

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 10th February, 2021

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

CHANGES IN THE OFFICE OF THE SENATE MAJORITY WHIP

The Speaker (Hon. Lusaka): Hon. Senators, I have received Communication *vide* a letter dated 9th February, 2021, from the Office of the Senate Majority Leader, Sen. Samuel L. Poghisio, EGH, MP, regarding changes in the Office of the Senate Majority Whip.

The said letter was accompanied by the following documents -

- (1) The Minutes of the Majority Party Coalition meeting dated 9th February, 2021, which is a record of the proceedings of the meeting together with the resolution; and
- (2) Duly signed list of Senators who attended the above indicated meeting.

The Communication and the minutes indicate a resolution to remove the Senate Majority Whip, Sen. (Dr.) Irungu Kang'ata, CBS, MP, in accordance with Standing Order No.19(5), and elected Sen. Kimani Wamatangi, MP, in his place.

Hon. Senators, I am satisfied that the change was made in accordance with Standing Order No.19(5) and (7) and meets the threshold required under Standing Order No. 19.

Accordingly, I wish to communicate to the House that the Majority Party Coalition has effected changes in the Office of the Senate Majority Whip which shall now take effect. The office holder therefore is Sen. Kimani Wamatangi, MP.

I thank you.

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

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

Sen. Murkomen: Thank you, Mr. Speaker, Sir. I have noticed your Communication. As you have captured, there was a meeting yesterday and we were invited. However, if my memory serves me right, not all Members of the Jubilee Coalition were in the meeting. Be that as it may, we request your office to put the minutes that are attached to the letter of the Senate Majority Leader. This is because in the past, a similar process had been followed on the Majority Side.

In the case of Sen. Wetangula, you gave a detailed ruling with clear information. In the past case of the Majority Side, you said that you will give your ruling. We have been waiting for it patiently from May last year and it is now February, 2021. We still pray that you will make your ruling before August, 2022. We request your office to put the details at the Dispatch Box so that we can all access them.

Sen. (Dr.) Kang'ata is not here but I congratulate him for serving as the Majority Whip in the Senate for less than a year. He came in under circumstances that many of us do not agree with. However, he has done his job on behalf of those who asked him to, with a lot of passion. He is now wiser and has realized that no matter how much he works for these people and particularly when doing the wrong thing, it will never lead to any reward.

We had a lot of altercations with him in this Chamber during the debate on the Division of Revenue Bill among others. However, I am a democrat. I believe in doing things right. It does not matter that it was done wrong. I still believe that he should have been treated differently and given a fair hearing. The Jubilee side should have entertained an alternative view, particularly on a matter that is important as the Building Bridges Initiative (BBI) that is supposed to build bridges as we are told.

Mr. Speaker, Sir, Sen. Wamatangi, who is the new Senate Majority Whip, is my friend. When I went to get myself a wife and negotiate dowry, he was on the other side with the elders and he harassed me.

(Laughter)

At that time, both of us were not Senators but we later came here in 2013 and we have been good friends. He has been a measured man in his utterances, performances and actions. He comes from Kiambu County which is largely a hustler nation.

I would like to give him a piece of advice although I am not qualified considering his past role. He must treat all of us particularly in the Majority Side fairly and equally. He must also measure his words and utterances and share opportunities fairly. I do not want to give the details of those opportunities. Most importantly, he must realize that antagonism does not pay.

He must find a way to ensure that Jubilee Party is more united. We do not want to come back here with that nonsense of saying 'respect the President and disrespect the Deputy President' or insulting Senators who criticize Government policies that are against devolution by de-whipping them. He must not prosecute any Senator like Sen. (Dr.) Kang'ata, who prosecuted five Senators in the last term.

I ask Sen. Wamatangi to walk carefully because this can easily turn to be a hanging rope for his political career. This is because he is taking a position at a time that can easily be insinuated to mean that he is going against the popular view of his people of Kiambu. I want him to be re-elected. So, please, tread carefully. Walk with the hustler nation and your future is assured.

Sen. Cheruiyot: Mr. Speaker, Sir, I would like to further add my voice to this issue as an interested Member from the Majority Side of these changes that are continuously becoming regular. It has become like a musical chair to be a leader in this side of the House.

Therefore, my only point of concern is that, as legislators, it is time to have a discussion on how to handle the Political Parties Act. We had great debate last time when the Act was brought before this House in 2016.

We should give ourselves more power, with the exception of, Sen. Moses Wetangula, who is a party leader, I do not see anyone else who is a party leader here.

It is increasingly becoming clear that if you are a legislator elected on a political party and it gets to a point where you disagree, sometimes out of good principles and values that clash with what the party leader is pursuing and the people that you represent, you serve at a precarious position. Therefore, we need to find a common ground discussion where Parliament is insulated from the whims of politics that is sometimes not useful to the business of this House.

Mr. Speaker, Sir, for example, how do you expect a Member of a political party to oversight the Executive if any form of criticism against a Government policy is considered disrespectful to the party leader? That is something that the Majority and Minority Sides struggle with these days. It is time we criticized each other.

One many occasions, Members cast their votes without debating. This is because deep down, they do not believe the things that their parties are asking them to do. All of us have been victims of all these. So, now that we have gone beyond the phase of finger-pointing of saying you have done this or that, can we have an honest conversation as legislators? How will we ensure our responsibility as enshrined under Article 96 of our Constitution to legislate, oversight the Executive and represent our people without having to look back?

Party leaders should learn that in a county, there is no mechanism to establish, for example, in the case of Sen. (Dr.) Kang'ata how many people voted for Jubilee as a party and supported him and not the President or the President and not him. It is not easy to measure.

It is a wrong assumption to believe that since somebody is going for a higher seat, all of us benefited out of his influence in certain regions. It is a serious and candid conversation which the Committee on Justice, Legal Affairs and Human Rights should lead.

When it comes to the matter of determining parliamentary party leadership, we are in the days of BBI which I am not sure whether it will live to see the light of the day. However, if it does and becomes a reality where we will be a House of 94 Members for

the Senate, there might be infringement of small parties that have 15, 20 or 30 membership. How will we determine leadership positions or Committee chairmanship?

In the two Houses of Parliament that have existed post the current Constitution, it has been simple because we have always had a contest between two coalitions. However, we might get to a point where there will be three or four more coalitions and deciding the House leadership will become chaotic.

Mr. Speaker, Sir, party leaders do not legislate in this House. How can we legislate and give them powers for them to abuse the way it is being abused in the current session of Parliament? Let us give ourselves that power. Let us sit here and canvass with our colleagues. If they believe that you warrant to be the Senate Majority Whip, Senate Deputy Majority Whip, Senate Majority Leader, Chairman of a Parliamentary Committee or any other position, they will grant you that position. It should not be determined by people sitting at a particular hotel.

Yesterday, I watched in bewilderment the Secretary General (SC) of Jubilee Party saying that ‘we have decided’. Parliamentary leadership is my decision as a Member of Jubilee Party. It is we, as a Coalition who sit, as Members elected in this House, and decide who becomes a leader. As a way of democracy, we have no problem.

When you table the documents later on as has been requested by the ‘Senate Majority Leader, Sen. Murkomen’ we will get to know who supported it or not. That is democracy. However, what I find to be an insult to us, as leaders, and it is something that we have allowed to be perpetuated for long, is the issue where a small group of mandarins sits somewhere and reads out at a press conference and say, for example, from today, Sen. Mutula Kilonzo Jr. ceases to be this or that. It is unfortunate.

Mr. Speaker, Sir, I plead with my colleagues that at some point, let us have this candid discussion about how to ensure that as Members of Parliament (MPs), we determine leadership in this House without the intricacies of party leadership.

The Speaker (Hon. Lusaka): Okay. Those who are following, try to keep it brief because it is just a communication.

Sen. Mutula Kilonzo Jnr., proceed.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. Of course, we cannot get into the details of what happened on the other side because we do not participate.

We congratulate Sen. Wamatangi, the Senator for Kiambu County, for his new position. I am happy because now he will be in the House often. He is going to suffer the woes of mobilizing Members to vote for Bills, like we did for his when he used to run away. So, now you will feel the pain of sitting here to get to 24 Senators to vote.

For Sen. (Dr.) Kang’ata, he became a Doctor (PhD) and Chief of the Order of the Burning Spear (CBS) while a Whip. I do not know but maybe I should advise Sen. Wamatangi to carry the name tag in his pocket as opposed to the door.

However, we raised what both Sen. Cheruiyot and Sen. Murkomen have raised, when the amendment to the Political Parties Act was done by Sen. Murungi, who sat where the Senate Majority Leader is seated. From the Committee on Justice, Legal Affairs and Human Rights, I thought there was a problem with the way the merger was done. Of course, I opposed. One of the people who told me to drop that amendment – I

had proposed an amendment – was the Senator for Mombasa County at the time. He told me; “Why do you not allow Jubilee Party to merge because this is the only way that you will break Jubilee Party?”

That time, it was made sarcastically. Right now, one of the governors is suffering out of the Security Laws Amendment Bill. We opposed it in terms of just detention unnecessarily for too long.

Whilst you are feeling the pain of some of the decisions that have been made, it is just advice that some of the things that we raise on the Floor – even if we are from the Minority side and you can see how stable we are – you were laughing at us at some point. It is not like we do not have our share of problems but we know how to manage them.

Please, do not write letters or speak candidly to the press. Just find a way of how you will handle your political party affairs in a better fashion. I do not think there is a way that Sen. Cheruiyot is suggesting that political parties can be managed on the Floor of the Senate. It is just impossible.

In other jurisdictions, in fact, the minute you vote against your political party decision, you are deemed to have defected. We are even better off where you can disagree with your political party; form a political party within your political party; wear a t-shirt of another political party; and, exist in that political party without defecting. It is only in Kenya where people can do that and walk around and say they have the liberty to do so.

We have abused the Political Parties Rights of being in a political party under Article 38. This is because if you disagree with your political party and ideals, and party leaders, it is also democracy to leave. You cannot be in both – you are in, out, in the middle, you are doing Pamoja, you are on a wheelbarrow. It cannot work that way. It is just impossible. It is not legal, moral or godly.

The Speaker (Hon. Lusaka): Sen. Linturi, proceed.

Sen. Linturi: Thank you, Mr. Speaker, Sir. I do not think Sen. Mutula Kilonzo Jnr. is being very honest. This is because he is giving us examples which, in my view, are irrelevant at the time.

An Hon. Senator: Yes.

Sen. Linturi: Mr. Speaker, Sir, I would agree with him on developed democracies. Development of democracy in Kenya is still evolving. The aspect of political parties and the place they are supposed to sit in the development of our country’s political system and democracy is completely different. That is why I do not want to agree with him.

We have adopted a cut and paste kind of system when we are making legislations, without understanding that some of those issues that we pick from certain countries may not fit in Kenya.

Mr. Speaker, Sir, an example is the Political Parties Act of 2011 that we came up with, with Sen. Mutula Kilonzo Jnr. I have been around long enough as an MP and was there when we passed that legislation.

In Section 24 or 25, I remember very well we came up with the aspect of funding political parties. We said political parties would be funded from the exchequer; from

public funds. The reasoning was that we wanted them to run away from the old system where the Kenya African National Union (KANU) or political parties belonged to individuals. So, it is funded from public coffers so that they can be owned by all citizens.

You would expect leaders of political parties to be more civilized than they are today. However, they have taken that advantage of the trust we had in them to completely make these political parties tools of dictatorship. This is why we are suffering.

If we do not rise as a Parliament, raise these issues and see how we can inform changes to certain legislations, then parliamentary democracy is under attack and the oversight role of Parliament is under attack.

When the Parliamentary Powers and Privileges Act was passed, it was to enable us speak out our minds here, criticize Government and say anything with immunity. That way, you would not watch over your shoulder when discussing or contributing on matters that pertain to the public.

Mr. Speaker, Sir, this is not happening. MPs are afraid of raising issues because the next day, agencies of oppression that are being used by the current system of Government will come after them. These agencies are the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), and the Ethics and Anti-Corruption Commission (EACC). So, Members are not free.

If we do not see how to address these issues, we have a problem as a Parliament. Time has come when we must rise up to the mere realities of life and understand, yes, it is true we are democrats.

Yesterday, I attended that meeting that you are talking about. The person who was trying to lecture us is a Secretary General (SG) who serves at the behest of the President. As Senators, we are not subject and we do not serve at the pleasure of the President. We recognize the leadership of the Senate as a leadership of the Senate that is supposed to be put in place by Senators.

However, when somebody whom we have never seen, a chairman of a party, an SG who does not even, first of all, address the issues that we have raised before--- We conduct a meeting and while there, it is necessary for us to table the documents that were sent here and we find ourselves to be 24 in the room. Ten of the Members refused to sign the resolution because they did not agree with it. We were then told that a list was brought here. How could you have signed a resolution in a meeting you never attended?

Mr. Speaker, Sir, Parliament is supposed to act or be seen to be open. One of the ways of trying to open Parliament to the public is by what we did when Hon. Marende was Speaker. He made sure all proceedings were broadcast live and the public would attend.

In this case, let us know who came here and who signed these documents for purposes of record. When history is written, people will know some of us said the truth. They will know that despite the oppression, threats, intimidation and blackmail, there are people that can stand up for the truth.

The Speaker (Hon. Lusaka): Sen. Wetangula, proceed.

Sen. Wetangula: Mr. Speaker, Sir, we are living in very interesting times. When you see the Senate Majority Leader, the distinguished Senator for West Pokot sitting quietly there, it is out of experience.

He once walked to Parliament, attended a sitting and the next day, he was not a Member of Parliament out of a Parliamentary Group (PG) meeting. He and my great late friend, Francis Loile Polisi Lotodo, were just labelled as carrying out war-like activities without evidence and were dismissed from Parliament.

We have come a long way. Today, the political landscape of Kenya is helter-skelter. It is like the Tower of Babel in the Bible. Nobody hands over what they have been asked to hand over. You are asked for a spade and you give a brick. You are asked for sand and you give cement. That is going on and on.

It is only in Kenya where people are elected on a party, take a totally different trajectory and enjoy the perks of that party and nothing happens. If we do not have party discipline in this country, we can as well say bye to democracy.

Love him or hate him. When Raila Odinga disagreed with Michael Wamalwa Kijana in the party that I lead, which is FORD- Kenya, he reconsidered his position, resigned and went back to Kibera, then called Langata, and sought a new mandate on the National Development Party (NDP).

Today, we do not have any single politician in this country with that courage. People want to enjoy the comfort of the day and the night at the same time. It cannot work and it will not work I urge you, Members---

Tomorrow, my good friend, Sen. Murkomen, might be a party leader. In fact, I can see him really struggling to be the heir apparent to Ruto's position in the community. When you get there, just know that discipline, said Shakespeare, is the key to everything. Even robbers must be disciplined to succeed. If they are not, they will not succeed.

Mr. Speaker, Sir, I want us to take a new curve in the management of our political affairs in this country. It is only in Kenya where we coalesce as parties. The Constitution provides for a fund for parties but one dominant party takes the money. For example, when Wiper, FORD-K and Amani National Congress (ANC) parties ask for their money, an upstart young man in the party tells us that our parties are ticks, leeches and parasites on the back of their party. That is the height of the infamy and it is tolerated.

I congratulate Sen. Wamatangi. I believe that his new position will give him a reasonably enhanced level of tolerance to debate in the House because he has been previously one of those that whenever you talk about the Government, he behaves as if he is being electrocuted. You know he is just busy jumping.

(Laughter)

Now he has taken a position of responsibility. I have no doubt that he is a well-schooled man and will adjust to the circumstances.

To my friend, Sen. (Dr.) Kang'ata, now you have time to laugh in the corridors as loudly as you can, without carrying anybody's responsibility on the Floor of this House.

Mr. Speaker, Sir, as I finish, on a serious note, if we do not instill discipline and decorum in our parties, we can as well say bye bye to multiparty democracy. If you do not, the pretense that because you belong to a different party and therefore there is democracy is fallacious.

Let us have discipline. Let us have candor and commitment. Let us have self-respect and respect for the public and institutions. Above all, let the leaderships of parties also respect and uphold freedom of expression as enshrined in the Constitution.

I thank you.

The Senate Majority Leader (Sen. Poghio): Mr. Speaker, Sir, let me begin by thanking those who have spoken on this matter. I also thank the House for the messages of encouragement about how we should all be disciplined and uphold democracy. Those who have ears should hear.

I would like to use this opportunity to congratulate the new Senate Majority Whip. On behalf of our side, congratulations, Sen. Wamatangi, Senator for Kiambu. You are now responsible for making sure that the House is in order and Members of this and the other side work together.

Mr. Speaker, Sir, Sen. (Dr) Kang'ata who is leaving joined the leadership the same day like me. Now that Sen. (Dr.) Kang'ata is gone, anybody else--- In Kiswahili they say; "If you see somebody being shaved, begin to put water on your head."

It is all about how we are trained and I think we are trained differently. I have experience in these matters as you heard. I have withstood the storms of politics many times. Therefore, I am ready.

Sen. (Dr.) Kang'ata should have listened to himself and thought about it but he was misled by a group of people to think that there is immunity. When he was asked to appear before the party, he was misled again not to appear. These are some of the issues you must weigh because you may mislead somebody and cause them problems.

As we all know, Sen. (Dr.) Kang'ata did his job well. Until recently, he did his job well for this side. So, I congratulate and wish him well. The good thing about leadership is that if you are elected, you are not going anywhere because you are still the Senator for a county. Therefore, it is not a downgrade to be a backbencher. That is okay.

I just want him to understand that he can still work while keeping the same courage he has and continue saying what he wanted to say, only that he is not a leader of this side.

The new Whip is also a seasoned politician. We know him and he represents a large community. He comes from this area, generally, including this city where he is very well established. We have spoken to him about how to bring people together, and I am sure that he is very versed with that.

On behalf of the leadership - the Jubilee leadership and the Minority leadership - we want to welcome Sen. Wamatangi on board. We will give our best support to him and encourage him. He has already started work today. In fact, he should find his rightful seat and begin to occupy it, so that he begins work immediately.

I want to encourage Members that we all have our interests. We work together across the aisle. We must begin to see how to bring order in this House. Let us respect

each other. Mostly, let us try to respect our Chair, the Speaker, and each other during debate. I think we can show that this Senate is the Upper House in this country.

Thank you, Mr. Speaker, Sir. God bless.

Sen. Nyamunga: Thank you, Mr. Speaker, Sir, for giving me this opportunity to add one or two comments. First of all, we must appreciate the fact that we are here courtesy of different parties that have given us opportunity to serve in this House for a certain time, whether you are elected directly or elected by the party, like some of us.

I believe that there are institutions. All institutions must have rules and regulations that guide them. Even in the smallest unit, which is the family, taking mine as an example; my family is an institution that is run by rules and regulations. You cannot do some things in my house because you will be told “*mama alisema.*” That means that there are some things that cannot be done. That is just a small unit, in fact, the smallest.

We have the Government and Parliament, which are big institutions. Parties make us come to this Parliament. In my view, all of us are Members and can serve in any capacity. However, if you serve to represent a party, it is critical.

If you look at the Orange Democratic Movement (ODM) as a party, you can say anything and use any word on us. You can demean us in any form, but we are so steadfast in how we do our business and support our things that we do not have issues. We will have issues with other parties, but within ODM, we are so steadfast and behind our leader. I think that is why we are the longest serving and the biggest party in Kenya as far as this dispensation is concerned.

I want to urge my brothers and sisters that I cannot sit here and say that I am a Member, but cannot obey our rules. Before we point fingers, I do not have any problem with Sen. (Dr.) Kang’ata. A few times, Sen. (Dr.) Kang’ata made some statements that, to me, were just off. You would wonder which side of the House he was in; whether he was acting for his party or himself. I had a problem with that, and I am allowed to speak my mind because that is what I observed. I do not think that he was serving the party in the best way possible.

If the party has decided to replace him, that is not a discussion for us in this House. The Speaker has made a ruling and we should let it be and move forward. That is the problem of Jubilee Party and they can do it.

Sen. Wetangula is also putting his house in order. Everybody is putting their house in order. I think of late there are people who have seen the door, he is planning; some people are about to see the door; he is in the process. He may ask some of us to show him the best and easiest way to do it. Sen. Wetangula, you can consult some of us. We will help.

I congratulate Sen. Wamatangi. He is equal to the task and is going to do his work. We believe that he will be fair. Your side is already crying and they should not do so because from where I sit, I know that you know your work and you will be very rational in the way you do things and look at debates.

As a senior House, we should disagree in our debates, but in a proper manner. We should not be shouting at each other. Sometimes we let ourselves and this country down.

Senators, I want to urge you that even as we start this year, please, let us think and know that we are representing Kenya and 47 million Kenyans. Wherever they are watching us all the time, let us show that we are people of decorum and we can disagree in a manner that respects this House.

Thank you, Mr. Speaker, Sir. I congratulate the Senator for Kiambu, Sen. Wamatangi.

The Speaker (Hon. Lusaka): I am only going to allow one on either side.

Sen. Sakaja: Mr. Speaker, Sir, I join colleagues in congratulating the new Majority Whip, Sen. Wamatangi, on his election as the new whip of Jubilee. I fully associate myself with the sentiments that other Members have made with respect to political parties.

I thank Sen. Kang'ata for the work he has done. Sen. Kang'ata is a very jovial and well-intentioned man. I think for the short stint he has had, he has been able to try the best that he could have done in the position of Majority Whip.

I am not more experienced than---

(Loud consultations)

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

Sen. Sakaja: Mr. Speaker, Sir, I was saying that in the short stint that he has served, Sen. (Dr.) Kang'ata tried his best. We may not have agreed with his methods sometimes, but he benefited from being able to speak to every individual whenever we had issues where we did not agree.

Because of that, I want to encourage Sen. Wamatangi to caucus. What we have seen in the past year and further, is what works in this House, because we are a small House. Persuasion, consultation and respect will always trump 'kifua' and intimidation because there are no children in this House. There are caucus rooms.

Sen. Wamatangi, you remember that I was your Chairperson in a party. Whenever there are issues, bring people together. Party position is never the opinion of an individual. The party position will never be Sen. Wamatangi's opinion, Sen. Poghio's opinion or the President's opinion. A party position in an established democracy is where you sit as Members and discuss an issue. Once the issue has been discussed, then you have political responsibility to stick to what the majority or the party has agreed on. We would like to encourage you because we want to pledge to support the work that you are going to do.

Finally, it is almost unfortunately poetic that the same words that Sen. (Dr.) Kang'ata used in removing Sen. Kihika are the same ones he was trying to use yesterday. I have consulted the HANSARD because he was asking for the charges and the reason for his removal.

Mr. Speaker, Sir, if you look at the HANSARD on 22nd May 2020, Sen. (Dr.) Kang'ata said:

“Mr. Speaker, Sir, Sen. Prof. Kindiki told me he would want a written document from the party. However, to me, that is neither here nor there. When the

party was appointing or supporting him for that position, it did not give him a letter. Jubilee Party did not frame any reason as to why they gave him that position; it was an issue of confidence.”

As we go ahead and even in your position, Sen. Wamatangi and Sen. Poghismo, be careful. What you do will be done to you, and things change. When you make any rules or any moves, just assume that your worst enemy is in the position to do the same to you. So, be gracious and kind.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! Let us consult in low tones.

Sen. Sakaja: I hope that Sen. Poghismo has heard because he is the one who told us about putting water on the head. Be very careful because you might be shaved, and we hope not because we like your leadership. However, be gentle and in the small politics that I have done in my young age, never ever burn a bridge. Do not burn bridges. You might need to walk back on the path that you have come.

Thank you, Mr. Speaker, Sir. Congratulations, Sen. Wamatangi.

Sen. Were: Thank you, Mr. Speaker, Sir.

(Loud consultations)

The Speaker (Hon. Lusaka): Order! Order! Consult in low tones. I hope you are not talking about the caucus.

Sen. Were: Mr. Speaker, Sir, I join my colleagues in congratulating Sen. Wamatangi on his appointment as the Senate Majority Whip. I would also like to thank Sen. (Dr.) Kang’ata for the time he served as the Senate Majority Whip. He did his best by whipping Members to pass Government agenda in this House. I wish him well in his future endeavours.

I want to make a comment on what people have been saying about owners of political parties. In the Political Parties Act and the Constitution. Political parties belong to members. That is why there is a provision for political party funding, so that parties do not belong to individuals. Whereas the law had indicated that to meet the threshold for funding, parties need at least 2 per cent---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! Let us consult in low tones.

Sen. Were: Whereas the law had indicated that to meet the threshold for funding, parties need at least 2 per cent of votes, five Members of Parliament and at least 20 Members of the County Assembly (MCAs); these Members of Parliament changed the law when we had the National Alliance (TNA) and the United Republican Party (URP) parties. They changed the law and made it impossible for other parties to be funded. They moved the requirement from 2 per cent to 5 per cent, from five Members of Parliament to 20 Members of Parliament and from 20 MCAs to 40 MCAs. They changed the law not

just ‘either, or’, but that you must have 5 per cent and 20 MPs and 40 MCAs. Therefore, it became difficult for other political parties to get funding and true owners of the party to go to members.

Very soon, we will be changing the electoral laws----

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! There is loud discussion. Please, consult in low tones.

Sen. Were: Mr. Speaker, Sir, I am winding up.

There will be a change or review of electoral laws in the coming days. Let us be careful as we make changes so that some changes will not come to bite us. Let us make laws that are for everybody even for your worst enemy because it will come back one day to bite us. The change in the political parties funding law has come back to bite some of you.

The Speaker (Hon. Lusaka): Sen. Farhiya, proceed.

Sen. Farhiya: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to your communication. I agree with everybody that we have to be nice to each other. We have many Bills which have been returned from the National Assembly. We need everybody to pass those Bills because some of them are our own as individuals in this House. Unless we cooperate with each other, the Bills we have worked so hard to produce will go down the drain for nothing. Party issues belong to the party. In terms of individuals, let us be human before anything else.

It is natural that if somebody trusted you with a responsibility to make sure you are loyal to the person because they trusted you first. This is a common sense. Lately, we have been having a lot of political rhetoric in this country. People talk and citizens will listen to leaders. We have to be careful on how we address them.

Today, you might have a goal to achieve political leverage. However, if you are fighting to be the President in 2022, reflect on whether there will be a country by that year. This should be a priority. Some of us do not have another country. We belong to this country and we must protect it all cost.

Mr. Speaker, Sir, let us not let down the citizens who have entrusted us with positions on whose platform we can say all the bad things. Please, return the trust by speaking about the good things. At the end of the day, we are all Kenyans. Nobody is ‘more Kenyan’ than the other. In 2022, Kenyans are intelligent enough to elect their choice depending on what we say.

The biggest battle in this country that will make a difference to the lives of the poor, including me and you, is to fight corruption. Corruption drains the coffers of this country. Therefore, take services and money to the pockets of the poor.

I congratulate Sen. Wamatangi for a well-deserved win. He is a diplomat. He engages individuals and handles his issues in a diplomatic way. Other than the revenue sharing debacle, the rest of the things he is diplomatic. I have no doubt in my mind that he will bring cohesion. I am glad that I will be serving with him as his deputy.

The Speaker (Hon. Lusaka): Hon. Senators, let me give this opportunity to Sen. Wamatangi.

Hon. Senator: He is a diplomat!

(Laughter)

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. On such an occasion, I want to confess that I had not prepared an acceptance speech.

Be that as it may, I take this opportunity to thank all the Senators for the goodwill messages conveyed here by Members of the Senate from both sides. I thank Senators who were with me yesterday in our discussion in our Parliamentary Group (PG) who showed confidence that I can serve with them.

I want to confirm to Members of this House that I am under no illusion that the job that I have been asked to do for the Senate is an easy one. Though it is not easy, I have also clarity of mind on what I need and do not need to do. I draw that from the experience I have had from the year 2013 when I was first elected to be a sitting Senator in this House.

It is my believe that any feather added to your hat should only make you a better person and bring out the best version of yourself. In so doing, I realize fully that in the cause of building consensus with the Members of the Senate, finding agreement all the time and ensuring that we walk the journey together is the best way forward to prosecute our business.

I assure my colleagues like Sen. Murkomen who I do not know whether he is still in the House--- As he said, he is my son. I gave him a wife. I sat in the place of his father-in-law.

It is not in the place of a father to hurt a son. Wherever he is, I want him to rest assured that I will be modest.

Mr. Speaker, Sir, because I do not want this to be a length-less speech, I just want to summarize by assuring Members of the Senate from both sides of the House that I would seek to build consensus all the time and consult with my colleagues.

I am fully aware that this House that we have been in since that time, requires not only to project its best image, but we have to ensure that we earn the respect of the country. We should also ensure that what we say and do will bring out that picture.

Mr. Speaker, Sir, lastly, I also understand what the role of the Whip is; it is not to divide people, it is not to rejoice in the suffering of other Members, but to ensure that this House passes laws that are good for the country. It is to ensure that this House amends laws which require amendments to become better laws. It is also to reject laws that are not good for the country while doing that together as one. That is what I would seek to do.

Mr. Speaker, Sir, I also want to thank you. I am sure that in my role as we work together in leadership and the rest of the leadership of the Senate, we shall eventually come out better people. I will not be carrying my name tag in my pocket as Sen. Mutula

Kilonzo Jnr., suggested, but I will hang it on the wall of my heart to ensure that the day when I exit that position, people can only say that I did my best and did it well.

Mr. Speaker, Sir, to my friend, Sen. Wetangula, I hear you and I hear your advice. I want to assure Sen. Wetangula that maybe any one time when he may have seen that I was acting as though I am being electrocuted, sometimes it is the fire that burns inside you.

This is because as Abraham Lincoln said many years ago, it is our belief that a government of the people, by the people, for the people shall not perish on earth. Every time when you saw that I was agitated about something about the Government, it is because I believe it is about the people. That is how we are going to move, Sen. Wetangula. I want to assure you that you can expect from me that I would be not only fair but right.

Mr. Speaker, Sir, I want to accept and thank all the Members of this House. I will do my best to make sure that we have got a Senate that is respected, passes good laws and one that is more united than when we came in.

The Speaker (Hon. Lusaka): Thank you very much, hon. Senators. A few requests were made to the Speaker. The documents that were presented to me are not confidential. They are documents that can be seen. So, they will be availed for those who want to see.

As you know, the Speaker does not belong to any political party. I only convey what I have been given by the leaders of the various political parties. Whether they held meetings or not, that is not my business. My business is that I trust that what I am brought by the leadership is a true record of what exactly happened. So, thank you for your contributions.

Next Order.

Proceed, the Senate Majority Leader.

PAPERS LAID

Sen. Dullo: Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate today, Wednesday, 10th December, 2021-

BI-ANNUAL REPORT FOR THE CAJ FOR 2020

Bi-annual report of the Commission on Administrative Justice for the Period January to June 2020

ANNUAL REPORT OF THE NGEC FOR FY 2018/2019

Annual Report of the National Gender and Equality Commission for they year 2018/2019

THE COG STATUTORY REPORT FOR FY 2019/2020

Report of the Council of Governors Statutory Report for the year 2019/2020

REPORT OF THE NATIONAL GOVERNMENT BUDGET
IMPLEMENTATION REVIEW FOR FY 2020/2021

Report of National Government Budget Implementation Review for The First Quarter for the Financial Year 2020/2021

REPORT OF THE COUNTY GOVERNMENTS BUDGET
IMPLEMENTATION REVIEW FOR FY 2020/2021

Report of the County Governments Budget Implementation Review for the Financial Year 2020/2021

SPECIAL AUDIT REPORT ON UTILIZATION
OF COVID-19 FUNDS

Special Report of the Auditor General on Utilization of The Covid-19 Funds by the County Governments

REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY
EXECUTIVES/ ASSEMBLIES

Special Report of the Auditor General on Financial Operations of the Bomet County Executive for the Financial Year 2015/2016.

Report of the Auditor General on the Financial Statements of the County Assembly of Turkana for the year ended 30th June, 2019.

Report of the Auditor General on the Financial Statements of the County Executive of Turkana for the year ended 30th June, 2019.

Report of the Auditor General on the Financial Statements of Migori County Assembly for the year ended 30th June, 2019.

Report of the Auditor General on the Financial Statements of Migori County Executive for the year ended 30th June, 2019.

Report of the Auditor General on the Financial Statements of the County Assembly of Kisumu for the year ended 30th June, 2019.

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Report of the Auditor General on the Financial Statements of the County Executive of Kisumu for the year ended 30th June, 2019.

Report of the Auditor General on the Financial Statements of the County Assembly of Wajir for the year ended 30th June, 2019.

Report of the Auditor General on the Financial Statements of Wajir County Executive for the year ended 30th June, 2019.

I thank you.

The Speaker (Hon. Lusaka): Next Order.

Proceed, Sen. (Dr.) Milgo. Your microphone is off.

NOTICES OF MOTIONS

DEVELOPMENT OF DAY CARE POLICY IN THE COUNTIES AND DEPARTMENT OF BASIC EDUCATION

Sen. (Dr.) Milgo: Thank you, Mr. Speaker, Sir. This was a Motion on establishment of day-care centres in the counties. This Motion was coined on the premise that researchers--- I have already given a Notice with this one.

The Speaker (Hon. Lusaka): Give a Notice of Motion.

DEVELOPMENT OF DAY CARE POLICY IN THE COUNTIES AND DEPARTMENT OF BASIC EDUCATION

Sen. (Dr.) Milgo: Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion -

THAT, AWARE THAT, Constitution of Kenya, Article 53 affirms that children have basic rights, including the right to education, nutrition, shelter, health care and parental care, provisions that are aligned with those cited in both the Convention on the Rights of the Child and the Africa Charter on the Rights and Welfare of the Child, to which Kenya is a signatory;

CONCERNED THAT, the current status of day care facilities in the country are not child friendly or habitable and there is need to bridge this gap to capture the play group class in the new 2-6-3-3-3 curriculum that is replacing the 32 year old 8-4-4 system;

ACKNOWLEDGING THAT, most working parents lack quality day care facilities, as the playgroup is a safe place for them to take their children while they are at work;

NOW THEREFORE, the Senate urges that the Council of Governors (CoG) in conjunction with the Ministry of Education ensure that:

- a) Counties allocate at least ten per cent of their budget on Early Childhood Development Education (ECDE) towards this vulnerable group; and,

b) Policy is developed to incorporate the needs of children who are less than three years of age.

Thank you.

The Speaker (Hon. Lusaka): Sen. Kasanga.

Seemingly, she is not in.

Next Order.

FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES

(Notice of Motion deferred)

STATEMENTS

QUALITY OF SALT IN THE KENYAN MARKET

The Speaker (Hon. Lusaka): Sen. Dr. Mbiti.

Sen. (Dr. Mbiti): Mr. Speaker, Sir, I rise, pursuant to Standing Order No.47(1), to make a Statement on an issue of topical concern, namely, the need to check the quality of salt in the market.

Mr. Speaker, Sir, Kenya is one of the countries where people are unknowingly consuming some good amount of micro plastics in table salt, according to a study. This is worrying given the widespread and high consumption of salt locally, and considering that the World Health Organization (WHO) recommends a daily consumption of at least five grams by adults.

Mr. Speaker, Sir, the study by the University of Queensland, Australia, and the Federal University of Technology in Nigeria, further shows that also affected could be seafood, which still finds its way to our tables. While this is the first time a study is confirming the presence of plastic in table salt used in Kenya, it should be an eye opener on how we should dispose plastics and take care of the environment.

Mr. Speaker, Sir, indiscriminate use of plastic, haphazard disposal and the dangers these pose, prompted the Government to impose a ban on single use plastics in 2017. We are not out of the woods yet, and everyone has a part to play. While the ban has been largely effective, some plastic still finds its way into the market due to laxity by law enforcers.

An alarming development with an estimated eight million tons of plastic ending up in the oceans globally, it is most likely that some of it will end up contaminating the salt when it is harvested. The presence of plastic in salt can either cause physical damage to the body or result in chemical poisoning.

Mr. Speaker, Sir, the National Environmental Management Authority (NEMA) and the Kenya Bureau of Standards (KEBS) should fight this threat by executing their duties diligently to ensure that Kenyans are safe. They are the bulwark against environmental degradation and poisonous substances getting onto our tables.

I thank you.

The Speaker (Hon. Lusaka): I do not see any interest.

Sen. Outa.

ONGOING DEMOLITION OF PROPERTIES AND
EVICTIONS IN KISUMU COUNTY

Sen. Outa: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.47(1), to make a Statement on the ongoing demolition of properties and evictions in Kisumu County.

Traders and families in Kisumu County have for the last six months gone through horrendous moments. This follows continuous and unplanned demolition of houses, places of worship, and business structures by the county government of Kisumu and Kenya Railways.

The demolition was on the stretch from the Koru-Muhoroni-Kibos-Kibuye-Juakali-Otonglo-Lela in Kisumu West. Locals are really crying for their lost investments. The current county government as I know was voted in office to provide an environment for business to thrive, but instead they have gone wild on the people who for voted them by destroying their livelihood without providing alternatives.

Mr. Speaker, Sir, the people of Kisumu are not against development being initiated by the county or the national Government. They are instead calling for structured dialogue towards the implementation of such projects, which will ultimately benefit them.

There are however standards and guidelines on how to effect evictions that both the Kisumu county government and Kenya Railways have failed to adhere to. The two entities failed to work on a resettlement action plan and we would request that when they are destroying these houses and properties, they must follow the rules and regulations.

Mr. Speaker, Sir, the rights of members of the Nubian community - this is a sub-community that has been living in Kisumu for many years - were ignored as one night, bulldozers descended on their houses in the middle of the night, leading to the loss of lives, livelihood and property, consequently, they are undergoing untold suffering. That is why I stand here today to ask you to commit this matter to the relevant Committees.

From what we have seen in the last six months, it appears like the Kisumu county government and the Kenya Railways are on a spree. The livelihoods of the small business people in Kisumu have been affected. They have suffered under the hands of the people who they elected to be their leaders.

Mr. Speaker, Sir, today we can count over 15,000 small businesses that have no place to do business in Kisumu because the county government, under the leadership of Hon. Peter Anyang' Nyong'o, have decided that they want to build Europe and ignore the plea of people during this difficult time of the COVID-19 pandemic. We have seen that the small businesses like *mama mboga* have got no place to go.

More so, they have gone to the places of worship. Churches were brought down with no plans, and they do not even have funds. Of late, I have heard calls from across this nation from the Muslim community---

The Speaker (Hon. Lusaka): Senator, you need to conclude, you are now debating a Statement.

Sen. Outa: Mr. Speaker, Sir, I will do so. They have destroyed a mosque that has been there for over 60 years and there is no alternative. That is why, as I conclude, this is a matter of urgency and we need the Speaker to form this Committee to move on the ground as a matter of urgency and national importance.

I thank you.

The Speaker (Hon. Lusaka): Sen. Nyamunga.

Sen. Nyamunga: Thank you, Mr. Speaker, Sir, for giving me this opportunity to make a few comments on the Statement that has been brought by my colleague, Sen. Outa. Nobody is in dispute of the fact the Kisumu should be developed. That is the desire of everybody, not only people from that region, but all over this nation, because want to be seen to be progressing.

Nairobi has come a long way. Even in Nairobi, we used to have the traders all over the streets. During the time of Mr. Gakuo, he is the one who cleaned up Nairobi. However, the way it was done, he was not bringing down buildings. The people who Mr. Gakuo fought to remove from the Central Business District (CBD) of Nairobi were people who were coming and doing business in the city center on the streets.

Mr. Speaker, Sir, the state in Kisumu is very unfortunate, because for years, these people have been given the opportunity to be where they were.

If the governor or the county government of Kisumu wants to clean Kisumu and make it look like any other city in the world, it is okay. However, what do you do with the people that have been there, who have been eating from their small businesses?

The problem I have with that is the way it is being done. In fact, the most important thing the county government should have done, first of all, was to find a temporary place and place people and then move them step by step. You can decide to move people from this Chamber, do it properly and then move people back, but not just waking up from nowhere.

Whether they were given a notice or not given, it is unfortunate. It is very unfair. It is being done at the wrong time.

When we were in Kisumu over the weekend, many demolitions were done, which is very unfortunate. In fact, I was even afraid to go and approach the people. This is because they can even stone you. These are people who live hand to hand. If they do not trade for a day, it means that that day they cannot eat. Such people, if you have to resettle them, you have to be careful on how you do it. Nobody can just come in my domain and throw me out. It is not good. It is not acceptable. The way it is being done, is wrong. It is inhumane. People must be treated properly.

When governments are put in place, they are put in place to make their people better, to improve the lives of their people, but you cannot put a government in place to come and destroy you. It means that you do not need that government. Therefore, the county government of Kisumu is doing the wrong thing; the way they are doing resettlement and demolition of structures. Yes, structures must be demolished, but the way they are doing it, is wrong. It is inhumane and something has to be done. If it is left this for another one year---

We still need Kisumu. I understand Kisumu will host the Africities Summit. Africities is a very big conference coming to Kisumu next year. Yes, the city must be done to those standards, but what do you do with your people? If you become a President, do you throw your children out because they are dirty? They cannot sit with you on that table. They cannot sit with you with other presidents. It is wrong. What we are doing to our people is wrong.

I think this Senate should not sit and just wait for the people to suffer. It is wrong. Fellow Senators, we have been talking about it. We have been crying and people are crying out there, but nothing is being done. Demolition is going on and people are suffering. It is unfortunate during this time of COVID-19 when our people are suffering so much.

Mr. Speaker, Sir, I thank you and want to congratulate my Senator for bringing this Statement on the Floor of this House.

(The Speaker (Hon. Lusaka) left the Chair)

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

The Deputy Speaker (Sen. Prof. Kamar): Thank you, Senator. Sen. (Dr.) Ali, kindly, proceed.

Sen. (Dr.) Ali: Thank you, Madam Deputy Speaker. I wish to thank the Senator for Kisumu County for bringing the plight and problems of his people to the Senate.

Madam Deputy Speaker, I saw what happened in Kisumu over the Television (TV). I was surprised and shocked. That was very bad. If it was the county government of Kisumu which did that, they do not deserve to be in that position. You do not harass the people who elected you to that level.

The Nubians suffered in Kibera. Their houses were demolished. Now, in Kisumu again. This is not fair. These people have been here for hundreds of years and they are not proper citizens. They do not have anything. They do not have Identity Documents (IDs). The houses in those areas were given to them by the colonial government. How do you demolish a 90 years old mosque? This is very sad. It can even bring tensions within the communities unnecessarily. These people are part and parcel of the Kisumu community. They have lived with them in Kisumu and they are part and parcel of the Luo, literally. When you target a certain minority group to that level---

I am sure they are not the only ones who live there. There are other members of the Kisumu community who live with them. This is very sad. I wish to support the Statement by the Senator. I hope this House takes action.

Thank you.

The Deputy Speaker (Sen. Prof. Kamar): Thank you. Sen. Farhiya, kindly, proceed.

Sen. Farhiya: Thank you, Madam Deputy Speaker. A building that is 90 years old is a heritage that governor (Prof.) Anyang Nyong'o should have protected. Not only is it a religious monument, but it is also a heritage for Kisumu County.

Therefore, governor (Prof.) Anyang Nyong'o is somebody with foresight. However, on this one, he messed big time. This is because the Nubian community are a minority in Kisumu. I am sure that because they are Muslims, they are also minority. Therefore, they are double minority. For you to destroy a mosque that they have had for 90 years, that is telling these people that you do not even belong to this country.

Madam Deputy Speaker, when development is being done, it should not be at the expense of other people's life and livelihood. These people are the same people who elected you as the governor of Kisumu. What kind of a monster did I elect? This is because, for me, this is somebody who is destroying the people who elected him.

I wish to thank the Senator for Kisumu County, Sen. Outa, for bringing this Statement. If he had not brought it, even us who belong to the Islamic Faith would have wondered what is wrong with the people of Kisumu. I am glad that the Senator for Kisumu has categorically stated his position. I respect you for that. I also wish to thank Sen. Nyamunga for condemning that heinous act that this governor has committed.

Madam Deputy Speaker, this kind of action should not be allowed by any democracy or any person who feels---. I actually saw a picture of a person who was calling for prayers on top of stones that had been demolished. That shows you how faithful these people are, but you have destroyed the faith they placed in you because they elected you as their governor.

I thank you for giving me this opportunity.

The Deputy Speaker (Sen. Prof. Kamar): Sen. Sakaja, are you on a point of order?

Sen. Sakaja: Yes.

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

Sen. Sakaja: Madam Deputy Speaker, I was on a point of order, but Sen. Farhiya has finished. I understand the passion and pain and I also condemn the demolitions which are not done in a humane way. However, some words used are not parliamentary and need to be withdrawn.

If I heard right, Sen. Farhiya said: "What kind of a monster did the people of Kisumu elect?" Referring to a governor as a monster cannot be on the record on this House. It is not parliamentary. It is not right despite what has been done. I would ask that you rule that she withdraws that term. It cannot exist in our HANSARD.

In any case, according to our Standing Orders, to discuss the conduct of a governor, needs a substantive Motion. While we condemn the act and condemn what has happened to the people--- This is because, even in Nairobi some of the demolitions are very inhuman. If we have such statements, let us moderate the words that we use.

The Deputy Speaker (Sen. Prof. Kamar): Thank you. Senator. Sen. Farhiya, which monster were you referring to?

Sen. Farhiya: Madam Deputy Speaker, I wish to thank Sen Sakaja. I withdraw that word.

The Deputy Speaker (Sen. Prof. Kamar): Thank you. Sen. (Dr.) Mbitio, were you---?

Sen. (Dr.) Mbito: Madam Deputy Speaker, let me take this opportunity to support Sen. Outa's Statement. Let the House know that this is not an issue that has only happened in Kisumu County. This monstrous demolition also took place in Trans Nzoia County. We now have over 20, 000 people who are destitute.

We had a situation in Trans Nzoia where the Kenya Railways came and started demolishing houses without notice, and the people whose buildings we being demolished had running leases. These are the issues that ---

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

Sen. Pareno: Madam Deputy Speaker, is it in order for Sen (Dr.) Mbito to insist on using a word that you have ruled out as being unparliamentary? The word "monstrous." He even made it worse.

The Deputy Speaker (Sen. Prof. Kamar): I thought I heard him refer to the action.

Sen. (Dr.) Mbito: I am describing the action, not a person.

The Deputy Speaker (Sen. Prof. Kamar): At least this time, there is no monster.

Sen. (Dr.) Mbito: No. It is not a person.

Madam Deputy Speaker, if I may continue, we had a situation over the weekend where the Kenya Railways Corporation demolished houses, churches and businesses without any notices on land that had running leases. After that the County government took advantage and went and evicted people. Therefore, these kind of things are happening, and I really support Sen. Outa for bringing this Statement.

When you will be committing it to the relevant Committee, we will want to prosecute this matter because we want to find out the following from Kenya Railways: When did they give notice of eviction to these people? Why did they not recognize that these people had running leases? What kind of compensation were they planning to give these businessmen?

I thank you.

Sen. Shiyonga: Thank you, Madam Deputy Speaker, for giving me this opportunity to support the Statement raised by Sen. Outa.

The demolitions that are happening across the country are inhumane. Most of them are done at night when people are asleep. Right now, we have the curfew and the pandemic, where people are struggling with their livelihood. Looking at what is happening in Kisumu, Kitale, Nairobi and other counties across the country, is of great concern to us as leaders. It is not the best thing to be done right now.

I urge Members of this House that we need to be on the lookout. If possible, the leaders who are organizing these--- I know that there is an executive arm in our counties, which is working to bring down the economy of this country instead of upgrading it.

It is unfortunate that traditionally before devolution, we were not experiencing these things. Right now, county governments are doing their own things. They are frustrating their own citizens who voted for and employed them. They have now turned to upsetting them by demolishing their structures in which they have invested. Traders have lost a lot of property in the demolitions.

It is very sad that most people have become very poor because of these demotions. They have nobody to turn to because if they go to the same county governments, they are turned back.

I pray that this Statement will be taken seriously by the concerned Committee. They should visit the concerned counties, so that these acts are brought to an end and our people are saved. They should be able to invest in what they think is permanent for them.

Thank you.

Sen. Madzayo: Asante sana, Bi. Naibu Spika. Kuna msemu uliosema na Wahenga zamani kwamba ukiona cha mwezako kimenyolewa, chako anza kutia maji. Jambo hili la kuvunjiwa nyumba na Wakenya kuitwa maskwota, yaani mahali ulipokaa kwa muda mrefu kuwa si kwako, ni jambo ambalo limetendeka sana hata upande wa Pwani.

Ni kitu cha kusikitisha kwamba katika makabila yote 45 sasa, Wanubi ni watu ambao tunajua kwamba wanaishi katika sehemu za Kibera na Kibos. Ijapokuwa sio wengi, inajulikana kwamba ni Wakenya wanaoishi na heshima zao kama vile jamii zingine za Kenya zinavyoishi.

Kitendo cha unyama kilichotendewa Wakenya wenzetu kilikuwa cha kuhuzunisha sana. Kilionyeshwa katika vyombo vyote vya habari. Kile kitendo cha unyama kilifanywa mpaka kwa mama aliyekuwa ndani ya nyuma. Ni binadamu gani anaweza kuchukuwa trekta huku akisikia kelele ndani na mama anajaribu kumtoa mtoto wake--- Ilibidi mama atoke nje na yule dereva aliendelea kubomoa mpaka akamuuwa mtoto ambaye angekuwa wa manufaa sana katika jamii ya Wakenya katika maisha ya usoni.

Ni muhimu sana sheria ichukuwe mkondo wake. Aliyetumwa hakutumwa kwenda kuuwa. Kama alitumwa kubomoa vyumba vilivyokuwa pale, angefanya hivyo kwa hali ya ubinadamu. Ubomoaji wa nyumba hizo ulifanywa kwa hali ya unyama.

Unyama huu unakwenda mpaka unavunja miskiti, watu wanapokwenda kumuomba Mungu. Afadhali usivunje msikiti ama kanisa ambapo watu wanakoenda kumuomba Mungu. Wewe ni binadamu unayeishi katika ulimwengu kwa mapenzi ya Mungu.

Watu wako na imani na misikiti, makanisha hata kama ni Kalasinga wanaoabudu katika hekalu zao. Ni mara yangu ya kwanza kuona msikiti wa Kiisilamu unabomolewa na tinga tinga ikisemekana kwamba ulijengwa bila haki.

Tunajuwa kwamba kisheria watu wakikaa mahali kwa miaka zaidi ya 12 bila kusumbuliwa au kuambiwa waondoke, hata kama ni mahali gani, ni lazima wapewe nafasi ya kwanza kumiliki ardhi hiyo.

Kibos ni eneo kubwa lenye makanisa, miskiti na nyumba za watu. Wamesema ya kwamba wamekuwa hapo zaidi ya miaka 90. Ni jambo la kusikitisha kuona hivi leo Serikali yetu, haswa Shirika la Reli ambalo liko katika hali taabani na karibu kuanguka, linaweza kuvunjiwa watu misikiti na nyumba. Wakati huu wa Covid-19, shirika hilo linatoa watu nje na kuwafanya walalahoi katika nchi yao ya Kenya ambapo wamezoea kuishi.

Bi. Naibu Spika ninamshukuru sana ndugu yangu, Sen. Outa, kwa kuulizia Taarifa hii. Ningependa Kamati itakayoishughulikia ichukue hatua mwafaka ili kwenda

na kujionea. Waangalie ikiwa ni kweli wale watu wameishi pale kwa zaidi ya miaka 90. Ikiwa ni kweli, Shirika hilo liweze kurejesha makao yale kama yalivyokuwa hapo awali.

Asante.

The Deputy Speaker (Sen. (Prof.) Kamar): I had said last, but I will give Sen. Mutula Kilonzo Jnr. three minutes.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Deputy Speaker. It is a good year. We condemned the demolitions in Kariobangi in the same vein when Sen. Sakaja brought the matter. The demolitions were done at night during the COVID-19 period. I said at the time, and say it now, that both governments have always been very insensitive to the plight of poor Kenyans.

I saw the demolitions. Even if those residents are on Kenya Railways Corporation (KRC) land, KRC land is not an alien. It belongs to Kenyans. Therefore, there is no justification whatsoever for that demolition.

Perhaps Sen. Outa can even refer to the law that we passed on land valuation. In fact, for purposes of acquisition of land, even the people who are on public land must be given notice. People who are and have lived on public land are given some element of rights for purposes of acquisition. It is a violation of human rights. I said it in the Kariobangi case that it is an international violation of human rights.

The people responsible for the demolition must be taken to task and to book because what they did is unlawful and illegal. There is no reason why any Kenyan should sleep out in the cold because of public or private purpose. It must be reiterated.

In the days when we could open private prosecution – now the Director of Criminal Investigations does not work as well as they used to those days – you would institute private prosecution against the people who conduct demolitions at night during a pandemic. It is a violation. We must treat it as such.

I encourage Sen. Outa to forward a complaint to the Kenya National Human Rights Commission (KNHRC) for purposes of investigation and charging of those people because it is a violation. Let us call it what it is. It is a violation of human rights and Article 28 of the Constitution. There is an Article in the Constitution called the Right to Human Dignity. Even giving somebody a toilet is a right to their dignity. Denying children food and shelter at night is a violation and must be treated as such.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. I had finished the minutes for this one. I see Sen. Halake and Sen. Orengo. If you will take two minutes each, I will allow.

Sen. Halake, proceed.

Sen. Halake: Thank you, Madam Deputy Speaker. I am glad you allowed me to say something. I had a Statement as well on this, but it did not get approved in good time. I would like to congratulate Sen. Outa for bringing it up. In fact, I would like to be enjoined in it so that if he complains of eviction, I am part of that as well.

The rights of people were violated. Rights such as freedom of worship were violated because so many mosques and churches were demolished and lives lost. I do not know what to say because this is becoming too much.

The duty bearer and person responsible is the State, no matter who has done it. We cannot blame KRC or anybody because at the end of the day, the person that should be preserving the dignity of human beings and ensuring citizens are safe and have all the provisions of Article 33 is the State. Therefore, I think the State is culpable of gross injustice to its own citizens. As such, they should be answerable and be held accountable.

A few years ago, when we had the railway being built and other developments being done in Kibera and other places, we saw the inhumane manner in which these things were conducted. I was working for the Red Cross then. This country is one of the few that has never ever taken responsibility for the gross injustices meted on its poor yet they are the worst crimes of injustice.

I think we will make sure that this is not just a matter of talking because we have lamented enough. Action needs to be taken. We will be with Sen. Outa to ensure that the next step is taken.

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

Finally, Sen. Orengo.

The Senate Minority Leader (Sen. Orengo): Madam Deputy Speaker, I commend the Senator for Kisumu County for bringing up this matter.

I hope at the end of it, this matter will be referred to the relevant Committee for proper consideration and recommendations brought to this House.

What makes me feel terrible about this issue is that the forceful eviction is illegal. Even if you trespass in somebody's land, they cannot just begin beating you up! You have to follow due process. The law recognises public land. There is a procedure that they must follow.

Since the enactment of the Constitution 2010, the principle that should guide all public agencies all the time is that public land does not necessarily belong to the Government agencies for their own good. It also belongs for the good of the people. If the people are meant to suffer the way I saw families spending nights in the cold in Kibos and Muhoroni and along that line--- I heard that the operation will go to Malaba and other places.

Over the years, the Kenya Railways Corporation (KRC) has been handing over public land to cartels and people who want to make money out of public land. They have not taken any steps to recover those pieces of land. Instead, they are concentrating on ordinary people. What the Government and those agencies are trying to tell us is that when rights and privileges are involved, the law is there only to protect the mighty but to oppress the poor people of this land.

Some 20 years ago, I took part in a *harambee* to build a church in Koru. That was a beautiful church where the honourable Member for Kabondo comes from. I think that is where she was born. The mother was a very religious person. That church which has been on that ground for more than 50 years has been brought down.

How do you bring down a mosque for whatever reason? At the end of the day, you should have the decency of going before a court of law for a determination to be made. This is because many times the Government has also trespassed on individual property and nobody has been brought to account.

In any case, if you have allowed somebody to stay on your land for more than 20 or 30 years, the principle of law that applies is that you have to prove that the right of possession still can be enjoyed by that particular individual. Those principles are applied in the courts all the time.

I know as a matter of fact that the eviction laws and procedures are in place. Whether or not somebody is on your land and you think they do not deserve to be there and they are unwilling to move out of that land, the step to take under the rule of law is to go to an appropriate body where that matter can be settled.

Those images, which went viral all over the world show how Kenya treats its ordinary people. They are sleeping out in the night because they have nowhere else to go.

Sen. Outa should call us to accompany him to that area. That should have been like yesterday. We should not only tell the people that we are expressing solidarity but we must also accuse those concerned before the people in Koru and Muhoroni.

Since I come from that area, I urge Sen. Mutula Kilonzo Jnr., to accept *pro bono* services to stand up for those citizens in Kisumu County. The Senator had some interest in Makueni and Machakos, which I shall not disclose but I know he will pay in kind.

I can see Sen. Wambua laughing because of the enjoyment of that privilege he has in Makueni, Kitui and Machakos. Sen. Wambua is a bishop. Sometimes he presides over it. However, that is not to take away the seriousness of this matter.

(Laughter)

Madam Deputy Speaker, I am grateful that you gave me the opportunity to add a voice to this question. Could you direct the relevant Committee to act on this with immediacy and sense of urgency?

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, this Statement has attracted a lot of attention. Although it was under Standing Order No. 47(1), I will use my discretion to direct it to the Committee on Roads and Transportation.

I ask the Senator for Kisumu to avail not only the details he has but also the answered copy, so that the issues that have been raised by other Senators can also be taken board.

I would also like to ask Members of the Committee to go beyond Kisumu and deal with the issue nationally because it has affected many parts like Nairobi, Nakuru, Kisumu and other areas where KRC has had land. We expect you to expeditiously deal with that matter as a Committee and bring the answers here, so that Members are satisfied that the same matter affecting different parts of the country has been addressed. It is so ordered.

Hon. Senators, next are Statements pursuant to Standing Order No.48 (1). The first Statement by Sen. Malalah is deferred out of his request because he could not make it here today.

ALLEGED MULTIPLE TAX PAYMENT BY LORRIES

AND TRUCKS TRANSPORTING BUILDING MATERIALS
ACROSS COUNTIES IN KENYA

(Statement deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): The next one is by Sen. Iman but it will be read by Sen. (Rev.) Waqo.

ALLEGED ARSON ATTACK ON THE GARISSA
COUNTY ASSEMBLY FACILITIES

Sen. (Rev.) Waqo: Madam Deputy Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the alleged arson attack on the Garissa County Assembly Facilities. In the Statement, the Committee should-

(1) State the cause of the huge fire that burnt down parts of the Garissa County Assembly Chambers and several offices on Thursday, 28th January, 2021.

(2) Report on the extent of the damage and state whether there was any foul play behind the incident.

RAMPANT POLICE HARASSMENT OF CIVILIANS WHILE
ENFORCING THE COVID-19 PROTOCOLS AND GUIDELINES

Sen. (Rev.) Waqo: Madam Deputy Speaker, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the rampant police harassment of civilians while enforcing the COVID-19 protocols and guidelines. In the Statement, the Committee should-

(1) Provide information on the good standards and procedure for police arrest for suspected violation of COVID-19 rules and clarify whether police officers have been adequately trained on this procedure to avoid further spread and infection of COVID-19 amongst the police and those arrested.

(2) Provide immediate and suitable alternatives to enforce the COVID-19 protocols and guidelines rather than police arrest.

(3) Provide an update and a report on the investigations on the alleged deaths of members of the public in the hands of the police allegedly for failing to wear masks in public.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Rev.) Waqo, there is also a second Statement by Sen. Iman. I am told you have been given the opportunity to do that. You can read the next one before I allow Sen. Wambua to say something.

Sen. Wambua: She has read it.

The Deputy Speaker (Sen. (Prof.) Kamar): Sorry, I did not notice that. Proceed, Sen. Wambua.

Sen. Wambua: Thank you, Madam Deputy Speaker, for this opportunity to make a comment on the Statement sought by Sen. Iman. I congratulate Sen. Iman for seeking that Statement.

I bring to the attention of this House and the Standing Committee on National Security, Defence and Foreign Relations, that a direction was given from the Chair sometimes last year, that Statements sought by Members from Committees, should be acted on and reports shared with the Members seeking those Statements before those reports are tabled on the Floor of this House.

Madam Deputy Speaker, I am on record. I have sought a Statement related to a fire that brought down the finance offices of the Kitui county government in July of 2019. To date, I have not received any brief from the Committee and no report has been tabled on the Floor this House.

Just to request that the Chair should reiterate the position that such reports are not just sought for the sake of seeking Statements, but they are in response to the outcry of the people that have elected us into this House.

I felt the pain of the people of Garissa when their Assembly went up in flames. I feel much more pain for the people of Kitui because all the finance documents relating to transactions of the county government of Kitui were burned. There is no Statement or report from the Committee. There is no report from the investigating agencies. Let us not reduce these Statements into talk shows because they should never be like that. When Statements are sought, let us get responses.

Madam Deputy Speaker, I will seek and request that you give a directive that as we pursue the matter raised by Sen. Iman, I be given that report that I sought in 2019, in the shortest time possible.

The Deputy Speaker (Sen. (Prof.) Kamar): Point of order from Sen. Pareno.

Sen. Pareno: Madam Deputy Speaker, I wanted to add on to what he was saying. I am not sure whether he had finished. If he has finished I can---

The Deputy Speaker (Sen. (Prof.) Kamar): He has finished.

Sen. Pareno: It was not a point of order.

Madam Deputy Speaker, I think we need to start afresh this year and show that we are serious with what we do. We have many Statements that have not been processed just as you were saying. For me, I have several that I am still following up. The Committees are not even informed of what is happening. They have not been answered. Maybe we need to once and for all, pull out all those that have not been acted on so that we know the position and what to do.

Madam Deputy Speaker, we need to get a way forward from you on what to do with all the Statements that we have done and they have never been processed by the several Committees that they have been referred to.

The Deputy Speaker (Sen. (Prof.) Kamar): Okay. I will touch on that one.

Sen. Farhiya: Thank you, Madam Deputy Speaker. When Sen. Wambua brought his Statement, I had said that there is need to have a different system. You cannot be doing the same thing the same way and expect a different result.

The world has advanced. There is electronic filing of documents so that it is saved in the cloud that nobody can reach. Internet has gone places. Why we have box files being burnt, mostly finance files, I do not understand. It keeps on recurring from one county to another. When will this madness stop? The other files are okay, it is only finance.

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

Sen. (Dr.) Ali: On a point of order, Madam Deputy Speaker. I do not want to interrupt my colleague, sister and boss. However, she is a Member of the Standing Committee on Finance and Budget. They are the ones to give us the answer. They should not be complaining. This is an issue of the Standing Committee on Finance and Budget. The Standing Committee on Finance and Budget should give us those answers.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Ali. Actually, the two questions are being directed to the Standing Committee on National Security, Defence and Foreign Relations. These are security matters and I think the one of Sen. Wambua was directed to the Standing Committee on National Security, Defence and Foreign Relations.

However, I will say something about the backlog.

Sen. Farhiya: Madam Deputy Speaker, I want to advise my Senator, Sen. (Dr.) Ali, that arson is not a finance function. It is more of a security function because this is arson in my view. It is criminal in nature in the way it is being handled.

Madam Deputy Speaker, this shows you that the crimes that happen within counties are not addressed until people start fearing that they have done it to a level where they cannot sustain themselves and resort to burning finance files. There is need for a permanent solution.

To get an internet service that can take care of that is not as expensive as people tend to think. That includes supporting documents filing with payment vouchers so that nobody can dare. It can be done within the Integrated Financial Management Information System (IFMIS) with an extension. I hear that IFMIS is on Oracle. Oracle can do many things. I have interacted with a finance system that does similar functions.

You cannot know whether this is deliberate to ensure that things do not move within our counties.

Sen. Omanga: Madam Deputy Speaker, on a point of information.

The Deputy Speaker (Sen. (Prof.) Kamar): Do you know more about Oracle?

Sen. Farhiya, would you like to be informed by Sen. Omanga?

Sen. Omanga: Madam Deputy Speaker, some of these gaps and issues will be sorted in the Building Bridges Initiative (BBI). It is in the BBI.

The Deputy Speaker (Sen. (Prof.) Kamar): Does that mean that Sen. Omanga is now propagating the issues of BBI?

Please wind up.

That was information for everybody.

Sen. Farhiya: Madam Deputy Speaker, it is good that Sen. Omanga is on record having supported BBI. However, I do not understand how that is relevant to what I was saying.

The other issue is around police harassment. In the Muslim community, there is a facemask that is cloth. In a county like Wajir, people are jailed for wearing the veil, yet the police have no capacity to determine whether the veil is good enough for COVID-19 prevention compared to normal cloth mask.

I am contributing to the next Statement by Sen. Waqo. There were two Statements that were given at the same time.

The Deputy Speaker (Sen. (Prof.) Kamar): Yes, I allowed that. I said that they read both and then we respond to both. Please, let us allow response.

Sen. Sakaja, are you okay? Do you have a point of order?

Sen. Sakaja: Madam Deputy Speaker, yes. It appears during Sen. Farhiya's good contribution that there is a problem within finance because it looks like those are the documents that are flammable in counties more than any other thing.

The Public Finance Management Act (PFM) is very specific when it comes to keeping records. I know Sen. Wambua's question might have been directed to the Standing Committee on National Security, Defence and Foreign Relations. However, possibly the Standing Committee on Finance and Budget needs to give us a status of how information and documents are being stored in counties because it cannot be that you are only hearing of documents of finance being burnt.

It is not just a security issue. It is part of the accounting officers' responsibility to keep records in a certain way. Maybe an intervention on the Information Technology systems and Oracle can then be discussed within that context. Therefore, it could enrich the House if the Standing Committee on Finance and Budget chips in and gives us a status of all the counties and record keeping.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. I think that is good addition. Sen. Farhiya, please wind up.

Sen. Farhiya: Madam Deputy Speaker, as I was saying, the police have no medical knowledge to know the difference between a veil and the cloth masks that everybody else wears.

In my county, there are ladies who have been victimized for wearing a veil, which is equivalent to the normal cloth masks that prevent infections. We have to be consistent on how we make our decisions.

Either make sure that all the masks are not made of cloth and are surgical. If we accept clothes, they should be part of the accepted cloths. Otherwise, we will be having doublespeak. I know of ladies in Wajir who have been charged Kshs7,000 for wearing the veil which serves the same purpose like the cloth mask. There is need to address some of these things so that we have concrete idea in terms of how COVID-19 prevention should be taken to the next level.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, the two Statements stand committed to the National Security Defence and Foreign Relations Committee. However, it does not stop the Committee from inviting suggestions from other committees. We also have Members who are in the Finance and Budget and National Security, Defence and Foreign Relations Committees. It is true that some of the Statements have not been done and I would like to urge the chairpersons of Committees that it is the right of Members to get responses and be informed if their Statements or Petitions have been dealt with by the committees or not.

Now that we are beginning a new year and the in-tray is full, the chairpersons of committees must take the lead to make sure that any Statement that has been hanging is completed, resolved and the Member informed of the responses. Where Petitions are involved that the resolutions are sent to the petitioners. This is important.

Let us clean up our House. I would also urge Members of the House Business Committee to go further and release the full list as has been asked by a Member so that we know where the Statements are. I know they have been giving an update once in a while, but it is good for Members to know where the Statements are so that we can clean up the past.

With that, the next Statement is from Sen. Were.

THE STATUS AND OPERATIONS OF THE KENYA
SCOUTING ASSOCIATION (KSA)

Sen. Were: Thank you, Madam Deputy Speaker. I rise pursuant to Standing 48(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on the status and operations of the KSA. In the Statement, the Committee should state whether the Kenya Scout Act is in tandem with the Constitution of Kenya 2010 given that it was last revised in 2008.

Secondly, that the Committee provide information on the operations of the KSA, including but not limited to decentralization of services to county level, partnerships and the promotion of the scouting movement in Kenya.

Finally, the Committee should provide information on the preservation of the gravesite of the founder of the scouting movement Lord Baden Powell and his wife lady Baden Powell that is located in Nyeri County and whether there are any plans to relocate the gravesite due to negligence.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. That Statement stands committed to the Committee on Labour and Social Welfare.

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

The next Statement is from the Senator for Wajir, Sen. (Dr.) Ali.

ABDUCTION, DISAPPEARANCE AND MURDER
OF MEMBERS OF THE PUBLIC IN WAJIR COUNTY

Sen. (Dr.) Ali: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order 48 (1) to seek a Statement from the Standing Committee on National Security Defence and Foreign Relations regarding the abduction, disappearance and murder of the members of the public in Wajir County. In the Statement, the Committee should state the measures if any, that the Ministry of Interior and Coordination of National Government has put in place in an effort to investigate the abduction, torture and killing of a prominent businessman, Mr. Abdullahi Yusuf Farah, ID.No. 0052216, who left Nairobi for Wajir on Monday 25th January, 2021, and whose mutilated body was found around Legehut. This is a watering point which is around four kilometers from the town centre and near the Wajir International Airport. It is around 500 metres or a kilometre from the airport fence.

Recently the President came to Wajir and inaugurated the cameras everywhere and they can capture from two to three kilometres. I went to Wajir Airport on Thursday 28th January, 2021.

Secondly, outline measures the Government is putting in place to deal conclusively with the issue of insistent abductions and murders of innocent citizens with the aim of ensuring justice is served to the victims.

Madam Deputy Speaker, this gentleman was a very prominent man in Wajir and when his body was found after he had disappeared for two days, there were questions on who killed him. If it continues like that, there can even be tribal clashes because nobody knows who killed him. Some are talking of issues of Al-Shabaab, others Government, other crime factor and business rivalry. When issues like that are not resolved urgently, they can lead to a disaster. I want the committee to look into this urgently and come up with a solution to make sure the people of Wajir do not kill one another unnecessarily.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Sen. Omogeni were you pressing? He was logging in. That Statement stands committed to the Committee on National Security, Defence and Foreign Relations.

*(The Statement was committed to the Committee on
National Security, Defence and Foreign Relations)*

The next Statement is by Sen. Kwamboka. You have two Statements to the same Committee so you can read both.

THE RISE IN INCIDENTS OF FIRES IN LEARNING
INSTITUTIONS IN THE COUNTRY

Sen. Kwamboka: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Education on

the rise in incidents of fires in learning institutions in the country and the resultant insecurity of learners, workers and property. In the Statement, the Committee should-

(1) Explain the causes of the rampant incidents of fire in learning institutions in the country in the recent past.

(2) Expound on the availability and distribution of fire fighting equipment in learning institutions and the level of awareness of the existence of such equipment by the population within or surrounding the institutions.

(3) Outline the measures put in place to ensure the safety of students, staff and property within these institutions as well as plans for evacuation where necessary.

(4) Elucidate on the actions being taken by the Ministry of Education to ensure that such fires are eradicated or controlled in order to avoid or minimize disruption of learning and damage or loss to the property and lives.

STATE OF AFFAIRS AT WANGU PRIMARY SCHOOL IN
DANDORA PHASE II, NAIROBI CITY COUNTY

Sen. Kwamboka: Madam Deputy Speaker, pursuant to Standing Order 48(1), I rise to seek a Statement from the Standing Committee on Education on the state of affairs at Wangu Primary School in Dandora Phase II Nairobi City County where I was born and raised. I was born in that constituency and not in the school.

In the Statement, the Committee should-

(1) State the population of learners with disabilities in Wangu Primary School outlining their specific disabilities and explain the availability and distribution of teachers dedicated to this category of pupils in the school.

(2) Expound on the methods of teaching used to teach learners with hearing impairment at the school.

(3) Explain the special measures if any, that have been put in place to ensure that learners with disabilities enrolled in the school are facilitated to move at the same pace with rest of the learners in understanding and covering the syllabus.

(4) Outline the actions being taken by the Ministry of Education, Science and Technology to ensure that schools across the country take care of the needs of learners with disability.

Thank you, Madam Deputy Speaker.

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

Sen. Were: Thank you, Madam Deputy Speaker. I had a Statement similar to that on the rampant indiscipline cases in schools, so I will not go into details. However, I would like the Committee on Education to look at the following points as well.

First, explain the cause of indiscipline in schools that has caused school properties to be raised down by fires allegedly started by students in over six high schools across the country since the year began.

It should also state measures put in place by the Ministry of Education and basic education institutions to address cases of indiscipline in schools.

Madam Deputy Speaker, it should spell out measures put in place to protect teachers, innocent students, school workers and school property from being harmed or destroyed by unruly students.

The Committee should also describe the effectiveness of guidance and counseling in schools in mitigating indiscipline in light of the recent cases of gross indiscipline in schools taking note of issues of mental health among students, especially after the long period of COVID-19.

Madam Deputy Speaker, the Committee should also explain the application of the policy on suspension and or expulsion of indiscipline students as a disciplinary mechanism after the banning of corporal punishment in schools in 2001.

Finally, the Committee should give steps taken to reintegrate female students who got pregnant during the long break from education occasioned by COVID-19.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. Sen. Sakaja, proceed.

Sen. Sakaja: Thank you very much, Madam Deputy Speaker. Allow me to thank Sen. Kwamboka who as she said is a “born town”. She was born in Nairobi and raised in Dandora.

These are very important questions and I am glad that Sen. Were has chimed in because she is spot on in the issues she is raising for these two Statements.

First, I am happy the Chairperson of the Committee on Education is here. She is a very able Chairperson who was trained by me when I was a Chairperson and she was my vice chairperson.

Madam Deputy Speaker, on the issue of the school fires and unruly cases, no one is talking about how these children when they came back to school were integrated. These children were away for an entire year. Was there any counseling looking at the mental health issues?

Many of them were in very tough situations at home because of the economic conditions of last year. It has been a whole year. We need to understand what the plan for reintegration of these children are. There is post-COVID-19 trauma. Some lost relatives. Some had a tough time because of the economy. So, it is whether that post-COVID-19 counseling has been done.

Secondly, the Committee needs to look at possibly together with the Committee on Information, Communication and Technology is on the issue of reporting of these incidences. Children at that age are susceptible to peer pressure.

When they see that this school was burnt and it is on the media, tomorrow another one and they are being asked why they have not burned their school also. On the issue of how we are reporting this, should we stop reporting these fires? Do these children have phones where they are conspiring between each other? That is a matter that needs to be investigated.

Madam Deputy Speaker, in addition and I hope the Chairperson can actually look at this. These children are in a very dire state in many schools. I have visited a number of schools in Nairobi over the past two weeks. I have gone to seven or eight of my schools.

If you look at these primary school children, especially, they are completely hopeless because they are hungry. We used to have a robust school feeding programme. Can it be reinstated or should we amend the Education Act? This is because in urban areas, especially in Nairobi, when there is no food because of the economic situations, there is nothing at all.

Madam Deputy Speaker, sometimes in the rural areas, you can find some *mahindi goro goro* here and there. There is *mboga* even at the fence and you can cook something. If you look at their faces, our children are extremely hungry. There is neither school milk nor school feeding. The other day I was in Kawangware and I visited six schools. There is a problem. Can that programme be reinstated?

Finally, on the second Statement that Sen. Kwamboka has asked for, it is extremely important on the issue of disabilities. I know the National Government Affirmative Action Fund (NGAF) has really helped and some of the Constituency Development Fund (CDF) committees in some constituencies.

Madam Deputy Speaker, Hon. Shebesh did a good job when she was a Women Representative. Hon. Passaris is also trying with the issue of disability. However, we do not have many of these special units in Nairobi. I know, for instance, for autism, in Marurui, there is only one centre from a huge part of Nairobi and there is only one place where these children with autism are able to be addressed.

Sen. Omanga is also doing very well, but she does not have a fund. She is just doing it out of the abundance of her wealth. You know she is extremely rich. I know when she comes and she is elected as the next female Senator of Nairobi City County, I hope she will have a fund. This is because it must move beyond her philanthropy to actual programmes. At least, she said it is also covered in BBI.

Madam Deputy Speaker, please ask the Chairperson to look at those issues. We are seeing indiscipline, but we are not seeing these children. No one is looking at the state these children are in. Chairperson, please look at the feeding and the post-COVID-19 counseling. These children are traumatized.

The Deputy Speaker (Sen. (Prof.) Kamar: Thank you, Senator. Sen. (Dr.) Zani, proceed.

Sen. (Dr.) Zani: Thank you, Madam Deputy Speaker. I will be very brief. Yesterday, there was the launch by the President for the Competency Based Curriculum (CBC), which is really the hope of the whole education system and moving towards competency based rather than the rhetoric sort of objective reasoning we have today. It was empirical and just cognition without application in terms of the framework.

I think at this point all these matters are very critical. As that Statement is coming to the Committee on Education, it would be very critical for the committee to look at it very broadly. There are so many issues and it is not just about burning of the schools as Sen. Sakaja has said. There are psychological impacts. There is cultural and social background. There are a lot of things that is happening.

Madam Deputy Speaker, this is a good Statement that will help to enlighten what might be going wrong within the education system. We said at the University of Nairobi even when there was a riot, nobody dared put fire on the library because they knew they

need it. When we find the institutions are burning their own resources, it becomes tricky and there is really an issue then. We can get to the bottom of this issue and contribute as the Senate to our educational standards.

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

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Deputy Speaker. I want to say that I am a proud chairperson of a board of a school in Nairobi. I deliberately as chairperson ordered that there should be CCTVs in the dormitories. The boys objected and protested, but eventually we had our way as the board.

How did this help? A year ago, these boys did not know that we were recording them at night. This boy and a few others got paraffin and lit one of the dormitories. The unfortunate thing about that fire is that there was one boy who was either epileptic or had a problem and that boy escaped by a whisker. He was almost burnt alive in that dormitory.

Madam Deputy Speaker, it then confirmed that, in fact, while they were protesting that we were violating their privacy, I told them if you are living in a dormitory where you are 100 people, there is no privacy. Where you have the security of those 100 children, then CCTV cameras where it is recording day and night becomes a necessity for purposes of making sure that these boys do not do this.

This particular boy who was the ring leader of this fire lit this dormitory that was built 30 or 40 years ago simply because he was tired of that school and wanted to go for the weekend for a funeral of his relative. Since he was denied the opportunity, they bought paraffin and burnt the dormitory and we almost lost a student.

Madam Deputy Speaker, it is not just indiscipline. It is bad upbringing and carelessness. I recently sat in a disciplinary committee where this boy just confessed that he buys bhang somewhere in Kinoo. He did not see anything wrong about smoking it in school and in the corridors.

I am aware of the students in Nairobi who are engaging in gunrunning. If boards are not careful, these boys are not only going to burn dormitories, but do even worse things. I have told the Committee on Education before that they must tell these students. I am glad that Sen. (Dr.) Milgo is here.

If you burn a car on the streets, you are a criminal and will go in for crime. If you are student and you burn a dormitory, you are supposed to be treated the same. If you carry a gun on the streets, you will be treated like a criminal. If you carry a gun or bhang to school and you are found in the streets of Nairobi, like Kenyatta Avenue, you will be treated like a criminal.

Why are students who behave like this treated as if they are children? People say, ‘Ooh, please, *woiye*, these are children.’ No, these are criminals. When you make a mistake and a person loses a family member like they lost in Moi Girls High School---

The Deputy Speaker (Sen. (Prof.) Kamar): I see a point of order from Sen. Were.

Sen. Were: Thank you, Madam Deputy Speaker. It is a point of information. I would like to inform---

The Deputy Speaker (Sen. (Prof.) Kamar): You should always distinguish because the Member might not need information.

Sen. Were: I am sure that Sen. Mutula Kilonzo Jnr. loves education.

Sen. Mutula Kilonzo Jnr: Yes, particularly from my agemate.

Sen. Were: Thank you. He is my agemate, but there are things that he knows that I do not know and things that I know that he does not know. For example, on the issue of the child, he knows very well that our criminal system recognizes the fact that when a child below the age of 18 comes in, they are treated differently.

Children who burn schools and do ‘criminals acts’, are children with mental issues. That is where we should start from. Let us not criminalize their acts. First, we should establish why they do what they do, and then deal with that issue.

The Deputy Speaker (Sen. (Prof.) Kamar): Do you accept the information?

Sen. Mutula Kilonzo Jnr: Unfortunately, no! I have just given an explanation that a child can sit down, fundraise or collect money to buy paraffin, identify who is going to burn and how they are going to leave. In criminal action, you have what we call preparation to commit a crime. How do you treat this person like a child?

How can a child who carries a gun, buys and distributes bhang be treated like a child? When an ordinary parent in Kenya takes their child to a boarding school, they imagine that everybody is like their child who knows no evil, speaks no evil, and hears no evil. This child has been exposed to some things in school, which in ordinary parlance would be criminal action.

It is this sort of thing from Sen. Were that is leading to children burning expensive investments. The minute we treat these children this way, they will think that this is ordinary. Half of the students who I have seen and can plan such crimes, you will be surprised, are the brightest in class. They are not those who are last in performance. They are very bright, and it is not a mental issue. It is just that they are idle---

(Sen. Were spoke off record)

Sen. Mutula Kilonzo Jnr.: It is not a mental issue.

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

Sen. Pareno: Madam Deputy Speaker, I ask that I give information and not a point of order. I know that Sen. Mutula Kilonzo Jnr., being a lawyer by profession, definitely knows that we have borstal institutions. It would be good to say that the middle ground between what Sen. Were is saying and what Sen. Mutula Kilonzo Jnr. says is that we actually have institutions for young people who are criminal in nature. Therefore, they can be charged as criminals, but put under borstal institutions for correction. We should not just treat it lightly.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Mutula Kilonzo Jnr., I want you to finish, but I think that a number of the issues that are coming out demand that the Committee sits. Where there is a clash between the current law and what we think should be done, give those proposals and then it shall be addressed. This is so that we get the

lawyers out of the law path. They have given us a lot of input that I think the Committee should take note of.

Sen. Mutula Kilonzo Jnr.: Madam Deputy Speaker, I want to respond to that with just one point. There is a borstal institution in Kakamega called Shikusa Borstal Institution. When I was sitting in the Special Select Committee on Prisons, I went there.

It was such a sad picture to find 500 boys committed to such an institution. One of the boys gave us a testimony that by the time he ended up in Shikusa Prison, during the time he was spending in the police station before he was finally sentenced to that prison, he was sodomized continuously.

When you see the situation in those borstal institutions, you are sure, and we were sure as the Committee, that these boys would end up in more crime by the time they leave that institution. Therefore, these things are important. It is not to commit them into those institutions, but to separate these people and find a way of punishment, so that the people behind them do not think that it is okay to burn a school. They should not think that after all they will just be taken to an institution to check their mental faculty. The incentive to go out for a weekend to meet a girlfriend for valentines and not to do an examination is not a mental issue. It is just bad upbringing.

The Deputy Speaker (Sen. (Prof.) Kamar): I will give a chance to the Chair the last, because there are a number of things that he needs to take note of.

Sen. Shiyonga. Please, let us take two minutes because I have seen that Sen. Wambua wants another two minutes.

Sen. Shiyonga: Thank you, Madam Deputy Speaker. I will take one minute. I want to add my voice to the Statement. Much has changed in the education system, especially when it comes to our learning institutions, which has mostly contributed to the change in the behaviour of our children.

When the Committee sit, they should also address the issue of introduction of approved schools, so that we can have change of behaviour among our youths. If those schools are introduced, they will help these children, so that they will not be sent straight away to jail or police custody. They will be disciplined through those institutes and can be corrected and go back to the learning institutions after learning the changes that they are supposed to achieve.

Lastly, the introduction of *Zoom* learning system has done so much harm. It has exposed our children so much. Therefore, the Committee should also look at how much damage we have done to our children by introducing the *Zoom* learning.

The other issue is the introduction of sanitizers in school. As parents, we were told to provide sanitizers. The burning of schools has been contributed to by so many things. We made irrational decisions towards the improving our children, whereas we are doing more harm than good to them.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Wambua, two minutes.

Sen. Wambua: Thank you, Madam Deputy Speaker. It is in my interest to spend less than two minutes because I also want an opportunity to move my Bill for debate. I have two things to say. One, the incidents of arson in schools are becoming a bit worrying. There is need for us, as leaders, to sit back and ask ourselves a big question.

How comes when one school burns, a second school burns and it becomes a trend? It is like students and pupils are competing to see who burns more than the other.

Madam Deputy Speaker, I tend to agree with the sentiments expressed by Sen. Mutula Kilonzo Jnr. Whatever we call it, the punishment for burning schools must be really severe, so that it serves as a warning and a lesson to other children who want to want to tread in that manner.

Secondly, there is a need for school management boards, school administrations, parents and students themselves to have a lot more sessions and discuss issues. There is now a raging debate as to whether or not we should return corporal punishment to schools. When I went to school and made mistakes, we were seriously beaten. I believe that is the reason why some of us are here.

The Deputy Speaker (Sen. Prof. Kamar): Finally, Sen. Omogeni, then the Chairperson of the Committee on Education can make a remark.

Sen. Omogeni: Thank you very much, Madam Deputy Speaker. We have been students before. I do not remember during my school days having seen the kind of indiscipline and destruction of property as it is happening now. To be very honest, it is something that should worry all of us who are parents. Certainly, anybody sitting in Government as a Cabinet Secretary for Education should be worried.

Madam Deputy Speaker, we were students at the University of Nairobi. I have colleagues who were with me, including Sen. Pareno. Anytime we wanted to demonstrate against either the administration or the Government of the day, we never resorted to burning the property that belonged to the University where we were taking our meals, used to go for our studies or where we used to sleep.

It is not right for students to burn premises that provide education to them. I am suspecting that there is a serious problem of drug abuse in our schools. In all these and as this is unfolding, the misfortune is that I have not seen any intervention from the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA). This means that chances are that these very susceptible students have become clients of drug peddlers because you can only do certain things under the influence of drugs.

I will propose to the Committee on Education which has very able Senators to summon the head of NACADA to appear before them and give information to this House, whether they taken any steps to tackle the problem of drugs amongst our students in schools.

Madam Deputy Speaker, there is also a problem of us legislators. This is because we do not have stiff penalties against people who peddle drugs. If you go to China, if you are caught peddling hard drugs, the first consequence is that you will never be granted bail. However, in this country, you can be peddling drugs today, you are charged today, tomorrow you are released on bail and you continue messing up with our young children.

We are losing a whole generation. Whom are we going to hand the baton of leadership to if we leave our students to be destroyed by drugs? We have set up this body. It has been given money. We need to see that it is doing something to protect our children.

Finally, we really must have mentors, people who must go back to our schools and speak to these children. If they are charged with a criminal offence at age 16, they will have literally messed up their future. If they want to seek admission to some universities out of the country, they will never be cleared. We need to ask whether the Ministry of Education has put in place enough mechanisms for mentorship programmes back in our schools.

Madam Deputy Speaker, I know my time is up, but I hope the Committee will address this matter will take this matter seriously for the sake of our future leaders. This is because our children are our future leaders.

The Deputy Speaker (Sen. Prof. Kamar): Thank you. Finally, the Chairperson of the Committee on Education, Sen. (Dr.) Milgo.

Sen. (Dr.) Milgo: Thank you, Madam Deputy Speaker. First of all, let me start by thanking Sen. Beatrice Kwamboka, Sen. Petronila Were and all my colleagues for bringing such pertinent issues touching on education.

My Committee has already planned its work with regard to Persons with Disabilities (PWDs). We want to look at the pedagogy, the learning institutions where we have these children with disabilities and the learning devices as well as teachers. We are already a half our work plan.

That is one of the Statements that Sen. Kwamboka gave in line with Sustainable Development Goal (SDG) No.4 where we do not want anyone to be left behind. We know we have got a few years to ensure that this is achieved by the year 2030 so that PWDs are brought on board.

There are a number of issues that have been raised around burning of schools, drugs and substance abuse. Many Senators have talked about these issues which are causing unrests in schools. For instance, Sen. Mutula Kilonzo Jnr. said that some students are proud that they will go out to burn schools. We know there is an interplay between all these because there are students who use drugs. We have others who might be having some mental cases.

This Committee will consult the HANSARD, so that we take up all these issues that have been raised by hon. Senators. I am sure we shall interrogate all these issues, including those touching on drugs, long stay away from learning institution due to COVID-19 pandemic and so on.

Madam Deputy Speaker, it is a pity that after seven months of students being away from the learning institutions, they went back to schools and started burning them. We have witnessed them burning one school after another. It is like they are playing around because they are seeing what is happening in their neighbouring schools.

In the past, there was a year we had many cases of burning schools. The Government set up a task force to establish the root cause of fire incidents in our schools. Devil worship in schools was cited as one of the causes. It also blamed teachers for lack of mentoring, proper guidance and counseling programmes in schools. We, as a Committee, want to get into the bottom of this and establish the cause root.

One of the findings of this task force was that students are well taken care of in schools than at home. My colleagues have blamed lack of beating and corporal

punishment in schools which we know are now illegal. A Senator said when he was a student, they were being beaten when they made mistakes. That was another generation. The new generation is the one we have raised as parents and they know beating or corporal punishment in schools is prohibited. In most cases, when children are beaten or disciplined, we have seen parents going to schools to defend them. Sometimes it is a pity they even carry pangas to fight the teachers in disguise of defending their children.

We will investigate these issues and come up with solution. However, there is a lot of mental health issues which we need to deal with. I am sure we shall invite the necessary stakeholders before we come to this House with some fair solution.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. Prof. Kamar): Thank you, Chairperson of the Committee. That finishes the Statement Hour.

Next Order.

PROCEDURAL MOTIONS

LIMITATION OF DEBATE ON MOTIONS

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, I beg to move-

THAT, pursuant to Standing Order No.106 (1), the Senate resolves that debate on a Motion not sponsored by the majority or minority party or a Committee, shall be limited in the following manner:

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the minority party official responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

Being a very Procedural Motion; limitation of debate of time given to a particular Motion, I move that the Members approve this. It is just simply giving us a process for specific Motions and how much time we give each other. It should not be contentious at all.

It is also very important that we stick to the speaking time orders and the fact that each Member has enough time to deal with each Motion. This is a first of such Procedural Motions.

I ask the Minority Whip to second.

Sen. Mutula Kilonzo Jnr.: Madam Deputy Speaker, I rise to second that Motion. We have learned from past experience that brevity is a better way of doing things. Even the 15 minutes is far too long for doing things. That is the maximum we can.

I support.

(Question proposed)

(Question put and agreed to)

LIMITATION OF DEBATE ON ADJOURNMENT MOTIONS

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, I beg to move-

THAT, notwithstanding the provisions of Standing Order No.106 (1), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the Calendar of the Senate shall be limited to a maximum of two hours with not more than 15 minutes for each Senator speaking after which the Senate shall adjourn without question put; provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

This is, again, procedural; simply making sure it is clear that for an Adjournment Motion, these are the specifications on how long it will take and how much time each Member takes to speak.

For this one, since there will be no question put, it is simply giving time for each Member speaking. It only clarifies that the debate shall be limited to a maximum of 30 minutes and shall be confined to the question of that adjournment when the period of recess proposed is less than nine calendar days.

This is procedural and something that accommodates our Calendar and us all. It will be very important for Members to support.

I ask the Minority Whip to second.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Deputy Speaker. I rise to second. The Motion is procedural, nothing contentious and very useful to our conduct of business.

I second.

(Question proposed)

(Question put and agree to)

LIMITATION OF DEBATE ON MOTION ON
THE ADDRESS BY THE PRESIDENT

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, I beg to move-

THAT, pursuant to Standing Order No.106 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than 15 minutes for each Senator speaking,

excluding the Mover in moving and replying who shall be limited to 30 minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to 30 minutes each.

These Procedural Motions pave way for the debate that is now going to succeed this Procedural Motions. I know that one such Motion is one that Sen. Wambua is anxiously waiting to proceed with. The next is The Cooperative Societies (Amendment) Bill (Senate Bills No. 11 Of 2020) by Sen.(Dr.) Zani and any other.

This Procedural Motion is specific to the Address by the President, which happens once every year at a specific time and during which we normally have to speak limited to three days. During that time, we can be told that depending how fast or how much we want to speak, we are limited to three days and we must complete within those days.

In this Motion, we are trying to see that 15 minutes for each Senator is sufficient except for the Leadership and the Mover who have 30 minutes.

This is Procedural and has absolutely no contest, controversy or contradictions. I ask Members to support.

Madam Deputy Speaker, I beg to move and ask the Senate Minority Whip to second. I thank you.

Sen. Mutula Kilonzo Jnr.: Madam Deputy Speaker, I second the Motion. It is a procedural one with nothing contentious and I have nothing useful to add.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I will now propose the question.

(Question proposed)

Since I cannot see any request for contribution, I will now put the question.

(Question put and agreed to)

Let us go to the next Order.

BILL

Second Reading

THE MUNG BEANS BILL (SENATE BILLS NO.9 OF 2020)

Sen. Wambua: Madam Deputy Speaker, I would like to move that The Mung Beans Bill (Senate Bills No.9 of 2020) be now read a Second Time.

Madam Deputy Speaker, I want to take this opportunity to, first, thank the Senate Standing Committee on Agriculture, Livestock and Fisheries for doing a good job during

public participation on this Bill. I also thank the Office of the Clerk of the Senate and your Office for facilitating the publication of this Bill.

In a nutshell, the Bill that I am moving seeks to provide a legislative framework for the establishment and enforcement, development, regulation and promotion of the mung beans sector in Kenya.

Madam Deputy Speaker, for purposes of this nation and for the purposes of Kenyan farmers who are following us, allow me to make reference to *ndengu* which actually is mung beans. Since *ndengu* is a common name that Kenyans understand, the Bill I am moving is *Ndengu* Bill.

Before I go into the contents of the Bill, I would like to give some background information revolving around the reasoning behind what inspired me to sponsor this Bill. *Ndengu* grows in arid and semi-arid regions. If they are properly tended, they could be a major source of income and livelihood for millions of Kenyans.

Madam Deputy Speaker, I would like to take my colleagues through what I consider to be the real inspiration for me sponsoring this Bill. Sometimes early last year, I drove through a market called Tseikuru. Tseikuru Town is in Tseikuru Ward in Mwingi North Constituency. I was on my way to the furthest end of Kitui. That is Kaningo.

At Tseikuru Market, I found a long queue of trucks. Traders who had invaded the market on that particular market day were loading thousands upon thousands of bags of *ndengu* on the trucks and I created interest to find out what was happening. I realized that those traders were actually buying *ndengu* from farmers at a price of between Kshs20 and Kshs25 per kilogramme and loading them in their many trucks. That is how I got curious.

Upon return to Nairobi, I went to a supermarket along Mombasa Road just to check the price of *ndengu*. I was surprised to discover that the *ndengu* on the shelves of the supermarket were going for between Kshs220 and Kshs250 per kilogramme.

When I looked at what was being sold on the shelves of the supermarket and what was being sold at Tseikuru Town, there was absolutely no difference, only that the *ndengu* on the shelves of the supermarket were branded and packaged in polythene bags. I developed interest and decided to do something with the help of colleagues to stop the exploitation of *ndengu* farmers in this country by middlemen.

I am a strong advocate for fair treatment for our farmers across the value chains, be it maize, sugarcane, tea or coffee farmers. I have gone on record many times on the Floor of this House and in many forums pushing forward the agenda of empowering our farmers and protecting them from exploitation by middlemen. It is only in this country, I have said this many times, that an ordinary tea farmer from Kericho, or an ordinary coffee farmer from Nyeri cannot afford instant coffee or tea and yet they produce it.

To the credit of their representatives in this Senate, the National Assembly and county assemblies across this country, the plight of those farmers has consistently been a matter of constructive engagement to save them.

Madam Deputy Speaker, in the same breath, I am moving the Mung Beans Bill to bring national attention to the plight of *ndengu* farmers in other parts of this country.

My pastoralists' colleagues - and I have seen Sen. Pareno, Sen. (Dr.) Milgo and Sen. Farhiya are here - are pushing forward the agenda of their livestock farmers, and we

will support them to save them from exploitation. Together, all of us shall make farmers all over the country to be proud of our nation if we protect them from exploitation because they are the pride of our nation. I am speaking to shared prosperity across all the value chains in the agriculture sector.

Going back to the Bill, in 2013, two Acts of Parliament were passed; The Agriculture and Food Authority Act and The Crops Act. I have consulted widely on this Bill. The last consultation that I had was with you, Madam Deputy Speaker, in your capacity as my teacher and the Senator of Uasin Gishu. I have also consulted other colleagues including my brother, my friend and neighbour, the Senator for Makueni, Sen. Mutula Kilonzo Jnr. The moment he gets time, he will be speaking to this.

Under The Crops Act, which lists tens of crops grown in this country, somebody, and I do not want to blame anyone, never thought that *ndengu* should find mention among crops grown in this country. That will explain to you why I have been very consistent saying that I do not want *ndengu* to be classified among pulses because we will lose the focus.

The Food Crops Directorate under the Agriculture and Food Authority (AFA) is supposed to manage the development of mung beans, including regulation and marketing. However, records will bear me out that the Crops Directorate has done very little if anything to deal with mung beans; *ndengu*.

That is why in consultation with colleagues, I have come up with this Bill, so that we place *ndengu* and *ndengu* farmers where they belong. According to The Economic Review of Agriculture of 2015, because that is the latest record that we have, the area under *ndengu* in this country increased over the years from 147,352 hectares in 2010 to 259,167 hectares in 2014. This led to an increase in production from 680,000 bags in 2010 to 1.345 million bags of *ndengu* in 2014. The production to date is even much higher.

However, *ndengu* is not regulated because we have no records and there is no obligation on the part of the Cabinet Secretary for Agriculture and the County Executive Member responsible for agriculture in the counties. There is no proper record as to how much *ndengu* we have in the market today, how many farmers are growing *ndengu* and what varieties are available in the market today.

Because of the potential that I see in the *ndengu*, which could ensure food security and its ability to grow into an economic mainstay, I have developed and continue to pursue this Bill. The beauty of this Bill is that it actually seeks to delineate the role of the National Government and county governments in relation to the Constitution, specifically in regard to growing, processing and marketing of *ndengu*.

The roles are clearly defined in the Bill that I have proposed; that we intend to create a structure and infuse order in the production of *ndengu* across all the regions where it is grown. Responsibilities have been assigned to the Cabinet Secretary, who will set national policy and regulation of the sector in consultation with our stakeholders.

The AFA has been given the responsibility to ensure implementation and compliance with national standards for the production and marketing of *ndengu*. The County Executive Committee Member responsible for agriculture where *ndengu* is grown

has been assigned the role to facilitate farmers, to ensure that they are able to grow and nurture their crop through provision of farm inputs, including seeds, fertilizer and extension services.

Madam Deputy Speaker, we have also assigned roles to farmers that if you want to engage in *ndengu* production, especially commercial farmers, there will be a requirement and responsibility for you as a farmer to register with the county government, where you are growing your crop, giving proper details of the acreage on which you are putting your crop, the variety of the crop that you are going to be growing and the challenges that you are facing in growing *ndengu*.

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

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

The traders have also been assigned responsibility to register and acquire licenses from the County Executive Member responsible for agriculture in the county and a prescribed application form will be developed for that purpose.

Getting to the details of this Bill whose objective I said is to develop production and marketing of *ndengu* to support farmers in the farms and in the market, ensure food security through national and county feeding programmes, and most importantly, bring to an end decades of exploitation of our farmers by the middlemen.

Madam Temporary Speaker, Part II of the Bill is the one that establishes responsibilities for the national Government and county governments.

In order to realize the objectives set under Section 3 of the Authority, the Agriculture and Food Authority (AFA) is required by this Bill to put in place measures to improve the overall production of mung beans in the country; to establish, co-ordinate and monitor the implementation of national standards and policies relating to the mung beans industry; provide technical assistance and capacity building to county governments on its own initiative or upon request by a county government.

Madam Temporary Speaker, I have just said that since the establishment of Agriculture and Food Authority (AFA) and passing of The Crops Act nothing or very little has been done by these institutions to give focus to the production and marketing of *ndengu*. We have all witnessed attempts by county governors to get their farmers grow *ndengu* with a promise that they will get market for the crop. Where it has been tried the initiative has failed miserably.

I do not blame the county governors for trying, I blame AFA for doing nothing about it; for our farmers not to be at the mercies of people who had time since 2013 to do something for them and they have done nothing. Why then can we not have a law, just as we have an Act that regulates tea and coffee? Why can we not have a law that regulates the production of *ndengu* in this country, so that those Kenyan farmers in those areas of our country that have rain deficit can have something to grow, sell, pay their bills, feed their children, pay school fees and medical expenses?

There has been a demonstration that AFA in its current form has not and may not be in a position to help *ndengu* farmers. There is need for a separate Act to ensure that our farmers are protected in the farms and in the market. This Bill goes on to state the duties of the County Executive Committee Members in ensuring that our farmers are protected.

Clause 5 states that-

“For the realization of the objectives set out under Section 3, a county executive committee member shall—

(a) put in place measures to improve the quality and quantity of the production of mung beans within the county;

(b) provide agricultural extension services to the growers in the respective county;”

That part of the provision of the extension services is key to the success of the implementation of this Act. Many of us, if not all, when growing up, used to encounter agricultural extension officers at our homes almost on a daily basis, coming to check on our farms and animals to ensure we are food secure. When the rain started beating us, the extension officers disappeared and the production of food and the wellbeing of the livestock industry of this country went south.

Specific to this *ndengu*, a responsibility will be put on the county governments through the County Executive Committee Member (CECM) in charge of Agriculture, to ensure that there are extension workers. We have many graduates from agriculture institutions all over the country who are idle and have no jobs to do. These are people that the county governments can employ and ensure they go round the farms to undertake activities aimed at supporting our farmers to produce good quality and quantity of *ndengu*.

Another important responsibility for the county government through the CECM is to market *ndengu* produced in the respective county, both locally and at the international level. You remember that sometime last year this Senate debated and passed The Warehousing Bill. Some of the Bills we are passing on the Floor of this House are not idle Bills. Riding on the passage of the Bill, county governments take control of warehousing and facilitate farmers to form farmers’ cooperative societies for *ndengu*, which is then collected and stored in the warehouse, where the county government is responsible and answerable to the cooperatives.

Through this Act, we will cut the middleman to make sure they do not have a direct link with an individual farmer. If they want to buy *ndengu* for export from Kitui, they go to the warehouse and buy it from there. The county government will have capacity to negotiate a better price for farmers and they will be protected.

This Bill looked at against others, will help us to make a move in the right direction. The county government is required under the Act to promote the circulation and access to timely market information by growers, hence avoiding a situation, as I mentioned, where farmers are told to grow maize in anticipation of selling to an unknown buyer some place outside this country. For our case in Kitui, it was India. Then

something happens and you are unable to sell the *ndengu* and farmers are left with hundreds of thousands of tonnes of *ndengu* without a market.

I want to move faster so that I can give colleagues an opportunity to weigh in. On the matter of setting up the mung beans policy, this Act requires that the Cabinet Secretary responsible for agriculture at the national Government, within six months of the commencement of the Act, shall develop and adopt a comprehensive national mung beans policy to promote growth and development of the mung beans industry in Kenya. I like the provision because it is not an open-ended obligation.

There is a timeline to it that once this House, in concurrence with the National Assembly, passes this Bill into an Act of Parliament, within six months the Cabinet Secretary in charge for agriculture has an obligation to develop national policies on the production and marketing of *ndengu*, which will help our farmers. It does not stop there. It goes ahead to say that in developing the National Mung Bean Policy, the Cabinet Secretary, so that he does not have an open cheque to decide policy to develop for this industry---

Madam Temporary Speaker, he shall have regard to, one, the need for an effective management and implementation structure at the national and county levels of government, in order to ensure the effective development of the Mung bean industry. Two, he must have regards to adequate capacity development and support for growers and other stakeholders in the Mung bean industry.

The inclusion of farmers and building of capacity for farmers is deliberate. If you leave it open, what will happen is that policies will be developed, which actually advance the cause of the middlemen. However, this Bill is very clear that as we develop those policies, they are supposed to put the farmer at the center of decision making when it comes to regulation of the industry.

Madam Temporary Speaker, we have seen what is happening in other crop value chains, where specificity is not available on what direction the Cabinet Secretary (CS) should take in developing policy. This Bill takes care of that.

Part III is on regulatory provisions. Clause 8 is on the requirements for registration by growers. I will explain that a bit. That every grower shall register with the relevant County Executive Committee Member (CECM). Each CECM shall maintain a register of all *ndengu* growers registered in the respect county under Subsection 1, specifying, one, the name of the grower. Two, the location, size and parcel number of the land on which *ndengu* is grown and the variety of the Mung bean grown.

Madam Temporary Speaker, this is very crucial because we should move towards a direction as a nation where we have our facts and statistics right. Today, it may not be very possible for anyone to tell you precisely how many coffee farmers we have in this country or how much land has been dedicated to tea farming in this country.

This Bill tries to make it even easier for governors, Presidents and Cabinet Secretaries; that at the click of a button, you know how many *ndengu* farmers you have in this country, with their names. You know the acreage and the amount of land that has been dedicated for production of *ndengu* in this country, and what varieties are being grown in this country.

Madam Temporary Speaker, that becomes very important information even when it comes with discussions with financing institutions on acquiring loans and grants to help the cause of farmers. This Bill gives that responsibility to county governments through their CECs responsible for agriculture.

I have spoken about the issue of the licenses; that the traders will have to be licensed by the county governments and regulated in regard to the extent to which they interact with the *ndengu* farmers in all the respective counties. There will be prescribed application forms for licenses for the traders.

Madam Temporary Speaker, so that I do not take all the time moving this Bill, which is a straightforward and self-explanatory Bill, I urge my colleagues to support it. In supporting this Bill, this Senate will be discharging its responsibility to take care of the interests of our people in our counties.

It should not be misconstrued that this Bill is just targeted at one or two counties in this country. Just a casual look at the regions where this *ndengu* can be grown, starting all the way from Taita-Taveta County to Kajiado County, where you come from, to Makueni, Machakos, Kitui, Embu, Meru and Tharaka-Nithi counties.

Madam Temporary Speaker, a huge section of this country can be facilitated and supported to grow *ndengu*, to do two things which are very important. First, is to provide a livelihood to hundreds and thousands of Kenyans. As we provide that livelihood to the farmers directly, it also provides a livelihood in terms of direct and indirect employment for millions of Kenyans.

This Bill, if it succeeds, and I know it will, will also give us an opportunity to expand the menu for our feeding programmes to schools and military.

Madam Temporary Speaker, I urge Members to truly support this Bill, so that we begin to show, as a Senate, that indeed we care for our farmers and the future of this nation.

Madam Temporary Speaker, with those few or many remarks, I beg to move that the Mung Beans Bill, 2020 be now read a Second Time and call upon Sen. Farhiya to second.

I thank you.

The Temporary Speaker (Sen. Pareno): Sen. Farhiya, proceed.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity to second. I wish to thank Sen. Wambua for bringing this Bill. Strangely, even if I am from a community that eats more meat than beans, *ndengu* happens to be one of my favorite sources of protein.

Because I like it, I have learnt to cook *ndengu* with a lot of spices. It is so sweet that you cannot believe that the taste of *ndengu* that we used to know in school is totally different from what I am able to cook. I really thank people who grow *ndengu*, especially *ndengu* from Makueni County. It cooks in a very short time. Actually, when I go to the supermarket, I look for Makueni *ndengu* is because it really cooks very fast.

Madam Temporary Speaker, I do not think that people have appreciated the nutritional value *ndengu*. It has high level of antioxidants that reduce the level of chronic diseases. It is rich in potassium, magnesium and fiber, which reduce blood pressure. I

think Sen. Mutula Kilonzo Jnr. and Sen. Wambua should give me some work of marketing of *ndengu* because I could go on and on, if I am allowed to continue.

I consume a lot of *ndengu*. If many people adopted the habit of eating it, it can become a source of income for so many farmers who depend on this crop for their livelihood.

Madam Temporary Speaker, Kitui and Garissa counties, and by extension, Wajir County are neighbours. I challenge our governors to do some research to find out what variety of *ndengu* can grow in those regions, so that we have some level of agriculture.

Devolution has brought a lot of changes in the counties. In Wajir County, for example, we grow a lot of lemons, paw paw and some of the sweetest melons in this country. This is another area that is good to do research on, to find out what variety grows there.

If you want to develop agriculture, the main problem in our counties, which is provision of water, must be addressed. I am glad that the BBI is allocating more funds to the counties, so that more of this great work that counties need to do goes on. However, I also challenge the citizens of those counties to ensure that they elect governors who are not corrupt and can make a difference for their people.

Madam Temporary Speaker, I like the fact that Sen. Wambua has allowed the Ministry only six months to develop a policy under Clause 7. I wish Sen. Wambua could listen to what I am saying, please. Instead of talking about developing a policy, I urge him to talk about developing a regulation. This is because if they develop the right regulation, the Bill will become crystal clear, so that everything around regulation can be addressed at the same time. I, therefore, urge him to change it from a policy to regulation, so that the Bill is effective.

Madam Temporary Speaker, I like the fact that there is a penalty. However, a penalty of Kshs5,000 is not enough. If I am going to make Kshs100 million for not following these rules, and all I have to pay is only Kshs5,000, so be it. Let me be caught and pay Kshs5,000. However, the other time that I am not caught, I will make millions of shillings. I believe that a deterrent of six months and Kshs5,000 is not stringent enough for anybody to feel that they will be affected by violating the law, depending on how much they are able to make out of that.

Madam Temporary Speaker, with those few remarks, I beg to second. I urge all my colleagues to support this because when this Bill is passed, it will make a lot of difference for the people.

Sorry, there is something that I forgot to add. Once this Bill is passed, many people whose rights have been violated by middlemen and women - there are fewer women anyway - will ensure that there are incentives to grow this food. We can even reach a level where we can export these products, because it is great.

Madam Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Sen. Pareno): Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Temporary Speaker. First of all, I want to thank Sen. Wambua for this Bill. It surprised me a little that he said The Cash Crops Act would ignore or leave out this very important crop called *ndengu*. I have now learnt that this very important crop called *ndengu* is also called mung bean. I did not know that.

It is, indeed, a tragedy that the people of Kitui, Makueni, Meru, Embu and Tharaka-Nithi had a glut of this *ndengu*. I am glad that Sen. (Prof.) Kindiki is now here.

I wanted to mention this when Sen. Wambua is listening. Last week, I had the privilege of meeting the Consular General in Dubai. This General planted a lot of mung beans, but when he discovered that the price was Kshs20 a kilo, he just ended up donating the *ndengu* to his family. It was such a waste, yet this crop, together with a crop we grow in the seasons in Ukambani that is famously known as *nzuu*, has a high nutritional value.

This crop can withstand the vagaries of weather. You can keep it for a long time without necessarily using a lot of the pesticides. It is resistant. This crop can be used when we have drought. What surprised me at the time is that even when the governors pleaded with the national Government that this should be a strategic grain reserve - the national Government, for the purposes of food security, should in fact purchase this from farmers - it turned a blind eye.

It is, therefore, not by surprise that Sen. Wambua, instead of proposing an amendment to the Cash Crops Act or the Crops Act, proposed that we have a separate piece of legislation. Let me pose this question to the Senators. Does it surprise my dear colleagues that we put so much emphasis on a crop called *miraa*, and I have nothing against *miraa*, that we have allowed it to be exported? *Miraa* farmers are billionaires and it does not contribute to food security.

Madam Temporary Speaker, would it surprise you that Emirates Airlines flies to Eldoret to collect flowers that are going to Amsterdam, Lilongwe and other destinations in Europe? The people who are growing flowers in Kenya are billionaires. Would it surprise you that a majority of the people who are growing tea are billionaires?

All these, be it flowers or tea, are not contributing to food security. However, there is some emphasis that has been put on these crops such that a few Kenyans are making money. Nevertheless, the ones who would contribute to food security, like the ones who are growing *ndengu*, are ignored. This crop grows quickly and is so nutritious. It gives me heartburns, but I still consume it because I enjoy it.

Madam Temporary Speaker, the ordinary coffee, livestock and soya bean farmers are poor. Sen. Wambua is here, and I want to inform him that Safaricom introduced something called DigiFarm. DigiFarm is supposed to be a platform where you can have coffee, tea, *ndengu* and *miraa* farmers learn from whatever location they are, so that Safaricom can offer money to them.

This is something that ideally the Government should be doing; to offer seed, insecticides and farm inputs. Safaricom came up with that scheme. These are people who are doing this for profit. How much more should the Government do? The Government should care for its people. They should do the same for the people who are growing

ndengu. I am happy that Sen. Wambua has proposed it. I want to tell him that, that framework already exists.

Madam Temporary Speaker, you are a livestock farmer. I was on a trip last week in Dubai. The Minister in charge of Trade in the Government of Dubai, in the United Arab Emirates (UAE), told us that they are looking for livestock. They are importing livestock from Australia.

Madam Temporary Speaker, I even want to ask you how many heads of livestock you have, and how fast you would have those heads of livestock transported to Dubai; same as Sen. Farhiya and for those people who keep a minimum of 500 heads of cattle per person. They asked: "What is so difficult about Kenya going to get the breed from Australia, which is far away, and get the livestock we want?"

Secondly, they asked about soya beans. They said that if they were to do a balance of trade with us, they would want to have soya bean, which can grow here. The balance of trade between Kenya and the United Arab Emirates (UAE) is Kshs123 billion against Kshs23 billion, yet we have all these things available, including *ndengu*.

There is a variation of *ndengu* called *dhal*, which is eaten in many parts of Asia, including India. It is a staple food. Every menu, every meal including breakfast has got *dhal*. People are suffering and yet this crop is going to waste.

Madam Temporary Speaker, when sometimes I hear the conversations going out in the public domain about poor people in Kenya, I believe that some of it is deliberate. We make Kenyans poor so that we take advantage. I have just read a statement this afternoon about a speech read in the Kirinyaga County Assembly about the production of a million eggs. I was very surprised that we are actually importing eggs from Uganda. I was very pleased to read that statement that, in fact, cotton farmers are being given seeds. Why? It is because we are importing genetically modified cotton from Tanzania.

We have impoverished Kenyans to the extent that we offer them GMO cotton seed and make sure that the people who are growing genuine cotton get nothing out of it. We impoverish them and then it looks like we are doing them a favour.

I do not know whether you are aware of a company called Twiga Foods. I must disclose that a gentleman I know runs this company and the wife was in my class. What is Twiga Foods doing? Twiga Foods comes to your farm and they check the PH for your soil. They check the water for the PH, acidity *et cetera*. They offer you seeds to grow whatever you want to grow, whether it is cabbages, vegetables *et cetera*, from 50 acres to 100 acres. Then after you grow and they check as you grow it, they come, pick that product, and pay you on the spot.

You will be surprised the vegetable vendors that you find around Lavington *et cetera*, with very nice looking bananas and oranges are actually getting this from Twiga Foods. Twiga Foods is doing the A-Z of farming. It is a private company. Why can the county governments that have resources not do the same? It is not difficult that they do those sorts of things.

Somebody asked about livestock in Kenya and they asked: "What is the acidity or PH value of soil in North Eastern for purposes of livestock?" Why has anybody in the

county government not answered that question? Nobody has answered that question, but the question is important because it goes to the value of the beef.

Why is it difficult for county governments or the economic bloc, which has a bank to do export of beef to UAE, likewise to the economic block that exists in Lake Victoria? I was surprised to learn that there is a company by the name DP World. DP World has agreed to do a cold storage for Rwanda, a landlocked nation. I think Makueni is bigger than Rwanda, but they have a cold storage and they are now exploiting what would be the Blue Economy.

Can we not do the same for the fish farmers in Kisumu and exploit the Nile Basin? I am told that Uganda has also gotten into a deal with them about using the Nile Basin for purposes of their fish. Whereas this communication was given to some functionaries in the Government of Kenya and told that Rwanda was going to overtake us, they said: "Overtake us to go where?"

In fact, when we were doing the Tea Regulations last month, on 29th December, 2020, the Senators sent us clips about the coffee and tea in Rwanda. They are selling 100 per cent of their tea in tea auctions, and they are making a lot of money. Although President Kagame has decided to sit at the top of the Board for the purposes of these cash crops, we still can do a little better because we have competent people who can do so.

Madam Temporary Speaker, it cannot be gainsaid that for purposes of posterity, prosperity of Kenyans--- We can all say that we can get the farmer in Tharaka-Nithi and Wajir who is doing livestock, and the farmer who is growing macadamia in Makueni and Mbooni, who is growing tea or French beans--- I have explained that we have people, and my uncle is growing French beans, which are collected right there in Mbooni. He is making Kshs1000 a day, Kshs7,000 a week. The ordinary farmer will not need the money that we politicians give them during elections.

As I support this Bill, I would like the Committee on Agriculture, Livestock and Fisheries of this Senate - we have taken pride in saying that agriculture is a devolved function - to do a little more, put in a little effort and speak more about these things that are going to help ordinary farmers.

I am told and I know that there are some Members of the Senate here--- Yesterday, Sen., (Dr.) Langat spoke about 'from now on, we are going to speak about ordinary people'. I asked: What do you mean by 'from now on'? Where have you been?

(Laughter)

We should talk about ordinary people every day and all the time, not because we want somebody we know to become a President. No! Let us speak about them because these are the people who elect us. The majority of the people who queued to elect me, with about 300,000 votes are poor people. I should speak about them every day, so that we can make a difference. About Kshs1,000 or USD10 a day to the ordinary people who elected you is more than the things that I am hearing out there in the political circles; things that do not make logic, economic sense and to some extent very ungodly about what to do with ordinary Kenyans.

I support and congratulate Sen. Wambua for this very noble and godly act.

Thank you.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. I would like to appreciate Sen. Wambua for bringing this very exciting and insightful Bill. You can tell from the way he moved the Bill, the level of engagement and emotion that he has in terms of food security for this country; the passion to make things work and for us to realize that we are an agricultural society.

Sincerely, almost 60 years later, agriculture should be working for us. Agriculture is working for countries like Sweden and Israel, and they are not even close to the potential that we have in Kenya regarding food production.

Sen. Beatrice Elachi brought the Food Security Bill in the last Senate, and it talked about the same thing. I fear that there is a lot of talking about this topic, but we are not progressing.

I have learnt from Sen. Wambua, through the Speaker, that Mung beans is *ndengu*. I had asked somebody before I came what this Mung beans is and realized that it is *ndengu*. Once I heard '*ndengu*', everything came into context.

Ndengu takes about three months to grow. Within three months, you have a very good source of protein and vitamins. If very well combined in there, everything goes very well.

Sometimes you look at the poverty of Kenyan farmers who have so much land, and there are only a few who know how to make very high scale development on their farms and they make a living. However, there are others who sincerely need to be capacity-built. I think this is a group that Sen. Mutula Kilonzo Jnr., is referring to; people who can just be capacitated.

If we have a Bill that can help; that gives powers to the CEC like this Bill does and gives power in terms of legislation to the county assemblies to make this happen, then we will be moving towards a point where, even if it is not going to be used as a cash crop or even if it is going to be used at the level of a subsistence crop, it is still okay.

Why should anybody die from hunger while they can actually grow *ndengu* or some French beans *et cetera*? I know that we have a rain-fed agricultural system, where most of the time we rely on rain. Irrigation can be expensive, but the whole idea now of putting these policies and regulations into place is to just ensure that farmers are helped along the line.

Madam Temporary Speaker, sometimes back we used to have extension officers within the counties at the various levels even within the districts and they did a lot of work to ensure that farmers are able to grow, produce and sell whatever they came up with in their farms. This is so critical because the rural-urban migration is driven by the fact that many people find that they cannot make the land productive. Therefore, they migrate to town. When they come to town, they find that there no jobs and it becomes a roundabout thing.

I will start my analysis of this Bill from the back, from Clause 21, which basically says:-

“All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Authority in relation to mung bean, and

subsisting or valid immediately before the commencement of this Act, shall be deemed to have been given, issued or made by the Authority as the case may be, under this Act.”

It basically says that any permit or registration that has just happened before this Act shall be deemed to have been given, issued or made by the Authority as the case may be under this Act.

I am not so sure about that and what the legal experts have advised about this. It is almost saying that whatever has happened preceding this Bill becoming an Act, is taken as part of this Act. That is applying the law retrogressively. Is that not so?

I do not know what the context might be, but maybe Sen. Wambua might want to look at that Clause, so that it relates clearly to the application of this Act. At what point does application of this Act come putting in mind that he has dissociated it with the Crops Act?

When I initially went through Clause 20, I wondered why he dissociated *ndengu* from other crops. I think he explained himself as he was going on with this. I suspect that is the way legislation is now going to ensure that a specific crop is taken care of exhaustively. For example, we have The Tea Bill that came in the last Session. In the last Senate - 2013-2017 - we had Sen. Ongoro coming with The Coconut Bill. I think every crop has its own dynamics.

We are probably reaching a point where we are seeing that maybe amalgamating all these issues into one legislation might not be very helpful. When I heard him present, I thought that was a good presentation. Before that I was asking myself: What are the contradictions? Why this crop and not others? I think he explained himself very well.

Back to Clause 18, it gives the CS authority to look at what the county governments are doing and make regulations. I think this is the issue that was mentioned a bit earlier. That is well catered for already in Clause 18(2), which says-

“Without prejudice to the generality of subsection

(1) the Cabinet Secretary may make Regulations to provide for-

(a) the regulation of the processing, importation and exportation of mung bean and mung bean products;

(b) the forms to be used in the application for registration, licensing, contracts and related activities;”

Sometimes when we are thinking about farming at the micro-level of just planting and then harvesting, we do not think of the complexities that need to be taken into consideration in terms of making, for example, a key driver of the economy and mass production and moving it to a higher level, the process for application for registration *et cetera*. That is well taken care of in that Clause.

Clause 17 is the penalty Clause where penalty is provided.

It says-

“(1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine not exceeding Kshs500,000 or to imprisonment for a term not exceeding six months, or to both.”

As I was reading through, I wondered what types of offences might be coming up here. I saw the various bodies and the Authority, and I can imagine they might be related to professional impropriety, but again, there might be some other fines. I think this is where you might want to liaise very closely with the regulations. For example, earlier on, we had a Motion on demolition of houses. Maybe these are the sorts of penalties we want to think about. For example, if somebody has grown mung beans and they burn them without a legal process, a huge punishment needs to be imposed on that person.

It would be useful for the Committee that will be working at this to think it through. When you think about agriculture and penalties, the mind does not quickly pick on what they could be. From an organization or institutional level, it comes across very easily, but from a generalized level in terms of what is expected to happen, that really infringes.

The Bill is very systematic and well-thought-out in various parts, such as the responsibilities of the national Government and county governments. That contextualizes the Bill within the Kenya Constitution, 2010 and quickly allocates the roles for national and county governments.

Madam Temporary Speaker, on the Order Paper I have The Cooperative Societies (Amendment) Bill (Senate Bills No.11 of 2020), which is doing the same thing. This is how we are regularizing most of our laws to ensure that the national component, the regulatory provisions and miscellaneous regulations have been put in place. Very clear definitions have been given about the Authorities, so that there is no confusion. This is the Agricultural and Food Authority (AFA) established under Section 3 of the AFA Act.

Clause 3 is very important for this Bill because it lays the framework for what this Bill wants to do. It says-

“The object of this Act is to—

(a) provide a framework for the coordinated implementation of the national policies and strategies on the development and regulation of the mung bean industry”

That lack of coordination, development and regulation that exists at the moment is probably what is contributing to it.

“(b) facilitate and develop a framework to regulate and promote the development of the mung bean industry in Kenya in order to make it competitive at the international level;

- (c) promote the productivity of the mung bean industry and generate higher income for growers;
- (d) to promote the use of mung beans by the national and county governments in the implementation of feeding programs;
- (e) facilitate the introduction of modern mung bean farming techniques and general modernization of the mung bean industry for cost control and productivity improvement; and
- (f) provide a framework for implementation of effective marketing strategies for mung bean in Kenya and at the international level.”

This is very important because I know that for most farmers, it is very easy to grow and that is where people get discouraged. For example, if you went to Kilifi and Kwale counties in December, there were lots of mangoes that were growing. This is also the season for pineapples. Then what happens?

People go with these fruits along the roads. They are sold at the cheapest prices possible and some of the fruits rot in the farms. One has no option but to try and sell them off. Farmer just want people to buy. As much as you love mangoes, you also have a limitation as to the number of fruits that you can buy at that particular moment.

We have had the case of Makueni County where they have been able to start industries. The Coast Development Authority at one point came up with fruit factories. They were finding innovative ways, for example, making mango juice.

Regarding these mung beans, there are silos that are good for food storage. We saw this in case studies in Qatar and Dubai, where they have silos of maize and beans and everything else.

Mung beans may not be a product that gets easily devalued in terms of the value chain, but when there is no proper way of storing it or making sure that there is value addition--- This is another area where Sen. Wambua might want to delve into, looking at value addition and the value chain ---

The Temporary Speaker (Sen. Pareno): Order, Sen. (Dr.) Zani. You will have a balance of three minutes when this matter comes next in the Order Paper.

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned to tomorrow, Thursday, 11th February, 2021, at 2.30p.m.

The Senate rose at 6.30 p.m.