Coronavirus mess. Therefore, it means that the recurrent expenditure of county governments has gone down.

It is important for county governments to appreciate the fact that their expenditure is low and the local revenue that they were collecting to operationalise their expenditure should not be an issue. It is also important for them to consider waving day to day taxes of people who are trading at local markets.

Madam Temporary Speaker, the *matatu* sector has been affected. As we speak, the Ministry of Health together with the Ministry of Transport, Infrastructure Housing, Urban Development and Public Works gave out clear directions that a 14-seater *matatu* should only carry a maximum of eight people. It is sad that as much we are reducing the capacity of *matatus* we are still taxing them as though they are carrying to capacity. It is important to consider waving taxes on such traders.

I spoke to one of the chairpersons of *matatu* operators SACCO in Kakamega, Mr. Sangulo who told me that life is hard. People are parking their vehicles. Drivers and conductors are losing their jobs because they are unable to break even in their businesses. Therefore, it is important for us to consider the Statement by Sen. Mwaura and look for ways to cushion small-scale traders.

We have people who work in salons and cannot afford a meal per day yet they still pay rent. This should also extend to the landlords.

I appreciate landlords in Kakamega Town who have considered to negotiate with their business community. However, not all landlords have complied.

I wish there could be a policy from the national Government to urge all landlords to consider waiving part of their monthly rent because we are living in very difficult times. I want to congratulate Sen. Mwaura for coming up with this noble idea. How I

wish we could conceptualize this idea into a policy so that it is effected, for the betterment of our people.

I thank you.

Sen. Cherargei: Thank you, Madam Temporary Speaker, for this opportunity. I want to add my voice to the Statement by Sen. Mwaura. Cushioning small businesses is very crucial. This is because the majority of these small business enterprises are normally run by young people. I know quite a number of people have closed down their businesses because they do not have sufficient capital. There are many sectors that depend on daily earnings, including the *matatu* sector.

Madam Temporary Speaker, as we continue with the fight against the COVID-19 pandemic in the country, we must agree that there are legislative and policy interventions that need to come into force to ensure that we cushion our people. I have seen the European Union (EU) and other trade unions across the world, including the World Bank, coming up with various measures to ensure that the ordinary *wananchi* and the business people are protected and cushioned.

Therefore, I think it is right that we put in place necessary mechanisms to protect our businesses, especially small enterprise businesses; for instance, the *mama mbogas*. I agree that counties should also come up with innovative ways of giving tax waivers, levy waivers, fee waivers and tax relief measures to the small businesses, especially to *mama mbogas* and people who do small businesses within our counties.

The *matatu* sector that our colleagues have alluded to is also suffering. This is because they have reduced the number of passengers they carry. The *matatu* sector is one of the sectors that is vibrant, even to the level of *boda boda* drivers. *Boda boda* drivers could carry two passengers, but right now, they are not allowed because of keeping social distance. Most of them are struggling to pay loans. You have to appreciate that we need policy interventions. This is because the banks and the finance sector have agreed that they will review or do something about the loans. We must agree that they should be a process on how to cushion small businesses.

Madam Temporary Speaker, finally, since we come from North Rift, the major region that feeds the entire country, I wish to advice and add that Sen. Mwaura should also include cushion to farmers. This is because if we do not have food security in this country, there will be a threat to national security since there should be sufficiency of food supply in the markets.

Therefore, as we seek solutions, we must put in place the necessary interventions to cushion our farmers, especially to supply them with subsidized fertilizers and seeds. We are at this session where weeding is ongoing. We are also doing top-dressing in our farms, especially on maize plantations in the North Rift.

Madam Temporary Speaker, we need zero rating of pesticides that we use for weeding and top-dressing fertilizers to ensure that we have sufficient food. Kenyans are being advised to stay at home, there is lockdown, there is cessation and many other interventions in place. We should also put in place necessary measures so that farmers continue to produce more and ensure that we stabilize food prices in the market. The more the food supply in the market, the demand will stabilize and, therefore, our people will continue to buy goods at an affordable price and we will be able to eradicate the issue of COVID-19 pandemic in this country.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Sen. Mwaruma, Senator of Taita Taveta, kindly proceed.

Sen. Mwaruma: Thank you, Madam Temporary Speaker, for giving me this opportunity to weigh in on to the Statement by Sen. Mwaura that seeks to address the plight of the Small and Medium-size Enterprises (SMEs) in our country.

Madam Temporary Speaker, it is true that we need to look at and address the plight of the SMEs. Given the economic down turn, the SMEs are doing very poorly. I want to address this issue in three areas. The first one is that county governments may consider to waive the licenses by---

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order Sen. Sakaja?

Sen. Sakaja: On a point of order, Madam Temporary Speaker. I seek your direction. This is a very important Statement by Sen. Mwaura on the issues of SMEs, informal sector and the whole finance and the economic landscape right now during COVID-19.

Madam Temporary Speaker, in the Order Paper, there is a substantive report. There is a Motion on a report on these issues that goes into the depth. Would it be proper for me to ask that you direct that these very useful comments be made that time? The House does not work in vain. We are talking about policy interventions---

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Sakaja. You are jumping the gun. I will make a conclusion at the end of the contributions. Members are contributing towards that. After that, we will give a conclusion. This is because we are either directing it to a committee or that committee you are talking about whose report is there.

Sen. Sakaja: Madam Temporary Speaker, you are not getting what I am saying.

The Temporary Speaker (Sen. (Prof.) Kamar): I am wondering what is out of order.

Sen. Sakaja: Madam Temporary Speaker, there is a report already that was moved in the morning, that is being Seconded, so that the House can actually make a resolution---

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Sakaja, that is okay for that Motion. Let us wind up the contributions towards this Statement and we will be able---

Sen. Sakaja: Thank you, Madam Temporary Speaker. I do not think we have understood each other, but I stand guided.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Malalah, are you on another point of order?

Sen. Malalah: Madam Temporary Speaker, it is not a point of order, but just to inform my brother Sen. Sakaja that---

The Temporary Speaker (Sen. (Prof.) Kamar): Does he want your information?

Sen. Sakaja: Madam Temporary Speaker, I do not require information at this point.

(Laughter)

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Malalah, I stand you down. Let Sen. Mwaruma finish his contribution.

Sen. (Dr.) Milgo, kindly proceed.

Sen. (Dr.) Milgo: Madam Temporary Speaker, while the Motion that is before us is very important, this Statement is equally important. We have to apportion time to each and every activity and we do not do one at the expense of another. This Statement that Sen. Mwaura has read is very important. The *Ad Hoc* Committee on COVID-19 can borrow the contributions we are making pertaining to that Statement.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): I do want to open it for a discussion. According to our Standing Order Nos.47 and 48, Members have a right to seek Statements the way you seek your statements. We only have that small window to allow other Members to react to your Statement. At the end of the Statement, we will decide what to do with the comments.

Thank you. Sen. Mwaruma. Kindly conclude.

Sen. Mwaruma: Madam Temporary Speaker, I had already spoken to the fact that we need to look at the tax regime in the counties, especially to do with licensing. We can do waiving.

Secondly, there was a programme that was started by the President called *Stawisha* SMEs *Mashinani*. If there is any opportune time to roll out the Kshs4 billion programme, then it is now so that you can cushion our small and micro enterprises.

Thirdly, somebody called me three weeks ago informing me that there is a lot of pressure from Government agencies on him to repay his loans. He had taken a loan for his SMEs from the Kenya Industrial Estates (KIE), which gives loans to people who are doing business and who are putting products in the value chain; it could be agricultural products.

We are wondering what we should do as Government agencies to cushion these people. This is because when you produce or get these products, you are supposed to put them into the market. Given the current economic down turn, there is no market for these products. Why do you start pushing these people to repay the loans?

The Kenya Industrial Estates (KIE) and other Government agencies that are giving loans and the non-state actors who are giving loans can consider waiving the loans until such a time when the economy will have settled.

Madam Temporary Speaker, number four, there is the aspect of reopening the hotels that is there with us. The operators of the hotels have been told that, in order to get new licenses, they must have all their employees tested for COVID-19. The tests are very expensive.

I am told that the tests cost between Kshs8, 000 and Kshs10, 000. That is a lot of money. If you have 10 employees, that would cost like Kshs80, 000. These are some of the incentives that we can waive or we can look at, at a broader perspective so that we can save our SMEs which offer employment to many people.

I support the Statement.

Sen. (Prof.) Ongeri: Thank you, Madam Temporary Speaker. The bottom-line of this Statement by Sen. (Dr.) Mwaura is putting food on the table. We are in a crisis today.

There have been massive lay-offs, people are not working in their industries and micro enterprises are collapsing. People are not tilling their lands for food production. It has become very difficult for our people to accessing certain facilities, particularly loans from banks. There is a total crunch down. We must find a way of helping our people to make their ends meet.

I get very distressed, for example, in the evening when I leave here heading home at 4.00 p.m. and few hours to the curfew. I always see a number of women sitting on the roadside waiting to get a day's job to go and put food on the table. Sometimes they wait for a good Samaritan to give them some money to go and buy food for their families. The situation is very pathetic.

I get a number of telephone calls from my county, constituency and my home area from people crying for food. When I tell them that at least they have access to some vegetables and bananas from the garden, they tell me nothing is forthcoming from there. They are not able to buy *Sukuma wiki* for their survival.

Madam Temporary Speaker, what does that tell you? It is an indication that the social fabric of this country is about to breakdown. I agree with Sen. Sakaja that the COVID-19 Bill has a whole array of arrangements and actions around the social outfits and what must happen to our people today. It is a very important Bill.

The President came out with a very clear strategy and Statement saying that he will address the plight of micro enterprises and give them some kind of economic stimulus for them to survive during this COVID-19 pandemic. If that can be rolled out quickly and resources sourced, they can be kept afloat during this time. It will also help this country to maintain job opportunities, micro enterprises and the *jua kali*.

I am very proud because I started the *jua kali*. It has always been a saviour for this nation; both in provision of services and other things that make the ordinary *mwananchi* to survive the ordeals.

The COVID-19 pandemic is nobody's blame because it came as a surprise for all of us. Therefore, we must rise to that occasion to deal with it firmly. We need to cushion everybody from micro enterprises, farmers and domestic workers to make them survive in these difficult times.

If you have noticed, there is an increase of crime and petty theft in this country. People are scaling walls to steal something for survival. That is the kind of order we are seeing developing in our society and we must curb it before it is late in the day.

I thank Sen. (Dr.) Mwaura. This is a timely Statement. I think we should apply our minds and be able to put pressure on the Government to come up with very serious and feasible economic platforms where these people can access the resources available for survival.

Sen. Kinyua: Asante sana, Bi. Spika wa Muda, kwa kunipa fursa hii. Kwanza, Taarifa hii ya Sen. (Dr.) Mwaura ni uwaledi mwingi. Heko kwake kwa kuileta katika Seneti.

Serikali kuu imejaribu kiasi cha haja kwa sababu kuna ushuru fulani unaotozwa, tayari wameuondoa. Lakini ukiangalia katika kaunti zetu, utaona watu wanaouza vitu rejareja kama nyanya, nguo za mitumba na bidhaa nyingi barabarani, hao wanaendelea kutozwa ushuru wa kiwango cha Kshs50 au Kshs100.

Wakati huu kuna janga la COVID-19 na kupata mnunuzi wa bidhaa si rahisi. Wanapata wateja kati ya 6.00 p.m. hadi 8.00 p.m. *Curfew* imewaathiri sana. Kwa hivyo, wanauza kwa muda wa dakika 30 pekee.

Kaunti zetu zinapaswa zichukulie jambo hili kwa ugumu zaidi ili waweze kutuwasaidia watu wanaofanya biashara za rejareja. Hii ni kwa sababu hawa pesa za kulipa ushuru huo. Ukitembea kule kwetu Nyahururu, Nanyuki au Rumuruti utaona ndugu zetu ambao wameajiriwa na kaunti na wanavaa koti za manjano wanafukuza akina

mama na watu wengi wanaofanya biasahara za rejareja mithili ya watu walioiba. Wangewapa afueni wasilipe ushuru huo wakati huu wa ugonjwa COVID-19.

Ikiwa hawa wauzaji rejareja hawatakufa na ugonjwa huu wa COVID-19, basi watakufaa njaa. Hii ni kwa sababu watu hawa hawana pesa za kununua chakula. Ningependa kuwaomba magavana wa kaunti zetu na wale wengine wanaohusika, waangalie watu wetu wakati huu. Angalau waondoe ushuru huo wa Kshs50 au Kshs100.

Ushuru huo unatozwa wanaofanya biashara za rejareja kama ile ya kinyozi, wanaouza nyanya, mboga na nguo wakitembeza hapa na pale. Watu hawa ndio wanagandamizwa zaidi. Watu hawa hufanya biashara zao kwa muda wa dakika 30. Hii ni kwa sababu kama hautashikwa na askari wa kaunti, utashikwa baada ya saa moja au kwa kutovaa baragoa.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Kinyua. That brings us to the end of the debate.

Hon. Senators, this was a Statement under Standing Order No. 47(1). Under Standing Order 47(1), we do not normally refer it to a Committee. However, as was rightfully mentioned by the Chairperson of the *ad hoc* Committee on COVID-19, I would like to strongly recommend his Committee take advantage of the information that has come out and enrich their report. We know that a notice was given this morning on the same. It will be on the Order Paper.

That will only be additional information. We are going to end on that note. Sen. Sakaja, the Chairperson of the *ad hoc* Committee on COVID-19 situation in Kenya; most of the information that you have received from Members today when it comes to debate, will only enrich your Report because there is no other Committee that we are referring this Statement to.

The next Statement under Standing Order No. 47(1) is the Statement by Sen. Omogeni.

Sen. Omogeni: Thank you, Madam Temporary Speaker. Before I make this Statement, allow me to congratulate Sen. Farhiya for her election as the Deputy Whip of the Majority side. I have served with her in the last two years in the Sessional Committee of Delegated Legislation. I have known her as a very committed Senator. I wish her well in her new assignment.

THE GAINS AND IMPLICATIONS FOR THE SENATE
ARISING FROM THE JUDGMENT OF THE SUPREME
COURT IN ADVISORY REF. NO. 3 OF 2019

Madam Temporary Speaker, I rise to make a Statement pursuant to Standing Order No. 47(1). This was the Statement on the gains and implications for this House arising from the Judgement of the Supreme Court in advisory Ref. No. 3 of 2019.

Hon. Senators, I wish to bring to the attention of this House the recent judgment of the Supreme Court that was issued last Friday, 15th May 2020. The Council of Governors (CoG) had sought an advisory opinion from the Supreme Court on questions regarding the manner of division of revenue, the mandate of the Senate in the legislative process and questions on public finance in general. The Supreme Court has now delivered a precedent setting judgment, reinforcing the role of the Senate in division of revenue and in its role as the defender of the counties.

Madam Temporary Speaker, I was privileged to appear for the Speaker of the Senate *pro bono*, together with Ms. Wangeci Thanji, an advocate from the Directorate of Litigation and Compliance. It was our honour to represent the Hon. Speaker in the said advisory decision. Our arguments on behalf of the Speaker can be found in Paragraphs 3 and 42 of the said judgment.

The National Assembly was represented in the court by Hon. Kaluma. On the first implication on whether the recommendations of the Commission on Revenue Allocation (CRA) are binding upon both houses during deliberations on the Division of Revenue Bill and the Appropriation Bill; the Supreme Court has upheld Parliament's legislative role by pronouncing that the legislative authority of Parliament must be safeguarded by requiring that Parliament pays due regard to the recommendations of the CRA, but without being bound by the said recommendations.

When considering The Division of Revenue Act, the House is required to accord the recommendations of CRA the central role that the recommendations play in the equitable sharing of revenue between the two levels of Government. If this House fails to give appropriate considerations or explain a significant deviation from the recommendations of CRA, it is the view of the Supreme Court that such legislation would be unconstitutional.

The Supreme Court has allowed Parliament to deviate from the recommendations of CRA. It is important for the Members of this honourable House to note that not every deviation must be explained. An explanation is only required where there is significant deviation from the proposals by the CRA.

Madam Temporary Speaker and hon. Senators, the Court has upheld our legislative role and this House is now called upon to rise to the challenge and discharge its mandate under the Constitution without fear or favour. We must ensure that the Division of Revenue is enacted every year with sufficient funds for counties and in a timely manner.

It is important for the Senate to immediately commence the process of enacting legislation that addresses situations where there is an impasse between the National Assembly and the Senate on the division of revenue.

The Supreme Court has urged the two Speakers of the Houses of Parliament to initiate requisite legislative action so as to entrench the Supreme Court's Advisory Opinion on what happens in the event that there is an impasse in the passage of the annual Division of Revenue Act.

This is a matter of grave public interest. It is a matter this House must expedite to avoid a situation such as the one that prevailed in the last financial year. The financial year began without Parliament having built consensus on the Division of Revenue Act. We must comprehensively address the question of how counties can access funds, in the intervening period, where Parliament is yet to pass the annual Division of Revenue Act.

Madam Temporary Speaker, the Supreme Court, on a positive note, ruled that counties should access 50 per cent of their allocation from the preceding financial year as long as the said allocation does not go below the 15 per cent provided for in the Constitution.

In the meantime, the judgment of the Supreme Court has provided a structural framework that will apply if an impasse occurs due to the failure of the mediation

process, owing to the lack of concurrence between the two Houses over the Division of Revenue Bill.

Madam Temporary Speaker, please note that if Parliament fails to enact the Division of Revenue Act within the stipulated period, the finding of the Supreme Court is that Parliament may be dissolved in line with Article 261 of the Constitution. This provision of the Constitution allows any Kenyan to petition the High Court when Parliament has failed to enact any legislation within the specified time.

This action is not without precedent. In Australia, Parliament has been dissolved at least seven times for failing to pass required legislation and occasioning constitutional crisis, resulting in paralysis of Government operations. At all times, we must be alive to our solemn duty to ensure that both levels of government are able to operate seamlessly and provide services to the people on whose behalf we exercise sovereignty.

This House must be proactive and pass legislation, directing the National Treasury on the proper mode of distribution of funds without undue delay as provided in Article 219 of the Constitution and in line with the budgetary cycles of the county governments.

Madam Temporary Speaker, I now turn to the most crucial limb of the judgment from the Supreme Court; indeed, the grundnorm and the biggest win for the Senate. The Supreme Court has affirmed the position that this House has often times held; that the National Assembly cannot enact the Appropriation Act before the Division of Revenue Act.

(Applause)

Further, if the National Assembly attempts or does enact the Appropriation Act before there is in place a Division of Revenue Act, the resulting Act would be unconstitutional.

This is a question that we have repeatedly raised. Appropriation must be based on the National Government's share of equitable revenue, contained in the Division of Revenue Act. Appropriation at both levels of Government must be based on the vertical allocation of equitable share of revenue between the two levels of government and the horizontal allocation amongst the counties. The Supreme Court has affirmed that this is the role that the Senate must guard and protect zealously.

At this point, let me reiterate that this House is directly elected by the people and represents the sovereignty of the people pursuant to Article 1 of the Constitution. The Constitution and the Supreme Court have affirmed the crucial role that this House plays in the constitutional dispensation that the people of this country overwhelmingly voted for.

Madam Temporary Speaker, this distinguished House manifests the diversity of the nation, represents the will of the people and exercises their sovereignty as stipulated in Article 94 (1) of the Constitution. It provides that:

“The legislative authority of the Republic is derived from the people and at the national level, is vested and exercised by Parliament (National Assembly and the Senate).”

Madam Temporary Speaker, in the past, there have been proponents of the view that advisory opinions from the Supreme Court are not binding. Therefore, there have been parties that have sought to disregard the Advisory Opinion from Supreme Court. The Supreme Court has now categorically and unequivocally held that the judgment in

the advisory opinion is binding on all persons and has the same binding effect as a Judgment *in rem* of the Supreme Court.

(Applause)

Interpretations of the Constitution from the Supreme Court are an important cog in the implementation and enforcement of the Constitution and that the drafters of the Constitution gave the Supreme Court this important role by including the Supreme Court's jurisdiction to render advisory opinion in line with Article 163(6) of the Constitution. Therefore, the decision of the Supreme Court and its pronouncement is binding not only on the Senate, but also on the National Assembly.

Finally, Madam Temporary Speaker and hon. Senators, we must never cease to defend our role as a House of Parliament and protect county governments. The challenges continue. We have other legal proceedings in which this House seeks to defend its constitutional mandate. I call upon all of us to keep up the fight. Appear in court when called upon. For my learned colleagues in the legal profession, please continue representing the Senate in the ongoing proceedings on *pro bono* basis when called upon. Ultimately, we shall prevail.

Madam Temporary Speaker, may God bless Kenya and the Senate.

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

The Senate Minority Leader (Sen. Orenge): Madam Temporary Speaker, let me thank Senior Counsel, Sen. Omogeni. I want to thank him for doing such a sterling job and representing the Senate effectively. He has got a vast experience in public law and litigation, generally.

As I congratulate him, I also congratulate all the Senators. When this case came up, all the Senators who were available on the date it was mentioned for the first time all walked to the Supreme Court. I remember Sen. Malalah was there in a very flowery suit, together with the governors, which made an impression that the Senate is prepared to respect other institutions created or established by the Constitution.

I also want to appreciate the lawyers in the Senate because when the case was mentioned for the first time, nearly all the lawyers in this august House put themselves on record.

I congratulate Sen. Omogeni particularly because on the day this matter was scheduled for hearing in the Supreme Court, we had the other case which is before the High Court and most of the lawyers went there. He was not quite well prepared to go and argue the case. However, after some consultations, he agreed to go and he did a wonderful job. The arguments you made carried the day. We are very proud of one of our own for having persuaded the Supreme Court.

I want to persuade the Senate because we had this argument at one time when Senators felt courts cannot injunct Parliament; I still believe that under our Constitution, as a democracy, we are all required as individuals and as institutions to comply with the rule of law. In a constitutional democracy, no institution or person is above the law. Therefore, it is only the courts that can make a determination when there is a dispute.

Imagine if we enacted the law including the Constitution because the Senate and the National Assembly can amend certain provisions of the Constitution. If we amended the law and the matter went before the court and the court decided that they cannot

comply with legislation as enacted by Parliament, that will undermine the rule of law which is one of the values and principles of governance found in Article 10 of the Constitution.

Next time around, let us not blow hot and cold. That we can choose to disobey court orders and at an appropriate time say “Oh! What a wonderful job a court has done!” Sen. Omogeni would agree with me that the decision of the Supreme Court settles most of the questions pending before the High Court.

The Chairperson of the Justice, Legal Affairs and Human Rights Committee is here and he knows the issues we have raised in many of the legislations that have been passed in the National Assembly, without the participation of the Senate.

I am glad the Supreme Court has recognized the role of the Senate. It has set a mechanism, if we do not put the law in place, for resolving questions that may not be resolved through mediation.

Madam Temporary Speaker, lastly, in the first advisory opinion in which the Senate instituted proceedings against the National Assembly, the Supreme Court was clear and said advisory opinion is binding and you cannot choose to ignore it.

On this matter, the Supreme Court has repeated that decisions. I hope the National Assembly will be listening because they were parties to this matter. If they knew what was coming, it is time for them to come to us and agree to resolve amicably the matters pending before the High Court to do with legislation passed without coming to the Senate.

Although I said that was my final word; the Division of Revenue Bill is a foundation of devolution. Without Division of Revenue mechanism where revenue is shared between the two levels of government; if that question is not resolved, then devolution is dead. What the Supreme Court said in effect is that if this mechanism for sharing revenue equitably cannot work, plus the other reasons they gave cannot be achieved, then any person or Kenyan can go before the Supreme Court for the dissolution of Parliament. It would mean that Parliament is killing the very system of government that is established under the Constitution.

It is a day that if we were not having the curfew, we would have had a bottle of champagne, particularly for Sen. Omogeni. We will have it one day.

Thank you very much, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Sen. Cherargei, you may proceed.

Sen. Cherargei: Thank you, Madam Temporary Speaker, for this opportunity.

I want to thank Sen. Omogeni because I was in the Supreme Court when he made very serious, elaborate and constitutional submissions against a team from the National Assembly and advocates from the Directorate of Litigation and Compliance.

First, besides this issue, we have before the High Court over 22 legislations we have taken for issues of constitutionality because of assenting without the input of the Senate and that matter is still pending. I want to confirm to colleagues that this is a win for the Senate.

Having looked at the decision made by the Supreme Court, there can never be an Appropriation Bill without the Division of Revenue Bill. It has formed a basis in terms of appropriation process for the money by both Houses.

I want to thank the Supreme Court because despite intimidations of facing budget cuts because of certain interests and blackmail, they stood with the Constitution.

Madam temporary Speaker, on the guidance of your office and the Office of the Speaker of the National Assembly, the Supreme Court has given opportunity to both Houses to come up with a structure on how to resolve some of these impasses.

As the Committee of Justice, Legal Affairs and Human Rights, we are willing to come up with necessary legislative interventions in concurrence with your office and the Speaker of the National Assembly to put this matter to rest.

I also want to thank the Supreme Court for warning us that in case there is an overstretching impasse in the passage of the Division of Revenue Bill, mediation fails and there is a total shut down in counties because of late disbursement of money or money not appropriated, then Parliament can be dissolved. My learned senior has alluded to other jurisdictions where this has happened before.

We should take this seriously because the Supreme Court of Kenya has gone to the extent of telling us that if we do not organize ourselves; Parliament can easily be dissolved.

I know this issue has elicited a lot of interest from our Members. When we were moving to court, I remember meeting with governors and they told me they were worried when they were filing their matter in the Supreme Court. Some people were saying that just an advisory opinion is not binding. That we do not need to take on board the decision that was made in 2013 by the Supreme Court on division of revenue. I am happy that the Supreme Court has come up crystal clear that its advisory opinion is as good as the judgment and, therefore, binds everybody.

Madam Temporary Speaker, I call upon our colleagues in the National Assembly, the perception that we have supremacy battles over our roles has now been put to rest by this decision of the Supreme Court. The catch is on the basis of division of revenue; that is appropriation and allocation of funds to the counties. To this end, the National Assembly erred before. There is a way we can rectify them and agree to work together.

I thank the Senators who came out strongly when this matter went to the Supreme Court. I encourage my colleagues, especially those on the legal team and even the support from your office; that the journey is not yet over. We still need legal, moral and prayer so that even the issue of the 22 legislations that are before the High Court of Kenya, can be quickly resolved.

We are not doing this to fight or challenge anybody's authority. We want to uphold fidelity to the rule of law, protect constitutionalism and ensure that even in posterity, people can look at the time when we were Senators and laud us for doing the right thing of defending the Constitution. That is an obligation that everybody has. Even the Constitution has given us powers for everybody who is a Kenyan to protect this Constitution. I advise our colleagues that it is not yet over until it is over. This is our first win. As we move to the High Court, let us walk together.

Madam Temporary Speaker, I thank Sen. Orengo, Sen. Omogeni, the Director of Legal Services, Dr. Okello and Mercy Thanji, an advocate from the compliance office and other learned colleagues like Rtd. Judge, Sen. Madzayo who have been at the forefront to bring this issue to conclusion.

Finally, as a House, this is an opportunity in line with Article 96 to play our major role by ensuring that we push for allocation of more funds to counties. Even as we move

ahead pushing to ensure more resources go to counties, we must also develop mechanisms to ensure that those funds allocated to the counties are used transparently. I want to say: “Go ye Senators and ensure that as we allocate more funds to the counties, we demand for more services, accountability and transparency for those allocations.”

Madam Temporary Speaker, I want to thank everybody who participated. I thank my Committee and the Secretariat because we worked tirelessly to ensure that your office and the Senate Business Committee (SBC) were brought up to speed when this processes were ongoing. It is not over until it is over. In future, even when some of us are not Chairpersons of particular committees, I hope we will be able to conclude this matter when it come to the fullness of time.

The Temporary Speaker (Sen.(Prof.) Kamar): Proceed, Sen.(Dr.) Mwaura.

Sen. (Dr.) Mwaura: Thank you, Madam Temporary Speaker. I rise to congratulate the Senate team and all of us as a House. We remember how we marched from here to the High Court in Milimani; how we were holding hands and how Senators such as Sen. (Prof.) Ongeru - I do not know whether he is still in the House - were encouraging each other despite his ‘very young age’ to move. That was a march of solidarity, because it showed that as Senators, we can be bipartisan in defending the institution of the Senate.

From my cursory look, it is the way some people envisaged the Senate; it is supposed to be an appendage of Parliament and not a House of debate and yet, when I listen to the way we execute our issues here, there is a lot of maturity and well-reasoned submissions. That is cogency that the drafters of the Constitution were looking for. This is a House of revision where people come and they are measured. They look at things objectively. Even when we disagree, we do so respectably.

Madam Temporary Speaker, this morning, our Committee on Finance and Budget was invited by the Building Bridges Initiative (BBI) team to go and make submissions on some of the issues that have already been canvassed in this advisory opinion. This was because certainly the question was on which aspects of the Constitution need to be streamlined with regard to Division of Revenue Bill and the County Allocation of Revenue Bill.

Interestingly, if we were to look at the history of the Division of Revenue Bill, when that matter arose, I happened to have been in the National Assembly. It was opined that the Division of Revenue Bill should not be brought to the Senate. Honestly, one of the things the Senate seems to suffer with - I do not want to say from - is the fact of that institutional capacity and memory, because we are a very nascent institution, as it were. We are the second Senate. We have to be the ones who are the pioneers. We are the ones who are to do the bull-work of justifying the very existence of this august House.

At that point in the Eleventh Parliament, there was also another advisory opinion that was sought. I do not think these are just mere suggestions. I am very happy and I wish to congratulate Sen. Omogeni for being the Chairperson of the Committee on Delegated Legislation. I believe with the new power; he will be able to help this House to also make the proper regulations that will also see that whatever we legislate is implemented.

Going forward, we have now known that the Supreme Court does not exist to just make mere suggestions, but whatever they say is binding. This is a constitutional court.

This is the court that determines when there are disputes to do with the fundamental matters of the supreme law of the land.

Madam Temporary Speaker, with that unity and sense of purpose, we should not tire in our quest to ensure that the Senate occupies its rightful role as the 'Upper' House of Parliament. This is something we must pursue, even when there are any changes to the Constitution. I was speaking to Sen. Orengo yesterday as the Senate Minority Leader; that this is something we need to pursue with outmost persistence and excellence. From the experience, we have already shown the country stands to gain from such an endeavour.

In fact, if we are to pursue a Senate that is the superior House, it should be able to have veto powers on all legislation and Money Bills. It is inconceivable to have any form of legislation that does not involve drawing from the Exchequer because when you are legislating, you have to implement the law. You cannot implement the law in abstraction.

If we are to look at even the rule of law as it were, the rules of natural justice may not be codified through legislation. In fact, there is a difference between law and legislation. Legislation is about an innovative legislator going to make some rules and regulations as to guide a certain process, so as it is fair and just. However, the rules of natural justice which is the source or law requires that you cannot have two Houses of Parliament that are at par because you would be engaging in some kind of ping-pong.

Madam Temporary Speaker, I submit, as I support, that we should work to attain that endeavour. This is not *ad hominem*, personal or for the sake of the occupant of the seat. If you look at, for example, the role of the Senate in terms of oversight to counties, if we did not have this Senate, counties have very limited capacity to oversight a governor who controls billions of shillings. They have many novel and virgin areas that we can conquer in terms of how to make legislation with regards to county governments.

Madam Temporary Speaker, Sir, at the same time, we must also be aware that we should not be balkanized and end up with two Houses; that is one for the national Government and one for county governments. Our quest for the Senate to occupy its rightful role is predicated upon the fact that we can have veto powers of legislation, but we retain our capacity to oversight the two tiers of Government. This is especially with the county governments with regard to national policy and generating laws that strengthen transparency and accountability on the part of county governments.

Madam Temporary Speaker, I support and congratulate the team. We are behind them. If they want us to be back on the streets again, we are ready and willing to do so.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Sen. M. Kajwang', proceed.

Sen. M. Kajwang': Madam Temporary Speaker, I was enjoying the passionate appeal by Sen. (Dr.) Mwaura who reminds me of Paul the Tuck or the person we call Apostle Paul on the passion, verve and vigor with which Sen. (Dr.) Mwaura defends the Senate. I am glad he has had his transformation. In the other term, he was in the other House and was the prosecutor of the Senate. There have been some humbling experiences, I believe in the last three years.

(Laughter)

I congratulate Sen. Omogeni and the team that represented us at the Supreme Court. I am glad to note that Sen. Omogeni did his work *pro bono*. I am sure that if this House was to pay you for this contribution, it probably might not afford. This is such a great contribution to the rule of law, democracy and bicameralism. I assure you, Sen. Omogeni, that if we do not reward you on earth; your reward shall be up there in heaven.

Madam Temporary Speaker, once again, the Judiciary has proven that it can be a neutral arbiter to issues arising from other arms of Government. It is not too far back that it gave clear guidance on the role of Senate when it comes to matters of accountability. Remember the first five years of devolution we spent in battles in court between the CoG and the Senate. It made a very clear ruling and determination on the role of the Senate in oversight.

We have had battles around summons and invitation of witnesses, particularly governors, to come to this Senate. However, the Judiciary made it very clear that the Senate has got that constitutional duty to summon any person, be they the governor. I dare say that if the Senate of Parliament can summon any person, it would include the President or the Deputy President, or any other person in public life.

Madam Temporary Speaker, the issue of County Development Boards (CDBs) is a matter that the Senate seems to have lost. However, it should not be taken as a condemnation of the Judiciary. By and large, the Judiciary through the Supreme Court and the High Court has stood with the framers and the drafters of the Constitution in clarifying the intent and objective of devolution and the role of the Senate.

This being a Statement, we probably might limit ourselves to congratulating the lawyers who went to court and the Senators who lent their support. However, there are few issues that we might not need the Judiciary to interpret for us. For instance, the problem with the division of revenue begins when we do not take seriously the Budget Policy Statement (BPS). The BPS is the original definition of the intention of Government as far as fiscal policy, micro and macroeconomic policies are concerned.

Madam Temporary Speaker, we must get an answer to the question on the views of Parliament on the BPS. If they are not taken into account, what should happen? There must be consequences. The Division of Revenue Act is derived from the BPS. Every year, this Senate makes recommendations on the BPS, but those recommendations are never taken into account.

There are usually sectorial commitments from committees such as the Committee on Health, Committee on Agriculture, Livestock and Fisheries, the Committee on Information Communication Technology (ICT), among others. We are always making proposals on realignment of Government budget and priorities. However, they never see the light of day. We need to fix that. The real mediation needs to happen between the BPS and the division of revenue. Mediation should not be happening between division of revenue and appropriations Bill or between division of revenue and the allocation of revenue. It needs to happen in between.

Madam Temporary Speaker, the mistake we have made is that we have given the CoG and the Intergovernmental Budget and Economic Council (IBEC) the power that Senate should have. Senate should intervene. In fact, the two Houses should agree after the BPS and DORA.

Finally, is on the role of the Commission on Revenue Allocation (CRA). It has been determined that the CRA has an advisory role and its recommendations are not

binding fully on Parliament. We have seen in some jurisdictions, particularly in the United Kingdom (UK) where you have England, Scotland, Wales, and Northern Ireland. They have devolution yet they do not have a body like the CRA. They agreed on a formula in 1970s called the Barnett formula. It is that formula that was looked at, agreed on, and is used annually.

Madam Temporary Speaker, the question that many people might beg to ask then is what would be the role of CRA as a permanent commission? Should it be a permanent commission or a sessional body that comes after every three years to review the formula? Do we need a standing body to review the formula? Can we not have a Barnett formula similar to the UK that is fixed?

It is upon the CRA to reinvent itself. It is a constitutional commission. I cannot dissolve it by my contribution on the Floor of this House, but they have a lot of thinking. If their recommendations are not binding, then they have got a huge duty to justify their existence in the minds and eyes of the public in Kenya.

Madam Temporary Speaker, I congratulate Sen. Omogeni and the other lawyers who are representing this House in other matters before the courts. Finally, I congratulate our staff. We never take time to mention them or laud them. We have a very dedicated team of people in the legal and litigation department. They do a great job under difficult circumstances. I wish the commissioners were in this House today.

We have heard reports that sometimes when we need to get lawyers for the Senate to prosecute a matter in court, the Parliamentary Service Commission (PSC) will plead that there is no budget for that. Shame on them! The PSC must remember that it represents a bicameral system. It represents the Senate and the National Assembly. Senate matters should not be treated as secondary issues. Our staff has done a great job even when the PSC has refused to avail funds to represent the Senate.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Sen. Madzayo, proceed then I will come to Sen. (Prof.) Ongeru then Sen. Farhiya.

Sen. Madzayo: Asante, Bi Spika wa Muda, kwa kunipa nafasi hii. Jambo la kwanza nampatia kongole Seneta shupavu na mkongwe wa kisheria na aliyekuwa mwenyekiti wangu katika muungano wetu wa wanasheria katika Kenya. Ndugu yangu anawakilisha eneo la huku Nyamira, Sen. Omogeni.

Nilikuwa najiuliza kama ana jina la kizungu. Tulikuwa tunajadiliana hapa na dada yangu Sen. (Dr.) Musururu na tukaona kwamba Sen. Omogeni hana jina la kizungu. Yeye anaitwa Sen. Okong'o Omogeni.

Ninamshukuru sana kwa kukubali kuchukua kesi hii na kuifanya yeye bila malipo kutoka kwa PSC au kwetu sisi Maseneta kuchanga kwa minajili ya kutaka kumlipa yeye kama wakili. Aliweza kujitolea mhanga, akatumia akili zake na taaluma na hatimaye ameleta mazao ndani ya Seneti. Kongole ndugu yangu kwa kazi yako njema.

Bi. Spika wa Muda, tukiwa hapa, mara nyingi tumeona ya kwamba wengine wanependa uamuzi unaofanywa ndani ya korti na wengine hawapendelei. Lakini, mimi kama mwanasheria nasema kwamba sheria ni kama panga, inakata pande mbili. Wewe unaweza kupenda ama usipenda, lakini sheria ni kama panga na inakata pande zote mbili. Ni lazima ikate katikati, kusema ya kwamba huu ndio ukweli na huu si ukweli. Hii ndio njia sawa na hii si njia sawa.

Kwa hivyo, sisi sote tunakubaliana na ule uamulizi uliotolewa na Korti yetu ya juu zaidi kuliko korti zote katika Kenya, yaani Supreme Court. Uamuzi huo ulilingana

sana na taratibu za wale waliokaa pale, wakaangalia na wakaona kwamba kuna umuhimu kuwa na Bunge la Seneti katika Kenya.

Bi. Spika wa Muda, la muhimu ni kwamba uamuzi huu umeleta bayana kati ya Bunge la Kitaifa na Bunge la Seneti ili tuweze kufanya kazi pamoja bila kukosana. Sisi kama Maseneta tunafuata Kipengele 96 Cha Katiba ya Kenya, kinachosema kwamba jukumu kuu la Seneti na kila Seneta ni kutetea serikali za kaunti. Jukumu lingine nikuangalia ugavi wa pesa. Juhumu hii ni muhimu na uti wa mgongo wa serikali zetu za ugatuzi. Kuna umuhimu wa watu kukaa na kuelewana.

La mwisho ni kuwa kuna Kamati ya Sheria, na karibu Maseneta wote katika hiyo Kamati ni wanasheria. Kwa hivyo, tuliwapa jukumu la kufuatilia kesi hii. Wengine wetu tulipokua pamoja tulijukumika na hatimaye tumepata mazao. Ni muhimu kuangalia haya mazao na kujua mwelekeo wetu utakua vipi kuanzia sasa mpaka siku za usoni.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Sen. (Prof.) Onger, I apologize. Let me take Sen. Nyamunga, then you will be next.

Sen. Nyamunga: Thank you, Madam Temporary Speaker for giving me this opportunity to add my voice in congratulating, Senior Counsel, Sen. Omogeni and the entire legal team in the Senate. However, it was not only the concern of learned friends in this House, but it was a concern for all of us.

I would like to make just one or two comments. First, the CRA was put in place in accordance to the Constitution. It has its own mandate. It is a Commission on Revenue Allocation. It is highly recognized in the Constitution. Therefore, whatever advisory opinion that it can give to the Government or Parliament must be taken very critically.

Madam Temporary Speaker, it is not about the two Houses. This win is for Kenya. Remember last year, we had a very long fight between the National Assembly and the Senate. The idea was how to allocate revenue to the two levels of government. All of us are working for the nation and people of Kenya. So, when we have a protracted war on allocation of revenue, it shows that something is amiss in the two Houses. It is not about supremacy and who has the final word.

The most important thing is that allocation is done and the money should go to the respective governments in good time. Last year, I think it went on up to about the end of the year, which made it very difficult for county governments to operate. It was not about individuals, but the people of Kenya. So, whatever we do as Members of Parliament (MPs), we should always look at the bigger picture. The picture is about the people of Kenya and the service delivery to the people of Kenya.

To me, this is a win for Kenya. It is not a win for the Senate or the National Assembly, but for the people of Kenya. It is unfortunate that we can go round in circles, just to show our supremacy. It is wrong. This ruling has put it to an end. It is not about the supremacy that we fight for.

Secondly, there is no way we can appropriate any resources without knowing how much money should go to the national Government and the county governments. How do you appropriate what we do not have or a figure that we do not even know? First of all, putting the figures in place and doing the appropriation is what the law says. There is no way we should try to beat that for the sake of looking for supremacy.

Madam Temporary Speaker, I really want to congratulate the team that took it upon themselves, day in, day out, from last year to this day, that now we can say there is a ruling and even the Supreme Court. Why should the Supreme Court be in place if

whatever advice it gives does not matter? The advice that comes from the Supreme Court must also be respected because there is a reason why parties cannot agree. Last time, we could not agree and it was so protracted.

Advice from the Supreme Court should be taken in seriously. At the same time, any advice that comes from the CRA is critical because they do a lot of work looking at all aspects of revenue allocation. To me, the CRA and the Supreme Court are very critical. Therefore, the people of Kenya should come first when it comes to revenue allocation.

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

Sen. (Prof.) Ongeru: Thank you, Madam Temporary Speaker, for giving me this opportunity to also add my voice and congratulate Senior Counsel, Sen. Omogeni. We are privileged to have senior counsel in this Senate Chamber. That in itself qualifies this House to be the Upper House. We have the people who can argue out our case very well.

The Constitution recognizes that there shall be two types of government; that is the national Government and the county governments. Once you have a Government in place, it is expected to have resources to run all the functions that are required to be run either at the national or county level.

Secondly, the Constitution clearly stipulates that there shall be two Houses of Parliament; that is the National Assembly and the Senate. The Constitution clearly defines what the two Houses must do. Unfortunately, there has been a quarrel between the Senate and the National Assembly on the question of the Division of Revenue Bill or the Division of Revenue Act (DORA).

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

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

This has been the thorn in the flesh that has now culminated in the Supreme Court giving us an important advisory opinion that will lead us to the future.

I want to tag on the earliest Statement made by Sen. M. Kajwang'. We are arguing about resources and revenue raising measures that will give any national Government the necessary resources to be divided between it and the county governments.

We cannot appropriate the resources without knowing how they will be divided between the two levels of Government. This has been the thorn in the flesh. Therefore, the advisory opinion has helped us to confirm and reaffirm that the Division of Revenue Act is important. There cannot be an Appropriation Bill in the National Assembly without determining the position of Division of Revenue Act *vis-a-vis* the division of revenue between the national Government and county governments.

One of the biggest headaches has been that while we were still arguing about the Division of Revenue Act, the national Government was already appropriating money on the vote on account up to 31st December. However, the county governments were miserably running up and down and putting pressure on us to accept and go through other shortcuts, to accept the formula for them to access the money to run the counties.

I do not know whether I heard Sen. Omogeni right, that this advisory opinion has determined that while the Division of Revenue Act is going on, county governments can also access 50 per cent of the revenue on vote on account. It is an important milestone because our county governments cannot be put under pressure while we are still arguing about whether or not we have agreed.

Madam Temporary Speaker, now that we have the tools in our hands, how do we institutionalize? The advisory opinion is good enough. However, we must reach a level where we can institutionalize it into a legal framework or regulation on how these things must be done.

Again, I urge our legal minds in the Senate and the Directorate of Legal Services to sit down and quickly draft a Bill to come before this House, so that we can institutionalize this advisory that has come from the Supreme Court. If we do not do that, we leave ourselves open. In future, any voter can go to court if we argue endlessly without agreeing on the Division of Revenue Act and request that the two Houses be dissolved.

The Supreme Court has given us enough warning. Therefore, there will be no way to escape that; we will simply be dissolved. We do not want to get to that level. It will be an expensive affair for the nation and everybody else to go for fresh elections, and the ramification that it will have on expenses for the national Government and county governments will be dire. Therefore, we remain advised as the Senate on how this can be brought in, so that we can pass it in the form of a law and negotiate with the National Assembly.

Finally, there has been the nagging problem of oversight funds. The fact is we are handling money when we get involved with the Division of Revenue Act and the County Allocation of Revenue Act later on. That is a money Bill.

I hope that once we appropriate this money to county governments, they will not use it in the manner in which they desire without being oversights. There is now a case for us to institutionalize the advisory.

We must now make it mandatory within the framework of the law that we must not beg for oversight funds. It is a consequential effect of what it means to have Division of Revenue Act in place. Therefore, it must not be negotiated outside the framework of the advisory that we have received from the Supreme Court. It should be okay for us to get the oversight funds, so that we can effectively oversight the resources made available for our counties.

I thank Sen. Okong'o Omogeni and his team for ably representing and giving us a fundamental conclusion on the legal tussle that has been going on between us, the National Assembly and the governors.

Thank you.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity to also air my views on this issue.

I also thank Sen. Omogeni for being diligent and ensuring that the rights of counties and the role of the Senate are protected. We do not take it for granted. I thank him for doing a good job. If we do not legislate, we will all go home.

Sen. Omogeni, given that you are a Senior Counsel and an expert in law, you should sponsor a Bill. However, there is another Bill that is in the Committee on Finance and Budget that was also considering this. We must fast-track it as well.

The idea of not passing the Appropriation Bill before the Division of Revenue Act is a landmark ruling for me. It gives the Senate the ability to ensure that we negotiate on behalf of counties on a fair play ground. Before, counties suffered while the national Government ran business as usual.

Madam Temporary Speaker, if you have a cake that is supposed to be shared between two people, but one person eats it before it is shared, that is unfair. It beats logic to appropriate what you do not have. The Division of Revenue Act is what divides money between counties and the national Government. I hope that the ongoing discussions on referendum and Building Bridges Initiative (BBI) will ensure that the Senate will have the place it deserves.

We have three Senior Counsels who have won landmark cases in the Senate. So, deliberations of people of such calibre should not go down the drain in the name of a money Bill without due consideration.

For example, there was a County Statistics Bill that was passed in this House in 2018 that would have made a difference on the accountability for counties. The Bill had data to prove whether a dweller of a county is much better or poorer than they were before. Therefore, it would have made a difference in the lives of the people. It would have given them better information on whether to give a governor another chance or send him home. It is not about spending money.

Those figures have an impact. If you spend millions, how many people you spend those millions on have moved from below the poverty line to where they have meals on their table? That is the difference. We can table statistics, but that Bill is gathering dust in the National Assembly.

Therefore, in terms of the Constitution, we have the constitutional experts here. Let us make sure that when this document is developed, the Senate becomes a winner. If the Senate does not become a winner, trust me, we will nail devolution in the coffin. We would have been part of that problem.

The other thing is that when there was an impasse on the Division of Revenue Bill, everybody in the Government continued with spending. That created a 'do not care attitude' because if the Appropriation Bill is not passed before the Division of Revenue Bill, it means that there will be no salary, including for this House. That will motivate people to come to the negotiating table and ensure that a fairer process has been passed.

Madam Temporary Speaker, the other issue is around this House not being a member of the Intergovernmental Budget and Economic Council (IBEC). In my view, that is a problem; once people make a decision and the governors more often agree to the figures they are given. For instance, this year, Kshs316 billion was for the previous financial year, and for the next financial year, counties will receive Kshs316 billion. There is no factor of population growth and inflation.

There is no economy that is static. How are you going to handle it? That problem will be compounded by the change of the formula as presented by the Commission of Revenue Allocation (CRA). Some counties are losing as much as Kshs3 billion. How do they sustain their current operations? It is impossible. There are a lot of things that this landmark ruling is taking care of.

Madam Temporary Speaker, as much as we protect the counties, there is a lot of plunder of public resources in the counties. If that is not addressed, then we will be appropriating more money for counties that will eventually end up in people's pockets.

Madam Temporary Speaker, there is need for more accountability. I call upon the institutions like the Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI) and all other institutions that are supposed to handle economic crimes to live up to the dreams of Kenyans. When they passed the Constitution, it allowed them to exist. It is high time they repay back Kenya and take some action against county officials who plunder Government resources.

Madam Temporary Speaker, President Uhuru Kenyatta was on record several times that one of the legacies he wants to leave is to ensure that this country is corruption free. However, I think we are growing more corrupt and there is no one to check that.

Madam Temporary Speaker, the County Public Accounts and Investments Committee (CPAIC) and other institutions we have that check on accountability have a lot of work to do. We make the correct recommendations as a House, but the institutions that are supposed to take from where we leave to the next level do not exist.

Once again, I wish to thank, Senior Counsel, Sen. Omogeni, and the Directorate of Legal Services of the Senate that has brilliant staff. I had an opportunity of working with them on several Bills. There is none like them. I wish to thank everybody for that good job.

Thank you very much.

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

Finally, Sen. Were, kindly proceed.

Sen. Were: Thank you, Madam Temporary Speaker, for the opportunity to also contribute to the Statement by the Senior Counsel, Sen. Omogeni.

Madam Temporary Speaker, this win is not just for this House; it is also a win for devolution. Making a ruling or giving an advisory opinion that strengthens this Senate is also strengthening devolution.

We know very well that the Senate's role is to protect devolution, counties and their governments. I would say congratulations to Sen. Omogeni, his team and even Senators who joined them in court to fight for the strengthening of this Senate and fight for the right thing.

Madam Temporary Speaker, going back to the advisory opinion, I keep wondering sometimes if we run this country as if we do not know what we are doing. How do you share out what you do not have? It seems logical and common sense, but what blinds us that we cannot see something so obvious? You are being told to share out, but do not know what exactly it is you are sharing out. This advisory opinion is important. We are reminded that we are blinded by superiority complex and egos, but are able to see the right thing to do. We are not doing this for ourselves, but for Kenyans.

Madam Temporary Speaker, that advisory opinion allowed counties to have access to 50 per cent of the funds that were allocated to them in the previous financial year, just in case we lose our heads and decide to fight amongst ourselves as if we are fighting for ourselves and not the country. We have also been given direction.

Madam Temporary Speaker, this advisory opinion has also given us the power from the previous advisory opinion. It has declared that advisory opinions are also judgments, so that they are not considered as advice you can either take or leave. It has said that the advisory opinion from the Supreme Court is a judgement and we are bound by it. It will be interesting to look at the case that is at the High Court on what exactly

they are going to say. With this advisory opinion from the Supreme Court, I am very optimistic with the ruling that will come from the High Court.

Madam Temporary Speaker, I want to congratulate Sen. Omogeni. Sen. Omogeni and his team are a representation of the rich resource in this Senate. As Sen. Farhiya said, the Senators in this House are endowed with experience and knowledge that goes to the drain because of the work they do here being looked down upon against the Constitution by the other House. We have several Bills that are lying and gathering dust in the National Assembly that were meant to strengthen devolution. They are declared money Bills without any other further explanation, even to the sponsors of those Bills.

Even if the National Assembly took those Bills and made them theirs, put in whatever it is they want to do, we should pass those Bills for the benefit of Kenyans. I pray that this advisory opinion closes the matter and brings to a halt this superiority fights between the Senate and the National Assembly. The Senate will continue to be looked upon as the House of experience. Even if they call it the House of the old people, old people have wisdom. The young people have energy, but that energy will be misdirected if it is not followed by wisdom.

Madam Temporary Speaker, I thank you and continue to ask that we make use of the Senate resources to benefit Kenyans as it should be.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Thank you, Sen. Were. Sen. Halake, kindly proceed.

Sen. Halake: Thank you very much, Madam Temporary Speaker. I know that time has passed, but I cannot fail to congratulate my colleague, Senior Counsel, Sen. Omogeni. I work with him in the *Ad Hoc* Committee on COVID-19 and can attest to the fact that he brings a lot of experience and passion to the work he does. What struck me in the last few days is how much he turns up for the less fortunate. Congratulations, Sen. Omogeni. This was a fantastic win not just for this House, but this country.

Madam Temporary Speaker, what is really remarkable about this ruling by the Supreme Court is also the fact that for a long time, the Houses of Parliament, both the Senate and the National Assembly, have been accused of abdicating their role in the budget making process or in the resource stewardship process.

There is a time we were told that we, as parliamentarians, have slept on the job when it came to the entire process of budget making. This included the Budget Policy Statement where the estimates were being discussed, the Division of Revenue Bill and Appropriation Bill and the entire continuum. To some extent, there was some truth to it.

However, today with this fight to the highest level of our Judiciary, to ensure that the right advisory opinion is given to us, so that we take our rightful role in the Budget making process, is really a landmark and commendable for team and the entire Senate that took this issue upon themselves.

Madam Temporary Speaker, within the Budget Policy Statement (BPS) process and all these stages, there was the stage where we appropriate or divide amongst many items. Even before we get there, as everybody has said, the Division of Revenue Bill should be the first order of business. Therefore, we are very grateful to the Supreme Court for upholding the Constitution; that we must start with first things; divide the revenue, then appropriate it.

We are very happy with that, but most importantly, we need to look at separating the whole issue of plunder at the counties. We cannot under the guise of plunder at the counties, overlook the fact that counties must first get their rightful share of the revenue. It is incumbent upon this House to ensure that the right oversight mechanisms or tools are there, so that the counties are well oversighted and to ensure that whatever it is that they have in their coffers, does not go to waste as it has been happening.

Those are two different issues that this House must separate because sometimes we are asked: “Why are you fighting for resources for the counties, yet they are going to be ‘eaten’?” These are two different issues that we must make sure that counties get the resources they need for devolution to prosper, and then put in place mechanisms and tools to ensure that oversight takes place.

Madam Temporary Speaker, with those few remarks, I thank you for the opportunity and congratulate the team of Senators, led by Sen. Omogeni, that made sure that this ruling was gotten. I also look forward to the implementation of some of the provisions within the ruling.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Thank you, Sen. Halake. That brings us to the end of the Statement.

We will now do the next Statement by Sen. (Dr.) Musuruve.

LEARNING PROGRESSION OF LEARNERS WITH DISABILITIES
DURING THE CURRENT COVID-19 PANDEMIC

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for giving me an opportunity. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Education concerning the learning progression of learners with disabilities during the current COVID-19 pandemic.

In the Statement, the Committee should -

(1) State and explain measures put in place to ensure that the needs of learners with neuro-developmental challenges are met.

(2) Explain mechanisms put in place to ensure that deaf learners are achieving parity with other learners.

(3) Elucidate processes put in place to ensure that parents of learners with disabilities are able to help and manage their children’s educational needs while at home.

(4) Explain measures put in place to ensure that learners with disabilities are able to complete the syllabus when schools reopen without being disadvantaged.

Madam Temporary Speaker, allow me to comment on this Statement. When it comes to children with disabilities, even before the COVID-19 period set in, they were highly disadvantaged in terms of education. When it comes to digital learning, before the COVID-19 period, most of the content had not been digitised. At the moment, you will find that learners who have television---

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Musuruve, just to take you backwards, are you making a Statement or debating? I thought you are making a Statement.

Please make the Statement. You do not need to belabour it. We just have to refer it. We are referring because we have others. We can allow comments or just refer it to the relevant Committee. Just wind up, then we will move forward.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker. I want to state that issues of learners with disabilities are forgotten most of the time. It is important that the Standing Committee of Education, where I sit, ensures that the Ministry of Education gives a Statement that will ensure that we are satisfied when it comes to learners with disabilities; that learners with disabilities are catered for. When you look at authentic information on the ground, they are highly disadvantaged.

Thank you.

The Temporary Speaker (Sen. Nyamunga): Thank you, Sen. (Dr.) Musuruve. We refer that Statement to the Standing Committee on Education.

That should be communicated to the Committee on Education, because I do not see the Chairperson or the Vice-Chairperson.

Hon. Senators, we want to defer some of the Orders because I do not see the relevant Senators.

What is it, Sen. Malalah?

SACKING OF DR. JOEL LUTOMIA AS THE DIRECTOR,
CENTRE FOR VIRUS RESEARCH, (CVR), KEMRI

Sen. Malalah: Thank you, Madam Temporary Speaker. Just to seek directions from the Chair before we leave Order No.7. Three weeks ago, I raised a question through a Statement seeking clarification on the unprocedural demotion of Dr. Joel Lutomia.

The Chairperson then gave directions to the Chairperson of the *Ad hoc* Committee on the COVID-19 Situation stating that a specific report was supposed to be brought to this House with specific recommendations, so that this House can adopt or reject them.

Last week, I raised the concern to the Chair and the Chair gave out a ruling, which was that the Chairperson of the *Ad hoc* Committee on the COVID-19 Situation was supposed to come up with the report today.

Madam Temporary Speaker, as we leave Order No.7, I have still not received the said answers on the unprocedural removal of Dr. Joel Lutomia. I would like this House to take this matter seriously. Let the Chairperson of the *Ad hoc* Committee on the COVID-19 Situation be told that we are waiting for answers and shall not---

The Temporary Speaker (Sen. Nyamunga): Sen. Malalah, that is clear. I remember that Statement last week. I do not see the Chairperson of the *Ad hoc* Committee on COVID-19 Situation, Sen. Sakaja. I do not also see the Vice-Chairperson.

I think it should be communicated that next week there should be a concrete---

Sen. Halake, do you have any idea about the Statement that Sen. Malalah is referring to?

Sen. Halake: Thank you, Madam Temporary Speaker. I am aware of it and the Committee has actually done quite a bit in executing that Statement.

We have spoken to the Kenya Medical Research Institute (KEMRI) and sent letters to the Public Service Commission (PSC). We have had our sitting, but not concluded that matter given that the sittings are remote. We will definitely get back to that individual one.

I was not in the House at the time. So, I cannot remember if we were doing it as part of the COVID-19 response, or it was that the particular Statement was referred to us. That is the reason---

The Temporary Speaker (Sen. Nyamunga): Senator, there was a specific request that the circumstances under which the said officer was either demoted or dismissed should be brought to the House clearly stating the reasons. I do not know if the delay is on your side or other organisations like KEMRI. I think we should be clear on this because it is an urgent matter.

Sen. Halake: Madam Temporary Speaker, I stand guided. I was not quite sure if it was given to our Committee or the Committee on Health. However, we have dealt with that. We will extract and give it as a separate response.

The Temporary Speaker (Sen. Nyamunga): Do we give you next Tuesday?

Sen. Halake: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Please, communicate that to the Committee and let us have a concrete response.

Sen. Halake: Madam Temporary Speaker, I am guided.

The Temporary Speaker (Sen. Nyamunga): Yes, Sen. Were.

Sen. Were: Madam Temporary Speaker, mine is on the same issue of Committee Chairpersons giving us responses. With regard to my statements on the status of governance in agricultural state corporations and another on mass recruitment for counties' health sector, the Speaker just told the chairpersons to expedite.

Listening to what Sen. Malalah is talking about, I would like those Committees to be given a specific timeline, so that they are tied. Some of these issues are topical.

The Temporary Speaker (Sen. Nyamunga): When was your Statement due? Normally, they are given two weeks. Are two weeks over?

Sen. Were: Madam Temporary Speaker, they were not given any timeline; I sought the Statement today.

The Temporary Speaker (Sen. Nyamunga): Today?

Sen. Were: Yes, Madam Temporary Speaker. It was to the Chairperson of the Committee on Agriculture, Livestock and Fisheries and the Committee on Labour and Social Welfare.

The Temporary Speaker (Sen. Nyamunga): Okay. I do not see the Chairpersons or their deputies in the House. However, let it be communicated to them, and they should respond within two weeks. Is two weeks okay with you?

Sen. Were: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Fine, we give two weeks for the response to your Statement.

I now defer all items on Orders up to No.13.

BILLS

Second Reading

THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO.6 OF 2020)

(Bill deferred)

Second Reading

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

(Bill deferred)

Second Reading

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

(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 COUNTY EARLY CHILDHOOD EDUCATION BILL
(SENATE BILLS NO.26 OF 2018)

(Committee of the Whole Deferred)

Let us now continue from Order No.14.

MOTION

ADOPTION OF THE FOURTH AND FIFTH PROGRESS
REPORTS OF THE *Ad Hoc* COMMITTEE ON COVID-19
SITUATION IN THE KENYA

THAT, the Senate adopts the Fourth and Fifth Progress Reports of the *Ad hoc* Committee on COVID–19 Situation in Kenya, laid on the

Table of the Senate on Tuesday, 5th May, 2020 and on Tuesday 12th May, 2020, respectively.

(Sen. Sakaja on 12.5.2020)

*(Resumption of debate interrupted on
19.5.2020 – Morning Sitting)*

Sen. Halake, you were supposed to second the Motion.

Sen. Halake: Thank you, Madam Temporary Speaker. I had actually started and will continue.

I stand to second the Fourth and Fifth Progress Reports of the *Ad hoc* Committee on COVID-19 Situation in Kenya.

We had spoken to the Fourth Report. We will go straight to the Fifth Report, which is on the thematic area of finances and the economy. The Chairperson had already spoken quite a lot on the situation that we all find ourselves in occasioned by the pandemic.

The significant negative impact is something that we have all lived with. They are on the key sectors of the economy, including trade, tourism, agriculture, manufacturing and related sectors. The preliminary growth for Kenya, 2020 was projected to decline by 3 per cent, as the Chairperson had mentioned. However, projections are now being made to the effect that our Gross Domestic Product (GDP) might just be growing below 2 per cent.

This means that many of the economic sectors have been bashed. The agricultural sector has been heavily affected by this pandemic, as most of us can relate to. This is as a result of reduced export earnings and loss of income due to low global demand for our agricultural products and exports. We also have reduced demand for exports and declining price for commodities in the international markets, compounding the drop in tourist arrivals.

Madam Temporary Speaker, the tourism industry has been literally wiped out. I do not want to go into the details because they are in the Report, which I hope the Senators can interact with. The official foreign exchange reserves held by the Central Bank of Kenya (CBK) stood at about USD8 million, but by February, it had gone down by about 5.4 per cent.

Again, all the revenues from different resources have all come down. This then puts a big burden on the Kenya Revenue Authority (KRA), to the point where we may even experience a collapse in our revenue collection. We are praying and hoping the economy will not get there.

Foreign remittances are also declining. As you know, most Kenyans abroad have lost their livelihoods. They are, in fact, very vulnerable, as they do not have any work.

We are also seeing an overall fiscal deficit, including grants for the period. I do not want to belabour that as well because the Chairperson had eloquently done that. The current deficits are, therefore, projected to be between 4 to 4.6 per cent of the GDP, compared to 4.62 per cent in 2019. As a result, they lower international prices. The oil import bill is expected to be low and will counter balance hopefully and provide some sort of relief.

Madam Temporary Speaker, there is need for the Government to then put in place measures to cushion macro, micro, small and medium enterprises and the *Jua Kali* sector.

These are the observations of the Committee. Businesses that mostly rely on imports have scaled down and are almost earning nothing. Loss of income on account of job losses is across all sectors. Payment of pending bills is something that this House is familiar with.

Madam Temporary Speaker, please, allow me to take the House to some of the observations and recommendations, so that we do not belabour. I know that every Senator lives this reality and has been following these developments. Therefore, I do not wish to take too much time just to belabour the observations.

I will go straight to the recommendations we have in our Report. The first one is that the Cabinet Secretary (CS) for Industrialization, Trade and Enterprise Development gazettes regulations establishing the micro and small enterprise development fund, especially under Section 51 of the Macro and Small Enterprise Act No.55 of 2012 and present a report to the Senate within 60 days.

Madam Temporary Speaker, another observation occasioning this recommendation is the fact that the small enterprises are the hardest hit. We have recommended that there should be enhanced accountability for the oversight over the COVID-19 emergency fund. As you know, many questions have come up on that and other funds established at the national and county level. The National and county treasuries should submit monthly income and expenditure statements.

To hasten the disbursement of funds to counties, counties should comply with the rules and regulations set by oversight bodies to facilitate funds disbursement. Many counties are telling us that they could not do A, B and C because they have not gotten their revenue disbursement. Again, this is one of our recommendations.

To support the micro and small sized enterprises to continue with their businesses during the pandemic, we have recommended that the Government hastens the planned liquidity support for Small and Medium Enterprises (SMEs) through credit to banks and other financial institutions to further promote this sector.

Madam Temporary Speaker, again, as the Chairperson has said, CBK has done a lot with regard to setting up platforms and mitigation measures for borrowers. They have also done a bit with regard to liquidity management to other banks for onward lending to SMEs. We encourage this and commend CBK for the measures they have taken and reduce disruption to the supply chain in counties to facilitate retail markets.

The recommendations are far-reaching and very extensive. Let me jump to containing the public debt. Public debt is becoming a real area of concern, which this House should take note of given that the Government is spending a lot without being able to collect as much. Therefore, the imbalance and, perhaps, the collapse on one side of the revenue and expenditure that is so much heightened on another side, becomes an issue that this House needs to look at.

To contain the public debt at a sustainable level, the Committee recommends that the National Treasury takes decisive action to curtail spending through austerity measures in order to reduce the size of the fiscal deficit. Questions are being asked about how much tea and forms for COVID-19 cost, and so we recommend that.

Also, to reduce the extent posed by commercial borrowing by gradually shifting to concessional money from the multilateral and other bilateral organisations that are not charging market rates and commercial banks; cancellation and reallocation and so on.

Madam Temporary Speaker, we have about ten recommendations, but I will not go through all of them. I would like Senators to interact with these reports and support the implementation thereof.

On debt issues again, we recommend negotiations to be considered on debt swaps, as was mentioned by the Chairperson. This is mainly important to support women, youth, Persons with Disabilities (PWDs) and other vulnerable groups.

Importantly, on support to women, youth and persons with disability and other vulnerable groups, the Committee recommends the upscaling of training to enable these groups start and operate businesses efficiently. Additionally, these groups be prioritised for award of business stimulus funding and an opportunity to supply goods and services to the national and county governments.

Madam Temporary Speaker, at the community level, monitoring and evaluation of frameworks should be considered to ensure proper oversight of emergency COVID-19 funds at both the national and county levels. This is where we are making our county assemblies to make sure that they do primary oversight. As it happens, everything is brought to the Senate when primary oversight should happen at the county level, with only the secondary or more affected counties coming to the Senate.

As a Committee, we have dealt with putting all these into five thematic areas. This is the thematic area that was looking at the financial and economic issues affecting the country. We have in our subsequent Progress Report No.6 issues pertaining to social justice, public order and human rights. If this Report sounds very detailed on economic stimulus and economic tools aligning to monetary policy, it is because there is another thematic area that would drill down these broad areas of economic tools and policy instruments to the social issues that would affect common *mwananchi* and Kenya at large, which is social justice, public order and human rights. This is the next report that will be tabled.

I seek to second the Motion and request Senators to look at these broad economic issues affecting our country. Also, the broad economic measures that both the Central Bank of Kenya, Kenya Bankers Association, Small and Medium Sized Enterprises (SMEs), Ministry of Industrialisation, Trade and Enterprise Development and our key economic sectors such as tourism and others have put in place, to ensure that we mitigate against these issues.

I beg to second and look forward to tabling the other Report. This Report has been organised in a hierarchy that starts from the broad macro, micro and the individuals. The Sixth Report would then be on social justice, public order and human rights.

I second.

(Question proposed)

Sen. Omogeni: Thank you, Madam Temporary Speaker. I want to put it on record that I serve in the Senate *Ad Hoc* Committee on the COVID-19 Situation. I want to affirm to the House that the recommendations contained in the Report tabled before this House were after very due to wide stakeholders' consultations.

In arriving at our Report, we have had meetings with the Cabinet Secretary (CS) for National Treasury, Kenya Bankers Association and the Judiciary, to discuss issues of fast-tracking hearings and adopt technology in hearing of cases, so that we can have income for the Government, because we are living in very extraordinary times.

Importantly, various people who have appeared before us have expressed a lot of hope that they have faith in this House. Even the Bill that was tabled before this House has attracted a lot of interest from stakeholders. The Law Society of Kenya has appeared before us. The International Commission of Jurists and over five law firms appeared before the *Ad hoc* Committee to give their views on the Bill. This is a vote of confidence on the walk we undertake as Senators.

We are living in very extraordinary times and the CS for National Treasury was candid that the country will experience a dip in the collections by Kenya Revenue Authority (KRA). As we all know, the hospitality industry is almost non-functional. Hotels have closed down, tourists are no longer coming and our skies are closed. Literally speaking, this is a kind of dip in the tourism sector that has never been experienced since Independence. The people we represent must be realistic that it will not be business as usual. The reality is that we will not meet our targets in terms of tax collection.

On the other hand, as people's representatives, we must put in place measures of cushioning Kenyans. When we had a meeting with the CS for Labour and Social Protection, we made a request that we should have another fresh campaign to register more Kenyans who are vulnerable and above 65 years old, so that they can receive the Kshs2,000 given to them every month. This is so that they can have money to support them.

We also raised a number of serious concerns, including the congestions that are being seen in our banks. Our senior citizens must go physically to the bank to receive the money. We asked the CS to consider paying the senior citizens through the M-pesa platform. I am happy that Sen. Farhiya is in the House. Some of the concerns we are being given is that some people in northern Kenya do not have access to mobile phones. They have never known the importance of buying mobile phones, which is almost unbelievable to some of us. We are being told that it is the reality on the ground in some parts of northern Kenya.

Madam Temporary Speaker, we do not want to expose our senior citizens while going to crowd in banks. I gave an example of what happened in Nyamira and Keroka towns, where so many people went to the bank to collect their money. They were rained on and all ran to the bank, and there was nothing like social distancing. If anybody had COVID-19 in that bank that day, over 100 Kenyans would have caught the disease.

Going forward, which will be one of the quick wins---

The Temporary Speaker (Sen. Nyamunga): Sen Farhiya, are you on a point of order or point of information?

Sen. Omogeni, do you need that information? Go ahead, Senator.

Sen. Omogeni: I will not mind being informed by my good friend, Sen. Farhiya.

Sen. Farhiya: Thank you, Madam Temporary Speaker. Where I come from, access to mobile phones is much better than access to banks. I refute that claim.

The Temporary Speaker (Sen. Nyamunga): Are you sure?

Sen. Farhiya: Yes, I am sure.

Sen. Omogeni: If you go through the HANSARD, those are concerns we raised with the CS for Labour and Social Protection, Hon. Chelegui. We were not convinced that there are some parts of this country, even if we make reference to northern Kenya, where there is no access to mobile networks. We reminded the CS that there are now mobile phones, which are as cheap as Kshs1,500. We were of the view that most Kenyans have access to these gadgets.

The other concern was raised that this being Kenya, the level of illiteracy is very high. National Government administrators - the chiefs and sub chiefs - had reported cases where illiterate senior citizens were being conned by their grandchildren. When they received Kshs2,000, they were told that they had received Kshs200. The national Government was of the view that the safest way to ensure this money reaches the beneficiaries was to ensure they go physically to the bank and then receive their cash.

Another problem that was brought to our attention was the fact that at times people die, but the survivors of the deceased never disclose that the beneficiary is dead. Therefore, they continued receiving money from the system that was in place, from the chief and assistant chiefs, and shared it among themselves.

The win we have so far achieved through this *Ad hoc* Committee is that we convinced the CS for Labour and Social Protection to pay our senior citizens in a staggered manner. When this money is sent, maybe those whose names start with letter 'A' to 'D' are asked to go to the bank on Monday, then maybe 'F' to another alphabet go on a Tuesday, Wednesday, Thursday and Friday, so that we avoid overcrowding.

The positive result is that we had a meeting with the Judiciary and convinced them to put in place mechanisms, where cases can be heard through embracing technology. We advised them to consider taking the situation to the near normal, where there is a cause list for cases and lawyers to appear before courts through *Zoom* or any other platform. I am happy to report that that is now happening.

There are a number of quick gains that this Committee has been able to achieve. We had a meeting with the CS in charge of youth and ICT and implored upon him to ensure that he extended support to the Judiciary. This is because we were given examples of courts such as Migori, where there was no infrastructure to support cases being heard online. I am happy to report that now there is support that has been extended to regions such as Migori.

There is progress being made, but also concerns. For example, the deadline for making returns to the Kenya Revenue Authority (KRA) on some statutory payments is tomorrow, but there are stakeholders who have raised concerns. What, for example, happens to the people who are in Eastleigh and may not be able to leave and go to their offices to make their online payments?

As we go forward, we are trying to extend our engagements with the KRA, so that people who have found themselves in a situation where they have to respect the Government restrictions on movement are not penalized by KRA. I think this is a period when we need understanding and extension of courtesy from our statutory bodies such as KRA.

Madam Temporary Speaker, it will be sad if in the midst of this pandemic, some people are faced with punitive measures from coercive bodies such as KRA.

On the issue of income for landlords, this has been fairly emotive. As a Committee, we have taken the view that in as much as many Kenyans find themselves in

a situation where things are not as normal as they are supposed to be, we also must protect the real estate sector. The issue of payment of rent and pardon by the landlords should be left to the tenant and the landlord. There should be least interference from this Committee or House on matters that touch in contractual relationship between tenants and landlords.

That sector is fragile and growing. It contributes a lot to the economy of this country. We have to be careful how we deal with these issues, so that we do not cause it to collapse.

By and large, the Committee is making very good progress on the work that was given to it by this House. We seek the support of Senators, so that we can move together.

Sen. Mwaruma: Thank you, Madam Temporary Speaker, for struggling to remember my name and giving me this opportunity to weigh in and comment on this Report by the COVID-19 Committee. They have done an extremely good job in coming up with this Report. They have burnt their midnight oil. They have invited experts and I commend them for their work.

I know that the thrust of the Fourth and Fifth Reports is economic and finance. I will talk briefly about some issues to do with health, even if they were addressed in the previous Report. If they are not checked, they will go a long way to become an impediment in fighting the Coronavirus Disease.

First, as we speak, there was a suggestion that we have Intensive Care Units (ICU) in our hospitals. As we speak, some of the counties do not have ICU facilities yet. At the same time, there are counties that have worked very hard and established ICU facilities in less than 21 days. I recommend to the mother Ministry of Health (MoH) that they should recommend and maybe push that all counties have ICU facilities because they are the main component in the fight against the COVID-19.

There was a suggestion at the counties, in the mainstream and social media, that we need to have the community health volunteers recognized and given some small stipend because of the kind of work they do in the fight against COVID-19. These people do a lot. Most counties do not recognize them, yet they are part of the frontline personnel and human resource that is fighting COVID-19.

One of the things I mentioned in the morning was that the national Government, through the Public Service Commission (PSC) and County Public Service Boards (CPSBs), have undertaken to employ more human resource in the counties. There is an impediment to achieving this goal because the people who were shortlisted to go to counties to do the interviews sometimes may not be able to reach there due to the cessation of movement.

I am wondering what measures or recommendations the Committee can put in place to make sure that those people who had moved to towns, for example, Nairobi and Mombasa which are currently under lockdown can be allowed to go to the counties to do the interviews, so that they get chances to work but at the same time ensure that the counties that do not have human resource get these people to attend interviews and get employment.

Madam Temporary Speaker, having said that, I would like to talk about the economy and finance thematic area which is the thrust of this Fourth and Fifth reports. The truth of the matter is that, people on the ground are suffering because of loss of

gainful employment. As it has been observed in the Report, most people who were working in the tourism and transport industries have lost their jobs and do not have food.

As I speak, there are so many messages and phone calls in my phone of people who are asking for food which is a basic commodity. They are sleeping hungry and are lucky if they can even get a cup of porridge for the family. We need to implore upon the national and county governments to make food accessible to these people.

Madam Temporary Speaker, we have locked them down to control the spread of Coronavirus (COVID-19). If they do not die out of COVID-19, they will die because of hunger. There are many initiatives that have been started by the national and county governments to raise funds through public-private initiatives. They are commendable, but they are not enough.

We had budgets in the county governments. My recommendation would be to let the county executives and assemblies look at the budgets again. Let them pass budgets that would appropriate some money to ensure that the poor and vulnerable people can get a small subsidy or stipend to cater for food.

Madam Temporary Speaker, there was a suggestion in the morning that county assemblies are not meeting because of the social distancing issue. As the Senate, we are meeting and the National Assembly is meeting. Why can they not be innovative enough and come up with ways and means of meeting so that they can mitigate the effects of lockdown and loss of jobs for their people? The truth is that people are suffering.

There is also loss of income. In the agricultural regions like where I come from, horticultural products are not being exported to foreign countries. There is an economic slump in this area. For the people who are growing nuts like macadamia, the prices have plummeted from around Kshs200 per kilogram and now they are going to between Kshs40 and Kshs50 per kilogram. There is a serious loss of income and these people need to be compensated in some way.

Madam Temporary Speaker, the Ministry of Agriculture, Livestock and Fisheries can come up with modalities of ensuring minimum returns for these people. They have invested in farming and they can be given minimum returns to make sure they repay their loans and feed their families. In the same breath, we would request - I did the same in the early afternoon under a Statement - the Government agencies that are tasked with giving loans and credits to farmers need to slow down in the manner in which they go after the creditors.

We gave an example of the Kenya Industrial Estates (KIE) which gives loans and credit to establishments that put agricultural products in the value chain. They need to slow down in the manner in which they demand for loan repayments. We also have the Agricultural Finance Corporation (AFCs). If farmers have gotten a produce and it does not access the market because of no flights to the markets abroad, then they will not get income to repay the loans. It is recommended in the Report that there needs to be a moratorium in the manner in which these loans are repaid and defrayed.

Madam Temporary Speaker, there is also a drop in revenue. It is clear in the Report that revenue collection has gone down ostensibly because many people have lost their jobs and definitely the Pay As You Earn (PAYE) or Income Tax would go down. We also have many products not reaching the markets and these same people pay Value Added Tax (VAT). Definitely, we are having a slump in our revenue collection.

We need as the Senate to think of ways and means of adapting and adopting to the new normal. Some people have started talking the truth. I heard the Chief Administrative Secretary (CAS), Dr. Mwangangi, the other day say that the new normal is that we must learn to live with COVID-19 the same way we learnt how to live with HIV/AIDS.

Madam Temporary Speaker, we need to look for ways of bringing back our economy on its footpath. Our new normal would be washing hands, putting on masks and social distancing all through. Therefore, we must think of ways and means of bringing this economy back to its footing. We cannot afford the loss of revenue that we are experiencing right now, loss of PAYE, VAT, import duty and so on.

I was telling somebody one time that in future, when our children will be looking at us - that is if there is no vaccine or we do not curb this COVID-19 - they will be wondering how we were living without masks. They will be wondering how we were staying close together and dancing in disco halls and clubs. They will be wondering how we were squeezing ourselves in *matatus*.

Madam Temporary Speaker, we must adapt to the new norms so that we can bring our economy to its footing again. Tanzania is managing, though we are told they could be not very straight in the statistics. However, they did not close the mosques, churches and businesses. It is business as usual, and yet we have more cases than them. Maybe in a balance of probability, we need to look at what they are doing against what we are doing so that we can bring our economy back to its footing.

The Report is also suggesting that we need to cushion the Small and Medium Enterprises (SMEs). I mentioned before, that there is stimulus program for SMEs proposed by the President of Kenya that is under *Stawisha SMEs Mashinani* Program. This is the right time to bring the Kshs4.5 billion, inject it into the economy so that the people whose businesses went down can bring up their businesses up again through such credit of low interest rates. It should not have high interest loans. Through the SMEs or KIE, AFC, we can finance our businesses and agricultural activities through loans that can go up to maybe 5 per cent so that we bring our economy back to its pedestal.

Madam Temporary Speaker, also we need to look at how our counties are behaving. In Nairobi, there are SMEs like the *kinyozi* and saloons that are still on. How can we do the same in our counties so that we have the poor people, a small man or lady who survives on maybe plaiting hair of three to four heads per day, so that they can eat and they are brought back to business? The barbers who work in barber shops can be brought back to business while observing the health issues.

There is the cross-border business. There are two COVID-19 cases in Taita-Taveta County at the border point of Holili in Taveta. These are two Kenyan truck drivers who currently are admitted at the Taveta Sub-County Hospital.

We need to really seal the *panya* routes that they are using to come to Kenya and to go to Tanzania. If we do not do so, again, we will be leaving open the paths to having this disease cross either from Kenya to Tanzania or from Tanzania to Kenya. We really need to do a lot of stuff there.

Lastly is to the researchers. Previously when we were fighting the HIV/AIDS pandemic, people thought that this a natural science issue. However, later on, we discovered that the people who did a lot of commendable work were the social scientists. They were the ones who cracked this HIV/AIDS pandemic.

We were asking how HIV/AIDS pandemic was being spread. Some people said mosquitoes could spread it. For example, they thought that if you were in a room and you were bitten by a mosquito which had bitten someone with it, you could easily contract it. However, in a research, social scientists asked, how come a mother who is HIV/AIDS positive can live for 20 years in the same house with her daughter or a son who is HIV/AIDS negative and not get it? That was research from a social scientist. Maybe we need to give a multi-faceted approach to research in this COVID-19 pandemic. I know by the end of day; we will crack it.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Sen. Farhiya.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity. I wish to commend the *ad hoc* Committee for a job well done.

There is an issue that Sen. (Dr.) Mwaura canvassed around Small and Medium Enterprises (SMEs). We know SMEs are going down. According to research done, it has been said that 70-80 per cent of the employment in this country is through SMEs. As a country, we have very high levels of unemployment. If we do not take care of this sector, there will be a lot of unemployment. As it has been predicted, our Gross Domestic Product (GDP) is also going down. So, there are a lot of other issues that will be affected. We will have a lot of social problems in this country if we are not careful. We do not think through that there will be life beyond COVID-19 pandemic.

Madam Temporary Speaker, in the global statistics, a very high percentage of about 45-60 per cent of the SMEs do not see their fifth birthday. They do not live beyond five years. In a research done, it was discovered that in Kenya alone, 400,000 SMEs die annually. This was the case even before COVID-19 pandemic. Can you imagine what will happen with the problem being compounded by COVID-19 pandemic? Unless we provide a stimulus package to the SMEs in this country, most of them will die. That will be a very big disaster for this economy.

Countries like the United Kingdom (UK) and the United States of America (USA) are already giving some stimulus package to their SMEs. Giving stimulus packages is not only about leaving this one to see another day, but it is also creating circulation of money. When there is an economic hardship, even the money that is circulating within the community goes down and then the SME dies. That SME was employing like 10 people. Those 10 people who used to go to a shop to buy goods cease to do so. That shop will also cease to operate. The factories whose products used to be sold by those shops also close down. So, it has a lot of ripple effect if it is not carefully managed. Like the previous speakers have said, if we do not stop this capitalism mentality where we say market forces determine everything, we might just plunge our economy into a total collapse. This is an extra ordinary time and we need to be careful.

Madam Temporary Speaker, the other issue that I want to comment on is the distribution of cash instead of food to the most vulnerable during this time when there is a lot of hardship. If you give people food, you take away their choices. If you give maize to people in certain places, that is okay. However, people from other places like where I come from, if you give them maize as food support, they give it to goats and cows. It is not that the people are not hungry, but that is not part of their diet.

Seeing that there are several other reasons in terms of the impact on the economy and the ability for savings to invest in another time when the opportunity comes, cash is

always much more appropriate. It is much more dignified. If you send money to several people through M-pesa, that is much cheaper than transporting the same value of money to that person who is going to receive it.

Madam Temporary Speaker, during this COVID-19 time, we are encouraging people to keep distance and avoid crowds. Therefore, cash will not be an appropriate choice. If you can give even Kshs50 to people and leave them to that choice, you are better off than spending a lot of money transporting food and other stuff to wherever they are. Therefore, it is my recommendation that the Government uses cash which is more appropriate in the intervention that they are thinking of.

As Sen. Mwaruma said, hunger will kill people. Hunger will not only kill the people, but it makes them much more vulnerable to the disease. If you are hungry, your immunity goes down. If the disease finds you at the lowest level of your immunity, the chances of you dying out of COVID-19 is higher than somebody who has better balanced diet.

The other thing is that we, as Kenyans, have to be much more responsible in ensuring that we curb the spread of COVID-19. We ensure that we follow Government guidelines in terms of the curfew. The other day, I saw people being picked in a certain part of Nairobi for gathering in bar without even masks. They were just drinking. Some of those people included people with high responsibilities in the society.

It is only fair that we become each other's keeper. We need to be careful that we do not increase people's vulnerability. This is because other people are taking advantage of them because of certain Government guidelines. For example, some people are taking bribes for them to allow them go to the other counties or people leaving where there is a small concentration like Eastleigh. That is costly to the economy and it perpetrates the fraud that we are trying to curb at a different level.

Madam Temporary Speaker, with those few remarks, I thank you for giving me the opportunity.

The Temporary Speaker (Sen. Nyamunga): This matter does not concern counties.

Sen. Halake, I will give you an opportunity to reply.

Sen. Halake: Thank you, Madam Temporary Speaker. I beg to reply and thank all colleagues that have contributed to this important report. I hear and relate to their cries. I associate myself with every single contribution that has been made on this Floor.

This pandemic is not just a health issue. You realize that we are going from health to social-economic, food, human rights, justice and corruption issues. This goes to show how all-encompassing this pandemic is. It goes beyond a health issue to a multifaceted issue.

I thank Sen. Omogeni, who is also part of the Committee, for his contribution and buttressing of the fact that the social-economic measures are not an end in themselves but are meant to cushion the population and ensure that the rights of the people to food, education and other social order are observed.

I would also like to thank Sen. Mwaruma for the contribution he has made. He has spoken to a lot of the health issues in thematic area one that we had with regards to the health sector.

I am trying to locate my notes because I was writing as he was speaking.

He has taken the time to enumerate some of the issues that we need to look at in terms of the economy, finance and the people that are suffering. I would like to reassure him that in the next thematic area for social justice, public order and human rights, the rights to food and all the support that he has mentioned have been captured. I have captured what has not been captured to ensure what he has proposed is also looked at.

He has talked about the economic sector such as tourism. I know that the County of Taita Taveta is a tourist destination.

Senators are being asked to provide their constituents with food. This is the reality on the ground. So, we not only have to look at the health perspective but also the social-economic aspect. In fact, we have a substantive thematic area on access to food, water sanitation and all manner of things. We have met stakeholders on that area.

With regard to meetings of county assemblies, the Senator is right. County assemblies need to look for innovative ways in which they continue to serve as they look after their health, wellbeing and observe all the guidelines provided by our country and the World Health Organization (WHO).

Madam Temporary Speaker, Sen. Mwaruma has also spoken to the agriculture sector which has been hit hard. As a Committee, we have met the agricultural sector. We have met the CS who has enumerated the stimulus package and other support packages that they have done. We noted that crop farming is quite taken care of. However, the livestock area was quite wanting.

We have given him feedback that support to agriculture should also include the livestock sector. This is because parts of the northern Kenya and southern plains of the Maasai are pastoralists areas. To define agriculture as just crop farming is also to understate food security for this country and livelihood of a big chunk of the population of Kenya. This also includes not paying much attention to the fishing community in the agriculture package.

The Committee has given back a written memorandum to the CS on some of these things to ensure that agriculture is defined broadly. It should ensure pastoralists and fishing communities are also looked at.

That is not to say that the major exporter of our horticulture has not been hit the hardest and has not had a major effect on our Gross Domestic Product (GDP) and inflows of foreign exchange. We have looked at that alongside the suggestions given by Sen. Mwaruma and other Senators. We have looked at providing support to the farmers; that is, the pastoralists, fishermen and crop farmers.

Madam Temporary Speaker, Sen. Mwaruma has also alluded to the issue of the economy. We take note of that and appreciate the input. However, as I was listening to him, I could not help but wonder whether this is time for Kenya to revive its manufacturing sector and ensure that it goes back to its former glory of making blankets, sweaters and other things.

We were told this morning that the Personal Protective Equipment (PPE) that are made in the country are of higher quality than some of those we are importing. This is a wake-up call for us. As our value chain, export and import collapse, it is time for us to look inward and implement one of His Excellency the President agenda items of manufacturing. This will be a good opportunity.

The Senator spoke about Tanzania doing well. I am not sure that is a good example. It is going on with business as usual and not testing. However, any Tanzanian

tested in Kenya is positive. They are saying that *vipimo vya Kenya si nzuri*. They have started to question our testing. However, I stand by the testing done in Kenya. Therefore, every country is unique and has its needs and context. What Kenya is doing is right. We need to do more of it especially cushioning the most vulnerable in society as we lock things down.

I know that the lockdown has affected many people especially the poor in the informal settlements. It has also affected more people in certain parts of the country where movement has been curtailed but requisite support has not been given.

He also spoke about our borders. Our weakest link is our borders, especially the one with Tanzania. We are for the East African Community (EAC). However, when it comes to the lives of our citizens, we support the closure of the Kenya-Tanzania and Kenya-Somalia borders. Those of us who come from Northern Kenya by ethnicity and culture are more sympathetic. The people across the border may be our brothers but the pandemic is not.

Madam Temporary Speaker, I thank Sen. Farhiya for her contribution. She is competent in the financial sector. Her contributions are spot on with regards to the percentage of our economy that is driven by SMEs. In fact, she said that it is 70 per cent but it is actually 89 per cent. Therefore, she is spot on in saying that support to SMEs is key to the survival of our economy because it has a ripple effect on 89 per cent of households that are supported by them.

She also spoke about how SMEs die in the first five years. This is true. Statistics show that if SMEs are not well supported, they have a death rate of about five years. So, the pandemic has made it worse given that they have nowhere to get loans which are also being recalled, their import chains have been cut and productivity has gone to zero.

Therefore, the suggestion for stimulus package is so much welcome. It forms part of both the Pandemic Response and Management Bill and the Report on the Thematic Area No.2, which is the economic sector and citizen support.

Madam Temporary Speaker, another sector that I remembered as I was listening to Sen. Farhiya was the energy sector. Because we are now very desperate and our revenue collection has plummeted, we are starting to put back levies and taxes on areas of the economy that should not be taxed. For instance, I know independent power producers (IPPs), like the producers of mini grids and small solar that for a long time and for a good reason, had been exempted from taxation. However, in the latest Appropriation Bill or Finance Bill, those taxes have been brought back.

I know that we need all the revenue we can get at this point. As a country, we are not just looking at empty coffers with so much need. To tax such areas will take ourselves back. The energy mix in this country for a long time has been pretty much renewable. This is something Kenya has been lauded for, and as Kenyans, we have been proud of it. This is because the energy footprint, the fuel energy and other energy sources have the worst kind of climate effect.

Kenya had opted for renewable energy because we have a lot of it. Sen Farhiya has mentioned that Wajir, Isiolo and northern Kenya are sunny. Every part of this country has more sun than all seasons combined in certain parts of the Northern Hemisphere.

Madam Temporary Speaker, taxing these energy sources would be a big mistake given that we will go back to--- Right now, the prices of fuel and oils are coming down.

Therefore, we need to guard against going back. Going back to more polluting energy sources will create an undesired consequence.

Madam Temporary Speaker, the Senator also spoke about the ripple effect and the chain effect of one Small and Medium Enterprise (SME) dying and hundreds of households will be affected. This is because one SME supports so many households. This is something that we are very alive to. As a Committee, we have taken it into consideration.

As a Committee, we have really supported and applauded the idea of cash transfers. We would like the country to make sure that even as we respond to the different calamities, be they floods, droughts or even this pandemic, cash transfers are much better option than food distribution. I worked for the Red Cross for a long time and know that close to between 46 and 67 per cent of the food distribution goes to the logistical and the other people from transportation to the people who are going to man the food, distribute and make sure that the crowd is controlled. By the time we are done with all these things, most of the money does not go to the vulnerable person or the beneficiary. It actually goes to the logistics and other people who are not vulnerable; from the guy whose trucks will be hired to the security agents that will manage the crowds.

Sen. Farhiya, we take that input very seriously and thank you. Cash transfers any day are better than food distribution. However, there comes a time due to block down or the fact that farmers may not even be able to produce, those might also become an issue. But for now, I think that cash transfer is the way to go. We look forward to a situation where we are efficient with resources, people have dignity and can decide what to use the money on. Sometimes it is not true that everybody needs the staple foods that we get.

I remember one time during a very bad drought when the Government was to provide meat for northern Kenya. For some reason, it was meat. Trucks arrived there with meat. Most people in northern Kenya are Muslims, and there is a way in which every animal is slaughtered. When the meat arrived, people looked at it and ran for their dear lives. They said that it was not edible. That was such a waste. The meat was quickly taken somewhere else and cash transfers were recommended or live goats provided. This is just how sometimes we can get it wrong, if we decide to distribute food without having the contextual framework.

Madam Temporary Speaker, with regard to the other issues, I would like to thank everybody; this House and your office for the support that the *Ad Hoc* Committee on COVID-19 Situation in Kenya has continued to enjoy. I would also like to give special thanks to the Secretariat of the *Ad Hoc* Committee on COVID-19 Situation in Kenya. I know that our secretariats are usually very good, but for some reason, I think your office was kind enough to give us the very best. We have had record time in drafting Bills and writing reports. This is our Sixth Report, and we are producing more reports than the House can debate them.

I would like to say a special thank you to your office for providing us with support and the Clerk's Office for giving us an amazing support system from our clerks who have done a fantastic job. The legal team led by Dr. Okello have done an amazing job with regard to processing the sheer volume of inputs we have received from the citizens of this country.

As Sen. Mwaruma has said, this House is now becoming the face of Kenya. People are coming to us with all manner of things. You will be pleased to know that for

the Pandemic Response and Management Bill alone, we received 163 submissions from so many people. We are meeting each of these people. Therefore, we would like to thank Kenyans as well for the interest they have shown in contributing to the welfare of our country during this time, not just financially, but also for their input into the legislative and policy framework.

Lawyers have sat down. Before, we would think that the private sector will be driven by profits, but they have written big memos that have taken them many hours to submit to us, so that Kenya will be better. Our laws are stronger and more robust.

I would like to thank all the stakeholders who contributed to the COVID-19 Committee for their invaluable inputs. There are those that we have not been able to meet and those we have been able to meet. All of you have provided invaluable support to the country. You should pat yourselves on the back for public service, even though some of you are in the private sector.

Madam Temporary Speaker, by the time this Report was being done, we had about 49 sittings. As of today, when the Sixth Report was being written, we had 53 sittings. That is to say that as the Senate, we have burnt the midnight oil. However, this is not possible without the support and encouragement of Kenyans, your Office, the Office of the Clerk and the amazing support system. Also, importantly, the support that the Senators have shown us in contributing to the different reports as well as to the Bill.

Madam Temporary Speaker, with those few remarks, I beg to reply and thank everybody for their support in the fight against the pandemic, especially our front-liners, the health workers, but more importantly, the support staff that sometimes get forgotten as we talk about our health workers who are doing a fantastic job. The support staff make sure that the health workers have somewhere clean to work from.

Is our situation perfect? Maybe not, but I think this country is on the right path. It is doing its best. I am proud to say that, as a House, we will be supportive of all the efforts from all arms of Government without forgetting oversight. This is what this House does; oversight and ensuring that the people are represented well. Those are things we will not negotiate. We will definitely make sure that people are represented and counties are oversighted and protected. Kenyans will be proud of this House, especially during this time.

I beg to reply.

The Temporary Speaker (Sen. Nyamunga): Senators, this matter does not concern counties. I, therefore, proceed to put the question.

(Question put and agreed to)

Next Order.

BILLS

Second Reading

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 26 OF 2019)

(Bill deferred)

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)

(Bill deferred)

Second Reading

THE LAW OF SUCCESSION (AMENDMENT) BILL
(SENATE BILLS NO. 1 OF 2020)

The Temporary Speaker (Sen. Nyamunga): Sen. Halake, are you ready?

Sen. Halake: Madam Temporary Speaker, I could start, but I think I will be better prepared if I moved it next week.

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, having concluded the business of the day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 26th May, 2020 at 10. 00 a.m.

The Senate rose at 6.13 p.m.