

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 19<sup>th</sup> February, 2020

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

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

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM KISII COUNTY ASSEMBLY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge in the Speaker's Gallery this afternoon, a visiting delegation from Kisii County Assembly. The delegation consists of Members of the Powers and Privileges Committee of the County Assembly, who are undertaking an exposure visit on the operations of the Senate Powers and Privileges Committee.

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

They are -

- |                                 |   |                  |
|---------------------------------|---|------------------|
| 1. Hon. Margaret Bonareri Atina | - | Vice Chairperson |
| 2. Hon. Grace Ogonda            | - | Member           |
| 3. Hon. Kennedy M. Mainya       | - | Member           |
| 4. Hon. Duke Samuel Nyarango    | - | Member           |
| 5. Hon. Timothy Okiomeri Ogugu  | - | Member           |
| 6. Hon. Joyce Kwamboka Ombasa   | - | Member           |
| 7. Hon. Ibrahim Ongubo Mose     | - | Member           |
| 8. Hon. Samson Mogusu Abuga     | - | Member           |
| 9. Hon. Harriet Kerubo Ongera   | - | Member           |
| 10. Hon. Geoffrey Ombui Ombati  | - | Member           |
| 11. Hon. James Mogoia Omare     | - | Member           |
| 12. Hon. Zablon Muruka Mokuia   | - | Member           |

They are accompanied by –

- |                       |   |                            |
|-----------------------|---|----------------------------|
| 1. Mr. Jacob Onkeo    | - | Head of Committee Services |
| 2. Mr. Bosire Nyakeya | - | Deputy/ Committee Services |

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|-----------------------|---|------------------------|
| 3. Mr. George Omari   | - | Head of Budget Office  |
| 4. Ms. Naomi Ogero    | - | Senior Clerk Assistant |
| 5. Ms. Norah Bosibori | - | Committee Clerk        |
| 6. Ms. Nancy Nyaata   | - | Clerk Assistant        |
| 7. Mr. Moses Obata    | - | Clerk Assistant        |

*(Applause)*

On behalf of the Senate and my own behalf, I welcome the delegation to the Senate and wish them well for the remainder of the visit.

I thank you.

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

**Sen. (Prof.) Ongeru:** Thank you, Mr. Speaker, Sir. Let me also add my voice to welcome the Members of County Assembly (MCAs) from Kisii County and their support staff who have come to benchmark with the Senate and Committees on how we carry out our business.

I am extremely delighted that they are here at a time when, this morning, we religiously and dutifully went through the Budget Policy Statement (BPS) and various Committees were sitting. Particularly, the Committee on Education where I sit, is dealing with the Bill on Early Childhood Development Education, which is so critical in the establishment of the ECDE centres in accordance with the law. I think once this Bill becomes law, they will be able to apply and use it because it will be very important and useful for the running of the county.

One of the reasons they are coming here is primary oversight. The county assemblies should be able to see how things are being done at the county level. We only pick them up here when they come through the Auditor General's report, and are able to compare notes. There are many issues that you can clear and do at the county level. I am glad that you are here today.

Sit patiently and listen to what is going on in this Senate. I am sure you will find very useful comments that will help you in your day to day responsibilities. I am happy and from the reports I get from the ground, and when I visit you, you are doing a wonderful job.

I thank you.

**Sen. (Dr.) Lang'at:** Thank you, Mr. Speaker, Sir, for also giving me this opportunity to join you in welcoming the delegation from Kisii County to what I would rather call their home. They are my neighbours and we have interacted with most of them. I congratulate them for coming here to benchmark.

I encourage them to support the Senate on matters oversight in our counties. The greatest challenge that the Senators face sometimes is when the MCAs go to bed with the executive of the counties, hence making our work very difficult. I encourage them to continue supporting the Senate. This is because we normally go there during weekends and most of the things happening on the ground might not easily reach our side. I urge

them to support the Senators in highlighting areas where the county executives might not be doing right.

Mr. Speaker, Sir, I join you in welcoming them and tell them to continue doing the good work that will support the Senate from down there.

Thank you.

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir, for allowing me to also join my colleagues in welcoming the delegation from Kisii County. Welcome to the Senate. We look forward to having you here and encourage you to learn as much as possible.

I serve in the Powers and Privileges Committee here in Senate. As you perform your duties and learning, I will encourage you to remember that your work in the Powers and Privileges Committee is delicate, and you have to apply yourselves with a lot of wisdom and conscientiousness.

I wish you all the best in your endeavours.

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

**Sen. (Dr.) Mwaura:** Thank you, Mr. Speaker, Sir. I rise to also welcome the distinguished MCAs. We have not had any quarrels or unbecoming behaviour from Kisii County. That shows that the quality of the MCAs who are there is high.

The Committee they sit in is about discipline, powers and entitlements to Members. Therefore, they have a lot to learn.

I always say devolution is a revolution. There are serious challenges of institutional development with regard to oversight. As we interact with the Hon. Members, we should hear the legislative proposals they have that would help tighten the nuts around accountability.

Mr. Speaker, Sir, I welcome them.

**Sen. Madzayo:** Asante sana, Bw. Spika, kwa kunipa nafasi hii ili niweze kujiunga na wewe kuwakaribisha waheshimiwa waliofika hapa kutoka Bunge letu la mashinani la Kisii.

Ninaimani kwamba muda ambao wametumia hapa kujifundisha na kujionea, watarudi nyumbani ili wakaweze kuendeleza Kisii County kwa yale mafunzo waliyoyapata hapa. Hapa Seneti tunajivunia jabali mkongwe wa kisiasa aliyekomaa kisawasawa ambaye sisi tunamsifu sana, Sen. (Prof.) Ongeru, kwa uhudumu wake wa kuhudumia watu wa Kisii katika Seneti.

Kitu ambacho nataka kuambia Waheshimiwa ni kwamba Katika zile kura sita mlizopiga, kama kuna moja muhimu mliyofanya, nyinyi kama wabunge wa Kisii, ni kura ya kumpigia Sen. (Prof.) Ongeru.

Bw. Spika, najiunga na wewe kuwakaribisha na ninahakika kuwa watakaporudi nyumbani watakuwa wamejionea wenyewe kwamba hapa hata akina mama walioko hapa tumewapa vyeo kama wenyekiti na naibu wenyekiti. Kwa mfano, Sen. Dullo ni Mwenyekiti wa Managed Equipment Services (MES), *special Committee* ambayo ilitengenezwa na *Senate*. Vile vile, yeye ni wakili na naibu wa Kiongozi wa Walio wengi Katika *Senate*. Kwa hivyo, ninahakika kuwa watakapo rudi nyumbani, dada zetu wengine watapelele nafasi waweze kuchukua nyadhfa kama hizi.

Asante.

**Sen. (Dr.) Lelegwe:** Thank you, Mr. Speaker, Sir. I join you and the Senator for Kisii County in welcoming the Members of the County Assembly of Kisii and staff.

I stand here to congratulate them for working well with your Senator unlike other county assemblies where they have decided to work well with their governors despite the poor service delivery in their counties.

Hon. Members of the County Assembly, you need to note that the people of Kisii County and the people of Kenya owe us, the Senate and the county assemblies, the responsibility of doing oversight and ensuring service delivery is effective in all our counties.

We now have a precedence where we, as Senate and the county assemblies, can work together to impeach governors who are not performing. I encourage you and call upon all of you, as Members of the County Assembly and staff, to work well to see that services are rendered effectively through your oversight and representation.

Thank you.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I join you and our brother, Sen. (Prof.) Ongeru from Kisii County in welcoming the delegation of our colleagues from the County Assembly of Kisii.

Kisii is very dear to me because I worked there in my early life as a magistrate. Secondly, the able deputy leader of my party, hon. Momoima Onyonka, is from Kisii. We have visited Kisii many times and we know the MCAs whose names you have read, as we have been in public meetings together. I welcome them to the Senate to learn what they can but to know that our role and their role in oversight are complementary.

They practise and deal with primary oversight. I want to encourage them that in their oversight work, being the first encounter on the management of the county, embrace a doctrine called budget tracking; that once a budget is passed, you engage fully in periodic checks to see that the money you have budgeted for and approved in appropriation is put to good use.

Mr. Speaker, Sir, as we speak today, one of the biggest threats to devolution in Kenya is governors because of lack of proper accountability and respect for public resources. I am not singling out any governor but many of them are unaccountable. I want to encourage the MCAs that devolution is the biggest dream that the people of Kenya have ever realised through the Constitution of Kenya 2010.

Please do help them to enjoy the fruits and content of that dream. Thank you.

**Sen. Pareno:** Bw. Spika, ningependa kushukuru kwamba tumepokea *County Assembly* kutoka Kisii, nawakaribisha. Ningependa kusema kwamba kuna taarifa tuliyoipata wakati mwingine kwamba kuna mjadala Katika *County Assembly* ya Kisii kwamba akina mama ambao wameteuliwa walikuwa wanadhulumiwa; kwamba hawawezi kwenda kwa wodi kwa sababu wameteuliwa na hawana haki kwa sababu hao wameteuliwa.

Nmefurahi sana kuona ndugu zetu kutoka Kisii ambao wanatoka Katika *Committee of privileges* na haki za wabunge. Ombi langu ni kwamba mkirudi nyumbani tunataka kusikia kwamba *County Assembly* ya Kisii wako mbele katika kushughulikia

haki za kina mama na wabunge wenzao. Tutafurahi sana tukiona kwamba nyinyi kama Kamati inayoshughulikia haki za wabunge mtakuwa mmeshughulikia jambo hilo.

Tumefurahi mmefika na mtapata masomo mazuri hapa Seneti kwa sababu sisi kama wabunge akina mama tuna haki zetu na tunataka mfuatilie na kusema kwamba mtashughulikia haki hizo.

Asante, Bw. Spika.

**The Senate Minority Leader** (Sen. Orengo): Thank you, Mr. Speaker, Sir. Let me also join you in welcoming the delegation from Kisii County who are ably represented by the distinguished parliamentarian, Sen. (Prof.) Ongeru.

Being a delegation of Members of the County Assembly, you are our brothers and sisters because the Constitution provides that the legislative authority of the Republic is delegated by the sovereign who are the people to Parliament which consists of the Senate, National Assembly and the county assemblies. Therefore, you are part of the legislative structure in our country although at a devolved level.

For that, we are hoping that as we move on with project devolution, that you will continue to assert your authority. If you look at the Constitution, the county government consists of the county assembly and the county executive. In the mind of the framers of the Constitution, the county assemblies came first and the county executives second.

Therefore, you have a huge responsibility at the county level. As we negotiate for more funding to go to the counties, you will have more daunting tasks to oversight the money that is given to the great county of Kisii.

The only issue I would like to mention in appreciation of the Kisii people is that there was a time I was arrested in Kisii. I spent a week in the police station and nearly the whole town came to demand for my release. When they could not hold me anymore, they took me to another town in Kisii called Ogembo forgetting that, that is also in Kisii. So, when they took me there, the people came as well. I was taken away from there to Kilgoris. While there the Masai people turned up in a big number. So, eventually, they had to withdraw the case. So, I urge you to protect democracy at the national Government and county level. Never let it go.

Finally, the first Building Bridges Initiative (BBI) rally was in Kisii and you set the process well. The county assembly was involved and your representative spoke both at the leader's meeting and at the rally.

I hope that you will continue to do the good work that you are doing. You have produced some of the best legislators in this country over time. I will not mention their names but one of the greatest legislators you have produced is Sen. (Prof.) Ongeru. He has been in the National Assembly, the Senate, in the Foreign Service as a diplomat and in the Cabinet as Minister for Foreign Affairs and Minister for Education. So, we are proud of you and your sons.

**The Speaker** (Hon. Lusaka): Hon. Senators, I see a lot of interest. However, I seek your indulgence because we have other key matters. Allow those that have acknowledged the delegation to represent all of us.

We move on to the Next Order.

**PAPER LAID**REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO  
THE 7<sup>TH</sup> SYMPOSIUM OF THE ICAC OF HONG KONG

**Sen. (Dr.) Mwaura:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today Wednesday, 19<sup>th</sup> February, 2020-

Report of the Parliament of Kenya Delegation to the 7th Symposium of the Independent Commission against Corruption of Hong Kong (ICAC) held in Hong Kong on 22-24, May 2019.

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

**NOTICES OF MOTIONS**NOTING OF REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO  
THE 7<sup>TH</sup> SYMPOSIUM OF THE ICAC OF HONG KONG

**Sen. Mwaura:** Mr. Speaker, Sir, I beg to give notice of the following Motion-

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

## NOTING OF REPORT ON THE 50TH CPA AFRICA REGION CONFERENCE

**The Speaker** (Hon. Lusaka): We will defer the notice of Motion by Sen. Halake.

*(Notice of Motion deferred)*

We move on to the Next Order.

**STATEMENTS**THE COUNTRY'S LEVEL OF PREPAREDNESS CONCERNING  
THE NOVEL CORONA VIRUS

**Sen. Kasanga:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 48(1), to seek a Statement from the Standing Committee on Health regarding the country's level of preparedness concerning the Novel Corona Virus.

In the Statement, the Committee should-

(1) State the measures that have been put in place to improve on the surveillance services currently being provided at the various points of entry into the country particularly, due to the fact that the virus is airborne and as such can be transmitted from person to person without the need for contact with an infected person.

(2) Outline the plans, if any, that the National Government has put in place to train the medical personnel on identification, education and treatment of individuals that may present at health facilities with symptoms of the virus which has since been declared a global emergency by the World Health Organisation (WHO).

(3) State the measures being put in place to ensure that Kenyans, as well as our medical personnel, are insulated from the possibility of the virus spreading within counties without prior knowledge of the concerned authorities.

**The Speaker** (Hon. Lusaka): Sen. Kwamboka, you had a similar Statement. So, add on what has been raised.

**Sen. Kwamboka:** Thank you, Mr. Speaker, Sir. I applaud Sen. Kasanga for coming up with that important Statement.

I want to contribute to the Statement on evacuation of Kenyans stranded in Wuhan, China due to the outbreak of Corona Virus. My heart is in great pain. My fellow Kenyans are suffering in China because they have been placed in quarantined premises due to the outbreak of Corona Virus. It is alleged that Kenyans cannot get basic needs and are only getting one meal per day.

I watched in disbelief a discussion on *Citizen* Television last evening between Mr. Jeffery Okundi, a Kenyan student, who is among other Kenyans stranded in Wuhan, China and some members of the Ministry of Health's Corona virus taskforce who confidently stated that Kenyans cannot be evacuated from Wuhan, China, because there is no quarantine facility in the country.

Mr. Speaker, in the same discussion, Mr. Okundi, speaking from Wuhan, China, expressed his desire and that of the rest of the Kenyan students who are in the Wuhan area, to be evacuated like other nations are doing. He stated that they have been in a lockdown for over five weeks yet the incubation period of the Corona Virus is just 14 days. He adds that the mental stress and the wait have been too long. These individuals are suffering psychologically and any further delays may be detrimental to their health.

Mr. Speaker, this House must compel the relevant authorities, including the Embassy of Kenya in China, the Ministry of Foreign Affairs, Ministry of Transport and Infrastructure and the Ministry of Health to ensure that Kenyans in Wuhan, China, are evacuated and that local mechanisms to control and manage the Corona Virus are set up within the country with immediate effect.

Mr. Speaker, Article 43 of the Constitution places upon the Government the responsibility of taking care of its citizen at all times, irrespective of where they are.

Right now, we have airplanes which are coming from China to Kenya. I wonder why Kenya cannot evacuate our people and bring them home.

Mr. Speaker, Sir, the relevant authorities must have a timeline on when and how stranded Kenyan students in Wuhan, China, will be safely evacuated, brought home and

given good care to avoid any transmission in case of an infection as well as some counseling to ensure mental stability.

In addition, we want to know the steps taken to educate the citizens of Kenya on how to deal with this issue, should it arise.

**Sen. Wetangula:** This is a grave matter. The two distinguished lady Senators have brought important Statements. The World Health Organization (WHO) has declared this virus a global emergency.

What any responsible country would do is to evacuate Kenyans from the area of danger back to our country. This is what other countries are doing; Australia and Malaysia have done that. The European countries are also doing that. It was disheartening to hear our distinguished Ambassador to China saying that we need prayers. Prayers are good, but this is not a matter that we should look for divine intervention; we need physical intervention.

Kenya Airways is still flying to China every day. They can take one or two plane loads of our students and any other Kenyans living in China and bring them back and stop Kenyans from going to China just like Australia has stopped its nationals from going to China until it is declared free of this virus.

Sometimes persons that have been given responsibility to run our public affairs let our country down. I do recall when there were xenophobic attacks on Kenyans in South Africa, yours truly here, then in charge of the Ministry quickly mobilized facilities with the direction and support of former President Kibaki and we evacuated Kenyans to safe areas. We bought tickets for those who wanted to come back home, and brought them to safety. This is something that the Government must do as soon as is practically possible because exposing any single Kenyan to danger is exposing all Kenyans to danger.

Mr. Speaker, Sir, I was amused the other day when I was coming from Eldoret on a local flight landing at Jomo Kenyatta International Airport (JKIA); when I walked out of the plane, I saw some hooded character standing there with a gadget trying to take peoples temperatures as a measure of checking whether they have the virus or not. How ridiculous!

I told the fellow that what you are doing is extremely unhelpful. There is no evidence that there is Corona virus in Eldoret where I was coming from and taking my temperature will not tell you whether I have the virus or not. That is very simplistic indeed and we need to style up in the manner that we run our public affairs.

Thank you.

**Sen. (Dr.) Mwaura:** Thank you, Mr. Speaker, Sir. I want to congratulate Sen. Sylvia Kasanga for being very agile in bringing matters that are of concern to this country and including pieces of legislation that seek to transform the way in which things are done and this is one of them, about the Corona virus.

This is a global crisis and certainly, it has affected so many people. We need to get to the bottom of such a virus because as I sit here, I am wondering about the import of this Corona virus. As a student of Public Policy, I wonder whether this Corona virus is some form of biological weapon. Why am I saying so? If you look at the issue of the protest in Hong Kong, they have actually withdrawn the people there. As you know, they



have a very robust society and Sen. Wetangula and I were there last year. You wonder whether this is a control mechanism.

This is a matter of conjecture actually, it is not something that is proven. We are living in a world where China is very competitive; it is rising to become the second most important economy and also a Super Power possible - even though they say that they do not have that kind of ambition. Also, curiously, that there was a small information technology company that was able to predict how the Corona virus was to spread. We are told that they did so by looking at the planes, how they were coming from Wuhan and where they were flying to. To me that sounds a little bit suspect.

I have come across some documents online that say that this Corona virus was invented in some laboratory somewhere and that it is already patented. That really raises serious questions, like where did HIV/AIDS come from?

Sometimes we think that these things are out of this world but when you see millions of people affected, you have to wonder. You have seen what Sen. Kwamboka talked about, Kenyans who do not even have a meal. I know my good friend, Sarah Serem - she is a gracious lady; we used to have a run in here about salaries in Kenya - but I met her in Beijing and she is doing a good job. I think that what she should do is to tell us whether any measures have been put in place to curb this scourge. This is because the only person that I have heard recovered from this disease is actually an African. We need to know, what measures are being put in place to ensure that this scourge is curbed.

Kenyans are always going to China and this is going to affect us directly because most of our imports are from there. If you look at the balance of payment deficit, issues of trade between Kenya and China is very high. Certainly, that is affecting our economy whether we like it or not. The prevalence of this Corona virus means that if Isaac Mwaura cannot go and import something from China and come and sell it in Gikomba, there is no supply. That also means that people will not have jobs. We need to look at it seriously.

However, as I conclude, I want to say that I have not seen the Kenyan Government reacting very well. You know all those cases that have been said not be Corona virus. I hope that that is true and it is not just a question of trying to hood-wink the public. However, the manner in which the Ministry of Health has responded to this is very lackadaisical. So, we need to get to the bottom of this.

It also speaks to the issue of our preparedness. What if the Corona virus had started in Kenya; how many Kenyans would have been affected by now? It calls on us, also as a Senate to ensure that we have some internal resilience around the health matter. However, when you look at the current BPS, you still see the National Government trying to take over from counties and that means that we need to do much more. You know that MES is a mess. I do not know whether that equipment would have helped but it just calls on us to pay attention with regard to such a thing ever happening in Kenya.

I support the Statement.

**The Senate Minority Leader** (Sen. Orenge): Mr. Speaker, Sir, I thank the two distinguished Senators for bringing this matter to light. The danger in this whole saga is denial. In China, the doctor who started talking about the possibility of the spread of this

virus was actually arrested and he eventually died. However by the time he was dying, he was a hero in that he came out openly to say that there is a virus that was going to endanger a lot of people's lives in China and particularly in Hubei Province in China. The spread is now intensifying as China is taking very drastic measures to control this virus.

However, the evidence is that it is spreading. It has gotten into Hong Kong, Singapore, Malaysia and Thailand. When it is in Thailand, it is close to India; and you know a lot of our people go to India. Many European countries now are reporting this virus; in the United Kingdom (UK), Germany, France, Spain and already there are cases in Egypt, Africa. It has gone across the Atlantic. It is attacking both from the Pacific and across the Indian Ocean. It is there in the United States of America, the biggest economy in the world which has all the facilities. The people who were evacuated from that cruise liner in Yokohama had to be taken to some facility outside Los Angeles, which is one of the states in the north; and Canada is doing the same.

I am saying this because I was really surprised when I heard what our Principal Secretary for Foreign Affairs and the Ambassador said in a very pedantic and casual manner. I was really surprised because populations of Kenyans going and living in China; and the Chinese who are coming to Kenya, is a large population. It is a stream of people every day that have contact, either directly with people who are working or living in China; or indirectly with people who are coming to places which Kenya is connected to.

Therefore, other than talking about the problem itself, the Committee should come out with answers from the Ministry of Health and the Government as a whole in terms of what the Government is already doing. This is because when it hits you, you must have a special facility. It has been shown that you cannot treat this virus in any ordinary health facilities, because if you try doing that, it will spread. You, therefore, need an isolated facility somewhere in a remote part of the country. So, what is our level of preparedness?

The Ministry should provide statistics of Kenyans who are living in Wuhan. As you know, that town is the biggest city in Hubei Province, and the population there is very big. There are many Kenyans living in that province. We not only need statistics and data, but also what Kenya is doing in the real sense so that when we are hit, there will be facilities to deal with the problem.

Otherwise, I agree with Sen. Wetangula that the way we are dealing with it--- I was coming from Kisumu just the other day, and I saw somebody wearing a mask, but he had open hands – he did not have gloves – with a little machine which I do not whether he knew what he was doing. This is because even before he had pointed it at me, I asked him, “Am I alright?”

He said: “You are alright.” I was wondering whether, in an instant, he could determine whether I had the virus or not. Yet, it is not even the mask, but the open hands which are more dangerous. Even your own hands, if you touch your face and you are already in contact, like Sen. Kasanga was saying, that it is airborne--- Just touching your face may be very dangerous in terms of the spread of this virus. I, therefore, hope that the Government will come out more clearly.

The only thing they can do to try and mitigate the mess they have come up with, which Sen. Wetangula and Sen. Dullo are trying to deal with in terms of leasing of medical equipment – which was a money contract – but this is now life. Let them tell us and show us that they can deal with this emergency so that we do not have to form a Committee later, presided over by Sen. Waqo, who can investigate and pray at the same time.

*(Laughter)*

But prayers sometimes come too late, and they may not help.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Ongeru, you have the floor.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Speaker, Sir. I have had an occasion previously to handle certain emergencies in this country. You will remember when we had the brucellosis and many other emergencies resulting in deaths. The Corona Virus is a very virulent and contagious virus. Depending on the severity of the virus, people succumb to death very easily without any difficulty whatsoever. That is why you have seen a lot of people being reported as having succumbed to this Corona Virus. The death rate is likely to rise because the virus mutates, and you may get a severe form which may not respond to simple therapy.

In 2003, we had a similar situation called the Severe Acute Respiratory Syndrome (SARS), which occurred again in China. Fortunately, that type of acute virus was contained within a very short period of time, of between two to three weeks, and we were able to contain it without any difficulty.

The peculiarity of this Corona Virus, as I see it, is that it has happened in one central place, Wuhan. One wonders, with the kind population in China of almost 1.4 billion people, why it only happens in one particular area. I am persuaded that this could be one of those laboratory accidents, just like I was persuaded that the HIV/AIDS and the prevalence rates was also one of those accidents that may have occurred; and that automatically puts it to the realm of biological warfare. Therefore, that is the science of it, as far as the science is concerned.

The question that arises in this situation is, what are we doing, as Kenyans, to respond to this emergency? One of the things that we must appreciate and understand is that it is not a self-limiting disease; it is a transmissible disease. When you finally find out that just breathing out once you have been contaminated with the virus, you are then able to infect your neighbor or whatever group you are in with. If you have coughing episodes without putting that mask on, you are able to infect somebody. If you have severe chest infection, severe chest embarrassment or what we call respiratory embarrassment or breathing difficulties, then that is one way that when you cough, you transmit that disease.

What Kenya should do today – and I have been waiting to see that being done – is that I should have seen the Ministry of Health taking a lead position in preparing Kenyans to deal with emergencies. This is because when it does land in Kenya, unfortunately for the Senate, we will lose many lives if we are not very careful.

What must Kenyans do? Obviously, all points of entry must be under very strict and severe surveillance. I have not seen anything, other than the periodic check at the Jomo Kenyatta International Airport and possibly at the Moi International Airport, but I should see some rigorous checks even at all the entry points, whether from Uganda or Tanzania. This is because you do not know whether these people from China could have gone to Dar es Salaam and then they exit, coming to Kenya or through other routes. We must secure these routes for the safety of Kenyans.

Secondly, we must also ensure that every person who travels to and from China is under a watch list and is quarantined. The only interesting part of it is that after two weeks, if you are able to put them in a quarantine, we should have facilities at the airport or we should set aside one of the hospitals for purposes of putting them aside so as to manage them. I am already laying a foundation as to why we must take that position.

Mr. Speaker, Sir, having laid that foundation, it is only logical that given this kind of a situation, then we must bring back our people because we now have the facilities in place. They check into those centers, they are checked and if they have no virus, they are kept in that quarantine for two weeks and are properly fed. It should not be the kind of story I listened to last night, and I became sick, because it is very worrying.

We just seem to helplessly watch what is happening to our citizenry in China. We should now make serious efforts to bring them back and quarantine them, because it is for their good and for the good of this country. That will show that, one, we have become a responsible country for our own citizens; and two, that we are able to take care of them because we now know what we do with the Corona Virus. That is because we have handled the SARS Virus before without any difficulty. We should then detain them here in our centers and watch out for them.

I was very disappointed that there was some engineer who just sneaked through, went to Kitui, and they are following him there. If there is any damage done, it has already been done. That must not be the kind of language or stories that we want to hear; that he has no Corona Virus.

I think the measure and ability of this nation to mount a surveillance system is within hand. We have enough trained manpower that can, with a flick of a second, be trained to run this system efficiently. This is because we have done that before and can do it again. In terms of manpower, we are capable.

Mr. Speaker, Sir, my take on this matter is that the country must wake up. We must bring back Kenyans, quarantine them if need be and get them to a safe place. We need to monitor and secure our borders and our airports for the safety of this nation.

I thank you.

**The Speaker** (Hon. Lusaka): I can see a lot of interests. I gave a bit of latitude to Sen. (Prof.) Ongeru because that is his line. For the rest, I will give you five minutes, just in case you become irrelevant.

Sen. (Rev.) Waqo, kindly proceed.

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir, for allowing me to add my voice to this very important Statement. In fact, I was prepared to come up with one, but was told that my colleague had already done that, and I appreciate the effort.

May I also respond to the Senate Minority Leader, Sen. Orengo, who mentioned my name. It is true that we can pray, but serious action is needed. This is because those who are spiritually upright can do their prayers, but the Government must also do its work of protecting the citizens. Let us all do our work and save the situation.

Corona Virus has scared every one of us. Globally, it is affecting everyone. The story that was covered last night is quite touching. Just to know that we have Kenyans who are stranded outside there exposes us as the Government; that we do not take care of our people and are not responsible enough. I, therefore, join my colleagues in saying that Kenyans, our students and all the others who are stranded there should be brought back with immediate effect and the necessary actions and attention given.

Mr. Speaker, Sir, as a nation, we have realized that there is no time that we are prepared for anything. This is because we always react over something that has already taken place. It is high time Kenyans woke up and prepared for any situation that comes.

We have been talking a lot about the Ministry of Health for the past few months and years. It is high time the Cabinet Secretary (CS) for Health takes serious action, plans properly and puts measures in place, so that we protect our people.

Mr. Speaker, Sir, we know very well that Kenyans do a lot of businesses, and that has also been mentioned. However, those who are in business and travel in and out of the country should be protected. This is because we do not want anyone of them and also our country to be economically affected. As I said, we are never prepared. Let us put all our efforts together to save our nation.

I do not want to be irrelevant. Therefore, I support the Statement and stand with---

*(Sen. (Rev.) Waqo's microphone went off)*

**Sen. Shiyonga:** Mr. Speaker, Sir, I join my colleagues in supporting this Statement. I want to start by saying that Corona Virus is a severe pulmonary infection. The signs include fever, sepsis, shock, failure of the kidney, among others. It causes death as we have witnessed.

The statistics indicate that so far we have 73,336 people infected and the number is still rising. Out of that, only 13 have recovered. That means that only seven per cent of the population has recovered. It is a disease that we really need to curb.

Mr. Speaker, Sir, as my colleagues have said, our borders are not manned properly. The way people are being screened at the airport is reckless. We are not doing the best that we need to do.

I happened to work in the Ministry of Health's Disease Surveillance Unit, and I know what is done there. What we are doing in Kenya right now is to prepare beds. Are they for dead bodies or what are we doing?

We need to work hand in hand with the Ministry, which is reluctant, and the Committee on Health of which I am a Member. We need to come up with measures that can help Kenyans. Giving statements the way our Ambassador is doing is not enough. That only puts us all at risk. It gives no assurance to Kenyans. When the Government is worried, what about a common *mwananchi* out there?

We only have a few people who have expressed themselves. We need to look at Kenyans as human beings. Uganda and other countries are prepared. I am worried because of what we are seeing. It will take us a step back now that we have the locust invasion and the issue of Corona Virus also exists. It is only that we have not had any case, but our people are at risk out there.

There are other ways of people coming to Kenya. It does not require one to take a flight from China to Kenya, so as to be identified as somebody on transit. People can use other ways to get into this country. China being the biggest trading partner with Kenya, we need to be alert. We need to safeguard our people.

I join my colleagues by calling upon the Government to secure our people and make our people safe---

**Sen. Cherargei:** On a point of order, Mr. Speaker, Sir. I did not want to interrupt my sister, but is it in order for Sen. Shiyonga to allege that there are many illicit routes that you can use to get into the country? Does she know anything that the Government is not aware of?

**Sen. Shiyonga:** Mr. Speaker, Sir, he seems to be pretending. He knows very well that there are many ways that somebody can use to come into Kenya. It is not only through the airport.

**The Speaker** (Hon. Lusaka): What you mean is that the borders are porous.

**Sen. Shiyonga:** Yes. Even before the outbreak of Corona Virus, we had people coming from China.

**Sen. (Dr.) Musuruve:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. (Dr.) Musuruve?

**Sen. Dr. Musuruve:** Mr. Speaker, Sir, is it really in order for Sen. Shiyonga to courageously say that there are many ways and routes that Kenyans can use to come into the country? That is terrible for this country because anybody coming from China should come through a specified place, so that they can be quarantined if they are infected. If they look for shortcuts and come through Uganda, they could infect the Ugandans and then come to Kenya. If they go to Tanzania, they could do the same; infect the Tanzanians and then come here. We do not want that disease in Africa.

**The Speaker** (Hon. Lusaka): What is your point of order?

*(Sen. (Dr.) Musuruve resumed her seat)*

You have already sat down. Therefore, you have made your point. Sen. Shiyonga, kindly conclude.

**Sen. Shiyonga:** Mr. Speaker, Sir, they are just going round because they know what I am saying very well.

I would like my colleagues to know that it is not only by taking a flight to Kenya that the disease can get here. You cannot only be detected when you have used a flight from China to Kenya because there are so many ways of coming. I can go to London from China and then come here. We just need to be vigilant.

**The Speaker** (Hon. Lusaka): How do you go to London from China? Is it on foot or something?

*(Laughter)*

Your time is up. You ended up confusing yourself in the process. Next time, please.

Sen. Gona, kindly proceed.

**Sen. Zawadi:** Asante, Bw. Spika. Vile vile, nimesimama kuchangia mjadala unaoendelea nchini kuhusu ugonjwa wa *Corona Virus*. Waswahili husema: ‘ukiona cha mwenzio kinanyolewa, chako tia maji.’

*(Applause)*

Sasa katika yote tunayozungumza, ni mikakati gani ambayo imewekwa kuona kwamba ugonjwa huo utakapoingia humu nchini, utakabiliwa vilivyo? Iweje basi Mchina akitoka kwao na aingie hapa nchini awe hana huo ugonjwa lakini Mkenya aliye China akirejea hapa nyumbani awe nao? Kama Wakenya walisema ndege zao zisiende China, sawa. Je, walikataza za China kuingia Kenya? Kama hawajakataza, lengo na madhumuni yao ni nini? Wale walio kule China ni watoto wetu tuliozaa sisi.

Mwenyezi Mungu aliweka siri kwamba hakuna anayejua atakufa lini. Kuwaacha watoto wetu wakae kule China ni sawa na kuwahukumu wafe. Tumeshawatoa kafara. Kama mzazi, mimi naona tunapoteza. Balozi wetu kule China hafanyi kazi yake vilivyo. Hii inamaana kwamba anazingatia tu biashara kati ya Kenya na China. Ni lazima pia aangalie maswala ya watu wetu walio China. Ni hatua gani amechukua kuhakikisha kwamba watu wetu kule China wamewekwa mahali salama na kuwa wanapata chakula na mahitaji mengine ya lazima?

Bw. Spika, Biblia inasema kwamba imani isiyokuwa na matendo imekufa. Sasa hata akizungumza na hachukui hatua yoyote, hatusaidii bali anatuongezea mashaka.

Tuna tashwishi na Wizara husika kwa sababu hapa nchini hata ukipata malaria unaaga. Ukimwi ulikuja tukaambiwa unaitwa ukimwi. Sijui jina hilo lilitoka wapi. Vile vile, kumekuja *Corona Virus*. Hatujui jina hili limetoka wapi. Ugonjwa kama haujulikani mbona majina huwa yaja? Je, jina hili lilitengwa ili ugonjwa huu ukitokea utapewa jina? Hii njaa yetu ndogo itafanya tumalizike kama Waafrika ama Wakenya.

Ombi langu ni kwamba Wizara husika ifanye mikakati inayowezena; aidha kuwaleta Wakenya waliyo kule China hapa au kuhakikisha usalama wao. Pili, tuhakikishe kuwa ndege za China haziingii nchini. Hii ni kwa sababu hao pia ni binadamu kama sisi na wanaweza kushikwa na maradhi. Ikiwa watoto wetu hawarudi hapa, basi hata wao pia wasiruhusiwe kuingia.

Bw. Spika, tunataka kuona hatua zinachukuliwa kuhakikisha Wakenya ambao wako kule China wametunzwa huko iwapo hawawezi kurudishwa hapa. Serikali ichukue hatua kuhakikisha wanalindwa kwa sababu wakiwa kwa shida, sisi kama wazazi huku pia tuko kwa shida.

**The Speaker** (Hon. Lusaka): Pongezi sana kwa Kiswahili sanifu. Kimekuongezea alama zaidi.

Sen. Mutula Kilonzo Jnr., nafasi ni yako.

**The hon. Senators:** Zungunza Kiswahili!

**Sen. Mutula Kilonzo Jnr.:** Asante, Bw. Spika. Wamesema nizungumze Kiswahili.

Jambo hili linatutaliza sisi Wakenya. Mimi nimepigwa simu na watu wawili kutoka Kaunti ya Makueni ambao wanasoma kule China. Mmoja wao ni profesa. Wanasema kwamba wanahofia kuwa maradhi hayo yatawakabili sehemu wanayoishi.

Ukweli ni kwamba Wizara husika haiwezi, haitawahi, haijui na haitawajibika. Mheshimiwa Rais anafaa kujitokeza na kukipa swala hili kipau mbele. Katika Uwanja wa Ndege wa Kimataifa wa Jomo Kenyatta ambako ndege zinatua, kunapaswa kutengenezwa hospitali maalum. Mimi nilishangaa kusikia ya kwamba wametenga vitanda katika hospitali ya Mbagathi. Vitendawili vya Kenya havitawahi kuisha. Yaani, huyu ni mtu ambaye haelewi.

Mtu ambaye anasemekana kuwa na ugonjwa huu, sijui ni *Corona* au *Corolla*--- Sen. Gona ameuliza swali la maana sana. Kwa nini ugonjwa huu umeitwa '*Corona*' na si '*Corolla*?' Wametenga vitanda katika hospitali ya Mbagathi, lakini hawajui mtu atatoka upande gani. Jana nimepata ripoti katika mitandao ya kijamii na nikamwelekeza Kamishna wa Kaunti ya Makueni achukue hatua. Ripoti yenyewe ni kwamba kuna Mchina ambaye amewekwa kule Thwake, Kaunti ya Makueni na anaonekana kuwa na virusi vya *Corona*. Mwingine anasemekana kuwa katika Kaunti ya Kitui.

Bw. Spika, juzi nikitembea mtaani nilimuona Mchina amejifunga kana kwamba ana virusi vya *Corona*.

*(Laughter)*

Hili ni jambo ambalo linatakiwa kuchukuliwa kwa uzito unaofaa kwa sababu hakuna sheria. Mimi na Sen. Sakaja tulipendekeza sheria ya kuangalia majanga kama haya. Hii ni kwa sababu hatuna sheria. Serikali inafaa kuchukua jukumu kupitia kwa Mheshimiwa Rais hata kama tutasimamisha maneno ambayo tunazungumza---

**Sen. Kinyua:** Hoja ya nidhamu, Bw. Spika.

**The Speaker** (Hon. Lusaka): Sen. Kinyua, hoja yako ya nidhamu ni ipi?

**Sen. Kinyua:** Bw. Spika, nimemsikia mwenzangu Seneta wa Kaunti ya Makueni akisema alimwona Mchina akiwa amejifunga kinywa. Akasema ilionekana kana kwamba ana ugonjwa huu wa *Corona*. Je, inamaanisha kwamba ukijifunga kinywa ama ukitoka China una ugonjwa wa *Corona*?

*(Loud consultations)*

**Sen. Mutula Kilonzo Jnr.:** Bw. Spika, kuna vitu ambavyo wanavaa kwa mdomo. Ukiwaona wanapotoka Uchina ama katika viwanja vingine vya ndege wanavaa hivyo vitu. Utafikiria kwamba mtu huyo ana huo ugonjwa. Tulipotoka Kabarak hadi Uwanja wa



Ndege wa Wilson tulikutana na watu walikuwa na vifaa kama bunduki. Walikuwa wameweka kifaa kingine kichwani na sikujua wanaangalia nini.

Hata hivyo, Sen. Shiyonga amesema kwamba si lazima watu wanaoweza kuwa na Virusi vya *Corona* wapitie katika uwanja wa ndege. Wanaweza kupitia Lunga Lunga kwa Sen. Gona au hata Ziwa Victoria. Kwa hivyo, ni muhimu kwa Wakenya kujua kwamba afya yetu inaangaliwa.

Bw. Spika, je, mtu mmoja akipatikana na ugonjwa wa *Corona* katika vitongoji duni kama vile Kibera, Mathare au Kawangware, tutafanya nini? Je, tutaifunga hii nchi ili mtu asitoke kama walivyofanya Wuhan? Jambo hili halifai kuchukuliwa kwa urahisi vile linavyochukuliwa. Jambo hili si mzaha.

Sisi viongozi hata kuanzia wikendi hii, tukienda kujenga madaraja ya kufanya Kenya iendelee mbele, yaani BBI, tuzungumzie jambo hili. Tumwambie Mheshimiwa Rais tusimamishe mambo ambayo tunafanya na tuhakikishe watu wako sawa. Mimi ninahofia siku ile itasemekana mtu ameanguka katika Barabara ya Tom Mboya na ana virusi vya *Corona*. Mungu atusaidie. Kama vile Balozi Serem alivyosema, kama si Mungu, mimi sijui tutafanyaje katika nchi.

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

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir. Allow me to speak in English because Kiswahili is a little bit of a challenge to me as of now. However, I know I will learn it as time goes by.

*(Laughter)*

We are facing a lot of disasters in this country. Yesterday, we were talking about the locust invasion. Today, we are talking about our country's preparedness on matters to do with the Corona Virus. It boils down to our preparedness in all aspects of our lives on matters disasters.

This is a very serious matter and several Ministries are engaged in it. We have the Ministry of Interior and Coordination of National Government involved because it is in charge of our entry points to this country. We are saying that our entry points are not safe enough. So, it is up to them to put in place the right measures that will help this country to face the challenges accompanying this Corona Virus. Even the Ministry of Education should be concerned with what is happening to our students outside the country.

Mr. Speaker Sir, because of poor preparedness of our various calamity managing systems, people have resorted to desperate measures. Today, I heard that in some place, some elders have been mobilized to curse locusts. Soon, you will also hear that some elders somewhere have been mobilized to curse the Corona Virus. It is a great challenge to our scientific institutions to come up with proactive measures that we can easily engage in systems, so that we manage not only the Corona Virus, but also other disasters that are coming.

I also think that our research institutions are either lacking funding or some of the great researchers are sleeping on their jobs. This is because we would have expected that medical related research institutions should have come up with better approaches that our

hospitals and health personnel can use, so that we manage the spread of the Corona Virus in a better and more scientific way.

Mr. Speaker, Sir, this is a wake-up call to all institutions in our country, ranging from research and preventive institutions, so that we may manage all these calamities in scientific ways. Otherwise, very soon we shall be looking to people like Sen. (Rev.) Waqo and myself to use spiritual approaches, which is good. However, we have not exhausted the scientific approaches that would enable us to go to a higher level of the metaphysics approach.

This is a wake-up call to all our institutions, so that we may come together and be prepared on matters disaster.

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

**Sen. Madzayo:** Asante, Bw. Spika. Pia mimi ninaunga mkono Taarifa hii. Ninafikiria imekuja kwa wakati muafaka. Virusi vya Corona ni virusi ambavyo vimekua kama donda ndugu katika maisha ya Wakenya. Hii ni kwa sababu huwezi kujua tofauti kati ya wanaougua na wasiougua hivi virusi.

Hivi sasa, kuna watu wamewekwa mahali ili kuchunguza kama wana huo ugonjwa. Kuna tashwishi kwa sababu ni kama siri inafanyika. Mpaka sasa, Kenya haijachukua msimamo kabisa kuwa wale waliochunguzwa wameingia wengi na wametoka wengi. Hakuna hata mmoja amesema amepatikana na Virusi vya Corona. Kwa hivyo, inaonekana kuwa kuna sababu fulani ya sisi kutoambiwa ukweli kuhusu janga hili.

Rais mwenyewe alimfuta kazi yule Waziri wa Ukulima na akamhamisha Waziri wa Afya na kumchagua Sen. Kagwe achukuwe mahali pake. Ni sawa kabisa kufanya marekebisho, lakini kama yule Waziri hawezi kazi, ni vyema kumwachisha kazi kuliko kumpeleka kwingine aende aharibu vile vile.

Tunajua kwamba Kamati ya Seneti inachunguza mambo ya *Medical Equipment Scheme (MES)*, ambayo imekua *mess* kubwa zaidi katika hayo maneno. Kwa hivyo, ikiwa Kenya haiko tayari kuangalia Virusi Vya Corona na kuangalia maneno yanayokuja, sababu zingine ni kama hizi. Mawaziri wengine wanazembea kwa kazi zao.

Bw. Spika, mimi ninajua kuwa umesafiri sana na umefika sehemu mbali mbali za Kenya. Utaona kwamba ukiwa huko Mandera - na ninajua kuwa ndugu zetu wanatoka sehemu hizo - ni lango la kuingia na kutoka haswa kwa watu wanaotembea. Utashangaa kuwa lango liko wazi. Ukitoka Kenya kuenda Somalia ama kutoka Somalia kuja Kenya, unaweza kupita bila mtu yeyote kukuuliza unaenda wapi.

Kwa hivyo, si mambo ya kusafiri na ndege pekee. Ukifika uwanja wa ndege, kifaa kama bunduki kinawekwa kinaelekezwa kwenye kichwa chako halafu unaambiwa kuwa huna virusi. Tukiwa watu wa ukweli, Wizara ituambie kama ugonjwa huu uko Kenya ama hapana. Watupatie hesabu ya watu walioambukizwa na wasioambukizwa kwa sasa.

Mimi ninaona kuwa Wizara ya Afya ndio ina jukumu kubwa kuangalia afya yetu. Serikali ni lazima ichukue msimamo ambao utatetea afya ya Wakenya kupitia Wizara ya Afya.

Mwisho, ni jambo la aibu kuwa kuna Wakenya waliozuiliwa na Serikali ya Uchina. Mpaka hivi sasa, Serikali yetu haijachukua msimamo kutamka lolote kuhusiana na Wakenya waliozuiliwa kwa sababu walipatikana na Virusi vya *Corona*.

Unajua kuwa hakuna mwanya katika sheria za huko Uchina. Ukipatikana na hatia, wanakuweka korokoroni; hakuna mambo ya wakili ama jambo lolote. Hatujui kama wale Wakenya wamefungwa maisha ama watatolewa siku nyingine. Hatuna uhakika. Hatujui afya yao iko vipi, wala kama chakula kina shida.

Bw. Spika, nataka kumaliza---

**The Speaker** (Hon. Lusaka): Muda wako umeisha.

Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. I wish to thank the two Senators for bringing such a very important Statement. The issue of the Corona Virus is a major challenge in the whole world, more particularly, because this virus may be mutating each and every moment.

Looking at the country where this disease started, it is such a strong country, yet they have not been able to contain it. When we look at Kenya's medical facilities, they are, indeed, very wanting especially when we talk about checking people who are entering our country. You wonder how somebody would be able to tell that one has the Corona Virus by checking their temperature.

When China realized that the Corona Virus outbreak had started in their country, they put up a very large facility, yet with that, they are still having a challenge in containing it. We have even seen in the social media that China has gone ahead to burn currency in order to reduce the spread of this disease.

In Kenya, it becomes a challenge to contain very simple diseases such as malaria and many other disasters. I saw some photographs in China where people who had already been infected, even those coughing, were simply taken to some dark room to ensure that they die, although that has not been proven. I think that, that is a sign that this is very serious.

For our country, there are very many porous routes into our country. One very worrying scenario is the fact that the Ambassador for China was announcing that we should let the Chinese come to Kenya, and that they will go to their houses and quarantine themselves. I think that this was a very misinformed piece of information. In any case, it was very unfortunate. We even found out that there is one that alighted at the airport and took a taxi all the way to Nakuru, in addition to the one that is in Kitui County.

That shows that we are exposed to so much danger that if by any chance Kenyans got infected with the Corona Virus, it can easily wipe us out. If we have been unable to contain the desert locusts, which are spreading across the Kenya, so how will we deal with the deadly Corona Virus?

Mr. Speaker, Sir, Article 43 of the Constitution states that every Kenyan has a right to be taken care of. I saw a video clip of Kenyan students in Wuhan crying for help. It was sad to see an African man crying. It can only mean that they are in serious problems. The 85 Kenyans students who are in Wuhan should have been evacuated a long time ago. Other countries have evacuated their people, yet our country, Kenya, which is a leading country in the region, has been unable to evacuate its people. Kenyans are suffering in Wuhan because they are forced to rely on one meal a day. Sooner or later, if

they do not contract Corona Virus, they will die from dehydration due to lack of water or from other diseases.

This is a wakeup call to all Ministries, especially the Ministry of Health and Ministry of Foreign Affairs and International Trade. They should ensure that our borders, and especially airports have better facilities to deal effectively with the Corona Virus, just in case it gets to Kenya. It is quite unfortunate that a screening facility is being set up far away from the airport. It will be unfortunate if someone will land on Kenyan soil and has the Corona Virus because it could easily spread to other people.

Mr. Speaker, Sir, I call upon the Ministry of ---

**The Speaker** (Hon. Lusaka): Your time is up, Sen. (Dr.) Milgo.

There is a lot of interest on this matter. Each speaker will now have only two minutes to make their remarks. Many Members are saying the same thing using different words.

Kindly, proceed Sen. Wambua.

**Sen. Wambua:** Mr. Speaker, Sir, I thank you. I will try to say as much as I can in two minutes. I would like to thank Sen. Kasanga and Sen. Kwamboka for bringing this Statement. It will be remembered that when the first incident of Corona Virus was reported, China put up two fully furnished hospitals in 12 days to deal with the crisis, although they are now clearly overwhelmed.

We need to tighten our surveillance in all border entry points, to ensure that anyone coming into the country, whether from China or any other part of the world, are properly screened. The screening of Corona Virus should go beyond taking temperatures because that is not enough. The World Health Organization (WHO) has declared Corona Virus as a public health emergency of international concern. The declaration by the WHO should push our Government to better action and coordination.

Yesterday, we discussed the calamity that has visited this country by the desert locusts. The Senate through the leadership of the Speaker, summoned the Cabinet Secretary for Agriculture, Livestock and Fisheries to appear before the Senate to give a status report and update us on what is being done by the Government to deal with that crisis.

Mr. Speaker, Sir, Corona Virus is a bigger crisis than the desert locusts. What shall the Senate of the Republic of Kenya do to ensure that our people are safe inside and outside the country?

I thank you.

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

**Sen. Kinyua:** Bw. Spika, asante sana kwa kunipa fursa hii. Nawapongeza Sen. Kwamboka na Sen. Kasanga kwa kuleta Taarifa hii. Linalonivunja moyo ni kwamba tunazungumzia Virusi vya *Corona* kwa uchungu mwingi na bado haijafika nchini. Sijui Serikali yetu ya Kenya imejitayarisha vipi kupambana na Virusi vya *Corona*.

Seneta wa Kaunti ya Lamu alilalamika jana kuhusu hali ya zahanati katika kaunti yake. Ikiwa Virusi vya *Corona* vitafika katika nchi hii, nahofia Serikali yetu ya Kenya haitakuwa imejitayarisha vilivyo. Nzige wamevamia mashamba yetu na ulielekeza kwamba Waziri wa Kilimo, Mifugo and Uvuvi aje aangazie jambo hilo. Sina uhakika

kama Serikali yetu imejitayarisha kupambana na Virusi vya *Corona* na kwa hivyo haiwezi kuwaruhusu wanafunzi Wakenya anaohangaika Wuhan kurudi nchini. Labda Serikali inadhani ikiwaruhusu nchini huenda wanafunzi hao wakawaambukiza Wakenya Virusi vya *Corona*. Zahanati nchini Kenya hazina dawa. Kwa hivyo, Serikali itakuwa na jukumu kubwa kupambana na Virusi vya *Corona* iwapo itafika nchini Kenya.

Hali katika sekta ya afya inadhoofika. Mimi ni mwana kamati katika---

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

Kindly proceed, Sen. Faki.

**Sen. Faki:** Bw. Spika, asante sana kwa kunipa fursa hii kuchangia Taarifa iliyoletwa na Sen. Kwamboka na mwenzake, Sen. Kasanga. Nawapongeza Maseneta wote ambao wamechangia taarifa hii kwa lugha ya taifa, Kiswahili. Wengi wemeweza kuzipata hisia za Wakenya kwamba swala la Virusi vya *Corona* ni swala linalotamausha Wakenya wengi.

Kuna mipaka mingi katika nchi yetu ya Kenya inayotumiwa kuingia and kutoka. Kwa mfano, kuna mipaka kule Turkana, Bungoma, Mt. Elgon, Busia, Lamu, Mandera, Garissa, Lunga Lunga na kwingineko kwingi ambako watu huingia na kutoka katika nchi ya Kenya. Je, kaunti zetu zimejitayarisha vipi kupambana na swala hili? Katika Uwanja wa Ndege wa Kimataifa wa Jomo Kenyatta wasafiri wanapimwa joto kutumia kipima joto linalowekwa kwenye kwapa. Maoni yangu ni kwamba wanafaa kupima wasafiri iwapo wana dalili zingine za Virusi vya *Corona* kama homa.

Bw. Spika, Kamati ya Afya lazima izingatie jambo hili kwa sababu ni swala linalohusiana na maswala ya afya. Nchi yetu ya Kenya haijajitayarisha kupambana na Virusi vya *Corona*.

Asante, Bw. Spika kwa kunipa fursa hii.

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

Kindly proceed, Sen. (Dr.) Mbito

**Sen. (Dr.) Mbito:** I thank you, Mr. Speaker, Sir. I congratulate my colleagues for bringing this Statement to the House. I would like to assure them that the issues raised in their Statement will be dealt with by my Committee.

Although the Ministry of Health has released a statement today on their preparedness and heightened surveillance, I will still engage them to address the specific issues that have been raised by my colleagues because they are of national importance. We have to make sure that this deadly virus, which has so far not been detected in this country, is kept at bay.

We will also address the issue of the Kenyans who are stranded in China. We will address all that. So, rest assured that this matter will be treated with the seriousness that it requires.

Thank you, Mr. Speaker, Sir.

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

**Sen. Nyamunga:** Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to make one point or so on the issue that we have at hand. From time to time, we will be having issues like this. In my view, as a nation, we should be more prepared and proactive. From time to time when we are faced with calamities like this--- To me it

is a calamity because we do not know when it may hit Kenya. We are not handling the issue very well.

If the victims or students cannot be brought to Kenya, I think the embassy should do much more. I believe there is a way of giving them counseling, if it is online, and also supporting them in terms of food. Yesterday I watched on television as a student indicated that they are in a fix. Most of the students are not getting food supplies.

Mr. Speaker, Sir, as a nation, we should be more proactive and make sure that any time we have issues like this, we act very fast. Even on the issue of locusts, we have taken too long. When it started it was a big joke and people were running in the forests with *firimbi*. That is not the way to go. From time to time whenever something happens, even drought or the floods, we normally take a lot of time. Before we know it, already a lot of damage is done to our people.

I would plead with the people in China to give provisions and counseling to the students who are stranded there. It is not only the students, but many other people who may be caught up in the whole saga.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Cherargei. Is he not in the Chamber?  
Sen. Seneta.

**Sen. Seneta:** Thank you, Mr. Speaker, Sir, for also giving me a chance to add my voice on this important Statement by my two sisters. We need to know from the Ministry, through the Committee, its preparedness in terms of personnel. What training are they giving to the human resource or personnel that will handle such a kind of an issue in case it occurs?

We should also be told how we will get funding for this particular matter. The issue of diagnosis machines in this country is also wanting. This does not only apply to diagnosing such kind of a disease if it occurs. We have problems in terms of diagnosis infrastructure in our country. The Ministry should also tell us whether they are ready in terms of diagnosing such a kind of a disease, so that we do not end up guessing. Just because one is from China or suspected to have come from such a kind of a route, he or she should not be deemed to have that disease.

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

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

Mr. Deputy Speaker, Sir, we also need to know how the Ministry is engaging the researchers on the treatment that can be given to deal with such kind of a disease.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you. Let us have the next Statement.

Proceed, Sen. Iman. Give her the microphone.

RECENT TRANSFER OF TEACHERS BY TSC  
FROM NORTH EASTERN KENYA

**Sen. Iman:** Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order 48 (1) to seek a Statement from the Standing Committee on Education concerning the recent transfer of teachers by the Teachers Service Commission (TSC) from North Eastern Kenya, specifically in Garissa, Mandera and Wajir.

In the Statement, the Committee should -

- (i) clarify whether there were any consultative engagements between the TSC and other stakeholders before the transfers were undertaken;
- (ii) explain the measures put in place by TSC to ensure that there is no shortage of teachers in North Eastern Kenya; and,
- (iii) explain why the transfer mostly affected only one region of the country.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very good. That was short and straight to the point. Is there any Senator who wants to say something? I will give priority to colleagues from North Eastern.

Proceed, Sen. Farhiya.

**Sen. Farhiya:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to discuss this important issue concerning our region. I also wish to thank Sen. Iman for bringing this Statement.

In 2005, during the Darfur crisis in North Sudan, I was a trainer there. I was training on accounting and donor reporting. At that time once I finished training, I left that place. Six months down the line about ten people that I trained left that organisation and went to the United Nations (UN). One of them sent me an email saying that in their mother tongue there is a saying that if somebody gives you knowledge, they have given you life.

From that point of view, the action of TSC is denying life to vulnerable children of that area and bringing marginalisation to those three counties through the backdoor. Last year, about 3,000 candidates got Grade E in that region because in 2015 3,000 teachers were transferred. In 2018, almost 2,800 teachers were transferred. In January 2020, another 3,000 teachers were transferred. Every time they are transferred, non-local teachers are recruited.

Mr. Deputy Speaker, Sir, as you are aware, there was a solution to that problem. The people from the Northern Kenya cannot handle the issue of *Al-Shabaab*. Terrorism is a global phenomenon. We cannot be punished every other year because a teacher was killed by these rogue group that has no religion. They have no religion at all; they are pagans, for lack of a better word.

Part of the reason teachers are targeted all the time is because *Al-Shabaab* likes media. They know that every time there is an incident involving teachers, there will be a lot of publicity, and that is what they are after. Therefore, the TSC is making the non-local teachers more vulnerable to the *Al-Shabaab* phenomenon through the action they take every other time.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Please, conclude.

**Sen. Farhiya:** Mr. Deputy Speaker, Sir, as I said about 3,000 students got Grade E. Maybe because of this disruption, another 3,000 students will get Grade E next year. Where do you expect these people to go? Those are potential recruits for *Al-Shabaab*.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What should be done to reduce the Grade Es?

**Sen. Farhiya:** Mr. Deputy Speaker, Sir, affirmative action should be given, so that people with lower grades from North Eastern join teachers' colleges, so that the problem is solved in the long term.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very good.

**Sen. Farhiya:** Mr. Deputy Speaker, Sir, in the meantime, let them not continue taking teachers away, especially where it is away from the border and there is absolutely no threat.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you. Well done. We are not debating. This is a request for statement.

Proceed, Senator of Mandera County.

**Sen. (Eng.) Mahamud:** Mr. Deputy Speaker, Sir, this is a very serious matter. It is as if we are facing double tragedy. One, the issue of *Al Shabaab* is very serious. Kenyans are losing their lives at the hands of those thugs, but again, you also lose your livelihood and future because of actions by departments of Government that are also reckless and very irresponsible.

The question asked by the Senator is very pertinent. We would like as Kenyans to discuss the issues and see why this action is being taken by the TSC, a commission of Government that apparently is becoming a law unto itself. We do not want to surrender to *Al Shabaab*. Of course, you know we are falling into the trap of *Al Shabaab* by doing what they want.

As the Senate Committee on Education looks at this matter, I would like us to properly engage so that the matter is brought forth because it is recurring every time. In fact, we discussed in the last Session in this House. The same matter was raised in the other House. It is important that, as leaders, we discuss and bring these people to the table and see what the issues are and how to deal with them instead of one group making a decision which is affecting everybody.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you. Let us have the Senator of Mombasa County, quickly.

**Sen. Faki:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii. Ninampongeza Sen. Iman kwa kuleta maombi haya kwa Bunge la Seneti. Hili ni swala nzito sana kwa watu wa North Eastern kwa sababu swala la Al Shabaab ni la kitaifa. Si la jamii moja ama eneo moja.

Uamuzi wa kwenda Somalia kupigana na Al Shabaab haukufanywa na watu wa North Eastern. Ulifanywa na Serikali ambayo iko Nairobi. Leo Serikali ile imeamua kuondoa walimu kutoka eneo lile ili wanafunzi wasiweze kusomeshwa. Je, ipo haja ya hili swala la uajiri wa walimu lipelekwe Mashinani ili kila kaunti iwe na tume yake ya kuajiri walimu; waweze kufanya uchunguzi wa walimu wanaotaka kuajiri ili waweze kuajiriwa?



Bw. Naibu Spika, wanafunzi katika maeneo yale watafanya mitihani sawa na wengine katika nchi ya Kenya lakini wanaweza kuwa hawasomeshwi kwa muda wa mwezi mmoja kwa sababu walimu wote wamehamishwa. Pia, kuna swala la mitihani ambayo inakuwa *centralized* na kuchapishwa na Kenya National Examinations Council (KNEC) lakini ukiangalia, maeneo mengi hayana huduma kama zile zinazopatikana katika miji mikubwa.

Ipo haja ya kuangalia swala hili kwa undani Zaidi na ipendekezwe kwamba swala la mitihani na lile la uajiri wa walimu lipelekwe katika kaunti ili kila kaunti iwe na sehemu yake ya kuajiri walimu wanaotaka.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well.

**Sen. Wario:** Asante, Bw. Naibu Spika, kwa kunipatia nafasi hii. Kwa kweli, walimu kutolewa katika jimbo la North Eastern si nzuri kwa sababu Al Shabaab walileta tisho katika sehemu hiyo. Kama tutakuwa tunaendelea kutoa walimu sehemu zote ambazo wataenda, tutakuja kufunga Kenya hii.

Inatakikana tulinde walimu wetu ili masomo yaweze kuendelea na watu wa North Eastern wapate haki sawa na watu wote walio Kenya.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well done. Hon. Senators, we have run out of time. We still have another Statement or two. I see so many Members of the Senate Committee on Education who want to talk. However, you should be giving us solutions because this is a matter in your docket.

Sen. (Prof.) Kamar, I can give you a minute.

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir, for giving me the opportunity. On behalf of the Committee, we have dealt with this thing before---

*(Loud Consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Seneta, and your colleagues.

**Sen. (Prof.) Kamar:** We have dealt with this issue before. It is so worrying because we might lose a whole generation of young Kenyans because of the way they are being mishandled education-wise.

In the case we handled initially, we invited the Cabinet Secretary. We all agreed that some affirmative action had to be done. The affirmative action that was done was not acceptable to the TSC but they did not tell us that in time. So, there was a problem because they rejected candidates who were already in the teacher training colleges being trained to be teachers in these schools. This time, I request as a way forward that when we have our discussion as a Committee, we want as many Members as possible in this House to come so that all of us come up with a way forward that is going to last.

Secondly, I agree that there has to be a form of affirmative action because in the Committee stage, we also felt that we must have the right affirmative action. If that is not the right affirmative action as per TSC, we must come up with a different one because we cannot afford to have a generation of children who are mis-educated.

Some of the affirmative action may require that any person from North Eastern that is ready to go for training---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You will transact that in the Committee.

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker, Sir, if you allow me, I am inviting Members to come to our Committee so that at the Committee stage, we come up with proper recommendations for TSC.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Wonderful. Go to the Committee. Sen. (Dr.) Musuruve) for a second. What would you want to say that has not been said? Do not lecture the country.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Deputy Speaker. The core issue that is causing the transfer also needs to be addressed because the way this issue is being handled is as if the TSC is just transferring more and more teachers. As a Committee, the affected teachers came before us and they raised some issues that were of great concern. Those issues need to be raised in order to cure this issue forever because we need a sustainable solution.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well-done Sen. (Dr.) Musuruve).

**Sen. Were:** Thank you, Mr. Deputy Speaker, Sir. I wanted to deal with the affirmative action issue because we have had this problem several times. We can deduce from here that many of the teachers in the North Eastern region are non-locals and that should be addressed. We should have more local than non-local teachers so that education is not interfered with in any way.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well done. Finally, Sen. Wetangula.

**Sen. Wetangula:** Mr. Deputy Speaker, Sir. This is a very serious issue. In fact, I have been attending meetings of the Committee on Education on this issue when they were meeting. What is at stake is security and the Government must come up with a serious marshal plan to security in northern Kenya. If it is difficult to run day schools there, let the Government have an affirmative action of building huge well-protected, well-funded and well-staffed boarding schools for children so that the teachers who go to teach there---

I do not share in the philosophy that we should leave people of northern Kenya to train their own teachers to teach their children. We are building a unitary state. Most of the teachers in northern Kenya, in fact, come from Central and Western Kenya. We encourage that TSC engages the national Government on matters of security.

I am happy that Sen. (Eng.) Mahamud told us that tomorrow they have a meeting in Mandera on security and other issues relating to teachers. Tell them, Senator, that it is idle talk and irresponsible behavior to transfer teachers from your region because of issues of security.

The cardinal responsibility of any government is to protect its citizens and their properties wherever they are and under whatever circumstances. Therefore, we should not make any excuses about northern Kenya.

Mr. Deputy Speaker, Sir, finally, at the end of the day the children in Mandera, Wajir, Moyale and all those places are going to sit the same exams with children in

Kilimani Junior Academy and all these other schools that are better placed in Kenya. At the end of the day, you are told that the poorest schools come from northern Kenya. How idle can we be? You are not giving them teachers, facilities, and security, and at the end of the day you tell them, “it is free for all, compete with children from secure areas.” This is killing generations of our children.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Lastly, I will allow Sen. Mwaure to make a Statement and there will be no observations. After that, we will go to the next order.

DEMISE OF HON. CYRUS OMONDI, MCA FOR KAHAWA  
WENDANI WARD, KIAMBU COUNTY

**Sen. (Dr.) Mwaure:** Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No. 47(1), I rise to make a Statement on a matter of nationwide concern regarding the demise of hon. Cyrus Omondi, the Member of County Assembly (MCA) for Kahawa Wendani Ward in Kiambu County.

Hon. Cyrus Omondi was born in September 1980 at Kahawa Wendani and went through school. After school, he embarked on community service. He got married to Ms. Jacklyn Mwangeli Omondi and together they have had three children. He led in community projects in Kariobangi as a scout commissioner together with other Members of this Parliament for Kasarani. He was a staunch Catholic adherent and an active choir member.

Mr. Deputy Speaker, Sir, before he joined politics, Mr. Omondi became very famous because he started out as a mechanic, hence his nickname “gearbox, *mtambo wa chuma*”. He vied for the position of MCA in the year 2013 under the Orange Democratic (ODM) Party - at that time, I was also an ODM member - but he lost by only 200 votes.

In 2017, he vied under the Jubilee Party ticket and this time round, he won because he was on the ground all the time and he identified the challenges of the people and the people identified with him. He ran against 15 other candidates.

Mr. Deputy Speaker, Sir, recently, about two or so months ago, Mr. Cyrus Omondi was elected as the Chairman of the Education Committee in the County Assembly of Kiambu and also a member of the House Business Committee and the Finance and budget Committee.

Many people from different communities reside in Kiambu and it is estimated that more than 30 per cent of the residents are from the non-dominant ethnic community, in this case the Kikuyu Community, which I come from. In fact, many of them speak fluent Kikuyu and they do not know any other home other than Kiambu. They are part of the community there. To put this into perspective, the MCA for Juja Ward is Hon. Kalpesh Jayantilal Shah from the Asian community.

Mr. Deputy Speaker, Sir, for Mr. Cyrus Omondi, the MCA who is now departed, it was a very good show that as a member of the Luo community he was elected in Kiambu County with an overwhelming majority. It serves to show that because of the

cosmopolitan nature, anyone in this country can be elected anywhere. A very good example is hon. Junet Mohamed who is from Migori County.

Kiambu is the second largest county in terms of population, currently standing at 2.4 million people since it is not only the bedroom, but also an upcoming city adjacent to the capital city. To put this into perspective, Ruiru Constituency where Mr. Omondi, and I come from and others has a total population of 374,000 residents. That population is higher than in many counties here, for example, Wajir, Lamu, and Isiolo counties. You can name them. That constituency has a total voting population of 160,000. It is estimated that it may be nearly 200,000 by 2022.

Mr. Deputy Speaker, Sir, this is a very cosmopolitan area. People have been born and bred there. Therefore, hon. Omondi rightly represented the diversity of the county. He also set the pace for a non-Kikuyu candidate to be elected even as a Member of Parliament in the future in the spirit of national cohesion.

I think it is just a matter of time before that happens because you can see the trend in Nairobi. If you look at constituencies, such as Kasarani, Embakasi and Lang'ata and also if you go further in the coast in Lamu, his election is a very important lesson to Kenyans.

Many residents of Kahawa Wendani will remember "Cyro" as we called him for the good deeds and always being there for them. He had a wide network amongst the youth and even the children really liked him. Having been born to a father who is also deceased and was a military officer, Hon. Cyrus rose to become a *Mheshimiwa* from a mechanic. That is another very important attribute of him.

He had been steadfast in fighting together with us for the people of Kiambu County. In fact, when we went with the Senate Committee on Education led by Sen. (Dr.) Langat to investigate the land grabbing at Kiambu Institute of Science and Technology, he was very vocal and determined. He was part of us in ensuring that we return this land to the institution. He worked very hard to put roads into murrum in the one square kilometre ward that acts as a dormitory to Kenyatta University which is my *alma mater* and the Army Barracks.

Mr. Deputy Speaker, Sir, we have lost a great Kenyan who was a dedicated servant of the people who reminded the youths that they too can rise to become anything that they dreamt of.

At the time of his death, hon. Cyrus Omondi was not known to be sick. In fact, he was a very sporty guy; he was a bodybuilder. His death is very suspect because he left here and went to India on official business. He had been left behind because he was giving out bursaries to his ward constituents. Later on, he was found dead in his room.

The information that we have is that he had vomited. There has not been good cooperation from the investigation arms in Mumbai, India. Our Government pathologist was not allowed to participate in the postmortem. As we speak, what is going on is a second post-mortem but the body had already been embalmed.

Therefore, there is a lot of suspicion around his death and there have been very strong feelings that this may have to do with the fight against corruption in Kiambu

County. This is because hon. Cyrus Omondi was the Seconder to the Motion of impeachment. He is the Chairperson of the Committee on Education.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. (Dr.) Mwaura!

What is the aim of your Statement?

**Sen. (Dr.) Mwaura:** Mr. Deputy Speaker, Sir, the aim of my Statement is to eulogise and to also call for---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Proceed, accordingly and you have two more minutes.

**Sen. (Dr.) Mwaura:** Mr. Deputy Speaker, Sir, the aim of my Statement is to eulogise and to also call for thorough investigations into the death of this hon. Member and a leader who dedicated his life to serve Kenyans so that justice can be seen to be done in case anything happened. I stand with the people of Kiambu, Wendani Ward and the people of Ruiru Constituency in celebrating and eulogising hon. Omondi.

May the soul of Cyrus Omondi aka “gearbox, *mtambo wa chuma*” rest in eternal peace.

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

Next order.

## BILLS

### *First Reading*

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILLS NO. 51 OF 2017)

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Next Order.

*(Order for the First Reading read –read the first time and ordered to be referred to the relevant Committee)*

### *First Reading*

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS  
NO. 26 OF 2019)

*(Order for the First Reading read –read the first time and ordered to be referred to the relevant Committee)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): We do not have numbers for Division. I, therefore, direct that the next Order be deferred.

*Second Reading*THE SACCO SOCIETIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 1 OF 2018)*(Bill deferred)*

We move on to the Next Order.

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

**Sen. M. Kajwang:** Thank you, Mr. Deputy Speaker. I beg to move that the Fisheries Management and Development (Amendment) Bill, Senate Bills No. 22 of 2019 be now read a Second Time.

This is a straightforward amendment Bill. Way back in 2016, this House spent considerable time to come up with The Fisheries Management and Development Bill which was subsequently assented to by the President.

The Fisheries Management and Development Act which we are calling the principal Act established a number of bodies, for example, the Kenya Fisheries Council, Kenya Fisheries Service and Fish Marketing Authority. Three years down the line some of these agencies have not been operationalised particularly, the Fish Marketing Authority

It was due to a clause that we put in the parent Act that required the Chairperson of the Fish Marketing Authority to receive parliamentary approval. We went further and declared that the Chief Executive Officer (CEO) of the Fish Marketing Authority should also be vetted by Parliament before being appointed.

Mr. Deputy Speaker, Sir, my amendment seeks to simplify the procedure for appointment of the Chairperson and CEO of the Fish Marketing Authority. The requirement in the principal Act that the Chairperson and CEO be vetted by the National Assembly before appointment goes against the grain of established practice in corporate governance and the Mwongozo Code that we came up with as a nation to guide us in running State corporations.

This Bill proposes that the Chairperson of the Fish Marketing Authority be appointed by the President. It also proposes that the CEO to be appointed competitively by the Board of the Fish Marketing Authority subject to a four-year term renewable once.

Mr. Deputy Speaker, Sir, why does this matter? Fish is big in certain parts of this country. In furtherance of the pillar on food security, it is important that we refocus on some of the sustainable sources of food that would contribute to the pillar of the Big Four Agenda.

The Fish Marketing Authority was established with the objective of marketing fish and fish products from Kenya. For a long time, the people who came from the fishing

communities - be it Lake Victoria, Lake Turkana, Sagana and the Indian Ocean Belt - always complained that there was an authority to market milk, coffee, tea, pyrethrum, meat and other products. However, since Independence, we have not had an authority to market fish. That is why this Parliament, in its wisdom, agreed overwhelmingly to establish the Fish Marketing Authority.

It was mandated with coming up with a national fish marketing strategy. Three years down the line, we still have not crafted a national fish marketing strategy and we have a chaotic situation where fish is coming in from China and many of the fish processors are forced to negotiate directly with buyers in other countries. It would have been easier if the Government was to aide them in opening up new markets. The Fish Marketing Authority was to ensure that fish and fishery products from Kenya enjoy market access at local, national, regional and international levels as premier products. This has been applied in other sectors like coffee.

Kenyan coffee and fish are highly regarded internationally. Unfortunately, we do not have a proper coordinating marketing strategy to position Kenyan fish as a premium product on the shelves in international markets. This was supposed to be the mandate of the Fish Marketing Authority.

Again, the Fish Marketing Authority is meant to enforce national and international fisheries trade laws. The Tuna fish industry is one of the most lucrative food industries in the world. Unfortunately, Kenya, despite lying in a favourable position for Tuna fishing at the Indian Ocean, our fishermen and country have not reaped the benefits of the Tuna fish trade. It was to be the responsibility of the Fish Marketing Authority to push for this. It was to identify fish marketing needs and trends and organize stakeholders to ensure smooth marketing of fish and fishery products.

The board of directors of the fish marketing authority was to comprise of a chairperson appointed by the President with the approval of Parliament. That is what I seek to amend. The chairperson of the Fish Marketing Authority should be appointed by the President without necessarily coming to the National Assembly for approval.

As we speak, we have a substantive chairperson of the Fish Marketing Authority. Hon. Ochieng Mbeo was nominated by the President in July, 2019 and had to be brought before Parliament for vetting. He was appointed in August, 2019. Although the Chairperson of the Board has already been appointed, the CEO is yet to be appointed. It would make a lot of sense to this House if we were to make these amendments so that we empower the board of directors of the Fish Marketing Authority to undertake the appointment of the CEO of the Board in a manner that is competitive and that ensures that the board gets the best.

There are certain concerns that have been raised around the composition of the Board of the Fish Marketing Authority. However, I felt that we need to fast operationalise this authority before we start opening up or dissecting other members of the Board. For example, fish processors and exporters have complained that they have been excluded from this board yet for a long time, they have been the face of Kenya in the fish market globally.

There are those who have raised exceptions that the headquarters of the Fish Marketing Authority ought not to be in Nairobi but in a fish producing area.

Mr. Deputy Speaker, Sir, Members have space to move these amendments in future. However, the most important thing is to get the Fish Marketing Authority up and running and then we can talk about its headquarters and who should be included in the board of directors.

Finally, why is fish and fisheries important? In the Constitution, we made a strange dichotomy between fishing and fisheries, which I hope will be captured in the proposed amendments. So, fishing is a national Government function but fishery is a county government function. It causes a lot of confusion.

If you look at the parent Act, the Fisheries Management and Development Act, the definition does not bring clarity, it increases confusion. That is why you find that county governments will pass the buck or responsibility to the national Government and likewise the national Government when it comes to issues of fish because of that theoretical and academic definition of fishing and fisheries. How I hope that fishing and fisheries could be amalgamated so that there is clear responsibility on who handles it between the national Government and county governments.

The Kenya Marine Fisheries and Research Institute (KMFRI) estimates that five million Kenyans, which could be 10 per cent of all Kenyans, depend on the fishery sector directly or indirectly. The National Treasury estimates that the demand for fish in Kenya is at 500,000 metric tons. This is an important point because we have complained about fish from China and said that we should block imports from China. Available statistics indicate that the local production of fish in Kenya is at 180,000 metric tons. That leaves a deficit of about 320,000 metric tons that is plugged by imports. We have been importing close to 20,000 tons of fish from China.

Lake Victoria still accounts for the highest percentage of fish in Kenya. Overall production from inland, water, marine and aqua culture sources are at 73, 17 and 10 per cent respectively.

The focus that we should be placing on the Blue Economy is on the exploitation of our exclusive economic zone. Many fishermen in the Indian Ocean are unable to go beyond 4 nautical miles, yet we have got access to 200 nautical miles.

The industry is still in a hunter and gatherer kind of mode, where people wake up in the morning, go to hunt and gathering, sell their catch and hope that the next day, they are going to do the same thing. Even though aquaculture is gaining traction, there are still challenges. Those of us who have attempted to do fish ponds or aquaculture, we know how expensive feed is. Just the same way feed for dairy cattle and poultry is expensive, it is the same way that feed for fish is expensive. These are some of the incentives that we should be making to farmers to ensure that we advance the agenda of food security. There is no need to tax inputs like feed excessively. County governments should be setting up feed processing plants so that fish, poultry, and dairy farmers can get cheap inputs for their products.

The European Union (EU) has been the main destination of fish exports from Kenya. You could say that the marketing of fish in Kenya has been more or less on auto



pilot. However, this is a big risk. We have seen two incidences in the past where certain countries within the EU bloc decided not to take fish from Kenya. There were two incidences, but one of the most memorable one was when there was a cholera outbreak around Lake Victoria. Some countries refused to take fish from Kenya, which led to huge losses of market share, including financial losses for Kenyan fishermen.

Mr. Deputy Speaker, Sir, we must also reflect on the headlines that have been in the mainstream media in the last two or three days. We have seen headlines describing Lake Victoria as a lake of poison, full of all sorts of cancerous chemicals and life-threatening elements and pollution. Whereas the media is within its right to expose those issues that it feels affect the lives of the ordinary people, there is also need for balance of sensitivity.

Yesterday, I spoke with a gentleman who processes fish---

**Sen. Madzayo:** Kwa hoja ya nidhamu, Bwana Naibu Spika. Ni jambo la kusikitisha katika Bunge letu la Seneti, ambalo ni hatari kubwa pia kwa heshima ya Wakenya waliowachagua viongozi walio wengi ndani ya Seneti. Ni aibu leo kwa upande wa waliowengi ya kwamba Bunge linaweza kuendelea bila wao. Hakuna Kiongozi, hakuna Naibu wa Kiongozi, hakuna wenyeviti wala Mweshimiwa Seneta yeyote. Hii ni aibu katika uongozi ndani ya Seneti.

*(Applause)*

**Hon. Senators:** Yes!

**The Deputy Speaker** (Sen. (Prof.) Kindiki): The House does not look good. Where is the Leader of Majority?

**Sen. Madzayo:** Bw. Naibu Spika, katika historia ya Kenya, hili halijatokea. Kwa hivyo, tunataka kusema kwamba jambo hili lazima likome. Pia, inatakikana utuelekeze katika mwelekeo wa kwamba hata ikiwa watatoka wote kwa mipangilio waliyo nayo, ambayo hatuijui sisi---

*(Sen. Wako spoke off record)*

**Sen. Wako:** Mwingine yuko hapo, *Chairman wa Budget*.

**Sen. Madzayo:** Anajua?

**Sen. Wako:** Yeye pekee?

**Sen. Madzayo:** Yeye pekee!

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Wako!

*(Laughter)*

**Sen. Madzayo:** Kwa hivyo Bw. Naibu Spika, naomba utoe onyo kali kwa wale Waheshimiwa wa Jubilee, ya kwamba ni lazima waheshimu Bunge la Seneti na pia wafanye heshima kwa Wakenya waliowapigia kura kutoka sehemu wanazotoka. Na pia,

kama kuna runinga, iangalie upande ule, na ione kwamba ni Seneta mmoja tu pekee aliye upande huo mwingine.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Madzayo! You have raised a good point.

Sen. Wako, the last time I checked, you were building bridges!

*(Laughter)*

So, I hope that you will try and build the bridge between the Majority and the Minority Sides.

Order, Sen. Mahamud! The only Member from your side who is present in the House.

**Sen. (Eng.) Mahamud**: Mr. Deputy Speaker, Sir, I went at the back to pray, and when I came back, I saw my colleague from Kilifi asking me, "Where are they?"

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Yes, where are they?

**Sen. (Eng.) Mahamud**: I do not know where they are, but I think that it is not deliberate to be this way. Even though at times this happens from both sides of the aisle, but we do not find out why they are not there. This happens normally, but there is nothing which contributed to one side or the other. After all, we are now one side.

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Mahamud! It is not true; we still have the Majority and the Minority sides. There is a reason why the seats are arranged the way they are; the left and the right of the Speaker.

Now, I do not see the Majority Leader, the Deputy Majority Leader, the Majority Whip and the Deputy Majority Whip. I also do not see any Chairperson, except the Chairperson of the Committee on Finance and Budget. Therefore, Chairperson of the Committee on Finance and Budget, take this message to your side; that we expect the leadership of the Majority to work with the membership to ensure that, at any given time, there is fair and significant representation in the House, not just for the optics of the cameras and the televisions, but also so that we can transact this Business in an orderly manner. This is because some of the Business requires the input of the Majority side, and vice versa.

Therefore, going forward, the Chair will not hesitate to take measures that will not be specified at this point in time, to ensure that the House is balanced; and that the debates that happen here are balanced and that both sides are represented.

**Sen. (Eng.) Mahamud**: Mr. Deputy Speaker, Sir, I will carry the message.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Get the message home. When you do your next Parliamentary Group (PG) meeting, just do a roster of sorts and ensure that, at any given time, that they have a number of Members from both sides.

What is it, Sen. Pareno?

**Sen. Pareno:** On a point of order, Mr. Deputy Speaker, Sir. I just want to thank you for making that clearer. This is because this is not the first time that you have talked about this. This is also not the first time that we lack quorum; it is only that we do not raise it, because if we were to raise issues of quorum, then there would be no sittings in this House severally.

Mr. Deputy Speaker, Sir, you have made rulings previously about people transacting their Business in the Order Paper. Many times before, you have had to jump what is on the Order Paper and also adjourn the House before time. This is because those who are supposed to move Motions or process Business are not in the House. We have talked about this, even in *Kamukunji*'s. You should probably have ordered the leadership of Majority and Minority sides to make a Statement in this House as to whether we are really serious in terms of prosecuting the Business that we have before us.

I, therefore, thank you for emphasizing that they be told that we are here to work on behalf of Kenyans; and that they should explain to this House why all these seats are empty.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well; let this matter end there. I promise the House that next time when there is an incident of this nature, there will be direct and immediate consequences. So, let us not debate beyond that.

**Sen. (Eng.) Mahamud:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Is it on a different matter, Sen. (Eng.) Mahamud, because I have disposed of the matter.

## QUORUM

**Sen. (Eng.) Mahamud:** Mr. Deputy Speaker, Sir, it is a different matter all together.

I rise under Standing Order 35, on the Quorum of the Senate. According to Standing Order 35, a quorum of the Senate or a Committee of the Senate shall be 15 Senators. We do not have 15 Senators in the House; so, there is no quorum.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): So, ring the bell.

*(The quorum bell was rung)*

Order! The Bell is ringing for 10 minutes and then the consequences will follow. We are on Standing Order No.35, which has been brought to the attention of the Chair by the Senator for Mandera County.

*(Sen. Mutula Kilonzo Jnr. spoke off record)*

Order, Sen. Mutula Kilonzo Jnr.! What did you just say? Be careful.

Hon. Members, resume your seats. Order Sen. (Eng.) Mahamud! The Bell has stopped ringing and we have quorum now. We have 16 Members and we can now continue.

Sen. M. Kajwang', you have the Floor. The last time I heard you, you were summarizing because we have a few other agendas to transact.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, allow me to go to the summary. I will avoid wading into the controversy that prompted the short break.

Just to remind our colleagues who had taken a little break and have joined us now, the objective of this amendment is to operationalize the Fish Marketing Authority. I would also like to remind them that fish provides a livelihood for five million Kenyans at different stages of the value chain. Fish is a serious pillar when it comes to food security in this nation. Any initiative that is brought up to promote fisheries subsector directly plugs into the President's Big Four agenda, particularly the pillar on food security.

Before the break, I had mentioned that the European Union (EU) has been the main destination of fish export from Kenya. However, it is an extremely sensitive market that when there is a cholera outbreak around Lake Victoria, Lake Turkana or the India Ocean, certain countries within the EU bloc shut their doors to fish from Kenya. It is understandable and you cannot blame them. That is why I said that there have been matters in the public domain and I took judicial notice of some reports indicating that Lake Victoria has now become a lake of poison. I know this should form a different and substantive Motion which I will bring to this House.

We need to get the truth behind allegations that the water we drink and the fish from Lake Victoria is poisoned, and that everything around Lake Victoria is a disaster not waiting to happen but a disaster that is happening. There is need for sensitivity. When we have headlines running for three days and when we have the media for three days talking about the poison in Lake Victoria, it has an effect on our foreign markets.

I spoke to a gentleman who exports his fish to the EU and the United Arabs Emirates (UAE). He told me that courtesy of those headlines, his buyers in those other countries are beginning to impose more stringent measures. The cost of compliance eats into the profits of fish processors and fish exporters. If we had the Fish Marketing Authority properly operationalized with a Chief Executive Officer (CEO), it would be their responsibility to assure our buyers in the international market that the fish that leaves Kenya is fish that has been subjected to the most rigorous quality and sanitary conditions that would match the standards of EU markets. I hope that the House will quickly pass this Amendment Bill, so that we give life to the Fish Marketing Authority.

Finally, it will be important that the Fish Marketing Authority undertakes immediately, even as they wait for appointment of a substantive CEO, operationalization of the structures of that organization. Kenyan fish must be graded and packaged before export. The business of selling Nile Perch as a batch does not add value to the fish from Kenya. Those of us who come from the lake know that it might look like---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. M. Kajwang', do you come from the lake or the lake area?

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, we live on the islands in Lake Victoria.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): But not on the lake?

**Sen. M. Kajwang':** The islands are on the lake. It is not limited to those from the lake region.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Please, wind up. I was jousting you because I realized today you are repeating yourself a lot, which is unusual. So, I was just trying to trigger you.

**Sen. M. Kajwang':** Mr. Deputy Speaker, Sir, I think it was prompted by the break that threw me off guard a little bit.

So, promotion, grading and packaging before export and providing incentives to processors who add value before export is important. The person who exports processed fish should get better incentives than the person who exports raw fish.

Another issue is promoting domestic consumption. Kenya's fish consumption is lower than the African average. In Kenya, we eat an average of four tonnes of fish per year. In East Africa Community (EAC), it is an average of seven tonnes a year while in Africa, it is 10 tonnes a year. If we increased our domestic consumption of fish, then it can do serious benefit and great wonders to the demand for fish.

It will shorten the supply chain, so that from the lake, the fisherman does not have to be at the mercy of an agent, or the woman who picks fish from the fisherman does not have to provide other supplementary services to the fisherman before she gets fish.

Finally, it will ensure that Kenyan fish is supplied closer to the retail end. Our fish tend to go to wholesalers who put in warehouses. They are the ones who make lots of money by sending to the retail end. We need to disintermediate and shorten that supply chain to global markets. More fundamentally, we must promote increased production through aquaculture and exploitation over 200 nautical miles of the exclusive economic zones.

I want to declare that the future is fish if we harness it properly. If we have the right policies and strategies, fish can be the next big resource that this country can export to other countries.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Wind up, Sen. M. Kajwang'.

**Sen. M. Kajwang':** Deputy Speaker, Sir, I request Sen. (Dr.) Musuruve to second.

**The Deputy Speaker** (Sen. Prof. Kindiki): Move the Bill first.

Order, Sen. M. Kajwang'! You have not moved your Bill.

**Sen. M. Kajwang':** Mr. Deputy Speaker, Sir, I beg to move and request Sen. (Dr.) Musuruve to second.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to second this Bill. I want to congratulate Sen. M. Kajwang' for coming up with this amendment. This amendment will ensure that the fishing industry thrives, and that the fishermen are not exploited in any way. It will boost the status of the fish farming industry.

Mr. Deputy Speaker, Sir, the principal Act of this Bill, 2016, has salient information that would help the fishermen in this country. In the past, we did not have an authority that would regulate the fishing industry. However, when the authority was established, it addressed salient issues like subsistence farming. Now we can see that the

fisherman is protected, and he is able to provide food to his family and to improve his living standards. This is not for commercial purposes. That was addressed in the principal Act.

Another salient issue addressed by this amendment is territorial waters. We have had our people fighting for territorial waters, especially in Migingo Island. Such fights can affect fish farmers economically. Once this Bill is enacted, it will help us address the issue of territorial waters amicably.

The issue of regulating the fish industry is very important. This is because fishing is the in thing for those communities that live around the water. If it is not regulated, there is a danger of fish farmers being exploited by the middlemen. It also addresses fish related activities, such as transshipping of fish to or from vessels, fish landing from outside, packaging of fish, transporting and exporting fish products even to European countries.

These fishing activities are important in ensuring that the fishing industry is given the status that it deserves. Packaging of fish is critical in this industry. If fish is not well packaged and if hygiene is not taken seriously, then the standards will be affected. All these salient issues have been addressed in this principal Act.

Mr. Deputy Speaker, Sir, what Sen. M. Kajwang' wants this Senate to do for him is to ensure that the process of appointing the Chairperson and the Chief Executive Officer (CEO) of the Fish Authority is simplified. That is the essence of what Sen. M. Kajwang' wants this Senate to help him do. The issue before this Senate needs to be treated with a lot of seriousness. Here, we are looking for *mwongozo*. The *Mwongozo* gives directions on how chairpersons of boards are appointed by the President. It is normally a presidential appointment, and it is gazetted. This is because we want everybody in the county to know that so and so was appointed to be the chairperson of this and that board. Congratulatory messages are always in order after a chairperson has been appointed by the President.

Mr. Deputy Speaker, Sir, when it comes to appointing the CEO of any authority, it is the Board of Directors that appoint him in accordance to the *mwongozo*. Normally the CEO is appointed to serve for a period of four years. After the four years, he can be reappointed to serve for another term of four years. This should also apply to the Fish Authority of Kenya. Ideally, he is saying that those standards should not be compromised. What happens in other authorities should also happen in the fishing industry. The Board must be empowered so that it is not just a toothless bull dog.

Mr. Deputy Speaker, Sir, the CEO of any company has a very important role to play in any organization. When it comes to key decision making, he has the role to play. He is always consulted by board members on various issues. Therefore, we should simplify the process of appoint the CEO of the fishing authority.

Mr. Deputy Speaker, Sir, the fishing industry is an income earner for people living around the lake. It is also a source of employment. Farmers who rely on the fishing industry use their proceeds to educate their children. Therefore, there is need to ensure that these farmers are protected. There is also need to ensure that they are encouraged. I would like to give an example---

**The Deputy Speaker** (Sen. Prof. Kindiki): Sen. Dr. Musuruve, I want to request you to try and summarize, because we informally agreed we want the other Senators to speak to this. We also have another agenda on Independent Electoral and Boundaries Commission (IEBC) Bill, which we also want to transact. Kindly, if you can put your thoughts together; I am sure, as a former lecturer, you can do that.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Deputy Speaker, Sir, for that. In a nutshell, what Sen. M. Kajwang' is presenting on the Floor of this House is an important issue, and we need to address it. As I said, we want to see to it that this issue of appointing the chairperson and the CEO is aligned to what is stipulated in the *mwogozo*. Fish farmers are looking at the Senate to ensure that this regulatory body is put in place to help them address many challenges in this industry.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Prof. Kindiki): Very well. Thank you so much for your consideration.

Proceed, Sen. Halake, as briefly as you can. The best contributions are normally short. Let me first propose the Question.

*(Question Proposed)*

**Sen. Halake:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Bill.

As Sen. M. Kajwang' has said, this Bill is quite straight forward. It seeks to ensure that we do the right things and use industrial practices to make sure that people that come on board, who will be stewards of the fish industry, are supported to come on board in the right way. How people are on board is very important on the success of the board and the industry.

I stand to support the Fisheries Management and Development Bill (Senate Bills No.22 of 2019). Today, we were taken through what they call a shut-eye economy. We were told that it is an economy where all the fundamentals are wrong, but we pretend that everything is rosy and we just live, borrow and make sure that we live beyond our means.

If we want to be serious about our economy and move beyond the shut eye economy to an economy that has the basics or the economic fundamentals, such as the production and factors of production as well as other economic sectors, then we need to start looking at the components of our economy, fisheries, pastoralism and agriculture. We need to do all these things to make sure that our economy is not one where you cannot explain what the numbers are speaking to.

Mr. Deputy Speaker, Sir, we speak of 5.6 per cent or 5.7 per cent economic growth, and sometimes get ahead of ourselves and talk of 6 per cent growth. Where is that growth if we do not have the sectors that are actually going to support the fundamentals of our economy? The fish industry or the blue economy, as they like to call it, is one of them. Our fish industry is artisanal. We have an array of middlemen running around from production to processing to the exports. It is about time we brought sanity to it.

One thing that this House should be making sure of, because of our oversight role – and this is what I like about this Bill and I actually came back to speak to it – is that we cannot delegate putting in place the right people to drive and make sure our industry has the right people driving it.

Mr. Deputy Speaker, Sir, I stand to support. I would like to see our country having business fundamentals or economic support pillars so that we can say that we have 6 per cent growth because our fish industry is working. Similarly, we can say that it has gone to the next level, and it has got value added. In the Big Four Agenda, for instance, we are talking of manufacturing, but what are we doing to make sure that we add value to our fish and other sectors of the economy?

Mr. Deputy Speaker, Sir, we talk of food security and all these things, but the number one driver of food security of nutritional value is the protein that comes from fish. We are told here that perhaps we do not even consume that much. I read somewhere that our exports and our local consumption are equal. How is that even possible, when our exports are so low to begin with?

I do not wish to belabour on this, but I like this amendment. It is going to put the industry in the right hands, if it is done properly.

Mr. Deputy Speaker, Sir, I support the Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well done. If we proceed that way, we will dispose of this matter shortly.

Proceed, Sen. Mutula Kilonzo Jnr.,

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Deputy Speaker, Sir. This amendment on the Bill by Sen. M. Kajwang' is pretty straight forward. In the days when Parliament was Parliament, in fact these amendments would come through an omnibus Bill. We do not need to make these corrections in such an elaborate Bill. Since the omnibus Bills come with more details, like the one that was stood on by the Senate Majority Leader, it now becomes necessary to make amendments of this nature.

In fact, when I appeared before the Building Bridges Initiative (BBI) this morning and we were talking about legislative reforms, a clause like this one that Sen. M. Kajwang' is amending would not have passed this Senate. A proposal in the Act says-

“The names of persons proposed for appointment under subsection (1)(a) and (h) shall, before they are appointed, be laid before the National Assembly for approval.”

It does not even say “vetting;” it says, “for approval.” In modern parlance, it can only mean that this is lobbying. It is just lobbying because if the law is talking about vetting, this is talking about approval. What are they approving? What framework are they using?

Mr. Deputy Speaker, Sir, since when did the National Assembly get the mandate to do such things? It almost looks like clerkship. They are doing the clerk's work. Even, we, in the Senate cannot do this. It is the work of the board. It is actually standard practice all over the world. I would attribute it to bad drafting, but it cannot be bad drafting. It is just somebody somewhere--- Maybe Sen. M. Kajwang' did not tell us why the National Assembly has such interests in vetting a CEO of fisheries. I do not understand that portion. Maybe it is the idea of coming from the Lake.



The second one is the appointment of the CEO. Again, it is standard practice that CEOs are appointed by a board, and there is a reason similar to what I have raised before. If the Cabinet Secretary (CS) is busy doing all these things in conjunction with the board, who is the CEO supposed to report to?

Mr. Deputy Speaker, Sir, in the previous Section, who is the CEO supposed to go to? In fact, the previous Section undermines both the CS and the Board. This is because if I am vetted by the National Assembly, what is the business of the board asking me questions? I am actually an employee of the National Assembly, strictly speaking.

It is the same way we take pride in summoning CSs, because we have vetted them. They are substantially employees of Parliament. That is where CSs of Jubilee Government have failed to understand that they are primarily the employees of Parliament, but get their appointment letters from the President. So, they should report to Parliament.

The is the way it is structured here; this CEO will report to the National Assembly. It is a contradiction. Not even to the extent that this matter is devolved but to the extent where it does not say “Committee” but “the National Assembly.” It means everybody, including the Speaker. Therefore, the amendment is timely.

Mr. Deputy Speaker, Sir, I have not seen you in any of the rallies. When you get an opportunity, like I did today, you sing to the birds. If the birds can hear, sing from the top of the mountain that the legislative mandate of Parliament is exercised by the National Assembly and the Senate. Therefore, the right to look at some of these clauses would ideally come here for us to check.

I support this amendment. I hope that Sen. M. Kajwang' will, at some point, come to us, as the person concerned with marketing and ideally production – I did not want to say “production” – of fish from his region, bring us in some form, a Statement to say--- First, I heard him say he is against the report that says that our source of fish in Lake Victoria has been poisoned. In the case of Athi River, which goes to Thwake, when the *Daily Nation* said that our river is polluted, we did not defend it. We said; “Yes it is. By Nairobians, tenderpreneurs and profiteers.”

The people who Sen. M. Kajwang' represents – of whom some are profiteers, racketeers and businessmen – are busy poisoning the Lake from where we get our fish. That is a serious issue. In his good nature and as the Chairperson of one of the most serious Committees that audits counties, I expect him to audit the counties of the Lake region.

He needs to seek a statement on the status and cleanliness of Lake Victoria, our fresh water lake that supplies water to the Aswan High Dam and others in Egypt.

Mr. Deputy Speaker, Sir, I beg to support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well.

Proceed, Sen. Omogeni, and keep it short.

**Sen. Omogeni:** Mr. Deputy Speaker Sir, I rise to support the Bill that has been presented by Sen. M. Kajwang', although with some comments.

First, Nyamira County neighbours the Luos. We grew up knowing that other than being delicious, fish is also a source of many nutrients, including Omega-3. We were told

that if you eat fish, you may not have a risk of suffering from high blood pressure. For some of us who schooled with Luos, we were told that if you get fish, go for the head. This is because that way your Intelligence Quotient (IQ) would likely be higher than that of others from other communities. Fish is a very important source of some nutrients in this country. However, sadly, we have been reading in the newspapers in the past few days that there is a serious threat of contaminating Lake Victoria, and, therefore, supplying us with fish that may carry some very bad elements, including mercury.

Mr. Deputy Speaker Sir, that is not a very good story. I hope that the National Environment Management Authority (NEMA), which should ensure that we have a clean environment and that our waters remain free from contamination, will step in. That is why NEMA was created. I read something on the British Broadcasting Corporation (BBC) yesterday; that there is a businessman somewhere in Europe who is pumping in USD10 million to protect some river in Europe. Therefore, I think that this is something that NEMA should take very seriously.

Mr. Deputy Speaker Sir, as you know, there are some areas in Luo Nyanza where they count the number of professors in a square kilometer. This is unlike some regions, where you find one in a location. More importantly, I really do not know why the framers of this Bill wanted to reduce the work of Parliament to the level of vetting chairpersons. There are so many boards. We see gazette notices where the President appoints so many chairpersons of parastatals, some which are even more resourced financially than this one dealing with fish. I do not think that they are subjected to parliamentary vetting.

Even if we were to talk about non-discrimination and having uniformity in the way we pick the people who are to head these bodies, I do not think there is a justification why we should put a higher standard for the process of appointing the chairpersons of fisheries. To bring uniformity and ensure the process is fair to everybody, let the President be the final appointing authority.

Secondly, the moment you have put in place a board of integrity that consists of men and women who went to school, there is no need of again making reference to the CS to have the final say on who should be the CEO of a body. What we need to do is to build more faith and trust in our boards of management, because they are the ones who will deal with their CEO on a day to day basis. They should have a final say. It is just fair that the person who should be entrusted with the running of an organization should enjoy the full confidence and faith of the board.

Also, we do not need to clog Parliament. In some countries like the United States of America (USA), when one is being subjected to vetting by the Senate or the Congress, it is a serious appointment. If we reduce vetting to be for every CEO, I think we will clog the work of Parliament, and in the process, hurt the seamless functions of these bodies.

It is unbelievable that it has taken this long for this body to have a CEO in place. Therefore, to make the running of the business of our bodies – and not just this one, but many of our parastatals – let the board of management have the final say. Otherwise, the amendments are straightforward, and I support them.

The only amendment that I am not in full support of is the proposal that the term should be increased from a renewable term of three years to a renewable term four years.

I think that the best practice that I am seeing, including the CEO of the Ethics and Anti-Corruption Commission (EACC), is to serve for a period of six years. I, therefore, urge my friend, Sen. M. Kajwang', to reconsider that proposal of a renewable term of four years. Eight years is a very long time. If you have been given a renewable term of three years, that is enough opportunity for you to make contribution to the growth of a parastatal.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support.

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

I think we are doing well. Just a couple of other colleagues and then we will be done.

Proceed, Sen. Olekina.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, I wish to donate my time to my senior, so that he can contribute.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Are you not ready? I do not think you are being magnanimous, but it is accepted. Who is your senior?

Sen. Madzayo. You also known as 'Temporary 10'. Do you have a temporary card? There is a temporary card somewhere there, but it is okay.

**Sen. Madzayo:** Mine is very clear.

Bw. Naibu Spika, asante sana kwa kunipa muda huu. Pia ningependa kumpa hongera ndugu yangu kwa kutambua kuwa mimi ni mkubwa wake kiumri, na nilimtangulia kuingia katika Bunge la Seneti. Nampatia heshima kubwa sana Sen. Olekina. Ni watu wachache sana ambao wako na heshima kama hiyo. Ukiniona nikimshukuru ni kwa sababu Sen. Olekina anastahili kongole kubwa.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Kongole, Sen. Olekina.

**Sen. Madzayo:** Bw. Naibu Spika, ningependa kumuunga mkono ndugu yangu, Sen. M. Kajwang', ambaye pia ni mdogo wangu. Hii ni kwa sababu ameleta Mswada huu ambao ni wa maana sana, unaohusu mambo ya uchukuzi, ufugaji na biashara ya samaki.

Nimetafakari mageuzi haya na nikaona kuwa yako katika mstari wa mbele. Kitu muhimu cha kunakili, ni kwamba hakuna chochote kinachotengenezwa cha samaki kisichohusu mvuvi. Mimi natoka katika eneo la Pwani. Ufuo wote wa Pwani ni ufuo wa bahari.

Wengine wetu tulisomeshwa na wazee wetu kutokana na mapato ya uvuvi wa samaki. Vile vile, tuko na maziwa kama matatu hivi yanayojulikana Kenya. Ziwa kubwa katika Afrika nzima ni Ziwa Victoria. Ndugu yangu, Sen. M. Kajwang', anatoka katika sehemu hiyo. Lakini hiyo sio sababu pekee ambayo imemfanya kuleta Mswada huu. Watu wa Turkana pia wana Ziwa Turkana, na kuna maziwa mengi nchini Kenya. Hata wale watu wanaoishi kando ya mito ni wafugaji wa samaki. Ikiwa wataweza kupata samaki, watayarisha na wauze au watengeneze mpaka ile minofu ambayo huwekwa kwenye pakiti baadaye na kuuzwa ng'ambo---

Ukienda katika mitambo ya kutengeneza ngozi ya samaki kule Kisumu, utaona kuwa kuna maarifa mengi yanayotakikana. Kwanza, kuna kupara ngozi, ambayo inatengenezwa sawa sawa na kuwekwa katika paketi na kupelekwa ng'ambo.

Bw. Naibu Spika, uvuvi unaweza kuendesha uchumi wa nchi yetu mbele. Katika Mswada huu, kuna vitu vingi ambavyo Sen. Kajwang' amevizingatia. Ninawakilisha eneo la wavuvi, na ninajua kwamba uchumi wa wavuvi ni nadra. Ina maana kwamba Serikali lazima isaidie wavuvi waliochini. Kuna wavuvi wanaotumia mitumbwi, madau makubwa au meli. Cha muhimu ni kwamba wavuvi hawapati msaada wowote kutoka kwa Serikali. Serikali yetu lazima izangatie swala la kuwainua wavuvi walio chini, ili nao wapate maendeleo.

Kwa kumalizia, ningependa kusema kwamba uchukuzi wa samaki una manufaa kabisa. Samaki iko na faida nyingi, hususan kwa watu kama sisi tuiliopita umri wa zaidi ya miaka 40 au 50. Mimi sio daktari, lakini nikikuangalia, najua kwamba ukila nyama kwa wingi katika umri wako, utakuwa na shida inayonipata mimi nikila nyama kwa sababu ya *gout*.

Bw. Naibu Spika, mimi na wewe ni mawakili. Wewe ni professa wa sharia, lakini madaktari wanatuhimiza kula samaki kwa wingi katika umri wetu, ili kuendeleza maisha yetu. Inafaa tuwachane na nyama ili tuwache kuteseka kiafya.

Bw. Naibu Spika, naunga mkono Mswada huu ulioletwa na Seneta wa Homa Bay County, Sen. M. Kajwang'; pamoja na vitengo vyote alivyotenga kwa mambo ya uchukuzi na maendeleo ya samaki katika Kenya.

Asante Sana, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well done. Thank you. So far so good.

Proceed, Sen. Faki.

**Sen. Faki:** Asante sana, Bw. Naibu Spika, kwa kunipa fursa hii. Nilikuwa na hoja ya nidhamu kwa ndugu yangu, Sen. Madzayo.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): *Umepitwa na wakati*. Sen. Madzayo is no longer on the Floor.

**Sen. Faki:** Bw. Naibu Spika, Sen. Madzayo anapozungumzia umri fulani, je ni wazee wavivu au ni kukosa chakula cha samaki?

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Faki!

**Sen. Faki:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii kuchangia pendekezo la mabadilisho ya sheria ya uvuvi, usimamizi wa uvuvi na utekelezaji wake. Mswada huu umekuja katika wakati mwafaka. Tumeona uchumi wa Kenya umekuwa ukiregerega kwa sababu ya zile nyanja tofauti ambazo zinasimamia uchumi wa Kenya zimelemaa katika utendakazi wake.

Uvuvi unaweza kutupa fursa nzuri ya kuongeza mapato ya nchi, hususan samaki wale wakitayarishwa na kusafirishwa katika nchi zingine ile wauzwe katika soko za nje. Vile vile, uvuvi unatoa fursa kwa Wakenya kupata chakula ambacho hakina madhara, isipokuwa sehemu za uvuvi ambako maji yameingiliwa na mchafuko kutokana na 'contamination' ya maji taka au kemikali zinazo athiri maisha ya samaki.

Bw. Naibu Spika, naunga mkono mapendekezo ambayo yametolewa na Sen. Kajwang', isipokuwa moja inayopendekeza mkurugenzi mkuu kukaa ofisini kwa muda wa zaidi ya miaka mitatu. Wakurugenzi wengi hukaa ofisini kwa muda wa miaka matatu, na huo umekubalika kama wakati mzuri wa kufanya kazi na kuendelea na mambo mengine.

Wavuvi wetu wengi hawana uwezo wa kununua vifaa vya kuwaezesha kuvua samaki katika sehemu za bahari kuu, ambako kuna samaki wengi kuliko mikono ya bahari kama Tudor, Port Reitz na kwingineko. Kwa hivyo, ipo haja ya serikali za kaunti kutoa ruzuku kwa hao wavuvi, ili kuhakikisha kwamba wavuvi wanapata vifaa vya kisasa vya kuwaezesha kwenda katika sehemu za nje, ili wavue samaki wengi na kuinua mapato yao.

Bw. Naibu Spika, jambo la pili ni kwamba sehemu nyingi za uvuvi hazina vifaa vya kuhifadhi samaki wale baada ya kuvuliwa. Kwa mfano, mvuvi akienda baharini usiku halafu arudi na samaki wengi, ikiwa hatapata mahali pa kuwahifadhi kwa baridi, samaki wale huharibika, na itakuwa amefanya kazi bure. Kwa hivyo, iko haja pia ya serikali zetu za kaunti kuwasaidia wavuvi, kwa sababu uvuvi na ukulima ni huduma ambazo zimegatuliwa kikamilifu. Ipo haja ya serikali za kaunti kukeza katika huduma kama hizi, ili kuhakikisha kwamba samaki wanaovuliwa na wavuvi hawapotei.

Bw. Naibu Spika, sehemu kama Lamu iko na *curfew* kutokana na ukosefu wa usalama. Kuna ukosefu wa usalama kutokana na mashambulio ya mara kwa mara ya Al-Shabaab, inayofanya Serikali kuzuia wavuvi kutoka usiku kwenda kuvua au kusafirisha samaki waliovuliwa usiku. Samaki waliovuliwa na wavuvi katika Kaunti ya Lamu wasio kuwa na vifaa vya kuhifadhi samaki wataharibika barabarani wanaposafirishwa ambapo itakuwa hasara kubwa kwa wavuvi.

Bw. Naibu Spika, ipo haja ya wavuvi wa samaki kupewa kipa umbele kwa sababu ni njia rahisi ya kukidhi mahitaji ya Wakenya kichakula na kimapato. Unaweza kula samaki kutoka Jumatatu mpaka Jumapili. Kama vile Sen. Madzayo alivyosema, kuna samaki wengine kama vile papa, nguru au jodari. Samaki hao wakubwa wana virutubisho fulani ambavyo husaidia kuwahami wazee, kama Sen. Madzayo, ambao wanapata shida wakati wa baridi na sehemu zingine kuhakikisha wanajenga joto la kutosha mwilini ili wapambane na huduma za kijamii.

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Faki! Is that information you are giving scientific and medical?

**Sen. Faki:** Bila shaka, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): The last time I checked, you were not a doctor.

**Sen. Faki:** Bw. Naibu Spika, naweza kunena bila hofu au kutatizika kwamba ukila papa m'bichi, una hakika kwamba utajenga nguvu za kutosha mwilini za kupambana na athari yoyote ya kiafya.

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

**Sen. Cheruiyot:** On a Point of Order, Mr. Deputy Speaker, Sir. I would like to bring to your attention that Sen. Faki and Sen. Madzayo are almost of the same age. Therefore, if Sen. Faki claims something, he does not need to be a scientist. It means that he has confirmed by himself.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): How do you know that Sen. Faki and Sen. Madzayo are almost of the same age?

**Sen. Cheruiyot:** Mr. Deputy Speaker, Sir, they are both my friends, so I know their ages. I also know the kind of delicacies they prefer whenever they travel.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hon Senators, we are running out of time. Kindly summarize your remarks, Sen. Faki.

**Sen. Faki:** Kwa kumalizia, Bw. Naibu Spika, hatari nyingine inayowakumba wavuvi katika eneo la Mombasa ni ukataji kiholela wa mikoko. Mikoko huwapa samaki fursa ya kuzaana, na pia kuondoa hewa sumu kutoka katika mazingira na kuleta hewa safi. Mikoko huwa kama misitu inayosaidia kuhami maeneo ya bahari.

Wakati mikoko inakatwa kiholela, ina maana kwamba zile sehemu ambazo samaki wanaweza kutumia kutaga mayai zinaharibika, na hatutaweza kupata samaki wengi kama vile ambavyo tungeweza kupata wakati mikoko ile itazingatiwa kulindwa. Kwa hivyo, inamaanisha kwamba iwapo mikoko itakatwa baharini, sehemu zote ambazo samaki hutumia kutaga mayai zitakuwa zimeharibika, na kutakuwa hakuna mahali pa kutaga samaki.

Mwisho, Bw. Naibu Spika, ni kwamba kuna swala la uchimbaji katika bahari. Utapata kwamba katika bandari kwa sasa, kwa mfano *Kenya Ports Authority* (KPA) au lile Shirika la Bandari la Kenya linajenga *terminal* mpya ya vyombo. Wanatumia mchanga kutoka sehemu kuu ya bahari ambako wanachimba chini. Mchanga ule wanakuja kuujaza ili wapate sehemu ambayo wataweza kujenga *terminal* ile.

Kuchimba huku kunaathiri mazingara ambayo samaki wanatumia kuishi na kutaga mayai. Hii ni kwa sababu wakichimba, zile fujo ambazo zinatokea zinaathiri samaki, kwa sababu samaki hawapendi mazingara ambayo yako na makelele au utatanishi katika sehemu ya bahari. Uchimbaji ule ukifanyika, zile sehemu ambazo samaki wanaweza kupata fursa ya kutaga mayai na pia kukaa kwa utulivu ili waweze kuendelea na shughuli zao, wanakimbia. Ina maana kwamba wavuvi hawataweza kupata samaki wengi kuvua; na vile vile kupata mapato ambayo yatawasaidia kuendesha maisha yao.

Bw. Naibu Spika, katika suala hili, pia ni lazima halmashauri ambayo inatarajiwa kusimamia mambo ya uvuvi iyaangalie. Wavuvi wale hawana fursa ya kupata mapato mengine wakati mazingara ya samaki yameathirika. Nafurahi kwa Mswada huu ambao umeletwa na ndugu yetu, Sen. M. Kajwang' wa Homa Bay. Hii ni kwa sababu pia kule, uvuvi wa samaki ni jambo kubwa sana. Wiki iliyopita nilikuwa katika maeneo ya Bondo, Rongo na Kisumu, na chakula changu kingi kilikuwa ni samaki.

Kwa hivyo, tunaomba kwamba Mswada huu upitishwe.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Asante.

Proceed, Sen. Cheruiyot. Please be brief. We want to go to the other Motion, on the IEBC.

**Sen. Cheruiyot:** Thank you, Mr. Deputy Speaker, Sir. I am duly guided. I will try and be extremely brief. I support this Bill that has been done by my good friend, the Senator for Homa Bay County, Sen. M. Kajwang', and the embodiments of that which he seeks to achieve in this particular Bill.

It is very important and I have taken time to read through. It is quite a short but very nicely drafted Bill. Therefore, I have taken time the few minutes that I have been here to reflect and listen on the contributions of fellow colleagues. At the same time, I have drafted my own notes on what I think about this particular Bill.

Mr. Deputy Speaker, Sir, I will go straight to the proposals that are being made by Sen. M. Kajwang', on how to establish this particular board that is charged with the responsibilities of driving this. It is what I consider to be a very important authority; the Fisheries Marketing Authority. This is an extremely important institution. I am sure that before Sen. M. Kajwang' sat down to determine why perhaps we need to redo the wording of the Fisheries Management and Development Act, there must have been some serious reflection that went into it.

However, I have certain reservations that I would wish my good friend, Sen. M. Kajwang', to reflect on. This continuous thinking that I see every time that we do a particular Bill, you set up a particular authority where we want the chairperson to be appointed by the President. Of course, under our Constitution, the President is a symbol of unity. They are supposed to do everything in the best interest of the country. But what has been our experience, as a legislature in the last ten years reflecting on this current Constitution?

Mr. Deputy Speaker, Sir, if you study through the various boards that have been set up by legislation in this House, how prudent has the presidency been? It is unfortunate, because we are discussing this, having been served in this Constitution by perhaps one President and another one who was on his way out and who, therefore, may not have made many of these appointments.

But the truth of the matter, because it is nothing personal to it, is that we have not been extremely wise in how we have donated some of these powers to the presidency. You remember the incident we had recently with the National Employment Authority (NEA), where the courts had to quash and people had to make a lot of noise for it to be reflected.

Mr. Deputy Speaker, Sir, I do not know the wisdom in which my good friend--- I have read the memorandum, and I know that you are trying to align this particular board to the *Mwongozo* or guidelines that have been issued. But let me tell you something, Sen. M. Kajwang'; legislation from this House is more superior to that *Mwongozo* or Guide. We have the powers, and Kenyans have given us the powers to do that which is in their best interests.

I always remind people that Article 1 of our Constitution is that for all the institutions that derive or have donated powers from the people of Kenya; Parliament comes first even before the Judiciary. That is how important this institution is. If we get

to a point where we reflect and say; I do not know how difficult it is, Sen. M. Kajwang'. We have about less than ten counties that have got fishing as the mainstay economic activity in this Republic.

Mr. Deputy Speaker, Sir, it is not so difficult for it to be proposed that from the ten of them, the governors or nominees from those counties can set up a selection panel and establish an individual who has the right competence, skills, determination, and focus to drive this particular institution so that we stop this business. It is a shame that with millions of youths that are jobless, chances are that most of the fish that we consume in this city is not from the lakeside; it is not from Lake Naivasha, but it comes thousands of miles all the way from China.

What is the difference? It is because they manage these institutions in China better than we are doing in Kenya. What is the reason? I say, everything rises and falls on leadership. It tells you that the people who have been at the helm of some of these institutions have let us down. It would have been my proposal that given the fact that we, from the political leadership, have seen boards and various parastatal positions as opportunities to reward our family members, cronies and people that we ran with on the same political party. We need to reflect and rethink about all this idea.

Mr. Deputy Speaker, Sir, I do not know if it was Sen. Olekina. I saw somebody in the news recently speaking about the fact that the Public Service Commission (PSC) has failed in its responsibilities. Why are we going round the country saying we want to talk about inclusion? It is because even how we have distributed jobs is not in reflection of competency. At the end of the day, I would wish that we are in a position where, as a country, we say the reason so-and-so occupies a particular position is because of the competencies that they enjoy.

Sen. M. Kajwang', I see that even under the Clause 201, the composition of the board of directors, just like in the rest of the parastatals, the same powers have been donated to the Principal Secretary (PS) at the time being in charge of finance. I think this PS for the Ministry of Finance, Planning and Economic Development – of course I know he does not sit in person; he sends a representative – but at the end of it, is a flawed concept. That representative is supposed to exercise donated authority where, at the end of the day, they have to brief him.

Mr. Deputy Speaker, Sir, to the best of my knowledge, ever since I came to Parliament, this person, and the PS in charge of the Ministry of Trade and Industrialization and there is another one more that I cannot remember, they are almost in all the boards of all parastatals. At what time do they give strategic direction? These are the things that we need to address.

We have one template that we use to draft almost all our legislation. In fact, there is one more that I was looking for. Fortunately, it is not in this Bill. I have complained and said that the next time I get a Bill that has that provision where we are saying that the headquarters will be in Nairobi--- Surely, why would you need the headquarters of a fisheries and maritime authority to be in this city? Take it to Mombasa or Kisumu, or at least to places where even ordinary fishermen can visit those particular offices and interact with the people who are running that particular sector.



Therefore, Mr. Deputy Speaker, Sir, I will allow you, Sen. M. Kajwang', because I understand what you are trying to do with this particular piece of legislation. But I still want to challenge you to reflect deeply on whether this particular system of nominating chairpersons and board members to parastatals is good for this country. Perhaps, we can sit down together. I know that Sen. Olekina has been passionate about distribution of jobs across the country to reflect the diversity of our nation. Let us see if we can amend the Public Service Commission Act and give it all the necessary powers to ensure that even our public service is reflective of the kind of Kenya that we want for this and future generations to come.

With those very many remarks, I beg to support this Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you. Proceed, Sen. Pareno.

**Sen. Pareno:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I support this Amendment Bill by Sen. M. Kajwang'. If proper management is not done and there is no proper development, then at the end of the day, we will be killing the economy of the lake region and the fishing fraternity in this country. There is so much that needs to be done.

We know that climate change came. Regarding fishing, there was a time when we witnessed a lot of docking areas being shifted to follow the shoreline because the water levels keep reducing by the day. As the water levels reduced, this led to reduction of our fish and that affects the economy.

We have a lot of pollution going on. If we do not have proper management of these water and fishing areas then this will affect everybody. Another day we went to visit that place and we were shown how the weevils are supposed to finish the water hyacinth. We saw how slow it is for us to get rid of the water hyacinth from our lakes.

This all goes around the issue of lack of management and us not being serious on how to develop our water bodies and fishing industry. In effect we are just killing the economies and businesses of the people who rely on fish. The more the fish the less the cost of that fish. The less the fish, the more the cost. This makes it so expensive for us to even have fish as a source of livelihood and food. We are all affected.

Mr. Deputy Speaker, Sir, we keep giving half-baked solutions. We put in place an Act to create a board and we do not give it teeth. It is only several years down the line that Sen. M. Kajwang' realizes that a board is required for this Authority to function well. It is upon us to do the right thing; create a board, give it teeth and let it be able to implement what we intend to do.

It is just like what is happening in this Senate. Now we are crying every day saying that the Senate has no powers and that its mandate is being abused. It is because we do not intend to do the right thing in this country.

I hope this provision will solve the problems that fishermen and those who earn their living around the lake and water bodies face. I thank Sen. M. Kajwang' for coming up with this proposal. We hope that this will solve the problem we have with the fishing industry.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well done, Sen. Pareno. Sen. Olekina, kindly close for us for not more than five minutes.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir. I rise to support this Amendment Bill. It is a very straightforward Bill. I was listening to Sen. Cheruiyot making his contribution and I truly agree with him that we need to think outside the box.

I am happy that he was suggesting that it is high time that we donated these powers of authorities to other people. I have analysed most our Bills and I could not agree with him more that it seems that we have one template. Therefore, whenever we try to do something different or unorthodox, it does not go far.

The Amendment that Sen. M. Kajwang' is proposing makes a lot of sense. A CEO should be appointed competitively by the board of directors so that he can be answerable to them. There is nothing wrong with the board being appointed by the President. However, the terms of recruiting a CEO can be done better by a board of directors.

I fully support this amendment. The other day, I was reading the Budget Policy Statement. I was delighted by the fact that this Government is investing a lot of resources in the fishing industry and in the blue economy.

Therefore, when it comes to appointment of CEOs of boards, it must be done competitive. We must put people there with lot of experience. It is only the members of the board who can competitively recruit a CEO.

Mr. Deputy Speaker, Sir, we have seen what has happened in this country in the past. There are certain positions which are reserved for a particular group of people. This is something annoying and I hope we can change it, especially now we are talking about inclusivity.

Mr. Deputy Speaker, Sir, yesterday I was reading the Building Bridges Initiative (BBI) Report. In one of the recommendations, which I completely disagree with, tapped on the Chapter 15 Commissions. It says that the chairperson should be the Chief Executive Officer (CEO). We need to diversify our thinking and have a clear separation of powers. There is no reason why the CEO and the chairperson of the board be vetted by Parliament. Parliament does all the work of vetting. However, we should trust other people to do some of these recruitments. The key word here is meritocracy. If we can grow as a country that rewards merit, then we can go very far.

Mr. Deputy Speaker, Sir, I fully support this amendment. I hope that we can look at other entities, then come back and amend them. This is because just like Sen. Mutula Kilonzo Jnr. was saying, sometimes there is a big danger in terms of these omnibus Bills. I had this big problem even with the other Bills on energy and petroleum. The only time that we can be pushing for legislation to go through is when we are trying to create jobs for our friends or to create other jobs. How about really thinking about the 47 million other Kenyans?

Mr. Deputy Speaker, Sir, I congratulate Sen. M. Kajwang' for coming up with a sound amendment. I hope that we can continue looking at all these pieces of legislation and make sure that they conform to the Constitution. This is the first Bill which I have seen clearly indicated that it affects counties. This amendment and the fact that fisheries

is fully devolved, helps us. It gives me more reason as to why I should support it because it will improve how our counties operate and also build on our blue economy.

As I conclude, I do not want to be reading from the newspapers that the fish industry is rotting. That it is a danger to our people. Maybe that could be from some people who want to continue importing a lot of fish from China. When we give the board the independence to appoint the CEO, it makes it easier for them to invest fully and help this country grow its blue economy.

I beg to support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. M. Kajwang', you can do a symbolic reply because of time.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, due to respect and the greatest esteem I have for Members who have contributed to this particular Bill, I beg to reply.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Wonderful.

I direct that the putting of the question be deferred to tomorrow because of the voting threshold. It is so, ordered.

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

Next Order.

### *Second Reading*

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move -

THAT, The Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bills No.35 of 2019) be now read a Second Time.

I am privileged to have been a member of the IEBC Reform Committee which was a joint Committee of both Houses. That Committee did a tremendous work in amending the electoral laws. At that point in time, we had put in place a temporary selection panel that deals with selection and appointment of IEBC commissioners. We provided for in law that Parliament will take time to think through a proper selection panel that can be in place for a longer period.

Mr. Deputy Speaker, Sir, in that Committee, we proposed that Parliament, in preparation for a future selection panel for replacing commissioners, will have to amend the Election's Act. We all know what the commission has gone through. There is a commission that is running with only three commissioners. There is a shortage of four commissioners as per the Act.

Mr. Deputy Speaker, Sir, it is important for this selection panel to be in place because there have been many decisions that have been made by the IEBC, including

matters related to boundaries and preparation of bi-elections that have happened. Were it not for court decisions to validate that the commission can continue to work with three commissioners, we would have been in a major crisis. So, the country has stayed for a long time without a selection panel.

Mr. Deputy Speaker, Sir, the National Assembly, through this law, has proposed for certain Members of various Committees to serve in the selection panel. The law is straightforward; I do not want to belabour it. We have four Members who are nominated by the Parliamentary Service Commission (PSC). We have one person nominated by the Public Service Commission (PSC), one person nominated by the Ethics and Anti-Corruption Commission (EACC), one person nominated by the Law Society of Kenya (LSK), one person nominated by the National Gender and Equality Commission (NGEC), one person nominated by Kenya National Commission on Human Rights (KNCHR) and two persons nominated by the Inter-Religious Council of Kenya (IRCK).

Mr. Deputy Speaker, Sir, the bodies listed above are meant to nominate people within seven days of declaration of vacancy in the office of the chairperson or any member. This means that when we have this selection Committee, within seven days, it must nominate people that have been selected in law and go ahead to provide ways of advertisement for people who will serve in the commission.

I do not need to belabour that IEBC is an important institution. We are at an important and serious time in our country. Some people were saying that we should not do anything until BBI is over. However, after having non-partisan consultations with the National Assembly, we realised that the process of BBI which may involve referendum, will require a commission.

We need a complete commission because the decisions will be made by an institution that should be in place. It is impossible that the constitutional amendments that we will propose going forward will have a new IEBC with a new structure and image. That will be after the current one gives birth to whatever will be proposed under the constitutional and legal reforms that are being suggested for the election sector.

Mr. Deputy Speaker, Sir, I want Members to clearly understand that we will deal with this law to fill the commission as it is. It is possible that the commission will change before the next elections both in numbers and the composition. However, it can only change through a constitutional process that requires constitutional amendment which perhaps will be presided over by a commission that should be complete and not continue to operate as three people as it is at the moment.

Mr. Deputy Speaker, Sir, the court said that under the doctrine of necessity, the commission should continue operating even with the three people. We thank God that none of them has been found culpable or arrested and none of them has lost their minds. They are still able to function, are in good health and God has maintained and protected them. If one of them was to resign by virtue of committing an offence or whatever happens, we would not have a commission in place to do anything.

In my own opinion, in the remaining period, the current commission will be acting as a midwife for a dispensation that is impending. However, in this House, we are not supposed to anticipate debate on laws that will come in future. We act at the interim

to ensure that we have a commission. If another law will be made in the near future by the people of Kenya that they do not want or have no problem with the IEBC, or that they want a different system of electoral commission--- For example, suppose the people of Kenya say that they want a parliamentary system, it will be fantastic.

The role of the commission will no longer be significant in Nairobi. It will actually be unnecessary. We should have a skeletal team in Nairobi, but with people acting in the counties. It is the people who will bring the Senators and the Members of National Assembly in the various constituencies. Then, the IEBC strength will be shifted to the constituencies where the right people will come here to elect their prime minister.

By the way, I do not want to become emotional about this. I look forward to constitutional changes that are being proposed and I hope that we will move to a parliamentary system of government. Some of us are minorities. We have the majority groups and I have seen their proposals. They will be happier to have a presidential system of government.

In a parliamentary system of government, having smaller communities represented in this august House will ensure we have a say because a cabinet secretary and the prime minister will be sitting here and we will question them. We will no longer have a leader who will harass MPs by removing security and conducting various investigations. That will not be possible because the prime minister will be first among equals.

It is quite interesting in the United Kingdom (UK). When the Prime Minister loses office or resigns, he or she can go back to Parliament if he chooses and sit as a backbencher. They may choose to go to their small office with few staff and life continues.

I am also alive to the fact that the majority groups like where Sen. M. Kajwang' comes from---

**Sen. M. Kajwang'**: On a point of order, Mr. Deputy Speaker, Sir, I feel really privileged to be referred to as a majority group. However, is it in order for the Senate Majority Leader---

*(Sen. Murkomen was on his feet)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Senate Majority Leader, you must resume your seat when another Senator is on his feet.

**Sen. M. Kajwang'**: Is it in order for the Senate Majority Leader to easily give up his majority leadership even without giving it a fight? The last time I checked, he was the Senate Majority Leader---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Easy! Has he given the Senate majority leadership?

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, he has accorded me the accolade of being part of the majority leadership. When I checked, I realised that I am the only Chairperson on this side. That means he has placed the leadership right in my hands.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Is that so, Senate Majority Leader?

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, if Sen. M. Kajwang' whom I really respect---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): If you give me the PG minutes, I will just communicate.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, Sen. M. Kajwang' should have taken time to listen because I saw him doing something. I think he is excited with the fact that Members have contributed to his Bill and we are about to vote. Therefore, he is about to go to the books of history.

If he was following the debate, I was not talking about the Senate Majority and the Senate Minority leaders. I was talking about majority versus minority communities across the country. What I said is that I know that communities like the one where Sen. M. Kajwang', Sen. Cheruiyot - and I think Sen. Cherargei will be more interested - where the President must be voted for directly and the "Wanjiku" must determine their leaders. So, we will listen to both sides and make a decision.

I am more convinced that if the President of the Republic of Kenya, who comes from a majority community, is going to lead the charge.

We need to kill this idea of presidential elections and return the leadership of the country to constituencies. If we do so, we will no longer fight, go to the Bomas of Kenya or the Supreme Court. Who am I to try and disagree with those who come from the majority communities? It is easier for me, Sen. Faki and Sen. Olekina to agree quickly on a parliamentary system. This is because historically the communities we represent were in Kenya African Democratic Union (KADU) and supported parliamentarian system as it is.

I am very excited about the future that is about to unfold. This commission should be properly constituted. As we give birth to that very important future, we should have a proper institution that is able to do its work. Perhaps even unfold itself.

I only have a small request to my colleagues. As we preside over this very important time in our history, we have a duty to protect devolution, the institution and House that deals with devolution. I want to beg Sen. Haji and Sen Wako not kill the baby. They may be used to kill the baby, but they must stand firm in this Committee to ensure that the place of the Senate and devolution is properly protected. If they do not do so, then that can only be one of the undoing things against the very noble BBI process.

I beg to move and request the chairperson of the Committee on Justice, Legal Affairs and Human Rights, Sen. Cherargei to second.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Who is your seconder? Senate Majority Leader, the last bit of your moving remarks was similar to an address to a BBI forum. Rather than moving the Bill.

*(Laughter)*

Proceed Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Deputy Speaker, Sir. The Senate Majority Leader has said this is a straight forward amendment from the National Assembly. I hope

that the way we give attention to most of the Bills or amendments from the National Assembly, the National Assembly should also do the same so that we do not have most of our Bills delayed there.

Secondly, on the proposed Independent Electoral and Boundaries Commission Amendment No.3 Bill (National Assembly Bills No.35 of 2019). There was a proposal that we need to have a selection panel in place of 11 members. However, upon your direction and after consideration by my Committee, we reduced the number from 11 to seven. Senate Majority Leader has put it correctly that we are trying to fill the vacancies that are already in the IEBC as it is now which does not prevent IEBC being changed in the near future with the national discourse we are having at the moment.

I know that the IEBC is suffering from a confidence crisis because of electoral justice and integrity. I also know that in the BBI report, there are recommendations that we reconstitute the IEBC which are among the constitutional issues that we raised as we go into the national discourse.

Mr. Deputy Speaker, Sir, there are three commissioners in place. We are aware as a Committee because we met the IEBC late last year. They wrote to the President to fill the vacancies. The current IEBC came to office eight months before. The selection panel at that time constituted of religious leaders who we thought could do a good job. It is the thinking of the National Assembly that we should have a selection panel in place with proper qualification. It is important that we have a fully constituted IEBC in office. This is because the conversation we are having on the Constitutional Amendment and the BBI is that some people are pushing for a referendum. We need a fully, properly and legally constituted IEBC in office.

Mr. Deputy Speaker, Sir, the Committee observation was that it was important to specify the number of commissioners of IEBC as provided in the Bill. This will avoid conflict of Parliament or both Houses if unable to agree on a number at any particular time. We agreed on seven so that in case there are differences between both Houses, it become easy to resolve.

Mr. Deputy Speaker, Sir, we thought the number of 11 members was a bit too high although Article 10 of the Constitution, as proposed by some of the stakeholders that if we reduce the number from 11 to seven, it will affect the issue of diversity. To me, the seven is leaner. We know many interest groups will urge for more commissioners. There is also the aspect of political sector players.

**Sen. M. Kajwang’:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Prof. Kindiki): What is it, Sen. M. Kajwang’?

**Sen. M. Kajwang’:** Mr. Deputy Speaker, Sir, I am getting confused by the Secunder of this Bill. This is because, the Bill before us talks of 11 persons, but the Secunder keeps referring to seven persons.

**The Deputy Speaker** (Sen. Prof. Kindiki): I think he is trying to say the committee has proposed amendments at the Committee Stage.

**Sen. M. Kajwang’:** Mr. Deputy Speaker, Sir, then he needs to make it clear because I am confused. It looks like I am looking at the wrong Bill.

**The Deputy Speaker** (Sen. Prof. Kindiki): Kindly clarify, Sen. Cherargei.

**Sen. Cherargei:** Mr. Deputy Speaker, Sir, the future governor of Homa Bay County, you do not need to be keen right now because you will be a governor in your next life. This one is for the people who want to become IEBC commissioners. The observation of the Committee was that the number of 11 was a bit too high.

Although we recognize the fact in some of the proposals of stakeholders like the IEBC itself and Kenya National Commission on Human Rights were emphasizing that in provision of Article 10 of the Constitution, on National Values and Principle of Governance, we should have a selection panel that reflects both regional balance, ethnic groups and many other aspects that have been provided for by the Constitution.

We, as a Committee, thought that seven will be an ideal number so that we have a neat and more efficient selection panel. In that selection panel, we should try and reflect the aspiration both in substance and the spirit of Article 10 of the Constitution.

Mr. Deputy Speaker, Sir, I will only make two points then I conclude so that I can give my colleagues to commend. Some organizations represented in the selection panel have no role to play and, therefore, it should be removed. Granted all Kenyans are stakeholders in the section of members of the IEBC.

Mr. Deputy Speaker, Sir, we cannot have everybody on board. I know we have around 44 tribes, we have so many religions like the Christians and that is why we are using interreligious forum. We are not saying we should add everybody on the selection panel; even for the political parties.

Mr. Deputy Speaker, Sir, all Kenyans are stakeholders. However, not all Kenyan organizations can be represented in the selection panel. The same should, therefore, be reduced to only represent organizations that will add value to the panel.

In any event, the Parliamentary Service Commission (PSC), Sen. Cheruiyot, represents Parliament which represents all Kenyans. Therefore, the interest of all Kenyans will be catered for regardless of the other representatives of the panel

We have proposed an additional representative from the PSC because they are representatives for Parliament. Parliament is a representative of the people because we are here on behalf of other Kenyans. Therefore, we thought that PSC being members of the selection panel will allow Parliament to have a direct input in the entire process.

Mr. Deputy Speaker, Sir, the committee in response to the proposed amendment noted that proposals made by the commission were on provisions of IEBC, but had not been addressed by the Bill. With the BBI, there are so many issues happening in the country. As a Committee, we had proposed through you to have an audit of all election laws. This is because, even the conversation we are having now, is the time for delimitation of boundaries. I have seen the different proposals that have been made on the period. There was a time Sen. Olekina, Sen. Murkomen and Sen. (Dr.) Zani had proposals. All of them touch on the IEBC operations and election laws. Therefore, in our own opinion as a Committee, we have taken care of this view.

I hope that in the tail end process of BBI issues and constitutional amendments, we will have an audit of election laws. That way, we will not have piecemeal amendments. This is because the National Assembly just came up with this amendment that seeks to create a selection panel.



Mr. Deputy Speaker, Sir, in conclusion, I urge my colleagues to support this straightforward recommendation. Let us have a selection panel of seven members in place. That amendment will come in the Committee of the Whole, so that we can competitively recruit and allow the President to appoint. Therefore, the IEBC should be up and running. We should ensure that in case of any referendum or any other issues on delimitation of boundaries, the IEBC is fully constituted and have a mandate to be able to perform.

As the BBI meeting moves to Narok County – Sen. Olekina who will be hosting is here – they will tell people that we should also have electoral justice and integrity, by ensuring that we have in place a selection panel that will allow some of these things to be done in a transparent, fair, simple and honest way.

Mr. Deputy Speaker, Sir, if we have electoral justice and integrity, when the results come in either way and that the process has been fair and the commission is beyond reproach, like the famous Caesar's wife, it becomes easy to accept the results. We need to put in place an IEBC which is very good, so that some people, who are perennial losers, can accept that they have lost, and the winners accept they have won.

I second.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well.

*(Question proposed)*

**Sen. M. Kajwang'**: Thank you, Mr. Deputy Speaker, Sir. I will make very brief comments on the Bill that is before us.

As I had indicated when I rose on a point of order, it is rather confusing. Reading the Bill as presented by the National Assembly, it seeks to amend the First Schedule that talks about the procedure for appointment of the Chairperson and members of IEBC. That Bill has given us 11 member panel, which is not plucked from the air. The Parliamentary Service Commission (PSC) presents four members; the Public Service Commission (PSC), one person; the Ethics and Anti-Corruption Commission (EACC), one person; the Law Society of Kenya (LSK), one person; National Gender and Equality Commission (NGEC), one person; Kenya National Commission on human Rights (KNCHR), one person and the Inter-Religious Council (IRC), two people. That comes to 11.

Mr. Deputy Speaker, Sir, I would support this Bill very comfortably if the very able Chairperson of the Committee on Justice, Legal Affairs and Human Rights would have also been unequivocal in its support. The Chairperson has just indicated that there is thinking that we should reduce the number from 11 to seven. What is not clear to me is that if we move from 11 to seven, are we dropping out one of the stakeholders, reducing the nominees of the PSC or those of the IRC? I would wish to support something that is definite, rather than something that is amorphous.

This is the kind of Bill that would have benefited from the tradition that we have had in the Senate of a bi-partisan discussion and canvassing of the issues, so that when this Bill comes to the House, then all of us are aware of the amendments or changes that

will be coming up. We will then feel comfortable to support it subject to amendments at subsequent stages.

I wish to request the Committee on Justice, Legal Affairs and Human Rights to attempt as much as possible to get the buy-in from Senators, so that we clearly understand those amendments that they will be bringing at a later stage. This is because when you have this Bill coming from the National Assembly as it is, and we propose amendments, we shall go into mediation, which could be long drawn. By which time, the national conversation that is going on as to the structuring of IEBC might have overtaken all the efforts we are putting in today.

I wish to---

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

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What is it, Sen. Cherargei?

**Sen. Cherargei:** Mr. Deputy Speaker, Sir, I have heard my colleague, Sen. M. Kajwang', saying this was not bi-partisan approach. It was bi-partisan because Members of the Committee on Justice, Legal Affairs and Human Rights, the Senate Minority Leader and the Senate Minority Whip appended their signatures. I want to assure my brother, Sen. M. Kajwang,' that the decision that the Committee made was bi-partisan.

Finally, we have attached the amendments schedule to the Report of the Committee such that when it comes to the Committee of the Whole, you will understand why we have reduced the number from 11 to seven.

Thank you.

**Sen. M. Kajwang':** I will take that as a point of information from the Chairperson of the Committee on Justice, Legal Affairs and Human Rights.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Are you duly informed?

**Sen. M. Kajwang':** Yes, I am duly informed, even though I do not believe that I will benefit a lot from that information. As I said, that information ought to have been shared before this Bill was brought to the House.

Mr. Deputy Speaker, Sir, in this country, we fight over some things that other people might think are very small. We fight over elections and issues to do with the IEBC. Some of us who are part of the political formation of this country took to the streets for months on end demanding the reorganization of the IEBC. A matter of that magnitude that can result in the flow of blood, death and destruction of property should not attempt to railroad and fast track when we have not attempted to get the necessary buy-in.

If I had the authority - which unfortunately I do not have - perhaps the Senate Minority Leader would have had greater authority on that to make a request to the Senate Majority Leader and to the Chairperson of the Committee on Justice, Legal Affairs and Human Rights that there is no burning crisis at the moment that this Parliament would deal with that would not be solved---

**The Senate Majority Leader** (Sen. Majority): On a point of information, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What is it, Sen. Murkomen?

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, I just want to inform Sen. M. Kajwang' - and I am sure that he needs this information - that the

Senate Minority Leader signed the Report that Sen. Cherargei has, as a Member of the Committee on Justice, Legal Affairs and Human Rights. He is part and parcel of this process. In fact, he is among the people who say that we should reduce from membership of the Commission from 11 to 7. He is in the process.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Sen. M. Kajwang', look for your leader.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, I appreciate the point of information. I believe that Sen. Orengo signed in that capacity as a Member of the Committee on Justice, Legal Affairs and Human Rights.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): The consequence is the same.

**Sen. M. Kajwang'**: Mr. Deputy Speaker Sir, we on the Senate Minority side have a very noble tradition of consulting and taking a common position on some of these issue that have formed part of the national discourse.

I would not want to appear to contradict the Senate Minority Leader, but I believe that this is one of those issues that we probably would have benefited by canvassing and taking a position. Not just a position of the Senate Minority Leader, but a position that will put the Senate at the level that it is supposed to be.

When this country was going into the last elections and we did not have election laws that could steer us into that election, it is this Senate that was called upon. It was a bi-partisan Committee that was chaired from both sides of the House by Sen. Orengo and Sen. Murungi. That Committee comprised of some very eminent Senators. I see the Senate Majority Leader is here. They did an excellent job of diffusing the time bomb that would have blow up in our faces.

Mr. Deputy Speaker, Sir, we have said it in the past that it is not just a matter of taking the Bills and the legislations as they come from the National Assembly. We have a higher responsibility. This country is expecting that before legislation is assented to by the President, the Senate will apply that sober second thought and view to all these issues.

I was personally on the streets, taking on an IEBC that was not fit for its purpose. I personally got injuries, went through teargas and all the travails of being on the streets participating in terms of civil disobedience for a particular cause.

I am convinced that we need an IEBC that is fit for purpose. I am convinced that the approach we had to nomination of members and Chairpersons of the IEBC is flawed. I am just not convinced that the approach that we have put on the table is the best one. Even if it was the best one, it is important for this House to be convinced on the basis of reducing the number from the 11 proposed by the National Assembly to seven 7 by the Committee of Justice and Legal Affairs and Huma Rights so that we do a vote that is devoid of the strict political formations, at the end of the day. We do a vote that the Senate Majority Leader will be proud to say that the Senate has once again taken a vote that has put ahead the interest of the country rather than the interest of political formations.

Mr. Deputy Speaker, Sir, I, therefore, support conditionally, subject to a proper explanation on the reduction in numbers and whether this is the best approach that we can take.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order! Sen. M. Kajwang' there is nothing like supporting conditionally or unconditionally. You either support or oppose a Motion. Period. If I heard you correctly, you have supported and concluded your remarks. Is that so?

**Sen. M. Kajwang'**: Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well.

### ADJOURNMENT

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hon. Members, it is now 6.30 p.m., time to adjourn the Senate. The House now stands adjourned until tomorrow, Thursday 20<sup>th</sup> February, 2020, at 2.30. p.m.

The Senate rose at 6.30 p.m.