

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 2<sup>nd</sup> November, 2021**

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

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

### PRAYER

### COMMUNICATIONS FROM THE CHAIR

**The Deputy Speaker** (Sen. (Prof) Kamar): Hon. Senators, I have two Communications to make.

#### COMMENCEMENT OF PART VI OF THE FIFTH SESSION

Hon. Senators, it is my pleasure and privilege to welcome you from the short recess. We commence Part VI of the Fifth Session of the Senate, which looking at the Order Paper will be equally busy. In accordance with the Calendar of the Senate, this Part begins today and will run until Thursday, 2<sup>nd</sup> December, 2021.

At the rise of the House on Thursday, 21<sup>st</sup> October, 2021, we had outstanding business across a spectra of legislative business (Bills, Motions, Petitions and Statements) before the Senate. One Bill was scheduled for First Reading, 20 Bills were at the Second Reading stage and 12 Bills were due for the Committee of the Whole stage. There are a further 23 Bills which are undergoing the concurrence process pursuant to Article 110(3) of the Constitution. In this respect, I urge respective Standing Committees to table reports on the Bills to facilitate speedy processing.

There are 50 Petitions, which are yet to be reported on by respective Standing Committees that require immediate action while Statements referred to committees also require to be addressed pursuant to the Standing Orders.

Hon. Senators, before we proceeded on recess, we had severe quorum challenges. I urge the House leadership not to spare any effort to ensure that Senators are present to vote during divisions, and to prosecute their Bills, Motions and Statements in a timely manner. I recognize the fact that the last two days were very busy and we got quorum and cleared the highest business we have ever done in a day. I congratulate Senators for that.

Hon. Senators, I wish to remind you that between today, Tuesday, 2<sup>nd</sup> November, 2021 and Thursday, 2<sup>nd</sup> December, 2021, we have 15 sitting days remaining to the end of this session. This translates to 60 sitting working hours to conclude all pending business.

I urge all of us to remain committed and focused and to undertake the tasks ahead of us with utmost integrity and service to our great country.

I thank you and wish you all a fruitful session.

NOMINATION BY THE SENATE OF A MEMBER OF  
THE EQUALIZATION FUND ADVISORY BOARD

Hon. Senators, my second Communication is on the nomination by the Senate of a Member of the Equalization Fund Advisory Board.

As you recall, on 19<sup>th</sup> August, 2021 vide a letter reference number IGFR/EF/01/TY/2, the National Treasury and Planning submitted to the Senate the Public Finance Management Equalization Fund Administration Regulations, 2021 for consideration.

By the time of receipt of the letter from the National Treasury and Planning on 19<sup>th</sup> August 2021, the Senate was on the August recess in accordance with the calendar of the Fifth Session. The regulations were tabled in the Senate on Tuesday 7<sup>th</sup> September, 2021 in accordance with Standing Order No.221(2) and subsequently committed to the Sessional Committee on Delegated Legislation for further consideration.

You will further recall that on Tuesday 28<sup>th</sup>, September 2021, the Chairperson of the Sessional Committee on Delegated Legislation laid on the Table of the Senate the report of the Sessional Committee on the Public Finance Management, the Equalization Fund Administration Regulations, 2021 and thereafter gave Notice of Motion for approval of the regulations pursuant to Section 205(4) of the Public Finance Management Act.

*(Hon. Senators walked into the Chamber)*

Let me allow the three Members to take their seats, please.

*(Hon. Senators sat in their places)*

Hon. Senators, as you are aware, Section 205(6) of the Public Finance Management Act provides that-

“(6) If a House of Parliament does not make a resolution either approving or rejecting any regulations within 15 sitting days after submission to it for approval, the House shall be deemed to have approved those regulations.”

The time allocated to the Senate to make a decision on the regulations was 15 sitting days. Following the tabling of the regulations in the Senate on 7<sup>th</sup> September, 2021, time started running on 8<sup>th</sup> September, 2021, and lapsed on Tuesday, 12<sup>th</sup> October, 2021. By close of business on Tuesday, 12<sup>th</sup> October, 2021, the Senate had not voted to approve or reject the regulations. Consequently, by operation of Section 205(6) of the Public Finance Management Act, 2012 and the Regulations having been approved by the National Assembly, the regulations were deemed to have been approved by Parliament.

Hon. Senators, I am now in receipt of a letter dated 25<sup>th</sup> October, 2021 from the Cabinet Secretary, the National Treasury and Planning, calling for the nomination, by the Senate, of a member of the Equalization Fund Advisory Board in accordance with

Paragraph 4(1)(e) of the Public Finance Management (Equalization Fund Administration) Regulations, 2021.

The Equalization Fund Advisory Board is established under Paragraph 4 of the Regulations. The key functions of the Board are to-

(a) Advise and make recommendations to the Cabinet Secretary on the distribution of resources for the provision of the basic services to the marginalized areas under Article 204 of the Constitution.

(b) Appraise and evaluate projects proposed under the work plans submitted by county technical committees to ensure compliance with the Constitution and the recommendations issued by the Commission on Revenue Allocation (CRA).

(c) Oversee, in consultation with the county governments, the implementation of the projects to ensure compliance with the Constitution.

(d) Monitor and evaluate the projects implemented by county governments using equalization funds to determine their impact in addressing the factors contributing to the marginalization of the areas identified in the counties.

Hon. Senators, Paragraph 4 of the Regulations provides for the composition of the Board and the Senate is required, under Paragraph 4(1)(e), to nominate one person to serve in the Board.

Standing Order No.72 of the Senate Standing Orders provides the procedure to be followed in the nomination of the person to serve in a public office as follows-

“” Where the Senate is to nominate a person to a public office and the procedure of such nomination is not governed by the Constitution or any other law, the following procedure shall apply-

(a) On receipt of a notice from the authority appointing a public officer, the Clerk shall advertise in the Gazette and a newspaper of nationwide circulation calling for applications to the public office.

(b) Upon close of application, the Clerk shall transmit the names and all documents received from interested persons to the relevant Committee for short-listing and vetting.

(c) The Committee shall-

(i) Short-list the candidates that meet the set criteria and cause the list to be published.

(ii) Facilitate public participation on the suitability of the short-listed candidates.

(iii) Conduct the vetting exercise and table its report before the Senate within 14 days of receipt of the names of interested persons from the Clerk.

(d) The Clerk shall notify the appointing authority of the decision of the Senate within seven days of the decision.

In this regard and pursuant to Standing Order No.72(a) of the Senate Standing Orders, I direct the office of the Clerk to advertise the vacancy in the membership of the Board under Paragraph 4(1)(e) of the Regulations.

Pursuant to Standing Order No.72(b) of the Senate Standing Orders, the Clerk is required, upon the close of the application period, to transmit the names and all documents received from the interested persons to the relevant committee, in this case, the Senate Standing Committee on Finance and Budget for short-listing and vetting.

Pursuant to Standing Order No.72(b) of the Senate Standing Orders, the Committee on Finance and Budget is required to-

(a) Short-list the candidates that meet the set criteria and cause the list to be published.

(b) Facilitate public participation on the suitability of the short-listed candidates.

(c) Conduct the vetting exercise and table its report before the Senate within 14 days of receipt of the names of interested persons from the Clerk.

Finally, the Committee shall be expected to table its report upon completion of the vetting exercise in this House in accordance with Standing Order No.72(c)(iii) of the Senate Standing Orders. Taking into account the provisions of the Regulations and the Standing Orders, I direct that the Standing Committee on Finance and Budget tables its report in the House on or before Thursday 2<sup>nd</sup> December, 2021.

I urge the Committee to exercise utmost circumspection and to uphold the letter and spirit of the Constitution in the conduct of this exercise.

I thank you, Senators.

Next Order!

### MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE BY THE NATIONAL ASSEMBLY OF THE IRRIGATION  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.41(3) and (5), I have received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Irrigation (Amendment) Bill (National Assembly Bills No.12 of 2021)

The Message which is dated Thursday, 21<sup>st</sup> October, 2021 was received on 26<sup>th</sup> October, 2021 while the Senate was on recess and was transmitted to all Senators on 28<sup>th</sup> October, 2021 pursuant to Standing Order No.41(5).

Pursuant to the said Standing Order, I now report the Message:

Whereas the Irrigation (Amendment) Bill (National Assembly Bills No.12 of 2021) was published vide Kenya Gazette Supplement No.65 of 16<sup>th</sup> April, 2021 as a Bill concerning county governments in terms of Article 110(4) of the Constitution seeking to amend The Irrigation Act, 2019, to amongst other things expand the administration of irrigation matters to include management and regulation of irrigation matters;

Whereas the National Assembly considered and passed the said Bill on Thursday 23<sup>rd</sup> September, 2021 with amendments in the form attached hereto;

Now therefore in accordance with the provisions of Article 110(4) of the Constitution and Standing Orders No.41(1) and 142 of the National Assembly, I hereby convey the said Bill to the Senate for consideration.

Hon. Senators, pursuant to Standing Order No.157 which requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.139, I direct that the Irrigation (Amendment) Bill (National Assembly Bills No.12 of 2021) be read a First Time tomorrow, Wednesday, 3<sup>rd</sup> November, 2021.

I thank you, Senators.

Next Order!

**PAPERS LAID**REPORTS ON THE FINANCIAL STATEMENTS  
OF VARIOUS COUNTY FUNDS

**Sen. Dullo:** Madam Deputy Speaker, I beg to lay the following Papers on the Table of the Senate, today 2<sup>nd</sup> November, 2021-

Report of the Auditor-General on the financial statement of Kisii County Executive Loans and Mortgages Fund for the year ended 30<sup>th</sup> June 2019.

Report of Auditor-General on the financial statements of Kisii Demonstration Farm Fund for the year ended 30<sup>th</sup> June, 2019.

Report of the Auditor-General on the financial statements of the Kapenguria Water and Sewerage Services Company Limited for the year ended 30<sup>th</sup> June, 2019.

The Report of Auditor-General on the financial statements of Laikipia County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2019.

The Irrigation (General) Regulations, Legal Notice No. 199 of 2021.

I thank you.

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

REPORT ON STATUS OF LABOUR MIGRATION TO THE MIDDLE  
EAST AND PROPOSED POLICY INTERVENTIONS

**Sen Sakaja:** Madam Deputy Speaker, I beg to lay the following Paper on the Table of the Senate, today, 2<sup>nd</sup> November, 2021-

This is a very important Paper. This is the Report of the Committee on Labour and Social Welfare on the Status of Labour Migration to the Middle East and Proposed Policy Interventions.

This Paper will also come by way of a Notice of Motion because the Senate will need to make a resolution on it.

Madam Deputy Speaker, if you could indulge me kindly, as I lay the report just to list the actions that the Committee on Labour and Social Welfare is asking the Senate to take and that then can be debated at a later date.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Senator, just lay it, we will allow you to move your Notice of Motion. This is a report and we will allow you to give a Notice of Motion when we reach there.

*(Sen. Sakaja laid the paper on the Table)*

Sen. Sakaja has laid the report and at the right time, he will move the Motion and add one or two statements that he wanted to add; only at the point of Notice but now you are laying.

Next Order!

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker. I am happy that I have caught your attention. When we were new in this Parliament, we were taken through

orientation which was very good because it set the pace on how we need to behave in the House.

I am concerned that I have seen on two occasions the youngest Senator in the House, Sen. Ngugi, crisscrossing from this side of the House to the other side of the House without observing the rules.

Madam Deputy Speaker, probably it needs to come from you that this rule needs to be observed that when you are entering into the Senate, there is a rule whereby you are required to bow and when you are crossing over, there is something you do and so on and so forth.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Musuruve. Unfortunately, I did not see. I would have helped you deal with that case.

Yes, Sen. Murkomen

**Sen. Murkomen:** Madam Deputy Speaker, in the same spirit, am I in order to request your office to give directions to the Clerk and the staff to do thorough orientation for Sen. Ngugi and to request Sen. Ngugi to take a break from his recent active political activities and take these lessons seriously to facilitate his participation in the House?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Murkomen, I said I did not see Sen. Ngugi crisscrossing. Since he was not caught by the eye of the Speaker and none of you alerted me at the time, I will leave it at that.

I want to thank Sen. (Dr.) Musuruve because I think her hand came up a little earlier. Maybe she would have saved us if we had seen it earlier. Sen. Ngugi, we will not ask you to respond to that one. However, the Standing Orders are very clear.

Sen. Mutula Kilonzo Jnr., you still want to pursue that? I think all of you are like the Deputy Speaker; you did not see what happened. It is Sen. (Dr. Musuruve) who saw.

**Sen. Mutula Kilonzo Jnr.:** Madam Deputy Speaker, Sen. Ngugi is not a young Senator. He is a distinguished Senator. Sen. (Dr.) Musuruve should refer to him with his right title. The only leeway is where we have distinguished nephews and others. That is where we have given some distinctions.

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): The next Order is Notices of Motion. Sen. Sakaja, please, come forward.

**Sen Sakaja:** Thank you, Madam Deputy Speaker.

*(Several Senators consulted loudly)*

Please ask my colleagues to consult in low tones.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON STATUS OF LABOUR MIGRATION TO THE MIDDLE EAST AND PROPOSED POLICY INTERVENTIONS

Madam Deputy Speaker, I rise to give the following Notice of Motion-

THAT, the Senate adopts the Report of the Standing Committee on Labour and Social Welfare on the Status of Labour Migration to the Middle East and Proposed Policy Interventions laid on the Table of the Senate today, 2<sup>nd</sup> November, 2021.

Thank you for your indulgence for me to give a brief summary of this important Motion that we are going to debate in the House. I sought your indulgence and you said that I can give a summary at this point.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Sakaja, I want to help you before your uncle stops you, because he is determined to do that. We will list your Paper tomorrow and you will take as much time as you wish.

**Sen. Sakaja:** Madam Deputy Speaker, I made the request to you.

*(An hon. Senator spoke off record)*

Please allow me to make my point. I do understand the Standing Orders and the provisions. Normally, when committees table their reports, they are at times given leeway to briefly summarize especially if it is a report on petitions.

**The Deputy Speaker** (Sen. (Prof.) Kamar): We want to give you the best time tomorrow.

**Sen. Sakaja:** Madam Deputy Speaker, you had said yes and that is why I was going ahead, but I stand guided. I will do it tomorrow or I can even do it any other day.

I urge the Senators to take this opportunity to go through this Report. It has far reaching recommendations. Ordinarily, we would just table a Report and leave it, but we want a resolution of the Senate because of the far reaching interventions that we are proposing.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us allow it to be on the Order Paper tomorrow. Clerks, that is my order. We were informed that it is urgent and the delegation would like to dispense off that Statement tomorrow. The Senate Business Committee (SBC) accepted this and that is why I allowed it to come. It will be passed on tomorrow.

Next Order.

## STATEMENTS

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, under Statements, we have Statements under Standing Order No.48(1). The first one is by Sen. Kwamboka. She is not in.

### STATE OF POLICE STATIONS IN THE COUNTRY

*(Statement deferred)*

The second Statement is by Sen. Ngugi.

YOUTH AND SPECIAL GROUPS ACCESS TO GOVERNMENT  
PROCUREMENT OPPORTUNITIES PROGRAMME

**Sen. Ngugi:** Madam Deputy Speaker, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on youth and special group access to Government Procurement Opportunities (AGPO) Programme as provided for in Article 55 of the Constitution of Kenya and the Public Procurement and Assets Disposal Act, 2015. In the statement, the Committee should-

(a) Provide a breakdown of registered number of Micro and Small Enterprises (MSEs) owned by the youth, women and Persons with Disabilities (PwDs) who participated in Government tendering process in the last 24 months, stating the value and the number of the enterprises which were successful in both national and county governments.

(b) Outline the barriers and challenges faced by the AGPO special groups at both the national Government and county governments which prevent them from participating effectively in Government contracting opportunities, stating the measures put in place to ensure these barriers and challenges are minimized for full access to Government contracting opportunities.

(c) Outline the awareness and sensitization measures on Government procurement opportunities, including education and training in place and state how and when these measures were deployed in the last 24 months.

(d) State the frequency with which the Public Procurement Regulatory Authority (PPOA) maintains, updates and posts it in its website or dedicated portal, the register of all small and micro enterprises and disadvantaged groups qualified to benefit from the scheme, outlining how the Authority uses this information in ensuring that the AGPO special groups gain access to Government contracting opportunities; and

(e) Give the list of counties which submit to PPOA and the list of AGPO registered special groups which participate in the public procurement contracting on quarterly basis.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. He addressed that Statement to the Committee of Labour and Social Welfare, but after discussion in the Senate Business Committee, it is clear that it will be committed to the Committee on National Cohesion, Equal Opportunities and Regional Integration. It is so ordered.

The next Statement is from Sen. Mutula Kilonzo Jnr.

INSPECTION OF FKF, DISBURSEMENT AND ADMINISTRATION OF FUNDS  
FROM THE SPORTS, ART AND SOCIAL DEVELOPMENT FUND

**Sen. Mutula Kilonzo Jnr.:** Thank you, Madam Deputy Speaker. I rise to seek a Statement on the directive by the Cabinet Secretary, Ministry of Sports, Culture and Heritage to the Sports Registrar to undertake an inspection of Football Kenya Federation (FKF) and disbursement and administration of funds from the Sports, Art and Social Development Fund during the Financial Year 2019/20 to date.

Pursuant to Standing Order No.48(1), I rise to seek a Statement from the Chairperson of Standing Committee on Labour and Social Welfare regarding the



directive by the Cabinet Secretary, Ministry of Sports, Culture and Heritage to the Sports Registrar to undertake an impromptu inspection on Football Kenya (FKF). In the Statement, the Chairperson should-

(a) State the provision of the Sports Act that led to the impromptu decision by the Cabinet Secretary, Ministry of Sports, Culture and Heritage to direct inspection of FKF for a period of not less than two weeks from 18<sup>th</sup> October, 2021, and a report to be submitted to her on or before 2<sup>nd</sup> November, 2021.

(b) State the reasons why FKF, a statutory body under the law, was not issued with any notice of inspection citing nature and reasons of inspections, the documents required, material or evidence relied upon by the Cabinet Secretary in making the said decisions.

(c) State whether the Cabinet Secretary is aware that the said inspection team was largely composed of officers from the Directorate of Criminal Investigation (DCI) and the National Intelligence Service (NIS).

(d) Explain the reasons the chairperson of the said committee sought to remove the documents from the FKF offices for the period 1<sup>st</sup> July, 2014 to date, contrary to Section 52(3) of the Sports Act.

(e) Explain the reasons why the Cabinet Secretary usurped the powers of the Registrar to conduct the alleged inspection.

(f) Confirm whether the Cabinet Secretary is aware that the team of inspectors she appointed purported to conduct an inspection for two days, which presupposes that there was already a decision made prior to the inspection.

(g) State the amount of money disbursed to the Sports, Art and Social Development Fund by the Government and donor partners for the Financial Year 2019/2020 to date, and table a detailed schedule on the disbursement date to inform the Senate on the amount of funds approved by the commissioner of sports and the funds oversight board for the disbursement of various sports federations, including FKF for the Financial Year 2019/2020 to date.

(h) Provide a detailed breakdown and evidence of funds disbursed to various sports federations stating the amount disbursed to each.

(i) Provide particulars of over Kshs111 million spent by the fund on behalf of various sports federation and an appropriate schedule on the amounts, the federation on whose behalf the state funds were spent and stating the legal basis for the expenditure.

(j) Make available the details of the disbursement made directly or through the sports federation to support the national teams to participate in the various competitions in the Financial Year 2019/2020 to date, including particulars of payments made by way of mobile money transfer or through bank accounts.

(k) Table details of the sums purportedly advanced to the national teams amounting to Kshs433,500,000 on 27<sup>th</sup> October while the Football Kenya Federation indicates that the money sent to them between 2019-2021 is Kshs355,512,205.

Madam Deputy Speaker, allow me to say that the importance of this statement is that the Cabinet Secretary intends to disband FKF based on this alleged inspection and that may lead to a ban on football in Kenya. This statement is therefore very urgent.

**The Deputy Speaker** (Sen. (Prof) Kamar): Thank you, Sen. Mutula Kilonzo Jnr.

Hon. Senators, I know why Sen. Cheruiyot is saying please. I am seeing about six to seven requests from people who are interested in this issue and all of you are footballers except Sen. Murkomen became an athlete the other day.

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof) Kamar): Proceed, Sen. Murkomen.

**Sen. Murkomen:** Madam Deputy Speaker, for the record, I am the captain of the Senate Football Team and the vice-captain of the Bunge Football Team.

I take the sports sector very seriously. We have a problem in the Ministry of Sports, Culture and Heritage and the management of sports in this country. The problem is in terms of where Kenya places sports. Even though we pay lip service by saying that we want to solve problems affecting the youth, we put little resources to the sports sector.

From the statement that Sen. Mutula Kilonzo Jr. has come with, we would like to know how much of the sports funds are being used for sports. We are told that billions of shillings that were meant for sports are now being used for the Universal Health Care (UHC) instead of being used where we deserve. We are told that the Ministry of Sports, Culture and Heritage wants to investigate FKF, which they particularly singled out, but they cannot demonstrate to the Republic of Kenya how much resources have been put into the Federation. We cannot ask to receive that which we have not invested.

I request that we look at the question of building of the extra nine stadia in this country and consider the problem of Kamariny Stadium in Iten, which is used by more than 3,000 athletes to train. A contractor was given a little amount of money to start the project, which has since stalled. The place is now dilapidated; the athletes cannot train and the footballers cannot also play. Instead of focusing on providing the infrastructure for supporting sports, the Cabinet Secretary wants to interfere with sports in this country in a manner that is unacceptable. If the FKF will be disbanded, most of our youth especially from Nairobi City County and most of the western counties are going to lose the opportunity to participate in a very important sport -which is the most popular sport in the Republic of Kenya.

I do not know where Sen. Sakaja has gone to. Has he gone somewhere or is he here?

**Sen. Sakaja:** I am here.

**Sen. Murkomen:** I thought you are running away from responsibility. You always do not run away from responsibility.

*(Laughter)*

This is an area where Sen. Sakaja and his Committee must not just give us a comprehensive report, but must give a snapshot or a summary within the next one week to avert the crisis that is going to bedevil this country.

Madam Deputy Speaker, I thank you.

**The Deputy Speaker** (Sen. (Prof) Kamar): Hon Members, I am sorry I did not give the limitation of time. Let us not take more than three minutes so that everybody can get a chance.

Sen. Wetangula, Proceed.

**Sen. Wetangula:** Thank you, Madam Deputy Speaker. How times change. When Sen. Murkomen was the Senate Majority Leader, he would never allow a question about how stadiums were. I am happy that he has now seen the light and knows that there are no stadiums.

This question is very important. I urge my distinguished nephew to broaden the scope of inquiry not only to football matters, but sports in this country. The FKF is now limping. Instead of getting support, we are embarking on punitive and malicious investigations against it. I want us to be told how much money has been set aside for football in this country, how much is going to the FKF and its grassroots branches. We have many teams that play in the second tier football and they are really struggling when there is a budget line to support football.

In addition, I encourage my distinguished nephew, the Senator for Nairobi City County, to also look at the management of athletics and explain to this country and this House why mandarins of athletics fly using first class to the Olympics while our gold winning athletes travel using economy class and are given small pittance and put in dormitories while non-runners are staying in five star hotels. Other countries taking athletes to the Olympics and the Commonwealth World games, treat the athletes like national heroes. Our athletes bring fame and glory to this country through personal initiative without support from the state. We want to have a blueprint and a policy statement from a Committee that is chaired by a very illustrious nephew to yours truly. These things must change.

Madam Deputy Speaker, I thank you.

**The Deputy Speaker** (Sen. (Prof) Kamar): Thank you, Sen. Wetangula Proceed, Sen. Cheruiyot.

**Sen. Cheruiyot:** Thank you, Madam Deputy Speaker. When Sen. Mutula Kilonzo Jnr. was concluding, he made a very important request that requires your adjudication. When you appear before a judge at times and you are sure that between the time of determination of a case or whichever matter you are with before him or her, you are likely to suffer a particular prejudice, you raise it.

Sen. Mutula Kilonzo Jnr. brought to our attention that the Cabinet Secretary for Sports, Culture and Heritage is about to make such disastrous decisions that will affect future generations of this country. If she goes ahead to suspend the FKF or try to illegally remove from office those officials, we are likely to be banned from football with this COVID-19 season.

Madam Deputy Speaker, you need to look at Chad, which has been banned from any football related activity. This includes their international players in other leagues not being recognized just because of such reckless decisions. The CS for Sports, Culture and Heritage, Hon. (Amb.) Amina Mohammed, may be good in other things, but taking her to the sports docket was the worst decision ever. I know this from personal experience.

Two months ago, I brought before this House a Bill on sports and she had the audacity to write to the Speaker of this House urging Parliament to stop its legislative work until she brings a Bill before the House. What audacity is that? Therefore, we need to make a determination on a very important issue. Can you guide first that the Cabinet Secretary be stopped from making any decisions regarding the FKF?

Secondly, direct that CS Amina Mohammed be brought before the House within 48 hours. If she is in the country, what is so difficult for the Cabinet Secretary to appear

before the Parliament of the Republic of Kenya? This Senate is sitting on behalf of the people of Kenya. We plead on behalf of all football loving Kenyans. I know that there is a debate about the success or failure under the current regime, but two wrongs can never make a right.

We must begin by having a serious conversation like adults, about the things that Sen. Wetangula has mentioned. Why, for example, before Cabinet Secretary (CS) Amina can ask for results from the Football Kenya Federation (FKF), what are the investments that she has put in that institution? It cannot be the paltry figures that we are being told and we expect results.

Therefore, Madam Deputy Speaker, we plead with you to make a determination on the final request that Sen. Mutula Kilonzo Jnr. has made.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. What you are asking is in the hands of Sen. Sakaja. The minute they hand over the question to the Committee, you will have the powers to do what you are asking for. It is not really the Speaker to do it, it is the Committee and they have done it very successfully in other committees.

Proceed, Sen. Wambua.

**Sen. Wambua:** Madam Deputy Speaker, on this matter, I speak for and on behalf of football players in Kitui County. What the Minister for Sports, Culture and Heritage is attempting to do is a shame. This is so because a Ministry and collectively the Government has either been unable or unwilling to create jobs to engage young people. What young people have resorted to do all over the country is that they have coalesced into football clubs and groups. They are playing soccer as the only engagement at the moment. The least that we should expect from the Ministry of Sports, Culture and Heritage at such a time as this is support from the very top to the bottom.

Today, we are dealing with a Cabinet Secretary who is contemplating banning FKF at a time that young people are engaging themselves in active sporting activities. This is a shame of serious magnitude.

Instead of the Cabinet Secretary asking investigative agencies to look into the operations of FKF, she should do two things. First, she should do proper adequate funding for the operations of FKF.

Secondly, she should invite these investigative agencies to her Ministry and find out how money is being used. Instead of the money going to the expansion of sporting activities and especially the support of football, that money is being pilfered left, right and center.

As my friend, Sen. Cheruiyot has said, the Cabinet Secretary must not be allowed to take that step of banning FKF. She should never be allowed to do that.

I thank you, Madam Deputy Speaker.

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

Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me this opportunity to support this statement. I thank Sen. Mutula Kilonzo Jnr. for coming up with the statement. I speak on behalf of the youths in Lugari Constituency.

This decision of disbanding FKF is not well thought. I want to give an example of what I went through when I was holding the Musuruve Tournament which identifies and

nurtures talent amongst youth. It is going on very smoothly because of FKF which has its rules. This ensures that youth adhere to the rules. Any youths that became hooligans are not allowed to play.

There is a big role that FKF is playing and there is need for us to ensure that FKF is not disbanded, but investigations are done. Even if investigations are done, let those who are mismanaging FKF be brought to account, but it should not be disbanded because of the big role that they play.

I have seen it when I am holding my tournament; FKF is playing a very big role because it brings referees who are neutral. The chairman is also neutral and the games are played on neutral grounds. Players are able to play well without any intimidation or favouritism. Therefore, sports in the country should be supported especially, the youths in Lugari. I have seen them very active during my tournament. This is commendable. The Government should bring in more money and support for football because even women are playing football.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei.

**Sen. Cherargei:** Thank you, Madam Deputy Speaker. Where I come from, Nandi County, is the source of champions. We only depend on sports and agriculture, which is on its deathbed. As you are aware, the cost of fertilizer is now Kshs.5,000, and, therefore, we rely on sports only.

It is very unfortunate. I have said before that CS Amina Mohammed and senior Ministry officials must resign for presiding over mega corruption. Can you believe that out of the Ksh.40 billion Sports Fund, one of the items that the Ministry of Sports, Culture and Heritage have allocated Ksh31million is woodball. Woodball means, “*mchezo wa mbao.*”

Another item in the Sports Fund is Kung Fu. They have allocated Ksh.81 million yet other games, for example, rugby, athletics and football have not been well funded. The sports stadia in Kisumu, Kirigiti in Kiambu and Wang’uru in Kirinyaga have gobbled Ksh.23 billion, but there is nothing to show for it. They have not even met the Federation Internationale de Football Association (FIFA) standards. In the interest of the sports and to avoid banning FKF, the CS in charge of sports and senior Government officials must be shown the door.

Finally, you may remember that a few weeks or a month ago, I brought a statement over the shambolic issues of the Tokyo Olympics. The CS has not even had the audacity to appear before Sen. Sakaja.

Sen. Murkomen attended the Agnes Tirop funeral. The CS for Sports, Culture and Heritage did not attend the funeral of Agnes Tirop, despite Agnes being the champion of this Republic - even covering her coffin with the Kenyan flag was not done. The Government did not contribute even Ksh.10 to support the funeral of our fallen heroin. The Ministry of Sports, Culture and Heritage did not participate.

In short, the risk of banning FKF will put us into a serious problem with FIFA. You are aware that when you interfere with sports, it means we risk banning from FIFA. What does it translate to? Many young Kenyans who are hustlers, who hustle through football, will not have an opportunity to play in the local league. I request that this matter be looked into because there is a statement on athletics before Sen. Sakaja’s Committee that I brought on the shambolic Tokyo Olympics.

You may have seen what happened during the Under 20 championships - because the National Olympic Committee of Kenya (NOCK) officials and Ministry officials were busy taking selfies in the stadium, they could not allow the coach of Ferdinand Omanyala into the stadium.

I challenge that Amb. Amina Mohamed, the CS and senior officials be fired by President Uhuru Kenyatta and be given lighter duties. I think that is what she can do better, but we must agree that FKF should not be banned. She should tell the country how much money she has invested in football, athletics, rugby and volleyball to give a better result in this Republic.

I thank you Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you.

Sen. (Prof.) Ekal.

**Sen. (Prof.) Ekal:** Thank you, Madam Deputy Speaker, for giving me the time to also support this statement. As other hon. Members have said, athletics in this country is very important, especially, for our young people because of the fact that they do not have jobs. They need something to expend their energies on so that they do not create havoc. To try to avoid athletics or games in the country is tantamount to just letting those young people without any avenue or activity to expend their strength.

Madam Deputy Speaker, I also want to speak on the aspect of tribalism. I want to bring this aspect to the attention of the House, the country and the trainers wherever they may be. There is a bit of tribalism that is creeping into athletics, especially when it comes to selecting athletes to go outside the country for competition. Right now they are competing in the Olympics games in Tokyo.

In training camps, if a particular athlete qualifies to participate outside the country and it is found that he or she belongs to a particular tribe that is not very liked, he or she is left out of the list of participants. That is horrible. That kind of tribalism should not creep into athletics.

I am talking about a situation where a Turkana athlete qualified to go and run in the Olympics and he was replaced by another one of a different and favourable tribe; a tribe that is assumed to be the only that is capable of producing runners in this country.

Madam Deputy Speaker, it is not true to say that a particular tribe or some tribes in this country are the only who are gifted with runners. Turkana people can run down a cow and can run as fast as everybody else. So, as our young hon. Member here says, that somebody from a particular region is the only runner is fallacious, it is not true.

Madam Deputy Speaker, let us give everyone a chance and avoid selecting people based on tribal basis. Some people who have practiced so hard to be good runners and qualify like others should be given chance to show their talent to the world.

Thank you, Madam Deputy Speaker.

**Sen. (Dr.) Langat:** Thank you, Madam Deputy Speaker, for giving me this chance to support this Statement. Sports in this country are very important as a source of income for some people given the fact that there is a high rate of unemployment in the country. Many youths and even other people engage themselves in sports for economic livelihood.

Madam Deputy Speaker, sports in this country should be encouraged because they are a source of great entertainment and given the fact that there are lot of challenges facing us, and many people engage in very weird activities in this country. We have seen

families murdering one another because of stress, but what controls our youth and gives them some earnings is sports.

Instead of us giving this sector some encouragement, it is very sad to hear that the Cabinet Secretary, Amb. Amina Mohammed, whom I respect a lot because she was the Cabinet Secretary for Education when I was the Chairperson of the Committee on Education. She used to do very well in that Ministry. Today, I am shocked that she has engaged herself in such a disheartening decision.

The banning of the Football Kenya Federation (FKF) is an unwelcome decision at this particular moment. We would like to ask the Committee that will take over this particular issue to take it seriously and make sure that CS Amina Mohammed appears before this House in the Committee of the Whole so that she explains many issues that are posing challenges in sports in this country. Most of our stadia that are supposed to be upgraded are in a deplorable situation and very demotivating to our athletes, to say the least.

I support this Statement and I would like to ask most of the Cabinet Secretaries to be consulting so that they get proper information instead of making street pronouncements that affect Kenyans very seriously. It is a very important Statement. I congratulate the Senator who brought it before us. It should be supported by all of us.

**Sen. A. Haji:** Thank you, Madam Deputy Speaker. I also stand to support the Statement. However, I am a little taken aback by the comments of most of the Senators who have strongly come against the Cabinet Secretary.

I believe the intention of the Ministry of Sports, Culture and Heritage was to audit the FKF in terms of the funding that they have been receiving. I fail to understand why the individuals who are at the FKF are against the audit. Instead of asking for the resignation of the CS, maybe we should have gone to the extent of advising the CS that she can tackle the FKF based on the rules and regulations of the Fédération Internationale de Football Association (FIFA) so that we do not as a country fall foul to the operations with FIFA.

We have seen that since the formation of FKF, the members that have been there have been given a free hand in trying to improve the situation of football. However, we have seen that the national team is still not performing very well. We do not know if we should put the blame on FKF or the Ministry of Sports, Culture and Heritage, but it seems something somewhere is wrong. We need to investigate that because sports are very important to the youth in this country.

What happens is that if individuals or members stay too long in an organization, they feel entrenched and as if they own it. If we look back at the history of FIFA, we see that the former president of FIFA Sepp Blatter had stayed for too long to the point that he ran it like his own organisation. However, towards the end, when proper investigations were done in FIFA, he left it a very dishonourable gentleman.

Madam Deputy Speaker, it is important that an organisation like FKF is audited. It is important that the Ministry of Sports, Culture and Heritage questions the operations of FKF and its failure in improving football in the Republic of Kenya. We are waiting for the day when Harambee Stars will perform to make this country very proud in Africa and the world.

**The Deputy Speaker Sen. (Prof) Kamar:** Thank you, Senator. Finally, Senator Sakaja. You can also commit yourself as the Chairperson of the committee

**Sen. Sakaja:** Thank you, Madam Deputy Speaker. As you have stated as Chairperson of this Committee, I take note of the Statement that has been requested, the sentiments of the Senators and the urgency of this issue.

Indeed, I must commit that my Committee takes this matter very seriously. Just this past week we have been touring some of our stadia. We were in Bomet and we also went to Kericho Green Stadium. We looked at what is happening and we are really concerned about all the federations.

Without being prejudicial as to the action we will take, I want to state that from a policy point of view, audits are welcome everywhere. However, they should not be used as a tool for anything else. All federations must be audited when the resources come from the national Government.

Madam Deputy Speaker, what we commit to do, and I would urge you to give us the strength of your Chair, is that we will immediately send out a letter so that action is taken. Any action that can be taken to stop this ban is welcome because that action cannot be taken by a CS or a Principal Secretary.

We will invite the CS urgently to appear before our Committee on Thursday. I know they will ask for seven days. However, with your direction, they can come on Thursday, that between now and then they need to put brakes on whatever action they want to take. We will be very objective. We have the law. We know what the Sports Act says.

We also know what the FIFA states and soccer regulations which I understand very well because I have been the patron FC Leopards for many years. We also have challenges, but despite that, I think my Committee is competent enough to handle this matter as soon as possible.

Just to inform Senators, in addition to this matter, we had planned for a retreat with all the key federations, including soccer, rugby, volleyball, basketball and athletics to look at the wide range of issues they are going through. Sen. Cheruiyot knows because he has one of the Bills that we are discussing. We will send out the letter immediately and ask for the audience with the CS, the Sports Registrar and the PS. We hope that you will help us secure that because it is an urgent matter.

If we wait for a week or two, I am not imputing improper motive on anyone, some action that could potentially make our entire country miss out on being part of FIFA can be taken. That action should not at any one point be taken by an individual, but it must be taken by the representatives of the people after hearing all the issues when we meet on Thursday.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you very much Sen. Sakaja, the Chairperson of the Committee. The Statement stands committed to the Committee on Labour and Social Welfare.

We are happy to hear that you are committed to meet the CS on Thursday. Thursday will be fine. A letter will go in your support. We will ask them not to do anything because of the evidence before this Senate that has been tabled here today.

*(The Statement was committed to Committee  
on Labour and Social Welfare)*



I would like us to go to another Statement that is related. I do not expect any contribution on this one by Sen. Cheruiyot.

#### STATE OF STADIUMS IN THE COUNTRY

**Sen. Cheruiyot:** Madam Deputy Speaker, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on the state of stadiums in our country. In the Statement, the committee should-

(1) State the location of all Government funded stadiums and status of compliance of the said stadiums with standards set by the international sporting bodies for holding international sporting events.

(2) Explain why construction works being undertaken in stadiums in Kirinyaga, Kisii, Kakamega and Uasin Gishu counties are on course while other counties continue to stall.

(3) State whether the stadiums under construction meet the International Association of Athletics Federation (IAAF) and the Fédération Internationale de Football Association (FIFA) and the Confederation of African Football (CAF) status to hold sporting events.

(4) Outline measures, if any, that the Ministry of Sports, Culture and Heritage has undertaken in upgrading the Nyayo National Stadium and Moi International Sports Centre Kasarani to international standards following the ban by the FIFA on failure to meet the minimum CAF standard requirements.

(5) Inform the Senate whether there are any other stadiums that have recently been inspected and failed to meet the IAAF and the FIFA certification.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I really wanted us to avoid riding on this because we have taken a very long time on the previous one. If you promise to use two minutes, I will allow three Senators. They are Sen. Mutula Kilonzo Jnr., Sen. (Dr.) Musuruve and Sen. (Dr.) Milgo. We will listen to those three only. You have two minutes each.

**Sen. Mutula Kilonzo Jnr.:** Madam Deputy Speaker, this Statement is serious and it is unfortunate. Sen. Sakaja and I support the AFC Leopards team. While we were growing up, there were international matches at St. Kwitkoi in 1986. I think we have never been at this state since Independence because we cannot hold an international match in any stadium in the country.

Madam Deputy Speaker, I requested for a Statement on Wote Stadium, which was supposed to be completed in 2018. Up to now, they are still arguing about growing of grass, irrigation and the pavilion. Meanwhile, Kshs200 Million has already been spent through the Sports Fund.

Another Kshs600 million has been given to Jamhuri Sports Ground while another Kshs600 million has been given to the so-called International Stadium in Kirinyaga and many others, yet we cannot play a friendly soccer tournament in any of these stadiums. It is an unfortunate situation. An urgent investigation on the use of Sports Fund should be done to find out why they are spending so much money yet we cannot have a friendly match even for toddlers.

Madam Deputy Speaker, this country has found itself in an unfortunate situation where young people have used sports to become millionaires. Through the Ministry of Sports, Culture and Heritage, we have impeded the growth of sports where Kenyans used to market themselves out there in the world.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Musuruve, you have two minutes.

**Sen. (Dr.) Musuruve:** Madam Deputy Speaker, I support this Statement by Sen. Cheruiyot. Stadiums are very important because of ensuring that we identify the talents of the youths, nurture them and ensure that they eke a living. It is unthinkable that even at the constituency level, when the youth want to play, they have to look for a school field.

There is need for county governments to ensure that there are stadiums in each and every county. The stadiums need to be all-inclusive because in some, climbing a step off the ground is a harrowing experience for Persons with Disabilities (PwDs). There are instances when I had to be lifted in some stadiums. Some stadiums do not have provision for accessibility by PwDs because some of them do not have ramps. For those with ramps, they are too steep for PwDs.

Madam Deputy Speaker, I hope that this issue of stadiums will be taken seriously. The youth in Lugari should also be able to play in a stadium because they are talented and do not want to be idle. They should be supported by the Government. This is something that should not be taken lightly.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Madam Deputy Speaker, I also rise to support this Statement because stadiums play a critical role not only in assisting the youth, but also others because exercises are critical for our health.

Stadiums have become cash cows. There are stadiums that were started by the first county governments. There is one in my county which has been using money. Due to lack of stadiums, year in, year out, we lose a lot of money in this country in the name of completing their construction.

This country has lost many chances to host certain activities because of lack of standard stadiums. The issue of stadiums is not being taken seriously. This Statement will be directed to my Committee. We must look at this as a matter of urgency and address the concerns so that we have good stadiums in this country. If this country was to host a serious game, we are likely to host it in Uganda.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Finally, we will have Sen. Kavindu Muthama. Two minutes please.

**Sen. Kavindu Muthama:** Madam Deputy Speaker, I rise to support this Statement by the Senator. Even stadiums at the constituency level must be completed. For example, we have one in Matungulu Constituency, which was begun three to four years ago, but it is still not finished. We also have many others. It is not only Machakos County, but also many other counties in Kenya. Our youth must have a good place to play football.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Chairperson of the Committee, can you commit yourself although we know you have already started? You have one minute only.

**Sen. Sakaja:** Madam Deputy Speaker, once we deal with the FKF issue, we will deal with the situation of stadiums in this country. I would like to separate the two because this is a bigger discussion around hundreds of millions that were put in. We saw Nyayo National Stadium and Moi International Sports Centre Kasarani being opened. However, if we were to have an international fixture, we will have to go to Rwanda. That is a serious question that must be answered.

This year's Mashujaa Day was held in Wang'uru International Stadium in Kirinyaga. It is not international because of the word "international." This is because there are certain standards that are put in place by international bodies such as the IAAF and the FIFA *et cetera*.

The national Government puts in hundreds of millions of shillings at that level yet we have failed to meet the standards of our stadiums in this country. That is why I like the last question on whether there are other stadiums that have been inspected, but failed to meet the standards. We need to be told why. So, I will ask for two weeks to deal with this matter.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): The statement stands committed to the Committee on Labour and Social Welfare.

*(The Statement was committed to the  
Committee on Labour and Social Welfare)*

The last Statement is by Sen. Cheruiyot. Please read your second Statement. Hon. Senators, we are not going to accept contributions because we have 10 minutes only before the end of Statement Hour.

POWER PURCHASE AGREEMENTS BETWEEN KENYA POWER  
AND INDEPENDENT POWER PRODUCERS

**Sen. Cheruiyot:** Madam Deputy Speaker, this is a request for a Statement on the power purchase agreements between Kenya Power and Independent Power Producers (IPPs).

I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Energy on the power purchase agreements between the Kenya Power and the IPPs. In the Statement, the Committee should-

(1) State the number of companies that Kenya Power has signed power purchasing contractual agreements with.

(2) Give the dates when the power purchasing agreements were signed and when these agreements come to an end.

(3) State the cost at which Kenya Power procured electrical power from each of these IPPs and KenGen in the past 24 months and state the selection criteria used.

(4) State the loading policy used in determining consumption times from each of the IPPs.

(5) State targeted interventions the company has employed in mitigating the rising cost of electricity to households, businesses, factories and other consumers in the country.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us have the next Statement by Sen. Cherargei.

AWARD OF TENDERS BY THE NATIONAL TREASURY UNDER  
SPECIALLY PERMITTED PROCUREMENT PROCEDURE

**Sen. Cherargei:** Madam Deputy Speaker, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Finance and Budget regarding award of tenders by the National Treasury under the specially permitted procurement procedure. In the Statement, the committee should-

(1) Apprise the Senate on the number and the nature of tenders for Government projects awarded for the FYs 2019/2020 and 2020/2021 under specially permitted procurement procedure.

(2) Inform the Senate on the total amount of money committed to tenders awarded under the specially permitted procurement procedure for the two financial years.

(3) Explain how the awarded tenders qualify as tenders in the public interest or interest of national security as contained in the procurement law in order for them to have been awarded under this special category.

(4) State the role of state security agencies and organs in the award of such tenders.

(5) List, if any, tenders for the Government projects under Private Public Partnership like Lamu Port South Sudan-Ethiopia-Transport (LAPSSET) Corridor Project that have been awarded through restricted tendering method for the FYs 2019/2020 and 2020/2021.

**The Deputy Speaker** (Sen. (Prof.) Kamar): The next Statement is by Sen. Wambua. You have two Statements, please start with the one on electoral boundaries and end with the other one on students unrest, just in case I allow you two minutes.

*(Sen. M. Kajwang' consulted with Sen. Mutula  
Kilonzo Jnr. and Sen. (Dr.) Ochillo-Ayacko)*

**Sen. Wambua:** Madam Deputy Speaker, I request that you give direction to Sen. M. Kajwang' to stop the *Kamukunji* and focus because this is an important Statement.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. M. Kajwang', why are you attracting a lot of attention today?

STATUS OF PREPAREDNESS FOR UPCOMING  
GENERAL ELECTIONS BY THE IEBC

**Sen. Wambua:** Madam Deputy Speaker I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding the status of preparedness for the upcoming general elections by the Independent Electoral and Boundaries Commission (IEBC). In the Statement, the Committee should-

(1) Outline the measures that the IEBC has put in place to guarantee a free, fair and credible general election in 2022.

(2) State the firm that has been awarded the tender to print ballot papers and whether due process was followed, including due diligence before awarding the tender.

(3) Explain circumstances that led to the IEBC signing a contract on electoral data collection and storage with a French firm without a clause on the right of access or transfer of data after the elections.

(4) State the amount of money the IEBC has been paying to the contracted firm to access data for each by election that has taken place after the 2017 General Elections.

(5) Enumerate individuals and/or organizations, if any, that have the rights of access to the Kenyan electoral data.

I thank you.

Madam Deputy Speaker, with your permission, I will move to the second Statement.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us move to the next Statement. We have five minutes only and I wanted us to have contributions on students' unrest. I know a number of you would like to say something.

Please go to the next Statement.

STUDENTS UNREST AND RISING CASES OF FIRES  
IN SECONDARY SCHOOLS ACROSS THE COUNTRY

**Sen. Wambua:** Madam Deputy Speaker, you have given direction, but if they want to comment on any of the two Statements, that will be fine.

I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Education regarding the ongoing students unrest and rising cases of fires in secondary schools across the country. In the Statement, the committee should-

(1) Investigate the factors behind the ongoing unrest in schools such as Buruburu Girls, Chavakali Boys, Moi Girls in Marsabit and Sigalame Boys among other secondary schools that have led to dormitories being set on fire causing injuries to numerous students, including one reported death.

(2) Outline the proactive measures that the Ministry of Education has put in place, if any, to ensure a smooth learning environment in our schools.

(3) State the measures the Ministry will put in place to ease the pressure on learners occasioned by the prolonged school calendar aimed at recovering time that was lost last year when schools were shut due to the COVID-19 pandemic.

Madam Deputy Speaker, I submit.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Olekina, are you ready? You are the first one, but I know you needed time.

**Sen. Olekina:** Madam Deputy Speaker, I wanted to comment on the first Statement, but I am also inclined to make some brief comments on the second one, which I fully support.

On the first Statement---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Before I forget, I can see we have five Members who would like to contribute, but our time is up. Please try and use a maximum of three minutes.

*(A Senator spoke off record)*

**Sen. Olekina:** Madam Deputy Speaker, is it true as we saw in the 411 today, the Independent Electoral and Boundaries Commission (IEBC) intends to stop the voter registration exercise despite a court order, citing lack of budgetary allocation.

If we continue behaving like a banana republic by not respecting court orders, then I do not know where we are going to as a country. It is important as the Committee is looking at these issues, to also expound further on whether the IEBC has decided to disregard the court order and stop the voter registration exercise. It will also be important to get more details on this purported tender allocation to a French company.

In the last elections, we had challenges trying to access our data. So, that will put us into a situation where everyone will start to say that the elections have been stolen even before they are--- I can see my time is up.

Madam Deputy Speaker, on the second Statement, it is quite sad that as a country, we are demanding so much from the Ministry of Education to a point where it gets confused.

This Competency Based Curriculum (CBC) is the cause of everything. As the stakeholders, it is time to take the necessary steps to bring this correction. I went to see one school, which is directly opposite my home at 3.00 a.m. when the students decided to set it on fire.

*(The red time went off)*

Madam Deputy Speaker, please give me one minute.

**The Deputy Speaker** (Sen. (Prof.) Kamar): One minute is granted.

**Sen. Olekina:** Madam Deputy Speaker, speaking for 60 seconds is difficult.

The problem is that we do not have a consistent calendar for these students. Students are in school for two weeks, then sent home for midterm. They are asked to bring laptops when the parents cannot even afford a *mulika mwizi*. We are demanding so much from the Ministry of Education yet this is our responsibility as parents and leaders.

It is time to sit down and play our oversight role and direct. I know some of us here will say we cannot direct, we recommend. What is going on started with Eor Ekule Secondary school where students decided to set a dormitory on fire just because they were being denied to go and preach. They wanted to have a home-coming ceremony.

I feel sorry for this current generation. If we do not play our role as leaders to guide them, I do not know what will become of other future generations. The current generation is so entitled. We have made them entitled. We are guilty.

Madam Deputy Speaker, instead of pointing all the blame at the Ministry of Education, the best thing we can do is to sit down and evaluate what is wrong with 8-4-4 system.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you.

Sen. Sakaja, you have two minutes.

**Sen. Sakaja:** Madam Deputy Speaker, two minutes is so difficult, but I will try.

I currently have 19 girls hospitalized at Metropolitan Hospital in Buruburu, and 16 at Jamaa Hospital. We have 63 in total hospitalized because of the fire that broke out on Sunday at 4.30 p.m. One of the hostels is called Kingdom Hostel.

Before that fire broke out, there had been a communication to the Principal, Mrs. Caroline Maina, about some discontent on the pressure on the Form Three girls who are being categorized according to performance.

There is something wrong with how we are dealing with our students at that age. This pressure will have a mental health break down. So, something needs to be done.

I am meeting with the Regional Director of the Education, together with the principal and the board of this school. We will not just address what has already happened, but to get a feel of what we must do to the other schools. The problem is when we start reporting on these fires, it causes peer pressure. Another school will say have you seen what has happened to Buruburu Girls?

When I was in high school, Buruburu Girls was a very popular school. We used to call it *Burumambao*. They will see Buruburu Girls has burned and so they will want to burn theirs. Peer pressure will start a series. In fact, I would ask the media to limit how they report on this. This is because when other students see it, they also want to do it because it is now cool to do it. It is very unfortunate.

I was sad to see the girls jumping out of windows. I can imagine the level of distress and the fear in their eyes when they realized there was a fire in the third floor. I am sorry to the families and to the parents of these students for what they went through.

Madam Deputy Speaker, as the Senator for Nairobi City County, I will report on this issue even before the Committee of Education looks into it. This is because these girls are my students and the schools are mine. I will invite Members who want to accompany me to have this discussion before waiting for the relevant Committee.

On the first Statement, I would like to get more details. This is because our courts need to give rulings that are practical. If you tell me to do a service that I extend voter registration yet I do not have money to pay the clerks, the same ruling should also direct the National Treasury to give us and the IEBC money.

We have less than 10 per cent of people who have registered. There is apathy. The messages that have gone out are not inspiring to these young people. We need to re-look at it, but the same ruling---

**Sen. Olekina:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Olekina, I did not want you to interrupt because I have given him one more minute.

**Sen. Sakaja:** Madam Deputy Speaker, we must respect court orders, but they must also be practical. If they do not have the resources, that is a point of information. So, let the Committee on Justice, Legal Affairs and Human Rights tell us how much more because we want not just for one week.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Is that a point of order or a point of information? What is out of order?

**Sen. Olekina:** Madam Deputy Speaker, we have three arms of Government and courts decide based on their facts.

**The Deputy Speaker** (Sen. (Prof.) Kamar): That is a point of information and he has not accepted to be informed.

**Sen. Olekina:** Madam Deputy Speaker, is it in order for the distinguished Senator and the future governor of Nairobi City County to come out here and cast aspersions on the Judiciary, which rules based on facts that they are given on the table?

The Judiciary does not know what the budget of the IEBC is. So, it is important we profess and push Government to respect court of orders. So, it is not in order for the distinguish Senator to point a figure at the Judiciary and say that they should give court orders that are practical. What is not practical about that?

**Sen. Sakaja:** Madam Deputy Speaker, the IEBC is unable to pay these clerks. We will bring another Statement on why they were not able to pay. We, as a House, should make sure they have a correct allocation for another month of the voter registration exercise that is properly targeted to these young people who are on social media.

The traditional ways of putting advertisements on newspapers and notices in markets and notice boards will not work. We need to have a youth targeted and centric voter registration campaign that will target them.

In Nairobi, I was supposed to get 750,000 people more, but we have only hit 75,000.

I am not pointing fingers at the Judiciary, but fingers should not be pointed at IEBC as well. If they do not have the resources, let us make sure the solution found is that we have the resources to do another month or two of the mass voter registration exercise.

Finally, I will alert Members in our platform on the issue of Buruburu Girls. We can support some of the girls who have lost some documents and what not. The principal, together with the parents will tell us what they need.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Cherargei.

Please, let us try not to exceed three minutes because we do not have the time.

**Sen. Cherargei:** Thank you, Madam Deputy Speaker. There has been ongoing school's unrest and incidents of fires across the nation. However, in Nandi we have not reported many incidents. I have seen a number of schools have gone on unrest somewhere in Nandi Hills sub-county among other areas.

Madam Deputy Speaker, I request the media to be cautious when reporting on these fire incidences across the country. It looks like there is some peer pressure. When students see other schools being burnt down, they get excited and think that by burning theirs, it will appear cool.

As a country and with the onset of the Competence Based Curriculum (CBC), it is the right time to re-consider the system of boarding schools across the nation. Our children have been in boarding school for three or four months. Being in that kind of environment, it continues to give them unnecessary pressure. We need to reconsider on the issue of boarding schools in this Republic.

Let us make all our schools to be day schools and our children can come back in the evening. We do not leave our children with the teachers and principals. Most of us parents have abdicated our role and given the principals and teachers an unnecessary job description. They are supposed to teach from 8.00 a.m. to 5.00 p.m. A teacher is on duty throughout the night.

Finally, is the issue of academic performance. According to research most students that start fire incidents and commit acts of indiscipline, do not perform very well in school. Therefore, they are given pressure by the school administrators that they must perform. Many of them are not of similar capacities. You heard what a parent of a student from Buruburu Girls' said yesterday in the news that the matter was reported to the principal who said *chomeni*. How should we handle this? I think we need the counselling



and guidance centres to be more student-friendly so that such incidents are nipped in the bud.

I thank you, Madam Deputy Speaker.

**Sen M. Kajwang’**: Madam Deputy Speaker, I want to start with the Statement on the fires. I wish to send my prayers and apologies to the children who are in hospital.

Achebe in his book entitled *Things Fall Apart* told us that when the mother cow is chewing grass, the calf watches. What our children are doing is a reflection of what the parents and adults are doing. When we are full of impunity violating COVID-19 protocols, insulting each other on public platforms, our children are following suit. We must show a good example instead of every time condemning our children and yet we did not live up to the expectations that are expected of us.

Through subsequent legislation, we have stripped our teachers of all authority. Nowadays teachers cannot even discipline children in schools as it was in the past. These are things that we need to look at even as we blame the young children of running astray.

On the Statement on IEBC, in today’s world, young people can order food online, they can book tickets online, they can attend church online, they attend weddings online, they attend funerals online, they attend school online and graduate online. Why should we tell these people to go to their local villages, to the chief’s camp to take voters cards as if they are going for a COVID-19 vaccination?

I want to urge the Committee on Justice, Legal Affairs and Human Rights of this House to quickly do an audit of the IEBC and its readiness for the next election because we have got a trinity of evil. We have got someone in charge of the data of this country, a data commissioner, someone in charge of transmission, someone in charge of the Election Management Board and those three people were part of the discredited election that almost drove this country into an abyss.

There are those who have said even if Oburu Odinga was chairman of IEBC, it should not be a problem. However, I want to tell you that election is the reason why Kenyans kill each other. We are not killing each other now because of curfew, but at election time it will be brother against brother and tribe against tribe. We must get it right.

I hope this Statement will call for a bigger audit of the regulations, preparation, procurement and all those things that can ensure and assure Kenyans of a free and fair election.

**Sen Ngugi**: Thank you, Madam Deputy Speaker. On the issue of the fire, I think we have a big problem. It is true that I am not a parent, but I have a brother and sisters. I have also been a student. However, I think we are dealing with the issue of hardware and not software. I think whatever we are experiencing, not only in schools, but everywhere in this country, is as a result of how we are raising our children.

I remember when I was growing up when my dad and mum said “No”, it meant “No” no matter what you did. However, nowadays we are raising children in a manner to suggest to them that they can do anything and get anything that they want regardless of whether it is correct or not.

On the second Statement about the IEBC, I was affected by the 2007 post-election violence and the main reason was how the elections were conducted.

As my senior Sen. M. Kajwang’ has said, we are living in era of technology. We need the IEBC to stop doing the same things that they have been doing. They must up

their game. One of the issues that they must up their game on is the issue of communication. We need them to continue communicating and updating us on each and every step that they are making and their preparedness towards 2022 elections.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen (Prof.) Kamar): Sen. (Dr.) Musuruve, three minutes please.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker. Just briefly to touch on the two issues. When it comes to the issue of IEBC---

**The Deputy Speaker** (Sen (Prof.) Kamar): There is an intervention from Sen. Wambua.

**Sen. Wambua:** Thank you, Madam Deputy Speaker. This will help the Senators that are contributing to that Statement on unrest in schools. I have just seen information from the Ministry of Education that they have now agreed that secondary schools will have to break for mid-term on Friday 19<sup>th</sup> November and resume on Tuesday 23<sup>rd</sup> November to deal with this unrest in schools. It is a good step.

Thank you, Madam Deputy Speaker.

**Sen. (Dr.) Musuruve:** Madam Deputy Speaker, I want to comment on the two issues. One is on the issue of the IEBC. The reality on the ground is that there is extreme voter lethargy when it comes to registering as voters. So, there is need for the IEBC to extend this process by even two months so that there is mobilization of people in the counties to register as voters.

I remember when I was in Lugari, I moved from one ward to another and I found that people were not keen on registering. This is bad because they are denying themselves their constitutional right of electing deserving leaders. There is need for that process to be extended and for the leaders to go on the ground and sensitize on the importance of people taking voters cards.

Quickly on the issue of the fire, I am very sorry for what happened at Buruburu Girls High School. I have been a teacher before and I always insist that when it comes to discipline of students, the tripartite relationship of students, teachers and parents is very important. In some schools, for example, you will find students just doing things that are unthinkable. However, when they go home, they talk to their parents and their parents instead of supporting the teachers towards disciplining their child, they gang up against the teachers.

I also want to talk about the issue of emergency doors. There is need for boarding schools to have emergency door or an exit door just in case a fire breaks out. The issues faced by schools are not for the Government alone. It is an issue of parents and partnership.

I support these two Statements.

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

**The Deputy Speaker** (Sen (Prof.) Kamar): What is out of order, Sen. Sakaja, although she has finished?

**Sen. Sakaja:** Madam Deputy Speaker, something very strange has just happened that the person who brought the Statement has given us information that there is now a mid-term break and he said then it is okay. So, has he stepped down the Statement? That is a good thing. There is a break that has been ordered.

The framework that allows a policy decision to be made such as no mid-term is what still needs to be questioned because this is reactionary that the Ministry has now said that there will be a break from 19<sup>th</sup> November, 2021 because of the unrest.

The Chairperson of the Committee on Education is here. We must implore him that we must still get to the bottom of these policy decisions being made in the dark that are leading our children to take such actions in schools.

**The Deputy Speaker** (Sen (Prof.) Kamar): Thank you, Sen. Sakaja. Sen. Wambua, I do not want you to touch on it because I was wondering why you were giving us breaking news from 411 and newspapers. We do not know where you are getting the information from. You are not the Cabinet Secretary for Education. They have not yet communicated it to you officially. I do not want you to touch on this. Are you giving us more information?

**Sen. Wambua:** Thank you, Madam Deputy Speaker. The reason I brought that matter to the attention of the Senate is twofold. One, I want to highlight the importance of this discussion. In fact, following what we are debating right now, the Ministry has made a decision that is positive.

The issue of mid-term has been canvassed by almost all the Senators in their contributions. I want to inform you that the matter has been dealt with. I was just saving time for the Senate and I think it is a good thing.

**Sen. (Prof.) Kindiki:** Thank you, Madam Deputy Speaker. I want to make very brief remarks.

First, I will talk about the strikes and incidents around our schools. It is my view that the curriculum is overcrowded for our children. The situation has even become worse with COVID-19 because a heavy curriculum has now had to be dealt with in the context of a backlog. There is only so much that a human can sustain. It is impossible to raise children while subjecting them to the kind of study programme that we are subjecting them to at the moment.

Secondly, as nation, we must find ways of balancing between the freedom that we so much cherish and ways of limiting exposure of our children to social media. Some countries in the East have gone to the extreme with very high limitations, but other countries, where I think we fall, have been very liberal when it comes to exposure to social media. Some of the bad habits that our children are espousing are a direct influence from social media.

My second issue is on the IEBC. One, we must respect court orders however painful they are. The commissioners said today that they do not have money and that makes sense.

*(Applause)*

As an officer of the court, am imploring our Judiciary to be sensitive of the practicability of the court orders when they make them because we must respect the court orders. When a judge instructs a public institution to do something, he must ask himself how that public body will implement his court order.

Otherwise, we are creating a difficult situation where one will have an embarrassment and we do not want to expose our Judiciary because they have already been exposed by other arms of Government. We will be the last to expose our Judiciary to any lack of obedience to court orders.

The Commission is trying its best to prepare for the general elections. We wish them well though they have made Kenyan elections to be extremely expensive. They have not explained to Kenyans, at least to me satisfactorily, why the cost of elections per capita in this country is 10 times, the next expensive system. Our elections are among the most expensive in the world and no particular reason has been given convincingly.

Finally, we must remove politics from the conduct of elections if we have to sustain our democracy. There are cabinet secretaries who lecture us yet they are partisan and promote a particular political candidate. Those cabinet secretaries must step down from the multiagency team because espousing Government policy, which is enshrined in the law for a cabinet secretary of the national Government or county government, does not include campaigning for a candidate for the next general election.

*(Sen. Cherargei applauded while banging the Table)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Finally, we will hear from the Chairperson of the Committee. I give you two minutes to accept the direction.

**Sen. Sakaja:** On a point of order, Madam Deputy Speaker.

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

**Sen. Sakaja:** Madam Deputy Speaker, I do not know if you have noticed that one Senator, who I will not mention because his constituents are listening, has applauded by banging the Table. This is an august House. There is precedence on how we applaud in this House. We do so, by stamping our feet. This not a market in--- Let me not mention the county. This is not a bar. Please reprimand him and tell him how Senators---

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

*(Several Senators spoke off record)*

**Sen. Sakaja:** Should I mention his name? No, I will embarrass him. I am shocked. This is the Senate of the Republic of Kenya and it is in the capital city. A Member is supposed to stamp his feet on the ground to congratulate or show that they are happy with what someone has said.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Point taken and your colleague has been corrected.

**Sen. (Dr.) Milgo:** Thank you, Madam Deputy Speaker. The IEBC should have more time for the registration and that goes hand in hand with funding. They need to source for more funds for that exercise because they need to be well prepared so as to avoid the scenario that we witnessed in 2007 where we had conflict when the election that was not well done.

One of my colleagues mentioned that the unrest could be as a result of CBC. I want to inform the House that CBC is one of the best curriculums and we should look for the issues that are causing unrest. My Committee is well seized of this matter and I am sure we will get to the root cause of this.

School fires are not new in this country. They have been there. I am sure that we still remember the Bombolulu case of 1998 which led to the loss of six girls, the 1999 Kyanguli case where we lost children and the 1999 case in Nyeri where we lost four prefects.

We probably need to look at the policy once again. I am sure that my Committee together with the Ministry of Education and the other stakeholders will look at what is happening when the time comes.

**The Deputy Speaker** (Sen. (Prof) Kamar): Thank you, Senators. The first Statement by Sen. Wambua on the upcoming election preparedness by IEBC stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights while the second one on the ongoing student unrest in secondary schools stands committed to the Standing Committee on Education.

Next Order.

## BILL

### *First Reading*

THE ELECTION CAMPAIGN FINANCING (AMENDMENT)  
BILL (SENATE BILLS NO. 51 OF 2021)

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

**The Deputy Speaker** (Sen. (Prof.) Kamar): Next Order. Proceed, Deputy Majority Leader.

## MOTION

RESCINDING OF THE SENATE RESOLUTION ON APPROVAL  
OF SENATORS TO SERVE IN THE POWERS  
AND PRIVILEGES COMMITTEE

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

THAT, pursuant to Standing Order No.58(2)(a) the Senate rescinds its resolution made on Thursday, 16<sup>th</sup> September, 2021 on the approval of Senators to serve in the Committee of Powers and Privileges.

Madam Deputy Speaker, I do not want to take a lot of time on this. This is the decision of the House and the Senate Business Committee (SBC). I request Sen. (Dr.) Milgo to second.

**Sen. (Dr.) Milgo:** Madam Deputy Speaker, I second.

*(Question proposed)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): I do not see any contribution. I therefore put the question.

*(Question put and agree to)*

Next Order.

**MOTION**APPROVAL OF SENATORS TO SERVE  
IN STANDING COMMITTEES

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

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 14<sup>th</sup> December, 2017; 14<sup>th</sup> February, 2018; 21<sup>st</sup> February, 2018; 21<sup>st</sup> November, 2018; 20<sup>th</sup> March, 2019; 19<sup>th</sup> June, 2019; 28<sup>th</sup> April, 2020; and 24<sup>th</sup> June, 2020 on the approval of Senators to serve in various Standing Committees of the Senate, and pursuant to Standing Orders 189, 218, and the Second Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows-

(i) Standing Committee on Energy - Sen. Haji Abdul Mohammed, MP to serve as a Member.

(ii) Standing Committee on Justice, Legal Affairs and Human Rights - Sen. Isaac Ngugi Githua, MP, to serve as a Member.

(iii) Standing Committee on National Security, Defense and Foreign Relations - Sen. Gideon Moi, CBS, MP to serve as a Member.

Madam Deputy Speaker, this is also to place the Senators who have been recently sworn in especially the first two. Thirdly, is to place Sen. Moi to serve in the Committee on National Security, Defense and Foreign Relations.

This is a matter that has been canvassed both at the leadership and also the SBC. I request Sen. (Dr.) Milgo to second.

**Sen. (Dr.) Milgo:** Madam Deputy Speaker, I second.

*(Question proposed)*

**Sen. Ngugi:** Thank you, Madam Deputy Speaker. I have no problem serving in that Committee, but I have heard discussions going around about the suitability of some of us to be leaders even at committee level.

I stand firm and state that we need to be real. We came in as replacements. It can only be good if we replace our predecessors in the committees where they were. The issue of saying someone is too young to serve in any committee is completely out of order.

If I were there in 1963 when we were fighting for our Independence, I would probably have been the Minister for Defense. The first Cabinet majorly constituted young persons of that time.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. M. Kajwang' has a point of order.

**Sen. M. Kajwang':** Madam Deputy Speaker, Sen. Ngugi is in my Committee. I did not want to disrupt his train of thought, but it has been the tradition that when you are the beneficiary of a Motion you do not contribute to it.

This Motion leaves Sen. Ngugi as having been placed in a Committee. I advise him and seek your indulgence that unless he wants to extricate himself from these committees where he is being proposed, he should allow other Members of the House to be the ones to discuss his suitability.

It has been our tradition that if you are the beneficiary, you let other Members debate.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Ngugi, I hope you are advised. I did not realize that I gave you the first opportunity. I should have given you the last opportunity so that you either accept or not. Allow other Members to discuss. There are also many hon. Members in the Committee you are being placed in.

If you make it look as if the Committee of Justice, Legal Affairs and Human Rights is not as comfortable, then you are talking to Members of the same Committee, one of whom is sitting next to you - a very senior lawyer and my first PhD in law from Moi University. Do not persuade Members in any direction. Let them discuss this Motion on their own.

**Sen. Ngugi:** Thank you, Madam Deputy Speaker. I stand guided. I was speaking on behalf of the silent majority.

**Sen. Olekina:** Madam Deputy Speaker, I rise to support this Motion. It is about time---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, I hope you are not talking to yourself. That would be very worrying.

**Sen. Olekina:** Madam Deputy Speaker, I think we need to give him some water. He might be thirsty.

I believe it is time we tried to create forums in some of these committees. The changes that have been proposed by the SBC today are to replace some of our colleagues who have departed. It is quite difficult when you want to raise quorum in any Committee, particularly the Committee on Energy where Members are probably serving in other committees like the Committee on Justice, Legal Affairs and Human Rights.

Madam Deputy Speaker, this is a very interesting time for us. We are debating various legislative proposals, particularly on the elections. It will be important for the Committee on Justice, Legal Affairs and Human Rights to have full membership. Therefore, I fully support this and hope that we can move forward and make all the changes that we need. We should accept that we have a very short time to work for Kenyans who have given us an opportunity to serve them in this country.

Madam Deputy Speaker, the debate on which Members should serve in which committee sometimes takes a wrong turn because of personal interests. In the middle of all the recesses that we get, all these committees that require Members to be filled in like the Committee on Energy, the Committee on Devolution and Intergovernmental Relations, the Committee on Justice, Legal Affairs and Human Rights, the Committee on Labour and Social Welfare---

Madam Deputy Speaker, you can tell those of us who want to work. Look at the House today. I do not want to quote the Standing Orders because of the hybrid system. However, in ordinary circumstances, we would not even be sitting here because we do not have enough Members.

I persuade my colleagues that whenever we get such a Motion, we should all support it so that we can continue doing our jobs. In Parliament, we do our job both in plenary and committees.

I support.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei.

**Sen. Cherargei:** Madam Deputy Speaker, I oppose this Motion for various reasons. One, you gave us a break two or three weeks ago and we had a *kamukunji*. We agreed on a draft reasoning and the *kamukunji* meeting was co-chaired by the Senate Majority Leader and the Senate Minority Leader. There was supposed to be an overall change in all committees, but the leadership in its dishonesty has decided to bring what we call piecemeal changes to fit their own interests.

We need to be honest with ourselves. Why did we interrupt the session of the House to make a resolution that would not assist in ensuring the efficiency and effectiveness of the House?

Madam Deputy Speaker, I forgive Sen. Olekina because he was not around at that time. If you check the HANSARD and what we did during the *kamukunji*, we agreed on the membership of the Committee on National Security, Defense and Foreign Relations. There were some Members who were mentioned on the issue of Laikipia; that they should not serve in that sensitive Committee.

To be honest to Kenyans, we cannot put some Members who have been mentioned adversely in some of the issues that are happening around the country to be Members of those committees. It will mean that the Committee itself will---

**Sen. Dullo:** On a point of order, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): There is a point of order from Sen. Dullo.

**Sen. Dullo:** Madam Deputy Speaker, Sen. Cherargei has mentioned a Member of this House who has been mentioned in a security report and has been put in the Committee on National Security, Defense and Foreign Relations. I think it is important that he should give evidence because he is completely out of order. I know very well that there is no report tabled here that has implicated any Member of this House.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. However, it is not the Senator who says that someone is completely out of order. You ask whether somebody is in order, then we can gauge.

Sen. Cherargei, it is true that you have made two statements that attracted the attention of Members. You do not really have to insinuate and say something negative about a Member before a proper discussion is done.

By the way, before you forgive Sen. Olekina, remember that there are Members in this House whose committees do not meet because of lack of quorum. Those are realities that we must all be aware of as we move forward.

Sen. Cherargei, you can have your last minute.

**Sen. Cherargei:** Madam Deputy Speaker, I was just trying to be honest. I think that the Committee on Devolution and Intergovernmental Relations had been properly populated. I think that Sen. M. Kajwang'---

**Sen. Farhiya:** On a point of order, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): There is another point of order, from Sen. Farhiya.



**Sen. Farhiya:** Madam Deputy Speaker, Sen. Cherargei is affirming what he had said without a substantive Motion to discuss a Member. What Sen. Cherargei is insinuating is not right. He has done it again even after you tried to make things better for him.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, the only way that you can confirm the truth is with evidence. That is what is required. You are a lawyer. Please stick to the debate of whether these Members can join these committees or not.

**Sen. Cherargei:** Madam Deputy Speaker, let me put it clearly. Somebody has said that some committees are not well populated. I remember that there was a Motion that was brought and Sen. M. Kajwang'---

**Sen. Dullo:** On a point of order, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): There is another point of order from Sen. Dullo.

**Sen. Dullo:** Madam Deputy Speaker, I think we have made a very clear intervention here. Can Sen. Cherargei provide evidence or withdraw a statement that he has made on the Floor of this House that there is a Member that has been implicated in a report on the security of Laikipia County?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, are you ready to substantiate or will you withdraw?

**Sen. Cherargei:** Madam Deputy Speaker, there is a Member of the Committee on National Security, Defense and Foreign Relations. It is in the HANSARD. If you can give me time, I can retrieve it.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Not the HANSARD. Is there a report that is implicating?

**Sen. Cherargei:** Madam Deputy Speaker, it was made by a Member of the Committee on National Security, Defense and Foreign Relations. It is on record in the HANSARD.

**The Deputy Speaker** (Sen. (Prof.) Kamar): What was made?

**Sen. Cherargei:** It had been mentioned that during their visit to Laikipia County, some of Members of this House---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, I hope that you are not repeating what that Member said if it was just a mention. It means that both Members are really putting the House in disrepute. Is there evidence? You have to defend yourself.

**Sen. Cherargei:** Madam Deputy Speaker, for the interest of the House, I withdraw and reframe it.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you very much.

**Sen. Cherargei:** Can I have my last minute?

**The Deputy Speaker** (Sen. (Prof.) Kamar): You said that you have withdrawn and---

**Sen. Cherargei:** I want to make my final comment on---

**The Deputy Speaker** (Sen. (Prof.) Kamar): No, you need to apologize because I can see that Sen. M. Kajwang' and Sen. Olekina are ready.

**Sen. Cherargei:** Madam Deputy Speaker, what is happening? I am not getting why Members are ready. Over what?

**Sen. M. Kajwang':** On a point of order, Madam Deputy Speaker.

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

**Sen. M. Kajwang'**: Madam Deputy Speaker, we need to be extremely careful with how we prosecute business in this House. Just a week or two back, it was mentioned on the Floor of this House that Sen. Cherargei wasted taxpayers' money by going to the United States of America (USA) to inspect Boeing aeroplanes. He then brought back a report without recommendations.

However, because the House did not take a resolution on that matter, we cannot hold it against him. It cannot be that if a Member said something on the Floor of this House, taking advantage of Parliamentary privilege, that can be taken as a resolution.

Madam Deputy Speaker, you have already advised him that he cannot refer to banter in the House. If we are going to rely on banter, we should be asking the Ethics and Anti-Corruption Commission (EACC) to investigate Sen. Cherargei for going to inspect Boeing aeroplanes. Is he in order to implicate a Member of this House to security issues in Laikipia County?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. M. Kajwang', he has withdrawn. According to our Standing Orders, what he has not done is apologize.

*(Sen. Cherargei spoke off record)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, let us not go there.

**Sen. Cherargei**: Madam Deputy Speaker, it will be unfair for this to go on record. All foreign travel is approved by our office. Sen. M. Kajwang' just came back from the USA using taxpayers' money and he is yet to table any report. It means that he is casting aspersions to your office for approving his trip to the USA. Why is he bringing political gossip in the House?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Order, Sen. Cherargei.

**Sen. Cherargei**: Madam Deputy Speaker is he casting aspersion on your office, because both local and international trips are approved by your office? Does it mean that you do not have the capacity to approve some of the trips?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, let us not divert.

**Sen. Cherargei**: Sen. M. Kajwang' must apologize.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Order, Sen. Cherargei. Do not take us away from the point under discussion. Since you have withdrawn, can you apologize so that we move on? We only have three minutes.

**Sen. Cherargei**: Madam Deputy Speaker, I apologized to the leadership and withdrew that part.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. Kindly conclude.

**Sen. Cherargei**: Madam Deputy Speaker, in conclusion, let us avoid being dishonest. When we had a *Kamukunji*, many resolutions were made. We agreed that Members who have specific interests should not be populated in committees that they have had adverse conflict of interest. My question is simple. Why is the leadership of this House, who are always absent, so interested in---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, you are taking us back. You apologized and withdrew yet you are taking us back. We are not going to

discuss the leadership of the House unless you will come up with evidence. If the leadership did not receive any evidence, then they do not have any reason to do that.

**Sen. Cherargei:** Madam Deputy Speaker, I sat in that *Kamukunji* and you gave us a break---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Order, Sen. Cherargei. The *Kamukunji* came up with the decisions that were made. If you have any evidence against how the leadership moved forward, you need to bring it here. If there is no evidence, that information did not reach the leadership and that is why they made the decisions as they did. However, we must ensure that Members are in committees. We cannot block these Members from going to committees because of allegations that have no evidence. We should protect every Member of this House, including you. We do not want to act on anything that has no evidence.

Sen. Cherargei, your one minute is over.

**Sen. Cherargei:** Madam Deputy Speaker, can I conclude?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Yes, you can.

**Sen. Cherargei:** Madam Deputy Speaker, I propose.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Farhiya.

**Sen. Farhiya:** Madam Deputy Speaker, you should have made Sen. Cherargei withdraw again because he continued in the same line.

**The Deputy Speaker** (Sen. (Prof.) Kamar): You are also going in that direction. I would like to caution you. Please contribute to the Motion.

**Sen. Farhiya:** Madam Deputy Speaker, one of the resolutions of the *Kamukunji* included the composition of the County Public Accounts and Investments Committee (CPAIC). As you are aware, CPAIC is a sessional committee whose term ends on 2<sup>nd</sup> December, 2021. A new Committee will be constituted anyway. If there will be any anomalies in that Committee, the issues can be addressed at that time.

The changes affected many committees. It is for that reason that the leadership decided not to have a major reshuffle of committees. There were committees that were suffering such as the one led by Sen. Kajwang, whose problems were sorted. Since there are Senators without committees who would like to work, but cannot work, the leadership thought it wise to fill the gaps first. The composition of committees is a political parties' issue.

Sometimes you can make a resolution which when you do the analysis, you realize that it is not implementable or strategic. Since the term of the sessional committees is coming to an end there is no need to do a major reshuffle. The list that had contentions contained major reshuffles. However, the list that is before us today is just meant to replace Members in committees that have shortage as a result of the death of Members.

Madam Deputy Speaker, this Motion should not raise a major issue because only three Members are being replaced in three committees. Surely, that is not too much to ask.

I beg to support this Motion and ask other Members to support.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Nyamunga.

**Sen. Nyamunga:** Madam Deputy Speaker, I thank you for giving me the opportunity to add my comments to this Motion on the constitution of committees. I do

not think that it is right for us to hold our committees at ransom making them unable to operate. We are here to serve the interests of Kenyans.

About two weeks ago, we could not function in the Committee on Devolution and Intergovernmental Relations. There were several other committees that could not function for a period of about four months since Sen. (Dr.) Kabaka and Sen. Prengei passed on. It is not good for us to always---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen, Cherargei, what is out of order?

**Sen. Cherargei:** On a point of order, Madam Deputy Speaker. I rise pursuant to Standing Order No. 35, which states that:

‘A quorum of the Senate or of a Committee of the Whole shall be fifteen Senators’

Looking around, I can confirm that the House does not have the necessitated number of Senators. I request that you to guide us.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen, Cherargei, we have a good number of Senators who are following the proceedings online. You are going to push us to start counting people online.

**Sen. Cherargei:** Madam Deputy Speaker, I request that the Members online be counted.

**The Deputy Speaker** (Sen. (Prof.) Kamar): I urge the Members who are online to continue being online to be counted.

Proceed, Sen. Nyamunga.

**Sen. Nyamunga:** Madam Deputy Speaker, that is just interruption. The Committee on Devolution and Intergovernmental Relations could not function for about three months due to lack of quorum. We are approaching a critical time---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Nyamunga, allow me to respond to Sen. Cherargei’s point of order before you proceed.

We have five Members online and 11 Members in the House. We have the necessary quorum.

*(Applause)*

Proceed, Sen. Nyamunga.

**Sen. Nyamunga:** Madam Deputy Speaker, I urge Members to be more serious with the business of this House because we are approaching the end of the 12<sup>th</sup> Parliament. Unfortunately, many things are still pending. There are many petitions that we have from the public, which we have not considered. It is important for us not to drag this House behind.

We should properly constitute all the committees of this House. Some of the committees have already been properly constituted such as the Committee on Devolution and Intergovernmental Relations. Let us be committed to give Kenyans what they deserve.

I also urge the Members of this House that it does not matter where they are placed because they are competent enough to serve in any committee. Any Members can grasp the working of any committee after one or two sittings. It is therefore unfortunate for anybody to decline some of these placements. We should accept wherever we are placed so that we give proper service to our people.

I support the constitution of the committees.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, allow me to now propose the question.

*(Question proposed)*

*(Question put and agreed to)*

Next Order.

### MOTION

#### ADOPTION OF REPORT ON THE STATUS OF KENYA'S STOCK OF PUBLIC DEBT

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Status of Kenya's Stock of Public Debt, laid on the Table of the Senate on Thursday, 14<sup>th</sup> October, 2021.

*(Sen. Kibiru on 19.10.2021)*

*(Resumption of debate interrupted on 19.10. 2021)*

Sen. Cherargei had two minutes remaining to contribute to the Motion by the Standing Committee on Finance and Budget.

**Sen. Cherargei:** Madam Deputy Speaker, I support the report by the Committee on Finance and Budget.

As a country, we must look into the future of sustainable public debt. As Parliament, we must also look at the debt register of this Republic. We agree that at the moment, the information that we have is that we are Kshs7.7 trillion in public debt. I opposed when the National Treasury raised the public debt ceiling to Kshs7.7 trillion. So, if they raise it to Kshs12 trillion, I will still oppose. As a country, we must have a sustainable debt because the loans that we already have are expensive and the economy is not doing well especially post COVID-19 era.

We have seen the recommendations that the Committee on Finance and Budget has given in its report. However, we must relook them. We have a budget of about Kshs3 trillion. Half of it is raised through revenue and almost three-quarter of it is paid to service expensive loans.

The media once asked the President to provide evidence that the ownership of the Port of Mombasa is not with the Chinese as collateral. So, going into the future, we must agree on what national assets are with our debtors. For example, is it Jomo Kenyatta International Airport (JKIA), Lamu Port, South Sudan, Ethiopia Transport (LAPSSET) or the Port of Mombasa?

The country should not allow itself to use what we had in the early 1990s through the World Bank called Structural Adjustment Programmes (SAPs). Right now, fuel is expensive fuel because of the debts that we have.

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

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

I note the change in the speakership. My neighbor, Sen. Nyamunga is now in the chair.

Madam Temporary Speaker, as a country, we must agree that if we do not manage the public debt, life will continue to be expensive and poverty levels will go up.

We must borrow from the first world countries. It is good that people like Sen. Olekina have been in countries that are first world. They should assist the Government in managing public debt.

**Sen. (Prof.) Kindiki:** Madam Temporary Speaker, I almost asked whether it was in order for, Sen. Cheragei, to refer to the Speaker as his neighbor. However, since he has finished, I will leave it to lie.

The stock piling of debt is a matter of grave national concern. At the moment, the total debt in the country remains unclear. The Executive continues to deny that they have mortgaged the country and that the debt is not sustainable. At 70 per cent of Gross Domestic Product (GDP), Kenya's debt is not sustainable.

I will explain why. I know that in many countries, the level of debt is quite high compared to the GDP. For example, the United States of America (USA) is about 110 per cent. In Singapore, it is about 165 per cent. In Japan, it is 250 per cent. However, we should not be deluded that this country can sustain the debt levels currently at 70 per cent of GDP. There are two main reasons for this. The first one is who owns the debt?

While the countries I have cited the debt is owned by locals, most of our debt is owned by foreigners, in terms of foreign nations. While in these countries most of the debt has concessional or minimal interest rates, much of our debt portfolio is not only owned by foreigners, but is at commercial as opposed to concessional interest rates.

For example, in Japan, 95 per cent of the debt is owned by Japanese companies or wealthy high net worth individuals, mainly elderly people who are not in a hurry to keep on investing here and there and do not want risk-averse investments. They will not call the debts any time soon. This is because most of it is owned by Japanese families in perpetuity. However, in this country, on the contrary, most of the debts are owned by foreign nationals and corporations, and the interest rates are exorbitant.

Madam Temporary Speaker, the second reason why our debt is not sustainable is because of the question, what collateral is used against the debt in question?

In the USA, Japan, Singapore *et cetera*, the debt is entirely owned by the equivalent of the Central Bank of Kenya (CBK). For example, 93 per cent of the Japanese debt is owned by the Bank of Japan. Being such, it is unlikely that the Bank of Japan can auction the assets of Japan. Likewise, the Federal Reserve System in America cannot auction the State because it is the State's treasury.

Therefore, one of the reasons why that debt in those countries will be sustainable even if it is high compared to the GDP is because it is owned by the National Treasury. It is easy for it to write it off by mere paper accounting. That is not the case in our country.

Also, the debts in the countries with high levels of debt to GDP ratio is backed by a very strong manufacturing industry. The example I have given of Japan suffices. Japan

is the biggest creditor on earth. It has assets of over USD3 trillion in form of foreign currency and investments.

Madam Temporary Speaker, one may ask, what does this country manufacture and what foreign reserves or investments do we hold? It means, therefore, if we default and we are likely to do so, this country will lose the JKIA as it is almost happening in Zambia. The same country is about to lose the power utility firm which is the equivalent of Kenya Power to Chinese creditors.

A country like Sri Lanka is almost losing the main sea port in Colombo to Chinese creditors. So, those who continue to delude us that our debt levels are sustainable must be condemned in the highest terms possible.

I end my remarks by saying the following statements. Those who are in one way or the other responsible for bankrupting Kenya and placing our country into a course of irredeemable debts will pay dearly in life or in death.

I support the recommendations of the Committee.

**Sen. M. Kajwang':** Madam Temporary Speaker, I rise to support the report of the Committee on Finance and Budget on Kenya's public debt stock.

This House had requested the Committee on Finance and Budget to inquire on the status of public stock of debt in Kenya and its implications on Kenya's development agenda. What the Committee has given us is a risk assessment report that is meant to keep the House at par with the information from key stakeholders in relation to sustainability of public financial resources available to finance both national and county governments.

I know there are those who might think that the subject of public debt should be a preserve of the National Assembly. As long as issues of public debt affect the revenue that is sharable between the national and county governments, it becomes the business of the Senate and the interest of all citizens in this Republic.

The Committee on Finance and Budget has made five recommendations on page seven of the report. Among them is to ask the National Treasury to submit certain pieces of legislation and reports to Parliament within six months and provide a status report on structuring of public debt within 28 days.

When you look at the mandate that this House gave to the Committee on Finance and Budget and the recommendations that they have made, I think they did a good job, but came up with lazy proposals. The Committee had been tasked not just to give deadlines to the National Treasury. The Committee was tasked to inquire on the implication of debt on Kenya's development agenda. That was a subject that could produce volumes of books. It was not just a matter of describing the debt ceiling or where we sit today or describing and transcribing what the various stakeholders said. We expected the Committee on Finance and Budget to dig deep and tell us the implication of debt on Kenya's development agenda.

Nonetheless, this report makes for good reading because we have got submissions from various stakeholders. Unfortunately, many of the stakeholders are Government entities and agencies that are quite involved in the discussions, negotiations and management of public debt. So, you do not expect that they are going to tell you that the decisions they made are unsustainable and not viable.

Madam Temporary Speaker, how I would have appreciated if the Committee on Finance and Budget talked to civil societies and other groups such as policy institutes and

think tanks that have been looking into this matter. We established the Kenya Institute for Public Policy Research and Analysis (KIPPRA). That is a statutory body established by an Act of Parliament with some very eminent persons yet I have rarely seen a report of this House quoting what the KIPPRA said. Why do we waste resources by setting up such a high level public policy institute yet we do not want to benefit from it?

If you ask the National Treasury whether the debt is sustainable, definitely they will tell you the debt is sustainable because they are responsible for it. We would have expected institutions like the KIPPRA, the Institute of Economic Affairs (IEA) and other civil society players to make an input. To that extent, I think this report is not complete. Perhaps, that is the reason, as I said earlier, the recommendations are a bit lazy.

We do not disagree that borrowing is a bad thing. Even in our private matters, we all borrow. If you want to step from your position to a position of greater economic empowerment, you have to take some risks and borrowing is one of them because you borrow with the hope that you are going to, like the parable of talents says, do something with it, so that it becomes bigger than what you had borrowed and you can pay back.

A few years ago when we took to the streets when we were calling for transparency and disclosure on the Eurobond that the nation had taken, some of us were called names. In fact, there were insinuations even by Members who were leading this House then that some of us had lost our marbles. They asked why we were demonstrating outside on issues of Eurobond when we could have sorted that matter.

I am happy that today there are a few Sauls who have become Pauls because they are now proclaiming a curse on those who have bankrupted this nation through borrowing of the Eurobond style. Nonetheless, we went to the streets and marched to the Central Bank of Kenya (CBK).

Madam Temporary Speaker, I can see the former Senate Majority Leader looking at me a bit suspiciously, but I am not referring to him. Even though he just proclaimed a curse on those who have bankrupted this country, he was not been with us on the streets when we were talking about the Eurobond. He was not with us when we went to the CBK.

He was not with us when we were complaining that the CBK gave us redacted bank account statements. He was not with us when we were complaining why the President had rejected a request by the Auditor-General to go and audit books of accounts of the Government of Kenya and confirm whether the Eurobond money came to Kenya. It is only a fool who does not change their mind.

The Eurobond matter is captured in this report. Kenya borrowed to pay recurrent expenditure yet the Public Finance Management (PFM) Act is clear that any borrowing should be geared towards development. I am glad that now we are having a candid conversation to see how we spent or squandered the money.

Even in a family, assuming the head of the family is a man because even a woman can head a family, if the man, who is charged with family land took a loan of Kshs1 million and bought a tractor to till the land to increase productivity, I think that would be a bright decision that all members of the family would support. However, we have seen cases where a man gets Kshs1 million from a bank and decides to marry another wife or rent a house in the nearby town, so that he can be drinking tea and mandazi every morning. Those adventures rarely go beyond six months because if you decide to spend with the girls found in towns, do tea and *chapatis* in towns and drink whiskeys in the



evening, Kshs1 million will not be there in six months, but you will have to pay it. That is what we did with the Eurobond.

We acted like an irresponsible father who took a loan so as to get money to treat his mistresses and do funny things at night. If we had spent that money on Galana-Kulalu, today we would not be talking of food insecurity. If we spent that money on housing, today we would not be talking of the crisis that this country faces as far as housing is concerned. That is where the rain started beating us.

The deficits that we have in our budget are avoidable. There is no point of coming up with budgets that are not balanced when we know that if we dealt with wastage, corruption, task avoidance and tax evasion, that deficit would not be there.

There are countries that have got a very disciplined approach to their budgets. For some of them, it is a constitutional position that there should be no budget deficit. Therefore, they always strike to have a balanced budget. That means that their expenditure and revenue streams must match.

In this country, we take pride in the size of our budget. We are happy that we have got a Kshs3 trillion budget and we are laughing at our neighbours Uganda, Tanzania and Rwanda that their budgets are small. It is like two boys out in the field passing urine and comparing their abilities. Having a Kshs3 trillion budget should only give us confidence if we have an equivalent revenue stream, but consistent budget deficits makes us borrow in ways that are not sustainable.

The next Government must deal with the issue of tax avoidance and tax evasion. It is time for us to review our tax code and make sure that taxation targets those people who have the ability and are making profits out of this economy and not those who are suffering like paraffin, petrol users and *boda boda* riders.

The most vulnerable, unfortunately, we have always wanted to lump taxes on the majority thinking that the more people who pay tax the more tax revenues we shall get. We do not realize what other countries are doing. We need to look at our high net worth individuals without making the cost of business too high. There are people who through transfer pricing, tax evasion, avoidance and creativity in accounting are not paying the taxes that they are supposed to, yet a *boda boda* rider and at every point when a *matatu* is ignited there is money that goes to the Government in the form of petroleum taxes.

We must make sure that our tax regime is revolutionalised so that it does not favor the rich at the expense of the poor. We need to ensure everyone carries a proportionate burden of tax in this country. That can only be done through a radical view of our tax law. We must also audit our tax agencies and bodies.

I saw that a lifestyle audit has been commenced in one of the State corporations. I thank this House for passing Sen. Farhiya's Bill; The Lifestyle Audit Bill. The next Government must within 100 days give an order for lifestyle audit to everyone who is at the level of director and above at the Kenya Revenue Authority (KRA). We have seen the property they own. We are not saying that we do not want people to succeed. Success is what grows the economy and drives economic growth in countries, but it cannot be by taking 30 percent of everything they collect.

Madam Temporary Speaker, we want to ensure there is utmost honesty. As former President Kibaki said, "*kulipa ushuru ni kujitegemea*". It becomes a civic responsibility. I remember during the Building Bridges Initiative (BBI) conversation; some people were saying that voting should be mandatory so that even things such as

paying taxes is mandatory. If we are going to compel our people to pay taxes, we must see services. The people who collect those taxes should not be seen to be stealing part of it.

When we talk of things such as graft, wastage, tax evasion and avoidance we are still talking about the same size of the cake. We must bake a bigger cake. I am praying my party forms the next Government because it has a leader who is passionate about unlocking productivity in the economy. We cannot grow this economy, close our deficits or have money to pay our loans if we do not revitalize agriculture. It is not by giving hoes, gumboots and wheelbarrows, but modern tools to ensure that productivity is enhanced.

We have enough examples. In South Korea, the *Saemaul Undong* project which was aimed at raising rural livelihoods was a success. We have leaders who can benchmark with that. In China the villagization efforts succeeded yet next door in Tanzania they did not succeed because it was implemented in a poor political context.

Madam Temporary Speaker, if we can add value to agriculture through agro processing, we can encourage our young boys and girls to go back to the villages or to the lake. I see parents doing everything they can to educate their children and when they graduate from universities, they again do everything to take them to towns. They are willing to sell land so that their children can get jobs in the army.

Right now, there is recruitment going on in the army. All of us Senators are bombarded with requests from our constituents. Everyone wants their child to join the army, police and prisons. Who wants their child to become a fisherman? Nobody and yet the fishing industry was the source of wealth for so many rural households in China. That is why China is the largest producer, processor and exporter of fish. This is because they incentivized young people to go into aquaculture. Young people made money and the economy took off.

We must encourage our children that it is okay to go back to the lake. You will succeed if you came back to the lake with modern techniques and boats like a farmer; not as a hunter and gatherer.

Look at dairy farming. In this House, I am very proud when I see some of my colleagues everyday showing us what they are doing. Sen. Olekina would have chosen the traditional Maasai way of raising cattle, making sure he has a thousand head of cattle roaming and walking in the dust all over. However, he decided to go hybrid. One gets higher productivity when they go hybrid.

We should encourage our Maasai sons that they can go to Oxford and Harvard and come back to become dairy farmers. Not by roaming around the plains of Kisaju, but by going into high value and hybrid production of milk and beef.

Whenever you go to the United States of America (USA) or the United Kingdom (UK) and come back to Kenya, you feel relieved that you are back at home. Why can we not ensure we go beyond the tourism of harassing tourists to buy bungalows and *shukas* on our beaches?

Export led manufacturing is what we must focus on. We must avoid the mistake of import substitution and closing borders to products so that they can produce internally like Nigeria our brothers are doing. There must be a careful balance between protecting local industries and ensuring we have a liberal market that can see to it that our goods are competitive in the local and international market.

I am glad that as a Member of a political party, I have a leader who is running for presidency in 2022 who is passionate and knowledgeable. He has told us time and again that his focus will be to unlock the productivity of the economy. This is so that we can bridge budget deficits and have money to pay our debts so that we do not subject future generations to misery and bankruptcy as Sen. (Prof.) Kindiki had said. We can bequeath a country that is rich to successive generations.

Finally, in this report, the Auditor-General must be allowed to audit Kenya's debt situation. The Executive blocked the Auditor-General from doing so in the Eurobond matter, which was completely out of order. I hope the Auditor-General will be given the independence and strength, power and teeth to ensure they give Parliament a report in a timely manner on the sustainability and transparency of the debt that we have.

The Kenya Institute for Public Policy Research and Analysis (KIPPRA) wherever they are a constitutional body. If they have a problem of funding they should come to Parliament and tell us. This is supposed to be the think tank. The current Government got rid of the National Economic and Social Council and killed KIPPRA. Who is there to advise the Government? It is unfortunate that sometimes the Government is taking instructions and advice from bloggers and online contributors. We need to bring back these bodies, strengthen KIPPRA and the National Economic and Social Council. We need to bring technocrats into thinking. We do not just want Machiavelli running Government. As it is now our cabinet secretaries have become Machiavelli just looking for the best way of outwitting those people they do not like. Their focus should not be on competitive politics, but unlocking productivity. That is the ultimate solution to the debt problem we have in this country

Even though I said the recommendations are lazy, this is a good starting point for a conversation in the Senate. I hope within the six months that the Committee has recommended we are going to get a report back to the House.

I support.

**Sen. Farhiya:** Thank you Madam Temporary Speaker, for giving the opportunity to contribute to this Report. There has been a lot of effort to bring down the commercial borrowings.

According to data provided by the Central Bank of Kenya (CBK), the commercial debt in June, 2019 was 36 percent of our external debt portfolio. By June, 2020 that reduced to 31 percent. By June 2021, it further reduced to 28 per cent. Therefore, we need leadership that will take this forward to ensure that this process continues and we continue replacing very expensive debt with cheaper debt.

Madam Temporary Speaker, I also want to bring to your attention the fact that Kenyans always demand for development, but avoid paying taxes. If all Kenyans who are legible to pay taxes paid them, I do not even think we would need to borrow for development. We would have enough revenue to ensure that this country reaches the development that it desires.

Not only should we all pay taxes, but the people who work in Government institutions should also be responsible for whatever little resources they get, so that there is value for money in whatever we do. In my view, all these problems are brought by corruption on the part of Kenyans and the people whom we give responsibility to take care of our property.

Madam Temporary Speaker, our President has brought a lot of development. Let me give you specific statistics. Up to June, 2020, the tarmac roads in this country were 21,295 kilometres. During President Uhuru's tenure alone, this country has done 10,500 kilometres. That is almost 50 per cent of what was done in the last almost 58 years.

This debt is clearly doing some work, but as I said before, we also need to be responsible as citizens. If you are meant to pay taxes, please, pay those taxes. We will not need to borrow. There has also been some level of development in manufacturing during His Excellency's tenure. So, I hope that the next President will have integrity to take that forward.

Madam Temporary Speaker, as you aware, there have been some pilot projects in some counties for Universal Healthcare (UHC), and that work is also ongoing. All these need money. What Kenyans should understand is that any leader who has even a little bit integrity in their thinking and fiber should think about---

People promise that they are going to give money to the youth and empower them, and do this and that. No amount of economic manifesto will deliver for Kenyans, unless there is a strategy to address corruption. I urge Kenyans, at whatever level they are, when they elect a leader, whether it is a Member of the County Assembly (MCA)---

They need that MCA to put the governor to task, so that we get value for money for projects the governor implements. If that MCA has no integrity, it has its own implications. That will mean that the governor will just bribe them and they will pass whatever budget, regardless of whether it will address poverty and many issues that Kenyans are facing right now. That is for the MCA.

Let us go to the next level; the Member of Parliament (MP). Currently, MPs control Kshs140 million a year. When one elects that MP, can they trust him or her with that money? By the end of their tenure, we should not still have children studying under trees. As a voter, how will you ensure that---

**The Temporary Speaker** (Sen. Nyamunga): Senator, did I hear you right, that MPs control only Kshs140 million?

**Sen. Farhiya:** It is Kshs140 million as the National Government Constituencies Development Funds (NG-CDF).

**The Temporary Speaker** (Sen. Nyamunga): Per person?

**Sen. Farhiya:** Yes, Kshs140 million per constituency per year. If that money is put to good use, it can build many good schools and pay bursaries for children who are unable to pay fees. It can do many things. As a member of the public who has the power to ensure that the right person comes to power, are they in control of who they elect as an MP? When the current MP asks you to vote for them, will you ask them what they have done with the money that they were given?

Madam Temporary Speaker, let us come to the governors. It is the same question. Governors also control a lot of resources. Sen. Wetangula has been known to say that every five years, we elect 47 citizens of this country, but by the end of those five years, we have 47 millionaires. I do not think that Kenyans had that in mind when they voted for the Constitution. What they had in mind is that there would be more tarmacked roads.

Where I come from, not only are domestic animals and people dying of hunger and lack of water, but also wild animals. What have they done? They can then put them to task on what they intend to accomplish. In your heart, do you feel that the person you want to elect as a governor--- Is it because they are your relative or they gave you a small

token to elect them? Are you sure that they will implement the manifesto they told you to check? The first measurement is their manifesto. Are they addressing what is right?

Madam Temporary Speaker, unless we ask ourselves these questions, as voters, we will never move forward. I urge Kenyans that these debts will only be sustainable if we elect a President who will ensure that all those works--- Let me tell you, roads and other major infrastructure take a lot of time for people to reap the fruits.

Are we going to elect another leader to succeed President Uhuru Kenyatta, who will ensure that we know that in the long run, they pay for whatever projects they have done? Are we going to elect a leader who is prudent to ensure that this debt is sustainable because at the end of the day, we are going to reap the fruits of whatever our President has planted.

Madam Temporary Speaker, I challenge the National Treasury to ensure that they pay debt. We are now in the final year of the current Government. They should pay the legitimate contractors that have delivered. They should also ensure that they do not take up a new project unless they complete the old one, because it is only a completed project that can help Kenyans.

I, therefore, urge them to ensure that all contracts are completed. If we pay pending bills, that improves money circulation. Money circulation improves business, and business improves tax because the disposable income increases and people are able to invest. As a result of that, there will be more projects that produce income that will produce more taxes and the current profit that one makes can be taxed, so that we earn more money.

Madam Temporary Speaker, the other reason I support this Report is that it has great recommendations. Listen to this point. As much as there are four recommendations in this Report, one of them has almost seven points. These recommendations are detailed as they are meant to enhance debt sustenance and how efficient we become.

One of the recommendations states that we should ensure that best practices are applied in project appraisal. That means that proper feasibility study is needed with regard to projects that the Government undertakes. For example, we should know how much fuel, spare parts and time will be saved by the Express Way from Mlolongo to Westlands, and how the money that is saved will be used. We should do a proper feasibility study on whatever projects we undertake, so that there is good value for money.

This Report recommends that the National Treasury should publish, every three months, a comprehensive debt serving expenditure. That will help people to see what we are investing in and bring about more transparency. In case of divergence of opinions, Kenyans can have an opportunity to question. This Report also recommends that the National Treasury should desist from undertaking projects or entering into a loan agreement that leads to payment of commitment fees. If we do that, we can save more money to pay the debts or implement more projects.

This Report further recommends that the Committee on Finance of the National Assembly and the Senate's Committee on Finance and Budget should work together. Although Article 110 of the Constitution stops us from discussing money Bills, the Senate's Committee on Finance and Budget has a lot of ideas, which it cannot act upon due to constitutional restrictions. If the Finance Committees of both Houses came together, Kenya would benefit from the great ideas of the Senate's Committee on Finance

and Budget. Since the National Assembly has the powers, they can then come up with legislations that would help the country to move forward.

Our Committee has also made a recommendation to the Office of the Auditor-General to do an audit of what has been invested. We sometimes say that money has not been spent wisely. However, if a proper value for money audit is done, Kenyans will understand more of what happens. The Committee on Finance and Budget has also recommended that since we have constrained physical space, we should ensure that we prioritize projects that have a greater impact. This Report has very good recommendations that if followed and implemented, they will have a greater impact in terms of how we manage our debt and ensure that future investments are done very well.

Madam Temporary Speaker, I thank you.

**The Temporary Speaker** (Sen. Nyamunga): Proceed, Sen. Olekina.

**Sen. Olekina:** Madam Temporary Speaker, I rise to support this Report of the Standing Committee on Finance and Budget. The Report is good because it allows us to examine further what we are doing wrong.

Sir Winston Churchill once said that you can never tax a country to prosperity. Allow me to read the quote by Sir Churchill-

“For a Nation to try and tax itself into prosperity, it is like a man standing in a bucket and trying to lift himself up by the handle.”

What has been happening in this county, as was clearly demonstrated through the submissions of the Commission on Revenue Allocation (CRA) to the Standing Committee on Finance and Budget, is that this Parliament is the one that deals with the budgetary allocation. We are the ones who have been failing in our job because when you look at the observations by the Committee, it was observed that there is a lot of money that we have borrowed yet we have not even been able to disburse it, so as to pay what we borrowed. This leads to more taxation because whether or not you disburse the money that you borrow or keep in a bank, you are still required to service that loan.

Looking at the executive summary of the Report, there are several things that really bother me. The first point talks about having a law that protects and stipulates how the National Treasury should borrow. However, when I read that as at June, 2021, the Kenya stock debt amounted to Kshs7.71 trillion, and there is an additional undisbursed loan commitments amounting to Kshs1.31 trillion. Those figures add up to Kshs9.02 trillion in debts.

We have a figure of Kshs1.31 trillion that the Government has been unable to disburse. Why are we trying to live outside our means? We should always try to live within our means. We should advise the National Treasury to always borrow within our means. The more we borrow money and keep it in a bank account somewhere, that lender will ask for interest anyway. The interest on loans starts to accrue the moment money is borrowed.

Madam, Temporary Speaker, just as Sen. Kajwang has stated, the recommendations of this report are very shallow. Although I support his report by the Committee on Finance and Budget, I expected the Committee to be firm on their recommendations. When I read a recommendation such as the one that has been made here; that the National Treasury should submit within six months a legislative proposal setting out the appropriate physical consolidation measures required to reduce the public debt stock to sustained levels over the medium-term, the question that immediately

comes to mind is: Why do we have the Public Finance Management (PFM) Act, 2012, which clearly stipulates how we should borrow? The Committee ought to have been very clear and told the National Treasury to be honest in all their dealings and borrowing.

Madam Temporary Speaker, the second recommendation states that the National Treasury should within six months operationalize the International Monetary Fund (IMF) debt management module. The IMF recommends that all developing countries should have, at a maximum, a 40 per cent debt on their Gross Domestic Product (GDP). At the moment, Kenya is operating at 69 per cent. There is nothing that will change now. It is projected that in 2026 the amount of debt to the GDP in this country will be about 126 per cent. We will be dancing with about Kshs15 trillion or US\$140 billion.

The moment we start dancing there, we will be behaving as if we are a developed nation. I am not saying that debt is bad. On the contrary, debt is very good. Many countries have been able to prosper from debts. The debt to the GDP ratio of Japan is 235 per cent, but that country is doing well. The difference between that country and Kenya, is that if you are found to have stolen money in Japan, you will end up in jail for life or even sentenced to death. That is the discipline that we do not have in this country. I expected this Committee to come out clearly and state that the National Treasury should not be allowed to borrow if they cannot demonstrate clearly how they are going to pay. Taxing people so as to show the West that the country is in a position to service loans will not help this country.

A few years ago, farmers could import agricultural machinery and other farm implements without paying any taxes. However, they now pay taxes. When you go to CMC motors and buy a tractor, you not only pay for Value Added Tax (VAT), but more taxes on the farm implements. How do you expect to develop this nation when the small farmer is taxed?

Four days ago, the President alluded to the fact that we have over 19 million Kenyans registered to vote, but only six million pay taxes. Why is it that we are quick to vote and dance in the streets, and say that we will bring in change, yet we are not quick to evaluate and analyze the existing taxes that will help increase more tax base society?

The President told us that, as we go out there drumming support for the preferred presidential candidate for next year, the first thing that should come to mind is that the Executive must be honest.

I have been candid in my submission that we are so corrupt. In fact, the Executive is leading in terms of corruption. Recently, the Director of Public Prosecutions (DPP) also requested and was granted to consolidate all those cases on the Arror and Kimwarer dams for them to be tried afresh. Whenever we lose money, we do not take it seriously as something that will affect us.

We borrow so much to build more infrastructure in the country. However, we end up over-borrowing because what we borrow and budget for disappears midway. This will make it difficult for future generations to survive and enjoy living in our country.

Some of us want to have as many children as possible. However, when you ask your colleagues, they will say that they already owe Kshs120,000 and any child born in this country owes the international community and International Monetary Fund (IMF) about Kshs150,000.

I expected this Committee to come up with aggressive recommendations that will teach us to live within our means. If we continue to borrow, the money will go to service

the debt and our county governments, which we represent here, will not get their sharable revenue.

Madam Temporary Speaker, I have to confess that the last time we had the debate to increase the debt ceiling of the country to Kshs9 trillion, I supported it. This is because I was promised that we were increasing the debt ceiling, so that we can do away with commercial loans, which are expensive and increase the concessional loans, which will have a long-term maturity date to allow the country to catch up. However, that is not happening. The National Treasury came here and gave us one story, but continued to borrow money from commercial banks.

If you take the books of Kenya Power, you will be shocked. They owe so much money, in dollars, to two commercial banks in this country. One is Equity Bank and the other is Standard Chartered Bank, although I stand corrected.

The fact that we are not controlling and are now passing the mantle to the National Treasury and asking them to come up with a legislative proposal, so that we can define appropriate fiscal consolidation measures instead of us doing it, leaves a lot to be desired. It is us who should come up with proper legislation. We should not expect the person executing or implementing to come up with a proposal. They will design something that will better them.

It is us who are tasked with the mandate to oversight who should come up with serious amendments to the Public Finance Management Act that restricts the borrowing and ensures that we, first of all, realign the existing resources.

Presidential candidates seek mandate from us. For example, the current administration talked about the Big Four Agenda. One is the manufacturing sector. How do you then turn back and over-tax the manufacturing sector and impose taxes, such that when importing anything into the country, you end up paying triple the amount it cost for you to buy? How do you build up the manufacturing sector?

The second was housing. The cost of a bag of cement, depending on what you are constructing, is between Kshs550 to Kshs1000. If you tax the raw materials, how do you expect to build the housing sector? We need to seriously think and realign our existing resources, so that we can live within our means.

Madam Temporary Speaker, many people have been reduced to beggars when they attempted to work with county governments and do businesses with them. Many Kenyans do not want to work with county governments. This is because they give them tenders, but when it comes to payment, they rely on the exchequer to release their sharable revenue, which the Constitution clearly states should not be delayed. How do you expect the Exchequer to release money they do not have? They are put between a rock and a hard place. You want them to develop, yet they continue collecting taxes and over-taxing Kenyans.

Any international businessman thinking of setting base in Kenya, first, wants to understand the tax system. This is because they cannot be in a country where they want to develop and then continue to pay more taxes than their profits.

Madam Temporary Speaker, I hope that this Committee on Finance and Budget will scrutinize, define and bring amendments to the Public Finance Management Act, so that in future we do not have a situation where either the courts or the Executive stops the Auditor-General from performing their tasks.



I have read that one of the recommendations is that within 28 days, the National Treasury should provide a status report on the restructuring of the public debt stock, as indicating during the review of the debt ceiling in October, 2019.

We are now asking the National Treasury to give us a status update. It is the Auditor-General who should come up and say that he has audited. We should have a third party to give us the status. You cannot expect a body that wants to continue borrowing and increase the debt of the country to give us a proper and honest status report.

As I conclude, I reiterate by saying that debt is not bad, but it should be manageable. Going forward, any decision we make in the three arms of Government should be to protect the future generation.

I hope that my party leader becomes the leader of this country in 2022. I hope that he will think twice and carry out a proper and honest audit. There are countries where the police and politicians are paid more money because they do not want to give them any room for corruption. However, in our country, we bleed our police to death. We do not care about them, yet we still expect them to avoid corruption deals. We are a rotten society.

The fact that the National Treasury is trying to survive by increasing the debt, the only way to help them is by us being honest because we are not an honest society. We are a society where leaders lead by example of corruption. Anytime a tender is put, let us say to construct a one-kilometre road, instead of being economical, we triple it. Even after tripling it, you never complete the job. Instead, you want to continue grabbing tenders and oiling your own pockets to ensure that your family lives well. We must be our brothers' keepers.

What is happening right now in the entire 47 counties is sad. There is no money in circulation, yet we are being told that in 2026, the debt to the Gross Domestic Product (GDP) of this country will be around 126 per cent. This is the current position of countries like Portugal and Italy, which are at 156 per cent, but they can service their debts. We do not want a situation where western countries continue controlling us. By allowing the West to continue controlling even how we live, we will be digging our graves deeper.

Yesterday, I was saddened while watching the COP26. In this country, when you talk about ending deforestation, some people say you are killing their businesses. They go ahead to get licenses to continue cutting trees, thus increasing carbon emission in this country.

I was also saddened that this country that constantly experiences drought was not fully represented. Although our President was there, environmentalists were not represented yet those are the people to implement the changes. I hope that the Committee will follow up.

That is the problem of not having an implementation committee because we come up with good recommendations. No wonder, we refer to them as shallow. For example, they have recommended that within 28 days, the National Treasury should provide us with a status report. The other one is that the Office of the Auditor-General should undertake a special audit on the utilisation of all commercial loans in Kenya to ascertain adherence to Section 152 of the PFM Act and submit a report to Parliament. Who is going to follow that up?

Madam Temporary Speaker, I think we should come up with a matrix to ensure that all of us elected, and especially elected Senators, can follow through that, so that the money that is supposed to be sent to Narok County is not delayed because the Exchequer has not collected enough taxes or sent all the money to pay debts. Cleverly, they close the IFMIS every 23<sup>rd</sup> of the month and say that it is overloaded.

I support.

**The Temporary Speaker** (Sen. Nyamunga): I wish to thank all the Senators who have contributed to this Motion.

I would now like to give the opportunity to the Mover to reply.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity to reply. I wish to thank all Senators who have contributed to this Motion.

The other issue I wanted to bring to your attention is the fact that sometimes contracts have no proper exit clauses. In case of poor performance, exiting a contract becomes a problem. The terms should be favourable to this country even when it is a loan. Those who negotiate for loans should be patriotic enough to ensure that our interests are properly taken care of. The same should apply to those who implement projects.

For example, the road from Modogashe to Wajir has stalled for many years because of unclear circumstances. Some contractor took the Government to court and it took a long time before that was sorted. Time is money and it is expensive for a project to stall because the contractor cannot perform and the procedure for exiting is not there. That brings many issues.

Madam Temporary Speaker, I beg to reply.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I will now put the Question. This Motion does not concern counties.

*(Question put and agreed to)*

Let us move on to the next Order.

## **BILL**

### *Second Reading*

#### THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO.22 OF 2021)

*(Sen. (Dr.) Milgo on 12.10.2021)*

*(Resumption of debate interrupted on 14.10.2021)*

**The Temporary Speaker** (Sen. Nyamunga): Sen. Cherargei, you had a balance of 14 minutes.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker, for this opportunity. I was seconding The Heritage and Museums Bill, 2021, and will not take more than 10

minutes. I just want to wrap up what I was saying, so that other Members can have an opportunity to contribute.

What is important in this Bill is realignment for participation of county governments, especially on issues of museums and other heritages. During my previous remarks, I indicated that we have special places of heritage and museums in Nandi, like Koitalel arap Samoei Museum, thanks to President Kibaki's Government that ensured we have it.

During the first term of the Jubilee Government, they gave a charter to Koitalel Samoei University College, which is a recognition of the Nandi leader who led the Nandi resistance against the British colonial masters in Nandi County. I know there are many other leaders such as Mekatilili wa Menza who fought against colonialism. County governments will have an opportunity to collect and document.

Some countries in West Africa received back some of the artefacts that had been taken by the British during their invasion of Africa. We also got some artefacts belonging to Koitalel arap Samoei, the leader of the Nandi or the Orkoiyot as he was known. We have many leaders who fought against the colonial rule. Most of the artefacts were taken to Europe and other parts of the world.

Culture is dynamic and all of us grow old. How do we ensure that we pass it from one generation to another? County governments must collect, document and create special places. We should have museums created by county governments.

The silver lining in this argument is that it will allow county governments to also generate their own revenue. For example, there is a museum in Nandi County, where I come from. In my culture, there are people who have grown so old that they ask why God has forgotten them. There is a place called Sheu just near your county, where old people used to take themselves. They were very old and they imagined God had forgotten them. They would go and throw themselves and die in that place called Sheu.

Madam Temporary Speaker, the County Government of Nandi, in future when some of us are in leadership, can establish it as a museum. We will generate revenue similar to any other county, including Kisumu County. It will also preserve our culture. You remember now with the globalisation that is happening, most of our children are brought up in the cities while others are born abroad. What happens when they want to identify themselves with where they come from?

Are they able to go to Kisumu County and maybe associate themselves with the Luo traditions and the people of Kisumu and other areas? If you come from the Maasai in Narok County, for example, their children were born abroad to Maasai parents and they want to identify themselves with their culture. In fact, we should even see how we can inculcate, and I know it is already there, in the syllabus that we teach it in our schools.

Madam Temporary Speaker, another very important issue is management. This is a crosscutting issue that we want to ask the Cabinet Secretary (CS) in charge and National Museums Directors' Council (NMDC) to gazette these places that we need to preserve. In Kenya with the disease called "*grabiosis*", if we are not careful, there are people who are not fearful to grab even the '*un-grabable*.'

We need to preserve, gazette and ensure that we do not allow that. Across the country, there are places that are sacred, like forests that do not need interference. The only way to protect them is to gazette and preserve them. The management by the CS, county governments and the NMDC is important.

Madam Temporary Speaker, there is a very important thing I want to mention on the issue of exploration and discovery. Some of us watch *The National Geographic*. When you watch, there are so many documentaries. We need also to patent some of those documentations that we have as a country. If the county government has documented and gazetted a place, by the time *The National Geographic* comes and films, maybe the life and times of Samburu people as a culture---

When they want to document maybe something in Kisumu County, how do we ensure we avoid exploitation? We must ensure that when there is exploration and discovery of such issues of even visiting forests like Kakamega Forest---The forest has special and unique species of a butterfly. Apart from it, how do we patent so that in terms of exploration and discovery, we give compensation to communities?

Madam Temporary Speaker, when you go to the Amazon in Brazil, there are communities that have been protected from access or modernization under the United Nations Educational, Scientific and Cultural Organization (UNESCO). I do not want to say isolated. There is a special reason when you go to Amazon, you are not supposed to bring modernization within that area.

These are indigenous communities. When there is exploration and discovery by *The National Geographic*, among other people who do documentaries and want to visit the Amazon, they must be given permission. They must pay and compensate the community before airing such films and documentaries.

Madam Temporary Speaker, the other point is on protected areas. Many people only know protected areas as some Government buildings, State House or Government offices. It is also important that protected areas are ensured.

I want to thank Sen. (Dr.) Milgo. What this Bill has done is to ensure compensation. Sometimes you want to preserve a place and the owners of land are there. In Kenya, we have private and communal land. How do you ensure that with regard to the communal land, compensation is there and you can ensure the community has an opportunity?

There is the issue of monuments. We have agreed that this Bill will assist many communities from whom the artefacts were taken to Europe or London to be repatriated to Kenya. I am happy some of the West African countries are doing very well. They have gone back and brought their artefacts, so that they can still have an association with the past. There are issues of antiquities and the uniqueness. Kenya is more so associated with the Maasai because of the special artefacts and many others.

Madam Temporary Speaker, on the issue of exports, there is now a proper way of doing it. Therefore, it is very important. There are powers of enforcement to ensure compliance. The National Museums of Kenya (NMK), CS in charge and county governments should be on the forefront to ensure there is enforcement.

We have ensured that the NMDC participates in inspection and the national heritage inspectors for purposes of enforcing the Act. We need inspectors to ensure that we comply with the standards. The NMK will ensure we put into place necessary strategies to ensure we protect.

Madam Temporary Speaker, as I indicated, this can be a source of revenue to the national Government and county governments. I remember when we were young, we used to travel all the way to Kisumu to go to the museums that were managed by NMK. We used to pay Kshs20. Nowadays, it is around Kshs150 or Kshs200. The revenue

generate can be given to either county governments or the national Government. Many young people nowadays during the weekends do road trips.

If we manage our museums and heritage, we will divorce the young people from thinking that the only way to enjoy life is to go to the clubs, take alcohol and drugs. If we make these areas attractive, they can visit them instead of going to drink and do things that are immoral within the society. For example, if we make Maasai Mara and the National Museums of Kenya attractive to young people, and open many heritage areas, young people will not go to take drugs.

If somebody is uncomfortable with a museum or heritage, the heritage tribunal will hear and have the status of the High Court and ensure there is a proper procedure.

In conclusion, I ask my colleagues in the Chamber to support this very important Bill. It will serve as a one of the trade markers and the salient feature of the history of this session of the Senate. I hope my brother, Sen. Wambua, who is eyeing the Kitui County gubernatorial seat will be in a position to implement this National Heritage and Museums Bill.

Madam Temporary Speaker, we are giving prominence to the county governments and Sen. Wambua's county should be among the first to implement this Bill. I know my colleagues in the National Assembly and here will pass this Bill. The biggest beneficiaries are the Maasais, and Sen. Olekina is here. They have faced a lot of modernisation and a threat to their national heritage. Most of their things, like artefacts, are renowned worldwide, because of the Maasai across the country and globe.

I hope that this Bill will assist the people from the Maasai Community, who are our pride. Kenya is known because of the Maasai. Apart from sports, at least we are known for that. I ask my colleagues to support this Bill. This is one of the Bills that will make sure that devolution works for all of us.

Madam Temporary Speaker, finally, I thank Sen. (Dr.) Agnes Milgo. Apart from being the Chairperson of the Committee on Education, she has done a tremendous job.

**The Temporary Speaker** (Sen. (Nyamunga): I can see you were saying Sen. Alice Milgo.

**Sen. Cherargei:** Madam Temporary Speaker, I am sorry, it is Sen. (Dr.) Alice Milgo. I mixed up. I commend Sen. (Dr.) Milgo from Bomet County for this tremendous work.

Apart from being our able Chairperson of the Committee on Education, this is the touch we need. It is a calling that when women decide to do something and come to leadership, they can do it from all fronts. These are the women we want to celebrate. We want to see women doing these things, so that this country can believe in the leadership of women.

Madam Temporary Speaker, I want congratulate you because you are doing very well. Kenyans should understand that women can lead and be part of the positive leadership that we need. Sometimes when you have a woman's touch in some of the processes, things are never the same. Unfortunately, or fortunately, Sen. Wambua wants to reduce the number of women governors in this Republic, but that will be a debate for another day.

Madam Temporary Speaker, I second.

**Sen. Wambua:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): What is your, point of order, Sen. Wambua?

**Sen. Wambua:** Madam Temporary Speaker, the Senator for Nandi County cannot get away with this. The Senator for Kitui County strongly believes in women leadership. However, the Senator for Kitui County is also very keen on fighting corruption wherever it rears its ugly head. Whether that corruption is being perpetuated by a female or male leader, I make no distinction. It must be on record that the Senator for Kitui County is a firm believer in women leadership and more so, a firmer believer in integrity in leadership.

I thank you.

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

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I do not see interest for now. I will not put the question. I will defer it to the next time it is listed. Sen. (Dr.) Milgo, you can put a request, so that we defer the putting of the question.

**Sen. (Dr.) Milgo:** Madam Temporary Speaker, pursuant to Standing Order No.61 (3), I request that we do not put the question today, but defer it to a later date.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I defer the putting of the question to a later date.

*(Putting of the Question on the Bill deferred)*

## BILL

### *Second Reading*

#### THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO.17 OF 2021)

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

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I beg to move that The County Oversight and Accountability Bill (Senate Bills No.17 of 2021) be now read a Second Time.

I had already moved this Bill. This is among the Bills that suffered the sibling rivalry between the National Assembly and the Senate. In summary so that I can request my brother, Sen. Wambua to second this Bill, the principal objective of this Bill is to provide a framework of effective oversight and give effect to Article 96 of the Constitution.

We have been deliberating in this House for over the last two Senates on the oversight role of this Senate. The county governors are always out there fighting the Senate in terms of oversight and accountability. This Bill will cure all that. This Bill is also designed in a way that it will encourage citizens' participation in terms of the budget making process.

Madam Temporary Speaker, earlier on, we were talking about the issue of the debt being so high in this country, where the National Treasury is doing everything and the citizens do not know, yet the citizens are the ones who end up paying. This Bill will bring in the citizens to the table for them to discuss how they want the little sharable revenue that they are given to be spent in our counties.

In Narok County, this year, we managed to send about Kshs8.8 billion. The Members of County Assembly (MCAs) are subjected to developing the budget. However, in most cases, citizens in all the different wards have no clue of what their MCAs are developing. I hope that we can look at the HANSARD of our submissions. This Bill was supported by so many of our colleagues here. We can see the importance and highlight the points that were raised by each and every Senator on the importance of a town hall meeting when it comes to the issue of the budget making process.

Without deliberating more on this Bill, I beg to move and request Sen. Wambua to second.

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

**Sen. Wambua:** Thank you, Madam Temporary Speaker. From the outset, I want to congratulate and thank the Senator for Narok County for coming up with this Bill. You know that for a long time, the battle between the Senate and county governors on issues of accountability and oversight has been really entrenched.

This Bill seeks to address those issues of accountability, oversight and proper participation of the masses in the budget making process. It demands accountability on the part of the governors on the usage of the monies that we send to the counties.

I beg to second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): Senator, can you approach the Chair.

*(Sen. Olekina consulted with the Chair)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I do not see any interest on this debate. I would like to ask Sen. Olekina to request for deferment of the putting of the question.

**Sen. Olekina:** Madam Temporary Speaker, pursuant to Standing Order No.61 (3), I request that the putting of the question to be deferred to a later date.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, we are going to defer the putting of that question to the next time the Bill is listed for debate.

*(Putting of the Question on the Bill deferred)*

## ADJOURNMENT

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 3<sup>rd</sup> November, 2021, at 2.30 p.m.

The Senate rose at 6.30 p.m.