

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 13<sup>th</sup> September, 2018***The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.**[The Temporary Speaker (Sen. (Prof.) Kamar) in the Chair]***PRAYER****PAPERS LAID****REPORTS ON FINANCIAL STATEMENTS OF  
VARIOUS COUNTY AGENCIES**

**Sen. Dullo:** Madam Temporary Speaker, I beg to lay the following Papers on the Table of the Senate, today, Thursday, 13<sup>th</sup> September, 2018:-

Report of the Auditor-General on the financial statements of the Marsabit County Executive Emergency Fund for the year ended 30<sup>th</sup> June, 2017.

Report of the Auditor-General on the financial statements of the Kwale County Trade Revolving Fund for the year ended 30<sup>th</sup> June, 2016.

Report of the Auditor-General on the financial statements of the Busia County Assembly Car Loan and Mortgage Scheme (Revolving Fund) for the year ended 30<sup>th</sup> June, 2017.

Report of the Auditor-General on the financial statements of the Bungoma County Trade Development Fund for the year ended 30<sup>th</sup> June, 2017.

Report of the Auditor-General on the financial statements of the Bungoma County Youth Empowerment Fund for the year ended 30<sup>th</sup> June, 2017.

*(Sen. Dullo laid the documents on the Table)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Senate Majority Leader, you have one more.

**REPORT ON PROPOSED APPOINTMENT OF  
HON. CHEPKONG'A TO THE PSC**

**The Senate Majority Leader** (Sen. Murkomen): Thank you, Madam Temporary Speaker. I beg to lay the following Paper on the Table of the Senate, today, Thursday, 13<sup>th</sup> September, 2018:-

Report of the Standing Committee on Labour and Social Welfare on the proposed appointment of Hon. Samuel Kiprono Chepkong'a as a Member of the Parliamentary Service Commission.

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): Next Order!

### NOTICES OF MOTIONS

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, I have two Notices of Motions. I beg to give notice of the following Motions:

#### APPROVAL OF SENATOR TO SERVE IN STANDING COMMITTEE

THAT, pursuant to Standing Orders 187, 189 and 218, the Senate approves the nomination of Sen. Fred Outa, MP to serve in the Standing Committee on Health.

#### APPROVAL OF APPOINTMENT OF NON-MEMBER COMMISSIONER TO THE PSC

THAT, the Senate notes the Report of the Standing Committee on Labour and Social Welfare on the nomination to the Parliamentary Service Commission and approves the appointment of Hon. Samuel Kiprono Chepkong'a as a Member of the Parliamentary Service Commission, pursuant to Article 127 (2) (d) of the Constitution.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Next Order!

### STATEMENT

#### THE KILLING OF MS. SHARON OTIENO

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker. As I issue this Statement, I want to inform the Hon. Members that those of us who are in red are doing so in solidarity with Ms. Sharon who was murdered.

Pursuant to Standing Order 47, I rise to issue a Statement on the killing of Ms. Sharon Otieno, who was a student at Rongo University. Like most Kenyans, I am saddened by the news that has hit our media houses for the last several days regarding the killing of a Rongo University student, Ms. Sharon Otieno. Ms. Sharon Otieno was expectant at the time when she was murdered in unclear circumstances.

Reports indicate that Ms. Otieno was killed in a most chilly way; her body was stabbed with a knife several times, killing her and the baby that she was carrying.

Madam Temporary Speaker, as you may recall, a few years back, we had young university girls who were similarly murdered in mysterious circumstances. These girls include-

- (1) Ms. Mercy Keino
- (2) Ms. Caren Chepchumba
- (3) Ms. Caroline Ngumbu, who was murdered in the run-up to the 2017 General Election.

It is very sad that up to date, the perpetrators of these killings have not been brought to book.

Madam Temporary Speaker, in different circumstances, we have seen an upsurge of young criminal gangs of boys and girls, especially in Nairobi and Mombasa. Last year, two young ladies were killed by police in Kayole for allegedly belonging to a criminal gang that was terrorizing Kenyans. In addition, we have had many young people killing their spouses and families in the recent past in pursuit of wealth and a good life.

Madam Temporary Speaker, this and many other cases sadly are an indication of the illusions that young people have about a good life and thus, are willing to go to any length to achieve the good life.

Madam Temporary Speaker, I therefore, take this opportunity to speak to our society. We must re-examine our moral and social fabric. Old men are getting intimately involved with our young girls with a promise of a better lifestyle. The young boys are doing the same with older women. I want to remind all the men and women that these young girls and boys could be your daughters, sons, sisters or younger brothers. We, therefore, must be careful not to engage in such acts that destroy our very own families because, as one man gets involved with another person's daughter, another man is somewhere perhaps, with your very own daughter and this applies to the boys too.

To our daughters, sons, sisters and brothers, we must be reminded that Rome was not built in one day. Let us seek first to acquire education, build our careers and lives and we shall be able to live a lifestyle that is comfortable. We cannot all be very rich; we cannot drive big cars; we cannot all live in the most expensive estates, but if we acquire education, then we get empowered to achieve what we want in life. We must not be quick to want to live a life that we have not worked for. Even the Bible says that for us to eat we must sweat.

Madam Temporary Speaker, for the current incidence, I appreciate that the investigative agencies are carrying out investigations. However, I urge the Directorate of Criminal Investigation (DCI) to fast-track investigations into this matter with a view to bringing the culprits to book. This will at least help to ease the pain of the family of the late Sharon Otieno.

I also take this opportunity to convey my sincere condolence to the family of Sharon Otieno.

I also want to mention about the other killing that just took place in Isiolo County, where a lady was raped, murdered and burnt completely.

What is happening in our society is very sad and ladies and women are really suffering. I am sure men are also suffering in a way but ladies are victims.

Thank you, Madam Temporary Speaker.

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

I have a few Members who want to contribute. Please, take a minute each because of our Statement time.

**Sen. Halake:** Thank you very much, Madam Temporary Speaker.

I would like to thank Sen. Waqo for highlighting this. Since you have given us direction, I will not take too long.

These beastly acts are becoming way too frequent. These killings have been happening and both men and women suffer these acts but women seem to be disproportionately affected by these beastly acts because they are accompanied by rape, mutilations and they are done in a manner that you cannot even explain. In the case of Sharon, she was stabbed in the most bizarre ways and her unborn child killed.

These beastly acts do not know region, tribe, religion or gender. The women and the girls of this country bear the brunt of these beastly acts, rapes and violence, against them more disproportionately than anybody else as evidenced by current demographics. We do not know what is going on, and we condemn these acts in the strongest terms possible. As women legislators, we are very disturbed by this----

**The Temporary Speaker** (Sen. (Prof.) Kamar): Your time is up.

**Sen. Dullo:** Thank you, Madam Temporary Speaker.

I wish to join my colleagues and I thank Sen. Waqo for the Statement. Secondly, I would like to pass a message of condolences to the families of the two ladies, Ms. Sharon Otieno and the lady from Isiolo, Ms. Sakina.

Madam Temporary Speaker, this lady was a mother of two. She was picked from her house last night by some people who are known and taken to the bush where she was raped, tortured, killed and her intestines and other organs were removed. This is unacceptable and the Government should take serious action to stem this vice.

Secondly, there is a statement going round by unfortunately our brothers saying that those are prostitutes. Honestly, if they are prostitutes, what about the men who rape them or the men they are prostituting with? We need to do something about this.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Mary Seneta.

**Sen. Seneta:** Thank you, Madam Temporary Speaker. I also join my colleagues to condole with the two families, the family of the late Sharon Otieno and the family of our sister from Isiolo.

I also want to condemn this beastly act on behalf of all women Senators and on behalf of all the women from Kajiado County. I also want to urge the Government agencies that are concerned to take very serious measures on this and ensure that all the culprits are brought to book.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Yes, Sen. Falhada Dekow Iman.

*(Loud consultations)*

**Sen. Iman:** Thank you Madam Temporary Speaker. I am going to join my sisters as well to condemn the killing of Ms. Sharon Otieno and other women who suffer in the hands of these killers. When it comes to the rights of women, we cannot go back, we need to go forward. I will call this act femicide. This is a sex-based hate crime term broadly defined as the intention in killing. When someone is raping, they are doing it intentionally. We need to condemn that as well.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Yes, Sen. Shiyonga.

**Sen. Shiyonga:** Thank you very much, Madam Temporary Speaker, for giving me this opportunity to support the statement brought to the Floor by Sen. Waqo.

It is so sad to stand in this House just to talk about murder. It is very unfortunate, and my sincere condolences to the two families and any other family that has been affected in such a way. Ms. Sharon Otieno died not as one person but with an innocent fetus which had a right to live and her death was untimely.

I urge the Government and specifically the police, that even the reforms that we are experiencing in the police right now, let them go beyond and look for these hitmen who are killing our innocent people. I condemn this act because I am a woman, a mother, a Senator and a legislator. I pray that God rests her soul in eternal peace.

Thank you.

**Sen. Faki:** Bi. Spika wa Muda, asante kwa kunipa fursa hii kuchangia *Statement* ya Sen. (Rev.) Waqo. Ni jambo la kusikitisha kwamba baada ya miaka 57 tangu Kenya ipate Uhuru, bado kuna mauaji ya kiholela ambayo polisi wameshindwa kukomesha. Mauaji kama hayo yanaendelea na la kusikitisha ni kwamba wasio na hatia kama hayati Sharon na wengine wanakumbana na vifo katika hali za kutatanisha lakini Serikali na polisi wameshindwa kutatua.

Hiyo si mara ya kwanza mauaji ya kiholela kufanyika kwa sababu tumeshuhudia mauaji mengi katika nchi ya Kenya. Juzi, mwanamume mmoja kule Kayole alidaiwa kusukumwa na kuanguka lakini kifo chake bado hakijachunguzwa.

Jukumu la kwanza la Serikali ni kutetea maisha na mali ya wananchi wake na wale wanaoishi katika nchi ya Kenya. Ikiwa Serikali imeshindwa kufanya jambo hilo---

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): Your one minute is over. Let us have Sen. Wambua.

**Sen. Wambua:** Madam Temporary Speaker, thank you for this opportunity. I also stand in solidarity with my colleagues to condemn the act of rape and murder of women in this country.

For the case of Sharon, it is unfortunate that somebody would stab a girl eight times, kill a fetus and go ahead to try and conceal that. Let this be a good example. Investigations should be done and action taken against the culprits; this must serve as a good example to violators of human rights. Real men do not violate women but take care of them.

**Sen. Sakaja:** Madam Temporary Speaker, I thank Sen. (Rev.) Waqo for bringing this Statement. I will address the two areas that she touched on mainly. First is to offer our condolences to the families of the slain girls, especially Sharon and the lady in Isiolo. As it was said before, there is no parent who deserves to bury their child under such circumstances. It was the most painful thing to happen to a family. We hope that the zeal that was seen within the police will help us uncover some of the deaths happening across the country, including those that have been mentioned happening in my county.

Secondly, she has appealed to the old men. If you are old in this House, please leave the young girls of ours to their age mates. We are sufficiently capable.

Finally, much needs to be done to deal with domestic violence. We need to provide for centres and safe houses. A lot happens that does not lead to death. Many of these abused women do not get to die but suffer across this country in such circumstances.

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, I join my colleague, Sen. (Rev.) Waqo, in sending my condolences to the families of the slain ladies. I do not want to join those who would like to confuse the seriousness of the crimes that were committed against Sharon and others with the questions of morality. As a Christian, I have my stand on what needs to be done.

The sanctity of life cannot be justified by the morality of the girls involved and neither can we justify using the relationship they have had with other people. That must be separated. Everybody has a chance and opportunity to put their life right with God in a manner in which they know but they must have that opportunity to continue living to work towards that direction. That confusion must not be there so that there is no justification at all.

Dressing by women has been used as a justification for rape. Morality is now being used as justification for murder and eliminating lives of young girls. I have seen the debate around the country and justification that they were found with older people or there was something to do with “sponsorship” or whatever they call it. I do not think there is any justification we can give.

The last thing I want to say is that there is something that is worrying me, not just because of those girls but for everybody in this country. There seems to be some hit men who are on the loose and they are ready to be hired at the slightest amount of money that politicians who murder people have.

I think Sen. Khaniri, during the previous Parliament, came with a Statement about the existence of goons in the name of security officers in the counties and I do not know how far he has gone with that report. We would like to revisit it to ensure that our counties do not have goons because what came out is that there were departments within county governments managed by hit men, under the cover and protection of security officers.

If the suspects are found guilty for what they did, then it is the responsibility of this House to ask whether the money we appropriate here for oversight is used to eliminate citizens of this nation for whatever reasons, political or otherwise.

**Sen. Khaniri:** Point of information!

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Murkomen, are you willing to be informed?

**The Senate Majority Leader** (Sen. Murkomen): I am willing to be informed.

**Sen. Khaniri:** Madam Temporary Speaker, I just want to inform the Senate Majority Leader that following the Statement that I made in the previous Parliament, I have since come up with a Bill called the County Law Enforcement and Compliance Bill. It has been published and it will be coming to the Floor of this House very soon.

**The Temporary Speaker** (Sen. (Prof.) Kamar): The Senate Majority Leader had finished his minutes. Let us now have Sen. (Eng.) Maina.

**Sen. (Eng.) Maina:** Madam Temporary Speaker, I rise to express my disgust and sympathies to the family of Sharon. I also extend my sympathies to the mother who lost

her daughter. The case of that girl is not isolated. What we are witnessing in this country---

Let everybody start interrogating about our society; starting with church leaders and the leaders that we have. We should ask ourselves what is going on in our society. We need to know what has led Kenyans to this state because hardly a day ends without issues.

When you look at the television---

*(Sen. (Eng.) Maina's microphone went off)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Let us add him a half a minute. By the way he is very senior.

*(Sen. (Eng.) Maina spoke off record)*

*(Laughter)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Order, Members! We want him to talk to the elders in the House.

**Sen. (Eng.) Maina:** Madam Temporary Speaker, I must say that I am expressing the sorrow, disgust and concern about our society. Our morals are eroded. Corruption is being fought because these are the kinds of things that lead to that. So, there are other underlying issues. I dare say that today most Kenyans have mental imbalances. To be able to do that, somebody must be in mental imbalance.

I hope that we will look at our laws. I thank the Director of Criminal Investigations (DCI) for moving---

*(Sen. (Eng.) Maina's microphone went off)*

**Sen. Mutula Kilonzo Jnr.:** Thank you, Madam Temporary Speaker. My condolences to the family of Ms. Sharon. We should call the men who killed Ms. Sharon what they are; cowards. Those are not men; real men do not do those things. Lest we forget, these were the same things that were done to Ms. Mercy Keino on Waiyaki Way; raped and thrown on the highway to die.

As Sen. Murkomen has said, these governors have now made thuggery become legitimate. Unless we deal with it as a Senate, the voices of dissent in counties will end up the same way they shot the former CEC for Finance for Garissa County or Ms. Sharon, whom I am told had something to say that could point to some illegalities in that county.

Somebody sent me a poem which I want read:-

“My past is redeemed. My present makes sense. My future is secure. I am finished and done with low living, sight walking, small planning, smooth knees, colourless dreams, tamed visions, mundane talking, cheap giving and dwarfed goals.”

We must put an end to this. The person who killed Ms. Sharon should not be treated like a normal person, but an animal. Jail them. Put them somewhere they will not

live like a normal human being; in a solitary cell; dark, switch of the lights and put a lot of water.

Thank you.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker. I wish to thank Sen. (Rev.) Waqo for bringing the plight of Ms. Sharon to the Floor of this House. There are a lot of killings that are associated with gender. Last week in Wajir, a small boy was slaughtered for defending his sister. A man wanted to rape the sister and when he defended her, he was killed. It is a good that the perpetrator in that case was found. Although that is not good enough for the family, but at least there is some restitution that is going on. I hope he gets---

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

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker. I thank Sen. (Rev.) Waqo for bringing this issue to the fore. I also join my colleagues in passing my condolences to the family of these two young ladies.

While at it, perhaps time has come for this House to consider the issues that have been pushed of late by our colleague, Sen. Kasanga, that is; alternative dispute resolution mechanisms. One of the ills of colonialism is that they scoffed at African practices and gave us mechanisms, which true to what is being attested here today, are not working. This is because no deaths like these ones are being resolved.

We have heard of the many killings of young people and nothing is being done. Perhaps it is time for us, as Africans, to retreat to the days when we had our own practices of resolving---

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

**The Senate Minority Leader (Sen. Orengo):** Madam Temporary Speaker, my condolences to the family of Ms. Sharon. Many of these things happen because people can do it and get away with it. This is what should be looked at because people are discovering, right from Ms. Keino, that you can actually murder someone and get away with it. You can kill a former CEC Member in a county and get away with it. Impunity left unpunished breeds even more impunity. We should begin to think seriously. In India, rape of women is becoming an everyday thing because people have learnt that it can happen and you get away with it.

Now, we may be talking about Ms. Sharon, but we have forgotten that at the Coast, people are killed almost every day and nobody is brought to book. I think the Senator for Mombasa County is tired of bringing the issue of extra judicial killings before the Senate because it happens every day.

We expect the Government, this time around, because perfect crimes can only be committed by governments--- Everybody leaves a footprint. You cannot kill without leaving a footprint. Even when the late Hon. Ouko was killed, he left a footprint. However, it is those who are in charge of law enforcement that avoid these footprints.

It is a shame for somebody like Mr. Oyamo to be brought before the court or the way somebody was brought before the court for killing the late Mboya, while leaving the person who was responsible. Until the real killers of Ms. Sharon and that girl in Isiolo



County are brought before the court and dealt with in accordance with the law, it will continue.

*Poleni sana.*

**Sen. Olekina:** Madam Temporary Speaker, killing innocent people is always a wrong thing to do. Yesterday, I came back from burying Mr. Kapolondo Olepere, a young man who was attacked by haters when he was taking care of his cows. Recently, Ms. Sharon was killed, yet there is nothing that we are doing. It is wrong. There is no faith, tradition or religion that condones killing. When we have a government that does not take action, there is no solution that we will get.

We are Members who have been entrusted by our society to defend life and protect everyone. It does not matter what we say here. The more we continue taking and spreading hate, the more the killings will continue.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker, for giving me this chance to say a word of condolence to the two families who have lost their loved ones through very inhuman activities.

In every society, including the one that I come from, killing an expectant mother is a demonstration of the worst kind of inhumanity. That is beyond the normal thinking and it is a concern for all of us. It happened to Ms. Sharon and we do not know whom it will happen to tomorrow. We also have daughters and if we distance ourselves from such activities in our society---

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

**Sen. Pareno:** Thank you, Madam Temporary Speaker. I rise to contribute to this important Statement by the Vice Chairperson of the Committee on National Cohesion, Sen. (Rev.) Waqo.

What is happening in this country is an extension or manifestation of the levels of impunity that we have in this country. We lost Ms. Mercy Keino and we have not yet had results. There is also the case of the young lady who was killed together with the late Mr. Msando. In fact, she was termed collateral damage at the time of her death. Nothing has come forth from those investigations.

Madam Temporary Speaker, we need to handle the impunity that is in this country. I am happy that we are wearing red today because this county is on the red light because everything seems to be going---

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

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. On behalf of Nandi County and many Kenyans of goodwill, I take this opportunity to pass our condolences to the family of the late Sharon Otieno and many people who have been brutally murdered.

Finally, the Bible says in the book of John 10:10 that the devil came to steal, destroy and kill. It is unfortunate that our counties have now become rogue. I hope that our counties will not turn into dens of criminals and murderers. Therefore, I hope that necessary agencies will move with speed and ensure that the real perpetrators are arrested.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Finally, Sen. (Prof.) Ekal.

**Sen. (Prof.) Ekal:** Thank you, Madam Temporary Speaker for giving me the chance to also add my voice to this issue.

It is so unfortunate that somebody had to lose her life because somebody wanted to hide something sinister. I condole with the family of the late Sharon Otieno. It is such a sad thing for a young life to be lost like that and to make matters worse for the life that was within her. This is so beastly. I cannot begin to imagine somebody that would do such a thing.

Therefore, as *Mheshimiwa* Sen. Pareno said, people in our society now commit crimes without caring. The impunity that is so common in this country must be----

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Nyamunga, did you switch your microphone on and off?

**Sen. Nyamunga:** Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Are you okay now?

**Sen. Nyamunga:** Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Good. Before we move to the next Order, I have a Communication to make.

*(Interruption of Statements)*

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION FROM ORTUM MIXED SECONDARY SCHOOL, WEST POKOT COUNTY

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers of Ortum Mixed Secondary School, in West Pokot County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

*(Applause)*

Hon. Senators, I have another Communication to make.

#### VISITING DELEGATION FROM KISUMU COUNTY ASSEMBLY

Hon Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting Members and staff from Kisumu County Assembly.

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

- 1) Hon. Roy Samo, MCA - Deputy Speaker
- 2) Hon. Victor Rodgers, MCA - Member, Speaker's Panel
- 3) Ms. Lynette Ochieng - Clerk to the County Assembly
- 4) Mr. David Ochieng - Clerk Assistant

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

*(Applause)*

*(Resumption of Statements)*

The next Statement is from Sen. Wako.

### PERSONAL STATEMENT

TRIBUTE TO THE LATE H.E. KOFI ANNAN,  
FORMER UN SECRETARY GENERAL

**Sen. Wako:** Thank you. Madam Temporary Speaker, I rise pursuant to Standing Order No.53 to issue a Statement on the passing on of the former United Nations (UN) Secretary General, Auditor-General Kofi Annan.

Today in Accra, Ghana, His Excellency (H.E.) Kofi Annan, the former Secretary General of the UN and Nobel Peace Prize Winner and a top world diplomat is being laid to rest. I am glad that the Republic of Kenya is being represented by the Speaker of this House and my party leader, the former Prime Minister, Rt. Hon. Raila Odinga.

Madam Temporary Speaker, I am aware that this House has already observed one minute of silence in memory and Sen. Wetangula, the former Minister for Foreign Affairs has given his tribute.

Madam Temporary Speaker, I am glad that you have given me this opportunity to pay a personal tribute to a friend. I grieve a friend, who in many respects, qualifies to be one of the greatest sons of Africa and a renowned world leader.

I feel particularly privileged to have known him at an official and a personal level. I have known H.E Kofi Annan since 1981 when I was appointed a Special Rapporteur of the United Nations Commission on Human Rights (UNCHR). At that time, he was an officer at the secretariat of the UN at the level of director.

We interacted a lot in those days and in particular, on the role of Africans in the UN and how the UN can play a bigger role in economic development matters which we felt should be more multilateral rather than bilateral, in view of the division of the world between east and west.

These interactions included another eminent Ghanaian called Kenneth Dadzie who at that time was the deputy Secretary General of the United Nations Organisation and James Yona, who at that time was under the Secretary General of UN. Both of them were senior to us. It was no accident that Kofi Annan is the only Secretary General of the UN who rose through the ranks from the lowest to the top level.

Hon. Speaker, it was Kofi Annan who appointed me, when I was the Attorney-General of Kenya in September 1996 to be on the panel of eminent persons which investigated the insecurity in Algeria for the Security Council. The other members of the panel were His Excellency Mario Suarez, the former President of Portugal, Rt. Hon. Inder Kumar Gujral, the former Prime Minister of India, the former Prime Minister of Jordan, Grace Machel and Mrs. Veil, the first lady Minister for Foreign Affairs of France.

Madam Temporary Speaker, I considered it very humbling that H.E. Kofi Annan could appoint me on such a panel when I was just a mere Attorney-General in Kenya.

It was Kofi Annan who appointed me to chair the panel of experts, one from India and the other from the United States of America (USA) to investigate the Harbel massacre in Liberia and submit a report through him to the Security Council of the United Nations (UN) Organisation.

Madam Temporary Speaker, it was Kofi Annan who appointed me, on my retirement as Attorney General, to be the UN Representative to East Timor. I could not take up the position because I opted to join politics, and that is why I am here today. Had I accepted that position, I would not be standing in this august Assembly.

He appointed me because I had been the special envoy of Boutros Boutros Ghali, the Secretary General of the UN, to East Timor and Indonesia. It was Kofi Annan who suggested that I should seek election to the International Law Commission. I was duly nominated by the Kenya Government and elected by the General Assembly of the UN Organization. The last election was last year and I am a member of that august body until my term expires at the end of December 2021.

During the mediation talks that followed the post-election violence, although I was not part of the panels appointed by either side, in view of my constitutional office that I held at that time as the Attorney General, I can confirm that H.E. Kofi Annan consulted me from time to time whenever there was a development, when he thought that I could advise him on how to handle the matter.

One such development was when everything had been agreed on, except the issue of whether what had been agreed required a constitutional amendment or an ordinary legislation. On this issue, either side stood their ground. Kofi Annan had more or less given up. H.E. President Kikwete of Tanzania was called and before he arrived, Kofi Annan called me for discussions on the issue. We discussed for a very long time that evening. When he sought my opinion on the issue, I told him that if the agreement was to be protected from the immense powers that the President had at that time under the Constitution, then it was necessary for a constitutional amendment to be enacted.

On hearing this, he then told me to expect to be called the following day to state my position before the Panel of Eminent Persons and the two main protagonists, His Excellency Mwai Kibaki and His Excellency Raila Amolo Odinga.

Madam Temporary Speaker, the following day, I was duly called and gave my opinion. Sen. Orengo was then called and gave a similar opinion. Sen. Orengo and I were then mandated to draft the final agreement during lunch hour and present it for signing that afternoon, and that was duly done.

His Excellency Kofi Annan together with his predecessor, Boutros Boutros Ghali, contributed immensely to my international career. I want to put on record my utmost appreciation to them. I learnt a lot from the demeanour of Kofi Annan; his humility, commitment to peace, human rights, the development of Africa, independence of mind

and his dignified bearing, which I believe he inherited because he came from an aristocratic family of the Ashantis in Ghana.

Madam Temporary Speaker, in retirement, I would frequently meet him in Geneva, walking around Lake Geneva and in deep contemplation and so on. We would exchange a few pleasantries. I could at times go to his foundation and exchange a few views and update him on the developments in Kenya.

May the Almighty God give strength and comfort to the family of Kofi Annan during this period of sorrow and rest his soul in eternal peace.

Thank you, Madam Temporary Speaker.

*(Applause)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. That was a Statement pursuant to Standing Order No. 53 and so, it does not attract any debate. We had our share of debate anyway.

The next Statement is pursuant to Standing Order 52(1), to be given by the Senate Majority Leader.

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 18TH SEPTEMBER, 2018

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, I wish to present my Statement on the Business of the Senate for the Week Commencing Tuesday, 18th September, 2018, pursuant to Standing Order 52(1).

Hon. Senators, pursuant to Standing Order 52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday 18<sup>th</sup> September, 2018. I take this opportunity to welcome you back from the month long recess. I hope the break served you well and you are now energized and ready to proceed with the business of the Senate in accordance with our mandate of representation, legislation and oversight, as provided for in the Constitution.

On Tuesday 18<sup>th</sup> September, 2018, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further directions by the SBC, the Senate will on Tuesday 18<sup>th</sup> September, 2018 continue with consideration of business that will not be concluded in today's Order Paper and any other Business scheduled by the SBC.

On Wednesday 19<sup>th</sup> September, 2018 and Thursday 20<sup>th</sup> September, 2018, the Senate will consider business that will not have been concluded on Tuesday and any other business scheduled by the SBC.

Hon. Senators, the following Bills are at the Second Reading stage-

(1) The Physical Planning Bill (National Assembly Bills No.50 of 2017), which is due for Division.

(2) The Care and Protection of the Older Members of Society Bill (Senate Bills No.17 of 2018).

(3) The Local Content Bill (Senate Bills No. 10 of 2018).

- (4) The Impeachment Procedure Bill (Senate Bills No. 18 of 2018).
- (5) The Data Protection Bill (Senate Bills No. 16 of 2018).
- (6) The Petroleum Exploration, Development and Production Bill (National Assembly Bills No. 48 of 2017).

Additionally, there are Bills due for consideration at the Committee of the Whole, which the SBC will schedule accordingly. These are:-

- (1) The County Boundaries Bill (Senate Bills No. 6 of 2017).
- (2) The Office of the County Attorney Bill (Senate Bills No.3 of 2018).
- (3) The Food Security Bill (Senate Bills No.12 of 2017).
- (4) The Office of the County Printer Bill (Senate Bills No.7 of 2018).
- (5) The County Governments Retirement Scheme Bill (Senate Bills no.6 of 2018).
- (6) The Public Participation Bill (Senate Bills No.4 of 2018).
- (7) The Disaster Risk Management Bill (Senate Bills No.8 of 2018).
- (8) The Retirement Benefits (Deputy President and Designated State Officers (Amendment) Bill (Senate Bills No.2 of 2018).
- (9) The County Statistics Bill (Senate Bills No.9 of 2018)
- (10) The Salaries and Remuneration Commission (Amendment) Bill 2018.
- (11) The County Governments Amendment Bill (Senate Bills No. 13 of 2018).

Hon. Senators, there are a number of Bills that have been read the First Time this week. I continue to urge the Standing Committees to submit reports on them and others already referred to them for consideration. This will enable the House to effectively navigate the Committee of the Whole.

Madam Temporary Speaker, on this one, my request is that the Committees should abide by the 30 days provided for in the Constitution, and if possible, give us reports even way before the end of the 30 days. This will enable this House to process the many Bills that have been read the First Time this week

I also appeal to Standing Committees to expeditiously consider petitions referred to them.

I thank you and hereby lay the Statement on the Table of the House.

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. Hon. Senators, for the convenience of the House, and on account of the timeliness in law of one of our very important documents, I wish to allow the laying of a Paper and a Notice of Motion to be given by the Chairperson of the Senate Committee on Finance and Budget. That is the Report on the County Governments' Cash Disbursement Schedule for the Financial Year (FY) 2018/2019 whose deadline is next Tuesday.

Chairperson of the Committee.

### **PAPER LAID**

REPORT ON THE COUNTY GOVERNMENTS CASH  
DISBURSEMENT SCHEDULE FOR FY 2018/2019

**Sen. (Eng.) Mahamud:** Thank you, Madam Temporary Speaker. I beg to lay the following Paper on the Table of the Senate, today, Thursday 13<sup>th</sup> September, 2018:-

Report of the Standing Committee on Finance and Budget on its consideration of the County Governments' Cash Disbursement Schedule for the Financial Year 2018/2019.

*(Sen. (Eng.) Mahamud laid the document on the Table)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Next Order.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR FY 2018/19

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, I beg to give notice of the following Motion:-

THAT, the Senate adopts the Report of the Committee on Finance and Budget on cross-examination of the County Governments Cash Disbursement Schedule for the Financial Year 2018/19, laid on the Table of the Senate, today, Thursday, 13<sup>th</sup> September, 2018.

**The Temporary Speaker** (Sen. (Prof.) Kamar): I see an intervention from Sen. Nyamunga. Is that your machine, Sen. Nyamunga or you are on a point of order?

**Sen. Nyamunga:** Madam Temporary Speaker, I was hoping that you will give me an opportunity to welcome my people. The Leader of the Minority from Kisumu County Assembly is around. I wanted to welcome them to the House and to let them know that they are most welcome and that we will visit them very soon in Kisumu.

**The Temporary Speaker** (Sen. (Prof.) Kamar): You managed to sneak in before I could tell whether you were in order or not. However, I had welcomed them for you and you have also welcomed them.

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

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

## BILLS

### *First Readings*

THE COUNTY STATUTORY INSTRUMENTS BILL  
(SENATE BILLS NO.21 OF 2018)

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

THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL  
(SENATE BILLS NO.23 OF 2018)

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL  
(SENATE BILLS NO.24 OF 2018)

*(Orders for First Reading read- Read the First Time and ordered  
to be referred to the relevant Senate Committees)*

**MOTIONS**

APPROVAL OF SENATOR TO SERVE IN  
STANDING COMMITTEE

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, I beg to move the following Motion:-

THAT, pursuant to Standing Orders 187, 189 and 218, the Senate approves the nomination of Sen. Fred Outa, MP to serve in the Standing Committee on Health.

I would have loved to have Sen. Outa to be here to listen to this very serious Motion but this is a very simple matter. It requires for the approval of the hon. Senator of this House. Following the unfortunate demise of our colleague, Sen. Ben Okello, there ensued a vacancy in various Committees and one of which is the Committee on Health. The necessary consultations have been done by the Minority Side and the Report was brought to us in the Senate Business Committee (SBC). Having evaluated the report, the SBC came to the conclusion that Sen. Outa is extremely qualified to serve in the very important Committee.

Sen. Outa is the Senator for Kisumu County and a former legislator with the National Assembly. He has the passion and the commitment to fight and defend the interest of counties and county governments. The Committee on Health is a very important Committee.

I had extensive discussion with the Chairperson of the Committee in so far as delivery of their mandate. Senators will know that there is no other social function that has almost been fully devolved except policy at the national level other than health. As we discuss universal healthcare in this country, the implementation of that very important policy - the President's desire in his Big Four Agenda - which is part an offshoot of his manifesto, is going to take place in the counties.

Therefore, we do not want a national conversation on the state of health when the Committee on Health of the Senate is not at the centre stage. The reasons are that if we are not part and parcel of the details, we are unable to properly participate in the oversight. There is a protracted debate and counties have approached us that they are unable to pay money related to leasing of medical equipment because what they had budgeted and expected has gone higher.

This conversation took place in the Legislative Summit and it is an ongoing conversation. We need the Committee on Health to take the lead in so far as this conversation is concerned. I want to thank the Chairperson of the Committee on Health



because of his commitment in averting a serious problem, for there would have been a strike of the clinical officers in the counties.

I believe that this Committee on Health must be visible and vibrant. It must engage the counties, provide solutions and follow through the implementation of the Health Act. Ultimately, as a Senate, one of the things that we must pride ourselves for is the delivery of that important principle of universal healthcare. I want to urge Sen. Outa to go forth to that Committee and become “salt” - to continue inspiring and encouraging the Members of that Committee to ensure that they can deliver on this very important principle.

There are many concerns in my county on the same. The day before yesterday, the Members of the County Assembly had a very serious discussion about the state of health in Elgeyo-Marakwet County. They were concerned about the delivery of health functions, commitment of the staff, morale of the staff, equipment and facilities. It is a conversation across counties.

Sen. Outa is very lucky that his Governor is a former Senator who is passionate about matters health. I believe that Professor Anyang’ Nyong’o, the Governor of Kisumu County, is---

*(Loud consultations)*

**The Temporary Speaker** (Sen. Pareno): Order Senators. I think that we are interested in what the Senate Majority Leader is canvassing in the House. Kindly, let us consult in low tones.

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, kindly ask the Senator of Narok County to reduce his nomadic movements, especially when in the Chamber.

**Sen. Olekina:** What is wrong with that?

**The Senate Majority Leader** (Sen. Murkomen): We need to have that critical conversation. If there is an area that this Senate must take seriously in their responsibility, then it is health, agriculture and water for they are highly devolved and they are also things that concern the common *mwananchi* across the country.

I urge the Committee on Health to invite us for a breakfast meeting or a *kamukunji* where we will have a conversation with the Cabinet Secretary of the Ministry of Health and the Chairperson of the Council of Governors on matters of health. Let us be apprised of what is happening in the counties. We heard that Makueni County was launching a Universal Healthcare Programme and Kajiado County, where you come from, Madam Temporary Speaker, was doing something on Universal Healthcare Program and Insurance, though I did not see you buy a goat.

They have a programme where a family can donate a goat and the money can then go towards good health for their families. We need to be apprised of these kinds of programmes for us to know the accountability mechanism inbuilt for us to have a mechanism of oversight in the counties.

I do not want to say much. It was just about approval of Sen. Outa as a Member of this Committee. It is a very straightforward Motion and I think that it may not require the many stories that I have said. We can say them in any other Motion. I want to invite the Senate Minority Whip to second this important Motion. In any case, it came from him

and we want to hear that the Minority Side is comfortable with the approval of Sen. Outa to serve in the Committee on Health.

**The Temporary Speaker** (Sen. Pareno): I now call upon the Senate Minority Whip to second.

**Sen. Mutula Kilonzo Jnr.:** Madam Temporary Speaker, I rise to second the Motion that Sen. Outa, who represents, Kisumu County to serve in the Committee on Health. I must disclose that he had declared the intention to serve in the Committee. At the time our colleague, the late Ben Oluoch, passed on, I had attempted to negotiate for him to swap with Sen. Outa because of his experience in the Health Committee of the National Assembly. So, he comes with a lot of experience.

I am glad that this Motion is on the Floor and I can see the Senate Majority Leader is on his feet but I do not know whether the Chairman is here. In the discussions we had at the Senate Business Committee (SBC), one of the functions that are fully devolved is health. I do not think we are doing justice to the Committee because we are not doing enough.

I was pleasantly surprised and possibly not happy when I saw Members of the National Assembly going round hospitals in Thika, Eldoret, Kisumu and Eldoret giving the nod on medical leasing equipment. Why would we abandon our own cause?

This afternoon, the Chairman of the Committee on Finance and Budget has tabled the cash disbursement schedule and Senators need to look at it. Every county is contributing Kshs200 million in advance for the medical leasing equipment. This is our mandate and the Vice Chair is here. This is something we must take up. Why are counties paying Kshs200 million every month? Sen. Nyamunga mentioned that she has never seen the equipment and somebody else also said the same.

As we interchange, maybe the Senate Majority Leader needs to shake the Committee a bit. He should summon them to his Office, like I saw you having a meeting with Sen. Orenge. There is something that needs to be done with this Committee. When we go to Eldoret, they should go to Moi Teaching and Referral Hospital (MTRH) and Jaramogi Oginga Odinga Teaching and Referral Hospital and other Level 5 and Level 6 hospitals. Let us interrogate and tell Kenyans if we are getting value for money.

I can tell you that in Makuani we are not getting value for money. I have been to two hospitals and there was no justification for paying - is it Kshs94 or Kshs95 million since 2014 and now Kshs200 million. I was informed that the equipment I saw in Makindu Level 4 Hospital was purchased at Kshs50 million but it would have been purchased at less. So as we continue to interrogate that, we would like to put some impetus into this Committee.

As the Senate Majority Leader supports this, I would like him to use his Office, together with his Deputy, to get some work done by the Committee, so that justice to the function of health is done because the people who fund the function of health have found something to say. They are talking of reverting the function to the national Government and that should not happen.

I thank you, Madam Temporary Speaker. I beg to second.

*(Question proposed)*

**Sen. Sakaja:** Madam Temporary Speaker, I oppose this Motion very strongly. Sen. Outa is one of the most astute and passionate Members of my Committee on Security, Defence and Foreign Relations. I would like to know, from the Leadership and the Whip, why he is being removed from an already strained committee and why he is getting more responsibilities. I do not know if the diligence is a Kisumu thing because Sen. Nyamunga is the same.

I am glad that the members of staff from Kisumu County Assembly are here. I want to tell them *wan kanyakla, wan kanyachiel* and they should pass my greetings to my brother, the Speaker of Kisumu County Assembly, Mr. George Onyango Oloo.

On a serious note, in the past, it has been a tradition that when a Member of the House--- I am not sure about the Senate, though I know that when the late Otieno Kajwang passed on, the committees he sat in were left vacant because he was in the Joint Committee on National Cohesion and Equal Opportunities that I used to chair and he was replaced by the Senator of that same county who took over.

It will be important for us to understand whether that tradition has changed because I am sure the same happened to Sen. Mutula Kilonzo Jnr. He went to the same communities that the previous Senator for Makueni was in. If it is not the tradition, I would like to know whether we are overburdening Sen. Outa. For those reasons, until I am convinced and we vote, I strongly oppose this Motion.

However, allow me to add my two cents to the fact that health is the most important devolved function. In fact, those who have clamoured for health to go back to the national Government must as well say that we scrap devolution. Health is one function that is felt across the country by all households. It is one function that is a matter of life and death. So, if this is to strengthen that Committee, then I will support. I will support if it is to give that Committee more presence, the ability to focus on the current issues and the ability to innovate about solutions, especially with respect to universal healthcare and how to fund it.

I will give you an example. This Committee should propose conditional grants to certain counties. For instance, Nairobi City County needs only Kshs2.4 billion to ensure that 486,000 households in this county are able to get healthcare. This is money, even without going through the National Hospital Insurance Fund (NHIF), if managed well by county governments will be used to pay doctors and fund hospitals.

*(Sen. Murkomen spoke off record)*

I do not know what the Senate Majority Leader means by saying it is criminal.

Universal healthcare is an important part of the Big Four agenda and our lives as a country that the Senate should take its place to innovate for. In fact, if we innovate well enough, it will be even much cheaper than it has been envisaged. Of course, you know the kind of burden on Kenyans right now.

I hope that Sen. (Dr.) Mbiti, who represents my home county, Trans Nzoia, will move the way we know he moves. The Vice Chair, Sen. (Dr.) Ali is in the same Committee. Probably this is the most important committee we have in this House. They should be in front of things when it comes to issues of health.

When the National Assembly committees allocate themselves responsibilities of devolved functions, it shows that there is a vacuum that has been left by us as a House in

entirety. We are not blaming any individual but as the Bible says, as iron sharpens iron, so does man sharpen man. We would like to sharpen the Committee on Health so that it plays a better role.

*(Sen. Murkomen spoke off record)*

I know the Senate Majority Leader is the son of a pastor but he is wrong on that one and I will give him the Bible verse in a short while.

Let us also develop a culture, through the Liaison Committee, of how to take matters in the public domain. This House has the flexibility that the other House does not have because of its numbers. This House has 67 Senators but the other House has 349 Members and so it is not as flexible.

This House has the best level of staff in the Parliamentary Service Commission. I can say that with authority because I have been in both Houses. The attention and value from our staff in the Senate is different. A committee in the National Assembly has 29 Members but a committee in the Senate has nine Members. Can we take advantage of the human resource that we have in the Senate to raise the gold standard of representation?

As it is today, when Kenyans out there have an issue or petition, the first House they want to bring it to is the Senate because we have distinguished ourselves as a House of integrity and quality. In fact, the other day a Cabinet Secretary told me that when they are summoned by the National Assembly, they go there or send somebody and do not have to prepare much.

However, when they are summoned by the Senate – I think part of it is thanks to Sen. Mutula Kilonzo Jnr. and the Solai famous five; Sen. M. Kajwang' and the Ruaraka team and the other Committees – they shake in their boots. This is because they know that in this House there is true integrity and fidelity to our calling and there is quality. Senate Majority Leader, please, work together with all the Committees and not just the Committee on Health, so that we can serve the people of this country better.

I still oppose the taking away of Sen. Outa from my Committee on National Security, Defence and Foreign Relations or burdening him with more responsibilities.

Thank you.

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. I stand here proudly as the Vice Chairperson of the Committee on Health. Whatever my colleagues here say, we are trying our best, but the Senate and the Executive are not helping us. I remember last time, when the President was launching the Rapid Results Initiative (RRI), I invited myself to the Kenya Medical Supplies Agency (KEMSA).

*(An hon. Member spoke off record)*

Hold on; do not tell me that.

I am supposed to get an invitation and the Senate offices are supposed to coordinate with the Executive to tell us some of these things. We are running up and down going to our counties and we do not get information. On that day I had just come from Wajir and was told through social media that there was a function happening. I went there personally and had to tell the Cabinet Secretary and the President that I was representing the Senate Committee on Health.

The Chairperson of the Committee on Health of the National Assembly had been invited two weeks earlier, while the Senate did not get an invitation. Why is this happening? Health and water are devolved and we do not get our share of the resources from the national Government.

Madam Temporary Speaker, when we visit the counties, everybody fears the National Assembly because they believe they are the ones who have the resources and will stop their funding. I am in the Committee on Finance and Budget with Sen. Mutula Kilonzo Jnr. and today we talked about the Kshs9.4 billion that will be spent on medical equipment.

The day before yesterday, I went to the hospital in Wajir and the only thing that was operational was the Radiology department because of the Cuban lady who was sent there. The dialysis machine has been collecting dust for the last several months. No other equipment was taken there and Wajir County is paying Kshs250 million. Why should we do that?

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir. This is exactly what we are talking about. Our Standing Orders are clear on the role of the Committee on Health; to consider all matters relating to medical services, public health and sanitation. The issues that the Vice Chairperson is telling us are very weighty. He should not tell us about them casually. He should have brought a report from the Committee on Health after they have sent themselves to investigate these issues.

We are asking them to just play their role and not join us in lamenting and talking casually. Bring a report to the table of this House, so that we can debate it. Let us know the status of health in your county, Nairobi, Siaya and Makueni counties and do what is supposed to be done.

Is it in order for the Vice Chairperson of the Committee on Health to lament in the same way I have lamented, yet he should provide the solution on these issues?

**The Temporary Speaker** (Sen. Pareno): Some guidance. For some time, I wondered whether we were debating the admission of Sen. Outa to the Committee on Health or substantive issues. Since they are inter-related, I order that we proceed with the issue of Sen. Outa. Any other substantive matters can be brought in a substantive Motion before this House.

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. I support the inclusion of Sen. Outa to the Committee. We need him there, but I am pointing out the problems that exist, nationally. There are problems with the Cabinet Secretary and universal healthcare. However, we will play our part.

I ask the Senate Majority Leader to listen to this Committee seriously because he is the one who appointed the Members from this side and the Senate Minority Leader appointed the Members from that side. Support us instead of hitting on us.

*(Laughter)*

Senate Majority Leader, it is your role because you are the big shot here. When some of us call some of the Cabinet Secretaries, they *hepa hepa*. When we hit them, you tell us that we are hitting our Government. So, we will do our part and whatever comes out of this, we should not be attacked later.

Thank you, Madam Temporary Speaker.

**Sen. Ndwiga:** Thank you, Madam Temporary Speaker. First of all, I am surprised that Sen. Sakaja is opposing this Motion, yet he did a very strong presentation as to why Sen. Outa should go to the Committee on Health.

The late Sen. Oluoch was also a Member of the Committee on Agriculture, Livestock and Fisheries. As the Chairperson of that Committee, I am thoroughly disappointed and the Senate Majority Leader and Senate Minority Leader should hear this. That Committee has a big agenda. It is one of the Big Four Agenda items and a devolved function too, just as health. However, most of the times we find ourselves unable to even conduct business because we do not raise quorum. We urgently need the replacement of our late brother, Sen. Oluoch. If need be, we should even get some more Members. I am very proud of the two ladies in my Committee because they make the quorum most times. They are very hardworking and diligent.

Madam Temporary Speaker, we have a major agenda in the Committee and currently, we are looking at issues of coffee and cotton. However, most times we find ourselves unable to conduct business for lack of quorum. Perhaps it is time that the Senators are sent to Committees where they feel comfortable. I think we should relook at the membership of our Committees. Maybe we have sent some Senators to Committees where they have no interest and that is why we have a problem of quorum all the time. Some issues have arisen on the Floor of this House because Committees are not performing their functions due to lack of quorum.

I support the appointment of Sen. Outa. However, at the same time, I am making a case for the Committee on Agriculture, Livestock and Fisheries; that we urgently need replacement of the late Sen. Ben Oluoch who was also a Member of our Committee.

**Sen. Mwaure:** Thank you, Madam Temporary Speaker. I congratulate Sen. Outa for being nominated to serve in this Committee. I believe that this House will approve his nomination. We call him the *Thur Dibuoro*; Tsunami of Kisumu County. I am sure that he understands why that name is alluded to him. I served with him in the National Assembly and on several occasions, we were thrown out of the Chamber on account of standing strongly on issues.

Madam Temporary Speaker, every speaker who has spoken so far has alluded to one fact; that our visibility in terms of health matters is really lacking. We are supposed to be the ones taking the issues relating to matters health head-on. If we are supposed to have a public interest issue, it should emanate from here. However, we have not taken this space. It will not be given to us, anyway. If we have a more robust Chairperson of the Committee on Health in the National Assembly, they will take up that space.

The national Government will not cede ground simply because there is a constitutional provision. However, the truth is that we have not seen this happening. The Committee on Health is invisible in matters public with regards to this House. That is way, if a Member is not able to do it, he or she should let others who are more vibrant do it. It is that simple. I can even propose Sen. (Dr.) Abdullahi Ali who is the disquiet vice Chairperson. Since he is very vocal in the Committee on Finance and Budget, he might as well bring some liveliness in terms of the presence.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): There is a point of order from the Senate Majority Leader

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, I raise this point of order unto your attention of the Standing Orders that we cannot discuss any Member of this House without a substantive Motion. While, it was okay to generally encourage the Committee to take up these issues and so forth, it becomes dangerous when we slide to a situation where we are discussing specific Senators in a negative light without a substantive Motion.

Whereas I respect the views of Sen. Mwaura, I think the direction he took is dangerous. Just like the other Senators have done, he should encourage the Committee on what they can add into their work.

**Sen. Mwaura:** Madam Temporary Speaker---

**The Temporary Speaker** (Sen. Pareno): Order, Senator Mwaura. I bring to your attention the provisions of Standing Order No. 96 (4) which states that:-

“No Senator shall impute improper motive on any other Senator or to a Member of the National Assembly except upon a specific substantive Motion of which at least three days notice has been given calling in question the conduct of the Senator or Member of the Assembly”.

So, I hope you are not imputing improper motive on any Member of this House.

**Sen. Mwaura:** Madam Temporary Speaker, the guilty are always afraid. I have not mentioned anybody. The only name I have mentioned is that of Sen. Dr. Abdullahi Ali who is in this House. Therefore, I do not know what the problem of the Senate Majority Leader is. There was nothing that was out of order. Let me continue because the Senate Majority Leader has the capacity to talk more than me. Let me have the space.

Madam Temporary Speaker,----

**The Temporary Speaker** (Sen. Pareno): Order, Sen. Mwaura. We cannot ignore a point of order.

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, Sen. Mwaura has to respect his colleagues. He is completely out of order. We protected him in the past when worse things were said about him by a Member of this House. In the same breath, when he says that a certain Senator should take over the chairmanship from the other, he is imputing improper motive on the presence of the current Chair.

I do not want him to be emotional on this issue. I want him to approach it calmly and obey the orders of the Temporary Speaker. Is he in order to try to challenge you when you have given proper direction on how we should prosecute matters involving ourselves?

**Sen. Mwaura:** Madam Temporary Speaker, I have not tried to challenge you, and I have no capacity to challenge you. I ask the Senate Majority Leader not to incite you to take unnecessary action.

*(Laughter)*

Madam Temporary Speaker, there is the issue about the invisible hand of the market. I also tell the Senate Majority Leader that I will return favour for favour. I have supported his job which he has done well so far. The only thing is that he tries to interfere with other people, yet he has a lot of time to speak.

There is the issue of the visible hand of the Government and the invisible hand of the market. These are the interests that we are seeing in the health sector where we have a

whole Kshs9.4 billion going to equipment that hospitals do not need. Who is profiteering from this contract that started with Kshs4.7 billion and is now worth Kshs9.4 billion that had been factored wrongly in the past division of revenue? So, Sen. Fred Outa, as a new Member of this Committee, has a big role.

I support Sen. Sakaja who has said that he is a very active Member. Therefore, he should ask these questions which we have been unable to ask in the Committee on Finance and Budget. We need more voices so that we come to the bottom of who is making our people suffer when we need more essential services within the health sector yet we are profiteering some companies and individuals through big tenders whose value we do not know.

Madam Temporary Speaker, I was privileged to travel to Embu Level 5 Hospital last weekend. Indeed, it is wanting and Sen. Ndwiga can confirm that fact. In that county, almost 50 per cent of their development budget goes to that one single hospital. I spoke to the Hospital Superintendent, Dr. Njiru, and he told me that some doctors do not want to pursue certain disciplines because some are more lucrative than others yet some of them are where the people need the services the most. The health sector is ailing in this country.

Madam Temporary Speaker, in my County of Kiambu, four people are sleeping in one bed yet my own governor, Gov. Waititu, is spending Kshs2 million per day fighting alcohol. He argues that the hospital is good because patients come from other counties. However, that is not true because we have three Level 5 hospitals; Kiambu Level 5 Hospital, Gatundu Level 5 Hospital and Thika Level 5 Hospital. There is a lot of oversight with regards to how health institutions are managed.

Madam Temporary Speaker, we need a strong health Committee. I will say without fear of doubt that a Committee is as strong as its Members. If there is some need to inject new strength in this Committee, I call upon our able Senate Majority Leader and the Senate Minority Leader, Sen. Orendo, who I respect a lot, to crack the whip so that we can hype and increase our visibility and claim that which we are supposed to do as a House that is responsible for matters county.

I would like to tell the Senate Majority Leader, who is a good friend of mine, that health matters are rather emotive. They cannot be approached with sobriety because when a person is sick, he or she cries because they need medicine.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, in view of the requests that we have, we will now reduce the time of the debate to five minutes per Member. I kindly guide that we restrict ourselves to the agenda, that is, admission of the Member.

Sen. Cheruiyot.

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker. I support this Motion on the inclusion of my good neighbour and friend, Sen. Fred Outa, into the Committee on Health. This is so especially with the very glowing credentials about him that have been given by his Chair from the other Committee that he is serving in.

The time has come for us, as Senators, to properly consider what our gifts, strengths and passions are, especially in matters Committee. If you find that you are placed in a Committee where your faculties do not serve you extremely well and you are in an area where you are limited in terms of knowledge and skills, I think there is no harm in approaching your side of the House leadership and requesting to be moved to other Committees where you can serve more diligently and give your best skills.



Madam Temporary Speaker, I agree with my colleagues who have spoken. I know by doing this I run the risk of falling afoul with the Senate Majority Leader on the earlier - I do not know if it was an instruction or suggestion he gave - that we should be careful when discussing the conduct of other colleagues. However, I agree to a great extent with what Sen. Mwaura was pushing; that our Committee on Health needs to be more visible.

A classic example is when there were issues in many of our hospitals, including Kenyatta National Referral Hospital. We saw the zeal and energy with which Members of the Committee on Health of the National Assembly visited that hospital. Of course, the Senator for Nairobi City County was also there with them. Visibility gives you credibility. If you are not there, nobody will appreciate that you exist. That is why the Ministry of Health can dare plan functions that are purely health-related and not invite the Senate, because they do not see the Committee anywhere.

Madam Temporary Speaker, I, therefore, challenge my colleagues, and this is purely on a friendly basis. I am not saying that you have failed in your duties. However, increase your visibility as a Committee. You will remember very well that when we were tabling the Division of Revenue Bill here, together with County Allocation of Revenue Bill, there were concerns raised by Members of the Committee on Finance and Budget about large scale procurement that is being done by Government year in, year out, yet Committees of the Senate do not take time to investigate what is open and blatant theft of public resources.

A good example is the CT scan machines that are now being installed in our public hospitals. It cannot be that the amount it takes to buy the machine is equal to the amount it takes to train people who will run them. If you go to the budget of the Financial Year 2018/ 2019 that is what the Ministry of Health has done, yet our Committee on Health has not addressed itself to the particular issue.

Another area that I feel that this Committee needs to stamp its authority on is the issue of the National Hospital Insurance Fund (NHIF). Why does the national Government still want to hold on to NHIF, yet we know that health is a fully devolved function? The easier way to make NHIF more accountable is to devolve it to the counties, so that when they process and say, for example, that these are the claims of members from a particular ward that were treated and they used the cards to pay, members of the county assembly can look at the list and say: "I know Mr. XYZ. He is a resident of my ward."

However, as long as we keep on having thousands of names being processed at the head office, the issue of fictitious claims will never go away. I, therefore, challenge my colleagues in the Committee on Health to please stamp their authority and save Kenyans.

Thank you, Madam Temporary Speaker.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. I must say that Sen. Mwaura is immaculately dressed today. I am happy that of late, he has quite improved in terms of dressing.

*(Laughter)*

I support the Senate Majority Leader on the appointment of Sen. Outa as a Member of the Committee on Health. As Senators, we have had an interest of discussing

issues of health, which is very emotive across our counties. I know Sen. Outa as a very hardworking Senator and a rabble-rouser most of the time. I hope that he will translate the energy and passion that he normally has to ensure that the Committee on Health works to its best ability.

Madam Temporary Speaker, secondly, I urge the Senate Majority Leader, the House leadership and the Senate Minority Leader, who is one of the Senior Counsel in this House that we need to regularly meet in the Liaison Committee. This will ensure that we do not ventilate on some of the issues on the Floor of the House. As the Liaison Committee, we need to sit, discuss and agree on some of these things that are causing problems.

Madam Temporary Speaker, I have heard what Sen. (Dr.) Ali said. When we had a meeting of the *Ad Hoc* Committee on the issue of maize that was chaired by Sen. (Prof.) Kamar, it was very sad to note that the Cabinet Secretaries and senior government officials are taking invitations by the Committee so lightly that they casually send their messengers, tea boys and flower girls to the Committee that deserves seriousness.

It is very sad that Cabinet Secretaries take the Committees' work so causally and lightly. I hope the Senate Majority and Minority Leaders are taking note, so that a riot act can be read to the Executive. If the Executive and Legislature have to support and complement each other, we must have mutual respect. When a Committee invites a Cabinet Secretary, they should know that they are not more important than anybody else because we serve one Kenya. I hope the Senate Majority Leader will discuss with the Executive, so that we have a seamless engagement.

I am happy with our Committee on Justice and Legal Affairs because the people that we have invited have been magnanimous and gracious enough to attend our meetings. However, it was very sad that the Cabinet Secretary in charge of Agriculture and the Cabinet Secretary in charge of Industrialization could just send some junior officers within the Ministries. I hope that we will ventilate on these issues through the Liaison Committee. I hope that the Senate Majority Leader, who is my former lecturer and very ruthless in executing his mandate, will convey these issues to the Executive, so that we do not have to discuss them on the Floor of the House.

Madam Temporary Speaker, health is a devolved function. I do not know whether we need a conference or capacity building for people to understand that health is among the 34 functions that have been provided for by the Fifth Schedule of the Constitution. I call upon the national Government to engage the Senate more often than the National Assembly, to ensure the realization of the Big Four Agenda of the President. The biggest legacy that President Uhuru Kenyatta and the springboard of His Excellency William Ruto for 2022 Presidency is the success of the Big Four Agenda.

The critical partner in ensuring the realization of the Big Four Agenda on universal healthcare is not the National Assembly, but the Senate. I hope that the Committee on Health, chaired by the able Sen. (Dr.) Mbiti and the Vice Chairperson, Sen. (Dr.) Ali, will lead us to the Canaan, in full realization of the Big Four Agenda. They should ensure that now that we have the "handshake," we can succeed in ensuring--

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Madam Temporary Speaker, please, add me one or two minutes.

**The Temporary Speaker** (Sen. Pareno): You have one minute, but restrict yourself to Sen. Outa's admission to the Committee on Health. I have not heard you mention that.

**Sen. Cherargei:** Madam Temporary Speaker, the HANSARD will bear me out because I had indicated that at the start of my submissions. I have also said that he is my neighbour and he is a rabble-rouser down there.

Finally, I want to agree with my fellow Senators. Why is it so hard for the National Hospital Insurance Fund (NHIF) to partner with counties? This thing of centralising things is so archaic. We want to tell the Ministry of Health and the other county executives in charge of health that we want to see improvement of health in our counties.

There are also problems in the health sector in my county. Therefore, we need to realise that. We even have problems in Kapsabet County Referral Hospital but I think that in the fullness of time, when we give the necessary support and capacity, we will improve the situation. I support the inclusion of Sen. Outa into the Committee on Health.

**The Senate Minority Leader** (Sen. Orenge): Madam Temporary Speaker, I also wish to rise to support the Motion and the elevation of Sen. Outa into this very important Committee. Sen. Outa is up to the task. He desired to be in this Committee, and I think that it is important for somebody to have a sense of drive and mission before choosing to go to any committee.

In light of what Sen. Mwaura was saying, if you looked at the old Constitution, the repealed Constitution, the role of oversight was not emphasised in the constitutional arrangement under the old Constitution. In the current Constitution, oversight as a role of Parliament is so critical and it is not just given to Parliament generally, but each House of Parliament has got the power of oversight.

I hope that with Sen. Outa joining the Committee on Health, we will be able to see more oversight in the health sector in so far as this House is concerned. When Government functionaries do not want to appear before Parliament, there is certainly something wrong. There is something wrong in the constitutional arrangement because it means they do not want to perform their functions in accordance with the Constitution. In fact, we help public functionaries by oversighting them so that they do not run into problems. Most of them do not want to be oversighted because they know what they are doing. Before a matter comes to a Committee of the House, you will find that a great act of impunity has been committed by that state organ or by the functionary.

Lastly, I had suggested to the Senate Majority Leader that we need to look at these committees again and when we vote, we try to vote as a Senate. I want the Senate Majority Leader to listen to me because I had approached him. In another 50 years, people will not care whether there was Jubilee, ODM or NASA in this House. They will look at the function of this Senate during its tenure and how it performed. Yesterday when we were voting on the Bills, we did not vote on the basis of our political parties. Therefore, I urge that we look at these committees again, looking at the effectiveness of the membership of that Committee, particularly the committees that have been given powers to oversight devolved functions like health.

If anybody was listening to Sen. Mwaura, I think that we need to look into that Committee and other committees together and see how we can restructure them to be

more effective in performing the work that the Senate should be performing in achieving its oversight role.

There used to be a Minister in the United Kingdom, in fact, he was a backbencher most of the time and when he spoke in the House of Commons, people would stand and say 'you are out of order'. They would tell him that the Majority Leader was speaking so you are out of order and he would be punished. He would go out there and talk to the public. The public would say the Member of Parliament, Rt. (Hon.) Tony Benn, was right. The people who were trying to stop him from speaking were the ones who were on the wrong. Eventually, Parliament had to change its standing orders in order to make sure that the work of committees and Parliament was more transparent; would be achieved, and that is what Rt. (Hon.) Tony Benn was trying to do.

Sen. Mwaura was trying to say that we need to be effective. If we are not going to talk about committees, then how do we judge these committees? If you look at the Standing Orders, there are specific requirements of how the Members should behave, including the Chairperson. If we are criticising your official conduct as Chairperson of a Committee, I do not think that you should be overly sensitive; otherwise, we will just be here to please ourselves as if we are in a debating club. We are here for serious business. People can throw shoes over when emotions run high and a little bit of that drama is allowed.

In this House, we talk as if we are in a debating club. We should not be in a debating club. In fact, I have never seen men and women who have got the capacity like I have seen in this Senate. There are times when we try to censure ourselves; that probably somebody is not going to appreciate what I am going to say or I am going to be censured. Even now, the Senator for Kericho County was saying that 'I hope what I am going to say will not run afoul of the Senate Majority Leader'. We should never make our Members feel like that.

The Standing Orders always stop us from discussing the President's personal conduct but we cannot run away from commenting on his official conduct. Therefore, if a Chairperson of a Committee is not working properly, we are not talking about a Senator, we are talking about a Chair which can be occupied by anybody. Therefore, Sen. Mwaura did not even talk about the Chair. He was just making a statement which, when you have a mind that is negative, you infer that he is talking about the personal conduct of the Chairperson.

For the future to work for us, for us to be effective and in the spirit that we have in this Senate, the biggest thing that I think is lending favour to us *vis-a-vis* the public is that we are mature and we talk sense. However, at the end of the day, I get a feeling that whenever we stand up to speak, some people look behind thinking that probably someone will not like what I am saying. I think that there are people like the Senator for Nairobi City County who have overcome that thing and he tries to speak from his mind. Sen. Mwaura does the same. I think that the ladies in this House are doing much better than men.

I appeal to the Senate Majority Leader to let us have a vibrant House and only not stop people from speaking when they get into conduct which may be considered to be juvenile or not becoming of elders.

With those few remarks, I support.

**Sen. Seneta:** Thank you, Madam Temporary Speaker. From the onset, I want to support this Motion. Sen. Outa is equal to the task. I was with him in the 11<sup>th</sup> Parliament, I know how capable he is. I also want to support the sentiments of my colleagues that when it comes to health, agriculture and all devolved functions, we should all speak in unison for us to be heard. We need to support the work of these committees and we need to make the ministries concerned to support the devolved units.

When we talk about health, we simply talk about Level 4 and 5 hospitals. Some of our colleagues need to visit the very small dispensaries. When I am speaking of this, I need the attention of the Senate Majority Leader. Some of us who are aware of the situation of the dispensaries and health centres in our counties know that there is a total mess in the health sector. We need to raise our voices to speak about health so that it can be felt as a devolved function.

**Sen. (Rev.) Waqo:** Madam Temporary Speaker, I stand to support this Motion, that Sen. Outa joins the Committee on Health. I have served with him in the Committee on National Cohesion, Equal Opportunity and Regional Integration where you also sit and I have seen his commitment and passion in serving.

Health is an important sector. We all know that many of our counties have suffered in the past. For example, in Marsabit County where I come from, we now have referral hospitals where many people receive good services, thanks to devolution. However, the problem is that the country is pumping a lot of money in the Ministry of Health, which to some extent is doing some good work. It is one thing to have good facilities but the problem is maintenance of those facilities. Maybe five years from today, whatever we are buying will not serve the purpose.

The other thing that the Committee on Health needs to look into is the capacity of the personnel in the hospitals. Now that we have pumped a lot of money into the health sector, they need to be up to standards and give the best services. The Committee on Health is important. I know Sen. Outa, with his commitment and experience, will make a difference.

Madam Temporary Speaker, my call to the Senate Majority Leader is that we have standing committees like the Committee on National Cohesion, Equal Opportunity and Regional Integration where you also sit. Unfortunately we lost one Member, the late Ben Oluoch, and the fate of Sen. Loitiptip is not known. One of our Members has never attended meetings and we always suffer lack of quorum. Therefore, the Committee needs a lot of attention.

There is need to relook at the composition of different committees. There are Members who just come and sign. I think it is the responsibility of the Leadership to make sure that we do not misbehave at this age in life. When meetings are called, let us attend and concentrate on what we are supposed to do but not jumping from one committee to the other.

I urge the Leadership that there is need to relook into the whole matter of committees. We need to know those who are active and people who attend meetings but they do not say anything. I think something can be done if guided by our Standing Orders.

I thank you.

**Sen. Omogeni:** Madam Temporary Speaker, I join other Members to congratulate my good friend, Sen. Outa, who represents Kisumu County, for his nomination to the

Committee on Health. For the time I have known him, I have no doubt in my mind that he brings on board a wealth of experience in parliamentary committees, having been a Member for the past 10 years. So, the committee will have rich ideas with his coming on board.

There is no doubt that health is one of the most sensitive sectors in our country. Of all the services that were devolved, there is none that has faced many challenges more than health. Every Senator who has had a good touch with their county will confirm to the House that issues of management have posed serious challenges to our governors. So, there is no doubt that the issues that Members have raised this afternoon, to the effect that the job is cut out for Members of this Committee, cannot be more timely.

Devolution of health has worked in many countries and I do not see why it should not work in Kenya. Ethiopia came up with a model. They have a four-tier devolution system in health and it has registered tremendous success. Our brothers in Ghana introduced it and it has worked very well. It was introduced in Thailand and it has worked very well.

The biggest challenge we are facing is that our counties have embraced corruption in the way they manage the health sector. If you visit many counties, you will see that the highest allocation in terms of budget goes to the health sector.

In 2015, Isiolo County had put an allocation of Kshs1.2 billion for supply of drugs but when a spot-check was done in hospitals, it was found out that there were no drugs in any hospitals. The World Bank funded my county with over Kshs50 million to support essential supply of drugs to hospitals but everywhere I went, citizens of Nyamira County were complaining that there were no drugs in hospitals yet in the budget allocation, health takes the biggest chunk. Unless this Senate, in fulfillment of its mandate of oversighting counties, partners with the Ethics and Anti-Corruption Commission (EACC) to fight corruption in counties, our citizens, the people we represent in this country, will continue to be subjected to inadequate medical services.

I was shocked. As a country, we negotiated to receive some expert doctors from Cuba and Nyamira was lucky to get a cardiologist. However, when I went to Nyamira County Referral Hospital, the doctor is not able to work. He has never done any operation. An eco-machine, which he requested the county to procure and supply to the facility, has never been bought to date. What is our priority?

Immediately we did elections---

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

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

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker, thank you for giving me the opportunity to add my voice to this Motion. Kindly, allow me to condole with the family of Ms. Sharon who passed on. On behalf of Persons with Disabilities (PWDs), my family and myself, I condole with this family. My prayer is that justice will not be delayed in this case.

I support the Motion that seeks to appoint Sen. Outa to the Committee on Health. The fact that he desires and has expressed interest to be in the Committee tells us that he will be a committed Member. He will give meaningful input and his membership will be

valuable. I know that Sen. Outa is equal to the task and can perform. I believe that he is one of the people who will change this Committee.

Madam Temporary Speaker, there have been concerns about the Committee being inactive. It is important for the Committee on Health to be active. Health is one of the Big Four Agenda items. A healthy nation is a productive nation. If people are not healthy, they will not perform. It is also a devolved function and the Senate stands out to represent counties. It is, therefore, important that the Committee be reconstituted. I am happy that the Senate has intervened with speed and Sen. Outa is joining the Committee.

The health sector faces many problems and there have been a number of complaints in some of the health institutions in the counties. There are hospitals like Pumwani Maternity Hospital where patients share beds, while others do not have enough drugs. These are issues that need to be addressed by the Committee on Health. There is need for the Committee to be vibrant in all its activities. There is need for the Committee to leave a legacy. It should be said, for example, that in the 12<sup>th</sup> Parliament, the Committee delivered to the people of this Republic. We have been appointed to represent the people of this Nation. So, there is need for the Committee on Health to be active.

Madam Temporary Speaker, I beg to support.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I see no further requests. I, therefore, call upon the Mover to reply.

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, I have listened to the various views that were more about the Committee on Health than Sen. Outa as a person. The sentiments are welcome and I appreciate the auditing of the performance of the Committee on Health, and I am the one who initiated that debate.

I also urge Sen. Mwaura to be very cautious because he is also a Vice Chairperson of a Committee that we are likely to subject to the same auditing criteria that he is applying to others. That is why I am warning him about collective responsibility. I have had a heart to heart discussion with the Chairperson of the Committee and he has told me what they are doing. Some of the things that they do are not in the public domain. However, there is need for that Committee to pull up its socks. It is now becoming apparent that it is not just that Committee, but many other Committees.

The Chairperson of the Committee on Agriculture, Livestock and Fisheries has mentioned to me that he is lucky to get two Members to come to meetings. Sen. (Rev.) Waqo who is the Vice Chairperson of a very important Committee has also said that some Members just come in, sign and leave. I even know Members of this House who come to this House thrice in a year. Of the three, they speak only once. I think we need integrity on some things in this House.

As the Senate Majority Leader I will meet my colleagues on the minority side. I think that we need a major reshuffle in so far as the Committees are concerned. We need to put people where they have interest. Maybe we were wrong in sub-dividing the Committees. We can go back to merging them, so that we have fewer Committees.

I think the wisdom that dictated the creation of these Committees at that point in time needs to be re-evaluated. We can merge, for example, the Committee on Roads that was split from the Committee on Energy. I hope that people will not start saying that they were interested in being in this or the other Committee. Like the way we discuss statements in this House, I think we need a *Kamukunji* to discuss the performance of

committees. If you do not attend the *Kamukunji* and you are a Member of a Committee, we will get you out, so that we start afresh.

This is because when the names come here, all of us will approve them. We do not want people to come here and lament. Sometimes we protect people but at their expense. I think what is missing in this Senate is the vibrancy of a number of the Committees in addressing issues in the public interest, and people are questioning it.

Sen. Mwaura, if you listened to me very carefully, in my lawyerly way, I am saying the same things as you. However, I am more careful in terms of attributing it to an individual. I am just saying that we need the performance of that Committee to be visible. That is the same thing that we discussed in the Senate Business Committee (SBC). Whether the problem is the Chairperson or maybe the Chairperson is available and Members are not, that can be interrogated. However, the Committee needs to be visible in performance of its function, knowing that it is at the heart of the Senate.

Madam Temporary Speaker, Sir, since we have done one year, I am ready for re-auditing of these Committees. Why do people who do not come to this House chair Committees? If you come to the Senate thrice a year, why would you want to be a Chairperson of a Committee? We cannot discuss issues and you cannot answer anything or bring any report to the House. We only see you once in a blue moon. You are lucky to see some people here. It is like the eclipse of the sun. We cannot continue in that manner.

Since today was about speaking robustly and honestly about ourselves and self-auditing, I am now ready to go back to the Speaker. The SBC will organise a *Kamukunji*. Let us come here and discuss our performance in the Committees. We will ask the Clerk's office to give a tabulation of attendance of those Committees and Chairpersons to give all that. We will discuss and ask ourselves questions.

Maybe the Senator for Nyamira County could add even greater value if he were a Chairperson of a certain Committee than those who hold those positions. The Senator for Narok County, apart from planting 20 million seeds, would maybe add greater value in something else. I am energized today to say that we are ready to sit down together. I ensured that I was not a Member of a Committee because I wanted other people to have an opportunity to serve. I hope they can serve.

Lastly, if you are a Member and Chairperson of a Committee, you have a great opportunity to shine. You are even in a better position than the leadership because you are addressing issues that affect people on a daily basis. I do not know why people are forfeiting such important opportunities, yet there is no guarantee that you will be a Senator again. A legacy is not something that you wait for a particular day and then say that you now want to work on it. Legacy is a daily issue.

I encourage Committee Members to do something about it. My legacy will also be hinged on the performance of the Committees. We, therefore, have to crack the whip to ensure that we have a more robust and active Senate. When the Senate is active, all of us are beneficiaries and those who are in leadership at that time will benefit from it.

Sen. Outa is sufficiently qualified. I do not think that he is in more Committees than Sen. Sakaja. I know that when the next Senator for Migori County – who is likely to be my former student, but I do not want to name names – comes here I think the minority side will give another amendment that will ensure that he is accommodated in the various Committees. Therefore, the balancing act will fit in. I persuade Sen. Sakaja to support this Motion, because we want it to be unanimous.



Madam Temporary Speaker, I beg to move.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I now determine that this matter does not concern counties. Therefore, it does not require a division. I will then proceed to put the question.

*(Question put and agreed to)*

Hon. Senators, kindly note that we are using the supplementary Order Paper.

APPROVAL OF APPOINTMENT OF A NON-MEMBER  
COMMISSIONER TO THE PSC

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. I beg to move the Motion:-

THAT, the Senate notes the report of the Standing Committee on Labour and Social Welfare on the nomination to the Parliamentary Service Commission and approves the appointment of Hon. Samuel Kiprono Chepkong'a as a member of the Parliamentary Service Commission (PSC) pursuant to Article 127 (2) (d) of the Constitution.

Madam Temporary Speaker, pursuant to Standing Order No. 41(3) and (4), on 2<sup>nd</sup> August, 2018, the Speaker of the Senate communicated to the Senate a Message from the Speaker of the National Assembly, who is also the Chairperson of the PSC regarding the appointment of a Member into the PSC.

Following the Message, it was directed that this matter be considered by the Standing Committee on Labour and Social Welfare. The matter was therefore considered by this good Committee, which I Chair, and we have tabled our Report earlier today.

Madam Temporary Speaker, as a brief summary, the PSC is established under Article 127 of the Constitution to provide services and facilities to ensure the efficient and effective functioning of Parliament, among other functions. The Constitution also provides under Article 127 (2) and (3), that the PSC consists of the Speaker of the National Assembly as the Chair, seven Members appointed by Parliament from amongst its Members and one man and one woman appointed by Parliament from amongst persons who are experienced in public affairs but are not Members of Parliament (MPs).

This position that we were filling, through the nomination of hon. Samuel Chepkong'a, fell vacant following the resignation of Dr. Abdullahi Ibrahim Ali, who is now Sen. (Dr.) Ali, of Wajir County with effect from 7<sup>th</sup> February, 2017 for purpose of contesting an elective position in the general election that took place on 8<sup>th</sup> August, 2017. We are glad to note that he was successful in that endeavor and is now one of us in the House.

Based on the procedures of the PSC, it advertised for this position, shortlisted and conducted interviews on the shortlisted persons. On 20<sup>th</sup> July, 2018 at its special meeting, the Commission considered and adopted the Report of the interview and resolved that the name of hon. Chepkong'a be submitted to Parliament for approval in accordance with Article 127 (2) (d) of the Constitution.

The National Assembly, then through resolution, appointed hon. Samwel Kiprono Chepkong'a as a Member of PSC. The Speaker then passed this Message to the Senate and it was directed that my Committee deals with it.

Madam Temporary Speaker, Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011 states that the relevant committee should table its report for consideration within 14 days from the date when the notification of nomination is conveyed to the House.

Madam Temporary Speaker, many people have asked why there is a difference in how this matter has been dealt with by the National Assembly and the Senate. The Senate took long and referred it to a Committee because the rules of the PSC say that each House shall deal with it according to its Standing Orders. In our Standing Orders, we have a different provision that the National Assembly does not have that, in accordance to the principles in the Constitution and the laws of the land, such a nomination must go through public vetting, certain process and must be considered by a Committee. That is what we were able to do.

Madam Temporary Speaker, in conducting the approval process, the Committee on Labour and Social Welfare examined the nominee against the following criteria, amongst others, in accordance with the Public Appointments(Parliamentary Approval) Act No.33 of 2011;-

Academic qualifications-

We had to look at whether hon. Chepkong'a has the minimum required qualifications in terms of academic.

- (1) His employment record;
- (2) His profession affiliations;
- (3) Whether there was any potential conflict of interest in this appointment;
- (4) Knowledge of the relevant subject, this being parliamentary and human resource matters;
- (5) His overall suitability for the position;
- (6) His tax compliance, integrity on morality.
- (7) His vision which is important for a commissioner position in a constitutional Commission as the PSC.
- (8) Leadership and his expectations and key priorities.

The nominee appeared before us on 16<sup>th</sup> August, 2018 and was informed by the Chairperson that pursuant to Section 69 of Public Appointments Act, we had invited submissions from the public on the suitability or otherwise of his appointment to the PSC and by the deadline date of 16<sup>th</sup> August, 2018, we had received, through the Office of the Clerk of the Senate, no submissions or objections.

The Chairperson - yours truly - also informed hon. Chepkong'a that in view of the foregoing, in accordance with the provisions of the Constitution, the Public Appointment (Parliamentary Approvals) Act and the Standing Orders of the Senate, the Committee had resolved to proceed to undertake the approval hearing as required. Hon. Chepkong'a was orally interviewed by the Committee and responded to questions during the hearing as you will find on the Report. I will not go through all of that. The Report is available for Senators.

Madam Temporary Speaker, it is important that I note that there were no petitions received rejecting his nomination to the PSC. As the Senate, we also took it upon ourselves to write to the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA) and the Higher Education Loans Board (HELB) to establish

and request for reports on matters touching on his integrity and if there have been claims to the contrary of his tax compliance and loan repayments.

In response, the KRA confirmed that the nominee was tax compliant. The EACC confirmed that they have no outstanding issues or ongoing investigations against the nominee and the Criminal Investigations Department (CID) confirmed that the certificate of good conduct that he presented to us was genuine and that he was genuinely issued with the clearance on 3<sup>rd</sup> May, 2018. The HELB did not respond to the letter from the Clerk of the Senate but the nominee presented a letter that he already had dated 27<sup>th</sup> April, 2018.

On self introduction, hon. Chepkong'a stated that he was born in 1961, went to school in Iten and studied law up to postgraduate level at the great University of Nairobi (UoN), where I am a proud alumnus. He worked with various organisations in different capacities, including the International Telecommunication Union (ITU) mission in preparation for the Constitution; the African Telecommunications Regulators where most of his experience has been; the Kenya Posts and Telecommunications Corporation (KPTC).

After that, he went to the Kenya Planters Cooperative Union (KPCU) and the African Union (AU) before becoming a Member of Parliament (MP) from 2013 to 2017, representing Ainakboi Constituency which was newly created. He added that he has been the Chairperson of the Justice and Legal Affairs Committee during his tenure as MP. He also told us that he lost the elections and did not contest the results because '*asiyekubali kushindwa sio mshindani*'.

Hon. Chepkong'a also informed Members that he had significant experience in the public sector, and the Legislature in particular. He was of the opinion that the Parliamentary Service Commission (PSC) would benefit from his experience having been a Member of Parliament, in the same way that it did from Sen.(Dr.) Ali's experience. This is because Sen. (Dr.) Ali, prior to being a commissioner, had also been a Member of Parliament.

We had to make sure that hon. Chepkong'a comes out clear because of the issues we are dealing with as Senators. We are over-sighting huge budgets. As the Senator of the great Nairobi City County, I am over-sighting a county government that has a budget of Kshs32 billion, yet my office does not have a shilling to play any oversight role. The Members of County Assembly (MCAs) are getting a Ward Fund while the Members of Parliament of the National Assembly each has more than Kshs120 million to do their work. The Women Representative has Kshs7 million per constituency and the Senator has *kizungu kingi na catwalk!*

Madam Temporary Speaker, we, therefore, asked hon. Chepkong'a whether he supports us. This is because where we are right now as a Senate; this issue is stuck at the PSC. This is because it has put roadblocks in ensuring that we are able to create that vote through which we can reallocate our budget of Kshs550 million that the National Assembly sent to the Ministry of Devolution and Planning.

In the day and age where Parliament has fought for its independence, Members of the National Assembly thought it wise to domicile oversight money of an independent arm of Government within the Executive in the Ministry of Devolution and Planning.

Therefore, the sub-Committee which is led by Sen. Dullo and which I am part of, together with Sen. Mutula Kilonzo Jnr. and Sen. M. Kajwang, agreed that there would be

nothing wrong in setting up a sub-vote within the Senate in terms of the facilities of Senators the same way we have our offices, and then do a reallocation of that money. Even that has received resistance from within the PSC but we hope and are sure we will resolve it.

Madam Temporary Speaker, we had to ask hon. Chepkong'a and if he is listening - he must know that we will keep him and hold him to account to his words. We asked him whether he was in support of Senators not having their own kitty but having the resources and facilities to adequately play a monitoring and evaluation role of devolution and funds sent to the counties. He said that he supports the creation of that fund, because it will enable Senators to effectively perform their oversight role in the counties and engage experts.

It will also enable them to send people on the ground to see those projects that the governors are saying have been done; to see whether it has been done or not and the progress. He further proposed that a Senator should even be facilitated to have an office in each constituency of the county that he or she represents.

Madam Temporary Speaker, I will again use my example. As the Senator for Nairobi City County, I have 17 constituencies, 85 wards, 2.3 million voters and 5 million residents. However, the allocation for me to operate and perform my duty is the same as that of the Member of Parliament of Lamu East Constituency with 10,000 voters, one constituency and 3 wards. Where is the equity in that and how are we all supposed to perform our duties?

In addition to that, hon. Chepkong'a spoke of bringing his integrity and independence to the PSC and promised to ensure that all Members of Parliament are facilitated to perform their jobs.

Madam Temporary Speaker, we must be clear on this matter. Senators do not want money for their pockets or what they are calling '*mikutano ya mandazi na chai*'. They need to be facilitated even in kind to perform their functions, reach their voters, to be present to listen to their voters and analyse reports that are coming out from the Controller of Budget and from the Auditor General.

They also need to support their county assemblies. This is for instance, so that my County Assembly of Nairobi City County, which is now in the public limelight because of their standing up for what they believe, is able to move properly, create legislative frameworks through which we can have support for the work that is being done in the county assemblies and in the county. That is because the county is the first and last frontier of devolution; the smallest and most important unit.

Hon. Chepkong'a mentioned that the Senate has done considerably well. I think he was also trying to make us happy that we have done very well in protecting the interests of counties and empowering the people at the grassroots. We hope he does not change his mind.

He also mentioned that the proposed sitting in Uasin Gishu County, scheduled for September 2018 would enhance the visibility of the Senate.

Madam Temporary Speaker, it would have been very poetic if this approval hearing and voting was done when the Senate was in Uasin Gishu County. However, he cannot wait and we really need him in the PSC as soon as yesterday. We also know that there are certain sub-committees where Sen. Cheruiyot is in that are experiencing quorum hitches due to the absence of this non-member commissioner of the PSC.

The Committee made the following observations as I move to conclude: One, hon. Chepkong'a has knowledge and experience in public sector issues and Legislature, having been a Member of Parliament. We had no reason to question his integrity. He is of good standing in public and also had clearance certificates from all the required institutions.

One thing we noted that has not been put in the Report is that this House and Parliament in its entirety needs to address is the awkward manner, that almost seems out of place, through which the PSC fills the slot of non-Member commissioners. The interviews are conducted by Commissioners to appoint somebody who will come to be their colleague and of equal standing.

If you look at the Judicial Service Commission and many other Constitutional Commissions, there is normally a selection panel that is able to sit and do that work. Since most of these are Members of Parliament, they are voted in by the Members of the National Assembly and the Senate which is a bit removed.

Madam Temporary Speaker, we need to review the selection for the Non-Member Commissioners. It does not sit well in my mind for me to come and interview someone who will come and be my colleague at the same level of equal standing. I think it is out of place and we need to review that provision of the law. Let us have a selection panel that deals with those Non-member commissioners and appoints them.

Ideally, these are supposed to be representing the interests of the public at the PSC. As it is done now, they are representing the interests of the person who has proposed, vetted and approved them since the process is being done squarely within the PSC. It looks "incestuous" for lack of a better word - where the commissioners produce one of their own to sit with them.

Madam Temporary Speaker, our recommendation was that; the Committee has recommended the appointment of hon. Chepkong'a as Member of the PSC. I will urge Members of this House to support the position of the Senate Committee on Labour and Social Welfare. The Report had been tabled earlier by the Senate Majority Leader and is in the House for any Member who would like to peruse it.

With those many remarks, I beg to move. I thank you.

I will ask Sen. Mwaura to second. Ideally, I would have wanted a Member from the other side. Sen. Khaniri walked away when he was supposed to second, probably because he is part of that locally incestuous process that has produced this nominee.

*(Laughter)*

**Sen. Mwaura:** Madam Temporary Speaker, I am sorry I am not supposed to be on record when laughing. Sen. Sakaja has used a word that may need to be interrogated further, but it may go unnoticed because he is a 'Super Senator'.

Madam Temporary Speaker, I rise to second my Chairperson of the Senate Labour and Social Welfare Committee in supporting the approval of the nomination of hon. Chepkong'a to be the male Non-member nominee to the PSC. I base my support on the way I saw him conduct himself in the last Parliament.

Hon. Chepkong'a together with others, I included, joined the 11<sup>th</sup> Parliament. We used to sit together with that gentleman. I remember he liked wearing yellow ties. It was

like his signature tune. It is a coincidence that today I am in yellow. I think it is loyalty to the United Republican Party (URP). However, that is not important.

I remember sharing with him about his experiences in terms of public procurement and he was very categorical about his experience as the Chief Executive Officer of the Communications Authority of Kenya (CAK) and other roles that he played before he came to politics. Hon. Chepkong'a was a very robust lawyer and advocate and still is. However, he suffered from being too good because when you are too good, sometimes, just like a ripe fruit, you actually face a lot of wrath of the people. That is exactly what happened.

Hon. Chepkong'a went ahead to become the Chairperson of the Justice and Legal Affairs Committee of the National Assembly in the 11<sup>th</sup> Parliament and he did a stellar job. He was extremely committed. He gave his all and he is credited for the reforms that we saw in the electoral process in the last election. One of the key things that he ever did was to reduce the number of voters from so many thousands to only 700 per polling station. This helped in terms of expediting the time taken to vote in this country. All of us remember that the queues were much shorter in the last general election, thanks to Hon. Chepkong'a.

Hon. Chepkong'a spearheaded the approval of many people who were appointed to various constitutional commissions and independent offices without fear or favour. For that, we really need to give him credit because some of these commissions and constitutional bodies have gone ahead to perform their duties.

He did not shy away from also auditing these very institutions because they fell within the purview of his mandate. He questioned them including the Independent Electoral and Boundaries Commission (IEBC) with regard to how they were conducting themselves. He was not shy to point out issues when there were challenges to do with the separation of powers between the Judiciary and the Legislature.

He also tried to advance the rights of women by proposing a workable Bill on how to implement Article 81 of the Constitution with regard to the two-thirds gender Bill. This is a gentleman whom history will be very kind to upon its writing because he maintained fidelity to the law and the objectives that he wanted to achieve were clear in his mind.

My interaction with hon. Chepkong'a also made me realise that he was very amenable to the rights of vulnerable members of society. He agonised over how we could go ahead and implement Article 100 of our Constitution and how Parliament is supposed to increase the representation of women, youth, and persons with disabilities, ethnic and other minorities. In fact, he even proposed that if we want to increase the number of elected women in Parliament, they should even be given some special fund to help them navigate around. That is how objective and open hon. Chepkong'a was.

Hon. Chepkong'a was a robust debater on the Floor of the House. He would give meaning to debate and insights that would have sometimes escaped the common wisdom and would sweep public opinion in that regard.

However, as fate would have it, when you are too good a legislator and so nice, the voters back home sometimes do not appreciate you. In fact, it has been said and I wish that the Senate Majority Leader was here, that most Chairpersons of Committees do not make it back to the House. This is because they perform the real work of a Member

of Parliament. They are here doing laws. The laws are good and I am not trying to belittle our role for we must do it because that is our job.

However, for as long as we have the twin-track role of a Member of Parliament, in that you are a legislator but what makes you to come to this House is your role of a glorified social worker, where you attend those funerals and Harambees, then people see that you do not have connection. In fact, they will tell you very clearly that we do not eat laws. What is that law about?

I want to say it on the Floor of this House without fear of doubt that hon. Chepkong'a lost the election because of working too hard for Kenya and the Jubilee Government. That is what cost him the position, including his own Vice Chairperson, hon. Nyokabi, the former women representative for Nyeri County. I am glad that hon. Nyokabi is now a commissioner in the Gender and Equality Commission. Therefore, we owe it to ourselves as Members of this august House to have one of our own just like we had Dr. Abdullahi to also sit in the Parliamentary Service Commission (PSC). He is a shoe-wearer, he knows the challenges that we undergo and he knows what it means to be a real Member of Parliament and yet lose the support of the electorate, fairly or unfairly.

I support him. Let him go and ensure that we get the facilitation that we require. We require the Senate to do its oversight role and that fund is very critical. We pay our staff meagre salaries because the resources that we are given to pay them are not enough.

The systemic discrimination of Members of Parliament who represent special interest groups cannot go out of the purview of the PSC. It cannot be that the PSC gives us half the amount of money to pay our own workers that is given to others. It cannot be that we are given mileage to only cover where you come from, your county, as if you represent that county, which has an elected Senator. We have a mandate to represent the whole country but we are not facilitated to do our job.

This Senate has only two Senators, a man and a woman, representing persons with disabilities. Sen. (Dr.) Musuruve and I are supposed to cover the whole country but we have no capacity because there is no facilitation. These are some of the issues that we need to look at for us to become effective; for people to see that there is meaningful representation in this august House.

With those many remarks, I support and wish that this matter be expedited for the new commissioner to take up his appointment.

I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Pareno): Could we hear from Sen. Cherargei? I wish to reduce the debating time to five minutes per Member.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. I rise to support my Chairman, Sen. Sakaja, and the Motion on the approval of hon. Samuel Kiprono Chepkong'a as a commissioner.

I have known hon. Chepkong'a as a neighbour and a Member of Parliament for Ainabkoi Constituency. He also sat in the same sit that I am sitting on as the Chairperson of the Committee on Justice, Legal Affairs and Human Rights in the National Assembly. I hope that Sen. Mwaura is not a prophet of doom because he has said that many

Chairpersons and Vice Chairpersons do not survive long in Parliament. I want to assure him that the contrary will be proven.

That notwithstanding, hon. Chepkong'a has an exemplary track record in public service and I think that he will contribute immensely in the running of the PSC. It is good that we have Sen. Aaron Cheruiyot and Sen. George Khaniri, who are Members of the Parliamentary Service Commission. However, I know that the Commissioners have not been able to discharge most of their duties because of lack of quorum in important sub-committees.

Hon. Chepkong'a appeared before us and I was impressed by the grasp he has on the issues that need to be addressed. He assured us that he will be pivotal and ensure that the engine of devolution works for all of us, in line with Article 174.

Madam Temporary Speaker, secondly, in line with Article 127, he met all the requirements. On the issue of the monitoring and evaluation fund, he agreed with us that equity has not been applied in providing for the Senators of this country. I agree with Sen. Mwaura – and we asked hon. Chepkong'a about it – that what we are asking for is just facilitation to ensure that we discharge our mandate. The only thing a Senator, like Senior Counsel, Sen. Okong'o Omogeni, can do is only to make noise. We do not have facilitation or proper mechanisms to do our oversight work 100 per cent. I think those are some of the issues.

When you go to Kericho, for example, because of lack of facilitation and proper infrastructure, it is hard for the Senator for Kericho, Sen. Aaron Cheruiyot, to oversee properly and ensure that the money that has been channeled to projects can be accounted for. Hon. Chepkong'a assured us that he will work with us. Apart from ensuring that devolution works, he will also support us when it comes to the evaluation and monitoring funds, so that the Senators are provided for.

Given his sharp legal mind, he will ensure that the policy and legal framework that will lead to the effectiveness of the Parliamentary Service Commission comes to fruition. He served as the Chairperson of the Committee on Justice Legal Affairs diligently and also as a Member of Ainabkoi Constituency. Although the only soul alive did defeat him, the spirit did not die in terms of discharging its own duty.

It is high time that we recognized the unique ability and capacity of many Kenyans who are willing to discharge their services to this country. I, therefore, think that hon. Samuel Kiprono Chepkong'a meets those requirements and has a proven track record. He served Jubilee diligently in the last Parliament and has been one of the vocal leaders during the first generation of devolution. He was one of the pivotal roles---

Madam Temporary Speaker, please, give me one more minute to finish my thought.

**The Temporary Speaker** (Sen. Pareno): Just one minute.

**Sen. Cherargei:** Thank you Madam Temporary Speaker for that indulgence.

During the first generation of the realization of devolution, one of the key people who came out strongly to ensure devolution works and full implementation of Constitution, 2010, was the Chairperson of the Committee on Justice and Legal Affairs of the National Assembly, and that is, hon. Samuel Kiprono Chepkong'a. We believe in him, his ability and capacity and proven track record to ensure that the work of the Parliamentary Service Commission is discharged fully.



Madam Temporary Speaker, finally, we will hold him to account on the promises he made before us, as the Senators and as Committee of Labour and Social Welfare.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): Sen. Cheruiyot Aaron Kipkirui.

**Sen. Cheruiyot:** Thank you Madam Temporary Speaker. I will try and be brief, so that the rest of my colleagues can also get a chance to comment. From the outset, I want to say that I support this Motion.

Hon. Chepkong'a is a gentleman well known to me. We served with him in the last Parliament. Although he was in the National Assembly and I in the Senate, on many occasions we had the chance to interact on many national issues. He is one of the many brilliant gentlemen who lit up the corridors of Parliament during the last Parliament, with great debates. He also gave his contribution as the Chairperson of the Committee on Justice and Legal Affairs of the National Assembly.

Madam Temporary Speaker, I had the opportunity also to interview him as a Member of the Parliamentary Service Commission, amongst six or seven others who were interested in serving this position. I want to confirm to this House that he emerged on top and by merit. If my memory serves me right, all the nine Commissioners that are currently serving gave him the leading marks, and he had an unassailable lead. That is proper confirmation that he deserves to serve in this position; to come and join us in the great task of seeing that we fulfill the dream of Article 127 of our Constitution; to have a Parliamentary Service Commission that responds to the needs of our Members of Parliament and provides them with the facilities and all the necessary tools that they need to do their work as legislators.

Therefore, I want to plead with my colleagues that they should for sure give the nod of approval to Hon. Samuel Chepkong'a. If he gets approved, it will be a great addition to us, as a team, because of his wide experience, first, as a manager and also as a legislator. This position fell vacant after one of the former Commissioners, none other than my good friend who is here with us, Sen. (Dr.) Ali, vacated this position to go and contest and successfully so, as the Senator for Wajir. He also served with distinction as a Commissioner.

As a Member of the Parliamentary Service Commission, this Motion is of great importance to me, because I get a chance to listen to my colleagues and hear the kind of pleadings that they feel need to be provided for them as legislators. I have heard the passionate pleas that have been raised by Sen. Isaac Mwaura on behalf of Nominated Members of Parliament. I want to plead with my colleagues who were elected that a nomination is a special election as well. Therefore, we should on all occasions try to treat our nominated colleagues with the respect that they deserve.

On many occasions, not in this particular Parliament, but previous Parliaments, whenever there was anything in terms of facilitation that was extended to the elected members, Members were always apprehensive when the same was passed on to nominated Members. I do not think that is right, I think they too have a purpose for which they exist and at all times we should always strive to see that we bring equality even inside the walls of Parliament.

Madam Temporary Speaker, with those many remarks, I support.

**Sen. Olekina:** Madam Temporary Speaker, I rise to support the nomination of the hon. Samuel Kiprono Chepkong'a as a Member of the Parliamentary Service

Commission. From the outset, I wish to say that I know hon. Chepkong'a. I have debated him in other forums and found him to be a man who is highly knowledgeable. He understands what a legislator needs and what he does.

From his background, I am very happy to stand here and support him. When he served as a Member of Parliament, he sponsored six Bills. Among those Bills were-

- (1) The Matrimonial Property Bill.
- (2) The Marriage Bill.
- (3) The Election Campaign Finance Bill.
- (4) The Truth, Justice and Reconciliation (Amendment) Bill.
- (5) The Protection Against Domestic Violence Bill 2013.

Looking at what he has done in terms of sponsoring those legislations, it shows that he is the man, who the sixth President of the United States, Quincy John, had in mind when he said that if your actions inspire others to dream more, learn more, do more and become more, you are a leader. The challenge to him now is to look at the work we do, as Senators. I am from a different school of thought that believes that the Constitution is very clear and fully empowers a Senator to be able to use his ability to defend or to help this country.

Article 96 of the Constitution is very clear that the Senate represents the counties and serves to protect the interest of the counties and their governments. When we talk about oversight, particularly now that we are looking at having a Fund that will be controlled by the Parliamentary Service Commission, having someone who understands the importance of a family or society which is accountable will help us.

Many a time, you find commissioners who go there with the interest of lining their pockets. I dare say that as Parliament, it is important that the commissioners we have are people who respect the fiduciary duty that they have. They must support this Senate.

It is quite often that we hear people talking about the role of the National Assembly commissioners versus the role of the Senate commissioners whereby the position of the Senate is not fully defined. I hope that the Committee on Labour and Social Welfare, as presented by Sen. Sakaja, took Hon. Chepkong'a through all the challenges that this Senate has fought to get to where it is.

With that, given that he is a leader, the challenge remains to him. As Winston Churchill said, the price of greatness is responsibility. He is now responsible for ensuring that we take governors to task. The only way we can do so is by ensuring that a Senator who represents hundreds of thousands of people--- Like in my case, I have six constituencies. In the case of Sen. Sakaja, he has got about 17 constituencies. I have taken upon myself to set up my own six offices in Narok County. In most cases I pay the staff from my own pocket to ensure that I am felt by people in every corner of Narok County.

I should not use my money to do oversight because I am elected by the people. This Constitution gives me power to ensure that I defend the interests of counties. The only way we can achieve that is by having a legal mind in the Commission who can ensure that the Senator is fully facilitated to do oversight. We are not interested in getting money or having things. We just want to be facilitated so that we come up with new legislations to ensure that those men and women who serve in the county governments as governors are not people who, yesterday, were living in apartments but today most of

them own a lot of properties in Karen. They own hundreds of acres of land all over, particularly in Kajiado and other places.

We have got to take these people to task. The only way we can do that is tasking the people that we send to the Parliamentary Service Commission to represent us. We hope that the Commissioners that we have from this House will team up with Hon. Chepkong'a to ensure that we fully fight and protect devolution.

With those few remarks, Madam Temporary Speaker, I fully support the nomination of Hon. Chepkong'a to serve as a Member of the Commission.

**Sen. (Dr.) Ali:** Madam Temporary Speaker, I stand to support the appointment of Hon. Chepkong'a to replace me in the Commission where I served for three years before resigning to vie as the Senator for Wajir and I was successfully elected. I have been a Commissioner for some time and I know what Commissioners can do and what they cannot do. There are a lot of problems.

Hon. Chepkong'a is somebody who I know very well. He is my age mate and we were college mates. We travelled with him one time during President Moi's time to the United States of America (USA) and the United Kingdom (UK) when university students used to benefit from Mzee Moi's trips. He is somebody I have known since 1987 to date. When my name was forwarded to be a Member of the Commission under Article 127(2)(d), he was one of the Members of Parliament on the forefront who supported my candidature to become a Commissioner.

Hon. Chepkong'a is a very passionate person. If Kenyans did not elect someone like Hon. Chepkong'a who has done all that, then you do not know what sort of people they need to be elected to the Parliament of Kenya.

He is somebody who deserves the position. I am sure he will bring a lot of experience, having served as a manager and being a lawyer.

I thank you and support.

**Sen. Omogeni:** Madam Temporary Speaker, I rise to support the Motion on the Floor. I want to be on record that I know Hon. Samuel Kiprono Chepkong'a as a Member of the legal profession. When I served as the President of the Law Society of Kenya (LSK), I remember him as a member who was in good standing. To add on that, looking at his Curriculum Vitae (CV), I think Hon. Chepkong'a will bring a wealth of experience to the Commission that ensures that our work as Senators is effective and efficient.

He served with distinction as the director-general of the Communications Commission of Kenya (CCK). If we are looking for somebody with experience in management, then we have the right choice. Of course in any capacity you serve, there are challenges and shortcomings. I know there are those who have the view that there are some areas that posed a great challenge to him when he served as the Chair of the Justice and Legal Affairs Committee (JLAC) in the previous Parliament but we are all human. There is nobody who serves in any position without depicting some weaknesses. I have no doubt that he will add some value to the performance of the Parliamentary Service Commission, which is a very key Commission.

We cannot over-emphasise the need for the Parliamentary Service Commission to look at how to make the work of Senators effective in terms of doing oversight. I think this should be the first agenda for the Commissioners we have because, year in year out, Senators have raised these issues.

You will remember that the rules that were prepared by this House were shot down by the National Assembly. Now that we have people with experience of Hon. Chepkong'a's stature, I hope this matter will be given the attention that it deserves and that this Senate will receive the support that it should receive from the Parliamentary Service Commission.

With those few remarks, Madam Temporary Speaker, I beg to support.

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker, thank you very much for the opportunity. I support the nomination of Hon. Chepkong'a to the Parliamentary Service Commission. Most of the time, you will find that when candidates appear before a panel, the panel knows nothing about them but sometimes the referees can be their voice.

We have heard many referees here with regard to Hon. Chepkong'a and the references point out that he merits serving in the Commission. Regarding credentials, he has the papers and what it takes. Apart from the papers, because of the wealth of experience that he has, it will enable him add a lot of value to the Commission. Having been a leader before, he knows where the shoe pinches when it comes to leadership.

I believe that when he will be in the Commission, he will flashback and remember the challenges that he went through as a leader. I believe that we will be our good ambassador in the Commission. Sen. Cherargei mentioned that he made a promise that he was going to work with the Senate. That can be a good promise if he wants to leave a legacy with us; that he made a promise and walked the talk. I believe he will walk the talk and ensure our issues are addressed by the PSC.

Madam Temporary Speaker, Sen. Mwaura talked about the issue of nominated MPs which came out very clearly. It is difficult for them to voice themselves and be visible in the constituency. Just as Sen. Mwaura mentioned, he and I represent PWDs nationally in the 47 counties but we do not get facilitation. It is highly frustrating because our constituents want to engage and see us in all counties but it is impossible to be visible. I believe hon. Chepkong'a will address the issue of nominated MPs in a strong way so that we are facilitated.

Oversight is not easy and you must have money. It is a nightmare if you do not have a kitty and especially when your constituency is so wide. For example, it is not easy for nominated women MPs to do all their activities in the whole county. I believe hon. Chepkong'a will be our voice and stand up and ensure that we will remember him for standing with us and voicing our issues. I believe he will be a boon for us in the PSC.

I support this Motion.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for giving me a chance to also support this Motion. I support the nomination of hon. Samuel Chepkong'a.

I worked with him in the Eleventh Parliament when he was the Chairperson of the Committee on Justice and Legal Affairs. I know he is a competent person who will bring a wealth of experience to the PSC in terms of management and also leadership. Having worked with him, I know he is very brave. When he was the Chairperson of the Committee on Justice and Legal Affairs, he stood firm when it came to a situation where he was required to pass any legislation.

I also knew him as a committed MP who was very committed to his work. He was ever in the House and I felt that that was why he was defeated in his constituency because he gave all his time to Parliamentary legislative work. I, therefore, think that when he

comes to the PSC, he will commit his time and energy to bring any kind of policy that can change the work of the Commission.

Hon. Chepkong'a is a legal expert, and I know he will advise the Commission when it comes to any legal battles. I am sure he is somebody who knows the expectations of Kenyans because he has been an elected MP. So, he is aware that MPs are expected to serve the electorate and knows what MPs require to perform their duty and roles for the country. I think he will help and advise the Commission in terms of what an MP needs to achieve his work. We have a lot of confidence in him and I know he will do his work well. I wish him all the best together with the other commissioners.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I note that there are no more requests. I also note that the Mover has waived his right to respond to this Motion. I, therefore, determine that this Motion does not affect counties; and proceed to put the question.

*(Question put and agreed to)*

Next Order!

EXTENSION OF MANDATE OF AD HOC COMMITTEE ON  
CHALLENGES FACING THE TEA SECTOR

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker. I beg to move the following Motion-

AWARE that the Senate passed a Motion establishing an *Ad Hoc* Committee to conduct an inquiry into the challenges facing the tea sector in Kenya, on 14th March, 2018;

FURTHER AWARE that the Committee was required to table a Report to the Senate within five months from the date of establishment;

CONCERNED that the duration accorded to the committee lapsed on 15th August, 2018 while the Senate was on recess;

REGRETTING that due to the heavy workload, the Committee is yet to conclude its inquiry and requires more time;

NOW, THEREFORE, the Senate resolves to extend the mandate and duration of the Committee by a further sixty (60) days to enable the Committee to conclude its work and table a report in the Senate.

Madam Temporary Speaker, this is in furtherance to a Motion that I had moved in this House a few months ago, seeking that a Select Committee of the Senate be set up to look into the plight of tea farmers in this country.

As a Committee, I confidently report that we have done tremendous work and 70-80 per cent of the job is done. We have moved around 10 out of the 14 tea growing counties. We took time to visit, listen to the farmers and share in their frustrations. On many occasions, they recounted to us how they have appeared before presidential task forces and select committees of Parliament. They hoped that this will be that one particular Committee that will eventually free them from the yoke of slavery.

The story of the tea farmer in Kenya is one sad, tragic story. It is a story of exploitation, manipulation, betrayal and all manner of things against impoverished but

extremely hardworking citizens of this Republic. On many occasions, the farmers shared with us the toil of how back in the day tea business thrived in this Republic. They were able to educate, cloth, treat their families and, generally, have a good life as farmers. However, thanks to corruption and the many ills that continue to dog our society, the tea sector in this country right now is in an extremely sorry state and nearing a total collapse.

In fact, Madam Temporary Speaker, the only thing that has stopped tea from going the way of all the other crops in this Republic is that the business itself is so liquid. If you steal from it today, tomorrow you can still show up and earn more money out of tea. That is why this industry has not collapsed like the sugar, pyrethrum and all the other crop businesses of the yester years.

After finishing the tour of the different parts of this country, we sat down to listen to presentations from different players in this sector, for example, from the Kenya Tea Development Agency (KTDA) and the East African Tea Trade Association (EATTA) who sell our tea to different counties. It is extremely worrying that everybody keeps on passing the blame or baton and nobody wants to take responsibility yet, at the end of the day, the farmer continues to suffer.

Madam Temporary Speaker, it is well known that in the year 2000, the Government of Kenya decided to privatize an organization that was owned by the people of Kenya known as the Kenya Tea Development Authority (KTDA) and renamed it as Kenya Tea Development Agency (KTDA) through Sessional Paper No.2 of 2000. After that privatization, it has been a sorry state for our farmers because so many things have gone wrong. Previous Parliaments have not succeeded because as you are all aware, a sessional paper cannot be amended.

There have been various fronts, for example, the presidential task force in 2007 and another one that was set up in 2106. There was also an attempt by a Member of Parliament (MP), through a private Member's Bill in the Ninth Parliament to move an amendment but all that did not succeed. The reports that were done despite the fact that taxpayers' money was spent are gathering dust just like the rest of the beautiful reports that have been done in this country.

However, it is the extreme determination of this Committee that once and for all, we shall rise and stand up for the farmers of this country and give them what is worth of their dues. At the end, when a kilogramme of maybe tea is sold for almost Kshs300 at the Port of Mombasa, only a partly Kshs60 to 70 gets to the pockets of our farmers. The rest disappears within the value chain where everybody is first paid and unfortunately, the last one to be paid is none other than the farmer without whom the rest of all these mandarins on the value chain would never have had anything to do in the first place.

It is sad that these crooks came up with a term known as 'bonus' and it is now the season that they are giving it to farmers. What is a bonus? To the best of my understanding, a bonus in any corporate practice is that which is paid after the profit that a business has earned. What our farmers are given as bonus is their monthly dues that had been kept by someone for more than 12 months. They then pay them back without any explanation of where this money has been all along and without any passage of interest that the money has earned.

After presentation of tea at the tea auction in Mombasa for nine days, money is remitted back to the factories that sold the particular tea. Therefore, if tea is sold today, nine days after, a factory will be paid all the dues by the brokers that exist in Mombasa

yet these organizations that keep this amount of money will stay with it for a whole 12 months, then afterwards pass it on to the farmers as a bonus without any mention of the interest that has been earned by this amount of money having being kept out of circulation for a long time.

That is why, if you remember, in the last Parliament, we debated a report that was stated clearly that out of the two collapsed banks, Imperial Bank and Chase Bank, the single largest institutional depositors who lost billions of shillings was none other than KTDA. That is taxpayers' money that belongs to the poor farmers of Nyamira, represented by Sen. Okong'o Omogeni and of many other Senators that are here. However, nobody seems to have an answer or response.

I humbly request my colleague Senators, who are in the House to give us an additional 60 days to look into the challenges that are still existing. We have come up with a draft legislation which was one of our terms of reference as a Committee and we are almost concluding. In fact, we may be able to do it in less than 60 days. The reason we thought about 60 days is so that if there is anything that comes up within that period of time, we shall address all these challenges once and for all, rise up as a House and support our poor impoverished farmers.

Therefore, Madam Temporary Speaker, I plead with my colleagues to support us in this noble venture. I want to assure you that we shall not let the House down as a Committee. We shall do our best and in the long run, the poor tea farmers of this country will get justice. Once we are done with tea farmers, I am sure, many other players in the agricultural sector, for example, the small-scale older farmers that continue to be taken advantage of and manipulated by various brokers along the value chain from sugarcane, coffee, bananas and so many other small-scale farmers that are mismanaged because the Government does not seem to take keen interest in them, will finally get a spring of hope when they see the kind of work that we will do for the tea sector. Therefore, I request my colleagues to give us the due support.

With those many remarks, I beg to move and request hon. Sen. Omogeni, Senator for Nyamira County to second.

**Sen. Omogeni:** Thank you very much, Madam Temporary Speaker. From the onset, I rise to second the Motion by my neighbour, Senator for Kericho, Sen. Cheruiyot.

Madam Temporary Speaker, I come from a tea growing county of Nyamira and so is my neighbor, Kisii County. I have no doubt that this Committee is one of the most important and critical *Ad Hoc* Committees we have formed in the second tenure as Senators. The tea industry supports about five million Kenyan families. This country earns over Kshs100 billion in terms of exports from the tealeaves that are supplied by both small-scale and large-scale farmers.

Therefore, there is no doubt that tea is a very important crop in the economy of this country. However, there are a number of challenges that are facing the tea industry. That is why I have no doubt in my mind that 60 days may not have been sufficient for this *Ad Hoc* Committee to address all the issues and challenges that are facing the tea industry.

Madam Temporary Speaker, in this era and age, you will be shocked to learn that there are regions in this country where the tea leaf collection from the tea buying centres takes over 24 hours because of the poor road network. I hope that when we extend time

for this *Ad Hoc* Committee, it is going to address the issue of infrastructure development in the tea growing areas.

There is no reason why a farmer who is struggling to pick his tea from morning to lunch time should wait for the tea to be collected from the tea collection centres for the whole afternoon and night only for the Kenya Tea Development Agency(KTDA) to collect the tea leaves in the morning. It is not right and we are not being fair to our farmers.

We need to find innovative and proper ways of collecting our tea leaves from the centres to the factories. At most, if the tea leaves are delivered by 1.00 o'clock, the lorries that collect these leaves should be there in the next two to three hours. I hope that Members of this Committee will address all these challenges that are facing especially small-scale farmers. This is because the multi-nationals; the companies in the big tea estates, have no challenges. Their road network is in place, the factories are situated next to their farms, but it is the small scale-farmer who is facing the challenge.

Madam Temporary Speaker, whereas in some jurisdictions like Sri Lanka, the price of tea keeps growing year in, year out, in Kenya, it keeps on shrinking yet we are having the same market. We need to know the reason. If Sri Lanka is exporting tea to Egypt or UK, we also do the same. We therefore, need to assist the farmer to have good value for the produce that they give to our tea factories, since we need to change the livelihood of our people.

In some jurisdictions such as Australia, farming is like a white collar job. There, farmers earn good money from their crops, but in this country, everybody is running away from farming. How as a country are we going to attain food security if we are not providing good incentive to our farmers?

This Committee should come up with solutions so that we remove all manner of obstacles. There was a time when farmers in this country were threatening to uproot their tea bushes and we do not want to go back there. I agree fully with what my friend, the Senator for Kericho County, has said about issues of pricing. As we speak, the factories are declaring what they call the second phase of bonuses to farmers. In my County of Nyamira, my tea factory Nyansiongo, the other day, I think on Tuesday, declared Kshs31 per kilogramme. However, you will find that some factories in central Kenya area will declare bonus of about kshs50 per kilogram. Why are we having these disparities and yet these are all farmers in our country Kenya; the tea export is through the same Port of Mombasa and marketed by the same agent; the KTDA?

These are issues that I hope this Committee will look into so that we can ensure that the price of tea per kilogramme to each farmer is something that is satisfactory and acts as an incentive to encourage our farmers to continue in the tea growing.

Finally, Madam Temporary Speaker, ever since we had a ban on procurement of wood fuel, most factories are having challenges. They do not have enough wood fuel to run these factories. I hope that this Committee will interrogate the people who imposed this ban. We ought to provide answers on what the alternative source of power is if we ban wood fuel. Historically, they have always relied on wood fuel but, today, the Government has imposed a ban on logging.

Madam Temporary Speaker, I support the Motion by my friend that we should add the *Ad Hoc* Committee 60 more days to enable them conclude their work. I thank you.



*(Question proposed)*

**The Temporary Speaker** (Sen. Sen. Pareno): Let us have Sen. Seneta.

**Sen. Seneta:** Thank you, Madam Temporary Speaker. I support this Motion on the extension of time for this very important Committee. Tea being one of our cash crops, we need to look at how to improve on its production. Food production in this country is faced by a lot of challenges from production, processing to marketing. Therefore, this Committee needed a bit of some time to look at the challenges facing this sector, and also to come up with a report that may be able to advise on the way forward for this important sector.

Food marketing in this country is faced by a lot of challenges in terms of competition. Foodstuffs are coming into the country from the East Africa Community (EAC) region and many other countries. Our farmers are not able to sell this cash crop at a profit because of the competition that is being faced.

This Committee needed also to look at how the farmers growing this cash crop can be helped. We have the small-scale farmers who are being faced by a lot of challenges in terms of water, shortage of rain, fertiliser, cost of pesticides and other costs of production such as energy. Therefore, this Committee needed a lot of time. They should also open up the scope of their mandate to cover many more of the challenges facing this sector.

I support.

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

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me the opportunity. I rise to support Sen. Cheruiyot on the extension of time for the Committee. Farmers play a big role in this country and we cannot actually belittle the contributions that they have towards the economic development of our country.

Farmers do not just farm as a hobby. They farm as a way of employment. It is a source of their livelihood and they even serve us with the foodstuff that we use. Therefore, there is need to protect our farmers. I am saying this because there are some farmers who have been discouraged in their endeavour to farm because of the many challenges and frustrations that they have. Some farmers have opted not to farm even with regard to tea farming. There are some who have opted out and this is very serious.

As a nation, we have the mandate to protect our farmers and as a Senate, we represent the counties and the farmers are in the counties and not in towns. If we do not address the issues affecting farmers in this country, we will be held accountable as a Senate. I believe that this Committee is going to investigate the many challenges that the farmers go through, including the reason as to why some farmers have opted not to continue farming tea. I believe that the report that they are going to bring to this House is going to stand the test of time and it will solve the many issues that farmers have.

In some areas, farmers are not paid promptly. You can imagine a situation where you have worked tirelessly for eight months and there is no benefit at the end of it all. There is usually a motivation when people are paid promptly. Therefore, the farmers need to be paid promptly and there is need to put mechanisms into place to ensure that farmers are not frustrated and to ensure that they are motivated to go on with their work because of the noble role that they play in this country.

I support Sen. Cheruiyot's request for extension of time. I believe that he will come to the Floor of this House and give us a finding that is factual and that it will help us as a Senate to see how the tea farmer will benefit and be happy about devolution to a point where they can say that devolution is working for them.

I support extension of time.

**Sen. Kasanga:** Thank you, Madam Temporary Speaker. I rise to support this Motion.

I realise the work of *Ad Hoc* Committees is very special. We are the House that speaks for the people. So, if they need a little bit more time to interrogate this matter, then I feel that we should accord them the time.

My request to Sen. Cheruiyot is that they should expand their mandate a little bit. When it comes to agricultural products and produce, we need to relook at the whole value chain by empowering our producers, the farmers, to be able to add value to their products. That way, their returns will be higher. I think that in their looking at the challenges, they also need to expand a little further and look at the other methods that they can use to value add their products for them to retain most of its marketability.

I have a good example of a coffee farmer in Kiambu who, after so many years of exporting the raw product, has decided to start value adding. He is now drying the coffee beans and grinding and packaging them within his farm and that is the way that Kenyans need to go. Rather than just exporting the raw product, we need to have our own products being packaged right here at our door step and that will then add marketability.

If possible, now that they will have extra 60 days that shall be granted, they should look at how farmers can be supported so that they make an extra step. You should also make it more attractive to them because, obviously, they are becoming unattracted to it as a source of livelihood, given all the challenges that you have highlighted.

I wish the Committee all the best and I look forward to hearing their report. I support.

**The Temporary Speaker** (Sen. Pareno): There being no other request, I therefore call upon the Mover to reply.

**Sen. Cheruiyot:** Madam Temporary Speaker, I thank colleagues who have expressed their support for this Motion and the many concerns that they have shared with us. I was keenly listening and taking notes and I was wondering whether they too share the concerns that I have. This is a burden and I hope many of my colleagues who serve with me in the Committee have taken it with a lot of zeal and seriousness. I believe that at the end of the 60 days, we shall come up with good legislative proposals that, upon their passage in this House, tea farmers of this Republic will smile again.

Madam Temporary Speaker, I know that where you went to school is not far from the county that I represent. If you can remember, Peugeot, the Automobile Company, used to have a dealership in Kericho County where at times like now, when farmers are paid their bonuses, they would walk into the dealership and get out with brand new vehicles. I would wish to inform you that that dealership closed down long time ago because of the suffering that tea farmers continue to face because the market has crashed. Nobody seems to be enjoying it yet it is the leading foreign exchange earner in this country. Sometimes, it just baffles how the Government mistreats the very people that give it the livelihood that it badly needs.

Today, we heard the news of how the International Monetary Fund (IMF) has removed the standby credit facility that they normally offer to this country. Apart from that one by the IMF, the other big one that this country is left with is the Foreign Exchange Reserve that we earn from the tea auction in Mombasa. If we continue to leave this sector as it is without a regulator---

If you remember, back then, for you to have a license to open a tea factory, you were supposed to justify where you would get the tea leaves for processing in the factory. Nowadays, so long as you have access to the Ministry of Agriculture and Irrigation and Agriculture, Fisheries and Food Authority (AFFA), you get a license to set up a factory and leave farmers to compete. Most of our farmers are poor and they do not have a choice because they have been impoverished. They take their tea leaves to each and every factory such that at the end of it all, they have delivered everywhere but when you cumulatively put it together, it still does not make economic sense. It is my utmost and sincerest plea to this House.

Thank you for the concerns you have shared with us. We shall take this exercise with a lot of seriousness and bring back to this House a report of the challenges together with the proposed ways of addressing them to ensure that once again we have a thriving industry in the tea sector.

Madam Temporary Speaker, with those many remarks, I thank you.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I determine that this Motion does not affect counties. I will therefore proceed to put the question.

*(Question put and agreed to)*

Let us move to the next Order.

ENFORCEMENT OF THE NATIONAL TRANSPORT AND SAFETY  
AUTHORITY(OPERATION OF MOTORCYCLE) REGULATIONS, 2015

AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country, leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on 1<sup>st</sup> January, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing and Urban Development; identifies strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations; in collaboration with County Governments, develop programs to sensitize and educate members of

*bodaboda* associations and the public on the laws regulating motorcycle operations; submits a report to the Senate within ninety(90) days outlining the short and long term strategies and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

*(Sen. Kasanga on 2.8.2018)*

*(Resumption of Debate interrupted on 2.8.2018)*

**The Temporary Speaker (Sen. Pareno):** Sen. (Dr.) Musuruve, you were on the Floor when this matter was last in the House. You may proceed to second the Motion.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker. I rise to second this Motion which is quite valid. I commend Sen. Kasanga for coming up with it because it addresses the common *mwananchi* especially the youth of this country. This Motion needs to go far.

Motorcycles are on the increase everywhere. The motorcycle industry is a booming industry in Kenya, Zambia, Tanzania and many parts of the world. The motorcycle is a preference for many Kenyans especially in the rural areas. When we talk of devolution with regard to motorcycles, this industry needs to benefit from devolution by all means. When we look at the motorcycle industry, it comes in to complement what conventional transport like trains and other means of transport can do.

As a form of transport, it is quite handy in terms of saving time. Some rural areas are inaccessible using other means of transport but motorcycles will reach everywhere. The motorcycle industry has opened up the rural areas. As we speak, farmers benefit from this industry because they are able to access areas that are far and muddy using motorcycles. This industry ensures farmers can reach main roads and sell their products and even open up the areas to the outside world.

Madam Temporary Speaker, this industry needs to be protected and guarded. There are so many youth in Nairobi City County, towns and rural areas that rely on motorcycles for a livelihood. Any nation would want to ensure that its youth are employed. It is very clear that when youth are not productive, they will end up doing things that are counterproductive. Sometimes because of idleness, they will end up in drugs. We do not want to go there as a country. If we protect our youth and make them productive through the motorcycle industry, we are good to go as a country. There is need to see how well we can step in as the Senate and ensure the motorcycle industry is protected.

Madam Temporary Speaker, some years back, whenever I visited my own parents where I was born, I would get tired from walking for many kilometers. I would walk for one hour from the main stage to where my parents lived because vehicles could not reach there. However, right now, motorcycles are just a phone call away. If I use a motorcycle it will take me less than 10 minutes to reach there. Therefore, motorcycles are timely and are just a phone call away.

Apart from that, they are pocket friendly because their fuel consumption is not high. This makes them an affordable mode of transport for the common *mwananchi*. We are here to represent the people of this country, especially the common man. Therefore,

we have to put mechanisms in place to ensure that they are safe whenever they use motorcycles as a mode of transport.

Madam Temporary Speaker, there are times when we have road accidents as a result of overloading. For example, you will find one motorcycle carrying the mother, father, and about three children in between. In the event of an accident, you rest assured that the whole family will perish.

Madam Temporary Speaker, we need to protect the motorcycle industry and the lives of Kenyans. Therefore, there is need for capacity building. The National Transport and Safety Authority (NTSA) needs to work with the county governments to ensure that there is capacity building and people are sensitized on safety measures with regard to motorcycling. This is because we want the motorcycle industry to thrive and ensure that motorcyclists are aware of safety measures. There is also need to regulate the motorcycles industry so that it works for Kenyans.

Madam Temporary Speaker, I beg to second this Motion, which needs to go to the next level so that there is a policy in place to address the motorcycling industry at all levels.

*(Question Proposed)*

#### **ADJOURNMENT**

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, it is now 6.30 p.m.; time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 18<sup>th</sup> September, 2018, at 2.30 p.m.

The Senate rose at 6.30 p.m.