

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 31<sup>st</sup> May, 2023

### Afternoon Sitting

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

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

### PRAYER

DETERMINATION OF QUORUM AT  
COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, do we have quorum?

*(The Clerk-at-the-Table consulted the Speaker)*

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

*(Several Senators entered into the Chamber)*

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, I am informed that we do have quorum now, so, kindly stop the Bell.

Clerk, you may proceed to call the first Order.

### COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM MANDERA  
COUNTY ASSEMBLY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of two members of staff from the County Assembly of Mandera. The officers are in the Senate for a two weeks' attachment programme in the Directorate of Legislative and Procedural Services.

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Hon. Senators, on behalf of the Senate and my own behalf, I extend a warm welcome and wish them a fruitful programme.

VISITING DELEGATION OF MEMBERS OF  
KENYATTA UNIVERSITY STUDENT ASSOCIATION

Hon. Senators, again, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting students from Kenyatta University, comprising members of the Kenyatta University Student Association (KUSA). The delegation is at the Senate for a study visit.

Hon. Senators, on behalf of the Senate and my own behalf, I extend a warm welcome and wish them a fruitful visit.

I will allow the Senator of Mandera County to make very brief welcoming remarks to welcome the delegation from Mandera County. I will also invite the Senate Minority Leader to make very brief welcoming remarks to welcome the students from KUSA.

In that order, kindly proceed.

**Sen. Ali Roba:** Thank you, Mr. Speaker, Sir. I take this opportunity to welcome our team from Mandera County Assembly who are here to learn from Parliament of Kenya, particularly the Senate.

I am sure you will find a lot of valuable time to learn procedures and processes in order to make your processes better as an assembly and within your own jurisdiction.

*Karibuni na pongezi kwa kuja hapa. Asante.*

**The Senate Minority Leader** (Sen. Madzayo): Asante, Bw. Spika. Pia mimi naungana na wewe kuwakaribisha wanafunzi wa KUSA, kwa kuja katika Bunge letu la Seneti.

Jambo muhimu ni kuwa, mtajua taratibu tunazoenenda nazo katika Bunge la Seneti. Kanuni za Kudumu ziko na ndizo zinazoongoza Bunge hili.

Bw. Spika, mkiwa hapa hapa mtajifunza mengi. Kuna uhakika ya kwamba wengine wenu wanaweza kuwa Maseneta na mkajikuta hapa. Nina hakika kwamba mnatumia wakati huu kuona viongozi wenu walioko Bunge la Seneti hivi sasa.

Pia nyinyi mko na uwezo na taaluma. Mkiendelea katika maisha yenu, hadi itakapotakikana na wananchi kutoka maeneo yenu muwe Maseneta, mnaweza kujipata mahali hapa.

Kwa hiyo, karibuni sana. Natumahi mtakaporudi mtakuwa mmejua Bunge la Seneti linafanya kazi gani, ni kina nani wako, na taratibu na Kanuni za Kudumu ziko namna gani.

Asanteni.

**The Speaker** (Hon. Kingi): Clerk, proceed to the next Order.

**PETITION****MANAGEMENT AND USE OF KUTRRH BY  
KENYATTA UNIVERSITY MEDICAL STUDENTS**

**The Speaker** (Hon. Kingi): Hon. Senators, I hereby report to the Senate that a Petition has been submitted to the Senate by Mr. Jafar Muhsin Cassava, concerning the management and use of Kenyatta University Teaching Referral and Research Hospital (KUTRRH) by medical students at the Kenyatta University.

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

“Every person has the 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 said Petition are as follows-

THAT, the petitioners are students of Kenyatta University, representing the Kenyatta University Students Association.

THAT, in the year 2004, Kenyatta University started a School of Health sciences in order to consolidate the training of medical professionals.

THAT, the plan was to use the school to enable students get the absolute best exposure to enable them to level up to the global standards in health care training.

THAT, the Government approved the proposal and the funding request by the Kenyatta University, to establish a state-of-the-art teaching, training, research and referral hospital at the main campus, which will serve as a national referral centre, as well as to aid medical students in the clinical training and research.

THAT, Kenyatta University Strategic Plan 2016 to 2026 envisaged a medical hub that would incorporate the operationalization of KUTRRH, construction of a children's and women's hospital, establishment of a centre for medical research and continuing education, a pharmaceutical manufacturing plant that will serve the entire region and offer training to pharmaceutical professionals and a research centre in alternative medicine.

THAT, despite the proposal by the Kenyatta University to establish KUTRRH as a university hospital, it was established as a stand-alone parastatal via Legal Notice No. 4 of 2019, which has put in jeopardy, the entire medical education fraternity at the university and disrupted the entire process of realisation of the intended objectives.

THAT, even though the facility is fully functional, lecturers and medical students from Kenyatta University, have been denied access by the hospital management for teaching and learning. The situation would render many of the medical students deregistered or forced to enrol afresh elsewhere to pursue their studies in medicine.

THAT, Kenyatta University has been relying on infrastructure and facilities from other health institutions to train health professionals, a situation that is not sustainable. Moreover, these institutions are not able to offer specialised training for health care professionals beyond undergraduate level, and yet there is enormous need for more health professionals and demand for training in the health sciences in Kenya.

THAT, the Petitioners have made efforts to address the matter, but the relevant authorities, all of which have failed to give a satisfactory response.

The Petitioners therefore pray the Senate as follows-

(1) To intervene in this matter through the relevant Committee, with a view to ensure that full access to KUTRRH be granted to Kenyatta University medical students, to utilize the hospital for their learning purpose.

(2) Recommends that Legal Notice No. 4 of 2019, which recognises cut KUTRRH as a stand-alone parastatal, be revoked.

(3) THAT, the KUTRRH be reverted to a university hospital for use by the students in the College of Health Sciences.

Now, hon. Senators, pursuant to Standing Order No.237, I shall now allow comments, observations or clarifications, in relation to the Petition for not more than 30 minutes.

Sen. Osotsi, proceed.

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir, for the opportunity to make my comment on this Petition. When I served in the National Assembly in the 12<sup>th</sup> Parliament, a similar Petition came, but the petitioner was the University Academic Staff Union (UASU).

The Petition went to the Health Committee. It was exhaustively handled there. Later on, it went to the Implementation Committee, where I served as the Vice-Chairperson. I have quite a lot of information about this.

Mr. Speaker, Sir, this is a very simple matter that the Government can address. The institution, in this case, KUTRRH, was initially funded by the Government. They then got funding from other donors.

However, the Government then decided to set up a parastatal through a legal notice, where they appointed the board and made it look as if it was independent from the University. If you look at the reports done by the National Assembly, it was very clear that the hospital should be taken back to the University.

I am giving this background information, so that the Committee that will look at this can also get an opportunity to look at the reports that were done by the National Assembly to inform the decision that needs to be taken.

Mr. Speaker, Sir, it is important that the hospital reverts to the university as initially envisaged, instead of running independent of the university and appearing to be denying the students the opportunity to use the facilities.

I support the Petition.

**The Speaker** (Hon. Kingi): Proceed, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, it is surprising. In fact, I have no idea how the people running the so-called parastatal hospital fail to see the benefit of having a symbiotic relationship between their so-called parastatal and the university. The university is going into that relationship to teach and do research. In the process, the same doctors, specialists and students will serve the hospital for free.

When they teach, medical professionals are paid by the university. They only take their students to hospital to train them while they continue doing their research. So, the hospital has got cheap labour by way of continuing students and lecturers.

Sen. Osotsi, the problem here is that the parastatal you seem to have grasped well is being run by people who only see the money. They fear that the other arm of the university will partake in that, yet they do not want to share the money.

Mr. Speaker, Sir, as I support, we should protect the patients because those busybodies who are now running that parastatal cum hospital are only seeing the money and not the specialized services they are denying patients.

As a House that protects the public, we should ensure we go for that legal notice that Sen. Osotsi talked about. We can either repeal it or, as Sen. Sifuna would say, tear it into pieces. Others refer to it as repealing because that is where the problem is. After that, life will be normal.

I strongly support the Petition.

**The Speaker** (Hon. Kingi): Proceed, Sen. Madzayo.

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, kama kuna wakati nchi hii inahitaji usaidizi ni msaada wa madaktari. Wanafunzi wanaosomea udaktari ni wa maana kwa sababu husaidia wagonjwa.

Ni jambo la kusikitisha kuona kuwa wanafunzi wanaosomea udaktari--- Chuo hicho kinahusika na uchunguzi wa magonjwa tofauti tofauti. Uchunguzi huo waweza kufaidi watu. Kwa hivyo, wataweza kuokoa maisha ya Wakenya.

Kuna mgawanyiko kati ya hospitali hiyo na chuo kikuu ambapo kuna wanafunzi wanaosomea udaktari. Kuna baadhi ya watu mabwenyenye ambao wameenda kuchukuwa upande mwingine.

Haikuwa sawa kuwa na *legal notice* ambayo ilichapishwa ili kujitenga na chuo kikuu na sehemu nyingine ikachukuliwa na watu wengine. Kamati ya Afya inafaa kuangazia kwa kina mambo yaliyotajwa katika *Petition* hii. Hakukuwa na sababu mwafaka kufanya hivyo.

*Legal notice* hiyo inafaa kuondolewa ili wanafunzi wanaosomea udaktari wapate nafasi ya kwenda upande ule mwingine kufanya uchunguzi wa magonjwa katika taaluma hiyo.

Maoni yangu ni kuwa ikiwa *Petition* hii itapelekwa kwenye kamati husika, ni lazima ichunguzwe kwa kina. Wanafaa kutupilia mbali hiyo *legal notice* ili wanafunzi waweze kuendelea na taaluma yao vizuri.

**The Speaker** (Hon. Kingi): Proceed, Sen. Ali Roba.

**Sen. Ali Roba:** Thank you very much, Mr. Speaker, Sir, for giving me the chance to contribute to this Petition. It is extremely important that the purpose for which an institution is established is followed to the letter.

When Kenyatta University announced that they were going to establish a state-of-the-art medical facility within the university, the country was engulfed with an air of excitement, looking at the residual benefit that would accrue to students because they would get an opportunity to train and practise within the hospital. It is sad that after it was established, the management of that university decided to privatize the institution and lock out the students from benefiting.

When we get opportunities to travel to many countries, we realise that the best hospitals are university hospitals run by the universities. It is sad that the management of that institution feels that the students and lecturers should not access the hospital.

There is a time when the nation was exposed to a bad decision, when Hon. Balala, the then Cabinet Secretary for Tourism and Wildlife, said that Kenya Utalii College was not doing well and, therefore, it should be sold. The purpose of establishing such a college was never for profit-making. It was for the purpose of industrial training attachment to produce *crème de la crème* of professionals in the hotel and tourism sector. If the managers do not understand the purpose, then we are left disadvantaged.

Mr. Speaker, Sir, I rise to support that this institution should be given back to the university, so that we have the best training for our students in the university and the lecturers to benefit.

**The Speaker** (Hon. Kingi): Proceed, Sen. Sifuna.

**Sen. Sifuna:** Mr. Speaker, Sir, sometimes you sit in this House and hear things that make you wonder where commonsense went in this country. I mean, we should just go back to commonsense.

How is it that you can build a hospital next to a university that teaches medicine, when the hospital was intended to help in the advancement of medical studies, then you give a legal notice saying that the hospital cannot be utilized by students of that same university to study the same thing which the hospital was built for? Honestly, as a country, we need to again find commonsense in governance. There are many things you hear and they just do not make any sense.

I would be interested once this Petition is committed to the relevant Committee. I would want to share in that wisdom with the Cabinet Secretary responsible for Health, or whoever is responsible.

From where I sit, and based on the facts that have been read to me, and what Sen. Osotsi has submitted on the Floor, there is absolutely no reason institutions that operate door to door, or in a symbiotic relationship like Sen. (Dr.) Khalwale has said, would not exist.

Mr. Speaker, Sir, there are many examples of things that do not make sense in this country. For this week – Kenya will surprise you – this ranks a distant first after another I heard yesterday about ranking schools on the number of trees planted. However, I do not want to go into it.

I support this Petition. I would be very interested to listen to the rationale because I do not get it from where I sit.

**The Speaker** (Hon. Kingi): Proceed, Sen. Cheruiyot.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. This is a very interesting Petition. I wish the petitioners had attached as part of the documents that came with the Petition--- I am talking about Legal Notice No.4 of 2019, where this decision was made and sought to be anchored in law. It is unfortunate that it has held so since 2019 to date.

If you go to Moi University, Town Campus, you will see the kind of interaction that trainee doctors have with practicing doctors at the hospital. That is trainee doctors from Moi University, School of Medicine and doctors practicing at Moi Teaching and Referral Hospital (MTEH).

If you have had the opportunity to visit patients at Kenyatta National Hospital (KNH), you know that if you take those infamous lifts mostly in afternoons, you will find people with badges stating they are trainee doctors. They will be in the company of about two or three senior practicing doctors.

That is all that these students from Kenyatta University are asking of us. That their trainee doctors get to practice, train and learn alongside their professional seniors. Unless there is something beyond good reason, as Sen. Sifuna says and I agree with him entirely, save for the fact that he needs civic education on the importance of trees.

During the late President Moi's days, there used to be the famous topic "*Momonyoko wa Udongo*". Sen. Sifuna may have missed that lesson. Sen. M. Kajwang' is a leader of an important caucus in this House on climate action. The rallying call they are asking us to do is just that.

Mr. Speaker, Sir, back to this particular Petition, we do not need 60 days for such petitions. This is something that you call Hon. Nakhumicha and the good Cabinet Secretary who was here today, Hon. Machogu; and ask them to prepare a Cabinet Memo or legal notice to be taken back to the President. It looks straight at us. All these students are asking for is an opportunity to learn. It needs not to get to this Parliament.

Part of the first Questions we asked the Cabinet Secretaries were what they were doing in office. Do citizens have to petition Parliament for such decisions to be made? It is my sincerest hope that our Committee will quickly dispense of this matter, so that the Kenyatta University students can enjoy what is rightfully theirs.

**The Speaker** (Hon. Kingi): Proceed, Sen. Mumma

**Sen. Mumma:** Thank you, Mr. Speaker, Sir, for allowing me to speak to this issue. I urge that we support this Petition. I also urge the Standing Committee on Health to treat this as urgent. As far as I know, universities are not allowed to incorporate a medical school unless the school is attached to a teaching and referral facility.

When Kenyatta University began, it largely focused on education. The University of Nairobi focused on engineering and medicine. Eventually, when Kenyatta University applied and introduced the medical school, it was facilitated to set up the Kenyatta University Teaching, Referral and Research Hospital (KUTRRH).

What is said in that Petition is appalling; that anybody would deny the Kenyatta University students and medical school trainers or lectures from using the very same facility that was setup because of that medical school. It sounds like a big joke. Kenyatta National Hospital is a teaching and referral facility for the University of Nairobi. Moi University also introduced a medical school and MTRH was set up to train the doctors from the university in a practical manner.

As Sen. Sifuna puts it, it is a matter of commonsense and we should not belabour it. The head of the KUTRRH possibly needs to step aside if they can be presiding over a policy decision that can deny the university the use of the facility. They are churning out into the labour market a team of doctors and other medical personnel who are not well trained because they are denying them this opportunity. This country's need to have properly taught medical personnel is bigger than having so or so being the chairperson or Chief Executive Officer (CEO) of that teaching and referral hospital.

I wish to ask that the Committee looks into that policy. If it was made by KUTRRH board, it should actually be dissolved, so that we can have a board that understands why the facility was setup. That is a public facility that must deliver as was intended.

Mr. Speaker, Sir, if I am not wrong, KNH may be registered as a parastatal. The MTRH is also registered as a parastatal. The problem may not be that it is registered as a parastatal. Rather, those who are running the facility have got it in their heads that it is theirs. They think they can block away the primary reason it was set up.

I wish to urge that Senate fast track this matter. I understand we do not have funds to deal with activities. However, this is urgent because we have doctors and nurses that need to be taught. I suggest that we find money from wherever for this Committee, so that it can engage, look into these issues and do what is required.

To those in Government, I suggest that you move fast. Sen. Cherarkey loves to pull weight about being in Government. You might want to get an Executive Order done, so that this issue is resolved once and for all.

I support.

**The Speaker** (Hon. Kingi): Proceed, Sen. Mandago.

**Sen. Mandago:** Thank you, Mr. Speaker, Sir. I rise to support the Petition by the Kenyatta University students on the use of KUTRRH. Just as my colleague Senators have said, it is extremely disturbing for the board of the hospital to lock out students from the university from using the facility for training.

How on earth do you explain that students from Kenyatta University (KU) travelled all the way to Kiambu Level 4 facility that is not well resourced, like KUTRRH to use it for training, while leaving a facility within their institution? This is an act of gross misconduct on those who made the decision to remove the hospital from the university.

Looking at the structure and the inception of the facility, it was the university's initiative to design, build and develop a research, teaching and referral hospital for purposes of training.

It is more surprising that the board of the hospital decided to outsource lecture halls and laboratories meant for training to collect rent. How desperate is this hospital to raise revenue to the extent of leasing out laboratories and lecture halls for students to miss that opportunity?

Medical schools undergo regular inspections to make sure that the quality of training being offered to doctors meets the national and international standards for doctors to qualify.

Training of these students is at risk of being discontinued if inspections are carried out and found that their training facilities or whatever they are using for training does not meet the set standards meant for training doctors. Therefore, this is an urgent matter. The Committee where the matter will be referred to will benefit a lot from what the National Assembly conversed.

I am surprised that this is a matter that had already been conversed at the National Assembly, but it looks like the Ministry never bothered to take any action. I have read parts of this Petition. It is more surprising that even the Vice Chancellor of that



university does not sit in the board of that hospital. How do we have a facility within another and the owners of the facility are not allowed to participate?

As my colleagues have said, there are things that are commonsense, but commonsense is no longer common. We have to be decisive as a House in handling this matter.

Senate being the 'Upper' House, has a responsibility of restoring commonsense in this country. This is one matter that we have to take seriously and demonstrate to the nation that we have commonsense, so that these students can get an opportunity to train in a facility commensurate to where other student doctors are being trained in this country.

I support this Petition.

The Committee that will look at this Petition should also look at those who were involved in the decision, so that appropriate action is taken to deter others who might in future want to engage in such acts.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Oburu, proceed.

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir, for the opportunity. I also want to add my voice to those who have spoken on this Petition. It is sad that the matter is taking long when, in my view, it should have been done long time ago. It was already conversed in the National Assembly and it is coming to the Senate more than a year later. It means that there is some laxity somewhere.

I hope Sen. Cheruiyot and Sen. Cherarkey, who is always fast, will instead of increasing prices of things like fuel, take up this matter and deal with it before it takes too long because students are suffering.

*(Laughter)*

You know that Eldoret is where our people from Bondo, Western and other regions go. We go to MTRH, which is the best in the Western region. This is because it is attached to the university, which is doing research and also using the expertise from the professors.

The students learn as they work in the hospital. This is an advantage for a hospital to be attached to a university. This is something we should take seriously.

The other side of the House should help us solve this matter, so that it does not take long in the Committee, yet it is a simple policy which should be changed. Revoke the gazette of the parastatal and let the hospital be attached to the university, the way other hospitals like the KNH is attached to the University of Nairobi (UoN) and is working well.

I really get surprised that these days, these public hospitals have become worse than private hospitals. People prefer to go to private hospitals. During colonial times, public institutions like hospitals were functioning better than private hospitals. People were going to public hospitals instead of the private hospitals.

These days, if you go to a public hospital people say, 'ah!'. How could colonialists be better than us? This is really surprising. Even public schools used to be better than private schools. There is something wrong which we have to look at.

In the old days, if you went to King George VI Hospital, it was much better than Nairobi Hospital. Now, people have to go to private hospitals. I hope the university hospitals will take the lead to help us make public hospitals better than private hospitals.

The hospital in Eldoret is taking the lead. Let the hospital in KU serve students and members of the public efficiently.

**The Speaker** (Hon. Kingi): Hon. Senators, the 30 minutes period meant for interventions is well spent. Therefore, pursuant to Standing Order No.238(1), the Petition is hereby committed to the Standing Committee on Health for its consideration.

In terms of Standing Order No. 238(2), the Committee is required in not more than 60 calendar days from the time of reading this prayer, to respond to the petitioners by way of a report addressed to the petitioner and laid on the Table of the Senate.

*(The Petition was committed to Committee on Health)*

Hon. Senators, before we move to the second Petition. I have this Communication to make.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ALBRIGHT  
JUNIOR SCHOOL, NAIROBI CITY COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting teachers and students from Albright Junior School, Nairobi County.

The group comprises three teachers and 12 students from the journalism club who are in the Senate for a one-day academic exposition.

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

*(Applause)*

I will allow the Senator for Nairobi a minute to make brief welcoming remarks.

**Sen. Sifuna:** Thank you, Mr. Speaker, Sir for allowing me an opportunity to welcome the students of Albright to the Senate. On behalf of my colleagues and the entire House, I wish them a fruitful visit of the Senate. You have said that they are members of the journalism club.

We had conversations in my office following a request that came from one of the schools called Huruma Girls to support the journalism clubs in public schools in Nairobi.

Today, we are at a very advanced stage as one of the leading global manufacturers of audiovisual equipment to support drama, communication clubs and arts clubs in many schools in Nairobi. I am sure that if the teachers of Albright were to say the right things, there will be no problem for me to include them in this programme, although it targeted

public schools. I want us to grow the talent in the school. I hope that we can have very serious future journalists, news reporters and all the others from this particular school.

As they might understand, the press and journalism are one of the four pillars of democracy. We need them. We need to see new practitioners in journalism that is an essential core in the protection of our democracy every day because it shines a light on everything that we do, especially as elected leaders here. As we are in this Chamber, you can see that this is the Parliamentary Broadcast Service. Everything we say here is seen by the citizens out there. You can confirm as citizens of Embakasi that the things I am saying here are the things that you have sent me.

I thank them for this visit and wish them a successful visit. I hope that we will be seeing some big names in the media coming from Albright.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): The second Petition is by Sen. Mariam Omar.

## PETITION

### ILLEGAL DEMOLITION OF HOUSES BY KENYA POWER IN CHOKAA

**Sen. Mariam Omar:** Thank you, Mr. Speaker, Sir. This is a Petition to the Senate by the residents of Chokaa concerning the illegal demolition of their houses by Kenya Power Company in the Chokaa Mihango area.

Mr. Speaker Sir, pursuant to Standing Order No. 232 (1) (b) I hereby present to the Senate Petition submitted by residents of Chokaa in Mihango area who are citizens of the Republic of Kenya and residents of Nairobi County.

As you are aware under Article 119 (1) of the Constitution and I quote-

‘Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.’

The salient issues raised in this Petition are as follows-

THAT, on 19<sup>th</sup> April 2019, the Kenya Power Company demolished houses in Chokaa, Mihango area of Embakasi West Constituency under the guise that houses were in the Power way live corridor;

THAT, through a multi-sectoral agency consultative committee comprising of NEMA, KURA, NCA, WRMA Nairobi, KPC, Kenya Railways, Nairobi City County Government, National Police Services, KAA, NYS, NDMU and other agencies. The Kenya Power Company demolished homes of residents therefore subjecting them to emotional torture, stress, ridicule and embarrassment;

THAT, despite the President his Excellency Uhuru Kenyatta’s suspension of the notice of demolition which was due on 24<sup>th</sup> of December 2018. The KPC ignored the Presidential order and proceeded to demolish the properties;

THAT, the residents were the legal owners of the plot at Njiru in Mihango area that is off Kangundo Road in Nairobi County and at no point did KPC communicate with the residents to resolve any issues of claimed encroachment to the power way live corridor;

As a result of illegal demolitions, nearly five hundred families were rendered homeless with children forced to close schools earlier because their schools and their residents had been destroyed;

Some residents also lost their livelihoods since their businesses were demolished. It is also worth noting that one of the residents committed suicide as a result of frustration, trauma and shock created by illegal demolitions;

THAT, after completing a due diligence search at the Survey of Kenya, the homeowners determined that the KPC did not possess the disputed land. Therefore, the demolitions were carried out in bad faith and in violation of the residents' fundamental right to housing and in contravention of the country's Vision 2030 of Affordable Housing;

THAT, following demolitions, KPC decoded the area, which was an afterthought and a complete violation of enacted regulations. The disputed plot has since remained vacant with the possibility of being sold to a third party to the prejudice of the demolition victims who have experienced emotional losses, torments, worry and disgrace;

The issue presented in this Petition has been raised with relevant bodies, but has not been adequately addressed. None of the issues raised in this Petition is pending before any court of law constitutionally or any other legal body;

Consequently, the Petitioners pray that Senate investigates this matter with a view of ensuring that the victims are resettled and adequately compensated by the KPC.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Hon. Senators, I will allow Sen. Wakili Sigei to present his Petition, and thereafter, I will allow interventions on both Petitions, so that we save time.

Proceed, Sen. Wakili Sigei.

#### FRAUDULENT SHAREHOLDING ACTIVITIES AND ILLEGAL ACQUISITION OF EABL

**Sen. Wakili Sigei:** Thank you, very much Mr. Speaker, Sir, for also granting me an opportunity to present the Petition that I have been authorized by a resident and citizen of this country to present on his behalf pursuant to Standing Order No.232 of this Senate.

The Petitioner respectfully states that the Kenya Breweries Limited is one of the oldest publicly listed companies in Kenya having been established in the year 1922;

THAT, there has been a controversial majority acquisition of East African Breweries by Guinness PLC in 2000 which was strongly resisted by the people of the Republic of Kenya through Parliament;

That, despite knowing the dealings of the Capital Markets Authority (CMA), Kenya Revenue Authority (KRA), the National Treasury and East African Breweries Limited have since not acted to correct or stop the fraudulent activities of shareholding and the illegal acquisitions;

To that effect, some of the backlash Guinness PLC made applied to cede back most of the acquired shares to Kenyans in due course;

THAT, is complete and total betrayal of these undertakings, the Diageo PLC has now purported to acquire an additional 15 per cent shares in the East African Breweries Limited (EABL);

THAT, the undertaking by Guinness PLC to cede back shares is actionable through a class action;

THAT, the recent acquisition of the extra 15 per cent in EABL is a fraud upon the people of Kenya as the shares are being acquired for an onward transfer to a new buyer at a much higher value for the benefit of the shareholders and to the detriment of Kenyan shareholders who will be denied the benefit of the higher price that would be onward obtained

An onward sale has been agreed with another company and the purpose and purchase of an additional 15 per cent shares is meant to assure the purchaser of a controlling stake in East African Breweries Limited (EABL) after the onward sale.

THAT, the sale of the shares has been prompted by the desire by the fraudulent purchaser to evade huge tax liabilities that has been hiding through massive processes within the system.

THAT, Kenya Breweries Limited (KBL), when it was locally owned, possessed massive real estate in Kenya that comprised staff houses, staff complexes, go downs and warehouses, factories and other assets and had employed over 6,000 Kenyans.

THAT, EABL has corruptly disposed off all its properties and repatriated the sale proceeds and is now but a mere shell of itself, employing a paltry 600 employees.

THAT, having sold off all its properties, the new scheme is to quickly progress the sale and block the benefits that Kenyans ought to have benefited;

THAT, the overall impact of this continued, contrived corporate action is a serious betrayal of the interest of the people of Kenya and a parliamentary hearing is urgently required to interrogate these events and to secure the public interest of Kenya and its people;

THAT, the petitioner has made efforts to have this matter addressed to the relevant authorities, all of which have been unsuccessful and that this matter is confirmed not to be pending before any court of law or any constitutional body;

THEREFORE, your humble petitioners prays, that the Senate investigates with a view to recommending amendments to the Capital Markets Authority (CMA) Act to caution the shareholders from such future manipulations.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Hon. Senators, pursuant to Standing Orders No.237, I shall now allow comments, observations or clarifications on the two Petitions for not more than 30 minutes.

Proceed, Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I rise to support the Petition by Sen. Mariam Omar, on behalf of the residents of Mihango. If you look at Article 40 of our Constitution on protection of rights to property and Article 43 on adequate housing, it is very unfortunate that the KPLC went ahead with demolitions without proper recourse of the law. Even if they wanted to acquire that part of the property, they should have at least ensured that the people are compensated.

I remember the case of the residents of Ruai who were evicted during the COVID-19 lockdown. Therefore, I continue to insist that we have a new form of evictees. We used to hear about forest and political evictees. We now have a new crop of evictees called infrastructural evictees, especially in our cities and towns, where an entity wakes up in the morning and demolishes kiosks and people houses. Therefore, I think somebody must be held accountable for the loss of houses by the great people of Mihango. If they violated the law, then, it is unfortunate for the people of Mihango in Embakasi East, Nairobi City.

Finally, it has reached a point where, we, as a Parliament, must come up with proper legislative interventions to guide demolitions, be it of kiosks or houses, for either expansion of road reserves or compulsory acquisitions. We must have a structural legal framework.

Mr. Speaker, Sir, what happens nowadays is that someone rushes to court, obtains a court order, talk to the OCS or OCPD, they facilitate some young men and the police, and then you are evicted without following the proper recourse of the law.

Mr. Speaker, Sir, I commend Sen. Mariam Omar for bringing this Petition before the House. I have heard one of your Members of the Speakers Panel alluding on the Floor of the House that there is no money. I do not know whether it is within her purview to know whether the Senate has no money or not, but that is a story for another day.

Mr. Speaker, Sir, Mihango is a walking distance. We used to see Sen. Sifuna last month rushing across the streets of Nairobi like a bullet. He can be able to lead us to Mihango because he has been rehearsing by running here and there.

My friend, “the senior youth,” Sen. (Dr.) Oburu, acknowledged that there is a Government in place, and I hope that Sen. Sifuna is borrowing such Solomonic wisdom from Sen. (Dr.) Oburu, who is a very senior citizen in this Republic.

With those very many remarks, I support this Petition. I hope we will have a policy and legislative intervention as an outcome.

Thank you, Mr. Speaker, Sir.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir, I would like to comment on the Petition on eviction and say that sometimes there are fraudulent evictions. People go to court, they obtain a judgement or a ruling *ex-parte* and at times end up evicting others. If you are not quick enough, then the events end up being very sadistic. Again, by the time you go back to court, you will already have been overtaken by events.

Mr. Speaker, Sir, this is something that the Senate should take very seriously because the Government is talking about housing, yet houses which have been constructed, including a school, are demolished and a community is left helpless.

There are a section of civil servants who are very malicious despite the matter being explained to the then Head of State and him giving directions that they hold on before they process to know whether the wayleave is real or not, since this is a matter on lands and it can be verified because there can be wrong allocations.

My question is; what is there in that land today after KPC took over this land? Have they done developments that are designed? Is it for the benefit of the community or some individuals have now gone ahead and grabbed the same land and ended up owning it?

Mr. Speaker, Sir, this has been experience not only in this particular place, but in many other places where people have been evicted without proper notices. There must always be a notice before eviction. There must be proper court orders when necessary. The police who are nearby should also be able to protect such properties. When residents report, they have the capacity to stop the eviction before anybody goes on to disturb the peace of peace-loving Kenyans. The damage caused then is enormous.

I am surprised that the matter has eventually ended up in the Senate. Why have these human rights organizations not taken action for all these years? Why have they not been in court? Why has the Government not also taken action to restore? It is a matter that the Senate can resolve. It is within its mandate. We really look forward to assist the Committee dealing with it and make sure that justice is done to these people.

Thank you, Mr. Speaker, Sir.

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, I thank you for this opportunity. I rise and support Sen. Mariam Omar's Petition on Mihango. Allow me to state that Mihango is actually my voting station. That is where I vote in Embakasi East, and to be precise, Mihango Primary. It is an area that I am very familiar with.

The issue of residents or owners being evicted from their residences is not new in this particular area. I am happy that she has put this across because it is very wrong for anybody, as much as it is a Government organization, to evict families, hence loss of properties and lives.

Mr. Speaker, Sir, allow me to agree that on 15<sup>th</sup> March, 2018, the KPC launched "Ondokea Laini". This was to ensure that people who were living under the wayleaves get out of this particular area. Why do we have wayleaves under KPC? These particular areas assist KPC to be able to maintain their equipment at a given particular or different moments, depending on the situation of the power and to be able to inspect and repair their equipment.

However, in the event that families are in a particular area, it becomes very sad on the modalities and the processes that institutions and Government institutions then use to put off families in these moments.

Mr. Speaker, Sir, this reminds me that last week in an area called California, people were evicted at 2.00 a.m., in the escort of police officers in this country. We had families in these areas leaving.

I support Sen. Mariam Omar on the matter Mihango. I request that the Committee you will assign to look into this should ensure the stakeholders or KPC also states and gives full report on the losses that have been incurred.

Mr. Speaker, Sir, allow me to agree that cartels have also been involved during this in misleading Kenyans to buying land and property in the wrong destinations. Kenyans, especially in our good Nairobi City County that we represent buy land that is not genuine. There are cases yes, where people have bought land that they will live in either knowingly or unknowingly. This has led to these particular situations that you see, then we bring on the Floor. However, still that does not indicate that people should lose their lives and property.

There are better ways of KPC coming in and hence, that is why they set the operation that is called *Ondokea Laini Operation*. They came and realized that this is

happening. Therefore, there are better ways KPC can deal with these issues so as to minimize the cases that are in place.

With those few remarks, I support.

**The Speaker** (Hon. Kingi): Proceed, Sen. Beth Syengo.

**Sen. Beth Syengo:** Asante, Bw. Spika, kwa kunipa fursa hii kuchangia Ardhihali ya Sen. Mariam Omar kuhusu kuondolewa na kubomolewa nyumba kwa wakaazi wa Chokaa Mihango.

Hii inaonyesha utepetevu wa wafanyikazi wa kampuni tofauti tofauti, kwa sababu wakati hizi nyumba zilikuwa zikijengwa, walikuwa wapi? Wanaohusika kama ni *planning* ama ni kuruhusu nyumba zijengwe, walikuwa wapi ndiposa wananchi wanunue shamba, wajenge nyumba na waishi ndani?

Kuna mzee aliye na mke na watoto na vitu vyake vya dhamana ambavyo amenunua akaweka katika hiyo nyumba. Anaamkia asubuhi moja na kupata vitu vyake vimetolewa, hana nyumba na hajui aende wapi.

Kampuni ya Umeme nchini Kenya imeleta machozi mengi sana kwa Wakenya. Kubomoa nyumba bila mpangilio na idhini ya kwamba watafanya hayo siku na tarehe inayosudiwa ni kuumiza na kuhujumu haki ya Wakenya. Kwa hivyo ni makosa kabisa.

Nikama Wakenya wametupa utu nje ya dirisha. Wanapofanya mambo, hawafikiri kwamba huyu ni binadamu kama mimi. Ninayetesa, kesho inawezekana ikawa ni mimi. Nitaenda wapi?

Kama ingekuwa hao wamefanyiwa hayo, wenyewe wangepanya nini? Kwa hivyo, ni vizuri kuwa na utu hata kama ni kutii sheria au kuhakikisha sheria imefuatwa. Ningeomba iwe ni kampuni ya stima, watu wa mjengo au barabara, wakati wanapokabiliana na watu ambao wanadhaniwa kuvunja sheria, wawe na utu.

Jambo lingine ni kuwa nchini Kenya na hasa Nairobi tunajua kwamba watu wanauziwa shamba mara mbili au tatu. Unaona mtu kwa nia nzuri ananunua shamba. Amepewa stakabadhi na anaona kwamba amenunua shamba. Baada ya miezi sita, mwingine anauziwa ile shamba na ananunua. Mwishowe, kuna mmoja atalia ama wote waumie.

Wengine wanatumia stakabadhi ghushi na unapewa ukidhani ni halali. Pesa yako imepotea halafu unabaki pale ukiangaika. Hayo mambo yote yaangaliwe vizuri.

Ningeomba kama ni Kamati ya Ardhi ama wanaohusika kwa Ardhihali hii, wachukuwe hatua inayostahili. Kama ni kuchunguza kila jambo, lifanywe vizuri. Wale ambao watapoteza mali yao, walipwe rifaa.

Asante sana, Bw. Spika, naunga mkono.

**The Speaker** (Hon. Kingi): Sen. Beth Syengo, ni kulipwa ridhaa sio rifaa.

Proceed, Sen. Korir.

**Sen. Korir:** Thank you very much, Mr. Speaker, Sir. Allow me also to support the Petition that has been brought by my colleague, Sen. Mariam Omar.

As it has been said by a number of colleagues, these are issues that are being caused majorly by the relevant offices. Right now, we have a number of Internally Displaced Persons (IDPs) camps.

These IDPs are people who have their rightful documentations and they are supposed to be given protection by the same Government. However, this is something



that has been affecting the citizens. This is something that has happened since Independence. The issue of land and displacement has been an issue that has been affecting this country.

The issues that have been raised by my colleague are very serious issues that I think the relevant Committee will come out with a resolution that will be able to assist the family to get their dues. It will also act as a lesson to those who are going to face the same challenges.

These are issues that we have been discussing year in, year out. At no time has an official or an officer from the Government, or the relevant Ministries, been made liable for these mistakes. Remember the reason I was bringing the issues of IDPs was that a number of them have legal documents that has been given to them by the Government. They have the title deeds issued to them by the Government. Nonetheless, they are on the streets after being evicted by the same Government.

I can talk of the previous Government because I was a Member of the National Assembly by then, when some people were evicted in a place where the Government had put up schools. They have the chiefs and elected leaders and still they alleged that they are their illegally, yet, they have the legal documents given to them by the same Government.

As I speak, a number of their children are still running in the streets. They do not have homes and are in camps. You have a title deed, but you have been evicted from your land and you are in a camp.

I want to believe that the Government in place right now will address this issue to an extent that at least we will not witness this anymore.

Mr. Speaker, Sir, I support the Petition and urge the relevant Committee to get the facts so that these issues are addressed. I believe that is not the only case that has been brought forward, but we could be having a number of them.

I thank you and support.

**The Speaker** (Hon. Kingi): Sen. Madzayo, you have the Floor.

*(Sen. Olekina walked to the Dispatch Box)*

I thought I called out Sen. Madzayo. If Senator Madzayo wishes to donate his time, well and good.

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, sijui kama jina langu ni kama la Kimaasai.

*(Laughter)*

Bw. Spika, kama kuna wakati ambao familia huwa zinateseka ni wakati wa kufurushwa kiholela kutoka kwa makazi yao. Watu husema, uchungu wa mwana aujuaye ni mama. Hata hivyo, huwa ni uchungu kwa jamii yote kuhamishwa kutoka mahali wanaita nyumbani bila kujua pa kwenda.

Wakaazi wa Chokaa ni Wakenya na wanaishi katika kijiji hicho. Hawakuchagua lakini hayo ndio makao yao. Ni jambo la kusikitisha kuona kwamba miaka 60 baada ya Kenya kupata Uhuru, tunafurusha Wakenya wengine kutoka sehemu wanazoita

nyumbani, yani makazi yao. Wanabaki katika njia panda bila kujua waende mbele au nyuma.

Kitendo ambacho kampuni ya KPC ilifanya kinafaa kukemewa. Kuna watoto wa shule, kina mama, wagonjwa na watu wa jamii mbalimbali ambao tunaishi nao. Hao ndio hupata tabu zaidi.

Ni jambo la kusikitisha kutekeleza kitendo hicho ilhali kulikuwa na amri ya Mhe. Rais kwamba watu hao wasifurushwe. Leo hii wako nje. Hatujui watakaowalipa ni akina nani.

Watoto wa shule hawajui wafanye nini. Hata wakienda shuleni, watarudi wapi? Wagonjwa walioko hospitalini hawajui watajikimu vipi. Ni hali ya mateso kule Chokaa.

Namuunga mkono dada yangu kwa kuleta hii *Petition* hapa. Kamati ya *Land, Environment and Natural Resources* ambayo inahusika inafaa kuangalia maslahi ya watu hao ambao wamefurushwa kutoka kwa makao yao. Haki inafaa kutendeka kwa sababu kila Mkenya ana haki ya kuishi kwao.

Jambo hili linatendeka sana hususan kule Kilifi. Tulikuwa tunafikiri ni sisi peke yetu. Waswahili husema; “Ukiona cha mwenzako kikinyolewa, chako tia maji.” Tabia hiyo pia imeanza kufanyika huku na hatujui itakuwaje. Tabia za watu kufurushwa hususan na kampuni za Serikali kama KPC zinafaa kukoma. Watu wanafaa kuongea ili kupata njia ya kuwapeleka mahali pengine badala ya kufurushwa na tingatinga na kuvunja nyumba zao maanake ni Wakenya wenzetu.

Kwa hivyo, Bw. Spika---

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

**The Speaker** (Hon. Kingi): Sen. Madzayo, kindly yield. Sen. Kinyua has a point of order.

**The Senate Minority Leader** (Sen. Madzayo): Nishamaliza Bw. Spika.

**Sen. Kinyua:** Bado hujamaliza.

**The Speaker** (Hon. Kingi): Just have your seat, Sen. Madzayo.

*(Sen. Madzayo sat at his place)*

Sen. Kinyua, what is your point of order?

**Sen. Kinyua:** Bw. Spika, nasimama kwa hoja ya nidhamu kulingana na Kipengee 105 cha Kanuni za Kudumu. Sen. Madzayo amesema kwamba uchungu wa mwana aujuaye ni mama. Ukweli ni kwamba uchungu wa mwana aujuaye mzazi. Mzazi anaweza kuwa wa kiume au kike. Nimechanganyikiwa niliposikia akisema kuwa uchungu wa mwana aujuaye ni mama.

**The Speaker** (Hon. Kingi): Sen. Kinyua, I overrule that because it does not warrant being called a point of order. If you have a problem with language, you better go to a language class and not stand on a point of order.

Sen. Cheruiyot, you have the Floor.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I would not wish to be drawn to the previous utterances, but as fathers in this House, we shall revisit at the right time.

These are two important Petitions that have been brought before the House. First, it is the Petition by Sen. Mariam Omar on behalf of Mihango residents. I know Mihango well because I grew up not very far from there. Perhaps, as I young child, I played football close to where Sen. Mariam Omar talked about.

To be in this House this afternoon would be gross abuse of the premium position or privilege that I have as a Member of Parliament (MP), to just rant and say that this is wrong. It should not have happened and expect that things remain the same.

Everyone who is in this House this afternoon knows that on more than one occasion, we have considered Petitions by citizens that have been evicted from various properties on countless times. We keep on sharing our rage then go and wash our hands, eat *mandazi* and go home. That is not what we are paid to do as MPs.

It will be great dereliction of duty if the committee responsible goes to visit, listens to the cries of the residents and just come back with a report which is left out to gather dust in this House. I propose that the committee goes beyond the call of duty to not only just establish the truth by the residents, but recommend action against KPC. If KPC will be found to be at fault, first of all, they should impose a fine. We have that responsibility and it is possible. We can give such directions and propose that the citizens be compensated.

Over and above, the most important thing is to come up with legislation on how to carry out evictions in this country. We should go beyond just the collective rage as a House every other afternoon saying something was not done in a proper way.

We can come up with a legislation that says even where there arises a dispute in a land between two parties, there should be a procedure that the police are supposed to follow, so that every other time, we do not hear stories that we keep on hearing that in the dead of the night, people showed up in trucks. We need to bury that practice in this Session of Parliament.

The committee that will be tasked with handling this Petition should do as great justice. They will cover us with dignity as a House if they come back to us with a legislative proposal on evictions of members of the public on any disputed property, so that we put it to an end.

This does not require much thought, but lay out a procedure. I do not know which statute or law they are likely to amend. It could be the Public Order Act or any other law, but at least let them guide the country.

It is clear that these violations continue to happen so many times, for want of good laws. I believe that that will be good justice so that we never sit here on another afternoon to just lament then go and have *mandazi* and go home.

Mr. Speaker, Sir, secondly, Sen. Wakili Sigei's Petition is very interesting, but it seems to have escaped the attention of many Senators. I have listened to most of my colleagues and they only commented on the Petition about evictions by the KPC.

This is an interesting one. Global conglomerates are increasingly facing scrutiny, either by Parliaments, or regulatory bodies in the countries they operate. The scrutiny is for various malpractices; either in the accounts reporting or even breach of data and so many foul things that these multinationals are found to breach.

You are aware that presently in the European Parliament, there is a big fight between the Irish data regulator and Meta, the parent company that owns *Facebook*. They have been fined over a billion dollars just for breach of data. It was for transferring data from European residents back to the USA.

It points to the fact that citizens, regulatory bodies and parliaments are increasingly becoming aware of the evil practices of many multinationals that operate in countries other than their origin, with very little regard to the rule of law.

I know this is the practice. It is not just the East African Breweries Limited (EABL) as is being mentioned in this Petition. When I read the tax records of the Kenya Revenue Authority (KRA) about leading taxpayers, for example; you will find that very small eco-lodges in Narok are paying more taxes than the people who run the huge multinational plantations back in Kericho County. It cannot make sense.

It does not make sense, but because of exactly the same situation that is being described in that particular Petition, KRA are unable to follow through and ensure that these institutions pay the taxes that are due of them. Unfortunately, because of the pettiness of the conversation around the Finance Bill, 2023, very important snippets and proposals that have come through – after many years of conversations about what to do with such companies – are missing out.

In the Finance Bill, 2023, you will find a repatriation tax proposal. It is now being proposed that these companies that repatriate profits out of Kenya, should first pay a local tax within their country where they ply their trade and practice. We pay police officers, we train their employees and they use our roads to run their trade. They then go and do their books in London and all these other posh capitals of the world, yet they pay very little taxes to this country.

I hope in the fullness of time when the dust settles and we have an adult conversation about the proposals that are in the Bill, at least, that shall not be one of the proposals that will fall down. I know this is not the first time that this is being proposed in the National Assembly. Unfortunately, as a House, we do not have the power to legislate on tax matters. However, at least we have a platform and the voice to speak on these particular issues.

Mr. Speaker, Sir, I will be watching with keen attention the proposals that will come from whichever Committee that will handle that Petition on the practices of EABL. It is of great interest to note that while this citizen had the choice to take this Petition either to the National Assembly or the Senate, they brought it here. Maybe there is something they know about us as a House. Let us not kill the hopes that they have about us as a House.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support this Petition by my dear sister, Sen. Mariam Omar.

I am a member of the Senate Committee on Energy. One of my biggest problems with KPC is that the records of KPC on who has given out wayleave or have surrendered their land, is all mixed up. It is very difficult to tell whether the demolished properties were along the wayleave of KPC.

Hypothetically, if indeed, the properties were built illegally, I have read through the Petition that there are various things that happened. The former President issued an

Executive Order. I was just consulting with the senior counsel whether those Executive Orders lapsed. I was told that as soon as that President is gone, that Executive Order also dies.

In the interest of human beings – Kenyan citizens who reside in a particular area – why would it be so difficult for KPLC, the Directorate of Criminal Investigations (DCI) or the Deputy County Commissioner (DCC) to sit and discuss with the residents of the area and promise look for a suitable place for them to move, or at least they are given an opportunity to move.

If, indeed, the issues which have been raised in this Petition are accurate, then this House should not be entertaining it. I have also noted that the residents went to court and the last I checked, this matter was in court. I am a little perplexed because in the Petition, it says that the residents went to court. Item No.6 says that the resident filed two suits and it names them there. Then it says the court orders stopped the demolition of any forms of damages to the properties, which KPLC blatantly disregarded the said court orders issued on 5<sup>th</sup> April, 2019 and 14<sup>th</sup> March, 2019 respectively.

I do not know whether this matter is still alive in court. Maybe Sen. Mariam Omar can clarify this.

**The Speaker** (Hon. Kingi): Sen. Olekina, just have your seat. That is a very valid concern. We cannot commit a Petition whose subject matter is live in court.

Sen. Mariam Omar, you are the one who brought this Petition on behalf of the residents. Kindly confirm to the House that there is no dispute pending, not just in court, but in any other forum where this matter is discussed.

**Sen. Mariam Omar:** Thank you, Mr. Speaker, Sir. Like I said when I was reading the Petition, it is not live in court.

**The Speaker** (Hon. Kingi): What was the determination? What was the fate of the two suits that were filed by the residents?

**Sen. Mariam Omar:** Mr. Speaker, Sir, they were withdrawn.

**The Speaker** (Hon. Kingi): Thank you. Proceed, Sen. Olekina.

**Sen. Olekina:** Fair enough, Mr. Speaker, Sir. *Sub judice* issues are of great concern to me. From the way it appears, it is like there are orders. These orders do not cease to exist if they have not been complied with.

**The Speaker** (Hon. Kingi): Sen. Olekina, Sen. Miriam Omar has said the suits were withdrawn.

**Sen. Olekina:** No, Mr. Speaker, Sir. I am okay with that. People seem to forget that KPC is owned by individuals and the Government, which owns about 51 per cent. I have some shares in KPC. Some residents here too could be having two, three or 200 shares. Even those residents who are evicted.

What I fail to understand is why KPC, as a public---

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

**The Speaker** (Hon. Kingi): What is your point of order, Sen. Cherarkey? We need to conclude on this matter.

**Sen. Cherarkey:** Mr. Speaker, I rise by your Speakers' Rules, Rule No.5 on Dressing of the Senator. These are unrelated. If you see the trousers that Sen. Orwoba is wearing, you know we keep evolving in terms of---

**The Speaker** (Hon. Kingi): Sen. Cherarkey, allow Sen. Olekina to conclude.

You are supposed to rise on a point of order on the Senator who is speaking. So, let him conclude and then you can prosecute your point of order.

Conclude, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. Let me summarise. I was really trying to prosecute on this, but because of time, I fully support this Petition.

I hope that by the time this matter is brought before the Committee on Energy to look at the conduct of KPC, all those residents will be brought.

Mr. Speaker, Sir, you read that a resident committed suicide because they did not have a home to go to. Those houses were demolished at night. That the former President had issued an Executive Order to stop those demolitions, but no one respected them. Are there companies in this country that are above the law?

I am of the opinion that we may need to look at our Standing Orders when it comes to the issue of Petitions. I am raising that issue because most of the time, we will carry out these investigations, call those people to come before us then we will finally give Sen. Mariam Omar, who has come with the Petition, the report. Then what? That is the biggest problem that is seen.

Since we do not have a Committee on Implementation in the Senate, all committees are supposed to self-implement. As the Senate of the Republic of Kenya, I believe it is about time to relook at our Standing Orders. This will solve issues and give confidence to citizens that whenever they bring a Petition, we can give results.

We may also need to think of how we will follow through. These are Kenyans who have a right to live in this country. Their rights have been violated by KPC.

In Narok County, sometimes, they say that the houses are built along the wayleave. However, you follow, there is no wayleave. Those are the things that we need to follow. I am looking forward to this Petition being investigated.

I hope you will commit it to the Committee on Energy, so that we can follow through. I assure the 10 affected Kenyan citizens that we will do everything possible to make sure that if it is compensation they will be paid or their rights will be respected.

**The Speaker** (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 238 (1), the Petition by Hon. Mariam Omar should be committed to the relevant Standing Committee for its consideration.

In this case, I direct that the Petition be committed to the Standing Committee on Lands, Environment and Natural Resources with an option to co opt with the Committee on Energy.

In terms of Standing Order No. 238 (2), the committee is required in not more than 60 calendar days from the time of reading this prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

*(The Petition was committed to the Committee on  
Land, Environment and Natural Resources)*

As regards to the Petition by Sen. Wakili Sigei, the Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the

Petition be committed to the Standing Committee on Trade, Industrialisation and Tourism.

In terms of Standing Order No. 238 (2), the Committee is required, in not more than 60 calendar days from the time for reading this prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

*(The Petition was committed to the Committee on Trade, Industrialisation and Tourism)*

Next order.

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

**The Speaker** (Hon. Kingi): What is your point of order, Sen. Cherarkey?

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise pursuant to Speakers' Rules No. 5 on the dressing of Senators in the House. Everything is evolving. If you see the trouser that has been worn by our champion against menstruation stigma in the country, our beloved Sen. Orwoba, it is similar to what we see the Disc Jockeys (DJs) wearing when some of us go to unwind on Fridays.

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

*[The Deputy Speaker (Sen. Kathuri) in the chair]*

I do not know whether it is in order. It looks like leather, jeans or *khaki*. We need to be clear so if tomorrow, I wear a *khaki* or jeans and come to the House, I do not know whether it will be acceptable.

I need guidance. Maybe you can direct the female Serjeant-at-Arms to look. I can see Sen. (Dr.) Murango looking at it keenly. We request that a female Senator should be the one to look at that matter.

I stand guided.

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey, from where I sit, I cannot see Sen. Orwoba's trouser. I want to dispense of this matter. Let me see how Sen. Orwoba is dressed.

*(Loud consultations)*

Just walk.

*(Laughter)*

*(Sen. Orwoba walked as directed by the Deputy Speaker)*

Have your seat, Sen. Orwoba. You are well dressed.

*(Sen. Orwoba took her seat)*

Let us have the Statement by---

*(Sen. Sifuna spoke off record)*

Sen. Sifuna, go to your Standing Orders No. 96 where you should prosecute your point of order then I will be able to assist you. I was making a determination as the Chair.

## PAPERS LAID

### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I beg to lay the following papers on the Table of this Senate today 31<sup>st</sup> May, 2023-

Report of the Auditor-General on the Financial Statements of Litein Municipal Board for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Litein Municipal Board for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Garissa Municipal Board for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kakamega County Investment Development Agency Limited for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Isiolo Staff Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements Turkana County Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements Nithi Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on Receiver of Revenue – Revenue Statements – County Government of Murang'a for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of West Pokot County Assembly Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Embu Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on County Revenue Fund for Siaya County Government for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Tana River County Ward Bursary Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Wajir County Disaster Management Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Iten Tambach Water and Sanitation Company Ltd for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of County Assembly of Laikipia Car Loan and Mortgage (Staff) Scheme Fund for the year ended 30<sup>th</sup> June, 2022



Report of the Auditor-General on the Financial Statements of Laikipia County Education Bursary Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of County Executive of Kisumu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Kisumu County Government Revenue Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of County Assembly of Kisumu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Samburu County Persons Living with Disability Fund for the year ended 30<sup>th</sup> June, 2022

Report of the Auditor-General on the Financial Statements of Samburu Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on County Executive of Trans Nzoia for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of County Assembly of Trans Nzoia for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Trans Nzoia County Public Service Board for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on County Revenue Fund for Trans Nzoia County Government for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on County Revenue Fund for Vihiga County Government for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on Climate Change Fund of Vihiga County Government for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on Vihiga County Trade and Enterprise Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Vihiga County Facility Improvement Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Vihiga County Sports Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements on Lamu County Youth Development Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Lamu County Bursary and Scholarship Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Lamu County Disability Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of County Executive of Kericho for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Kericho County Executive Staff Car Loan Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of Kericho County Executive Staff Mortgage Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of County Assembly of Kericho for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements on County Revenue Fund – County Government of Kericho for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of Kericho County Alcoholic Drinks Control Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of Kericho County Agricultural Development Fund for the year ended 30<sup>th</sup> June, 2022.

Thank you. I do lay the Papers.

*(Sen. (Dr.) Khalwale laid the Documents on the Table)*

**The Deputy Speaker** (Sen. Kathuri): Next Order. What is your point of Order, Sen. Sifuna?

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.237 on the business we have just transacted regarding comments on Petitions. My reading of that Standing Order is that when the Speaker allows comments, the comments are in relation to a Petition. That is singular.

When there are two Petitions that are rolled into one, the Speaker should be at least clear on how much time he is allocating every Petition. I feel it is unfair that when a Petition is presented by a Member of another delegation touching on another delegation; like you have been discussing Nairobi and I have interacted with this matter day in, day out, yet I do not get an opportunity to speak on it because time has been fixed which is attached to both Petitions. I feel that is unfair.

Mr. Deputy Speaker, Sir, prior to committal of the petitions to the committee, it would be nice when the Speaker rolls two Petitions into one for comments by Members to specify whether 30 minutes is for both Petitions or in accordance with Standing Order No. 237, each Petition will take 30 minutes.

That was my point of order and I could not raise it when the Speaker was on the Floor. These are some of the challenges we are experiencing with the Standing Orders as Senators try to transact business in this House.

I thank you.

*(Sen. Orwoba spoke off record)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Sifuna, are you saying there is no Speaker now in this House? You have just said you could not raise your point of order when the Speaker was chairing.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, one of the tools of debate that has been demonized in this House is the ‘Point of Order’. When you hear someone saying shouting “point of order”, you just think it is something negative. I could not do it – what term do I use – when the substantive Speaker was now committing the Petitions to the Committee.

It was also problematic when I tried to raise it when you were calling the next Order because you asked me to wait for the Minority Whip to finish and by that time, matters had already progressed.

What I am saying is that there is a Speaker on the Chair. I can see you, Mr. Deputy Speaker, Sir, very well. We can get guidance on that from Members of the Speakers' Panel.

**The Deputy Speaker** (Sen. Kathuri): You will get guidance accordingly.

Sen. Orwoba, what is your point of order?

**Sen. Orwoba:** Mr. Deputy Speaker, Sir, I wanted to air---

**The Deputy Speaker** (Sen. Kathuri): If it is about your dressing, that is already done.

**Sen. Orwoba:** Mr. Deputy Speaker, Sir, this is a pressing issue because today, we came ready for supplementary questions for the Cabinet Secretaries. It is as if some of our dashboards are hazard lights; they are on yet we do not get the opportunity to contribute.

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

**Sen. Orwoba:** My point of order is that aside from the reference that Sen. Sifuna is making on the book, there is an issue on matters expressing ourselves in the House. It needs to be looked into.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Is that a point of order?

Next Order. Sen. (Dr.) Khalwale, I understand there are more Papers that you have not laid. It is not you.

*(The Clerk-at-the-Table consulted the Deputy Speaker)*

I am informed that it is the Chairman of the Committee on Labour and Social Welfare.

**Sen. Seki:** Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, 31<sup>st</sup> May, 2023-

REPORT ON THE PERSONS WITH DISABILITIES  
(SENATE BILLS NO. 7 OF 2023)

Report of the Standing Committee on Labour and Social Welfare on the consideration of the Persons with Disabilities (Senate Bills No. 7 of 2023).

REPORT ON THE HERITAGE AND MUSEUMS BILL  
(SENATE BILLS NO. 8 OF 2023)

Report of the Standing Committee on Labour and Social Welfare on the consideration of the Heritage and Museums Bill (Senate Bills No. 8 of 2023).

Thank you.

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

**The Deputy Speaker** (Sen. Kathuri): There are more Papers. The Chairman for the Standing Committee on Health.

**Sen. Mandago:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today 31<sup>st</sup> May, 2023-

REPORT ON THE DEATH OF MAUREEN ANYANGO

Report of the Standing Committee on Health on the death of the late Maureen Onyango at Mama Lucy Kibaki Hospital due to alleged medical negligence.

REPORT ON THE DEATH OF MASTER TRAVIS MAINA

Report of the Standing Committee on Health on the circumstances that led to the death of the late Master Travis Maina at Kenyatta National Hospital.

REPORT ON THE DEATH OF EDWARD OTIENO ONYANGO

Report of the Standing Committee on Health on the death of the late Edward Otieno Onyango due to alleged medical negligence.

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

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

**The Deputy Speaker** (Sen. Kathuri): Thank you. Next Order if there are no other Papers.

*(The Clerk-at-the-Table consulted the Deputy Speaker)*

The Chairman of the Committee on Finance and Budget, I am informed that you have a Paper to lay.

**Sen. Ali Roba:** Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today 31<sup>st</sup> May, 2023 –

REPORT ON THE ALLOCATION OF REVENUE BILL,  
2023 (SENATE BILLS NO. 16 OF 2023)

Report of the Standing Committee on Finance and Budget on the County Allocation of Revenue Bill, 2023 (Senate Bills No. 16 of 2023).

*(Sen. Ali Roba laid the Document on the Table)*

**The Deputy Speaker** (Sen. Kathuri): Next Order. The Chairman of Standing Committee on Health, please proceed to read the Notice of Motion.

## NOTICES OF MOTION

## ADOPTION OF REPORT ON THE DEATH OF MAUREEN ANYANGO

**Sen. Mandago:** Mr. Speaker, Sir, I wish to give Notice of Motion to adopt the Report of the Standing Committee on Health on the death of the late Maureen Anyango at Mama Lucy Kibaki Hospital due to alleged medical negligence.

I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Health on the death of the late Maureen Anyango at Mama Lucy Kibaki Hospital due to alleged medical negligence, laid on the Table of the Senate, today, Wednesday, 31<sup>st</sup> May, 2023.

## ADOPTION OF REPORT ON THE DEATH OF MASTER TRAVIS MAINA

**Sen. Mandago:** Mr. Deputy Speaker, Sir, I also want to give Notice of Motion to adopt the Report of the Standing Committee on Health on the circumstance that led to the death of the late Master Travis Maina at Kenyatta National Hospital.

I beg to give Notice of the following Motion-

That the Senate adopts the Report of the Standing Committee on Health on the circumstance that led to the death of the late Master Travis Maina at Kenyatta National Hospital, laid on the Table of the Senate, Wednesday, May 31<sup>st</sup>, 2023.

## ADOPTION OF REPORT ON THE DEATH OF EDWARD OTIENO ONYANGO

**Sen. Mandago:** Mr. Deputy Speaker, Sir, I beg to give Notice of Motion:

That the Senate adopts a Report of the Standing Committee on Health on the death of the late Edward Otiemo Onyango, due to alleged medical negligence laid on the Table of the Senate, Wednesday, 31<sup>st</sup> May, 2023.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Next Order. Let us get Statements under Standing Order No. 53 (1).

Senator Mundigi.

## STATEMENTS

## ALLEGED DISPARITY IN DEVELOPMENT WITHIN EMBU COUNTY

**Sen. Munyi Mundigi:** Mr. Deputy Speaker, Sir, I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the conspicuous disparity in development within Embu County.

In the Statement, the Committee should--

(1) Explain the clear discrepancies in development levels among the sub-locations of Embu County, considering that a small number of sub-locations are significantly developed, while a vast majority remain highly marginalized.

(2) State the total amount of funding that has been allocated to Embu County under the Equalisation Fund since the inception of devolution and indicate how it has been utilized.

(3) State the measures in place if any, to address the conspicuous intra-county inequalities promptly.

**The Deputy Speaker** (Sen. Kathuri): Sen. Munyi Mundigi, I understand that you are hosting Madaraka Day tomorrow and you are not inviting Senators to your county?

**Sen. Munyi Mundigi:** Bw. Naibu Spika, mimi ni Seneta wa Kaunti ya Embu aliyechaguliwa na wananchi. Kaunti ya Embu iko na sub-county nne. Nawaomba Maseneta wote 67 mhudhuri sherehe za Madaraka katika Kaunti ya Embu. Mnajua sisi kama Maseneta hatuna nguvu yeyote. Nguvu ziko katika serikali za kaunti na Serikali Kuu.

Msafiri leo na kulala kule. Kesho asubuhi mfike mapema ili mpate nafasi ya kukaa. Nimeona mara nyingi Maseneta wanachukuliwa kama sio watu. Lakini nitawaambia watu wa nchi hii kuwa Senate ndio 'upper' House.

Pili, Kaunti ya Embu inakuza *miraa*, majani, macademia nuts na maembe. Kule tunafanya kilimo ingawa mambo ya kilimo yako na shida kwa sababu mkulima anachukuliwa kama sio mtu.

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

**The Deputy Speaker** (Sen. Kathuri): What is your point of order, Sen. Sifuna?

**Sen. Munyi Mundigi:** Kwa hivyo, naomba baada ya sherehe za kesho, tukirudi hapa Seneti tunafaa tuangalie mambo ya kilimo ili kila---

**The Deputy Speaker** (Sen. Kathuri): Order, Sen. Munyi Mundigi. Kuna hoja ya nidhamu.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, I am on my feet on a point of order. Pursuant to the Standing Order on responsibility for statements, I do not think it is correct for the Senator for Embu County to say that Senators have no power in his own language.

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

*(Laughter)*

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, I am still on my feet---

**The Deputy Speaker** (Sen. Kathuri): Sen. Munyi Mundigi is on a point of order. Wait until he finishes.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, at the risk of violating our own Standing Orders, perhaps allow me to say it using the language that he spoke in, so that he understands what the problem was.

*Amesema anajua Maseneta hawana nguvu. Nguvu ziko katika serikali za kaunti na Serikali Kuu.* That is a very dangerous statement coming from the Senate because we have constitutional powers in this House. If we had no such powers, we would not be here.

I would wish that Sen. Munyi Mundigi withdraws that statement because it goes to reinforce the characterization and perception out there amongst the public that we are indeed a House with no power.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Labda kuna nguvu nyingine anazungumzia na sio hio ya uongozi. Kuna hitilafu hapa.

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

**The Deputy Speaker** (Sen. Kathuri): What is it, Sen. Munyi Mundigi? I gave you privilege to welcome Senators not to dramatize your issues here.

**Sen. Munyi Mundigi:** Bw. aibu Spika, nafikiri kuwa Seneta mwenzangu wa Azimio, ambaye ni rafiki yangu hakuelewa nilichosema. Watu wengi wanaona kama Seneta haina nguvu lakini sisi tunajua kwamba Seneti ni 'upper' House.

Seneta wa Nairobi, rafiki yangu kutoka Azimio, kwa sababu leo sio siku ya kurusha mawe, unafaa uelewe---

Mimi nimesema kwamba watu huona kama Seneta haina nguvu lakini katika Kenya, Seneti ni 'Upper' House.

Ninawakaribisha wote Kaunti ya Embu. Tutakuwa na watu wote wa Kenya Kwanza. Kwa hivyo, pia ninawakaribisha wafuasi wa Azimio katika Kaunti ya Embu.

**The Deputy Speaker** (Sen. Kathuri): Next Statement by Senator for Taita Taveta County, Sen. Mwaruma.

**Sen. Mwaruma:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to request for these two Statements. Allow me to go through both of them.

#### STATUS OF MINERAL ROYALTY ACCOUNTS

I rise pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on the status of mineral royalty accounts in light of the court ruling that struck down part of the mining royalties distribution law.

In the Statement, the Committee should-

(1) State the number of companies undertaking mining activities in Taita Taveta County and the actual location of the mining activities.

(2) List the mining companies that have Community Development Agreements with the host communities in the County and the amount each has spent on Corporate Social Responsibility.

(3) Indicate the actions the Government intends to take following the court ruling that struck down part of the mining royalties distribution law, including how already collected royalties will be dealt with.

#### UTILISATION OF THE EQUALISATION FUND IN THE COUNTY GOVERNMENT OF TAITA TAVETA

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Finance and Budget, regarding the utilization of the equalization fund in the

County Government of Taita Taveta.

In the Statement, the committee should-

(1) State the criteria employed in the formulation of the second equalization fund formula.

(2) State reasons why a significant number of wards in Taita Taveta County were omitted, despite their apparent developmental lag in areas such as road network infrastructure, health facilities, electricity connectivity and adequate water supply.

(3) Furnish a list of projects undertaken under the first formula, indicating the nature and specific physical locations of these projects in Taita Taveta County.

(4) Disclose the budget allocation for projects and the amount utilized during the first formula period, specifying the nature of projects in water, roads, electricity connectivity, and health sectors across all 47 counties.

(5) Table a report on the status of projects under the equalization fund in all 47 counties, specifying the actual project, its location, and the status of completion.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Next Statement by Sen. Gataya Mo Fire.

**Sen. Gataya Mo Fire:** Thank you, Mr. Deputy Speaker, Sir. I have three Statements that I want to make. I will start with the easiest on the compensation of a family struck by lightning in Tharaka Nithi County.

COMPENSATION CLAIMS TO A FAMILY STRUCK  
BY LIGHTNING IN THARAKA NITHI

Mr. Deputy Speaker, Sir, I rise, pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the compensation of a family struck by lightning in Ibote Sub-county, Karocho Location in Tharaka Nithi County on 24<sup>th</sup> April, 2023.

In the Statement, the Committee should-

(1) Appraise the Senate of the state of investigations into the deaths of two form three girls; Ms. Jackeline Kanyua and Ms. Florida Kendi, after lightning struck their house in Ibote Sub-county.

(2) State if there are plans by the Government to compensate the affected family, in compliance with Section 6 of the Tharaka Nithi County Emergency Fund Act No.4 of 2016. Considering that the mother of the two deceased girls also sustained burns on her hands caused by the lightning.

(3) State the measures in place to deal with the lightening menace such as installation of lightening arrestors in Tharaka Nithi County which is prone to such instances particularly during the rainy season.

DECLASSIFICATION OF IGAMBA-NG'OMBE SUB-COUNTY  
IN THARAKA NITHI COUNTY AS AN ASAL

**Sen. Gataya Mo Fire:** Mr, Speaker, Sir, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on National Cohesion, Equal



Opportunity and Regional Integration regarding the declassification of Igamba-Ng'ombe Sub-county in Tharaka Nithi County as an Arid and Semi-Arid area (ASAL).

In the Statement, the Committee should-

(1) State measures, if any, to revoke declassification of Igamba-Ng'ombe Sub-county as an ASAL area, noting that such classification has an effect on allocation of funds by Government for development, provision of Government services as well as retention of public servants in the area.

(2) Advise on measures in place to mitigate against further marginalization of the region following its declassification as an ASAL area.

(3) Explain targeted interventions by the national Government to initiate development projects in the region including improvement of infrastructure and Government facilities such as health facilities and schools.

(4) Report on whether the National Treasury intends to allocate funds to Igamba-Ng'ombe Sub- County to help mitigate the effects harsh climatic conditions including recurrent spells of drought that have caused further marginalization of the area.

#### INSTALLATION OF SPEED BUMPS ALONG PARLIAMENT ROAD

Mr. Speaker, Sir, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Roads, Transportation and Housing on the erection of speed bumps on Parliament Road.

In the Statement, the Committee should -

(1) State the plans, if any, by the Government, to erect speed bumps along Parliament Road, noting that pedestrians are at risk of being hit by motorists who overspeed at the zebra crossing.

(2) Indicate the timelines for the erection of the speed bumps.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Next Statement is by Sen. Mandago.

#### QUOTA FOR EMPLOYMENT POSITIONS TO PWDs IN THE PUBLIC SECTOR

**Sen. Mandago:** Thank you, Mr. Deputy Speaker, Sir. I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration regarding the reservation of 5 percent of employment positions for Persons with Disabilities (PWDs) in the Public Sector.

In the Statement, the Committee should-

(1) Clarify whether the provisions of the Persons with Disabilities Act, 2003 on the reservation of employment positions for PWDs have been complied with in the ongoing recruitment by State Corporations, including the Kenya Revenue Authority (KRA), Kenya Water Institute (KEWI) and the Communication Authority of Kenya (CAK).

(2) State the measures the Office of the Inspector-General (Corporations) has put in place to ensure compliance with the Persons with Disabilities Act, 2003 by State Corporations.

**The Deputy Speaker** (Sen. Kathuri): Statement number seven on the Order Paper is deferred until the next sitting.

#### HIGH TRANSFER RATE OF TEACHERS IN MERU COUNTY

*(Statement deferred)*

Sen. Murgor, Senator for West Pokot County, proceed to issue your request for Statement.

#### STATUS OF REGISTRATION OF PERSONS IN WEST POKOT COUNTY

**Sen. Murgor:** Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the registration of persons in West Pokot County.

In the Statement, the Committee should-

(1) Indicate plans, if any, by the Government to establish National Registration Bureau offices in all the sub-counties of West Pokot County.

(2) State measures in place to enhance access to services such as National Identification cards, among other services offered by the National Registration Bureau by residents of the County.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Sen. Githuku, proceed.

#### CONSTRUCTION OF THE LINK ROAD BETWEEN LAKE KENYATTA PRIMARY SCHOOL AND UZIWA JUNCTION IN LAMU

**Sen. Githuku:** Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Roads, Transportation and Housing on the construction status of the road connecting Lake Kenyatta Primary School to Uziwa Junction in Lamu County.

In the Statement, the Committee should-

(1) Provide details of the tender for the upgrade of the road from earthen to concrete paving blocks, including the date, identity of the contractor who won the award, the amount of funds allocated for the project and the scope of works to be undertaken.

(2) Clarify whether the Ministry of Roads and Transport is aware that the work was done but the concrete paving blocks were subsequently removed by the contractor and, if so, state the reasons for the same; and

(3) State the measures in place, if any, by the Government to have the road reconstructed to the specifications provided in the tender award, providing the timeline for completion of the project.

**The Deputy Speaker** (Sen. Kathuri): Next Statement is by Sen. Chimera.

#### CONSTRUCTION OF THE KWALE-KINANGO ROAD

**Sen. Chimera:** Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing on the construction status of the Kwale-Kinango Road.

In the Statement, the Committee should-

(1) Provide a comprehensive report on the current status of construction and maintenance of the Kwale-Kinango road, indicating the timeline for completion of the project.

(2) Explain the challenges faced during the construction and maintenance process, detailing the measures being taken to address the challenges to ensure timely completion of the project.

(3) Outline plans in place, if any, to engage the local communities along the road to address their concerns throughout the construction phase; and

(4) Apprise the Senate on the steps being taken to ensure the quality and durability of the road, including compliance with the construction standards and regular maintenance.

**The Deputy Speaker** (Sen. Kathuri): Thank you. The Statement by the Senator for Murang'a County and the Nandi Statement have been deferred.

#### CLOSURE OF THE MURANG'A COUNTY CREAMERIES

*(Statement deferred)*

#### REDUCTION OF SALARIES AND ALLOWANCES PAYABLE TO MCAs IN FY 2022/2023

*(Statement deferred)*

**The Deputy Speaker** (Sen. Kathuri): We will proceed to the Statement by the Senate Majority Leader under Standing Order No. 57(1). I apologise, there is the last request for Statement from Sen. Faki.

#### KUCHELEWA KWA KUCHAPISHWA KWA PASPOTI NCHINI

**Sen. Faki:** Asante, Bw. Naibu Spika kwa kunipa fursa hii. Nimesimama kwa mujibu wa Kanuni ya Kudumu ya 53(1) kuomba Kauli kutoka kwa Kamati ya Kudumu ya Usalama wa Taifa, Ulinzi na Uhusiano wa Kimataifa kuhusu kuchelewa kwa

kuchapishwa kwa paspoti nchini ambako kunaathiri mipango ya safari ya mahujaji wanaokwenda Makkah nchini Saudi Arabia kwa ibada yao ya Hajj mwaka huu.

Katika taarifa hiyo, Kamati iangazie yafuatayo-

(1) Iiarifu Seneti chanzo cha ucheleweshaji wa usindikaji wa Paspoti katika Idara ya Uhamiaji, ikizingatia madhara na usumbufu unaoletwa na ucheleweshaji huo kwa mahujaji wanaokwenda Makkah, Saudi Arabia kutekeleza ibada ya Hajj katika mwezi Juni, 2023. Ibada ya Hajj inatarajiwa baadaye mwezi ujao kuanzia 20.06.2023.

(2) Ieleze ni hatua gani Serikali inachukua kuharakisha usindikaji na uchapishaji wa pasipoti hizo ikizingatiwa kwamba mahujaji watalazimika kuvunja na kughairi safari zao iwapo jambo hilo halitatatuliwa kwa haraka.

(3) Ibaini ni mipango gani inafanywa na Taasisi ya Kenya Hajj Mission iliyoko chini ya uongozi wa Supreme Council of Kenya Muslims (SUPKEM), kuhakikisha kwamba mahujaji katika msimu huu wa Hajj wanapata usaidizi mwafaka ikiwepo kufuatilia na Idara ya Uhamiaji pamoja na Wizara ya Mambo ya Ndani na Utawala wa Kitaifa kuharakisha uchapishaji wa pasipoti hizo.

Asante kwa kunipa fursa hii.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 6<sup>TH</sup> JUNE, 2023

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, pursuant to Standing Order No.57(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 6<sup>th</sup> June, 2023.

As I highlighted in my Statement on Thursday, 25<sup>th</sup> May, 2023, there are important financial instruments which are pending consideration in the Senate. These are the County Allocation of Revenue Bill (Senate Bills No.16 of 2023), The Equalization Fund Appropriation Bill (Senate Bills No.3 of 2023) and The Equalization Fund Administration Bill (Senate Bills No.14 of 2023).

These financial instruments are critical for the operations of the county governments and their expeditious consideration, passage and assent will facilitate county governments to finalize their budgets ahead of the commencement of the next financial year in July 2023. That is important.

It is good that while I am saying this, the stickler to the rule of law, Sen. Okiya Omtatah, is here. You understand how counties are supposed to do budgets. Unfortunately, as a House, we cannot raise the requisite 24 delegations to pass these Bills, so that counties can then book them onto their books and do them as singular budgets for the counties that qualify for Equalization Fund.

I, therefore, request that the Whips--- I cannot see the Whip of the minority side but Sen. (Dr.) Khalwale is here. Please let us do whatever we can to make sure that on Tuesday next week, we take a vote on these important financial instruments. I also urge colleague Senators to be present in the House on that day and other days.

It is the irony of life. During campaign periods, thousands of people fight to get a chance to represent others in Parliament. Unfortunately, after people have granted you the

opportunity to sit here on their behalf, you find empty seats in both Houses of Parliament. It is something I have never understood. I, therefore, urge that we be present on Tuesday so that we conclude on that important business.

In summary, out of the 33 Bills published in the Senate, the following are pending consideration; 19 are at the Second Reading Stage; five are at the Committee of the Whole, two of which are listed in today's Order Paper at Order Nos.10 and 11 for Division. It is obvious to everyone whether we will have Division or not. A further six are undergoing concurrence pursuant to Article 110(3) of the Constitution of the Republic of Kenya.

Hon. Senators, from the foregoing, it is evident that the processing of Bills is slow-paced. Contributing factors to this state of affairs include unavailability of Movers to prosecute their business, lack of quorum which I have addressed myself to, and lack of sufficient county delegations which I have also talked about this afternoon. I therefore cannot overemphasize the need for Senators to prioritize House business in the plenary for Movers of Bills to be available in the Chamber and for Senators to remain in the House until conclusion of business.

It is also imperative for the Senate Majority and Senate Minority Whips to mobilize the requisite number of Senators for Divisions on Bills to be undertaken promptly. While this has not been done, I believe it will be done in the course of the day.

Yesterday at the SBC meeting, we received a report, point by point comparison, of how much business the previous Senate had transacted by this point of their term. It mirrors almost word for word that we have done equal work in the last nine months of our existence as compared to the previous Senate, yet the previous Senate, because of the disputed presidential election, it did not properly sit until December 2017.

We have been in this House since September 2022, yet because of what I have just described, we continue to face these challenges. I appeal to colleagues, please let us take the business of this House seriously.

The Petitions process is gaining prominence where members of the public are exercising their right under Articles 37 and 119 of the Constitution to submit prayers for the Senate to consider any matter within its authority.

There are presently 19 Petitions which have been referred to the various committees. This is true because they are listed in today's order paper. I urge the respective Standing Committees to which these Petitions have been referred to expedite consideration of the Petitions and table reports pursuant to Standing Order No.238(2).

I mentioned earlier while commenting about Petitions that this is a continuous stamp of approval that members of the public give us as a House. The fact that they keep on sending Petitions before this House, including the ones we had today, means something.

A matter that had been taken to the National Assembly was not properly resolved and it found its way to this House through a Petition by students of Kenyatta University. That is a stamp of approval. That is people saying that they believe in the Senate that we can dispense of this business. It is my hope that our colleagues who serve in the various committees will expeditiously consider those Petitions and report the relevant businesses.

Not to mention the fact that Sen. Wakili Sigei, on behalf of a citizen of this country, presented what I will consider a class action Petition, when an ordinary citizen invited this House to look into the operations of corporations that are huge enough perhaps to look the other way in terms of obligations and not have any of our state agencies nab them on their bad practices. The citizens believe that this Senate has many men and women of integrity with power and wherewithal that is needed to take on this institution and give justice to the people of Kenya.

There are 22 Motions on diverse topics which are also pending for consideration. I urge the respectful Movers of these Motions to be in the Chamber whenever they are scheduled in the Order Paper.

The substantive Speaker gave communication a few weeks ago on what happens to Motions that are called upon and their Movers are not present in the House. We thought that will encourage people who bring Motions to this House to be seated.

However, many of them continue to be dropped. Perhaps many others will be dropped just a few minutes after I am done with the Statement for the simple reason. You will find someone having brought a Motion but they do not have the time to either present or at least write to the Speaker informing them about the reason for their absence and why they prefer that matter be deferred. I cannot even address myself more than that on that issue.

On matters of the Questions, at its meeting held on Tuesday, 30<sup>th</sup> May, 2023, the SBC approved the 5<sup>th</sup> set of Questions to be scheduled in the Order Paper for the morning sitting of Wednesday, 14<sup>th</sup> June, 2023.

The Questions include a question by the Senator for Laikipia to the Cabinet Secretary for Interior and National Administration on the security situation in both Laikipia and the North Rift Region.

There is a further one by the same Senator to the same Cabinet Secretary (CS) for the Ministry of Interior and National Administration, concerning the rampant abuse of Ketamine.

There is also a Question by Sen. Chute of Marsabit County, to the Cabinet Secretary for the East African Community, Arid and Semi-Arid Lands (ASALs) and Regional Development. It concerns the state of tendering for relief food in the country. That is a very important Statement. There is a further Question by the same Senator to the CS for the Ministry of Investment, Trade and Industry. It concerns prequalification of companies to import commodities by the Kenya National Trading Company (KNTC).

Mr. Deputy Speaker, Sir, I know when we began this business of Question Time to CSs, our colleagues from the Minority Side had their misgivings about the process. I am glad to note that increasingly, as this process has gone on, I see many of them show up on Wednesday mornings, including none other than the Senate Minority Leader and a few others. This morning, I saw them participate. They asked Cabinet Secretaries Questions on issues touching on their specific counties.

I believe, as is the course of politics, somehow somethings always resolves themselves. I hope that matter will stand resolved and we shall carry on together as the Senate and have an opportunity to ask Cabinet Secretaries Questions.

Mr. Deputy Speaker, I have also seen something which I am not complaining about because it is not my business to complain. When the Cabinet Secretaries eventually complain to me, I will pass the blame to you. It is on the expanded interpretation of what Supplementary Questions are. If you were in today's Session, you know that the Cabinet Secretaries who appeared here, answered completely new sets of Questions. They were separate from what had been asked. However, I am glad that they handled it well.

There is an infamous story about the camel and the tent, where it asked for an opportunity to just put in the head alone. You know subsequently what eventually happened. I guess that is what this Parliament can do with this Question Time to our Cabinet Secretaries. Of course, once they are here and there is a matter of great national importance, it cannot be swept under the carpet. We cannot just say that since it was not a previously asked Question, then it is not something worth considering. I believe as a House, we have the power to ask that particular Cabinet Secretary what exactly they are doing about that particular matter.

Therefore, we celebrate you as Senators for allowing that latitude for colleagues to raise issues with CSs. Those issues touch on the people that we represent in this House.

As indicated in Order No.12, I will shortly move a Motion for the suspension of the Morning Sitting on Wednesday, 7<sup>th</sup> June, 2023. This is so as to avail an opportunity for Members of Parliament, including Senators, to participate in the National Prayer Breakfast. This is an annual event convened by Parliament.

Maybe there are people who may hold different views. Sen. Mumma will have to know that this is a bipartisan event. Bipartisan is a vague work but it just for your comfort. Otherwise, there are people who may not want to show up. This is one occasion that as MPs, together with the Executive, we tolerate each other and pray. We hope that the prayers can intervene and sort some of the problems that we continue to face.

Mr. Deputy Speaker, Sir, of course, there is the all-important ritual that on many occasions, we are allowed to sing and present a hymn. Since we are blessed to have Sen. Crystal Asige, I suggest that maybe on Tuesday at 4.00 o'clock, she can organize so that we practice the hymn that we will sing on that day. It is embarrassing to sing with our colleagues from the National Assembly. The Senate can do a better job on its own. So, with your permission, I hope Sen. Crystal Asige is properly briefed on that matter.

Finally, on Tuesday 6<sup>th</sup> June, 2023, the Senate Business Committee (SBC) will consider and approve business of the day. This will contain business that will not have been concluded from the Order Paper today. We will guide on the same.

Mr. Deputy Speaker, Sir, in conclusion, I wish all hon. Senators a happy Madaraka Day, tomorrow, 1<sup>st</sup> June, 2023. I hereby lay the Statement on the Table of the Senate.

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

**The Deputy Speaker** (Sen. Kathuri): Thank you, Senate Majority Leader. As you have indicated, we can now not transact several businesses here because we have no numbers to go to Division. Therefore, businesses appearing as Orders No.8, 9, 10 and 11 are deferred.

**BILLS***Second Reading*

THE PROMPT PAYMENT BILL (SENATE BILLS NO.8 OF 2022)

*(Bill deferred)*

*Second Reading*

THE COTTON INDUSTRY DEVELOPMENT BILL  
(SENATE BILLS NO.5 OF 2023)

*(Bill deferred)*

**COMMITTEE OF THE WHOLE**

THE EQUALIZATION FUND APPROPRIATION BILL  
(SENATE BILLS NO.3 OF 2023)

*(Committee of the Whole deferred)*

THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL  
(SENATE BILLS NO.3 OF 2022)

*(Committee of the Whole deferred)*

**The Deputy Speaker** (Sen. Kathuri): We go to Order No.12.

**MOTION**

SUSPENSION OF THE MORNING SITTING OF THE SENATE  
ON WEDNESDAY, 7<sup>TH</sup> JUNE, 2023

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to move this Motion in an amended form:

THAT, notwithstanding the Resolutions of the Senate made on 16<sup>th</sup> February, 2023, and 29<sup>th</sup> March, 2023, pursuant to Standing Order 32 on approval of the Senate Calendar (Regular Sessions) for the Second Session 2023; and further notwithstanding the provisions of Standing Order No.34 (1), the Senate resolves to suspend its morning sitting on Wednesday 7<sup>th</sup> June, 2023.

Mr. Deputy Speaker, Sir, the reason I move the Motion in an amended format is because previously, when I gave the Notice of Motion, it was assumed that the prayer



session was to happen today. However, because of many other reasons, it could not be undertaken. It has been moved to next week.

Like I had mentioned, I served in the Parliamentary Service Commission (PSC). I know that Parliament is a significant contributor. We fund this particular event from our own accounts as Parliament.

I think Sen. Maanzo is one of the co-chairs. I am not sure who serves as the co-chair from the National Assembly for purposes of planning and putting together this event. Therefore, it is important, like I mentioned a few minutes ago, for Members to find time and attend this function.

Therefore, I request the House to agree with me in this Procedural Motion, that we suspend our Sittings on Wednesday morning and resume in the afternoon after the prayers.

I beg to move and request Sen. Chimera to second.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Chimera.

**Sen. Chimera:** Thank you, Mr. Deputy Speaker, Sir. I rise to second the Motion by the Senate Majority Leader. This is a very important national function. As you all might be aware, we are a very prayerful nation and this is a proper Motion. It is actually okay, if as the Senate, we suspend the sitting of that day, so that we can have an opportunity as Senators and Kenyans, through our leadership, to actually converge and pray for the nation.

I also take this opportunity to thank my colleagues for tweaking the morning Session, to relay their Questions to the CSs. I believe that next Wednesday, we will have a chance to congregate, speak to our Lord, air our issues and pray for this nation. We know we have come from a very tempestuous political period. It is only prayer that can actually lead this nation in the right direction.

With those many or few remarks, I beg to second this Motion.

*(Question proposed)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Crystal Asige, do you want to contribute?

**Sen. Crystal Asige:** Thank you, Mr. Deputy Speaker, Sir. I had pressed the microphone to contribute to the Statements. I did not know that we were not going to be contributing to the Statements that were laid under Standing Order No.53(1).

**The Deputy Speaker** (Sen. Kathuri): I am sorry; we were time barred. So, today I used the word “may”.

Proceed, Sen. Okiya Omtatah.

**Sen. Okiya Omtatah:** Mr. Deputy Speaker, Sir, I want to contribute to the Motion by saying that adjourning for the prayer day is apt. Even though we are not a theocracy and we must masquerade as one, it is important that those who want to pray are given an opportunity to do so.

We will see to it that the opportunity is granted since it will be interdenominational only that prayers are a private function. A taxpayer should not pick up the bill.

The Senate Majority Leader told us that the Parliament contributes towards the prayer day. Nonetheless, I have not been asked for my contribution. So, I do not know how Parliament contributes. Is it from the taxpayers' funds or from our funds?

Nonetheless, it is a good thing to pray, as long as the taxpayer does not pay for the prayers. Otherwise, we shall be violating the Constitution on the establishment of religion. There should be no state religion, either in terms of all religions being state religions or one religion being a state religion. So, we should avoid to try to portray this country as a theocracy. We should give room to God in public spaces, however, as a private endeavor, not to be paid for by the taxpayer.

I will not attend a prayer meeting unless I get an invoice saying you have to pay this much. This is because I know there is a lot of food being eaten there. I have not been invoiced for that. So, I will not participate in the stealing of public funds by the Members of Parliament.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Proceed, Sen. M. Kajwang'.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, I rise to support the Motion. When I look at the Constitution of Kenya, the Preamble says-

“We, the people of Kenya-

ACKNOWLEDGING the supremacy of the Almighty God of all creation”.

Mr. Deputy Speaker, Sir, that Preamble does not talk about the Jewish, Islamic, African or the Caucasian God. It talks about God of all creation. So, we must acknowledge the supremacy of God, whoever you perceive him to be.

There is a phrase in Desiderata by Mark Rehman that talks about believing in God, whoever you perceive him to be. What we must be careful about in this country is to elevate one God above others. It is to elevate the Christian God above the African gods, or *vice versa*.

In this country, and even in the county that I represent, many people are practising Christians. However, there are still people who believe in African gods and spirits and a connection between those present and those who have gone before us.

Mr. Deputy Speaker, Sir, that is why even when we go to funerals, after praying and invoking all the Latin liturgies that accompany our burial ceremonies, you will find us telling the dead to go and pass our greetings and messages to those who died before them. That tells you, that we are like the Oreo biscuits. We are Christian on the outside and African on the inside.

It is important for a country to pray and recognize God, but our Constitution also requires us to recognize other people. If you look at that Preamble, our first acknowledgement is the supremacy of the Almighty God.

The next line is that we need to honor those who struggle to bring freedom and justice to our land. When will Parliament ever adjourn to honor those heroes who struggle to bring freedom and justice to our land?

Yes, we have got the Madaraka Day and Jamhuri Day. Those are national and public holidays. However, when will Parliament deliberately take time to honor those who heroically struggle to bring freedom and justice to our land?

Mr Deputy Speaker, Sir, that Preamble is the basis upon which the State of Kenya is established. Let us not only think about God when things are going bad. Let us think about the heroes who established this State called Kenya and the other commitments that we have made in our Constitution.

God helps those who help themselves. I believe in that. There are some people who think that it is a saying by dynasties and it does not favour 'hustlers.' If 'hustlers' will not go out to push that wheelbarrow to the market, they will not get money for the day.

This country cannot mismanage its finances and policy, then turn to prayer. We must do the things that God has endowed us with knowledge, wisdom and capacity to do. After we have applied ourselves fully and see that results are not forth coming, that is when we go for that national prayer, fasting and all those activities that we are being encouraged to do.

I have no problem with religion and with us setting aside a day for prayer. I only have a problem with anything that will breach Article 8 of the Constitution that says that there shall be no State religion.

I encourage those who are organizing the prayer day to ensure that all the gods that we believe in are worshipped, upheld and put at the same level on the day that we will be having the national prayers.

Finally, if you look at the Second Schedule of our Constitution, our national anthem is there. The opening comments in our national anthem is "Oh God of all Creation, bless this our land and nation". The next one says justice be our shield and defender.

Mr. Deputy Speaker, Sir, I hope we can be true to the words of the national anthem. Not just the first stanza, but to the entire national anthem so that justice, liberty and plenty can be found within our borders. When there is plenty within our borders, the State shall not steal it back from us in the form of draconian taxes.

I support.

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, having no other Senator interested to contribute, I call upon the Mover to reply.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I thank the colleagues who have contributed to this fairly straight forward Motion.

In the 19<sup>th</sup> Century, there was a German Philosopher called Friedrich Nietzsche. He advanced the theory that came to be known as God is dead. Therefore, a few of his adherence at the university where he taught, wrote a huge mural on the wall that God is Dead, Fredrick Nietzsche.

As fate would have it, in the year 1900, he passed on. Then, one cheeky student came and wrote underneath him on the mural that they had made celebrating Fredrick Nietzsche and signed onto it with a spray pen that Nietzsche is dead, signed God.

Mr. Deputy Speaker, Sir, that lesson is to those who may want to believe or imagine that for one reason or the other, there is no place for God in our society. I do not get that sense from any of the contributions that have been made today. However, it is important that as a House, we take time.

I appreciate what Sen. M. Kajwang' has read for us on the sanctity of our thoughts and the place of God in our affairs as a State.

I do not think that, in any way, getting us to pray suggests that there is a dereliction of duty on our part as leaders especially, those that serve in this present administration. Rather, it is an admission that despite all the knowledge that we may have, sometimes there are challenges that are beyond the will and the power of man that only the super natural can solve for us.

Mr. Deputy Speaker, Sir, we will take two, three or four at most for prayer. I have attended many of these prayer breakfasts, as national leaders, to reflect on where our country is and where we need to go. I do not think that it suggests in any way that we have surrendered and that only prayers can save us. In as much as we know the challenges that we face today as a country, it will take beyond the actions of man to rescue us from where we are.

The challenges that Kenya faces today are unique and interesting. On one side, we have people trying to resolve them and on the other, we have people who were part and parcel of creating the mess and are now shouting loudest about how not to resolve that particular mess. It is a unique situation that we find ourselves in as a country. We hope that in terms of prayer, we can take time to reflect and even think about the less fortunate.

Mr. Deputy Speaker, Sir, just because of a mere proposal of something called a Housing levy, the conversation is now alive for the first time. In fact, yesterday, a constituent of mine asked me about this law that we have brought? Little did they know that the Finance Bill has always been part and parcel of parliamentary practice. It is a clear ritual in Parliament.

I reminded them that if you recall three or four years ago, there was a similar fight when Value Added Tax (VAT) was being introduced on petrol and fuel. There was a big divide in the National Assembly at that particular time. It is when they recalled that, indeed, they have been such conversations before.

We find ourselves in a unique place where, unfortunately, that cheap and retrogressive politics cannot solve. I hope that when we take time to pray, as leaders, we will come to the realization that we have a country to mind after we are done with our politics depending on whichever side of the divide we belong to.

Mr. Deputy Speaker, Sir, I would not wish to say much. I am sure there are other opportunities to say a lot on that particular topic. Let me not flood on this very important Motion that allows us, as a House, to take a break to go and pray. I welcome everybody, including Sen. Okiya Omtatah, who has said that he wants to see an invoice. I will gladly tell him that I have paid for him. You are more than welcome on that day.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I determine that this matter does not involve counties and, therefore I put the question.

*(Question put and agreed to)*

Next Order.

**BILL***Second Reading*THE EMPLOYMENT (AMENDMENT) BILL  
(SENATE BILLS NO.11 OF 2022)*(Sen. Cherarkey on 30.5.2023)**(Resumption of debate interrupted on 30.5.2023)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey, you have a balance of 55 minutes. I assume you were moving this Motion yesterday.

**Sen. Cherarkey:** Thank you, Mr. Deputy Speaker, Sir. I continue moving the Employment Amendment Bill (Senate Bills No.11 of 2022) on the right to disconnect.

Yesterday, in the opening remarks, I said that this Bill generated a lot of issues across the country where people were saying that it would promote *kupiga sherehe* because your employer will not call you. In the onset of COVID-19 and lock down, we started working remotely.

There was a lot of challenges when it comes to how you regulate working hours. There is change in the traditional environment. When you look under Clause 27 of this Bill is on hours of work. As per the standard practice, hours of work in Kenya are between 8.00 a.m. and 5.00 p.m. in the evening. The Employment (Amendment) Bill (Senate Bills No11 of 22) is in recognition of the ever-changing work environment where many people are working from home.

There is a lot of misinformation about this Bill. Some have claimed that the Bill proposes that employers should not call employees after work. How will you regulate on the hours and how do you ensure that somebody who is at home is working? There is a standard of engagement in this Bill of the right to disconnect. Naturally, you will be paid overtime.

This Bill of right to disconnect is to protect the workers from burn out. There are notorious employers who give you an assignment at around 4.45 p.m. and say the report should be ready by 8.00 a.m. the next day in the first briefing meeting. We are becoming a threat to the right to privacy and family which is very important.

Many people have been given an opportunity to the right to disconnect. Developed countries such as France passed the law in 2016. In Belgium where we have 65,000 people in the public sector passed the law in January.

*[The Deputy Speaker (Sen. Kathuri) left the Chair]*

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

France and Portugal also passed the right to disconnect. The USA is in consideration. In 2012. The Volkswagen Company Limited blocked employees from getting emails beyond 5 p.m. This was to protect them from getting burnout.

Madam Temporary Speaker, the European Union (EU) came up with the right to disconnect in January 2021 as the workers right. The EU has defined the right to disconnect as –

‘A worker’s right to disengage from work and refrain from engaging in work related electronic communication such as emails and other Short Messages Services (SMS) during non-working hours.’

Kenyans should understand that there must be a proper way of doing these things. That is why in my opening remarks, I said it is important, for employees to have their personal time and privacy respected and for connected purposes. There is an argument in the country where people are asking how we can implement this law. I have seen even the Federation of Kenya Employers raising questions of how you can comply with it. What I am doing is migrating the workspace in line with the remote working.

Madam Temporary Speaker, when you look at Article 41 on labour relations, it talks about every person has the right to fair labor practices and reasonable working conditions. Therefore, it is a labor right even under the Employment Act. We must provide a reasonable working environment.

Even if you look at Section 31 of the Employment Act, it is about housing. You have seen a situation where the issue of the Housing Levy Fund is becoming a serious issue.

Kenyans did not know the provision of Section 31. I can just read it for the benefit of colleagues. Section 31 states as follows -

“An employer shall at all times at his own expense provide reasonable housing accommodation for each of his employees either at or near to the place of employment.”

Madam Temporary Speaker, Kenyans are now realizing that you must provide for your employees housing. The Employment Act is very clear. What I am adding is enriching reasonable working conditions to protect employees.

You were on the Floor of the House and I heard your serious contribution on mental health of police officers. Most of our employees and workers are suffering from mental burnout and mental illness because of the pressure from work. People are suffering from diabetes, high blood pressure, heart related diseases because of the pressure of targets. For example, in banks, you must meet targets.

I am not saying that people should not sign performance contracts. They should. There are targets. They are being told if you do not achieve this, you are fired. It destabilizes even the mind of that employee. You find employees feeling disengaged from their family yet the basic unit of any society is having a strong family. That is the strength of a nation.

You need to have a strong family. You must be there for your children and your spouse so that they also grow so that we do not raise a generation that does not respect authority, accountability or transparency. Therefore, regarding this right to disconnect, it is good that the people's watchman is on the Floor. I am giving him something to properly litigate.

If we pass this law, you shall not have an employer calling you beyond your leave days, off days and beyond working hours. If they do that, they will be abusing that

right that has been provided for. Therefore, Sen. Okiya Omtatah, as the people's watchman and one of the serious litigators on human rights that we have in the Republic, would have the opportunity to also look at the law.

Madam Temporary Speaker, this is the first law of its kind in Africa. Many people would say, why would we need to disengage? I have given enough reasons as to why including the right to privacy, avoid burnout, protect mental wellness of the employees, ensure fair work and remuneration. Equal work, equal pay.

I am told in some organizations that some of the managers give work to their employees immediately before 5.00 p.m. which is unfortunate and unfair. I know there could be office wars. Some managers are malicious and they might be wanting to hold down, especially the interns and some might be having other intentions that are not known. The point is that this should be a warning.

I have seen the Federation of Kenya Employers and the Central Organization of Trade Unions (COTU) are saying, if you have to call me as your worker, there must be some sort of arrangement so that you pay overtime. If I am meant to leave the office at 5.00 p.m. and you give me work that I should complete by tomorrow morning, then I should be paid for that period. So, we pay for overtime beyond the normal salary.

Therefore, I am looking at amending the Employment Act by introducing Clause 27 (A)-

“An employee has a right to disconnect from the employer for the purposes of this section put in place policy regarding the circumstances under which an employer may contact an employee during out of work hours.”

So, it is not a blanket statement. It states clearly the circumstances under which an employer may contact an employee during out of work hours. It is there.

(ii) “Use of electronic devices to send or receive information, messages, or any digital work-related communication during out of work hours.

(iii) Circumstances under which the right to disconnect may be waived.”

It is very important. For example, somebody can ask: What about security agencies? What about essential services? This has been provided for. There is an engagement like doctors on call and many others.

Part (B) specifies the nature of compensation for employees who work during out of work hours - the payment of over time. Where an employer has employed more than 10 employees, such employer, shall while formulating a policy under sub-section two, consult the respective employees or where applicable a trade union.

I do not know why COTU was worried and yet this is a very straightforward matter that talks about anything. The union will look at it. The right to disconnect shall be subject to the terms and conditions specified under Section 10. The right to disconnect shall be limited only to the extent necessary to address the emergency arising out of work fully within the responsibility of the employee.

If you are a doctor or a nurse working, for example, at The Kenyatta National Hospital (KNH) and you are needed as on emergency; if you are a police officer or anybody working under emergency, it is important that the right to disconnect will be to the extent necessary to address the emergency. Outside the emergency, you must be paid

over time. You must be paid for working extra hours. I was asking FKE that you must also have a serious productive workforce.

When you have employees working beyond 5.00 p.m. in the evening, their concentration and sugar levels become low. They become tired. I do not think it would be fair at that point. Therefore, when you look at this, I am telling the FKE, COTU and other trade unions that the reason the law has given 8.00 a.m. to 5.00 p.m. as working time and 56 or 52 hours within a week for work, is to give employees time to rest.

You have seen even the Universal Health Coverage (UHC) was disengaged the other day on 19<sup>th</sup> May. The contract of the UHC staff who had been contracted under COVID-19 program came to an end. We are talking about improving working environment. I think that is what is important. Therefore, there is a lot of victimization.

So, the question that Kenyans ask is: If your boss calls you and you do not reply, what happens and yet you do not work in an emergency programme? There is no engagement of payment. If your boss calls you under this law and you do not receive the phone call; you are on a weekend, you are unwinding and you are enjoying yourself, you are somewhere in Watamu, Ukunda, Kendu Bay, Busia or in a place called Steven Kosittany Gardens in Nandi; you are unwinding and your boss calls you. If you do not receive that phone call, you might end up being disciplined.

I know of a former CEO who used to call his employees in the evenings, weekends and while on annual leave, maternity and paternity leave. You can imagine instead of having a paternity leave or taking care of your child, somebody somewhere is calling you. If you do not reply, you risk being reprimanded.

Sub-section 6 states as follows: -

“An employee shall not be reprimanded, punished, or subjected to disciplinary action if the employee disregards a work-related communication during out of work hours.”

Madam Temporary Speaker, even here in Parliament, you should not call your staff beyond the working hours. They have the right to refuse to answer the call. If they do not pick that phone call, they should not be reprimanded or face disciplinary action.

I know the culprits are normally in media because I have friends who are journalists. A fire breaks out in Gikomba Market and you are working for certain media houses, I do not want to name names because of risk. Somebody might think we are saying it out of the privilege here.

Madam Temporary Speaker, for example, you have been called to go and cover Gikomba Market at 2 a.m. in the morning. You may be sleeping or performing Godly duties at night. There are assignments that should be done at night as God directed all of us in the holy book of Genesis. You are resting. Maybe even you are unwell, but your boss calls you to go and cover that story. I think journalists bear the brunt.

For police officers and others, it is an emergency, it is an emergency situation. In a couple of minutes, I will wind up and then Sen. Okiya Omtatah will second because he has vast knowledge on such issues. This is a situation where the employer contacts the employee beyond working hours without mutual agreement. I know there are Kenyans who use night shift. So, if you are working in night shift between 6 p.m. and 6 a.m., as your boss, I am not allowed to call you unless there is mutual working environment.



That means I must compensate you as an employer. So many Kenyans were asking, what happens now if my boss calls me and I am enjoying because tomorrow is a public holiday? Some people have started winding down or winding up for the holiday. If, for example, they have left office for like two minutes, what happens?

That is why, for example, our staff here, traditionally, our working hours as Parliament are not the 8 a.m. to 5 p.m. There is a way we work. So, this is a mutual agreement. I do not expect an avalanche of litigation simply because you are working in a night shift. For our case here, saying they should not call you beyond 5 p.m. is misinterpretation of the law. There must be a proper arrangement and compensation.

Madam Temporary Speaker, where an employer contacts an employee out of work hours where there is no mutual agreement, the employee shall not be obliged to respond and shall have the right to disconnect.

I am not saying when you see a call from your boss, you switch off your phone or throw it away. I am saying when you are called and there is no arrangement, you have a right to disconnect. You even block the email WhatsApp and SMS.

I am not encouraging employees in this country to block their bosses after 5 p.m. There is that feature where you can block. It is called supplementary services or divert. You do not need to divert to someone else. People are very malicious. They can divert you to other areas like 999, the police diversion.

Secondly, you may choose to respond for which an employee should be entitled to compensation. So, if your boss calls you and you receive, you must be compensated. So, if calling you at 5.42 p.m. as your boss and I give you an assignment that should be completed tomorrow, those over time working hours must be compensated. I believe that is the law. So, you may choose to disconnect or receive the assignment and then demand for compensation as per this law.

Madam Temporary Speaker, the provisions of these sections shall not apply to the provision of essential services. It will work together under Section 81 of the Labor Relations Act.

This is my final part of presentation regarding a person who contravenes this section. If your boss calls and insists on receiving compensation or you contravene Section 31 (a) that we are introducing above all work hours, you shall be liable to a fine not exceeding Kshs500,000 or imprisoned for a term not exceeding one year or both.

So, if your right as an employee is violated, the legal remedy is you must pay that employee a compensation of Kshs500,000 or one-year imprisonment as an employer or both.

Madam Temporary Speaker, I believe this is a straightforward matter. If you keep calling your employees, harassing them, giving them work and you are not compensating them, you are threatening their right to privacy, family time, causing burnout, mental wellness and their energy.

I know of employees, when they leave the office at 5 p.m., they go to the gym to become what you call 'summer bunnies.' In the USA, especially this winter season, people are trying to get what we call in street language 'summer bodies,' or 'summer bunnies.' I am told they travel to Kenya during cold season.

I am also told men are malicious when their wives or girlfriends get ‘summer bodies.’ They say ‘*huyu tutaweka mimba.*’ In summary, the punishment is Kshs500,000 or one-year imprisonment or both.

The Federation of Kenya Employers (FKE), the COTU, the other unions that work for workers, the Kenya Medical Practitioners Pharmacists and Dentists Union (KMPDU), the Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Worker (KUDEIHA) and the others should be aware of this provision.

Employers should know it is simple. If you are being paid way above Kshs1,000 per hour, I do not know why it is hard for the employer to pay. If there was a worker now, it is 47 minutes after 5 p.m. If they were paid within hours, I do not know why you do not want to pay in a remote manner.

If I am working from the house, it is the same as working from the office. COVID-19 taught us that you can work effectively and efficiently from out of office. Of course, there were many ugly scenes. There are challenges coming working from home remotely. We saw even here we used to have hybrid sittings with people working from home. We saw wonders. It was advantageous, but there are many challenges working remotely. I remember using skype and an application being used by courts.

Employers have raised issues and challenges with this right to disconnect. It is on how to monitor people working from home and at which time. This is because there was a cartoon where somebody was sleeping on the bed, and then ensured only the face was visible. You cannot tell whether they have worn a tie.

I remember in this House, there were many challenges. People used to put their beards and their eyes just to show when they were submitting. You never know whether they have dressed properly for the meeting or for the House sitting.

Those are challenges that come with remote working conditions. However, I believe it was a challenge of Covid-19 and other pandemic situations. It will assist us to ensure there are no traffic jams that eat a lot of our time and resources. It even destroys our roads because we cannot do it remotely.

I do not know whether Sen. Okiya Omtatah saw this in some international media. There was a time where people were questioning the etiquette of some students in the USA and other Western countries delegating their assignments to enterprising young Kenyans. Although the issue of etiquette is same as working remotely.

Madam Temporary Speaker, this is the manifesto of the Kenya Kwanza Government. It is the promise that they had to Kenyans. I saw some people on social media saying that as a Government, we have lost our manifesto. I can confirm that the manifesto of Kenya Kwanza is still there. One of its agenda is the digital superhighway and creative economy. That is the President’s Manifesto.

Therefore, we will build on issues of fibre optics. We will give each constituency 100 computers and Information Communication and Technology (ICT) labs. Young people will be able to work from their constituencies remotely in those labs using the digital superhighway and creative economy.

This right to disconnect is because it is tempting for you to stay on your computer for longer hours. The Government is working on ways of ensuring we have a digital

superhighway and a creative economy, where young people will work. This should be in place in the Public Service because people should also be creative.

When you look at the Public Service Charter, it talks about the Presidential Awards being done digitally. Our Public Service is yet to adapt to the changes of working remotely. That is why I was looking at the annual report for the financial years. This relates to the Public Service Commission.

Madam Temporary Speaker, I have read through it. Unfortunately, they are yet to embrace remote working. The biggest employer is the Government. We must have a way of ensuring that people can work from home in order to ensure we provide services. It is important that when it comes to working from home, the Public Service Commission should change its ways to accommodate that.

For the benefit of Kenyans and colleagues who are following, “out of work” means hours other than the hours of work agreed upon between an employer and employee in the contract of employment.

Madam Temporary Speaker, you might have a night shift, but the Employment Act talks of between 8.00 a.m. to 5.00 p.m. For example, maybe the contract of the secretariat in your office stipulates that they should work from 9.00 a.m. to 7.00 p.m. That is what I meant by the definition. If your driver works between 7.00 a.m. and 9.00 p.m. and that is agreed, that is what I meant by out of working hours.

Our deepest condolences to you, Madam Temporary Speaker. We were informed that you lost your driver. Our prayers and thoughts are with the family of your driver and we will keep praying for you.

“The right to disconnect” means that an employee is entitled not to be contacted by the employer during out of working hours as per by the employer’s policy. In relationships, this would work well, especially for us young people.

When you no longer want someone, you block them. In the streets language, when they “boot you” or leave you, the right to disconnect can work well. Young people will block you. That is what “the right to disconnect” means.

Those are just quick definitions, which I wanted Members to be aware of. We are moving to a digital age. That is the future and there will be nothing else.

I say without fear of contradiction that the country is ready for the digital age. We are looking at the possibility of people working remotely.

Whenever I sit in the County Public Accounts Committee (CPAC), I usually see Sen. Okiya Omtatah coming with a big laptop. I do not know which make it is but I see him working remotely. Sometimes he tells me that he is filing some issues with the courts. That is the direction we should take. Either we agree to change with change or change will change us.

I request my friends at the FKE to not fight this law. In fact, I am assisting them. For example, I am a farmer because I have a few cows. Therefore, I am an employer because I have employed a herds boy. That herds boy can call me at night when I am tired and do not want to receive phone calls. It is also a two-way traffic because it will help all of us.

I urge the employers and trade unions to embrace the change in the working environment. We cannot keep on asking people to be in the office between 8.00 a.m. to

5.00 p.m. We should not continue disturbing the right to family time of the employees. We need to avoid burnout so that we increase productivity of employees wherever they are. We need to protect their mental wellness as well.

Madam Temporary Speaker, I challenge the Committee on Labour and Social Welfare and the Public Service Commission on the need to be creative by enabling remote working. I do not see why a clerk should be in the office from 8.00 a.m. to 5.00 p.m. If they can work from home, so be it.

That right to work from home or remotely should not be abused. Employees should also not take advantage of the right to disconnect or harass their employers in case there is a meeting.

With those remarks, so that I allow Sen. Okiya Omtatah to second, I would like to thank the Committee on Labour and Social Welfare for standing with me, facilitating and assisting in drafting and publishing the Bill.

Madam Temporary Speaker, I look forward to reply consequently and hope the National Assembly will process this Bill and allow the President to sign it into law. It will be the first in African. There are less than 10 countries across the world that have adopted the right to disconnect in this digital age.

I thank you.

**Sen. Okiya Omtatah:** Madam Temporary Speaker, I rise to second the Employment (Amendment) Bill (Senate Bills No.11 of 2022), which has been moved by Sen. Cherarkey.

I will not repeat what the Senator has eloquently presented. All I want is to say that this Bill is timely and is clearly anchored in the Constitution of Kenya.

I want to begin by referring the House to Section 7(1) of the Sixth Schedule to the Constitution of Kenya which states-

“All law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with the Constitution.”

Basically, this Bill is trying to anchor the Employment Act that was enacted in 2007 in the Constitution of Kenya, so that we do not have to read and do the adaptations but Parliament does the adaptations for us. Therefore, this Bill is important.

I would like to refer to Article 41 of the Constitution of Kenya, which provides for labour rights. Section 41 states:

“(2) Every worker has the right —

(a) to fair remuneration;

(b) to reasonable working conditions;”

The reasonable working conditions is what the Bill is trying to achieve, so that outside working hours, people can enjoy their privacy and pursue other legitimate courses, unless it becomes absolutely necessary to engage them in matters concerning where they work.

Madam Temporary Speaker, in terms of remuneration, the Bill also tries to underscore the requirement for employees to be compensated for any work done outside the official working hours. Of course, the Bill goes further to impress the digital economy where all of us are headed.

This Bill is timely and I second it. As the Mover prayed, I also pray that it will pass in this House and get concurrence in the National Assembly, so that we can have an Employment Act, that is awake to the ethics of the Constitution of Kenya, 2010; which pronounces itself on the right of workers.

With those few remarks, I second the Bill.

*(Question proposed)*

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Murgor.

**Sen. Murgor:** Thank you, Madam Temporary Speaker for giving me the opportunity to contribute to this Bill.

Today's world is becoming a world of pressure in many ways. There is pressure from family, responsibility, job, environment, neighbours and so on. Whichever opportunity one gets to work in a conducive environment so that they do not face a lot of pressure, will enhance the ability and effort that one can contribute towards expected duty or work.

The world has also had the opportunity and advantage of technology, which is unlike what it has been traditionally. For a worker to work from home or wherever it is convenient for them is quite in order and appropriate. It is because today's technology can enable them contribute towards work just as much as being in an office.

Along with that, many settings may not allow for space since a worker may have inadequate office or a place to work from. Therefore, working from home is convenient in the performance of their duties. It is very appropriate because some situations may not have office space. Allowing a worker to contribute positively towards their work is very appropriate.

I support the Bill.

**Sen. Kibwana:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Mumma): What is out of order, Sen. Kibwana?

## QUORUM

**Sen. Kibwana:** Madam Temporary Speaker, I wanted to rise on a point of order, but my device did not alert you. Nonetheless, Standing Order No.41(1) regarding the quorum states that-

“If at any time in the course of the proceedings of the Senate a Senator objects that there is not a quorum present, the Speaker or the Chairperson shall count the Senators present in the Senate or the Committee as the case may be.”

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Mumma): Clerk, can you confirm whether we have quorum or not?

*(The Clerk-at-the-Table consulted the Temporary Speaker)*

The Clerk has confirmed that there is no quorum. Can the Serjeant-at-Arms ring the bell for 10 minutes?

*(The Quorum Bell was rung)*

### ADJOURNMENT

**Temporary Speaker** (Sen. Mumma): Hon. Senators, pursuant to Standing Order No. 41(2)(a), there being no quorum, the Senate stands adjourned until Tuesday, 6<sup>th</sup> June 2023 at 2.30 pm.

The Senate rose at 6.14 p.m.