

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 27<sup>th</sup> February, 2020

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

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

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM NDIVISI  
GIRLS HIGH SCHOOL, BUNGOMA COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Ndivisi Girls High School in Bungoma 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 welcome and wish them a fruitful visit.

I thank you.

**Sen. Khaniri:** Mr. Speaker, Sir, on my own behalf and on behalf of the distinguished Senator for Bungoma, Sen. Wetangula, who is out of the country on official duty, I join you in welcoming the young learners from Ndivisi Girls High School.

I wish them a fruitful stay, wish them well in their studies particularly those who will sit for the Kenya Certificate of Secondary Education (KCSE) exams this year. We wish them success. They are in the right place. This is the Senate of the Republic of Kenya where debate is guided by logic. We do our things constitutionally unlike other places that I do not want to name. I wish them a fruitful stay.

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

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. I also welcome the girls to the Senate. This is where real change and real matters are discussed. I also welcome them on your behalf, being the former Governor of Bungoma.

Ladies, I can tell you that girls are great and you have a lot of potential. You should make sure that you reach your potential and nobody cheats you to drop out of school because they are going to marry you. I advise you to put all those things in a bag. Girls are more intelligent than boys so work hard and meet your highest potential.

Thank you, Mr. Speaker, Sir, for allowing me to speak to this issue.

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

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. I stand to welcome the students and tell them that they should be very confident Kenyans. They are lucky to have come from an area where we have very notable people in this House. They should remember that our Speaker was one time a young student in one of the schools in Bungoma. I hope they will get to your rank or beyond. We are looking at girls in this country doing much better than ourselves. I believe if these children follow your footsteps, they will go far. We have the likes of Sen. Khaniri who is a sharp shooter in this House. I must tell these girls that they have nothing to fear. They should follow in the footsteps of their superiors like you and the others like my late friend Mr. Mudamba Mudavadi and they will go far.

I know Bungoma County; I built the sewerage project there. The people are very enterprising and hard working. Therefore, let these girls feel confident.

Having said that, everyone should address issues of the girl child and ensure that they are well protected and guided from the county government to the national level.

**The Speaker** (Hon. Lusaka): Sen. Shiyonga.

**Sen. Shiyonga:** Mr. Speaker, Sir allow me to join you in welcoming the students from Bungoma County. They are our neighbors because I come from Kakamega County. I am encouraged because we look up to girls schools. This is where your leaders are. In this House, we have women leaders. May God help you become women leaders.

**The Speaker** (Hon. Lusaka): In the interest of time, those who have welcomed them have done it on our behalf.

Let us move on to the next Order.

## PAPER LAID

### REPORT ON THE 2020 BPS AND MEDIUM TERM DEBT MANAGEMENT STRATEGY

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 27th February, 2020-

Report of the Standing Committee on Finance and Budget on the 2020 Budget Policy Statement and Medium-Term Debt Management Strategy.

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

**The Speaker** (Hon. Lusaka): Next order.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON THE 2020 BPS AND MEDIUM TERM DEBT MANAGEMENT STRATEGY

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

THAT, pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order 180 (7) of the Senate, this House

adopts the Report of the Standing Committee on Finance and Budget on the 2020 Budget Policy Statement and Medium Term Debt Management Strategy, laid on the Table of the Senate on Thursday, 27th February, 2020.

**The Speaker** (Hon. Lusaka): Next Order.

## POINT OF ORDER

### REFERRAL OF DELIBERATIONS MADE DURING MOTIONS OF ADJOURNMENT TO COMMITTEES

**The Senate Minority Leader** (Sen. Orengo): On a point of order, Mr. Speaker, Sir. I rise at this Order on account of the decision which the Deputy Speaker made yesterday to assign the committees on Devolution and Intergovernmental Relations and Justice, Legal Affairs and Human Rights to discuss the matter do with Nairobi.

Mr. Speaker, Sir, I had wished to urge you to review this decision. The Deputy Speaker exercised his powers under Standing Order No.1 which is only to the extent of making a decision on a procedural question. The decision that he made yesterday was not to do with the procedural question when he referred this matter to the two Committees.

Secondly, I am worried about that. In the practice of this House, Motions of Adjournment never have resolutions, except a resolution of adjournment. The Motion is, 'The House Do Adjourn.' It means that if another resolution is made beyond the adjournment, then, we have gone beyond the exercise of those powers which is to adjourn the House for purposes of discussion of a definite matter of urgent national importance.

Mr. Speaker, Sir, I would urge you to retire and look at this. I have the Practices and Procedure of Parliament booklet from Lok Sabha which has got similar procedures. It talks extensively on what happens when there is a Motion of a definite matter of urgent national importance.

Secondly, I am bringing this issue because under the principal Committee, once one institution is seized of a matter, any other institution to delve into it can create anarchy. For example, the notice that was given through the gazette notice requires the Nairobi County Assembly to start public participation on Monday. This means that already public participation is going to take place on Monday. The Attorney-General and others are going to be called there.

At the same time and on the same matter, the Senate will be calling the same people. Under the law, the publication of the notice was under the Intergovernmental and Public Relations Act. The party that has to be notified is not the Senate, but the county assembly.

Mr. Speaker, Sir, I am urging that you let us not go beyond authorities that are created under the Standing Orders. If there is a definite resolution that the House wants to make, then we need a substantive Motion. If it was a substantive Motion, we would have gone beyond what we discussed yesterday. In fact, I was reading the contribution of the distinguished Sen. Milgo, I am sure, if there was a substantive Motion, the arguments that she made yesterday would have been more exhaustive. The Motion which was before the House was to a Motion of Adjournment to adjourn the House, not to refer the matter to a committee.

If the Deputy Speaker felt that it should be referred to the Committee, the matter should have been brought in the House in a different way so that he could exercise his powers under Standing Order No.1.

Mr. Speaker, Sir, there is a lot of material in your office on this practice like Erskine May. There are previous decisions of Parliament in the Commonwealth on how far you can go on a Motion to discuss a definite matter of urgent national importance.

In fact, it useful tool of Parliament to ventilate all that happens that you adjourn the House for a period to ventilate and the matter ends there. You cannot carry such a Motion to the next day. As a matter of procedure, even on that basis, if you summon, let us say, the Attorney-General, he could quietly easily say you do not have jurisdiction on the matter.

Mr. Speaker, Sir, I am just urging you to look at it again, if it is possible so that we have a substantive ruling on Standing Order No.1 and how far you can go as the Speaker or the House in exercise of your discretion on a Motion which is very limited and restrictive . For that matter, I so beg the Speaker.

**The Speaker** (Hon. Lusaka): I can see some interest. Sen. Poghio, do you want to make a contribution on the same or you want me to give direction?

**Sen. Poghio:** Mr. Speaker, Sir, I wish to add before you give direction. I was listening to the Senate Minority Leader presenting, I thought I would add my voice to the same argument. I am very surprised that a matter of debate on Motion of Adjournment could also be referred to any Committee. It is crucial that we stick to procedures. However, at the same time, I feel like we are getting a bit into the way of reasoning within ourselves about what a leader on this side can bring that sounds like it should have been brought by the other side.

Mr. Speaker, Sir, to reach a point in our situation where decisions made from your Chair, would be challenged, we do not want to challenge that. I will only beg that you look at it afresh. We were here, we knew that it was for ventilating. We ventilated, exhausted and that was the end of the matter.

Mr. Speaker, Sir, mine is to ask you to have a look at it and make a ruling and a decision.

**Sen. Olekina:** Mr. Speaker, Sir, I thank you. First of all, I rise to support the sentiments by our two colleagues. I thought that yesterday would have given us an opportunity to be able to support a fiducial responsibility to ensure that the people of Nairobi continue benefitting from the services.

Looking at Article 187 of the Constitution, it clearly states that the constitutional responsibility still lies on the county government. I thought that this matter would not have committed two Committees of this House. I was not here, but I was watching the proceedings. I would really beseech you to reconsider that decision made from your Chair so that we can have a form of continuity.

If we now drag and try to get into a matter which we really do not have a role in, we will be seen as if we are trying to compete with an institution which has been tasked to do so. The procedures have been put in place. Someone once said, when something has been overtaken by events, we should now see how best we can support the citizens of Nairobi to get services, but not try to use this House as a way to stop or impede some form of justice.

Mr. Speaker, Sir, I would support what the Senate Minority Leader had said. Let me leave us with one quote that says: "Sometimes vanity can easily overtake wisdom." So, let us not allow that to happen. Let us proceed further.

**The Speaker** (Hon. Lusaka): Thank you, hon. Senators. Having listened to the request by the Senate Minority Leader and the contributions made and since this was made by my officer, I will consult with my Deputy so that it does not appear like we are conflicting ourselves. I will then give a ruling on Tuesday at 2.30 p.m. In the meantime; the committees will not proceed as given direction. That decision remains suspended until I give a full ruling on Tuesday at 2.30 p.m.

Let us move on to the next Order.

## STATEMENTS

### THE NOVEL CORONAVIRUS PANDEMIC

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.47 (1), to make a Statement on an issue of general topical concern regarding the Novel Corona Virus.

As the House may be already aware, the deadly virus that originated from Wuhan, China, is circulating internationally. Indeed, this House already deliberated on this topic via statements by Sen. Kasanga and Sen. Kwamboka last week on 19<sup>th</sup> February, 2020.

Much as this country has been fortunate for the time being, that there have been no known cases of infections since the three suspected cases were tested and cleared by the Ministry of Health, however, yesterday I was worried as a Senator. It worries me a lot that China Southern West Airlines plane carrying 239 passengers was allowed to land at the Jomo Kenyatta International Airport (JKIA). I am perturbed by the fact that this plane was from Guangdong, the province known to be the second leading coronavirus infection zone globally.

Mr. Speaker, Sir, to make the matter worse, it has since been alleged that we shall now have weekly flights landing from China. Are we joking? Are we really treating this matter seriously? The magnitude of this virus cannot be overstated since a total of 37 locations internationally have been affected. More than 82,000 infections and almost 3,000 deaths have been reported.

In some countries, various forms of interactions with people coming from or going to China have been restrained. For example, the entire border between Russia and China, about 26,000 miles, has been closed. More recently, Israel has been reported to have turned away a plane that landed from Korea, only allowing Israeli passport holders to disembark.

First World countries and more developed nations have locked out flights to and from China. More than 50 countries have issued an entry ban on residents of China or foreign nationals who have visited China in the recent past and restricted issuance of visas. On the visa issue, India has suspended visas issued to foreigners from China since January, 2020.

Mr. Speaker, Sir, noting the gravity of the situation and the fact that none of the passengers from the China Southern West Airlines met the case definition for the

Coronavirus; we cannot bury our heads in the sand and pretend that these passengers will heed the advice to self-quarantine. By the way, what is self-quarantine?

As Senators, we are accountable to our people. Our leadership is in question if we cannot hold responsible the relevant people who hold offices that are in charge of Kenyans' lives and welfare. As evidenced from past cases of their mistreatment and racism against our countrymen who are under their employment---

It is also important to note that the Government has done nothing to bring back the more than 100 Kenyan students stranded in Wuhan, even when other countries have done everything possible to evacuate their nationals from China. In fact, yesterday when I saw that plane landing, I thought; wow, finally Kenyans are coming home. However, to see that it was people who were not even disclosed by the fact that they came from that province really shocked me. What guarantee is there that the Ministry of Health has the capacity to deal with mass infections, in the unfortunate event that this should happen?

Mr. Speaker, Sir, it is for these reasons that I wish to bring this matter to the attention of the Senate and appeal to the national Government, especially the Ministry of Foreign Affairs and the Ministry of Health as well as the concerned authorities, to handle this matter judiciously and expeditiously. Let them do so with a view to ensuring that the country takes preventive and precautionary measures to mitigate the situation.

I would urge you, Mr. Speaker, Sir, to direct that the Standing Committee on Health summons the Cabinet Secretary for Health to appear before the Senate as soon as possible. This will enable this House to seek clarifications on behalf of the Kenyans that we represent.

Finally, in the United States of America, the President has appointed his Vice President to spearhead a taskforce to look into issues of mitigating this Coronavirus. Bill Gates also made a statement and said that in the event that this virus is not controlled, it will take the lives of 100 million Africans. So, we should not joke. We should not be putting the lives of our 47 million to risk because of our own commodity interest.

This is a Statement under Standing Order No.47(1) and may not require a lot of action. However, I request that since this House has been told--- I stood to raise this Statement because of what happened yesterday.

With those few remarks, I thank you.

**The Speaker** (Hon. Lusaka): We have to take a vote later today on BPS. So, I will limit the time for the Senators whom I will give time to speak. I will give priority to Senators who had similar statements and then the rest will have three minutes to contribute. That way, we will be able to take a vote later because we have timelines.

Sen. Shiyonga, proceed.

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. I had a similar Statement, but it is good that you have given this priority.

**The Speaker** (Hon. Lusaka): Just summarise. Do not read it.

**Sen. Shiyonga:** Mr. Speaker, Sir, I will not read it. However, I need to get my points right.

From the Statement, Sen. Olekina has said that it is with interest that if Kenya has allowed the China Southern West Airlines to land on our soil with the 239 passengers on board, I am wondering whether the passengers who arrived in the flight were screened. Are we serious when there were officers who were manning the port health that falls

strictly under the Ministry of Health? They stated that the people who came should be self-quarantined. It is very sad and very bad because we need to control this virus.

This will affect Kenyans travelling outside the country. Kenya Airways planes are barred from landing in China. Why are we allowing airplanes from China here when other people in the world are doing all they can to control spread of this virus?

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. A lot of Kenyans have raised concerns over this issue. Some have sent me messages saying we have let them down on this particular incident. They think that we are not speaking about it. I am happy that Sen. Mugo is here because, at some point, she was in charge of public health.

It worries me a little that we do not have any emergency protocols. Sen. Sakaja and I proposed a legal framework on Disaster Management and Emergencies. That proposal is lying somewhere. This is a real emergency. My dear colleagues, it is not even about scanning flights from China, but from everywhere. This is because people are leaving these concerned areas in China and fly to Europe and from Europe they fly to Kenya.

What worries me is this thing called self quarantine. I said somewhere in a post that it is an oxymoron. One would lock himself in a room, look at himself in a mirror, examine yourself, treat yourself then give a certificate to yourself showing that you have no Coronavirus; and walk out saying that you are healthy.

I do not even know whether someone in the Ministry is being careless. The idea that someone can quarantine himself or herself, or to suggest that anybody that comes in from China must go into self quarantine is something that is not known in medical terms, it is wrong.

Mr. Speaker, Sir, I saw you standing next to the President. Maybe you could just whisper to him that ‘this is a national emergency, the ones in the Constitution. Can you declare an emergency and quarantine the airport and other places where these people are coming in?’

When I was receiving my party leader, there is a lady I met at the airport who raised a very serious concern. She said there are people who are refusing to be examined. She told me that the gun that they place on people’s head – whatever it is – is not enough to examine one and confirm that he or she does not have the Coronavirus.

We had somebody who spoke to us at the Rotary Club about Coronavirus. My dear colleagues, I am wondering out loud whether Ms. Serem was not right. We should start praying. This is a serious issue.

**Sen. Sakaja:** Mr. Speaker, Sir, indeed, this is a very serious matter. It is really disheartening and disappointing that people were told to self-quarantine themselves. Whatever that means, I do not know. - If what we are getting from the media is true. The COVID-19 virus is contagious for up to 24 days before a person carrying it even shows a fever.

We say that we can screen. We do not even have the capacity to screen because the symptoms show up after 24 days. A report by the World Health Organization (WHO), says that the whole world is not prepared for a fast moving, violent, respiratory pathogen pandemic that could kill between 50-80 million citizens of the world.

Mr. Speaker, Sir, as the Government, we already took a step to say that our own Kenya Airways should not fly to or from China directly. In fact, the other day, the President was very upset that the Ethiopian Airlines had attempted to do the same, and

their flights are from Guangzhou. How on earth do we allow a flight from Guangdong, the second largest province in China with that issue, to come directly?

Even if it for economic interests, the economic liability that will be caused by the threat of this virus coming into Kenya is much more important than trade. Today, international companies like Apple have said that they are already counting their losses because they cannot get certain parts from China. However, they say that it is okay because they cannot allow that for now.

Mr. Speaker Sir, I would like to amend the request by Sen. Olekina. When such a global pandemic happens, the first reliance is on diplomacy between countries. This is because you need governments to work together to sort this out. This is not just a matter of the Ministry of Health or the Committee on Health; but also the Committee on National Security, Defense and Foreign Relations. This is because the Cabinet Secretary for Foreign Affairs needs to tell us what protocols they have established in Kenya, within East Africa and China.

Today, the Prime Minister of Japan has issued a huge alert, even closing schools in Japan yet we are rolling out the red carpet for the Coronavirus. I will let the professionals say it. However, if I was in charge, I would not let in any flight coming directly from a country that has no capacity to screen, leave alone just China. Even if one is coming through India, no. If they are coming from any country that does not have the capacity to screen, they should not come straight to Kenya. In fact, from that part of the world we should only allow those who are coming through Dubai. However, we leave that to the experts and to those who are in charge of those docketts.

Mr. Speaker Sir, this is an urgent Statement. I wish that you direct that the Committee National Security, Defense and Foreign relations, as well as the Committee on Health, jointly summon the Cabinet Secretary immediately, so that we are sure.

I have also received very many messages like the ones that Sen. Mutula Kilonzo Jnr. talked about. I am sure many Senators have received those messages. We must know what we are doing. Therefore, we should invite them with experts to help us guide this.

I thank Sen. Olekina. At least, he said something nice in the last two weeks.

*(Laughter)*

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir, for this opportunity. I thank all the Senators who have already contributed to this. My request has already been requested by Sen. Sakaja and Sen. Olekina. We cannot wait for 14 days to get a response on this issue because it is clearly very urgent.

Also, there are some statistics that Sen. Sakaja has given. This virus is spreading even before its effects are manifested physically. I think that there is a lot of laxity and Kenyans are very worried about his issue. My request is that we vary the order that you had given last time that we get an immediate response to this matter. Let the CS come here and give us a Statement.

Kenyans are not well briefed on what is going on. We have seen the Statements that are coming from the Ministry of Health that are giving the status of this virus and how they are managing. We are not convinced that enough is being done to protect us and our borders.



**Sen. Poghiso:** Mr. Speaker Sir, I rise to speak in support of the Statement and say two things. First of all, those of us who live along common borders are in deep danger of being exposed to people entering and leaving at will. I think that the Government should exercise the authority that they have to alert our people on the borders who have no idea what this Coronavirus is all about.

Secondly, self quarantine is not easy with the African household. The way we live, there is no such thing known as self-quarantine. There is no such a thing as self-quarantine in a family home. If a person comes from China and enters a family home, self-quarantine is impossible. From there, school going children will go to school while the adults will go to work. The disease will spread because we live together. In most of our homes, there is no one person's room where you can lock yourself up. We live as a family in most of our homes.

Mr. Speaker, Sir, we need to be very careful in allowing travellers from China. If quarantine is to work, the Government has better find an institution to quarantine them until the requisite days are over. Countries that have taken Coronavirus seriously have institutions where they quarantine travellers coming in from China until 15 days are over.

I hope that the Government takes the issues that we are raising here seriously. There should be no other direct flights coming from that country especially that province or any other province. The extent to which people are getting infected and dying is not being explained enough to us. No one has full information about this disease. All we know is that it is a deadly disease. It is a scary situation. As we wait to see what happens, we are asking for action not rhetoric. Let us be stricter because our capacity to deal with this matter is limited.

Mr. Speaker, Sir, I beg to support.

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

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I thank you for giving me an opportunity to add my voice to this Statement. I thank Sen. Olekina for bringing this statement. This is an urgent matter which needs urgent attention. Many Kenyan families with loved ones stuck in Wuhan, China, are worried. We need to protect the Kenyans who are stuck in Wuhan, China, because they have a constitutional right to be protected. The Kenyan Government needs to evacuate our citizens who are stuck in China, particularly Wuhan.

Many countries hired aeroplanes to evacuate their citizens from Wuhan immediately the Coronavirus was reported. The Kenyan Government needs to look for means and ways to ensure that Kenyans in China are brought home safely. The Ministry of Health needs to come up with ways to prevent the disease from getting into Kenya because prevention is better than cure. If Coronavirus virus gets to Kenya we are done. China has the capacity to deal with the disease unlike Kenya.

Mr. Speaker, Sir, I beg to support.

**The Speaker** (Hon. Lusaka): Kindly proceed, the Senate Majority Leader.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I thank Sen. Olekina for bringing this important Statement. The public is very anxious about the dangers of Coronavirus. I have been informed that the flights from China have resumed. I have also seen a statement from the Cabinet Secretary, Ministry of Health that the Government has followed the World Health Organization (WHO) procedures of screening people who travel to various countries particularly from countries that are suspected.

It is without doubt that the Ministry of Health has more capacity than most of us here. I am sure the Government is intending for good in terms of the decision that is going to be made in so far as protecting our borders is concerned. I do not think that the Government can be reckless in such a matter that is feared by most of the citizens. However, it is important for the Cabinet Secretary to come and give assurance, through us, who are the representatives of the people and so that the Members of this House can make suggestions of what they think is good for the country. Is it enough for us to just stop people coming from China? What about the people from China who stop on the way before coming into this country? A lot of comprehensive policy position should be expounded.

Mr. Speaker, Sir, on the question of self-quarantine, I suggest that it would have been better for the Government to put in place one of the Government buildings or hire one of the hotels in town and use it a quarantine area for 14 days for all the travellers coming to Kenya from China and other suspected countries. I am not sure how the self-quarantine will work in Kenya. For example if a Chinese lives in one of the houses in Nairobi where they have a house girl, a gardener and other workers, it will not take long for the workers in that household to be infected and end up spreading the diseases to their families. If we must allow people to come from China, we should get one of the institutions to act as a quarantine centre until we can assure our people of their safety.

Countries such as Italy and Spain are struggling with containing the Coronavirus. The disease has also claimed some lives in the United States of America (USA). This morning, I saw in the news that Japan is contemplating closing schools. The Coronavirus is so serious in many countries that if it was to get to this country, it would scare all of us. If that disease landed in Kenya, even the Senate might be forced to close as we will start suspecting each other. Many European countries are contemplating stopping football matches after it was reported that one of the persons who was infected attended one of the matches in Italy.

Mr. Speaker, Sir, lastly, we can only pray that our researchers and scientists invent a cure soon for this dangerous virus for the world to return to its normal course, for people to travel as they wish, do business as they wish and for tourists to continue coming to our country. One of the things that we must assure the world is that it is safe to come to Kenya because tourism is one of the important sources of revenue.

I thank you.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Boy.

**Sen. Boy:** Asante sana Bw, Spika kwa kunipa fursa hii. Kusema kweli, ilikuwa jambo la kusikitisha sana kuona ndege kutoka China imetua nchini mwetu. Watu wengi sana wamekuwa na mshangao na wasiwasi. Nawakilisha Kaunti ya Kwale ambapo kuna Wachina wengi wanaotengeneza barabara kutoka Bwego mpaka Vanga. Barabara ingine inayotengenezwa na Wachina ni ile ya kutoka Dongo Kundu mpaka karibu na Ng'ombeni.

Ikiwa sisi viongozi hatutapiga kelele kuhusu maradhi haya na serikali kuchukua hatua, tutapoteza watu wetu wengi sana. Nina wasiwasi kwasababu naona athari ya Kaunti yangu ya Kwale. Barabara ya kuenda Kinango inatengenezwa na Wachina hivyo kuna Wachina wengi sana katika Kaunti ya Kwale. Naomba serikali ichukue hatua kwa haraka sana kuhusu maradhi haya ambayo ni hatari kushinda hata Ukimwi. Virusi vya

Corona vina ua kushinda ukimwi. Ukipatwa na maradhi haya, unakufa baada ya masaa macheche.

Bw. Spika, naunga mkono taarifa iliyosomwa na Senata wa Kaunti ya Narok. Naomba Serikali ichukue hatua kali sana. Wachina ni wengi sana kama watoto katika Kaunti ya Kwale. Maradhi kama haya yakiingia katika Kaunti ya Kwale, tutapoteza watu wengi sana. Naomba Serikali iwakague hawa Wachina wanaofanya kazi katika kaunti zetu ili kuzingatia usalama wa wananchi wetu.

Asante sana, Bw. Spika.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Mugo.

**Sen. Mugo:** Mr. Speaker, Sir, I thank you for giving me the opportunity to support this Statement. As my colleagues have stated, this is a very worrying situation. Yesterday at the airport, the members of staff at the airport were taken by surprise that they did not know what to do when the plane from China landed.

Mr. Speaker, Sir, I feel that we are not ready for such a pandemic in this country. I was the Minister for Public Health for five years. So, I know a little bit about that Ministry. To begin with, I do not think we can handle large numbers in case of outbreak of the disease. Therefore, as a country, we must do everything to prevent the disease from entering the country. That is the best way to deal with it.

I also want to add my voice by thanking Sen. Olekina for this Statement. Since we have stopped our planes from going to China because we were concerned, I do not see why we should allow direct flights especially from the said province because it is dangerous. I urge the Ministries of Transport and Infrastructure Development, Health and Foreign Affairs and International Trade to get together and see how best to deal with the situation.

Apart from that, the country is not equipped with medical staff and technicians to deal with large numbers in case of outbreak of the disease. When I hear people saying that we can deal with the disease, I do not know exactly what they mean. The Government should take precautions.

The World Health Organization (WHO) said that it is almost having a breakthrough in developing a vaccine. It would have been good to wait for the vaccine before we allow passengers to come en masse directly from China. It is true that they can come from other areas too---

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

**The Speaker** (Hon. Lusaka): Your time is up. Let us listen to Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you Mr. Speaker, Sir, for giving me the opportunity to also weigh in on the issue of Coronavirus. Sen. Olekina talked of about 37 locations worldwide that have been affected by the disease.

I checked on the internet 33 minutes ago and found that the number has increased from 37 to 47 locations. That shows that the invasive level of the virus to an extent that Japan has closed its schools and they will remain closed for the whole month of March. South Korea and United States (US) have called off the joint military operations. The Prime Minister of Australia has warned of global pandemic crisis. Besides, markets in Asia and Europe have slammed.

Therefore, it is a tragedy to conceive an idea that an airline landed in Nairobi and the directive was that they do self-quarantine. I am a professionally trained person. That jargon defeats my training in the university. I do not know where it is being applied.

This is not the first time I have handled emergencies in this country. There was a time I handled anthrax which was being propagated through envelopes and we had to warn people. At every entry point, we made sure that we took various steps to contain the situation so that the disease does not enter Kenya.

We have handled many other scourges before, but Coronavirus is very evasive. It is transmitted through contact and droplets and that is why people wear masks. We should not allow that kind of a situation.

Last week I made a comment. I said that if our Government wants to take active actions, it should open a receiving bay, either at the airport or some other area, where all incoming passengers must stay for a minimum of 14 days.

Finally, can they bring our Kenyans home?

**The Speaker** (Hon. Lusaka): Sen. Iman. You do not seem prepared.

**Sen. Iman:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to speak on the pandemic diseases called Coronavirus. Our country is not prepared for anything, let alone this global disaster that is supposed to be a global emergency.

It is the first time I am hearing of self-quarantine. Sometimes you go to see a doctor and you are given medication. I have also heard people doing self-medication, but I have never heard of self-quarantine.

The WHO told us to cover our mouths and noses. Just to let you know, when I walked in with my hand sanitizer, the Serjeant-at-Arms stopped me. I saw Sen. Ochillo-Ayacko with a mask on his nose and he said that he does not want to be infected with Coronavirus. Surely, are we prepared?

**Sen. (Dr.) Mwaura:** Mr. Speaker, Sir, I was caught unawares, but I would like to ask a question. How can you tell a husband to self-quarantine from their wife? Some of the things that we say are ridiculous. To what extent can you know that you have the virus, especially now that there is a lot of coughing, sneezing and fever?

In previous crises, people did not have masks to protect themselves. In fact, a famous cartoonist called Gado drew Kenyans wearing *kasukus* on their mouths to depict the sense of unpreparedness.

We are not serious because even those who were suspected to have Coronavirus, their tests were done in South Africa and not here in Kenya. This is because there is no laboratory in Kenya that can successfully do the tests, leave alone the rather not so serious and not well-equipped health boxes that we find by the airport that cannot control the people.

Majority of the people who have died from Coronavirus are nurses and doctors, including the famous one in Wuhan who discovered it. So, it is a pandemic. You can be sure that if it comes through planes or any other means, we are more vulnerable as Africans than any other continent in the world. Therefore, deaths would be more, just like we have heard from the submissions on the Floor with regard to the assessment by Bill Gates. We should not wait for a crisis to happen so that it becomes another philanthropic endeavour of other individuals, so that we are relegated to the lower pecking order because we cannot protect ourselves.

This Senate being in charge of health, it is only fair that we request the Cabinet Secretary (CS) to come to this House and explain to us fully the preparedness of the country with regard to the virus. Otherwise, it is not enough for her to issue a cursory declaration that before people board planes, the WHO standards must be adhered to, yet the WHO is the one issuing warnings. That is exposing Kenyans to danger, but the Government is there protect the people.

Mr. Speaker, Sir, I support.

**The Speaker** (Hon. Lusaka): Let us now hear from the Chairman of the Committee on Health.

**Sen. (Dr.) Mbiti:** Mr. Speaker, Sir, this is an important Statement that has been raised by Sen. Olekina. Let me assure the House that my Committee has already written to the CS inviting her to come and tell us the preparedness of the country on this matter.

We are not just addressing the issue of screening passengers who enter the country, but also addressing the issue that in the event that we get a Coronavirus incident in the country, are we ready to give treatment? Those are some of the questions we have sent to the Ministry and we expect an answer in the course of next week. They have said that they should be ready by Tuesday. If that is the case, by Wednesday, I should be ready to inform this House on the preparedness of the country.

One thing I would like to comment on quickly is that the preliminary report from the CS's Office was that they have a policy of screening each passenger coming into the country. This screening involves just a quick check whether or not somebody has fever. The guidelines of the World Health Organization (WHO) are also very clear, where they say that we do not practice any discriminatory kind of actions against passengers.

Mr. Speaker, Sir, we have a catch-22 situation. Self-quarantine is one of the practices in Medicine. Total quarantine is the first step. The second step is usually self-quarantine. Next week, I promise this House that we will have a report on our preparedness in ensuring that we will not have Corona Virus in this country.

This Statement should also go to those who allow people into the county because the Ministry of Health (MoH) does not control planes that come into this country. We should have other players such as diplomats, Ministry of Foreign Affairs, Ministry of Interior and Organization of the National Government and Immigration to check on these things. If there is a situation in China that requires them not to come to Kenya, then certain measures should be put in place.

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to join my colleagues in thanking Sen. Olekina for this Statement. When we saw the preparations by the Chinese immediately this Corona Virus was announced, they were so elaborate. Up to now, Chinese are still moving around covered and are cleaning the City of Wuhan.

I was so shocked yesterday, like all Kenyans were, when we saw a plane just touching ground at the Jomo Kenyatta International Airport (JKIA). The least that we deserve as a nation is the right to information. The panic that has gone through social media and the main media itself was not warranted. For sure, somebody prepared to receive this flight - they must have been - because landing rights are always known. We had the right to be given the information, so that we do not panic if truly there was preparation.

You ask yourself: how come we are not prepared the way the Chinese have been preparing themselves? If the Chinese prepare the way they are doing and know the kind of virus that has attacked their nation, who are we not to prepare, instead of allowing a plane just to land and then the staff panic on the runway? Doctors panicked as they saw people walk out leisurely as though they had not come from a dangerous country.

Mr. Speaker, Sir, I agree with Members that you be persuaded to ask two Committees to look at those issues. I do not agree with the Chairperson of the Committee on Health that he needs to wait for next week. I think it is very important that the Committee on Roads and Transportation also comes in immediately.

Let us know exactly what the preparation was before the landing of this plane took place. We must be given that information. Otherwise, how do we know that those people were even screened before they exited China? They may be here also taking a risk because they want to come and do their businesses, yet, we were warned not to allow the Kenyans to leave China. We still have students crying and calling their parents in panic, and we have witnessed this for a while. We had asked if Kenya Airways could go prepared---

**The Speaker** (Hon. Lusaka): Your time is up.

Finally, Sen. (Eng.) Hargura. I saw you looking at me with those eyes. Then I will allow Sen. Mutula Kilonzo Jnr.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I was even asking Sen. Sakaja how these machines work because I pressed, and it is as if there is no signal between my machine and yours.

**Sen. Sakaja:** Press hard!

**Sen. (Eng.) Hargura:** I will try next time.

Mr. Speaker, Sir, the best way to manage any epidemic when it occurs anywhere is for those who are there to stay put and nobody else goes there until it is sorted out. I thought that was what the Government of Kenya spokesperson, Col. Oguna said; that it was better for the Kenyan students to stay in Wuhan, so that they do not come and spread it here in the event that they are infected.

Up to that point, it was logical, but now when we allow foreigners to come to Kenya, while we have locked down Kenyans in Wuhan, it does not make any sense.

Mr. Speaker, Sir, when you check, this is a disease whose source is not very clear. Some are saying it is from animals, while others are saying that it is something else. It is not very clear. It is not also clear how it is spread. Look at our standards. The other day some Chinese who were working in Makueni County walked into a hospital in Makindu and everybody, including the medics, took off. That is how prepared we are.

If we allow somebody to come in, we will not tell them stay at the airport. They will go to do their business anywhere in this country; God forbid if any of them is infected and it spreads in any part of this country. Before we discover what is going on, we will have lost a bigger part of our population because of that kind of reckless and careless decision making. When we are not prepared, then we should not take risks. That is what we are doing. I will urge the Committee to move fast.

First of all, going forward, the issue of weekly flights should not exist; that should be the starting point. There should be no flight coming from China. Let us now investigate how this one came in. That way, we can then get our act in order.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, from the work we were doing with Sen. Sakaja on disaster management and response, it occurs to me that this is no longer a matter of the MoH alone. I just get a bad impression that it is possible that we have somebody here in Kenya who has this virus. I propose that you direct that the CS in charge of disaster response and recovery be summoned together with the CS for Health, so that as Kenya, we can start thinking that it is possible that this might happen as we have not prepared ourselves.

Mr. Speaker, Sir, I was going to suggest that you summon the CS, Dr. Matiang'i, to come with the CS in charge of Health because that portion of disaster preparedness is more worrying even than the flight itself.

**The Speaker** (Hon. Lusaka): Hon. Senators, thank you for your contributions. We are dealing with a very serious issue. Chairperson of the Committee on Health, I also do not agree with what you are saying that you have written letters and are waiting for responses. This is not a matter where you write letters. It calls for immediate action. Letters will never be responded to.

You may need to either walk to the CS or use whatever means. We want a proper response by Tuesday next week, telling us the preparedness and what has happened. We do not doubt the competences of those people who are in those dockets, but some of the things they are talking about are making Kenyans even more worried than they have been.

I agree with Sen. Mutula Kilonzo Jnr., that you get the CSs in charge of disaster management and health to come to your Committee and give practical solutions on what they have done to avert this crisis. Otherwise, we like taking things lightly and are now joking with our lives.

Let us not make expensive experiments. Sen. (Dr.) Mbiti, the ball is in your court. If Senators are worried, what about the ordinary *mwananchi* they represent in their counties? Take the matter seriously.

Next Statement.

#### SHORTAGE OF BLOOD IN THE BLOOD BANKS IN KENYA

**Sen. Chebeni:** Thank you, Mr. Speaker, Sir. Pursuant to Standing Order 47 (1), I rise to make a Statement on the shortage of blood in the blood banks in the county. Kenya is a signatory to the World Health Assembly Resolution –WHA 2872 of 1975– which requires each member state to develop a comprehensive well coordinated blood transfusion service based on voluntary non-remunerated blood donation.

Kenya is also a signatory to the regional Commonwealth Ministers of Health Resolution of 1989 requiring that each member country makes the provision of safe blood to the people a national priority. The Kenya National Blood Transfusion Service (KNBTS) was established in 2000 under the Ministry of Health and its mandate is to collect, test, process and distribute blood and blood products to all the transfusing hospitals in Kenya. The KNBTS has six regional blood transfusion centers namely, Nairobi, Embu, Nakuru, Eldoret, Kisumu, Mombasa and 21 other satellite stations.

Mr. Speaker, Sir, despite advances in technology, Kenya's blood bank still run on manual systems. As such, there is a prevalent problem in the availability of needed blood

types. For instance, when a person needs a certain blood type, which is not available in the hospital, family members send messages through social media to those who can donate to them. This process takes too long to help the patient in need.

Over the past one week, we have had reports that Kenyans in need of blood transfusions are being sent away from hospitals due to lack of blood. Blood is a vital healthcare resource used in a broad range of hospital procedures, including but not limited to accidents, emergency, obstetric services and other surgeries. Shortfalls in blood supply have a particular impact on women with pregnancy-related complications, trauma victims and children with severe life threatening anemia.

Mr. Speaker, Sir, on the flipside, the human costs of unsafe blood are incalculable. Morbidity and mortality resulting from the transfusion of infected blood have far-reaching consequences, not only for the recipients themselves, but for the families, communities and the wider society. Ensuring effective and dependable supply of safe blood and blood products is an important public health responsibility of every government, yet the Government support for blood transfusion services in the country is inadequate. There is clearly an increased demand for a safe supply and blood transfusion service in this country.

As a result, I urge the Government to improve and strengthen the procurement, supply, processing, distribution and surveillance systems for blood transfusion, in order to save many lives that are lost due to lack of blood in our hospitals.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Like I said, we have to a vote to take. Therefore, to those that I will give a chance, please, take two minutes.

Proceed, Sen. Farhiya.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. Lack of blood banks affects women more than anyone else. During the natural process of giving birth, women lose a lot of blood. As a result, they have more casualties due to shortage of blood banks.

Because of the importance of this Statement, although ordinarily under Standing Order 47, it does not require Committee action, I request you to allocate it to a relevant Committee, so that this issue can be addressed exhaustively.

Mr. Speaker, Sir, health being devolved and being supporters of devolution, lack of blood banks in counties is a very big indictment on our counties. We have victims of accidents, those who suffer from cancer and some with special conditions of blood like sickle cell. All these people need blood transfusion, and lack of blood banks affects them.

Mr. Speaker, Sir, if you are poor in this country, sometimes you feel like you have been sentenced to death. Other people can afford to go to private hospitals or other places to get these services and survive. Imagine if you are an accident victim and your life is cut short just because of lack of one pint of blood.

It is high time that this House led in terms of a blood donation drive, so that we have enough--

**The Speaker** (Hon. Lusaka): Please, observe the two minutes. We have to debate the Budget Policy Statement and vote. You can do less than two minutes.

Let us have Sen. M. Kajwang' and then we move on.

**Sen. M. Kajwang':** Mr. Speaker, Sir, this is a very important Statement. It is one of the things that the public expects the Senate to comment on. Not too long ago, the Nyanza region was hit with an acute shortage of blood. That was after one of the donors



who was supporting blood donation initiatives pulled out. That is the President's Emergency Plan for AIDS Relief (PEPFAR), which is an American foundation.

I took a visit of the Homa Bay County Teaching and Referral Hospital to assess the progress of establishment of a blood bank in that hospital. Three or four years down the line, the county government had set up infrastructure, but there was nothing to facilitate blood donation and preservation.

Mr. Speaker, Sir, I wish to urge this House that on the basis of this Statement, this House should resolve that each and every county must set up a blood bank without exception. If there is going to be complications in doing that, this Senate could consider doing conditional grants to counties, to establish blood banks.

Last year, I had a personal experience when my mother was in hospital. Every time blood was required, there was no blood in the bank. We had to make appeals to people in churches and political groupings to come and donate blood. I hope that this Statement and subject will be referred to the Committee on Health, because it deserves greater attention and more time of the Senate than the time that is available today. But let us resolve that every county must set up a blood bank.

Thank you, Mr. Speaker, Sir.

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

**Sen. Were:** Thank you, Mr. Speaker, Sir. I would like to thank Sen. Chebeni for this Statement. I came face to face with the problem of lack of blood banks yesterday when I went to check on my friend's child. We mobilized about 18 people to donate blood since she needed fresh blood yesterday. Only one person out of the 18 had blood that we could use. They needed what they call platelets.

We were told that nowadays only people below 35 years have blood that can be acceptable. All the 17 people had issues with their blood. Either it had too much drugs in it or other diseases. So, there is a problem. We, therefore, need a national campaign for blood donations to these banks to boost our blood banks. A national campaign is my call.

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

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir, for allowing me to add my voice to this very important Statement, as I also thank Sen. Chebeni for this. The shortage of blood is a disaster in our country because we know that every minute and very hour there is someone in hospital and in need of blood. I want to be very brief and urge the Ministry and all Kenyans to be always alert. We seem to be always making noise to solve any problem in this country.

I support the idea of blood centers in every county. I also encourage the counties to mobilize enough donors, so that we can have enough blood in our hospitals. I also encourage the young people to go and donate blood, because this is what will save some people's lives.

Proper planning can help our nation. I support the Statement and urge the Ministry and people concerned to work hard, so that we cannot fall again into the same problem that we are in.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Sakaja, did you want to say something about your Statement; not this one because we have closed.

TRANSFER OF FUNCTIONS FROM NAIROBI CITY COUNTY  
GOVERNMENT TO THE NATIONAL GOVERNMENT

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. Thank you for that Statement. I would not comment on it, as you have ruled. I requested to make a Statement yesterday, and in the wisdom of the Chair, you asked that I defer it because it was anticipating the debate that went on during the Motion for Adjournment by the Senate Majority Leader.

The remarks that I made in my contribution are exactly what was in my Statement. Therefore, I wish to withdraw that Statement under Standing Order No. 47(1).

*(Statement by Sen. Sakaja withdrawn)*

**The Speaker** (Hon. Lusaka): We move to the next Statement by the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 3<sup>RD</sup> MARCH, 2020

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I would like to make the following Statement pursuant to Standing Order 52(1). I present to the Senate the business of the House for the week commencing Tuesday, 3<sup>rd</sup> March, 2020.

Hon. Senators, on Tuesday, 3<sup>rd</sup> March, 2020, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further directions by the SBC, the Senate will on Tuesday, 3<sup>rd</sup> March, 2020, consider Bills scheduled for Second Reading and those at the Committee of the Whole. The Senate will also continue with consideration of business that will not be concluded in today's Order Paper, including Motions, Petitions and Statements.

On Wednesday, 4<sup>th</sup> March, 2020 and Thursday, 5<sup>th</sup> March, 2020, the Senate will consider business that will not be concluded on Tuesday, 3<sup>rd</sup> March, 2020, and any other business scheduled by the SBC.

Hon. Senators, a total of 17 Bills are due for Second Reading, while 16 Bills are due for the Committee of the Whole Stage. Additionally, we have three Bills at the Committee of the Whole Stage to consider National Assembly amendments, as indicated in today's Order Paper, at Orders Nos. 14, 15, and 16.

I urge all Standing Committees to expedite consideration of the referred Bills and table reports to enable the Senate conclude the said Bills. Further, you will notice that in today's Order Paper, we have a Motion on the adoption of the Report of the Standing Committee on Finance and Budget on the 2020 Budget Policy Statement (BPS) and Medium-Term Debt Management Strategy (MTDS), which as you are aware, has a statutory deadline of today.

I, therefore, urge all Senators to avail themselves later this afternoon for debate on this Motion and adoption of the same.

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

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

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

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

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, because of time constraints, we will move to Order No.9.

### MOTION

#### ADOPTION OF REPORT ON THE 2020 BPS AND MEDIUM TERM DEBT MANAGEMENT STRATEGY

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

THAT, pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order 180 (7) of the Senate, this House adopts the Report of the Standing Committee on Finance and Budget on the 2020 Budget Policy Statement (BPS) and Medium Term Debt Management Strategy, laid on the Table of the Senate on Thursday, 27<sup>th</sup> February, 2020.

*(Several Senators withdrew from the Chamber)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Members, kindly do not leave the Chamber because we need to debate on this Motion and take a vote. So, please, stay in the House.

Continue, Sen. (Eng.) Mahamud.

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, pursuant to Section 25 (2) of the Public Finance Management Act, 2012, the National Treasury submitted the 2019 BPS. Further, pursuant to Section 25 (7) of Public Finance Management Act, 2012 and Standing Order No.180 of the Senate Standing Orders, the BPS was committed to the Standing Committee on Finance and Budget for consideration and recommendation.

The Committee has considered the BPS within the guidelines given and the broad issues in the BPS, 2020, can be categorized as follows:

- (i) the national policies and programmes that have a direct impact on the economic performance of the countries and counties; and,
- (ii) proposals on The Division of Revenue Bill between the two levels of Government and among counties as shown in the County Allocation of Revenue draft Bill for Financial Year 2020/2021.

Madam Temporary Speaker, the BPS, 2020, focuses on the Big Four Agenda, which focuses on job creation and economic prosperity.

Below are a few highlights of the BPS, 2020, and I will be very brief:

The National Treasury projects the total revenue collection for the Financial Year 2020/2021, including Appropriation-In-Aid (A.I.A) to be Kshs2,134,100,000,000, which is 18.3 percent of Gross Domestic Product (GDP), as compared to Kshs2,084,200,000,000 that is 20 percent of GDP in Financial Year 2019/2020. Ordinary

revenue in the next financial year is projected at Kshs1, 856,700,000, which is 16 percent of GDP.

Madam Temporary Speaker, the National Treasury projects the total shareable revenue for the Financial Year 2020/2021 to be Kshs1,856,700,000,000, which is an increase by Kshs89.8 billion from the Financial Year 2019/2020 total shareable revenue of Kshs1,766,900,000.

The National Treasury further proposes that additional Kshs89.8 billion from that financial year will be directed towards Consolidated Fund Services (CFS), specifically on non-discretionary expenditures, that is, pension and debt repayment-principal and interest, which take first charge on the public budget. So, ideally, the increase in the revenues by about Kshs90 billion will be directed to the CFS and there will be no increase in expenditure to any level of Government according to the National Treasury.

Madam Temporary Speaker, according to the National Treasury and the BPS Report, Kenya experienced slow economic growth in 2019. The economy grew by 5.6 per cent, which was below the Government's target of 6.2 per cent.

Madam Temporary Speaker, the BPS also touches on issues like inflation rate. There was an uptick on food inflation in the last quarter of 2019, with the price of some foodstuffs such as maize and beans increasing. However, the impact of increasing food prices was dampened by the relatively low fuel inflation. Consequently, the overall inflation rate in December 2019 was 5.8 per cent, which was similar to the inflation rate in December, 2018.

Madam Temporary Speaker, on interest rates and credit, interest rates remained stable over the period of January 2018 to September 2019, with the weighted average lending rate by commercial banks decreasing to 12.5 per cent over the first three quarters of 2019.

Madam Temporary Speaker, on exchange rate and external sector, Kenya's exports have experienced a steady decline over the past decade. As a share of GDP, exports have declined from 14 per cent in 2011 to 7 per cent in 2018. This was driven by relatively slower growth in the value of all the principal domestic exports. As a country, we are not focusing on exports and a lot of dependency is on remittance only. Kenya is not benefiting from any exports of commodities.

Madam Temporary Speaker, in county revenues, the National Treasury proposes that out of the projected shareable revenue of Kshs1,856,700,000,000, Kshs1,533,670,000,000 will be allocated as the equitable share to National Government, while an allocation of Kshs369,870,000,000 to the county governments for Financial Year 2020/2021.

The county government allocation comprises Kshs316,500,000,000 as county equitable share and Kshs13,073,000,000 as Government of Kenya conditional grants, Kshs9.43 billion from the road maintenance levy and Kshs30.2 billion from loans and grants. It is important to note that the National Treasury proposes no growth on county equitable share this financial year.

Madam Temporary Speaker, on county Own-Source Revenue (OSR), counties are supposed to unlock their revenue potential. They should review their OSR streams in order to increase their tax base by venturing into other untapped revenue sources that can supplement their revenue collection potentials. They require to increase revenue collection to finance any planned growth in their expenditures from own-source revenue.

There is need for an efficient revenue collection system, to ensure that there is no revenue leakage.

The Budget Policy Statement came with three other documents; the Medium Term Debt Management Strategy, draft Division of Revenue Bill and The County Allocation Revenue Bill.

Section 64 (2) of the Public Finance Management (PFM) Act, 2012 and Section 33 of the National Government Regulations, paragraphs 184 and 185, require the National Treasury to annually submit a Medium Term Debt Management Strategy to Parliament for consideration and approval.

The Cabinet Secretary is required to provide the following information:-

- (1) the total stock of debt as at the date of the statement;
- (2) the sources of loans made to the national Government and the nature of guarantees given by the national Government;
- (3) the principal risks associated with those loans and guarantees;
- (4) the assumptions underlying the debt management strategy; and,
- (5) analysis of the sustainability of the amount of debt, both actual and potential.

The Medium Term Debt Management Strategy, 2020, proposes a borrowing framework of 28 per cent from external borrowing and 72 per cent from domestic borrowing to finance the national budget deficit. External Debt will be financed through 14 per cent from concessional financing, 1 per cent from semi-concessional financing and 13 per cent from commercial financing

It is important to note that the Stock of Debt as at end of December 2019, public debt amounted to Kshs6.048 trillion. This is equivalent to-

- (i) 61% of the Gross Domestic Product (GDP); and,
- (ii) 67% of the Kshs9 trillion national budget ceiling which was passed by Parliament last year.

This total stock of debt is composed of:-

- (i) domestic debt - Kshs2.94 trillion (49%); and,
- (ii) external debt - Kshs3.06 trillion (51%)

The national debt stock also comprises of debt guarantees pursuant to Article 213 of the Constitution and Section 58 of the PFM Act, 2012. As at the end of December 2019, guarantees worth Kshs158.1 billion had been provided to seven institutions, compared to Kshs133.79 billion provided as at end of December, 2017.

Noting that the approved ceiling for guaranteeing debt is Kshs200 billion, the fiscal room available for further guarantees is only Kshs41.9 billion for both county government and national Government. This is a very restricted fiscal space for both undertakings.

Public Debt Sustainability Analysis is the ability of a country to service its debt obligations as they fall due without disrupting budget implementation. Debt Sustainability Analysis compares debt burden indicators to thresholds over a 20 year projection period. In case of any breach of any of these thresholds, it would mean that there is a risk of experiencing some form of debt distress.

Madam Temporary Speaker, we have looked at the debt strategy in place, but I think that as far as the Budget Policy Statement (BPS) is concerned, apart from the debt level data and whatever is there, the strategy is actually not very clear. It is important,

therefore, to note that the rising debt levels lead to increased debt refinancing requirements and interest payments that shrink the fiscal space for the years forward.

The Committee made several observations-

(1) Revenue-Growth Nexus: The economy is projected to grow at 6.2 per cent, yet the ordinary revenue is projected to go down as a percentage of Gross Domestic Product (GDP). This is a contradiction.

(2) The BPS, 2020, outlines that over the medium term, the Government will curtail growth in public expenditure to ensure that it attains its fiscal consolidation path, with the fiscal deficit (including grants) expected to decline from 7.7 per cent of GDP in 2018/19 to approximately 3 per cent of GDP in Financial Year (FY) 2023/24. It is important to note that the reduction in the budget is mainly under Development expenditure, which is set to decline from Kshs731 billion in the FY 2019/20 to a proposed figure of Kshs587 billion in FY 2020. This may lead to delays in ongoing projects, further escalating the pending bills and stalling of projects.

(3) Through its interaction with stakeholders, the Committee was informed that out of the total expenditure by National Hospital Insurance Fund (NHIF) for the FY 2018/2019 (Kshs37 billion), private hospitals received Kshs22 billion, while Government and mission hospitals received only Kshs7 billion and Kshs8 billion respectively. This implies that the Government health facilities received only 18.6% allocation of NHIF disbursement this year. This deprives the financial capacity of relying on NHIF reimbursements to improve facilities in the public health sector.

(4) The National Treasury proposes an allocation of Kshs369.87 billion to the county governments for FY 2020/21. This amount comprises of Kshs316.5 billion as county equitable share and Kshs13.73 billion as Government of Kenya (GOK) conditional grants; Kshs9.43 billion allocation from the Road Maintenance Levy and Kshs30.2 billion as allocations from loans and grants.

(5) The National Treasury and CRA are using the audited reports for the FY 2014/2015 with revenue of Kshs1,038,035,000, while the latest approved audited reports are for FY 2016/2017 with revenue of Kshs1,357,698,000.

(6) The National Treasury in drafting Clause 5 of The Division of Revenue Bill, 2020, has reverted back to what they had in the previous year, which this House rejected. The Bill now reads as follows: -

“If the actual revenue raised nationally in the financial year falls short of the expected revenue set out in the Schedule, the shortfall shall be borne by the national Government, to the extent of the threshold prescribed in Regulations by the Cabinet Secretary.”

In fact, this phrase was included last time, but we will not allow that in our recommendation. We want to say wholly that any shortfall must be borne by the national Government alone.

Madam Temporary Speaker, noting the national Government’s effort on fiscal consolidation and revised revenue projections, the Committee recommends that the Senate approves the Budget Policy Statement (BPS), 2020, and Medium Term Debt Management Strategy (MTDMS), with the following recommendations-

(a) That the recommendations include allocation of Kshs316.5 billion county governments’ equitable share for the Financial Year 2020/21. The same figure has been proposed by the National Treasury and the Commission on Revenue Allocation (CRA). The figure is the same this financial year, with no extra addition because the budget

increment only goes to consolidated services. So, the Committee recommended that we maintain the same figure as proposed by everybody else.

(b) Allocation of Kshs47.158 billion conditional grants to county governments.

(c) Suspension of allocation and payment to the leasing of Medical Equipment Services Project and removal of the same from The Division of Revenue Bill until ongoing investigations by the Senate are concluded.

Madam Temporary Speaker, with those many remarks, I beg to move and request my Vice Chairperson, Sen. Mwaura, to second.

**Sen. (Dr.) Mwaura:** Thank you, Madam Temporary Speaker. I rise to second this Motion. From the outset, I wish to say that this is a very important exercise that we undertake every February, within the timelines set up in the PFM Act.

Based on the various deliberations that we have had as a Committee, there are various observations that I would like to make even as we, as a Committee, propose that this Report be adopted.

Number one, it is not very clear what exactly our National Debt Register is. This means that the country does not know whether there is a single source of truth that shows who we have borrowed from. This is very important because when we are estimating out debt stock, then the figures keep on fluctuating.

Madam Temporary Speaker, you remember that just recently, this august House increased the debt ceiling as per the recommendations of the National Treasury. It is, therefore, important that Parliament and the country be briefed, so that we have a single and well cleaned up National Debt Register. That way, we can then know the true fiscal space that we have in terms of borrowing.

Secondly, Madam Temporary Speaker, our Budget is balanced, but primarily because we are spending all our ordinary sharable revenue to finance recurrent expenditure. We have had zero budget on development, which is affecting both the national Government and county governments. This is very serious because it means that most of the monies we would have used for development – which is over Kshs600 billion – is currently being used to pay debt. What is curious is that while the external debt has got a repayment period of about 11 years, the domestic debt, – which is crowding out local investment and creating a lot of liquidity issues, has an average repayment period of 5.7 years.

Madam Temporary Speaker, basically, we are borrowing from banks, which get their capitulation from the deposits that every other Kenyan and I make. Therefore, they take money from us, and are too willing to borrow for the Government through Treasury Bills, and the repayment period is very short. So, they are doing us in. What we require is an audit and a list from the National Treasury, to know which banks are owed what by Kenyans, because this is where the rubber meets the road. In short, what we are saying, as a Committee from our observation, is that the problem is not actually the external debt in terms of repayment, but the local debt because the interest rates are very high.

Further, we are going to rebase our economy in April, led by the Kenya National Bureau of Statistics (KNBS). That would mean that we will have a higher fiscal space. As it is currently, our Gross Domestic Product (GDP) is estimated to be Kshs9.8 trillion. When we rebase our economy, it would mean that the Government will be able borrow more; but from who? It will be from the same local banks. We need to be very careful because part of why there is no circulation of money in the market, is because of the

Kshs1 million rule that was put in place by the Central Bank of Kenya (CBK), which is affecting businesses.

Another key issue about debt management is the denomination of the debt. About 69 per cent of our debt is denominated in the US Dollar. It would be important that we have more and more currencies, so as to leverage on those external shocks. That way, we will not just rely on the fluctuation of the Dollar. That is very important.

Madam Temporary Speaker, one of the key issues coming out is the balance or payment deficit, which is becoming very high. This is because of the decrease in our agriculture, especially around tea and coffee, where our exports are declining. What is stabilizing the Shilling is remittances from abroad, which is about Kshs300 billion. We do not even have Special Purposes Vehicles (SPVs) to enable our diaspora to invest. They are not even represented in this august House; something that we need to consider in the Building Bridges Initiative (BBI). This is because they are actually the ones who are maintaining our Shilling at about Kshs100 or thereabout to the US Dollar. We, therefore, need to do a lot because we have so many containers coming through the Standard Gauge Railway (SGR), but they are returning empty. If you look at our borrowing it is largely on infrastructure. However, we are making roads and rails for other people to bring goods to us.

Right now, Madam Temporary Speaker, we have just spoken about the effect of the Corona Virus, which has affected our supply chains completely because most of our goods are imported from China. Of course, there is also the effect of Brexit, because Britain was a conduit for us to access the European Union market. However, we now have to renegotiate, especially for our flowers, tea and coffee. Our exports to the United Kingdom (UK) form about 27 per cent of all our tea and coffee exports. Therefore, these are some of the issues.

Madam Temporary Speaker, it is also a paradox that while the National Treasury projects that our economy is going to grow at 6.2 per cent, our view is that it will grow at a slower rate of about 5.7 per cent. However, there is no corresponding increase in terms of ordinary revenue, which is only growing at 2 per cent. If you look at the ratio of ordinary revenue to GDP, it is less than 20 per cent. In fact, the highest was in 2013/2014, when we were doing 19 per cent; it is now at 16.5 percent. When you look at the Organization for the Economic Co-operation and Development (OECD) countries, they have gotten to 40 or 50 per cent of their GDP.

The informal sector, as the Chairperson has elucidated on, is the one that is creating jobs. However, what are we doing to ensure that we bring the informal sector into the tax bracket? The Kenya Revenue Authority (KRA) has failed on this, partially because of the rigid legal regime which requires startups to pay tax to the Government. It is extremely difficult to pay tax to the Government.

We need to simplify these procedures and offer incentives to Kenyans, so that they can see value in them paying taxes. Kenyans have become ambivalent in doing so because of the huge corruption of mega projects in the Government - the Aror and Kimwarer dams, the NYS scandal--- Which one is the latest? Kenyans are even losing count of the scandals. Therefore, that cannot encourage Kenyans to actually pay taxes. We need to do something about it, because what we are seeing is a regime where some of the taxes that are being imposed upon Kenyans – like presumptive tax – are overtaxing the people who are already paying tax without necessarily creating a new tax base.



Madam Temporary Speaker, another key observation that we have made, as a Committee, is with regard to the National Health Insurance Fund (NHIF). It is quite interesting to note that out of the Kshs38 billion that is allocated to the NHIF, 14 per cent is spent on their operations. This should have been limited according to International Best Practice of 5 per cent. But curiously so, that Kshs22 billion out of the Kshs38 is going to private hospitals; Kshs8 billion to faith-based hospitals and another Kshs7 billion to Government hospitals. In terms of the distribution of hospitals, Government hospitals are 48 per cent; private ones are 38 per cent and the rest are Faith-Based Organizations (FBOs). This needs to be relooked at. Is this a question of collusion on inflation of Bills, so that it is then easy to access NHIF money?

You will remember very well the case of the Nairobi Women's Hospital, which is in the public domain. We finance private entities, yet if these monies were allocated rightfully so to public hospitals, it would be another way of refinancing health. This is because then there is available insurance that would target the poorest of the masses. Obviously, when people get sick, the first port of call is the public hospital. It was curious to us that there was a demand to create a private hospital at the national referral hospital. These kind of things need to be relooked at, because if Universal Healthcare Coverage is to succeed, then some of these practices need to be put in question. This is over and above the legal reforms that are required at the NHIF, so that there is a robust regulatory framework around it.

Madam Temporary Speaker, another key issue that has come out clearly is that we have done international declarations that we are not adhering to. A case in point is in Agriculture. If you look at the resource envelope for agriculture, it is about Kshs105 billion, but then, the allocation is about Kshs51 billion. However, the Maputo Declaration requires that it should be at 10 per cent of our budget. Therefore, this is a budget with a proposed ceiling of about Kshs2.8 trillion, then we are expecting a resource envelope of up to Kshs280 billion, especially if there is value addition in that regard. Therefore, even the projection of the Ministry itself to cap it at Kshs105 billion is an underestimation. Similarly, there is no proper mechanism, this being a devolved function, to ensure that it is attained. It remains a suggestion on paper, yet this is the backbone of our economy. What is called the international division of labour has relegated countries such as ourselves to be primary producers or raw materials.

We are the 21<sup>st</sup> Century and, therefore, we must benefit from what we produce. The only way to do so is through proper allocation of resources.

The same case also applies to health. There is a requirement that we provide for 15 per cent, but when you look at the resource envelop, a lot of it is wasted by the Ministry of Health rather than devolved units. We also have clawing back of resources.

The Constitution requires, at the very minimum, that 15 per cent of our resources be allocated to counties. If that was the case, what would be the use of conditional grants? Conditional grants are given in such a way that the national Government superimposes its will upon county governments to implement its agenda. That is something we need to pronounce ourselves on.

I am glad that the Senate is already interrogating the Managed Equipment Services (MES) project which is a mess, so that we do not have repeat of such. Interestingly, there is a proposal to do the same in agriculture. There is a proposal that the national Government should buy tractors and other farming equipment. People use such

projects for corruption. In fact, I call it development corruption. What Kenyans want – it could be the opinion of this august House – are systems that work, so that there is effective service delivery and value for money.

Madam Temporary Speaker, we have a Budget Policy Statement (BPS) that is quite ambitious, just like the previous one. It focuses on the medium-term development plans anchored on the Big Four agenda. However, when you look at affordable housing, out of a national target of 500,000 units, only 228 units have been completed. Are we really serious? When you look at all the pillars of the Big Four Agenda, we are performing dismally.

It is also true that when you look at the overall microeconomics, our political economy is hinged on our political activities. Productivity has gone down because of the charged environment on the Building Bridges Initiative (BBI). Some questions are political but touch on the economy.

Madam Temporary Speaker, with those remarks, I support the passage of the BPS Report. The recommendations should not just be suggestions by Parliament. We expect the National Treasury not only to look at the Report but also the HANSARD to know what Senators and Members of the National Assembly suggested.

Certainly, there is a great effort towards fiscal consolidation. However, we encourage the principle of subsidiarity, so as to avoid the so-called “big projects”. Any basic expenditure of the Government requires monies to be allocated. In this regard, the CS for the National Treasury should clean up the Budget. Matters concerning public debt should not just be done through regulation, but through substantive law, by dint of amendment of the Public Finance Management (PFM) Act.

There are many recommendations that we can make, which we hope they will act in good faith for this country. We have been talking about some of them for years. We need to consolidate our budget to speak to the true needs of “Wanjiku”.

Madam Temporary Speaker, I second.

*(Question proposed)*

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Madam Temporary Speaker. I rarely do this but being the only Whip in the House, I want to express my concern. It has been a big challenge to ask Senators not to leave. I get the impression that if we continue longer than usual, we will not have quorum to pass this and the effort made for the past 14 days by the Standing Committee on Finance and Budget will go to waste.

Therefore, Madam Temporary Speaker, I propose, under Standing Order No. 106, that you limit debate on the BPS in as much as it is as important as any other agenda we have. The Standing Committee on Finance and Budget has done a good job. If there are Members to contribute, limit the number and the time, so that we vote in the next five to 10 minutes.

I beg to move.

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

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

**Sen. M. Kajwang’:** On a point of order, Madam Temporary Speaker. I also rarely make the kind of contribution that I am going to make. Considering that this is the last day for the Senate to deal with this matter and that Members could have certain views that they wish to inject or to go on record, we should somehow find a way of putting the cart before the horse. If the Whips confirm that we have the threshold required, we should approve the work of the Committee on Finance and Budget, and then you give us an opportunity to express certain observation on the BPS.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, while I consult with the Whip, I would like to give a chance to Sen. Farhiya. We are limiting the time to five minutes.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. First of all, the issue around audit---

*(There was a technical hitch)*

Madam Temporary Speaker, I also wish to comment on the adoption of audit reports. This House approved amendments to the PFM Act. Therefore, we will be doing nothing, as legislators, if we do not approve audited accounts.

Once we have audited reports, other than summoning a few CSs, there is nothing much we do. Our Committee suggested that within three months after the BPS is published, if the National Assembly does not approve it, then it is assumed to be past. Therefore, our Members will be referring to the approved BPS.

There is also the need to strengthen internal audit to ensure that the level of corruption reduces. That is one of the recommendations by my professional bodies known as the Institute of Certified Public Accountants of Kenya (ICPAK). Right now, there are no audit committees, and if there are there, governors control them. There is need to look at that. The lawyers in this House should help us on that.

As we all know, the Government revenue keeps on reducing. There is a Bill by Sen. (Dr.) Zani that seeks to address revenue collection that has not been passed by the National Assembly. Revenue collection of the counties must be increased to reduce their overreliance on the national Government.

The other issue that I want to bring to the attention of Senators is that our production has been reducing. In the FY 2016/2017, our share of Gross Domestic Product (GDP) within the East African Community (EAC) was US\$42 but it has reduced to US\$39 over the past five years. The other issue is the per capita income of this country. Kenya’s per capita income in 2010 was US\$1,200, while that of Zambia, Ghana, and Nigeria was US\$1,700, US\$1,800 and US\$2,400 respectively.

The other issue I would like to bring to the attention of the House is the fiscal deficit of this country. In the BPS of 2016, we had projected that in the FY 2018/2019, the deficit would be 4 per cent only. As we speak, we have been reviewing. In 2017 we said it was going to rise to 5 per cent, 2018, 6 per cent, 2019, 6.3 per cent and now we are projecting it to go to 7.7 per cent. That brings the question of our reliability on the data

and then our focus is hampered. This means that we might lose visibility in terms of our data and other deficit that we have in this country.

Madam Temporary Speaker, in terms of employment, we had a target of creating employment of one million jobs annually but we have been able to only create 800. Out of that, 83 per cent was through the informal sector. I apologize, I am giving a lot of statistics but I think it is important for you to understand some of these things.

In terms of our remittances, it is only foreign exchange earnings that have been increasing. We have not been taking care of that as well by providing incentives and making life easier for those people who stay here for education. This is because Kenyan education is perceived to be at a higher level, even by the United Nations (UN). I know someone who was working with the UN in Kenya and he has subsequently moved to Pakistan, but his family is still here. We need to take care of such people because they bring in foreign exchange.

Madam Temporary Speaker, the other issue is around my pet topic; according to the Maputo Declaration, 25 per cent needs to be provided to the health and agriculture budgets. If I take 25 per cent of this year's budget of Kshs2.7 trillion, that gives us Kshs683 billion. What we are giving counties right now is only Kshs316 billion---

**The Temporary Speaker** (Sen. (Prof.) Kamar): You have 30 seconds.

**Sen. Farhiya:** Madam Temporary Speaker, this was a discussion that was between Intergovernmental Budget and Economic Council (IBEC). The governors agreed and subsequently even the Commission on Revenue Allocation (CRA). The Senators' hands are tied, yet two of the greatest devolved functions would have been given Kshs683 billion compared to Kshs316 billion that we are giving counties.

I beg to support.

Thank you very much.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you. Senators, I know there were two requests that were made and I want to rule on that first. There was the issue that was raised by Sen. M. Kajwang' on whether we can vote. I have looked at the Standing Orders and tradition and it does not allow me to do that. But I would like to go by the suggestion that was given by Sen. Mutula Kilonzo Jnr. that we reduce our time further to three minutes, maximum. Please be gracious enough to use one minute if you can, so that we finish it in the next ten minutes.

Proceed, Sen. Nyamunga.

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): There is a point of order from Sen. Farhiya. You have enjoyed five minutes.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker. It is just a point of information. Part of the reason why we have this problem and we will continue having this problem year in, year out is that we need to extend the timelines from when the Budget Policy Statement is tabled and the time we have it for deliberation. That is vital information.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Noted. I was not sure who you were informing, but that is okay.

Proceed, Sen. Nyamunga.

**Sen. Nyamunga:** Thank you, Madam Temporary Speaker, for giving me this opportunity. Being a Member of the Committee on Finance and Budget, I thank the

Chairperson for leading the team. It was a short time with a lot of work. I want to thank not only the Speaker, but even the Members.

I would also like to say that the Ministry of National Treasury and Planning, CRA, Council of Governors (COG), civil societies and the Institute of Certified Public Accountants of Kenya (ICPAK). These are the several other institutions that came up with very good recommendations. It is important for us to note that as a nation, the Budget Policy Statement Report will give Kenya direction in terms of budgeting and the direction that the country should take in terms of development and raising of resources in the next year and in the near future.

Madam Temporary Speaker, it is important that we do a proper job that will give Kenya as a nation, the national Government and the county governments a clear direction on the issues of finances. It is important to note the issue of healthcare. It has already been mentioned by several Members who have already spoken, that it is not balanced.

If you have to do the National Hospital Insurance Fund (NHIF) together with the Universal Healthcare Coverage (UHC), there must be a clear mark of where NHIF ends and where the UHC starts. Without that, it will bring a lot of confusion.

From NHIF, we see that instead of a bigger percentage of resources going to the national hospitals, it goes to the private sector. So the reason may not be clear. But one of the reasons that is very clear to me is the fact that most of the Government hospitals are not properly resourced and facilitated. It means that whenever anybody is ill, people prefer to go to the national Government.

Madam Temporary Speaker, I know there is a narrative that there could be a lot of corruption in the private sector. That could be one of the reasons. Another reason is the preparedness of Government hospitals, compared to the private sector. We must balance that to make sure that Government hospitals are properly facilitated to take care of the money that comes from the people of Kenya.

One other very important issue that came out is to do with agriculture. We are a consuming nation. Instead of consuming alone, it is important for us to do production. If we do not do production, it means that we will be working for other nations.

Madam Temporary Speaker, there is the problem of exports. We do not have exports. We cannot say that disbursement that comes from the diaspora is what we want to depend on---

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

**Sen. Were:** Thank you, Madam Temporary Speaker. I would also like to thank the Committee on Finance and Budget for this Report on the Budget Policy Statement. This Budget Policy Statement came to our Committee on Health and we realised that funds have been increasing to the Ministry of Health to deal with matters health.

This year, the Ministry is going to focus on UHC which did a pilot program in four counties and the report suggested that they are going to focus on primary healthcare.

Universally, most of the aspects of primary healthcare are not all devolved functions. If we have more funds going to the Ministry when the functions are devolved, what is the Ministry going to do with this money that is taken to them instead of being taken to the counties? We also found out in our Committee that there are funds allocated for construction of stadia every year but we do not seem to see these new stadia being constructed.

Madam Temporary Speaker, money is being allocated to the Women Enterprise Fund, Uwezo Fund and Youth Enterprise Development Fund, but these funds do not reach these vulnerable groups because of the strict measures or bureaucracy that is put in place. These vulnerable groups are not accessing this money. We would like the concerned Ministry or agencies to make sure that they put measures in place that make it possible for these vulnerable groups to access this money.

Madam Temporary Speaker, on debt management, we allowed the national Government to incur debts of higher amounts. As much as most of us were opposed to this, it is going to happen. I want to report to this House that my party, Amani National Congress (ANC), will be sponsoring a Bill on the Debt Management Authority before the end of this Fourth Session. We will outline how we need to manage our debts.

We are told that every Kenyan, even a newborn, owes our creditors around Kshs138,000. Therefore, I ask that when this Bill comes to Parliament – either the National Assembly or the Senate – we shall support it fully. This is so that this country can establish a Debt Management Authority to guide this country on how to deal with matters debt.

Thank you.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Olekina.

**Sen. Olekina:** Madam Temporary Speaker, I thank you for giving me this opportunity. I had a chance to look at the Budget Policy Statement. I have also had a chance to look at the recommendations made by the Committee. I hope that the Chairperson, the Mover and the Seconder listen to me because sometimes I am a little bit confused over who has the mandate.

I have looked at Recommendation No. 4, and I have an issue with it, as much as I want to support this. Let me first of all register that I actually do not support the Committee report, because it has two different issues. Recommendation No. 4 says that there is need to relook at how the vertical revenue sharing is determined to avoid a situation where the Commission on Revenue Allocation (CRA) and the National Treasury are proposing different figures using a different formulae basis.

Madam Temporary Speaker, I thought that it is the role of the CRA to come up with recommendations so that the National Treasury can look into them. When the Committee says; “to avoid these two entities coming up with different figures,” I will not support that recommendation.

I have also looked at the other issue of the money in the Managed Equipment Services (MES). Last year’s mediation taught us quite a lot; that in terms of the equipment that we have leased, there is really nothing that we can do. I have seen a recommendation here that says that the allocation of Conditional Grants on leasing of medical equipment should be withdrawn and payment discontinued until when the ongoing investigations are complete. I really do not think that that can happen. There is no point in us wasting time.

In fact, one of my biggest problems with this House and the Committee – I want the Committee Members to pay attention – is that we are continuously violating the Constitution. We have not agreed to pass the third generation formula.

We have issues because of the different things. The third generation formula is still stuck in the Committee. We are violating the Constitution. The Constitution is very clear; that every five years---

**Sen. (Eng.) Mahamud:** On a point of order, Madam Temporary Speaker. Is my good friend in order to discuss the issue of the Third Generation Formula? That will come in the County Allocation of Revenue Act (CARA). Rest assured that during CARA, we will use the Third Generation Formula. This is not a forum to discuss that.

**The Temporary Speaker** (Sen. (Prof.) Kamar): That is more of information which I think he did not have.

**Sen. Olekina:** Madam Temporary Speaker, when there is Recommendation No.4 that talks about the role of CRA and the National Treasury in terms of coming up with a formula, of course, it gives me room to discuss the issue of the third generation formulae.

My plea to the Committee on Finance and Budget is that as much as we say that the Executive keeps on violating the Constitution, two wrongs do not make a right. It is about time that we take our responsibility very seriously. If we keep on fighting---. Some of us are still stuck in the idea that we should consider the land size. Others are stuck in the idea that it is distance to service.

Madam Temporary Speaker, the Committee needs to sit down and have a meeting with both the National Treasury and the CRA to figure out what will happen. Right now, the biggest problem we have---. I would rather take the opportunity to discuss that now, because I am sure that it affects us.

When we talk about the vertical share and we say that counties should be given Kshs316 billion, what is shocking is that even the data we are using is for 2009. Counties are not really getting what they are supposed to get. In fact, if you look at the second generation formula, which is what the CRA and the National Treasury are using at the moment, if we apply the current population numbers, Narok County will not get Ksh7.1 billion; they will get Kshs8.1 billion. My concern is that---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Olekina, you have run out of time.

Sen. Halake, you have three minutes.

**Sen. Halake:** Thank you, Madam Temporary Speaker. Three minutes is too short for financial analysis, but thank you for giving me a chance. Every year we go through this, we have three minutes to discuss something as serious as the Budget Policy Statement, which is a tool of evaluation for the budgets that will be used for the rest of the year. I do not know if that is doing it justice.

Let me just pick one issue because I cannot do too many things in three minutes. One of the issues that is of concern is the impact of the national debt on insurable revenue. There is Kshs89 billion that will be added onto the projections for this year. All of it has been allocated towards pensions and debt repayment on principal and interest. I suspect that perhaps it would mostly go to interest.

The fact that the shareable revenue is affected so much by the national debt must be something of concern to this House. This is because it means that the national debt is what is coming in the way of us resourcing our counties and the service delivery at the local level.

Madam Temporary Speaker, the sources that the National Treasury is putting as the source of revenue increment – the 2 per cent from the 1.84 per cent – are Income Tax and Value Added Tax (VAT). They are both declining in proportion to the ordinary revenue that we are targeting to collect. I wonder how realistic it is to project an amount

of Ksh2.134 billion for projects that total revenue collection, when the fundamentals, which are the Income Tax and the VAT are actually declining.

The only non-declining area we are told of is the non-income tax. We have not seen measures that have been put in place to get money from that source. Therefore, my worry is that we are projecting revenues that may not be realized. As this House, we need to really think through where county services will be funded from or where the growth will come from if we will create jobs or get people on board to be production centers rather than cost centers.

Madam Temporary Speaker, there are also Conditional Grants. The framework for management of these grants continues to be a problem. I wonder what we will do about this because---

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

I just want to inform Members that there is no mischief in reducing the time. The Committee spent the whole of Tuesday and part of yesterday receiving directly from Committees. That is why we were expecting most Members to have forwarded their report so that we have one consolidated report which we are debating today. But thank you very much for those remarks.

I do not see Sen. Linturi in the House, so we will skip him.

Sen. M. Kajwang’.

**Sen. M. Kajwang’**: Madam Temporary Speaker, four documents were laid before this House; the Draft Budget Policy Statement, the Medium Term Debt Management Strategy, the Draft Division of Revenue Bill and the Draft County Allocation of Revenue Bill.

I want to pick up from where Sen. Olekina left. The Committee on Finance and Budget has implored the House to agree with the National Treasury on the Budget Policy Statement, Medium Term Debt Managing Strategy, and the draft Division of Revenue Bill with amendments on the issue of MES.

However, I do not see a recommendation on the Draft County Allocation of Revenue Bill. The County Allocation of Revenue Bill is based on the formula for revenue allocation. The CRA has observed – it is captured in this Report – that the National Treasury used the Second Generation Formula.

It is captured in this Report that the National Treasury used the second generation as a basis for the County Allocation of Revenue Bill (CARA). The Chairperson of the Committee on Finance and Budget should not brush off this concern by saying that it is coming.

**The Temporary Speaker** (Sen. (Prof.) Kamar): There is a point of information from the Chair of the Committee on Finance and Budget.

**Sen. (Eng.) Mahamud**: Madam Temporary Speaker, I would like to inform the House that the documents are annexed to the Budget Policy Statement (BPS) and the Medium Term Debt Management Strategy. Both the DoRA and CARA will be officially tabled in the National Assembly and the Senate before the end of April which is in accordance with the Constitution.

You only picked one glaring Clause in the DoRA and, therefore, rest assured, DoRA will be subjected to scrutiny. There are a lot of things that will have to change in the CARA because of the Third Revenue Sharing Formula. According to our timetable,



we will have the new formula in place by the beginning of April with the approval of the Senate. For those reasons, kindly bear with us because Bills must be produced in the Houses accordingly. Currently, they are just annexes to the BPS.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you for that information.

I see Sen. Halake has a point of order.

**Sen. Halake:** On a point of order, Madam Temporary Speaker. With all due respect to our Chairman, is he putting the cart before the horse? If the tool for evaluating the CARA and DoRA is still under discussion, how are we going to use this BPS to evaluate the expenditures going forward?

**The Temporary Speaker** (Sen. (Prof.) Kamar): I see Sen. Olekina has a point of order. I will let him raise the point of order so that the Chairman of the Committee on Finance and Budget responds to them at once.

**Sen. Olekina:** On a point of order, Madam Temporary Speaker. Like Sen. Halake, I am equally concerned. I have heard the Chairperson of the Committee on Finance and Budget indicating that DoRA and CARA will be tabled afresh. I have looked at the recommendation on Clause 13 where it is stated that Clause 5 of the proposed Division of Revenue Bill, 2020 should be amended.

I am sure if the actual revenue raised nationally and in the financial year falls short of the expected revenue set out in the Schedule, the shortfalls shall be borne by the National Government.

Madam Temporary Speaker, this brings us back to the issue of DoRA. If we do not discuss it now and go with your submission that you will table it afresh, why then should we seek for it to be amended in the BPS yet it has got nothing to do with it. Those are the things that concern me. I wish you could table a spreadsheet to show all these Senators the 47 counties that the National Treasury relied on the Second Revenue Formula to divide the revenue and that is why I am saying that we have already violated Article 217 because we have not fulfilled it.

In my view, this BPS should have come after the Third Generation Formula has already been passed by this House. We cannot be going backwards.

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, Clause 5 is just meant to prepare ground for the Senators to be aware when DoRA comes. As I said earlier, DoRA has to be introduced in Parliament at least two months before the end of the financial year. That means that it has to be introduced to the House by 30<sup>th</sup> April. That Bill will be introduced by the National Assembly and not us. After the Bill is passed, we will introduce CARA. The figures for the 47 counties will only appear in CARA. The figure in DoRA, Kshs316 billion for counties will be distributed to the counties according to the formula.

We are going to use the Third Generation Formula. By then, we could not use the Third Generation Formula last year because we had protracted debate on DoRA which took us a lot of time. However, we have no option but to use the Third Generation Formula this year. In fact, before we introduce the CARA to the Senate, we will have agreed on the Third Generation Formula.

*(Loud consultations)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we still have time. The timetable is very clear that we have time until 30<sup>th</sup> of April. However, this is the last day for this debate, and so, we must pass it today.

Since we have to beat the deadline, I would like Sen. Kajwang to conclude making his observations.

I see Sen. Olekina has a point of order.

**Sen. Olekina:** On a point of order, Madam Temporary Speaker. This being a House of record, the Division of Revenue Act (DoRA) and the County Allocation of Revenue Act (CARA) that the Chairperson of the Committee on Finance and Budget has got figures based on the Second Generation formula. Does that mean that the Chairperson will withdraw that and table CARA afresh?

**The Temporary Speaker** (Sen. (Prof.) Kamar): Your point is noted, Sen. Olekina.

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, I will personally table CARA in this House. This is only a draft. Once the Senate agrees, we will amend that Schedule using the Third Generation formula. The DoRA does not have to use that formula.

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

Sen. Kajwang', you have a minute to conclude.

**Sen. M. Kajwang':** Madam Temporary Speaker, I thought I had two minutes.

For the respect that I have for the Chairperson of the Committee on Finance and Budget, I take the assurance that the Third Generation Formula will come to this House before 30<sup>th</sup> April. I also hope that it is a rumour that it has already been introduced in the other House because this is the House that is supposed to process it.

My final observation is on the stakeholder engagement in this particular exercise--

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**The Temporary Speaker** (Sen. (Prof.) Kamar): Point of information from the Chairman of the Committee on Finance and Budget.

**Sen. M. Kajwang':** Madam Temporary Speaker, I will accept the information as long as my time is not taken away.

**Sen. (Eng.) Mahamud:** Madam Temporary Speaker, I would like to assure the House that the Third Generation Formula is the absolute mandate of the Senate. If we pass the formula, that House can only reject by two-thirds majority. There is no way that they can introduce The Third Generation Formula and bring things to us to pass.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Kindly wind up, Sen. Kajwang.

**Sen. M. Kajwang':** Madam Temporary Speaker, we need to review the concept of public participation of the BPS. I have looked at the attachments and whereas the National Treasury, the Commission on Revenue Allocation (CRA) and the Institute of Certified Public Accountants of Kenya (ICPAK) appeared, I have not seen a submission from the Council of Governors (CoG).

That is alarming because if the governors cannot appear before the Senate and prefer to go to Intergovernmental Budget and Economic Council (IBEC), yet I have not seen any communicate from the IBEC on the conversation that took place between the two levels of Government.

The Senate is being rendered irrelevant if we cannot insist that governors appear before us during the BPS. We need to summon governors if they cannot appear before us

willingly. It is to the best interest of the governors to talk to the Senate rather than talking in hotels at the IBEC Forum.

With those few remarks, I beg to support.

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

**Sen. (Dr.) Kabaka:** Madam Temporary Speaker, I am a Member of the Committee on Finance and Budget. I would like to inform Sen. Kajwang that we summoned the CoG but they decided to go to bed with the Executive. We summoned the CoG but they never appeared.

I would like to highlight two issues from this document: The issue of own-source revenue (OSR) which has not received the best practice. When devolution was created, we assumed that counties have enough human resources and technocrats to operationalize well on the OSR.

However, I believe that the national Government with the pool of human resources in finance, law, economics and other areas should intervene to assist the counties enhance their own-source revenue streams. The performance is farfetched; it is below par.

Madam Temporary Speaker, I also support the issue of stoppage of allocation of conditional grants on leasing of medical equipment. The reason is that, we know that these contracts are shrouded in mystery. They are illegal and fraudulent. In fact, they are a scam and they should be called what they are.

Counties have lost a lot of money through this scam in which money is always paid at the source which is the Treasury. This is what lawyers call a standard form contract where one party has a very weak bargaining force. Therefore, I support the stoppage of that allocation until things are sorted out.

The last aspect is the issue on projects. Once this money is apportioned, the Government has not come out clearly on how the national projects---

**The Temporary Speaker** (Sen. (Prof.) Kamar): You have 10 seconds.

**Sen. (Dr.) Kabaka:** This one cuts across all the counties. The Government should be very clear on the money which is allocated, to give us timelines within which these projects should be completed because we are suffering and we are being told that we are not doing our oversight role well.

I support.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you. We have finished contributions. I will give the Chairperson a few minutes just to respond.

**Sen. (Eng.) Mahamud:** Thank you very much Madam Temporary Speaker. Let me thank the Members for the useful contribution that they have made to this Report of our Committee on the Budget Policy Statement.

The Budget Policy Statement is the policy statement on budget issues. In fact, this is when we have discussions on Division of Revenue Act (DORA), County Allocation Revenue Act (CARA) and the national Budget. All these will be triggered after this, so I think we have strict timelines.

I assure the Members that in terms of DORA and CARA, which is going to be division between the two levels of government that we will do our best to have the Third Generation Formula finalised so that it will be used in the coming CARA.

It will be finalised and then brought to the Senate for Members to go through, so that we can adopt it as per Article 217 of the Constitution.

With those few remarks, I beg to move.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, since this affects counties, we will ring the Division Bell for five minutes so that we put the question.

*(The Division Bell was rung)*

Hon. Senators, Order! Please take your seats.

The Bell has stopped ringing, so I order that the Doors be locked and the Bars drawn.

*(The Doors were locked and the Bars drawn)*

**The Senate Majority Leader** (Sen. Murkomen): Madam Temporary Speaker, just give us one minute to confirm the numbers.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we will ring the bell again for five last minutes.

*(The Doors were opened and Bars drawn)*

*(The Division Bell was rung for five minutes)*

Hon. Senators, let us take our seats. Let the Bars be drawn and the Doors locked.

*(The Doors were locked and the Bars drawn)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I will put the question which is that, pursuant to Section 25(7) of the Public Finance Management Act and Standing Order No. 180(7) of the Senate, this House adopts the Report of the Standing Committee on Finance and Budget on the 2020 Budget Policy Statement and Medium Term Debt Management Strategy, laid on the Table of the Senate on Thursday, 27<sup>th</sup> February, 2020.

Hon. Senators, we need to vote. Please switch off and then switch on your gadgets. Have you logged in?

**An hon. Senator:** Not yet!

**The Temporary Speaker** (Sen. (Prof.) Kamar): Please remove your cards and insert them again. Do not forget that you must log in. Logging means writing the number that you know.

We have a few Members who will vote on behalf of their delegates, such as Sen. Chebeni for Uasin Gishu County and Sen. Zawadi for Kilifi County. Is the Senator for Nairobi City County here? Sen. Wamatangi is not for Nairobi but Kiambu County. You can now start voting.

*(Voting in progress)*

We are done with electronic voting. Let us have those Members who need assistance to come forward?

*(Several Senators walked to the Clerks-at-the-Table and registered their votes)*

## DIVISION

### ELECTRONIC VOTING

*(Question, THAT, pursuant to Section 25(7) of the Public Finance Management Act and Standing Order 180(7) of the Senate, this House adopts the Report of the Standing Committee on Finance and Budget on the 2020 Budget Policy Statement (BPS) and Medium Term Debt Management Strategy, laid on the Table of the Senate on Thursday, 27<sup>th</sup> February, 2020), put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Cheruiyot, Kericho County; Sen. Farhiya, Nairobi City County; Sen. Halake, Isiolo County; Sen. (Eng) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. (Dr.) Kabaka, Machakos County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Loitiptip, Lamu County; Sen. M. Kajwang', Homa Bay County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ndwiga, Embu County; Sen. Nyamunga, Kisumu County; Sen. Ochillo-Ayacko, Migori County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orengo, Siaya County; Sen. Poghiso, West Pokot County; Sen. Prengei, Nakuru County; Sen. Shiyonga, Kakamega County; Sen. Wamatangi, Kiambu County and Sen. Zawadi, Kilifi County.

**NOES:** Nil

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, the results of the voting are as follows-

**AYES:** 24

**NOES:** Nil

**ABSTENTIONS:** Nil

*(Question carried by 24 votes to nil)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): You can now unlock the Doors and draw the Bars.

*(The Bars were drawn and door opened)*

Hon. Senators, please take your seats. We are now on Order No.8.

## MOTION

APPROVAL OF THE SENATE CALENDAR  
FOR THE 2020 SESSION

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

THAT, pursuant to Standing Order 29(1), this House approves the Senate Calendar (Regular Sessions) for the Fourth Session (*February to December, 2020*), laid on the Table of the House on Wednesday, 26<sup>th</sup> February, 2020.

Madam Temporary Speaker, the Senate Calendar was laid on the Table on Wednesday. It starts from 13<sup>th</sup> February to 3<sup>rd</sup> December, 2020.

During this period, there will be the Devolution Conference, the Legislative Summit and the meeting of the Senate outside Nairobi, and all that has been taken into account. The Devolution Conference and the Legislative Summit are done in consultation with the Council of Governors (CoG) and other arms of Government. So, that has also been taken into account. I hope that this Calendar will be adopted by this House.

I beg to move and ask Sen. Mutula Kilonzo Jnr. to second.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Madam Temporary Speaker. I rise to second the Calendar of events and reiterate the comments by the Mover, Sen. (Eng.) Mahamud, that Senators and Committees should note the Legislative Summit in Nakuru County, the Devolution Conference in Makeni County and the Senate *Mashinani* in September, so that they can plan accordingly.

I, therefore, second the Motion.

*(Question proposed)*

**Sen. M. Kajwang:** Madam Temporary Speaker, I rise to support the Motion and make one observation. Note number three on the Calendar says, "Annual suspension of Committee sittings from 14<sup>th</sup> December, 2020 to 29<sup>th</sup> January, 2021." I appreciate that it is usually necessary to provide staff with an opportunity to take their leave and provide Members with an opportunity to go to their counties and interact with the electorate. However, I encourage the SBC and the Clerk to consider Sessional Committees and allow them to continue to do their business with due regard to the festive season.

As we speak, the Senate has not reconstituted Sessional Committees, while those of the other House are up and running. I know that they were constituted at the beginning of the session. However, it was visible that some of them were working during recess time.

So, my only comment, while I support this, is to ensure that there is some flexibility for Sessional Committees. That will give them an opportunity to complete their work, do their reports, tie them properly and bring them to the House. In a subsequent session, if a new team is selected, we will not have arguments about work that was left unfinished.

Madam Temporary Speaker, with that observation, which I hope the SBC and the Clerk will look into, I support the Calendar.

**Sen. Ochillo-Ayacko:** Thank you, Madam Temporary Speaker. I support this Calendar as it is. If you talk to Members informally outside the Chamber, you will realise that they have always suggested a different way of approaching House Business. Most of them feel that insufficient time is dedicated to look into matters of oversight, particularly

reports of County Public Accounts and Investment Committee (CPAIC) and others, which should bring into focus what we do, as a Senate.

I propose that those responsible for such programmes listen to the feelings of Members. We want to debate issues that relate to misuse of public resources in our counties. We also want to hold into account those we are supposed to oversight under Article 96 of the Constitution. So, in future, when this kind of programme is done, I hope that, that matter will be factored.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. We spend a lot of time working on Bills and other things. However, nobody tells us why our Bills do not move forward in the other House.

In the first year, I sponsored a Bill on statistics and up to now, I do not know its status. Some of the Bills take one year to prepare, but when they go to the other House, there are a lot of amendments and contributions from Members and, at the end of the day, nothing comes out of it.

Madam Temporary Speaker, let us work differently this year. It is incumbent upon the leadership of this House to follow up with the leadership of the other House to ensure that the business of this House does not come to a halt. Sometimes we are discouraged.

We have the Committee on Justice, Legal Affairs and Human Rights, which does a good job. Therefore, it should advise us if certain Bills should not originate from this House. This needs to change this year. I, therefore, request the SBC to follow up, because we need answers this time round. We cannot lament all the time.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you. There being no other request, I now put the question.

*(Question put agreed to)*

Hon. Senators, for the convenience of the House, Order Nos.10, 11, 12,13,14,15 and 16 are all at the Division stage, so, we defer up to Order Nos.16 and 17. The mover is out of the country on official duty.

## **BILLS**

### *Second Reading*

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

*(Bill Deferred)*

### *Second Reading*

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

*(Bill Deferred)*

*Second Reading*

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

*(Bill Deferred)*

*Second Reading*

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

*(Bill Deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole Deferred)*

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

*(Committee of the Whole Deferred)*

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

*(Committee of the Whole Deferred)*

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT)  
BILL (SENATE BILLS NO. 38 OF 2018)

*(Committee of the Whole Deferred)*

Hon. Senators, on Order No.18, we are informed that it should be deferred after consultation.

THE COUNTY HALL OF FAME BILL  
(SENATE BILLS NO. 39 OF 2019)



*(Committee of the Whole Deferred)*

Order No.19 on the Motion on the Adoption of the Report of the Parliament of Kenya Delegation to the 7<sup>th</sup> Symposium of the Independent Commission against Corruption (CAC) was interrupted on Tuesday the 25<sup>th</sup> February, 2020 and there was still a balance of time; is there anybody wishing to debate?

### MOTIONS

#### NOTING OF THE REPORT ON 7<sup>TH</sup> SYMPOSIUM OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 7<sup>th</sup> Symposium of the Independent Commission against Corruption of Hong Kong (ICAC) held in Hong Kong on 22-24, May 2019 and laid on the Table of the Senate on Wednesday, 19<sup>th</sup> February, 2020.

*(Sen. (Dr.) Mwaura on 19.2.2020)*

*(Resumption of debate interrupted on 25.2.2020)*

**Sen. M. Kajwang’:** Madam Temporary Speaker, I rise to support the Report of the Parliament of Kenya Delegation to the 7<sup>th</sup> Symposium of the Independent Commission Against Corruption (CAC) of Hong Kong, that was held in Hong Kong on 22<sup>nd</sup> to 24<sup>th</sup> of May, 2019.

Kenyan, in their usual comedy, have said that the Coronavirus that we welcomed at our airports just the other day when we allowed a flight full of passengers from China should start with Parliament before it goes to other sectors of society. That tells you a lot about how Kenyans think about Parliament. Therefore, when a delegation of the Kenyan Parliament goes to Hong Kong to discuss anti-corruption, then it is met with a lot of skepticism and cynicism on the part of Kenyans.

Another Kenyan, in their usual satire, said that the biggest gathering of thieves is found in the Kenyan Parliament. I think that it is very unfortunate. I do not agree with them, because those of us who are in this august House are nowhere close to that. We are public spirited individuals who are sitting here at this time of the day to legislate and discuss issues of national importance; but sometimes it is about perception. Perception trumps reality, and it has been the view of many Kenyans that this House has not done well as far as matters of corruption are concerned.

We have a caucus in this Parliament called the African Parliamentarians Network against Corruption (APNAC), and the leader of the Caucus is none other than the Speaker of the National Assembly. APNAC has done a great job in representing the Kenyan Parliament in international forums and other caucuses to discuss how to deal with corruption. Unfortunately, the case study of Kenya is not one that encourages a lot of sympathy whenever we go for APNAC sessions or whenever we go for conferences on

anti-corruption. Every other week that passes, there is corruption in the public and private sector.

Last year, the Committee on Liaison sponsored a few Members to go to Malaysia, and part of the conversation with the Malaysian Anti-Corruption Commission was to share experiences in the battle against corruption between the two countries. We know that the Malaysian political environment was rocked with serious corruption allegations in what was called the 1Malaysia Development Berhad's (1MDBs) Scandal, that led to the ouster the country's Prime Minister. It also gave rise to the oldest Prime Minister on earth, in the name of Prime Minister Mahathir bin Mohamed. Just last week, if not this week, the Prime Minister Mahathir bin Mohamed was forced to leave office. Again, you find the forces of corruption battling very hard to ensure that the new administration does not get along or get on with its anti-corruption crusade.

We shared experiences with the Malaysian Anti-Corruption Commission, and one of the things that we brought back home and which I particularly intend to legislate on, is the concept of corporate liability and responsibility, when it comes to matters of corruption. In a corrupt environment, there are two parties; there is the person seeking to take advantage of the State or seeking to take advantage of their position and there is the other willing player, who does not have any objection engaging or indulging in the act. The private sectors in this country have been players and have been willing participants in corruption.

Madam Temporary Speaker, if you found a sales person or a business development representative of an insurance company, for example, bribed or used corrupt means to get business--- I know that right now, there are active issues. There is an issue that has appeared before the Committee on County Public Accounts and Investment (CPAIC) regarding one of the counties where a medical insurance contract was inflated and it appears that kick-backs were given through the channel that is called "commission." That is a matter that even the Auditor-General brought out in his report for that particular county.

Are we only going to focus on the governors and procurement officers who procured the service unprocedurally? What happens to that insurance company or service providers who are also accomplices in the act? Our fight against corruption has not looked broadly into that issue of corporate liability. It is time we legislated and made it clear that if you represent an organization and you engage in kick-backs and underhand dealings, then the corporate entity is also liable.

In Malaysia, they came up with Corporate Liability Law as an amendment to their Anti-Corruption Act. That has put brakes on issues of private sector corruption, because the fines are very stiff. If you are found liable, upon conviction, you shall be fined 20 times the amount involved; or 1 million Malaysian Ringgits or 20 years in prison. That has brought some sense of sanity in the private sector, such that if someone was to approach you that this year we are going to buy guns, and you are somewhere in the private sector and then you are convinced to start giving out hand-outs or bribes to get the guns tender, then it is not just the person who was purporting to be offering the guns tender who will be on the spot, but also the person who is giving the bribe and not just the individual but the entire organization that he represents.

So, whenever we go out to have these conversations on anti-corruption, it is important that we come back home with a finding or with some revelation that we can

make part of our legislation and legal regime. In that particular Malaysian example, I believe that the corporate liability issue is something that Kenya can learn from.

When we looked at Malaysia's infrastructure for fighting corruption, we realized that Kenya has a far superior infrastructure for fighting corruption, but less results. Therefore, the fight against corruption is not about tools and infrastructure, it is about the will. As they say, fish begins to rot from the head. Therefore, that will must come from the top or the highest level.

I am glad that we, as the Senate, who are the defenders and protectors of devolution, have always decried the high rate of graft in counties. We have always decried the waste and lack of value for money for initiatives in counties. I am glad that this Senate, in this 12<sup>th</sup> Parliament, has processed a successful impeachment. In the last Parliament, we dealt with a number of impeachments, and none of them was successful. I am glad that in this Senate, we are discussing circumstances where a county has decided that they are unable to deliver directly, and they have asked for help from the national Government. We are getting into some un-chartered waters. This Constitution is like a mansion with many rooms, some of which no one has stepped into. When the Nairobi City County Government ceded some of the key functions that a county government is supposed to offer to the national Government, we entered a room that we have never gone into before and questions are bound to arise.

The challenge we have, as the Senate, is not to mourn like the hawker out there, or the photographer who takes photos of people outside the Kenyatta International Convention Centre (KICC) and City Hall. We have a responsibility to provide direction and solutions. Even when we debate, we should not be seen to be crying, desperate, clueless or surprised. The debate that should come to this House with regard to the issues of Nairobi and how to ensure that there is value for money should be solution-oriented. Since part of the reason we have problems in our counties – where governors have been told to step aside or stay out of office, is directly related to corruption.

Madam Temporary Speaker, there have been ideas that we make the Ethics and Anti-Corruption Commission (EACC) a constitutional Commission that is entrenched in the Constitution. However, the question is, what have they done with the powers that they currently have? How many of their investigations have resulted into prosecutions and convictions? We see that there is a problem with this progression of cases from the EACC to the Directorate of Public Prosecutions (DPP), particularly in cases of counties. In the last Session, we had an EACC representative sitting in the CPAIC, who could tell us that, "With respect to county 'x,' we have concluded investigations into almost 10 cases and forwarded the files to the DPP." Then what happens at the DPP? It is total and complete silence.

These two bodies need to work together. The EACC is comprised of people who have the ability to investigate and determine whether certain cases are strong enough to withstand in a court of law. We must, therefore, find a legal framework that ensures that where the EACC has a clear case, it should make recommendations for prosecution, and then the matters die at the DPP. We have a lot of confidence in the DPP, the Directorate of Criminal Investigations (DCI) and the EACC, but it must result into convictions.

The CPAIC has already tabled about 60 reports before this House. In this Session, the focus must be on implementation of the recommendations of Senate on the Auditor-General's report. It is sad that even as we speak about anti-corruption, it is six months

since the Auditor-General left office. To date, we do not have an Auditor-General in place. The Auditor-General is an important gate keeper, and is the one who tells us whether there is value for money or whether public funds are being utilized properly. There seems to be a conspiracy of silence. When there was a delay in appointing the Controller of Budget, the governors almost went on rampage because the Controller of Budget gives them access to their cash. However, when there is a delay in the appointment of an Auditor-General, no one is speaking. Parliament should be loud in demanding that this impasse on the appointment of an Auditor-General be brought to a close. This is because the Auditor-General, in many jurisdictions, is an agent of Parliament. The Executive will not push for it. Perhaps the Executive is even happy that Mr. Omtatah has gone to court to challenge the process.

Madam Temporary Speaker, as I conclude, I hope that Sen. (Dr.) Mwaura, who attended this conference in Hong Kong, will help us strengthen what we already have. Sometimes it is not for want of laws, but more of will and implementation.

Finally, Madam Temporary Speaker, I also note that this meeting happened in May, 2019 which is about eight months ago. Sometimes when there are recommendations or resolutions coming out of those conferences that come to Parliament nine months later, they might be overtaken by events. We probably need to rethink on how we report back to this House when we go for international conferences. My view has been that we could borrow something from our neighbours in Uganda. We do not always have to use them as a bad example; we can pick some few best practices from them. Whenever they go for international conferences, when they come back, the leader of delegation reports back to the House through a Statement, but they then table the report before the House. That allows the matter to be processed far more expeditiously. When you look at the reports that are on the Order Paper, you realize that many of them are reports that ought to have been dealt with in the last Session.

Madam Temporary Speaker, I support the Motion. I want to encourage Sen. (Dr.) Mwaura, who is the Vice Chairperson of the Africa Parliamentarians Network against Corruption (APNAC), and who represents the Senate alongside Hon. Shakeel Shabbir of the Speaker of the National Assembly, to strengthen this institution so that it can be the voice of Parliament on matters to do with corruption.

I beg to support.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. There being no other request, I would like to call upon the Mover to reply.

**Sen. (Dr.) Mwaura:** Thank you, Madam Temporary Speaker. I beg to reply. I am delighted to reply in your presence, because it gives me very good memory. The first time I ever saw you chairing a Parliamentary Session was way before I became a parliamentarian, in the 9<sup>th</sup> or 10<sup>th</sup> Parliament. You continuously execute your roles very well. Recently, I discovered that you work very hard and late into the night.

Madam Temporary Speaker, let me proceed by thanking all the people who have made robust contributions to this report of the 7<sup>th</sup> Independent Commission against Corruption (ICAC) meeting that was held Hong Kong in May, 2019. I thank Sen. Farhiya, who seconded very well. She emphasized principally on the issues of lifestyle audits and what needs to be done so that we can track the monies that have been accrued out of proceeds of corruption.

I also wish to thank Sen. Pareno, who illuminated ways and means in which we can fight corruption. Sen. Pareno is very much involved in issues of party primaries, and there is a lot of political corruption going on there. She talked to us about measures that we can take to mitigate this practice. If there is political corruption in the manner in which leadership is acquired against the provision of Chapter Six, then it goes without saying that it affects the whole structure of governance.

I am happy with the robust presentations that have been made here, and the submission by Sen. M. Kajwang', who happens to be the Chair, CPAIC . I share a lot with him in regard to what needs to be done to ensure that there is proper accountability of public resources. In fact, we have had a conversation which I seek to prosecute, as I respond; that we need to move away from financial audits to performance audits. This is a very important element of our audit process. People have known how to account for money. From the Budget Policy Statement (BPS) that we have just passed, we are urging the Government to move away from cash accounting to accrual accounting.

When you do accrual accounting, then you are able to see the total picture. Performance audit also has social audit mechanisms that would require the civil society or the members of the public at the county levels, for example, to give their views on whether a project was actually done.

What we have seen from the proceedings of the conference is that most of the monies are lost through the whole project cycle, and it is about those huge infrastructural projects.

There is an issue that we need to look at in retrospect, as a Senate; the role of legislators who are also advocates. There have been very serious conflicts of interest where you have a lawyer, who is a Member of the Senate or the National Assembly, practicing law and also being a legislator. I wish they could be here. They are also at the same time defending Governors, who come to appear before us, and representing them in court. How do you separate powers there? This is the best example, not even of rent seeking, because rent seeking alludes to bribery; this is 'clientelism.' The issue of 'clientelism' has not been properly captured in law. It is, therefore, important that as we review our anti-corruption laws, we capture the issue of 'clientelism' so that you are disbarred from being a legislator who also then practices in a manner as to occasion conflict between yourselves and your client. It also applies to other advocates.

Article 171(f) of the Constitution illustrates a situation where two advocates of the High Court can sit in the Judicial Service Commission (JSC) and at the same time practice before the same judges that he or she has approved. You will remember that this has been a very serious contestation around the case of Ahmed Nassir Abdullahi, Tom Ojienda and others, who represent the Law Society of Kenya (LSK). Therefore, some of these issues boil down to professional ethics. As we had noted, for every corruption case, there is a professional – there is an engineer, an accountant and all those people who are required – to conduct feasibility studies and make approvals.

We, therefore, also need to ensure, through Private Bills – please, Members need to differentiate between Private Members Bills and Private Bills – so that we can institutionalize these professional bodies over and above the traditional ones of medicine, law, engineering and accounting. That way, we can use them as tools or repositories to ensure then that there is professional conduct and ethics to disbar people from practicing. That will become a very good incentive.

Another key issue that comes out of this is the use of private business as shell companies that do not have the requisite competence to execute projects on the ground or rather, even legitimate companies being used to justify corruption by inflating costs. It has boiled down to the point where schools and colleges are being used to inflate the number of students or bursaries, and then monies go back to whoever has allocated these monies. This is becoming very important because why would you, for example, explain that there is a bursary kitty for the Member of County Assembly (MCA), Women representatives and the Member of Parliament (MP), and there is no management information system to see which student is getting what, where and how; or where these monies are going to yet this money is coming from the same Government? Even if it is what you call political mileage out of political philanthropy but using Government funds, but it is important to track it so that you can see whether there is double-dipping in terms of money being allocated to the very needy students. This then becomes a question where people become merchants of poverty, because then poverty gives the legitimacy to the need to occasion what I call development corruption.

Also, in terms of fighting corruption, the role of political parties is very germane. Hong Kong is a largely democratic entity, and there is an agreement between mainland China and the City State of Hong Kong that they will continue practicing democracy up to 50 years; which is coming to a close. This is why Carrie Lam is having a lot of problems because she is backed by Beijing, but the people actually want to continue with their self-determination. Such that, then, the mien and the culture of the people of Hong Kong is different from mainland China. But then, one of the things you learn from mainland China is that element of the Chinese People's Party (CPC). All civil servants are supposed to be member of the CPC so that they are subjected to the party's supervisory and disciplinary commission. That means that when you are a member of the main political party – because there could be other affiliate parties – the party can discipline you. Therefore, party discipline is important.

I was quite young, but I still remember, this is something that the Kenya African National Union (KANU) tried to achieve but with very disastrous results. We used to hear of the KANU Disciplinary Committee. However, it was not used to fight corruption, but rather to settle political scores. If that is done as a means of fighting corruption, where people sign a code of ethics and the party can discipline them, then people will know that the party will not send them to Parliament, the Cabinet or to independent constitutional commissions if they are corrupt.

Interestingly in China, if you belong to the Communist Party of China (CPC), you are not supposed to be a member of any religion. You are supposed to renounce your own religion. That means that one is only guided by the party's rules and what they call self discipline. Self discipline or self purification is almost like self-quarantine. Maybe it is because the Coronavirus started in China, that is why there are a lot of issues of "self."

Be that as it may, Madam Temporary Speaker, the whole idea is that if one decides that they will not be corrupt, they cannot be corrupt. It starts with all of us and our value systems. On one hand, you can credit religion for the coming into the place of the rule of law. Karl Marx talks about religion being the opium of the masses. We are in the season of Lent. Although I am not a Catholic myself, but Catholicism has been credited for installing the Judeo-Christian laws that we practice today.

The problem with the rule of law is that people go the courts, which provide avenues for corrupt individuals to escape. Kenyans have been accustomed to the idea that it takes up to two years before a case is determined. In fact, learning from the experience of the recent impeachment of the former Governor of Kiambu County was groundbreaking. This is because it was executed despite the various injunctions that could have been obtained if time was not observed. If we were a bit lackadaisical in terms of how we executed it, then we would have been caught with time.

You have seen revealing cases, such as the one involving Mrs. Cohen and Justice Sankale ole Kantai. However, I cannot comment on that, because it is a matter before court. We have also heard of cases where people flew from Nairobi to Kisumu and other places to take Strepisils. Is that really the case? In short, what I am trying to say is that it is true that we are experiencing a lot of challenges in courts in this constitutional dispensation. Going forward, there must be a way to unlock these cases.

Madam Temporary Speaker, another key thing to note is that the issue of balanced budgets for counties and even the national Government is critical. As I moved the Motion, I demonstrated how the public debt is a consequence of corruption, because individuals inflate bills. That means that our revenue is not enough, thus prompting us to borrow.

We were with Sen. M. Kajwang' trying to look at the jurisdictions of the United States of America (USA), where States cannot borrow without a plebiscite to okay the borrowing. Such a stringent measure ensures that you limit expenditure to your revenue base and whatever you are able to collect. The idea of borrowing from future generations has led to a situation where everything goes. It is also quite appalling that our local banks are the ones milking us. It is not even the external people who are borrowing money. That is something that we also need to look at.

Article 35 of the Constitution about access to information is very important. Article 47 of the Constitution is about fair administrative action, so that matters are fully expedited; and so that we do not lose momentum. For example, if I am accused of corruption, it should not take forever for me to be prosecuted, if I am found guilty.

The other issue that I also want to comment on is the role of state-owned enterprises. We have clogged our public system with state-owned enterprises that only ask for money from the Exchequer. If you look at the public guarantee, companies such as the Kenya Airways (KQ), the Kenya Railways (KR), the East African Portland Cement Limited (EAPCL) and the rest have been guaranteed in terms of hundreds of billions, but they have been run down through corruption. That is why the KQ, which is the pride of Africa, has been outdone by the Ethiopian Airways, yet it was the premier African airline a few years ago.

Madam Temporary Speaker, you can see the role of state-owned enterprises which do not have a 'sunset clause,' so that they can only operate for 10 or 20 years before they dissolve. This is unless Parliament feels that they need to continue, then they come to report progress of what value for money or what change they have done in society. We have about 575 state-owned enterprises and semi-autonomous government agencies that continue to inflate our bills and siphon out money. Recently the state-owned enterprises were classified into categories A, B and C. They now have over compensated salaries for their staffers doing an equivalent amount of work in comparison with the

mainstream civil servants. That is why we have so many white elephant projects that had not been completed.

Madam Temporary Speaker, based on the proceedings of this conference, it was clear that all the Government projects should be frozen six months to elections. There should be no new Government projects six months to elections. This is because part of the challenge we have with some of the pending bills not being verifiable, is because they were issued close to elections. This must have been certainly to finance the would-be officials who were running for office. That has caused a huge tax burden. We are currently looking at pending bills totaling to Kshs150 billion, some of which have been verified but not yet payable. Over and above all, some of the pending bills had not been paid because of the request for kickbacks by the various actors who are involved in procurement.

I, therefore, concur that there are legislative proposals that need to be brought to bear, so that we can curb corruption. I believe that we are making progress, but sometimes when I look at the EACC, which is under resourced and underfinanced--- I visited the EACC just the other day with the APNAC, where I serve as secretary, and they informed us that they do not have enough money to pay their staff.

Madam Temporary Speaker, the asset recovery outfit that we just created does not also have enough resources. The CEO, Ms. Muthoni Kimani, cannot go and take the monies from corrupt individuals due to lack of resources. However, they have managed to recover a number of properties worth billions of shillings. We need to strengthen the refinancing of these institutions, including the DPP, so that they can execute their mandate.

We need to set up a specific anti-corruption court whose integrity can be easily audited. The problem is that we have so many courts. You can go to any High Court to report corruption, but it is very difficult to track corruption cases due to judicial back log and the clogging in the system, which has been a serious challenge.

Madam Temporary Speaker, with those remarks, I beg to reply that we adopt this report. As Sen. M. Kajwang' has said, we should come up with a mechanism of not only increasing general knowledge on what needs to be done in the fight against corruption, but to find value for money. The MPs are paid a lot of *per diems* when they go out for these visits. Therefore, such reports should not just end up being reports that are discussed and left at that. We need to find ways in which we can go through those reports, get legislative proposals and enhance the fight against corruption. We owe it to ourselves to ensure that we create a functional developmental state that can emancipate our people from poverty and depravity. Many people are suffering due to poor implementation of law and the poor fight against corruption.

Integrity is a topic that I speak about passionately. I like to speak about our political economy and how our politics is organised. We currently have a platform to do that under the BBI.

Our politics is organised around the issue of tribes. How is it organised around the issue of tribe? The nexus between the issue of tribe, war and disharmony in Kenya needs a lot of rethinking in terms of the kind of laws that we are making, as we reconfigure this country. This is because corruption is robbing us of our present and future; and tribalism is robbing us of our collective sense of purpose.

Madam Temporary Speaker, I beg to reply.



**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you Senator. I have determined that this Motion does not involve counties.

*(Question put and agreed to)*

ADOPTION OF REPORTS ON INSPECTION VISITS TO THE  
MALABA BORDER POINT/KITUI ROAD PROJECT

THAT, the Senate adopts the reports of the Standing Committee on Roads and Transportation on the visit to the Malaba International Border Point (OSBP) and the inspection visit and familiarization of the Kibwezi-Athi-Mutomo-Kitui Road Project in Kitui County, laid on the Table of the Senate on Wednesday, 4<sup>th</sup> December, 2019.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, Order No. 20 is under the Chairperson of the Standing Committee on Roads and Transportation who is not around, therefore we will defer it.

*(Motion deferred)*

Next Order.

NOTING OF REPORT ON THE 50<sup>TH</sup> CPA  
AFRICA REGION CONFERENCE

**Sen. Halake:** Thank you very much Madam Temporary Speaker. I beg to move-

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 50<sup>th</sup> Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Zanzibar, Tanzania from 30<sup>th</sup> August to 5<sup>th</sup> September, 2019, and laid on the Table on 27<sup>th</sup> November, 2019.

As I move, I would like to inform the House that this was very important. As you know, the CPA, of which the Kenyan Parliament is a Member, is a membership organisation which comprises parliamentarians of the Commonwealth countries. For the African Chapter, our own Speaker of the National Assembly, hon. J.B. Muturi, is the Chairperson.

I would like to mention some of the members of the Kenyan delegation who included-

(1) Hon. Justin Muturi- Head of Delegation and Speaker of the National Assembly

(2) Hon. Makali Mwilu, MP and Regional representative for the East African Region of CPA

(3) Hon. Miwiruki Njagagua, MP and Branch Representative

(4) Hon. Janet Sitienei, who is the Commonwealth Women Parliamentary Kenya Chairperson

(5) Hon. John Mbadi, Minority Leader and Ex-Com Member of the CPA, East Africa

(6) Hon. Dennitah Ghati, Executive Committee Member

- (7) Hon. Wangari Mwaniki, Executive Committee Member
- (8) Sen. Enock Wambua, Delegate and Sub-Committee Member
- (9) Sen. Abshiro Halake, Delegate and Sub-Committee Member
- (10) Sen. Isa Juma Boy, Observer
- (11) Mr. Michael Sialai, Clerk of the National Assembly
- (12) Mrs. Sarah Kioko, Member of SOCATT
- (13) Mr. Njenga Ruge, Member of SOCATT
- (14) Ms. Maria Adjiboudou
- (15) Mr. Finley Muriuki
- (16) Mr. David Angwenyi; and,
- (17) Mr. Osman Said- Research officer.

Madam Temporary Speaker, the Kenyan delegation participated actively in the deliberations, and ably represented our country at the CPA Africa Regional Conference. During the various sessions, we were chairing quite a number of the sub-branches.

As the Vice Chairperson of the Senate Committee on Information Communication Technology (ICT), this Conference was very relevant in the sense that it was about ICT. The thematic area was the use of social media in enhancing parliamentarians' constituency engagement and public participation. There was also the use of ICT in strengthening public involvement in the legislative process, and empowerment of women using strategies to enable them participate in decision making using ICT. There was also the role of technology in developing democratic practices, as well as our participation in the East African Caucus; and the participation of our clerks in the Society of Clerks-at-the-Table (SOCATT).

One of the things that came out very strongly at the Conference was the fact that there are very big opportunities for parliamentarians to use ICT to enhance public participation and their own profile. This is especially so for women MPs, who were found not to be using much ICT because of the fear of its negative aspects, especially social media, where sometimes women are profiled differently and negatively. There is also fear of fake news that is making women shy away from the use of this opportunity to profile themselves, engage with their constituents and pass on what they are doing in Parliament as well as in their constituencies.

Initially, I was not in the delegation, but when I learnt that the theme of the Conference was ICT, I made a special request to attend as the Vice Chairperson of the Senate Committee on ICT. It was a real eye-opener for me in the sense that some of the best practices, especially in the Commonwealth countries that were not in Africa, was the amazing results that women and youth have been able to achieve to access the democratic space and political leadership, and use it to make themselves be seen, heard and engage in very different ways.

Madam Temporary Speaker, of course the CPA also had certain issues that were proposed. Just to mention a few, I would like to bring to the attention of this House some of the resolutions that would work for us well, as parliamentarians, as far as the use of ICT in strengthening the legislative process is concerned.

One of the things we have not done very well perhaps – and I must say that we do that at Committee level, especially when we are dealing and processing Bills--- When it comes to individual use of ICT, it was found that especially the women have not used it as it should to show the citizens what we are doing.

One of the issues is the establishment of an e-Parliament. Our Parliament is, of course, using ICT quite a bit. Our debates are streamed live, but we have not been able to pick out some of the key issues for amplifying, especially when it comes to certain issues that need advocacy at the highest levels, voting and the rest of it.

Madam Temporary Speaker, again, we looked at acknowledging the role of ICT in developing democratic practices. Of course, it has been found to be a double-edged sword.

**The Temporary Speaker** (Sen. (Prof.) Kamar): There is a point of order from Sen. M. Kajwang’.

**Sen. M. Kajwang’**: Madam Temporary Speaker, I would not have liked to interrupt the thought process of my sister, Sen. Halake, but I am looking at the Report that she is moving as a Motion. On page 5, it is signed by a stranger to this House, Hon. (Dr.) Makali Mulu (MP). I would have expected that a report that comes before the Senate would have been signed by either the Senator moving the Motion or somebody else who is a Member of this august House.

Is this Report properly before this House?

**Sen. Halake**: Madam Temporary Speaker, as I said, hon. Makali Mulu was the Chairperson of our East Africa Delegation. We thought that our Delegation Chairperson would sign – but I stand guided – we could re-sign it. That is the reason why we gave it to the Chairperson to sign it, and we thought we could do that. I stand guided.

*(The Temporary Speaker (Sen. (Prof.) Kamar  
consulted with the Clerk-at-the-Table)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, what Sen. M. Kajwang’ has raised is very important. I would like to consult further on this. Tradition has had it that some reports are signed by the leader of the delegation. In this case, the leader of the delegation was Hon. Makali Mulu, but we have also had in this House others which were co-signed. I would like to consult further and I will clarify this on Tuesday so that we are all on the same page as far as joint delegations are concerned.

With that, I suspend the ruling on it, but allow Sen. Halake to continue with her moving.

**Sen. Halake**: Thank you very much, Madam Temporary Speaker. We will stand guided, because the hon. Member who signed was the head of delegation and the Chairperson of the East African CPA Branch. However, we will definitely co-sign and correct that.

The theme for this conference was very important, especially as it pertains to the use of social media, ICT generally and the whole idea of e-parliaments. One of the recommendations that our delegation came up with and which we will deal with further on was the fact that we must use social media and ICT as Parliament to advance our work. We must also use it as an accountability tool, where we put ourselves accountable to the citizens. Through social media and ICT, we can be reached, engage and communicate better, more effectively and cheaply.

Madam Temporary Speaker, Sen. M. Kajwang’ sits with me in the Committee on ICT. Some of the things we have been able to do in that Committee, for instance, is to put ourselves out and ask Kenyans what they think is important for the Committee to

execute. Our calendar of events and work plan has been informed through the use of ICT to generate business for our Committee. I can attest to the fact that we can multiply our efficiencies; reach our people; hold ourselves accountable and put ourselves out for questioning and for two way deliberations using social media.

At the same time, I know that there is legislation, for instance, against cyber crime and other things that have scared a lot of people away. The reason women's issue was put in this forum and meeting was because there were issues that we wanted to address; for instance, how women can be empowered; how women can advance their political leadership using ICT tools; how they would then engage and make sure that they manage the risks, some of which are posed by the use of ICT. What legislation and frameworks we can put in place to ensure that our Parliaments are using ICT and that e-parliaments, which have become a seamless platform for facilitating democracy, can be adopted by ourselves. We have quite some way to go in terms of making our parliament use the tools that are available to us in ICT.

One of the resolutions of the Kenyan delegation that I would like to point out, even as I continue, is the fact that we must, as parliamentarians, adopt and learn certain best practices which parliamentarians around the world have used ICT to advance democracy, hold themselves and others accountable, engage and involve the citizens of our country.

Madam Temporary Speaker, I do not wish to go into all the other recommendations---

#### ADJOURNMENT

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until Tuesday, 3<sup>rd</sup> March, 2020, at 2.30 p.m.

The Senate rose at 6.30 p.m.