

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 5<sup>th</sup> December, 2019

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

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

### PRAYER

### PETITIONS

#### FORCEFUL EVICTION OF FORMER RESIDENTS OF DUNDORI FOREST

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Orders 226(1)(a) and 232 (b), I hereby report to the Senate that a Petition has been submitted through the Office of the Clerk by former residents of Dundori Forest, Bahati Sub-county, Nakuru County.

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

“Every person has a right to petition Parliament to consider any matter within its authority including to, enact, amend or repeal any legislation”

Hon. Senators, in the Petition the petitioner states that:-

(a) They had been living in Dundori Forest from 1930 until June, 1998, when they were forcefully evicted;

(b) Presently, the former residents of Dundori Forest are scattered all over Narok County, and that for most of them, their only source of livelihood is serving as casual labourers due to lack of land to cultivate and earn a living.

(c) In 1994, the Government excised part of the forest for the resettlement of the evictees. However, other people who are not on record as evictees were the beneficiaries; and,

(d) The evictees have had the matter addressed by various bodies, all whom have given unsatisfactory responses to their plight.

The petitioners, therefore, pray that the Senate intervenes on their behalf to have the matter expeditiously addressed so as to ensure that the evictees are allocated land.

Hon. Senators, pursuant to Standing Order 231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I rise to support this Petition that has come through your Office. Kenyans are suffering. I sit in the Committee on Lands, Environment and Natural Resources. Many communities that have been evicted from some of these protected areas were taken there during colonial times to plant exotic forests and pave way for development in the Kenyan highlands. They did not go there voluntarily.

Right now, we are made to believe that they have invaded the forests. However, at no point have these Kenyans invaded any forest. Some of them date back to the colonial times. They were taken there as casual labourers to plant exotic forests and facilitate some of the developments that were happening in the Kenyan Highlands. After that, they were told to cultivate the land and use it to feed their families. They were, therefore, given the land as casual labourers, because they were not paid. That is all they had.

Mr. Speaker, Sir, the evictees are the third generation since the colonial times, the all of a sudden, they have been evicted. Our Constitution is very clear on how eviction should happen, even when development is considered. What is happening now is illegal.

I am glad that this petition has been to the House through your office. Some of the ways in which people are evicted are brutal. I am a conservationist; I know that these people did not go there willingly, but they have been thrown out in the most inhumane manner. The duty bearer in this case is the State. We need to look into the issue of historical injustices and abuse of the rights of our people, which has happened over and over again, not just in Dundori Forest. Some of the evictees are old and have nowhere else to go. The evictees were not even allowed to harvest the last crop they had tilled on those lands.

Mr. Speaker, Sir, it is a sad state of affairs if a country does not uphold the rights of its people to have a decent abode, whether or not they are squatters. Our Committee was informed that some of the evictees had been living there since the early 1940s. Such individuals are so old right now, yet they have been evicted. When compensation was being awarded, other people who were not part of that arrangement were given the land.

The Senate needs to investigate this matter, because our communities are being disenfranchised left, right and centre. The only source of livelihood for the evictees has been taken away. The evictees are now destitute and they live from hand to mouth. I know that the Chairperson or our Committee, Sen. Mwangi, is very passionate about ensuring that the rights of our citizens are upheld. Such eviction cases are on the rise. In the last quarter of this Session alone, we have handled more than 30 petitions relating to evictions. We, therefore, need to look into this issue holistically, because what is happening currently is not acceptable.

Mr. Speaker, Sir, community forests are being gazetted and made public lands. A case in point is my own county, where communal land is being gazetted through wanton gazettelement without consideration of the communities and their livelihoods. People are being disenfranchised everywhere. Historical injustice is unacceptable. We need to consider the issue affecting land, such as gazettelement of land and rampant conversion of land from private to public; and vice versa. Many people are using gazette notices to evict poor people in the name of conservation. Some of us are conservationist, but the rights of the people should be taken into consideration.

Thank you, Mr. Speaker, Sir. I look forward to justice being served to the evictees.

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

**Sen. Wetangula:** Mr. Speaker, Sir, I thank you for giving me the opportunity to support this petition with a caveat. In this country, we have had people who lived in forests as hunters and gatherers. Those people lived peacefully in forests, and protected them. They were born and bred conservationists. However, the problem started when the Government started destroying forests as if we are at war with each other. Forests were excised and land dished out to politically correct people.

As you can see, the petition is very clear, that when the land was excised, it was meant to be awarded to the squatters. However, no squatter normally gets land. The people who benefit from the lands are the people at the provincial administration, their relatives and friends who get the pieces of land; who immediately sell them off. Therefore, the real squatters remain marooned in markets and so on, and so forth.

Mr. Speaker, Sir, I am happy that the petitioners are not asking to go back to the forest. I believe that they understand that we need forests. The evictees want alternative land. However, sooner or later, this country will run out of the alternative land that everybody is asking for. We have to find a way of protecting not only the forests, but the dignity of the people of this country. I have witnessed everywhere that the people who destroy the forests are not the locals, but the rich people who were allocated huge chunks of the land. Some of the rich people planted huge chunks of tea plantations, while others mowed down the forest and sold the land.

What the rich people do is normally evict people from his neighbourhood and unlawfully settle them on forest land. They tell them, *niachie ekari mbili, kisha nitakupa ekari nne kwingine*. You will discover that rich people have huge tracts of land where there is no dispute, yet they have settled poor people in an area where they will live under the risk of eviction every day.

Mr. Speaker, Sir, the Senate Committee on Land, Environment and Natural Resources must investigate the issue of land keenly. I invite them to look at the issue of the conflict about conservation of forests, not only in Dundori Forest, but in the Mau, Mt. Elgon, Mt. Kenya, Aberdare Forest and everywhere else. We need to protect our forests, but we also need to treat our nationals with dignity and respect by protecting their human rights.

Lastly, Mr. Speaker, Sir, the Government may consider that given the dwindling sizes of land and the availability of arable land, they should set up townships with amenities such as schools, hospitals, security and water, so that those people can be assisted by even building houses so that they can lead a decent life and bring up their families.

Mr. Speaker, Sir, I beg to support the petition. Thank you.

**Sen. Dullo:** Mr. Speaker, Sir, I rise to support this Petition. As my colleagues have said, conservation of forests is important. However, the protection of the rights of citizens that live within the forest is also equally important. Over the years, I have seen people being evicted from forests, especially people like the Ogieks, Sebeis and Ndorobos.

The challenge we face today, as a country, is lack of proper planning. Individuals are evicted from places where they have lived for many years. When I served at the Kenya National Commission on Human Rights (KNCHR), some of the communities were evicted from those lands after they had put up public utilities in place, such schools and hospitals. That is clearly because we do not plan for those facilities in time; neither do we advise members of the public before they occupy such areas.

Mr. Speaker, Sir, it is high time that we should stop evicting people after they have lived in those areas for generations. It is unfair. Where are such people expected to move to? There is a case in Isiolo County, where the KDF is evicting people who have lived there over the years. I have witnessed crude ways being used in the acquisition of community land. The communities are not involved in the acquisition of public land.

We need to come up with policies where individuals are protected and a solution given to them when they are evicted. You cannot tell people to move, yet you do not have a solution for them.

I would request the relevant Committee of the House which is going to handle this matter to clearly come up with a solution to the challenges we are facing, in terms of eviction in the places that some Kenyans have occupied; and also the manner in which the evictions are carried out in this country.

Thank you, Mr. Speaker, Sir.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. I want to associate myself with this Petition. It is a good Petition. The Government has a duty to protect forests. The same Government has a duty to feed, shelter and treat people with dignity. In fact, governments cannot exist if there are no people; and people cannot be there if there are no forests.

What is emerging is that they are trying to create a conflict between the need to have forests, and the need to take people's welfare seriously. The Committee to which this matter will be referred to must come up with a way forward. We must have forests, and we must shelter people. That is not negotiable. The fact that we have forests does not mean that we disregard our people, because there is no nation without people; and people cannot live in any nation without forests. This is a multi-task that the Government must perform effectively so as to have a sustainable society.

I, therefore, urge the committee to think outside the box and ensure that forests are there, and people are also there.

Thank you, Mr. Speaker, Sir.

**Sen. Kihika:** Thank you Mr. Speaker, Sir. I also rise to support this Petition. Dundori forest is in Nakuru County. As my colleagues have stated here, we have an issue across the country when it comes to the very critical and important function of conserving our forests. We also have an issue when it comes to taking care of our citizens and making sure that their human rights are not violated when we want to conserve the forests. As a Government, there must be a balance between the conservation of forests, but also making sure that we are not just evicting people left, right and centre without a solution.

As it has been stated by many colleagues who spoke before me, most of these people have been in these forests for many years. We have seen a lot to do with Mau and

other areas. You have read in the Petition that these people have been in that forest for over 30 years. Therefore, when they are just evicted from the forest one morning, it begs the question of what are they supposed to do, and where they should go. Most of these people who live in these forests probably do not have the resources to wake up and go build a life after they are evicted and carry on a normal life. We must find a way to resettle them, and also understand that we are running out of land as well. We must think outside the box so that there is a way in which we can protect the people, but also conserve the forests.

As the relevant Committee of the House takes over the Petition, I am hopeful to hear them come up with a solution, because today we are talking about Dundori, but I am sure that this is an issue that affects many areas of this country. Hopefully, we will have a solution, going forward, so that we take care of human rights and ensure that conservation of forests happens properly.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this Petition. I want to thank the Petitioners for coming up with this Petition because yes, we need to safeguard and protect forests. However, the citizens also need security, as stipulated in Article 43 of our Constitution; so this needs to be a balancing act.

The Government needs to ensure that in as much as the forests are being protected, they should not stress the citizens unduly in the process of doing so. These people have lived in the forests for so many years, from one generation to another. I am sure that some of the children in these families have not known any other home. There is need for the Government to come up with an alternative place to settle the people, so that they carry out this exercise in a commendable manner.

We do not want a situation where people are taken to the streets, or out of the society because of this exercise, so that we end up having street families and frustrated people. The Government has a responsibility of ensuring that it provides security for the evicted families and for people who are vulnerable and are not able to protect their own families.

Mr. Speaker, Sir, I support this Petition and I hope that it will be taken with a lot of seriousness, so that we are able to serve our people whom we are employed to lead.

Thank you, Mr. Speaker, Sir.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. The environment is very important. However, due to lack of protection of our environment, we are having consistent floods and droughts that are very close to each other. It is important that we protect our environment.

Mr. Speaker, Sir, there are certain people in this country who sell land to vulnerable people, who unknowingly buy this land. In most cases, some of these people use their retirement money to buy this land, where they do their farming and everything else. Consequently, when these people are evicted, the persons who sold the land to them do not suffer any consequences. It is high time that this Government dealt with these illegal land dealers.

As the Petitioner mentioned, the land was given for people to be resettled, but the right people were not settled. There should be consequences for those who settle there and those who settled them, because that was not their right. That is because they are settling on other peoples' land. There is need for serious discussion regarding these issues, because when the evictions happen, we are taking people back to living below the poverty line. How do you expect the economy of this country to develop and for us to become a middle-income country when all you do is to make people more destitute?

Mr. Speaker, Sir, being poor in this country is a crime, because nobody protects the interests of the poor in this country. This sort of thing never happens to the people of means. It is high time that we protected people and stop pushing people to fall below the poverty line. We need to protect peoples' lives and their livelihoods. That is the only way we can protect our citizens against inequality.

Thank you, Mr. Speaker, Sir.

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

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for allowing me this chance to support this important Petition from the people of Dundori, Nakuru County.

Mr. Speaker, Sir, I am wondering loudly whether the Government is currently at war with its citizens. There are a lot of wrong perceptions going around in our country. There is a strong perception that these people who are normally found in the forests are simply criminals who have sold their land, and decided to live in Government or gazetted forests. More often than not, this is a wrong perception. The Government has been acting in a very inhumane way. For example, these people from Dundori have been removed with a notice of only two weeks. They are now landless by the road, and their property has been destroyed. We are all in agreement that environment must be conserved. However, the approach that the Government is currently employing, by using the provincial administration to act on its citizens, is very wrong.

Mr. Speaker, Sir, to settle this matter once and for all, the Government has to conduct an effective research to establish where exactly these people were before they went to the Mau Forest. There have been theories that initially, the ancestral land of these people was taken by colonialists, and that when the colonialists left, those who were well connected during Independence took their ancestral land. They were then left with temporary settlements in the forest.

Now that the conservation measures are becoming strict all over the world, instead of the Government trying to understand the circumstances that led these people to live in the forest, they just go round evicting them and rendering them landless. There was a time when the Government tried to settle some people, but if we go and dig deep into the issues, the people who were compensated were the wrong people. The people who were supposed to be compensated are the ones who are suffering in the various parts of this country in the gazetted forests.

Mr. Speaker, Sir, I would like to urge the Committee that will take responsibility of this Petition to make sure that they establish the reasons why these people are living in these gazetted forests. They should also go further to establish their ancestral lands, so that those people who took their ancestral land may be settled by the Government and the original owners be resettled once and for all.

Mr. Speaker, Sir, I beg to support this Petition.

**The Speaker** (Hon. Lusaka): The time is up, but I will give two minutes to Sen. (Rev.) Waqo.

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir, for allowing me to add my voice to this very important Petition. I stand to support this Petition on the forceful eviction of the former residents of Dundori Forest.

Mr. Speaker, Sir, when you read the Petition, 'forceful eviction' means that these people have been pushed out by the Government. They have been there for the last 30 years, and we push them out without giving them an alternative. We know very well that many families have suffered in the past. We have interfered with the education of the young people through forceful evictions. It is high time we came up with policies that can guide our nation, so that we do not mistreat our people.

Mr. Speaker, Sir, I had only two minutes, and I will say that in the past, we have mistreated and mishandled our own citizens. It is our responsibility to protect the interests of every citizen. The rich always protect themselves with the wealth they have through their money, but the poor have no one to protect them and their interests. We have always mistreated them and made them poorer.

Mr. Speaker, Sir, much has been said by other Senators, but mine is just to say that I fully support this Petition. I stand with the people who are suffering so that we can give them their right.

Mr. Speaker, Sir, I beg to support. Thank you.

**The Speaker** (Hon. Lusaka): Sen. Iman, your request was not showing here, but let me give you two minutes so that we can conclude on the Petition.

**Sen. Iman:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Petition. This kind of process needs a holistic approach. We do not need to come out of the blues and start evicting people.

Mr. Speaker, Sir, I am sure the Government and the Ministry concerned should have a process and procedure to follow when evicting people. When these people, who have been living on these lands for so many long years are being evicted, they should be given a land or a place where they can call home. That particular land must be registered to avoid them being evicted again. Since these people who are being evicted are vulnerable, there must be a procedure and process to follow before they are settled.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): We are preparing to rearrange the Order Paper.

Sen. (Eng.) Maina, kindly proceed as the Whips make sure that we have the numbers. You have two minutes.

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir, for giving me this chance. I support the Petition because people should not just be relocated from where they have been living without consideration of their welfare. The Committee that is going to look into this matter should do so wholesomely. We have situations in other parts of the country, for example, around Mt. Kenya area, where there used to be a very elaborate and well planned *shamba* system. The people were eking a living out of the forest and planting trees.

Mr. Speaker, Sir, these people have gone to the extent of building secondary schools, dispensaries and other infrastructure. This happened around 1989, when the Government sent forces that forcefully removed them and destroyed anything that they had. They were consequently dumped on the edge of the forest in a small part of the road. These people are all around Mt. Kenya area, in the Aberdares Forest and I believe in many other places in the country. Therefore, let us look at this matter and come up with a useful solution which caters for everybody, especially for those in my area. We have people living in a place called Hombe, which had every infrastructure, and they were inhumanly removed and dumped.

Therefore, Mr. Speaker, Sir, if this matter is going to be looked into, let it be looked at by the Ministry of Environment and the Forestry Department. I would urge them to go back and introduce the *shamba* system.

**The Speaker** (Hon. Lusaka): Sen. Nderitu, I can see you are the only one remaining, I will give you two minutes.

**Sen. Kinyua:** Asante sana, Bw. Spika, kwa kunipa fursa hii. Naunga mkono Ombi hili. Hili ni jambo ambalo limekuwa la kawaida, kwa watu kutimuliwa bila kufuata mikakati mizuri. Unapata kwamba ukitembea katika sehemu za nchi ukienda Mlimani Marmanet na Sori, watu wanafukuzwa na wamepelekwa huko, lakini unapata hakuna shule ama hosipitali.

Watu wanaishi maisha ya ufukara, na ni aibu, kwa sababu Serikali inafaa iwe na mikakati iliyowekwa vizuri. Kabla mtu yeyote hajafukuzwa, lazima mambo ya shamba yafuatwe, na mahali wale watu watakapopelekwa ijulikane ni wapi. Baada ya hiyo, wanaondolewa wakizingatia kanuni za kibadamu, badala ya kuwafurusha watu kama wanyama. Serikali yoyote inapotengenezwa, jukumu lake kubwa huwa ni kutunza na kulinda mali pamoja na uhai wa binadamu. Lakini inapokuwa kazi ya Serikali ni kuwafurusha watu kiholela, inaonekana kana kwamba hawana faida yoyote kwa wananchi.

Kwa hivyo, Bw. Spika, ningepomba kwamba Kamati itakayopewa jukumu hilo wanzingatie na waambie maafisa wanaohusika wafuatilie mikakati ambayo itakuwa inazingatia manufaa ya watu. Kama ni kufukuzwa, basi wawe wakiulizwa na wanapelekwa mahali ambapo patawafaa.

Asante, Bw. Spika.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order 232(1), the Petition is required to be committed to the relevant Standing Committee. In this case, we will commit it to the Standing Committee on Land, Environment and Natural Resources. According to Standing Order 232(2), the Committee is required to respond to the Petitioners by a way of a report addressed to the Petitioner, and laid on the Table of the Senate in not more than sixty calendar days from the time of reading the prayer.

Next order.

HARMFUL EFFECTS RESULTING FROM  
THE LOADING AND OFFLOADING OF IRON ORE

**Sen. Faki:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 232(1) to present a Petition by residents of Ganjoni, Mombasa County, concerning harmful effects resulting from the loading and offloading of iron ore.

The residents of Ganjoni, Mombasa County, draw the attention of the Senate to the following:-

- (1) Iron ore, owned by the South Africa Ports Terminals Limited is being stored in an open field at COMACO, near the Port of Mombasa. The loading and offloading of iron ore during the day and night results in noise pollution, which inconveniences the residents of Ganjoni area.
- (2) The residents of Ganjoni area have been forced to inhale hazardous dust particles from the iron ore during the loading and offloading exercise at COMACO, resulting in cases of respiratory health problems.
- (3) The residents petitioned NEMA, a meeting was held and the following remedies and measures were agreed upon. They agreed that COMACO will:-
  - i. Strictly adhere to the conditions of the license operations' timelines from 8 a.m. to 5 p.m. during the day.
  - ii. That Comaco will sprinkle water on the yard and load trucks every 30 minutes to minimize dust from billowing into the residential areas.
  - iii. That operations at the yard will stop by 30<sup>th</sup> September to allow for construction of proper shed before the next consignment.
  - iv. Iron ore samples to be submitted to the Government Chemist for testing to ascertain the residual health effects to the residents.
- (4) That our efforts to have the matter resolved by the relevant authorities have failed as COMACO has ignored the agreement.

The Petitioners, therefore, pray that the Senate will:-

- a. Investigate the matter with a view to having the operations at the yard stopped until the terms of the agreement between NEMA, the residents and COMACO are met.
- b. Make appropriate recommendations on the matter.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order 231, I shall now allow comments, observations and clarifications in relation to the Petition for not more than 30 minutes.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. Allow me to make a quick observation. I support the Petition by the Senator for Mombasa, Sen. Faki. The issues of environment are critical, and we all face those challenges. We have prioritized investors' interest over the citizens' interest in this country. What does NEMA or the agencies that gave approval do when such constructions are taking place? This country does have approval agencies, and some procedures have to be followed before any construction is approved.

Mr. Speaker, Sir, if you look at some of the mega projects that we have in this country, you will realize that we have prioritized the interests of the contractors more than the interest of the people. It is unfortunate that the people of Mombasa cannot live in a peaceful and friendly environment. If you drive through Limuru to Kinungi, you will realize that there are no exit lanes, and the environment has been destroyed, yet the country is using a lot of money. Those people are now experiencing flooding because of excessive water, and the heavy traffic has led to excessive fumes in the air.

We hope that the relevant agencies, such as NEMA, the parent Ministry and the agencies that give approval will deal with the issue. The agencies should prioritize the interest of Kenyans over their own partisan, selfish and unguarded interest that will exploit the lives of many Kenyans.

**The Speaker** (Hon. Lusaka): We will hear from Sen. M. Kajwang', then we will take a vote.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, I rise to add my voice to the Petition by residents of Ganjoni, Mombasa County, on the loading and unloading of iron ore, and the health hazards that they face. This Petition is a clear indication that all the other institutions that have been mandated to look into these issues have failed, and that is why the residents of Ganjoni have opted to come to the Senate. This means that NEMA and the County Commissioner have failed. It also means that the police have failed to enforce the resolutions that were agreed on between the residents and NEMA.

Mr. Speaker, Sir, this Petition affirms the confidence that the public has in the Senate. They would have opted to take this Petition to the County Assembly or to the National Assembly, but they did not do that. That is because they believe that they will get justice in the Senate. They also believe that we will make recommendations that will put to an end to the murder, through environmental hazards that they face.

I appeal to the Committee that will be dealing with this to go beyond the standard remedies that we have of replying to the petitioners. I hope that the Committee will also make very firm recommendations to the various organs and institutions that are mandated to deal with the issues that the Petitioners have brought before the Senate. Typically, we reply to the Petitioners, and that becomes the end of the matter.

Mr. Speaker, Sir, I support this and I hope that the people of Ganjoni will get justice through the Senate.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order 232(1), the Petition is required to be committed to the relevant Standing Committee for consideration. In this case, I direct that the Petition be committed to the Standing Committee on Land, Environment and Natural Resources. The Committee is required, in not more than sixty calendar days from the time of reading the prayer, to submit a response to the Petitioner by a way of report to the Petitioner and laid on the Table of the Senate pursuant to Standing Order 232(2).

Hon. Senators, I will defer the remaining Petitions.

CORRUPTION AND EMBEZZLEMENT OF FUNDS IN  
THE COUNTY GOVERNMENT OF NAROK

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REPORT ON PETITION: CLEARANCES REQUIRED BY PUBLIC  
BODIES ON APPLICATION FOR JOBS IN KENYA

REPORT ON PETITION: DELAYED COMPENSATION BY  
NLC TO LAND OWNERS AFFECTED BY ELDORET  
TOWN BYPASS PROJECT

*(Petitions deferred)*

We will go to Order No. 5 because of the urgency of some matters that we need to deal with today.

**PAPERS LAID**

REPORT ON SEMINAR ON ADVANCING  
GENDER EQUALITY IN KENYA

**Sen. Kihika:** Mr. Speaker Sir, I beg to lay the following Report on the Table of the Senate today, Thursday 5<sup>th</sup> December, 2019 -

Report on the Seminar on Advancing Gender Equality in Kenya held in Naivasha, Kenya, from 15<sup>th</sup> to 17<sup>th</sup> November, 2018.

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

**The Speaker** (Hon. Lusaka): The Chairman of the Committee on Finance and Budget.

REPORT ON STOPPAGE OF TRANSFER OF  
FUNDS TO COUNTY GOVERNMENTS

**Sen. (Eng.) Mahamud:** Mr. Speaker Sir, I beg to lay the following Report on the Table of the Senate today, Thursday 5<sup>th</sup> December, 2019:-

The Report of the Standing Committee on Finance and Budget on the stoppage of transfer of funds to county governments.

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

**The Speaker** (Hon. Lusaka): The Chairperson of the Standing Committee on Energy.

REPORT ON OIL SPILLAGE IN KIBOKO  
AREA, MAKUENI COUNTY

**Sen. (Eng.) Maina:** Mr. Speaker Sir, I beg to lay the following report on the Table of the Senate today, Thursday 5<sup>th</sup> December, 2019:-

Report on oil spillage at Kiboko area, in Makueni County, implementation status and measures put in place to mitigate the situation after the oil spillage at Kiboko area in Makueni County.

Sen. Mutula Kilonzo Jnr. should be happy that his work has come to an end.

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

**The Speaker** (Hon. Lusaka): The Chairman of the Committee on Devolved Government and Intergovernmental Relations, proceed.

REPORT ON DELAYED HANDOVER OF THE  
LAKE BASIN MALL IN KISUMU COUNTY

**Sen. Kinyua:** Mr. Speaker Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday 5<sup>th</sup> December, 2019:-

The report of the Standing Committee on Devolution and Intergovernmental Relations on the delayed handover of the Lake Basin Mall in Kisumu County.

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

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

**NOTICE OF MOTION**

**The Speaker** (Hon. Lusaka): The Chairman of the Committee of Finance and Budget, proceed.

ADOPTION OF REPORT ON STOPPAGE OF TRANSFER  
OF FUNDS TO COUNTY GOVERNMENTS

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

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the stoppage of transfer of funds to county

governments laid on the Table of the Senate, today, Thursday, 5<sup>th</sup> December, 2019.

**The Speaker** (Hon. Lusaka): Hon. Senators, I wish to rearrange the Order paper, and direct that we move to Order No.16.

Read out the Order. We are on the Supplementary Order Paper.

## MOTIONS

### ADOPTION OF REPORT ON STOPPAGE OF TRANSFER OF FUNDS TO COUNTY GOVERNMENTS

**Sen. (Eng.) Mahamud:** Mr. Speaker Sir, I beg to move the following Motion:-  
THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the stoppage of transfer of funds to county governments laid on the Table of the Senate on Thursday, 5th December, 2019.

Mr. Speaker, Sir, hon. Senators will recall that by a letter dated 25<sup>th</sup> November, 2019, the National Treasury and Planning forwarded, pursuant to Section 97(2) of the Public Finance Management Act, the National Treasury Circular No.20/2019 Ref: IGFR/Pending Bills/01/A(24) dated 19<sup>th</sup> November, 2019, to Parliament. In the letter, the Cabinet Secretary (CS) for the National Treasury requested for approval of Parliament for the stoppage of transfers to counties and far as equitable share to counties is concerned for 15 counties.

Additionally, the CS indicated that no additional grants should be released for the aforementioned 15 county governments for the Financial Year 2019/2020, until and unless an amicable settlement of the matter is arrived at. The matter in question is pending bills.

According to the National Treasury, these counties – which I am going to name – made no effort to clear a stock of eligible pending bills between 1<sup>st</sup> July, 2019, and end of October, 2019.

As a result of the letter that came from the CS of the National Treasury, and in accordance to Article 225(1) of the Constitution and Section 96(1) of the Public Finance Management Act, my Committee invited the Controller of Budget (CoB) to--- In fact, that is a follow up to the counties that were mentioned. The County governments affected were Narok, Machakos, Nairobi City, Vihiga, Isiolo, Tana River, Migori, Tharaka Nithi, Bomet, Kirinyaga, Nandi, Mombasa, Kiambu, Garissa and Baringo.

Mr. Speaker Sir, the law requires that the CS can initiate a process for stoppage of funds, but before that is agreed upon, a report must be received from the CoB, in accordance to Section 97(3) of the Public Finance Management Act; and also that the entities that are mentioned must appear before Parliament for them to defend themselves.

My Committee invited the CoB to give a report, as required by law. According to the law, the report of the CoB should find out whether the concerned counties were in serious material breach or persistent material breach by failing to settle the pending bills. The

report should also find out whether the county governments had made any significant efforts to clear the pending bills, and whether sufficient measures have been put in place to mitigate the issue of pending bills.

The investigation plan is also supposed to come up with the documents we did and refer to as well as the methodology adopted. We still met the CoB, and she took us through the whole process. We looked at the issue of pending bills. The investigation report was forwarded to Parliament, as required, the Senate being one House of Parliament. I am sure that the other House also received the report.

The report referred us to the issues before the CoB, the National Treasury and ourselves. In fact, when we recall that at the end of June, 2018, pending bills were recorded at Kshs108 billion. However, an audit was carried out by the Auditor-General, and according to the report that was sent to us by the CoB, it shows that the 15 counties that are here--- First of all, by the time we met the CoB, Baringo County had already cleared the bills, so Baringo is not among the 15 anymore.

Mr. Speaker Sir, the report which was given to us by the CoB is annexed to the report. It is part of the report, and I hope that the report is being circulated to the Members.

We also invited the CS, who took us through all the pending bills issues, the eligible pending bills as per the Auditor-General, which ones are ineligible, what has been paid so far, and what is outstanding as of 30<sup>th</sup> November, 2019.

As a Committee, we invited the governors of the 15 counties to appear before us. This meeting took place yesterday at the Kenyatta International Convention Centre (KICC), and the turnout was very commendable. Quite a number of governors came and they gave us their position on what is being done on the issue of pending bills.

Mr. Speaker, Sir, because the timelines are very tight, once the Cabinet Secretary (CS) issues a notice of intention to stop funds, you are supposed to get a report from the Controller of Budget (CoB) within 14 days. These 14 days lapse on the third; so, we will get that in due time. Thereafter, within 30 days, we are supposed to make a decision whether to approve or disapprove the decision of the CS.

Mr. Speaker, Sir, the Committee requested for the report and all the requirements, as I said earlier, in terms of meeting the constitutional and also the statute requirements. After meeting the county governments, the national Treasury and the CoB, we have noted that there was a clear demonstration by some counties that they had paid amounts exceeding 51 per cent of the pending bills that were determined and found illegible by the Auditor-General. They had established internal verification mechanisms to verify the ineligible bills. Pending bills have been paid after the report of the Auditor-General was released between July, 2019, and 30<sup>th</sup> November, 2019.

Mr. Speaker, Sir, there are a few disputes here and there about the figures. This is because some counties are disputing the figure which was issued by the CoB in terms of being eligible pending bills. However, by far and large, they have acknowledged that they actually have pending bills, and payments are being done. Other counties submitted the request, made to the CoB on the pending bills. In fact, a discussion started between the county governments, the national Treasury and the CoB on how they want to settle the bills.

Our discussion with the county governments yesterday was on what the outstanding bill is currently; what they have paid so far; and how they want to pay the others. In fact, from the discussions we had yesterday, we found that significant progress is being made. From the submissions of the national Treasury, the CoB and the affected counties, the Committee made several observations as indicated below.

- (1) That pursuant to Article 225(1) of the Constitution and Section 96(1) of the Public Finance Management (PFM) Act 2012, the CS was within its powers stop the transfer of funds to county governments where he finds a county government entity to be in serious or persistent material breach of its obligations or financial commitments;
- (2) That the power to stop the transfer of funds to a county government was tempered by several provisions of the Constitution;
- (3) Some Counties experienced a huge discrepancy between the pending bills that were received at the handing over between the two governments, the report of the County Pending Bills Verification Committee, and the audit verification by the Office of the Auditor-General.

Mr. Speaker, Sir, from these observations, in fact in this report, we have detailed each of the counties, which are all the 15 counties minus Baringo, on what they have done so far. We have seen that substantial progress has been made in terms of paying that, and plans have been put in place for the payment of the remaining bills. The other issue that they had to require to budget for it and, in fact, they have to do a lot of supplementary budget to take that.

Mr. Speaker, Sir, from these observations, the Committee recommends to the Senate as follows:-

- (a) That the county governments, having made substantial progress towards settling of the pending bills, the Committee recommends that the House does not approve the decision of the CS, national Treasury, to stop the transfer of funds to the listed 15 counties.
- (b) The CoB and the national Treasury should submit to the Senate a report detailing the status of payment of pending bills and reconciled amounts of pending bills of all the counties by 5<sup>th</sup> March, 2020; which is three months from now. We need a reconciled amount because what is happening is that there is a lot of discrepancy between the figures quoted by the CoB, the Auditor-General and also the counties. Of course, payment is being done.
- (c) The national Treasury to review the Integrated Financial Management Information (IFMIS) system to provide for ageing of creditors.
- (d) The Public Finance Management Act 2012, be amended to provide for payment on a First-In-First-Out (FIFO) basis. This will ensure compliance with various accounting standards which treat debt repayment as a first charge on revenue.
- (e) The national Treasury and county governments to enhance technical capacity in budgeting and accounting in the county treasury to ensure adherence with the principles of public finance and standard charts of accounts.

(f) The PFM Act 2012 be amended to ensure payments are made on time by introducing a prompt pay system, where if a valid invoice is not paid within a certain time, it automatically attracts interest.

Of course, the Committee will be glad to initiate these recommendations we have made on amendments.

Mr. Speaker, Sir, it is imperative to note that Article 221(5)(b) of the Constitution provides that the decision to stop the transfer of funds may be enforced immediately, but will lapse retrospectively unless, within thirty days after the date of the decision, Parliament approves it by resolution passed by both Houses.

As I have noted earlier, the decision of the CS for the national Treasury to stop the transfer of funds was to take effect on 1<sup>st</sup> December, 2019. The Senate is now taking a vote on 4<sup>th</sup> December, 2019. By law, the decision of the CS is in effect. However, without preempting the proceedings of this House, it is important to remember that if this House agrees with the Committee and does not approve the decision of the CS. The disapproval will cause the decision of the CS to lapse retrospectively. Consequently, the CS will be under duty to transfer funds due to counties in accordance with the respective Act and the cash disbursement schedule forthwith.

Mr. Speaker, Sir, we have looked at this matter because what the CS has done is actually a good trigger to force county governments to take their obligations seriously. We have seen progress made after that action. We have been shown copies of supplementary appropriation bills which have been initiated by some counties. I think, by and large, they have made some progress. We would like to monitor this situation so that by March, we have a report both from the national Treasury, the CoB and the counties to see what they have done.

Additionally, we have recommended that counties must work together, both at the assembly level and at the executive level, to deal with the issue of pending bills so that they can be verified and appropriately put in the budget. This is because if there is no harmony between the assembly and the executive, budgeting will be difficult. Therefore, the matter of pending bills is serious, but for the time being from what we have done, we think that it is not right to stop the funds to the counties, because substantial progress has been made.

We thank the CS for initiating the process; but for now, we disallow the request to approve the stoppage.

With those many remarks, Mr. Speaker, Sir, I beg to move and request Sen. Wetangula to second.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I beg to second this Motion.

Mr. Speaker, Sir, I urge the House to agree with the Committee, as it has been ably moved by Chairman, the distinguished Senator for Mandera.

From the outset, we must salute the Acting Finance Minister, hon. Ukur Yattani, for taking an unprecedented decision and move to instill financial management probity in counties. Since devolution started, this is the first time that the national Treasury has come down on the counties to threaten and take legal action to stop remittance of funds

because of visiting pain and hardship on *wananchi* by not paying for goods and services procured.

Mr. Speaker, Sir, you may recall that in the last Parliament – and those who were here, like Sen. Orengo, can remember – that the Senator for Murang'a then moved a Motion here. We approved to discontinue disbursement of funds to Murang'a County, but the national Treasury just ignored the Senate Resolution and continued with business as usual. Yesterday, the Senate Committee, on behalf of the House, met the governors. To their credit, all the governors who are involved with regard to these 15 counties – apart from Mombasa, Baringo, Garissa and Migori – turned up, and they gave very cogent explanations on how they are taking steps to clear the pending bills.

Mr. Speaker, Sir, you may also recall that when we received reports of pending bills last year, we were told that the pending bills amounted to over Kshs120 billion. However, upon verification, these figures dropped to almost half. I think continuing verification, audit and re-audit will help in giving value for money; the money that we vote here to send to the counties.

I want to single out Baringo County. When Baringo was flagged out and put on this red list of counties that have not paid their debts in pending bills, within a month or two, Baringo had paid everything and they have no pending bills to date. We must salute them for that and I want to urge all counties to go in that direction.

We urge the House to appreciate the decision taken by the Minister because it has woken up those who have been lax in discharging duties in management of public affairs. Secondly, I want to urge the House to agree with the Committee that this process having been taken and a wakeup call having been rung, that the House enjoins the Committee to continue monitoring the situation.

That is why the Chairman has said we are not giving a blanket cover to say that we do not agree with the Minister. We are going to have a progress report in three months where we are going to call the Minister to give us his progress report; we are going to call the Controller of Budget to give us his or her progress report and above all we are going to call these same governors - the 15 who had been flagged out - to come and table a progress report on what they are doing.

We found positively that some counties like Tharaka Nithi, Kirinyaga and others have already appropriated funds through supplementary budgets to clear these pending bills.

However, the big question that we must keep asking is; if procurements were done three or four years ago with attendant budgets according to the provisions of the PFM Act, services and goods were procured and delivered; where did the money that was in the budget for those procurements go to?

This is a question we need to ask the Auditor-General and I need to put it on record that some of the governors were not quite happy with the manner in which the Auditor-General has gone about verifying these bills. They said that the auditors just go to counties, maroon themselves in hotels and call everybody and anybody to come and make presentations. That is not how an audit should be undertaken. If that is what was done, then it is wrong.

Mr. Speaker, Sir, we also have some counties where governors are a bit crafty and they inflate the pending bills so that they can pocket the money. We warned them in no uncertain terms that any such engagement and conduct is criminal. If this House finds that a governor has connived with anybody to create fictitious pending bills or inflate pending bills for purposes of self-gain or gains by his or her cronies; this House will not hesitate to report the matter to the relevant agencies that deal with criminal issues in the country.

Since this is a matter that is straightforward, we want to urge the House to agree with the Committee to approve this Report and disallow the Minister's move laudable as it is. This is a good start but it is not the right decision to take now. As we monitor the situation, we will hopefully in three or four years down the line tune the counties to a level where pending bills will be a historical fact.

Lastly, I did tell the Minister that what is good for the goose must be good for the gander. Even as they are now pinning down counties to clear their pending bills, the national Government must also style up. The national Government has pending bills of close to Kshs1 trillion. People have provided goods and services through legal processes but they never get paid.

We want to urge the Controller of Budget and the Minister of Finance that the broom that they are using to sweep the counties, must be the same broom they must use to sweep and bruise the national Government so that the levels of financial prudence, probity and proper accountability must run through both levels of government so that the people of Kenya do not suffer. This is because they have gone to banks and taken loans, some borrow money from shylocks, some sell their properties with the hope they will finish the transactions and buy new property but they end up with bankruptcy.

Mr. Speaker, Sir, I beg to second.

**The Speaker** (Hon. Lusaka): Hon. Senators, before I propose the question, I know we shall take a vote because this matter touches on counties.

Therefore, those that I will give two minutes to talk, please be like a good skirt; long enough to carry the subject matter and short enough to arouse interest.

*(Question proposed)*

**Sen. Dullo:** Thank you Mr. Speaker, Sir. I wish to support this Motion.

From the onset, let me take this opportunity to join my colleagues in congratulating the current Acting Cabinet Secretary for Finance because this is the route that the rest of the Cabinet Secretaries who were before him should have taken to save this country from the debts that we are facing.

I attended yesterday's hearing of the governors appearing before the Committee on Finance and Budget regarding this issue of pending bills. There was an accusation by the governors that the Auditor-General's reports in terms of pending bills are cooked. However, I sit in the County Public Accounts and Investments Committee where we have been informed that the auditors rely on the reports and the vouchers given to them by county governments. Therefore, they cannot say that these are figures cooked by the

Auditor-General. They should be held accountable in terms of what they are doing within their counties.

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Hon. Senators, consult in low tones.

**Sen. Dullo:** Mr. Speaker, Sir, I think we have to be realistic because pending bills has been a conduit of corruption in this country and we must put a stop to it. You will realise that pending bills are rising from one level to another because we cannot be having these figures roll year in year out. When payments are made, there are vouchers, commitments and budgets but we do not understand why these figures keep on changing.

Secondly, I agree with the Committee that we should not stop the budget in totality. However, I think we need to come up with a strategy in terms of the schedules they have committed to the Committee. The governors should be held accountable to it because they can appear before you and say we are going to be committed to this and they end up not committing themselves.

Therefore, I would request the Committee that all governors should be able to commit themselves and the Committee should hold them accountable in terms of ensuring that those bills are paid as they requested.

Mr. Speaker, Sir, you will find that Kenyans are suffering as a result of these pending bills; some of them SMES. Some of them are owed over Kshs1 million. It means that those who are owed over millions are paid and the rest who are owed amounts like Kshs200,000 or Kshs300,000 are not paid, which is unfair.

Finally, you will find that those who are politically correct are the ones whose bills are paid, which is unfair. Therefore, I would support that the stoppage should be suspended for the time being but the governors should be held accountable in terms of the schedule they submitted to the Committee. The national Government should also follow suit.

Thank you, Mr. Speaker, Sir.

**Sen. M. Kajwang':** Mr. Speaker, Sir, I rise to state that I agree with the Acting Cabinet Secretary (CS) for National Treasury and Planning proposal to Parliament to stop the release of funds to the counties that were mentioned.

I also rise to say that I agree with the Auditor -General's Report that analyzed pending bills in county governments.

When this Report came to the House and tabled, it was brought before the Committee on Public Accounts and Investment Committee (CPAIC). We have sat with close to 20 governors trying to understand the numbers that are in that Report.

We sat with the former Auditor-General, Edward Ouko and the Controller of Budget before they left office. I believe county governments are holding on to cash that belongs to people who have done legitimate business with those county governments and it is time that this House and the National Treasury took certain drastic measures to force county governments to pay.

Stoppage of funds to county governments will not affect salaries. In fact, the PFM Act Section 97 says that the stoppage cannot exceed 50 per cent of funds that are due to go to the counties.

Mr. Speaker, Sir, therefore, even though the Committee today has made a recommendation; a recommendation that has been arrived at after one week of consideration, compared to six months - this Report was tabled in this House in June - since then, CPAIC has been looking into this matter.

I even had a Motion that was put aside to allow the Committee on Finance and Budget to bring their report. Even if I am going to support this Report, in the reports that will come for respective counties where counties are not paying pending bills out of mischief, I will still continue to recommend that the Acting Cabinet Secretary stops transfer of funds to those counties.

The amount of money owed to suppliers by county governments is not small change; the Auditor-General talked of Kshs51 billion. It is time that this House took drastic and firm measures. In the past we have asked the Cabinet Secretary (CS) for National Treasury and planning to stop funds to counties. The former CS in the last Parliament refused to stop funds. This House was up in arms. We said that the former CS was insubordination of the House.

The reason I will support this Motion is because we do not have a Controller of Budget. He or She is supposed to advise Parliament and at the moment we do not have one.

Mr. Speaker, Sir, I could support this but in future my reports will still be recommend---

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

**Sen. Kihika:** Mr. Speaker, Sir, Pursuant to Standing Order No.104 (1), I beg to move that the Mover be now called upon to reply.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I wish to thank the Members that have contributed. This is a very serious matter. We do agree with the Auditor-General's Report and the Acting CS but we have said that progress that we made is not the end of this matter but in the circumstances we are, in fact, the Committee recommends that we disapprove the stoppage for now but people should read the recommendations in the Report. It is not the end and I do get the sentiments of my colleague from Homa Bay.

However, with those few remarks I beg to move.

**The Speaker** (Hon. Lusaka): This is a matter that concerns counties and, therefore, I direct that the Bell first be rang for two minutes.

*(The Division Bell was rang)*

Order, Senators. I now direct that the Doors be locked and the Bar be drawn.

*(The Doors were closed and the Bar drawn)*

Order, Senators. The Chairperson, Committee on Finance and Budget, please resume your seat.

## DIVISION

### ELECTRONIC VOTING

*(Question, that the Senate adopts the Report of the Standing Committee on Finance and Budget on the stoppage of transfer of funds to county governments laid on the table of the Senate on Thursday, 5<sup>th</sup> December, 2019, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Iman, Garissa County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orenge, Siaya County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and, Sen. Wetangula, Bungoma County.

**NOES:** Sen. M. Kajwang, Homa Bay County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; and, Sen. Outa, Kisumu County.

**The Speaker** (Hon. Lusaka): Hon. Senators, the results of the Division are as follows-

Ayes: 24

Noes: 4

Abstentions: Nil

The "Ayes" have it.

*(Question carried by 24 votes to 4)*

Shall we move on to the next Order?

*(Loud consultations)*

*(Several Senators walked in the Chamber)*

Hon. Senators, resume your seats. Those who did not go to the gym are now exercising.

We will start with Order No.8.

ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL  
OPERATIONS OF VARIOUS COUNTIES FOR FY2014/2015

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Baringo, Busia, Elgeyo Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot County Executives for Financial Year 2014/2015 (1st July, 2014 to 30th June, 2015), laid on the Table of the Senate on Wednesday, 9<sup>th</sup> October, 2019.

*(Sen. M. Kajwang' on 22.10.2019)*

*(Resumption of Debate interrupted on 06.11.2019)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Baringo, Busia, Elgeyo Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot County Executives for Financial Year 2014/2015 (1<sup>st</sup> July, 2014 to 30<sup>th</sup> June, 2015), laid on the Table of the Senate on Wednesday, 9<sup>th</sup> October, 2019, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orenge, Siaya County; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): Hon. Senators, the results are as follows:

Ayes: 28

Noes: 0

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Abstentions: Nil  
The “Ayes” have it.

*(Question carried by 28 votes to nil)*

We now move to Order No.9.

ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL OPERATIONS  
OF VARIOUS COUNTY EXECUTIVES FOR FY 2013/2014

*(Sen. M Kajwang’ on 26.11.19)*

*(Resumption of debate interrupted on 26.11.19)*

**The Speaker** (Hon. Lusaka): Vote now.  
Sen. Mwangi, approach the Clerks-at-the-Table.

*(Sen. Mwangi approached the Clerks-at-the-Table  
and proceed to register his vote)*

**DIVISION**

**ELECTRONIC VOTING**

*Question THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial Operations of: Kiambu, Busia, Kwale, Tana River, Trans Nzoia, Nyandarua, Migori, Kisumu, Samburu, Kericho, Bomet, Bungoma, Garissa, Isiolo, Kitui, Lamu, Makueni, Mandera, Marsabit, Meru, Mombasa, Nyamira, Taita Taveta, Uasin Gishu, Vihiga and Wajir County Executives for the Financial Year 2013/2014 (1<sup>st</sup> July, 2013-30<sup>th</sup> June, 2014), laid on the Table of the Senate on Thursday, 21<sup>st</sup> November, 2019 and the Senate proceeded to vote by County Delegations.*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Iman, Garissa County; Sen. M. Kajwang’, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and, Sen. Wetangula, Bungoma County.

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NOES: Nil

**The Speaker** (Hon. Lusaka): Hon. Senators, resume your seats. Senator for Narok, resume your seat.

*(Sen. Olekina resumed his seat)*

The results of the voting are as follows -

AYES: 27

NOES: Nil.

ABSTENTIONS: Nil.

The "Ayes" have it.

*(Question carried by 27 votes to nil)*

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

## BILLS

### *Second Reading*

THE CARE AND PROTECTION OF CHILD PARENTS BILL  
(SENATE BILLS NO.11 OF 2019)

*(Sen. Kwamboka on 17.09.19)*

*(Resumption of debate interrupted on 13.11.2019)*

**The Speaker** (Hon. Lusaka): Honourable Senators, Vote now.

(Voting in progress)

**The Speaker** (Hon. Lusaka): Honourable Senators, I will put the next question so that the results will be read together.

### *Second Reading*

THE ALTERNATIVE DISPUTE RESOLUTION BILL

(SENATE BILLS NO. 19 OF 2019)

*(Sen. Kasanga on 13.11.19)*

*(Resumption of debate interrupted on 19.11.2019)*

**The Speaker** (Hon. Lusaka): Honourable Senators, Vote now.

*(Voting in progress)*

*(Voting on Order Nos. 10, 11, 12, 13, 14 and 15 in progress)*

*Second Reading*

THE CARE AND PROTECTION OF CHILD PARENTS  
BILL (SENATE BILLS NO. 11 OF 2019)

*(Sen. Kwamboka on 6.11.2019)*

*(Resumption of Debate interrupted on 13.11.2019)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question that the Care and Protection of Child Parents  
Bill (Senate Bills No. 11 of 2019) be read a Second Time put,  
and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orendo, Siaya County; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): The results of the voting are as follows:

**AYES:** 27

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 27 votes to 0)*

*(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)*

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

*Second Reading*

THE ALTERNATIVE DISPUTE RESOLUTION  
BILL (SENATE BILLS NO. 19 OF 2019)

*(Sen. Kasanga on 13.11.2019)*

*(Resumption of Debate interrupted on 19.11.2019)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question that the Alternative Dispute Resolution Bill (Senate Bills No. 19 of 2019) be read a Second Time put, and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Onger, Kisii County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): The results of the voting are as follows:

**AYES:** 27

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 27 votes to 0)*

*(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)*

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

*Second Reading*

THE KENYAN SIGN LANGUAGE BILL  
(SENATE BILLS NO. 15 OF 2019)

*(Sen. (Dr.) Musuruve on 20.11.2018)*

*(Resumption of Debate interrupted on 20.11.2019)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question that the Kenyan Sign Language Bill  
(Senate Bills No. 15 of 2019) be read a Second  
Time put, and the Senate proceeded to vote  
by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County ; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County ; Sen. (Prof.) Ongeru, Kisii County; Sen. Orengo, Siaya County ; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): The results of the voting are as follows:

**AYES:** 27

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 27 votes to 0)*

*(The Bill was read a Second Time and  
committed to a Committee of the Whole tomorrow)*

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

*Second Reading*

THE COUNTY LICENSING (UNIFORM PROCEDURE)  
BILL (SENATE BILLS NO. 17 OF 2019)

*Sen. Chebeni on 21.11.2018)*

*(Resumption of Debate interrupted on 26.11.2019)*

**DIVISION**

ELECTRONIC VOTING

*(Question that the County Licensing (Uniform Procedure)  
Bill (Senate Bills No. 17 of 2019) be read a Second Time put,  
and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County ; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County ; Sen. (Prof.) Ongeru, Kisii County; Sen. Orengo, Siaya County ; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): The results of the voting are as follows:

**AYES:** 27

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 27 votes to 0)*

*(The Bill was read a Second Time and  
committed to a Committee of the Whole tomorrow)*

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

*Second Reading*THE REGISTRATION OF PERSONS (AMENDMENT)  
BILL (SENATE BILLS NO. 14 OF 2019)*(Sen. (Dr.) Mwaura on 7.11.2019)**(Resumption of Debate interrupted on 2.1.2019)***DIVISION**

## ELECTRONIC VOTING

*(Question that the Registration of Persons  
(Amendment) Bill (Senate Bills No. 14 of 2019) be  
read a Second Time put, and the Senate proceeded  
to vote by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orenge, Siaya County; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): The results of the voting are as follows:

**AYES:** 27

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 27 votes to 0)*

*(The Bill was read a Second Time and  
committed to a Committee of the Whole tomorrow)*

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

*Second Reading*THE ELECTION (AMENDMENT) BILL  
(SENATE BILLS NO. 18 OF 2019)*(Sen. (Eng.) Maina on 4.12.2019)**(Resumption of Debate interrupted on 4.12.2019)***DIVISION**

## ELECTRONIC VOTING

*(Question that the Election (Amendment) Bill  
(Senate Bills No. 18 of 2019) be read a Second Time put,  
and the Senate proceeded to vote by County delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. Iman, Garissa County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Eng.) Mahamud, Mandera County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisumu County; Sen. Orendo, Siaya County; Sen. Outa, Kisumu County; Sen. Shiyonga, Kakamega County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. (Rev.) Waqo, Marsabit County; and Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): The results of the voting are as follows:

**AYES:** 27

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 27 votes to 0)**(The Bill was read a Second Time and  
committed to a Committee of the Whole tomorrow)*

**The Speaker** (Hon. Lusaka): Hon. Senators, before they open the doors, I have a communication to make.

**COMMUNICATION FROM THE CHAIR**

## END OF THE THIRD SESSION

Hon. Senators, as you are aware, at the rise of the Senate today, Thursday, 5<sup>th</sup> December, 2019, the House will proceed on recess until Tuesday, 11<sup>th</sup> February, 2020 as per the Senate Calendar.

Hon. Senators, it has been a long and hectic year for all of us and I am sure everyone is looking forward to this well-deserved break and enjoying time with family, friends and constituents during the festive season.

This long recess also provides an opportunity for us to reflect on our achievements and challenges throughout the year. This retrospection is ideal in a relaxed environment, devoid of the hustle and bustle of our busy legislative schedules and committee operations.

Looking at what the Senate has considered during the Third Session in terms of Bills, Motions, Petitions and Statements, I can say without any fear of contradiction that we have been truthful to the role assigned to us particularly in Article 96 of the Constitution. Specifically, I site the Sittings of the Senate held in Kitui County from 16<sup>th</sup> to 20<sup>th</sup> September, 2019, as a major achievement of this Session, at which event, the Senate rose above its normal call of duty to engage with the residents of Kitui County and provide solutions to their everyday challenges through legislative interventions.

Thanks to our individual and collective efforts, the counties in particular and the devolved system of government in general are in a good place and the future is secure.

Hon. Senators, however, looking at the general status of the business of the Senate, the House will require a moment of introspection to plan for the Fourth Session, bearing in mind that the next session will be the midway point of the term of this Parliament. Towards this end, the office of the Speaker undertakes to provide a forum, in consultation with the House Leadership, for the Senate to undertake this exercise. Further communication on this matter will be given in the coming weeks.

Hon. Senators, in preparation for the next Session, the coming recess affords an opportunity for the officers of the Senate to take their annual leave and join their families and friends to celebrate the festive season, as well as to reinvigorate and re-energize in preparation for the Fourth Session in February, 2020. Consequently, I direct all meetings of Select Committees be suspended, as is the tradition, with effect from 13<sup>th</sup> December, 2019 to 31<sup>st</sup> January, 2020.

I take this opportunity to thank you for your service, commitment and dedication in upholding the mandate of this House, in this Session and to wish you a Merry Christmas and prosperous New Year, 2020!

I thank you.

*(Applause)*

Hon. Senators, I now direct that the bars be drawn and doors opened.

*(The Bars were drawn and doors opened)*

Hon. Senators, let us go back to the Order on petitions. The Chairperson of the Committee on Labour and Social welfare has a report on a petition to present.

Kindly proceed, Sen. Cherargei.

## PETITIONS

### REPORT ON PETITION: CLEARANCES REQUIRED BY PUBLIC BODIES ON APPLICATION FOR JOBS IN KENYA

**Sen. Cherargei:** Mr. Speaker Sir, I beg to lay the following report on the Table of the Senate today Thursday 5<sup>th</sup> December, 2019-

The Report of the standing Committee on Labour and Social Welfare, on its consideration of the Petition to the Senate, concerning the clearances required by public bodies on the application for jobs in Kenya.

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

Mr. Speaker, Sir, just to make a few comments on this report. There was a Petition that was given before the Committees recommendation.

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

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

The following are the observations of the Committee-

(1) The public especially students from universities and Technical Vocational and Education Training Centres (TVET) do not seem to be aware of the services offered by the institutions. Civic education and public sensitization services offered by the Kenya revenue Authority (KRA), the Higher Education Loans Board (HELB), the Ethics and Anti-Corruption Commission (EACC), the Directorate of Criminal Investigations (DCI) and the Central Bank of Kenya (CBK) need to be scaled up.

(2) The Committee also noted that the school leaving certificates should be enough and that school leavers should not be required to provide self-declaration forms or a tax clearance certificate.

(3) There should be an integrated system between the Government agencies and the Public Service Commission (PSC) and the Public Service Board (PSB) where documents verification is shared among institutions upon request by the agencies.

The Committee made the following recommendations-

(1) Investigate the need to have clearance by the public service boards scrapped off. The Committee notes that the PSC does not request job applicants for clearance certificates. The Commission gets the clearance from the Government agencies once it has recruited successful applicants.

Madam Temporary Speaker, therefore, there would be no need to tell the applicants to bring the copies yet the PSC normally does the work. The Committee, therefore, recommends that the County Public Service Boards (CPSB) and the County Assemblies County Service Boards follow the example of the PSC as the best practice and source for clearance directed from the Government agencies for successful applicants.

(2) Ensure that all Government job applications are done for free. As far as the Committee is aware, the Government job applications are free of charge and costs are incurred when looking for clearances.

That is why you pay Kshs1, 000 to get the Certificate of good conduct. Therefore, that one should be scrapped. The first recommendation by the Committee will automatically implement the Petitioners second prayer.

(3) Ensure that the Government increases efforts to enhance the employment of youth including doing away of the 16 per cent of VAT on fuel to increase manufacturing in line with the presidential agenda on the Big Four. This requires an amendment to the Finance Act.

Madam Temporary Speaker, even the Building Bridges Initiative (BBI) Taskforce noted that there is a high rate of unemployment in the country and, therefore, we should create more opportunities for young people.

I see that my learned senior, Sen. Wako is agreeing with me, having been one of the authors of the BBI report.

(4) Mandate the Government to focus on vocational training which is in line with Vision 2030 rather than academic degrees. The Government is already focusing on vocational and technical training by offering scholarships and loans through HELB. There are challenges in the uptake of courses and the Committee recommends that the HELB, together with other educational institutions, conduct a sensitization programme that will change the mindsets of the youth towards technical skills.

Most young people think that to make it in life, you must have a degree. However, we are challenging and compelling the Government to give scholarships so that our young people can go to TVET institutions and acquire skills.

The radical proposal is that we need to reduce the retirement age from 60 to 55 years. This requires a policy shift so that we allow many people to retire at the age of 55 when they are still productive and the young people can enter into the job market early.

I know it is not sustainable for the Government because they will need a lot of money for *ex gratia* payment to send the retiring employees home. However, we are recommending as a Committee that we need to look at these issues and ensure that we reduce the retirement age.

The Committee met with the Petitioners together with the following institutions-

1. The Higher Education Loans Board (HELB);
2. The Ethics and Anti-Corruption Commission (EACC);
3. The Kenya Revenue Authority (KRA);
4. The Directorate of Criminal Investigations (DCI);
5. The Public Service Commission and (PSC); and,
6. The Central Bank of Kenya (CBK)

Therefore, the Committee was able to get following commitments from the institutions named above-

(1) The Central Bank of Kenya will work towards enabling first time job seekers to get free initial clearance from the Credit Reference Bureaus (CRB). You know that if you borrow and default on Kshs20 or Kshs 50 you are blacklisted by the money lenders through the CRB.

(2) The DCI is willing to offer the clearance certificate for free once he gets funding from Parliament. This is very important because one has to pay Kshs1,000 to get the Certificate of good conduct. Therefore, I want ask my colleagues that let us assist the DCI to get money so that young people do not have to pay an amount of Kshs1,000 which is very costly for the Certificate of good conduct. This is because they are looking for a job and they do not have money.

(3) The EACC and the HELB will lower their cost of clearance once they digitize their systems from early next year.

Madam Temporary Speaker, the Committee in response to the Petitioners' prayers directs the County Public Service Boards across the 47 counties to follow the example of the Public Service Commission and request for clearance certificates from successful applicants only. You can imagine looking for the Certificate of good conduct, EACC clearance, CRB clearance and many other clearances before applying for a job yet you are not sure that you will get that job. You end up spending your hard-earned cash to get the Certificate of good conduct.

The County Public Service Boards across the 47 county governments should make sure that they operate like the Public Service Commission such that when I apply for a job, for example, in Kisumu County, where you come from, I do not need to look for clearances until and unless I am successful. This is will ensure that when incurring the cost of looking for the clearance, there is value for money. You can imagine looking for the clearance yet you are not sure of being shortlisted.

The Committee also directs the relevant institutions to carry out public sensitization programmes to enhance citizen awareness. That is why when somebody is looking for a Certificate of good conduct, sometimes they do not even know the amount. Some people might end up paying more than the Kshs1,000 because of intimidation in the case where their finger prints had been taken before.

I want to thank the Senators in the Committee of Labour and Social Welfare led by my Chairman Sen. Sakaja and the different agencies that appeared before the Committee for their support. We want to ensure that young people will no longer incur costs on account of clearance when looking for job opportunities.

There are so many challenges that young people in this country face. We should try and minimize them. We should assist them as they tarmac looking for opportunities like tenders and employment.

My parting shot is that I want to call upon the Senate to assist us in this report and also direct various agencies to zero in on the cost of clearances. We want a situation whereby any young person in this country can obtain a certificate of good conduct free of charge. The same should apply to the EACC, HELB and CRB. We need clearance to be

free of charge. If we assist our young people to get these clearances without even paying a shilling, they will be grateful.

I thank you Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. We will now allow a few comments.

Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you Madam Speaker for giving me the opportunity to add my voice to this report on the Petition.

I support this report. I am a Member of the Committee on Labour and Social Welfare and we were actually impressed when the petitioners appeared before the Committee. The petitioners were young Kenyan Citizens. We even had stakeholders like KRA, DCI, EACC and HELB who came on board. It was a good thing for all these stakeholders to come on board because youth unemployment is an issue of great concern in this country. Kenya ranks high in East Africa on the Human Development Index (HDI) with regards to youth unemployment.

It is an issue that really concerns us, as a nation. There were good thoughts from the stakeholders who came. They were also concerned that the youth need to be helped. The conversation went on very well.

Mr. Speaker, in the event of the conversation, it also came out that some Members of the Committee were not aware that the Higher Education Loans Board (HELB) gives loans to Technical and Vocation Education and Training (TVET) students. For TVET the Government gives them loans and pocket money.

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

**The Temporary Speaker** (Sen. Nyamunga): Give her two more minutes.

**Sen. (Dr.) Musuruve:** Thank you. This is a way of giving incentives to young people to go for TVET courses, because at the end of the day, they will be self-employed.

Madam Temporary Speaker, indeed, it came out clearly from the stakeholders that they were keen that fresh students and young people who are seeking jobs should not be obligated to be cleared. Organizations should not be hell-bent that this clearance must be there. Initially, you will find that these are job-seekers. They do not have money, and they have a lot of stress. There is need to help these youth so that eventually, they do not end up failing to get jobs because of clearance, for first timers. Later on when they are going for opportunities or positions that are high on the hierarchy, then, it is possible that they must actually produce the clearance.

Madam Temporary Speaker, this is a good Petition and I would like to encourage the Senate to make a follow up to ensure that youth are facilitated so that they get the clearance that they need in order to get jobs.

Thank you. I support the Petition.

**Sen. Shiyonga:** Thank you, Madam Temporary Speaker, for giving this opportunity to support the Petition by Sen. Cherargei. I would like to start by saying that this is a challenge to Kenyans and the youth.

Clearance required by public bodies on application for jobs in Kenya should be done away with immediately. If you look at the money that these people pay, some of them who are looking for employment are living in poverty. You find that the same people who are being frustrated, when they line up at the Criminal Investigations Department (CID) when they want the certificate of good conduct, many of them do not have transport; they trekked and make that queue to acquire the certificate of good conduct. To make their frustrations worse they do not even have lunch and permanent homes where the headquarters are and yet they are being asked to pay the money.

To make the matter worse, there is the issue of experience for the youth who are seeking job opportunities. Experience is another thing that is frustrating our youth. You get old people being recycled to get the employment that these youth are looking for.

All the payments demanded by the Government from the youth should be done away with. Experience too should be done away with. This is to motivate the youth so that they look at their country as one that fosters and takes care of them.

Madam Temporary Speaker, look at National Youth Service (NYS) where youth they are admitted for free. In fact, they are paid around Kshs500 to get there, but the courses they undertake are free. Why can the Government not adopt the same method and assist these youth so that we can motivate this generation? This generation is suffering. We are educating these children who even go to universities abroad and when they come here, they do not have employment just because they have been asked to get money for payment of some certificates that are not even worth.

The youth need to be encouraged; they should be given opportunities. The old people are being given three to four jobs in this Government. Where is the hope of the youth in Kenya? I am talking because I am a person who is representing people in this Republic and somebody who is working. If I am given another job, what am I going to do with that job, yet I already have job? I am talking on behalf of the youth because I am a mother of the youth. If I educate my child today and he or she is told to pay for a certificate of good conduct and yet he or she has never earned a shilling, where does that child get the money? The child will go back to the same parent who educated this child to get the money. I am feeling it.

I congratulate Sen. Cheragei because our youth need to be taken care of. We should lay off the old people and take our youth on board. We should give them opportunities to take Kenya to a higher level. We are tired of old people being given jobs while the youth are being frustrated.

Thank you. I support the Petition.

**The Temporary Speaker** (Sen. Nyamunga): Senator, thank you for such a deliberate attempt to talk on behalf of the youth of this country.

Sen. (Dr.) Milgo, kindly proceed.

**Sen. (Dr.) Milgo:** Thank you, Madam Temporary Speaker, for this chance to also support this Petition. I used to say that Kenya is a country that has got a large number of unemployed youth. Every year, we are churning out graduates from all institutions of learning, including universities and many others, but we send them to the job market that is not there.

Madam Temporary Speaker, it is quite a challenge. This is because we have few jobs advertised and there are many places that these youth have to pass through despite the fact that they may not be assured of getting those jobs.

Kenya is one of the countries that has got over 40 per cent of unemployed youth. The other time, I said that this country involves itself in selecting very old people and leaving the youth who had been told to work hard in school because they are future leaders.

Madam Temporary Speaker, recently when we were looking at this Petition, we were able to invite the Kenya Revenue Authority (KRA), the Central Bank of Kenya (CBK) and the Credit Reference Bureau (CRB). One very interesting statement made by HELB was that part of these funds that they are collecting, they are again used to fund candidates that are going to join the university. When we further went into details to find out how much the money was, we realized that it was very little money which is not even enough to fund other candidates using a revolving fund.

We advised HELB to go out and look for other sources and avoid punishing students. They went ahead to inform us that normally those who are required are those that do not get HELB. We then asked them why on earth these youth would be forced to go back to HELB, yet in the first place they do not get any funding there.

Madam Temporary Speaker, normally, these youth are in the villages and in most cases, they come to cities to try and find jobs. It is high time that these particular documents are made free.

We are glad that the Governor of the Central Bank of Kenya (CBK) promised us that they will look into the issue of removing Credit Reference Bureau (CRB) clearance from the requirements needed for fresh graduates. The fresh graduates should be exempted from such payment. Some of those requirements scare the youths and it makes it hard for them to get the jobs.

Those youths are already stressed and that is why we have some of them committing suicide. There are few jobs available and for them to get those few positions, they are expected to get the certificates of good conduct from the police. The Huduma numbers should have all these information. One should know about a youth just by pressing a button. The Government should also make those forms available free of charge. The forms should also be decentralized for easy access.

The unemployed youth have a lot of energy and we will stress them and push them to wrong activities such as radicalization and burglary if we do not offer them employment or if we make it difficult for them to apply for the jobs. This is an important Petition and it should be taken seriously by the CBK, the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB) and the CRB for our youth to be able to apply for jobs. They should be able to apply for the jobs in an easy way. An advertised job attracts over 1,000 candidates. It is discouraging to know that one has to pay for a job that they are not sure of getting.

I support this Petition and I thank the Senator for bringing this Petition.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. We now move to the next Petition by the Chairperson of the Standing Committee on Roads and Transportation, the Senator for Kiambu.

**Sen. Wamatangi:** Madam Temporary Speaker, it is Sen. Wamatangi.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Wamatangi, I do know your name, but you are also the Senator for Kiambu County.

Proceed.

REPORT ON PETITION: DELAYED COMPENSATION  
BY NLC TO LAND OWNERS AFFECTED BY ELDORET  
TOWN BYPASS PROJECT

**Sen. Wamatangi:** Madam Temporary Speaker, I beg to present the Report of the Standing Committee on Roads and Transportation on the Petition on the delayed compensation by National Land Commission (NLC) to landowners affected by the Construction of the Eldoret Town Bypass Project in Uasin Gishu County.

The Committee on Roads and Transportation is established under Standing Order No.218(3) of the Senate Standing Orders and is mandated to consider all matters relating to transport, roads, public works, construction and maintenance of roads, rails and buildings, air and seaports. In executing its mandate, the Committee oversees the Ministry of Transport, infrastructure, Housing and Urban Development.

On 27<sup>th</sup> September, 2018, pursuant to the Senate Standing Orders No.226(1)(a) and No. 230(2)(b), the Speaker reported to the Senate that persons affected by the construction of Eldoret Town By-pass road on Eldoret, Uasin Gishu County had petitioned the Senate on delayed compensation by NLC to land owners affected by that bypass project.

The Committee Report is on the Petition on the delayed compensation by NLC to landowners affected by the Construction works of that Bypass Project.

The Petitioners submitted their prayers pursuant to Articles 37 and 119 of the Constitution and guided by the provisions of the Petition to Parliament (Procedure Act) and the Senate Standing Orders.

After the presentation of the Petition to the Committee, this Senate held its *Mashinani* Sittings in Uasin Gishu in Eldoret and the Committee on Roads and Transportation engaged the petitioners at that time. We had several discussions with them and visited the bypass to address the following issues-

(1) Delayed compensation of the owners of the said parcels of land;

(2) Unexplained undervaluation of certain parcels of land;

(3) Phased compensation for the compulsorily acquired parcels of land. The land owners felt that the NLC would chose, in a skewed way, who to pay and what not to pay. The Committee found that some neighbours had been compensated for a parcel of land yet their neighbour has not been compensated. It was the view of the Petitioners that there was favouritism in deciding on who was to be compensated.

(4) There was also the case of illegal compensation of some individuals who did not possess title deeds that would validate their compensation. This was largely pronounced in areas where the people who were compensated were squatters on land that was formerly owned by the Kenya Defence Forces and was now in the hands of the

County Government, but some people had already been paid close to Kshs350 million yet bona fide land owners had not been paid.

(5) There was also an issue on low payments of disturbance allowance to affected landowners.

We engaged on all these and by way of reporting to this Committee, I want to highlight the main issues that we found. We realised that some of the documents issued by NLC, that one would be used to prove that their land had been taken, were actually photocopies. Some of those documents were issued in a hotel or a room in the evening when an NLC officer announced that he had arrived in town and that he had papers that were required for compensation. The officer then returned to Nairobi with a message that the original documents could not be traced.

The prayers of the Petition sought the intervention of the Senate. In particular, the Petitioners sought the following reliefs-

(1) To compel the National Land Commission (NLC) to avail the original award letters in respect to all affected land owners, for purposes of authentication;

(2) Ensuring that the genuine land owners were compensated promptly;

(3) Halting of the proposed construction of the Eldoret Bypass Project until all the affected land owners had been compensated in full; and,

(4) Ensuring that no planned compensation of persons unlawfully occupying Government land would continue.

Madam Temporary Speaker, the delayed compensation was the main issue in what I have highlighted. We had discussions with the affected persons and surveyed most of the parcels of land that were in question. We engaged the NLC and the Petitioners in Eldoret.

We also invited all the petitioners, the NLC, the Kenya Highways Authority (KeNHA), which is the agency under the Ministry of Transport and Infrastructure Development that is mandated to carry out the responsibility of construction of highways. In the engagement, all these issues were thrashed out. We had to make determinations.

One of the determinations we made were that it is not right for property belonging to Kenyans to continue being taken. For the purpose of the record of this House, it is not only in Eldoret, but in several of the ongoing Government projects. We have similar complaints on the construction of the road between Westlands and Limuru Town. In most of the urban centers, people are complaining that they have been rendered jobless and some have been put in serious trouble. This is because buildings that they constructed to rent out to tenants under loans have been marked for demolition. The tenants vacated while those buildings still have loans. Small businesses like salons, super markets and kiosks have been demolished without compensation.

As a Committee, we decided that it is important that we not only reprimand, but also direct that in future, the Government should consider compensation at the conceptualization of a construction project. For example, a Chinese constructor wants to build a road from point "A" to "B" and he is awarded the contract. The cost of constructing the Eldoret Bypass Project, for example, is about Ksh15 billion, and by the time we went to site, the contractor had been paid almost 40 per cent of Kshs15 billion to proceed with the work.

Surprisingly, at conceptualization, all construction costs are taken into account except compensation. The person on whose land the road will lie will have to wait until the Government looks for funds somewhere else. We know the kind of problems that we have with mobilization of resources by the Government. Sometimes you find that county administrators are used to coerce the local people to allow the contractor to access their land and start building on it. The person waits for the compensation and yet the people who are building the road – mostly the Chinese – have new trucks, tractors and people they are paying because they have been paid mobilization fees which equals to 40 per cent of, for example, Kshs15 billion---

Madam Temporary Speaker, we have directed that in the future, conceptualization of such projects must include the element of compensation. This is so that if the award is being given under a structured loan, part of that loan should be inclusive of the amount that will be paid to our local land owners. It is in that respect that we also directed the NLC to treat this matter with urgency.

It was confirmed to us that Kshs300 million was paid and further Kshs400 million was paid. We have been assured that the last amount for the compensation of the people in Eldoret will be paid in the next Financial Year. I also want to inform the House that upon consultations, the Committee is aware that the Government is negotiating a Kshs20 billion infrastructure bond.

We have persuaded the Government that part of these funds should also be used for compensation. Like I said, people in Kitui, the Western Bypass, the road that is being built between Wangige and Ruaka; Westlands and Limuru, are all crying. They have not been paid. We are pursuing that they all be paid as they should, which is their right as enshrined in our Constitution.

On the issue of under valuation, it is on record that there is a lot of collusion with the former officers of the NLC. Sometimes, you find that those commissioners approach a land owner and collude with some of them who are corrupt and overvalue the property. On the other hand, in some cases, if you do not play ball, they undervalue your land. You will find that two neighbours, each with one acre of land, one is compensated at Kshs1 million and the other at Kshs3 million. There is no justification for that. This is the same size parcel of land, in the same locality, and across the road. However, because one did not agree to do a deal with them, their land is undervalued. We ordered that all the compensation awards that had been given must be revised to follow the proper land rates as applicable within those areas.

Madam Temporary Speaker, on the question of halting the project, majority of the Petitioners and members of the public that we engaged with were in agreement that the project is a good one. It will help the area. Halting the project would not necessarily be an advantage of the intended purpose and to the benefit of the local people. After negotiations, we were persuaded that there can be an amicable arrangement. With a guarantee of payment, the project can continue, but that is only after payments have been made.

On the question of phased compensation, we agreed that in the event that the Government does not have enough money to compensate for the entire stretch of the road, compensation can be phased. This means that when the compensation has been

done, the Government should take up the land only where they can pay. This is because if they take all the land, they will value somebody's land at the end of the project and give them a value of say Kshs2 million, and wait for three years before they pay. At the end of those three years, the value of the land will not be Kshs 2 million, it would have appreciated. Other factors would have affected this and by that time the Government will not pay interest.

We directed that the Government should take what they can afford to pay. They should deal with one part and pay fully, and then pay the next phase fully. That will make sure that if they took the land at a certain value, by the time they arrive at point "B", if the value would have gone up, they pay at that value. The key idea is that we make sure that people get fairness.

On the issue of illegal compensation, we directed that there are two forms of compensation. First, people can be compensated for disturbance. Even if you do not have a title deed and run a business within a small project, they still qualify to be called a person affected by the project. There was a misconception that hawkers, people who have small businesses selling fish, *mandanzi* or whatever should be kicked out, although they have made a livelihood along the same corridor.

According to the standards of the United Nations (UN), the truth is that people should be compensated according to what they do and how they are affected by the project. We directed that all the people who had earlier been misjudged to not be worthy of compensation should be compensated as per the requirements of the law. However, the landowners should be paid according to what compensation values for land are.

As I finalize, remember that this House passed the Land Value Index Laws (Amendment) Bill. The question of when, how and how much was clearly addressed by what this House passed.

On that issue of disruption of business, that is exactly what we agreed on, as I have numerated before. The Committee on Roads and Transportation of the Senate has similar Petitions, almost five of them, but we have not yet--- We have discussed and finalized, but where people have not been paid, it is the same spirit that took us to Turkana. You will remember when there were demolitions in Ole Sirkon, along the Standard Gauge Railway (SGR), our Committee went there.

Madam Temporary Speaker, I am happy to report on the issue that first came here, about the demolition of a school in Ole Sirkon when the contractor was blasting that the reconstruction of that school is ongoing and the people were compensated. The long and short of it is; that the duty of this House and the Committees is to put our foot down to ensure that Kenyans get not only value, but also fairness; and that they are treated rightfully according to the laws of this land.

Madam Temporary Speaker, I beg to table this Report.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. We will allow a few comments from a few Members.

Proceed, Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you very much, Madam Temporary Speaker, for allowing me to contribute to this---

*(Sen. Dullo stood up in her place)*

**The Temporary Speaker** (Sen. Nyamunga): You are on your feet, looking for a point of order. Both of you cannot be standing at the same time. What is out of order?

**Sen. Dullo:** Madam Temporary Speaker, I thought that Petitions are normally tabled and not debated. Therefore, I do not know what is happening here.

**The Temporary Speaker** (Sen. Nyamunga): We allowed a bit of that, because as you can see, this is the last day for us to be here and time is on our side. I think we are in a position to do what we are doing.

Proceed, Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you, Madam Temporary Speaker, for that ruling, because it will be so unfair to the people of Uasin Gishu County if I did not say anything.

Madam Temporary Speaker, the Senate has done a wonderful job. I thank the Committee for Roads and Transportation for such a wonderful handling of the Petition. I remember that the petitioners actually came to our sitting in Eldoret, when we had the Senate *Mashinani*. This was a very hot issue at that time in town, and the people were worried about how they were to be compensated. This is because they just saw graders and bulldozers coming in, roads were being constructed and discussions for compensation were not done properly.

Madam Temporary Speaker, I support the proposals that the Committee have made. Although Kshs700 million has been paid, that is almost half of the cost of what the claims are. We urge the Government to move very fast and, through the Committee, ensure that the National Land Commission (NLC) moves as fast as they had promised so as to ensure that, that is done.

Madam Temporary Speaker, as the Committee has said, we have a lot of compensation issues in this country. In Uasin Gishu County, we still have another compensation issue on the Ilula-Targei-Chamingwa Road, which was opened by the President a few years ago. The compensation issues there were again done haphazardly, and only 25 per cent of the people have had their documents passed. What the Committee has said, which is very important and we must underline, is the fact that while the Government is giving mobilization to the contractor, it should also include the compensation aspect.

It is good to compensate people at the beginning so that they can get into their businesses. This is because we are currently having problems because there are people who left their homes, their homes were bulldozed and they were given nothing. Therefore, they have had to spend their own money to build make-shift structures for themselves; and they have waited for two years for compensation.

It is, therefore, with that in mind that I truly support the recommendations of the Committee; that there should be no disturbance of a person before compensation is done. I also support the fact that we need to have both disturbance compensation for those who have just been disturbed, as far as their businesses is concerned. This is because we have seen extension of roads happening where they have removed kiosks; they have left women vendors on the roadside and people do not get to do anything after that.

Thank you for that, Madam Temporary Speaker. I support this Report and I hope that a very quick process will be taken for compensation to be done, and also consider other areas, including the Ilula-Targei-Chamingwa Road.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, it is good to bring to your attention that on committing of Petitions, Standing Order 232 states that:-

“Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty minutes.”

Therefore, comments are allowed. At the same time, a few Members can also be allowed to make observations in relation to the Petition. That is completely in order.

Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me an opportunity to make an observation. I would like to start by thanking the Committee on Roads and Transportation for doing a commendable job. When we look at this Petition, it is very valid because these people are talking about issues of delay of compensation. Compensation should be immediate and it should not be delayed so that the people can organize themselves. This is because by the time this land is being taken, it takes families unawares. Therefore, for them to even heal psychologically and adjust to the new lifestyle, having lost their land, compensation has to be immediate.

Madam Temporary Speaker, the Petitioners also talked about being underpaid in terms of the land. The compensation should factor in the current market value of the land. This is because some of them might have taken loans to buy the land, and they are probably paying for these loans over a period of time, which might be 5 or 10 years. Therefore, there is need to factor the current market value so that families and the loanees are not disadvantaged.

Madam Temporary Speaker, there is also need for the Government to have a plan when they want to take land from someone. They should have a plan so that even if it taking land from a community, it needs to go through public participation. They need to be informed that this land needs to be taken away for the purpose of building roads, because the roads will benefit the community. Therefore, the communities need to be reassured that the land is being taken away from them so that it advantages them; so that they are able to access the roads, develop the area, and all that.

If public participation is done, the people will willingly give the land and opt to stay in different areas. Therefore, there is need for public participation and compensation that is valuable. We need to involve people in whatever is happening because land is a factor of production and it is highly valued. Many families, especially in rural Kenya, depend on land in terms of agriculture, and all that.

Therefore, Madam Temporary Speaker, I support this Petition and I hope that the Committee will work with speed to ensure that these people get their rightful compensation at the market value. Even when they will be getting the compensation, it

should not be done in terms of favoritism. There should be a planned way of compensating the people impartially.

Thank you, Madam Temporary Speaker. I beg to support.

**The Temporary Speaker** (Sen. Nyamunga): That brings us to the end of those observations.

Let us move on to the next Order. We will give the Leader of Majority an opportunity to issue Statement on the Business of the Senate for the week commencing 11<sup>th</sup> February, 2020.

## STATEMENTS

### BUSINESS OF THE SENATE DURING THE THIRD SESSION

**Sen. Dullo:** Thank you, Madam Temporary Speaker. Pursuant to the Senate Calendar approved on the 14<sup>th</sup> February, 2019, the House will be proceeding on recess at the rise of the House today, Thursday, 5<sup>th</sup> December, 2019, until Monday, 10<sup>th</sup> February, 2019.

With respect to the Business of the Senate, allow me to give me a summary of the same for the Third Session.

(1) Bills: a total of 71 Bills were published and introduced in the House. Consideration of eight of the Bills was concluded by both Houses of Parliament and assented to.

A total of 34 Bills were referred to the National Assembly for consideration and are yet to be concluded. Twenty-two Bills are pending consideration before the Senate. Four Bills were withdrawn to allow for further consultation with wider stakeholder engagement before reintroduction. Two Bills are pending before mediation committees.

Nineteen Bills were referred to the Senate by the National Assembly out of which the Senate referred back to the National Assembly 10 bills; two of which were defeated at the mediation process while one other is pending at the mediation stage. Six Bills from the National Assembly are pending conclusion in the Senate. Additionally, there are 28 Bills at various stages of consideration by the House. These include the six Bills from the National Assembly.

Motions: A total of 93 Motions were filed in the Senate. Seventy eight Motions were debated and passed as follows:

(a) 12 Procedural Motions

(b) 2 Motions for Adjournment of the Senate on a definite matter of urgent national importance

(c) 62 substantive Motions including two Motions that debate concluded and are awaiting Division as scheduled in today's Order Paper.

(d) A Motion was negotiated

(e) A Motion was abandoned as it violated the Constitution. In accordance with the established parliamentary practice, 15 Motions will lapse at the rise of the Senate and the respective Movers will be required to re-file them in the next Session.

On the Statements, the House considered Statements as follows: 72 Statements were issued under Standing Order 47(1). 203 Statements were requested under Standing Order 48(1). 16 Statements were issued under Standing Order 51(1)(a). 53 Statements were issued under Standing Order 51(1)(b) and finally, four Statements were issued Standing Order 53.

I take this opportunity to urge respective Committees to process and conclude all the pending Statements during the recess and to report to the House as necessary.

Petitions: 75 Petitions were presented to the Senate and together with the petitions reported earlier this afternoon, the Senate has received a total of 77 Petitions. 28 Petitions were considered by the relevant Standing Committee and reports therein tabled in the House and copies of responses sent to respective petitioners.

Close to 50 Petitions are, therefore, pending conclusion by the respective Standing Committees. The high number of Petitions submitted to the Senate is a testament of the confidence Kenyans have in the Senate to consider their issues and provide solutions. I also urge the respective Standing Committees to use the recess period to expedite consideration of the pending Petitions and table reports upon resumption of the House in the fourth session.

Madam Temporary Speaker, from the above brief, the Senate will resume the next session with its plate already full. Further, much of the business of the House is transacted in the Committees. Bills, Statements and Petitions are all referred to the Standing Committees for scrutiny. I wish to applaud Committees that have submitted reports on Bills and Petitions committed to them. However, the House is yet to receive reports of the committees on the Statements.

While I appreciate that the decision to make a report on a Statement rests with the respective committees, some of the Statements raised on the Floor of this House are very weighty and committees owe it to the House to present reports on them as provided in Standing Order 48(3)(b). This touches on the core of our oversight functions, and in my view, cannot be gainsaid.

Madam Temporary Speaker, in conclusion, allow me to wish Hon. Senators a Merry Christmas and a prosperous 2020 and a good recess.

I, hereby, lay the Statement on the Table of the House.

Thank you.

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

**The Temporary Speaker** (Sen. Nyamunga): Thank you Senator. We are going to defer the first Statement because the Senator for Kwale, Sen. Boy, is not in the House.

THE FLOODS SITUATION IN KWALE COUNTY

*(Statement Deferred)*

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**The Temporary Speaker** (Sen. Nyamunga): Sen. Halake has also requested that her Statement be deferred to a later date.

THE STATUS OF IMPLEMENTATION OF THE MARRIAGE  
ACT, 2014, WITH REGARD TO AMENDMENTS TO THE  
ISLAMIC MARRIAGE CERTIFICATE

*(Statement Deferred)*

**MOTIONS**

REPORT ON THE 14<sup>TH</sup> AGM OF THE INTERGOVERNMENTAL  
FORUM ON MINING, MINERALS, METALS AND SUSTAINABLE  
DEVELOPMENT ON MODERN MINING LAW AND POLICY

**Sen. Mwangi:** Madam Temporary Speaker, I beg to move:-

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 14th Annual General Meeting (AGM) of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development on Modern Mining Law and Policy held in Geneva, Switzerland from 16th to 18<sup>th</sup>, October, 2018.

This was a very interesting AGM in that it taught Kenya a lot of things. From the Conference, it came out that Kenya can very easily sustain itself and its economy with minerals. When you look at this country, we have many minerals. We have gold in the former Western Province; coal in Kitui County; titanium in Kwale, and we have a lot of fertilizer deposits in Nyandarua County.

The Government needs to put a little bit more effort to ensure that the mineral deposits we have in Kenya have been exploited for the purposes of improving the economy of this country.

Today, Kenya is suffering from having an ailing economy and if these minerals are exploited; if the Government puts in some money into mining, the economy can improve. Mining can in itself, sustain the economy of this country, create jobs and make everybody comfortable, economically.

Madam Temporary Speaker, I am pleased to present and share the contents of the Committee's report on the 4<sup>th</sup> Annual General Meeting of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development on Modern Mining Law and Policy. The forum was organised by the IGF secretariat and hosted by the United Nations Conference on Trade and Development (UNCTAD) at the Palais des Nations, Geneva.

The delegation made the following observations: Parliament enacted the Mining Act No. 12 of 2016, which is a fairly robust legislation and current in order to address most of the challenges prevalent in the mining sector. Some of the participants during the forum either had mineral legislations which were not up to date or were in the process of reviewing them in order to align them to the dynamic challenges in the current world.

The IGF guidance, documents for governments on managing artisanal and small-scale mining released in 2017, local contents policy released in 2018 and base erosion and profit sharing depths currently being developed are important tools in the mining sector.

The guidance documents on managing mining for sustainable development, a source book and extracting good practices, a guide for governments and partners to integrate environment and human rights into the governance and the mining sector are important newly launched publications in the mining sector.

Madam Temporary Speaker, community engagement in the mining cycle is important so as to build capacity within communities and in order to create synergy and community participation in all mining activities.

Although mine closure is provided for in Kenya's Mining Act, the subject needs strict regulations. The enforcement by incorporating concepts from guidance documents on mine closure and endorsement of mine closure provisions.

Historic geological data provides a good tool during mining through identification of minerals. Tax incentives for mining companies have been used in other jurisdictions for companies that adopt forest smart approaches in their mining.

Innovation has been used in other jurisdictions during mining. This has had both positive effects and loss of employment. The IGF reviewed training of transfer pricing risk assessment for mining, was forthcoming in Kenya.

Madam Temporary Speaker, it is important for Government to think of how to exploit the mineral deposits in Kenya today. Perhaps, it would be cheaper to give us a better economy than most of the other things that we are engaged in, in this country.

There are some countries in Europe which depend wholly on mining. Since we have big deposits of various minerals in Kenya, it is incumbent upon Government to ensure that this is exploited and will bring up the standards of living of Kenyans.

I beg to move.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Mwangi who is the seconder?

**Sen. Mwangi:** Madam Temporary Deputy Speaker, I will call upon Sen. Halake to second this Report.

**Sen. Halake:** Madam Temporary Speaker, I rise to second this Motion; the Report on the 14<sup>th</sup> Annual General Meeting (AGM) of the Intergovernmental Forum on Mining Minerals, metals and sustainable development on modern mining law and policy.

This is a very important Report for our country as has been highlighted by the Chairperson of my Committee, the Standing Committee on Land, Environment and Natural Resources.

Madam Temporary Speaker, the issue of modern mining is very important especially at this time when sustainable development is key and climate change is threatening our lives and livelihoods.

The Chairman mentioned a lot of minerals in our country that we could extract and that would probably add quite a little bit to our Gross Domestic Product (GDP). As this Senate, one thing we must guard against is for us to engage in modern technology. This is why this AGM is very important because it looks at the modern ways due to sustainability and also because of the participation of communities and the fact that our

minerals and other natural resources must benefit the communities and the country at large, not just inventors and a few people that can perhaps invest in the shares of the exploration or the mining companies.

Madam Temporary Speaker, I am proud of this Senate for having spearheaded very good legislation that is quite modern in its own right. There was registration around the Local Content Bill by Sen. Moi that is modern law governing mineral resource extraction and sharing of resources with local communities.

It also looks at certain climate issues and sustainability frameworks within which modern mining should happen for it not to become a curse on us but to become a source of revenue and wealth creation for ourselves.

Madam Temporary Speaker, there was mention of coal which exists in our country. This is an area that we need to guard against and an area that modern mining should start looking at; whether or not this country should go down the path of coal extraction, given the heavy footprint that coal mining has on our environment and thus becoming very unsustainable. There are arguments that other countries and civilizations were bought on coal mining. However, we do not have to go through that path to rubbish what we can do with renewable energy and other energies.

On that note, I would like to congratulate our country because the energy mix is renewable. For a country like ours which is still developing but still taking that right to manage and to contribute to sustainable and good environment for our future generations, it is very commendable.

Therefore, I stand to support and hope that in future, as we look at modernizing our laws, we look at all aspects, not just in mining and mineral extraction but all our laws should start looking at issues of sustainability, public participation, issues of our communities benefiting from the proceeds as opposed to becoming just extracted and, therefore, the mining does not become just an extractive industry but an industry that creates wealth and prosperity and also does not bring conflict on our borders.

I thank you. I support and second this Motion.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I do not see any further interest. I would like to request the Mover to reply.

**Sen. Mwangi:** Madam Temporary Speaker, I thank Sen. Halake for seconding this Motion. This is a very important Motion. I wish the House was full because I believe many people could have had interest in talking to this Motion.

Minerals are very important. As I said before, there are several countries in Europe whose economy is based on minerals. It is just coming to the realization of Kenyans that now they have a lot of minerals.

This is because of the research that has been done and exploration that has been done. I believe that if the minerals are properly extracted and proper marketing of the minerals is done, Kenya can be a first world because we have a lot of minerals. We only need to put a little bit of funds into the industry, extract the minerals, get market for the minerals and Kenya would be one of the richest countries in this world.

Madam Temporary Speaker, therefore, as I had said before, I thank the contribution of Sen. Halake and I beg to move.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, this Motion does not concern counties. I will, therefore, put the question.

*(Question put and agreed to)*

Let us move on to the next Order.

NOTING OF REPORT OF THE 18<sup>TH</sup> MEETING OF CITES  
OF WILD FAUNA AND FLORA CONFERENCE OF PARTIES

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

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 18<sup>th</sup> Meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of Parties (CoP 18) held in Geneva, Switzerland from 17<sup>th</sup> to 28<sup>th</sup> August, 2019.

Madam Temporary Speaker, this Conference was held in Geneva in August, 2019. This was one of the most interesting conferences that I have attended in my lifetime.

We are talking of CITES and the international trade on endangered species. Kenyans concentrated more on the elephant. It was interesting that most of the countries attending this Conference were for the trade of the elephant trophies not being sold. It was also interesting that some few African countries like South Africa, Zimbabwe and others in the southern part of Africa, were not for the idea.

There are some countries which had lots of stocks. China used to trade in elephant tusks, but they have since stopped. There were one or two other countries which were interested to continue because they were claiming that they had big stocks in their country and they wanted to use them for trade. However, Kenya warned that the trade was only allowed in those few countries in South Africa. The rest of the world, kind of, declined to continue with the trade.

Madam Temporary Speaker, elephants promote tourism in this country. Without them, I do not think we could be having the magnitude of tourism that we have in Kenya. If you go to the Maasai Mara National Reserve, the coast, Taita, Samburu and Isiolo, you will find many elephants. Tourists are normally interested in seeing the elephants. If the trade is allowed, Kenya will suffer. I can call it a big score because Kenya succeeded in protecting its interest.

The 18<sup>th</sup> Meeting of CITES of world fauna and flora CoP 18 that was held in Geneva, Switzerland from 17<sup>th</sup> to 28<sup>th</sup> August, 2019 is an international agreement in which States adhere voluntarily. States that have agreed to be bound by the Convention are known as parties. This provides a framework to be respected by each party which has

to adopt its own domestic legislation to ensure that CITES is implemented at the national level. CITES membership currently starts at 183 parties.

Kenya's participation at CITES Cop 18 was coordinated by the Ministry of Tourism and Wildlife, State Department of Wild Life. The country's delegation was led by the Chief Administrative Secretary, Hon. Joseph Boinet. He had prepared eight proposals which were agreed on for submission by 24<sup>th</sup> December, 2018 for the consideration of Cop 18. He had submitted proposals in favour of protection of various proposals such as the *Holothurian spp* in Appendix II. This is a joint submission with the European Union (EU).

Madam Temporary Speaker, Kenya was successful in all the five proposals except the first one on re-establishing a complete ban on the international ivory trade by placing all African elephants on Appendix 1. That is to say the African elephant was upgraded from Appendix II to Appendix I which in my view was a success. However, Namibia and Zimbabwe who were seeking to remove elephants from Appendix I and allow international trade in ivory were also unsuccessful.

The Committee observed that Kenya has a very good reputation internationally in terms of lobbying for the protection of wild species of animals and plants. However, these efforts were hampered by their domestic reputation especially the Ministry's relationship with communities that are living next to or inside the wildlife parks and game reserves. This was essentially due to the human-wildlife conflict.

The Committee recommends that the Ministry of Environment and Natural Resources should intensify lobbying for more funds with the National Treasury and Planning, and the National Assembly Committee on Budget to allocate more funds for compensation to victims of human-wildlife conflict and also revive the compensation committees.

The Committee further recommends that county governments, through their Committee Executive Members (CECs) in charge of Environment and Natural Resources should implement the 10 per cent forest cover policy and encourage the conservation of these endangered species of wild animals.

Madam Temporary Speaker, we realise the forest cover in Kenya is very small. It is just 6 per cent. In other countries, you find forest cover going to 60 to 66 per cent.

Madam Temporary Speaker, you will realize that as far as forest cover in Kenya is concerned, it is very small; we only have six per cent. You will find forest cover going to 60 or even 66 per cent in other countries, yet we are struggling to upgrade it to 10 per cent in Kenya. It is, therefore, necessary that we deal with this issue of forest cover, and ensure that we have even gone beyond the 10 per cent that we are anticipating to achieve.

Madam Temporary Speaker, that is the Report. Thank you. I call upon Sen. Halake to second.

**Sen. Halake:** Thank you, very much, Madam Temporary Speaker. I rise to second and support the Report on the 18<sup>th</sup> Meeting of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), or as it is commonly known, the Conference of Parties (COP 18).

Madam Temporary Speaker, I am a conservationist and one of the things that I am proud of in my country is that this country conserves endangered and other species like

no other country in the world. These endangered species are of global significance, not just for Kenya. Therefore, this country serves the global community very well when it comes to the conservation of our wildlife, flora and fauna. CITES is a very important annual gathering for conservation, especially with regard to trade in endangered species.

Madam Temporary Speaker, with that said, there is a lot of push by certain countries to ensure that certain stockpiles, especially tusks, are given a one-off trading license or things like that. However, as Kenya, we have always said that this would then spur other illegal activities or black market activity for trade in endangered species. It would consequently then decimate the last animals on earth.

Madam Temporary Speaker, there is not country in the world, other than perhaps in parts of Namibia, where the animals – especially the big five and other endangered species – live in the wild. Places such as Southern Africa – even though they sometimes say that they want to trade in some of their stockpiles – the Kruger National Park, for instance, is a big zoo. It is only in Kenya that our animals live in the wild, the way God intended. Of course, that is also under threat.

The number one threat to endangered species right now is not even the trade in endangered species, but the loss of habitat due to population explosion, blockage of natural habitats and immigration corridors of the animals. That is an internal issue that we are dealing with, but internationally, the trade in endangered species is one that this country has dealt very well with. We have been able to move certain species, such as elephants, from Appendix 2 to Appendix 1, which is basically then helping us not to have even a one-off trade in endangered species or animal tusks.

Madam Temporary Speaker, the most important thing for us, as a country, even as we go to international fora to negotiate and to make sure that our endangered species are taken care of is this. Here at home, the number one factor that, in my opinion as a conservationist, would help endangered species is the communities that host these animals. As the Chairperson of the Senate Committee on Lands and Natural Resources, Sen. Mwangi Githiomi, has just presented, our communities, for instance in Isiolo, Maasai Mara, Narok, along the Coastal belt, along Emali and even in the Nairobi National Park, host wildlife.

These communities share in the benefits of conservation of these species. They will definitely make sure that they are not endangered anymore, and that they protect them. This is why, as a Committee, we have spearheaded certain contributions by the Government through budgetary and other capacity support to communities that are hosting these wildlife. These communities bear the brunt of human-wildlife conflict, as it has been said; and they are the ones who are conserving even more than the Government protected areas.

Madam Temporary Speaker, it may be interesting for the country to note that almost 70 per cent of the species, both endangered and non-endangered, live outside Government protected areas. Non-Government protected or community areas form a very big component of conservation, especially because of the dispersal areas as well as communities hosting the wildlife. This is especially in Northern Kenya, where pastoralism works hand in hand with animals and conservation in community conservancies.

Madam Temporary Speaker, I congratulate our country for participating in the Cop18 international for and for getting all proposals through. Back home, the number one factor that would ensure that our species – both endangered and non-endangered – survive and are preserved for posterity, is that we compensate or support communities to share in the benefits of conservation. I know that this House has stood up to be counted in this regard where, as I said earlier, very progressive and modern laws in terms of resource sharing with communities that host wildlife and other endangered species have been formulated.

Madam Temporary Speaker, when we go out into our national parks to see the animals, we think that they are very many. However, if you are told how many of elephants exist within the borders of our country, you will be shocked to note that from a high of hundreds of thousands, we now barely have 50,000. The latest aerial survey came up with about 35,000. We may think that they are very many because we go to a place and we see a few of them, but they are not that many. Although we are now building back the numbers, 70 per cent has already been decimated. This should tell us that even internally in the country, we should start looking at how to conserve and make sure our animals are not endangered.

Madam Temporary Speaker, we have hundreds of the black and white rhinos. The Hirola is endangered and at some point, we only had 47 of them in the whole country. These are, therefore, serious issues because we conserve these animals for posterity, and they are the last wildlife and flora and fauna on earth. Therefore, we, as a country, should be supported both by the international community and, in turn, our country should support the communities that are bearing the brunt of conservation. We should also make sure that our country does not end up being one of the countries where we start talking about, “We used to have elephants or lions.”

Madam Temporary Speaker, there are only 2,000 lions in our country. I know we pride ourselves, and even our coat of arms have lions. However, I am not sure if we will have our lions on pictures only, or even just breathing. It is serious, and the issue of endangered species is something that we, as a country, must think through.

We must make sure that we look at innovative ways of conservation that involve the people. As a country, we should be doing everything from multiple angles internally, and from the international community, as we have done at the Cop18, as you have been told. We must also start putting our resources in conservation and not expect international donors and community to take care of the animals within our borders.

Madam Temporary Speaker, I know that the issue of compensation has been mentioned. However, if we start giving communities support, to begin with, even compensation will become irrelevant. This is because communities will not even be asking for it since they will feel like they own the animal.

In terms of the forest cover, yes, it is pathetic that we do not even have the basic 10 per cent. However, as we have said, we need to make sure that our communities are involved in the issue of forest cover. Some of the places in Northern Kenya actually have more than 50 per cent forest cover. They may look bare, but the indigenous forests that were there at the beginning of time are still there. These are some of the things that we need to make sure that the indigenous forests are conserved. Sometimes the introduction

of species that are invasive, as what we have seen with *Mathenge* weed in the name of trying to provide cover, may just be more detrimental to the environment than others.

We must start looking at our population. The idea of tyranny of numbers where people want to have as many children as possible may not be sustainable.

I thank the Committee for sending a representation in this important forum. I look forward to the Committee highlighting what they have learnt for us to domesticate some of these things. We should support our communities in the conservation exercise because endangered species are important to the communities in terms of sustainable development. In Northern Kenya, pastoralism goes hand in hand with conservation.

I support and second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): I will give this opportunity to Sen. Ndwiga, the Senator for Embu.

**Sen. Ndwiga:** Thank you, Madam Temporary Speaker. I support the Motion by the Committee Chairperson. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an important international organization. It is important to mention that human beings never learn. If you look at the history since creation you will realize that a number of animals have become extinct. One has to go to the museums to see skeletons of animals that used to roam this world.

It will be extremely irresponsible for human kind to allow the future generations to wonder how an elephant looked like. I urge the countries that are opposing the ban on trade of animal trophies to take a hint from what Kenya has done. Kenya banned ivory trade and it has fought to defend our elephants. One cannot say that their only source of income is ivory tusks. In fact, God will punish countries that depend on ivory trade as their source of income. The CITES meeting is extremely important for mankind and all nations should support CITES convention and they should take heed.

Madam Temporary Speaker, God did not create these animals by accident. Can you imagine if one day all the hyenas decided to eat and finish humankind? As a result of that, future generations coming after us will be told there used to be people; I think they will be hyena generations and not human generations because we will be gone. God created these animals and left the animals to roam the world. God created human beings to take care of his creations. In so doing, it is absolutely irresponsible of mankind to destroy and not protect what God created.

I do not want to repeat the very eloquent presentation given by my Chairperson, Sen. Halake.

I wish to support.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I do not see more interest on the Motion. I, therefore, call upon the Mover to reply.

**Sen. Mwangi:** Madam Temporary Speaker, I thank the Secunder and those who have contributed to this Motion. They have given an indicator of how important our wild animals are, starting with the elephant.

This was the same emphasis that was in Geneva. Several countries emphasized the importance of the elephant, including China which was trading with elephant tusks.

They said that the animal should be reserved for tourism other than trade. I thank those who are supporting that there should be no trade on elephant tusks.

I beg to move.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, this Motion does not concern counties. I will, therefore, put the question.

*(Question put and agreed to)*

Hon. Senators, I would like to defer Order Nos.19, 20, 21 and 22 to a later date because I do not see the Movers in the House.

NOTING OF REPORT OF THE 12<sup>TH</sup> SESSION OF THE CONFERENCE  
OF PARTIES TO THE CONVENTION ON THE RIGHTS OF PWDs

THAT, the Senate notes the Report of the Standing Committee on Labour and Social Welfare on the 12<sup>th</sup> Session of the Conference of Parties to the Convention on the Rights of Persons with Disabilities held at the United Nations Headquarters in New York, USA from 11<sup>th</sup> to 13<sup>th</sup> June, 2019.

*(Motion deferred)*

ADOPTION OF REPORT ON INQUIRY INTO PROJECTS  
UNDERTAKEN BY KENYA MARITIME AUTHORITY,  
KENYA FERRY SERVICES AND NATIONAL  
SOCIAL SECURITY FUND

THAT, the Senate adopts the Report of the Standing Committee on Roads and Transportation on its inquiry into projects undertaken by the Kenya Maritime Authority, Kenya Ferry Services and the National Social Security Fund, laid on the Table of the Senate on Thursday, 21<sup>st</sup> November, 2019.

*(Motion deferred)*

NOTING OF REPORTS ON THE VISITS TO THE MALABA  
INTERNATIONAL BORDER POINT AND THE  
KIBWEZI-ATHI-MUTOMO-KITUI ROAD PROJECT

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

*(Motion deferred)*

## **BILL**

*Second Reading*

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

*(Bill deferred)*

Let us move to the next Order.

**Sen. Mwangi:** On a point of Order, Madam Temporary Speaker, the other Motion is supposed to be for Brazil. I had moved the Motion and it was approved by this House last week.

## **MOTION FOR ADJOURNMENT**

ADJOURNMENT OF THE SENATE PURSUANT TO THE  
APPROVED CALENDAR FOR THE 2019 SESSION

**Sen. Mwangi:** Madam Temporary Speaker, I beg to move the following Motion- THAT, pursuant to Standing Order No.28 and No.29, the Senate do adjourn until Tuesday, 11th February, 2020.

This Senate has sat for the whole Session which was very interesting. Senators would love to have some leave to go and prepare to handle the Fourth Session. It is imperative that Senators be given time to go for recess, stay and exchange with their electorate and do whatever they could not do when they were sitting during the Third Session; so that they can then prepare for the Fourth Session.

I believe that by the time they come back, they will have had enough preparation and they will be able to help this nation by way of contributions and working for the people of Kenya.

I beg to move.

**The Temporary Speaker** (Sen. Nyamunga): Senator, who is seconding the Motion?

**Sen. Mwangi:** I call upon Sen. Halake to second.

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

**Sen. Halake:** Thank you, Madam Temporary Speaker, I rise to second the Motion that the Senate adjourns until Tuesday, 11<sup>th</sup> February, 2020 at 2.30 p.m., pursuant to Standing Order Nos. 28 and 29 of the Senate Standing Orders.

Allow me to take this opportunity to congratulate the House for this last and very intensive Session and a very successful year for the Senate. A lot of very good Bills have been moved by this House and we have had a lot of community engagements.

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As the Senate Majority Leader has laid out, the work that this House has done, I cannot help but be proud that I am serving in the Twelfth Parliament at the Senate.

Madam Temporary Speaker, the work of a legislator does not end in the Chamber as you know. So, I wish our colleagues all the very best as they now move to their counties to engage with their electorate as well as other stakeholders in their various responsibilities.

I also wish them a very good Christmas and new year as they go to their counties and continue to serve this nation even while on recess.

As I said, there is a lot of work that is overflowed. I know that even in our Committees there are certain plans perhaps to do one or two things while we are on recess. I hope that the Senate will also allow some of these things so that the workload in the coming Session does not become overwhelming as has been during this Session.

Madam Temporary Speaker, I know that many times, stakeholders sometimes feel that Members of Parliament have adjourned early but as you know, Members of Parliament work 24/7. There is nothing like recess because the recess only means that you do not come and debate in the Chamber but the work continues in very many places including counties and other engagements both here and perhaps internationally.

I take this opportunity to wish all the Senators a very fruitful recess and all the very best as they execute their mandate and serve this country even outside of this Chamber.

I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, before we adjourn, I have a message from the National Assembly.

*(Interruption of debate on Motion of Adjournment)*

## MESSAGE FROM THE NATIONAL ASSEMBLY

### PASSAGE OF VARIOUS BILLS BY THE NATIONAL ASSEMBLY

**The Temporary Speaker** (Sen. Nyamunga): Hon Senators, I wish to report to the Senate that, pursuant to Standing Order No. 41 (3) and (4), I have received the following Messages from the Speaker of the National Assembly regarding the passage by the Assembly of the Early Childhood Education Bill (Senate Bills No. 26 of 2018), the Office of the County Attorney Bill (Senate Bills No. 3 of 2018) and the Petition to County Assemblies (Procedure) Bills (Senate Bills No. 22 of 2018)-

(i) Passage of the Early Childhood Education Bill (Senate Bill No. 26 of 2018)

PURSUANT to the provisions of Standing Order Nos. 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Early Childhood Education Bill (Senate Bill No. 26 of 2018) was passed by the Senate on Wednesday, 22<sup>nd</sup> May, 2019 with amendments and referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly passed the said Bill on Thursday, 21<sup>st</sup> November, 2019 with further amendments, attached therewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order No. 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

(ii) Passage of the Office of the County Attorney Bill (Senate Bill No. 3 of 2018)

“PURSUANT to the provisions of Standing Order No. 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Office of the County Attorney Bill (Senate Bill No. 3 of 2018) was passed by the Senate on Thursday, 3<sup>rd</sup> October, 2018 with amendments and referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly passed the said Bill on Thursday, 21<sup>st</sup> November, 2019 with further amendments, attached therewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order Nos. 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.

(iii) Passage of the Petition to County Assemblies (Procedure) Bill (Senate Bills No. 22 of 2018)

PURSUANT to the provisions of Standing Order Nos. 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

“WHEREAS, the Petition to County Assemblies (Procedure) Bill (Senate Bills No. 22 of 2018) was passed by the Senate on Thursday, 3<sup>rd</sup> October, 2018 with amendments and referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly passed the said Bill on Thursday, 21<sup>st</sup> November, 2019 with further amendments, attached therewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders No. 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

(iv) Passage of the Public Finance Management (Amendment) Bill, (National Assembly Bill No. 51 of 2017)

PURSUANT to the provisions of Standing Orders No. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

“WHEREAS, The Public Finance Management (Amendment) Bill, (National Assembly Bill No. 51 of 2017) was published *vide* Kenya Gazette Supplement No. 195 of 29<sup>th</sup> December, 2017 as a Bill concerning county governments, to provide for the proper management of public finances by the National and county governments;

AND WHEREAS, the National Assembly considered the Bill at the Committee Stage on Wednesday, 20<sup>th</sup> November, 2019 and passed the said Bill on Thursday, 21<sup>st</sup> November, 2019 with amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No. 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration.”

(v) Passage of the National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019)

PURSUANT to the provisions of Standing Order No. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

“WHEREAS, the National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019) was published *vide Kenya Gazette Supplement No. 43 of 5<sup>th</sup> April 2019* to provide for the establishment of the coordinating Committees and management of the National Drought Emergency Fund;

AND WHEREAS, the National Assembly considered and passed the said Bill without amendments on Tuesday, 10<sup>th</sup> September 2019 in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No. 41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.

Hon. Senators, Article 112 (1) (b) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.

Hon. Senators, in this regard, I direct that-

- i. The Standing Committee on Education considers the National Assembly amendments to the Early Childhood Education Bill (Senate Bills No. 26 of 2018) and report to the Senate; and
- ii. The Standing Committee on Justice, Legal Affairs and Human Rights considers the National Assembly amendments to the County Attorney Bill (Senate Bills No. 3 of 2018) and the Petition to County Assemblies (Procedure) Bill (Senate Bills No. 22 of 2018) and report to the Senate.

Further, pursuant to Standing Order No.159 (1) of the Senate Standing Orders, I also direct that the National Assembly amendments to the said Bills be circulated to all Senators and be listed on the Order Paper for consideration when the Senate next meets.

Hon. Senators, Standing Order No. 157 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 139.

In that regard, I direct that the Public Finance Management (Amendment) Bill, (National Assembly Bill No. 51 of 2017) and the National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019) be read a First Time when the Senate next meets.

I thank you.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, we have come to the end of this Session. I join the Speaker in congratulating the Senate for the work that we have done this year.

The Senate Majority Leader has already listed all the legislative work that we did this year. I take this opportunity to wish each and every one of us a merry Christmas and a prosperous 2020.

It is now 6.38 p.m., time to adjourn the business of the Senate. The Senate, therefore, stands adjourned until Tuesday, 11<sup>th</sup> February, 2020, at 2.30 p.m.

The Senate rose at 6.38 p.m.