

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 18<sup>th</sup> November, 2021

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

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

### PRAYER

### PETITION

#### INTERFERENCE OF SAWANGA FM RADIO FREQUENCY BY SIDAI FM

**The Speaker** (Hon. Lusaka): Hon. Senators, I hereby report to the Senate that a Petition has been submitted through, the Clerk, by Mr. Daniel Waturu, a resident of Kinamba, Laikipia County concerning radio frequency interference of Sawanga FM by Sidai FM.

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

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

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

(1) That, Sawanga FM is a community radio station operated by the residents of Kinamba, Ngarua sub-division in Laikipia County.

The objective of the station is to broadcast to the residents of Kinamba in local languages on matters pertaining to development, education, farming, pastoralism, Female Genital Mutilation (FGM), cattle rustling and encouraging the community to live peacefully.

(2) That, in the year 2015, Sawanga FM was assigned the frequency 99.0 MHZ by the Communications Authority of Kenya (CAK). It started to broadcast on 16<sup>th</sup> September, 2019 in Kiswahili, Kikuyu, Kalenjin and Turkana languages while observing all legal regulatory requirements as stipulated by CAK.

(3) That, in March, 2019, Sidai FM, a commercial radio station located in Narok County, installed a powerful transmitter close to Sawanga FM station and started broadcasting using the frequency 99.0 MHZ which had been assigned to Sawanga FM.

As a result, the Sawanga FM broadcasting was affected and the station started to receive complains from its customers.

(4) That, Sawanga FM raised an official complaint to the CAK who confirmed the veracity of their complaint by sending their technical personnel. However, no action has been taken by CAK to rectify the situation.

(5) That, the ownership of Sawanga FM has appealed to the ownership of Sidai FM with a view to having the situation rectified with no success.

(6) That, the interference of broadcasting to Sawanga FM by Sidai FM has denied a large community their rights to information, education and entertainment which they enjoyed from Sawanga FM.

(7) That, Sawanga FM has suffered losses because of loss of revenue from advertising as well as listeners.

(8) That the petitioner has made the best effort to have this matter addressed by the relevant authorities all which have failed to give a satisfactory response.

The petitioner therefore, prays that the Senate investigates this matter with a view to recommending that Sawanga FM station retains its frequency without interference by Sidai FM and that Sawanga FM is compensated for the losses occasioned by interruption of broadcast by Sidai FM.

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

**Sen. Malalah:** Thank you, Mr. Speaker, Sir. I stand to comment on the Petition from Laikipia County pertaining to hacking of the frequencies of a radio station by another.

The mandate of the CAK is to regulate the media world. As we are headed towards the general election, it is important for CAK and the Media Council to ensure that they implement all the regulations as pertains to the Information and Communication Technologies Act.

Mr. Speaker, Sir, this does not only stop at radio stations. We have seen our personal phones being hacked by people who are purported to be in prison. Privacy of personal information is important. Therefore, it calls for the regulatory bodies to ensure that everything that pertains to protection of personal or business information is applied to the letter.

Community radios or televisions are important because they educate and disseminate relevant information to the society. Nowadays, people in the villages do not wait to listen to mainstream media. They depend on community radios and television. It is important for this House to know that community radios are not allowed to do commercial advertisement. Therefore, they do not have a source of income. To hack their system is injustice to them. They need to be protected.

We have many community radios, which are not commercial and need to be protected. We exist in a world of competition. However, this does not mean that small community radios be treated differently.

It is important for this House and the Committee on Information, Communication and Technology to look into the matter seriously and protect not only that specific

community radio station but others too. We have a code in which community radios operate. We need to ensure that they are adequately protected.

We have seen universities coming up with community radios that offer a good platform for our young people to have experience. We have seen young people rising up from community radios to mainstream media. An example in my area is Masinde Muliro University of Science and Technology (MMUST) FM, which started with only two presenters but as we speak, it has a wide audience.

It started from the Mahiakalo Ward in which I was a Member of County Assembly (MCA). As we speak, MMUST FM is heard up to Nandi County. Therefore, it is important for this House and the Committee on Information, Communication and Technology to ensure that we protect that specific community radio in Laikipia.

Mr. Speaker, Sir, as I finish, we need to look at all the radio stations. Let them be ethical as they conduct their duties. We have seen some vernacular radio stations across the country propagating hate speech. They incite their respective communities as we head for the elections.

We need all the prosecuting organs and agencies that deal with cohesion and integration to monitor the vernacular radios so that we do not propagate hate as we head to the elections. The main aim of broadcasting information should be to ensure that we disseminate information that will help the country and uplift the living standards of our people.

Mr. Speaker, Sir, nowadays, I do not hear programmes that educate our young people. When you switch on a radio station, you will only listen to political debates. Therefore, in future, we should have a regulation that compels all media houses to protect a certain segment for education.

When I was growing up, we used to have Kiswahili lessons on Kenya Broadcasting Corporation (KBC). However, nowadays, you do not listen to such programmes. For example, when you switch on *KBC*, *Citizen* or *Nyota FM*, you hear that incoming governor of Bungoma was in a certain village. We want to have information that will help our communities.

Mr. Speaker, Sir, many young people are addicted to social media. We cannot control the young ones. You will find a five-year-old child accessing prohibited information on the internet just because they are idle. Therefore, the content that the media is broadcasting must be looked into seriously.

The Kenya Film Classification Board (KFCB) headed by Dr. Mutua should look into the content of these radio stations. We should not give them free space to broadcast whatever they want. We have seen some embarrassing programmes, which when you sit in your living room with your children, they cannot be consumed in a family set up.

As the Committee on Information, Communication and Technology looks at this Petition, they should ensure that as we head to the next general election, we supervise the content that media houses broadcast to our generation.

Otherwise, I join the petitioner in ensuring that we adjudicate this matter in good time. This is because it is unfair for a radio station to hack into the frequency of another radio station.

Mr. Speaker, Sir, all this is a business space, which should be respected and, therefore, we want to call upon the Chairperson of Information and Communications Technology (ICT) to look into this matter in good time and ensure that the petitioner gets justice.

Otherwise, I want to thank and implore upon Kenyans in our country to ensure that whatever you have - our Standing Orders are very clear - let us adjudicate whatever petition we have. We have several petitions and I do not think this House can fail to adjudicate on any matters, especially those that touch on devolution.

As I speak right now, Kakamega County Assembly is having squabbles and therefore such matters should not fail to get on the Floor and into the committees of this House to ensure that we help our devolved units stabilize.

**The Speaker** (Hon. Lusaka): You are actually becoming irrelevant. Sen. Ochillo-Ayacko.

**Sen. (Dr.) Ochillo-Ayacko:** Mr. Speaker, Sir, Sen. Malalah has spoken about everything and anything communication. I want to thank you for the opportunity to speak on this very important topic. We are told that information is power. In order to access information and be powerful if information is power, then there must be a media or a medium through which we access such information.

Information velocity in communities is passed through community radio stations. The important role community radio stations play in empowering people with knowledge cannot be over-emphasized. This is something we know, and this is something that we must jealously defend.

In fact, in developed societies, you have freedom to be wrong. The content of information should not be criminalized and the content of information should not be punished. In fact, people should be encouraged to get to know what is correct and distinguish it from what is incorrect. The whole idea of having a regulatory framework is not to discourage the flow of information. It is supposed to encourage the orderly growth and enhance velocity of information that is consumed by our people.

As this committee looks at what we have before us, I want the committee to find out how the regulatory authority is enhancing communication, enhancing the velocity of the information that is being circulated and not how it is clamping down on radio stations or how one thing is cannibalizing another thing.

It is important to have a regulatory framework not to pamper our freedom of speech or our freedom of information but to regulate the way we promote the utilization of that freedom and to ensure that there are ethics and values that area protected within the environment that communication is shared.

I hope that the committee will, when reporting, tell us whether there are mechanisms to have radio stations set up in every village. I am happy that we have a few in Migori. I am unhappy that there is no motivation or encouragement for people to open them up and I am happy that without a free and alternative way of consuming or receiving information, the society gets poorer. You get to do things the wrong way and get not to know what is available that could be of use to you.

I want to thank the people of Laikipia. I want to thank the petitioner for raising this matter. I hope that the manner it will be resolved will increase velocity and intensity

of information and the regulatory arrangement that is being pursued will not take us back to the dark ages.

Thank you.

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

**Sen. Wetangula:** Thank you Mr. Speaker, Sir, for the opportunity to contribute in support of this Petition by one Mr. Daniel Waturu from Laikipia County.

Article 34 of the Constitution provides:

“The media shall enjoy freedom and that Broadcasting and other electronic media have freedom of establishment, subject only to licensing procedures that- (a) are necessary to regulate the airwaves and other forms of signal distribution; and (b) are independent of control by Government, political interests or commercial interests.

The State shall not-

(a) exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium;

(b) penalise any person for any opinion or view or the content of any broadcast, publication or dissemination.”

The Communication Authority of Kenya (CAK) is the regulator and, fortunately, one of the Chairmen of CAK is an immediate former Senator and the CEO is an immediate former CEO of the Independent Electoral and Boundaries Commission (IEBC). I hope they are listening.

Community radios have become a critical tool in the management of community affairs in matters of security, mobilization of resources, mobilization of social welfare groups and so on. In fact, when our Committee of National Security and Foreign Relations visited Laikipia County, one of the things we learnt is that there are local FM stations that make regular broadcasts on issues, warnings and alerts, when bandits from the valleys are coming to raid and rustle their cattle.

To have one radio station taking up and jamming the frequency of another radio station is a criminal act. The CAK as the regulator must ensure that when you license a radio station or TV station, and you collect revenue from the proprietors, then you have a corresponding duty to make sure that the frequency allocated to them is safe and cannot be interfered with.

Any other licensee of another frequency should neither mute nor overlap nor jam the frequency for which a citizen or a group of citizens have paid money to the Government and must enjoy that freedom.

This Petition is not the only one of its kind. In fact, when you listen to FM stations and for this, the Committee on ICT must call CAK to order because you can be listening to an FM station and out of the blues another FM station jams in so you start listening to very jumbled and muffled voices that you cannot quite tell what is being broadcast.

Mr. Speaker, Sir, you are listening to music on one FM station and music from another bashes in and distorts everything you are listening to. The CAK must take stock of how many radio stations, whether local or national, vernacular or using national

languages have been licensed and how many frequencies have been given to individuals. We also know some individuals who have taken more frequencies than they need, in order to block others from accessing these frequencies. This is the duty of CAK. If they did their work well, there should not be any case in this country where no area can access radio broadcasting.

You remember in the old days when we had only one station called Voice of Kenya. In fact, when we were at the university we used to joke that it was called the 'Noise of Kenya'. Voice of Kenya used to be a monopoly, broadcast what they wanted, malign what they wanted and black out what they wanted. With freedom that came with the liberalization of airwaves and the rundown to the 2010 Constitution, things like what we see in this Petition must be part of our history not part of our contemporary behavior.

I want to urge that the Committee on ICT summons the CAK leadership and call them to order to ensure that whoever is licensed and has paid revenue to broadcast material, subject to acceptable content, must enjoy the fruits of that license without any undue interference from a competitor, whether maliciously or otherwise. It makes a whole nonsense of the idea of licensing a radio station then making it impossible to function.

I want to urge the Committee on ICT, that when they are seized with this matter, they should not only deal with this Laikipia problem, but also address issues and direct CAK to carry out a proper audit across the country. This will ensure that every licensee who runs a broadcasting station; whether radio or television enjoys unlimited and uninterrupted broadcasting to the people of Kenya.

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

**Sen. Were:** Thank you, Mr. Speaker, Sir, for the opportunity to also make a comment on the Petition to the Senate by Mr. Daniel Waturu, concerning radio frequency interference of Sawanga FM by Sidai FM.

From time immemorial, radio has been declared severally as the most effective tool for communication in educating, informing and entertaining people. When it is a community radio, it has a more effective impact on people. On the issue of farming, for example, making people live peacefully like what has been happening in Laikipia, when you have a radio station like Sawanga FM, then you are able to communicate to people the right message, so that people can live harmoniously.

Mr. Speaker, Sir, we will be able to communicate issues of cattle rustling, and the fight over scarce resources in an area like Laikipia. I join my colleagues in encouraging Sidai FM to have a proper dialogue with Sawanga FM, so that they can reach an amicable solution. That said, as a Member of the ICT Committee, and I am glad that the Chair of ICT Committee is here, he will be able to take up this matter and deal with it effectively.

With those few remarks, so that I do not get prejudiced as a Member of the Committee, I will stop there and support the Petition.

**Sen. (Dr.) Ochillo-Ayacko:** On a point of Order, Mr. Speaker, Sir. This is a very important topic and the Chair of ICT was involved in a very animated discussion not hearing the weighty points that are being raised here. Would I be in order to request him to follow this? This is key.

**The Speaker** (Hon. Lusaka): The Chair has heard.

**Sen. Nderitu:** Mr. Speaker, Sir, I would like to inform my colleague that I am a Member of the ICT Committee, and I was discussing with the Chairman this important Petition.

**Sen. Wetangula:** On a point of order, Mr. Speaker, Sir. Our standing orders prohibit Members from standing on frivolous points of order or giving information and guising it as a point of order. Are you satisfied that the distinguished Senator for Laikipia was on a point of order? He was pursuing his own adventure that is far from a point of order.

**The Speaker** (Hon. Lusaka): Actually, it was not a point of order. You are out of order. Sen. (Dr.) Ali.

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, it is good that you have informed one of your Speaker's Panel Members not to stand on frivolous points of order. I do not know otherwise how they will take care of the House in the absence of the substantive Speaker.

I stand to support the Petition. It is unfortunate that the Communication Commission of Kenya (CAK) is giving out the same frequencies to different radio stations. You are told that another radio station was given the frequency 90 which Sawanga FM was using before. Now they do it at the same frequency. This is very sad.

I just read here that Sawanga FM was formed by a Community Based Organization (CBO) from a certain Ng'arua, sub county in Laikipia. Obviously, from my understanding of that area, they have already stated that it was talking to the people in Kikuyu, Turkana and Kiswahili.

Is there a reason why a radio station from Narok should come there? Is there some community in that area which was hindered from being part of Sawanga FM? Was that a reason?

Without prejudice, I do not want to go into what really caused this. I ask the Committee to look into it fairly and see what caused that. I do not understand why CAK should give a frequency to a radio station in Narok to come to Laikipia to broadcast and overshadow the other one. Obviously, there is something fishy here.

The Committee Members including the Senator of Laikipia should look into this and tell us why a radio station from Narok comes all the way to Laikipia to overshadow another unless there is something else there. Look into it and tell us what is going on. We want fairness.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Lang'at Proceed.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for also giving me this opportunity to support this Petition. It is quite unfair that Sawanga FM, has been shortchanged by Sidai FM.

Media houses are so important in what they do and whenever they deviate from the same, the disaster is equal to what they could do very well to the society. I am always aware that the functions of the mainstream media are always to educate the society in whatever is happening.

More often than not, on a weekly basis they also set the agenda that people normally discuss in terms of participating and contribution of ideas. It is grievous if any radio station can set an agenda in a different context.

Unless these media stations are fully controlled according to the law by the CAK, they can do more damaging things than good. I remember in 2007 during the post-election violence, most of the local radio stations were culprits of the same. The way they were broadcasting in an unprofessional way emotively raised suspicion and even encouraged the post-election violence. They must be regulated and controlled.

For example, this one already has its frequencies overlapping with the frequency of another radio station. They can do grievous things whose burden will be transferred to another one that is not the victim.

It is good that today the Chairman of the Committee is around and I know he will take it seriously because he is also a participant in a way as he owns some radio station. Before he is affected on the same, he should act in a proactive manner so that he can settle the matter.

I sympathize with this particular radio station because of the struggles they have gone through seeking for assistance in vain. I thank them for bringing the issue to the right place. I am so happy that people still regard Senate high as a panacea to most of the issues affecting them.

As Senators, we should continue upholding our status in the society because it still trusts us. Imagine after going through all the stages and not being assisted they have looked at the Senate as the only hope. Since the Chairperson is here, I am sure a permanent solution to this problem will be arrived at as soon as this Petition gets to his hands.

Thank you. I support.

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

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I want to confirm that Sawanga FM is in Laikipia and has been operating with that frequency of 99 until when Sidai FM came and took that same frequency.

It bothers me that the CAK is supposed to be sure when allocating their frequencies. They should know who owns a particular frequency so that they do not double allocate. After they allocated the same to Sidai FM now we have problem in Laikipia. This is because Sawanga FM has been communicating to many people in terms of educating people in Ng'arua, Sipili, Ol Moran, Nyahururu and all the way to Salama in Mutara.

After this frequency was allocated to Sidai FM, we have interruptions every time bringing losses to the listeners of Sawanga FM. It started as a CBO and it is for the community.

The Committee under the Chairmanship of Sen. Moi, must deal with this matter to the bitter end so that the people of Laikipia and especially the owners of Sawanga FM can have their fair share. This is because they are paying for the frequencies but not getting value for money. They have been doing their work properly, educating people with regard to Female Genital Mutilation (FGM) and agriculture.

Since Sidai FM took over, now it is difficult for them to communicate and they have ended up losing money. This matter must be dealt with quickly and diligently so that people of Sawanga FM can get their fair share.

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

**Sen. Cherargei:** Thank you Mr. Speaker, Sir. I congratulate the Petitioner for bringing this matter to the Senate and having confidence in the process of the Senate. I am happy on this issue of radio frequencies.

If you have noticed, there is irregular access to radio frequencies. Sometimes when you are driving across various regions, there is interference. Other radio frequencies interfere more than others. I think CAK should explain to Kenyans, because we know the coverage of radio in this country is very high. When you move across the nation, the more accessible listenership is through the radio frequency.

We appreciate the fact that there is always an online frequency that is being used through social media platforms. That is the new aspect in terms of listenership to the radio programs. The Committee on Information, Communication and Technology (ICT) led by Sen. Moi who is here, should be able to assist the country and talk to CAK, especially as we move to the general elections.

We know as we go into general elections there will be many people using radio, either for political campaigns, advertisements and many other things. We know the ghost of the International Criminal Court (ICC). If you look at the history of genocide in Rwanda, most incitement was through radio. If we do not have proper regulation and allocation of frequencies, it means that someone who is a ghost can open a radio frequency and use it to create incitement across the country.

I call upon the Committee on ICT to rein in on CAK. Let them allocate frequencies based on many factors. It should be based on whether frequency has been given to another radio station or that the region has been allocated a slot. It should also consider whether they meet certain standards and even whether they will maintain political sanity as we go into 2022 general election.

I really hope and believe that within 60 days as stipulated by the Standing Order, the Petitioner should be able to get feedback and a report. We do not want to see a situation as in the Petition for Vihiga regarding the boundary of Maseno, that came back yesterday where the Committee had stayed with Petition for one and half years.

We hope that when it comes back, it should be within 60 days, so that the Petitioner can be very happy and see that Justice has been done.

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

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for giving me this chance to add my voice to this Petition. I thank my former Chair of the Committee on ICT for doing this. I am sure they will be able to follow this to the letter.

Media plays a critical role in creating awareness in the society on many issues. For example, it gives information on what is currently going on in the country such as the just concluded voter registration. Going across various areas, you know that some people are not heard. Whenever we have media working very well, such information can be disseminated quickly.

In addition to that, media connects and molds people on the way of treating others, creating peace and avoiding conflicts. Sidai FM meddling around with the frequencies of Laikipia county causes a lot of challenges. This is because we know the listenership to the Sawanga FM are losing out on what they would be listening to every

day. Maybe they do not even understand the language that is coming through the current Sidai FM.

The Communication Authority of Kenya is a culprit in most cases. As a Member of the ICT Committee, for a long time, I realized that they would promise that they were controlling frequencies in such areas or that they have even distributed 2G frequencies, but when you go to such areas, you would find that there is nothing.

If you go to areas such as Malaba and Turkana in the northern region, you will find that there is a lot of overlap of frequencies from Uganda and Kenya. In most cases, people are put in the dark when it comes to listening to news or information that would have otherwise assisted them in very many ways.

I am sure that this Petition will be presented to the ICT Committee and Sen. Moi is equal to the task. I know he normally handles issues very well. He will get to the root course of this matter and establish the truth. The people of Laikipia and those from the other Maasai regions will not be in conflict again about media issues while at the same time in conflict on cattle rustling.

I support.

**The Speaker** (Hon. Lusaka): Okay, Hon. Senators, pursuant to Standing Order No.321, the Petition should be committed to the relevant Standing Committee for its consideration.

In this case, I direct the Petition be committed to the Standing Committee on Information, Communication and Technology.

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

Thank you. Next Order.

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

## PAPERS LAID

### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY EXECUTIVES AND ASSEMBLIES

**Sen. Moi:** Mr. Speaker Sir, I beg to lay the following Papers on the Table of the Senate, today 18<sup>th</sup> November, 2021.

Report of the Auditor-General on the Financial Statements of Laikipia County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Laikipia County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kwale County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kwale County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Kilifi County Assembly for the year ended 30<sup>th</sup> June, 2020.

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Report of the Auditor-General on the Financial Statements of Kilifi County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Nyeri County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Nyeri County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Taita Taveta County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Taita Taveta County Executive for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of West Pokot County Assembly for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of West Pokot County Executive for the year ended 30<sup>th</sup> June, 2020.

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

**The Speaker** (Hon. Lusaka): Thank you, Sen. Moi.  
Next Order.

## NOTICES OF MOTION

**The Speaker** (Hon. Lusaka): Okay. I do not see those who are to give the Notices of Motion. We deferred the two Notices of Motion.

### ENGAGEMENT OF THPS BY COUNTY GOVERNMENTS IN THE TREATMENT OF MENTAL HEALTH

AWARE THAT, the Kenya Mental Health Policy 2015-2030 is a commitment to pursuing policy measures and strategies for achieving optimal health status and capacity of each individual whose goal is attainment of the highest standard of mental health;

FURTHER AWARE THAT, Advocacy for mental health goals, promotion of mental well-being, prevention of mental disorders, treatment of mental disorders and rehabilitation helps mentally ill individuals achieve optimum social and psychological functioning;

APPRECIATING THAT, these services are offered in the three main public level 6 hospitals and a few private providers in major urban centres despite the rise in suicide cases in Kenya which is largely attributed to mental health issues;

CONCERNED THAT, many Kenyans view mental illness as a spiritual problem rather than a medical one, causing them to turn to religious leaders or traditional healers for a cure;

NOTING THAT, Traditional Health Practitioners (THPs) are often the first line of contact for mental illness in Kenya, because they are readily available and accessible in the community and form part of the Community's cultural belief system, thus communities prefer seeking treatment from THPS rather than health facilities because of dissatisfaction with treatment and services at the local health facilities;

FURTHER NOTING THAT, no specific policy guides this, although the 2015-2030 mental health policy encourages integration of THPs into mental healthcare and support community leaders to participate in referral of persons with mental illness for treatment;

ACKNOWLEDGING THAT, the Traditional Health Practitioners Act, 2014 makes provision for training, registration and licensing and provides for the establishment, powers and functions of THPs Council of Kenya;

NOW THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Health together with the Council of Governors, to ensure that Traditional Health Practitioners services are integrated in the modern healthcare system in order to ensure effective treatment of mental illnesses by:

- i. engaging THPs to help treat mental health issues;
- ii. formulating policy that will guide the collaboration between the mainstream health professionals and traditional health practitioners; and,
- iii. establishing facilities at the lowest administrative units to monitor and attend to mental health issues.

*(Notice of Motion deferred)*

ADOPTION OF REPORT ON ETHNIC DIVERSITY  
AND INCLUSIVITY AT KMA AND KPA

THAT, the Senate adopts the Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on ethnic diversity and inclusivity at the Kenya Maritime Authority (KMA) and Kenya Ports Authority (KPA) laid on the Table of the Senate on 18th November, 2021.

*(Notice of Motion deferred)*

Next Order.

**STATEMENTS**

**The Speaker** (Hon. Lusaka): Let us start with Sen. Ngugi. I understand he is online. Sen. Ngugi, proceed. Sen. Ngugi, we cannot hear you. The Statement is deferred.

FREQUENT FIRE INCIDENCES AT GIKOMBA MARKET

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*(Statement deferred)*

Next Statement by Sen. Mwaruma of Taita Taveta County.

OPERATIONS OF THE NATIONAL IRRIGATION BOARD

There seems to be a challenge.

*(Statement deferred)*

The next Statements are by Sen. Kwamboka but she is not around. We defer the Statements.

THE STATE OF POLICE STATIONS IN THE COUNTRY

STATUS OF THE INQUEST INTO THE MURDER OF MS. AGNES WANJIRU

*(Statements deferred)*

Sen. (Dr.) Lang'at, proceed.

CLAIMS OF DISCRIMINATION AGAINST  
LOCALS IN JOB OPPORTUNITIES

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker Sir. I rise pursuant to Standing Order No.48 (1), to seek a Statement from the Standing Committee on Labour and Social Welfare regarding claims of discrimination against locals on job opportunities by University of Bomet.

In the Statement, the Committee should:

Investigate claims of discrimination by the University administration regarding the sacking of the non-skilled locals who had been working as casuals since the inception of the University and have since been replaced by non-locals.

1. The Committee should state whether the recruitments at the Institution have met the criteria of regional and ethnic balance as required by Articles 10(2)(b), 27(4), 56(c), and 232(1)(h) and (1) of the Constitution.
2. Provide comprehensive details of the employees with regard to the rank, designation and ethnic origin.
3. Outline measures taken by the Commission of University Education if any to intervene where there has been blatant disregard of the Law in recruitments at the University of Bomet.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Malalah, you may take the Floor.

FUNDING FOR CONSTRUCTION OF  
KONZA DATA CENTRE AND SMART CITY

**Sen. Malalah:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1), to seek a Statement from the Standing Committee on Information and Technology regarding the funding of the Konza Data Centre and Smart City and its construction by Chinese Telecoms Company, Huawei.

In the Statement, the Committee should-

1. Outline the total cost of the project, indicating how much has been paid so far and the outstanding balance including any interest payable.
2. Explain the circumstances under which the Chinese lender made a direct payment of Kshs4.4 Billion of the Government fund from foreign borrowing to Huawei Telecoms Company.
3. Explain why the said foreign borrowing was not paid into the Consolidated Fund as required by Article 206 of the Constitution.
4. Explain why the said foreign borrowing was not appropriated and withdrawn in line with Articles 222 and 223 of the Constitution.
5. State the reason why the financing agreement for the Konza Data Centre was signed on 19<sup>th</sup> April, 2019 during the Belt and Road Initiative (BRI) Forum, almost two years after the contract award date of 22<sup>nd</sup> June, 2017.
6. Ascertain that the country will get value for money for the project, which is a Kenya Vision 2030 Flagship project.

Thank you.

**The Speaker** (Hon Lusaka): Thank you, Sen. Malalah. I see interest from Sen. Cherargei.

**Sen. Cherargei:** Mr, Speaker Sir, I support the Statement by Sen. Malalah. As he has indicated, the Constitution was not followed in terms of borrowing and many other aspects into the Consolidated Fund. This is a clear violation of the Constitution. Second, when we borrow from development partners, the borrowed money should be put into right use.

The development of smart cities is the way to go, especially if we want to decongest cities like Nairobi, Eldoret, Kisumu and Nakuru. That is the future. When you travel across the globe, you will see smart cities coming up. If somebody in Konza City is misusing the borrowed Kshs4.4 billion, then it is unfortunate. The sad part is that the borrowed money will be repaid by all Kenyans.

If we had a functional Director of Criminal Investigations (DCI), Director of Public Prosecutions (DPP) and the Ethics and Anti-Corruption Commission (EACC), someone would be behind the bars. I wish they could be as swift in handling such criminals the way they did to the former Commissioner of Prisons, Mr. Ogolla. If such swiftness could be applied to such issues, we would have seen many people facing serious issues.

Mr. Speaker, Sir, I wish the DCI could do investigations before taking anybody to court. That way, nobody will be taken to court without proper investigations. Let us hope that the swiftness that we saw yesterday in Magereza House can be applied elsewhere.

Thank you.

*(Sen. Cherargei remained standing)*

**The Speaker** (Hon. Lusaka): Yes, Sen. Cherargei. Why are you standing?

*(Sen. Cherargei took his seat)*

The next Statement is by the Chairperson of the Committee on Finance and Budget but he is not here. The Chairperson of the Committee Health is not here either. I defer the Statements.

#### ACTIVITIES OF THE COMMITTEE ON FINANCE AND BUDGET

#### ACTIVITIES OF THE COMMITTEE ON HEALTH

*(Statements deferred)*

The Chairperson of the Committee on Information, Communication and Technology (ICT) is ready. Sen. Moi, proceed.

#### ACTIVITIES OF THE COMMITTEE ON INFORMATION AND TECHNOLOGY

**Sen. Moi:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.51, to make a Statement on the activities of the Committee on Information, Communication and Technology for the period commencing 1<sup>st</sup> July to 15<sup>th</sup> November, 2021.

During the period under review, our Committee held a total of 18 sittings, considered three statements, one Bill and engaged with various stakeholders on issues pertinent to the ICT sector.

Mr. Speaker Sir, the Committee met the Cabinet Secretary (CS) for the Ministry of ICT, Innovation and Youth Affairs and the Commission on Administrative Justice (CAJ). The purpose of the meeting was to consider the Statement on the status of the access to information regulations---

*(Loud Consutations)*

**The Speaker** (Hon. Lusaka): Sen. Moi, Senators are saying that they cannot hear you well. Could you raise your voice a bit?

**An hon. Senator:** Volume!

**The Speaker** (Hon. Lusaka): You are in charge of volumes.

**Sen. Moi:** Yes, Mr. Speaker, Sir. The purpose of the meeting was to consider the Statement on the status of access to information regulations under the Access to Information Act, as requested by Sen. Cherargei. The Committee noted a challenge in the operationalization of the Act, where the regulation-making authority is vested in the CS

for the Ministry of ICT, Innovation and Youth Affairs, while the implementation and reporting on the Act is vested in CAJ, administered from the State Law Office.

The Committee resolved to rectify this challenge by sponsoring an amendment to the Bill. This is the proposed Access to Information (Amendment) Bill, 2021 which is ready for publication

Mr. Speaker, Sir, subsequently, the Committee considered the Statement on the protection of personal data by technology companies, as requested by Sen. Cherargei. The Committee met the CS for the Ministry of ICT, Innovation and Youth Affairs and the Office of the Data Protection Commission. The Committee is happy to report that measures are in place to ensure the security of the personal data of all Kenyans.

Mr. Speaker, Sir, the committee is currently considering a Statement on alleged monopolistic practices by telecommunications company M/s Safaricom PLC as requested by Sen. Were. To this end, the committee has met with the Competition Authority of Kenya (CAK), mobile network operators, which include: Airtel Kenya, Telkom Kenya and Safaricom Limited, and the Ministry of ICT, Innovation and Youth Affairs.

The issue of competition in Kenya's telecommunications sector is a recurrent issue that calls for continuous interrogation as mobile phone penetration in the country is increasing. At the heart of this matter is ensuring that Kenyans across the country have affordable access to all mobile networks. The committee is set to meet with the National Treasury and the Central Bank of Kenya (CBK) to delve into the issues of mobile money interoperability.

The Committee considered and passed without amendments the Office of the County Printer Bill, 2021. The Bill seeks to establish the Office of the County Printer in each county, which shall be responsible for printing and publishing a county *Gazette* as well as advising the county governments on all matters relating to printing and publication of documents.

With respect to regulations, the Committee held a retreat with the Office of the Data Protection Commissioner (ODPC) to review draft regulations namely-

- (a) The Data Protection (General Regulations), 2021;
- (b) The Data Protection (Registration of Data Controller and Data Processors) Regulations, 2021;
- (c) The Data Protection (Compliance and Enforcement) Regulation, 2021.

The regulations that are in draft format are the first regulations toward the operationalization of the Data Protection Act, 2019, and the ODPC.

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

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

Mr. Temporary Speaker, Sir, in the execution of its oversight mandate over the ICT sector, the committee resolved to periodically meet with Semi-Autonomous Government Agencies (SAGAs) under the committee's oversight. In the period under review, the committee met with the Kenya Institute of Mass Communication (KIMC) to deliberate on the progress of the institute.

The Committee noted achievements of the institute, including the launch of a radio station, but took note that there is room to innovate and improve offerings from the school through collaboration with stakeholders in the mass media.

The Committee conducted an inspection visit to Konza Technopolis. This was a follow up of the committee's first visit in 2018. The committee noted significant progress in the implementation of Phase I of the Konza Masterplan, including the completion and occupation of the office block and most notably the operationalization of the National Data Centre that is available for use by Government agencies.

The Committee met with the Communications Authority of Kenya (CA) to deliberate on the status of connectivity in the country in relation to election preparedness. As this House is aware, the committee of the Twelfth Parliament made connectivity that enables a minimum of 2<sup>nd</sup> Generation (2G) for every Kenyan its primary priority. This is even more paramount as the country prepares to issue licenses for the 5<sup>th</sup> Generation (5G) connection.

We are happy to report that with the implementation of Phase 2 of the Universal Service Fund (USF) funded last mile connectivity project, only 279 sub locations will have less than 50 per cent coverage.

As innovation in technology is largely private-sector driven, the committee has been committed to creating a conducive policy and regulatory environment for businesses to thrive. The committee has engaged with digital taxi hiring service providers on the proposed National Transport and Safety Authority (NTSA) Transport Network Company Regulations. Private players both local and international have made submissions to the committee alongside other players in the sector.

The Committee notes that concerns with the regulations are multi-sectoral, cutting across technology, transportation and labour issues. It noted that the disruptions in the transportation industry are a glimpse of larger disruptions set to occur in every industry. This case study will set a tone and influence national dialogue on the future of work and "gig" work.

Concerning Agritech, the Committee met with Liquid Intelligent Technologies who are deploying Internet of Things (IoT) based solutions to enable smart agriculture. In the context of climate change, agritech presents an opportunity to revolutionise agriculture and improve yields through sustainable agriculture.

Mr. Temporary Speaker, Sir, in the Sixth Session of the Twelfth Parliament, the committee intends to-

(a) Conclude the Statement on alleged, monopolistic practices by Safaricom PLC and report to the Senate.

(b) Continue to oversight the implementation of the USF connectivity projects.

(c) Facilitate dialogue on the regulation of digital taxi-hailing services.

(d) Conduct inspection visits in various counties to inspect connectivity, the implementation of the Digital Literacy Programme (DLP) and the rollout of the National Optic Fibre Backbone Infrastructure (NOFBI).

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Were.

**Sen. Were:** Mr. Temporary Speaker, Sir, I would like to commend the Chairperson of the Committee on Information and Technology for such a thorough presentation. The Committee on Information and Technology is one of the most committed committees. I have worked with other committees as well but it is one of the most committed committees.

I will give an example of the Statement on the monopolistic tendencies by Safaricom PLC. We have managed to have meetings with almost all stakeholders in the telecom industry to get to the gist of the matter. I know when that report comes to this House we will properly be informed because it will be a thoroughly done report. I thank the clerks of the Committee on Information and Technology for a good job.

The same applies to the Office of the County Printer Bill, 2021. That Bill was also done very well by the legal representative in the committee. I commend them because we ended up not having any amendments. The Bill had come earlier and the legal team included all the issues that had been raised earlier.

As we move on, however, I would like the Committee to look at the issues of media ethics. As we move to the general elections, we would love to see the media being fair and just in their presentation of news in radio, television and even print media, so that they do not appear to be favouring only one or two presidential candidates when we know that we have others, for example, Hon. Musalia Mudavadi.

Mr. Temporary Speaker, Sir, media ethics should be a point of concern for the committee moving forward, so that they are fair in their reporting towards the general election in order to reduce tension and make sure that all Kenyans have an opportunity to make a choice in terms of whom they would like to vote for.

I thank you.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, I also rise in support of the quarterly report from the Chairperson of the Committee on Information and Technology where I also sit.

I want to begin by saying that I am a Member of three committees in the Senate and I wish to reiterate without any fear of contradiction that if there is one committee where Members have exalted and given themselves for service, they are in the Committee on Information and Technology.

*(Applause)*

I heard the Senator for Nandi County, who is now engaging my Chairman and taking away his attention from my presentation, contributing to a Statement from the Senator of Kakamega County on Konza City. He pushed a very dangerous narrative.

He said that he would want to see people arrested on account of an audit query. If people are going to be arrested on account of audit queries, then there will be no people in the offices to work. The thing to do is to make sure that because that matter is before a very competent committee of the Senate, it shall be prosecuted properly and the truth shall be brought to light. I want to specifically mention the issue of the Statement that was brought to the committee by Sen. Were. The committee has done a thorough job on it and it is awaiting a final report of the committee.

There is also a Statement on the alleged monopolistic practices by Safaricom. That is one Statement that has elicited a lot of positive interaction between the committee and stakeholders in the industry. I really like the submissions that have been made available to the committee by Telkom Kenya, Airtel Kenya, Safaricom Limited itself, the Ministry of ICT, Innovation and Youth Affairs, the CA and the CAK. The committee has been able to get inside information about the performance of Safaricom Limited.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Kinyua): Order. Hon. Senators, consult in low tones please.

**Sen. Wambua:** Thank you, Mr. Temporary Speaker, Sir, for coming to my rescue. Sen. Cheruiyot is very excited to see Sen. Moi in the House. He cannot sit pretty on his chair.

In conclusion, on the matter of Safaricom Limited, as the Chairman has said, the Committee will retreat to do a report on the operations of Safaricom Limited and alleged abuse of a status and attendant issues around pricing. The committee will do a thorough job on that report. The interest of that person who buys airtime worth Kshs20 will be at the heart of the final report of the committee.

I thank you.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, I also join in to thank the Chairperson of the Committee on Information and Technology for presenting its quarterly report. It is clear that the committee has been active doing some positive work.

Going to the future, I urge the Committee to pay some attention to online lending which is commonly called, *Fuliza*. I am sure every time you want to send some money to somebody, they quickly send you a message and say; “do not send on this number, send on this one”. This is because the one they tell you not to send money to has a *Fuliza* loan.

*Fuliza* loans are not being controlled by the CBK. So, they charge interest that accumulatively is very punitive.

*(Sen. Sakaja stood in his place)*

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Sakaja?

**Sen. Sakaja:** Sorry, Mr. Temporary Speaker, Sir.

*(Sen. Sakaja sat down)*

**The Temporary Speaker** (Sen. Kinyua): Okay.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, I have been made to understand that online lending is now chalking about Kshs430 billion in a year. That is substantial sums of money. It is helping the ordinary people because they borrow in small bits and pieces of shillings, but the cumulative total of interest paid is unconscionable; it is actually shylock interest.

Mr. Temporary Speaker, Sir, when the chairperson walked in, we were dealing with the Statement from Laikipia where Communication Authority of Kenya (CAK) seems not to be paying sufficient attention to protection of frequencies that are given out to individuals or groups that pay for community radio stations and other electronic communications.

That again is an area that the Committee should ensure there are no overlapping of frequencies; there is no jamming of one frequency by another and that there is no abuse by those who are bigger against the smaller players in the industry. I say this because we know that competition always brings quality and fairness when the regulator makes sure that whether it is Airtel, Safaricom, Orange or any other player, they have to compete fairly so that *wananchi* get value for money in terms of service delivery.

Mr. Temporary Speaker, Sir, I urge that as we go to the General Elections of 2022, the Ministry of Information, Communications and Technology makes sure that the whole country gets a 3G coverage. This is because transmission of results is going to be done electronically and we should not have a situation where somebody in Loiyangalani cannot transmit results with ease because there is no proper frequency and coverage. We want the whole country to be covered fairly so that we all enjoy the fruits of modernity.

Mr. Temporary Speaker, Sir, equally important is the fact that when we go to elections, we must run away and move completely from the suspicions we have had in the past as to whether the transmission of results are doctored and interfered with to create incorrect results and so on.

Last and more importantly, the Committee must also work with the cybercrime section of the National Police Service in stamping out the churning out of fake news which is almost overriding our society in terms of communication. People just sit in their sitting rooms, coin fake news and spread it as fast as they possibly can, causing fear, uncertainty and despondency among the population.

We should make it a crime for anybody to generate fake news and disseminate it to the population because this can easily ignite a fireball in the country. You can imagine somebody churning out fake news that a prominent Kenyan has been gunned down or has been maimed in a mysterious attack. It can have the result and effect of people taking the law into their own hands and acting in revenge on the basis of news that is incorrect.

Equally important is the control of airwaves by criminals in Kamiti Prison. Every other day – I am sure this applies to everybody here - you get a message from a criminal in Kamiti Prison, congratulating you for winning a raffle you have never participated in and sending you information on the payment to make for you to receive the said money. This kind of criminal behavior has to be dealt with because many people fall prey to these kinds of things.

Equally important is the creation of parody accounts on Facebook all the time and many of us have been victims. Somebody just sets up a parody account on Facebook and says: Senator for Kericho is finalizing the process of lending money to so and so, and you can borrow by registering with Kshs3000. Kenyans will pay that money not knowing that they are paying into a fake account of the Senator for Kericho County and hoping they will be given money to buy a motorbike to operate *bodaboda*.

We need the police to be on high alert. The ICT Committee should look into this so that these cybercriminals are dealt with because they are wreaking havoc on our unsuspecting citizens.

Lastly, we must continuously try to improve the frequencies and the clarity of communication. Of late you get the impression that Safaricom is becoming a victim of its own success. Their service provision is creating a lot of unnecessary problems. You find that while you are on a phone call with somebody, another call comes in and truncates that call or you could be talking to somebody on the phone then the phone call suddenly goes off.

The Committee on Information, Communication and Technology must ensure that the success of Safaricom must be matched with continuous improvement of technology so that we get high quality services for the money that we pay. Whether it is *mama mboga*, a *bodaboda* rider or whoever, every frequency you use and airtime, you pay for it. We want to pay for good quality services.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I congratulate the Committee of Information, Communication and Technology led by Sen. Moi, one of our principals in the One Kenya Alliance (OKA). I thank the other principal, Sen. Wetangula, for his comments.

I would like to mention just two things that are really critical. I am glad that Sen. Moi is here and that he is listening. He has spoken about two areas that we need to conclude and sort out as a House.

The first one is the issue of digital hailing applications. This is a matter that we have tried to deal with from 2015 before I came to the Senate. Our drivers in Nairobi, Kisumu and Mombasa drive taxis for digital firms like Ubers, Bolt and all those other applications. These companies have been competing in what we call arrest to the bottom. Sen. Mutula Kilonzo Jnr. brought a question to my Committee on Labour and Social Welfare, which we dealt with jointly and we started the process. In fact, at some point the National Transport and Safety Authority (NTSA) started doing public participation on the regulations but COVID-19 came and they stopped.

I am not sure you use Ubers, but I am sure sometimes you request Ubers for your workers and staff to use.

*(Laughter)*

When you pay that digital taxi driver, 25 per cent of the pay immediately goes to Netherlands to Uber BV. The cost of Uber from here to Lavington or Kayole costs around Kshs300. The reason we had a lot of accidents during the COVID-19 curfew is that those Uber drivers had to drive for 18 hours a day to make sense of what they are being paid. The first thing we said on the regulations - I wish the chairperson of the Committee on Delegated Legislation was here - the commission that goes to these companies cannot be 25 percent. It must be a maximum of 15 percent of the commission.

Two, we engaged with the Communication Authority of Kenya, The Ministry of Information, Communications and Technology and the Ministry of Transport and Infrastructure and agreed that there must be a minimum rate per kilometer and per hour

or per minute because they rest at the bottom. So you might enjoy paying a low rate but that Uber driver is suffering.

In fact, in January 2021, over 4,000 Uber cars were auctioned. I hope everyone listens because whether it is bottom up we are talking about or Kshs6,000, these young people who are out there, cannot afford the maintenance costs of the Uber taxis. All those people who went to buy those Ubers at the auction, were taking them back to a vicious cycle.

If you take an Uber in Washington DC or in New York in the USA, immediately you get in, there is the charge that goes to the State. The commission is not more than 25 percent. The commission of Kenya is at 28, one of the highest in the world. On top of that, minute per kilometer rate should be sensible. We should set a minimum rate as well. The Automobile Association of Kenya has been helping and said look, we know what is wear and tear, and we know what amounts to---

**The Temporary Speaker** (Sen. Kinyua): What is it Sen. Were?

**Sen. Were:** On a point of information.

**The Temporary Speaker** (Sen. Kinyua): Sen. Sakaja, would you like to be informed?

**Sen. Sakaja:** Yes, I am willing.

**Sen. Were:** The regulations being prepared by NTSA have set a limit of 15 percent that now goes to the originators of the application. So we look forward to the finalization of those regulations. They are almost being done so we hope things will improve.

I thank you.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I do not know the protocol of re-informing the person who has informed you. What she is talking about - and I am grateful, Sen. Were of Amani National Congress (ANC) - those are draft regulations. The Ministry is setting the minimum pricing formula at 15 percent. I remember we discussed because we pushed for that at the Labour and Social Welfare Committee, of which you are a member of. They are saying that they want to hire a consultant to look into this minimum pricing formula and again start a procurement process to try and agree on a pricing formula. We are saying that will take a year and there will be another government in place by then. It will take too long.

What they should factored in the regulations is that I sat with the CEO of Uber, Bolt and all of these companies and we agreed. They said that they are willing to have a minimum flow within themselves. The only problem is that if today Uber sets it at Kshs5 per minute per kilometer, another company goes lower and sets the rest to the bottom. However, they are willing to self-regulate. What should be there in that regulation is that the Cabinet Secretary (CS) in consultation with stakeholders shall set periodically a minimum rate such that when the fuel rate goes to Kshs139, the rate of Uber does not change.

You find someone has driven you to the airport at less than Kshs1,000 yet it is many kilometers away and fuel is at more than Kshs126. That is the worst thing. I beg, the Chairperson of the Committee on Labour and Social Welfare to sit with the Chairperson of the Committee on Information, Communication and Technology and the

Chairperson of the Committee on Delegated Legislation and for us to complete this within the next one month because the drivers are restless.

The second and last thing that was on digital hailing applications is on the issue of media stations; our broadcasters and Safaricom. There is a report that my committee is tabling because we look at issues of the creative industry and the creative economy is much related to ICT. Currently, our media houses owe our musicians more than Kshs600 million in unpaid royalties yet these media houses are being given their licenses. That is why when your child wakes up in the morning; what do they see as their entertainment? Alejandro from South America and all these Spanish soaps because they are not paying our local content producers; musicians, actors and film industry.

Before renewal of any of these licenses, whether it is Citizen Television, Kenya Television Network (KTN) or Kenya Broadcasting Corporation (KBC), let them pay our musicians and artistes what they owe them.

I thank Safaricom, because it has reviewed. This is a long fight we started with the late Bob Collymore. I thank H.E. President Uhuru Kenyatta because he is the one who pushed it from 16 per cent to the current rate of 40 per cent with the amendment on tax. We want the rate to get to 50 percent.

As I finish, let me give you an illustration. When you bought a skiza tune on your phone in the past, the actual musician was getting less than 10 cents out of a shilling of their own work. The bulk of their profits was going to the Collective Management Organisation (CMO), content service providers and to other brokers. The payment rate for artist of Skiza tunes is now 40 per cent. Safaricom.

I thank Ms. Sylvia Mulinge who gave me a commitment that by December our artistes should be getting 50 percent of the value. It should be even higher because part of the cost was for the Huawei Technology. Sen. Moi understands this issue very well. That infrastructure has been paid back so let us give our artistes what they deserve.

They say part of the cost is the Huawei Technology. I know Sen. Moi understands this issue very well. That infrastructure has been paid back. Let us give our artists what they deserve. The entertainment and creative industry is a frontier for our economy.

Mr. Temporary Speaker, Sir, in many countries, the richest people are the musicians but in Kenya they are being given handouts and used for political rallies. They are the ones who should be donating to us and not the other way round. Sen. Moi, if you deal with those two things you would have done such a great job for this country. That will be the legacy of your Committee and I am sure that people will look at your presidential ambitions a bit more favourably. I know that your ambition is favourable already but these two things; digital hailing taxes and royalties and skiza tunes for our artists will convince us further.

Sen. Moi, I thank you for the good job that you are doing in the Committee on Information, Communication and Technology (ICT)

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

**Sen Cherargei:** Mr. Temporary Speaker, Sir. I rise to thank the Committee on ICT led by Sen. Moi. To add on what Sen. Sakaja said, the future of making money especially, for young people is in ICT. Sometime last year, we discussed about TikTok and how young people use that application to make money. I am informed that Kenya

Revenue Authority (KRA) now monitors our social media through what they are calling 'People Exposed'. My point is that there is a way that young people can make money through ICT. Many young people are able to do advertisement through the applications that we have in our phones. However, the greatest challenge we have is how to translate that to money that young people can survive on.

Mr. Temporary Speaker, Sir, I ask the Committee on ICT to ensure that online content and consumption is protected. We need to be careful as we approach the 2022 General Elections. There are many parody accounts on Twitter, Instagram and Facebook. If the regulatory body does not up its antenna it will be very hard to ensure that the social media platforms are properly regulated. So that we do not consume fake news that is all over. When fake news goes out, by the time it is rectified it will have caused a lot of damage; not only to individuals who are in politics or public figures but also to institutions. Fake news can erode trust. I hope that the regulations of breach of content within the social media platforms and other forums and websites can be taken up by the Committee on ICT.

Mr. Temporary Speaker, Sir, there is also the other aspect of money lending companies as was highlighted by Sen. Wetangula. I insist that the time has come for us to regulate the issue of money lending and betting. Nowadays, there are so many requests from betting companies that keep popping up on phones. I was told a story of an old *mama*, who lives somewhere in Kenya. The son to that old lady bought six sheep for the mother to be busy. However, the mother, decided to sell the six sheep and used the money in betting with the hope that she will win. I cannot name the radio and television stations where the old lady was betting but they are very popular in this Republic.

There is a creeping behaviour among the young people on gambling and betting online. When I was the Chairman, Committee on Justice, Legal Affairs and Human Rights, we dealt with the Miscellaneous Amendment but that did not cure the issue of betting and gambling among the young people. I hope that going into the future the Committee on ICT will advise the Ministry of ICT on how they can ensure that young people are not addicted to betting and gambling.

The third important point that I want to highlight is on the issue of Rights to Privacy. This matter has been decided before. I heard one of our Colleagues say that sometimes, when you are making a phone call and another phone call comes in or you hear echoes, that could be the National Intelligence Service (NIS) listening to our conversations. That issue was resolved in a court of law.

The Chairman of the Committee on ICT of the Senate who is also one of the principals of One Kenya Alliance should note this carefully. The big brothers are listening to private conversations thus contravening the law. The matter on Right to Privacy was decided by the High Court. It was ruled that you cannot listen to any phone call without a court order or being sanctioned by the courts of law. Unfortunately, the tracking that is being used and listening of private conversations by the big brother is dangerous to our country. I urge Safaricom and other companies that give out network coverage to be very careful so, that they do not give unlimited access to Directorate of Criminal Investigations (DCI) and other agencies to access to listen to private conversation or track innocent individuals.

Finally, I heard the Independent Electoral and Boundaries Commission (IEBC) discussing network coverage. Some areas in this Republic do not have access to 3G network even though others are on the 5G network. It is important for us to ensure network coverage throughout the country as we head for the General Elections since there will be electronic transfer of results from polling stations and centers. I believe that each and every part of Kenya should access at least a 3G network. Although there is a joke that is normally made that when there is hunger, it takes ages for food to reach the affected person. However, the ballot papers arrive very fast and with ease.

I am not saying that other issues such as water and road are not important. However, in protecting the integrity and sacrosanct of the vote, I hope that the Independent Electoral and Boundaries Commission (IEBC), the National Assembly, the Committee on ICT and the Ministry of ICT will sit down with the Preparatory Committee and ensure that each and every part of Kenya receives at least 3G network.

If you have received one vote in a polling station, it should be recorded as such and not ten votes. If you have received ten votes, it should not be altered to become one vote. We should protect the integrity of the electoral process through ICT. The Sen. Moi led Committee on ICT should fast track some of those issues. I hope that they will give more innovative ideas to ensure that young people benefit from digital content.

I know that those of us who believe that *kazi ni kazi*, when the hustler government takes over, God willing these are some of the digital content that we will harness and create more opportunities to the young people.

I thank you, Mr. Temporary Speaker, Sir.

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

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, I thank you for giving me this chance to also add my voice and make a few comments on this Report by the Committee on ICT. That is one of the Committees that I feel proud to have been a Member for quite a number of years. I see that there are many things which the Committee on ICT continues to pursue which began during those years.

I used to think that I know a lot about ICT until sometime last Senate under the Chairmanship Hon. Mutahi Kagwe who was our ICT Chairman then. We had the opportunity to visit the Panasonic Headquarters in Tokyo, Japan. They opened our thinking of what our potential is as a Country and the many things that we are getting wrong; some so basic, some so complicated.

There was a silver lining though in that visit. As part of their display and the things that they showcased to the rest of the world is the system that was touted. It costed about Kshs20billion in Mombasa, Nairobi and Kisumu; the security cameras that capture on going activities within a city that most of the time we have ended up not using it. On many occasions where there have been crimes, I have seen Kenyans wake up excited and say that if that crime happened on Kenyatta Avenue, it would be captured by the cameras. I remember the killing of the late Hon. George Muchai, former Member of Parliament for Kabete. People said that if the shooting happened on Kenyatta Avenue, we would know the perpetrators because we have security cameras there. Only to be reported that the gentleman who was on duty had switched off the cameras and forgot to switch them on; typical Kenyan behaviour.

If you read through many of the Reports that they are giving it is about missed opportunities; things which if we had been better organised and serious with our work you would have appreciated how far our beautiful country would have gone just by leveraging on technology. We are being hailed across the rest of the globe that Kenya is the silicon Savannah of Africa because of our 5G network. We also have a bulging young population that actually leverages on ICT to do many things and actualize innovations that have come out of this country. The challenge remains us, we that are in leadership positions, to take our work more seriously and find a way of unlocking the potential that exists in that space.

Mr. Temporary Speaker, Sir if you read about the countries that produce a lot of intellectual property in the ICT space, it is because there was something intentional about their leadership. Where young children from a very young age, right from primary all the way to university were introduced to this world and they grew into it.

If you read through this particular Report – I was making this comment to my Colleagues as we were listening to comments from the rest of our Colleagues – you will realize that ICT space works on disruptions. How disruptive has the work of this Committee been? How do you know if a Committees work has been disruptive? You know it by the number of phone calls we receive as Members of the Senate. If you find people who are in a particular space calling to make inquiries about report done by this or that Committee, that they do not agree with it. That will tell you that, the Committee has done some disruptive work.

I commend Sen. Moi and Members of the Committee on ICT. I appreciate the work that they have done because I have read through the report about the things that they have considered. However, it would have been more glorious if there had been disruptive reports that they brought to this House to the point of Members being engaged. For example, one of the issues that the Committee considered is market dominance by Safaricom. I wish we had a report presented by the Committee on ICT that would shake their business but make our economy better to a point---

**The Temporary Speaker** (Sen. Kinyua): What is your point of intervention Senator Wambua?

**Sen. Wambua:** On a point of information.

**Sen. Cheruiyot:** I do not mind being informed by Sen. Wambua

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Wambua.

**Sen. Wambua:** Mr. Temporary Speaker, Sir. I would like to inform Sen. Cheruiyot to be patient, sit back and wait. The Report on the alleged market dominance by Safaricom is on its way. The Committee is yet to do the Report. In my submission, I stated that we have received a lot of contribution from all stakeholders in the industry on that alleged market dominance and abuse of dominance in the market by Safaricom. We are retreating very soon to do the report. Be ready to contribute to the Report.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, I appreciate that information. My only worry is that by the clock of this House it is already 5.30p.m., just a few minutes before the rise of the House figuratively. The Committee on ICT needs to hurry and present to us that report so that we think about it.

There is an issue about the Universal Service Fund (USF). It is one of the issues that I referred to earlier because that is work that we began last term in this particular Committee. There was a big push and that is why I commend and can never buy the false reports that are sometimes sold out by prophets of doom about Senate and its place in this Republic. It was out of the work that was done by this House that the Communications Authority of Kenya began using the USF to roll out connectivity to some of the far flung areas in our country. We did that Report in the year 2016 that effected that. Before then, that money was just accruing in Communication Authority of Kenya. At the time when we did our report, the figure was somewhere close to Kshs20 billion that was just growing and was good wealth.

We know what happens in this country if you have such an idle fund. By this time with a Government such as the one currently in power that money would have disappeared. Out of the push of the work that was done by this particular House, the Committee on ICT is now updating us on Phase Two of the project.

We began Phase One of the last mile connectivity in 2016, but in Phase II of that Universal Service Fund Last Mile connectivity project, only 279 sub-locations have less than 50 per cent coverage. This is good and well informed. The reason why this becomes very important is that - I will marry this with the point raised by Sen. Wetangula - in terms of elections transmission, part of the contestations and complaints that are being raised is that, the number of polling stations do not have connectivity to be able to transmit results to the constituency, county and national tallying center.

Mr. Temporary Speaker, Sir, it will be important for Sen. Moi, alongside the Members of this Committee to, perhaps, as they continue with their work, invite the Independent and Electoral Boundaries Commission (IEBC) together with Communications Authority of Kenya (CAK) so that we can be informed how many of the 40,000 polling stations in Kenya continue to have this challenge. We should not go the elections with polling stations that do not have connectivity at all. At this particular point it is important to be connected.

I believe that there are other secondary measures that can be deployed by IEBC - this Fund can provide tools to carry out that particular exercise - you are sure that on 9<sup>th</sup> August when Kenyans go to the elections, each of the 40,000 plus polling stations across the country will have good connectivity and the results will be relayed real-time.

Mr. Temporary Speaker, Sir, this business of having to wait until two or three days later should be a thing of the past. If you are able to unlock that potential so that the following day on 10<sup>th</sup> August, if that was to succeed, by 9:00 p.m., we should be able to know who has won and who has lost and perhaps wait for verification. How long does it take? You know by the regulations of IEBC, there is no polling station that should have more than 700 voters. If it is a center, then it is not more than 10 or so. Within a few minutes of counting, the same should be able to be relayed and this Universal Service Fund should be able to bypass because elections are an important part of our society and this Fund, which is available for this particular use needs to be appropriately deployed so that we enjoy its benefits.

The last comment is the issue that was spoken to by Sen. Sakaja; the taxi alien applications. This is part of the report that we expect from you Sen. Wambua because

you spoke passionately about the work that is still ongoing and I know that this is by way of update. We need to expedite. You remember we do not have to get to that level. If you recall a few years ago, these taxi alien cab drivers used to come and camp outside Parliament pleading to MPs to pass this legislation so that they are not exploited. This is within our national laws because we are not protecting our citizens from exploitation.

Mr. Temporary Speaker, Sir, if you go to certain countries that are blessed with different resources, people ensure that they are particular about how much resources they allow to move out of the country. Can you imagine 25 per cent of all the rights that happen in a particular country in a day? Just moving, yet there is absolutely no investment. Beyond that particular intellectual property, they own this particular application. It is within us to sit down and say 15 per cent - in fact if you asked me, I do not think it should be anything beyond 10 per cent - that should be enough to safeguard the interest of running this organization.

In any case, we are third world countries and they do appreciate that as part of their business enterprise, they should not be milking as much from people that are already struggling. Countries such as Kenya, 25 per cent is too exorbitant. Therefore, we hope that we shall be able to conclude this work by way of legislation or regulations so that we do not go the next election with this particular---

**Sen. Wambua:** On a point of information Mr. Temporary Speaker, Sir.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, he wants to inform me and I do not mind so long as my time is held.

**The Temporary Speaker** (Sen. Kinyua): May I bring to your attention that we are past Statement Hour. Please keep it short.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, the Senator for Kericho is making a very important point on those foreign taxi applications, but perhaps, what he should be talking about - this is an engagement we can have - is why we cannot have homegrown solutions to this issue and reinforce those homegrown solutions to make it very difficult - for those solutions that we can offer to our people - for foreigners to penetrate and start offering those services.

As you are saying, surely 15 per cent of profit made by every single tax in this country running to thousands is too much money going to foreign countries. Using those applications, we can develop those solutions here and the money remains here.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, I agree and that is the challenge that we need to take up. I appreciate that there are many such brilliant young Kenyans. For example, if you go to Kericho County that I represent here, you will hardly find anybody on *Uber*. There is an application called *Wasili* which has many young people users. It was developed by a local.

In any case, people should not feel guilty about this. The Western World thrives on doing the same. When we innovate anything as an African Continent, by the time it gets to the Western world, it will be a carbon copy of what we have produced but the only thing they change is the name. In any case, it is a fair game.

Mr. Temporary Speaker, Sir, finally, I do recall and I want to challenge this particular Committee to look into it. One of the things that the rest of the world has used to raise revenue is by way of taxing bad behavior. You do so by use of technology and

ensure that one, you curtail people from misbehaving in a particular area, for example, if you use road safety as an area that you want to use technology by use of these cameras, that will take us to ensure that our number plates are electronic and you drive with a card or a chip that is already loaded. You jump traffic lights, money gets deducted. You overspeed, money gets deducted and you just get a message on your phone.

All these people that are misbehaving in the City; people who do not have the patience, this will be a simple solution through which we can raise serious amounts of money and ensure that instead of having to go back to tax Kenyans with a lot of this petroleum levies, we can raise and generate the amount of money that we are actually looking for to ensure that there is safety on our roads by use of technology.

Therefore, this is a goldmine of opportunity. I hope as we continue to do our work and as the Committee continues to update us on the work that they are doing in the ICT space, they will as well be creative in their proposals and find ways that are in tandem with the demands of the 21<sup>st</sup> Century. We should ensure that as a country, we are prosperous and we are leveraging on the opportunities that exist in this country to make it better and prosperous.

Otherwise, I appreciate the good work done by this Committee. Thank you for giving me this chance.

**Temporary Speaker** (Sen. Nderitu): Sen. Olekina.

**Sen. Olekina:** Thank you Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute to this very important Statement by the Committee on ICT.

Let me begin by appreciating the work done by the Chairperson. I remember that even in the last quarter, I had a Statement that dealt with the issue of Safaricom. The way the Committee dealt with that report was something which is highly commendable. I must appreciate you for the good work.

Mr. Temporary Speaker, Sir, having said that, there is a big issue that we have been talking about in terms of Safaricom and all other Telcos. I am happy that you dealt with the issue. It is good to give credit where it is due. Earlier on if you went to Safaricom or any other telco, and you register a line there is no way you would know whether there is any other telephone line registered using your identification number.

Now there is a short code - that came out as a result of a statement that I raised and the Committee took over the matter and ensured that today when you go and register a line there is a short code that you can be able to dial and it can show you all the other telephone numbers registered under your name - that was a brilliant way to be able to stop criminals from stealing your ID, putting their own pictures and using your ID card number to be able to register a line.

Mr. Chairperson, Sir, I am happy with the work that you have done with the Committee, particularly with the County Printer's Bill. I hope that the National Assembly will be able to expedite it and we can have it done. I am happy also with the work that you have done in terms of data protection.

Today I spoke to somebody from CAK and they mentioned to me that they are in Turkana. The money that they are using is from the University Savers Fund to ensure that they procure for these elections, so that by the time we are going into the elections,

results will be streaming. In the last elections we had a challenge where there were so many problems when it came to the issue of connectivity.

Mr. Temporary Speaker, Sir, we have one big problem which I will be very happy if it can be dealt with and it has to do with the issue of debt. Today I read in the newspapers - it worries me - that Safaricom is now trading in the line as Kenya Airways (KQ). Over the last few months, they have accumulated debt which is about 5 times the debt that they had. A few years ago, the debt that Safaricom owed was only Kshs.14.7 billion. Today, we are talking about Kshs.76.9 billion. That is a lot of money. That debt has come as a result of their investment in Ethiopia but we have to be very careful because if Safaricom is now trading in the same line as KQ, Kenya Power and KenGen, we have to worry about the monopoly.

Mr. Temporary Speaker, Sir, this is a country where today even Posta services go down for a day, the whole country collapses. The economy collapses. Therefore, we have to be very careful. I think the Committee on ICT needs to be able to follow it closely to ensure that we are not put in a situation where we depend so much on one company, such that because of its debt, and because of uncertain times during this pandemic, we do not know what is going to happen tomorrow.

With this Covid Pandemic the economy could be crushed. When we travelled to the US a few months ago, the supply chain had already been interrupted such that if you went to buy a shirt in a store, you could not be able to find it. We have to be extremely careful. I hope the Committee in the ICT will be able to monitor closely. Safaricom is one of the companies that Kenyans have invested heavily in. Kenyans believe in that company. For now, it is the biggest bank in this country. Some of us believe that we should be able to separate the two.

Mr. Temporary Speaker, Sir, *Mpesa* should become a complete bank and Safaricom a telco so that in the event that telco services collapse at least our economy will still continue. Sometimes you want to transact and you are told we are doing service maintenance on the Safaricom line. It worries you. That will be something that I will encourage the Committee to take up *suo moto*. A statement does not have to be raised before this House. You can be able to follow up because it will be able to help us.

Finally, on this issue of media houses and in terms of what is owed to musicians. I heard my colleague Sen. Sakaja making very passionate submissions. I will be very careful because when you now venture into a business arrangement with most of the radio and television stations, they do not necessarily make a lot of money. There are other agreements which are made between the media houses and the musicians so that they can be promoted. We need to be very careful not to use the power of licensing to deny Kenyans an opportunity to earn a living.

You cannot come up and say that before a license is renewed, you have to check whether they have paid musicians. We know very well that the Music Copyright Society of Kenya was a cartel organization. Nobody was benefitting from it.

We have to be very careful and ensure that we liberalize these service completely. This is so that other people who come up with music can decide to form their own cooperative or sign their own agreements with any Savings and Credit Cooperative Organization (SACCO) to develop Skiza tunes.

In fact, others are developing that already. There can be a Kalenjin or Kamba tunes or any other tunes so long as we do not monopolize it. The moment we do so, we use so much power to stop businesses from growing, we will be venturing into unknown territories. There is no way you can say as a prerequisite unless---

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Sakaja?

**Sen. Sakaja:** On a point of order, Mr. Temporary Speaker, Sir. I am shocked. Is it in order for my good friend Sen. Olekina to almost discourage media houses from sorting out their obligations to our young musicians and artists? It is important to read reports because when they appeared before the Committee, they accepted that they owe our musicians - including from your county – money.

There is what we call the Blank Media Levy and what they pay to the Collective Management Organizations (CMOs). I am not only talking about Skiza which is from Safaricom Limited. I am talking about content. When your music is played on a radio station, there is an amount that comes to you. When your content is played on a TV station as a movie or series for example, Papa Shirandula, there is what is supposed to be paid.

The media owners, including one who is sitting very close to me, admitted that they owe this amount of money; there had challenges during COVID 19 times but they committed to pay them. Let us not make it look like they have an excuse not to pay.

Our young people are suffering. I am in many groups of creative economy where young people express their challenges. I have been a musician, I know that when a musician is selling his work, it is as if you are cutting off your hand. Things are bad. They cannot pay rent, school fees or hospital bills.

We cannot come here and say that it is okay for our musicians and actors not to be paid while all these media houses are paying foreigners. They are paying Universal Records, Bollywood, Nollywood, Hollywood and South America. That is why our children wake up and think that there is no talent in Kenya so we have to watch South American soap operas.

It is not in order to encourage media houses not to pay. They must pay. They have said they are willing to. Let us not make it look like there is a window. That is very dangerous.

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Wambua.

**Sen. Wambua:** Mr. Temporary Speaker Sir, I am one on the same line with Sen. Sakaja. It is not that they are unwilling to pay. It is always a cost in the budget. It is easy not to pay a Kenyan musician and get away with it but you can never get away with using content from outside the country. I speak from experience having worked for a media house and made those decisions.

I thank you.

**The Temporary Speaker** (Sen. Olekina): Maybe Sen. Olekina will tell you more than what you think.

**Sen. Olekina:** Mr. Temporary Speaker Sir, I do not think there is anything out of order there. Those were points of debate and everyone in this House is entitled to using their minds.

Sen. Sakaja, if you listened carefully to what I said, we should not have it as a prerequisite. We cannot say that we will not renew your license because you have not paid those media houses. That means any business now going into work if it owes Nairobi City County will not be given a license to operate. You will be killing the economy.

I am not trying to suggest that we destroy the careers of our young people. No. Let us encourage them but we have to be pragmatic. What I am saying is very simple. There are different types of arrangements that can be made by media houses. I know Sen. Sakaja could be preaching to the gallery; trying to make your statement known to the youth of this country but let us be factual.

*(Loud consultations)*

*(Sen. Murkomen spoke off record)*

Can I finish? Can they quote the---

**The Temporary Speaker** (Sen. Kinyua): What is it Sen. Murkomen?

**Sen. Murkomen:** On a point of order, Mr. Temporary Speaker, Sir. Sen. Sakaja - who is a musician and an artist by his own right - has raised a very important issue with regard to protection of our local content producers and copy right owners. Instead of Sen. Olekina accepting that man is to err or perhaps he is not an expert in that area, he is trying to impute improper motive on a Senator by saying he is playing to the gallery.

By the way, there is nobody in the Gallery. If figuratively he meant the people of Kenya who are watching us; yes, we are here for that. That is why this is a House of record where we have the HANSARD. All of us then are playing to the gallery including himself if that is supposed to be the definition. However, you cannot impute improper motive on a colleague.

The information that has been given by Sen. Sakaja only serves to improve what my colleague was trying to say. As a matter of fact, I know Mr. S.K Macharia of Citizen TV because I am in the know. I have been working on a mechanism for protecting content producers and ensuring they become like Sony and these other global record labels. It is not in order for our colleague to impute improper motive on Sen. Sakaja.

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Wetangula.

**Sen. Wetangula:** On a point of order, Mr. Temporary Speaker, Sir. We cannot let the distinguished Senator for Narok County get away with what he has said. Standing Order 96 is very clear. It says-

‘(3) It shall be out of order to use offensive or insulting language whether in respect of Senators or other persons.

Further

(4) No Senator shall impute motive to any other Senator or to a Member of the National Assembly except upon a specific Substantive Motion---.’

There is no single Senator here who speaks to the gallery. We speak to the HANSARD. Whatever we say here is on permanent record. You can go to the library now and read the speeches of the late hon. Tom Mboya, the late former President Mzee

Moi, former President Mwai Kibaki and all those pioneers. There is none that was addressing the gallery but the nation and the people of Kenya. My very good friend and champion of Maasai Culture, has to withdraw and apologize.

**The Temporary Speaker** (Sen. Kinyua): Sen. Olekina, Standing Orders 96 (4) is very clear. You have to withdraw and apologize.

**Sen. Olekina:** Mr. Temporary Speaker Sir, first, let me state it very clearly that I have a lot of respect for Sen. Sakaja. At no point did I impute improper motive. If my good friend believes ---.

**The Temporary Speaker** (Sen. Kinyua): Sen Olekina, withdraw and apologies.

**Sen. Olekina:** I withdraw and apologize and we move on. My point is very clear. We should not pass laws that are punitive to the economy. What is out of order in that?

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Sakaja?

**Sen. Sakaja:** Mr. Temporary Speaker Sir. The matter of imputing improper motive is not a matter of conjecture. It is in the Standing Orders. You cannot say that a Senator or a colleague is trying to play to the gallery. We are speaking about the law. Section 46(a) of the Copyright Act sets tariffs that must be met by all broadcasters and if they do not, they forfeit the license.

It is not something we have come up with in the Committee of Labour and Social Welfare. Let us be guided by the laws that exist. The Copyright Right Act Section 46(a). Sen Olekina, please get acquainted with it. If you in a matter where you are not clear about what is going on, you do not have to go that direction.

He must withdraw unconditionally. He should not say “if” yet you have already given the direction that he needs to withdraw. He should not say “if I said” yet, it is clear he said.

**Sen. Olekina:** I was very clear that I withdrew and apologized and I moved on. The issue is very clear. I want to---

**The Temporary Speaker** (Sen. Kinyua): Kindly summarize.

**Sen. Olekina:** Mr. Temporary Speaker Sir, my time has been eaten up. Can I just finish my line of thought?

**The Temporary Speaker** (Sen. Kinyua): Kindly summarize.

**Sen. Olekina:** My point was very clear. The Committee needs to be very innovative in trying to advise the media houses and Telecommunications Companies (TELCOs) on how they can create business opportunities for the youth.

For instance, I want to encourage the Committee on ICT to propose or amend the laws so that individual TV station and radio stations can sign a contract with particular musicians. This is in order to avoid a situation where the money is sent to a cartel and those musicians who were supposed to be benefit do not. There was a big problem when a big cartel was running the cooperate society whose name I cannot remember.

*(Sen. Wetangula Spoke off record)*

It is the Kenya Music Cooperate Society. Thank you very much Sen. Wetangula for reminding me that. The idea here is to be creative and come up with legislation, proposals or even motions that can encourage our artists to be creative. When you are

creating your music, you have a ready market that you can be able to sell your services to.

Mr. Temporary Speaker Sir, to finalize, the Committee should now pay close attention to these TELCOs so that we do not find ourselves in a situation where we have invested so much in them and then tomorrow they go belly-up, crippling the economy to a point where so many people will suffer.

I am very happy with the work that the Committee is doing. I brought up a Statement; they moved expeditiously, called the CAK and all the TELCOs to appear and finally we got solutions. I congratulate the Committee and encourage them to continue. At the same time, let us not encourage legislations which will cripple businesses but rather those that will support this economy to grow.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Thank you. Let us have a Statement from Sen. Moi on behalf of the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 30<sup>TH</sup> NOVEMBER, 2021

**Sen. Moi:** Mr. Temporary Speaker, Sir. As honorable Senators recall, on Wednesday 10<sup>th</sup> November 2021, the Senate resolved to alter the calendar of Part Six of the Fifth Session to proceed on a one-week recess in order to allow the it to participate in the Seventh Annual Devolution Conference. The Conference is scheduled to take place in Wote, Makueni County from 23<sup>rd</sup> November to 26<sup>th</sup> November 2021. As such, no business has been scheduled for next week.

Allow me to take this opportunity to encourage all honorable Senators to attend and participate in this important event in our Devolution calendar.

Upon resumption of Sittings on Tuesday 30<sup>th</sup> November 2021, the Senate Business Committee will meet to consider and approve the business of the day. This will also include business that will not be concluded from today's Order Paper.

On Wednesday 1<sup>st</sup> December 2021 the Senate will continue with business, that will not have been concluded on Tuesday 30<sup>th</sup> November 2021 and any other business scheduled by the Senate Business Committee.

On Thursday 2<sup>nd</sup> December 2021 the Senate will continue with business that will not have been concluded on Wednesday 1<sup>st</sup> December 2021 and any other business that will be scheduled by the Senate Business Committee including an Adjournment Motion at the end of the Fifth Session pursuant to the Senate calendar thereafter. Thereafter, the Senate will adjourn until Tuesday, 8<sup>th</sup> February, 2021.

Mr. Temporary Speaker, Sir, with respect to the status of legislative business before the Senate, there are 10 Bills at the Committee of the Whole Stage, 23 Bills at the Second Reading Stage, four of which are pending Division. The four are indicated in today's Order Paper as Order Nos. 8, 9, 10 and 11 respectively.

Additionally, there are 24 Bills undergoing the concurrence process pursuant to Articles 110(3) of the Constitution. They will be introduced in the Senate upon completion of this process. Other business before the Senate includes 14 Motions, 51

petitions referred to respective standing committees as well as Statements pursuant to Standing Orders Nos. 47 and 48.

I wish to remind hon. Senators that we have only three sitting days left to the end of the Fourth Session. As such, I urge all hon. Senators to avail themselves this afternoon for the Divisions on the four Bills scheduled in the Order Paper. This will allow for a smooth transmission to the next stage.

Mr. Temporary Speaker, Sir, I also encourage Senators with business listed on the Order Paper to be in the Chamber to prosecute the same. This includes committee chairpersons and Senators proposing amendments to Bills listed for the Committee of the Whole.

Thank you and I, hereby, lay the Statement on the Table of the Senate.

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

*(Laughter)*

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Moi. The next is the Statement by Sen. Sakaja.

#### OPERATIONS OF THE ISO DEPARTMENT OF KRA

**Sen. Sakaja:** Yes. *Wacha niongee Kizungu cha Bushiangala.*

*(Laughter)*

Thank you for your indulgence, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.47(1) to make a Statement on an issue of general topical concern regarding the operations of the Intelligence and Strategic Operations (ISO) Department of the Kenya Revenue Authority (KRA).

The KRA leverages on the immense potential of intelligence gathering and analysis, among other strategies, to combat tax evasion and other tax related crimes. The intelligence management function of ISO has been key in the collection of information relating to tax evasion, cybercrime and corruption. This has continued to enhance the institution's capacity to penetrate and quash tax evasion cartels.

However, the Department is now engulfed in allegations of poor policies and practices that inhibit legal transactions. For instance, in its intelligence gathering role, there have been very many cases of prolonged holding of consignments on allegations of tax evasion, an exercise which has affected business operations and trade for many traders in this country and more so, in Nairobi City County.

Mr. Temporary Speaker, Sir, one of the roles of the Department is intelligence reporting. There have been allegations of the ISO Department overstepping its mandate and withholding relevant information from other departments, thereby, inhibiting the overall functions of the KRA. Effective linkages are necessary between the ISO and other

departments and stakeholders to enhance the fight against tax evasion and other related crimes.

The Commissioner-General of the KRA was in charge of that Department before and it was working very smoothly. I do not know what has happened. I appeal to him to ensure that the ISO works within its mandate and ensures effective linkages between departments geared towards increased revenue collection.

Many traders, importers and business people – whether in footwear, clothing, textile, *et cetera* – are affected and demurrage costs are crazy now because things are held at the customs.

Pursuant to Standing Order No.47(3), I kindly urge that you refer this matter to the Standing Committee on Finance and Budget to intervene and ensure that there is strategic collaboration within the KRA, with the aim of enhancing legitimate commercial enterprises while at the same time improve on revenue collection.

In a nutshell, when consignments come and go through different checks, one department has now become notorious of slowing down the process. Earlier today, I spoke to some of my traders from Kamukunji and they told me that there are 40 containers which are being held. The containers are carrying goods such as *vitenge* and footwear. They are just held for no apparent reason and no other department can touch them.

Mr. Temporary Speaker, Sir, when the Commissioner-General was in this Department, it was working smoothly. May I ask that you assign this to the Committee on Finance and Budget because I cannot call them to the Committee on Labour and Social Welfare, to see how we can unblock this. The KRA is supposed to facilitate and not impede or slow down business by Kenyans because they are paying taxes and are willing to.

As I conclude, I thank the KRA and President Uhuru Kenyatta. I brought a Statement here about double taxation of footwear by importers paying about USD1 per pair and I sent the same message to the President. He immediately responded and sent me to the KRA and the National Treasury and we sorted that out.

However, Mr. Temporary Speaker, Sir, it seems they are now using another route to again try and stifle that business. I do not know if somebody is acting in the interest of a certain group of Kenyans. They are stifling this and many other areas where our people, including yours, are being affected.

**The Temporary Speaker** (Sen. Kinyua): Through my discretion on Standing Order No.47(3), I commit that Statement to the Committee on Finance and Budget.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, may I comment on that Statement?

**The Temporary Speaker** (Sen. Kinyua): You can comment on it but be precise.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. Once again, I think it is important to give credit where it is due. The Statement by Sen. Sakaja is very timely.

I just want to encourage the KRA to consider themselves 50 per cent owners of any business in the country. The success of a business is the success of revenue collection in this country. Delaying containers because of intelligence gathering can affect your ability to collect revenue.

So often, we read in the newspapers that the KRA has lost about Kshs7.6 billion in accounts which are held offshore. Sometimes you will hear that they have not hit their target. The best way to ensure that they reach their target every quarter is to start treating every business in this country as partners. Nothing stops you from allowing traders to bring in commodities so that you can actually follow and collect revenue.

These are some of the new ideas that we can borrow from the West. In the United States of America (USA), if you have a problem with the Internal Revenue Service (IRS), you have to go and negotiate. Once you negotiate, they treat you with cordial respect because you are the one fueling their operations.

Mr. Temporary Speaker, Sir, I think the moment we start looking at businesses as entities that drive this economy, that is when we will start thriving.

Now that you have committed that Statement, I hope that the KRA will start engaging citizens, businessmen and Senators who bring Statements on how they can continue increasing revenue collection in this country.

**The Temporary Speaker** (Sen. Kinyua): The next Statement is by Sen. Ngugi who is online. Proceed, Senator.

#### FREQUENT FIRE INCIDENCES AT GIKOMBA MARKET

**Sen. Ngugi:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48(1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations, regarding the frequent fire incidences at Gikomba Market. The fires have an adverse effect to micro-businesses, many of which are run by the youth of this country who I represent.

In the Statement, the Committee should-

(1) Explain the reasons behind the recurring fire incidences at Gikomba Market and their effect on traders who continue to count losses every time a fire razes down their businesses.

(2) State the actions, if any, being taken by the national and county governments to contain the incidences, including construction of a fire station at the market to ensure speedy response in the event of a fire.

(3) Explain the status of installation of CCTV cameras to compliment other security measures as directed by the Principal Secretary (PS) for the Ministry of Interior and Coordination of National Government on 8<sup>th</sup> August, 2021.

As I conclude, Mr. Temporary Speaker, Sir, yesterday I was unable to log in, when Sen. Sakaja said that I am not part of his delegation and he had even sought a similar Statement. I do not represent the youth of a particular geographical area but the youth of this country.

**The Temporary Speaker** (Sen. Kinyua): Sen. Sakaja, proceed.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I thank Sen. Ngugi for bringing this Statement. As I said yesterday, the main issue is that the same Statement has been brought here before and the same committee from which we require answers has not

responded. We need those answers because the fires have been there incessantly for many years.

Yesterday, I alluded to the fact that the National Land Commission (NLC) should be involved. In fact, probably you should direct that this be done concurrently with the Committee on Land, Environment and Natural Resources and not just the Committee on National Security, Defence and Foreign Relations.

I am saying this because this matter is about the title deed of Gikomba Market. There are businessmen who purport to hold titles to Gikomba Market, which is around 12 acres. The strategy has been to burn a section and move traders and keep doing so.

Mr. Temporary Speaker, Sir, we need a clear pronouncement by the Ministry, which is the custodian of titles, on the entire acreage under which Gikomba Market which is the biggest in East and Central Africa is. We need to know whether that is public land. That is the first pronouncement we need.

Secondly, this matter also touches on security and that is why we came together with Sen. Mutula Kilonzo Jnr. The National Disaster Management Authority Bill has gone to the National Assembly. Some of those fires can be prevented by proper disaster management planning. We must have one fire station there.

We saw the Nairobi Metropolitan Services (NMS) Director, Maj. Gen. Badi, together with the Member of Parliament (MP) for Westlands, going to sanitise corruption in Westlands. They received a donation of land for a fire station from someone who has grabbed the same land from Nairobi City County.

*(Laughter)*

How do you sanitise that corruption?

We all know where Diamond Plaza. It is at some place to Gigiri. Those are fire stations already. Someone grabbed two acres and then donated half an acre to Nairobi City County.

Mr. Temporary Speaker, Sir, there must be a provision. There were code bikes that were introduced by the former Governor, Hon. (Dr.) Kidero, in Nairobi City County. Those code bikes could go through the thin and proper alleys of Gikomba Market.

Thirdly, illegal power connections have been the third cause of Gikomba Market fires. We want the Kenya Power, in their social connection policy, to tell us how they can step down the cost. That is why we have fires in Mathare Constituency and many other areas like Mukuru every two weeks.

Finally, of course, this is extremely sensitive and I always fear getting too much into this because they are my people. It is about the Insurance Regulatory Authority (IRA). Some of these fires have been caused by a few unscrupulous traders. When their insurance runs out and their stock is finished, they cause the fires so as to get compensated.

It is just a small group that do that and cost others and they are known by other traders. I urge that this be expedited.

It is very embarrassing. I even said I am not going back, because after every two months, you go and tell them that that should be the last one. I look for *mabati* and other donations but I go back again after two months. You even look stupid to the people.

Mr. Temporary Speaker, Sir, you need to insist that the Committee on National Security, Defence and Foreign Relations and Committee on Land, Environment and Natural Resources should bring us the responses within a specific time. I know we are about to go for recess but it will be bad if we come back to the Senate after another two fires have happened in Gikomba Market and many other areas.

Mr. Speaker, Sir, I thank Sen. Ngugi. We recognise that he represents the youth all over the country. I represented the youth all over the country in the previous Parliament.

The issue was how we schedule Statements that have already been asked for but not answered and then we ask for the same Statements. That is not his because he has just joined. Our secretariat should understand how that is done.

I thank you.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, first and foremost, it is wrong and incorrect to say that the MP for Westlands and Maj. Gen. Badi are sanitizing corruption. I stand to defend the MP for Westlands who is my younger brother, that I have never seen him in his conduct engage in any underhand practices and he has been---

**Sen. Sakaja:** On a point of order, Mr. Temporary Speaker, Sir. While I understand why my distinguished uncle must defend his distinguished brother, I did not insinuate anything to do with the character of the individual. He possibly did not know. It was a function about a fire station but the activity they engaged in amounted to sanitizing corruption.

It is public knowledge that you cannot have land of more than two acres that has been grabbed. We have deed plans showing that that land was supposed to be a fire station but an individual said that they are donating a quarter of an acre to Nairobi City County Government to build a fire station because it has been acquired. That act itself is corruption. The individuals might have been duped or misled.

In fact, I am even chatting with the Member of County Assembly (MCA) of the area. There is Highridge Clinic on the 3rd Avenue in Parklands and the same thing has happened. It is the sanitization of corruption that I have a problem with and not the character.

I know Maj. Gen. Badi and Hon. Wanyonyi are honest but they engaged in an activity that sanitizes corruption. The NMS and that businessman must explain how they acquired that property which originally belonged to the people of Nairobi City County. I have no issues with the individual, but the activity that sanitizes corruption.

**Sen. Wetangula:** Secondly, Mr. Temporary Speaker, Sir, the fires of Gikomba Market have become too frequent for any reasonable person to imagine that they are accidents. If they are acts of arson by whichever individuals for whatever motives, the Government has to bring this to an end.

Many traders in Gikomba are burdened with loans. They travel through very hard conditions to China, Thailand and everywhere to bring wares for selling but wake up in the morning and see all their wares up in smoke. Some do not even have insurance to fall back to.

Once your stocks are burnt down, first, there is no insurance that will pay you. Secondly, there is no bank that will cancel your loan because your wares were burnt down. You must be held to account.

It is important that the management of Nairobi, under Governor Kananu and Maj. Gen. Badi, signs a public engagement that will bring to a permanent closure, save in very clear accidental conditions, these acts of criminality and arson that keep on occurring in Gikomba Market.

Today you can predict that politicians of Nairobi will run to Gikomba to donate iron sheets, poles and timber. You can equally predict that six months later, they will be burned down again. That is not right. We want a full-scale inquiry into the cause and consequences of fires in poor neighbourhoods in Nairobi, including Gikomba, Mathare, Mukuru kwa Njenga and many others.

I would like to finish by reiterating that the MP for Westlands is not and cannot sanitize corruption by his conduct, more so, when he has been rated as one of the best performing MPs in this city.

**The Temporary Speaker** (Sen. Kinyua): Let us listen to Sen. Wambua.

*(Sen. Murkomen spoke off record)*

**Sen. Wambua:** Mr. Temporary Speaker, Sir, the Senator for Elgeyo-Marakwet is acting as the Speaker from his chair. That is fine. Maybe I need only three minutes.

First of all, I thank Sen. Ngugi for coming up with this Statement. From the outset, I would like to state that Gikomba Market could be located in Nairobi but the composition of that market is the face of Kenya because traders in that market are drawn from every corner of this country.

When fires break out in Gikomba Market and consume property and destroy businesses, it is not enough to say that those businesses and property belong to the people of Nairobi. That is a devastating thing that has happened to Kenyans from every corner of this country who trade in Gikomba.

I know there is a huge population of the Kamba Community that trade in Gikomba. Every time we have fire outbreaks, they lose businesses and their property is destroyed to the tune of hundreds of millions of shillings.

I have listened to the Senator for Nairobi City County talking about what could be behind those fires. I hope that the committee will get to the bottom of this issue. If it is illegal power connections, illegal power connections are found in almost every slum area in this country but we do not have frequent fires in all those areas.

If it is the issue of expiry of insurance covers, that happens in every trading town and centre in this country but we do not experience such frequency of fires in those areas. There must be something about who owns the piece of land on which Gikomba Market is located.

I hope that the Committee on National Security, Defence and Foreign Relations and the Committee on Land, Environment and Natural Resources will get to the bottom of this matter. As Sen. Sakaja has said, by the time we get back from our recess, I hope we will not have had two more fires in Gikomba before the committees sit.

Mr. Temporary Speaker, Sir, this is a serious matter. Therefore, the committees must expedite investigations and bring to this House a report on which a serious action should be based to stop those fires and restore dignity in Gikomba Market.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Hon. Senators, I commit this Statement to the Committee on National Security, Defence and Foreign Relations. Having listened to the magnitude of this matter, I will require the committee to expedite and give us progress report in 21 days.

Let us go the next Order. I can see that we do not have the numbers. Therefore, I would like to reorganize the Order Paper. Let us go straight to Order No.17.

## BILL

### *Second Reading*

#### THE COUNTY HALL OF FAME BILL (SENATE BILLS NO.9 OF 2021)

**Sen. Murkomen:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to move this Bill. This Bill is now being moved I think a third or fourth time since we came to the Senate.

It is one of the Bills that lapsed because it was not processed by the National Assembly on time during the previous Parliament. It was also affected by the High Court ruling and that is why I am moving it. I think this is the third time. I will not spend a lot of time to repeat because the HANSARD speaks for itself in as far as the contents of this Bill are concerned.

I must acknowledge because I believe in attributing credit where it is due. This was not my Bill. It was sponsored by Hon. Sang who is now the Governor of Nandi. He is the one who moved it during the previous term. I cannot remember whether it was in his capacity as the Vice Chairperson of the Committee on Legal Affairs and Human Rights or as an individual but I suspect it was a personal Bill.

I inherited this Bill from him. That is why I am moving it now for the second time. I hope it will not be affected again when the term of this Parliament comes to an end, so that I move it again in the next Senate, or maybe somebody else will inherit it.

The County Hall of Fame Bill came about because there was a feeling that even as we have recognition of heroes and heroines in the country, there is need for us to have a mechanism at the county level where persons who have made significant contributions in the development of our various counties can be recognised.

In most cases, before one gets presidential recognition, it takes a long process which is not even clear. You must know---

**The Temporary Speaker** (Sen. Kinyua): Sen. Murkomen, kindly approach the Chair.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I suspect you want me to say; "I beg to move".

*(Sen. Murkomen consulted with  
the Temporary Speaker)*

**Sen. Murokmen:** I understand you now, Mr. Temporary Speaker, Sir. Thank you for that correction.

Mr. Temporary Speaker, Sir, I beg to move that the County Hall of Fame (Senate Bills No.9 of 2021) be read a Second Time. As I said, this is a Bill that is meant to provide a framework through which we can recognize persons who have made significant contribution to the development of our counties.

This is the point I was trying to make. By the time one gets national recognition, whether it is Chief of the Order of the Burning Spear (CBS), Elder of the Order of the Burning Spear (EBS), Elder of the Order of the Golden Heart of Kenya (EGH), Moran of the Order of the Burning Spear (MBS) or Head of State Commendation (HSC)---

There is a man who was recognized I think in 2018 if I am not wrong. He was awarded an HSC for eating his own *githeri* and queuing to vote. He did nothing significant but people decided that he should be awarded an HSC.

There are also people who got HSCs for just running a *Twitter* account. I think people were fascinated that somebody had about 500,000 followers on *Twitter* and they were awarded HSC apparently because they are bloggers. That was almost like a national shame and scandal.

If you are somewhere in Narok, or Rumuruti in Laikipia or a place called Chekobei in Elgeyo-Marakwet County and do not know anybody, if the District Officer (DO), District Commissioner (DC), or County Commissioner does not like your name, nobody will recognize you. Even if the County Commissioner forwards your name but people feel that you come from a politically incorrect area, nobody will recognize you.

Mr. Temporary Speaker, Sir, instead of waiting for the rigorous process or bureaucracy that goes on with national awards, we can have our own awards at the county level. It also provides a framework for preservation of history, heritage and culture of a county. We have unique cultures and cultural heritage, which is a function of county governments.

The County Hall of Fame Bill will give room for the preservation of culture. It will provide a framework where we will have the history of our counties being preserved by the county governments. It will also provide a basis for education of members of the public on the history, heritage and culture of each of our counties.

The County Hall of Fame Bill is expected to be established in every county and shall honour achievements of individuals who have made significant contributions. Some of the contributions might be discovery of local solutions or innovations. Others might be persons who are known to have preserved or have the know-how of traditional knowledge.

If you go to my place which is Embobut, there is a family known for carrying out surgical operations especially on the human skull. After someone has been unsuccessfully treated in a hospital, a family can decide to take that person to that family for the skull to be operated. The story of that family has been covered several times by the media.

We come from the same ward and they live near our home. Those are people that I have known since childhood and it is very fascinating. In the old days, they could perform surgical operations without anesthesia. Nowadays, they have managed to collaborate with local health workers and continue with their usual operations.

They have no formal education at all. The son who inherited the skill from his late father went only up to Class Seven. I know that because we were in school together. That area is rocky and people living there are prone to accidents.

People still go back to that person even after getting treatment from hospitals mostly due to persistent headaches. A person ends up being operated on at their home. It is well-known that Arap Seroney sorts such medical issues.

Such people should be recognized at the local level. They cannot be remembered in Nairobi and neither can they get an HSC. Theirs is an inherited skill that is transferred over generations through lineages and training on the job.

There are people who have made counties to shine globally. In Elgeyo-Marakwet County, there are thousands of athletes who have won medals. I am not exaggerating when I say thousands. Those medals have been won in Grand Prix, Athletics World Championships, Olympics and other championships.

Elgeyo-Marakwet is been the county whose athletes have dominated the steeplechase race for long. Ezekiel Kemboi comes from my county and dominated in steeplechase for over 10 years.

Before Ezekiel, there was Moses Kiptanui also from my county, who also dominated steeplechase races for almost 10 years. Nobody has recognized Moses Kiptanui even with an HSC. Those are the kind of people we should be awarding in the counties.

In the previous Parliament, Hon. Wilson Boit Kipketer was the Majority Leader in the County Assembly of Elgeyo-Marakwet. We all know him because he was an Olympian and won many medals but when he was a Member of County Assembly (MCA), he was just an ordinary guy and could easily be treated like any other person yet he is our hero.

I know of three MCAs who are former world champions. Such a county will get an opportunity to establish a County Hall of Fame where a whole gallery will be dedicated to athletics because that is the most dominant sport in that area.

Counties like Nairobi have all kinds of sportsmen and women like boxers, footballers, athletes and so on. This Bill will help us to promote and preserve our culture and recognize our heroes for what they have and inspire the coming generations on contributing to the country.

Mr. Temporary Speaker, Sir, there are people who are good in preserving the environment. Those are people who should be recognized in our counties.

The County Hall of Fame Bill requires that there should be a selection committee which will mirror what is done in Parliament when identifying persons who should be recognized. There is usually a Selection Committee and leaders of both Houses sit there.

I used to sit in the Selection Committee when I was the Senate Majority Leader. We have a committee that is involved in presidential awards for parliamentarians. They sit twice or thrice in a year to recommend names from both Houses.

Sometimes they recommend names like they did in 2020 but the State House picks names of one side of the House, unlike in the past when they would pick everyone. The Selection Committee of Parliament comprises of Majority Leaders of both Houses and a few other people.

The selection panel in the counties will be composed of clerks of county assembly, the County Executive Committee Member (CECM) in charge of the Heritage and Social Culture Department, the Chairperson of County Public Service Board (CPSB), because of persons in the public service, and two public officers nominated by the CPSB.

The function of the committee will be to receive names from members of the public and recommend to the governor on its own motion or present names of persons that should be considered to be inducted into the County Hall of Fame. The procedure is well provided for there. The meetings of the panel will be at least twice a year, just like what we have here.

In selecting persons to be recognized, due consideration must be put on the motive to ensure that there is no conflict of interest in the process of inducting people to the County Hall of Fame. The procedure is that the governor, following recommendation of the panel, can induct an individual, a body, a unit or an association of persons into the County Hall of Fame. The qualities of people who should be inducted are provided for in this Bill.

Mr. Temporary Speaker, Sir, I had already said generally that for you be inducted to the County Hall of Fame, you must exhibit exemplary qualities, actions or achievements of heroism, sacrifice, bravery, patriotism or leadership for defence, benefit and betterment of the county or the country. You could have done it for the country but you come from a county.

It should be a person who has made an exemplary contribution in areas of economic development, academia, public administration, governance, sports, journalism, business, security or in any other field. There are many such people who are now retired and sitting in our counties.

During campaigns, sometimes we politicians are asked if we know a certain person who served in the Legislative Council of Kenya (LegCo) and accomplished great feats. When you visit such a person, they give you a lot of history about our country. Those are the people who have been forgotten. They should be recognized at their localities in their counties. Do not wait to go to somebody's funeral to announce that a road should be named in their honour.

We should have that opportunity at the county level through this Bill to recognize these people in good time. All the criteria are provided for there. There must be public participation, public hearing and public representation because these are processes that can be challenged.

You might end up honouring somebody who is a divisive character in the county and the residents end up not being happy. Public representation and participation will ensure that people are properly selected.

There must be establishment of a register. The various halls of fame in the world have established proper registers to capture the names of persons who have been

identified, the awards given to them and the time of induction into the hall of fame and so forth.

If you have been put into the County Hall of Fame, it is not absolute that you will be there forever. If you become disgraceful thereafter by, let us say, promoting tribalism, war, or you have been arrested or become a murderer, you will be deemed to have undone the things you had done before.

The Bible says in Ecclesiastes that the end of a matter is better than its beginning. So, you can start well in the spirit and end in the flesh. It is important to note that if you become a villain, Clause 16 of the Bill provides room for revoking the induction of such person whose acts are inconsistent with the provisions of the Act, the Constitution or morality.

The Hall of Fame can recognize persons posthumously. A person can also be removed posthumously if information gets to the county and the panel through the process that has been provided for in this Bill. If it is discovered later that you were inducted fraudulently or the information that was provided is not a proper representation of that person, the law allows that you can be removed from the County Hall of Fame posthumously.

Mr. Temporary Speaker, Sir, when Governor Sang was here as a Senator, he pushed these provisions which were inspired by the desire to bring the artefacts of Koitalel Arap Samoei from London back to Nandi.

Section 18 says-

“The Selection Committee may receive historical items or artefacts donated to it for preservation in the County Hall of Fame.”

A county should find mechanisms of encouraging various artefacts to be donated to the county. These include things and tools that were used in the past.

Mr. Temporary Speaker, Sir, it is an offence to give false representation for a person to be inducted into the County Hall of Fame and receive bribes or solicit for money. We need to agree that the level of corruption in this country is high.

I will not be surprised to hear that somebody went to some businessman somewhere and told him: “I have proposed your name to be in the County Hall of Fame. It is a very important thing and if you travel anywhere, you will be telling people that you are a hero from Elgeyo-Marakwet County, *halafu uone vile wazee watakaa.*”

Of course, bribery is generally an offence under the Penal Code and also the Ethics and Anti-Corruption Act. In this Bill, it is also an offence to give and receive a bribe for purposes of being inducted to the County Hall of Fame. Again, regulations may be made under this Act by the Cabinet Secretary (CS) in charge of heritage matters in this country but with the approval of the Senate.

Mr. Temporary Speaker, Sir, this is a very straight forward Bill. The good thing about this Bill is that it is being moved now after being revised. This makes it fairly finer. Of course, new ideas come and the Senate can add more ideas. The committee will come back with its report where there could be more amendments. However, it is important that we expedite this Bill to become part of the rubric of the Bills that we should finish by next week.

I say this because as you can see, Senators are going to be scarce in this Chamber. We will close for the long December to January break and come back in February. Right now, I can see everybody in this Chamber. When we come back later in February, you will barely raise five Senators in this Chamber.

Everybody will be campaigning to win a popular ticket where they come from. By April, we will be begging each other to vote for the Division of Revenue and County Allocation of Revenue Bills. Thank God for Zoom and the technology that we are using.

We will have more Senators coming here in May after losing their party nominations. At that time, they will be coming here to enjoy their last three months because they will have decided to retire from politics. The Senators who will frequent the House more are those who know they will go home for sure. Almost one-third of Senators in this Chamber who are going to be governors will be too busy to appear here.

Mr. Temporary Speaker, Sir, I believe you and I--- It is not by accident that we are still here this late. It is because we still believe in the Senate.

Mr. Temporary Speaker, Sir, I beg to move and request Sen. Wambua to second.

**The Temporary Speaker** (Sen. Kinyua): Sen. Wambua, proceed.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, the Senator for Elgeyo-Marakwet County is scaring some of us. He says that from May, Senators who will be found in this Chamber will be the ones who will have given up.

I do not know what that means because I intend to be here in May to continue with the work that the people of Kitui County gave me to do in this Senate. I am very sure I will come back as the Senator for Kitui County after the 9<sup>th</sup> August elections. So, we will prove the Senator for Elgeyo-Marakwet County wrong on that score.

Mr. Temporary Speaker, Sir, I stand to second the County Hall of Fame Bill, 2021. In seconding this Bill, I will make a few general comments and then go to the specifics of the Clauses in the Bill.

I will begin from where the Mover began, that this is not the first time that we are interacting with this Bill. We did it two years ago and made our comments, which are safe in the HANSARD. Since it has to be moved afresh to comply with a court order, I am glad that the responsibility of seconding this Bill afresh has fallen on me.

Recognition is a good thing. When we recognise achievement, it is part of positive reinforcement. You give people the urge and determination to do better in the area they have been recognized and rewarded. The County Hall of Fame is supposed to be established in every county in this country. It is supposed to be a big source for positive reinforcement in all spheres of life in our counties.

These spheres should not be limited to just sports and awards by county governors and other big offices in counties. It should also extend to even academics. I would expect the best candidate in the Kenya Certificate of Primary Examination (KCPE) in Kitui County, to be recognized and his or her name put in the list of Kitui County Hall of Fame for that year. It should be the same for the best boy and girl in the Kenya Certificate of Secondary Education (KCSE).

There are also other institutions in our counties, especially schools, that have a track record in performance. They are trailblazers in academic performance. Those institutions should also make to the list of the County Hall of Fame.

There are persons who are not recognized; their achievements should be rewarded. We have traditional people who do very complicated things that require serious medics. For instance, where I come from in Kabati Town, there is a woman called Ms. Ann Masika. Ms. Masika has made a name for herself in doing orthopaedic work. That is, straightening bones.

If you have a problem with your bones and all the doctors in the country are unable to deal with it, you just go to Ms. Masika in Kabati and she deals with it. She does not use any machines but she is able to straighten the bones.

There is also a man from Mwingi whose wife died. He knew she had died but the community knew she had just disappeared and nobody knew where she went. The man preserved the body of his wife believing that she would wake up one day. He used traditional herbs to preserve the body for more than five years. Instead of that man being recognized, he was taken in by the police for keeping a dead body in the house.

Mr. Temporary Speaker, Sir, these are the things we are talking about that can never be recognized at the national level. In other jurisdictions, maybe that man would have been taken to a serious research institution to help medical researchers to understand the herbs he used to preserve the body. The herbs could then be improved by modern science to help medics in their work.

Mr. Temporary Speaker, Sir, I will not forget because I heard while Sen. Murkomen was moving the Bill talk about the world beaters from Iten and most parts of the Rift Valley. Where I come from, we also have people who have excelled in other fields. I remember my friend Isaac Kalua who is a serious conservationist with the Green Foundation. He does so well in reforestation. These are people whom the County Hall of Fame should recognize and honour.

I foresee one conflict with this Bill. Once it becomes law and every county establishes their County Hall of Fame, some of the things that will be populating that hall will be artifacts from our counties. You will agree with me that the National Museum is the custodian of a lot of artifacts from different counties in this country.

If, for example, the county of Narok has any artifacts in the National Museum the County Hall of Fame in Narok may want their repatriation. There will be need to deal with that issue to ensure we do not deplete our National Museum but at the same time enrich our county halls of fame.

Mr. Temporary Speaker, Sir, I like what Sen. Murkomen said that once a name finds its way to the County Hall of Fame, it does not stay there forever. If one misbehaves, there is a criterion for its removal. That aligns very well---. Without dragging you into this debate, you subscribe to the Christians Faith. You remember the words of Apostle Paul in writing to the church in Galatia and telling them:

“You foolish Galatians, who bewitched you? Having started in the Spirit, are you going to finish in the flesh? Before your own eyes Christ was portrayed as crucified.”

It is not an end in itself to begin well and be enlisted in the County Hall of Fame. There is a responsibility and duty on their part to continue being good citizens. Otherwise, you do not do so well for the county and once your name is listed you start behaving otherwise. When that happens you lose your slot in the County Hall of Fame.

That is a good provision so as to ensure it is not as if once you get in there, it is a guarantee you will be there forever irrespective of what you do.

This Bill gives the governor the responsibility to induct people into the county of hall of fame but on the advice of the selection committee. I wish to sound the warning that governors must not play politics with that list. If the selection Committee identifies and forwards the names of people that are critical or do not support the governor, it cannot be the province of the governors to decide not to put the names of those who do not support them. This is not about governors but the county. That needs to be taken into consideration as we debate and pass this Bill so that governors do not appropriate the final decision on who is or not on the list.

There is also a provision in the Bill on legislation. Whereas the Bill says county government may enact county-specific legislation, I thought reference should have been made directly to the county assemblies, of course, because they are the ones enacting this legislation. One of the legislations that these county assemblies are supposed to be enacting is on the number of persons who may be inducted into the County Hall of Fame at a particular time. That is a bit tricky. How do you predetermine that, in this year we are only going to admit 10 people in the County Hall of Fame? What will you do if that year there are 100 people who have been recognized by the national Government for awards in difference fields of achievement?

In making that legislation, county assemblies should be careful not to stifle achievements and ensure that as many people as qualified are enlisted and rewarded---

**The Temporary Speaker** (Sen. Kinyua): Sen. Wambua, are you saying that if somebody has been recognized nationally, it is automatic that they be put in the County Hall of Fame?

**Sen. Wambua:** Mr. Temporary Speaker, Sir, I was coming to that point. What do you make of the following situation where the Senator of Kitui County is recognized and given Head of State commendation by the President of the Republic of Kenya for pushing serious legislation on creation of Mwingi County from Kitui County?

Back home, because the governor does not like the Senator, she decides not to put his name in the County Hall of Fame? Those are the things I am talking about. The County Hall of Fame has absolutely nothing to do with what the governor likes or does not like. It is about achievement.

If a member of your county has been recognized and awarded at the national level for doing things at the county level, what will be the justification for not recognizing and awarding that person at the county level, once we establish the County Hall of Fame? That is the debate before us. If you asked me, it should be automatic. If you have been recognized at the national level, you should as well be recognized at home. However, it should not be automatic that if you are recognized at home, you must be recognized at the national level. That is my debate and argument.

This County Hall of Fame has a fame register that is a very rich area especially for scholars and authors of textbooks for primary and secondary schools. As our children learn the history of their counties in History and Civic Education lessons, they should understand that people that have made a contribution to the growth of their counties; the County Hall of Fame.

Mr. Temporary Speaker, Sir, in my opinion, they should have a special place in the County Hall of Fame for authors to interact with the material and content in that place and come up with authentic listing of achievers in academia, athletics, politics, governance or business from that county. In the absence of that, researchers and authors will rely on hearsay and gossip to publish textbooks that will be used by our children to learn the history of their counties.

This is a very important Bill. It is difficult to understand why the National Assembly did not fast-track the enactment of this Bill into law in the last Session. We know that this Bill was caught up in the court cases that we have had in this Session. Now that this Bill has been moved afresh and ably seconded by the Senator of Kitui County, I urge all Senators to make positive contributions to this Bill and fast-track it so that by the time the things that Sen. Murkomen has stated are likely to happen in the next Session, we shall have a law that we can say was passed by the Senate of the 12<sup>th</sup> Parliament. We should have a county hall of fame in every county in this country.

Mr. Temporary Speaker, Sir, I beg to second.

**The Temporary Speaker** (Sen. Kinyua): I would like to point out something so that as Senators, debate on this Bill, they can factor it in. For example, if Sen. Olekina is a champion for the Female Genital Mutilation (FGM). If he is given a commendation by the Head of State but he is not very popular in his county where public participation is supposed to take place, are you saying that we should surpass public participation because he may not survive the public participation in his county?

That is something that you can think about.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, as things stand currently, public participation is more of a Public Relations (PR) exercise than what it is actually supposed to be. Real public participation must also include sensitization of the people on the matter for which they are undertaking public participation so that they know the achievement that their son or daughter has been recognized and awarded for at the national level which may not be relevant to their situation. Their son or daughter could have gone out there and conquered at the national level thus automatically bringing fame and county.

Public participation must be put in its rightful place so that people are not just told to vote for this or that. People should be sensitized and made to understand what they are carrying our public participation for.

Mr. Temporary Speaker, Sir, I beg to submit.

**The Temporary Speaker** (Sen. Kinyua): Very well, I will now propose the question.

*(Question Proposed)*

Proceed, Sen. Were.

**Sen. Were:** Mr. Temporary Speaker, Sir, before I make my contribution to this Bill, I would like to point out something. You referred to Sen. Olekina as a champion for FGM. Did you mean that he is a champion for or against FGM?

**The Temporary Speaker** (Sen. Kinyua): I meant Sen. Olekina is a champion against FGM. He knows what I meant. He does not support FGM at all. That is why he did not rise on a point of order. Sen. Were, you cannot purport to talk on behalf or for Sen. Olekina

Proceed, Sen. Were.

**Sen. Were:** Mr. Temporary Speaker, Sir, Sen. Olekina complained to me and that is why I raised the issue for the sake of the HANSARD, we be clear. It should go on record that Sen. Olekina is a champion against FGM and not a champion for FGM. I mentioned the issue for the purpose of setting the record straight. You could have used the word “champion for FGM” without realizing it.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Were for pointing that out.

Please proceed.

**Sen. Were:** Mr. Temporary Speaker, Sir, I rise to make contribution to the County Hall of Fame Bill (Senate Bills No.9 of 2021) as ably sponsored by Sen. Murkomen. As he has said, this is the third time that this Bill is being moved in this House having been first brought to this House by Gov. Sang of Nandi County while he was the Senator for Nandi County in the last Parliament.

I would like to start from where Sen. Wambua stopped on the issue on national awards in relation to the county recognition of our heroes. The national selection panel can use the county selection to award the people that they award at the national level for these recognitions and awards.

The national mechanism of identifying and recognizing national heroes is marred in mystery and suspicion besides being very political. For instance, the awarding of honours to Members of Parliament is usually dependent on who is politically correct to be given the awards. If we have a proper criterion that is set up and publicized, so that people know the criteria that is used to identify and recognize national heroes, it will bring a certain pride to the people who receive those award unlike now when it is marred with mystery and suspicion. Currently, when a person receives an award, they are treated with suspicion. They do not walk around with shoulders held high.

The County Hall of Fame Bill as presented by the Mover is meant to make the recognition and awarding of these awards be more specific to particular counties. We know that certain counties consider other issues heroic that may not be heroic in another county. When the awarding of honours is specific to a county, then we will know that the awards are specific and that they make sense to the locals. For instance, a gentleman was given a head of state commendation for simply eating his githeri from a polythene bag on the voting queue; yet polythene bags are banned by our environmental laws. The gentleman was given an award for queuing on the voting day and he was ready to go through the pain of queuing so that he can exercise his democratic right. However, the public chose to focus on the issue of githeri simply because the criteria is unclear and people do not know what exactly is used to measure up before they give these recognitions.

The County Hall of Fame Bill is meant to bestow honour on individuals who are outstanding and exceptional in any activity or profession that they undertake. This Bill proposes that persons who take part in an activity or profession that makes the county proud should be awarded. That is something that has been lacking at the national level for a very long time. There are very many people at the county level who have brought honour and pride to counties. How are they being recognized? What mechanism is there

to ensure that they act as the people to inspire young people and others, modify behavior in the county for people to know when they take an extra mile or do something exceptional, they will be awarded.

A young girl in Busia County was recently awarded for rowing a boat across the lake at night to take her mother to deliver a baby to the nearest hospital. The girl was recognized at the national level. However, if there was no social media to highlight the story, the girl would never have been recognized because the national panel would never have known about her heroic act. However, because the county is closer to the people, the young girl's heroic act would have been recognized and awarded. There are many other things that happen at the county level that go unrecognized so the people are not encouraged. We are able to modify behavior when we make such heroic acts public.

The Bill will also provide a mechanism of preservation of history, culture and heritage of a county. For example, in Nandi, we have Koitalel Arap Samoei Museum that focuses on what the former leader of the Nandi did during the colonial times. In Kakamega, we have the Nabongo Cultural Centre and Shrine that is also run by families. It is not owned by the county yet it is crucial.

For example, if you want to understand why the Luhya people adore and love the bicycle, you can find that information at the Nabongo Cultural Centre and Shrine. There are stories about the iron horse and how it was brought to encourage Nabongo Mumia to collaborate with the British. That is how that area fell under the colonial rule. Such information can help to understand the culture and history of the people and why they behave the way they do.

The Bill also suggests to have in place the county hall of fame selection committee that will ensure some form of public participation, so that when somebody is recognised, the community owns the award, feel proud and make that person a reference because they participated in the selection. I only have an issue with it going to the governor as the final person.

We know that governors are political, just like what happens at the national level. If that is the case, we will not cure that problem. We should make an amendment so that once the selection panel chooses a particular number of people, they award marks and the county assembly is mandated to give the person with the highest mark, other than leaving it to the whims of the governor.

Mr. Temporary Speaker, Sir, I thank you and support this Bill.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I also rise to support the County Hall of Fame Bill (Senate Bills No.9 of 2021) that is sponsored by Sen. Murkomen. This is the second time I am contributing to this Bill because of the sibling rivalry between the National Assembly and the Senate.

Without a doubt, this is one of the most important Bills that every progressive country that wants to motivate its citizens should have. I always ask myself the criteria used in commending people for different work they do.

Many Kenyans, including most of us, spent most of our time to give to this country. We are committed not because we want to be recognised, but because we care about this country. For the Senate to think that it is important to begin recognizing individuals from the rural parts of this country, that is something commendable.

We have talented individuals in this country. This country leads in terms of technology. If you go to Ngong Road, you will find many technology hubs. There are many start-up companies that have been sold for millions of dollars.

Recently I talked to a friend of mine and they told me that one start-up company here in Kenya was sold for more than USD600 million. That shows that there is a lot of talent that needs to be recognised. That was creativity developed by a Kenyan who should be recognized.

One of the reason I support this Bill is because it will encourage creativity. We should recognise individuals who are doing well in businesses in their communities.

When I was growing up, there used to be a Somali man who lived in our neighbourhood. He had the biggest wholesale shop and you could find anything in that shop. Anytime you wanted something, even if it was not available, he would find a way to make sure that he gets it. He was very creative and could get you something even if it did not meet your standards. Everyone knew and spoke about him. He was called Abdi Hashi. It is important that county government recognise such individuals.

I love the aspect of having public participation. Sometimes when people participate, it helps do away with corruption that seems to be the only thing that thrives in this country where for you to be recognised, you must oil someone's hands.

It is quite frustrating to imagine having a Head of State Commendation (HSC) for someone eating their own food, yet there are people who spent their entire life trying to ensure that they create a good environment for everyone in this country.

We have young girls in this country whose names I cannot remember. There is a young girl who has planted almost 10 million trees. That girl should be recognised. When we were planting trees in the Mau Forest, she told us that she was planting her 10<sup>th</sup> million tree.

One of the agenda for the Annual Devolution Conference which will be held in Makueni is that the President will lead the nation in planting two million trees. That young girl should be invited so that the President recognizes her. I will find out her name because she deserves to be recognised and commended for the good job she is doing.

Mr. Temporary Speaker, Sir, we have young men in this country who dedicate their time in transporting pregnant women in areas where there are no ambulances. They modify their *boda bodas* to ensure they can carry pregnant women because we have failed in ensuring that we devolve all the services equally and provide ambulances. Those young people who continue doing their job on a daily basis are known by Kenyans. So, the aspect of public participation will help us.

Another area that I think we need to emphasize--- I do not know whether we have time to amend but I believe we do. I would like to request Sen. Murkomen to create a channel where people from different communities can propose people who should be commended.

You do not need to be a hero for the entire county. You can be a hero in your village of Olombogishi, Ntulele or Kilgoris and the people in that community know what you do for them because you support them and they refer to you by some name.

*Waswahili husema; tenda wema nenda zako.* What this Bill proposes is that even if *umetenda wema na kwenda zako*, at least people will have seen that and recognise you for the good work you did.

Mr. Temporary Speaker, Sir, this is a timely Bill. It is one that will help us unite the entire country. I hope we will have a ceremony for all counties for all the people considered as heroes on annual basis.

Yesterday we were talking about amending the County Governments Act to ensure county governments submit their annual progress plans. In their annual progress plans, they should come up with a way of identifying heroes in villages such as Sagamian, Loita or Sekera in Narok County, or somewhere else and sponsor them to continue promoting their acts of heroism. That is the way a nation is developed. You must always have a mentor and a mentee. The mentees should develop so that we can live well in this country.

Recently a friend of mine sent me a small video clip of children crossing a road in Japan.

When they cross the road in Japan, even if they have the right of way, they go back after they finish crossing the road and bow to say thank you. I am even told that in schools in Japan, there are no janitors because the children are trained so well such that they can clean those toilets. These are the kind of small things that we do.

Mr. Temporary Speaker, Sir, if we can start trying to instil that knowledge of responsibility then we will be able to recognise real leaders but not people who are connected. I dare say this. If you were to line up all those people who have been given State commendations and ask them to tell us why they were given, they will tell you: "I do not know. I just found myself being called and being dressed very nicely." What does it really mean?

It is important for us to put a meaning into it so that when people are commended for the service to this country, it can have a meaning. Nowadays it does not have a meaning. You hear somebody being referred to as Sen. Nderitu Kinyua C.G.H. When you ask him what the C.G.H. stands for, you find that he does not even know that. I am not suggesting that the Chair, the Senator for Laikipia would not know that. However, most people do not really know the importance of it.

Mr. Temporary Speaker, Sir, finally, I like the fact that in the Bill it also does not make it permanent. If you are commended and you are enrolled in this hall of fame and you end up behaving like a hooligan, there is a way to remove you. It will actually help people to live a better life and in a respectful environment.

I beg to support.

**The Temporary Speaker** (Sen. Kinyua): That is the end of the debate. I will put the question at the next debate.

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

I need to reorganize the Order Paper and we will move to Order No. 29.

**MOTION**ADJOURNMENT OF THE SENATE PURSUANT TO  
STANDING ORDERS 28 AND 29

**Sen. Olekina:** Mr. Temporary Speaker, Sir, pursuant to Standing Order Nos. 28 and 29, I rise to seek that the Senate do adjourn until Tuesday, 30<sup>th</sup> November, 2021. This is as a result of this House readjusting its calendar so that we can be able to participate in the Devolution Conference.

It is very important---

**The Temporary Speaker** (Sen. Kinyua): Sen. Olekina, approach the Chair.

*(Sen. Olekina consulted with the Temporary Speaker)*

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I hope there are now Senators online to contribute to the Motion. At least I see we have one who can be able to contribute to it. However, let me repeat.

I beg to move that pursuant to Standing Order Nos. 28 and 29, the Senate do adjourn until Tuesday, 30<sup>th</sup> November, 2021. This is in line with the readjustment of our Senate Calendar to give us an opportunity to participate in the annual Devolution Conference.

It will be something that will help us interact with the county governors to support the issue of devolution. I know one of the things that will feature very well in this year's Devolution Conference is the issue of global warming.

We know that the President will be opening the Devolution Conference in Makueni County. It will give us an opportunity to interact with the governors in a friendlier way. Most of the time when governors appear before the Senate, it is when they are being criticised and being asked about how they spent the money; being called upon to account or when there are issues that have been raised like petitions. This will also give us an opportunity to interact with our constituents.

One of the biggest misunderstandings that exist between ourselves elected leaders and the constituents is that the constituents want to see you there on a daily basis. In fact, they mostly say we do not see you on the ground. That explains why the Senate today is empty which is an embarrassment because we have been given a job by the constituents.

These are facts. I am sorry that sometimes I just speak so much truth that it hurts. We were given the job by the constituents. We go there and seek a mandate to represent them to contribute to Bills to pass.

This Bill that we were just discussing here is a very important Bill that encourages people to do well or to want to do better things for their community but we are not here to represent them. We are busy chasing the goose. We are busy trying to make sure that we are so popular on the ground yet we do not do what is supposed to be done.

This is the place where you have to come, pass legislation and ensure that whatever legislation passes, it does not affect the people that you represent. This recess

which is a bit short, about a week, will give us an opportunity to now explain to our constituents what it is that we do for them in the Senate.

A lot of them will say *Senator hajajenga bara bara*, the Senator has not built a hospital for us, Senator *hakuna kitu ametuletea*. Where is your development record? Senators do not give you a development record. These are things that constituents need to understand. What Senators do is to fight for you to get more money.

Once you get that money the MCAs on the ground are the first point of oversight. They are the ones who have got to ensure that that money is budgeted properly and it can be spent wisely. The Senate now comes and does oversight.

I think most people need to read Article 96 so that they can understand the reason why most Senators actually carry out and consider their legislative job their number one priority.

It will also be important for us to interact with the MCAs who will also be in this Devolution Conference. One of the biggest problems that county assemblies have is the issue of lack of autonomy in their financial dealings. This is because all county assemblies depend on the executive for them to be given their money.

Our colleagues in the Senate County Public Accounts and Investments Committee (CPAIC) today had a meeting with the County Assembly of Narok. The county assembly told the CPAIC that of their biggest problem is that they do not have financial autonomy. When you ask them why the pending bills have accumulated so much they tell you that they do not have the money because they never received their full exchequer releases.

It will give us an opportunity to explore and interact with these MCAs and the speakers of the assemblies because they will be there.

They will be invited to attend the Devolution Conference. We can also sit down and interact with them and find out what we need to do to amend the Public Finance Management Act or even try to figure out the County Governments Act so that money can be released directly to the Exchequer.

Mr. Temporary Speaker, Sir, this money should be released to the county governments because under Article 217 of the Constitution, it says that a share of county revenue which has been raised by the national government shall be released without undue delay. It does not say that county governments should only operate under one treasury. Those are things that we need to debate and find a way that we can ensure that county assemblies can operate efficiently.

This is an opportunity for us to share with them what we have learnt here. We have learnt a lot. We need to explain to them about this issue of county budget ceilings for the county assembly. It is important for them to know. If you look at the money that they use, for example Narok County, their budget for the county assembly is about Kshs700 million. However, they may want to do more than that. Is it possible? We will discuss these issues.

Finally, it will also give us some time to reflect on what will happen in the next coming years. This issue of COVID-19 is something which is still there. It is good for us to share with our people and say: "Even though you like to hear us politicians come and lie and talk to you, just remember that you still have a responsibility to take care of yourself."

I beg to move and request my dear sister whom I am very proud of, Sen. Were to second.

**Sen. Were:** Thank you, Mr. Temporary Speaker, Sir. I beg to second this adjournment Motion to adjourn the Senate up to Tuesday, 30<sup>th</sup> November, 2021 so that we allow the Senators to attend the Devolution Conference.

This will be the last annual Devolution Conference. Moving on, it is going to be held bi-annually. That would also be very helpful so that we will be able to discuss issues that have arisen over time.

This Devolution Conference is very important to the Senate. As you are aware, in Articles 94 and 96, the Senate's role is to protect counties and their governments.

Devolution is basically the core mandate of the Senate and, therefore, that conference cannot go on if the Senate is involved elsewhere or its attention is drawn elsewhere. It is important that we go and listen to what the county governments go through across the country, both the executive and county assemblies.

Mr. Temporary Speaker, Sir, with those few remarks, I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Kinyua): I call upon, Sen. Olekina, to reply.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I beg to reply. Let me thank my dear sister Sen. Were for seconding this Motion.

I just want to remind our colleagues that when we come back from the recess, we have many Bills in the Order Paper that require all the Senators to be here.

At least if we can get 24 Senators online or a few Senators to vote for these legislations, it will encourage those Senators who worked tirelessly and our secretariat who have always been there. They spend sleepless nights to research for the legislations that we pass in this House, for them to see that at least the work we do is meaningful.

We have a lot of Bills - I am sure even the last Bill that we just debated here - that we would like to be passed during our term in office. It would be really embarrassing that we come here, work and spend most of our time and taxpayers' money, but when it comes to January next year or even after the recess, the sittings we have are very few. I think we probably only have about three sittings before we can go for the long recess.

It would be important for us to ensure that the Bills that we have passed can go to the Third Reading and can be transmitted to the National Assembly. With that, we can show this country that we are making progress.

There is also a very important Bill which is coming up. Right now it is actually in the committee stage; this is the National Health Insurance (Amendment) Bill. It is the priority of the Government to ensure that at least this Bill goes through so that it will help even with the President's agenda in terms of the universal healthcare agenda.

I want to end there but really remind the distinguished Senators that when we come back, please let us give some time. We can go out there and campaign but let us finish the work that we started doing because if we do not do it, it will be meaningless.

I beg to reply.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Kinyua): Hon. Senators, it is now 6.28 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 30<sup>th</sup> November, 2021 at 2.30 p.m.

The Senate rose at 6.28 p.m.