

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 12<sup>th</sup> March, 2020**

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

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

**PRAYER****PETITION****REPORT ON PETITION: CHALLENGES FACING INDIVIDUALS  
WITH CONNECTIVE TISSUE DISORDERS/ DISEASE**

**Sen. (Dr.) Mbito:** Mr. Speaker, Sir, I beg to lay the following report on the Table of the Senate today, Thursday, 12<sup>th</sup> March, 2020-

Report of the Standing Committee on Health on a Petition to the Senate concerning challenges faced by individuals with connective tissues disorders.

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

Mr. Speaker, Sir, on 11<sup>th</sup> September, 2019, a public Petition by the Connective Tissue Disorders Association (CTDA) was tabled before the Senate and committed to the Standing Committee on Health pursuant to Standing Order No.223(1).

The Petition was broadly in relation to the difficulties that individuals with auto-immune diseases face in accessing quality healthcare and avoiding catastrophic health expenditures. To this effect, the petitioners alleged that individuals with auto-immune diseases face difficulties in accessing quality health care since there are only five doctors in the country who can diagnose, treat and manage the disorder.

The petitioners had faced difficulties in acquiring health insurance as individuals since most insurance companies do not cover chronic illnesses such as auto-immune diseases. Auto-immune diseases are high maintenance and involve buying regular physiotherapy, diet and medication. Auto-immune diseases result in regular sick-offs leading to poor performance at the work place which limits growth professionally.

Mr. Speaker, Sir, in their prayers, the petitioners requested that the Senate initiates a subsidy of the price of medicines to a more affordable price and interventions in the matter with a view to ensuring that there are more qualified dermatologists and rheumatologists in all the hospitals, initiate the recognition of this group as Persons with Disabilities (PWDs) and therefore get tax exemptions and interventions in the

undersigned group to obtain proper cover under the National Hospital Insurance Fund (NHIF) like the case of Cancer patients who get free drugs and chemotherapy.

The CTDA also requested the Senate to initiate a process of allocation of funds to carry out awareness campaigns that will involve the Government and the private sector to understand the different conditions of the disease and management of patients.

Mr. Speaker, Sir, in respect to the prayers made in this Petition, the Committee made the following determination-

(1) On the prayer to initiate the subsidy of the price of medicine to a more affordable price, the Committee notes that the Ministry of Health has put in place various interventions aimed at increasing access to and affordability of care. The Ministry has developed an updated Kenya Essential Medical List which includes drugs necessary for the treatment of connective tissue disorders which will be availed in all public health facilities under the Universal Health Coverage (UHC) programme.

(2) On the issue of ensuring that there are more qualified dermatologists and rheumatologists in all hospitals, the Committee notes that the Ministry of Health has put in place various interventions aimed at increasing the number of specialist and sub-specialists in the country which include the introduction of collegiate and on-site training programmes to fast-track and expand training opportunities. Policy discussions with the Council of Governors (CoG) aimed at easing the burden of post-graduate training by taking up the cost of training and salaries of post-graduate doctors, plans for deployment of specialists in-training programme from post-graduate training institutions to satellite health facilities in the field, promotion of health and telemedicine services and forging of partnerships and collaborations with medical professional associations such as ArthRheuma to develop guidelines and curriculum for training medical officers, clinical officers, nurses and patients.

(3) On the prayer to initiate the recognition of this group as Persons with Disabilities (PWDs) and, therefore, get tax exemption, the Committee acknowledges that the persons with connective tissues disorders can develop functional limitations that progressively worsen over time and result into actual disability. Where the functional impairment of the individual with connective tissue disease crosses certain thresholds, there are already mechanisms in place to medically assess the threshold of disability and make recommendations for the registration to the National Council of Persons with Disabilities (NCPD).

(4) On the prayer to intervene for the undersigned group to obtain a proper cover under the National Hospital Insurance Fund (NHIF), the Committee notes that the NHIF covers the connective tissue diseases in all benefits packages that it offers under the managed Schemes. However, for the patients in ordinary NHIF cover, the benefit package is limited to dialysis or procedures currently covered under the national scheme. This has left the patients with connective tissue diseases unable to access the needed treatment thus exposed them to catastrophic health expenditure.

(5) On the prayer to initiate the process for allocation of funds to carry out awareness campaigns that will involve the Government and private sector to understand the different conditions of the diseases and management of the patients; the Committee notes that under the UHC Programme, the Ministry of Health in collaboration with the county governments has developed a communication strategy to educate, raise awareness and promote good health habits among Kenyans. However, it is necessary for the

communication strategy to be inclusive and address the specific needs to patients with connective tissue disorders.

Mr. Speaker, Sir, in summary, the Committee made determination that this Report be dispatched to the Ministry of Health for purposes of reporting back to the Committee on progress made in respect to taking up the burden of post-graduate training from the county governments within one month of receipt of this Report. Further, the Ministry of Health should move to ensure that the specific needs to patients with connective tissue disorders are addressed in its communication strategy under the UHC programme.

Further, that this Report be dispatched to the NHIF for the purposes of developing and rolling out a special cover for patients with connective tissue disorders within a period of six months. This cover should be aimed at ensuring the patients with the connective tissue disorders receive the highest attainable standards of care in line with Article 43 of the Constitution without incurring catastrophic health expenditure.

Mr. Speaker, Sir, I thank you.

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

**Sen. Cheruiyot:** Mr. Speaker, Sir, I am sorry, I pressed the intervention button by mistake as I was logging in.

**The Speaker** (Hon. Lusaka): Next Order.

Sen. (Dr.) Lelegwe, kindly give the notice of Motion.

**Sen. (Dr.) Lelegwe:** Mr. Speaker, Sir,

AWARE THAT, for the first time in seventy years, Kenya is experiencing a humanitarian and conservation catastrophe in the wake of the desert locust invasion affecting more than a quarter of the entire country;

FURTHER AWARE THAT, the swarms now invading Kenya arrived from Somalia and Ethiopia, where they have already caused widespread devastation of crops and grazing land before moving south and then west---

**Sen. Wetangula:** On a point of order, Mr. Speaker, Sir. The distinguished Senator for Samburu County briskly walked to the Dispatch Box and started reading some papers. I wonder what he is doing. Is he giving a notice of Motion or making a personal statement? If he is giving a notice of Motion, he should start by saying, 'Mr. Speaker, Sir, I beg to give notice of the following Motion' before you proceed to read the notice of Motion.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Lelegwe, you are in the Speaker's Panel. Kindly, do the right thing.

**Sen. (Dr.) Lelegwe:** Mr. Speaker, Sir, I apologize for that mistake. I have noted that I have not moved the notice of Motion as I should. Let me do it the right way.

## NOTICE OF MOTION

### MEASURES TO ADDRESS DESERT LOCUST INVASION IN THE COUNTRY

**Sen. (Dr.) Lelegwe:** Mr. Speaker, Sir, I beg to give notice of the following Motion, today, Thursday, 12<sup>th</sup> March, 2020 -

AWARE THAT, for the first time in seventy years, Kenya is experiencing a humanitarian and conservation catastrophe in the wake of

the desert locust invasion affecting more than a quarter of the entire country;

FURTHER AWARE THAT, the swarms now invading Kenya arrived from Somalia and Ethiopia, where they have already caused widespread devastation of crops and grazing land before moving south and then west;

COGNIZANT THAT, locusts are highly mobile and destructive, and according to the Food and Agricultural Organization of the United Nations (FAO), each square kilometre of locusts in a swarm can eat as much in a day as 35,000 people;

CONCERNED THAT, localized aerial spraying using chemicals that are purportedly safe for humans and other insects has failed to contain the invasion, causing farmers to take matters into their own hands, and use more harmful pesticides that could have a serious environmental impact;

NOW THEREFORE, the Senate urges the national Government, through the Ministry of Agriculture, Livestock and Fisheries, in partnership with the county governments to-

1. declare the locust invasion a national disaster;
2. develop methods for sharing information and best practices to coordinate and build the necessary capacity in combating the locust menace to predict, monitor and control the spread of new swarms;
3. establish modalities for enhancing the requisite financial, technical and logistical capacity of the Desert Locust Control Organisation for Eastern Africa;
4. support the counties with urgent and consistent resources such as pesticides, sprayers and motor vehicles in order to control the reproduction and further spread of the locusts;
5. fast track the impact assessment of the locust invasion and ensure adequate restitution initiatives are in place for farmers who suffered loss as a result of destruction caused by the locusts; and,
6. establish mechanisms to safeguard the Strategic Grain Reserves with a view to mitigate against famine and food shortages across the country.

I thank you.

### COMMUNICION FROM THE CHAIR

VISITING DELEGATION FROM MURUAKI BOYS  
HIGH SCHOOL, NYANDARUA COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Muruaki Boys High School, Nyandarua County. I would like to welcome them in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate and on my own behalf, I wish you a fruitful visit.  
I thank you.  
Next Order.

### STATEMENTS

#### NON-PAYMENT OF STIPEND TO TEACHERS CONTRACTED UNDER THE INTERNSHIP PROGRAMME BY THE TSC IN LAMU COUNTY

**Sen. Loititip:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Education concerning the non-payment of stipends to the teachers contracted under the internship programme by the Teachers Service Commission (TSC) in Lamu County. In the Statement, the Committee should-

(1) Explain the nature of the contract entered into between the TSC and the teachers on internship.

(2) State when the TSC plans to pay the intern teachers the unpaid monthly stipends as per the contractual agreement.

(3) What plans are in place to ensure they are paid their stipend on a monthly basis without fail going forward; and,

(4) outline the measures that the national Government is putting in place to ensure the interns are gainfully employed once the internship comes to an end.

I thank you, Mr. Speaker, Sir.

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

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for the opportunity to support this Statement. I want to commend Sen. Loititip for coming up with this Statement. It should not be taken lightly. I sit in the Committee on Education and there are many times we have discussed about issues of shortage of teachers. If you go to many schools in the counties and especially special schools, you will find that the ratio of teachers to students that is recommended for a special needs children school is undesirable.

Teachers play an important role in the life of a child. Teachers mentor children and pass on the knowledge that is supposed to be desirable so that we raise up children we can pass on the baton to. However, it is unfortunate that this teaching profession has been ridiculed.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order Members! Let us consult in low tones. You are live.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, it is bad and unfair for the children of Kenya if we have teachers who are on internship and yet they are not paid their stipend. It is even very bad for teachers to be interns; they are supposed to be given full employment because there is a shortage of teachers. There is need for the Committee on Education, where I sit, to be serious on the issue of teachers so that the Teachers Service Commission (TSC) comes and answers these questions.

**The Speaker** (Hon. Lusaka): Order! Do you understand the Statement that was put?

What is your point of order, Sen. Wetangula?

**Sen. Wetangula:** Mr. Speaker, Sir, we need some direction. The distinguished Senator for Lamu County made a request for a Statement. Ordinarily and procedurally, any Member who wishes to latch on that Statement asks additional or supplementary questions about the Statement. The distinguished nominated Senator is actually debating the Statement instead of asking questions that may increase the value of the Statement that is requested.

**The Speaker** (Hon. Lusaka): To add on that, the distinguished Senator was being irrelevant. Look at the Statement; they are talking about stipend. Restrict yourself to what has been asked.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, let me make myself very clear. The Senator for Bungoma County should have heard what I mentioned. I said that it is only fair that, if teachers are interns and they have rendered a service, then they should be paid. What is wrong with that? If someone renders a service, then he or she should be paid. Teachers play a very important role in this country. We cannot just keep quiet as we see teachers being treated unfairly.

I also commented - kindly allow me to say this so that Kenyans can listen - that we have shortage of teachers and the TSC should come on board to explain how we will fill this gap. Interns should be brought on board so that they are permanent teachers. The Senator for Wajir County said that there are no teachers in Wajir County. Special schools do not have enough teachers.

Therefore, there is need for the TSC to come so that they are interrogated and we solve this problem for the sake of Kenyans. We are here because of the children of Kenya. We want the children of Kenya to get the best in terms of education.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Musuruve, you seem to be annoying yourself in the course of talking. You need to relax.

*(Laughter)*

Proceed, Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for giving me this chance to also support this Statement from the Senator for Lamu County on the issue of intern teachers that were employed in Lamu County. The TSC was established as an independent institution under Article 237 of the Constitution 2010. This institution is expected to recruit, remunerate and manage teachers.

In addition to this, under the Government policy on internship, they are supposed to recruit qualified youth and engage them in various schools. They are supposed to pay a stipend of Kshs10,000 and Kshs15,000 for primary and secondary school respectively. However, to date, for well over three months, these intern teachers have not been paid. This is an illegality.

Mr. Speaker, Sir, one wonders how these teachers are faring on in those schools. Furthermore, I got to learn that these teachers are well over 300 against 40 schools. That means that those schools are already suffering because the teachers in those schools are

very demotivated right now. The new Competency-based Curriculum (CBC) has been a challenge with regard to the skills that teachers are supposed to acquire while teaching. Right now, with issues of nonpayment, I think the problem is going to be escalated.

It is high time that the TSC explained to Kenyans whether they want to waste our little children that are engaged in these various schools. These children are going to lose a lot because they are being taught by people who are not happy. For anyone to perform to maximum, such a person must be motivated---

**The Speaker** (Hon. Lusaka): Order, Sen. (Dr.) Milgo! You are also going the direction that Sen. (Dr.) Musuruve went. You should be asking, in addition, what the Committee should be looking at, to bring to the House.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. I am advised. I encourage the Committee on Education to follow up on this matter and establish the framework on issues of payment and recruitment of these interns. The committee should also find out what effect this will have on our children when we recruit interns to teach them, in the name of providing employment and yet we do not pay them. I am sure this is going to affect the quality of education in those schools.

This is a very important Statement and the Committee on Education must take it up. I am sure this problem is not only happening in Lamu County, but also in various counties where we have interns.

Thank you, Mr. Speaker, Sir.

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

**Sen. Haji:** Asante, Bw. Spika, kwa kunipa fursa hii kuchangia maombi ya Taarifa kutoka kwa Seneta Loitiptip. Kwanza, ningependa kumpongeza Sen. Loitiptip kwa kuleta swali hili katika Bunge la Seneti. Lamu kwanza ni kaunti ambayo iko mbali. Vile vile, ni kati ya kaunti ambazo tunaweza kusema zimetengwa mbali sana na uongozi wa kitaifa. Walimu wanaofanya kazi kule, ambao wanajifunza, ni walimu ambao wanajitolea kuhakikisha kwamba Wakenya wanaweza kupata elimu.

Iwapo TSC itashindwa kulipa yale marupurupu ambayo walimu hawa wanastahili kulipwa kwa wakati, ina maana kwamba tunaendelea kuigandamiza Kaunti ya Lamu kutokana na kupata huduma za kisawa sawa katika nchi ya Kenya. Kamati inapoangazia swala hili, iangazie pia zile taasisi nyingine za kielimu ambazo ziko katika Kaunti ya Lamu ambazo zinapunjwa marupurupu kama vile wanavyopunjwa walimu ambao wako katika kaunti hiyo.

Asante, Bw. Spika.

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

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. I have one or two additional requests to the Committee on Education with regard to this very difficult issue that is being raised by our colleague, Sen. Loitiptip.

First, I have seen in his Statement that he is mainly concerned with the interns who are in Lamu. I humbly request that the Committee brings a report on the status of this internship programme in the entire country.

The reason I make this request is because many of these young people that have been engaged, it would be important to see the nature of the contract that the TSC extended to them and what other benefits they get on top of being interns. There is an emerging trend in the national Government where instead of employing people and ensuring that they enjoy the full perks of an employed person, they offer internship

opportunities and pay them poorly. As it is being exhibited by this Statement, the pay is even inconsistent. Therefore, it would be important to know the status of this particular exercise nationwide.

Mr. Speaker, Sir, second, is the issue that he has raised. After they have received their training for a period of one or two years, what consideration will they be given when the Teachers Service Commission (TSC) recruitment is done? This is an exercise that attracts almost 3,000 to 4,000 extra teachers on a yearly basis. It is important that their sacrifice counts for something. They should be given first priority when TSC resolves to employ teachers.

**The Speaker** (Hon. Lusaka): Next Statement is also from Sen. Loitiptip

STATUS OF THE LAPPSET PRESIDENTIAL  
SCHOLARSHIP PROGRAMME IN LAMU COUNTY

**Sen. Loitiptip:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the Lamu Port and Lamu-South Sudan-Ethiopia Transport Corridor (LAPPSET) Presidential Scholarship Programme in Lamu County.

In the Statement, the Committee should-

(1) State how many scholarships the LAPPSET Corridor Development Authority has offered to students in Lamu County under the Presidential Scholarship Programme.

(2) Explain why LAPPSET Corridor Development Authority has not enrolled 1,000 students under the Presidential Scholarship Programme to local colleges pursuant to the agreement between the Authority and the County Government of Lamu six years after its inception; and,

(3) Indicate what employment opportunities are offered to residents of Lamu County who are beneficiaries of the LAPPSET Scholarship Programme.

**Sen. Faki:** Asante, Bw. Spika. Ningependa kuongezea taarifa ambayo imeombwa na Sen. Loitiptip. Mpango huu wa *scholarship* upo kwa shirika la Kenya Maritime Authority (KMA), Mombasa. Kwa hivyo, ningependa wakati Kamati itaenda Lamu kuchunguza, ipitie Mombasa waulize ni wangapi ambao wamepewa *scholarship* kutoka kaunti za Pwani.

Madhumuni ya mradi wa LAPPSET ni kuinua hali ya maisha ya wakaazi wa kaunti hizi sita. Kwa hivyo, KMA itueleze ni wangapi kutoka Mombasa au kaunti jirani wamefaidika na mradi wa ufadhili wa masomo. Tumeona kwamba wengi wanaopata ufadhili wanatoka sehemu zingine na kupuuza matakwa ya wenyeji.

**The Speaker** (Hon. Lusaka): Let us move on to the next Statement.

SECURITY OF STUDENTS AT  
THE UNIVERSITY OF NAIROBI

**The Speaker** (Hon. Lusaka): Who is reading Sen. Omanga's Statement on her behalf?

The Statement is deferred.

(Statement deferred)



Deputy Senate Majority Leader, you can give your Statement.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 17<sup>TH</sup> MARCH, 2020

**Sen. Dullo:** Mr. Speaker, Sir, pursuant to Standing Order No. 52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 17<sup>th</sup> March, 2020.

On Tuesday, 17<sup>th</sup> March, 2020, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further direction by the SBC, the Senate will on Tuesday, 17<sup>th</sup> March, 2020 consider Bills scheduled for Second Reading and those that are at the Committee of the Whole Stage. The Senate will also continue with consideration of business that will not be included in today's Order Paper.

On Wednesday, 18<sup>th</sup> March, 2020 and Thursday 19<sup>th</sup> March, 2020, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by SBC.

Mr. Speaker, Sir, we have a total of 17 Bills due for Second Reading stage; five of the Bills are due for Division and have been listed in today's Order Paper. They are-

(1) The Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019);

(2) The Sacco Societies (Amendment) Bill (National Assembly Bill No. 1 of 2018);

(3) The Fisheries Management and Development (Amendment) Bill (Senate Bill No. 22 of 2019);

(4) The Statue Law Miscellaneous (Amendment) (No.2) Bill (National Assembly Bill No. 13 of 2018);

(5) The Lifestyle Audit (No.2) Bill (Senate Bill No. 21 of 2019).

Mr. Speaker, Sir, in addition, there are 16 Bills at the Committee of the Whole, three of which are for consideration of the National Assembly amendments and indicated in today's Order Paper at Orders No.13,14 and 15. These three Bills are due for Division.

Hon. Senators will notice that the Bills that are due for Division have been on the Order Paper for quite some time. I urge all hon. Senators to avail themselves this afternoon for the voting process so that we can move to the next stage.

I also take this opportunity to remind Chairpersons of respective Standing Committees to hasten consideration and public participation hearing on the Bills and file reports to enrich debate at the Second Reading stage and guide the House when considering amendments at the Committee of the Whole stage.

In the same breath, I urge respective Standing Committees to expedite consideration of Petitions and Statements before them and table reports pursuant to Standing Orders.

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

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

**The Speaker** (Hon. Lusaka): Let us move on to the Statement by Sen. (Dr.) Mbito.

## COMMEMORATION OF THE WORLD KIDNEY DAY

**Sen. (Dr.) Mbiti:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 47(1) to make a Statement of national and international concern on the observation of the World Kidney Day, today, 12<sup>th</sup> March, 2020.

Today marks the 15<sup>th</sup> observation of the World Kidney Day internationally by 90 other countries including Kenya. This day was first celebrated in 2006 to create awareness of the increasing burden caused by kidney disease worldwide with the aim of improving and educating the world on better kidney health practices.

The work of kidneys is to filter toxins from the body and also maintain the optimum functionality of the urinary system.

Mr. Speaker, Sir, in Kenya, as at 2019, it was recorded that out of 10 Kenyan citizens, one has some form of kidney disease making it about four million people. This number is expected to rise to 4.8 million people by 2030. This is alarming especially since a majority of these people have no knowledge that they have the disease and are likely to lack access to medical facilities that could help them deal with the disease.

Although the Government and other corporate entities have made effort to curb the rise in the number of cases by donating and buying dialysis machines, they are still not enough to deal with all cases efficiently.

Mr. Speaker, Sir, between 1978 and 2002, Kenya had only one dialysis centre at The Kenyatta National Hospital (KNH). However, four more were added in Kisumu, Nakuru and Eldoret.

*(Sen. Cherargei consulted loudly)*

**The Speaker** (Hon. Lusaka): Sen. Cherargei, consult in low tones.

**Sen. (Dr.) Mbiti:** The good news is that the number of hemodialysis unit machines that are used to treat the disease rose from five in 2006 to 54 in 2019. However, despite the increase, a huge number of patients still require the services at all these facilities and further delays may eventually call for more rigorous treatment.

As at March, 2019, the Kenya Renal Association (KRA) noted that the number of patients of chronic hemodialysis, in both private and public hospitals rose eight times from 300 in 2006 to 2,400 in 2018. Additionally, data indicates that out of about four million people who suffer from chronic kidney disease, less than 10,000 are on dialysis and the cases are rising.

On the factors propelling increased cases of kidney diseases, it is because many people realise it when it is too late. This is coupled with inadequate facilities across the country, which renders the treatment ineffective. For instance, at KNH, Kenya's biggest referral hospital, patients with kidney disease wait for an average of eight days from one dialysis session to another. This is way below the recommended number that should stand at least three days. As a result of the waiting, the patients suffer increased risk of renal failure, elevated anxiety and prolonged suffering.

As we observe this day, I would like to urge my colleague Senators, as well as fellow Kenyans at large, to take advantage of this day and the available information and at least go for testing. Several hospitals across the country have been offering free

screening. Today, there is free screening at Uhuru Park spearheaded by the Kenya Renal Association.

Mr. Speaker, Sir, I wish to urge the national Government, as we engage and observe the 15<sup>th</sup> celebration of the World Kidney Day, to consider increasing the availability of medical facilities such as dialysis machines to all hospitals countrywide.

I thank you.

**Sen. Cherargei:** Mr. Speaker, Sir, I commend the Chairperson of the Committee on Health, Sen. (Dr.) Mbito. I am told that today is the World Kidney Day. The statistics we are seeing in the country--- Sen. Dullo was in the House. I think at least every county has a dialysis machine.

According to statistics, 10 per cent of the population is suffering from either kidney complications or kidney diseases. That is around 4.8 million Kenyans and around a billion across the world. I think it is a serious issue.

I know the Government has done a lot to try and ease the suffering of many kidney patients. I hope that each county government--- I hope Sen. (Dr.) Mbito will be in a position to confirm to this House whether all the dialysis machines across the 47 counties and sub-county hospitals are functioning because they assist many people who are suffering kidney ailments or kidney complications.

As a country, we need to make a lot of strides to prevent kidney complications. I know many people who undergo dialysis once, twice or even three times a week. Sometimes when it goes overboard, somebody might lose their life. The Committee on Health should do more especially now that today we are celebrating World Kidney Day, so that we alleviate the pain of many families.

I applaud the Government because it has tried to ensure that every county is made aware that, for example, healthcare in Kisumu County is on its knees. I hope the county governments will take the challenge and ensure that those who undergo weekly dialysis can walk to any hospital, not only sub-county hospitals, but even the dispensaries in any county in this country, to do dialysis.

Mr. Speaker, Sir, I support the Chairperson. The Committee should work hand in hand with the Ministry of Health and the County Executive Committee (CEC) members in charge of health across the counties to ensure that patients with kidney problems access some of these services. As doctors would say; prevention is better than cure.

As we celebrate this day, we should learn how to keep at bay some of the kidney ailments and complications, so that we do not have to do dialysis or any other process because they are expensive and time consuming. Besides, they are not good health wise.

I thank you.

**Sen. Wetangula:** Mr. Speaker, Sir, I thank the Chairperson of the Committee on Health for bringing this important Statement. Every year, the United Nations (UN) dedicates its programme to one of the non-communicable diseases. Kidney problem is one of the non-communicable diseases that afflict many people in the world. Kidney complications come from various causes including poor environment, inadequate clean water and so on and so forth.

As the Chairperson has said, many patients suffer from kidney failure because of late diagnosis. The Chairperson could in future engage the Ministry and the county governments to ensure that there are adequate facilities for diagnosis and detection, so that where there is some discovery in an early stage, it can be arrested.

Equally important, the Chairperson should also, in his Committee, engage the Government at two levels. Firstly, Kenya has never met its commitment to the Abuja Declaration on spending a minimum of 15 per cent of our national budget on health. This is what will help not only on kidney difficulties, but all other communicable and non-communicable diseases.

Secondly, the bulk of money for health---

*(Sen. Linturi consulted loudly)*

**The Speaker** (Hon. Lusaka): Order, Sen. Linturi, consult in low tones. I think you are holding a different *Kamukunji*. Please, listen.

**Sen. Wetangula:** They are holding a Mt. Kenya Parliament in the Senate.

Mr. Speaker, Sir, the bulk of the budget of health is still unconstitutionally retained at the national Government when the function is 95 per cent devolved. The Committee may also wish to engage the national Government to see that they loosen their stranglehold on the health budget, so that counties can also spend sufficient resources in helping *wananchi*.

More importantly, committees like particularly the one headed by the distinguished Senator for Homa Bay must also make sure there is proper accountability in the spending of the money that goes to the counties, because the levels of misappropriation of funds and unaccountability in the counties is quite worrying as well. Those of us who fight so hard and agitate for money to the counties hold our horses because we sometimes fight to take money to the counties just to enrich individuals instead of serving *wananchi*.

I thank you.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I also want to join my colleagues, first, to congratulate the Chairperson of the Committee on Health for bringing this Statement to this House.

Last month, I visited Moi Teaching and Referral Hospital, Eldoret (MTRH). We went to the dialysis centre and I commend the work being done by the doctors and the management there in terms of dialysis. There is so much work taking place in that hospital. I was surprised to find a patient from Kitui who had been brought there by his father and a brother for a kidney transplant. Whereas that is a very good statement to advancement in medical care at MTRH, it is a bad statement on the state of health care in my county.

Mr. Speaker, Sir, I appreciate that there are a lot of cases related to kidney in this country. At Ziwa Sub-County Hospital in Uasin Gishu County, we found patients queuing to see doctors in shifts. Yes, the Government has done good to supply a number of dialysis machines. However, I would highly recommend that all public health facilities, including dispensaries, if possible, be equipped with dialysis machines to take care of the many patients who need dialysis. The function of the kidney is to remove waste products from the system. Our bad eating habits contribute to kidneys being overworked.

I was surprised to find that small children at the age of six to nine years are undergoing dialysis. There is need for the Government to pump in more money to equip

hospitals, dispensaries and others health centres with dialysis machines across the country.

Mr. Speaker, Sir, as I said, I thank the Chairperson of the Committee on Health for bringing this Statement on kidney dialysis.

**Sen. (Prof.) Onger:** Thank you, Mr. Speaker, Sir, for allowing me to comment on the Statement by the Chairperson of the Committee of Health.

Let me put it on record that I am one of the pioneers of the dialysis centres in this country. We set up the first dialysis machines at Kenyatta National Hospital (KNH). That time, it became extremely difficulty to treat patients who had developed chronic renal failure. Therefore, at their end stage of renal failure, they could not survive. We were also the first group with the late Prof. Nelson Awuor to set up the first kidney transplant of Baby Koko who survived at that time. That was the first primary function that we did during that period of time.

Having said so, there are several ways and pathways through which somebody can develop kidney failure. One, is out of infection at early childhood. The common throat infections which go untreated eventually bite the kidney. One develops progressive kidney disease, either at acute stage called acute nephritis or progressively, it affects part of the kidney or just a section of the kidney which is called focal sclerosis. It may also affect the entire system of the kidney, the membrane or the blood supply on the membrane which we call membrane proderative disease. In other words, it is progressive. It ends in end stage renal disease where there is fibrosis of the kidney. Therefore, the kidney fails to be a function of filtering the extraneous material that we accumulate in the body.

Another one may be through what we call auto-immune from the allergic reactions that happen. Others are as a result of other tropical diseases. For instance, when I was doing the research during the irrigation schemes in Ukambani, because of the dams that have been created like the Kiambere Water Dam, one of the biggest problems that we came across was the Bilharzia, what we call Schistosomiasis. People were developing renal failure as a result of the occupational hazards that are attendant with the irrigation programmes like Mwea Tabere Irrigation Scheme and Kano Plains Irrigation Scheme. Largely, these are preventable conditions. This means that if we take precautions, we can prevent the end stage renal failure.

Thirdly, Malaria is a treatable condition. One of the conditions associated with kidney failure is Malaria. If we effectively eradicate Malaria, be able to take care of Malaria at the early stage, we can reduce the intensity and the progression of renal disease.

If we do so and we spend 15 per cent of our national budget on health as indicated in the Abuja Declaration--- I was part of it in Abuja when the ministers of health met in Abuja, we set the bar of 15 per cent. We need to spend more money on preventive and promotive healthcare. With that expenditure, you reduce the intensity and the level of the development of kidney diseases leading to kidney failure.

Mr. Speaker, Sir, when that is done, we will not need these elaborate dialysis machines. However, should that not happen, on occasional cases, and looking at the Managed Equipment Scheme(MES), one of the things that I noted as a professional is that they are fairly equipped, but you must also have hands that are properly trained since

it is a very delicate operation. You cannot just walk in and out thinking that you can do dialysis efficiently. We need trained hands and proper diagnosis.

Mr. Speaker, Sir, one of the times, when we wanted to know what was ailing the kidney tissue, we used to do blind biopsy. You go with a needle, locate it at the back of the patient, estimate what it is and then do a blind renal biopsy. Sometimes, it was attended with some complications. However, later on, we refined that method. I did so many of them. When I was doing the renal biopsy, we did it under what we call imaging intensifier. This is a method where you give a dye that goes through the kidney, when fluorescing and looking at it at an x-ray level, you are able to pinpoint an exact point where you want to take your tissue and be able to get the proper tissue then subject it to microscopy, either the normal microscopy or electron microscopy. If you want to be more sophisticated, tag with chromium 51 which is a fluorescing radioactive material that helps you to understand what the cells are up to. Therefore, they get the deposits.

I do not want to be too technical---

**The Speaker** (Hon. Lusaka): You are already too technical!

*(Laughter)*

**Sen. (Prof.) Ongeri:** Mr. Speaker, Sir, this is largely a preventable situation. We can prevent it. We need to spend on preventive and promotive healthcare. The markers are there. We can use those markers. That is why the World Health Organization (WHO), in their own estimates, think more than 70 per cent of these conditions can be reduced to the level where you can prevent them.

On the nutritional conditions and the life styles, these days, if you go to any shop or restaurant, eat the way you feel like without knowing that you are loading your kidneys with so much nitrogenous waste, they become inefficient. Kidneys are like any other machine that will become inefficient. We should be discreet in our diet. We should not get too much protein into our bodies and when we produce urea, it becomes too difficult for the kidneys to filtrate it. If it is disease, then you are having a bigger problem.

Mr. Speaker, Sir, we need to do three stages: prevention and promotion of what we think can cause renal diseases. When the renal diseases happen, then we can invoke the diagnostic processes which are now available in any standard Level 3 or Level 4 hospitals. We have enough trained technologists who can assist the doctors and other people to achieve that objective.

Finally, should somebody get into a renal failure, this county is sophisticated enough to be able to do preventive dialysis awaiting transplant.

You do not have to go to India or anywhere for a transplant. In this country, whether it is MRTH, KNH as a pioneer and many others like Embu and Machakos are now doing it. You can do a transplant anywhere in the country so long as you have proper matching tissues of the recipient and the donor, so that you do not cause any difficult on a problem.

Mr. Speaker, Sir, these arsenals are available to our Kenyans. We think we have properly trained our doctors to handle these patients. We can reduce immense costs associated with this so-called sophisticated treatment that we collect so much money to go outside the country for treatment.

Mr. Speaker, Sir, 92 per cent of the national budget is retained at the Ministry of Health. I do not know what it is doing there. We should empower county governments and the county health sector at the county level to undertake some of these functions so that they are able to attain--- I know they are keeping it there as a way of giving back as a conditional grant for you to develop these services. However, I think our counties are now sophisticated enough. Some of them have medical schools in their own locations.

Let us devolve these funds to the county level and county health services so that county health services can get services that are commensurate with expertise, which is available among Kenyans.

I support the Statement.

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

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. (Dr.) Mbiti. This is the reason we are in this House. We have to look at the challenges facing this country and advise the Executive on where they should put more money.

I carefully listened to the technical details which were given by Sen. (Prof.) Ogeri. It took me back to the campaign period when I was campaigning at a place called Empurputia in Loita Forest. Many people died because of kidney failure in Empurputia. At that time, I asked myself when these people will ever get to a renal centre where they can get renal therapy so that it can remove the excessive fluids. It is all because of the lifestyle. This is caused by the kind of the water that these people drink and a myriad of many issues that affect them.

When we stand here, my dear brothers and sisters, it is imperative for us to remind the Government that giving the Ministry of Health money equivalent to five counties for them to develop policy will not help this country. If I listened carefully to what Sen. (Dr.) Mbiti said, it appears as if the NHIF is paying more money now in terms of treating for dialysis than ever before. That is solely because there are more renal centres in the country and people are not going there, being diagnosed and they are found with excessive fluid or waste in their kidneys and they have to go through renal therapy.

Mr. Speaker, Sir, it is about time that the national Government, the Executive and the national Treasury listened. We talk about budgets and sending money in terms of conditional grants, but I do not see any reason why we should not have two or three renal centres in counties.

There is this debate of revenue sharing. When people talk about how they can be allocated money, others are saying allocate money based on distance to service and not on the land. Narok County is 17,000 square kilometres. By the time someone in Loita in Empurputia Forest at the border of Kenya and Tanzania drives all the way to Narok Town for them to get renal therapy, they could have succumbed.

We already know that the lifespan of a person going through renal therapy or dialysis is between five and 10 years in the developed world. I hope that when the national Government is formulating the budget this year, they will come up with programmes that can help diagnose people at early stages. They should go to those rural areas and engage companies that have these renal centres and also work with county governments. Devolution is important because it can help us solve these problems.

Mr. Speaker, Sir, when I looked at the statistics showing that an average of 3,100 people die of kidney failure every year since 2014, I think those numbers are low. Probably those are the ones who have been diagnosed.

Today is the World Kidney Day. It is important that we push and encourage the Government to invest more on renal centres across the country. We have a renal centre in Narok which is doing a good job. We want to see more. If we have at least two or three in every county, then we can say we will achieve universal healthcare.

As much we are focusing on building institutions and equipping them, we must invest in making sure our people have a better lifestyle. We all know many men are the ones who mainly suffer from kidney failure because of their lifestyle. However, if women do not have access to clean water and environment, they may end up suffering the same way.

I support.

**The Speaker** (Hon. Lusaka): Okay. Hon. Senators, I want to defer Order Nos.8 to No.17.

## BILLS

### *Second Reading*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)  
(NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)

*(Bill deferred)*

### *Second Reading*

THE SACCO SOCIETIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 1 OF 2018)

*(Bill deferred)*

### *Second Reading*

THE FISHERIES MANAGEMENT AND DEVELOPMENT  
(AMENDMENT) BILL (SENATE BILLS NO. 22 OF 2019)

*(Bill deferred)*

### *Second Reading*

THE INDEPENDENT ELECTORAL AND BOUNDARIES  
COMMISSION (AMENDMENT) (NO. 3) BILL  
(NATIONAL ASSEMBLY BILLS NO.35 OF 2019)

*(Bill deferred)*



*Second Reading*

THE LIFESTYLE AUDIT (NO. 2) BILL  
(SENATE BILLS NO. 21 OF 2019)

*(Bill deferred)*

**COMMITTEE OF THE WHOLE**

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE OFFICE OF THE COUNTY  
ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)

*(Committee of the Whole deferred)*

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE PETITION TO COUNTY ASSEMBLIES  
(PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)

*(Committee of the Whole deferred)*

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE EARLY CHILDHOOD EDUCATION  
BILL (SENATE BILLS NO. 26 OF 2018)

*(Committee of the Whole deferred)*

THE KENYA MEDICAL SUPPLIES AUTHORITY  
(AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)

*(Committee of the Whole deferred)*

THE CANCER PREVENTION AND CONTROL  
(AMENDMENT) BILL (SENATE BILLS NO. 9 OF 2019)

*(Committee of the Whole deferred)*

Let us move on to Order No.18.

**MOTIONS**ADOPTION OF REPORTS ON VISITS TO THE  
MALABA BORDER POINT/KITUI ROAD PROJECT

**Sen. Wamatangi:** Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, the Senate adopts the reports of the Standing Committee on Roads and Transportation on the visit to the Malaba International Border Point (OSBP) and the inspection visit and familiarization of the Kibwezi-Athi-Mutomo-Kitui Road projects in Kitui County, laid on the Table of the Senate on Wednesday, 4<sup>th</sup> December, 2019.

Mr. Speaker, Sir, the Committee on Roads and Transportation undertook an inspection first to the Athi-Mutomo-Kitui-Kibwezi Road.

This was the third visit of the Committee to this road. The first visit was conducted by this Committee on the invitation of the Senator of Kitui, who is a Member of the Committee. Subsequently, when the Senate sat outside Nairobi, during the visit to Kitui County, the Committee, again, in conjunction with the Committee on Lands, Environment and Natural Resources, undertook a visit and inspection of this road.

Mr. Speaker, Sir, several issues arose in all the visits. The most crucial one was compensation of members of the public on the land that has been taken up by the construction of the road since inception, from Kibwezi and the rest of the way. Many of the members of the public have not been compensated up to date, despite several promises and visits by the Ministry concerned and the National Land Commission (NLC). This includes orders that have been made after members of the public came to this Senate upon the invitation of this Committee.

No positive action has been taken by both the Ministry and the NLC to ensure that members of the public have been compensated for their land. We visited several homes and schools. We also visited a shopping centre called Ikutha, where we held a meeting together with a corresponding Committee. Story by story, tale-by-tale and episode by episode by the members of the public was the same; that their land had been taken, sometimes using the provincial administration to coerce members of the public to vacate their land.

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

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

Madam Temporary Speaker, the next morning, despite the protests of the members of the public, they would see bulldozers demolishing their homes, running over their property and digging them up. After a few months, there is a road. All that family is left to hold on to is a promise in form of a paper called 'a letter of award,' which is not an alternative. It does not function as a security that, that family can use to get alternative housing or even a loan to construct a house elsewhere.

This is a problem that has persisted all the way through. Part of what was most disheartening is the attitude of what I would call the entire gang. There seems to be an

obvious collusion between the contractor, the provincial administration, the NLC and the Ministry, because all of them tell the same story.

This story is not only about that road in Kitui, but also almost every project that is currently being undertaken that requires compensation to members of the public. It was very heartbreaking to see cases of very poor families. We visited some homes that have been affected by blasting when the contractors are extracting materials to make the road. They blow dynamite a few metres from somebody's home, and the house cracks.

They promised them compensation. However, besides not paying them, there is a collusion to con members of the public. You will find that somebody has constructed a brick house. We noted an attitude whereby the valuers of the land and property seem to think that those houses are not worth being valued at a decent value. For example, someone is asked to accept the compensation of Kshs500 for a house that has cracked and is no longer habitable. A person who calculates that is the culprit, and it is a must take. As the Chairperson of that Committee, the position of the Committee is that what was going on in Kitui County as far as compensation of members of the public is concerned is not acceptable.

The other issue that arose, and has been of serious concern, is the cost of doing the construction of that road. This Committee was given a report that, that contract was signed at a value of Kshs18 billion. Upon scrutiny, this Committee noted that the value of the contract was not Kshs18 billion. Upon further perusal, the contractor informed this Committee that to make up for the difference of what the contract was given at and what they had done, that contractor was willing an extra 50 kilometres of tarmac free of charge.

That is probably one of the most bizarre statements that anyone could hear, especially somebody with knowledge in road construction. Right now, there are roads in this Republic - and this has been in the public domain - where contractors, especially Chinese contractors, are charging the Republic of Kenya about Kshs1 billion for the construction one kilometre of a road.

You get amazed that a contractor would have the audacity to tell the Committee that they are willing to do an extra 50 kilometres for free. If, indeed, the cost of construction that they are giving the Government is true, and they are willing to do an extra 50 kilometres for free, that would inform any rational mind what kind of mess lies behind that kind of disclosure.

Madam Temporary Speaker, as recent as three or four weeks ago, there have been riots and demonstrations in Kitui County. That road was being constructed right from Mombasa Road, at Kibwezi, then to cut the entire Kitui County and access the main Garissa Road. Just about 17 kilometres to where the road is supposed to terminate, the contractor said that they would not build anymore. They started folding up and saying that they were going back to Nairobi to look for another job. I am sure that the Senator for Kitui would be able to tell that story more at his own time.

This House, and especially our Committee as we have undertaken, needs to open up this Pandora's Box and ensure that Kenyans get to the bottom of what is happening with these contractors. It is no longer a story that can be sat on; there is too much around it.

Madam Temporary Speaker, just to give a quick example, the other day when this Committee was still undertaking another inspection, during the same time, there was a

contract that had been given at a cost for Kshs18 billion, with compensation to Kenyans of about Ksh4 billion. Then within a month, a report was released saying that they had decided to revise and would no longer compensate anyone.

They waived off the entire Kshs4 billion of compensation. However, when the Committee inquired why they did away with the compensation, they said that they had scaled down the project. However, this was an engineering, procurement and construction (EPC) project signed at Kshs18 billion. They scaled it down so that they did not need to compensate anyone, but the cost of construction remained the same.

It is unbelievable that one would say that they would compensate more than 200 persons affected by the project and then they review the project and say that the cost remained the same.

These are some of the things that this Committee intends to deal with. We want to highlight to this House that we have undertaken to ensure that we are going to disaggregate, get down to the bottom of this matter and find out why engineering, procurement and construction contracting specifically affects Chinese contractors only.

Madam Temporary Speaker, you might be amazed that when a Chinese contractor is given a contract in Kenya to build a road, every implement they bring, be it an excavator, a tractor, prime mover or lorry, they are all duty free. You will find that person will have all his equipment to do a project in Kenya completely tax free. For example, a moderate truck which is used in construction costs about Kshs10 million in Kenya. However, that person will be bringing in his truck for about Kshs4 million. At the same time, he is expected to compete with Kenyan contractors.

A Kenyan contractor will have to pay duty for that truck. If he goes to any of the local dealers here to buy any machinery, he will pay duty. The lowest cost for a good grader right now is about Kshs22 million. A Chinese will bring it here for less than Kshs10 million whereas a Kenyan will pay Kshs22 million. A Kenyan pays Kshs10 million for a truck whereas a Chinese pays Kshs4 million. If a Chinese brings in a simple item like a generator, he will pay less than half the price and yet they are expected to come here and compete with Kenyan contractors.

We have adapted to the situation and failed to see beyond that. That is how the Government has ended up labelling every Kenyan contractor a “cowboy contractor”. Once you create such an uneven playing field, how do you expect to give those different terms to two different people to compete on the same arena and expect one to do better than the other yet you have deprived him? These are issues that we believe should be resolved in the course of construction in this country.

As I speak on the construction and the highlights that this Committee came across during our visits, one of the most important issues which I believe Kenyans must address is the cavalier attitude; it is the disrespect and disregard for ordinary citizens.

When we approached Kitui Town during our inspection, we came across a whole group of Kenyan indigenous traders who have small kiosks around Kitui Town. They have been earning a living there; they sell artefacts, porridge, food and other items. One day in the morning, without giving any notice, agents of the Ministry came and flattened all those kiosks, cleared the road and called them illegal occupants. Those are men and women with families and children. That became the end of the story.

As we invite the Cabinet Secretary to come to Parliament and as this report is debated by this House, we should be aware that there are things that are being done to

Kenyans that must be declared to be completely unacceptable. The Committee hopes that all the recommendations that have been made in this Report will be implemented and that fairness will be meted out to the people who have been affected by this project all the way from Kibwezi up to where it terminates.

Madam Temporary Speaker, it is also in the Committee's pursuit that this project must be completed to serve the purpose that it was intended to serve. We want to see it linking a highway that will serve the people of Kitui all the way from Kibwezi and terminate right at the road to Garissa. That should be the only way that this will be a sensible project.

On the second Report by this Committee that we are tabling this afternoon and seeking the House to adopt, is the visit by our Committee to the Malaba International Border Point in Busia. Our visit as a Committee was inspired by a Statement that was sought by the Senator for Bungoma, Sen. Wetangula. Sen. Wetangula raised very pertinent issues on how this one-stop border point is supposed to function, how it is functioning and how it is affecting the people. It is not only affecting people in Bungoma, but across the entire corridor, including business in this country.

We paid a visit to the border point to ensure and certify most of those facts. One of the glaring points that we noted is the fact that, that road is not only narrow, but unsuitable for use by heavy commercial traffic ferrying goods to other countries from Rwanda, Burundi and Uganda.

When we toured the Malaba Border Point, before we got to the 20 kilometre mark, what was noticeable was that there was a long snake of trucks all packed and blocking the entire highway. That was one of the main issues that the Senator for Bungoma had raised here. The Senator said that on any one day, it is not possible for anyone to drive through comfortably to the border post because of the backlog and blockade of trucks on that road. We did witness and confirmed that that is, indeed, the case.

What is most interesting is that construction of a small loop within the border post that would cost the country less than Kshs100 million was the reason why that entire project failed. Construction worth almost Kshs1 billion had been done yet there was a small loop within the inside of the border post that was supposed to be constructed costing less than Kshs100 million.

The contractor was kicked out of the site, funds were not availed to complete that project and the end result is the nightmare that this country is facing now. It is no longer business worthy for an investor or even a transporter to take their cargo from Mombasa to Uganda, Burundi or Congo. They would rather avoid Kenya and go through Tanzania to find another alternative route because this country could not invest less than Kshs100 million to complete a project on which they had already invested almost Kshs1 billion. The reason is incompetence and lack of coordination. The passing of small documents to be signed to agree that the contractor can be asked, "Because you have already undertaken this project and you have local knowledge of what is supposed to be done?" That cannot be accomplished."

Up to date, almost five or six years onwards, that project is still pending and the average clearance time for a truck that has arrived to Malaba border post would be three or four days, hanging and waiting for the backlog to be cleared. The reason is there is a loop of less than 150 metres that cannot be completed.

Madam Temporary Speaker, we had the luck as we left that border point of meeting the Principal Secretary (PS) of the Ministry of Transport and in the same department. We engaged him in Kisumu and we were asking him, “How can we, as a country, stand and face our people, the investors or our neighbours and tell them that we have been unable to reconcile this kind of situation?”

In terms of social impact, people in the whole of that area are complaining. When these trucks line up the whole of these 20 kilometres, there are human beings inside; drivers and turn boys, they convert the local area, the roadside and the few homesteads around there into toilets. That is where they go to relieve themselves. They maraud around and it becomes a security concern. Basically, there are zero facilities and the place is unlit. This is the kind of country we have to look at.

Sometimes you go to, for example, Uganda having been invited to a meeting maybe in Parliament. Knowing that you come from Kenya and you are a Member of the Committee on Roads and Transportation, you could be asked to explain that kind of thing. How would you explain to a Ugandan businessman who asks you that? How would one explain that this country has failed to some extent to somebody who wants to invest their money here? How can this country claim that we have a problem of unemployment of our young people?

Madam Temporary Speaker, we also got in touch with Busia County which is just nearby and we made recommendations. They could be smart enough to invest and build a parking area; a nice big truck parking area that can take advantage of that situation. As the national Government still thinks about what to do, the county can benefit. They will have an income if they build that facility and charge a small fee. That is the kind of situation we are facing. This is the ineptitude that we have to condemn.

If you look at the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works which we oversight, the amount that it was given from our national budget is close to Kshs300 billion. How can one explain that the Ministry is not able to set aside less than Kshs100 million to complete that? That kind of ineptitude is what we have to call out. If need be, we have to make sure some of those people do not retain their jobs because they are not worth it.

Madam Temporary Speaker, I beg to move and request the Senator for Kitui County to second.

**Sen. Wambua:** Thank you, Madam Temporary Speaker, for this opportunity to second the Report. I will start with Kitui Report on the Kibwezi-Athi-Mutomo-Kitui-Migwani Road. As a Committee, we have had two visits, as the Chairperson has mentioned, to familiarize ourselves with the works ongoing on that major road.

From the outset, I want to state categorically that the recommendations made by the Committee are not based on deskwork or just engagements with the persons affected by the project, but they have a basis in the law and the Constitution.

On the matter of compensation for persons affected by the project, the Constitution of the Republic of Kenya is very clear in Article 40 on what happens if the Government wants to acquire private land for public use. Upon acquisition of a private land for public use, the Government is required to undertake prompt and full compensation of the persons whose property has been taken. It should be prompt, adequate and full.

As the Senator for Kitui County, even as I second this Report, I must also bring the attention of the House to the fact that, that road has now progressed with over 100 kilometres tarmacked and already in use. However, it must go on record that today, there is no single person that has received a single cent in compensation.

I say this with pain because at Athi Town, the town where the project starts on Kitui side, when the Committee visited that region accompanied by the contractor and the client who is the Kenya National Highways Authority (KeNHA), the local community and the residents of Athi Town made very reasonable requests for the construction of just a bus terminus along the road. To date, that has not been done.

Land and property worth hundreds of millions of shillings belonging to the people of Kitui along the project line has been taken and destroyed. I can just give an example of the towns that have been reduced to less than half of what used to exist before the project and yet there is no compensation that has been effected. We have Athi, Ikutha, Mutomo, Kyatuni, Ikanga, Makele, Mosa, Kisase, Kyuluni, Wikililye, Kitui Town itself and now they are in my local town called Kabati. There must be a way of getting the Government to fully compensate the people of that region for land and property that has been taken up by that project. That is a recommendation of the Committee.

On the issue of compensation for cracked buildings occasioned by blasting and other activities around the project, it was a shame for the Committee to receive presentations by persons who have been affected telling us that they are being given Kshs500, Kshs800 or I think the highest amount was around Kshs5,000 per household to repair houses that were clearly and extensively damaged. That is a function of the contractor and not the work of the KeNHA. If you ask the contractor, they will tell you that the repair for those cracks would not take more than one bag of cement, which is why they are giving them Kshs800 to buy a bag of cement for Kshs700.

Madam Temporary Speaker, on houses that were seriously and extensively damaged, this Committee was told that an insurance had taken up the matter. They were going to do valuation, compile a report and advise the contractor on how much money they needed to pay. To date, that report has not been made available to the persons whose property was destroyed.

The Chairperson was talking about the Corporate Social Responsibility (CSR). There were these tacky projects where the contractor has authority to design, look for finances and construct the road, it is a model we need to investigate. In it, there is no provision for CSR. It means the contractor will come on site, undertake their project and decide whether to do any CSR project or not.

Madam Temporary Speaker, it was absurd when we asked the contractor to give us a report on what activities he has carried out as part of CSR. In the list, you find absurd statements like they delivered water to a police station, fenced a school and they also provided water at some function that was taking place. It would be important going forward that in these kinds of projects, we have inbuilt components for CSR as a percentage of the amount of money that the project will cost.

In addition to that, there is the issue of cess. According to this project, the contractor was not compelled to pay cess for local materials like sand, water and ballast. However, the question to ask ourselves as the Senate is: when the contractor was doing the Bill of Quantities (BQ) for this project, did he cost the local material? There was cost for sand, water and ballast, but he did not pay for it. However, when it came to payment

of cess to county governments, they said they were not under any obligation to pay. That is a matter we need to look into.

Madam Temporary Speaker, lastly and most importantly, the construction of the Kibwezi Road all the way to Migwani was to connect that region, make transportation and access to market easier and lastly, to open up that area for business. The cost of is project was Kshs18 billion.

From Kibwezi to Migwani is more than 200 kilometres. So, the most absurd thing is that they want to terminate the road only 17 kilometres before they link it with the main Garissa-Mwingi Road, they pulled out. The recommendation of this Committee, as the Chairperson has said, is that if that is what will happen, why build such a nice big international road and terminate it in the middle of nowhere? What is the logic behind this? It is only remaining 17 kilometres to connect it to the main artery linking Garissa and Nairobi.

Madam Temporary Speaker, it is the recommendation of this Committee, as the Chairperson has said, that funds be made available for the 17 kilometres to be completed at this time of undertaking this project. What will happen if the contractor is allowed to exit the site before they complete the 17 kilometres, there will be a phase tendering for the 17 kilometres. We will incur expenses for mobilization of equipment to the site for the construction work.

Now that the contractor is on site and the project is ongoing, it is the recommendation of this Committee, which is the voice of the people of Kitui County, that the 17 kilometres be tarmacked within this project period.

Having said that, I beg to second the Report of the Committee on project inspection and familiarization visit of the Kibwezi-Athi-Mutomo-Kitui Road Project in Kitui County.

Madam Temporary Speaker, on the second matter of the Committee visit to Malaba International Border Point in Busia County, the Committee was accompanied by the Senator of Bungoma County, Sen. Wetangula who had sought a Statement on this matter.

In seconding, I would call this the shame of Malaba or of this nation. At the time of the visit, the Government of Kenya had spent Kshs496 million to establish the one stop border point in Malaba. The balance for the completion of the project was only Kshs58 million. Since September, 2016 when this project stalled until the time that we visited, the Government of the Republic of Kenya was either unwilling or unable to find Kshs58 million to complete a section of not more than 40 metres and open up the area and make flow of traffic easy and make more money from the border point.

Madam Temporary Speaker, on the submissions of the Kenya Revenue Authority (KRA) officers working at the border point, they told us that in a single month with all those problems of traffic and all that, they were collecting more than Kshs250 million. However, the Government for more than three years could not find Kshs58 million to complete 40 metres of work that would ease transportation of a backlog of more than 20 kilometres.

Some of these things can only happen in our country. However, this Senate must say no to that kind of laziness and lack of proper priorities on the part of the Government. The recommendation of this Committee was and still remains, that even if it means that the Government may have to get the services of the Kenya Defense Forces (KDF) to



complete the 40 metres, so be it, in order to ease transportation and open up that region for the benefit our country.

Madam Temporary Speaker, with those remarks, I beg to second the Motion.

*(Question proposed)*

**Sen. Wetangula:** Thank you, Madam Temporary Speaker. I thank the Committee on Roads and Transportation for the good work that they have done. I raised a question in this House on Tuesday 2<sup>nd</sup> November, 2019 about the state of the international border crossing at Malaba.

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

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

Mr. Temporary Speaker, Sir, Malaba Border Point is classified as the busiest border crossing in Africa, carrying traffic from the Port of Mombasa, Nairobi and the Kenyan industrial set up to Uganda, Rwanda, Burundi, Democratic Republic of Congo (DRC), South Sudan, Central African Republic, Northern Zambia and sometimes the northern part of Tanzania, in the areas of Bukoba around Lake Victoria.

The border point is a busy moneymaker for the country. Unfortunately, it has suffered such serious neglect that it prompts me to bring a question here. Ordinarily, my distinguished colleague from Busia, Sen. Amos Wako, the retired Attorney-General, would have been the one to bring the question. I consulted with him because Malaba Border Point is within his jurisdiction of representation.

I thank the County Government of Busia because when we visited the site, Gov. Ojaamong sent his County Executive Committee (CEC) Member and senior officers from his office to join the Committee of the Senate. Equally present were senior Government officers concerned with the work of the Government at the border, Customs, Kenya Plant Health Inspectorate Service (KEPHIS), Department for Immigration, the Kenya Bureau of Standards (KEBS), police and others.

Mr. Temporary Speaker, Sir, as Sen. Wambua and Sen. Wamatangi have graphically described, this is a terrible indictment to our Government. The Committee walked across the border to the Ugandan side. This is a one-stop border point where goods from Uganda coming into Kenya, once cleared on the Ugandan side, do not stop in Kenya and *vice versa*.

You will be surprised to learn that on the Ugandan side, there is no single queue of trucks waiting to enter Kenya. They are efficiently cleared, infrastructure is in place; they cross the border and are not checked on the Kenyan side because they participate in checking on the Ugandan side. If the trucks are going to Uganda, Rwanda, Burundi and Congo, those in Uganda will participate in checking on the Kenyan side. However, on the Kenyan side, it is an eyesore.

Last week, the queue from the border point was standing at 20 kilometers. These are trucks that sometimes carry highly inflammable materials that can easily explode on their own because of the smoldering heat from the sun.

Mr. Temporary Speaker, Sir, these are drivers who are moving stocks to turn the wheel of the economy of this country and our neighbours. They queue for 20 kilometers without any roadside facilities. There are no toilets, bathrooms or restaurants. Quite often, you find them with their kerosene stoves cooking under the trucks because they can be on the same spot for 12 hours or more.

Mr. Temporary Speaker, Sir, Kenya is privileged to have the Port of Mombasa that is the easiest straight route to our neighbours. However, this is negligence and total oblivion to the plight of our neighbours and our own traders. This is because 90 per cent of those trucks are Kenyan registered and so, they are Kenyan business people. Examples are Multiple Hauliers East Africa Limited, Siginon Freight Company Limited and many others. As they queue for 20 kilometers, there is an even bigger queue waiting at Kanduyi, Bukembe and Webuye in Bungoma, and Eldoret. Some desire to stay at those shopping centres because of availability of facilities other than going to wait in the smoldering heat on the road.

Mr. Temporary Speaker, Sir, as the Mover and Seconder have said, this is a project where the Government of the Republic of Kenya has pumped in Kshs496,932,097. The contractor has done every bit of the work to connect the road except 40 meters. The company called H Young that did the road from Webuye to Malaba has built a dual carriage bridge on the River Lwakhakha that passes and forms the international border between Kenya and Uganda. The bridge is opened, but totally under-utilized because the road connection that will open up a seamless flow of traffic cannot be concluded.

We were informed by the consultant to the contractor and the project that the difference between finishing that road to open up traffic and generate more revenue for this country is just Kshs58 million, which the Government of Kenya cannot and would not pay the contractor. In fact, they have removed him from the site.

When the Committee visited, they were told that the Government will retender. How insensitive and lack of foresight can we be? The contractor had done a job of Kshs496 million and was dismissed for no reason because there was no allegation of impropriety or incompetence on his part. It was just nonpayment. They dismissed him from the site because he was menacing for payment.

The Ministry wants to retender the 40 meters and bring in a new contractor, where they will go through the process of expression of interest, tender, evaluation, award and wait for any challenge to the awarded contractor before the contractor moves on site. By the time we do that, you can imagine how much revenue the country will have lost, how much inconvenience we will have caused our neighbours who are dependent on us and how much we will have embarrassed everybody who uses the Port of Mombasa and the central corridor to Uganda, Rwanda, Burundi, Congo, South Sudan and beyond.

Mr. Temporary Speaker, Sir, the Committee recommended, even on the spot, that the Ministry should recall this contractor. The Senate Committee was ready to stand and explain, in the event of any queries, that they directed that this contractor be called to complete the 40 metres of the road. These 40 metres are critical because they pass through a gully where the contractor had already put double culverts, ready to backfill and then tarmac the road. So, no truck can pass through those double culverts because of the gullies that are there.

Instead, from the time the Committee visited the site, we are witnessing even longer queues. In a proper functioning situation, one would have even expected, like Sen. Wambua for Kitui said, that if the Government is unable to handle its contractors, it should have sent the Army or the National Youth Service (NYS), which are Government agencies with huge budgets, to go and finish that link or loop to enable the road work. Nothing has been done.

The Government could also hand over the 40 metres to the County Government of Busia. Gov. Ojaamong told me that he is ready to put some money into that project to open up the road, so that it can also generate revenue. It cannot be done because it is division of labour, duties, responsibilities and functions. This is a national Government function; remain where you are with your county devolved functions.

Mr. Temporary Speaker, Sir, the importance of this issue is not that they have not done the 40 metres of the road, but because of laxity on the part of our country, we are losing heavily to our neighbours. Right now, Tanzania has offered the Port of Tanga to Uganda, and the Americans are financing them to develop it. The Port of Tanga is dedicated to Uganda, full with a Standard Gauge Railway (SGR) that will not be exaggerated in cost, like ours and with an oil pipeline to the oil fields of Uganda. Once that is done, believe me, Congo, Rwanda and Burundi will latch on to that, and we will lose business and revenue. Our economy will go down even more just because there is one, two or three individuals entrusted with public responsibility who cannot make correct decisions.

This is what we are suffering from as a country; that people are given work to do, they do not do it, and when they do it, it is for personal gain and not the country. I want to urge that this kind of situation then calls upon this House and you, Mr. Temporary Speaker, Sir, and the substantive Speaker of this House, to bring back the Committee on Implementation of this House. This is so that when such resolutions that have been painstakingly and efficiently executed by committees, once you put the question and we all say "Aye", that is the end of the matter. Nobody will call and hold anybody to account with regard to the follow-up to resolutions of the House. That is the purpose for which the Committee on Implementation is available in every House of Parliament. Nobody has explained to us why this House abolished the Committee on Implementation.

I want to urge, Mr. Temporary Speaker, Sir, that in your routine Speaker's *Kamukunjis* and meetings, you agitate for the return of the Committee on Implementation, not just for this. For example, today, if I move a Motion on locusts, we will pass it, but still see the Government telling us that the locusts are now pregnant, they will die; locusts are now old, they will die. Those are the kind of things that the Committee on Implementation will be calling the Cabinet Secretary over to explain what scientific ways they used to find out that all locusts that came to this country are now pregnant.

*(Laughter)*

If they are pregnant, are they going to give caesarean delivery or normal delivery? We need seriousness in the management of our business.

Mr. Temporary Speaker, Sir, I fully support the Committee. I want to say that even for us who live along this corridor, when you have trucks lining up for 20

kilometres, they even undermine other users of the road; *matatus*, buses and private vehicles cannot move. Sometimes, because some drivers are impatient, they start overtaking this long queue, and once they overtake this queue on a single lane road, there is no other lane for oncoming traffic.

Let me also support the Report's findings on the Kibwezi-Mwingi Road. I have had an opportunity in one of my political tours around the country to drive along this road. It is a road that will turn the distance and time of movement, by more than half, from Mombasa to Mwingi, if it was connected to Embu and Meru. Instead of coming all the way to Nairobi, then round Thika to go to Meru, this road is a straight line from Kibwezi. You cross Athi River, get to Kyuso, Mwingi, and cross through Tseikuru into Meru. The construction of the road is not moving and we do not understand why. If the Committee on Implementation was in place, it would follow up the resolutions of the House.

Finally, I want to touch on the point that I heard the Mover of the Motion speak to; the unfavorable conditions that the local contractors are facing in unfair competition with Chinese contractors.

*(Applause)*

Mr. Temporary Speaker, Sir, this country has now literally become a Chinese colony. Chinese are competing for construction of even projects of less than Kshs100 million. When at one time I visited the Ministry and inquired what the thresholds are, they said that we allow them to compete for projects of Kshs1 billion plus. Even if we are talking like that, we have very serious construction companies in this county like H Young Construction Company that have undertaken mega projects. H Young constructed the road from Maai Mahiu to Lanet in Nakuru. They are now doing the road from Garsen to Lamu. They have done many major roads and we have similar companies that can do these jobs. There is no magic in Chinese; you go to road construction sites and find a Chinese holding a rope, something that our unemployed youths can do. You find a Chinese busy with survey equipment showing our boy and telling them: "Move this way, move that way, move straight on." These are jobs that our boys from the polytechnics can do, honestly!

A Chinese company can win a contract within the context of international competition and law, but there is absolutely no justification to have Chinese truck drivers in Kenya, Chinese sub-contractors, and they come as a package. The contractor is a Chinese, the sub-contractor is a Chinese, the supplier of materials is Chinese, the person who will plant grass along the road when it is finished is Chinese, and the person who will put signage on the road is Chinese. Are we becoming a Chinese colony? I want to urge the Ministry of Transport, Infrastructure, Housing, Development and Public Works to embark on a serious affirmative action, to support local contractors.

Mr. Temporary Speaker, Sir, if we have a road of Kshs20 billion and a Chinese contractor makes a profit of 30 per cent that is money out of our economy, because the money goes back to China. If we have a road of Kshs10 billion and a Kenyan contractor makes a profit of 20 per cent that is money into our economy. He will employ people. From the contractor making a road, there will be a quarry that will employ more people. He will also have transport trucks.

Like you heard Sen. Wamatangi say, when these Chinese come in, they have so many favorable clauses in their contracts. They bring their graders, shovels, dozers and tippers duty, yet you expect them to compete with African contractors. This is like taking you to a boxing ring, tying your hands at the back and telling you to have a fair fight with a man whose hands are free. How can you? It is not possible. After over 50 years of Independence, we cannot be a country that can say that we have serious engineers, architects, Quality Assurance Systems (QAS), evaluators of programmes and projects that can sit together and execute mega contracts.

Mr. Teemporary Speaker, Sir, these monies from China are all commercial loans. If they were concessional loans, we would say that these are loans that are virtually interest free. If the condition is that their contractors must come and do the work, let us concede to this. This is like going to Kenya Commercial Bank (KCB) and borrowing money, and employing the Chinese to do the work against the Kenyans. What logic is there? What country are we building? Try and go to China as a Kenyan contractor and see if you will get a job to repair a toilet or anything else for that matter. We must protect our country, people and interests.

I urge President Uhuru Kenyatta and his Government to give affirmative action to Kenyans, so that they can generate and create wealth. When people generate and create wealth, the temptations for corruption goes down, and this country will grow and prosper.

Thank you for adding my time. I beg to support.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to debate this issue. I commend the team of Sen. Wamatangi for the noble work they did by visiting the site. When issues were raised about the roads in Kitui and Malaba, they decided as a Committee not just to sit on their laurels, but to go to the site and see what was happening.

Mr. Temporary Speaker, Sir, roads are very important. We cannot go very far without good roads. Roads are arteries through which the economy pulses. They have a big role to play in terms of economic development, social interaction and ensuring that even politically, people get somewhere. Accessibility to roads in the rural areas and anywhere else will make the economy of that place to grow.

Issues of roads are of great concern since they contribute largely to the economy of any nation. There is always need for us to address the issue of roads in a sober manner since it is a crucial area.

Mr. Temporary Speaker, Sir, I also want to thank the Committee for their good work. When you look at the Malaba report, they visited Malaba border point and made independent observations. It is a good thing for legislators to make independent decisions that are not influencing in any way. When they went to Malaba, they realized that the trucks were taking a long time to reach the border post and the roads were narrow. The trucks could take about two to three days to reach the border.

Mr. Temporary Speaker, Sir, the trucks taking two to three days to reach a border post makes the drivers tired. A part from that, it also wastes time, and time is money. Wasting time queuing does not make any economic sense to anyone.

The Committee also realized that this border post is very busy. They also realized that in as much as the truck drivers wait for two or three days, there are no social amenities like toilet, which is a basic need even in the Maslow's Hierarchy of Needs, that

are lacking. Everybody must relieve themselves. The team realized that there were no public toilets for the truck drivers to relieve themselves.

As they wait for the three days, there is some illegitimate kind of behaviour that sips in. For instance, the drivers are tempted to engage inappropriately with the women or female friends around there. That is a discovery they made as a Committee. The Committee came back with an objective mind of ensuring that they arrest the situation that they saw; to ensure the people at the border post get service delivery. That is what a Committee should do; going to the ground to investigate and witness the problem.

The other observation they made was that there was an incomplete road. The money that is needed to complete the road is about Kshs100 million, which has not been released. The irony of this is that there is a lot of money – more than Kshs300 million – that had already been pumped into that project. Since the Government has already spent Kshs300 million on this project, it is fair that it releases Kshs100 million so that the project is completed.

If the project is not complete, it will not help the Government in any way. It will not help the people of Busia, Malaba and the country as a whole. This also has economic implications, specifically with regard to employment. When a road is accessible and busy, it will create employment to our youths and people around the area. That will have an economic benefit to the residents. Ideally, when we are talking of creating employment, we have to look for ways and mechanisms of ensuring that the locals are employed.

Mr. Teemporary Speaker, Sir, I support the recommendation of the Committee that there is need to be a parking lot. The parking lot will add to revenue being collected by the county government. Apart from collecting revenue, they will have created jobs for those who will be collecting the revenue.

Apart from that, the Committee also made recommendations that there is need to have streetlights at the border post. When there are no lights at night anything can happen. As a security measure, lights should be put up at the border post.

They also made an observation that there is need to complete the road to the border post because this will have some economic benefits not only to the nation, but even the residents around there.

Mr. Temporary Speaker, Sir, I also want to commend the Committee for going to Kibwezi to see the road for themselves. They talked to the residents of Kibwezi and tried to find out what exactly the problem was. The Committee was given answers. Ideally, that is good in terms of public participation. Public participation is not necessarily calling a *baraza* and talking. Taking yourself to the people to hear their suggestions is constitutionally legitimate. I commend the Committee for going to Kibwezi to interact with the contractors and assessing the road.

While in Kibwezi, the Committee realised that the contractor did not have a Corporate Social Responsibility (CSR) activity. When organisations are doing a project somewhere, they need to have a CSR activity in order to get the goodwill of the community. A CSR activity is about giving back to the community to express appreciation for working in the community. The CSR activity should be one that will benefit the residents of that area.

In the case of Kibwezi, the CSR activity should help to create employment for the youth of Kibwezi. If there are children who are not able to go to school because their

parents cannot afford to pay school fees, it is a good thing for an organisation to even pay fees for these children. All organisations, especially contractors, should embrace CSR activities. When contractors are given a job anywhere, they should be considerate of the community they are working within. The community should be able to say that a particular organisation worked in this area, and as a result of that, so many children benefited by going to school, and some even graduated courtesy of the organisation.

Mr. Temporary Speaker, Sir, another observation made by the Committee was that there was delayed compensation for residents whose land was taken away. Constitutionally, if the Government repossesses land from Kenyans, it is in their best interest that they are compensated. The compensation should be at market value, and not under-value. When you take a family's land, you are already disadvantaging the family, which has probably lived on that land for 10 or even 20 years, and does not know any other home. If you just tell them that you are taking away their land because you want to develop roads and do not give an ultimate solution that is pleasant to the family, then we are not doing well as a Government.

There is need for the Government to compensate families that have surrendered their land for the purpose of road construction. Yes, a road is good for development, but that compensation should be at market value. Land is very important and is cherished by everyone in all communities. Land is a factor of production, and without it, there is little that one can do. When you have land, it is possible to erect factories, plant crops or do anything within your means to develop that land.

You develop that land so that you can help yourself and your family. If your land is just taken away and the compensation does not factor in the market value, it becomes stressful to the head of the family because it renders him helpless. When land is taken and there is no compensation, the children will look at the head of the family and wonder why their father or mother did not do anything to ensure that they were compensated.

Mr. Speaker, Sir, this can also lead to children feeling insecure. The Constitution clearly says that the State should provide security for everyone in this country, even those people who are vulnerable and not able to provide security for themselves. Article 43(3) of the Constitution says that the State should provide security. The Government should be able to step in, as the Committee has recommended, and ensure that it compensates the families affected by the road construction.

The Committee also realised that some people were unfairly compensated. There were cases where houses had cracks and the owners were compensated Kshs800 for a bag of cement. Surely, who can do that? This is very unfair. If someone is given Kshs800 for a bag of cement, you have to buy sand and pay for labour. That crack can even destroy the house further. There should be fair compensation.

As contractors put money in their pockets, they should also remember that there are Kenyans who have given their land for purposes of road construction and should be compensated well.

Mr. Temporary Speaker, Sir, the Committee noted a case of a girl called Joyce whose ears were affected because of the construction, and now has a hearing problem. I hope she is now not a PWD because that can be very bad. If this girl becomes a PWD because of the road construction that was going on, then the organisation should come in and compensate her by ensuring that she goes to school, finishes college and accords her employment thereafter.

A disability should not be manmade. Let it be an accident, where you can say that it is an act of God. However, in a situation where people have not followed regulations by the National Environment Management Authority (NEMA), then this girl should be compensated.

I support this Report. In fact, all committees should go to the ground and come up with authentic information, the way this Committee did.

Thank you, Mr. Temporary Speaker, Sir.

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

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. I support that the Senate adopts the reports of the Committee on Roads and Transportation on the visit to the Malaba International Border and the inspection visit and familiarization of the Kibwezi-Athi-Mutomo-Kitui Road project in Kitui County, laid on the Table of the Senate on Wednesday, 4<sup>th</sup> December, 2019.

Let me start by commending the Committee for the work done. Not only have they done the work within their Committee precincts and meeting the various people, but also actually gone out to interact with the various stakeholders. I see that they had a chance to interact with the National Land Commission (NLC) and *wananchi* at Ikutha Market. That ensured that they got broad views of what was happening.

These are two different reports. I will start with the one for the Kibwezi-Athi-Mutomo-Kitui Road project and then go to the one on Malaba Border, A9B64. The multi-sectoral approach was very good. It enabled the issues to come out very well and easily. Looking through, it is possible to see what was happening.

Mr. Temporary Speaker, Sir, why did they set off to begin with? This investigation for the Malaba International Border Point came from a Statement by Sen. Wetangula. The other one came from a Petition that this House was seized of, that came from the people of Kitui County. First, they wanted to assess the upgrading of the road and how far it had gone. They also had a very clear objective where they wanted to interact with various people within the community, engage with the contractor and find out what was really going on.

One concern that had been raised is specifically the low pace of road construction and the completion timelines. This has become something that is almost routine now. The whole idea of having a job to do is that you have a beginning and an end point. More often than not, you need to know and stick to the deadlines. It has such severe consequences. In many places sticking to the deadline is so critical that there is absolutely no way you can extend the deadline. In our situation you find that people are able to just extend the deadlines, and they are able to continue doing the work.

They also wanted to engage with the contractor and find out what role they had played as far as CSR is concerned. As a result of community work, a lot of money comes from various organizations. There is so much that can be done through Corporate Social Responsibility (CSR) in terms of education, social needs and water.

Mr. Temporary Speaker Sir, this report is really saddening. This is because there are certain areas where sections of the road or certain areas were blasted and it has caused problems for the residents. We have heard about places where houses have cracks and the story is always the same.

As a resource is exploited or when there is construction of a road, definitely there are repercussions. The best you can do is to be seized of that issue. You should have



empathy and address it, so that you alleviate the pain that some of the neighbouring communities go through.

They also wanted to assess the progress of compensation. As I was going through this Report, I asked Sen. Wambua about all these names of people with the acreages that have been indicated there. The Report is very clear. It is stated that the first thing that they did was to meet with the NLC, identify the parcels of land that they were going to acquire compulsorily, and then plan the compensation process. Apparently, the compensation process has not been as smooth as it ought to have.

They also wanted to assess the public safety concerns of the road, assess the impact of road construction on the traders, and also assess the status of Mutomo and Tseikuru airstrips. The Committee then went to the ground and came up with some recommendations on some issues that were clear to them. They also came up with key observations.

The first was that there was a delay in the compensation. Why was there such a delay by the KenHA and the NLC? By the time you start a project, you should know when the project will begin. By that time, you should have compulsorily acquired the land, told the people that they have to be compensated, and what the compensation is for. The people have to move somewhere else. They need to know where they are going to and what resources they can use to settle somewhere else. Therefore, when there are such delays, it is a problem.

There was also lack of fair compensation for cracked structures by the blasting activities, which is very sad. Then there were issues of dust and general pollution in the area. I heard Sen. (Dr.) Musuruve refer to Joyce Kiema, the young girl who now has hearing problems arising from the blasting that took place. You cannot be so insensitive to some of the issues that come as a result, which is what the communities face.

Mr. Temporary Speaker, Sir, when you go to speak to the communities, most Kenyans tend to be very keen and interested in what is going on. I am sure that the Committee must have had the same experience when they went to Ikutha Market. They come to you with a lot of hope, understanding and expectation. It must have been sad for Members of the Committee when they were interacting with the people at the market. I am sure they must have heard stories.

I remember when we were doing public participation on The Natural Resources (Benefit Sharing) Bill, we also went to Kitui. We went to a river where there was a lot of extraction of soil. I can clearly visualize the communities. I sometimes feel sorry about the work we do in committees because I can see that they have also made recommendations.

When those people tell us their problems, they do so knowing that a committee, in this case the Committee on Roads and Transportation, will help them solve their problems. They actually expect that there will be a solution. That is why I agree with Sen. Wetangula that we need to bring back the Committee on Implementation. I do not know what Sen. Wambua and other Members of the Committee will do when they go back to that market and find that some of these issues that have been raised have not been addressed.

We do not control the implementation of the resolutions that we come up with. We only come up with various recommendations, as have been made in this a particular Report. I do not think that any Member of the Committee would want to go back to that

market, especially if these issues have not been addressed. It is an embarrassment, especially if you meet the same people who gave you the views with the hope that you would sort them out. It becomes a problem.

There is an article in today's *Daily Nation* Newspaper about the significance of this House. That can be seen by some of our output and things that we make to happen through various Ministries. Like in the case of the issue of the Malaba Border, that specific responsibility is given to the mother Ministry, but there is need to ensure that things move.

There are quite a number of recommendations in this Report. One of them is that the NLC and the KeNHA should promptly compensate land owners. That can happen. I do not know what further action the Committee intends to take. I do not know the timeframes that have been put for the implementation of this recommendation that they have made. It is also important to know the various follow-ups.

The project, as conceptualized, does not have provision for CSR. Therefore, there is need to ensure CSR is factored in. The details of CSR should be there. This is because many firms claim to do CSR, but they only look for the minimal ways of approaching it. So, that is also crucial.

It is also recommended that there should be no revision of land valuation downwards for the people who had been given awards. Whatever you were to be given should not be revised downwards, yet you stated how you will use it.

There is also recommended that the road constructor should engage local residents for labour. This is value addition to the community because both skilled and unskilled labour will be used. I heard Sen. Wetangula say that some of the jobs can be done by the locals.

Where do we lose the control when people are hired, but local young men and women are left out? Is it that for the turnkey projects, people are left on their own? How do the agreements look like? We will begin to question how they are made, so that they make agreements that are beneficial to the particular local community. They also require that the road contractors adhere to the terms of the NEMA license while doing construction. That is also important.

Lastly, they demand that the KeNHA should give a full disclosure of the total cost of the project. This has to come out clearly because the amount that has been spent seems too far to outweigh what is on the ground. These are issues that have to be dealt with.

The Report is very clear. Some of the submissions include issues of cracked buildings, air pollution and health problems among the residents. They also claim that there was no public participation and blasting of the quarry. The County Government should have consulted when the project was being undertaken.

It is stated that a total of 198 residents whose buildings had cracked due to the blasting have not been profiled by the Civil Society Organisations (CSOs). There is some of sort of disorganization. Whatever is being done is for the good of the people, but it has not been implemented. It could have been better if there were benefits.

I know certain communities where there have been problems, but because the community gains from employment or CSR, they tend to be a little bit more--- They are affected, but they feel a bit compensated. That tends to help. In cases where these have not been taken into consideration, that creates a problem. We have a case of a young girl

whose hearing ability was affected, but I am sure there are others. That could be the only case that has come out.

The report goes on and on. Not only has there been a delay, but many of the issues that should have been taken into account have not. That is for the Report on Kitui-Kibwezi-Athi-Mutomo-Kitui Road.

Mr. Temporary Speaker, Sir, the next Report is for intervention that came from Sen. Wetangula on the Malaba One-Stop Border Point. The Committee made a visit there. What is shocking is that on the side of Uganda, there is a lot of progress on the road. However, on the side of Kenya, everything has stalled.

They are documenting the same problems of traffic congestion across that road because it is poorly constructed. There are issues of facilities being unavailable and drivers having to spend longer time there. The amount of time they spend there compared to what they spent from Nairobi to there and beyond creates a complication for them.

The Committee undertook this inspection and they broke it down to particular details. They have also made very specific recommendations that need to be implemented. Most of these recommendations have been made to the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works to fast-track and improve that infrastructure, for them to engage a contractor to complete the remaining work within the next four months. They should re-engage the previous contractor who seemed to have done a better job.

Additionally, they need to have parking lots and take care of the issues that were raised. Sen. (Dr.) Musurube expounded on this, that some of the issues affecting people there include; advent of sexual molestation, teenage pregnancies, and single motherhood because of the complications that come as a result of this.

Mr. Temporary Speaker, Sir, they have clearly outlined in the Report about lack of public utility services such as toilets, congestion and adverse consequences and spread of HIV/AIDS scourge. It is shocking that whereas the border point was the busiest in the region with a revenue base of Kshs250 million per month, there is no single aspect of CSR. That is a lot of money that comes from this project.

There was a joke that was cracked sometime back when we were making some sort of agreements with China. Some people said that when we went for those discussions, we read documents that were written in Chinese. We signed under the dotted line for something that was written in Chinese, but we did not understand what we were signing. We have been doing projects for a long time because it is more than 50 years since our Independence. How can key components in a project be left out? How can they not be implemented?

We even have a monitoring and evaluation mechanism for these projects. How do we have many problems as a result of these projects? This is a disappointment and we hope that these recommendations will be taken into consideration. Also, we hope that the Committee on Roads and Transportation will make adequate follow up, so that the good work that they have done to come up with this Report can turn into something productive, both at Malaba Border and in Kitui.

I support.

**Sen. Madzayo:** Asante, Bw. Spika wa Muda kwa kunipa nafasi hii. Naunga mkono hii Ripoti ambayo imewasilishwa katika Bunge la Seneti na Mwenyekiti wa Kamati ya Barabara na Usafiri.

Ni aibu kwamba zaidi ya miaka 50 tangu Kenya ipate Uhuru, tumejipata katika hali ya suitofahamu haswa katika upande wa uchukuzi. Hali hii imeathiri wafanyabiashara, wasafiri na wanaoishi katika sehemu hizo.

Kulingana na Ripoti hii, kuna kilomita zaidi ya 20 ambazo hazijakamilika. Magari yanapewa kibali cha kusafiri baada ya siku mbili au tatu. Tunashuhudia hali hii kule Mariakani katika Kaunti ya Kilifi.

Bw. Spika wa Muda, je, umewahii kusafiri ukitumia barabara ya Nairobi-Mombasa? Wakati unapofika Mariakani, utawekwa mahali ambapo ni kilomita 20 au 25 hivi kabla ya kufika Mji wa Mariakani. Hili ni jambo la aibu kubwa sana kwa Kenya, ukizingatia kuwa tuna zaidi ya miaka 50 baada ya Uhuru. Hayo yote yanaletwa kwa sababu ya uzembe kazini, ukorofi na ufisadi.

Ripoti hii inaonyesha kuwa wale wanaosafiri kwenda maeneo ya Uganda kupeleka mazao yao ya shamba ni wafanyabiashara. Wao huenda Uganda na baadaye kurejea huku.

Kuna vijana wengi wanaosomea nchi ya Uganda na husafiri kutumia barabara kwa sababu hawana nauli ya ndege. Ni aibu kumpigia mwanao simu kutaka kujua kama alifika shuleni au chuoni kisha anakuambia bado yuko Malaba. Ukiuliza siku ya pili, anakuambia bado yuko palepale. Roho yako huchafuka na unabaki kujiuliza kile anachofanya Malaba. Makosa siyo yake bali ni ya Serikali ambayo imeshindwa kutekeleza majukumu yake ya kuhakikisha barabara zetu ziko katika hali nzuri.

Ripoti hii ni muhimu na imekuja wakati unaofaa. Kamati husika inafaa kufuatilia ili kuona kwamba barabara zetu za mipakani zimetengenezwa ili kurahisisha usafiri.

Ripoti hii imegusia kidogo tu eneo ambalo ninatoka. Mhe. Rais Uhuru Kenyatta alienda kule na watu walifurahi sana. Aliahidi kuwa barabara ya Bamba kwenda Mariakani, Ganze hadi Mji wa Kilifi itatengenezwa. Barabara hiyo ni muhimu sana kwa watu wa maeneo ya Kaloleni na Ganze.

Barabara yenyewe imetengenezwa tu kuanzia Mariakani na ikakomea Bamba. Kwa wale wanaosafiri kuelekea Ganze na Kilifi, hali yao ya usafiri ni ya utata zaidi. Unaweza kutumia masaa manne mahali pa kilomita 40. Barabara kama hizo ziko chini ya KeNHA, taasisi ambayo inahusika hususan na barabara za kitaifa. Ni muhimu barabara hiyo ishughulikiwe na Serikali ya kitaifa kwa sababu ni kama serikali ya kaunti imeshindwa kuona ya kwamba wanaoishi Bamba ambao wanafanya biashara zao Kilifi wana usafiri mwema.

Katika eneo lilo hilo kuna watu wengi sana. Watu wanazaana. Nadhani wanataka kuongeza idadi ya wananchi na leba katika nchi yetu. Akina mama wajawazito wanaoishi maeneo ya katikati ya Bamba, Ganze na Kilifi wanaweza kuathirika pakubwa kiasi kwamba mama au mtoto anayezaliwa anaweza kufa, ama wote wawili, kwa sababu ya kukosa usafiri wa haraka kwenda hospitali ya Bamba ama Kilifi. Ni aibu kwa Serikali yetu ya kwamba baada ya miaka karibu 60 tangu tupate Uhuru, mama anaweza kukosa usafiri wa kwenda kujifungua na afie barabarani.

Bw. Spika wa Muda, ukiangalia maeneo ya eneo Bunge la Kaloleni, kuanzia Kaloleni, Maandani mpaka Chagua kwenda chini kabisa hadi Vipingo, hakuna barabara. Ukiona watu wa Pwani wamekasirika na wanateta ni kwa sababu kama hizi. Hatutaki maeneo fulani yawe na barabara nzuri na mengine hayana. Si kwamba barabara zilitengenezwa halafu zikaharibika bali hazipo.

Ni jambo la kusikitisha sana kwamba kliniki ambazo ziko katika maeneo ya huko na hata pande za Malaba--- Ripoti hii imetueleza wazi kabisa kuwa katika mpaka wa Kenya na Uganda--- Ikiwa Uganda wanaweza kutengeneza barabara zao---

Ukitoka Namanga kwenda Dar-es-Salaam, barabara zao ni nywee. Hazina shida na sote tunaona kwa macho yetu. Ukitoka hapa uingie Namanga, utaona kiyama. Tumeachiwa upande wetu tutengeneze lakini bado hatujatengeneza zaidi ya kilomita 20 ilhali bado tunalalamika hapa. Watu wanaokwenda Namanga na Lunga Lunga hawana barabara.

Ni jambo la kusikitisha kama nilivyosema hapo awali ya kwamba ni karibu miaka 60 tangu tupate Uhuru. Ukienda Tanzania, kupitia Msambweni, ni bahati yako kufika kwenye mpaka wa Lunga Lunga. Kwa hivyo taasisi zinazohusika na mambo ya barabara, kama vile KeRRA na KURA zinafaa zijue kuwa kuna baadhi ya serikali za kaunti ambazo hazina uwezo.

Si upande wa mpaka wa Uganda na Kenya pekee. Barabara ya kwenda Lunga Lunga hadi Tanga pia ina shida. Huko Namanga, Wamaasai wanafanya kazi kwa bidii lakini wanapata ugumu wakitaka kwenda hospitali ya Namanga. Wengine haswa akina mama wanaotaka kujifungua, hufia barabarani. Hiyo ni aibu kwa nchi ya Kenya.

Kwa kumalizia, upande wa Rabai, kuna barabara ya kutoka Mazeras mpaka Kaloleni ambayo ilijengwa kwa miaka mingi sana. Ilijengwa zamani, zaidi sana ya miaka 20 iliyopita. Sasa hivi imeharibika kwa sababu ina mashimo kila mahali. Haijapanuliwa wala kufanyiwa ukarabati. Ni kama tu kichocho. Kuna lami upande mmoja na ukivuka vibaya unaanguka. Hiyo ni aibu.

Ripoti hii imeletwa katika Bunge letu la Seneti. Kwa hivyo, Kamati ya Barabara na Uchukuzi lazima ihakikishe kwamba hatua imechukuliwa na Serikali. Wanafaa kuhakikisha kuwa mapendekezo yote yanafanywa. Sisi tutakuwa nyuma yao kuona ya kwamba tumepitisha Ripoti hii na hatimaye hatua kuchukuliwa na Serikali.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Members, since there are no more Members who wish to contribute on the Motion, I will therefore, proceed to put the question. Before that, I have determined that this Motion does not affect counties.

*(Question put and agreed to)*

Let us go to the next Order.

NOTING OF REPORT OF THE 141<sup>ST</sup> ASSEMBLY  
OF IPU AND RELATED MEETINGS

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 141<sup>st</sup> Assembly of the Inter-Parliamentary Union (IPU) and related meetings, held in Belgrade, Serbia from 13<sup>th</sup> -17<sup>th</sup> October, 2019, and laid on the Table of the Senate on Wednesday, 4<sup>th</sup> March, 2020.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Members, since the Sponsor of the Motion is not present, I, therefore, defer Order No.19.

*(Motion deferred)*

Let us move on to the next Order.

PROVISION OF CEMETERY, FUNERAL PARLOURS  
AND CREMATORIA IN ALL COUNTIES

**Sen. (Dr.) Milgo:** Mr. Temporary Speaker, Sir, I beg to move the following Motion-

THAT, AWARE THAT under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories, public, community and private land;

FURTHER AWARE THAT, public land is vested in both the County and National Governments and is managed on their behalf by the National Land Commission (NLC), and that Article 62 (2) clarifies the distribution of public land between the two levels of government;

COGNIZANT THAT, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of county governments;

CONCERNED THAT, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as “public” for use as a cemetery with the knowledge that any cemetery or burial place that is crowded and, therefore, dangerous to health is defined as constituting a nuisance in the Public Health Act;

NOW THEREFORE, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual Development Plans for Financial Year 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

Mr. Temporary Speaker, Sir, the principles of land policy under Article 61 of the Constitution classifies land into three that is, public, private and community, to give effect and designate for various functions and activities. Article 62 (2) of the same Constitution further clarifies that distribution of public land between county governments and the national Government, and managed by the NLC, is established for public utilities. This includes the said facilities; that is, the crematoria, funeral parlours, as well as cemeteries.

These facilities just like schools, recreational areas, hospitals and toilets are important. These facilities are important in giving respect to people who have transitioned. In most counties, these facilities have been neglected. They do not even have space. Issues of crematoria may be contentious. In most cases, whenever people are cremated, there is uproar from various quarters. This is because cremating dead bodies could be a taboo in various religions and cultures.

Mr. Temporary Speaker, Sir, with the increase in urbanization and population--- Our country is about three million shy of hitting the 50 million mark. That means the population is continuously increasing. With the diminishing land and the high cost of burying bodies, other methods of disposing the dead will have to be embraced in the future.

Our society has changed. Of late, a number of people of high status in the society prefer cremation. This is because some of the crematory materials such as ash are used to

make jewelry, beads and ceramic cups. Some of the ash is used to make tattoos and engrave names. In some cases, the ashes are put in glasses and seeds are planted there. Some people prefer this as opposed to burying bodies, because they will be able to move around the ashes. It is a better method of remembrance.

Mr. Temporary Speaker, Sir, as the society changes, various methods of disposing the dead will have to be embraced. That is why crematoria may become important even to those who now feel that it is a taboo.

The Fourth Schedule of the Constitution delegates funeral parlours and crematoria to county governments. However, due to mismanagement, corruption and inefficiencies by the NLC, these devolved units are not able to find public land to be set aside for public utilities, such as cemeteries and other facilities to honour those who have transitioned. Even replacing those that are already full is a great challenge.

Additionally, just like all other functions, funding has not followed. Therefore, the county governments find it a challenge to provide these particular facilities. This means that most of the cemeteries around the country, notable among them, Nakuru North Cemetery and Njoro Cemetery are already full. They were declared full eight years back, but right now, they are still being used. That means that there is digging and re-digging of the graves. This is disrespectful to the dead. That is a breach of the right to a clean and healthy environment, as stipulated in Articles 42 and 71(2)(a) and (b) of the Constitution, and the Public Health Act. These three facilities have become a challenge.

The Langata Cemetery must be full right now. It was actually a subject of a corruption case, which involved the Mavoko Cemetery that was about 120 acres of land. It cost the public over Kshs293 million. This is not even the end of the story. It led to the former Nairobi Town Clerk, the late Mr. John Gakuo and the former Principal Secretary (PS) in the Ministry of Local Government, Mr. Kirui, who comes from my county, being imprisoned for three years. That same parcel of land was declared unfit for cemeteries. To date, that position has not been restored, and the status in Langata Cemetery is still the same. I may not mention all cemeteries, but many of them have a lot of challenges due to mismanagement and lack of funding to maintain them. You will find that many of them are bushy, unfenced and have become grazing grounds and hideouts for thieves.

In Njoro, for example, *bodaboda* riders have made a short cut across the main cemetery while Nakuru North Cemetery has been made a dumping site. This will cause another health hazard.

Mr. Temporary Speaker, Sir, someone looked at this Motion and asked me what will be done about funeral homes and crematoriums. I told them we require healthy areas to live in, but we will also require these three facilities when we transition to the other side.

These few challenges that I have mentioned are enough to call on board of the National Land Commission (NLC) as well as county governments to restore order and sanity and provide these important facilities in all the counties.

Mr. Temporary Speaker, Sir, I beg to move and request Sen. (Dr.) Musuruve to second the Motion.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I will try to be brief.

As Africans, burial sites are our social fabric because we respect the dead. In Western Kenya, if the head of a family dies, he will be buried in front of the House. If it

is a daughter who was not married, she will be buried in banana plantations to show that she came back home. In a situation where a person commits suicide, he or she will be buried at night to show that it was a bad omen to the society. So, in as much as I support this Motion, we should not put it in the budget of the county governments.

When a person is alive, he or she contributes a lot to the society so that they leave a legacy. However, when a person is dead, they do not have any value to anybody. So, we should be sober in the way we handle this Motion so that it does not go out of hand. There are so many things that the county governments need to do to ensure that they develop counties. They should come up with good practices that will manage cemeteries. For example, a cemetery should have a manager. They should also be managed well so that they are not scary places. They should be places where people can walk casually and relax. People should know that death is a transition. So, there is need for capacity building and guidance. We should borrow from the Western countries where cemeteries are well managed. There is also need to memorialize heroes at burial sites. We should provide areas to bury heroes who die and have nowhere to be buried back home

Mr. Temporary Speaker, Sir, there are people who never buried their kin at home. However, nowadays, there is a good practice where the dead are buried at home. The rituals for the dead are good because they bring people together. So, as I support this Motion, it should not break our fabric as Africans. There are some African cultural practices that are rich. We cannot take a 100 per cent from the West.

Mr. Temporary Speaker, Sir, when I was a lecturer at Jomo Kenyatta University of Technology (JKUAT), a colleague of mine died and was buried at Lang'ata Cemetery and everybody lamented why he was buried there yet he had a farm. It is a good thing to be buried in a family home. However, there is need for those without family homes to be buried in a managed cemetery. They should not be haphazard places where people kill each other at night.

Mr. Temporary Speaker, Sir, I support this Motion, but with a lot of reservations. With those remarks, I beg to second.

*(Question proposed)*

**Sen. Were:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to contribute to this Motion. I thank Sen. (Dr.) Alice Milgo for coming up with it.

As it is well stated, the function of planning and developing cemeteries, funeral parlors and crematoria is now a function of county governments. However, there are several counties that do not have these services yet.

With urbanization and many rural areas developing into towns, it is important to have cemeteries because we are running short of land to bury the dead as it was done traditionally; we used to bury people around our houses.

Mr. Temporary Speaker, Sir, where I come from, it is common for a person to be buried just behind the House. It has worked over the years because when the place around the House got occupied with many graves, people would relocate from that home and move elsewhere. That home would be called *likunda* or *makunda*. It became a place for growing food. Families would move to the next piece of land. However, that piece of



land is no longer available. So, we need to develop these cemeteries and encourage our people to take their departed relatives there.

County governments should make sure that public cemeteries are maintained and are beautiful to look at. They should develop funeral homes and have chapels or churches within those funeral parlors. They should also develop gardens for recreation so that people mourn their dead or celebrate the lives of the people who have gone in peace.

The world is changing. As we move forward, we will highly require these services. This Motion is important as it will enable counties prepare themselves to bury their own people; families may not be able to.

We now have families with many sons and the Constitution today allows daughters to inherit land. As a result of this, no one is going to have space to bury their people. Just as we have moved away from traditions such as Female Genital Mutilation (FGM) and wife inheritance, we are going to eventually move away from the tradition of burying people around our houses so that we bury them in public cemeteries that are planned, developed and maintained by county governments.

Mr. Temporary Speaker, Sir, the other area is the crematorium which the Motion proposes that they be planned for and developed by county governments. The method of cremating the dead is beginning to gain popularity and counties should not be left out. We should encourage more of our people to cremate. The thought that when one dies his body will be eaten up by ants and also rot is scary.

Cremation is a simple method that is more hygienic and straightforward. It is not as scary as the other option of putting somebody in the ground, covering them up and letting them rot away or get eaten away by ants. We should all support the concept of using crematoriums; it is gaining popularity. We should encourage that those who do not have too much fear cremate their dead so that they encourage more people, especially in the counties to take up this method of disposal of our dead. It is a viable alternative and I encourage counties to take it up.

This Motion should be implemented and I join my colleagues in calling for the Committee on Implementation to ensure that some of these recommendations that we make in our various Reports and Motions are implemented. This is something that is long overdue and moving forward, it should be developed.

I support, Mr. Temporary Speaker, Sir.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. Let me start by thanking Sen. (Dr.) Milgo for this Motion and for giving us an opportunity to discuss something that people worry about in Kenya. When you find a Kenyan preparing a will, the people around ask: Is there a problem? Are you about to die or what is happening? Very few people can stand up to talk about life because when you talk about life, you must also talk about death. You cannot have life without death and you cannot have death without life. So, death becomes part and parcel of life and part and parcel of living. Death is a discussion that many Kenyans probably need to consider.

Mr. Temporary Speaker, Sir, we are aware that in many families when somebody dies, there is a lot of dispute. You will hear cases whereby somebody has been buried and the family will have to exhume the body because the deceased was buried in the wrong piece of land or something went wrong somewhere along the line and it creates many of problems.

We have seen families where the dead person is kept at the mortuary for two or more years because there is a dispute about where they should be buried, or a ceremony that should have happened.

We have situations where bodies are left at the mortuary because the families cannot afford to bury them. Yesterday in the news, we are still cognizant of a case that was presented of a young boy who was buried, but not in the form of the body being taken to the grave; they had a symbolic burial because there is a huge bill that is yet to be settled at the hospital.

Therefore, this Motion allows us to come to our own abilities to be able to really look at what happens within our day to day life and begin to think about the provision of cemeteries, funeral parlors and crematoriums. This Motion calls for this to happen in all the counties and actually calls upon the County annual Development Plans, 2020/2021 to factor in money that needs toward this specifically.

Some counties have tried in the past to come up with ways and means of setting up crematoriums and specific cemeteries. Some have even moved forward to just do general planning of a particular place.

I remember in 1990, I was involved in the digital planning of Mariakani Town in Kilifi County and these were some of the issues that we raised during that digital mapping process that we were doing. Basically, we went to different places within the county and we were allocating and saying, "This should be land for industrialization, this should be land for cemeteries." Not all communities have available land and I know that there are places where culture will dictate where somebody will be buried.

Mr. Temporary Speaker, Sir, I have heard very many people say that I would like to own a piece of land so that I will be buried there. People think about where and how they will be buried. Sometimes they are able to plan for this and sometimes they are not able to do so.

In certain communities, specifically the Muslims, you will see a sense of organization in the way burials are presented. There is a specific pattern that is followed because of the Muslim religion and what it specifies. For example, when somebody dies just after 1.00 p.m. then the burial should take place immediately.

In such communities, you will find that there are specific places for the burial to take place. This can either be within their homes or specific places set aside for the same. According to the Islamic religion, if there is no Muslim there, then another Muslim should be able to take over and conduct the burial rites.

Death does not just become a transition as such; it is a transition for the person who has died, but it is still a transition for the community in terms of how they will carry themselves, conduct the burial and what they will do.

There are some people who leave wills so it is clear where they want to be buried. There are incidents where someone has left a will or the family has decided: "Let us bury him at Lang'ata Cemetery. You will find everybody asking: Why are they burying him at Lang'ata? What is the problem? Did they not have a house? Did they not have a piece of land? What happened?"

At Lang'ata Cemetery, there are different allocations for people in different areas. There are particular areas where after sometime the soil is recycled. So, you will have bones coming up and the place is set up again for more burials.

What would happen? You would want to imagine, in a country that is developing so fast – currently our population stands at 47 million and soon we are going to hit 70 million - how do we want to manage the dead? This is something that we need to talk about and Sen. (Dr.) Milgo's Motion is telling counties to prepare for this.

Just as we did when we were mapping Mariakani in the digital planning session that I was involved in then, as a consultant in Mariakani, one of the issues we decided on was to allocate some land for a cemetery. It is helpful because there are those who will need to be buried in cemeteries.

This is an issue where we cannot have a definite rule. We cannot say that everybody must be buried in a cemetery because cultures and traditions dictate in some instances. However, there are those who will have places to be buried in and there are those who will need to be buried in a cemetery.

Sen. We talked about Busia County where somebody would be buried just behind the home and that the culture then was that after sometime they would be able to move away. However, probably now, with the way land is filling up so fast, maybe they are not able to move away as easily as they were able to move before. You know, we also have the health aspects again depending on how deep the grave is. Sometimes the grave may not be so deep and you could have somebody or an animal exhuming the body. So, there is need to have some order.

We are lucky now that we have some funeral parlours in Nairobi and a few in Mombasa. When Montezuma, Monalisa and Lee funeral homes started, everybody was worried. People used to joke that how would you answer if you own a funeral home and are asked how the business is. If you said the business was doing well, it meant you were happy that people were dying. People cracked jokes, talked about it and asked questions. However, over time, people have begun to understand this.

I remember many years ago, we used to pass near the Coast General Teaching and Referral Hospital. Somebody said that somebody was supposed to start selling coffins there, but another one opposed that. About 30 years later, it is an industry that is necessary.

We should infuse all these new ways of handling the dead like having the funeral homes with specific requirements in each county. I know there are various towns which do not have a mortuary. Therefore, when somebody dies, they have to be buried immediately. In some places, the body of the deceased has to be taken to the nearest town that has a mortuary and put in cold ice until the time for burial when the relatives go to collect the body.

Right now, there are many institutions where embalming and provision of death notifications, death certificates and burial permits can be done. It is very necessary to understand the need for us to look for land in advance. The conversation needs to begin.

There could be institutions which are thinking about coming up with insurance policies on the same. The same way the older members of society are given money in the counties is the same way that some money needs to be allocated to families that are bereaved.

We are cognizant of what happens when somebody dies. For instance, people have to come together to raise money to ensure the dead person is buried. Some situations are so severe for certain categories or families. Sometimes when people are bereaved, they have to bury the dead without considering the cultural aspects. In certain cultures,

burial has to be done in a certain way, people have to eat so much and cows have to be slaughtered. Some families cannot do all that. On the other hand, we know that a lot goes on during burial like having special dressing as a way of showing status. The basic thing is that somebody needs to be buried well.

As Sen. (Dr.) Milgo said when she was moving this Motion, other options are also there. Apart from burial, cremation is also coming up. Kenya is changing for the better in the sense that we have cases where more prominent people prefer being cremated. Such plans need to be discussed at the family level so that everything is demystified.

I remember before Hon. Wangari Maathai died, she willed to be cremated because it is an environmentally friendly way of disposing the body. If you tie up some of the issues with the environmental cause and preference discourses, then all these options need to be considered, so that in one way or another, our counties can have options.

The Motion clearly states that cemeteries are filling up and counties are finding it increasingly difficult to identify public land for use as cemeteries. As I said earlier, the sooner this is done the better because of the whole categorisation of land into public, community and private, and that some land is under the purview of the counties.

One thing that also happens when a person dies is subdivision of land. That land should be taken care of because in the African traditions; we have the living and the living dead. That is according to Prof. Mbiti. It is important that that land is put aside and people told that it belongs to the dead. Therefore, people have to behave themselves. They should be informed about their rights and duties and that is the way to go.

As a way forward, it is important to pursue this Motion by encouraging a few county assemblies to come up with a Bill from this. I am sure that if some counties catapult this, other counties will also support this because it is functional. For example, in Lang'ata, we have both burial grounds and a crematorium. In Kariokor there is only a crematorium. So, there are various options.

When many people think about death, they probably have a plan, but they never share it. This is because one does not know where they will die. They might die in the air and their body never found. They might die in bed while asleep or after falling sick.

The conversation should not just be around this. When it comes to issues of inheritance and writing wills, for example, it is clear that this discussion should be taken a step ahead.

I support.

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

**Sen. (Dr.) Milgo:** Mr. Temporary Speaker, Sir, I thank my colleagues; Sen. (Dr.) Musuruve, Sen. Were and Sen. (Dr.) Zani, for taking this even further and opening my mind around issues of tradition versus embracing new methods of interring the dead. They have also talked about issues to do with misuse and visualizing how disputes can be a nightmare particularly in cases when one may not manage to have more funding to rebury the dead.

Some of the issues that have come up revolve around sensitisation of people to appreciate the new methods of interment, taking care of the environment and leaving more space as agricultural land. They have suggested that I should formulate a Bill to further strengthen the counties, so that they become smarter and provide public utilities. This is important, especially in terms of burying the dead in our country.

Mr. Temporary Speaker, Sir, this Motion affects counties. Therefore, I beg to request that you defer the putting of the question.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, we have determined that this Motion affects counties. Therefore, I defer the putting of the question until Wednesday next week.

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

Let us move on to the next Order.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Let us move to the next Order.

NOTING OF THE REPORT OF THE 3<sup>RD</sup>  
ORDINARY SESSION OF THE 5<sup>TH</sup> PAP

THAT, the Senate notes the Report of the Third Ordinary Session of the 5th Parliament of the Pan-African Parliament held from 7th to 18th October, 2019 in Midrand, South Africa and laid on the Table of the Senate on Tuesday, 10th March 2020.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Since the Mover of the Motion, Sen. (Dr.) Ali, is absent, the Motion stands deferred.

*(Motion deferred)*

Let us move on to the next Order.

DEVELOPMENT OF LEGISLATION AND POLICIES  
BY COUNTY GOVERNMENTS TO PROTECT THE ELDERLY

THAT, AWARE that in 2006, the National Government initiated the Older Persons Cash Transfer (OPCT) Programme, popularly known as Pesa ya Wazee, which is an unconditional cash transfer programme to destitute elderly persons above the age of 65 years to cater for their subsistence needs;

NOTING THAT the beneficiaries receive a monthly stipend of Kshs. 2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

CONCERNED, HOWEVER, THAT the programme's credibility is marred by issues of delayed payments to beneficiaries, difficulties in processing of payments through the stipulated agents and payments to unregistered persons;

NOW THEREFORE, the Senate recommends that the County Governments complement the efforts of the National Government and assist in resolving these challenges by-

1. Developing legislation and policies to protect the elderly including ensuring all elderly persons in their counties are registered in the OPCT programme; and

2. Organise value addition mechanisms such as financial training to help the beneficiaries of the programme to efficiently utilise this allowance.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, since Sen. Nyamunga, who is the Mover of the Motion is absent, the Order also stands deferred.

*(Motion deferred)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, there being no other business on the Order Paper, the Senate, therefore, stands adjourned until Tuesday, 17<sup>th</sup> March, 2020 at 2.30 p.m.

The Senate rose at 6.15 p.m.