

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 29<sup>th</sup> September, 2021

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

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

#### PRAYER

#### ADMINISTRATION OF OATH

*(The newly nominated Senator (Githua Ngugi Isaac) entered  
the Chamber escorted by Sen. Farhiya and Sen. Faki)*

**Sen. Farhiya:** Hon. Deputy Speaker, it is my pleasure and privilege to introduce to you and to the Senate the newly Nominated Senator to represent the youth; Githua Ngugi Isaac of the Jubilee Party.

I thank you.

The Oath of Allegiance was administered to the following Senator: -

Githua Ngugi Isaac.

**The Deputy Speaker** (Sen. (Prof.) Kamar): You may take your seats, hon. Senators. You may lead the new Member to a seat to my right.

*(Sen. Githua Ngugi Isaac approached the Bar,  
bowed to the Chair and took his seat)*

Hon. Senators, we welcome our new Member, Githua Ngugi Isaac. I will give two Members a chance to do that. I will start with the Senate Majority Leader, Sen. Poghisio.

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, I wish to congratulate the young Senator, our youngest at the moment, who has just joined the Jubilee side, the side to your right.

I want to wish him well as we are basically saying to him, welcome to the 'upper House.' Welcome to the House of union and devolution.

This is a place you will find a lot of wisdom and experience in politics. You will learn a lot from the people who are already here.

I remind you that the Member that you replaced was highly celebrated and commended by Members of this House. Therefore, you are well advised to mix freely and, at the same time, make contributions in this House.

From the look of it, I know you are capable because you are well educated. Therefore, you will fit in the shoes of the late Sen. Prengei.

We thank and congratulate you, and ask that you feel free to consult your seniors. Ask questions and you will be guided well.

The work of the Senate is well articulated in Article 96 and other parts of the Constitution. I see that you have a number of well-wishers and family.

You are in the right place. God bless and guide you.

**Sen. (Dr.) Ochillo-Ayacko:** Thank you, Madam Deputy Speaker. On my own behalf and that of my family, I extend my congratulations and accolades to the new Member of the Senate. The Senate needs fresh blood, new ideas and more unity.

We have been divided previously. I hope that your joining us will be the glue that we have been lacking. We are at a critical stage in our journey towards the closure of the Twelfth Parliament. You joining us, your youthful energy and the fact that you have come to Jubilee, which requires a unifier, is good. I pray that your effort, acumen and ability will contribute immensely to the success of this House.

Lastly, your joining us makes me a little senior because I was not there at the beginning of the tenure of the Twelfth Parliament. I have a few people behind me. The longer the queue gets, the better for me. Sen. Mutula Kilonzo Jr. is in agreement. Seniority is good. You will also be senior someday. I am a senior parliamentarian, but not a senior Senator.

**Sen. Madzayo:** Asante Bi. Naibu Spika. Ninamtolea kongole ndugu yangu, Sen. Githua Ngugi kwa kuteuliwa na kuja katika Bunge la Seneti.

Yeye kama Seneta mteule ako na majukumu mengi ambayo anatakikana kuyatekeleza. Mrengo wa Jubilee ulikupa nafasi hii. Wewe ni kijana na uko na maisha marefu ya kuishi ndani ya hili Bunge kulingana na uwezo au utendakazi wako.

Kwa hivyo, tekeleza wajibu wako uliokuleta hapa Seneti. Kuna mambo mengi utajifunza. Hili ndilo Bunge ambalo linajulikana Kenya nzima. Liko na wasomi kama wewe. Kwa hivyo, tuonyeshe ujasiri na elimu yako kulingana na vile utatendakazi hapa ndani ya Bunge la Seneti.

Hivi sasa, ninaongea kwa Kiswahili ambayo ni lugha ya kitaifa. Unaweza pia kuongea Kizungu ambayo ni lugha ya Kitaifa. Lakini, huwezi kuchanganya lugha hizi mbili pamoja. Kwa hivyo, utachagua ni lugha gani utatumia.

Zaidi ni kwamba utajifunza. Tunaye Kiongozi wa Waliowengi, ndugu yangu, Sen. Poghisio, ambaye ako na elimu ya kutosha. Taaluma yake iko juu sana. Maseneta wote wako na taaluma ya hali ya juu. Utajifunza na kujua mambo mengi yanayoendelea ndani ya Seneti.

Ningependa kukupa maoni yangu kuhusu wale waliotarajia uwaangalie. Kuna ile kabila ndogo ya Ogiek ambayo ilikuwa imeomba kiti hiki. Ninakusihi na kukuomba uwafikie na kuwatumikia kadri inavyowezekana.

(Applause)

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. I will give two more.

Proceed, Sen. Farhiya.

**Sen. Farhiya:** Thank you, Madam Deputy Speaker, for allowing me to join the Senate Majority Leader, the Deputy Minority Leader and Sen. (Dr.) Ochillo-Ayacko in congratulating Sen. Isaack Ngugi.

I welcome him to this House, which has professional lawyers with a lot of knowledge and three Senior Counsels. By the time he leaves in 10 months, he would have acquired a lot of knowledge.

Sen. (Dr.) Zani has done your profession. She is an economist. You did Economics and Sociology from the University of Nairobi. Therefore, I am sure that in your life in the university, you must have met her. We have many Senators with PhDs in the House too. Therefore, we are full of knowledge.

We are here to guide you. You can ask any of the Senators anything that you need to know. We are friendly people. Some of us are also new in the House. Therefore, there is always the first time to anything.

I am sure from your nursery, primary to secondary school days, you have encountered new knowledge, people and life. So, consider this as part of that life.

When you see Sen. Orenge and Sen. Poghiso speaking, do not be intimidated. They are friendly, accomodative and accept people who are gathering knowledge.

I welcome you and ask you to continue supporting our party in the House, so that we take this House to the next level.

**Sen. Mutula Kilonzo Jr.:** Asante Bi. Naibu Spika. Karibu Sen. Ngugi katika Bunge la Seneti. Ninauhakika kwamba umeangalia na kuona kuwa kweli Bunge la Seneti sio la wazee. Yule ambaye atakwambia sisi ni wazee, mwambie mzee ni yeye.

(Laughter)

La pili na la muhimu ni kuhusu Seneta Mteule aliyetuwacha, Sen. Prengei, ambaye alikuwa anawakilisha vijana na walio wachache, kwa Kizungu, *minority*. Alikua ameanzisha mjadala wa kuhakikisha kwamba Kipengele 100 cha Katiba kimetekelezwa.

Kwa hivyo, kuanzia leo, utasahau kabila lako, iwe ni Ndorobo, Ogiek ama zile kabila ndogo ambazo hazikubaliwi, hata wale Washona, utakuwa akiwazungumzia hapa kwa sababu ni kitengo ambacho utakua ukizungunzia, pamoja na vijana wengi walio hapa, kama Sen. Cherargei, Sen. Abdul M. Haji, na wengine wengi ambao utakutana nao katika hafla hii.

Siku ambazo zimebakia ni chache. Tafuta sauti yako. Kesho tunataka kusikia ukizungumzia vijana na ukisema jambo ambalo litawasaidia. Hii ni kwa sababu katika siasa zinazoendelea sasa, wale watu ambao wanaumia ni vijana.

Tumefurahi kwamba umekula kiapo leo, na umekuja na familia na watu ambao wameshuhudia ukila kiapo kwamba utafanya kazi yako na kuitetea kulingana na Katiba.

Sisi tutakua tukikuangalia. Ukikosa au kuharibu tutakukosoa. Tutakukumbusha kwamba umekula kiapo mbele ya Mungu.

Asante, Bi. Naibu Spika.

Karibu.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, hon. Senators. Sen. Githua Ngugi Isaac, welcome again. I would like to recognize your family in a special way. Please, be upstanding so that you can be recognized by Senators.

*(Applause)*

In our usual tradition on receiving and welcoming visitors, on behalf of this Senate, I wish to extend a warm welcome to the family of our new Senator.

Thank you very much.

Next Order!

### COMMUNICATION FROM THE CHAIR

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I have two Communications to make. The first one is on the 23<sup>rd</sup> Statutory meeting of the Executive Committee---

*(The Deputy Speaker (Sen. (Prof.) Kamar)  
consulted with the Clerk-at-the-Table)*

### PRIORITIZATION AND EXPEDITING OF LEGISLATIVE BUSINESS

I will go to the second Communication as we await the delegation. I would like to make a communication of prioritization and expediting of legislative business as per the decisions of the House Business the other day.

Hon. Senators, you will recall that at the commencement of Part 5 of the Fifth Session, on Tuesday, 7<sup>th</sup> September, 2021, I issued a Communication, where I noted that the tenure for this august House was soon coming to an end.

I went on to point out that there were still a high number of Bills, Petitions, Motions and Statements pending before the Senate, thus the need to expedite this business collectively as a Senate, both in Committees and individual sponsored business. This situation has not improved since then.

Hon. Senators, at its meeting held on Tuesday, 28<sup>th</sup> September, 2021, the Senate Business Committee (SBC) considered the status of legislative business and noted with grave concern the high number of Bills, Petitions, Motions and Statements pending before the Senate and respective Select Committees.

The Committee noted that there was some business in the Order Paper that had been listed for prolonged periods of time, owing to the absence of the Sponsors of the

respective business to prosecute it. Further, it noted that the output by Select Committees on legislative business, especially on Bills, Petitions and Statements was slow.

Hon. Senators, to this end, the SBC agreed on a strategy to execute the pending business within the short duration that we have. I, therefore, wish to convey the resolution of the Committee and direct as follows-

- (1) All Select Committees must have a standing agenda in their respective meetings on the status of legislative business, to serve as a reminder of the business pending before the Committee.
- (2) The provisions under Standing Orders 143 (1), 151 (1) and 213 (6) on the timelines of tabling reports by Select Committees and the manner of tabling in the absence of the Chairperson and the Vice-Chairperson, be applied.
- (3) The provisions of Standing Order 59 (3) be applied which states as follows-  
“Where no Senator moves a Motion at the time specified by or under these Standing Orders, such Motion shall not be published again in the Order Paper during the same Session except with the leave of the Speaker.”
- (4) Sponsors of business to keep track of business listed in the Order Paper and avail themselves on the day when the business has been listed in the Order Paper in order to expedite it.

I so direct!

Thank you, Senators.

There is another delegation that I would like to recognize when they come. We will move to the next Order.

I see a point of order from Sen. (Dr.) Zani on the Communication that I made.

**Sen. (Dr.) Zani:** Thank you, Madam Deputy Speaker, for allowing me to give a little bit of input on the Communication. This is a very important issue because we have a lot of business, but one of the businesses that we have is to push Bills. We are going through many of the Bills for the second time, and we need to push them really fast.

Every time this issue is spoken to, we tend to focus on the absence of the Sponsors. I just want to highlight that many times we have been in this House, we find that the Sponsors are in the House, but sometimes the business comes so much later.

I do not mean to demean Statements because they are very important. We might want to organize ourselves, as a House that, say maybe on Tuesdays, we just delve straight into the many Bills that are waiting on the Order Paper. We can give a special day to Bills. We could have Statements on Wednesday. Whichever way, but we can have one day that is dedicated to legislative business. Immediately after the preliminary orders, we go straight away.

My observation is that many of the Sponsors tend to remain in the House for quite long, until they realize that their business might not be executed on that day. They leave, and that is maybe when the order comes. We might want to systematize ourselves as far as Statements and legislative proposals are concerned.

In the Committee on Education, where I sit, we continue to look at legislative business to ensure that we run it out of the House. I have a feeling that many other Committees are doing the same thing. I think the issue is right here in the House. If we

are honest enough to address it that way, I think we will be able to get to the bottom of this.

We can also limit the number of people who are contributing to these Bills. If we are to expedite, we might find that once we have had four or five contributors, then have another Bill, we can push them quickly. Most of Sponsors of these Bills are suffering in this House. They are just looking forward to a time when they can expedite this business.

Madam Deputy Speaker, I am just pitting your idea and some of the things that I have observed and heard Members say. Perhaps, we need to find a way to create specific time for legislative business in this House.

I thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. M. Kajwang'.

**Sen. M. Kajwang'**: Madam Deputy Speaker, I am excited by the pronouncement by the SBC because I am one of the Chairs who have suffered. My Committee has not been able to process business because of the quorum issues that have been raised before the House.

Madam Deputy Speaker, I can see that Order No.13 talks of reconstitution of select committees. To give effect to your ruling, how I wish we prioritise Order No.13 and deal with this matter once and for all, so that with effect from today, the Committee on Devolution and Intergovernmental Relations and other committees can have the right numbers and membership in order to process important business before this House.

Madam Deputy Speaker, I support your Statement. I hope we shall deal with the Order on reconstitution of select committees today.

**Sen. Cherargei**: Madam Deputy Speaker, the communication by the SBC is timely and important. I agree that we need to have a way of doing business in the House. I think we should go by Sen. (Dr.) Zani's proposal. The SBC should listen to this.

Sometimes we have issues of topical concern. There is a proposal that Statements should be raised only on Wednesdays, but there could be an issue of topical concern on Tuesday. Going forward, when a Statement is not of topical concern, the Chair should allow one or two Senators only to ride on it. I know that riding on Statements had been banned in this House.

Secondly, the Chairs of committees should liaise with the respective Senators who seek Statements. Some of us have interest in specific agenda items on the Order Paper. Sometimes Statements go up to 6.30 p.m. and it is hard to comment on some business.

I welcome the proposal by the SBC. I can see the Senate Minority Leader and others in the leadership. If we want to expedite legislation process, they should call for a *kamukunji*, through the Speaker's Office, so that we discuss in order to be on the same page. It is not good for the SBC to sit and tell us how the House should be run, yet we are supposed to make decisions together. Therefore, we should have a consultative approach.

I encourage the Speaker's Office and the House leadership to be consulting, so that we are on the same page because there are people who imagine that Statements are much more important than Motions. Others think that Bills are much more important.

The SBC should have listened to our thinking before coming up with this proposal. However, this will ensure efficiency in terms of running of the business of the

House. I agree that we need to be more efficient and effective, so that we deliver on our mandate and ensure that we process Bills, Motions and Statements in a timely manner.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Finally, we will listen to Sen. Farhiya.

**Sen. Farhiya:** Madam Deputy Speaker, the SBC has come up with a brilliant idea in terms of Bills and everything. I agree with Sen. (Dr.) Zani that we should take work more seriously, so that we expedite passing of most of the Bills in order to make a difference in this country.

Another issue is reconstitution of Committees. This should be postponed to tomorrow or next week, so that we have an opportunity to add the new Senator who has just joined us because reconstituting a Committee takes a long time. For, example, Sen. Abdul Haji is not in any committee, yet he was sworn in a long time ago. To avoid the same mistake, I think one day will not make a difference. It is my request to the House that we postpone.

I thank you.

*(Loud consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): That is her opinion.

**Sen. Sakaja:** Madam Deputy Speaker, I am a bit perturbed by the very sensible intervention by Sen. Farhiya. I am perturbed not because it is sensible, but because she is the Deputy Senate Majority Whip. If anything, there should be no list in this House without consulting her.

As a Member of the Jubilee Party, I am worried because we elected her to be the Deputy Senate Majority Whip. Before a list is brought to this House, the leadership is supposed to sit and agree.

Her proposal makes a lot of sense, but I do not know why the Deputy Senate Majority Whip is surprised, and I do not know where the substantive Whip is. Please, alert our leadership because we might do another Parliament Group (PG) meeting as the Jubilee Party because we want to see them working together.

The other day, on our social media group, all the Whips and their deputies were saying they were not aware. That is not what we want to see. The position of the Deputy Majority Whip is in our Standing Orders and their role is to place us in committees. Sen. Abdul Haji is in a committee and the new Senator should be in a committee. Please, let them work together. We are really embarrassed by this.

**The Deputy Speaker** (Sen. (Prof.) Kamar): That was good information. We will allow them to consult before we reach the Order, because it is No.13.

Let us go to the next Order.

## PETITION

### REPORT ON PETITION: ENACTMENT OF MILITARY VETERAN LAW

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I reported yesterday that Members of the Standing Committee on National Security, Defence and Foreign Relations were out on official duties. For that reason, that petition is deferred.

*(Petition deferred)*

Let us go to the next Order.

### PAPERS LAID

**The Deputy Speaker** (Sen. (Prof.) Kamar): The first one is by the Committee on National Security, Defence and Foreign Relations. We will defer that one.

#### INTERIM REPORT ON INCESSANT INSECURITY CAUSED BY BANDITRY IN LAIKIPIA COUNTY

*(Laying of the Paper deferred)*

Let us have the second one.

#### REPORT ON THE HEALTH (AMENDMENT) BILL, 2020

**Sen. (Dr.) Mbito**: Madam Deputy Speaker, I beg to lay the following Paper on the Table of the Senate, today, 29<sup>th</sup> September, 2021-

The Report of the Standing Committee on Health on The Health (Amendment) Bill (Senate Bills No.26 of 2020).

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

**The Deputy Speaker** (Sen. (Prof.) Kamar): The next Paper will be laid by the Senate Majority Leader.

**The Senate Majority Leader** (Sen. Poghio): Madam Deputy Speaker, have we agreed that even a Member can lay papers for departmental committees?

**The Deputy Speaker** (Sen. (Prof.) Kamar): That has been done. It was only one.

**The Senate Majority Leader** (Sen. Poghio): What about the one by the Committee on National Security, Defence and Foreign Relations?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Would you like to lay that? We deferred that yesterday because of the absence of Members of the Committee. Therefore, you will deal with your own Report.

#### FINANCIAL REPORT ON MURANG'A SOUTH WATER AND SANITATION COMPANY LTD

**The Senate Majority Leader** (Sen. Poghio): Madam Deputy Speaker, I beg to lay the following Paper on the Table of the Senate today, 29<sup>th</sup> September, 2021-

Report of the Auditor-General on Murang'a South Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.

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

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us go to the next Order.

### NOTICES OF MOTIONS

**Sen. Cherargei:** Madam Deputy Speaker, I request up to next week because there was a slight amendment to the Notice of Motion. That was in consultation with your Office.

I agree with the amendment that was done to that Motion in conjunction with your office, but I request that you defer it to next week so that we can amend it.

*(Notice of Motion deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): The Next Notice of Motion is from the Chairperson of the Standing Committee on Health.

### ADOPTION OF REPORT ON UTILIZATION OF COVID-19 FUNDS BY COUNTY GOVERNMENTS

**Sen. (Dr.) Mbiti:** Madam Deputy Speaker, I beg to give notice of the following Motion-

THAT the Senate adopts the Second Progress Report on COVID-19 Situation in Kenya and Preliminary Findings of the Committee on the Special Audit Utilization of COVID-19 Fund by County Governments, laid on the Table of the Senate on Tuesday, 30<sup>th</sup> of March, 2021.

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

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

### POINT OF ORDER

### DELAYED FEEDBACK ON STATEMENTS REGARDING INCREASE IN FUEL PRICES

**Sen. Cherargei:** Madam Deputy Speaker, I rise pursuant to Standing Order 48(1) to (4). One week ago, I brought Statement on rising cost of fuel in Kenya. Sen. Mutula Kilonzo Jnr., brought an issue on Petroleum Levy Fund that was supposed to cushion Kenyans.

I am aware there were resolutions made after the Censure Motion of the CS of Energy and CS of Petroleum and Mining. In light of that Standing Order, I seek to know the fate of my Statement.

All of us can see because we take judicial notice that the Committee on Finance and Budget at the National Assembly met the Chief Executive Officer (CEO) of Energy and Petroleum Regulatory Authority (EPRA). Today, they were meeting the Principal Secretary in charge of Petroleum and Mining and discussed issues similar to what we had raised.

I seek to find the fate of my Statement from the Committee on Energy in such a situation where I have not received feedback, yet you had ordered them that the matter should be handled with the urgency it deserves?

The cost of fuel continues to be of topical concern in the country and Kenyans want to get the real answers. The Government is yet to communicate its decision. We have seen areas where they are saying the Government has given Kshs8.6 billion to cushion Kenyans against the high cost of fuel.

Madam Deputy Speaker, you and I agree that whenever we go to the villages, especially during weekends the biggest question we are asked is about cost of fuel. What is the Government doing about it and what we are doing about it we, as Parliamentarians?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Point taken. Sen. Were, is it on the same?

**Sen. Were:** Yes, Madam Deputy Speaker. I am intervening as a Member of the Committee on Energy. I want to inform the Senate that we are meeting the CS of Petroleum and Mining, hon. Munes over the Senator's Statement.

**The Deputy Speaker** (Sen. (Prof.) Kamar): I think Sen. Cherargei will recall that at the time when that Statement was raised, we were informed that the CS was out of the country and he sent a word to say he would be willing to appear. Let us give the Committee time as they have requested. We will deal with it. We have not forgotten it because we left it in the hands of the able Committee.

We have two Statements. Hon. Members, I encourage you to be processing your Statements in good time because we are getting them in less than three hours. We do not want to allow that to continue.

The first Statement under Standing Order 48 (1) is from Sen. Sakaja.

## STATEMENTS

### DECONGESTION OF NAIROBI CITY AND IMPLEMENTATION OF MASS TRANSIT SYSTEM

**Sen. Sakaja:** Madam Deputy Speaker, I confirm that this Statement was given five hours before 2.30 p.m.

I rise pursuant to Standing Order No.48(1) to seek a Statement from the Chairperson, Standing Committee on Roads and Transportation on the progress made on decongestion of the City of Nairobi and implementation of mass transit system plan in Nairobi City County to ease transport on the public sector.

In the Statement, the Committee should-

(1) Give a report of the measures that have been taken by the Nairobi Metropolitan Services (NMS) to decongest the city and the implementation status.

(2) Provide a report on the feasibility study done by the NMS before the construction of the Green Park Matatu Terminus, the plans around it and the cost of the project.

(3) Give a report on the progress made towards compensation of traders and business people who were displaced to give way for the construction of the Green Park Matatu Terminus and a timeframe on it will be officially opened and ready for use.

(4) Give a report on the progress made by the Nairobi Metropolitan Transport Authority (NAMATA) on the implementation of the mass transit system plan which is supposed to ease the challenges of transport that Nairobians go through each day stuck many hours in traffic.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. That Statement stands committed to the Standing Committee on Roads and Transportation. The next Statement is by Sen. Cherargei.

*(The Statement was committed to the Standing Committee on Roads and Transportation)*

#### POOR OLYMPICS RESULTS AND THE MISHANDLING OF ATHLETES

**Sen. Cherargei:** My apologies Madam Deputy Speaker, I thought this Statement was coming up tomorrow or on Tuesday. However, thank you for this opportunity.

I rise pursuant to Standing Order 48(1) to request for a Statement from the Standing Committee on Labour and Social Welfare, regarding the performance of Kenya National Athletics Team to the Tokyo Olympics 2021 in Japan and the mismanagement of athletes by the Ministry of Sports, Culture and Heritage, Athletics Kenya and the National Olympics Committee of Kenya (NOCK). I hope the Chairperson, Sen. Sakaja is listening.

In the Statement, the Committee should-

(i) State the reasons for the dismal performance by the Kenyan national team to the 2021 Tokyo Olympics in both track and field events, including a historic loss of the steeplechase race; an event that Kenya has consistently won in Olympics and other major races since 1963;

(ii) Explain the selection criteria of athletes, sports and Government officials who accompanied the team to Japan, shedding light on the preparations that the athletes went through;

(iii) Reveal the terms of engagement between the public and private media and the Ministry of Sports, detailing the allowances paid and expenses incurred to facilitate the media and editors to cover the Olympics;

(iv) Provide details of contracts signed between the Ministry of Sports, Athletics Kenya and NIKE, and the National Olympic Committee of Kenya (NOCK) with regard to the just concluded Olympics;

(v) Give the number of training kits, grants and donations from various international partners to Athletics Kenya, outlining the distribution criteria to the various training levels in Kenya, from primary, secondary, tertiary and university level;

(vi) State the reforms, if any, that were implemented after the Rio Olympics Scandal. A number of officials have been convicted by the court of law over this mess. In order to prevent pilferage of funds and abuse of office by public officers during such events, including football among other disciplines; and

(vii) Finally, expound on the reward scheme implemented and stipends awarded to the athletes and sportsmen and women of this country in the various athletic categories, football and other sports discipline for outstanding performance, including becoming the brand ambassadors of the country.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. The next Statement is by Sen. Olekina.

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

**The Deputy Speaker** (Sen. (Prof.) Kamar): What is your point of order, Sen. M. Kajwang’?

**Sen. M. Kajwang’**: Madam Deputy Speaker, when I look at the Order Paper, I see Notice of Motion by Sen. Cherargei on the same subject. You had earlier ruled that we need to be efficient in the manner in which we do business and I am wondering whether we should pursue the same subject via a Statement and a Motion. Could you rule on the direction, or if Sen. Cherargei has withdrawn the Notice of Motion, so that we make a much more efficient use of the time of the House?

It is not to belittle the Statement request; it is important. Senior officers have been charged over similar issues. Sen. Cherargei should choose one route rather than the two routes he has taken.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, Sen. Cherargei would have to confirm. The information I have is that you are withdrawing the Notice of Motion so that we deal with the Statement. Is that correct?

**Sen. Cherargei**: Madam Deputy Speaker, I can confirm that I have withdrawn the Notice of Motion on that specific matter, but we are amending it to something else within sports. We will discuss with your office on the same. I have withdrawn the issues that I have raised before the Floor of the House. They are live issues that were captured in the Motion. I have substituted with the Statement so that we can deal with it efficiently.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. You are confirming the fears of Sen. M. Kajwang’ that we are going to have one route and that is of the Statement. When the Statement comes here for debate, then Members will contribute. What is it, Sen. Sakaja?

**Sen. Sakaja**: Madam Deputy Speaker, everything that comes from your Chair sets precedent in terms of how the House operates. I just need clarity from you because a Statement and a Motion are two different things. A Statement is to inquire on the status of something. It is to ask questions to the Executive or the relevant agencies to give a

status of how something has been done, or to investigate. The result of a Statement is not a debate in the House. However, a Motion is the House seeking to give a resolution. This is why Bills are called ‘Motions.’ When we discuss a Motion, the House passes a resolution on an issue and the Executive must implement that.

Is there any harm in pursuing both apart from the issues of efficiency? We might want to make a resolution on a matter – this is why you can amend a Motion, but not a Statement. A Statement is just to establish the status. If anything, the response on the Statement might strengthen what this House resolves or passes as a resolution with respect to sports. That clarity is important so that Members do not think you cannot do both on the same issue.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Sakaja, you have said it well. According to Standing Order 56(1)-

“A Notice of Motion may be withdrawn by the Senator who gave the notice.”

That was his choice. We wanted to confirm what he had done. He withdrew the Motion because the concern of Sen. M. Kajwang’ was correct. If you look at the Statement and the Notice of Motion, they are close. The results of the two are different because of the resolution passed by the House when the Motion is adopted. As a Member, you choose. Have you chosen the Statement route?

**Sen. Cherargei:** Madam Deputy Speaker, I said that I will discuss with your office to withdraw my Motion – to postpone and not withdraw. Probably to postpone and amend it. I am not saying that I am withdrawing the Notice of Motion. This is why I requested you to defer the issuance of notice when it was called out. I will amend it and issue it without the matters that I have raised in the Statement. Therefore, I am not withdrawing the notice, but requesting deferment to amend.

**The Deputy Speaker** (Sen. (Prof.) Kamar): The reason I asked you for confirmation earlier is because the information is that when you went to consult in the office, it was clear you were to withdraw the Notice of Motion in preference to a Statement, so that there is an in-depth investigation into the issues that you want done. Let your notice come and we will see the difference.

Sen. Olekina, proceed.

#### INFLUX OF PERSONS OF ASIAN ORIGIN INTO THE COUNTRY

**Sen. Olekina:** Madam Deputy Speaker, I rise to request a Statement on the influx of persons of Asian origin into the country. From the onset, I would like to state that I do not subscribe to xenophobia behaviour. However, as a representative of the people of this country, I have to raise the concerns of the citizens of this country on the Floor of this House.

I rise pursuant to Standing Order Standing Order 48(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the influx of persons of Asian origin into the country. In the statement, the Committee should -

- (i) State the number of nationalities of persons of Asian origin who have been arriving into the country in droves for the past few weeks.

- (ii) Explain the mission of the said Asians in the country and whether they are in Kenya legally.
- (iii) State the kind of visa that the large group of Asians in reference have used to get into Kenya and when their stay in Kenya expires.
- (iv) Inform the Senate on whether there is any agreement between Kenya and other countries, including those in Asia that are in the COVID-19 red list and various other countries for Kenya to serve as a transit quarantine destination.
- (iv) Outline measures put in place to mitigate against the risk of spread of COVID-19 in the estates in Nairobi and Machakos County where the large groups of the said Asians are being accommodated and have been seen to fully mingle with the locals.
- (v) State whether the Government of Kenya accepted any refugees from Afghanistan and if so, spell out the terms of reference for hosting such refugees in this country.

I thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, as you have noticed, we are committing all the three statements that have been read to Committees without Senators commenting on them due to time constraints. We will discuss the statements when the respective Committees table the reports of the findings.

Next Order.

## BILLS

### *First Reading*

#### THE COUNTY RESOURCE DEVELOPMENT BILL (SENATE BILLS NO. 45 OF 2021)

*(Order for the First Reading read- Read the First Time  
and ordered to be referred to the relevant Committee)*

### *First Reading*

#### THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 46 OF 2021)

*(Order for the First Reading read- Read the First  
Time and ordered to be referred to the relevant Committee)*

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

## MOTION

#### ADOPTION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021, laid on the Table of the Senate on Tuesday, 28<sup>th</sup> September, 2021; and pursuant to Section 205 (4) of the Public Finance Management Act, approves the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021.

*(Sen. Faki on 28.9.2021)*

*(Resumption of Debate interrupted on 28.9.2021)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, this is a resumption of debate that was interrupted yesterday. Sen. (Prof.) Kindiki has eight minutes left.

Kindly proceed, Sen. (Prof.) Kindiki.

**Sen. (Prof.) Kindiki:** Madam Deputy Speaker, before the House adjourned last night, I was making the point that rural poverty is not the same as urban poverty. The dynamic, circumstances, implications and the consequences of rural poverty are very different from those of urban poverty. You can have a very poor person without access to basic amenities in an urban setting, but who can walk to a Level 6 Hospital that is just two kilometers away. However, in the rural areas, some of the people can only access a dispensary which is 15 kilometres away.

As the Commission on Revenue Allocation (CRA) continues to grapple with the marginalization policy, we require that they must distinguish and unpack the different types of poverty and their implications on the society. They must not lump poverty together whether it is in town or in the villages.

Madam Deputy Speaker, the other point that I would like to amplify is that there is need to put money in the so called marginalized areas because they hold the future of our country. I gave the examples of the Australian and American deserts which comprise of among others California, which is the sixth richest economy in the world. The economy of California would not have happened without the infrastructural support and financial rollout that happened in the American desert about 70 years ago.

I would like to give another example that the Government of Kenya can start looking at when considering the issue of marginalization and equalization in our country. There is a city called Eilat which is the southernmost part of Israel; near the border with Egypt. That is a city of about 100,000 people and it is found in very remote desert conditions.

However, policy and financial interventions by the State of Israel has made that city one of the biggest contributors to the GDP of Israel despite the climatic conditions and the aridity of that place. It has become a very popular resort area because the Government of Israel has put tax incentives for the people who want to invest.

The Government of Kenya should think of ways to encourage investors who want to put money in the arid areas so that they get tax incentives and other financial incentives to be able to locate their infrastructures in these areas. It is a pity that these

regulations were compelled by a court of law after the National Treasury wasted a lot of time on an issue that should have happened many years ago. I dare say that the Judiciary has really helped in the entrenchment of devolution. This House itself is a beneficiary of so many court orders that have made devolution work. This is another example of where our Judiciary has put their foot down to ensure that devolution is supported.

Madam Deputy Speaker, the 0.5 per cent that is allocated to the equalization fund is not adequate. It cannot guarantee or wipe away the effects of nearly a century of exclusion and marginalization. These effects are so entrenched, dire and concretized that you require a martial plan where you pump in significant resources as I said yesterday.

We need a policy paper or position that will take over from the Vision 2030. We are already in 2022 and we have not achieved much of what Vision 2030 anticipated. I am afraid to say that despite the great intellectual works that went into the Vision 2030 programme, we are yet to find a policy document that is deep and rich enough to the equivalent of Sessional Paper No. 10 of 1965 despite its shortcomings.

As I said yesterday, I am a big critic of Sessional Paper No.10 of 1965. However, the intellectual rigour and the richness of that document will remain with us for a long time.

Without much ado, I support that these regulations be passed subject to the amendments that have been proposed by various Members.

I thank you.

*(Interruption of Debate on the Motion)*

## PROCEDURAL MOTION

### ADJOURNMENT OF THE SENATE TO DISCUSS THE RECONSTITUTION OF COMMITTEES

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, I rise under Standing Order No.105(1) and move that the debate now be adjourned. The reason for this is that we would like to spend a moment with the Members to discuss the whole issue of Committees and turn ourselves into a Kamukunji inside the House here so that we can deal with the matter which is urgent.

I beg to move and ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, as I speak today, there are some Committees which cannot meet, one of them being the Committee for Devolved Governments and Intergovernmental Relations. In fact, it has been more than one and a half months since they had a proper meeting.

There are many other Committees which are suffering from quorum issues such that if one Member does not attend then the Committee cannot raise a quorum. So, we want to resolve this business, once and for all.

One of the things which I want to point out is that we want to have a very candid discussion with the Members on how to constitute these Committees.

One of the issues to be resolved should be that if you are in the leadership like I am, you should not be a Chairperson of a Committee. As a general rule, you should not be. It becomes very difficult for a Member in CPAIC to be in three other Committees. That is also raising issues. Unless we want Members to just go to those Committees and log in and out which is not good enough.

Finally, Committees are constituted by the House. The Senate Business Committee (SBC) can only give suggestions. We saw the last time when we tried to move the Motion on the Committees as they are in the Standing Orders, not even one Committee was going to go through. They were being shot down one by one.

In order to make sure that we are in agreement on this issue, I strongly support the Motion that we adjourn for at least 30 minutes to one hour to have a very candid discussion and we finish this issue about the Committees.

I second.

*(Interruption of Debate on Motion)*

### COMMUNICATION FROM THE CHAIR

THE 23<sup>RD</sup> STATUTORY MEETING OF THE EXECUTIVE  
COMMITTEE AND THE 4<sup>TH</sup> MEETING OF THE AD HOC  
COMMITTEE OF FINANCE OF THE FPICGLR

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, before I respond to that I had informed the House that I had another Communication to make. I now want to make it.

Hon. Senators, on the 23<sup>rd</sup> Statutory Meeting of the Executive Committee and the Fourth Meeting of the *Ad Hoc* Committee of Finance of the Forum for Parliamentary Member States of the International Conference of the Great Lakes.

Hon. Senators, the Parliament of Kenya has the honour to host the 23<sup>rd</sup> Statutory Meeting of the Executive Committee and the Fourth Meeting of the *Ad Hoc* Committee on Finance of the Forum of Parliaments of Member States of the International Conference on the Great Lakes (FPICGLR) scheduled to be held from today, Wednesday, 29<sup>th</sup> September, to Friday 1<sup>st</sup> October, 2021, in Nairobi.

The Parliament of Kenya delegation will be led by the Senate Majority Leader Sen. Samuel Poghishio who is the President of the Executive Committee of the FPICGLR.

Hon. Senators, as you may be aware the FPICGLR is an inter-parliamentary organization of 12 Parliaments of Member States of the International Conference of the Great Lakes, namely; the Republic of Angola, the Republic of Burundi, the Central Africa Republic, the Republic of Congo, the Democratic Republic of Congo, the Republic of Kenya, the Republic of Rwanda, the Republic of Sudan, the Republic of South Sudan, the United Republic of Tanzania, the Republic of Uganda and the Republic of Zambia.

The FPICGLR was established on 4<sup>th</sup> December, 2008 in Kigali, Rwanda, with the objective of among others, bring a significant parliamentary contribution in the

implementation of the pact on security, stability and development in the Great Lakes region.

This pact was signed here in Nairobi on 15<sup>th</sup> December, 2006 by the Heads of State and the ICGLR Member States. To assist the forum to achieve its objectives, the inter-parliamentary accord sets out five areas of intervention by establishing permanent committees namely:

1. The Committee on Democracy and Good Governance
2. The Committee on Peace and Security
3. The Committee on Humanitarian and Social Issues
4. The Committee on Economic Development, Regional Integration and Natural Resources and the Committee on Women, Children and Vulnerable Persons.

Hon. Senators, seated in the Speaker's Gallery this afternoon is hon. Mundela Sangu, MP, who is the first Deputy Speaker of the Parliament of the Democratic Republic of Congo. Hon. Mundela Sangu is the leader of delegation from the Democratic Republic of Congo participating in the event.

He is accompanied by the following and I also ask them to stand so that they can be recognized by the Senate.

1. Nubuya Kadima Babish - Secretary of the Deputy Speaker
2. Mr. Mukoko Alphonse - Parliamentary staff
3. Mr. Shiyaya Kasongo - Personal Aide to the Deputy Speaker

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to the hon. Deputy Speaker. On behalf of the Senate and on my own behalf, I wish him and the rest of the delegation fruitful deliberations.

I thank you.

*(Applause)*

**The Senate Majority Leader** (Sen. Poghiso): Madam Deputy Speaker, these are my colleagues. This is the first Deputy Speaker of the National Assembly in the DRC. I would like to take this opportunity to join you in welcoming him and his team to the Senate. The DRC like us has a Senate. I would also like to congratulate him for being the leader of the delegation from the DRC to the FPICGLR.

This organization is not only regional, but the presidency of this organization has been resident in this Senate, having been held by the Speaker Ekwee Ethuro at one point when he was President of this organization.

Currently, our own Speaker is the President of this organization and yours truly is the President of the Executive Committee. So, we have a big stake in this organization. Therefore, I ask Members to take time to understand our great lakes region and its issues. As a Senate, you are well represented in this organization.

Hon. Sanku has been a key player in making sure that the ideals and interests of this organization are protected and supported by the Democratic Republic of Congo (DRC). So, *karibu*.

I wish Sen. Lusaka was here because he would have, probably, asked you for more Congolose music which he loves very much. I am sure that when he come to DRC, he will enrich himself with a lot of that music.

Thank you, for coming to our 'upper' House. It is a House of union where we handle the interests of our devolved governments. We thank you for taking the time off. We know that the conference is going on.

We wish you a pleasant stay in Kenya. Please do not go before you visit the country side.

**The Deputy Speaker** (Sen. (Prof.) Kamar): From the other side of the House, I call Sen. Wako to welcome the Members of on our behalf.

**Sen. Wako:** Thank you, Madam Deputy Speaker. I wish to add my voice to that of the Senate Majority Leader in welcoming our brothers and colleagues who are here today.

I particularly welcome the colleagues from the DRC. I have developed a keen interest in what is going on there. I was there seven days before the inauguration of the current President Tshisekedi. I had the opportunity to meet him and also the outgoing President Kabila. I also had the opportunity to meet a number of Members of Parliament (MPs) and party leaders at that time.

Together with my President, I attended the actual inauguration. I was pleased with what is going on. So, I have been following. When I see you here, I feel happy.

Speaking on my own behalf and my interest in the regional cooperation, I hope that the application of DRC into the East African Community (EAC) will be expedited and successful so that we can have closer collaboration between the Parliament of Kenya and that of the DRC.

So, feel welcome. We all belong to the Great Lakes Region and we have a deep interest in having peace because it is only in the environment of peace that we can realize our great potential in economic and social development. So, feel welcome.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, a Motion has been moved by the Senate Majority Leader to adjourn pursuant to Standing Order No. 105.

*(Resumption of debate on adjournment Motion)  
(Question proposed)*

*(Question, that the Senate do now adjourn, put and agreed to)*

Hon. Senators, we stand suspended for 45 minutes.

*(The House adjourned temporarily at 4.00 p.m.)*

*(The House resumed at 4.55 p.m.)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, we are resuming our sitting. We will proceed to Order No. 10, which is a resumption of debate interrupted on Tuesday 28<sup>th</sup> September, 2021.

Sen. Cherargei.

### MOTION

#### ADOPTION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021, laid on the Table of the Senate on Tuesday, 28<sup>th</sup> September, 2021; and pursuant to Section 205 (4) of the Public Finance Management Act, approves the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021.

*(Sen. Faki on 28.9.2021)*

*(Resumption of debate interrupted on 28.9.2021)*

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to support this report by the Committee on Delegated Legislation. It is important that it has come at this time. We have strict timelines for these reports. I fully support it.

In the first marginalization policy, they used counties as units. I am happy with the second marginalization policy that was developed by the Commission on Revenue Allocation (CRA). They marginalized areas, not counties.

For example, in Nandi, you can go to Nandi Hills or Mosop and think that the entire Nandi County is full of milk and honey, not knowing that parts of Tinderet, Mosop and Nandi Hills sub counties have challenges. I really agree with this. I am happy that there are areas in Tinderet sub-county that have been identified.

Mr. Temporary Speaker, Sir, in the identification that was done by CRA, 1,424 sub locations were used as the marginalized areas, which is 20 per cent. These areas form five million Kenyans who have been identified through this process. Out of 1,424 sub locations that have been used as marginalized areas, Nandi has received 17 areas in Tinderet sub county because of recurrence of landslides and other vagaries of weather. Two other areas have been identified in Nandi Hills sub county.

I wish that in the future, identification of the areas through this Equalization Fund that has been set under Article 204 would also include parts of Mosop sub county, so that we can be beneficiaries of it as we envisaged.

Mr. Temporary Speaker, Sir, I heard my brother, Sen. Sakaja, indicate that as we identify the marginalized areas in the future, we must also look at the urban and rural poor. In Nairobi, you can live one or two kilometres from a dispensary. In Nandi, Makueni and other areas, you can live 5 or 15 kilometres from a dispensary.

We need to identify these areas, especially in the city. About 60 per cent of the Gross Domestic Product (GDP) could be in Nairobi, but the question should be, there are

people in Mukuru kwa Njenga, Kibra, and other slum areas. We need those areas to be part of those that are identified, because they are marginalized in one way or the other.

Today I sat in the Committee on Roads and Transportation. The National Treasury was giving specially permitted contracts in the development of Level 3 and Level 4 hospitals in areas and constructing roads within the upgrading areas. In future, we must widen the scope.

Mr. Temporary Speaker, Sir, we no longer talk about Internally Displaced Persons (IDPs) and forest evictees. The people who are being marginalized in Nairobi and other cities are what we now call infrastructural evictees. Nowadays, the Nairobi Metropolitan Services (NMS) or any other agency evict people.

What happens to infrastructural evictees? They become part of the marginalized within the cities. I hope that we can look at this in future. Looking at the population of Nandi of 885,771 people, getting around 19 areas of identification out of 1,424 is very crucial.

Secondly, I agree that apart from looking at the urban and rural poor, we must be in the spirit of the marginalization of the Constitution of Kenya. We are aware that in this second marginalization policy, there were other communities that were identified to be marginalized such as the El Molo, Makonde, Ndorobo, Selata and Wata. There are other communities that have continued to be marginalized.

We, however, agree that the problem is with Sessional Paper No.10 of 1965. They said that Kenya should identify high potential areas and imagined that low potential areas would get the opportunity. That is what we call a trickle effect. We got it wrong from Sessional Paper No.10 of 1965. They imagined that the high potential areas that were identified could trickle down to low potential areas.

That is where we come in with the bottoms-up approach. We want to ensure that we do not only bring up high potential areas, but ensure that all areas unlike the exclusion of Sessional Paper No.10 of 1965 benefit. We know it excluded some areas, especially in the northern part of this country.

Mr. Temporary Speaker, Sir, I can tell you that in future, the northern part of Kenya and the North Rift will be able to sustain these other areas. We want solar energy. We can harvest it in the northern part of Kenya. It will supply electricity to Nairobi and other areas which were thought to be the high potential areas in the past. It has shown that the trickle down approach does not work. Let us change and go for a bottom up approach of doing things.

Mr. Temporary Speaker, Sir, another factor is colonial policies and practices. Also, adequate post-colonial corrective and distributive policies were never done. The country has come from far. I have talked about Sessional Paper No.10 of 1965. We came with the *Harambee* philosophy where we used to pull resources to develop.

I see people demonizing *Harambee*. It is the foundation. Our founding fathers were the initiators of *Harambee* philosophy, where communities would pull resources together and ensure that they fund projects. This *Harambee* philosophy has been reincarnated through Article 204 of the Consultation through the Equalization Fund.

We want people to access water, electricity, good roads and schools. We also want Samburu, where you come from, to have an opportunity, because they have been systematically marginalized. The Sessional Paper systematically marginalized.

I am happy that the Chair indicated yesterday that theirs was just to facilitate, but the process of identifying these areas was according to the 2013 survey report on marginalized areas by the CRA. They came up with a second one on marginalized areas.

Mr. Temporary Speaker, Sir, my only concern is that in this County Technical Committee that has been formed, I do not see the role of the Senate. Under Article 96, we should be given an opportunity to have a representative.

*(Sen. Farhiya spoke off record)*

It is there.

The County Technical Committee has the County Commissioner as the chairperson, there is the County Executive Committee Member (CECM) for Finance, Constituency Development Fund (CDF) managers, representatives from the county assembly, chairpersons of CDF and representatives of implementing sectors. That is the County Technical Committee.

Sen. Farhiya is telling me that the project identification and implementation committees are in sub counties. They have provided for the county technical committee, the administrative structure of the Fund and the sub-county project identification and implementation committee. I cannot see where the Senate is. Could it be there was a typo? Maybe the Chair can note this.

There is no representative of the Senate in the county technical committee. I expect the Senate to have representatives so that they help in identification of projects. That will help us in doing oversight because we send money to the counties. I hope they will note that.

Another issue is the utilisation and audit of the funds. We must emphasize on public participation. The court ruled that many organisations and agencies of the Government do not conduct public participation. Public participation is key.

When you want to do a project in Chepterwai in Nandi, you must conduct public participation. When you go to Nandi's Kapchorwa Ward, before you identify a project that you want to do, you must have public participation. When you want to have a project in Maraba in Tinderet, you must call the people so that we are in tandem.

I hope my Chairman will also note this. We should have social auditing. We only audit accounts but we must have social audit. The other day we passed a censure Motion here. That is part of social auditing. Today, heads have rolled because the President has reshuffled the Cabinet. That shows that the Senate has some teeth because some Cabinet Secretaries have been moved to other Ministries.

Apart from auditing accounts, social auditing is also important. As they say, justice should not only be seen but also be done. When we audit projects, we must visit and also carry out social auditing. We should not just audit accounts only. That is why committees go on fact-finding mission.

When audit reports are presented to the County Public Accounts and Investments Committee (CPAIC), the Members should go on the ground and see whether the projects

exist. We have projects that exist on paper. Governors come for sanitization but when you go on the ground, you are told that projects stalled two years ago. For example, the Governor's Office in Nandi County has stalled since Financial Year 2017/2018.

Members of the CPAIC and the Committee on Finance and Budget should be making visits so that when we discuss issues, they are things that we have seen. We should also be looking at the scope of works. I do not want to go to any other county. For example, we should know how much it will cost to build Chepterwai Sub County Hospital, the scope of works and how it will look like. That is how we will assist *wananchi*.

Part of social auditing is censuring Cabinet Secretaries like we did and the Auditor-General will do their work. We believe the reshuffle by the President was not done in good faith. Of course, he has the powers to reshuffle the Cabinet. I know that because of the "Handshake", some people want to be in the Cabinet in the sunset years of his presidency. We must also do social audit. We cannot just blame even when there is nothing to blame.

Another issue is the boards in the counties that will do approvals. Sen. Faki who is the Chair of the committee is my senior in the profession. What is the animal called provincial administration doing here? Why do we not use the devolved units?

The Government was supposed to restructure but we are bringing back the provincial administration. That is a serious issue that should be handled by *wananchi*. In fact, the county commissioner will be the chairperson. Why do we not give it to the governor? People here want to be governors. Sen. Mutula Kilonzo Jnr. wants to be the governor of Makueni. Some of us here also want to be governors.

The question is; how do we incorporate counties and the national Government? My learned senior, Rtd. Justice, Sen. Madzayo, knows that these should be done mutually and distinctly. The national Government is clawing back devolution. That is what we are trying to do. In fact, to make it better, they should at least co-chair with the governor instead of leaving it to the county commissioners alone.

Governors and county commissioners normally fight. If you are keen, the national Government does not want governors to be in security committees of county governments. You can see that from what is happening in Laikipia and Samburu. The national Government does not want governors to be part of security committees. However, when it comes to distribution of resources, they want to be part. That is clawing back devolution in this country.

When an opportunity comes, we must relook at the role of provincial administrators because they are the cause of the fights we see in the counties. They should not water down the gains of devolution. Let the national Government do its job but they should allow counties to function.

We should not introduce policing. Why does the national Government want to have policies on what is happening in the county governments? What interest do they have? The Constitution says they are mutual and distinct. It does not mean the other becomes the policy maker of another entity. I find that to be an affront. That is undermining devolution. That is what we call clawing back. That is why today, the Government can use other means to put in place a national health policy.

Mr. Temporary Speaker, Sir, I support because Nandi County will have around 19 areas. We will use the Equalization Fund to improve the lives of the people of Nandi. Let us not allow clawing back of resources.

We may be at risk of going back to Sessional Paper No.10 of 1965. The architect of Sessional Paper No.10 of 1965 was the Government. If the Government did not have ideas in 1963, what do you think they will have in 2021? Let us allow devolved units to function as per the law but we should work mutually and distinctly.

As I conclude, I hope Cabinet Secretaries are aware that under Article 153 (3), they must appear before Parliament. When you do not appear, the President is obliged to fire you. So, I urge public servants who are supposed to appear, especially the Cabinet Secretary---

Mr. Temporary Speaker, Sir, Sen. Kinyua raised a Statement on the issue in Laikipia. Up to now, the Cabinet Secretary for Interior and Coordination of National Government or even the Principal Secretary (PS) have not found it wise to appear before the committee to tell us what is happening in Laikipia. I hope the reshuffle was not done to hoodwink Kenyans. If we want accountability, we must ensure that we respect the Constitution.

I support.

**Sen. (Dr.) Ali:** Mr. Temporary Speaker, Sir, while I support the Committee's recommendations, the unfortunate thing is that this thing has already delayed for a very long time.

In many areas, projects were done, but not paid for because of court issues and stoppage of these funds. Many people have suffered in the process and projects have stalled. Therefore, stopping these Regulations at this time might not be right because in the end, the people concerned might not get the money.

Looking at the way things have been done, the Fund is literally like another National Government-Constituencies Development Fund (NG-CDF). Members of the National Assembly have decided to put everything of theirs here. At the county level, the composition is the County Commissioner as chairperson, the CECM for finance and NG-CDF managers.

In Wajir County where there are six constituencies, there will be six NG-CDF managers there, a representative of the County Assembly and then chairperson of NG-CDF. Why do we need all those people from the NG-CDF? Why do we not have the Senate as the one that is supposed to take care of and oversight these funds better? The Senate has no work or involvement when it comes to the issues of the technical committees. To have the chairpersons and managers of the NG-CDF is just a duplication of NG-CDF. This thing will be just the way the NG-CDF is.

From the county, we go to the sub-county and we do not see the NG-CDF secretaries or the sub-county administrator. In the project identification, we can see the NG-CDF committee member. Was this Fund meant for Members of the National Assembly or it is a devolved function that is supposed to be monitored as a conditional fund from the national Government to the counties through the Senate?

The way things are, there might be a collision in the end when the sub-county and county technical teams send their recommendations to the CECM finance. The

Regulations might not even work because of the person who is supposed to sign the projects.

Functions of the CECM finance include consolidating all projects approved by the county technical committee and submitting to the secretary of the board for funding with a copy to CRA, preparing financial statements and submitting to the secretary of the board; preparing quarterly reports of funds received and implementation status of these, and preparing annual reports.

All these things are done by the county and CECM, but when it comes to how things are done at the county and sub-county levels, the county is not at the centre.

Looking at withdrawal and utilization of the funds, this is supposed to be done by the Senate-

“The Fund shall be utilized as conditional grants to the affected counties in accordance with the Division of Revenue Act and County Allocation of Revenue Act for the respective financial years. All withdrawals from the Fund shall be deposited into the respective spending counties accounts.”

This is a contradiction. I am 100 per cent sure, the way Members of the National Assembly work, it seems all their NG-CDF staff will be the ones who will bulldoze this thing through because they are the majority in the committee. We will end up again with people fighting all over. Nothing will come out of the county because the county government and the Members of the National Assembly will fight over this, and the CECM is not going to recommend anything to come to the Board for money to be released.

Why did we waste all this time? We have already wasted more than 10 years of the 20 years when this money was supposed to be allocated and given to the marginalized areas. Not only have the counties concerned been increased, which I have no problem with, but we are going to delay because this thing might lead to court actions and problems in the long run.

Mr. Temporary Speaker, Sir, I hope the committee will look into these issues, but the way things are now, we might not be able to do much. I urge the Committee to look into this issue. If need arises, they should look and see where they can change, even if the National Assembly because of their own interests, do not care what happens to this money.

I beg to support.

**Sen. Were:** Thank you, Mr. Temporary Speaker, Sir. I also rise to speak on the Equalization Fund Administration Regulations presented by the Committee on Delegated Legislation, ably chaired by Sen. Faki.

The Equalization Fund was set up in the Kenya Constitution, 2010, mainly to deal with the unintended repercussions of Sessional Paper No.10 of 1965 that had been spearheaded by the late Tom Mboya. The administration of this Fund, initially under the First Marginalization Policy, had 14 counties. In the Second Marginalization Policy, we now have 34 counties.

This Second Marginalization Policy has focused on certain sub-locations in these 34 counties. As we were informed by the CRA, these sub-locations were identified

through a poverty assessment research or survey, which looked at certain factors. These were health, sanitation and electricity, amongst others.

However, as much as the Equalization Fund was a good thought supposed to deal with those injustices committed way early, in 1965, just two years after independence, is looking at areas that have been marginalized for 50 years. We require 50 years and more for these counties to be at par with those counties that benefited from that Sessional Paper of 1965. That is not something that can be achieved in the 10 years of its application now.

We take note that it has stalled for the last 11 years. We hope we shall pass these Regulations, so that the Fund is now implemented and these counties can continue benefiting and trying to catch up with those others that have been way ahead.

I would also love to point out that these areas that have been marginalized for many years will one day become a savior when these other counties have depleted their resources. We know that resources are not permanent. Seventy per cent of Kenya is not arable and, therefore, falls under the marginalized areas. Thirty per cent can quickly be depleted. We, therefore, need the other 70 per cent. We need to start thinking along those lines. What are we doing to the 70 per cent of Kenya that has been marginalized for so long?

I would have expected that the Committee recommended a certain review of the Second Marginalization Policy, so that we include certain sub-locations in certain areas that probably benefited in 1965, but have sub-locations that fall under this category of marginalization. We might have arguments of whether marginalization is equal to poverty, but that is an academic argument.

We have notorious areas such as in Nairobi, Mombasa and Kisumu that have slums that suffer from issues of health, sanitation and lack of electricity. We were informed how the illegal connections of electricity cause the frequent fires we face in these slums.

I expect that the Committee can still make that recommendation and a review of that policy to include certain---

We could still make that recommendation, a review of that policy to include certain sub-locations that suffer the same fate.

Mr. Temporary Speaker, Sir, this report has recommended a project identification and management committees both at the national and county levels. This is a good thing because our counties will be involved in the identification and the management of projects that will be recommended to be utilised under the Equalisation Fund.

Arguments have been made on the fact that these monies are too little to make any impact. However, depending on where we have come from, if we start at the sub-location and give little for each sub-location, it will amount to development of the location, then the former division or what we call the sub-county and eventually the county. We start small because we are small now. Eventually when funds are available and there is enough money, more money can be put into big projects that will have the biggest impact.

All I ask for is we amend our law so that the sunset clause is removed. Equity for the areas that have been marginalised for 50 years cannot be achieved under 10 or 20 years. We need at least 50 years to achieve the equality.

Thank you, Mr. Temporary Speaker, Sir.

I support.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Mutula Kilonzo Jnr., you have the Floor.

**Sen. Mutula Kilonzo Jnr:** Thank you, Mr. Temporary Speaker, Sir. I rise to give my contribution. Before I say whether I support the recommendations or otherwise, I would like to disclose that the Committee on Finance and Budget that I have been serving since 2013 had the opportunity of dealing with these regulations; the ones that were nullified by the court and the Bill proposed by a private member.

I am uncomfortable that we did not consolidate the work of the Finance and Budget Committee and that of the Committee on Delegated Legislation. We had gone into great detail on what the court was talking about in relation to equalisation. I want to bring that point in relation to the County Executive Committee that has been raised by several Members here.

The court was of the view that primarily the projects that are identified under Article 204 are devolved functions and, therefore, the theatre of the devolved functions is the counties. It becomes a big contradiction to have a top-level national Government County Executive Committee. This is the problem I have. You have the County Commissioner and the national Government Constituency Development Fund (NG-CDF) represented in the Committee. Then you have national Government officials chairing on matters that ideally should be under the purview of county governments.

What we are attempting to achieve in the marginalised areas will be taken away by the County Commissioners because they are operating under instructions at the national level. That itself is a contradiction and what the court was trying to run away from. The regulations that were nullified had the provision that the Principal Secretary from every Ministry that concerns water, electricity, roads *et cetera* be included. They said it means nothing. What it means is to get the county involved.

The reason why we have the county framework as the bottom-top-heavy county was the purposes of the identification of projects. If you mix the County Commissioner, NG-CDF chair, CDF Committee and the County Executive Member, he or she will be outnumbered, outgunned and the process will just lead to an absurdity. To that extent I do not agree.

The Committee of Finance and Budget had gone into great detail about why we should not do this this way. Sen. Farhiya can confirm. This is the problem of not collaborating in what we are doing because we would have changed this framework. The framework will contradict the work we have done for so long. The contradiction is that we have a report tabled by the Committee of Finance and Budget and a Bill which is not in tandem with this. What do you do when you have regulations like these ones?

Secondly, we had problems with Committee on Finance and Budget on regulations under Public Finance Management (PFM) Act. The regulations are dated 23<sup>rd</sup> April. Under PFM, the minute regulations are gazetted in the format they are, PFM has a contradiction that is not in any other law. The minute you have a gazette notice published by the Cabinet Secretary, in the format, and you do not pass or approve within a certain period of time, they become law. These regulations are now law without our input. What

we are doing today is merely academic if not academic. There is a time period prescribed under the PFM Act.

This is the problem we had with the original regulations that were passed in 2014. We attempted to amend them and the National Treasury refused because we are now caught between a rock and a hard place. We do not agree with a clause that in itself creates a problem in counties. What do you do with it? It has already become law and we cannot publish a corrigendum; we do not have jurisdiction.

I have a problem and I must say so because we have put ourselves in an awkward position. The people who were asking from the Committee Chairperson NG-CDF, County Assembly, they should find a position for the Senate. If the Senate has a representative at the board level in Nairobi, why not have a representative of the Senate at the County level, which is the theatre of devolution. This appears obvious and logical.

As the Senate - I have said this before - we cannot take away our own jurisdiction and give it away to others. This is what we are doing with this County Executive Committee. It is allowing ourselves to be run out of town by functionaries of the national Government. It is unacceptable. Hon. Members of the Parliament, we are the people who are fighting to have an Equalisation Fund. If you look at the sidenotes of Article 204, it talks about counties. All of a sudden, we have taken the theatre to the CDF manager and NG-CDF people. It is not necessary. It is another NG-CDF.

This is exactly what we have been refusing. The Bill by the Member from Samburu, who attempted to amend the Constitution, we rejected it flatly because he attempted to go round and cede the Equalisation Fund by having this theatre in the constituencies. I am forced to say 'no' to this since it contradicts the work I have done since 2013 of trying to fight this to be the theatre of counties and the work of the Senate.

At the end of this you have a report which comes to the Senate. What is the purpose of having a report coming to the Senate at the tail end of this process when you have not involved the Senators in project identification? It is a waste. I am afraid I do not agree. I have said that this is a contradiction. We might be doing an academic exercise. There is something we did; I want to say this loudly, there is about Kshs20 billion - Sen. Farhiya, if I am not correct you can correct me - lying about the 14 counties that had been identified. Those counties include Samburu, Isiolo, Mandera and others.

There is some money and projects that had been identified in the first nine years that is already in the kitty. In our report, we provided a transitional clause so that the projects are not lost and that the money is not appropriated in the second policy.

Mr. Temporary Speaker, Sir, I have looked through these regulations and I cannot see it. What happened to that money? The criteria in the first and second policy are not the same. We do not want the projects that were identified in Wajir County in the first policy to be lost in the second policy. These regulations as they are, we are going to have a problem with the money that is already budgeted. It is not mentioned in this policy. The Chairman can correct me if it is there because I have not seen it. Unless it is clearly stated, it will be lost.

We should ring-fence the existing fund and the projects that are already identified. Some of the Members who are seated here are beneficiaries of the first policy. However, with these regulations, they will lose that money. This money will be lumped together

and then split amongst the ones that are identified by the Commission on Revenue Allocation (CRA) and that is unacceptable. There is a reason why we should have provided a transition for the first and second policy. The reason we had a problem with the formula is because there are some people in this country who do not think that there are places in Wajir, Mandera, Isiolo and the others that have been marginalized since 1963 that should receive resources. It is for that reason that at every opportunity we have as the Senate, we must make ourselves very clear so that there is no ambiguity. I am afraid that the ambiguity in these regulations will deny the 14 counties that were listed in the first policy funding.

On the issue of project identification and administration of the fund, the first board spent Kshs652 million on four chopper rides and their report was nullified by the court. If you look at the comments by the Council of Governors (CoG) who went to court to challenge the first tranche of regulations, you will realize that these regulations are bound to go back to court because they do not follow to a large extent the pronouncements of the court and I wonder why. However, the answer is simple. The people who are fighting marginalized areas have found their way back through these regulations. The people who are fighting the fund have found their way into this kitty. That is so unfortunate.

I am afraid that I have to say “no” to these regulations based on the things that I have done in the Standing Committee on Finance and Budget. It will be a contradiction for me to accept this process as it is; absolute contradiction. I am not doing this because Makueni County is not listed among the counties that are set to benefit from the fund. My point is that this is wrong. It is wrong at so many levels that we cannot amend a regulation.

If we had a process to relieve the county committee in its entirety and replace it in the format that it should be, then I would support. However, if I cannot make any amendment, then I have to say no. I hope that somebody will go to court to nullify these regulations to the extent that they are clawing back on the functions that are meant for the counties.

The other things have been captured properly such as project identification. However, where the NGCDF has been involved, I say no because that is not the purpose of the equalization fund.

Mr., Temporary Speaker, Sir, with those few remarks, I reserve my comments. I will not support these regulations unless I can be told that some of the contentious issues will be changed. I hope that the report by the Committee on Finance and Budget is going to find its way here because it says some really different things about the equalization policy and fund. It is unfortunate that the deadline for the sunset Clause for this equalization fund is about to be reached and yet Parliament has for the last donkey years been going back and forth about the regulations as opposed to making sure that the marginalized areas in Isiolo, Mandera and other areas have water, roads and electricity. It is unfortunate that money has been sitting in accounts since 2013. That is an indictment on us as legislators. It is terrible. I hoped that in the new regulations, instead of the Commission on Revenue Allocation (CRA) identifying the marginalized policy and not identifying the projects because they have gone to all these marginalized places---

Mr., Temporary Speaker, Sir, I was hoping that the Senator for Baringo County would be here because 55 years after Independence, there is a place that was identified in Baringo County where women are giving birth under a tree. That is a tragedy of monumental proportions. The colour of marginalization shows the country as red all round and a very small part in the middle as green. That should not be the map of Kenya because that is a map of historical injustices. That is a map of the people who think that other Kenyans are less than them. That is a map of darkness, that every time we switch off the lights, some places in this country go black as if they are in a lunar eclipse. We must put an end to that situation.

The Parliament of Kenya must debate and finish this process before this session ends. It is greatly unfortunate that we are discussing these things as opposed to a report showing that the equalization fund has ensured that counties that did not have maternal health care services or hospitals now have access to those facilities and have pictures of beautiful hospitals done through the equalization fund. This Government is a tragedy. Choices have consequences.

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

**Sen. Omogeni:** Mr., Temporary Speaker, Sir, I would like to begin by congratulating the Senator for Mombasa County, Sen. Faki, for the good work that he is doing as the Chairperson of the Committee on Delegated Legislation. He has kept the Senate busy with reports.

Unfortunately, I join hands with Sen. Mutula Kilonzo Jnr. in putting on record my strong reservations on these regulations. I would like to begin by applauding the good work that the Judiciary of the Republic of Kenya on attempts by the National Government to have a claw back on devolution. There have been systematic attempts by the National Government to take over the functions that under the Constitutions are a preserve of the county governments. I hope that the Senators can read carefully the findings of the High Court in the High Court Petition No.272 of 2016. That is the decision that nullified the regulations that were *gazetted* through Legal Notice No1711 of 2015.

The holding of that three-bench court was the Equalization Fund being for the benefit of marginalized counties can only be disbursed by the National Government through respective and affected county governments.

Mr. Temporary Speaker, unfortunately when you read through these regulations it is unfortunate that we have turned the implementation of these regulations to be the work of the NG-CDF and Members of Parliament. Why should the Senate cede these functions to Members of the National Assembly? We do not sit in the CDF. We do not have representatives in the NG-CDF.

If you read about the County Technical Committee, why should you have the NG-CDF manager? What is his role? Why should a NG-CDF manager come to sit in a fund that is trying to put in place the Equalization Fund? It does not make sense. Why is the chairperson of the NG-CDF who already has a defined mandate being brought to sit in the County Technical Committee?

Why is the County Commissioner a chairperson? This is unacceptable. In fact, this should be our window as Senators to be more relevant and participatory in project implementation at the county level.

Instead of bringing these officers, the NG-CDF manager, the chairperson of the NG-CDF, we have members of staff who sit in our offices at the county. They can be the nominees to sit at the administrative structure of this fund at the county level.

You remember we tried to amend the Roads Fund Regulations. We discussed it on this Floor as Senators and we said there was some injustice because in the Roads Fund the Member of Parliament in the constituency nominates four people from the constituency office. So, why are we behaving as if, as Senators we do not have a Senate county office?

We have managers who run our offices. We have staff who are employed there. Why are we allowing Members of the National Assembly to take over functions that the court has made a pronouncement that they are a preserve of the county government? This is a contradiction of our Constitution of 2010.

I think we should not mince words. Let us call a spade a spade. These regulations are going to be declared again unconstitutional by the High Court if we if we pass them the way they are.

Look at the contradiction. The National Government wants to tell us through these regulations that they will send four technical officers from Ministries relevant to the funding priorities. We have Ministries at the county level. Our CEC's are Ministers. Why are we allowing people from the National Government to come and start implementing projects from Ministries that are already existing at the county level? Does it make any sense?

The CEC, Health is the Minister for Health at the county level. How do you allow the National Government to pick technical officers from the Ministry of Health in Nairobi and then send them to the 47 counties? We are being told here that this fund is already spending Kshs500,000 on administrative expenses. It does not make sense.

In fact, if there is a window that should now make Senators with passion, the fund that should help us undertake our oversight duties at the county level, it is this one. However, this cannot happen if you leave the structure to be the way it is.

**Sen. Halake:** On a point of order, Mr. Temporary Speaker, Sir. With all due respect to senior counsel, is it fair to now decide to use the Equalization Fund report to settle scores around the oversight fund? Is he saying that we now paralyze everything because we did not get that? Is this really about us or is it about something else? I think it is not in order. It is in fact irrelevant because we cannot paralyze because of other things that we did not get. Is that really fair?

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Halake, Sen. Omogeni is giving his observations on this Motion and he is entitled to them.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, a point of order should be relevant to what I am saying. I am just expressing my opinion and it is allowed. I cannot say much because Sen. Halake is a good friend of mine. I will leave it there.

I plead with Senators not to allow the Equalization Fund to be converted into an extra work for Members of the National Assembly who are supposed to run

constituencies. You cannot allow people who are running constituencies to start running counties. How? That cannot happen.

I am happy that I have brought Sen. Halake on board and she is with me on this.

Mr. Temporary Speaker, Sir, anybody who is a Senator loves devolution. We have sub-county administrators who are employed by county governments to be in charge of our wards at the county level.

If you read Article 6 of the Constitution, we have two levels of Government. That is the national Government and county governments.

When you go to the sub-county level, we need to agree that in principle, at the ward level, we have sub-county administrators who are the representatives of the county governments. How do you remove them from the administration of this Fund and replace them with assistance county commissioners? That is a big contradiction.

If we want to abide by the High Court decision, at the sub-county level, the person who should be key and chair those Committees should be the ward administrator. Let us accept that if we allow the national Government to over-crowd its representation in these Committees, we would have lost it. This will no longer be a function of county governments.

Mr. Temporary Speaker, Sir, the National Government-Constituency Development Fund (NG-CDF) Committees and fund managers have their distinct roles and functions at the constituency level. There are projects that are funded by the national Government that are under implementation at the constituency level.

We are now looking at functions that are under the county government but will be implemented at the ward level. We must separate the two so that we do not bring some new fights between NG-CDF officers and the Equalization Fund.

They should be allowed to continue to manage NG-CDF but this Fund should create room for Senators, County Executive Committee (CEC) Members, and people from the villages and leave aside Members of the National Assembly.

Mr. Temporary Speaker, Sir, there is a minor correction at page 9 of the report that makes reference to Migori being in Gatanga. The last time I checked, Migori County does not have that name. So, Chairperson, you need to ensure that the correction is made.

In terms of projects, I hope that when these funds are implemented at the county level, there should be emphasis on our youth and women.

I do not like the thing you call bottom up approach. However, I like the concept of devolution because it takes resources to the lowest point.

The bottoms up approach means taxing my people in Nyamira and bringing money to Nairobi, which is not a good thing. We want money that is in Nairobi to trickle down to Moraa and Nyang'au who are in Nyamira.

I want the *boda boda* riders in Nyamira to grow in business. We want to register companies for them when this Fund goes down to the ward level, they are the ones who should benefit.

We want our women to be the ones doing this project. If you are talking about 360 projects, these are projects that should be the preserve of people who are at the county level, in *mashinani*. This is so that they engage with business and then they can grow.

Mr. Temporary Speaker, Sir, as I gear towards my conclusion, I am a bit worried with the way that we are moving with this Equalization Fund. We started with 14 counties. When you read through, you can never have a quarrel.

I know the way life is difficult in Turkana and Mandera. I know the distance between one health facility and another. I know the difficulties that the people of Wajir are facing in terms of roads. If am not wrong, the first time a tarmac road hit Wajir was four years ago, and that is one stretch of road from Nairobi to Wajir.

I agree that that is serious marginalization. The same thing goes for Samburu and many other counties. We are now opening this thing up. We have brought on board 34 counties out of 47. I do not think that that was the intention and the spirit of the framers of the 2010 Constitution.

I am telling you that that was never the intention. The framers never thought that a time would come when we would spread this thing to 34 counties. Next time, we will have all the 47 counties being referred to as marginalized.

Mr. Temporary Speaker, Sir, I do not think that this is the way to go. There are people who are playing catch up. Let us accept it. Those are counties that should receive the attention of the Commission on Revenue Allocation (CRA).

We should not introduce other politics of saying that everybody wants to have a piece of the cake. Some people have eaten since 1964. There are counties where every two kilometres, you have a health facility. It is not fair when we bring in these other factors like clean water and others. That is not the way to go.

Mr. Temporary Speaker, Sir, in conclusion, I appeal to the Senate to reconsider these regulations. I know that Sen. Mutula Kilonzo Jnr. has raised a technical issue on the operation of the law. Perhaps the regulations have already taken effect, but I do not think that future generations will forgive us if we just allow these regulations to pass.

Do not be cheated by this thing you call the Equalization Fund Advisory Board (EFAB). What power do you have if you are an advisory board sitting in Nairobi and the people who have the power are those who are at the county and ward level?

Do not be given this sweetened thing that Senators have a representative at the EFAB. No! In fact, Members of the National Assembly do not have representatives at the board here. Their representatives are at the constituency level. That is where things take place.

I appeal to my colleague Senators to rethink on these regulations, especially on issues dealing with the administrative structure of the board. We have them taken back to the sender so that the Senate, our staff at the county level, and the County Executive Committee Members (CECM) who are our ministers at the county level are given room in the operationalization and administration of these funds.

With those remarks, I do not support.

*(Sen. Olekina spoke off record)*

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

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I just wanted some clarification on the importance of this board from the Mover, given these funds are being implemented

by the national Government. Earlier on, I listened to one of our colleagues saying that the MPs would be part of this board. Since when did an MP become the head of the National Government-Constituency Development Fund (NG-CDF) board?

I know that Sen. Sakaja is laughing because of our argument back and forth on the difference between poverty and being marginalized. In terms of these regulations, what happens if we go with that angle of retaining them to the sender? What will happen to those projects that have already been implemented and people have not been paid?

Mr. Temporary Speaker, Sir, I think that we need to differentiate between the administrative aspect of the regulations and the role of the CRA. If we can get clarification from the Mover, it will really help us.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, there are no more requests to contribute on the Motion. I therefore call upon the Mover to reply.

**Sen. Faki:** Mr. Temporary Speaker, Sir, first, I thank all the Senators who have contributed to this Motion. I thank the Seconder who was Sen. Poghio, Sen. Sakaja, Sen. Olekina, Sen. Farhiya, Sen. M. Kajwang', Sen. (Dr.) Musuruve, Sen. Halake, Sen. (Eng.) Hargura, Sen. (Prof.) Kindiki, Sen. Cherargei, Sen. (Dr.) Ali, Sen. Mutula Kilonzo Jnr., Sen. Were and Sen. Omogeni.

I wish to disabuse the minds of the Senators that we never considered these regulations extensively because we spent a lot of time on these regulations. According to the Statutory Instruments Act and our Standing Orders---

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Mutula Kilonzo Jnr., do you have an intervention?

**Sen. Mutula Kilonzo Jnr.:** It is okay, that was resolved.

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

**Sen. Faki:** Our mandate is quite clear in the Standing Orders. Standing Order No.221 gives the mandate of the committee. Consideration of the formula and the Second Generation Marginalization Policy was not amongst the issues that we were supposed to consider when examining these regulations.

The Second Generation Marginalization Policy was brought to this House by the Committee on Finance and Budget in 2018. Before it was brought to the House, we had a session with the Commission on Revenue Allocation (CRA) at Villa Rosa Kempinski Hotel where issues were discussed and brought to the House and approved. We had no say in the consideration of that formula.

In any event, the policy is not a statutory instrument as defined in the Statutory Instruments Act of 2013. Secondly, under Article 204(4), it is stated that the CRA shall be consulted and its recommendations considered before Parliament passes any Bill of appropriating monies from the Equalization Fund---

**Sen. Sakaja:** On a point of order, Mr. Temporary Speaker, Sir. Our Standing Orders provide how committees can work even jointly sometimes. Maybe this will go beyond this specific discussion that the Committee on Delegated Legislation receives regulations touching on different areas. Tomorrow they might have regulations on health, sports or other areas.

Mr. Temporary Speaker, Sir, I would like clarification from the Chair because it would have cost nothing. From Sen. Mutula Kilonzo Jnr.'s contribution, I am inclined to

think that the committee did not at any point consult with the Committee on Finance and Budget. It is not a requirement but it could be useful.

Maybe the Chair should shed some light on whether they interacted with the Committee on Finance and Budget because it is clear that the Committee on Finance and Budget looked at this beyond just the policy and possibly the administration.

Maybe the SBC should discuss this. Next time another regulation comes touching on another area like labour--- We have been considering but you do it on your own and you might not benefit from what Members have been contributing. Maybe that clarification would be useful.

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

**Sen. Faki:** Thank you, Mr. Temporary Speaker, Sir and Sen. Sakaja. Sen. Farhiya is a Member of the Committee on Finance and Budget and also a Member of our Committee. We discussed these issues although we never consulted the Chair of the Budget and Finance Committee.

In our consideration, we considered the fact that these regulations were being brought to the Senate pursuant to a court order which had been issued earlier.

There was a Committee that was formed as a result of that court order which considered these regulations. They came up with a draft and subjected it to public participation. They had considered all the stakeholders before they were published and Tabled before the House.

The institutions that were consulted included the CRA, CoG, CBK, CoB and the County Assemblies Forum (CAF). In our consideration, we also consulted the same institutions that came up before us, I think on 10<sup>th</sup> of September when we considered these regulations.

Section 205 (6) of the Public Finance Management (PFM) Act provides that –

“If a House of Parliament does not make a resolution either approving or rejecting any regulations within 15 days after submission to it for approval, the House shall be deemed to have approved those regulations.”

In the present case, these regulations were tabled on 7<sup>th</sup> September, 2021. We have up to 15<sup>th</sup> October, 2021 to make a decision on them.

Issues were raised as to the composition of the county Committees. Yes, I agree there might have been overlooking of the Senate and population of the Committee by the NG-CDF. Article 204 of the Constitution, the national Government also can expend monies from the Equalization Fund. There might not be a necessity for having two Committees in the county dealing with the same fund.

The purposes of the regulation are to be found in Regulation 3, which says-

- a) “establish and incorporated board to advise the Cabinet Secretary on the proper and effective performance of the Fund;
- b) provide guidance on the administration management of the Fund
- c) provide withdrawals from the Fund; and,
- d) provide for completion of ongoing projects under the First Policy.

The concerns that were raised by Sen. Mutula Kilonzo Jnr. have been answered in Regulation 3 (d).

Mr. Temporary Speaker, Sir, the Committee in its consideration of the Regulations is guided by the Constitution, the relevant legislation in this case the PFM Act and the Statutory Instruments Act.

There was also the issue of whether stakeholder participation was done before the Regulations were published and brought before the House. We found that all these issues were considered and were well within the Constitution, the Statutory Instruments Act, the PFM Act and any other relevant legislation that is in force.

The concern that the national Government is clawing back on the devolved functions is genuine. However, we are faced with a situation where the Fund has not been utilized for the last 11 years. At this rate and with the increase in the counties that are becoming marginalised, soon we shall have the whole country being marginalized because every now and then situations are changing.

I agree with Sen. Sakaja that people in Kibera and Korogocho in Nairobi may be marginalised.

Mr. Temporary Speaker, Sir, even in Mombasa County, I have Bangladesh and Tudor Moroto area, where people have sanitation issues. However, the proximity of those services to those residents in an urban setting is much closer than in a rural setting. Even in the slums, you will find a county toilet, but there are those areas where roads, health facilities are a problem.

A resident in Kibra can easily access Kenyatta National Hospital (KNH). A resident in Tudor Moroto can easily go to Tudor Healthcare Clinic or Coast General Teaching and Referral Hospital (CGTRH), which is about two or three kilometres away. However, a resident in Wajir and Mandera Counties may not have that luxury of going to such facilities.

Mr. Temporary Speaker, Sir, we are faced with a dilemma of allowing the marginalisation to continue as a result of the issues that have been raised. At the same time, we also have an opportunity to correct some of the wrongs that have been meted on the Kenyans since Independence.

I will urge Members to rise above the issues that have been raised and approve these Regulations. This is so that the people in those marginalised areas may now get some of the services that other counties are getting. At the moment, most of the marginalised areas are facing drought and many other calamities that we may not be able to assist if these Regulations are not passed. I urge that Members do pass these Regulations.

Mr. Temporary Speaker, Sir, finally, I wish to request that pursuant to Standing Order No. 61 (3), the putting of the question be deferred to a later date.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, the putting of the question is deferred until a later date.

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Order! Hon. Senators, Order Nos. 11, 12 and 13 are deferred.

## MOTIONS

### RESCINDING THE RESOLUTION OF THE SENATE OF SENATORS TO SERVE IN THE COMMITTEE ON POWERS AND PRIVILEGES

THAT, pursuant to Standing Order No.58(2)(a) the Senate rescinds its resolution made on Thursday, 16<sup>th</sup> September, 2021 on the approval of Senators to serve in the Committee of Powers and Privileges.

*(Motion deferred)*

### APPROVAL OF SEN. (PROF.) ONGERI, MP, TO SERVE IN COMMITTEE ON DELEGATED LEGISLATION

THAT, NOTWITHSTANDING, the resolution of the Senate made on 30<sup>th</sup> March, 2021 on the approval of Senators to serve in the Sessional Committee on Delegated Legislation, and pursuant to Standing Order Nos. 189 and 219, the Senate approves the nomination of Sen. (Prof.) Samson Ongeru, EGH, MP to replace Sen. Erick Okong'o Mogeni, SC, MP as a Member of the Sessional Committee on Delegated Legislation.

*(Motion deferred)*

### RECONSTITUTION OF STANDING COMMITTEES

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 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 nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

- (i) **Committee on Agriculture, Livestock and Fisheries**
  1. Sen. (Prof.) Margaret Kamar, EGH, MP to replace Sen. (Eng.) Ephraim Mwangi Maina, MP;
  2. Sen. Haji Abdul Mohammed, MP to replace Sen. (Dr.) Mbito Michael Maling'a, MP;
  3. Sen. (Dr.) Gertrude Musuruve Inimah, MP to replace Sen. Boy Issa Juma, MP; and
  4. Sen. Agnes Kavindu Muthama, MP to serve as a Member.
- (ii) **Committee on Devolution and Intergovernmental Relations**

1. Sen. Njeru Ndwiga, EGH, MP to replace Sen. Aaron Cheruiyot, MP.
2. Sen. Samson Cherargey, MP to serve as a Member;
3. Sen. Irungu Kang'ata, MP to serve a Member; and
4. Sen. Agnes Kavindu, MP to serve as a Member.

**(iii) Committee on Education**

1. Sen. Naomi Shiyonga Masitsa, MP to replace Sen. (Dr.) Gertrude Musuruve Inimah, MP; and
2. Sen. Boy Issa Juma, MP to replace Sen. (Prof.) Imana Malachi Charles Ekal, MP.

**(iv) Committee on Energy**

1. Sen. Susan Kihika, MP to replace Sen. Abshiro Halake, MP;
2. Sen. Kipchumba Murkomen, EGH, MP to replace Sen. John Kinyua Nderitu, MP; and
3. Sen. Haji Abdul Mohammed, MP, to serve as a Member.
4. Sen. Moses Wetangula, EGH, MP to replace Sen. (Prof.) Imana Malachy Ekal, MP

**(v) Committee on Finance and Budget**

Sen. (Prof.) Samson Ongeru, EGH, MP to replace Sen. (Dr.) Ochillo Ayacko, EGH, MP.

**(vi) Committee on Information, Communication and Technology**

- (i) Sen. Samuel Poghio, EGH, MP to replace Sen. Gideon Moi, CBS, MP;
- (ii) Sen. (Eng.) Mahamud, Mohamed Maalim, CBS, MP to replace Sen. Susan Kihika, MP;
- (iii) Sen. Moses Kajwang', MP to replace Sen. Petronilla Were Lokorio, MP; and
- (iv) Sen. (Dr.) Gertrude Musuruve Inimah, MP to replace Sen. Mercy Chebeni, MP.

**(vii) Committee on Justice, Legal Affairs and Human Rights**

Sen. (Eng.) Ephraim Maina, EBS, MP to serve as a Member.

**(viii) Committee on Labour and Social Welfare**

1. Sen. Ledama Olekina, MP to replace Sen. Johnes Mwaruma, MP; and
2. Sen. Philip Salau Mpaayei, MP to replace Sen. Paul Mwangi Githiomi, MP.

**(ix) Committee on Land, Environment and Natural Resources**

Sen. (Dr.) Alice Milgo, MP to replace Sen. Ndwiga Peter Njeru, MP; and further that Sen. Gideon Moi, CBS, MP ceases being a Member of the Committee.

(x) **Committee on National Cohesion, Equal Opportunity and Regional Integration**

1. Sen. Abshiro Halake, MP to replace Sen. (Dr.) Christopher Andrew Lang'at, MP; and
2. Sen. (Dr.) Ochillo Ayacko, EGH, MP to replace Sen. (Dr.) Gertrude Musuruve Inimah, MP.

(xi) **Committee on National Security, Defence and Foreign Relations**

- (1) Sen. Gideon Moi, CBS, MP to replace Sen. (Eng.) Mahamud, Mohamed Maalim, CBS, MP; and
- (2) Sen. Paul Mwangi Githiomi, MP to serve as a Member.

(xii) **Committee on Tourism, Trade and Industrialization**

- (1) Sen. Aaron Cheruiyot, MP to replace Sen. Philip Mpaayei, MP;
- (2) Sen. (Prof.) Imana Malachy Charles Ekal, MP to replace Sen. (Dr.) Agnes Zani, CBS MP; and
- (3) Sen. Petronilla Were Lokorio, MP, to replace Sen. Mercy Chebeni, MP.

*(Motion deferred)*

**BILL**

*Second Reading*

THE DISASTER RISK MANAGEMENT BILL  
(SENATE BILLS NO. 14 OF 2021)

*(Sen. Sakaja on 16.9.2021)*

*(Resumption of Debate interrupted on 23.9.2021)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Orenge was on the Floor and had a balance of 51 minutes.

Sen. Orenge, proceed.

*(Loud consultations)*

**The Senate Minority Leader** (Sen. Orengo): Mr. Temporary Speaker, Sir, then, I better not even start.

*(Laughter)*

I will be very brief. I want the Mover to have some time, at least today, to reply. Now that I will not really have time to go to the body of the Statute or Bill, I am happy to say that looking at the kind of disasters that we tend to have--- There are natural, manmade or hybrid disasters, which willy-nilly are sometimes tough to eliminate. There is need all the time for proper planning for disaster management to reduce its impact on our lives as well as our properties.

Mr. Temporary Speaker, Sir, looking at the Bill, both from the point of view that for a proper disaster management to be put into effect, planning is required. It is required in the sense that there should be preparation, which requires the Government, the people and civic bodies to be always prepared to meet disasters. They must have knowledge about what to do when a disaster happens.

There is need for preparedness if you read the Bill properly. This is one of the things that the Bill is trying to do, not only in terms of planning, but also being prepared. Then, there is the question of how we respond to disasters beginning with first responders and subsequently dealing substantively with the responses, which involves search and rescue.

Mr. Temporary Speaker, Sir, there is also making available all human needs that would normally include food, shelter and medical assistance. If you look again at the Bill, it adequately answers the question of how we plan responses. Of courses, planning responses without assets and resources is also quite difficult. You have to plan how you make recovery. This may involve several management circles. There is prevention, mitigation, preparedness, and as I have said, response, recovery and reconstruction.

I am saying this because I had tried to analyse the Bill on the basis of these broad principles and whether the Bill contains the necessary structures that can answer to planning needs and actual management needs in undertaking recovery, rescue or reconstruction.

Mr. Temporary Speaker, Sir, I commend this Bill to the House and, again, commend Sen. Mutula Kilonzo Jnr. and Sen. Sakaja for bringing this Bill. It is happening at a time when these natural disasters off the Coast of Africa, the Canary Islands, there is a huge disaster. Even a First World country like Spain finds it difficult to deal with that kind of disaster. We must always be having adequate plans, resources and assets to manage not only the risks, but also save lives and property.

I support.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, there are no more requests. I, therefore, call upon the Mover to reply.

Sen. Sakaja, proceed.

**Sen. Sakaja:** Thank you very Mr., Temporary Speaker, Sir and all the Members who have contributed to this important Bill. Due to great demand, I would like to ask for your indulgence, as you have done before for me, to donate just five minutes out of my

time to Sen. Cherargei to give comparative. He went to Brazil with Sen. Mutula Kilonzo Jnr. to look at how they deal with disasters. Then, I shall conclude in three minutes.

Thank you.

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

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. I congratulate Sen. Mutula Kilonzo Jnr. and Sen. Sakaja for this wonderful Bill. I think for Sen. Mutula Kilonzo Jnr., we were together in investigation of the disaster in Solai Dam. He was the Vice Chairperson of the Committee on National Security, Defence and Foreign Relations then.

Later we organised a Joint Committee to Brazil together with the Committee on National Security, Defence and Foreign Relations. We were with Sen. Mutula Kilonzo Jnr. I know that as one of the drafters of this Bill, he has hands-on experience. We did a visit to what we call the Brumadinho Dam collapse that happened in the State of Minas Gerais in Brazil.

Mr. Temporary Speaker, Sir, one things that we observed is that the response and effectiveness of response to disaster in Brazil is top-notch. I am happy this law has captured that. They have what we call National Centre for Risk and Disaster Management.

That system works that if there is a disaster in Samburu County, within seconds, it will be known at the command centre, for example, Nairobi. There is also national system of protection and civil defence. This is a multi-disciplinary agency where there is a proper coordination from *bomberos*, civil defence, police and municipalities.

The third point I want to make is that the response of disaster mitigation is normally done in three phases in Brazil. It is done through municipalities, federal and then state. There is a well organised way of responding to disasters in Brazil.

Finally, which I have seen Sen. Sakaja and Sen. Mutula Kilonzo Jnr. have captured is on the issue of funding. At least this Bill tries to organise donations. In Brazil, they have what they call National Fund for Civil Disaster on Recovering (NFDR). We were able to learn in Brazil that they have a national fund to ensure there is an orderly way of donations in terms of response.

Mr. Temporary Speaker, Sir, we learnt a lot. I have read Sen. Sakaja's Bill although time is fast spent. I am happy with what we saw in comparative analysis between Brazil and the Bill we are having before us. If we implement to the letter, I can tell you it will change how we handle disasters. Brazil has other good things, but I would not want to mention today, maybe in the future.

Thank you.

**Sen. Sakaja:** Thank you, Mr. Temporary Speaker, Sir, and Sen. Cherargei. I will give Sen. Olekina four minutes.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. Let me thank the two distinguished Senators. The Senator from the city, Sen. Sakaja and Sen. Mutula Kilonzo Jnr. for actually thinking about something that should have been done long time ago. When we served with these two distinguished gentlemen, in the *ad hoc* Committee on Solai Dam Tragedy, we came face to face with what the effect of disaster would really have in this country.

There is no point of spending money to do other Government projects instead of putting that money aside to fund disaster management. Today we are told that about Kshs15 billion of the Petroleum Development Levy Fund (PDLF) has been used to fund other government projects instead of cushioning Kenyans.

Mr. Temporary Speaker, Sir, what we need and I am happy about this Bill is that we should have one command centre from the national Government all the way down to the county governments. Since we are talking about devolution and we are fighting to send more money to devolved structures, every county should now have a fire brigade centre all directed from the national level. If you have one command centre, you are able to respond quickly. However, the way we have it now where it is scattered all across, it becomes very difficult to manage.

This is a Bill which we should not even think twice before we pass it. We should pass it and immediately not even waste a lot of time in terms of public participation. This is what Kenyans really want. For Third Reading, we pass it and hopefully the Members of the National Assembly will also see the importance of it.

Mr. Temporary Speaker, Sir, last week, three schools were set ablaze. In fact, if we had this Bill in place and had one command centre, we would respond. There is a lady who works with National Hospital Insurance Fund (NHIF) and her name is Judy. Judy at 3.00 a.m. was called and told that there are children in trouble in Jericho and they needed support to be taken to hospital. If we have this Bill and these structures in place, we will resolve. If we have one command centre, we can ensure that we do not have these challenges.

Lastly because of time and I thank Sen. Sakaja for the four minutes. If you think about the Division of Revenue Bill and the money that we allocated to Managed Equipment Services (MES) and where we fought back and forth, it is a lot. This was money which was set aside to resolve problems that we have in hospitals although that money was not spent the way it was supposed to be spent.

Mr. Temporary Speaker, Sir, if we can be bright and caring enough to be setting money aside from the Division of Revenue Bill to support this disaster management fund through this Bill. It can also help us. I think Commission on Revenue Allocation (CRA) need to keep an eye and watch our deliberation in the Senate.

I am very grateful for what happened today. That earlier on when we raised the Statement about the influx of the foreigners into this country, the Government acted promptly. We want to see that issue of action moving very fast.

Thank you, Mr. Temporary Speaker, Sir, and thank you, Sen. Sakaja.

**Sen. Sakaja:** Thank you, Mr. Temporary Speaker, Sir. Thank you very much Sen. Olekina and Sen. Cherargei. I also thank Sen. Were who gave very good contributions. Sen. Orenge as well had a lot to say and many who wanted to speak had a lot to say. I know Sen. Halake wanted to contribute to this, but we really need to put the question tomorrow or the next available opportunity.

I also thank Sen. Kang'ata. He spoke to this Bill and a number of reservations, but we were able to clarify. The biggest fear because he claims to be almost a Republican, he does not like big Government. He thought we were creating a new agency. I was able to clarify that what we are doing is not creating a new agency, but bringing together the

uncoordinated multiple agencies where the left hand does not know what the right hand is doing.

Mr. Temporary Speaker, Sir, we have the National Disaster Management Unit (NDMU), National Disaster Operations Centre (NDOC) and the Department of Special Programmes where it depends on who you know before you can get assistance to your people. Now all of those agencies are coming together to become the National Disaster Management Authority (NDMA) where we will have coordination. Today most Kenyans do not know who to call when there is a disaster. Those who they call do not know what to do in response.

In a nutshell, that is what we are trying to do and to prevent early warning signals. For the recurring areas, how do you do mitigation and training? If there was a terrorist attack today, God forbid, in this city centre, even we, in the Senate, do not know what to do.

Mr. Temporary Speaker, Sir, those who have watched the 9/11 documentary when planes crush into the building, they can tell you what the US has been able to do in preparing the people and children in school for all manners of disasters; manmade disasters or natural calamities.

We brought this Bill because we are tired of being called to respond to fires at 3.00 a.m. Personally, I said I really feel bad when I have to go to Gikomba market or Mathare because of illegal power connections where there is fire yet we know these can be prevented. We know that we need paths for the small buggies with water to go through.

Mr. Temporary Speaker, Sir, we know we need to have fire stations and the fire hydrants that we used to have in this city and many parts of this country. This is one of the most important Bills that as we pass as the Senate, we will have changed practically the lives of Kenyans across the country on how county governments and national Government manage disasters.

Secondly, this is the first Bill in the history of the Parliament of the Republic of Kenya from 1963 that has been sponsored by two Members of Parliament. It is the first jointly sponsored Bill and I am glad that I am part of it. I thank Sen. Mutula Kilonzo Jnr. for his vision, commitment, dedication and diligence. He brought us the United Nations Office on Drugs and Crime (UNODC) people and a lot of expertise that helped us create a proper legislation.

Mr. Temporary Speaker, Sir, any one Senator can legislate properly. He could do it on his own and I could do it on my own. Just imagine what happens when two come together. It is even better. This preceded the Handshake. It was before there was a Handshake that we decided across the aisle that Members can work together. That by-partisan spirit is important for us to legislate and move forward as a country.

I beg to reply and thank all of those who have spoken. Pursuant to the Standing Orders, I would wish to ask that the question be put at a later date. Thank you very much.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I defer putting of question until a later date.

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

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Thursday, 30<sup>th</sup> September, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.