

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 4<sup>th</sup> August, 2021

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

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

### PRAYER

### PETITIONS

**The Temporary Speaker** (Sen. Nyamunga): Is the Chairperson, Standing Committee on Tourism, Trade and Industrialization in the House?

#### REPORT ON PETITION: LIQUIDATION OF MOI UNIVERSITY SAVINGS AND CREDIT SOCIETY (MUSCO)

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. I beg to lay the report of the following Petition on the Table of the Senate, today Wednesday 4<sup>th</sup> August, 2021-

Report of the Standing Committee on Tourism, Trade and Industrialization on a Petition by residents of Uasin Gishu County concerning the liquidation of Moi University Savings and Credit Society Limited (MUSCO).

This Petition was presented here more than a year ago. We had a lot of problems.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, can we have some order in the House?

**Sen. (Dr.) Ali:** Madam Temporary Speaker, we had a lot of problems but at long last, we have managed to table it.

We have done stakeholder engagements with the Cabinet Secretary (CS), Ministry of Agriculture, Livestock and Fisheries and Cooperatives, the Sacco Societies Regulatory Authority (SASRA), the Commissioner for Cooperatives Development, the Cooperative Bank of Kenya, the Governor of Uasin Gishu County, petitioners and the sponsor of the Petition, Sen. (Prof.) Kamar, among others.

We found that there are many issues concerning this Petition. There were challenges because the liquidation of MUSCO continues to impact negatively on the initial broad clientele.

The liquidity challenges can be linked to decisions made over investment on non-core issues. However, MUSCO did not meet the prescribed minimum credential requirements as provided for under the SACCO Act and accompanying regulations. As such, SASRA ought to have closely monitored the activities of the SACCO to ensure that the standards are upheld and sustained.

Madam Temporary Speaker, in terms of revocation of MUSCO's licence, we have realized that if there was a problem, SASRA did not do what was required. Therefore, the Committee was of the opinion that this was hastily undertaken.

Further, cognizant of the fact that cooperate societies are devolved functions pursuant to Part II of the Sixth Schedule of the Constitution, adequate and exhaustive engagements and input from Inter-Governmental Relations Technical Committee (IGRTC) and the County Government of Uasin Gishu ought to have been undertaken.

The Committee recommends the reinstatement of MUSCO certification to allow for its operation. However, there are other issues which are there, for example, the problem of the outstanding bills.

Madam Temporary Speaker, taking into consideration the petitioners prayers and the observations, the Committee makes the following recommendations-

(a) The Commissioner for Cooperatives Development, in consultation with SASRA, County Government of Uasin Gishu, Cooperative Bank of Kenya and the IGRTC, to reinstate MUSCO's certification of operation within 90 days;

(b) Cooperative of Kenya to present a comprehensive report on the way forward as regards the credit facility owed by MUSCO within 90 days;

(c) The Directorate of Criminal Investigations (DCI) to institute investigations on malpractices and abuse of office by former MUSCO officials dating back to 2009 and prosecute those found culpable of financial impropriety and report back to the Senate in 90 days;

(d) The Office of the Auditor-General to undertake a forensic audit of the liquidation process by MUSCO to determine any impropriety or otherwise and report to the Senate within 90 days.

(e) The County Government of Uasin Gishu to provide the Senate, within 30 days, a comprehensive report detailing the initiative they intend to undertake following the reinstatement of certification of MUSCO operations with specifics on the financial commitment towards releasing MUSCO liabilities.

(f) The State Department for Cooperatives to present to the Senate, within 30 days, the National Co-operative Development Policy for concurrence and subsequent implementation.

*(Sen. (Dr.) Ali laid the document on the Table)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, we can accept a few comments for about 20 minutes. If we do not have comments, we continue to the next Order.

Sen. Farhiya, proceed.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. This failure of Moi University Savings and Credit Cooperative Society (MUSCO) is a very sad state of affairs. The leadership of that cooperative mismanaged a

lot of the funds of the members. What saddens me is the fact that despite all that, the Sacco Societies Regulatory Authority (SASRA) had given a licence to the MUSCO. After that, it kept on giving warning until it suspended the licence for trading.

We expected SASRA to do an investigation of what made MUSCO fail. Then after that, bring people to book or even recover assets of the MUSCO from those individuals who are culpable. There are a lot of great institutions that fail in this country due to people who are self-seeking. They are people who do not care about families and people's savings.

Madam Temporary Speaker, when we were listening to the submissions from the cooperative members, there are even families whose parents had all their savings in that cooperative society. Now their parents are gone out of stress and other ailments. They could not even afford hospital bills. The children now cannot go to school because somebody was very selfish and squandered funds belonging to the MUSCO members.

In this country, we have laws that deal with corruption, but some people are not serious and willing to fight it. Unless we make institutions given the responsibility of dealing with corruption work properly, this country will continue failing in terms of progress and putting families in a very dire situation.

Madam Temporary Speaker, as I said, there are enough laws in this country to deal with corruption. If we had commitment from institutions mandated to fight corruption, it would be a thing of the past.

How is it that a whole institution that is responsible for ensuring that the welfare of members is taken care of withdrew a licence of an institution without checking what caused its failure? I find that very hard to reconcile. As much as the institution was fleeced by people elected by members, the role of SASRA that they played was not correct. Somebody should have been in jail; somebody's wealth should have been recovered. Some kind of restitution should have taken place other than fleecing a whole society that is now on its knees and there is no asset to its name.

Madam Temporary Speaker, again, the person who was appointed as the auditor gave a recommendation that even the person who was given the work of liquidating the assets of that organization also to be investigated. There were also some malpractices he noted which was an indicator of mischief. That needs to be confirmed by the right institution. Something needs to be done about that as well.

In terms of future liquidation of Savings and Credit Cooperative Societies (SACCOs), there is need to be a little bit more thorough on how that is arrived at before a liquidator is appointed.

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

Thank you, Madam Temporary Speaker. I was just about to conclude that people join SACCOs in order for them to save or borrow to do something with their money. With the regulation that exists, people expect that the laws will protect them against such ruthless people who steal from them. As much as that is the law and everything is in order, that still does not happen. I am very sad about the MUSCO state of affairs.

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

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. I must first declare my interest on this matter.

**The Temporary Speaker** (Sen. Nyamunga): I would plead with you to make the comments very brief.

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. As a former member of Moi University and great supporter of the SACCO, I feel very sad that SASRA whose responsibility is not just to regulate for the sake it, but has become a stumbling block in building and protecting the SACCOs.

If you hear us talking about bottom up approach of economic development, we are saying that we must move from the trickle down approach or model where countries, including ours, have been giving concessions to multinationals, tax breaks and protecting bigger banks. The biggest banks in this country and in the region and the world have been protected.

Madam Temporary Speaker, in the 2007/2008 when there was financial crisis in the world, banks were given protection by countries, including bailouts. When it comes to smaller entities and financial institutions like the SACCOs whose responsibility is to build the economy from bottom up to assist those who are down there, SASRA has failed to protect them. I know the work of MUSCO, what it does and how it has assisted its members to build one of the biggest buildings in Eldoret Town.

They have bought land and have shares in various institutions. They have a loan with the Cooperative Bank of Kenya, but the report says Cooperative Bank of Kenya is willing to sit down with them and talk about restructuring the loan and find a mechanism of repaying that loan in a manner that will keep it sustained and operating.

Madam Temporary Speaker, this trickle down mentality that is in SASRA is the one making them to think that the smaller entity should be killed or treated the way we are treating hawkers, *boda boda* riders and all other sectors of the economy where the smaller man is less protected than the big man. If that was one of the biggest banks in this country, I do not want to mention names, the regulator would be running around to assist and find ways of building that institution.

I think this Committee's report should not just be implemented, but we must take it very seriously. The Committee of the Whole should summon the management of SASRA to come here and tell us what their interest is in bringing down one of the biggest university SACCOs in this Republic.

Madam Temporary Speaker, I appreciate the Committee for the great job they did. The Senate has always been the institution that protects the weak and this is not an exception. We need to deal with this matter with finality. I know Members here who through Moi University they have become who they are. Even though I was a student at the University of Nairobi, Moi University employed me.

We have many other Members here who studied or worked in Moi University including Sen. Wambua whose journalism would not have been anything if it were not for Moi University among others. Sen. (Dr.) Christopher Lang'at not only got his PhD in Moi University, but taught Sen. Aaron Cheruiyot who was also a student at Moi University.

We must demonstrate in this Chamber that we are willing to stand with the weak; those people who took care of us when we were in our small beginnings. We must stand with the Sacco to ensure that we protect its members and the investment.

I believe the people of Kenya are going to elect the hustler government. If we get to government, this nonsense will not happen because our focus will not only be a bottom-up economic model protecting the weaker entities, but we will also have a governance model, which is down up, where before you make such decisions, you must consult the people who are affected and those who are suffering the consequences of your decision.

Madam Temporary Chair, I beg to support.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Murkomen, you have addressed “Madam Chair” throughout your long speech this afternoon. I do not know what became of you today.

**Sen. Murkomen:** Madam Temporary Speaker, just for the record, I know you are the chair of the House. So, you are both the Chair and the Speaker. There is no contradiction. You are still the Chair of this sitting

**The Temporary Speaker** (Sen. Nyamunga): There is a contradiction. Finally, I want to give a chance to Sen. Cherargei and we move on to the next one. We have a lot of work to be done this afternoon. Senator, kindly be brief.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker, for this opportunity. I want to commend the Committee for the Report. For the first time, I agree with the Committee of Sen. (Dr.) Ali. It was a job well done. The recommendations are the kind that we want from our committees of the Senate.

I am impressed by your recommendations, and I do not want to go into a lot of issues that have been raised by my learned senior.

This issue of the Sacco Societies Regulatory Authority (SASRA) should be looked again. I think our agenda should be to always protect our cooperative societies. We should not allow SASRA to become rogue. I think before they put statutory management under the MUSCO Sacco, there is a process that should be followed.

I agree with the recommendations especially from the Committee and I think that SASRA should be summoned so that some of these recommendations can be implemented. The SASRA should not be what we call a funeral home for the cooperative societies that we have. It looks like SASRA has changed its strategy. Instead of supporting most of our SACCOs, they are now becoming part of the funeral home in ensuring that SACCOs are put under statutory management; they become dead and that is it.

In order to grow our economy, we need to ensure that SASRA is part of the success of most of the SACCOs. As we talk today, many Kenyans including some of us here, have lost money through pyramid schemes and yet we have authorities like SASRA who should be protecting the interest of Kenyans at all costs.

I do not know what the EACC and the DCI are doing about this but there are many banks that have been accused in this country of becoming conduits of some of the unfortunate situations. These banks are aiding and abetting in the transactional crimes. We are saying that the Co-operative Bank of Kenya should present within 90 days--- I think the Committee should have gone further and summoned the Co-operative Bank of Kenya and ensured that if there is a mistake that the Co-operative Bank of Kenya did within that transactional period, they must be punished so that in future, we ensure---

**The Temporary Speaker** (Sen. Nyamunga): Sorry, hon. Senator.

Sen. (Dr.) Ali, what is your point of intervention?

**Sen. (Dr.) Ali:** Madam Temporary Speaker, I just want to inform the Member that we have taken all steps and the Co-operative Bank of Kenya is ready and willing to support the reinstatement of the co-operational work with MUSCO. So, the Co-operative Bank of Kenya has no problem totally.

**Sen. Cherargei:** Thank you for that information. I have seen that Co-operative Bank of Kenya has been co-operative but I was just making an observation that in case in future, some of the commercial banks in this country participate in aiding and abetting these financial crimes, then they must be held accountable.

Madam Temporary Speaker, I think the DCI should move with speed and ensure that if anybody was culpable in some of these malpractices--- We know that MUSCO, for those of us who studied in Moi University, three quarters of the members who work and support through MUSCO have benefited through MUSCO. You can imagine if we had SASRA and agencies that protect Saccos in this country, it would be very good.

We saw a committee last week which failed to do their work, but I am happy that this Committee has made far reaching recommendations that the DCI should follow this up.

Finally, we should request a special audit on both the assets that MUSCO has incurred liabilities so that we can go into the future with it. My proposal would be that a special audit be done by the Auditor-General so that we know how many assets and liabilities MUSCO has just the way the COVID-19 Committee chaired by Sen. Sakaja did recommend a special audit in terms of COVID-19 funds. We should also request the Auditor-General to do a special audit so that we can know the “health status” of this MUSCO.

We do not want to tell MUSCO to go back to operations without statutory management yet in this process, there are many implications of the investments that this country has done.

I agree that MUSCO is a good organization but we must ensure that we put in place stop-gap measures so that the shareholders or people who have interest in MUSCO, their interests, assets and properties are protected.

Madam Temporary Speaker, I want to thank you for this opportunity.

**Sen. Olekina:** Madam Temporary Speaker, I rise to make a few comments on this Report, which has been tabled by the Committee on Tourism, Trade and Industrialization on MUSCO.

The reason why I decided to speak on this matter is to go back on the issue as to why SASRA did away with the license that they had handed over to MUSCO. There is a thin line between respecting the rule of law and operating the way you used to.

I have no objection when it comes to the recommendation given by the Committee but I believe that just like any one is given the right to petition this Parliament and the fact that we do not have an Implementation Committee, the only way that the vast majority of the members of MUSCO would be able to benefit is if the Committee on Tourism, Trade and Industrialization followed each of their recommendations to ensure that they are actually implemented.

The recommendations are very good and we normally get a lot of petitions in this House. However, since we do not have an Implementation Committee, it makes it very difficult for the petitioners even to have faith in this House.

I would like to urge the Committee on Tourism, Trade and Industrialization to make sure that they go back and look at their recommendations. If recommendation one is to say the Commissioner of Co-operatives in consultation with SASRA and the county government of Uasin Gishu, the Co-operative Bank and the Inter-Governmental Relations Technical Committee reinstate MUSCO's certificate within 90 days, they should do so but they should also ensure that MUSCO adheres to the rule of law. If you look at the reason as to why the decision was taken which the Committee observed was done overnight, it is because SASRA violated Section 27(1)(b) of the Sacco Societies Act, Regulation 2010 and the conditions imposed by SASRA in 2017.

We pass laws here in this House, we want them to be followed to the letter. When an individual or a society decides not to follow, they petition the Senate; we pass recommendations that they should be reinstated, this should be done following the rule of law. That is the only way we can correct the mistake.

Transferring a wrong from one place to another is not solving the problem. Since we do not have an Implementation Committee, I would like to urge this Committee to invite this society. They should sit down, discuss with them and ensure that they follow the law.

**The Temporary Speaker** (Sen. Nyamunga): The next petition is by Sen. Halake. Senators, I urge you to use the right buttons so that I know how to handle your case.

What is your point of order, Sen. (Dr.) Langat?

**Sen. (Dr.) Langat:** On a point of order, Madam Temporary Speaker. Kindly allow me to say something about that petition because I am an interested party.

**The Temporary Speaker** (Sen. Nyamunga): We are done with that petition but I will give you opportunity to speak after the next petition.

Proceed, Sen. Halake.

#### MURDER OF ENVIRONMENTALIST AND CONSERVATIONIST MS. JOANNAH STUCHBURY

**Sen. Halake:** Madam Temporary Speaker, I rise to present a petition to this House on behalf of the citizens of Kenya. The petition to the Senate is concerning the alleged murder of environmentalist and conservationist, Ms. Joannah Stutchbury, and protection of our environment and natural resources.

We, the undersigned, Citizens of the Republic of Kenya, and members of the Conservation Alliance of Kenya conserving the environment, wildlife and natural resources in Kenya listed below;

- (a) African Conservation Centre
- (b) Africa Network for Animal Welfare
- (c) African Wildlife Foundation
- (d) Awaii Community Foundation
- (e) Amboseli Trust for Elephants
- (f) Amara Conservation
- (g) Big Life Foundation
- (h) Born Free Foundation
- (i) Center for Rural Urban Development

- (j) Chepkitale Indigineous Peoples Development Program
- (k) David Sheldrick Wildlife Trust
- (l) Ecological Society for Eastern Africa
- (m) Elephant Neighbors Center
- (n) Elephant Voices
- (o) Ewaso Lions
- (p) Friends of Nairobi National Park
- (q) Grevy Zebra Trust
- (r) International Fund for Animal Welfare
- (s) Kenya Elephant Forum
- (t) Kenya Wildlife Trust
- (u) Laikipia Wildlife Forum
- (v) Maasai Wilderness Conservation Trust
- (w) Maniago Safaris
- (x) Mount Kenya Trust
- (y) Nature Kenya
- (z) Pan African Wildlife Conservation Network
- (aa) Rhino Ark
- (bb) Rural Villages Development Centre
- (cc) Save the Elephants.
- (dd) The Green Belt Movement
- (ee) The Nature Conservancy
- (ff) The Tsavo Trust
- (gg) The Wildlife Direct
- (hh) The WWF Kenya
- (ii) Tony Wild
- (jj) Stand Up Shout Out
- (kk) Tsavo Heritage Foundation

DRAW the attention of the Senate to the following: -

THAT on 15<sup>th</sup> July, 2021, environmentalist and conservationist, Ms. Joannah Stutchbury, was shot dead outside her home in what appears to be outright murder.

Ms. Joannah Stutchbury was a fierce environmental defender and conservationist, who was well-known for her efforts to conserve the environment. She was a resident of Kiambu County, living around the vicinity of Kiambu Forest Reserve where her dedication, passion and selflessness for the conservation and protection of the forest against land grabbing and illegal activities, was prominent.

THAT, on several occasions, she was successful in protecting Kiambu Forest reserve from alleged encroachment and land grabbing by private developers. She was an outspoken person who fearlessly challenged acts of forest degradation and destruction in the country, and was instrumental in supporting the role of the Kenya Forest Service in combating illegal activities occurring within Kiambu Forest and other forest reserves.

THAT, her efforts and hard work that greatly contributed to the conservation and protection of forests in Kenya ought to be applauded, recognized and her legacy in protection of the environment, emulated.

THAT, Kenya's environment, especially forests, animal sanctuaries/reserves, wildlife and marine ecosystems are at great risk of being grabbed and encroached on by



unscrupulous individuals and developers if no steps are taken to stop this and protect our natural resources.

THAT, crimes against the environment are the fourth largest criminal enterprise. Environmental crimes (ecocide) ranks higher than the sales of illegal arms. In particular, the rate at which female environmentalists and conservationists are harassed, threatened and killed in the country is highly alarming. Such female environmentalists and conservationists are the late Prof. Wangari Maathai, Esther Mwikali, Paula Kahumbu, Raabia Hawa, Elizabeth Gitari, Caroline Patita, Akshay Vishwanath and Phyllis Omido. The conservationist, Esmond Bradley Martin, known for his undercover work in investigating the black market for ivory and rhino horn, was murdered in Langata in 2018. I also report both genders are harassed, threatened and killed affecting extended families yet the perpetrators of these heinous acts continue to scour the country free from any repercussions.

THAT, Article 69 of the Constitution obligates the State and every individual to protect and conserve the environment. It is therefore imperative that the National Government and the county governments as well as all other state organs take deliberate measures and implement policies aimed at protecting and conserving the environment; and to pursue perpetrators of environmental destruction and bring them to justice.

THAT, we have had this matter addressed by relevant authorities and use all available avenues to have the matter considered, all of which have resulted in unsatisfactory responses.

THAT, none of the issues raised in this Petition are pending before in any court of law, constitutional or any other legal body.

WHEREFORE your humble petitioners PRAY that the Senate: -

- (i) Investigates the circumstances leading to the alleged murder of Joanah Stutchbury and other environmentalists and conservationists in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii) A call to the Ministry of Environment and Forestry and the Kenya Forest Service to revoke grabbed parcels of the Kiambu Forest Reserve. The Kiambu County Government has no function in a gazetted forest hence stop excision and further developments in the Forest;
- (iii) Make appropriate recommendations for the protection of the lives of environmentalists and conservationists in Kenya; and
- (iv) Review relevant policies and existing legislation with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

This petition has been signed by several people as has been shared by the Senate and the Office of the Clerk of the Senate and as read out by the umbrella bodies that have submitted this petition.

Madam Temporary Speaker, I present this petition on behalf of the conservation agencies and on behalf of conservationists.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): The petition by Sen. Halake was pursuant to Standing Order 230 (2) (a). Pursuant to Standing Order 231, I shall now allow comments, observations and clarifications in relation to the petition for not more than 30 minutes.

Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker, I thank you for giving me an opportunity to give my comments on this petition by Sen. Halake. However, before I make my comments on this petition, I would like to make a comment on the report of the petition on Liquidation of Moi University Savings and Credit Society (MUSCO) because I am a Member of the Committee that dealt with the petition.

Our committee listened to the petitioners and made a site visit where we saw the malpractices that were cited by the petitioners in the petition. The Sacco Societies Regulatory Authority (SASRA), to a large extent, was also involved in the malpractices. It will be a bad precedence if the MUSCO cannot be revived. It will be a bad example to all the other SACCOs in this country. There is need for the Committee of the Whole to investigate the matter so that it is concluded after the Committee of the Whole has given its input.

I support the petition by Sen. Halake that there is need to investigate the murder of the environmentalist and conservationist, Ms. Joannah Stuchbury, because of the noble works that she did with regards to conserving the environment. We are all alive to the fact that conservationist Wangari Maathai passed on some years back but she left a legacy in the conservation of the environment. Ms. Stuchbury has left a legacy on the work that she did in this world with regards to conserving the environment.

The perpetrators of the murder of Ms. Joannah Stuchbury should not go scot-free. There is need for thorough investigation so that the perpetrators are brought to book. If that is done, the issue of environmentalists' lives being threatened can be a thing of the past. I hope that the Committee of the Senate what will investigate the matter will ensure that justice is done.

Madam Temporary Speaker, I thank you.

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

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker, for giving me this opportunity. First of all, like Sen. (Dr.) Musuruve has said, I support the report and the recommendations of the committee that investigated issues facing MUSCO.

I have a lot of passion for MUSCO because I was a member. What also contributes sometimes are the delays by the National Treasury in releasing money to the universities. It reached a time where members experienced a lot of challenges where their money could be deducted---

**The Temporary Speaker** (Sen. Nyamunga): Sen. (Dr.) Langat, I promised I will give you time to comment on the next petition.

**Sen. (Dr.) Langat:** I just wanted to comment on that a bit. Allow me to go straight to this one.

Madam Temporary Speaker, as I support this Petition, I congratulate these particular petitioners for their concern about the allegedly murder of Ms. Joannah. The lady was a great environmentalist and conservationist.

The Committee that will undertake full investigation of this particular issue should take it seriously because what happened to Ms. Joannah is immoral and should not be entertained in any country because it has irked the international community at large.

The murderers should be investigated and brought to book because what they did sent a signal to the society and the whole of Kiambu that life is not as important as we

may think. It also sent a signal that peace around Kiambu is under a threat. So, this should not be taken lightly.

The Committee should take it seriously. They should take the shortest time possible. It seems those people who committed the crime have developed strategies and skills of hiding. The heinous offence that was committed by those people should not be entertained in our society.

I express a lot of sympathy to the family of the late Joannah and all the environmentalists in this country. I fully support this particular Petition. It is my prayer that it will bring fruitful expectation by everyone of us.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): Members, I urge you to make your comments brief and to the point. Let us listen to Sen. Kasanga.

**Sen. Kasanga:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I thank Sen. Halake for this Petition. Sen. Halake is a champion for the environment. We really miss her in the Committee on Land, Environment and Natural Resources. I do not know why she was removed from there but she truly is a champion.

If Kenyans truly understood the impact of the environment on even our general wellness and, like I usually say, on our mental wellness, then we should be fighting for our environment. In fact, some of the issues we face, including diseases that affect us and our children here in Nairobi, the pollution and our mental wellness that has gone south are because we are not nurturing our environment enough.

What happened to Joannah is a sad situation. I wish Kenyans raised their voices to make sure justice is found for that conservationist because our environment is our everything.

I feel bad that even in this day and age, we are still talking matters environment, even at a time when our own Constitution says very clearly about conversation and planting trees and ensuring our national cover is 10 per cent plus and all that stuff. It is really sad that this is happening.

Whereas we do not know the real cause for that, we can only speculate for now. Maybe out of greed, people want to extend to the land and build because they want to make money. That has to be castigated. Kenyans need to raise their voice against this.

We must nurture our environment. We must remember that our environment reflects directly on our own wellness. At least Kenyans have places where they can go and relax over the weekends or during their free time because of a few other individuals who put their lives on the line to fight for these spaces.

I thank Sen. Halake for bringing this Petition to the Floor of the House. I pray that the committee that will be given the work will not leave any stone unturned. I hope we can all raise our voices together, so that we get justice for Joannah.

I thank you.

**Sen. Sakaja:** Madam Temporary Speaker, we do not inherit the earth and the environment from our ancestors but we borrow it from our children.

I want to thank Sen. Halake for bringing this Petition. It is really disturbing in the area where the late Joannah used to stay at the border of Kiambu and Nairobi. For a long time, I think before 2018, the former Member of County Assembly (MCAs) whom we call “few ni few” has really been on this matter.

There was an attempt to grab part of that land a long time ago. Those who attempted to do it started making threats to the lady. I hope you saw the iconic photo of her in the excavator hiding and saying that they must first go through her before they try to grab the wetland.

I know the matter is before the Directorate of Criminal Investigations (DCI). They found cartridges to make it look like a robbery but I think the truth behind it is plain for all to see.

We must protect our environment and we must protect those who protect or fight for our environment. The consequences of not doing that can be seen in many countries that have lost a lot because of environmental degradation.

I am sure the Petition will go to the Committee on Land, Environment and Natural Resources but the Committee on National Security, Defence and Foreign Relations as well must put pressure on that investigation.

Sen. Halake must be aware that the threats to the lady have been documented. In fact, she had taken photos and videos and shared them. It is almost clear – I cannot be prejudicial to say who did it – but we cannot let such a case go by because what will happen is that the impunity that will come out of this will move to other areas. That happened in some part of Nairobi and that was the MCA for Karura Ward.

If you go to the top of Kenyatta International Convention Centre (KICC) and look around, you will see almost three ecological zones. You will see green towards the west of Nairobi then it starts becoming brown and there are no trees, I mean there is no cover. The effects of that can be seen in many areas. We need to protect our environment.

Madam Temporary Speaker, in your guidance, I hope you will bring in the Committee on National Security, Defence and Foreign Relations because the DCI is under the purview of that committee. They should have a timeline by which they should respond to this matter.

I thank Sen. Halake and also those who have petitioned. We must congratulate especially the ladies. We know what Wangari Maathai used to do and she went through so much threats including her hair being pulled out.

We have people like Paula Kahumbu, Esther Mwikali, Rabia Hawa, Elizabeth Gitari, Caroline Patita Akshay and Phyllis Omido. We must recognize these people. These are the people who should be getting Head of State commendations for the work they are doing on the environment because, and I will repeat, we do not inherit the environment from our ancestors but we borrow it from our children.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): Let us listen to Sen. Olekina.

**Sen. Olekina:** Madam Temporary Speaker, let me begin by condemning, with the strongest word possible, the killing of a world-renowned environmentalist who was trying to preserve mother earth for our future generation. I did not have the privilege of getting to know this lady in person, but her work is quite evident.

After giving the directive that her murder should be investigated, the President should have gone further and gazetted the entire forest and barred any developer from going near Kiambu Forest. We know the biggest motivation is the price of land in this country. An acre of land in Nairobi City County right now is about US\$4 million to US\$5 million. When you think about that, anyone would have an interest in running in on

anyone who comes their way, whether they are trying to preserve the environment for a future generation, they will be done away with.

Again, I thank Sen. Halake. Sometimes when it comes to environmental issues, I become so emotive such that even names disappear from your head. My good friend and neighbour, the Senator for Bomet County, will attest to this. That, after all those activities in the Mau Forest, they are living in a good environment and it rains daily.

Madam Temporary Speaker, we have to ask ourselves whether where the forest is the only place where people can live. This country is vast. We need to start creating other cities, hiking the prices of land in other cities and zero rating the prices of land in Nairobi City County so that people stop getting congested in Nairobi City County and end up killing someone who is fighting to preserve the environment.

The effects of global warming are real. This year, Kenya was colder than the United States of America (USA), where I lived for 20 years. It even stopped me from wearing my traditional clothes because of global warming. So now, when we kill the people who are trying to preserve the environment, what are we doing? It is shameful.

I hope that this Petition will not just be presented in this House, recommendations come out and no implementation. I beseech my friend, the Director of Public Prosecutions (DPP), Mr. Kinoti, to move expeditiously and ensure that the people who plotted the murder of this environmentalist are brought to book. When this happened, all around the world, if you read the Guardian and the New York Times, they all talked about a world environmentalist being killed outside an animal park in Nairobi City County because we are trying to preserve it.

I would like to thank the close to 20 conservation organizations that have come together to stand with Kenyans and through Sen. Halake, to ensure that this matter does not rest. We have to keep on talking. In fact, we will treat this matter like the Cable News Network (CNN). Whenever you watch something on CNN, it is repeated and they keep on reminding you. We need to keep on reminding people that we will not let this go. Those pictures are haunting us. When you see a lady sitting on an excavator trying to protect the environment, you ask yourself if some people think they are immortal. This is a wakeup call.

Madam Temporary Speaker, I hope that the DCI followed the President's directive that this matter must be investigated. Now that it has been brought to the Senate, we must put our foot on the ground to investigate. Further, we need to make sure that land--- In fact, this is why when some of us were talking about the issue of the Building Bridges Initiative (BBI) and saying we should put a 10-kilometre radius and make it a buffer zone, we knew what we were talking about. We should now think about creating a two-to-five-kilometre radius of buffer zone so that no one attempts to live there.

If you want to create a forest, go and plant trees. What happened to the policy of making sure we plant trees to achieve the 30 per cent forest cover or the riparian land? When you hear the environment that the deceased was protecting, she was making sure, at least, we have water. This is a sad time for our country and all the environmentalists. I pray to the living God – I know there is a God – that whoever committed this outrageous crime, may they never see any peace for the rest of their generation.

Thank you, Madam Speaker.

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

**Sen. Seneta:** Madam Temporary Speaker, this is an act to silence very strong voices on injustices. It is one to make people fear to protect the environment, community land and forests. Let me point out only two things to the Committee that will investigate this issue. This Committee should quickly tell this House why the security apparatus has taken so long to bring to book those involved, even after this lady recorded several statements that her life was in danger. Why is the security apparatus still not giving an indication of what happened? We have seen security apparatus running after politicians and Members of Parliament (MPs) who slap people and taking them to the DCI. What have they been doing all these months to bring to book the perpetrators of this act?

This Committee should investigate this matter quickly. I also think that this Committee should call the Cabinet Secretary (CS) to this House in a week's time so that we get to know what happened to this lady.

I support this Petition.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senators. I believe we will give this to a competent Committee which should be able to take care of the matter.

Hon. Senators, pursuant to Standing Order No.232(1), the Petition is committed to the Standing Committee on National Security, Defense and Foreign Relations, which is the relevant Standing Committee for its consideration.

In terms of Standing Order No.232(2), the Committee is required, in not more than 60 days from the time of reading the prayer, to respond to the Petitioners by way of a report addressed to the Petitioner, and laid on the Table of the Senate.

Thank you.

*(The Petition was committed to the Standing Committee  
on National Security, Defense and Foreign Relations)*

Let us move on to the next Petition.

*(An Hon. Senator spoke off record)*

There is elaborate work to be done, and I do not think two weeks is adequate. If you make it earlier, it is fine, but we need to give the Committee adequate time to come up with a good report on this Petition.

Sen. Orengo, proceed.

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, I am so sorry. I know that you have committed this matter to the relevant Committee to report within a certain period. However, I am just seeking your guidance.

Investigations of this nature are very important at the beginning. If you miss anything at the beginning, you have completely lost the investigation. In fact, if you see an investigation that is taking forever, you can be sure that it is a lost cause.

Madam Temporary Speaker, I wanted to plead with you whether it is possible that the relevant Committee reports progress to us within a month because of the weight of this particular matter and the reputation to our country. This is so that we see the direction this matter takes. For example, if there is resistance from the competent authority, we will find a way to deal with it.

I have seen this before in the murder of J.M. Kariuki and Robert Ouko. The cause was lost in the first weeks. As I speak, we have no answer as to who killed J.M. Kariuki and Robert Ouko, and it is gone. I plead with you that the Committee should report progress like the Committee on the COVID-19 Situation in Kenya.

If they find that there are any particular difficulties, you can put the full weight of the Senate to make sure that this lady who did not steal anybody's land or take away animals does not go for nothing. Her life was dedicated to the defense of the environment and our heritage. I seek guidance from you.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, 60 days is what is given in our Standing Orders. Is the Vice Chairperson in the House? What is your take on it?

**Sen. Outa:** Thank you, Madam Temporary Speaker. I want to commit to this House that we will do whatever it takes to bring this heinous act to book. As my senior said, this Committee is committed that within one month, we will be able to bring the interim report in this House.

**The Temporary Speaker** (Sen. Nyamunga): I think that is in order. The earlier you can bring it back to the House, the better. However, within two weeks or a month you should give us a progress report.

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

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

**Sen. Olekina:** Madam Temporary Speaker, with the nature of this investigation by the Committee, I support what Sen. Orengo has said. I know that you have already committed this matter, however, is it possible to set up a select Committee that can work expeditiously to deal with it because of the international interest that this matter has attracted?

I am saying this because I know that you have already committed it, but I am only beseeching you. I know that it is within your own discretion to agree or disagree. Just so that we can show how serious we are on this matter, you may want to consider a Select Committee to deal with this matter.

**The Temporary Speaker** (Sen. Nyamunga): I am going to allow a comment from Sen. Wetangula, but I think that the Committee is good enough to handle this case.

Sen. Wetangula, what do you have to say?

**Sen. Wetangula:** Madam Temporary Speaker, first, I am a Member of the Committee where Sen. Outa is the Vice Chairperson and acting Chairperson. What Sen. Olekina say is not doable because you can only set up a select Committee by Motion. There is no Motion before us.

Our Committee has summoned the Cabinet Secretary (CS) for Interior and Coordination of National Government. He will appear before the Committee on the 18<sup>th</sup> on other matters. We can direct our clerk to expand the agenda of the day and give priority to this matter so that we can deal with it. Within 10 days of the 18<sup>th</sup>, we can bring a progress report to the House.

**The Temporary Speaker** (Sen. Nyamunga): I think we can let that matter rest. We move forward. The next Petition is by Sen. Wetangula.

## GAZETTEMENT OF CHETAMBE (WEBUYE) HILL FOREST

**Sen. Wetangula:** Thank you, Madam Temporary Speaker. This is a Petition by the residents of Webuye East Sub County on the gazettelement of Chetambe (Webuye) Hills Forest vide Legal Notice No.106 proposing a declaration of public forest at Chetambe (Webuye) Hills dated 25<sup>th</sup> June 2021.

Let me start by thanking you for allowing a delegation from Webuye that is in the Speaker's Gallery, composed of two Members of the County Assembly (MCAs) and elders of the community that is affected by the Act that has led to this Petition.

We, the undersigned, on behalf of the residents of Webuye East Sub County, Bungoma County; draw the attention of the House to the following-

THAT, the above Legal Notice No.106 under which Chetambe (Webuye) Hill Forest was gazetted, the gazetted forest is to cover a land mass of 406.22 hectares or 1003.36634 acres.

THAT, the residents of the area earmarked for gazettelement were and are still gravely concerned and shocked at the notice, for the gazetted area is their ancestral land which they have lived on and used for various socio-economic activities, including grazing ground for their livestock since time immemorial.

THAT, within the area earmarked, the Tachoni Community and the Kalenjin neighbours entered a covenant dubbed *Okhulia Yimba* to end inherent acrimony and animosity to achieve peaceful co-existence between the two communities.

THAT, at the advent of colonialism in Kenya, the heroic people of Bungoma put up a gallant resistance fight against the advancing colonialists on their land and their land remained sacred to them with immense historical significance.

THAT, in 1925, the local inhabitants were forcefully evicted by the colonial government to pave way for white settlers in Chepsaita area, currently in Uasin Gishu County, Ndal, Naitiri, Lugari and Kiminini among others and as a consequence they were settled in the area then referred to as East Kitosi, the present Webuye East Sub County, the gazetted area included.

THAT, several forts namely; Olukova Iwa Sitati, Olukova Iwa Chetambe, Olukova Iwa Kakai and Olukova Iwa Wangusi, were constructed by the locals and they remain critical and revered shrines to the people of Webuye East Sub County.

THAT, the affected residents of Webuye East Sub County were never consulted by way of public participation, which is a fundamental pillar and requirement under the Constitution of Kenya (2010) in arriving at the decision to issue the Gazette Notice.

THAT administrative processes and decisions that affect citizens' welfare and wellbeing must strictly adhere to set constitutional and statutory provisions, including the right to be heard by citizens who would be affected adversely or otherwise by such a decision.

THAT, the gazetted area is home to thousands of people, averaging 2 to 3 families per Acre, which would amount to about 30,000 residents with historical attachment, including their ancestral final resting places.

THAT, the gazettelement of the forest has raised enormous anxiety and restlessness among the residents of the affected area leading to uncalled demonstrations and other resistance mechanisms and activities which are likely to escalate due to simmering



tension, delicate circumstances that us leaders in the county we wish not to embrace or encourage.

THAT, the effect of the gazette notice contravenes the people's rights as enshrined in Article (31) (b), on the privacy of property as well as the rights not to have their possession ceased.

In addition, Article 53 (1) (b) and (c) on basic education, nutrition, shelter and health of children, will be contravened because children who are going to school will equally be uprooted from this land if their families are evicted.

Madam Temporary Speaker, we have had this matter addressed by relevant authorities and used all available avenues to have it reconsidered but it has not yielded any satisfactory responses.

THAT, none of the issues raised in this Petition are pending before any court of law, constitutional or any other legal body.

Therefore, your humble petitioners pray that the Senate intervenes to have this gazette notice withdrawn and the status quo maintained to alleviate growing anxiety, forestall potential violent conflicts and avert any tragic risks such as loss of lives and property and related consequences.

*(Sen. Mwangi consulted Sen. Wamatangi)*

Madam Temporary Speaker, the distinguished Senator for Nyandarua, Sen. Mwangi, should be listening to this. Sen. Wamatangi, can you let the Chairman listen to this important Petition. He is the Chairperson, Committee on Lands, Environment and Natural Resources.

I am presenting a Petition where 30,000 residents of Webuye are at risk of being uprooted from their land because it has been gazetted unilaterally as a forest.

This Petition seeks a reversal of the gazette notice and it will come to the Committee chaired by the distinguished Senator for Nyandarua who has a distinction of doing a good job, except this afternoon when he was not listening.

Madam Temporary Speaker, allow me to end by urging this House that our duty to protect counties and the people is sacrosanct and fundamental.

The Government cannot wake up one morning and gazette people's ancestral homes as a public forest without public participation, any consultation and justification.

This House has a duty to protect the people of Webuye East and Chetambe Hills where the forest is to be gazetted. To uproot 30,000 is not a joke because there is nowhere they will go to.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. I will allow few comments. This was a decision made by this House.

Please be brief and to the point.

**Sen. Halake:** Thank you, Madam Temporary Speaker. As you know I am passionate about this. The idea that the Government can wake up one day and convert community land into public land is unacceptable.

This is what has been afflicting us in Northern Kenya. This is wrong. If the land was private land, not only would they have done public participation, but also paid for every inch of it. Who was compensated for this land?

The fact that communities own their land does not mean that the land is free for the Government to grab. The Government is becoming the number one grabber of land from our communities. This is what has afflicted communities in Northern Kenya that have communal lands. It is scary to find this in parts of the country that were a bit organized.

Article 61 and 40 of the Constitution of Kenya states that public, private and community tenure are distinct, but equal in force. We cannot say that public land is more equal than the other.

Our Constitution deliberately distinguishes between community land and titles because it appreciates that we are equal in legal force and in effect, socially collective tenure as special demands different from where an individual owns land and also different from cooperate tenure which falls under private.

Section 5 of the Land Act, 2012 on Customary Tenure is clear. The Community Land Act of 2016 on the inclusion of customary rights is also clear. Therefore, the rights of the people of Webuye have been denied and their land has been grabbed.

This trend is scary. This is because the Government only needs to wake up one day and gazette without consultation, payment or any form of respect to the communities and their ancestral land.

Madam Temporary Speaker, if this House is to be respected, we must bring back the sanctity of community land in the country. This is because our Constitution has deliberately made sure that it is equal in effect, tenure and every aspect. Communities are being disenfranchised through grabbing of land by the people that are supposed to enforcing the rule of law.

We stand with the people of Webuye as we should with the people of Northern Kenya in Isiolo, Wajir, Garissa and Marsabit who live in community land and whose land is grabbed anytime there is a development that needs to be done. It does not make sense.

In Kiambu, people are killed so as to destroy the community forest yet in other parts, you gazette it as public land just because it suits you.

Since 2016, over 60 ancestral lands have been converted to public land without paying a cent. In fact, this Committee has to go beyond the Webuye land to the 60 forests that have been grabbed from communities and take them back to the rightful owners.

This House has become the last resort. Communities are coming to us. Therefore, we must stand up and be counted. We must ensure that the Constitution and the rule of law is upheld. Communities should be given their rightful share in terms of compensation if the land must be converted to a forest.

Madam Temporary Speaker, I support and look forward to the implementation, investigation, conversion and reconversion of this land back to the people of Webuye who are the rightful owners.

**The Senate Minority Leader** (Sen. Orenge): Madam Temporary Speaker, I was looking at the Forest Act and it sets out the conditions under which the Cabinet Secretary (CS) can gazette a particular area as a forest. It is not a unilateral decision like the Senator for Bungoma has said.

The unfortunate thing is that a lot of times when areas are gazetted as forests, sometimes it is to create a basis for giving other people land. So, immediately it is gazetted, within three or four months, portions of that area are given to individuals.

I suppose that this is what is happening in this particular incident where there is a huge population which has been gazetted as a forest. What they are trying to do in effect is because these people do not have title deeds, they might be created for particular persons in that area. I hope that this is not what is happening in this part of Bungoma.

The forests were being mismanaged that is why it was required, under the Act, that in order to declare an area to be a forest or to be de-gazetted, there must be a process. That is participation of the people, the National Assembly and the Senate.

I have been looking at those provisions. You will find that the participation and consideration of that decision by the Senate and the National Assembly is important. In the old days, people used to give chunks of forests to particular persons.

I hope that Sen. Wetangula will take this further. This is because an area can only be gazetted to be a forest if it is un-alienated land. To many people, they say that it is alienated because it has a title deed. However, if it belongs to a community, it is alienated because there are people who are occupying the land. It belongs to the category of land which under the Constitution is community land which is alienated.

Madam Temporary Speaker, the land belonging to the Maasai is not free land for anybody. It is alienated. The land that belongs to the Pokot and Samburu even if it has title deed, it is alienated. That is why even in the former Central Province, the Kikuyus lost a lot of land because they did not have title deeds. The white man came and just divided that land as they wished. The “black white man” is trying is to do what the “white black man” did by giving out these pieces of land.

I am hoping that, Sen. Wetangula, this is not a matter that should go just by a way of Petition. Land conflicts can lead to various serious problems. I am hoping that when this Committee reports, we will take some action. If you look under the Forest Conservation and Management Act, Sen. Mwangi--- If you look at this statute, the Senate has teeth. It is not the Cabinet Secretary (CS). The National Assembly has teeth. He cannot just wake up and say this is a forest. It is just like somebody declaring this Senate to be a church or mosque.

Madam Temporary Speaker, you do not do things like that way. There must be public participation. Even if land is not alienated by way of title deed, we have come from communities. Before you give out land or declare it is a forest, for example, if you go to Bungoma, that land either belongs to the Bukusu, Sabaot or Tachoni as it is in the Petition. Let them have participation. However, you do not find a CS who does not know how people live in that area just dreaming. The next day because he has received some Petition from somebody who has got ulterior motives and declares that is a forest.

I know an area in this part of the country where a declaration was made that that area is a forest, but there is no tree in the area. No trees have been planted. Subsequently, you find people getting pieces of land in acres and acres. I hope and pray that the people of Bungoma will not lose this piece of land and their rights will be protected under the Constitution.

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

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. In quick succession, I think Sen. Orengo being the former Minister of Lands has more authority than all of us. Just to add on what Sen. Orengo and my colleagues have said, when the Webuye residents of over 30,000 risk being evicted, it is very tragic.

I think these are human right issues. In fact, it is not even a local issue. It should be an international issue. This issue of trying to gazette a private land of 30,000 in Webuye or Bungoma is unfortunate. I thank Sen. Wetangula for bringing this issue up. It is important. Sen Wetangula is busy maybe conversing on issues of One Kenya Alliance.

Madam Temporary Speaker, what I wanted to tell Sen. Wetangula is that I congratulate him for bringing this issue before the Floor of the House. I thank the people of Webuye and Bungoma County for having faith in the Senate. The last time I was in Bungoma, it was not a good experience. However, I support them 100 per cent.

I want to challenge Sen. Wetangula through the Committee on Lands, Environment and Natural Resources. I have faith in Sen. Mwangi. This is a human rights issue. In fact, it should be brought to the attention of African Charter on Human and People's' Rights or Banjul Charter.

Madam Temporary Speaker, if we allow this to happen, the issue of Mau will recur. The issue that we are facing in Nandi County, Ng'epikong where forest evictees are now on the roadside because of overzealous Government machineries will recur. If the Senate today protects the people of Webuye and Bungoma, I can assure you we will go into history as the House that---

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

**Sen. Faki:** Asante, Bi Spika wa Muda, kwa kunipa fursa hii kuchangia malalamiko ya watu wa Webuye Mashariki katika Kaunti ya Bungoma. Kupokonywa kwa ardhi hii kwa wakaazi hawa wa Webuye ni sawa na yale yalifanyika wakati wa ukoloni. Wananchi walikuwa wanafukuzwa na kufurushwa katika ardhi zao bila ya kufuata sheria. Hata kama msitu huu unajaribu kuweza kulindwa, sio haki wao wasihusishwe. Japo kuwa Serikali inataka kulinda msitu, sio haki wakaazi hawa wasihusishwe katika uamuzi wa kuzuia ama kulinda msitu huu.

Sheria iko wazi sasa kwamba jambo lolote ambalo Serikali inataka kufanya mahali popote lazima wakaazi wahusishwe kupitia ile inajulikana kama “*public participation*” ama “*stakeholder consultation*”. Kwa msitu huu, hiyo haikufanyika kwa hivyo hii ni jambo ambalo ni kinyume na sheria. Naomba ile kamati husika isichelewe kutoa uamuzi wa maswala haya.

Bi Spika wa Muda, haya ni masuala ambayo yanawahusu mkaazi ya wakaazi, mashamba na hata chakula chao. Hii ni kwa sababu wengi ni wakulima na watakosa mahali pa kufanya ukulima wakati msitu huu utakapo chukuliwa. Naunga mkono malalamiko haya ya watu wa Webuye Mashariki. Naomba kamati husika isichelewe kuleta uamuzi kwa Seneti.

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

**Sen. Madzayo:** Asante Sana, Bi Spika wa Muda. Kitu cha kwanza nataka nimpatie kongole sana ndugu yangu mkubwa, Sen. Wetangula, kwa kuleta malalamishi haya katika Bunge hili hususan ikihusikana na watu wake kutoka huko Bungoma. Mwanzo, Waswahili walisema ukiona cha mwenzako cha nyolewa, chako tia maji. Sisi tumekuwa tukinyolewa sana na mambo haya kule pwani. Lakini wakati huu, ninaona kunyoa huku sasa kumefika upande ule wa watu wa Bungoma. Ni jambo la kusikitisha.

Jambo la kwanza ni kuona watu ambao wameishi mahali kwa miaka mingi. Wametunza msitu wao. Wameishi na huo msitu. Wanaketi hapo karibu na kushirikiana

kuona ya kwamba mazingira yako sawa. Hivi leo, Serikali imeona imefika wakati wa kuweza kutoa notisi la gazeti na kusema hapa tumeweka kama msitu.

Ningependa kujiunga na watu wa Bungoma hususan wale wa Webuye ambao hivi sasa wanaonekana wako katika hali ya tahadhari. Hawajui waende mbele ama nyuma. Hawajui hapo ni kwao ama sio kwao na ni mahali wameishi kwa miaka mingi.

Bi Spika wa Muda, najiunga nao kusema huu ni ukiukaji wa Katiba. Ikiwa kuna jambo lolote ambalo linahusu na mambo ya wananchi, ni lazima wananchi wenyewe waitwe. Wakae chini, wajadiliane, wakubaliane ili mpango kama huu uchukuliwe na Serikali.

Ukifurusha watu 30,000 sio nambari kidogo ambapo kuna akina mama, watoto, mashamba ya watu ambao wenyewe wameketi hapo miaka mingi. Wamejenga makanisa, shule, nyumba na kuweka maisha yao hapo. Kunao hata makaburi na kanisa. Hivi leo uskisema kwamba hawa watu leo hapo sio kwao wafurushwe, waende, na watoke, hilo halitakuwa jambo nzuri.

Bi. Spika wa Muda, hiyo harakati ambazo Serikali imechukua, naona kwamba sio sawa na sio haki. Hususan watu wa Webuye ni lazima wapewe nafasi hiyo ili waweze kuangalia maisha yao ya usoni yatakuwa namna gani.

Ile Kamati yetu ambayo inahusika na jambo hili inatakikana ichukue hatua haraka sana kuona kwamba imeleta ripoti ambayo itaweza kuwapa hawa watu wa Webuye mwelekeo.

Asante, Bi. Spika wa Muda.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, that brings us to the end of that Petition. Pursuant to Standing Order No.232(1) the Petition is committed to the Standing Committee on Lands, Environment and Natural Resources which is the relevant Standing Committee, for its consideration.

In terms of Standing Order No.232(2) the Committee is required in not more than 60 calendar days from the time reading the prayer to respond to the petitioners by way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

#### COVID-19 SITUATION AT THE KIBOS SUGAR FACTORY LIMITED

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by residents working in Kisumu County.

As you are aware, Article 119(1) of the Constitution states as follows: -

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any regulation.”

Hon. Senators, the salient issues raised in the said Petition are:

- (1) In May, 2021, the Ministry of Health reported that it had recorded the first five cases of the Indian COVID-19 variant in Kisumu and further confirmed that the variant was confirmed from samples picked from persons who had travelled from abroad, working in the western part of the country.

- (2) The residents allegedly established that the said persons who had travelled from abroad are employees of Kibos Sugar Factory Limited which is based in Kajulu Ward, Kisumu County.
- (3) In spite of the threat posed by COVID-19 pandemic employees at the company continued to work alongside their counterparts who had been to India recently and thereby increasing the risk to local residents.
- (4) Allegedly the cases of COVID-19 continued to rise exponentially in Kajulu Chiga area with little or no effort being made by the factory owners and the County Government of Kisumu in spite of COVID-19 containment measures being enforced by the national Government.
- (5) The local residents have made all efforts to have the matter addressed by the relevant authorities, including demanding that Kibos Sugar Factory Limited be shut down, but there has not been a satisfactory response.

The petitioners, therefore, pray that the Senate intervenes with a view to:

- (1) Investigate the allegations and issues raised in the Petition and make appropriate recommendations.
- (2) Investigate the operations and management of Kibos Sugar Factory Limited and recommend appropriate action to hold those responsible to contributing to the spread of COVID-19 in the region culpable.
- (3) Recommend that Kibos Sugar Factory Limited is temporarily shut down pending investigations into these issues and to aid in curbing the spread of COVID-19 in the area.

Hon. Senators, pursuant to Standing Order No.231 I shall now allow comments, observations and clarifications in relation to Petition for not more than 30 minutes.

**Sen. Olekina:** Madam Temporary Speaker, I rise to support the Petition by the citizens of Kisumu County. While I do so, I think we are failing as a country. I say this with a lot of information because I am a Member of the Senate Committee on Health.

This issue of COVID-19 has become a business which is being reserved for a few. People are making money while others are dying because they do not give a hoot in hell about the lives of many people.

When we talk about the Indian variant, it really shocks me that while the Ministry of Health knows very clearly that there are different ways that COVID-19 mutates, they are restricting themselves to a particular testing method.

There is no way we are going to be able to solve this problem and help the situation in this country if we will be conservative and just focus on a particular area. We are restricting the importation of vaccines to the Government and the Government cannot handle it. So, there is no way that we will help those citizens.

Let us not kid ourselves because even if today that Petition is committed to our Committee, we will definitely do the work that is supposed to be done. We will summon the Ministry of Health. The Cabinet Secretary come and tell us that the numbers are rising, but we will not solve the problem of COVID-19.

This is what we need to do. Moving on from today, every company that has got a huge workforce must be forced to invest in COVID testing equipment. There are these rapid tests. There is another one called WAMA from Brazil which tests the S, N and E proteins which is how the COVID-19 mutates.

Madam Temporary Speaker, I know you will commit this Petition to our Committee on Health. However, unless this Senate and every single Senator who sits here takes this matter of COVID-19 as a personal issue, there is no way we will help those people.

I really sympathize with the people of Kisumu, but unless we take certain steps to ensure that we allow even private companies to import vaccines, we will not solve this problem. We must now start thinking outside the box.

Soon you will hear the President declaring a state of emergency because of the rising COVID-19 cases.

I would like to beseech you that while committing this Petition to the Committee on Health I think you should broaden it. This is because as a Member of that Committee, I can tell you that the only thing we are going to do is that we will call the CS. He might tell us that he will not appear, or he might appear. None of us would want to travel to a place where there is the Indian variant even if we are vaccinated.

If we really care about the people of this country not only Kisumu, I think it is about time we divorced our personal interests from the interests of this nation. We can only help this nation if we are not selfish.

Whenever I hear that there are vaccines coming into this country, I wonder whether there are people already lined up to procure and redistribute them for profit. Shame on you who think that you can benefit on people who are dying.

This is a very personal matter to me because I have lost friends. I believe that the only good vaccine is the immunity in your body. We need to put in place a requirement that every company and even institutions like schools invest in testing equipment. There are schools which are being closed because children are contracting COVID-19.

Madam Temporary Speaker, we now need to start the process of investing in rapid test equipment. The Members of Parliament (MPs) should be tested on a regular basis. Otherwise, we will be sitting here not knowing that one or several of us have COVID-19. I hope that the workers of the Kibos Sugar Factory Limited in Kisumu will get the help that they deserve. You cannot close the company because people will have to stay hungry. Many would rather get sick, but at least get food. We need to rethink our approach to the COVID-19. If we do not listen, a state of emergency will have to be declared soon.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, let us make our comments brief so that we give opportunity to more Members.

Proceed, Sen. Wetangula.

**Sen. Wetangula:** Madam Temporary Speaker, I hope that the distinguished Senator for Narok is not soliciting for a state of emergency. We do not need one.

I support the petition that you have read on behalf of the people of Kisumu County. I enjoin in saying the following; the visitors, residents or workers who came from India and went straight to Kisumu, their conduct and effect of the spread of the disease had very severe consequences on the counties in Western Kenya. What started as a small thing was exasperated by the events of the public holiday in Kisumu and spread leading to the closure of 10 counties; from Trans Nzoia in the north down to Migori and Kericho in the south. People have suffered because their livelihoods have been curtailed and they are limited in movement.

The answer to all this is what we have been saying. We need the Ministry of Health at the national Government level to do better. After closing down 10 counties, what is the expected outcome? One would imagine that when you close down these counties or the country, you aim at achieving something. We expect mass testing and vaccination. We expect the Government to tell the country the level of partnerships that they are doing with the county government and co-operates in trying to vaccinate Kenyans and protect them against this pandemic.

When we had the *ad hoc* Committee on the COVID-19 situation in Kenya that was chaired by my able nephew, Sen. Sakaja and Sen. Kasanga as the Vice-Chairperson, we were getting regular updates on what was going on in the country. As the defenders and protectors of counties and their interests, we are failing as a House. The fact that Sen. Sakaja resigned from the Committee did not mean that the Committee had to die. We need that Committee back and keep it in place for as long as this pandemic is ravaging this country.

The Senate's Committee on Health where Sen. Olekina, Sen. (Dr.) Ali and other Members of this House serve should be proactive in the absence of the *ad hoc* Committee. The Committee on Health has not brought any report to this House within a designated period; two weeks or a month to tell the Senate and the country what their Committee is doing and the state of the pandemic in the country. Every other day, we are told the number of people have died. For instance, the Ministry of Health may report that 10 people have succumbed to COVID-19 related complications on a certain day. However, if you visit the Langata Cemetery, you may find that in one afternoon, 20 people are being buried who have succumbed to COVID-19 related disease.

If Langata Cemetery alone is burying 20 people who have succumbed to COVID-19 related disease in a day, what about the rest of the country? If the Ministry of Health reports eight or 10 deaths relating to COVID-19 in a day yet in one spot alone like the Langata Cemetery, over 20 people who have succumbed to COVID-19 related complications are buried, then you know that the statistics that are being channeled out are not correct. In fact, such false statistics do not encourage Kenyans to be careful about the disease.

Madam Temporary Speaker, as Sen. Olekina has stated, instead of closing down the factory, the Government should obligate corporates to invest a little money in testing and treatment where necessary and where people are found to be infected in their environment.

I thank you.

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

**Sen. Outa:** Madam Temporary Speaker, I thank the petitioner from my county for bringing this petition to this House. Two weeks ago, I was in Kisumu County and the situation is pathetic. If you go to the Jaramogi Oginga Odinga Referral and Teaching Hospital, you will be shocked to learn that five people die daily from COVID-19 related complication. There is no preparedness by the County Government of Kisumu to deal with the COVID 19. There are no Personal Protective Equipment (PPE). We have realized that the situation is getting worse.

It is my appeal to the national Government to step in to contain the spread of the COVID-19 Indian variant. If the Government will not step in, we will keep losing people. The County Government of Kisumu is on its knees on providing services to the people of



Kisumu. The Kisumu County Executive is helplessly as people continue to die. There are not drugs in various hospitals, the doctors are on strike, the nurses have not been paid for the last four months. This situation is not making it any better for the people of Kisumu County.

Closing the Kibos Sugar Company Limited is not a solution. What is the Government doing to contain the spread of the COVID-19 Indian variant? I urge the Cabinet Secretary in the Ministry of Health to come and rescue us because the County Government of Kisumu has neglected its people by not attending to this situation. The COVID-19 situation in Kisumu County is pathetic. We need help from the national Government.

**The Temporary Speaker** (Sen. Nyamunga): Proceed, Sen. Cherargei, the Senator for Nandi County.

**Sen. Cherargei:** Madam Temporary Speaker, I thank the people of Kisumu County who are my neighbours for bringing this petition to the Senate. I agree that the Delta variant of the COVID-19 is serious. The Ministry of Health today reported that the country now has 18 per cent positivity rate.

I agree that there might have been some negligence on the part of the management of the Kibos Sugar Company limited. However, that does not warrant closing down of the factory. What we should be talking about is the clearance at the Jomo Kenyatta International Airport (JKIA) where the PCR tests were done before the visitors were allowed into the country. Before one comes into the country, they must do a PCR test. We have to investigate the immigration officers, the officials of the Ministry of Health at the JKIA who cleared the persons who brought that COVID-19 variant yet the flag had already been raised by the time.

Blaming the workers and management of the Kibos Sugar Company Limited is neither here nor there. We should be honest and say that the Ministry of Health has allowed the situation to escalate this far by the fact that our visitors were already at the Kibos Sugar Company Limited doing their work before they were confirmed to be free from the COVID-19.

In as much as we encourage the corporate sector in this country to invest more in terms of testing and following the COVID-19 protocols that have been laid down by the COVID-19, the buck stops with the clearance that is happening in the JKIA. We all know that the immigration officers are so powerful to the extent that they can refuse to clear the Deputy President of the Republic of Kenya from leaving the country. The immigration officers and port health officers should be strict to ensure that all visitors coming into the country receive proper clearance.

Closing the Kibos Sugar Company Limited is not going to be the solution. I hope that the relevant Committee will look into this matter conclusively. Kisumu County neighbours Nandi County. I, therefore, hope that there will be proper intervention to address the skyrocketing rate of infection. As Sen. Outa has stated, there is need for a serious intervention from the Ministry of Health in the national Government to ensure that the spread of COVID-19 is contained. The County Government of Kisumu has not done its work properly. I would have expected the County Government to invest more in ensuring that we get PPEs.

Nandi depends on Kisumu City because that is where we sell our milk and maize. So, if Kisumu County is sick, Nandi County is also sick.

Madam Temporary Speaker, I hope the intervention will be timely. I thank you.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, pursuant to Standing Order No.232(1), the Petition should be committed to the relevant standing Committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Health.

In terms of Standing Order No.232(2), the Committee is required in not more than 60 calendar days from the time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

*(The Petition was committed to the Standing Committee on Health)*

Let us go to the next Order.

### PAPERS LAID

#### ANTI-COUNTERFEIT REGULATIONS, 2021

**Sen Farhiya:** Madam Temporary Speaker, I beg to lay the following papers on the Table of the Senate, today, 4<sup>th</sup> August, 2021-

(1) The Anti-Counterfeit (Amendment) Regulations, Legal Notice No.117 of 2021.

(2) The Anti-Counterfeit (Recordation) Regulations, Legal Notice No.118 of 2021.

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

**The Temporary Speaker** (Sen. Nyamunga): The next paper is to be laid by the Chairperson of the Standing Committee on Education. If Sen. (Dr.) Langat is not in the House, we can have the Vice Chairperson or any Member of the committee.

#### REPORT ON THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL, 2021

**Sen. Seneta:** Madam Temporary Speaker, on behalf of the Chairperson, I beg to lay the following paper on the Table of the Senate, today, 4<sup>th</sup> August, 2021-

Report of the Standing Committee on Education on the County Vocational Education and Training Bill (Senate Bills No.6 of 2021).

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

**The Temporary Speaker** (Sen. Nyamunga): The next paper is by the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations.

REPORT ON THE NATIONAL FLAG, EMBLEMS  
AND NAMES (AMENDMENT) BILL, 2020

**Sen. Outa:** Madam Temporary Speaker, beg to lay the following paper on the Table of the Senate, today, 4<sup>th</sup> August, 2021-

Report of the Standing Committee on National Security, Defence and Foreign Relations on the National Flag, Emblems and Names (Amendment) Bill (Senate Bills No.36 of 2020).

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

**The Temporary Speaker** (Sen. Nyamunga): Let us go to the next Order.

### STATEMENTS

#### ALARMING RATE OF SUICIDE CASES IN KENYA

**Sen. Iman:** Madam Temporary Speaker, this is a Statement on an issue of general topical concern.

I rise pursuant to Standing Order No.47(1) to make a Statement on an issue of general topical concern namely the alarming rate of suicide cases in Kenya.

The World Health Organization (WHO) rates suicide as a serious global public health issue that is among the top 20 leading causes of deaths worldwide. The WHO estimates that suicide accounts for more deaths than malaria, breast cancer, war and homicide. Globally, close to 800,000 people die of suicide every year with an estimated 78 per cent cases occurring in low and middle income countries.

The WHO ranked Kenya at position 114 among 175 countries with the highest suicide rates with Kenya's suicide rate being 6.5 suicides per 100,000 people.

The data that was compiled between April and June 2021 by the Department of Operations at the DCI showed that at least 483 people committed suicide in the past three months with Central Kenya leading with 181 suicide cases with Kiambu topping the list, accounting for 109 of the cases. The youngest person reported to have committed suicide was nine years old while the oldest was 76 years old.

Murang'a was second after Kiambu with 37 cases followed by Kisii with 25, Kakamega with 24, Nyeri with 21, Kisumu with 21, Embu with 20, Uasin Gishu with 18, while Nakuru, Makueni and Bomet recorded 17 cases each.

Kericho had 16 suicide cases, Nyandarua and Machakos had 14 each, Migori had 12, Narok had nine, Meru had six, Mombasa had five, Busia and Laikipia had four cases each, Taita-Taveta and Wajir counties recorded 3 suicide cases each while Homa Bay and Kwale recorded two cases each.

Siaya, Bungoma, Lamu, Tana River, Trans Nzoia and Nakuru had one case each. Mandera, Samburu, Turkana, Kirinyaga and Marsabit counties did not record a single case of suicide while Vihiga County is yet to submit its data.

Findings indicate that men are more prone to committing suicide than women. The statistics represent a sharp increase considering that only 196 suicide cases were reported in 2019 according to the Kenya National Bureau of Statistics (KNBS). The

Kenya National Police Service Annual Crime Report also shows that between 2015 and 2018, 1,442 persons were reported to have attempted suicide.

Adult and child psychologists attributed the rising cases of suicide to failed relationships, failed marriages, financial hardships, hard expectations in life such as career, education and businesses which have taken their toll on the people's mental health. Others are failed business ventures, loss of jobs, depression, bullying, previous suicide attempts, history of suicide in the family, alcoholism, substance misuse and bipolar disorders.

Police reports cite economic hardships as a result of jobs and business losses arising from COVID-19 pandemic as factors contributing to the depression, suicide and violence particularly at home. The reports further reveal that suicides among college students can be attributed to academic pressure, substance abuse, poor adaptation to college environment, lack of school fees and relationship demands.

For instance, in April, Brian Mwenda, 21, a third year student at the University of Embu reportedly killed himself because of Kshs89,000 examination fee he was supposed to pay before re-sitting past examinations he failed in 2018. Two students who sat this year's Kenya Certificate of Secondary Education (KCSE) examination reportedly committed suicide in Kisii and Kajiado after failing examinations in 2019. A 14-year-old girl in Bomet County took her life after a teacher allegedly embarrassed her after she soiled her clothes during her periods.

Madam Temporary Speaker, as the country grapples with the Coronavirus (COVID-19) pandemic and its repercussions, it is important to note that every Kenyan has been affected in one way or another. I urge the Government to lead us in both legislative Houses and well-wishers, to come forth and address this matter before it gets out of hand. I also encourage fellow Kenyans to be each other's brother's and sister's keepers. Let us engage each other and share our problems, for a problem shared is a problem half solved. As the Senate, it is time to rise as leaders to combat this menace. Suicide is preventable.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senator, I will allow only two comments on that because out time is spent.

Sen. (Prof.) Kindiki, proceed.

**Sen. (Prof.) Kindiki:** Madam Temporary Speaker, I commend Sen. Iman for this Statement. Suicide is a big challenge in our country. You pick any of today's local dailies and you find a suicide issue. This matter is affecting families and now you will find cases where whole families are being wiped out because those who perpetrate the murders end up killing themselves.

Some of the causes of this problem are the hard economic times the country is facing, but also the COVID-19 situation has made this problem worse. People staying indoors for many hours and days and dwindling economic fortunes have made people distressed. Therefore, it is important for us, as leaders, to look at this issue and see what interventions we can make at policy level at both levels of Government. Parenting is also an important issue. As parents, it is important for us to take responsibility for our children.

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

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

Lastly, this suicide challenge is being expedited by the rampant abuse of drugs and substances among our children, especially teenagers. Recent reports have shown that a big number of children are abusing drugs and cytotropic substances. If we are not careful, we will lose a whole generation of young people who would have taken this country to the next level.

I agree with Sen. Iman that this is an issue of national importance. As this House notes, this is a problem that requires our collective intervention. I support.

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

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for this opportunity to support this Statement by Sen. Iman. I commend her for coming up with this Statement. I agree with her that suicide is preventable.

It is unfortunate that we find suicide among the young and the old, the rich and the poor. For the poor, sometimes it is because of their socio-economic status, where they are unable to manage their financial challenges. Sometimes they cry and end up committing suicide. The rich also cry. Sometimes they encounter so many challenges in life, which they are unable to manage and they commit suicide despite being economically endowed.

There is need to investigate the causes of suicide in order to prevent them. You also find school children committing suicide because of issues that can be prevented. You may find a youngster has been led by his or her friend in school to commit suicide. Those cases are real and we see read about them in newspapers.

As a society, there is need to see how we can prevent suicide in the various categories. In schools, for example, we can prevent suicide by having mentors and counselling centres to help students. We can also have centres in counties to help even adults who are going through mental challenges as a result of inability to manage the encounters, they have in life. People should be encouraged to accept challenges in life because they make us stronger at the end of the day.

I support this Statement by Sen. Iman. It should be scaled up to become a Motion. She can even come up with a Bill to help come up with an Act that can help bring down the suicide curve.

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

**Sen. Olekina:** Madam Temporary Speaker, I rise to support this Statement by Sen. Iman. Suicide is a form of mental illness. The sooner we accept that, the sooner we will be able to have a conversation that will lead us into trying to investigate further the cause of all this.

As I listened to Sen. Iman's Statement, I nearly cried because I know most young girls from rural areas cannot afford sanitary pads. For a teacher to make fun of a young girl because she stained her clothes during her menstrual period is really a form of inhumanity.

As leaders, I encourage that we serve the people who elected us because that is our job. It is about time we looked back and thought of why we are called servants. When it comes to servant leadership, we must have this conversation and talk about solutions so that we can help out people.

Yesterday, I had this conversation with my brother, Sen. Wetangula, where a man killed his wife and then himself. This has nothing to do with wealth because that person

is wealthy. In most cases, this COVID-19 pandemic has made suicide cases to skyrocket. There are more people killing themselves now because they cannot afford a meal. I do not think I am the only one here who receives text messages from people asking for even Kshs200 just to buy *unga* for that day because they cannot survive. Before you realise, the messages increase and soon those people stop sending them. If you investigate further, they ended up committing suicide.

As a country – I want to speak to the Executive – it is about time that we now seriously think about why we were elected as leaders. The other day, I read that this Senate will go to Makueni County for the Devolution Conference and that it is a Presidential function which we must attend. Must we attend yet people are dying? We stop other functions from taking place, but when it comes to a Presidential function, we attend. Why not take that money and use it to invest more in Mathari Mental Hospital or develop mental health facilities in each county? We can use that money to even create a counselling centre that talks about suicide. It pained me to hear the suicide numbers in Narok County.

Madam Temporary Speaker, when I speak about suicide, just know it could be knocking at our doors. Soon you will be telling stories like all those people who tell theirs, saying they will never see their brother or sister again because they ended their life. This is a matter which all of us must not only legislate on, but follow to ensure we at least have solutions to help our people. Losing a life is not easy and neither is it something that is enjoyable.

Madam Temporary Speaker, because of time, as I conclude, I hope and pray that as leaders we will play our role in helping people discuss the issue of suicide. It is a form of mental illness. Whenever we find someone who has mental illness, we should take action to help them. As we send money to county governments, we hope that they will set aside a small portion of their budget and dedicate it to counselling and dealing with suicide.

Otherwise, I thank you Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): Sen. Farhiya.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I think that the faster this House passes the Mental Health (Amendment) Bill, the better for everyone. This will create a legislation that has the initiative that Sen. Olekina has just talked about. It establishes a center where these people can get help.

It is a fact that COVID-19 is causing many cases of mental illness in this country and all over the world. As politicians, we are super spreaders of COVID-19 through public gatherings and stuff like that. As a result, someone who could afford their meals and take their children to school now has nothing to give to their family. You can understand their predicament.

Madam Temporary Speaker, the other issue is that rape cases have increased in this country because of the impact of COVID-19. In my county, we had a case where a three-year-old girl was raped by a relative. A 15-year-old girl was raped two weeks ago in Wajir county by three men. She had just finished class eight and went to the market to buy uniform and other stuff. On her way to her village, she was raped.

This is a pandemic that is not only causing death, but a different magnitude of socio-economic problems. From now, I think that any politician who goes somewhere

and COVID-19 spikes needs to be--- People need to know that they are the ones who are causing the pandemic.

Schools are also affected. I know some private schools that have now closed down because of the economic hardships of the parents who used to take their children to school. They felt like they cannot sustain it. How many people have lost their jobs there? Not only the teachers, but also the sub-ordinate staff, the person who was leasing the land, and the landlord who was getting rent from those people. All these issues are a ripple effect.

Madam Temporary Speaker, I finally wish to thank Sen. Iman for bringing this Statement that is really current and affects our social fabric. We are really in trouble because of COVID-19. Wherever they are, Kenyans should pray for God's intervention on this pandemic. As much as we take care in terms of the containment measures and other things that the Government has put in place, I think that we need to pray about this.

The passing of the Mental Health (Amendment) Bill will go a long way in abating some of these suicidal cases, so that people have somewhere within their reach that they can go. Someone who is depressed is sometimes not very reasonable, but people should at least know that there is somewhere that they can go. At the moment, in some areas, there is none.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): We need to move very fast, so I encourage very brief comments.

Sen. Faki:

**Sen. Faki:** Asante, Bi. Spika wa Muda. Ningependa kuchukua fursa hii kumpongeza Sen. Iman kwa kuzungumzia mambo ya kujitoa uhai katika Taarifa yake. Hili ni jambo ambalo linatia watu wengi hofu kwa sababu limekuwa kawaida mtu kujiuua ama kua wendani wake kisha anajiua bila sababu yoyote maalum.

Inafaa tuangalie uwezo wa dini zetu. Wahubiri watasaidia swala hili. Swala la kujitoa uhai linalingana na imani yako katika dini. Ikiwa imani yako ni nyepesi, utakuwa hatarini zaidi kujitoa uhai kuliko yule ambaye imani yake ni dhabiti. Ninafikiri Sen. Wambua ambaye ni mhubiri anaweza kushuhudia swala hili.

Lazima tulete taasisi za ushauri nasaha ili wale ambao wana matatizo kama haya waweze kupata fursa ya kushauriwa. Aitha iwe katika makanisa au miskiti. Huduma kama hizo zipatikane kwa urahisi ili yeyote ambaye ana matatizo kama haya asaidike.

Bi. Spika wa Muda, inafaa pia tuangalie maadili yetu. Hivi sasa, wengi wetu tumeweka maisha ya kifahari mbele. Wakati matatizo yanatokea kidogo, unapata kuwa wale wendani wako uliolukuwa nao katika mfumo wa maisha wamekuwacha. Hiyo iakufanya usiwe na imani kuwa maisha yako inaweza kuwa bora kuliko wale. Kwa hivyo, inafa pia tuangalie maadili zaidi kwa sababu tukichunga maadili, itapunguza nafasi ya mtu kujitoa uhai bila sababu yoyote.

Asante Bi. Spika wa Muda kwa kunipa fursa hii.

**The Temporary Speaker** (Sen. Pareno): Sen. Cherargei.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. I want to commend Sen. Iman for this timely Statement. For the last one week, we have seen a rise in the cases of suicide in the country in the national newspapers. They have been attributed to many issues of economic hard times, COVID-19 lockdowns and relationships.

You will remember that a few weeks ago, there was a case where Corporal Caroline Kangogo went on a rampage after allegedly killing two men and targeting others, although there is no evidence of such. There were then allegations that she committed suicide. You will remember that there have been many suicide cases within the police service.

My sister, Sen (Dr.) Musuruve, has said that even the rich cry. It is not even about being rich or whether you have or not. We have seen cases where even the young and the old commit suicide. We have also seen cases of Gender Based Violence (GBV), which means that there is some relation. Today, there were reports that somebody in Kiambu killed his wife then killed himself. These are some of the cases of mental illnesses.

I hope that the Mental Health (Amendment) Bill will be expeditiously passed. In future, we can even have a Cabinet Secretary (CS) for Happiness in this country. People can come up with structures for counseling. For example, there is Mathari Mental Hospital and Ward Eight in Moi Teaching and Referral Hospital (MTRH).

Most of these mental facilities are heavily underfunded. We expect the Ministry of Health to increase allocation to Mathari Mental Hospital and MTRH among other mental health facilities in future. Suicide and depression are part of mental health, and I hope that when we pass this Bill, it will give us an opportunity to go into the future with that.

Madam temporary Speaker as a country we need to agree on how to approach this. How people handle rejection--- It is sad that one of the issues that Sen. Iman has raised is where a teacher laughed at a girl who soiled her dress during her menses. We also need to have counselling for teachers so that they can know how to handle our children who are going through adolescent's stage and are sensitive. Some of the comments that we make might be casual, but they affect them.

Madam Temporary Speaker, we were warned that when lockdowns happen cases of depression, suicide and GBV will be on the increase. We are aware that 1.3 per cent of the Kenyan population has been vaccinated.

As I conclude, going into the future, we must have a Minister of Happiness so that we can ensure that some of these issues are handled once and for all.

**Sen. Seneta:** Madam Temporary Speaker, we need to relook at our cultural fabric. Issues of culture and social being need to be encouraged.

In the recent days, we have seen young couples killing each other because of misunderstandings that can easily be reconciled within our cultural procedures.

Our education curriculum should have something to do with the new emerging issues, for example, the short and long term impacts of the pandemic and how to address them. This is because it is something that was not there before.

It is time to look at issues of suicide in a broader way. Our churches and religious institutions should encourage citizens on how to coexist and deal with economic and social aspects.

**Sen. Wetangula:** Thank you, Madam Temporary Speaker. I support this Statement by Sen. Iman. Suicides have become a worrying trend.

I am not sure about the statistics she has given us. I do not believe that suicides claim more lives than Malaria, which kills a lot of people in the world. However, it is a serious problem. This is because we have seen students under peer and work pressure and with serious economic difficulties.



If you want to see how Kenya is doing today, as we were discussing with my two colleagues, Sen. Orengo and Sen. Olekina, you look at the obituaries. *The Nation* obituaries is now taking three or four pages on an average. *The Standard*, that never used to have more than two or three obituaries, now has two or three pages.

What is even worse is that on Thursday, you will find 15 to 16 pages of auctions. People's properties are going under the hammer. When such pressure is vested on people, those who do not have the capacity to withstand the pressure are taking the rope and putting it around their neck, consuming poison, jumping into the deep end of a river or the sea and so on.

I also agree with those who have spoken ahead of me that most of the people who commit suicide sometimes have mental problems that are not diagnosed. We have put little energy on dealing with our mental problems.

The other day, I saw my good old friend Dr. Frank Njenga, the distinguished psychiatrist, talking about the need to upscale our tension to mental health.

If you go to Mathari National Teaching and Referral Hospital, which is the only national referral hospital on mental illness, it is like a prison. It run like a prison where you dump the most unwanted criminals and leave them there.

It is never looked after, it does not get a good budget and it has never been upgraded an. It looks like a place where you only take people you do not need in the society.

Many of our mental patients can be any one of us. We know people in public life who speak boisterously about anything and everything, but have records in Mathari National Teaching and Referral Hospital.

We do need to mention names, but anybody who cares to know, knows that some of these noisy characters have mental difficulties. Therefore, we need to upscale the treatment of our mental patients. We need guidance and counselling. We need to train more psychiatrics and counsellors in our universities.

If you look around the medical profession, this country does not have more than a 100 qualified psychiatrics. If you ask yourselves, who are the psychiatrics in Kenya, even people who have been around for long like Sen. Orengo and I, will probably come up with Dr. Frank Njenga and Dr. Ndeti. We do not know the rest. We need to have as many acclaimed psychiatrics as we have physicians, neurosurgeons and others so that they take care of our mental health.

Madam Temporary Speaker, the Government should take serious and deliberate positive steps to upscale the treatment of mental illness to the level where every county should have, at least, at their county referral hospital and a mental wing to deal with cases of this nature. We do not have to ferry people from Mandera, Narok to Mathari and when they land there, their situation becomes worse. This is because it is worse than being thrown in the cell at Kamukunji.

I do not know whether Sen. Orengo remembers what our colleagues, for example, Sen. Muthama went through in Pangani Police Station. They told us harrowing stories.

In this day and age in Kenya, you are taken to a police station, locked up and you are given a bucket to ease yourself in case you need to have a call of nature. This is not the Kenya we should be talking about in this century.

That kind of act alone that a grown up is locked up in a cell and is given a bucket to have a long or short call yet you are with many others in the cell, automatically turns

you into a mental patient. You will come out and have serious problems if you are not counselled.

We have the case we have seen from Kiambu today of a wealthy person who wakes up, turns a gun on his wife and takes his life. What is the problem?

We have the case of Ms. Kangogo. I honestly do not believe that the girl committed suicide. This is because there has been no evidence whatsoever that she shot those two men they keep talking about.

If she did, the police in the country are efficient if they want to. They would have arrested that girl, prosecuted her and the truth would have come out as to who killed the policeman in Nakuru and the businessman in Ruiru.

Nobody knows. However, they behaved like General Joseph Goebbels of Hitler where you say a lie so many times that it becomes to look like the truth and it becomes the truth. That is what we were treated to in the case Ms. Kangogo. We were told she shot herself.

How do you shoot and hood yourself and sit with your legs straight and crossed with your hand on the gun? These people are talking to people like us who have studied forensic medicine at very high levels. When you shoot yourself the violence that is emitted from the gun cannot put you sitting down there with your legs straight. We need serious attention to these issues. We need the country to come to terms with the fact that mental health is a serious challenge in Kenya.

Madam Temporary Speaker, children are hanging themselves. Pressure from homework alone is costing lives. I know some close people to me who would send you a message and say my friend if you do not send me something today, I am likely to take my life because I cannot face my family.

The nature of a man as head of the family like young Sen. Cherargei, I do not know if he is now married. When you go home and you cannot bring a packet of *unga* and milk and your wife is there with the child staring at you crying, your wife starts teasing you whether you are a man or not. The weak ones will take their lives and that is what is happening.

Madam Temporary Speaker, I urge as we accept this Statement that serious engagement needs to be done in our country. The Ministry of Health, county departments of health and all those involved. I can see my brother who is a doctor agreeing with me in usual Italian style gesturing. I thank you brother and I support.

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

**Sen. Wambua:** Madam Temporary Speaker, thank you. I also want to join my colleagues to support this Statement by Sen. Iman on this issue of suicides. At such a time as this, depression has become real. It is so real that two months ago, we witnessed some very disturbing incidents of suicide in my county. A pastor hanged himself in church. A teacher hanged himself inside a classroom. A cook after preparing a meal for students retreated to his room and hanged himself. All in a period of three weeks.

Something needs to be done very fast. There must be an explanation behind these increased cases of suicide in our country. I think one of the biggest triggers of suicide in this country is the sudden loss of livelihoods occasioned by COVID-19. It is true that on account of this COVID-19 pandemic, businesses have closed down.

Madam Temporary Speaker, people in their hundreds of thousands have lost jobs. People are unable to place a meal on the table of their families. With it, it brings a sense

of hopelessness and loss of self-esteem. Now we do not have very strong systems for fall back for our people who go through these challenges then we are witnessing these cases of suicides.

In support of this Statement, I call upon especially county governments because health issues are devolved and these cases are happening in counties. I call upon county governments to make sure that they put in place systems to deal specifically with depression and counselling services. Support systems for people that have lost jobs and people whose businesses have collapse to give people some hope that tomorrow could be a better day.

Madam Temporary Speaker, with those remarks I thank Sen. Iman for bringing this Statement. I hope that the Committee to which the Statement will be committed shall take this matter very seriously and work with the institutions that are relevant to bring about positive change in society. I thank you.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I think we have to close under that part of the Statements so that we move to Statements pursuant to Standing Order No. 48. There is one more Statement by Sen. Sakaja under Standing Order No. 47 (1). Sen. Sakaja, proceed.

#### DOUBLE TAXATION ON FOOTWEAR IMPORTERS AND TRADERS BY KRA

**Sen. Sakaja:** Madam Temporary Speaker, thank you for this opportunity to make a Statement pursuant to Standing Order No. 47 (1). The Statement is on a matter of topical concern namely the double taxation on footwear importers and traders by the Kenya Revenue Authority (KRA). Following an East Africa Community (EAC) gazette notice Legal Notice No. EAC118/202/01, a tariff was introduced that imposed a duty rate of 25 per cent or one dollar per pair of shoes imported, whichever is higher, as at 1<sup>st</sup> July, 2021.

Initially, footwear traders and importers were required to pay a benchmark duty fee of Kshs2 million per 40 feet container. With the introduction of this tariff, because they are being charged for both, this duty has risen to a range of between Kshs6 million and Kshs8 million for the same. This is a result of the double levies charged whereby a 40 feet container is required to pay the Kshs2 million benchmark duty and additionally pay the new tariff.

Madam Temporary Speaker, it is interesting to note that it is only the KRA that has effected this gazette notice. The other EAC countries are yet to implement the same. In fact, it is like it was targeted to Kenya. This has consequently made our importers and traders lose business to neighboring countries and has raised the price of these shoes that are mainly worn by our low-income citizens by more than 300 per cent.

Further, the traders have not been able to pay duty on the shoes they imported thus creating a crisis. Right now, as we speak, there are 200 containers that are stuck. They are held at the International Container Depot (ICD) and the Port of Mombasa and they are incurring more costs in terms of demurrage charges. This has also affected the entire value chain because this sector employs thousands of our citizens.

Madam Temporary Speaker, the taxes are punitive. It is double taxation and it is not fair. It has adversely affected the profitability of these businesses, which were already

going through a difficult time due to the current state of the economy and the ongoing COVID-19 pandemic.

In view of the gravity of these issues raised, I request that you refer this matter to the relevant House Committee pursuant to Standing Order No. 43 (3) to intervene and get responses on the following issues-

(1) The justification for the double taxation that is specifically targeted at one sector, which is the footwear importers. This is a huge sector of my traders in Nairobi and across the country;

(2) To task the Commissioner General of KRA to clarify in detail the justification and formula behind the double taxation of footwear;

Madam Temporary Speaker, just to give you the context, these shoes are the ones which are sold in Kariobangi and Eastleigh, Garissa Lodge at Kshs120. When you tax the container one dollar per shoe, that tax is actually the price of the shoe that is normally a dollar. Children are going back to school and these are the shoes they use. Mostly they are sandals.

This business people are very comfortable with paying the Kshs2 million, but why is it that out of all the countries in EAC, this tax is only targeted at Kenya? It is good that you were a Member of East African Legislative Assembly (EALA). This is an urgent matter because with every passing day the demurrage costs are going up. In fact, we might even have to ask for a waiver.

I pray that this can be given to the relevant committee and they can be given a timeline to respond. We are also trying other means; we have spoken with the Executive, but the Senate must be able to pronounce itself on this issue of the double taxation that is unfair on a huge number of traders in Nyamakima, Eastleigh, Kariobangi and many other places.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): That being a very urgent and sensitive issue, I will allow very brief comments because we still have a lot to do.

**Sen. Halake:** Thank you, Madam Temporary Speaker for letting me weigh in on this. I will be very brief. This issue of punitive and extortionist taxes on our small and informal businesses is becoming a nightmare for them. If you remember, there was this turnover tax of three per cent on top of all these things.

Again, even before they look at the specifics of taxation on specific goods and services, there is already taxation that is targeting the poorest of poor. This is causing many problems and is actually driving our smallest businessmen out of business. The timing is wrong given the pandemic.

I was privileged to have served with Sen. Sakaja in the COVID committee where we specifically gave recommendations that at this point in time the Government should look for money elsewhere and not from the smallest traders that we have.

I congratulate Sen. Sakaja for bringing this to the attention of the Senate. This is actually not an issue of double taxation; it is multiple taxation. There is the turn over tax, then there is this 16 per cent that you are talking about on the specific VAT.

There is also taxation from the country of origin where the traders have already had to pay and some of these countries of origin already have signed non-double taxation agreements. It is actually going against our international obligations for non-double

taxation even where the originating countries have already signed non-tariff barriers with us or have signed a memorandum of understanding not to tax the small traders.

I support and I am glad that you are giving it to a committee because this is not just a double taxation for shoe importers, it is actually multiple taxation for all our informal and small traders, and they are being run out of business and creating a monster for this country.

I support.

**Sen. Olekina:** Madam Temporary Speaker, let me begin by thanking Sen. Sakaja for thinking about these low income young traders. However, I think the problem is really us. It is not even the Commissioner-General of taxes but it is the House that makes the laws.

I want to advise my good friend Sen. Sakaja, you should look for a friend in the National Assembly and try to push this agenda so that both Houses can be talking about the same thing because you know very well that the Government needs to make some money. I feel sad for these people because the county government, the KRA and COVID-19 will be after them.

Madam Temporary Speaker, I would like to beseech that you commit this Statement to the relevant committee, but we also have to now think outside the box. We can invite the Commissioner-General of taxes and have a conversation with him on how we can be able to suspend the implementation of the Act because when we make laws, those laws must be enforced. There is a thin line between the enforcement of the laws and dealing with the current situation.

**Sen. Sakaja:** On a point of information, Madam Temporary Speaker. Just to inform you two things. One, we are working with the National Assembly. Hon. Yusuf Hassan visited me with the entire Eastleigh business community and the Nyamakima people. Two, this is not our law; it is not a law passed in the National Assembly. It is an East African tariff and as such we do not need to suspend it because the other countries are not implementing it.

The shoes are even coming in through Tanzania and Uganda. They are importing them and then bringing them Kenya. Our traders are the ones who are suffering out of the five East African States. It is not an amendment to be done in the National Assembly or anything. In fact, it is the President who can just suspend the implementation of that tariff because all the other countries are not implementing it.

The traders just want to be charged either Kshs2 million for the container or be told to pay per pair, but you cannot ask them to do both.

**Sen. Olekina:** I thank Sen. Sakaja for that very good information. I am happy that you are now telling me that you are working with a colleague in the National Assembly. The reason why I was telling you to get in touch with the National Assembly is because we can be able as a country to suspend taxes that we pass in this House. We leave what we have no control over.

You are right, the President can suspend this because it is not being implemented in the other two countries, but this is the same scenario like the one we had with the petroleum VAT when we had to bring it down to eight per cent. We have got to look at what is there because why then are we passing laws in this House?

The Nairobi City County Assembly can determine that this is punitive and suspend the taxes that they charge these low income traders. The National Assembly can also initiate the process of waiving the VAT. So, let us deal with what we can control.

I empathize and I hope that we can find a solution, but as we speak about this, let us have a conversation with the Commissioner-General because their job is to follow the law. If Tanzania and Uganda are not implementing it, that does not mean that Kenya should follow that. Kenya should do it, but let us do it the right way.

Thank you, Madam Temporary Speaker.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. Sen. Sakaja is raising a very critical issue that is affecting many traders. What we need to note is that when we are applying these discriminatory taxes among the five East African States, we are giving competitive advantage to our competitors.

Just the other day I watched Ugandans take gold in the 3,000 metres steeplechase which traditionally has been a Kenyan race. Maybe it is because Ugandans are giving so many incentives to their athletes while we are stifling our Kenyans; taxing them to the level that they are not even inspired.

When you look at even the importation of Four by Four vehicles you will be surprised that in Uganda you can import a car that is 12 years old. The same applies to Tanzania and Rwanda. However, when it comes to Kenya, it is restrictive. You cannot import a car that is more than eight years old. When you go to the Mara here people are struggling to have Four by Fours. In Tanzania and Uganda those vehicles are all over.

We should not just be here to tick boxes that a Statement was here, we have spoken about it and we forget about it. This is a matter where we should begin by summoning the Cabinet Secretaries for Trade, Finance and the East African Community so that we discuss this matter.

These are our people. Why are we deliberately disadvantaging Kenyans and making our neighbours have a competitive advantage over us? Kenyans are importing animal and poultry feeds from our neighbouring countries because we have a very oppressive taxation regime here.

Madam Temporary Speaker, because we represent our people in this House, we speak on behalf of Kenyans. I would like this matter to be escalated so that we look for a solution that gives hope to all Kenyans. We have just been discussing how people are committing suicide because they cannot make ends meet. The situation is desperate. A few of us may be comfortable, but a majority of Kenyans cannot breathe. The situation in this country is bad.

You have the advantage to sit on the Chair today. I therefore plead with you to take this matter seriously, summon all the Cabinet Secretaries to appear before us to get answers. I would like to know how we are creating a competitive advantage when we want to tax our people more yet the countries that neighbor us tax their people less. We will be foolish if we do not see that our tax regime is killing our economy.

Madam Temporary Speaker, I support.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, we are done with the Statement under Standing Order No.47(1). It is only proper that I refer the two statements by Sen. Iman and Sen. Sakaja to the relevant Committees of the House who will summon whoever they think can help resolve the issues around those statements. Let us move to statements pursuant to Standing Order 48(1).

Proceed, Sen. Sakaja.

**Sen. Sakaja:** Madam Temporary Speaker, I thank you for your directive. I have confidence in the Committee on Finance and Budget which is led by the Senator for Kirinyaga County.

**The Temporary Speaker** (Sen. Pareno): Sen. Cheragei, do you have an intervention before Sen. Sakaja proceeds?

**Sen. Cheragei:** Madam Temporary Speaker, I had two statements listed on the Order Paper before the statement by Sen. Sakaja.

**The Temporary Speaker** (Sen. Pareno): Sen. Cheragei, I can see your two statements come after the statement by Sen. Sakaja.

Proceed, Sen. Sakaja.

**Sen. Sakaja:** Madam Temporary Speaker, I thank you for giving that directive. I have been in communication with the CS in the Ministry of East African Community (EAC) and Regional Development and he told me that he is part of it. I had also contacted the National Treasury and Planning as well as the Head of Public Service. However, unless they are officially invited to the Senate, they might take us casually. I am confident because I have also tried to reach the President on the same.

#### STATE OF AFFAIRS ON OUTER RING ROAD

I rise under Standing Order No.48(1) to seek a statement from the Standing Committee Roads and Transport on the state of affairs on Outer Ring Road, the multi-highway that stretches for 13 kilometers; connecting the Thika Super Highway to the Eastern By-Pass. It cuts across five constituencies of Nairobi City County and has been a source of pain and distress for many residents who live along it with many cases of fatal accidents.

In the statement, the Committee should-

(1) State the measures put in place by the Kenya Urban Roads Authority (KURA) to ensure the safety of all road users along the road;

(2) State whether KURA has any plans to erect a barrier along the pedestrian walk ways to enhance pedestrian safety because they are very few crossing flyovers across the road so there is always an accident every week.

(3) Provide a detailed account from the Director-General of the National Transport and Safety Authority Act (NTSA) on the road safety measures in place to ensure the safety of all road users along the road and outline measures, if any, by the Nairobi Traffic Police Commander, Mr. Joshua Omukata, that have been put in place to reduce cases of flouting traffic rules along the Outer Ring Road, especially by Public Service Vehicles (PSVs).

Children who have been crossing the road to either go to school or get transport have been victims of many accidents. The crossing areas are few and without physical barriers. We will end up losing lives through accidents and getting damage to vehicles as a result of flouting of traffic rules.

Madam Temporary Speaker, I thank you for your indulgence.

**The Temporary Speaker** (Sen. Pareno): I will allow very brief comments.

Proceed, Sen. Cheragei.

**Sen. Cherargei:** Madam Temporary Speaker, I thank you. I am on record stating that the Kenya Rural Roads Authority (KeRRA), the Kenya Urban Roads Authority (KURA) and the Kenya National Highways Authority (KeNHA) continue to be allocated huge sums of money in vain. There is a by-pass that is being constructed in Eldoret by KeNHA which has not even erected signage to show or caution motorists and other road users. This has continued to be a danger to many road users.

What Sen. Sakaja has raised might appear so simple, but it may save many lives. It is about time that we agreed that the three agencies have failed. We should investigate how the three agencies operate in this country. Road construction and maintenance is the responsibility of the three agencies so they should work closely with Nairobi City County Governments and the Nairobi Metropolitan Services to ensure that some of these issues are resolved.

I would have expected MCAs from that area to be up in arms to ensure that such things are addressed. Most of us have had the privilege of travelling to developed countries so we can attest that even when a manhole is being fixed, all safety measures are put in place. Sen. Olekina has had the privilege of living in a developed country so he can attest to that. Whenever manholes are being fixed, a lot of signage is erected as well as other precautionary measures taken to avert any accidents. The same is not reflected in Kenya. A road is being constructed and there is no signage to warn people. There are also no precautionary measures that have been put in place to avert road accidents.

Madam Temporary Speaker, it is good to have infrastructure such as roads and buildings. However, compliance to safety standards has to be maintained. The Senate Majority Whip is the Chairperson of that Committee so this issue should be resolved so that we do not lose more lives.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. Omogeni.

**Sen. Omogeni:** Madam Temporary Speaker, I have always wondered whether the Kenya National Highways Authority (KeNHA) knows that any good facility needs to be maintained and not allow it to totally break down and then start to look for money to do repairs.

Most of us have travelled to developed countries and we have seen that all roads there take care of pedestrians such as school going children. It is for that reason that there are pedestrian crossing areas on the roads, popularly known as zebra crossing and flyovers. How can a contractor construct a road in a densely populated area such as Outer Ring Road and fail to make provision for a pedestrian crossing or flyover for school going children?

I had an incident at a market called Nyansiongo at a school called Gesebei, which is on the Kisii-Keroka-Sotik Highway. A speeding vehicle killed two school going children. I wrote to the Kenya National Highways Authority (KeNHA) requesting that they should put signage for people to slow down as they approach the school. However, they have done nothing to date.

Madam. Temporary Speaker, it is about time that we invoked Chapter Six of the Constitution and proposed the removal from office of people who are incompetent. The sign of incompetence is when the relevant agency does not even care. Chapter Six of the Constitution states that you must respect the people that you serve, the people of Kenya. If you do not care about vulnerable school going children, who can be knocked down by speeding vehicles, you are not fit to occupy some of these offices.



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

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

Mr. Temporary Speaker, Sir, we should call a spade a spade. Some of the people who occupy various offices do not understand the responsibilities that the offices call for. I appeal to the Chairperson of the Standing Committee Roads and Transport to summon the heads of the three bodies to appear before the Senate and explain to this House what is so difficult in undertaking some of these simple tasks such as erecting bumps of the road, pedestrian crossing and flyovers. The agencies have more than enough money. Every time a motorist fuels, about 50 per cent of the money paid goes to tax that is supposed to be used for road maintenance. I have always wondered where that money goes to.

Sen. Sakaja has raised an important issue. I would like to be informed when the heads of the Kenya Rural Roads Authority (KeRRA), the Kenya Urban Roads Authority (KURA) and the Kenya National Highways Authority (KeNHA) will appear before the Committee of this House.

Mr. Temporary Speaker, Sir, I would like to understand this. Do they have any plan on maintaining roads? Do they care about maintaining roads and do they care about the road users or they just want to receive money and spent it anyhow without being accountable to the road users?

I support.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, today I am happy to be a Senator because of the kind of issues we are discussing. I thank Sen. Sakaja for bringing these issues, which are very important.

A year ago, precisely on 7<sup>th</sup> August, 2020, Ahmednasir, a renowned lawyer in this country, was awarded Kshs750,000 by a court because his car, a Bentley Bentayga was damaged by a chip on the road. Today, Sen. Sakaja is talking about kids who are being killed while crossing the road.

To be honest with you my dear brother, Sen. Sakaja, this issue calls for a public interest litigation. I am happy that my dear friend, Sen. Omogeni, Senior Counsel, has spoken about that and also brought in the issue of Chapter Six of the Constitution.

If you heard or read that judgment, you would see that the judges wanted to push for accountability on people manning public utilities. It is time Sen. Sakaja called for public interest litigation. We need to have a class lawsuit because there is no point as to why Parliament should be allocating so much money to the Department of Transport yet that money is not being used to help people.

Earlier this year, all the leadership of Narok went to Naivasha with security operators to discuss on how they can ensure safety on the road from Mai Mahiu to Mulot because of constant roadblocks by the people because their cows were being killed.

It took the intervention of the Ministry of Interior and Coordination of National Government for the Maasais to stop blocking the roads and push the Kenya National Highways Authority (KeNHA) to put up signage of animal crossings.

If it will take a class lawsuit to action or this Senate to ensure that the people of Nairobi and those who live in other parts of this country are protected when they use the

road, then it is time we took those steps. There is no reason as to why we should care about people who can defend themselves.

I dare say that if it was just another Kenyan, a hustler or a *mama mboga*, who can afford a small vehicle and their windscreen was broken, there is no way they would have been compensated. However, because lawyer Ahmednasir knows his rights, he took that Government agency to task.

Mr. Temporary Speaker, Sir, as you commit this Statement to the Committee on Roads and Transportation, Sen. Sakaja needs to think deeper and make it broad. He should not only focus on Nairobi but look at the entire road users in Kenya especially pedestrians.

If you wake up early at around 4 a.m., in the morning, you will find Kenyans walking from Kikuyu going all the way to Industrial Area so that they can get food for their families. They do not care when they cross the road. If it is raining, some of us who drive splash water on them.

On a daily basis, I think the number of people who are knocked down by vehicles or people who end up in hospitals because of something having entered into their eyes are quite high.

Mr. Temporary Speaker, Sir, I would like to thank Sen. Sakaja again. This is a very important Statement, which we must follow through.

I request that whenever that committee sits, the Chair of that committee should invite all Senators. They should invite us so that we make the KeNHA to understand the seriousness of this matter.

A simple zebra crossing should not take a lot of money. However, you will find a lot of bureaucracy in putting up a zebra crossing. It is like driving all the way from Narok to Mombasa and back for you to get any solution.

I thank you for giving me this chance.

**Sen. Seneta:** Mr. Temporary Speaker, Sir, this is a crosscutting issue in all our urban areas in our counties. I think KeNHA is living in the past.

You will find a whole highway passing between a town without dropping points. Passengers are just dropped on the road and there are no flyovers and zebra crossings on the highways. Footpaths are also not there. That is a crisis!

The committee should invite the institutions concerned. Many of us will engage them and find out why KeNHA has taken so much time to think about road designs in areas where populations are growing so that we also make pedestrians comfortable. Several accidents that occur every day on the roads are due to lack of important structures on our roads.

I congratulate Sen. Sakaja. This Statement should be dealt with broadly by the committee.

**Sen. (Eng.) Hargura:** Mr. Temporary Speaker, Sir, I would like to thank Sen. Sakaja for coming up with this issue.

First, just to correct, the authority concerned is the Kenya Urban Roads Authority (KURA) and not the KeNHA. That is what is indicated in the question. For Members who are referring to KeNHA, that deals with the national highways. The major roads here in town other than Uhuru Highway are all under the KURA.

That road was constructed at a cost of about Kshs26 billion which was a loan. The KURA itself gets 15 per cent of the Road Maintenance Levy Fund (RMLF) to do

maintenance. They should have taken all that into account when they were doing the design.

The construction, which is going on now must have proper safety features. It should have pedestrian walkways and proper crossings, so that there are no conflicts between pedestrians and motorists. They have to construct footbridges like in other areas.

I do not know what happened to this particular road, which they acknowledged passes through one of the busiest parts of this City. In fact, they acknowledged that almost 70 per cent of the population of Nairobi, which is about 2.2 million, is on that side. Therefore, they know very well that, that it is a populated area.

I do not know why safety features like pedestrian crossings and walkways are missing. Whenever there are crossings, there should also be barriers to separate pedestrians and motorized traffic. I think it is a serious issue.

As a committee, we will have to engage the concerned authority, which is the KURA. We will discuss with Sen. Sakaja first and see how we will invite them and get other Senators involved because as it has been rightly said, this is an issue which affects many parts of this country. We will have to do that.

I thank you.

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

**Sen. Sakaja:** Mr. Speaker, Temporary Sir, I thank Sen. (Eng.) Hargura from the Committee. I would like to request him that as he invites me, to also invite my Members of County Assembly (MCAs) from that area.

This concern came to me after meeting my MCAs from that area. The Umoja Ward MCA, Hon. Mugambi, whom we call Ronaldo, is the one who raised this matter. He is with Sen. Cherargei in their political outfit. He tried to raise it in the County Assembly but he said the best place to get results is the Senate. I thank my MCAs for doing that. As you invite me, please, extend an invitation to the MCAs along that stretch. It is five constituencies with just a few wards.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Senators. We still have one more Senator to contribute on the Statement. We will let Sen. (Dr.) Musuruve make her contribution and then allow Sen. (Eng.) Hargura to respond.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute on this important Statement by Sen. Sakaja.

Road signage are important because they help all road users whether pedestrians or drivers. It is important that they are visible enough. When I travel to Lugari Constituency to see my constituents, I do not find bumps visible especially at night. Sometimes we hit bumps hard because the driver does not see them. The bumps and zebra stripes need to be visible because it is for the safety of everyone.

It is important for the Kenya National Highways and Authority (KeNHA) to provide information to people through the signages. For example, if there is an area where drivers should drive slowly or turn, signage should be clear for the safety of everyone.

Bumps should be erected in areas where children cross the road or at bus stops so that drivers move slowly. Some of these areas do not have bumps which is a risk to pedestrians especially children. As the Senate, we have to ensure we protect the lives of everyone even the vulnerable children who cannot protect themselves. The State has a responsibility to protect the children.

I thank Sen. Sakaja for coming up with this Statement. I hope that KeNHA will take this matter seriously and have signage in Nairobi City County and the rest of the counties. Where KeNHA has been contracted to construct a road, let them do Kenyans a service and ensure signage are erected on all roads for the security of everyone.

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

**Sen. (Eng.) Hargura:** Thank you, Mr. Temporary Speaker, Sir. I would like to assure Sen. Sakaja that our Committee will do as we have done with other statements. Before we move forward this Statement to the State Department concerned, we will engage Sen. Sakaja so that we get any other supplementary information. For instance, he requested for his MCAs to attend. After the supplementary information, we will now send the Statement to the relevant State department.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, we now proceed to other Statements under Standing Order No.48 (1).

Sen. Cherargei, proceed.

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. I have two Statements and I hope you will allow me to read both of them subsequently.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Yes, Senator, but kindly note that we are past Statement Hour. You may read both Statements and we will restrict contributions and riders.

**Sen. Cherargei:** Alternatively, Mr. Temporary Speaker, Sir, because of the urgency and importance of the Statement, I can read one and defer another one to tomorrow.

*(Sen. Pareno spoke off record)*

My apologies Mr. Temporary Speaker, Sir, I assure Sen. Pareno that we support women leadership.

#### APPROVAL PROCESS AND IMPORTATION PROCEDURE FOR COVID-19 VACCINES INTO KENYA

Mr. Temporary Speaker, Sir, as you are aware, 666,000 Kenyans have been fully vaccinated. This translates to 1.3 per cent of Kenyans that have been vaccinated out of 47.5 million Kenyans. A total of 1.73 million doses have been given. The positivity rate as at yesterday is 18 per cent.

I rise pursuant to Standing Order No.48(1), to seek a Statement from the Standing Committee on Health on the approval process and importation procedure of Coronavirus (COVID-19) vaccines in Kenya.

In the Statement, the Committee should-

- (1) State whether the Ministry of Health has developed a standardization policy for the importation of Coronavirus (COVID-19) vaccines in Kenya and made rules and regulations for such importation.
- (2) Outline the process through which licenses are issued to Coronavirus (COVID-19) vaccine importing entities and companies in the country.
- (3) State the number of companies with approved licenses to import Coronavirus (COVID-19) vaccines and indicate the period that those licenses are in operation and whether they are annual or quarterly.

(4) State the plans in place, if any, to involve private companies in vaccine procurement and distribution in order to supplement the efforts of the Government.

It is important that I emphasize on the statistics I have given. Only 1.3 per cent of Kenyans have been vaccinated. If we had an opportunity to allow private importers, maybe we would be approaching more than half the percentage of the population.

Senators here could pay the paltry Kshs7,000 to get the vaccine instead of waiting for Astra Zeneca that was given free by the Government. The rest of Kenyans who earn less than a Dollar per day can depend on the Government. With the infectious Delta variant, you can see the positivity rate is rising and now approaching 20 per cent.

I hope the Committee that you will direct this Statement to will be able to find the answers.

#### STATUS OF THE ALLEGED BANNED SPUTNIK V VACCINE

I request that the second Statement be deferred to tomorrow.

*(Statement deferred)*

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

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to briefly comment on this. I also thank Sen. Cherargei for bringing this Statement again. I am a firm believer that the best vaccine is the one in our body. As I stand here, I am among the few people who were vaccinated with the Sputnik V vaccine. I was able to get both doses. It is good to do full disclosure.

One of my biggest problems is that the Ministry of Health believes only vaccines given a greenlight by the World Health Organisation (WHO) will be good for your body. I tell them the best vaccine for you, is the one in your body. Although I consider this Statement not timely, it is still relevant because it still raises debate on vaccination in this country.

If I can inform my dear brother, Sen. Cherargei, Kenya exported to Guyana around 70,000 doses of vaccines that were not utilised and the people of Guyana were able to use the vaccines that were rejected by the Ministry of Health.

When I see Sen. Cherargei asking questions on the approval process, it brings out a lot of tension between the Poisons and Pharmacy Board (PPB), the Ministry of Health, and the task force that has to deal with the approval process.

Mr. Temporary Speaker, Sir, because of my experience going through this issue, I do not believe that we will give this Statement the justice that it deserves because of the vested interests. There is a hidden agenda when it comes to the issue of vaccines in this country.

Although I support this Statement, as a Member of the Committee on Health, I wish that there was an *ad hoc* Committee dealing entirely with the COVID-19 issue. That is the only time that we will honestly deal with these issues. The interest in the health sector in terms of the COVID-19 vaccine is mind boggling. It is as if there is a bulb that dictates what will and will not come into this country.

If we are leaders and are really true to our call of leadership, as Senators who are elected and appointed to represent citizens of this country, a time has come when we must say “no” to interests and find ways to help our people. Only 1 per cent of Kenyans have been vaccinated and Kenyans want to be vaccinated.

In Maasai, we say, “*merisio irkimojik lenaika*,” these fingers are not the same. There are people who can afford and people who cannot afford. So, why deny the people who can afford an opportunity to be vaccinated? Let me be honest with you. Sometimes honesty is not a very good thing.

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

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

**Sen. Halake:** Mr. Temporary Speaker, Sir, is my brother in order to speak in his language? I am also tempted to speak in mine. Can he explain why he is speaking Kimaasai in the House and I am not allowed to speak Kiborana?

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Omogeni.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, what worries me is if you allow people to start speaking their mother tongue. He uttered some words here. He is trying to tell us that our five fingers are not the same. However, imagine if some Maasais are watching and what he said is something that we cannot even think about.

I do not think that he should be allowed to get away with what he has just done. We should restrict him to speak in a language that all of us can hear and understand. If we were all allowed to say anything, I would also drop some Kisii vocabulary that nobody understands and give it my own interpretation.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Cherargei. Your microphone is not on.

**Sen. Cherargei:** On a point of order, Mr. Speaker, Sir. I agree, but there are some words from your local language that are not easy to translate into English or Kiswahili. I saw that Sen. Pareno was laughing loudly and they come from the same region. Perhaps you yourself might also understand. Maybe we can request Sen. Olekina to translate for us.

To be honest, I know that there are words which if I speak in Nandi that are hard to translate into Kiswahili or English. Maybe if you can allow us, that would be dangerous, unless we amend the Standing Orders so that words which cannot be translated in your mother tongue can be captured and put in apostrophes, brackets or something.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Olekina, proceed. I can confirm that he gave the right translation. However, you need to restrict yourself to the languages allowed by our Standing Orders.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I am guided. However, I believe that sitting down here, I have heard other distinguished Senators and senior Members of this House using phrases in their mother tongues and translating them.

In Maasai, I would say “*meenyanyuk ilooguanate oleitu*,” which means the people who have sat down and discussed issues are not similar to those who cannot discuss. That is a direct translation.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Sen. Olekina. Use languages that are provided for in the Standing Orders.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I will try. I was saying that in this country, we have people who can afford to get a vaccine, which costs 70 dollars and those who cannot afford. The gap between the rich and the poor in this country is quite wide. Why not allow those who can afford to pay for them to be vaccinated? For those who cannot afford, the Government can spend their time and taxes to help them.

This is a very emotive issue. We read about vaccination in other countries. In the United States of America (USA), for example, the Biden administration is now giving citizens 100 dollars for them to be vaccinated. They are given as a reward, yet in this country, when other people import with approval from the PPB, someone else feels like they should have consulted them first.

There is a reason for the division of labour and specialization. There is also a reason as to why services are devolved. Every single department is given their task. So, what is the point of us establishing the PPB, yet the Ministry of Health, particularly the CS wants to micromanage it?

Mr. Temporary Speaker, like I said before, I do not know whether this Statement will help because we have dealt with that issue. It is now water under the bridge. The vaccines have been shipped out of the country. It will be interesting to know whether the few hundred thousands of Kenyans who have been vaccinated have had some serious side effects. I would be happy to learn that.

I think that the biggest discussion that we must have right now is how do we allow more Kenyans to be vaccinated? It is sad that people are dying on a daily basis.

Earlier on when we dealt with the Petition from Kisumu County citizens, we talked about the different variants of COVID-19. The way it mutates, we now know that it is the S protein that causes this Delta variant. We are dealing with vaccines and we do not even know whether the current AstraZeneca or the Pfizer, which is being brought in can deal with the new COVID-19 variant. I think we are just talking for the sake of talking, not to help our people.

Mr. Temporary Speaker, Sir, as I conclude, I fully support this Statement by Sen. Cheragei and I do hope that we can get answers and not just mere talk.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, as you can note, we have already passed the Statement Hour and we have not been to other businesses on the Order Paper. Therefore, I kindly request that if you get a chance to contribute to this Statement, restrict your contribution to two minutes.

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir. First, I support the Statement that has been raised by Sen. Cheragei. It is good to have a legal framework that takes care of the vulnerable.

The last time I heard about the Sputnik Vaccine, I saw some millionaires sharing photos on social media that they had received it. We do not know whether the person who was allowed to import those vaccines followed the right procedure. This is because there is no legal framework. Kenyans are enterprising.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I thank my good brother, Senior Counsel, Sen. Omogeni, for allowing me to inform him.

I sit in the Committee on Health. When we were dealing with this issue of Sputnik Vaccine, we summoned the Poisons and Pharmacy Board (PPB) and the Ministry of Health. The PPB clearly on record, and it is on the HANSARD, indicated that the person

who imported the Sputnik Vaccine followed the right procedure and they were given approval by PPB.

The issue was that later on, the CS was speaking from one side and the PPB was speaking from the other side.

I remember well that I was the one chairing that session. I brought them to task and we agreed that since it was approved, it can be rolled out. However, after that, we heard statements being made by the CS that they had cancelled any private entities importing those vaccines. So, for your information, they had followed the right procedure.

**Sen. Omogeni:** I stand guided, Mr. Temporary Speaker, Sir. However, the point I was making is that I watched on television the CS, Ministry of Health warning Kenyans that if they are not careful, they will be injected with water on the pretext of getting a vaccine.

Therefore, the concerns raised by Sen. Cherargei are important. It is good to have a legal framework in place to guide us on how we allow the importation of these vaccines.

Mr. Temporary Speaker, Sir, Covid-19 has been with us since March last year. To date, only 1.3 per cent of Kenyans have been vaccinated. With that in mind, we are still being careless and casual.

I was given forms outside to sign for a Devolution Conference that is supposed to house thousands of Kenyans who are unvaccinated.

If you go to most countries, you cannot attend such huge conferences unless there is prove that the people who are attending have all been vaccinated. As a country, we have dropped our guard and are being casual and careless yet if you look at the statistics today, we are at 18 per cent positivity rate.

The warning from the health specialists is that we are moving to a serious phase of Covid-19 in the next two months. So, what mechanisms has the Government put in place to ensure that all Kenyans are vaccinated?

Those who want to do it through private means can do so. I am worried about the majority of Kenyans who cannot afford these vaccines and do not seem to have clear guidelines from the Government as to when they will be eligible for vaccination.

We were told about 18 million vaccines that were to come to the country in August. Where is the ship carrying these vaccines and when is it docking? Those are the answers---

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

The Government should give an explanation to this House as to whether we have sourced for these vaccines. We should know the quantity of these vaccines, and when they will arrive in the country, so that we can start a very aggressive vaccination exercise.

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

**Sen. Halake:** Thank you, Mr. Temporary Speaker, Sir. Let me first congratulate Sen. Cherargei who is always on the look out to ensure that our executive and people in agencies that are supposed to make sure that the people are looked after are held to account. He has always been very consistent and proactive in this.

The issue of vaccination is sad given the statistics that Sen. Cherargei has shared with us. Having been one of the lucky ones that got the vaccine, I did not just realize how



low the numbers of people that have been vaccinated is. About 1.3 per cent is barely a drop in the ocean with all these spikes and incidents of Coronavirus disease (COVID-19) and deaths as well.

Mr. Temporary Speaker, Sir, it is sad that we are not seeing the urgency with which these vaccinations are being imported and distributed. The campaign that we should be seeing now is about talking to Kenyans on the importance of vaccination and including the private sector in this because I do not think we will manage this disease at this rate because our facilities will be overrun.

I do not want to say much because the Statement is very specific. We need to be told the plans in place to, for instance, involve the private sector. That is a very good suggestion from Sen. Cherargei to ensure that we multiply our efficiencies in terms of making sure that this is not just any distribution or routine vaccination, this is lifesaving. This pandemic is one thing that we need to provide urgency for.

Congratulations Senator and I support.

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

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to add my voice to this Statement by Sen. Cherargei. I commend him for coming up with this Statement. When you look back at the use of Sputnik V vaccine, there is a genesis to it.

First, after a thorough process by the Pharmacy and Poisons Board (PPB), it gave emergency authorization for AstraZeneca and Sputnik V vaccines to be used in Kenya.

Kenya is among the 10 African countries that approved the use of these vaccines. We are all alive to what COVID-19 is doing to our children, parents and all Kenyans. Those who are affected by COVID-19 go through a harrowing experience. Some families have even lost their breadwinners and loved ones as a result of the disease. It is important that Kenya takes the necessary steps to ensure that we bring down the COVID-19 curve by all means.

Mr. Temporary Speaker, Sir, just an example of what COVID-19 has done in Kakamega County where I come from, there is a curfew from 7.00 p.m. which means that the economic activities are brought down because of COVID-19. It is necessary that all measures be put in place to ensure that all vaccines approved by the PPB are in use so that people are vaccinated.

I am aware that in Kakamega County so many people are not vaccinated including teachers, nurses and students. There is need for the Ministry to be interrogated so that they come up and explain the reasons why they have banned the use of Sputnik V vaccine. We need the vaccines because COVID-19 is real and it is taking a toll on the economic temperatures. It is also bringing income down as a country.

Thank you and I support this Statement.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, we now proceed to Statement No.4 by Sen. Halake.

#### HIGH DROP-OUT RATE OF SCHOOL GIRLS

**Sen. Halake:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Education on the high dropout rates of school-going children but specifically school-going girls.

In the Statement the Committee should: -

- (1) Outline the strategies in place to ensure that teenage girls who drop out of school are tracked, enrolled and proceed with their education.
- (2) Explain the mechanisms that have been instituted to guarantee high retention and transition of teenage girls in primary and secondary schools.
- (3) Appraise the Senate on the policies in place that ensure teenage girls exposed to social vices such as early marriages receive psycho-social support to rehabilitate and reintegrate them into school systems for optimal learning.
- (4) Inform the Senate on the status of identification and prosecution of individuals responsible for impregnating our girls and marrying school-going teenage girls.
- (5) Outline targeted interventions if any to support teenage mothers to raise their children to ensure the risk of receding and going back and the vicious cycle is not then repeated.

Mr. Temporary Speaker, Sir, please give me one minute to just explain that this issue has been in the Press, but we are not seeing specific action and support that is being given to these girls. This cannot be just for entertainment. We need answers from the Ministry as to the specifics of how these girls are being reintegrated back.

We cannot just say that when they give birth we send them back to school because they still have to look after their children. What is being done to support them in this process? A vicious cycle is being created here because they have to also go back to the same habits that brought about the pregnancy in the first place to now look after their children.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Lelegwe): Hon. Senators, because of time we proceed to the next order.

## BILL

### *Second Reading*

#### THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 15 OF 2021)

*(Sen. Halake on 03.08.2021)*

*(Resumption of debate interrupted on 03.08.2021)*

**The Temporary Speaker** (Sen. Lelegwe): Sen. Halake, you had a balance of 47 minutes to move.

**Sen. Halake:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to continue with moving my Bill.

Yesterday I had the opportunity, even before I moved the Bill to its conclusion to first provide a background to the issues that occasioned the need for us to reform our inheritance laws.

Mr. Temporary Speaker, Sir, just allow me to continue a little bit on that line of debate to look at some of the key issues that occasioned this. As I was saying yesterday, the most pressing obstacle to gender equality in Kenya is the issue of land, property and inheritance rights, the insufficient laws and the patriarchy that insubordinates women and certain marginalized communities.

According to the United Nations Division for the Advancement of Women as it was referred to then, widows in Africa irrespective of ethnic group are among the most destitute women in the region since they are mostly subjected to patriarchal customary practices.

They are confronted with discrimination in inheritance rights, they lose social status and are marginalized. Human Rights Watch, 2013 reported that majority of women's inheritance rights violations occur since they revolve around land and property-grabbing by the deceased's person's relatives.

The Bill seeks to cure this because the Law of Succession (Cap. 160) was enacted in 1981, it does not conform with some of the more dynamic laws that have come into place including the Constitution of Kenya 2010.

The importance of the Women's Land Rights and meeting the implementation of the Constitution of Kenya, international and regional human rights obligations.

Mr. Temporary Speaker, Sir, the Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021) recognizes the importance of women's land rights and seeks to meet the implementation of our Constitution, our obligation under international and regional human rights obligations as well as ensure that our country undertakes constitutional, legislative and policy reforms aimed at abolishing discriminatory laws.

There were very many laws that the Constitution required legislators to implement. All laws have now been implemented except those that are facing women including the two-thirds gender rule.

In fact, out of the schedule that listed the laws to be amended or implemented as obligated to the House by the Constitution, it is only laws that face women that have not been reformed.

The two-thirds gender rule is a glaring example of the hurdles that laws directly affecting women face. Everything else has been put in place and implemented except that one.

However, beyond that, all the other laws that needed reforming or are out of sync with the Constitution of Kenya 2010 such as the law of succession which were set by a commission that was set up in 1968 and the law implemented in 1981, there is no urgency for laws that are facing women to be implemented or reformed. That is why there is an urgency for us to make sure that the Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021) law.

Mr. Temporary Speaker, Sir, this Bill is urgent and so it deserves the attention of the Senate and the National Assembly. This Bill deserves to be given the urgency so that vulnerable women do not get disenfranchised. As I said yesterday, the Law of Succession (Cap. 160) has progressive provisions, which are aimed at promoting women's inheritance rights. However, the same law also have grossly discriminative provisions and fails to adequately the rights to women.

The following are the shortcomings of the Law of Succession (Cap. 160). I will not go into details but I will list them so that we can *aide-memoire* or aid ourselves to remember.

The Law of Succession (Cap. 160), is in conflict with the Constitution of Kenya 2010, yet the Constitution is the supreme law of the land and any law including customary law that is inconsistent with the Constitution is void to the extent of the inconsistency and any act of omission in contravention of this Constitution is therefore invalid.

For that reason, I have listed the sections of the Law of Succession (Cap. 160), that are in contravention or conflict with the law such as Sections 2,3,32, 33 and 36 (1) which discriminate against quite a number of issues which have now been taken care of under our Constitution and other progressive laws such as the children born out of wedlock, the rights of women, children and widows as well as discrimination against Muslims. The provisions listed do not conform to the equality provision under Article 27 of our Constitution.

Mr. Temporary Speaker, Sir, in addition, our Constitution states that the rules of international laws shall form part of the laws of Kenya. Similarly, any treaty or convention ratified by the country also forms parts of the laws of Kenya.

That means that the Law of Succession (Cap. 160) contravenes these provisions. For instance, Article 2 of the International Covenant on Economic, Social and Cultural Rights, Article 2, 3 and 36 of the International Covenant on Civil and Political Rights. I will not list all the laws because I talked about them yesterday.

Further, Article 60 (1) of the Constitution requires Parliament to enact legislations to protect the dependents of deceased persons holding interest in any land including the interest of spouses and actual occupation of land. That is a provision that is not in sync in the Law of Succession (Cap. 160).

Again, all laws enforced immediately before the effective date shall be construed with alterations, adaptations, qualifications and exceptions necessary to bring into conformity with this Constitution. Therefore, the proposals of the amendments contained in my amendment Bill is to conform with this requirement.

I do not want to talk about the CEDAW because I mentioned that. I will look at non-conformity with existing laws. After the promulgation of the Constitution of Kenya, 2010, Parliament embarked on reviewing and enacting laws that conform to and support the implementation of the Constitution.

Key legislations that promote the respect of women land rights include: The Land Act No.6 of 2012, which is progressive; The Land Registration Act No.3 of 2012; The Matrimonial Property Act No.49 of 2013; The Community Land Act No.27 of 2016; The Marriage Act No.4 of 2014; and, The Protection against Domestic Violence Act No.2 of 2015.

I listed this to show that whereas there exist such progressive laws that have come in place, these are new laws that have been aligned to the Constitution, 2010. The Law of Succession that is stuck in time, patriarchy, colonialism and disconnection with what we have today, be it the modern family, our Constitution or modern laws that I have listed here.

The Matrimonial Property Act defines matrimonial property as household goods and movable and immovable property jointly acquired during a marriage. Rights and

responsibilities of spouses are recognized by the law. The Act should therefore adopt the definition and concepts of matrimonial property especially in determining distribution of a deceased estates.

We noticed a disconnect in the definitions. Therefore, this amendment Bill seeks to ensure that the right definitions are used because there is so much in a name.

Mr. Temporary Speaker, Sir, a number of women in Kenya live in communal setups where land is governed by the Community Land Act. The Act gives equal rights and benefits to all community members including full and equal enjoyment of rights of use and access by women.

The Community Land Act recognizes inheritance of community land. The Act should make provisions of how property in a communal setup should be distributed when one dies.

The Act does not define marriage. This has seen different judicial interpretations. Therefore, it is incumbent upon this House to make sure that the definitions are correct, the laws are aligned and that we have proper access to justice for the women who are affected.

We also noticed lack of awareness. The Law of Succession has been in existence for over three decades. Like I said, it is a law of 1981, yet women continue to suffer human rights violations. They are not even aware of the provisions of the old law.

For example, under the Act, despite the provision on daughters' rights to inherit, many are unable to claim this right due to lack of awareness on the existence of the law and unresponsive Government institutions that have not taken time to create the awareness. For as long as people do not know and end up being governed by customary laws that are punitive, they cannot even claim the rights and especially the girls.

Based on the analysis, various interventions were seen as being required of Parliament, the Judiciary and other Government agencies. In consultation with stakeholders, we decided to embark on harmonizing The Law of Succession Act, Cap 160, to ensure it conforms with the provisions of the Constitution of Kenya, 2010.

In addition, Mr. Temporary Speaker, Sir, as an oversight body, Parliament should monitor Government agencies and ensure women's property and inheritance rights are protected. This is what this amendment is about.

Again, there is also need for the Judiciary to be tasked with the duty of enforcing and interpreting laws to create jurisprudence that promotes women's land and inheritance rights.

In addition, it should review the law of succession to ensure it promotes access to justice for women. Again, this puts responsibilities on the Judiciary as well and not just Parliament. As parliamentarians, we have taken our responsibility in the form of amendment proposals to the Law of Succession Act, Cap 160.

Other Government agencies, including the independent constitutional commissions, should create awareness to existing laws. They need to ensure Non-Governmental Organisations (NGOs) provide legal aid programmes to ensure people are aware of their rights. Where those rights have been flouted, then they have access to justice.

There is a raft of things that need to be done for women to get their rights under Cap 160 of the Law of Succession. Having said that, the focus of this is not for everybody. We are just mentioning that the Law of succession has provisions that protect

women but we need to ensure it conforms to the law. The Bill is an old law created by a Commission that was set up in the 1960s and then enacted in the 1980s. It is about time it conforms.

Mr. Temporary Speaker, Sir, Cap 160 of the Act is the core applicable law in Kenya regarding succession. The Succession Act provides the law for testacy, which refers to somebody with a will. It also covers intestacy succession where there is no will. The Act contains provisions that advance discrimination of women such as exempting certain areas from the application of the intestacy rules, leaving cases where one dies without a will, to be subject to customary laws. In most cases, it is not that favourable to women.

As I said, if any MP – God forbid – dies without a will, then their wives or daughters will be subjected to customary laws. Customary laws, while very useful, tend to insubordinate cultural norms, especially women and girls. Therefore, to protect them, we must make sure that the laws that exist provide this protection for women.

The law also gives priority to fathers over mother by expressly granting them precedence to inherit a deceased child's property whenever the intestacy leaves no surviving spouse or children. Again, if somebody dies today, it will give precedence to the father to inherit the property of the child. Which is fine because the father also deserves to inherit and we applaud that. However, it should give equal rights to each parent because it means then that until the father dies, the woman will have no access to her children's property.

It also discriminates against widows in that they lose their life interest upon re-marriage while widowers are not required to do so. If a widow remarries and has contributed to the interest or property, then she loses because she has remarried. If the widower remarries, that does not affect him. We see those discriminations.

To remarry is a right and people have a right to choose a partner and remarry. For a woman, that is a disqualification for them to access what they have worked for in the previous marriage. It is not the case for widowers.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Halake, you will have a balance of 30 minutes to continue moving the Bill.

## ADJOURNMENT

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 5<sup>th</sup> August, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.