

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 7<sup>th</sup> October, 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

#### VISITING DELEGATION FROM NANDI COUNTY ASSEMBLY

**The Speaker** (Hon. Lusaka): Hon. Senators, I have a Communication. I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Members of the Nandi County Assembly Committee on Labour, Justice and Legal Affairs.

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

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|--------------------------|---|---|
| (1) Hon. Joshua Ng'etich | - | Chairperson, Committee on Labour, Justice and Legal Affairs |
| (2) Hon. David Bwambok   | - | First Chairperson   |
| (3) Hon. Dorcas Kirwa    | - | Member  |
| (4) Hon. Truphosa Kuto   | - | Member  |
| (5) Hon. Charles Maiyo   | - | Member  |
| (6) Hon. Cleophas Too    | - | Member  |
| (7) Hon. Pius Singoei    | - | Member  |
| (8) Mrs. Isabella Maiyo  | - | Director, Legislative and Committee Services                |
| (9) Mr. Boniface Kiptoo  | - | Head of Committee Services                                  |
| (10) Mr. Edwin Serem     | - | Head of ICT   |
| (11) Mr. Victor Sielei   | - | Committee Clerk   |
| (12) Maryanne Meto       | - | Legal Counsel   |
| (13) Mr. Emmanuel Rotich | - | Serjeant-at-Arms  |

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On my own behalf and that of Senate, I wish them a fruitful visit.

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I thank you.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, allow me to join you in welcoming the members from the Nandi County Assembly to this Senate. It is a good thing that they are here, so that they are able to interact with the Senate wing of Parliament and know what exactly happens.

Mr. Speaker, Sir, when it comes to issues of labour, the policy from the National Government should cascade to the County Government, so that services reach the common man. It is good that they have come for the purpose of interacting on issues of workers and the amount of money that goes out to the Counties, so that service delivery is effective.

I congratulate them and I am sure they will pick a leaf from the debates that are going to happen on the Floor of this House and the legislative businesses that will be conducted here.

Welcome the members to this Senate.

Thank you, Mr. Speaker, Sir.

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

**Sen. Faki:** Asante, Mhe. Spika kwa kunipa fursa hii kujiunga na wewe kuwakaribisha Wabunge wa Bunge la Kaunti ya Nandi wa Kamati ya Ajira na Huduma za Jamii. Mhe. Spika katika Bunge hili la Seneti kuna mafunzo mengi ambayo Wabunge wezentu wa Bunge la Kaunti ya Nandi wanaweza kupata hapa ili kuongeza ujuzi na tajiriba katika kazi zao kama Wabunge wa Bunge la Kaunti ya Nandi.

Mhe. Spika, maswala ya ajira ni maswala ambayo yako katika kaunti zote katika Jamhuri yetu ya Kenya. Ijumaa iliyopita tulikuwa Mombasa na Kamati ya Seneti ya Ajira, Maswala ya Wafanyikazi na Huduma za Jamii, ambapo tulikuwa tunachunguza maswala ya kudhulumiwa kwa wavuvi ama mabaharia wa Kenya ambao wanafanya kazi katika meli za Wachina.

Mhe. Spika, hii ni fursa adimu ambayo Wabunge hawa wamepata leo na tunatarajia kwamba watakaporudi Nandi wataweza kutumia ule ujuzi ambao wameweza kupata kuweza kutekeleza majukumu yao kwa njia ambayo ni ya hali ya juu na ya kitaalamu kabisa. Asante, Mhe. Spika kwa kunipa fursa hii.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for giving me this chance to welcome Members of County Assembly of Nandi, who have visited the Senate and, specifically, the Committee on Labour and Social Welfare, which is my Committee. I want to thank them for choosing to visit the Senate and learn from what is being done in the Senate.

We should be having more and more of this. Nandi has shown leadership by being the first to think of visiting the Senate to benchmark and learn how to go about managing committees. We sat with them and from what we spoke about, they realized from the Senate, they would have done many things based on issues. The Committee on Labour and Social Services has the same issues that are being done in the counties. We do oversight together, and the Senate is the big brother.

Mr. Speaker, Sir, given that the Senate is the big brother and we are overlooking county executives with MCAs, we encourage them to stand firm and ensure they take

care of the monies that go to counties. They need to ensure that budgets in county governments are in line with their procurement plans.

We have realised that MCAs who have stood firm have gone very far to ensure resources sent to their respective counties are prudently managed and people get value for their money. On the ground, we found that labour issues are bedeviling our counties and encouraged our MCAs to address them. However, if they are unable to do so, they can seek the Senate to intervene, so that we address some of those issues.

Mr. Speaker, Sir, we have many Senior Counsels in this House. For example, the Senate Minority Leader, Sen. Orengo, who is sitting right in front is a Senior Counsel of high standing. We have other legal minds here such as Sen. Mutula Kilonzo Jnr., Sen. Cherargei from Nandi County and others. Therefore, MCAs can seek legal assistance from them.

In addition to that, we have the most qualified members of staff. They can also assist you to learn how counties are supposed to be managed. In fact, the reason the Senate is doing well---

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

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

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, is Sen. (Dr.) Milgo in order to say that the only people MCAs can learn from are those who went to Law School? Is that fair and right?

*(Laughter)*

**Sen. (Dr.) Milgo:** Mr. Speaker, Sir, I am sorry. I was just referring to drafting of legislative business of MCAs. Of course, we have other Senators with vast experience in various fields. MCAs can learn a lot from them. We have doctors like Sen. (Dr.) Ali, who has raised this point of order, which I am responding to.

I am a doctor as well. I am the Chairperson of the Committee on Education, where you can borrow from. There are many others with vast experience in various disciplines. The bottom line is that we have great minds in this House, where they can borrow ideas and learn how Committees are managed.

As I said, you can also learn how to get the best staff. Behind the Senate that you see here, we have a great staff who are managing our businesses. We have wonderful researchers, legal staff and others doing wonderful work for the Senate.

Welcome once again and we wish you well. Take our greetings to Nandi County.

**The Speaker** (Hon. Lusaka): Sen. Cherargei of Nandi County, proceed.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. I know that you have already welcomed them. However, on my own behalf as the Senator for Nandi County, I welcome the MCAs and technical staff from Nandi County Assembly. May I take this opportunity to tell them to feel free and welcome to the Senate.

I know that as we work together, under Article 96 of the Constitution of Kenya, 2010, it is very clear that the primary role that both Senators and MCAs have is to protect and oversight county governments.

I extend my warm welcome to them. I thank the Committee on Labour and Social Welfare and the Committee on Justice, Legal Affairs and Human Rights. Hon. Senators should know that I once chaired the Committee on Justice, Legal Affairs and Human

Rights before things went haywire. I was also a Member of the Committee on Labour and Social Welfare.

Mr. Speaker, Sir, I am happy that Sen. Sakaja earlier on informed me that they had a successful meeting with the joint Committee on Justice, Legal Affairs and Human Rights, where my learned senior, the Senate Minority Leader is a Member. I am happy that they have made tremendous engagement and capacity building.

May I request my MCAs from Nandi County and their technical staff to feel free to engage our staff. Mr. Speaker, I know that your Office is gracious enough to provide any technical and capacity assistance when need arises.

As they continue to interact with the Senate and the National Assembly, I think they have realised that our roles complement as opposed to competing. We complement each other in our roles. Feel free to engage any Member of the Senate. As my colleagues have indicated, they can engage any member of staff, so that we can make the lives of the people of Nandi County and Kenya better.

Nandi County is a source of champions. We have made tremendous efforts on the Floor of this House. When I was still the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, there was an overflow of the address of land historical injustices of the Talai Community. I thank your Office and the Senate because that Report was adopted. I hope that the Committee on Justice, Legal Affairs and Human Rights gives the MCAs a copy, so that they can see the resolutions that we tried to make in addressing land historical injustices in Nandi County.

There is also an upcoming Motion on the issue of sports. The maestro of the athletics world, the king of the marathon, Eliud Kipchoge, comes from Nandi County. There are many others too. Sports is one of our biggest resources.

Mr. Speaker, Sir, may I remind the MCAs and visitors who are here that, last year, we fought over the Third Generation Formula. May I report to them that last week, we did the Cash Disbursement Schedule. This Financial Year 2021/2022, Nandi County is set to get an additional Kshs1.6 billion. Therefore, Nandi County will now be getting an equitable sharable revenue from Kshs5.3 billion to now Kshs6.9 billion courtesy of yours truly and many other Senators who fought hard on the Floor of this House during the debate on the Third Generation Formula.

I would like to assure the MCAs that they should now budget comfortably because we are talking about Kshs6.9 billion, only with the additional Kshs1.6 billion. We have not talked about the National Agricultural and Rural Inclusive Growth *Project* (NARIGP) and the Danish International Development Agency (DANIDA) conditional grants. I challenge the MCAs that whenever they do budgeting, they should be comfortable that their Senator was the leading light in ensuring the additional Kshs1.6 billion.

Going by the future of Nandi County, I want to confirm to you that if that money is used well, the lives of 800,000 residents of Nandi County will never be the same. This figure is according to the Kenya Population Census 2019. I want to assure my MCAs that the future of Nandi County will be better as things will improve and that devolution will work.

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

**The Speaker** (Hon. Lusaka): What is it, Sen. Faki?

**Sen. Faki:** Mr. Speaker, Sir, the Senator for Nandi County keeps referring to the MCAs of Nandi County Assembly as “my MCAs.” Does he own them?

*(Laughter)*

**Sen. Cherargei:** Mr. Speaker, Sir, technically, I am their “father” because I am here on their behalf. They are my people. I am proud of them and that is why I refer to them as “my MCAs”.

**Sen. Shiyonga:** Our MCAs.

**Sen. Cherargei:** Yes, Mr. Speaker, Sir, or ‘our MCAs.’ I am happy that Sen. Shiyonga wants to ‘scoop,’ to include herself by using the word “our”.

Finally, going into the future, let us partner because our rules complement. We need to work together for the betterment of Nandi County and the Republic of Kenya. As my MCAs go back to their wards and Nandi County, assure our people that one of them - yours truly - will always stand for and fight for more space, resources and opportunity for the great people of Nandi County.

With those many remarks, I extend a warm welcome, and they should feel free.

**The Speaker** (Hon. Lusaka): Finally, Sen. Zawadi.

**Sen. Zawadi:** Asante Bw. Spika kwa kunipa fursa niweze kuwakaribisha Wabunge wa Kaunti ama MCAs kutoka Nandi. Ningetaka nikubaliane na wenzangu wengi kwamba katika Maseneta wachangamshi basi mmoja wao ni Seneta wa Nandi.

Kusema ukweli, kama ingekuwa kuzungumza pekee yake ndio kunamrudisha mtu hapa Bunge, nina hakika kwamba angerudi hapa Bunge. Hata hivyo, ninaamini kuwa watu wa Nandi wanamuona na wako pamoja na yeye.

Vile vile, ningependa kuwaambia MCAs wawe huru. Mnakaribishwa na pia mnaweza kufika hapa. Mimi ninayezungumza hapa, kipindi kilichopita nilikuwa MCA kule Kilifi lakini kwa njia zingine zisizoweza kuepukika nilijipata hapa. Kwa hivyo, hakuna lisilowezekana mbele ya Mungu. Kila kitu kinawezekana. Ukiwa na bidii na maoni, basi Mungu anaweza tangulia.

Vile vile, katika upande wa uajiri, najua wakati huu Kaunti ziko na changamoto kubwa hasa kwa upande wa uajiri. Waajiri wengine hawalipi. Kwa hivyo, mzingatie hilo swala kwa sababu haja zetu sote kutoka Maseneta ni kuona kwamba kaunti zinafauli kwa ugatuzi. Tulifanya ugatuzi kwa sababu ilikuwa kitu cha maana kwetu sisi Wakenya.

Karibuni sana. Jisikieni nyumbani. Asante.

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. I want to join my colleagues, especially Sen. Cherargei, to welcome the MCAs of Nandi. Nandi is my neighbouring county on the escarpment. Therefore, I cannot sit in this House without welcoming my neighbouring county. I come from Kakamega County and I am proud to have good neighbours like you.

Here is where laws are made and I know you do the same. When we implement things, we get you at the grassroots level, who support us fully. We are proud of you. Continue with that energy. We are here to make sure that we absorb all of you in this House, if not in the ‘Lower House.’

Thank you, Mr. Speaker, Sir. I join my colleagues and you in welcoming the MCAs from Nandi County.

**The Senate Minority Leader** (Sen. Orengo): Thank you, Mr. Speaker, Sir. I will be very brief. Let me also join my colleagues in welcoming the MCAs from Nandi County. Without doubt, Nandi is a county of heroes. I say so because when this country was being colonized by the White people, one of the greatest resistance movements against colonialism came from a respected leader from Nandi known as Koitalel Samoei.

It is good that you are in this Chamber. One of the greatest contributors in this Parliament over the years was a Nandi gentleman, a lawyer, one of the most virulent sons of Kenya to have served in the Kenyan Parliament.

If you go to the HANSARD, you will find the kinds of debates that were taking place in the first Kenyan Parliament and even when Kenya became a de facto one party State. As far as I am concerned, he continues to be, in my estimation, one of the greatest parliamentarians this country has ever produced, Jean-Marie Seroney.

A lot of decisions were made at his time when he served as a Deputy Speaker and also a Member of Parliament. It shows that anybody, if you are in any position, can make a contribution. You do not have to be a Minister or a Speaker. The greatest parliamentarians have not necessarily been people who were sitting in the Front Bench. Jean-Marie Seroney was such a person.

His greatest contribution to one of the controversies that took place in Parliament at the time was when Martin Shikuku said that KANU was dead and Shikuku was forced to substantiate. Other Members stood up demanding that hon. Shikuku should substantiate. Seroney came with this quick remark that “you cannot substantiate the obvious.” For that, the next day, Seroney and Shikuku were arrested and detained. We continue to remember him.

Having said that, I am glad that this is the committee on labour and justice. I wish I had an opportunity to meet you because both labour and justice are very important components in the traditional role of Parliament. I hope that during your visit here, you have had conversations both with the Members of the Senate and our staff.

I think it is important to say that the word “county” should never really feature. What is important is that you are also a parliament. Senate is part of Parliament at a national level. The county assembly is parliament at the county level. Therefore, you should hold your heads high because when you go to some meetings, for example, the Inter-Parliamentary Union (IPU) or to the Commonwealth Parliamentary Association (CPA), you will find that from the UK there are various parliaments coming from Wales, Scotland or Westminster. I think sometimes we do not give respect to county assemblies. It is important that you are held in honour because of your status and being a part of the legislature.

I have never seen any kind of rough or riotous proceedings in the Nandi County Assembly. I think you are cut from a different cloth from the Senator for Nandi. However, I agree with Sen. Zawadi that the Senator from Nandi is truly a great resource person and a great debater. I just wish that he would look at the world differently, like the other people in your county, the two Kosgeys; Henry Kosgey and Sally Kosgei. These are some of the greatest sons and daughters of Nandi. Those two were Members of our party, ODM, and served in the Grand Coalition Government. Therefore, do not forget us as we journey towards next year.

Otherwise, let me not take too much time. Welcome and I hope we will, in future, have conversation and probably visit your county before we go into the elections; visit the county assembly and have an opportunity to talk to you.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Thank you, Senate Minority Leader and those who have contributed, especially Sen. Zawadi. *Tulikuwa tumekosa sauti yako na Kiswahili sanifu. Nashukuru sana.*

## PETITIONS

### PAYMENT OF MEDICAL COSTS FOR PERSONS LIVING WITH AUTOIMMUNE DISEASES BY THE NHIF

**The Speaker** (Hon. Lusaka): Hon. Senators, I have three Petitions. First, I have a report to the Senate that a Petition has been submitted to the Senate by Mr. Mickson Mugo and other patients living with autoimmune disease, regarding payment of medical and healthcare costs for persons living with autoimmune disease by the NHIF.

As you are aware, under Article 119(1) of the Constitution-

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

Hon. Senators, the salient issues raised in this Petition are-

(a) THAT the right to health is a fundamental human right guaranteed in the Constitution of Kenya under Article 43(1) (a) which states that-

“Every person has the right to the highest attainable standard of health.”

(b) THAT the National Hospital Insurance Fund (NHIF) is a state corporation mandated to provide accessible, affordable, sustainable and quality health insurance for all Kenyans;

(c) THAT an autoimmune disease is a condition in which your immune system, mistakenly attacks your body and a cure is yet to be established. There are over 80 types of autoimmune diseases and there is no test to determine whether a person has an autoimmune disease or not and doctors often rely on clinical diagnosis, which is expensive, frustrating and stressful;

(d) THAT given that the cure for autoimmune diseases is yet to be established, the cost of managing such diseases is high and majority of insurance companies do not offer medical cover for patients suffering from the autoimmune disease, majority of whom can barely afford the cost managing the disease;

(e) THAT the NHIF does not pay for medical health or health care expenses of patients suffering from an autoimmune disease unless a patient undergoes dialysis or a procedure that is covered by the scheme;

(f) THAT the Petitioners have made efforts to have this matter addressed by NHIF and the Ministry of Health without success;

The Petitioner, therefore, prays that the Senate intervenes in this matter with a view to introducing an amendment to the NHIF Act to provide that patients living with autoimmune diseases benefit from payment of medical and healthcare costs by NHIF.

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

Sen. Cheruiyot, proceed.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir, for this chance. I want to make brief comments on this emotive issue.

Health is a challenging discussion that we currently have in our country. Yesterday, at the rise of the House, many Members were speaking to various challenges that our health sector faces in relation to a Bill sponsored by our colleague, Sen (Dr.) Ali. If you listened to many of the presentations that were being made by Members, then you realise that perhaps with the exception of unemployment and public debt, then our public health system is the next biggest challenge we have in this Republic. As leaders, we are challenged continually on what we can do to make sure we alleviate the suffering many of our people face on account of a failed public health system. This is one such example.

From the outset, allow me to disclose that I know a brief history about how this Petition has found its way to the House. I was approached by a young lady that I know - a friend that I went to school with - and she informed me that they are in a consortium of people diagnosed with the various kinds of this particular disease. The challenge they were facing is trying to secure medication. Despite this disease being largely present and being a communal challenge to many of the citizens of this Republic, it is not covered by NHIF.

I advised them to present a petition to this House, so that through our Committee on Health, because that is the only way Parliament works, we may put together recommendations and hear from NHIF as they plan a roll out of the universal health coverage that we have been hearing about for almost four years now, but with little results and progress that has been reported.

Up to this particular point, prevalent diseases like cancer have not been included in the cover. This includes the medication, testing and consultation with various doctors as part of the diseases that are covered by NHIF. We know that for the greater part of the population, the challenge is so bad that we are trying to secure some foothold for those who can access NHIF. Through documents presented before this House, NHIF subscription across the country is barely beyond 25 per cent of the citizens. This means that 75 per cent of the people we represent in this House do not have any cover whatsoever. We still have a long way to go.

As we speak about the changes we need to make, this is one such example. Over time, when renal failure became a very pronounced and a common occurrence amongst our citizens, it was recently added as part of the diseases that are considered and catered for, whose medication is catered for NHIF. Therefore, if you visit many of our county referral hospitals, at least on most occasions, it is not consistent. There are still challenges and you will find days that you go and are told a machine has broken down or doctors are not properly kitted. You will find that the patient has to resort to a private healthcare provider. By and large, it helps them to get by.

Many of the patients had previously been told that kidney failure was tantamount to a death warrant because they could not afford the medication. Now, NHIF has made it possible for them and they can now receive medication.



This is a simple request that these patients are presenting before us. It is not difficult. I believe in the Committee on health. When they invite experts, because I have seen that this Petition, despite being done by ordinary patients, part of the people who undersigned on this Petition are the doctors and practitioners who treat many of the patients that they know. They shared with us their experience and say, as doctors, despite the fact that many of these patients are not able to pay us, you cannot sit pretty in your house knowing that a particular patient has not seen you at their appointment date because they could not afford to pay. On certain occasions, they are forced to dig deep into their pockets to pay for some of their tests or provide free consultations, yet doctors need to earn their living just like the rest of us.

I plead with the Committee led by our colleague from Trans Nzoia, and I believe quite a number of Senators who are members in that Committee will expedite this Petition. I know that the timeliness by our Standing Orders is 60 days. But this is one such Petition that you do not have to wait for 60 days. These patients have been suffering for quite a long time. Listen to them, invite them within a week or so, listen to the specialists, have NHIF come before us and tell us the challenge, including these diseases. If there are any statutory changes we need to make or additional things we need to do as a people, I believe it is within the ambit of Parliament and can convince our colleagues in the National Assembly, so that these patients can get justice.

I plead with them to conclude with this matter as quickly as they can, so that we can save many lives that are being lost. Sometimes, it gets to a point where people resign to fate and say, whatever shall be, let it be because they cannot afford the medication that is needed to treat this particular ailment. I plead with our colleagues to expedite it and give justice to these citizens. I believe that they will do the right thing.

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

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to support this Petition. When you are look at people who have issues with these diseases, they have a problem in their immune system because their healthy cells are eroded and they are not able to protect themselves in any way. Some of these diseases include arthritis. It is well known that patients who go through arthritis have a lot of pain in the joints. It is not good for people to live in pain forever.

Some of these diseases may not be cured, but can be controlled by using anti-inflammatory drugs to reduce the pain. The onus is on the Government to ensure that the inflammatory drugs are in all hospitals and also NHIF cover is given to the people who are going through such painful moments. Since you have to find ways of easing out the pain they are going through.

I hope that the Petition will be considered with the seriousness it deserves. We have Kenyans going through such eventualities.

I support the Petition.

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

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Petition. First, I would like to congratulate the Petitioners because they are representing so many Kenyans who are going through similar challenges.

I also want to bring to the attention of this House the fact that the most expensive thing in our society today is medical costs. There are so many fundraisers that we are

going through in our villages as a result of medical expenses. We hear of a fundraising for Kshs3 million today and tomorrow there is another one. It is becoming expensive for our people.

This Petition is almost similar to the Statement that I brought to the House two weeks ago asking that the National Hospital Insurance Fund (NHIF) to cover diseases such as the COVID-19 in private hospitals. I was touched by somebody from my village who had a bill of around Kshs3.4 million from a hospital, and they denied him discharge.

Mr. Speaker, Sir, these autoimmune diseases are very expensive to manage. Article 43 of our Constitution offers every Kenyan the right to enjoy the highest attainable standard of health no matter the cost. Therefore, it is high time we reviewed our NHIF policies in this country, so that we get to the level that most countries have reached in attaining the medical needs of their people.

These Petitioners are going through a lot of challenges and representing so many Kenyans who are suffering from the same. I support this Petition and request the Committee that will handle this case to do it very quickly, so that the welfare of our people is taken care of. Apart from managing these diseases, even practices like regular testing through Magnetic Resonance Imaging (MRIs) and the rest is very expensive. Most of these practices are only found in private hospitals. Those private hospitals do not allow free testing for these autoimmune diseases.

Mr. Speaker, Sir, when you see people coming up with such a Petition, it is because they have gone through difficult challenges, coupled with poverty in our society, because they are really suffering. I, therefore, join others like Sen. Cheruiyot in asking the Committee that will handle this issue, to do it with a lot of wisdom and make sure that these people are assisted.

I support.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Ali.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. As other Members have said, these are very serious diseases. Autoimmune and connective tissue disorders are very rare, but with serious implications. In the Committee on Health, we are already dealing with a similar Petition. It is about multiple sclerosis, which is also a connective tissue disorder. These are very serious issues.

The problem that we have is that this is a disability and the National Council of Persons with Disabilities (NCPWD) does not consider these patients as people who are disabled. In the first few years when they get the disease, it comes and goes, and so, they usually suffer for some time before they become disabled. By that time, it is usually very low.

Mr. Speaker, Sir, we are dealing with these issues and will handle this one as well. We have to deal with the NCPWD so that anybody who is diagnosed with any connective tissue disorder is given a disability card. This is so that NHIF can deal with it.

I thank you.

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

**Sen. Omogeni:** Thank you, Mr. Speaker, Sir. First, I thank these Petitioners who have brought to the attention of the Senate the problems and suffering of these poor sisters and brothers of ours who are living with autoimmune diseases. Any time Kenyans bring a Petition to the Senate, they do so because they have a lot of confidence in this

House. They approach us with the hope and belief that the Senate would find some solution to the problems that they are facing.

Mr. Speaker Sir, as we know, health is a devolved function in our Constitution. This is a matter that is squarely within our mandate. If we were to have an honest conversation, Kenyans are suffering. Health has become a serious problem. I do not know what experiences other Senators have, but every week, we are confronted with cases of bodies detained in hospitals. Our own constituents are not able to meet the medical expenses. We are reducing some Kenyans to look like they are not human beings anymore.

If I give you an example of my own county, the body of somebody called Andrew Gechiko Akuma is detained at Teneki Hospital. He has a bill of Kshs558,000. The hospital has refused to release that body for the last six weeks. How do you detain a Kenyan's body for that period and there is no intervention from the Government? I have even raised this matter with the Principal Secretary (PS).

Lawyers who are in this House know that there is no property in a dead body. Therefore, when these Kenyans tell us that they incur between Kshs400,000 and Kshs1,000,000 for treatment, it is a matter that calls for the attention of this House. These are not the only classes. If you are in this House and lucky to have parents that have attained the class of senior citizens, aged 70 years and above, you know that most insurance companies do not want to insure this group of Kenyans. Some of them are former Members of Parliament (MPs). NHIF does not cover a number of illnesses for this cadre of Kenyans. These are people who have served this country; they are vulnerable and their earning power has since gone down, but we do not care.

Mr. Speaker, Sir, I hope that even as we look at this special class of people who suffer from this condition, we can also address the plight of our senior citizens, Kenyans who are over 70 years. If you go to the United States of America (USA), the Medicare takes care of Americans above 65 years for free. You will be treated in any hospital and the government will meet those medical expenses.

If you go to Australia, if you suffer from cancer and have a prescription and go to a private chemist, you just present the bill and the Government meets those expenses. The fact that we are privileged to have a medical insurance cover that can take care of our treatment should not make us forget the plight of our people.

*(Loud consultations)*

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

**Sen. Omogeni:** Mr. Speaker, Sir, this is especially in a situation like where we are, where our county governments are able to have functioning referral hospitals at our county level. You will be surprised that some of the victims are even professionals.

There is a neighbour at home in West Mugirango called Dr. Bwana Nyamukoba who was taken to Top Hill Hospital in Eldoret. He stayed there for a week and now we are looking at a medical bill of Kshs1.3 million. Which Kenyan has this kind of money?

We should have a cap on how much a patient can be charged. Look at my friend who has served this country with distinction. When I was the President of the Law Society of Kenya (LSK), Mr. Evans Monari, who died two days ago, was a member of

my council. He served with me as a member of the Council of LSK. In the last two weeks, we have been battling a huge hospital bill for him. The bill that is facing his family is over Kshs16 million. Which family, with our economy, can afford to pay a hospital Kshs16 million? We must address this matter.

I am just giving a case of people from my County of Nyamira. I am sure that if each Senator was to stand up, there are many people who are facing massive medical bills from our hospitals. This should not be allowed to continue.

I saw Sen. (Dr.) Ali here. I urge the Committee on Health, when addressing this matter, to look at it holistically, especially the issue of huge medical expenses.

Let us see whether we can come up with some amendments to the law, so that we cap the amount of bills that a hospital can charge a patient. How do you charge somebody Kshs16 million even if he is a senior lawyer? I hope that this matter will get our urgent attention as a House.

Mr. Speaker, Sir, the appeal I am making to all of us is that we are staring at a crisis. Healthcare is a big crisis in the country. These are problems I get every day from my County of Nyamira. Therefore, I urge the country, even if the Cabinet Secretary (CS) for Health is listening to me this afternoon, to do something to reduce the suffering of Kenyans.

I support.

**The Speaker** (Hon. Lusaka): Finally, Sen. Zawadi.

**Sen. Zawadi:** Asante Bw. Spika. Ninasimama kuunga mkono malalamishi yaliyoletwa kwetu kuhusu mambo ya afya na kadi za hospitali za NHIF.

Kusema ukweli, watu walikufa zamani lakini hivi sasa, watu wanakufa zaidi. Wengine hawakufi kwa sababu hawangeweza kupona. Ijapo kuwa Mwenyezi Mungu ndiye huchukua roho, watu wanakufa kwa sababu wanakosa matibabu yanayohitajika kwa wakati unaofaa.

Nitapeana mfano wa wagonjwa wa Korona ambalo ni janga la taifa na silo la mtu mmoja, la kujitakia wala kulileta. Lakini, ukipata ugonjwa wa Korona na ufike hospitalini na uwekwe kwa *oxygen*, uko na shida. Hii ni kwa sababu, ukiwekwa kwa chumba cha hali mahututi, siku mbili au tatu, utaambiwa ni laki kadhaa.

Bw. Spika, unavyojua, taifa letu la Kenya kwa sasa, shida zimejaa. Mgonjwa anashindwa kupata chakula cha kila siku au cha masaa; asubuhi, mchana na jioni. Kwa hivyo, laki hizo zote atatoa wapi?

Vile vile, kuna ugonjwa wa saratani. Ninasikitika sana kwa sababu mara nyingi, kina mama ndio hushikwa na ugonjwa huu.

Ninavyozungumza, juzi nikitoka kaunti kuja hapa, nilienda kutembelea mgonjwa mmoja ambaye nilihusishwa niende nimuone akiwa ni mama anayetoka Eneo Bunge la Magarini, Wadi ya Garashi, kijiji cha Bate. Ni mama mdogo mwenye watoto wawili pekee.

Ananyoyesha mtoto mmoja ambaye ni mdogo na hajaanza kutembea. Mama ako na saratani ya matiti na kwa hivyo, titi moja haliwezi kunyonywa. Kwa hivyo, mtoto anayonya lile ambalo liko na saratani. Sasa, ninajiuliza kama Saratani husambaa au kurithiwa na kama mtoto ataipata.

Nilifuatilia na kuambiwa hapo ilipo, inatibika lakini dosi moja inahitaji elfu 26,000. Huyu mama hajiwezi na hawezi kupata ata elfu moja.

Kwa hivyo, nikitoka hapa, nitafuata Maseneta walio hapa mnisaidie niweze kupata dosi moja alafu ning'ang'ane kupata hizo zingine.

Bw. Spika, kwa hivyo, kuna haja ya kadi za hospitali zisimamie hayo magonjwa kwa sababu hatujui unavyokuja na kuingia ndani ya mwili. Mtu hujipata tu ako nao. Kama kadi itasaidia mgonjwa wa Malaria, mimi pekee yangu bila kwenda hospitali naweza ng'ang'ana na mtu akapona. Lakini, saratani ni ugonjwa ambao unahitaji watu wengi wakusanyike mahali pamoja. Taifa la Kenya lichukue jukumu la kuangalia watu wake ambao wanashikwa na yale magonjwa ambayo wanadamu hawawezi kujisimamia.

Ninaunga mkono malalamishi hayo kwa dhati na nguvu zangu zote. Vile vile, ninawasihi waliomo kwenye Kamati ambayo itaangalia mambo ya afya wazingatie sana maswala haya, ili tupate majibu.

Kama ujuavyo, ukiwa Mbunge, uko na taaluma zote. Kama ni daktari watakufuata kupata msaada wa daktari. Kama ni walimu, watakufuata, uwape pesa za kwenda shule. Kwa hivyo, matatizo mengi ambayo yanakumba wananchi wanakimbilia sisi viongozi.

Basi tuchukue jukumu hili la kusihia Serikali ichukue majukumu yake ili tuweze kupumua kidogo tufuate mengine na Serikali ichukue mengine.

**The Speaker** (Hon. Lusaka): I had said you are the last one, but I see Sen. (Rev.) Waqo.

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir. I thank you for giving me this opportunity to support this because of the sufferings that many Kenyans are going through.

As we know, we are not doing well economically and many families are facing a lot of financial challenges because of the hardship that they are going through.

In Marsabit County, as leaders, almost every day, we are involved in fundraising because of health matters. People have sold their animals and the drought is wiping them too. They have a lot of problems and they cannot support their health needs. Therefore, I fully support this.

In fact, this weekend, I have three fundraisings that I am participating in as a result of this. Therefore, if our Government can take up this and take care of the people who are suffering, then it will give a lot of relief to people who are already facing a lot of challenges.

Mr. Speaker, Sir, the elderly people have many challenges because they do not have medical insurance because of the rules that are there. If NHIF can take care of them, it will help them.

I support this and pray that the Committee on Health will give it the full attention it deserves, so that the recommendations we will make as a House will help Kenyans who are suffering. There are many Kenyans who are held up in our hospitals and cannot go home because of the hospital bills.

There are many Kenyans who are at home and cannot take care of themselves because of the fear of not meeting medical bills. As a result, they get stressed. In fact, they do not die because of the sicknesses they are going through, but as a result of the stress they are facing.

I, therefore, support this Petition and believe that the Committee on Health will give us a good way forward that will help Kenyans.

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

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

I thank you.

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

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

AMENDMENT TO THE CONSTITUTION OF  
KENYA AND OTHER RELEVANT LAWS

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I hereby report to the Senate that a petition has been submitted to the Senate by Mr. Taratiso Ileri Kawe concerning amendment to the Constitution of Kenya and other relevant laws on the election of Deputy President and deputy county governor.

As you are aware, under Article 119(1) of the Constitution, “Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

Hon. Senators, the salient issues raised in this petition are:

(a) THAT Articles 136(1) and 137(1) of the Constitution provides for the mechanism by which the President is elected. Further, Articles 148(1) and 149(1) of the Constitution provides for the mechanism by which the Deputy President is nominated and the mechanism by which the said position if filled in the event there is a vacancy, respectively.

(b) THAT Article 180 of the Constitution provides for the mechanism by which a county governor and deputy county governor are elected. Further, Article 182 of the Constitution provides for the mechanism through which the position of a county governor is filled should a vacancy arise.

(c) THAT the aforementioned provisions of the Constitution on nomination of Deputy President and filling of the vacancy in the office of the county governor by the deputy governor and subsequent nomination of the deputy governor by the new governor give rise to situation where the positions are taken up by the non-elected and in some cases unpopular leaders.

(d) THAT there is need to amend the Constitution and other relevant laws to allow for a democratic process where citizens are given an opportunity to elect office holders in the positions of the Deputy President and deputy governor in order to protect the citizens of Kenya from being led by non-elected and unpopular leaders.

(e) THAT provisions to be made in the Constitution stating that should the Office of the Deputy President fall vacant, a Cabinet Secretary under the national Government acts as the Deputy President for a period of six months to give time to a substantive Deputy President to be elected.

(f) THAT should a vacancy arise in the office of the county governor, the county secretary acts as the deputy governor for a period of six months until a substantive deputy governor is elected.

The petitioner, therefore, prays that the Senate intervenes in this matter and introduces amendments to the Constitution and other relevant laws to provide for-

(1) A mechanism in which the Office of the Deputy President and that of the deputy governor are directly elected into office.

(2) A by-election in the Office of the Deputy President after assumption to the Office of President by an elected Deputy President.

(3) A by-election in the office of the deputy governor after assumption to the office of the county governor by an elected deputy governor.

(4) A mechanism by which the President has the power to appoint a Cabinet Secretary in an acting capacity to the office of Deputy President in the event of a vacancy for a period of six months until a substantive Deputy President is elected.

(5) A mechanism by which the county governor has the power to appoint the county secretary in an acting capacity to the office of deputy governor in the event of a vacancy for a period of six months until a substantive deputy governor is elected.

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

Hon. Senators, I did not read the title of the petition. This petition is to the Senate by Mr. Taratiso Ileri Kawe concerning amendments to the Constitution of Kenya and other relevant laws on the election of Deputy President and deputy governor.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, this is an interesting one. During the previous term, there used to be petitions by an interesting gentleman. I think his name is Mr. Gesame. Once every two weeks, he would send such petitions to the Senate. I think Sen. M. Kajwang' can recall. The Senate decided to vet his petitions before they could be brought to the House.

In the last petition, he had sought to have marijuana legalised in the country. I wish Sen. Omogeni was here because his predecessor stood in great defence of that petition.

This has reminded me of one similar petition, not that it does not merit, but it presents issues which the petitioner assumes can be addressed by way of election. He is also seeking our advice because petitions by their very nature do not come with resolutions. The Senate may advise on the right procedure to follow if you want to handle a particular matter. This is one such petition.

Not to deny this gentleman his right to petition this House, he actually raises valid concerns about the existence of offices of deputies at both levels of Government. That is the Deputy President for the national Government and deputy governors for county governments.

The truth of the matter is that if you are a keen follower of the happenings in our country, you will notice that indeed we have a problem. It is not only at the national level that the relationship is dysfunctional. We have seen that during the second term of their reign.

There have been petitions before this House on things that governors have done or that they have withdrawn all the allocations to the office of the deputy governors. Some

even do not have secretaries, security and official vehicles. They are denied fuel. There were so many instances that littered across the country where people are elected together as a pair, but when they get to office, things happen.

I think the constitutional architecture of the deputies assumed that many would rise to the call of leadership and be civil and decent. Once you are elected as a pair, you may not necessarily have to read from the same script in almost everything, but you work harmoniously. We have examples world over.

We borrowed this kind of system from the United States of America (USA) where they have a President and Vice President and a Governor and a Lieutenant Governor. They may agree in many occasions, but there are instances where a particular issue is dear to the people that somebody represents on a particular ticket because tickets are built across a coalition.

You pick a deputy, say, to represent a certain minority depending on the geographic placing of a county or sometimes even based on other considerations, if there is more than one dominant tribe in a particular county.

It is not unusual to find yourself as a governor having views on a particular issue that are not necessarily those of your deputy governor. It is not cast in stone that you must agree with your boss or the person you are working with, yet the Constitution does not provide the avenue of how such disagreements are handled in a proper manner.

This has generated a lot of debate across our country, mostly because of the political interest that exists of the current relationship between our President and his Deputy - Scholars and many followers of the political space have tried to explain about what happens in such a situation. When you are elected on the same ticket with another person, must you agree with them on absolutely everything, even the things you know very well that when you went out to seek the mandate of the people, those are not the promises that you made. I hold a contrary view to those who hold that this is the way.

There are many examples we can cite; the most recent one being between President Trump and his Vice-President Mike Pence. During the confirmation of votes from the various States, President Trump tried to get him to subvert the will of the people. He wrote a very polite letter to his boss and said that his conscience would not allow him to do so. There are so many other examples.

Unfortunately, in our current situation which is part of the reason people are beginning to send such Petitions to this House, there is need perhaps to classify what would be the responsibilities of a deputy governor in a particular county.

What remedy can be provided in law if a governor, for example, chooses to ignore you completely, not listen to your ideas or assign you any functions? It is not something quite easy because as you take up to be one's deputy, it is mostly based on mutual trust that you and your governor enjoy the promises you made and assist each other to achieve them once you get into office.

I can bet that if we did a survey today, out of the 47 county governments we have, we will be lucky to find more than five pairs who still work together and refer to each other. Many of them no longer see eye to eye. They will tell you the last time they spoke was, probably, during their inauguration. Since that time, no reference has been made to them.



Some are still working together because the deputy has chosen it for the comfort of their salary and not losing their official car. They could have chosen the peace and path of just lying low like an envelope, as is often said. Yet in reality, they are not living up to the dictates of our Constitution. It is a challenge and I do not know which Committee you will refer this Petition to; perhaps, the Committee on Justice, Human Rights and Legal Affairs. You will determine that in your own discretion.

Their findings will be quite interesting. It will be good for us having reflected on the two terms of our President and his Deputy and two terms of various county governments and seeing these challenges that arise. It will be important for them to provide an avenue.

There will be no problem if they consider that there is need for a constitutional amendment. If there is goodwill, we can raise the 45 Senators that are needed and pass any of these amendments for responsibilities and duties in the office of a Deputy President and deputy governor. That most likely seems to be the desire and direction that this petitioner wants.

He also wants us to provide an avenue for replacing those people. This is because even today, as things stand, through the County Governments Act at least we have made it possible for governors to nominate their deputies.

Remember the Nairobi City County Government situation where Governor Sonko stayed close to three years without a deputy governor. There was a lacuna in law and we could do nothing. Thanks to the amendment we passed in this House and our colleagues in the 'lower' House agreed with us. The problem is no longer with the deputy governors.

At the national level, if there was to be a vacancy in that office either now or in the future, there is not proper mechanism provided for doing it. That is the other challenge we need to provide, either by way of an election or nomination. Let it be clear so that we do not leave it to people's imagination.

Mr. Temporary Speaker, Sir, I look forward to hearing the thoughts of our colleagues who serve in that Committee will be on this issue. Is it possible to give responsibilities as per the dictates of our Constitution or an amendment to the County Government Act? That would be of much interest to this House, being the first one and the father of devolution or even at the national level, such that it will no longer be business as usual.

There is a problem and we must concur that there is a need. Many people do not agree on how to solve it, but at least the opinion is unanimous that, indeed, there is a challenge. The overall drafting of those two articles of our Constitution were not as elaborate as it should have been.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. M. Kajwang':** Mr. Temporary Speaker, Sir, I congratulate the Petitioner, which is within his constitutional right. We cannot delve into the merits of demerits of that Petition. The Petitioner has asked Senate to consider making certain constitutional amendments to give effect to some of the prayers that he has put in that Petition.

The Building Bridges Initiative (BBI) has been a very useful debate to this country. When it comes to jurisprudence and our collective understanding of the process

of constitutional amendment, the effort that the High Court and Court of Appeal have made has enriched our understanding of how to secure and safeguard a constitution.

Whether you supported the BBI or not, one cannot fault the courts of law for some of the pronouncements they made. We might not agree 100 per cent, but I believe they have enriched not just the Kenyan, but the global experience when it comes to amending the constitution.

The petitioner could have decided to invoke the provisions of the Constitution, which allows a member of the public through popular initiative to propose amendments to that Constitution. I remind the Petitioner that despite the response he is going to get from the Senate, he still retains that right. If he feels passionate about and if Senate does not initiate the necessary amendments that he has put in his prayers, he can still pursue the option that is available to him in the Constitution.

As one legal scholar said, the problem in Kenya is constitutions without constitutionalism. Many times, we want to tailor our Constitution with individuals in mind. Sometimes you find that you do not like the Deputy President and so, you want to change the Constitution to make life uncomfortable for the Deputy President, not knowing that the person you like could be the Deputy President tomorrow. You will then find yourself in a bind because you had created hell of that position.

I encourage that even as we think about the constitutional amendments that are good for this country, let us not have individuals in mind, but posterity. What do we need to do around the offices of the Deputy President and deputy governors in counties? One, just like in the US, the Deputy President should not be an idler, like is the case today.

In the US, Vice President Kamara Harris presides over the Senate. What stops the Deputy President from becoming the Leader of Government business in Parliament? As it is now, Sen. Poghio is the Senate Majority Leader and, perhaps, he only sees the President on television. How is he going to convey the wishes and ambitions of the Executive if there is that disconnect?

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

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

**Sen. Cherargei:** Sen. M. Kajwang, was making very brilliant and weighty issues and I was keenly following. Could he confirm to the country whether he is aware that the Senate Majority Leader, the great Senator of West Pokot, Hon. Samuel Poghio, sees President Uhuru Kenyatta on television yet he is the Senate Leader Majority and President Uhuru Kenyatta is the leader of Jubilee party.

Does he have more information than us, or is it because Hon. Raila Odinga is Uhuru's brother and maybe he has been discussing with *Baba* somethings we do not know? It should not go on record. Many people will get worried if they imagine that the Senate Majority Leader sees his party leader and the President of the Republic on television only. Sen. M. Kajwang should clarify whether he knows more nor not.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I wonder where Hon. Raila Odinga's name came from. There are some people who when they sleep, dream and wake up, see Hon. Raila Odinga. Get used to the fact that in his fifth attempt, he might be the fifth President. He might be the one dealing with majority leaders in this House.

Mr. Temporary Speaker, Sir, I use the word 'perhaps'. Definitely, the President has been in Ethiopia and he could be going to the United States of America (USA). Many

of us who are in the deep state like Sen. Linturi and Sen. Cheruiyot have not seen the President since he went to Ethiopia and the USA.

What I am suggesting here is that we need to bridge that gap between the leadership in this House and the Presidency because people come here purporting to talk for the Executive and perhaps they have no relationship or link with the Presidency.

People come to this House saying that the President has said, that this is the President's position or this is the party's position and perhaps they have not seen that President for six months. That is why if you have the Deputy President as the Leader of Government Business, the same way the Vice President used to be the Official Leader of Government Business in the House, we are going to make that Deputy President more active, more engaged, more relevant and he will be driving the legislative agenda of the Executive. Do not tell me that we have a presidential system that is impossible. The USA has a presidential system and yet the Vice President Hon. Kamala Harris sits in the Senate.

These are the kinds of innovations we should be thinking about. We should not be stuck in a box thinking that we have a situation that there is a model of government that was invented somewhere that can only be implemented here on cut and paste. We should come up with the best inventions for our Republic.

Mr. Temporary Speaker, Sir, I can tell you that in the next elections, the President of the Republic of Kenya will definitely have to choose a strong individual that complements him, his age, his skills, his temperament and his vote base. That person cannot be kept in an office somewhere just waiting for deployment. Those are things that happened with the late retired President Daniel Arap Moi. We need to look at the content of the Office of the Deputy President and the content of the office of the deputy governor.

Those are some of the greatest idlers in this Republic. Many Deputy governors are wallowing into alcoholism and depression because they have nothing to do. This is because the governors are not giving them assignments. Can we find an interface through which the deputy governors can also not just be members of the County Executive Committee with a definite docket, but also to have some interface with the County Assembly?

Mr. Temporary Speaker, Sir, those are some of the thoughts that I hope this Committee will look into this Petition, might think through and broaden as it responds to the petitioner.

Finally, I do believe if we are going to change the Constitution, this Senate should benefit from the experiences of people who have served this Nation. For example, President Uhuru Kenya is nearing the end of his term. After that, what does he do? Do you want him to be out there dealing with Scotch men or Irish men and other substances with two names?

Mr. Temporary Speaker, Sir, we need to engage the President creatively and properly. What if a former President became a member of the Senate for life as it happens in other countries? I think it is happening in Burundi or Rwanda. It is happening in one of the countries in Africa.

What about the Auditor General? We had an excellent one, Mr. Eddy Ouko. After the end of his tenure, he now plays golf and has not gotten any Government deployment. You can imagine how many Government secrets he has. That person could

come to this House as an honorary Senator and would really add value to our audit initiatives. A retired Attorney General will really add value to this House.

All these constitutional offices with security of tenure should be ending up in Senate for the remainder of the life of that Senate. Today we would be benefiting by having former Chief Justice, Hon. Maraga sitting in this Senate in an honorary and advisory capacity.

I hope that if we are going to have the BBI version two, these are some of the ideas we will inject into it to strengthen the Senate and the linkages between the Executive and the Legislature.

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

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. I congratulate the petitioner for bringing this issue before the Senate. I agree with many of my colleagues in what they said that this is a very unique Petition.

When you read Article 148 on Election and Swearing in of the Deputy President, for example, it is mandatory that anybody who wants to become the President of the Republic is to nominate his running mate. The swearing-in of the President and the Deputy is done in the same day. That is why it is called the Presidency.

Looking at the design and the architecture of this Constitution, particularly the provisions of Article 144 and 145 is on removal of President on grounds on incapacity shall apply with the necessary modifications to the removal of the Deputy President. However, the design of this Constitution did not envisage a situation where a Deputy President and a President shall be in office and do not see eye to eye as it is happening now. It is silent on what happens in such a situation.

The presumption, the substance and the spirit of the Constitution was that these people would be like a couple who will live together and agree on everything. The Constitution did not envisage the crisis that the differences between the President and the Deputy President can create in the country. That fact goes further that in the absence of the Deputy President, that President who assumes to be the President, nominates the senior most Cabinet Secretary.

Mr. Temporary Speaker, Sir, the other day, courts declared these Executive Orders by President Uhuru Kenyatta null and void. Remember in one of the Executive Order No. 1/2018, the President did appoint one of the Cabinet Minister as the Coordinator of the Cabinet functions. This idea is good. I agree with what Sen. M. Kajwang has said brilliantly. It looks this guy should have been more useful during BBI because what he said should have worked more there.

It is in public domain that the President and the Deputy President do not see eye to eye. This thing has taken a spiritual angle. The bishops and other religious leaders are now trying to bring them together. In as much as this is a good avenue where spiritual leaders want to bring these leaders together, we should look into the future on how we can redesign the architect and design of this Constitution. We can ensure that when a Deputy President and a President are in office, if it reaches a point where they do not see eye to eye, there are mechanisms of removing the Deputy President as envisaged by the Constitution like resigning, death or incapacity in office. What should happen in a situation where the President, God forbid, is incapacitated, resigns or is impeached by this House?

Since the second term of Jubilee, we have seen and everybody knows that the President has technically appointed another Deputy President by the name Cabinet Secretary, Fred Matiang'i, through Executive Order 1/2018. So, technically speaking in terms of operation of the Government, we do not know why the President is bypassing the Deputy President.

Mr. Temporary Speaker, Sir, when we look at Article 255---

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

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

**Sen. Kasanga:** Mr. Temporary Speaker, Sir, I would like to ask the Senator for Nandi County to clarify something in case I might have heard him wrong. Article 148(7) does provide that:

“The Deputy President may resign from office at any time by notice, in writing, addressed to the President and the resignation shall take effect on the date and at the time specified in the notice, if any, or if a date is not specified, at noon on the day after the notice is delivered.”

I am just wondering because he said that there is no provision in case the Deputy President (DP) and the President are not seeing eye to eye. I see that provision here in the Constitution. So, maybe you can clarify that.

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

**Sen. Dullo:** Mr. Temporary Speaker, Sir, is Sen. Cherargei in order to lie to the country and this House that the President has appointed his deputy in the name of one CS, Hon. (Dr.) Matiang'i?

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

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

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, even if you want to hold brief for CSs in this House, there is a way people can do it in a more intelligent way. First of all, it is wrong to allege that a colleague has lied. That word is unparliamentary and the Deputy Senate Majority Leader must withdraw and apologise to Sen. Cherargei. If she does not, you know what needs to follow.

Second and most importantly, I think---

*(Sen. Dullo spoke off record)*

Mr. Temporary Speaker, Sir, please stop the Deputy Senate Majority Leader from ranting in the House. It is not right. When she spoke, I was quiet. So, she should allow me to make my point peacefully.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Proceed, Senator.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, the point raised by our Colleague, Sen. Kasanga, last week or the week before, seated on that Chair, Hon. Lusaka gave a ruling as to what amounts to a point of order. That if you feel that in the course of making their contribution or submissions, a particular Member has run afoul of the provisions of our Standing Orders, he first point out which particular Standing Order has been violated.

I do not think there is a way in which Sen. Kasanga can accuse Sen. Cherargei of having ran afoul of any particular Standing Order. The provision she is pointing out to

Sen. Cherargei is a point of debate. It is one of the provisions through which somebody can leave office.

If she feels that is an avenue that needs to be exploited, I believe she is now a very well-versed legislator of this House serving her fourth year and she knows that she can request to speak. During her contribution, she can then provide that avenue. However, it is unfair to interrupt a colleague with frivolous points of order that do not amount to points of order.

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

**Sen. M. Kajwang’**: Mr. Temporary Speaker, Sir, there is a rule on imputing improper motives on fellow Members. You notice that Sen. Cheruiyot himself did not cite the Standing Order under which he rose. He attempted the usurp the duty of the Chair or Speaker, to determine whether Sen. Kasanga was right or not. He went ahead to impute improper motives on Sen. Kasanga and Sen. Dullo.

This reminds me of Chinua Achebe when he said: “When the centre cannot hold, things fall apart.” Sen. Cheruiyot is supposed to be listening to the Senate Deputy Majority Leader, Sen. Dullo. How can he impute improper motive that Sen. Dullo is holding brief for a CS when two weeks ago, Sen. Cheruiyot and Sen. Cherargei were roasting me for implying that Sen. Cherargei was holding brief for CS, Hon. Keter? Is it in order for Sen. Cheruiyot to impute improper motive on the part of distinguished Senators in this House?

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, we have to proceed. The rules are clear, if you stand on any point of order, you point out the Standing Order.

Proceed, Sen. Cherargei.

**Sen. Cherargei**: Mr. Temporary Speaker, Sir, allow me to advise my colleague to be listening to my submissions. I said what is happening now. This is a matter that is in public domain. There is Executive Order No.1 of 2018 and we should understand that English. I said “technically”. I said, President Uhuru has technically appointed his Deputy President outside the elected Deputy President by the people of this Republic.

I was just bringing in the reality of what Kenya is going through *vis-à-vis* the vision, architect and design of the Constitution of Kenya. What this petitioner has brought to us reality of what is happening.

We cannot rely on spiritual leaders. Every time the President and his Deputy differ, we run to religious leaders. Every time a governor and his deputy defer, we go to the *wazee* or elders. Elders have more responsibilities than listening to political differences between a governor and his deputy. This debate we are having is very healthy. It is the norm and in the public domain that the President of Kenya and his deputy do not see eye to eye.

*(Sen. Dullo spoke off record)*

Mr. Temporary Speaker, Sir, you need to protect me from the Deputy Senate Majority Leader. When she was talking, I was listening religiously like a good school boy. I am driving the point home, but not going to Rome. I do not know why she is uncomfortable.

I have heard him allude to Article 255 of the Constitution on the issue of amendments to this Constitution. Under the Constitution, there is either parliamentary or popular initiative. Article 255(1)(f) talks about the term of the Office of the President as one of the two Article 257 on popular initiative. So, the question should be, what should happen? Should we do a referendum with an election?

I pray to God that Sen. M. Kajwang' can be around and be in Opposition to ensure they bring the Building Bridges Initiative (BBI) version II in 2023. With that, we can see if he can amend this part through a popular initiative or a referendum and now review these issues that have been brought forward.

I agree with my colleagues that even looking deputy governors, most of them do not have offices and their vehicles have been withdrawn. I agree that we must be innovative. You remember when we passed the law in assumption of office where we had given power to the governor to nominate his or her deputy Governor with approval of county assemblies. It is good the Nandi County MCAs are here.

We do not want to be prescriptive. We do not want to say deputy governors should do this and that. I know of a governor and his deputy who do not see eye to eye. It is because of their political differences and the ambitions of the deputy governors that we have in the country. This is very interesting. I hope the Committee on Justice, Legal Affairs and Human Rights which it will be referred to, together with our Senate Deputy Majority Leader, Sen. Dullo, will be able to tell us how to proceed. We are looking at the legal conundrum that is here.

Going into the future, we need to agree that this Petition is very critical. The Senate must pronounce itself and show direction. Otherwise, I congratulate the petitioner.

For my colleague who did not understand my submission, look for me in camera so that we have a cup of tea and then I can explain in detail.

*(Laughter)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Hon. Senators! We have to proceed.

Hon. Senators, Standing Order No.232(1) requires every petition to be committed to the relevant standing Committee for its consideration. In this case I direct the Petition be committed to the standing Committee on Justice, Legal Affairs and Human Rights.

*(Petition was committed to the standing Committee  
on Justice, Legal Affairs and Human Rights)*

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

Hon. Senators, here is the third and last petition.

FAILURE BY KISII COUNTY TO PAY SALARY  
TO ISAAC SIKO NYAKIRIGA

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by Isaac Siko Nyakiriga, a citizen of the Republic of Kenya.

As you are aware under Article 119(1) of the Constitution:

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

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

1. That he was employed by the Kisii County Government on 19<sup>th</sup> January, 2017, as a clerical officer in the letter reference No.KCPSAP3101/2017 after successfully attending an interview and was deployed to Nyaribari Masaba Sub-County on 20<sup>th</sup> March, 2017 by the Kisii County Government.
2. That he reported to the Nyaribari Masaba Sub-County office on 27<sup>th</sup> March, 2017, and was thereafter deployed to Nyamasiba Ward office as a clerical officer.
3. That he has allegedly never been paid any salary to date and has never received his personal number despite having been approved by the Kisii County Public Service Board on 20<sup>th</sup> July, 2017 to be included in the payroll. Further the county government has never confirmed his offer of appointment after his successful completion of the probationary period as stipulated by in the Kenyan labour laws.
4. That the County Government of Kisii has violated his rights as enshrined in the Constitution of Kenya which has caused him inconveniences and much trauma in his daily undertakings.
5. That he has made all efforts to have the matter addressed by the relevant bodies upon which they have raised directives to the County Government of Kisii on the non-payment of his salary and the confirmation of his employment by the directive has not been implemented.
6. The Senate investigates into these issues and find out:- (a) why his personal number is missing and why it was not processed by the county government and resolve.  
(b) Find out why his salary is not remitted by the county government yet he was assigned duties and resolve.  
(c) Make appropriate recommendations for his confirmation of his employment and compensation during the period.

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

**Sen. Cheruiyot:** Thank you, Mr. Temporary Speaker, Sir. You will remember when we were discussing the earlier Petition I mentioned that while the Constitution allows any citizen to petition any House of Parliament sometimes this line is a bit blurred. In my humble opinion, such are the petitions that should be considered at the various county assemblies.

It is proper that we are discussing this when our colleague legislators from Nandi County Assembly are here. I know Nandi County Assembly because they are our good neighbours. Occasionally, I get a chance to tune in and watch debates going on in their



Chamber. They have got very young, able and well-educated legislators. On many occasions I follow the kind of issues that they talk about.

Such Petitions would not be finding their way into the Houses of Parliament if our county assemblies took it upon themselves to ensure that they dealt with them. On many occasions, there might be a blurred line in relationships between the county executive officers and the MCAs. When it comes to matters of principles such as this where a citizen of a particular county feels that he was unfairly treated by their county government, I believe the county assembly has a committee in charge of labour issues that oversees the County Public Service Board (CPSB).

They should simply invite the membership of the CPSB, the CECM in charge and ensure that they give a satisfactory response. If they are not satisfied they should give a resolution. In any case, a county assembly has got the powers to summon each and every member of the county executive, including the governor on any particular matter. They can even issue summons on a matter that might appear to be mundane in the overall view of what a county government is as the employment of a particular citizen and get to address some of these issues.

Unfortunately, things have not matured to that level in many of our county assemblies. Therefore, you find that citizens get to write to the Senate instead. Perhaps they do so because they feel the weight of a national institution will be felt and then a governor or a county government will respond more appropriately if they are invited to a Parliament such as this.

I wish to remind our colleagues in the 47 county assemblies that if they assert themselves and ensure that on any particular matter that concerns citizens of that particular county, they investigate and get to the bottom of it, and respond within the constitutional timelines and live as per the dictates of our Constitution, then over time, citizens will begin to gain trust in our county assemblies.

If this happens, you will find that this particular gentleman who is petitioning us today, will instead report to Kisii County Assembly, raise his issues there and have them ably attended to. If the county government is at fault, if the allegations he is making are true and he has been unjustly treated, then his issues will be properly addressed and he will get the remedy that is needed. He will not have to travel to Nairobi and sometimes it is not very easy to access Parliament. Within your own county assembly in your county, things are a bit easier and more efficient.

Mr. Temporary Speaker, Sir, the Committee to which this matter will be referred to will deal with it. I believe part of the recommendations that they will send to him will be the first point of referral. Just like in a court of law, you cannot arise today on a matter which the magistrates court has jurisdiction and find yourself at the Supreme Court and say, 'because this court is the most powerful, I want this case to be addressed immediately'.

We must exhaust all the possible lower channels in addressing some of these issues, including even trying to seek mediation. We should even seek the services of a village elder who can provide a solution if you have an argument or a land dispute with a neighbour, or anything of the sort.

In the same breadth of thinking, then it is possible to refer such people and let them know that before you consider tabling such a Petition before the Senate, you can

exhaust the channels that are available before the county assemblies. It will take time because these are not matters that are properly defined.

Maybe it is a challenge to us as legislators because we have not provided further legislation on the role of petitions and their place in Parliament and in the county assemblies. It is something that we can think about; what is it that we can legislate that will guide people to know, what is the kind of issue that you can petition a county assembly? What is better handled by the National Assembly? What is better handled by the Senate so that we give proper direction to the citizens. Otherwise, over time we will find ourselves with all these roles that are overlapping.

Good luck to him. I wish him well as we consider his Petition. I hope that his issues will be quickly addressed and justice will be served to him in whatever manner that the committee deems fit.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. (Dr.) Ali:** Mr. Temporary Speaker, Sir, I want to follow what Sen. Cheruiyot has said. Even though everybody has the right to petition the Senate, if every individual out of the blues decides to petition the Senate, we will be overwhelmed as well.

This gentleman has petitioned the Senate so that he is paid his salaries. I think when these petitions are brought to the House, it should be considered whether these issues should come to the Senate or whether the individuals should be advised otherwise. The same thing applies to the earlier Petitions which we were talking about here, about the corrective tissue disorders, there are several of them and the Committee on Health has dealt with several of them.

It looks like the same Petitions are coming back after three or four months, whereas some had been concluded. Secretariat, when Petitions like this come, instead of just bringing it to the House, sometimes it has to be considered and looked into. Otherwise, we would be doing the job of others. As Sen. Cheruiyot has said, the county assembly should be capable of handling these issues.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. M. Kajwang', you have the Floor.

**Sen. M. Kajwang':** Mr. Temporary Speaker, Sir, unfortunately the way Article 119 is framed it gives that blanket right to Kenyans to Petition Parliament on any matter. Sometimes, if you go to other countries like the United Kingdom and the United States of America, people send Petitions to Parliament on things that sound trivial. Someone will send a Petition that the neighbour is rearing a dog that is not fit to be in that neighbourhood and this makes it a big problem.

Before the enactment of this Constitution, we had an Act of Parliament called the Petition to Parliament Procedure Act. When it was repealed with the enactment of the new Constitution some of those provisions found their way in the Standing Orders of the Senate and the National Assembly. Not too long ago, Sen. Pareno, attempted to come up with legislation 'the Petition to County Assembly Procedure Bill'. I am not sure where it ended.

The views of Sen. Cheruiyot and Sen. (Dr.) Ali could be captured in those Bills so that we define a threshold. This country has invested in the Commission on Administrative Justice, where we have an Ombudsman. It is to the Ombudsman that

some of these issues should be directed. They could have many concerns as the Ombudsman, but when Hon. Otiende Amollo was the Ombudsman, it was visible, audible and we could feel it. I want to encourage my sister Florence Kajuju who is the current Ombudsman to ensure that she makes the public aware that the Commission exists and some of these complaints can be sent there.

Even though Standing Order No.226 (3) only requires the Clerk to consider within seven days whether the Petitions meet the threshold in law. We need to define our own internal threshold. I see nothing wrong in the Senate receiving a Petition and recommending the petitioner to the Ombudsman to take up a matter, or recommending to the National Lands Commission to take up a matter. Most of the Petitions before the Committee on Lands, Environment and Natural Resources end up with the National Lands Commission. Recommending to the Ethics and Anti-Corruption Commission (EACC) to take up a matter. That way we shall de-clog the pipeline of Petitions in this House and it will be more effective.

Unfortunately, as things stand, the Petition must be dealt with within 60 days. Sen. Cheruiyot, who has expressed an interest in coming back to this House has a responsibility of making sure the Standing Orders are amended for posterity.

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

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. Sen. M. Kajwang' has picked my mind. When you look at Article 119 of the Constitution, it states "Every Person". Under Standing Order Nos. 225 to 229 there is a part that we need to play. The Standing Order No.226 (3) states-

"The Clerk shall, within seven days of the date of receipt of a petition, review the petition to ascertain whether the petition meets the requirements of these Standing Orders and of the law."

Technically, we have a leeway. In as much as Article 119 states that every Kenyan has power or every person has the right to Petition both Houses of Parliament, when you look at our Standing Orders we can still review. From where I sit, these are things we need to agree on. I thank the petitioner and it should not be seen as if the Senate is not interested in the plight of Kenyans. What we assure the petitioner is that the relevant Committee shall deal with this matter and the report shall come back within 60 days as envisaged by the law.

However, what we are looking at is how to make this House efficient and effective. I remember it was somebody from Embu, an employee had petitioned this House on the problems he or she had with the county government. I do not know whether it was Embu or Meru. It was either of those eastern counties. This matter was dealt with before.

Finally, looking at this issue of employees and employers, especially county governments and the public service - it is good that the Nandi County Assembly is still here - some of these things can be handled at the county level. I am happy with the Committee on Labour and Social Welfare. County Assemblies can handle some of these issues at that level where they can invite the governor and talk to the CPSB.

There was a Petition before this House from Nandi concerning the non-payment of support staff under contract within Nandi County Government. That Petition is still being handled by the Committee on Labour and Social Welfare. The Nandi County

Assembly was also seized of the matter. A number of people working within the secretarial section, staff in hospitals and casual labourers who had worked till the month of November and had not been paid for eight months.

I remember a Committee of this House ensured - even cleaners that had not been paid by Nandi county government - that the Nandi County Assembly also seized the Petition. There is a huge challenge where there is mismanagement of our human resource within the county governments.

We are aware that most of the county governments have gone beyond the threshold of 30 per cent that the law has provided. In Nandi County, we are approaching 60 per cent on recurrent expenditure. We are spending that amount on payment of staff and employees within the county government, which affects the development vote. When you use a lot of recurrent expenditure, it means you will have less money to do meaningful development. When that Petition comes - I thank the Committee on Labour and Social Welfare - we need to advise that whenever you bring a Petition here our Standing Orders are clear that you should not take it to another forum like the court of law.

I advise petitioners who petition this House that whenever you come with a Petition ensure that you have not taken to another forum. When I was a Member of the Labour and Social Welfare Committee there was a law that was supposed to be brought to the House on uniform CPSB that will encompass the National Public Service Commission and the entire County Public Service Boards of the 47 county governments.

I congratulate the petitioner and assure him that this House will treat their matter with the seriousness it deserves. Going into the future, we must review to ensure our House becomes effective and efficient in terms of delivery.

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

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. I wish to support this Petition. The Petition is rightfully before the Senate. I wish there was a bit of additional information that the petitioner had attached to the Petition, especially the letter of appointment. This facilitates confirmation of his appointment. This is a matter that the Committee can investigate and request the petitioner to appear with the relevant documents before the Committee. Employees of the county governments are suffering.

The reason why they come to the Senate is that their issues or problems are not remedied at the county government and county assembly levels. If the county assembly that has the oversight responsibility in ensuring that the county governments have carried out their mandate properly did their job, then this matter should not have come to the Senate. We have a serious challenge as far as matters of the rights of employees are concerned in our counties.

Mr. Temporary Speaker, Sir, I have a similar situation in my county, where the casual workers have insisted that I should go and visit them this weekend because they have not been paid salaries for over nine months. These are very low level employees. They have families that they need to take care of, rental houses, medical bills and children going to school.

It is really unfair the kind of treatment the employees of the county governments are subjected to, more specifically the casual workers. This is a matter that the county

assemblies should seriously look into and ensure that the rights of employees are protected at that level, instead of them referring the matter to the Senate.

It is also very expensive for these Petitioners to go to court. If their problem is not solved, most of the time people rush to court. However, these people cannot even afford legal fees or get lawyers who can represent them. When they have entitlements at the county level, the county assembly should have looked into this matter.

Clearly, this is a very serious matter that we need to look into and see how we can help Kenyans, whose rights are violated at that level. The relevant Committee should look into this Petition very seriously and make sure that the Petitioner has actually gotten their right.

I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, pursuant to Standing Order 232 (1), the Petition is hereby committed to the Committee on Labour and Social Welfare for its consideration.

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

Next Order.

### PAPERS LAID

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. I beg to lay the following Papers on the Table of the Senate, today, 7<sup>th</sup> October, 2021:

#### THE 2021 BUDGET REVIEW AND OUTLOOK PAPER FOR F/Y 2022/2023 AND THE MEDIUM TERM BUDGET

The 2021 budget review and outlook paper for the Financial Year 2022/2023 and the Medium Term Budget.

#### THE PUBLIC DEBT MANAGEMENT REPORT FOR F/Y 2020/2021

The Public Debt Management Report for the Financial Year 2020/2021

Thank you.

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

### COMMUNICATION FROM THE CHAIR

#### SUBMISSION OF THE ANNUAL REPORT ON PUBLIC DEBT MANAGEMENT/BUDGET REVIEW OUTLOOK PAPER BY THE NATIONAL TREASURY

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, this is with regard to the report by the National Treasury on Public Debt Management for the Financial Year 2020/2021 and the 2021 Budget Review and Outlook Paper or the Financial Year 2022/2023 and the Medium Term budget.

Hon. Senators, through a letter referenced MDD 4/128, dated 30<sup>th</sup> September, 2021, the National Treasury submitted to Parliament, the Annual Report on Public Debt Management for Financial Year 2020/2021 and the 2021 Budget Review and Outlook Paper for the Financial Year 2022/2023 and the Medium Term Budget.

Section 200 of the Public Finance Management Regulations, 2015, provides that-

“Not later than three months after the end of each financial year, the Cabinet Secretary shall prepare and submit an annual report to Parliament on public debt in the format set by the Cabinet Secretary.

The annual public debt report under paragraph (1) shall include the following information-

- (a) review of previous year’s financing of budget deficit;
- (b) composition of external debt;
- (c) publicly guaranteed debt;
- (d) on-lent loans and contingent liabilities;
- (e) debt strategy and debt sustainability;
- (f) outlook for the medium term; and,
- (g) any commitment fees and penalties paid on any undisbursed amounts of a loan.”

Section 26 (3) of the Public Finance Management Act, 2012 provides that-

“Not later than seven days after the Budget Review and Outlook Paper has been approved by the Cabinet, the National Treasury shall-

- (a) submit the Paper to the Budget Committee of the National Assembly to be laid before each House of Parliament; and,
- (b) publish and publicize the Paper not later than fifteen days after laying the Paper before Parliament.”

These reports are consequently committed to the Standing Committee on Finance and Budget, which may scrutinize the contents and make observations and recommendations thereon by way of a Report to the Senate.

I thank you.

Next Order!

## NOTICE OF MOTION

### APPROVAL OF SENATORS TO SERVE IN THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

**Sen. Dullo:** Mr. Temporary Speaker, Sir, I wish go give Notice of the following Motion-

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

- (1) Sen. Abdul M. Mohammed, MP.
  - (2) Sen. Isaac Ngugi Githua, MP.
  - (3) Sen. Agnes Kavindu Muthama, MP.
- I thank you, Mr. Temporary Speaker, Sir.  
**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Order!

## STATEMENTS

### MANAGEMENT OF *INUA JAMII* PROGRAMME BY KCB

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. The *Inua Jamii* Programme is mainly for the vulnerable in the society including the old.

I rise pursuant to Standing Order No.48 (1) to request for a Statement from the Standing Committee on Labour and Social Welfare on the management of the *Inua Jamii* Programme and funds by the Kenya Commercial Bank (KCB).

In the Statement, the Committee should-

(1) State the rationale for shifting the processing of cash disbursements for the *Inua Jamii* Programme from the Postal Corporation of Kenya (POSTA) to Kenya Commercial Bank (KCB), noting that majority of the beneficiaries reside in the rural and far flung areas, where POSTA enjoys a wider presence than KCB.

(2) Shed light on the alleged mismanagement and irregularities in the disbursement of funds perpetuated by the Ministry of Labour and officers of KCB with specific reference to July 2021 in the disbursement of Kshs8.7 billion to *Inua Jamii* Programme beneficiaries and Kshs26 million towards the nutrition improvement through cash and health education complementary programme, both of which were not received by the beneficiaries.

(3) undertake the investigations on the management of *Inua Jamii* funds and report to the Senate with appropriate recommendations to address any gaps that may be identified in the management of the said funds through policy and legislative intervention; finally,

(4) provide an updated list of beneficiaries for the *Inua Jamii* Programme noting that there is attrition and deaths of some of the benefactors across all the 47 counties and funds released to beneficiaries for the last 24 months in each county since the onset of Covid-19 pandemic, 2020.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. (Dr.) Musuruve, are you reading a Statement or contributing?

**Sen. (Dr.) Musuruve:** Mr. Temporary Speaker, Sir, I want to contribute to the Statement.

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

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support this Statement.

The *Inua Jamii* Programme transitioned from a programme that the Government had started some years back. First, it started as an experimental programme to help the poor in the then Nyando District.

It was eventually implemented and expanded to help the vulnerable and persons with disabilities so that they can eke a living. However, it is unfortunate that as we speak, the rightful beneficiaries of this programme are not getting the money because it is being misused. So, there is need for investigation to be done to establish why there is transfer to Kenya Commercial Bank (KCB).

There is also need to have countrywide investigations to find out whether the Inua Jamii Cash Transfer Programme is benefiting the intended beneficiaries so that any form of mismanagement can be corrected to ensure that the Government initiative is implemented efficiently.

I support this Statement.

**Sen. M. Kajwang'**; Mr. Temporary Speaker, Sir, I am looking at Standing Order No.46 that talks about Statement hour, when it starts and ends. I know that you are always considerate and indulgent when Members bring Statements.

The Statements that have been read out are important and we would like to contribute to them. However, there is a notice of Motion by Sen. Dullo which is also extremely important. There is also the Health (Amendment) Bill by Sen. (Dr.) Ali, who hopes that the Mover will be called to respond today.

So, I request that notwithstanding Standing Order No.46, you truncate debate or comments on the Statements that shall follow.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I give two minutes to those who wish to contribute to this Statement or that which will be read.

**Sen. Cheruiyot:** Thank you, Mr. Temporary Speaker, Sir. I have two minutes thanks to the very unwelcomed intervention by Sen. M. Kajwang'.

This is a serious issue. Inua Jamii is a revolutionary programme. Much as our country is not a socialist Republic, we have all these programmes which are meant to cushion the poor from the difficulties that we face because life does not present equal opportunities to all of us. This is one such programme. It is well thought-out and well-meaning. However, currently, in the way that it is being administered, these questions that have been raised by our colleague, Sen. Cherargei, are important.

First, you will recall that we read in the newspapers a few months ago, that every time there were by-elections in certain regions of the country, all the funds that were meant for Inua Jamii Programme were redirected.

You will find a starving mother in Turkana, Marsabit and Moyale, which are extremely poor parts of the county, due to Government neglect, people continue to suffer yet they are the intended real beneficiaries of such programmes. They are left to stay for months on end without funding or any contribution so that the Government can do politics with that particular programme. This is a shame. It is evil and immoral.

Therefore, I agree with those of us who are saying that when this matter come before the Committee of the House, we should take time to read through the presentation that will be made by this Ministry so that we see who the beneficiaries are. Let it be broken down by constituencies or wards across the country.

We begin with the county, the constituency and the ward so that we see whether people are benefiting from this programme or it is skewed towards a particular part of the country.



Secondly and most importantly, Postal Corporation of Kenya has offices across the 47 counties of Kenya. Despite the fact that KCB has branches across the country, I thought since Postal Corporation needs more of such Government programmes to survive and do business, they will be left with such programmes. Why is such good business being taken away from them and handed over to KCB?

Who is benefiting? Why is KCB fighting for scraps instead of seeking for opportunities across Africa? They are known to be a bank that is expanding across the space of Africa. Why are they now fighting for space with small banks like Postal Corporation of Kenya and taking such programmes from them? It is not fair.

We must be told what informed this particular move. If there is anybody with a pecuniary interest who is benefiting, let them be mentioned before this House so that Kenyans can know.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): The next Statement is by Sen. Seneta.

Proceed, Sen. (Dr.) Musuruve on behalf of Sen. Seneta.

#### CONSTRUCTION OF HEALTHCARE CENTERS IN KAJIADO COUNTY BY ADB THROUGH THE MOH

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir. On behalf of Sen. Seneta, I would like to request a Statement on construction works on health centers across Kajiado County funded by the African Development Bank (ADB).

I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Health regarding construction works on health centers across Kajiado County funded by ADB through the Ministry of Health.

In the Statement, the Committee should-

(1) investigate and report to the Senate the status of completion of the 62 health facilities across Kajiado County funded by the ADB;

(2) establish the cause of stalling of construction works of some of the health facilities mentioned above;

(3) establish how much money has been released by the ADB to the Ministry of Health towards construction of the said health facilities and how much has been expended on the said health centers;

(4) state when construction works in the said health facilities will resume and when the projects will be completed and handed over to the County Government of Kajiado, and, finally;

(5) explain the measures put in place by the county government to operationalize the health centers that are complete.

#### COMMEMORATION OF THE WORLD MENTAL HEALTH DAY, 2021

**Sen. Kasanga:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No. 47(1) to make a Statement of general topical concern namely, the commemoration of the World Mental Health Day, 2021.

The World Mental Health Day is commemorated on 10<sup>th</sup> October every year. It is an international day for global mental health education, awareness and advocacy against social stigma.

It was first celebrated in 1992 at the initiative of the World Federation for Mental Health. The theme this year is “*Mental Health in an Unequal World.*”

Mr. Temporary Speaker, Sir, Kenya was ranked sixth among African countries with the highest number of depression cases by a 2017 World Health Organization (WHO) report. The report further stated that in Kenya, one in four people is likely to suffer from a mental illness.

The Kenya Mental Health Policy (2015-2030) indicates that mental disorder cases have risen exponentially in Kenya. 20-25 per cent of outpatients seeking primary healthcare present with symptoms of one mental illness or another.

This year, as we commemorate the World Mental Health Day, it is important to note that due to COVID-19 pandemic, there has been an increase in mental health illnesses due to stress and anxiety associated with the impact of COVID-19 such as job losses, failed careers, dwindling income, marital disputes and others.

On 27<sup>th</sup> July, 2021, the *People Daily* newspaper had an article titled; *Alarm as 483 suicide cases hit nation in just three months.* They reported that in just three months, there had been 483 suicide cases that had been reported and recorded.

Mr. Temporary Speaker, Sir, I would like to appreciate the effort the Government is making in curbing the rising trend. On Wednesday, 9<sup>th</sup> June, 2021, the Ministry of Health launched the Kenya Mental Health Action Plan (2021-2025). The plan will provide a framework for both national and county governments and stakeholders to implement the Mental Health Policy through strategic objectives which specify priority targets and indicators. Though the Government is now putting up measures to promote mental health wellbeing for our citizens, a lot still needs to be done.

As we commemorate the World Mental Health Day this year, I would like to call upon all stakeholders to work together in this course. I call upon the Ministry of Health and the counties to expand mental health funding and human resource. This area of health is unfortunately underfunded, which has made it very difficult to run some of the programmes which would have improved mental health services and awareness.

Stigma and discrimination are a major barrier to the improvement of mental health and wellbeing of the population. It contributes to human rights violation of people with mental and psycho-social disabilities and inadequate investment in mental health acts as a barrier to their inclusion in the community. I therefore call upon the Ministry of Health and the counties to support initiatives that increase awareness and combat stigma at all levels.

Mr. Temporary Speaker, Sir, I would like to appreciate the efforts of Members of this House that gave rise to the Mental Health (Amendment) Bill, 2020. I now call upon Members of the National Assembly to also support and pass the Bill, which is currently in the National Assembly and to help strengthen the legal framework of mental health in this country in line with Article 43(1) which provides that every person has the right to the highest attainable standard of health which includes the rights to healthcare services. This includes mental health.

The Bill, when passed into law, will provide for the prevention of mental illness, care, treatment and rehabilitation of persons with mental illness. It will also provide for procedures of admission, treatment and general management of persons with mental illness.

I urge the Committee on Justice, Legal Affairs and Human Rights to initiate the process of decriminalizing suicide. We now know that anyone attempting suicide is actually crying out for help. Let this be the gift to Kenyans before this term of Parliament lapses.

I also would like to urge mental health practitioners to work together in providing services for Kenyans. This is mostly a call to the psychiatrists in this country, being the highest in the pecking order of the mental health practitioners. Every mental health practitioner plays a big role in their different capacities and working in isolation can only weaken and delay efforts towards improving mental health care in the country.

Every single Kenyan has a responsibility in the promotion of mental health. Those who understand mental health should take it upon themselves to educate their peers and create awareness. We all need to stop stigmatizing people who are mentally ill. It is important to remember that anyone of us can fall mentally ill.

We need to remember to use the right language when talking about mental illnesses. Incorrect language increases stigma. Let us join hands to fight stigma by consistently talking about it and encouraging each other to open up. *Tufungue roho*.

Mr. Temporary Speaker, Sir, in conclusion, I would like to recommend the good work the different stakeholders are doing to promote mental health. Do not tire. Continue with the good work and one day, we will realise a nation that is more aware and understands mental health, a nation whose people can access mental health services whenever they need to and a nation whose mentally ill people are not stigmatized and discriminated, but instead treated with care and compassion.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. M. Kajwang', you have two minutes.

**Sen. M. Kajwang'**: Mr. Temporary Speaker, Sir, just in one minute, allow me to commend Sen. Kasanga, an architect who has made mental health a great subject in this House. I did not see such passion in the previous Parliament.

She is a Member of this House who has singularly dedicated herself to a subject not just in words. She has gone further to propose legislation. I join her in calling upon Members of the National Assembly to fast-track the Bill that is before them.

We shall see the success and the fruits of Sen. Kasanga's work when we decriminalize suicide and ensure that the referral hospital that we have along Thika Superhighway which people call "Mathari" --- Mathari is a denotation of a place where people who are subhuman go to.

We should change that perception and start looking at Mathari National Teaching and Referral Hospital as a place where people go for correction rather than a place where people get condemned. We shall see the fruits of Sen. Kasanga's efforts when ultimately each and every county government assigns and dedicates a mental health officer.

Some of the people who are stressed out because of the pandemic are medical health workers in the counties and they have got nobody to run to. Some of them run to

the bottle, some of them run to “ganja”, some of them run to cults and some of them do the kind of things that make it inappropriate for members of the public to go to them for assistance.

As a House, let us commend Sen. Kasanga in unison for her brilliant efforts in ensuring that this space is given the respect that it deserves.

I thank you.

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, I thank Sen. Kasanga because she has distinguished herself by becoming the champion of creating mental awareness. In the past, many people used to imagine that mental illness was because of sorcery or witchcraft or family DNA.

During this period of COVID-19 pandemic, most people continue to suffer because of mental illness and depression. I am happy that the Ministry of Health has issued guidelines on mental health.

I expect Sen. Kasanga to thank me because I am one of the people who pleaded when the National Assembly wanted the President to assent to 24 legislations and we went to court. If yours truly did not burn the midnight oil by drafting pleadings, the Mental Health (Amendment) Bill would have died a natural death.

I agree with her that we need to decriminalize suicide. This is because in Kenya, when you commit suicide and die, there is no case. However, when you do not die, the police take you to hospital before taking you to prison. Maybe somebody is undergoing emotional torture.

We have been witnessing university students commit suicide. We have also seen couples killing each other. Mental illness is a problem to the nation.

In Moi Teaching and Referral Hospital (MTRH), there is a ward specifically for mentally ill patients. We also have Mathari National Teaching and Referral Hospital. The Government must invest more in mental health to provide treatment to the mentally ill in this country.

We must allocate more funds to MTRH. The Ministry of Health should also set aside more funds for Mathari National Teaching and Referral Hospital to ensure that mentally ill patients are taken care of.

Mr. Temporary Speaker, Sir, I appreciate what Sen. Kasanga is doing. She has a full and unconditional support of the Senate.

**Sen. (Dr.) Ali:** Mr. Temporary Speaker, Sir, I think it is in order to support Sen. Kasanga because she has done very well in this aspect. She has done better than many doctors. That is the reality of the matter.

Mental health is a very serious disease that people take lightly. People think that people who are mentally ill are those who walk naked but that is not the case. We have those who try to kill themselves. We have normal people who put on clothes and speak normally but they could be having mental health cases.

I was in a medical school a long time ago and we visited Mathari National Teaching and Referral Hospital. While there, we met a guy wearing a suit and a tie and he was carrying a briefcase. We called the guy and asked him to tell the students where he came from. He talked of another planet somewhere where he his family is. He said he used to go through a hole to see his people. On listening to him, one wonders where he

came from. If you saw him on the streets, you would never know he had a mental problem.

We keep these people on *Ragatin* in Mathari National Teaching and Referral Hospital which makes them suffer without helping this country. We need to take care of our mental patients and hospitals. Things have changed. Depression is one of the serious issues. Young boys and girls are depressed because of what they do in school and how teachers treat them.

We need to have very serious investment in mental health where teachers and all those who take care of our young ones know how to deal with these issues.

**Sen. Cheruiyot:** Thank you, Mr. Temporary Speaker, Sir, for giving me this chance to also just make my comments on this issue and the good work being done by our colleague, Sen. Kasanga.

*(Sen. (Dr.) Ali spoke off record)*

I am being reminded of your other title which I did not know that is being added as a feather to your cap.

Martin Luther King Jnr. said that if a man is called to be a street sweeper, he should do so as Michelangelo painted as Beethoven composed music or as Shakespeare composed poetry. Let them sweep until the angels in Heaven pause and say that indeed there lived a street sweeper in that part of the world.

In this current Senate, if there is a colleague who has distinguished themselves in terms of sticking to a particular topic and doing whatever possible to pursue the cause, that award goes to our colleague, Sen. Kasanga, especially so with regard to this very important issue of mental health.

Many of us continue to treat this matter casually, but when it strikes home; when you have a relative or friend who becomes mentally ill, you begin to appreciate the challenge we continue to face as a country.

I do not know how many of our colleagues have had the chance to visit Mathari National Teaching and Referral Hospital. It is the only Government facility in the entire country that takes care of all our patients who are challenged with this increasingly common disease in our country. You will witness for yourself the underfunding that continues to go to 30 institutions.

Many of these patients live in very difficult conditions. In fact, when you visit the hospital, the unfortunate thing is that you realize why once a patient is taken there, it is not easy for them to come out due to the conditions. Even the doctors that serve there are not well taken care of.

Unfortunately, such is the stigma against this challenge. I am told that within the doctors' circles when you fall out with the Ministry, you are referred to serve at the mental hospital. I have seen this happen to some of the doctors because of the challenges with the Ministry of Health. I will be raising some of these concerns when we speak later on into the Bill by our colleague, Sen. (Dr.) Ali on human resource issues in the health sector.

It is unfortunate and points out the stigma even at such high levels as the resident Ministry that is supposed to generate policy on how to improve the welfare and salvage this situation in our country.

We celebrate our colleague. I only hope Sen. Kasanga can move on beyond the brilliant work she has been able to do and perhaps start a cause that will reach out to friends in this House and people in the corporate world of trying to put up a more decent and modern mental health hospital that can be used as a referral because this is a national crisis. People across all spheres of professional work, young and old are falling victim to the challenges of life and becoming mentally ill. There is need for another hospital.

Sen. Kasanga, you can engage those who are experts in resource mobilization so that we see if this is something. I believe it is doable.

Congratulations.

**Sen. (Dr.) Musuruve:** Mr. Temporary Speaker, Sir, kindly allow me to congratulate Sen. Kasanga for coming up with this Statement and the passion she has on mental health. It is not the first time she is talking about mental on the Floor of this House.

As we commemorate this day on mental health, it is everyone's duty to promote mental health. We must all see to it that we are involved in mental health. Many times I have heard people talking about so and so *ni mwenda wazimu* or *anjiongelesha*. Sometimes derogatory terms are used to describe people who have mental illness.

Mental illness is caused by financial stress, loss of a loved one, lack of employment, among others. We need to identify the causes of mental illness and address them. For instance, if a youth is depressed because a parent has died, they can overcome it if talked to. Some cases in mental hospital can be handled before reaching the hospital.

It is not anyone's wish to have a mental illness. We have to look for mechanisms of helping those who are going through mental illness. I support the Government's initiative of coming up with a Plan of 2020-2025 of coming up with a framework of dealing with mental illness. Such a framework can be very good.

As we talk about this, there is need for the Government to pump in money in this area. We need advisory centres on mental illness. We also need psychiatrists and psychologists to be employed and paid well. They should be stationed in all counties. County governments should be able to identify mental illness in the counties and appropriate some money that can be used for such cases and staff that can handle such cases at that level.

I urge all Kenyans to be responsible in ensuring we have promoted mental health. I support.

*(Interruption of debate on Statements)*

**The Senate Minority Leader (Sen. Orenge):** Mr. Temporary Speaker, Sir, there is a matter which has really taken our time. We have had *Kamukunjis* about the formation of the Committee on Devolution and Intergovernmental Relations. I am afraid if we go at this rate, this Committee will have another one week without a meeting. The Chairman is here; I think they have not met for three months.

We had a *Kamukunji* this morning to discuss that issue. I am afraid at the rate we are going this matter may end up coming again next week. I can see the Senator of

Kericho laughing. I plead with Sen. (Dr.) Musuruve. We have Members of the Senate who are not in a single Committee. The Notice of Motion that has been given tried to address that problem.

Sen. M. Kajwang' who is the Chairperson of the Committee had risen on a point of order.

I plead with you that we deal with the matter and we can come back to Sen. (Dr.) Musuruve.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators as raised by the Senate Minority Leader, we proceed to Order No. 8 and after its conclusion, we come back to Order No. 7 to finalize on the last statement by Sen. (Dr.) Musuruve.

Proceed, Senate Majority Leader, Sen. Dullo.

### MOTION

#### APPROVAL OF SENATORS TO SERVE IN THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

**Sen. Dullo:** Mr. Temporary Speaker, Sir, I beg to move the following Motion -

Notwithstanding the resolution of the Senate made on 14<sup>th</sup> December 2017, 14<sup>th</sup> February 2018, 21<sup>st</sup> February 2018, 21<sup>st</sup> November 2018, 20<sup>th</sup> March 2019, 19<sup>th</sup> June 2019, 28<sup>th</sup> April 2019, 28<sup>th</sup> April 2020 and 24<sup>th</sup> June 2020 on the approval of Senators to serve in various Standing Committees of the Senate and pursuant to Standing Orders 189, 218 and the Second Schedule to the Standing Orders, the Senate approves the following Senators to serve in the Standing Committee on Devolution and Intergovernmental Relations.

1. Sen. Haji Abdul Mohamed, MP
2. Sen. Isaac Ngugi Githua, MP
3. Sen. Muthama Agnes Kavindu, MP

Mr. Temporary Speaker, Sir, I will not dwell on this because it is a straightforward matter. This will actually enable the Committee on Devolution and Intergovernmental Relations that has been unable to meet because of lack of quorum. We had a *Kamukunji* this morning on the same, it is important we pass these members to join this Committee so that it can deliver on its mandate.

I therefore wish to move and I request Sen. James Orengo, the Minority Leader to second. Thank you, Mr. Temporary Speaker, Sir.

**The Senate Minority Leader** (Sen. Orengo): Mr. Temporary Speaker, Sir, I second.

*(Question proposed)*

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, thank you for this chance. I support this motion brought by Sen. Fatuma Dullo to assign this special Committee to our three colleagues. I understand why the Senate Minority Leader was insisting that indeed

there are some colleagues who since they were elected have not had the opportunity to serve in any committee whatsoever.

Mr. Temporary Speaker, Sir, I know the term is far much spent and we would wish to conclude this particular issue but I rose because I want it to be on record that we are charging these colleagues to take this Committee with the seriousness that it deserves. It is a very important Committee. It is at the heart of our mandate as the Senate to ensure that devolution succeeds. Over the years from the last Senate to this particular one, this Committee has handled very important affairs that have been brought before this House.

It has reconciled county assemblies with governors who were not seeing eye to eye, counties that were about to break apart, counties whose governors were almost giving up and pushing for dissolution of their counties have appeared before this Committee on many occasions and such matters were resolved.

Finally, Mr. Temporary Speaker, Sir, I single out one of our three colleagues who has been nominated to this Committee; Sen. Agnes Kavindu, as a good example of what new Members in the House should be doing. The hon. Member is always active, participates either physically or virtually and comes to the House most of the times and contributes too. There is a new trend which I see amongst new legislators that are coming into the House. It is unfortunate that you hardly find them in the House and you wonder, if you are a parliamentarian, what other business is this that is so important.

You know Sen. James Orengo has always reminded us that there is no greater platform that you can get anywhere in the world than this microphone that you have before you, that you speak and people listen. Therefore Sen. Abdul M. Haji and Sen. Isaac Ngugi will find good inspiration in what Sen. James Orengo said.

I want to charge the Senate Minority Leader with a responsibility; take time and speak to these two young men. Let them take their parliamentary duties with the kind of seriousness that you take yours. It is now five o'clock, you are seated there and not that you do not have responsibilities that are calling upon you. I am sure there are one or two things that you would wish to handle outside the precincts of this House but you take your work seriously.

So that particular trend that I see cropping up amongst many of our legislators is not something to be encouraged. I do not say this to chide them but it is good to always remind people because sometimes we forget that it is a privilege and an honour to serve your people. When you have a chance, come to the House and speak to their issues. Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Wario Golicha Juma.

**Sen. Wario:** Ahsante, Mheshimiwa Spika wa Muda, kwa kunipatia nafasi hii. Maseneta ambao wamechaguliwa kujiunga na Kamati ya Ugatuzi na Mahusiano Kati ya kiserikali za Kaunti na Serikali Kuu na pia wale ambao waliochaguliwa hivi karibu, tunawakaribisha kwa Bunge hili. Tunatoa wito kwao waweze kukaa katika Bunge hili na kuendeleza mambo ya ugatuzi.

Kwa hakika hakuna njia nyingine ambayo mtu anaweza kufanya kazi yake iwe mzuri zaidi sababu ugatuzi vile ulivyopakiliwa ndani ya katiba ya sasa. Kwa wale waliopata fursa kutekeleza mambo ya ugatuzi wamepata bahati kubwa haswa kukaa katika Seneti.



Kazi yao haitakamilika bila kufanya kazi ya ugatuzi. Wao wamewekwa katika Kamati hiyo ya Ugatuzi na Mahusiano Kati ya Serikali za Kaunti na Serikali Kuu na ni nafasi mwafaka ambayo wanaweza kufanya kazi hiyo ili waweze kujua vile watakavyoendesha kaunti zao na pia wafanye kazi na magavana katika kaunti zao.

Kwa siku ya leo, vile tumepitisha Hoja hii wajiunge na Kamati hiyo kama wataweza basi kazi ya ugatuzi itaenda mbele. Mimi natoa wito kwao waweze kukaa katika Kamati hii na waendeleze shughuli za ugatuzi.

Ninaunga mkono, Mheshimiwa Spika wa Muda. Asante.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, there are no more requests for this Motion. I now proceed to put the question.

Sen. Dullo, you can reply if you have something to say. It is a procedural Motion.

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. I wish to reply to this Motion. I thank the Members who have contributed and also supported in ensuring this matter is concluded today.

*(Question put and agreed to)*

*(Applause)*

*(Resumption of debate on Statements)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Now, we go back to Order No.7. I now call upon Sen. (Dr.) Musuruve to read her statement.

## STATEMENTS

### COMMEMORATION OF THE WORLD TEACHERS DAY

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.47(1), to make a Statement on an issue of general topical concern namely; commemoration of the World Teachers Day.

Mr. Temporary Speaker, Sir, on 5<sup>th</sup> October every year, the world celebrates the International Teachers Day. This day was set aside to commemorate the anniversary of the adoption of the 1966 International Labour Organization (ILO)/United Nations Educational, Scientific and Cultural Organization (UNESCO) recommendations, concerning the status of teachers.

This day sets international benchmarks regarding the rights and responsibilities of teachers and standards for their initial preparation, recruitment, employment, further education, and teaching and learning conditions. The recommendation concerning the status of higher education teaching personnel was adopted in 1997 to complement the 1966 recommendation by covering teaching personnel in higher education.

Mr. Temporary Speaker, Sir, the World Teachers' Day provides an opportunity to celebrate the teaching profession worldwide, take stock of achievements and draw attention to the voices of teachers who are at the heart of efforts to achieve the global education target of leaving no one behind.

Every year, this day reminds us of the critical role played by teachers in achieving inclusive and quality education for all. Teachers help lay the foundation of our society. They are coaches, caretakers, mentors and offer great inspiration to our communities. We acknowledge our teachers, the unsung heroes, who continuously dedicate themselves to their work to make the best out of tough situations. There are no doubts that their role is critical in terms of support to vulnerable populations and mitigation of inequality gaps.

Mr. Temporary Speaker Sir, it is important to note that even as the world continues to celebrate the World Teachers Day, the role played by teachers in imparting knowledge cannot be gainsaid, especially during this COVID-19 pandemic times. It is for this reason that commemoration of this year's day focused on the support teachers need to contribute to the recovery process under the theme "Teachers at the Heart of Education Recovery"

Teachers have displayed great innovativeness in the continued recovery of the education sector from the adverse effects of the pandemic by adopting creative ways using Information Communication and Technology (ICT) such as online classes to ensure continuity of learning. Knowledge and education are the pillars for all things that can be accomplished in life. The resilience shown by our teachers during this pandemic period is commendable and is a learning lesson to our pupils on what it takes to succeed.

Their power for creating change in the society has been seen in the way they continue to provide education to today's youth, thereby giving them a future as well giving them purpose in life and setting them up for success as citizens of our world and inspiring in them a drive to do well and succeed in life.

Mr. Temporary Speaker, Sir, as we mark the teacher's day this year, I call upon the national Government to invest more in the teaching profession, by allocating more funds towards teacher training, capacity building and promotion of teachers. It is notable that many teachers have furthered their education using their own resources. Therefore, reimbursement of training costs, recognition by way of promotion and enhanced pay would make these teachers feel appreciated.

There are disparities in the payment made to Early Childhood Development (ECD) teachers. On average, it ranges from Kshs8,000 to Kshs24,000 a month. This amount is too low and may not be enough to enable teachers meet their daily needs. I call upon the county governments to have a standard way of paying ECD teachers. All county governments need to have a uniform scheme of service for paying teachers just like the Teachers Service Commission (TSC) has for other teachers.

Mr. Temporary Speaker, Sir, the national Government needs to strengthen the teaching profession in colleges and higher levels of learning. Further, most colleges and universities are in dire need of personnel and the Government needs to step in to address this matter. Building this capacity, giving our teachers incentives and appreciating their role is a prerequisite of having good leaders in our society.

Mr. Temporary Speaker, Sir, as I conclude, a healthy tripartite relationship of teacher, child and parent crowned with positive financial involvement of the county and National Government, can translate into good learning outcomes. I wish all our teachers a belated happy Teachers' Day.

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

**Sen. (Prof.) Kindiki:** Mr. Temporary Speaker, Sir, I thank Sen. (Dr.) Musuruve for bringing this Statement. I salute the teachers of the world wherever they are; those in ECD, primary, secondary and tertiary institutions.

We are all a product of teachers. Each one of us, irrespective of our professions, are a product of men and women who nurtured and made us what we are today. We salute our teachers and thank them for the sacrifices they continue to make in nurturing our children and shaping the destiny of our country and of the world.

I take this opportunity to decry the low levels of compensation that we give teachers. Well not just in this country but around the world, teachers are one of the most underpaid professionals. I hope that going forward, we will continually improve the terms and conditions of service for our teachers at all levels.

Mr. Temporary Speaker, Sir, I also take this opportunity to particularly highlight the poor remuneration of teachers in ECD sector. Just as Sen. (Dr.) Musuruve has said, there is need to improve the compensation.

Kenya is unlike so many countries. In many countries with developed education systems and long traditions in public education, Early Childhood Education teachers are very highly paid. In fact, they are paid more than teachers in primary and secondary schools because their tasks are more complex and the kind of professionalism required to nurture young children is much more than nurturing bigger children. I hope this is an area we will look at.

Mr. Temporary Speaker, Sir, since ECD is devolved, this House should come with a policy guideline on county governments so that the terms and conditions for teachers in ECD can be improved.

Finally, I pray that there will be uniformity because some counties are paying teachers reasonably, something like Kshs20,000 which is still very low. However, I hope that can be improved and made uniform so that at least an Early Childhood Education teacher is able to get not less than Kshs50,000 or Kshs60,000 a month. That way we will make sure the safety of our children and their development at that early stage is done.

I salute all the teachers of the world and wherever they are in Kenya and wish them a happy Teachers Day.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Cheruiyot:** Thank you, Mr. Temporary Speaker, Sir. I want to appreciate our colleague, Sen. (Dr.) Musuruve for bringing this very important Statement before the House that celebrates the good work that is done by our teachers. All of us are the product of a teacher somewhere, right from primary, secondary and even teachers who teach at the university like Sen. (Prof.) Kindiki.

I will be remiss if I do not mention that the main reason why I got motivated to speak to this particular topic is that despite the fact that I celebrate teachers, the one I celebrate the most is my mother who was a teacher as well. She raised me well, Mrs. Mary Koskei. May God rest her soul in eternal peace. For me to be who I am it is because of the training that she received, first of all as a woman but secondly and most importantly as a teacher.

Sen. (Prof.) Kindiki once mentioned this to me and I have come to observe that, in many homesteads in the villages there is something unique and special about homes

where they had a teacher as a parent. Most of those children usually turn out well and it is because of the good work that they do both in school and at home.

However, we do not pay them well despite them giving us priceless service because how much would you pay for somebody who teaches you to know how to speak, pronounce words, reason and be better shaped? The amount cannot even be valued in terms of remuneration. What we give is just a token of appreciation but I believe God in his own way ensures that in one way or the other they are always well taken care of.

We need to do better as Sen. (Prof.) Kindiki has mentioned. At this particular time what comes to mind are two issues. One, is this forced training that has caused a lot of complaints among the teaching fraternity where the Government through the TSC is insisting these upgraded refresher courses for our teachers. They are insisting that first of all it is mandatory and it must be at the teacher's expense despite the fact that they know that many of them are actually among the lowest paid civil servants.

It would be unfortunate if this House allowed that to pass. I believe that our Committee on Education is on to that matter and they will not allow this injustice to be visited on very important members of our society.

If the Government and the TSC feel that there are courses that there are mandatory courses that teachers must undertake, then it must be at the cost of the employer. In the first instance, if you have not properly remunerated them, then where do you expect to find the resources to pay for this training? Therefore, that need not be allowed.

The second and most important thing that I wanted to mention is that we are here in the Senate which is the House of devolution. Therefore, we need as a House to do something akin to what Sen. (Dr.) Ali is doing to the health professionals, with regards to teachers and the ECD fraternity. If you go to many of our counties and see the way they are being treated; how Gov. Cyprian Awiti handles them in Homa Bay is different to how Gov. Muthomi Njuki handles them in Tharaka Nithi. If you come to Kericho they are paid differently yet they all do similar work.

Equal pay for equal work is a universal edict that is respected as a labour practice across the world where if you do a similar job in a similar jurisdiction then there should be equal pay. Despite this you will find that in certain counties they are well taken care of while in others they are not recognized or unionized.

There is a petition that I am aware of, from an ECD teacher from my own county of Kericho who continue to be underpaid. Some of them have not been absorbed into the labour force. They are not remunerated an amount that you would say is a decent amount that would enable one to take care of their monthly needs and concentrate on teaching the children.

The point that I make as I conclude is that we need a unified policy on ECD teachers and as a House we must look into that.

Sen. (Dr.) Musuruve, you are a Member of the Committee on Education. Please think about something and bring it before the House so that we either pass it as a resolution or even a Bill that ensures that ECD teachers in our counties are not mistreated as is currently the case.

I wish to convey a belated happy International Teachers Day to all the teachers in this Republic.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Wario:** Asante Bw. Spika wa Muda kwa fursa. Ninampongeza Sen. (Dr.) Musuruve kwa kuleta Arifa hii ya Siku ya Ulimwengu ya Walimu.

Kwa hakika, sisi sote tumepitia kwa mikono ya waalimu. Ualimu ni msingi mkubwa katika kutengeneza mtu awe mwanadamu kamili kwa sababu mwanadamu bila elimu hayuko kamili.

Ukiangalia walimu wa Kenya wakati mwingi wanaenda kulima kwa sababu ya marupu rupu ama mshahara ile ambayo wanapata. Ukiangalia kwa kina walimu wanalipwa mshahara kidogo zaidi.

Sen. Cheruiyot alisema mwalimu huwezi ukamlipa na hii ni ukweli. Hakuna pesa ambayo inaweza kumlipa mwalimu kwa sababu hata ukisema ni pesa kiasi gani bado hiyo kazi ambayo mwalimu anafanya ni mingi sana kuliko hiyo pesa.

Mtoto mdogo akikaa nyumbani na wazazi wake, wanashindwa kumuelewa lakini huyo mtoto akipelekwa shule anafundishwa na mwalimu mpaka anajua jinsi ya kujitunza, kusoma na kuandika.

Wakati ambapo ugonjwa wa Corona ulianza, shule zilifungwa. Wakati huo wazazi wengi walipata kizungumkuti kukaa na watoto nyumbani. Wazazi walishangaa wakasema, walimu wanaishi na hawa watoto namna gani huko shuleni?

Mbali na kufundisha hawa watoto, walimu wanasaidia wazazi kulea hawa watoto. Wazazi wanachukua watoto asubuhi na kuwapeleka shuleni kisha wao wanaenda kufanya shughuli zao. Mwalimu anahangaika na hao watoto kuanzia asubuhi mpaka jioni. Huyo mtoto akikaa na mzazi kwa muda mdogo, mzazi anashangaa, anasema huyu mtoto namna gani?

Mbali na kufundisha, mwalimu anasaidia kulea watoto na anawalea katika maadili mazuri. Hii ndio sababu utapata kwamba watu ambao wako na taaluma tofauti, ukiwaangalia vizuri, wote wamepitia kwenye mkono wa mwalimu. Sisi tunafaa kuwashukuru waalimu na kuwapatia hongera. Wanapoenda kusherehekea siku ya Ulimwengu ya Walimu, sisi tunafaa tushirikiane nao na tuwapatie asante. Ukiwa katika Seneti hii ama Bunge la Kitaifa utampata mwalimu wako huko barabarani akitembea bado kuenda kuwafundisha watoto. Hata Rais wa Kenya alipita kwenye mikono ya walimu.

Hata Rais wa Kenya amepitia katika mikono ya walimu. Na wale watu wote ambao wana magari makubwa wamepitia katika mikono ya walimu. Nina hakika kuwa Sen. (Dkt.) Musuruve pia ni mwalimu ndio maana amewakumbuka walimu. Hongera Sen. (Dkt.) Musuruve kwa kuleta Taarifa hii ambayo ni muhimu.

Sisi hatuna budi kuongeza sauti yetu kwa sababu tunaelewa kuwa walimu ni wengi katika taifa la Kenya. Katika siasa, wengi ndio huhesabika. Tutasimama na walimu usiku na mchana, wakati wanapoenda kushereheka siku yao ya Walimu Ulimwenguni. Hongera walimu wote wa Kenya na duniani.

Asante. Naunga mkono.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. M. Kajwang', proceed.

**Sen. M. Kajwang':** Mr. Temporary Speaker, Sir, as a son of a teacher, I am proud of the teachers of this nation. As Sen. Cheruiyot said, there is something about teachers and how they brought up their children. It was a combination of a teaching career or a professional career – be it a nurse or a doctor or those other professions that

were pioneers in this country and religion, whether you are Christian or Muslim – that then formed the combination that allowed families to thrive.

When you find great families, like the Kindiki family, with professors all over the world and politicians all over the terrain, you know that it is that combination of good upbringing, education and religion that has made them to be who they are. Indeed, even they are in the national domain, they might catch a temper, which is tempered with the spirituality and the religion that is in them.

Mr. Temporary Speaker, Sir, our teachers are leaders and heroes. In my village, where I come from, if there is a funeral committee, the chairperson will 90 per cent of the time be a teacher. If there is a master of ceremony of an event, be it a fundraiser or a funeral, 99 per cent will be teachers. If there is any development initiative in the church, the chairperson of the development committee will be a teacher mostly. As politicians, our campaign teams are led by teachers because these are people with the grassroots touch.

Despite a lot suffering, as has been enumerated by my colleagues, they still turn out to deliver services. Our teachers put on a brave face, in the face of COVID-19. In a country like Uganda, children and teachers are still at home, but the teachers of the Republic of Kenya decided that they were going to take a bullet for the children of Kenya. I wish to pay homage to those teachers who have succumbed to COVID-19 and been affected or infected with the disease because they decided to take a bullet for the children of this country, unlike in other countries where teachers decided to hide their heads in the sun, and two years down the line, children are still at home.

Despite low pay, if you look at the payslip of a teacher, it is an embarrassment to this nation. There is something about teachers, they are contented. When you are contented, you are wealthy. Teachers are not crying for the kind of salaries that Senators or Members of the County Assemblies (MCA) are getting. No one would mind that, but we have a teaching fraternity that has decided to put service above pecuniary interest.

Despite poor equipment and infrastructure, some of the schools that these teachers have to serve from are worse, a classroom looks like a toilet or is worse than a toilet, yet our teachers still put on a brave face. Our teachers have to wait for seven years to be employed. Right now, the pipeline of applicants to Teachers Service Commission (TSC), if you have not been out for more than seven years, you cannot get a job at an interview, yet our teachers still retain their patience, wait patiently on the queue and once they get an opportunity to teach. They do an excellent job without asking for *kitu kidogo*.

Finally, Mr. Temporary Speaker, Sir, as we celebrate the day of teachers, let us reflect. Kenya is packaging a deal with the United Kingdom Government, where nurses will go to the UK, they will be paid a good salary and part of it will go to the Government of Kenya. Cuba has done a similar thing with doctors from Cuba coming to Kenya. It is like an export. Our extra reservoir of teachers - the graduates who are waiting for TSC to absorb them - could we package them, so that we can export them to countries in need like South Sudan?

Could we package these graduates who are still waiting for the TSC to absorb them so that we can export them to countries in need like South Sudan, Rwanda and Uganda that require Swahili teachers and skills in other sectors? We need to be creative. Having these teachers unemployed for too long is a disservice to them.

Mr. Temporary Speaker, Sir, I want to congratulate my parents who were teachers, the teachers who are teaching my children and the teachers who taught me. I think that they did a fairly good job. That is why we are here advocating for their interest.

I congratulate Sen. (Dr.) Musuruve.

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

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I congratulate Sen. (Dr.) Musuruve. My mother is a distinguished teacher. She retired last year. In my culture, you do not say how many children there are. It is an abomination to say the number. However, three of my siblings are teachers. One of them is a principal somewhere in West Pokot. Others are teaching in Nandi and other parts of the country.

I am very proud to be a son of a teacher. Teachers have done a tremendous job. They are opinion leaders in our villages. Apart from being educators and role models, they really assist us as opinion leaders. Every function you go to in the village, no matter how small or big, they are always assist our people to keep order even outside of teaching.

Mr. Temporary Speaker, Sir, we need to admit that teachers are co-parents. Most of us parents have left our duties to teachers. Teachers are always there for children. They take care of them, especially in boarding schools. Therefore, teachers are very important people in our society. For us who believe in Christ, we know that Jesus was the greatest teacher of all.

The resilience and effort that our teachers put across the country is very pertinent and critical. It is also sad that the northern part of this country continues to lack. I know that Sen. (Dr.) Ali has brought this issue where they have not been able to get adequate teachers to teach in schools in the northern part of this country.

Mr. Temporary Speaker, Sir, as we celebrate the World Teacher's Day, I challenge the TSC and Ministry of Education to ensure there are adequate teachers in the northern part of this country. They should put in measures and strategies to encourage and create more teaching fraternity and workforce, the way Dr. Amina Mohamed really tried during her tenure as the Cabinet Secretary (CS) for Education.

Secondly, this comes at a time when we are discussing the in service training. You are aware that the TSC and Ministry of Education do in service training for our teachers with regard to CBC. The cost of the in service training must be borne by the employer; that is TSC.

I appeal to TSC and Ministry of Education to do wide consultation and public participation. They must also consult teachers. For the people who run the Ministry of Education in this Republic, must know public participation is a constitutional requirement. We need to ensure all stakeholders are participating.

Mr. Temporary Speaker, Sir, as we talk about CBC, we must relook at it. The other day when I went to the village, one of the parents called me aside and told me that a teacher had asked one of his children to draw a picture of a sleeping mosquito. These are the wonders that we are seeing in CBC. We need to understand what CBC stands for.

We were told a story where the teacher took the children to the road. A *matatu* driver did not have passengers that day. He was excited when the teacher and the children flagged down the *matatu*. When the *matatu* stopped, the teacher told the children that, that is how you stop a *matatu*. They did not board it. They were told to go back to class.

You can realize the disappointment of the *matatu* driver and the conductor that day. We really need to demystify this CBC and let Kenyans understand what is happening.

I thank you, Mr. Speaker Sir, and wish all the teachers a happy World Teacher's Day. I wish them well and assure them that we will give them unconditional support as the Senate.

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

**Sen. Dullo:** Thank you, Mr. Speaker, Sir, I wish to join my colleagues in congratulating Sen. (Dr.) Musuruve for bringing this Statement. It is a bit belated but nevertheless, I am sure she appreciates the role of being a teacher.

Most of us have passed through the hands of teachers for many years. Unlike my colleagues, I am not a child of a teacher but a child of a pastoralists which I am proud of. I am a daughter of a pastoralist.

So, I congratulate teachers on this occasion. I know they are serious members of our society. However, they go through a lot of hardship.

I have one of my teachers seated behind. I passed through his hands and he was serious, committed and diligent in his work. Fortunately, we ended up being colleagues in this House.

I really appreciate the road that he took me through to achieve that particular course. If it were not for him, I would not have achieved what I was supposed to those years back.

Mr. Temporary Speaker, Sir, I wish to talk about Early Childhood Development Education (ECDE). It is an area which has a lot of challenges in our country. It is a devolved function but counties are not taking care of it properly.

In my county, you will find children are still sitting on stones. They do not have desks. Sometimes, they sit under a tree without a roof over their heads.

This is a serious matter. A lot of money is allocated for ECDE. I wish county assemblies could take this matter seriously. This is because that is the foundation of education and we should treat children at that age carefully. This is because if they are not taken care of at that particular age, they will be demoralized in education. Therefore, where I come from, we need to have serious discussion on that area.

The issue of delocalization is challenging in our counties especially looking at the kind of salaries that teachers earn yet they are posted in areas that are outside their homes living families behind. So, their barely meet their costs or take care of themselves. This is a matter that the Teachers Service Commission (TSC) needs to consider if we are serious about the education of our children. Therefore, I support this Statement and congratulate, Sen. (Dr.) Musuruve, and teachers in the country.

**Sen. (Dr.) Ali:** Thank you, Mr. Temporary Speaker, Sir. I thank Sen. (Dr.) Musuruve. I am not a son of a teacher as Sen. Dullo said but I have been a teacher as well. When you are an UT, you are also a teacher.

So, I congratulate teachers for the World Teachers Day. I thank them for the job that they have done. This is because all of us here have passed through their hands from nursery school to university.

When we discuss among ourselves and people give you information on issues, is still a learning process. So, the learning process never stops. A person can travel as far as



China to get knowledge which is important. Teachers impact the knowledge. So, I congratulate them wherever they are and in whatever they are doing.

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

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

Madam Temporary Speaker, as it has been mentioned, we have problems affecting ECDE teachers. They do not get enough money and training. They also do not have enough materials.

I urge people dealing with the teachers, especially the Teachers Service Commission (TSC) to feel the pain of teachers. You will find a teacher in any corner of this country but they are not treated well.

Madam Temporary Speaker, I wish them a Happy Teachers Day.

**The Temporary Speaker** (Sen. Pareno): Let us now have the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 12<sup>TH</sup> OCTOBER, 2021

**Sen. Dullo:** Madam Temporary Speaker, pursuant to Standing Order No.52 (1), I hereby present the business of the Senate for the week commencing Tuesday, 12<sup>th</sup> October, 2021.

On Tuesday, 12<sup>th</sup> October, 2021, the Senate Business Committee (SBC) will meet to consider and approve the business of the week. Subject to approval by the committee, the Senate will consider Bills at the Second Reading stage and Committee of the Whole stage and Motions and reports filed by select committees.

On Wednesday, 13<sup>th</sup> and Thursday, 14<sup>th</sup> October, 2021, the Senate will consider business that will not have been concluded on Tuesday, 12<sup>th</sup> October, 2021, and any other business scheduled by the SBC including petitions and Statements.

There are nine Bills due for Committee of the Whole stage, three of which have been captured in today's Supplementary Order Paper. That is Order Nos. 16, 17 and 18. There are 25 Bills due for Second Reading, seven of which have been captured in today's Order Paper from Order Nos.9 to 15. Additionally, Motions filled by committee chairpersons and individual Senators have also been scheduled in the Order Paper.

I urge respective Movers to be available in the Senate whenever their business is listed in the Order Paper and track the schedule of the Senate business as indicated in the weekly programmes. Standing committees are encouraged to hasten consideration of Bills, petitions and Statements referred to them and table reports thereon.

Finally, the matter of constitution of select committees is still under consideration by the Senate leadership. I take this opportunity to thank Senators who turned up for the *kamukunji* to deliberate on the proposal for way forward. Key among them was filling of vacancies in the Standing Committee on Devolution and Intergovernmental Relations as listed in the Supplementary Order Paper as Order No.8. I request for our patience as the House leadership tries to resolve all other outstanding issues and this matter.

Madam Temporary Speaker, I thank you and hereby lay the Statement on the Table of the Senate.

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

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

## BILL

### *Second Reading*

THE HEALTH (AMENDMENT) BILL  
(SENATE BILLS NO.26 OF 2020)

*(Sen. (Dr.) Ali on 5.10.2021)*

*(Resumption of debate interrupted on 6.10.2021)*

**The Temporary Speaker** (Sen. Pareno): Sen. M. Kajwang', I am told you had a balance of 18 minutes. Please proceed.

**Sen. M. Kajwang'**: Madam Temporary Speaker, I do not intend to take 18 minutes because my colleagues are also keen on this particular subject. Someone should bang something if I exceed five minutes.

Yesterday, I started by saying that I support this amendment Bill because we have all been crying about the manner in which health workers are treated which is not optimum. Unfortunately, unless we amend the Constitution, because the Constitution already devolved health workers to the counties, it becomes very difficult to find a coordinated way of managing them.

That is why in the Health Act, the Health Human Resource Advisory Council was established. It was meant to advise the stakeholders such as the Cabinet Secretary (CS) and county government on issues to do with the welfare of health workers.

Madam Temporary Speaker, allow me as we talk to this Bill to --- those health workers who lost their lives in the pandemic. If you look at it keenly you might find that more health workers have died in this pandemic than Kenyan soldiers in Somalia. Yet, for the dead Kenyans soldiers in Somalia and other wars the President will routinely come up with some memorial or monument to hail the fallen soldiers. It is time for us to also come up with memorials, monuments and symbolisms to hail and honor our fallen health workers.

I mentioned yesterday that our health workers are the new soldiers in the battle for humanity because conventional warfare has become so automated that nowadays soldiers do not go out with grenades, bayonets and guns. They use drones and other technology.

The COVID-19 pandemic has shown us that irrespective of how technologically and economically advanced you are; you still need human beings. We have seen countries with the ability to roll out hardware and software. We have seen countries

convert entire stadia. New York converted an entire park into a COVID-19 isolation centre.

Yes, you can have the structures and ventilator, unfortunately, you cannot mass produce health workers. That is why in this post-covid era, we must make sure our policies and legislations are geared towards treating our health workers better.

In my view, the ideal way of treating our health workers in this country could be one where there would be a shared service that is domiciled at the national level. Yes, this House has to protect devolution. One would assume that as a Senator, I would stand up and say that we are not moving health workers back to the centre because that would be rolling back devolution. It is only a fool who does not change their mind.

If health workers have become the new soldiers in the battle for humanity, do we want to manage them in 47 different styles? Do we want to promote and motivate them in 47 different styles? If we want to do that for health workers, why do we not do that for our soldiers? Our soldiers are being managed centrally because we know they are a national asset yet, health workers today are more meaningful and impactful than our soldiers who walk around with guns and grenades.

Health workers being at the centre would then be seconded to counties. They would have a body akin to the Teachers Service Commission (TSC) which they have called the Health Service Commission. County governors would make applications depending on capacity gaps and this central body would deploy health workers to those counties.

There are those who have argued that when health workers were centralized, places such as Turkana never used to get any. If teachers can reach those areas; if Independent Electoral and Boundaries Commission (IEBC) can reach every corner of this country, with goodwill, health workers can reach every corner of this country even if they were centralized.

Health workers would have uniform terms of service and the same policies when it comes to professional development, training and qualifications. It would be possible for a health worker to do inter-county transfer.

My county is unique because we have the burden of certain diseases. We have the HIV/AIDS and Malaria burden and we learn that where you have a Malaria burden, you also have a Sickle Cell burden. A doctor who has practiced in Homa Bay county compared to one who for example, has practiced in Kiambu where there is not Malaria and Sickle Cell and has low HIV/AIDS prevalence will not have the same kind of exposure over the years.

We must allow our health workers to move from Malaria, Sickle Cell and endemic areas to others that suffer different kinds of diseases. That is when their experience and expertise will become rich.

If we centralize the management of health workers, we then have a better approach towards developing specialized skills. Perhaps if you asked the number of epidemiologists we have in this country in the face of COVID-19, you will be told that the national Government has been doing a professional development for epidemiologists but every year, it takes only 20. How long will it take us to develop the critical mass of epidemiologists, oncologists, dermatologists and Sickle Cell experts? That can only be done if it is looked at centrally. Unfortunately, that is not the situation.

In our Constitution, we scattered our doctors in 47 different directions and gave them 47 different terms, bosses and conditions. That has led to perennial strikes.

Madam Temporary Speaker, let us ask ourselves. Health workers are the only workers in county governments who still retain integrity because when they are not paid, they go on strike. Revenue collectors can go for two years without being paid and they will never go on strike. Chief Officers and County Executive Committee Members (CECMs) can remain unpaid forever and they will never go on strike. That tells you there is a way they are stealing from the public. That tells you there is a way they have discovered some backdoor through which money goes into their pockets rather than to the County Revenue Funds (CRFs).

In my county, when there are delays in payment of salaries of county workers, everybody else is going about their own business like nothing has happened. The only place where service shuts down is in the hospitals. This is because our doctors having taken the Hippocratic Oath they still have that sense of integrity knowing that when a patient brings money to the hospital, it is not to go into their pockets. It is supposed to buy drugs for those institutions.

Madam Temporary Speaker, our doctors are suffering silently under mental health pressure. During the Coronavirus disease (COVID-19) situation, doctors were seeing their fathers and mothers dying on floors of hospitals. Even if you are used to the cadaver and you have taken the Hippocratic Oath, it would still affect you yet they had nobody to turn to because our counties do not have mental health experts. That is why one of our greatest exports today is doctors and nurses.

The conversation that the Ministry has brought that we now need to look at our health workers as a commodity just like tea, horticulture, fish and those other things we export. This is so that we have a structured way.

Madam Temporary Speaker, if Kenya develops these health workers and trains these doctors to a level where they are proficient and they can work in the United Kingdom, why can Kenya not benefit from that? Just beside the remittances, can Kenya attach some value to the training that bit has afforded?

We are saying that if Kenya is going to send nurses to the UK, the UK will pay some agency fee not to brokers but to the national government. Right now, these fees are being paid but to brokers. Let that money go to the national government.

Madam Temporary Speaker, I conclude that the Health Human Resource Advisory Council that Sen. (Dr.) Ali seeks to strengthen is a toothless dog. It is just adding a bark to it does not have teeth. It is advisory. However, I congratulate Sen. (Dr.) Ali because he has decided instead of sitting and doing nothing, he is going to do something. Even if it is just to add a bark to it. By the time a dog barks, it takes you time for you to realise it does not have teeth.

I encourage Sen. (Dr.) Ali, but we will not solve these problems until we have a Health Service Commission. That is the time when we shall accord due recognition to our “A” students who go to do medicine only to be loaded over by Members of County Assembly (MCAs), politicians and people who did not qualify academically to be in those positions that they are in.

I support.

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

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker for granting me this opportunity to give my contribution also on this important Bill by our colleague Sen. (Dr.) Ali whom I want to congratulate. Sen. (Dr.) Ali has been passionate in terms of matters health. He has served as a Member of our Committee on Health for quite a long time.

You know the battles that have been there and how he has been involved in trying to bring reform even within that particular committee. That is trying to always remind them of the singular most important duty that they have to the republic. This is in line with his philosophy. This is classic Sen. (Dr.) Ali always trying to look at things on how we improve on the welfare and overall health care management system in our republic.

Madam Temporary Speaker, many occasions when you get to speak as leaders, people will consider it to be wining. On many occasions during Statement hour or speaking to Motions, people get to follow us and watch and say, when leaders whine, what are the rest of us supposed to do with respect to the challenges that we face as a republic? This is one of the things that citizens expect of us. That in one way or the other, we will make our contribution in trying to fix the challenges and problems that exist in our country.

Healthcare is a big issue. In fact, I had mentioned this earlier today in the afternoon that outside of public debt and unemployment, I cannot think of any more pressing crisis in this country other than the health sector.

Madam Temporary Speaker, when you look at the challenges of your constituents and it is one of the avenues that are used to measure what challenges and needs are pressing the people that I represent in this constituency more. You will realise that out of perhaps ten requests that you get for need for assistance out of people reaching out to you, nine will be actually health related. People are trying to say please assist with this regard. We have a sick patient who we are unable to pay for and those kind of things. All this is testament to a failed public health system in our republic. It is unfortunate because we are in an election year. You would expect that like good adults in a room, we will sit down, stop the noise, sloganeering and trying to appear saintly than the others.

Madam Temporary Speaker, I do not think and this is very clear on my mind that there is no leader currently amongst all those who are seeking be President who can have the moral authority to point at the other and claim innocence in the challenges that are bedevilling our nation. In one way or the other, they have all had their own contribution. They have failed in this regard or the other. They have had opportunity to serve us in different capacities.

Therefore, you would expect that at this particular time, we would be trying to look into solutions such as what is being proposed in this Bill. You would expect what is the health policy or proposition that a particular candidate is giving to the republic.

Madam Temporary Speaker, you do know that from 2017, this current administration gave out a promise of the Big Four Agenda. It is unfortunate because we lost to focus on other nuances that have completely not assisted anyone and lost track of a very important exercise. That was in the name of focusing on one of the Big Four Agendas which was Universal Health Coverage (UHC).

If we had executed that program successfully, we would have ensured that the 47 million of us despite the cost that will have been needed, at least will have the

opportunity to receive proper medical attention when they are not feeling well. They would be able to be taken to a working public health facility be it a dispensary, health centre or even a county referral hospital.

Madam Temporary Speaker, however, I can speak authoritatively because I know this for a fact that many of our health facilities have collapsed. On many occasions, we just focus on the hardware and we forget one very important aspect about it. It does not matter how good the equipment you put in many of our hospitals. If you do not handle the human resource, as is being proposed by Sen. (Dr.) Ali then you are missing the point.

There is absolutely nothing that you are solving because a hospital is only as good as the doctors, nurses and health workers in that particular institution. If they have not been properly remunerated, kitted in terms of the equipment and materials that they need to execute their work, then there is absolutely nothing that you are doing.

Madam Temporary Speaker, in this day and age, I do not know this is the tragedy of our time. That many of our doctors are leaving the country and justifiably so. By the way even if I was one of them as well, looking at how doctors are being treated in this country, you cannot begrudge any of them who have chosen to try and ply their trade elsewhere. This is because most of our doctors, nurses and practitioners in the healthcare industry are some of the best trained in any part of the world.

By the time you see the government of the UK approving that Kenya supplies them with 20,000 nurses, it means that they are satisfied with the kind of training curriculum that is being afforded to them. They know these are people that are properly trained. What happens after we train them? We come and start pushing them between one office to the other.

Madam Temporary Speaker, I saw today a post of I think Gov. Ngilu in Kitui County who has withheld salaries of doctors who have gone to increase their knowledge. They are on study leave. When a doctor goes on study leave I do not think they have gone to study farming or business management skills. They have actually gone to seek better knowledge so that they can treat citizens better. They need to be paid for it. It happens in every other profession.

Career development is part of human resource practices that are respected in every part. Yet you find governors treat them as they care.

How many times have we seen many of our medical practitioners having to demonstrate to even just get protective equipment that they use while treating people in hospitals? It is unfortunate. It is a shame of this current leadership, all of us together bound as one. Sen. (Dr.) Ali has given us at least an exit through which we can try and resolve this issue.

Madam Temporary Speaker, never mind that this advisory council is at policy level only. Even that is just a good beginning, because it points out to the issue that I have spoken to earlier; that this is almost a challenge similar to the one that we had with Early Childhood Development and Education (ECDE) teachers. This is where you find that in one particular county, how they are being treated is separate from how another county handles that issue.

This creates competition amongst counties. There are counties where, today, they do not attract medical professions because they know that they are least paid. They are

not well taken care of. They cannot find even good housing and many of these things that you would expect by the time you are studying to be a medical doctor.

Madam Temporary Speaker, it is common sense that the best of our students in all our institutions--- All the people that were top in our classes for high school institutions that we went to, went all to study medicine, yet, unfortunately, years down the line, to them it looks like it was a wrong decision. At that time, they thought they were setting themselves up on a good career, where they would serve humanity. However, given how we have mismanaged the health sector, it is a big challenge and a wake-up call to us.

I know that, as a House, we have had opportunity to reflect on the many challenges that are happening in the health sector and value chain as a whole. I hope that when opportunities such as this present themselves, we will make our mark and contribution. I give my stamp of approval and vote on behalf of the people of Kericho County for this Bill.

Madam Temporary Speaker, this is because I believe it is important for us to have a unified policy in terms of how we treat our healthcare practitioners across the country. This is so that doctors can know that at least in terms of policy on promotions, study leave and many things that advisory council is supposed to do, there will be one unified institution. That is what Sen. (Dr.) Ali is proposing to us.

I support that one 100 per cent. Once we have sorted the human resource issue, we can think about their remuneration. We need to pay our doctors well because we know the amount of work that it costs for them even in terms of training alone. It takes longer than any other profession. There is no other profession that trains longer than one to be a doctor. Even as they move on to specialise, it takes a lot of time, yet on many occasions, we do not pay them well. They are not properly remunerated and this is a challenge that I hope we can understand.

Madam Temporary Speaker, I see a lot of focus and wrongly. It is unfortunately because when people see the health department, they only look at the opportunity to make money. That is why you see all these obsessions of opening hospitals here and there. I have seen it in many of our counties. A hospital is not the brick and mortar. It is the human resource that you have there and the equipment that is needed, yet there is a continuous focus.

In fact, the truth of the matter and I have said this. There is nothing to hide. One of the biggest curse of this Senate, which I hope we shall rectify before we go home, is how we handled that report on leased medical equipment. I have put today a notice to the Speaker; a desire for us to have a chance to look at that report.

Madam Temporary Speaker, on that day when we voted, many of us agreed with many of the findings, but only had issues with recommendations. I hope that those that serve in leadership will present us with an opportunity and chance to look at that report. It spoke to many things of policy, equipment that we are purchasing and all the challenges that went into it.

People went and benefited from the sales. That close to Kshs60 billion of a deal is money that we would have used to fix many of the challenges that our healthcare workers continue to face in our counties. It is a shame that up to this moment, no House of Parliament - not National Assembly or us, in the Senate - has been able to address itself to that issue.

Madam Temporary Speaker, I hope we will grow to a point of understanding that as much as you want to have good equipment in a good hospital, you also need to have a doctor who is well paid and provided for all the necessary equipment that they need. That is part and parcel of good healthcare management, which is what is being promoted by our colleague.

I urge Sen. (Dr.) Ali that this is a good beginning. There are many other things that we need to do in terms of the challenges that we face. Just speaking as a general topical concern is that many Kenyans are calling upon us right now with the challenge.

Madam Temporary Speaker, look at the hospital bills that people are paying. What is the justification? That you are admitted in hospital for one week and you are being asked for Kshs3 million, Kshs4 million or Kshs5 million. How many Kenyans have ever seen a million put together? It is an obscene amount of money.

I am sure that 90 per cent of our citizens have never seen that money put together, yet on a daily basis, you are hearing of fundraisers deep in the villages of people being asked for that kind of amount. What is the body that regulates this practice of many of these mushrooming private hospitals do about it?

Madam Temporary Speaker, when you ask them and sometimes read through some of these bills, you find funny quotes that have been included here. A Coronavirus disease (COVID-19) patient in a day is being charged for 100 surgical gloves that were used. Surely, for a COVID-19 patient who is in an isolation room, where is this that these doctors used close to 200 surgical gloves and so many others? All of these things are written in medical terms and the average citizen cannot understand.

This is something that the Committee on Health needs to bring Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) here to explain to us. Are they putting the proper checks for many of these private hospitals that you can clearly see are only seeking to make profit out of the tribulations and challenges that are being faced by our citizens?

Madam Temporary Speaker, therefore, I conclude and appreciate the good work that is being done by our colleague. I hope that he grows on from here and even suggests better things that we can do, as a Senate, before the end of our term, to salvage the very ugly situation in our public health system in this Republic.

With those remarks, I support.

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

**Sen. (Prof.) Kindiki:** Thank you, Madam Temporary Speaker. I take this opportunity to thank the Senator for Wajir County, Sen. (Dr.) Ali, for living true and being faithful this professional calling and bringing this Bill on the welfare of our medical personnel across the country.

One hopes that this Bill will help to mitigate the problems that are being faced by our medical personnel across this country. Many of the most qualified medics are abandoning the profession for other things after realizing that nobody appreciates their many years of sacrifice in school. I have so many examples.

Madam Temporary Speaker, as I support this Bill, I am reminded of a young dentist doctor from my County of Tharaka-Nithi, an A student in primary school, A student at Kenya High School, and A student at the University of Nairobi School of Dentistry.



After seven years of hard work as a dentist, he had to quit working at Level 4 Hospital in Maragua in Murang'a County, two years ago, to go and set up a grocery shop, selling some merchandise in town. Why? It was because of low salaries and no equipment. In fact, one of the things that made Dr. Gacheri Thuku to leave Maragua Hospital was the lack of a dental chair, a basic equipment for a dentist.

Madam Temporary Speaker, we speak with a lot of agony even as we look at where we are taking this country, especially with regard to healthcare. This Bill aims at enhancing the functions of the Kenya Health Human Resource Advisory Council, as set out in Section 30 of the Health Act No.17 of 2017. In Section 3, which is being amended, unfortunately, the existing and the additional functions are not binding on the Cabinet Secretary (CS).

One is tempted to ask if the Executive is unable to respect the decisions of the court and Parliament which are binding, what is this council and what are these advises that will be complied with by the Executive? Nonetheless, as Sen. M. Kajwang' said, it is good to make a step in the right direction. I hope that from here, we will make more binding legislation that can help the health sector.

Madam Temporary Speaker, I want to make a few quick conclusion remarks. It is important to align these functions that are contained in this amendment Bill to the spirit of the Constitution notably Schedule IV Part One Paragraph 28 which assigns health policy on the national Government.

Secondly, ensure that the additional functions do not encroach in any way on the devolved functions. Otherwise, our courts in their true colours, will to strike out this legislation for its nullity.

Madam Temporary Speaker, thirdly, ensure that even as we pass this Bill, it is necessary to invoke Article 187 on Intergovernmental Agreements as read together with Sections 24 and 25 of the Intergovernmental Relations Act 2012.

It may be necessary to make those alignments so that if certain functions that are reserved with county governments are being encroached on then Article 187 (2) sets in as well as Sections 24 and 25 of the Intergovernmental Relations Act to rectify that.

One also asks whether some of the functions that are being proposed in this Bill by Sen. (Dr.) Ali are not encroaching on the powers and functions of County Public Service Boards (CPSBs) as spelt out in Section 59 of the County Governments Act of 2012.

Madam Temporary Speaker, again on that note, on the relationship between these functions and the functions of the CPSB, that the only oversight and the encroachment on the powers of CPSB that is allowed in our Constitution is the oversight of the Public Service Commission (PSC). I have on authority Article 232 of the Constitution read together with Article 234 (2) and Article 235 of the Constitution.

Notwithstanding what I have submitted herein above, I believe the Second Reading of this Bill is important and I support it without reservation whatsoever. Thank you.

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

**Sen. Dullo:** Madam Temporary Speaker, thank you. Let me join my colleagues on congratulating Sen. (Dr.) Ali. This is quite a timely amendment. Over the years in the last session of Senate, we had discussed all these matters, especially the issues of human

resource. Also the standard that the national Government should be given the responsibility to oversee how health sector is going to be managed in the counties, unfortunately, that has not happened.

I hope that with the current challenges that are going on in the counties this amendment will give us a lot of window where we can solve a lot of problems affecting health sector in our counties.

We have tried several attempts in ensuring that health is---

**The Temporary Speaker** (Sen. Pareno): Sen. Dullo, you will have a balance of 19 minutes.

### 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 until Tuesday, 12<sup>th</sup> October, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.