

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 3rd October, 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

Serjeant-at-Arms, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

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

Clerk, proceed to call the first Order, please. Sen. Osotsi, we are waiting for you to take your seat. Sen. Madzayo, kindly resume your seat.

COMMUNICATION FROM THE CHAIR

APPRECIATION FOR SENATE *MASHINANI* SITTING, TURKANA COUNTY

Hon. Senators I take this opportunity to welcome you back from the Sittings of the Senate, which were held from 25th to the 29th September, 2023 in Turkana County.

The Sittings were held pursuant to the resolution of the Senate made on the 8th of March, 2023 and on the 30th of May, 2023 to hold its Plenary and Committee Sittings in the counties for a one-week period within the month of September in every session of the 4th Senate.

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The Sittings in Turkana County were held in the backdrop of immense successes realized from the Sittings of the Senate outside Nairobi, held in Uasin Gishu and Kitui Counties in September 2018 and in September 2019, respectively.

Hon. Senators, the Senate plays a critical role in the interlinkage between the national and county levels of government. The main objective of the Sittings in the counties is to promote the role and work of the Senate and enhance public awareness regarding the business of the Senate and Parliament in general.

It also highlights existing and new opportunities for engagement in the legislative process, develop and strengthen partnerships at the county level of government and provide an opportunity to members of staff at the County Assemblies, to learn and share best practices with Senators and parliamentary officers.

I am confident that in Turkana County, these objectives were achieved, following implementation of a robust program of activities that included both Plenary and Committee meetings.

Hon. Senators, I believe that we all took advantage of our time in the great County of Turkana to learn and to make positive impact in the various areas of our work.

I believe that as Senate, we have appreciated the unique challenges that Turkana County and other counties in arid and semi-arid areas of the country face. We will develop legislative interventions to address them.

Finally, I take this opportunity to appreciate you, Hon. Senators, for making time to travel to Turkana County for the Senate *Mashinani*. I would like to thank the Senator of Turkana County, Sen. Lomenen, the Turkana county government led by Governor Lomorukai and the Speaker of Turkana County Assembly, Rt. Hon. Christopher Nakuleu.

I also thank Members of the County Assembly (MCAs), the Clerk and staff of the County Assembly and the Turkana County security team for their warm hospitality and facilitation during our stay in Turkana County.

I thank you.

Hon. Senators, I will allow contribution on this Communication, basically sharing your insights on how you experienced Sitting in Turkana County and maybe suggest a way forward because Senate *Mashinani* is becoming part and parcel of the Calendar of the Senate. So, I will allow 15 minutes, each Senator speaking at a maximum of three minutes so that we proceed with the other business of the Senate.

Sen. Madzayo, please proceed.

Sen. Madzayo: Asante Bw. Spika. Kwanza nakuunga mkono katika maneno yako ulivyosema, ya kwamba, Maseneta wote walioweza kufika Turkana County waliweza kuteteleza wajibu wao.

Vile vile, kazi tulioifanya Turkana County inaonekana wazi. Watu wa Turkana County ni watu wangwana na wazuri. Walitukaribisha kwa hali ya kufana zaidi kuanzia *Airport* mpaka tulipofika kwenye hoteli. Kwa sababu ya ukarimu wao, Mwenyezi Mungu awabariki sana.

La mwisho, katika harakati zetu, tuliona baadaye kuna manung'uniko fulani ambayo walisema ya kwamba tulienda kule na maji, chakula na kila kitu kutoka hapa Nairobi. Hiyo ndio taratibu ya viongozi wakienda mahali.

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Ni lazima kuwe na taratibu kama hizo na hakuna makosa kubeba maji ama kubeba chochote. Kama waliona kuna makosa, *next time* ikiwa tutaenda huko, watatupikia chakula na kufanya kila kitu. Tuko tayari katika mambo hayo.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, please proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker Sir. Indeed, this was a great experience in many ways; our own way of life, how people earn their own livelihood, but more importantly, the role of the Senate to county governments.

Whereas everything that we did went on in a seamless manner, I see an opportunity for us to improve. It looks seems like a misapplication of resources, if we shall be going to counties to replicate what we do in Nairobi. At the end of the day, we end up talking to ourselves.

I am of the opinion that, Plenary should not be part of Senate *Mashinani*. What should be encouraged is committee engagements. We can break, for example, into three Senates on the day of the Senate *Mashinani*. One team goes to county x, others to counties y and z.

The composition of those teams should ensure that specific committees are the ones that are comprising that particular section of the Senate. For instance, when we were in Turkana County, I sat in the Energy Committee. I saw the Committee on Health and the Committee on Agriculture, Livestock and Fisheries also go out.

The break outs that we had as Energy Committee when we went to Lake Turkana Wind Power Project, Tullow Company in Lokichar; when we generally had a feel of the County Government of Turkana, was more rewarding than when we went back to the Plenary in the afternoon.

If we can reserve this exercise purely for Committees to go and engage with the *Mashinani*, then if we must go as Plenary, we could have Plenary on the last day. Reports can then be tabled, and we come back to Nairobi.

As you saw, when we left, the people of Turkana County, and rightfully so, told us that we never talked to them. We ended up talking to ourselves. If we were to go the committee way, then we would avoid that kind of critique. I would like a situation where the people of Sports when you come to Kakamega---

The Speaker (Hon. Kingi): Your time is up, Sen. (Dr.) Khalwale. Sen. Mwaruma, please proceed.

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for this opportunity to contribute to this Communication from the Chair. This was my first experience to go to Turkana and we learnt a lot. This year the Senate *Mashinani* took place in Turkana and we had the opportunity to meet the County's committees. In my Committee on Education, we learnt a lot especially on vocational training, but the challenges are still there.

Mr. Speaker, Sir, each of the eight sub-counties has one Vocational Training Centre (VTC), but most of them have no workshops or laboratories. I was wondering how learners can learn skills without laboratories. I would not have known these things if I was sitting here in the Senate. *Mashinani* is something that we should do more. Instead of doing it once a year, we should increase it to twice a year because that way, we can cover as many counties as possible.

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We were misunderstood when we went there because the residents of Turkana asserted that we interact with them. We were there to interact with the committees of the County Assembly for them to learn. However, we can go there the next time to campaign with the Senator for Turkana because this time we had not gone to meet with the people, but for the Senate *Mashinani*.

Mr. Speaker, Sir, if there were petitions that were to be canvassed then maybe, we would have met more people in Turkana. The experience was amazing, fulfilling and we learnt from that Senate *Mashinani*. I also wish that when we will be allocating the Coast region, Taita Taveta should be considered for the next Senate *Mashinani* so that when I come here and speak about human-wildlife issues and how people there plant, but do not harvest because of that, we will be able to see the challenges that Taita Taveta goes through.

I thank you.

The Speaker (Hon. Kingi): Sen. Nyamu.

Sen. Nyamu: Mr. Speaker, Sir, Senate *Mashinani* in Turkana was a good opportunity to feel the ground. It was also the best opportunity for committee work to exactly feel what happens in Turkana as well as make the Senate productive.

My only observation was that our programme was very tight – it was all work and no play! I cannot tell how Turkana is.

(Laughter)

I only know Turkana from the County Assembly to my hotel. It would have been good for us to see Kakuma, Lokichar and the lake, so that we get to feel Turkana.

We need a chance to experience Senate *Mashinani* in Nairobi because when we sit here, we think we know Nairobi. How many Members in this House have been to Kibera, Mathare or Mukuru Kwa Njenga? That is why when we pass policies or allocate funds, Nairobi is assumed to be a well-off County and it does not benefit from fund allocations like the Equalization Fund.

Mr. Speaker, Sir, when we will be planning for Senate *Mashinani*, I would want Members to feel Nairobi so that we get to understand what it really is. Nairobi is not where we live or the Central Business District (CBD) where the Senate is housed. Nairobi is where its majority of people live and this should reflect on its policies.

I thank you.

The Speaker (Hon. Kingi): Sen. Osotsi.

Sen. Osotsi: Thank you, Mr. Speaker, Sir, for this opportunity. Turkana County was an experience to most of us, especially, first-time Senators. We learnt a lot, but there is room for improvement. I am sure---

(Interruption of debate on Communication from the Chair)

POINT OF ORDER

PRESENCE OF SEN. GLORIA ORWOBA IN THE CHAMBER

Sen. Oketch Gicheru: On a point of order, Mr. Speaker, Sir.

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

Sen. Oketch Gicheru: Mr. Speaker, Sir, I rise under Standing Order No.98, as read together with Standing Order No.1, seeking your indulgence and guidance. We have a stranger in the House and we would like to know whether the stranger is properly allowed in the House. When I look at the Government side, I can see somebody whom I cannot clearly identify. Sitting beside Sen. Murango is somebody I consider a stranger in the House. May you guide the House.

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, unless you identify the stranger, I cannot identify the stranger for you.

Sen. Oketch Gicheru: Mr. Speaker, Sir, there is someone sitting on the left side of Sen. Kamau Murango. I would like you to tell us whether that person is sitting there as a Member of this House as it is constituted right now.

The Speaker (Hon. Kingi): You do not have knowledge of that person? You do not even have their name?

Sen. Oketch Gicheru: I think roughly, she looks like a lady and resembles Gloria. I am saying there is a stranger in the House. Just guide us if we are safe in the House.

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

Sen. Dullo: Mr. Speaker, Sir, we do not have Gloria in this House and the Standing Orders are very clear. We only have Sen. Orwoba. Can that be corrected?

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, is your point of order in respect to hon. Sen. Orwoba?

Sen. Oketch Gicheru: Mr. Speaker, Sir, based on the decision of this House and our Standing Orders, she is a stranger. I only refer to a Senator under the Standing Orders of this House when they are properly constituted.

(Sen. Cherarkey consulted with the Clerks-at-the-Table)

The Speaker (Hon. Kingi): Sen. Cherarkey, kindly have a seat.

Hon. Senators, indeed, in a sitting of this House sometimes back, the Plenary adopted the Report of the Powers and Privileges Committee thereby sending away from the Chamber and precincts of Parliament, Sen. Orwoba for the period that was specified in that Report.

Sen. Orwoba has since been serving that sentence as handed to her by the Senate. However, the Senator moved to the High Court in Machakos, went before Justice Rayola and obtained conservatory orders. She moved by way of judicial review to challenge the decision of this House. That matter is pending, but she managed to obtain restraining conservatory orders that whatever decision this Senate made, remains stayed until further

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orders of the Court. That is why Sen. Orwoba is seated in the Chamber, pursuant to that particular court order.

Yes, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I thank you for that communication. I also congratulate Sen. Orwoba for her humility because before that order, she has been observing the decisions of this House.

That said Mr. Speaker, Sir, could you clarify to whom that order was directed?

(Applause)

To my understanding and you will correct me, you have been asked by the courts, as the Speaker of the Senate. Allow me to remind you that it was never your decision. It was the decision of the Plenary that can only be vacated when a Motion is moved.

The court has purported to serve you. In the absence of a Motion that received the majority support of the House to rescind that decision, where does our good Speaker find it possible to implement that court order that is apparently limited to him?

The Speaker (Hon. Kingi): Sen. Cherarkey.

Sen. Cherarkey: Mr. Speaker, Sir, we appreciate that the Senator is within her right to move to court.

In the last Parliament, there was a decision made by the former Speaker of the National Assembly, hon. Justin Muturi, the current Attorney-General (AG).

The Orange Democratic Movement (ODM) which was the then Minority Party tried to de-whip Hon. David Ochieng', the current Member of Parliament (MP) for Ugenya from sitting in some committees. When they moved to court, the then Speaker made a ruling that Parliament cannot be enjoined by anybody; not the courts of law or any arm of Government.

We are risking the exclusive jurisdiction of this House. You will get individuals moving to court to injunct, not only like an issue like the one at hand, but also a Petition or discussion that we are having in Plenary.

Finally, the former Speaker for Embu County, Hon. Mate, ruled that you can only challenge the process at the tail end when it has been concluded. Will it be in order to seek clarification so that tomorrow we do not get court orders against our Committees, ourselves, and the House? We need your guidance to put this matter to rest.

Was the court order against you as an individual, the Speaker, the House or all of us who made the decision on that day? If those five to six issues can be canvassed and a ruling is made, we are risking the danger of eroding parliamentary privilege. When you mention somebody on the Floor of the House, they will rush to court and obtain a court order and injunct the House.

This has never happened even in the history of the Westminster Parliament and parliamentary jurisdiction across the world. On this one, we need your guidance and direction because we are risking the exclusive parliamentary jurisdiction and privileges of this House.

I thank you.

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Sen. Osotsi: Mr. Speaker, Sir, I agree with the position taken by colleagues who have spoken before me.

In this country, we have three Arms of Government. We have the Judiciary, the Legislature, and the Executive. The doctrine of separation of powers is a very important in this country. The three Arms of Government operate independently but, in the process, collaborate.

We are setting a bad precedent, as Parliament, by accepting to be directed by the courts on how to conduct our business in this Chamber. Soon, our committee reports, removing or de-whipping a Member from a committee will be injunctioned. Basically, we are going to be rendered powerless.

Sen. (Dr.) Khalwale has raised the issue of whom the orders were given. I remember in the 11th Parliament Hon. Opiyo Wandayi was suspended from the House. The orders were very specific to the Speaker who had made the decision. It was not to the House but to the Speaker. That is why the orders were effected.

However, in this particular case, a decision has been made by the entire House and a report has been passed and adopted by the House. Then, some judge somewhere decides to injunction this House.

Mr. Speaker, Sir, it is important for a proper direction to be given. In any case, the tradition is that such a decision has to pass through the Senate Business Committee (SBC) to make a decision and communicate to the House. We are setting ourselves on the wrong path.

In this country, it is easy to move to a judge somewhere and get orders. Why would the orders not be gotten here in Nairobi instead of being canvassed in Machakos? It is important that the integrity, the power, and the supremacy of Parliament is protected from the Judiciary.

(Applause)

I invite you to retire and make a sound decision that will guide this House and any other parliamentary jurisdiction for the purpose of protecting the Legislature.

The issue of punishment of Members is not unique to this country. Even in other developed democracies like the United Kingdom (UK) and the United States of America (USA), decisions of this nature have been made. However, we have never had a Member go to court to get injunctions and just walk in as if nothing was done by the other Members.

It is disrespectful and an intrusion into the powers of Parliament. We request that a proper decision and communication be made on this matter so that we protect the integrity of the Parliament.

(Applause)

The Speaker (Hon. Kingi): Sen. Cheptumo

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Sen. Cheptumo: Thank you, Mr. Speaker, Sir. You are the only person who has the benefit of the contents of that decision. No Member in this House has had a chance to read that judgment or the decision of the High Court.

We are happy as a House that you are a lawyer of high standing in our judicial system. This House and the National Assembly, in addition to the other Speakers, will benefit from your experience on some of these matters.

When you made the pronouncement a few minutes ago, I had the feeling that you satisfied yourself, as our Speaker, that by reading the judgment of the court, it was proper for Sen. Orwoba to be in the House. However, this is a House of debate and order where we borrow from previous rulings of the House, the Speaker, and so on.

I join my colleagues in saying that it may be necessary for you, as the Speaker, to provide that particular ruling so that Members will have a chance. Also, Members of this House who are lawyers can also apply their legal minds to this.

Mr. Speaker, Sir, Kenyans heard the debate of this House on that Motion. The same public should also be informed as to the reason why Sen. Orwoba finally came. Nobody should, in any way, directly or indirectly deny our colleague, Sen. Orwoba, the benefit of the judicial system in this country. If it is truly pursued within the framework of the law and also our procedure here, then she will enjoy the benefit of the law.

As the Senate, we need to be careful so that our reputation is recognised by our citizens.

As I conclude, Article 159 of our Constitution talks about judicial authority and 159(1) says:

“Judicial authority is derived from the people and vested in and shall be exercised by the courts and the courts and tribunals established by the Constitution.”

Article 159(2) states -

“In exercising judicial authority, the courts and tribunals shall be guided by the following principles; justice shall be done to all irrespective of status.”

Mr. Speaker, Sir, that is the principle set in Article 159; that justice shall be done to all including Sen. Orwoba. It is an issue that this House needs to converse, so that even when we have a similar situation tomorrow, we will have something to refer to.

I have a lot of faith in this House and in your leadership. This should not be used to diminish the status of this House. So, I want to join my colleagues in saying it may be necessary for you as our leader and as a legal mind, to spend time and allow us to benefit from the contents of the judgement.

Moreover, Members are asking to whom it was directed. We have not seen the pleadings. Who was sued? Who was the defendant? We know the plaintiff was Sen. Orwoba. Who are the defendants or the parties in that suit? Normally, orders are directed to the plaintiff of a particular case. Thank you.

The Speaker (Hon. Kingi): Lastly, let us listen to Sen. Mungatana and then I will give directive.

Sen. Mungatana, MGH: Mr. Speaker, Sir, mine was just to agree that you need to give us a well-reasoned ruling, so that it can form part and parcel of the record of the House; a considered judgement so to speak.

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I will not take long. For the legal minds here; is a conservatory order given to maintain the status quo or to maintain the *status quo ante*? Maybe you will consider this as you sit down to write your ruling.

What was the status quo when the High Court was approached? Now, if the status quo was that there is a decision of the Senate, can the High Court use its powers to issue conservatory orders, not to maintain the status quo but to revert to *status quo ante* without the benefit of interparties hearing? Can it be done *ex parte*?

Mr. Speaker, Sir, maybe you could consider those issues as you write your considered ruling to guide us. Thank you.

The Speaker (Hon. Kingi): Lastly, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Nitajaribu kuongea kwa Kiswahili, lugha inayooleweka.

Bw. Spika, uamuzi wa muda ulitolewa, ukaja hapa na ukajadiliwa. Uamuzi huu haukuwa wako bali uliletwa hapa na Bunge la Seneti na uamuzi wenyewe ukachukuliwa kama uamuzi wa Bunge la Seneti. Maseneta wote waliokuwa hapa siku hiyo walijadiliana kama Bunge la Seneti. Hatimaye, walipiga kura na kuona ya kwamba ni sawa hatua iliyotaka kuchukuliwa, ilichukuliwe kulingana na ripoti iliyokuwa imeandikwa na Kamati ya *Powers and Priviledges*.

Bw. Spika, uamuzi huo ulifanywa na Bunge la Seneti. Haukufanywa tena na Kamati ya *Powers and Priviledges*, bali Bunge lenyewe. Kwa hivyo, kama kuna kitengo chochote ambacho kinaweza kugeuza uamuzi wa Bunge la Seneti, ni Seneti yenyewe. Bunge la Seneti likae na ligeuze huo uamuzi. Sio Kamati nyingine ikae mahali na igeuze uamuzi uliofanywa na Bunge la Seneti.

Hisia yangu ni kwamba itakuwa vyema uamuzi wa Seneti uheshimiwe na kila mtu. Tusilivue Bunge hili heshima bali tuliweke heshima ili liheshimiwe na Wakenya wote. Kwa maoni yangu, ingekuwa bora mhusika aambiwe atoke nje ndio Bunge hili lijadili iwapo atarejea au hatarejea. Baado ya hapo, tuhakikishe uamuzi wa hili Bunge ndio umechukuliwa. Asante.

The Speaker (Hon. Kingi): Yes, Sen. Kathuri. Let us dispense with this matter. We have more important matters to deal with that affect the nation.

Sen. Kathuri: Mr. Speaker, Sir, I wanted to ask whether you have the Curriculum Vitae (CVs) of Senators on your desk. I can see only the learned friends are the ones who have contributed. For instance, Sen. Cherarkey, Sen. Madzayo, Sen. Cheptumo and so on.

The Speaker (Hon. Kingi): Just proceed, Sen. Kathuri, please.

Sen. Kathuri: Mr. Speaker, Sir, under Standing Order No.103, is this matter that we are discussing *sub judice*? It is very active and the courts made some communications, I do not know whether to you or the Senate.

I do not know whether we are quite in order to continue discussing this matter. I am not a learned friend – a lawyer – but my little experience is advising me that maybe we really need to be careful.

(Sen. Kibwana approached the Clerk-at-the Table)

The Speaker (Hon. Kingi): Thank you, Hon. Senator. Sen. Kibwana, kindly take your seat.

Thank you for the main points of order in regard to this subject. Just to summarize all that has been said, I think the question that is being posed by all who have contributed is, do we or do we not comply with this particular court order? I think that is the essence of the points of order.

I wish to undertake that I will retire to my chamber, consider all the points of order that have been put forth; and deliver a very well-reasoned ruling tomorrow.

(Applause)

However, maybe I can respond to some things immediately, so that you get to know. There has been a question as exactly who are the parties to this particular suit pursuant to which this order was given. Of course, the applicant is Sen. Gloria Magoma Orwoba. The respondents are five; the Attorney-General, the Clerk of the Senate, the Speaker of the Senate, the Senate Committee on Powers and Privileges and the Senate as an institution have been sued. These are the parties to this law suit.

Hon. Members allow me to retire to consider all the issues that you have put forward so that tomorrow when we are back here, I can deliver my ruling on the points of order that you have raised. In the meantime, we shall allow Sen. Orwoba to sit.

Next Order.

Sen. Osotsi you were contributing on the Turkana County issue before Sen. Oketch Gicheru brought the point of order?

(Resumption of debate on Communication from the Chair)

Sen. Osotsi: Thank you, Mr. Speaker, Sir. I was saying that the experience of the Senate Mashinani in Turkana County was very enriching especially to the new Members of the Senate. We learnt and experienced a lot.

There were some challenges here and there, like when some of us saw the news bulletin where the locals were complaining that they did not feel us. They were saying that we carried our own water, vehicles and basically migrated Nairobi to Turkana and therefore, they did not feel us. I think that is a learning experience.

The next time when we are organizing another Senate *Mashinani*, we need to localize it so that the locals feel us and benefit from us.

The second lesson was that the issues that we canvass when we are in Senate *Mashinani* should also be localized so that we do not go to Turkana County and start talking about national issues or other counties. It should be planned in such a manner that we try and focus on the local issues in our committees or plenary.

The third lesson I learnt in Turkana was the bipartisan spirit I saw. I felt that maybe we need to ensure that that becomes the norm here in Nairobi. I saw that when we were discussing the Primary Health Care Bill. We all came together and defeated amendments which we thought were clawing back the gains of devolution. That is something we need to really---

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The Speaker (Hon. Kingi): Lastly on this is Sen. Lomenen.

Sen. Lomenen: Thank you Mr. Speaker, Sir, for this opportunity concerning your Communication and the issue of Senate *Mashinani* in Turkana. I want to register my appreciation to all the colleague Senators and staff who went for Senate *Mashinani* on behalf of Turkana County.

Most of the wananchi were very happy. Most have watched Senators on television and in newspapers but at that time they saw them live. They have been hearing of Speaker Amason Kingi but now they got an opportunity to see you there. You left Turkana County different from how it was when you came. When the Senators led by Sen. Osotsi and Sen. Nyamu left Turkana County, they were very beautiful.

(Laughter)

The Turkana community have appealed that if God gives another opportunity, kindly consider Turkana County again.

The Bible says that we have fallen short of God's glory. We held a match in that area. The area is very vast; 77,000 kilometers square. One week or four days could not be enough. We only covered a quarter of the areas in the county with all the committees and sessions in the Senate.

Next time, before we go as the whole Senate, I suggest that the Senate committees should go there first then the entire Senate joins so that they get details---

The Speaker (Hon. Kingi): Sen. Lomenen your time is up.

Clerk, next Order.

MESSAGES FROM THE NATIONAL ASSEMBLY

The Speaker (Hon. Kingi): Hon. Senators, I have two Messages from the National Assembly that I need to communicate to you.

PASSAGE OF THE SOCIAL HEALTH INSURANCE BILL (NATIONAL ASSEMBLY BILLS NO. 58 OF 2023)

Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order No. 46(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Social Health Insurance Bill (National Assembly Bills No. 58 of 2023).

The Message, dated Thursday, 28th September 2023, was received on Monday, 2nd October, 2023, in the office of the Clerk of the Senate.

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders No. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly: -

WHEREAS the Social Health Insurance Bill (National Assembly Bill No. 58 of 2023) was published vide Kenya Gazette Supplement No. 164 of 11th September, 2023 as

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a Bill seeking to establish a legislative framework for the management and regulation of the provision of social health insurance, promote the implementation of the Universal Health Coverage (UHC) and ensure access to affordable and comprehensive quality health services by all Kenyans;

AND WHEREAS, the National Assembly considered the said Bill on Wednesday, 27th September 2023, and passed it with amendments and in the form attached hereto;

NOW, THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders No. 41 and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order 163, which requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading, in accordance with Standing Order No. 144, I will, at the appropriate time during this Sitting, call upon the Clerk to read the said Bill a First Time.

The Second Message is as follows:

PASSAGE OF THE DIGITAL HEALTH BILL
(NATIONAL ASSEMBLY BILLS NO.57 OF 2023)

Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order No. 46(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Digital Health Bill (National Assembly Bill No. 57 of 2023).

The Message, dated Thursday, 28th September 2023, was received on Monday, 2nd October, 2023, in the office of the Clerk of the Senate.

Pursuant to the said Standing Order, I now report the Message -

“PURSUANT to the provisions of Standing Orders No. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Digital Health Bill (National Assembly Bills No. 57 of 2023) was published vide Kenya Gazette Supplement No. 163 of 8th September 2023 as a Bill concerning county governments to provide a framework for provision of digital health services, a function affecting the powers of county governments set out in the Fourth Schedule to the Constitution.

AND WHEREAS, the said Bill was considered and passed by the National Assembly on Wednesday, 27th September 2023 with amendments and in the form attached hereto.

NOW, THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders No. 41 and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, Pursuant to Standing Order 163, which requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading, in accordance with

Standing Order No. 144, I will, at the appropriate time during this Sitting, call upon the Clerk to read the said Bill a First Time.

I thank you.

Next Order.

PETITIONS

CONVERSION OF PUBLIC TO PRIVATE LAND IN PUMWANI MAJENGO

The Speaker (Hon. Kingi): Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by the---

(Sen. Madzayo and Sen. Kathuri stood in their places)

Sen. Madzayo and Sen. Kathuri, you can resume your seats.

I hereby report to the Senate that a petition has been submitted, through the Clerk, by the Cultural Environmental Care Society (CECARE Society) concerning the conversion of the LR NO.209/ 2378/1 Pumwani Majengo from public to private land.

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

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

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

THAT, the community in Pumwani Ward have been residents in the area since the colonial era and have established both residential and commercial properties in the area.

THAT, the current area population is 29, 616 people who are majorly descendants of colonial workers from the coastal Muslim community who lived in Pangani area and later relocated to Pumwani.

THAT, in 1932, the Kenya National Commission recommended that following the relocation of the community from Pangani to Pumwani, the residents ought to have been compensated in line with the delineation plans of areas in Nairobi for settlement.

THAT, a lease on the said land had been granted to the Nairobi Municipal Council for a period of 99 years from the Governor of the then Kenyan colony. This lease was to lapse on 1st January, 2023.

THAT, since the lapse of the lease, the County Government of Nairobi and the defunct Municipal Council have been sub-leasing parts of the land to persons outside the community and to the detriment of the original residents.

THAT, various evictions have since been witnessed in the area culminating in the discrimination of the initially allocated residents of Pumwani and has resulted in dispossession of property and land.

THAT, the irregular allocation has affected the road reserves and social amenities such as schools, clinics, memorial halls and playgrounds in the area.

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THAT, the petitioner has made all efforts to have this matter investigated and resolved by the relevant bodies, including the National Land Commission and the Nairobi City County Government, whose responses were not satisfactory.

The Petitioner therefore prays that the Senate intervenes on this matter with a view to investigating the alleged irregular allotment of plots with regard to LR.NO.209/2378/1 PUMWANI MAJENGO and making appropriate recommendations thereon.

There is another Petition to be presented by Sen. Kavindu Muthama. I will allow Sen. Kavindu Muthama to present the Petition. Thereafter, I will allow combined contributions so that we save on time.

HISTORICAL INJUSTICES SUFFERED BY RESIDENTS
OF NGELANI, MACHAKOS COUNTY

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.232(1)(b), I hereby present to the Senate a Petition submitted by the members of Muindi Mbingu Memorial Ngelani Association who are citizens of the Republic of Kenya and residents of Machakos County.

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

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

The salient issues raised in the said Petition are as follows -

THAT, the Petitioners have a membership of over 800 people and are residents of Ngelani area in Machakos County.

THAT, the Akamba people who are residents of Ngelani area suffered historical injustices dated back in 1938 at the hands of the British Colonial Administration and continued to suffer the effects of the same up to now.

THAT, the historical injustices include, detention without trial, economic crimes through the forceful confiscation of cattle, unlawful detention of their leaders such as Muindi Mbingu and unlawful administration of collective punishment such as forcible labor under extreme conditions.

THAT, around 1938 the colonial administrators started confiscating cattle belonging to Akamba people of Ngelani area in the pretext of livestock disease control.

THAT, the community had relied on cattle as a source of income and as a means of paying dowry and other cultural rites. This confiscation of cattle greatly interrupted exercise of the communities’ cultural rites especially marriage.

THAT, the confiscated cattle were later taken and slaughtered at LEIBIGS, a predecessor of what is now the Kenya Meat Commission, this greatly impoverished the residents of Ngelani area and the neighboring communities leading to systemic inter-generational poverty in the area whose effects are still felt till date.

THAT, the issues presented in this Petition have been raised with the relevant bodies including the Kenya National Commission on Human Rights but the issue have not been addressed.

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The petitioners pray that the Senate investigates this matter to establish accurate records and documentation of the true extent of the said historical injustices, as well as the true identity of individuals and institutional perpetrators in the colonial period, and recommends to the national Government and any other person, measures that ought to be undertaken to provide redress for the historical injustices suffered by the Akamba People.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No.237, I shall now allow comments, observations, and clarifications relating to the two petitions. Looking at my dashboard, I only have three Senators who will be making their interventions. The first will be Sen. Maanzo.

Well, my dashboard is now full.

(Laughter)

We are going to limit contributions to a maximum of 15 minutes. Each Senator will speak for not more than three minutes. This is so that we have as many of you making their contributions as possible.

Sen. Maanzo, you may have the Floor.

Sen. Maanzo: Thank you, Mr. Speaker, Sir, for giving me an opportunity to support this great petition.

Muindi Mbingu, who has a street named after him today in Nairobi, was one of the freedom fighters of the Kamba Community. He joined other communities in Kenya to fight the colonial government so that Kenya could attain independence. Muindi Mbingu also led the Kamba Community to fight injustices occasioned by the colonial masters.

There has been very little attempt--- Other than naming a street after him and the County Government of Machakos making a statue of him around Kyumvi area, nothing much has been done to deal with this particular matter.

Mr. Speaker, Sir, the injustices committed then, still linger and run to date. The beauty of this regime of the law is, the course of action does not disappear when such injustices can be traced, proven and connected to such a situation. That is why, for the Mau Mau injustices, when a matter was filed in the courts, eventually, the United Kingdom (UK) Government called the aggrieved parties and they ended up with settlements of some sort.

Therefore, this petition is very important for the community around Ngelani in Machakos and the Lower Eastern in general. That is why the petitioner is calling upon this House to investigate with a view of establishing an accurate record and documentation of the true extent of the said historical injustices, as well as the true identity of the individuals. The matter still lingers.

In that particular area, certain people have been impoverished for many years owing to the injustices done at that time. This was the same team that joined the colleagues in Central Province to fight for the independence of this country.

Mr. Speaker, Sir, I support and wish that the Senate will expedite this matter and come up with serious documentation which the community can follow up with the UK Government so that such victims of historical injustices can be compensated.

I thank you.

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The Speaker (Hon. Kingi): Sen. Okenyuri, you can have the Floor.

Sen. Okenyuri: Thank you, Mr. Speaker, Sir, for granting me this opportunity.

Several years down the line, we have had several reports that have been written to address some of these issues. It is very sad that the Senate is actually discussing these petitions.

If you look at the petition on the issue of land, we have the Ndung'u Land Report whose recommendations, if you study carefully, are perfect on what should be happening. We also have the political goodwill. I do not know why this issue should be coming to this House every now and then when we have a good script to follow.

Mr. Speaker, Sir, on the petition on Muindi Mbingu and the historical injustices; this is a time we need to revisit the Truth Justice and Reconciliation Commission (TJRC) Report. These reports were well done by well-studied people who conducted civic education and wrote statements. We have an administration that has given us political goodwill.

I think, other than addressing these petitions as they are, this is an opportunity that we have to actually look at these two reports carefully. These two reports have solutions to most of the issues we keep mentioning here.

As I conclude, the National Heroes Council (NHC) is actually going to honor some of these heroes. We need some of these notable people appreciated by the NHC in our upcoming Mashujaa Day celebrations.

The solutions are with us. Let the reports not gather dust. Let us open up those reports. They offer recommendations that can benefit this country.

Thank you.

The Speaker (Hon. Kingi): Sen. (Dr.) Oburu, you may have the Floor.

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir. I rise to support this petition by Sen. Kavindu Muthama. This is because historical injustices meted out by the British Government are so enormous that people still continue to bear the burden.

The colonial authorities were very ruthless. During those days, they used to confiscate people's cattle, recruit people and take them to serve in the British Army forcefully without their family's consent. Our heroes, such as Muindi Mbingu, fought tirelessly not just for the rights of the Kamba people, but for the rights of Kenyans so that they could have their land back and have independence. Some of our heroes such as Muindi Mbingu, Bildad Kagia, and Kung'u Karumba died, but their families are still in tatters, suffering. The Senator for Nyandarua, can you confirm that?

These historical injustices have been ignored by successive governments. These families need to be considered. Just the other day, we were discussing the family of our former Speaker from Nandi, here in Parliament. His family is suffering a lot because their land was grabbed and sold. This is because, Jean-Marie Seroney was detained just because he gave his views when he was a Chair like you, Mr. Speaker, Sir,

We hope that some of these historical injustices will be compiled and our Government; the Government of Kenya, at least this time round, can take up some of these historical injustices and do justice to their families. Those who fought are no longer there but the ones who have remained should at least enjoy some of the good practices that we have in other countries. In those countries, heroes are recognized and given not

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symbolic recognition but also material help. They can then enjoy the fruits of our independence and the sweat of their people who fought for their country.

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I wish to add my voice to the comments pertaining to the land in Pumwani. I urge the Committee to take this matter very seriously. It is about time Kenyans realize that not every Kenyan can own a piece of land.

Two, Kenyans must subject themselves to the provisions of the Constitution which in this matter in the Constitution of Kenya were handed over to the National Land Commission (NLC) and not to the Senate of Kenya.

If Kenyans have gone to the NLC and have not got what they wanted, they should not fall back to the Senate. Maybe the furthest they can go is to the court and challenge the decision of the NLC.

It is true that everyone has a right to Petition in this House but we want Kenyans to be urged to realize that what we call public land is a land which at the date of promulgation of the current Constitution was at that time unalienated.

If land was unalienated in 2010, that opportunity of you partaking of that part of land is gone. You cannot expect to be a beneficiary when the Constitution has now clearly defined that either you are sitting on a private land, you are on community or public land.

I believe that this will serve as an opportunity for our Committee to carry people who are applying such as the 29,000 from Pumwani. If you give the 29,000, they will again come with their claims and you will not have anywhere to even built a pit latrine.

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

(Sen. Madzayo consulted with Sen. Kibwana)

Sen. Madzayo, have you donated your time to Sen. Kibwana?

Sen. Madzayo: I am sorry I did not hear.

Asante, Bw. Spika. Pengine kwa sababu ya ninavyompenda Sen. Kibwana, nitampa lakini sio leo kwa sababu haya ni malalamishi ya muhimu sana.

Malalamishi haya yalioletwa ya dhulma iliyofanyiwa watu wa Pumwani ni jambo la kusikitisha. Malalamishi kama haya pia yanapatikana sehemu mbalimbali za nchi yetu ya Kenya ikiwemo Kilifi kama eneo moja ambalo limevamiwa sana na mabwenyenye.

Kuna tabia ambazo zimetokea sasa ya kwamba wale matajiri wenye pesa nyingi wananyanya maskini wasiojiweza kutoka kwa mashamba yao. Hii tabia imeendelea kwa muda mrefu sana hadi sasa utapata kwamba watu wa Kilifi wengi wanaoishi kule wanaishi bila mashamba yao.

Mashamba yamechukuliwa na watu ambao wamekuja hapa Nairobi na kupata *ma-title deed*. Wamekwenda huko na kufurusha Wagiriama. Wameweka *fence*, wao ndio wanaotaka kuishi katika ardhi hiyo. Tunasema la. Hatutakubaliana na mpango huu hata kidogo. Hivi sasa imetokea Pumwani. Watu wa Pumwani wameishi hapo kutoka hiyo miaka yote. Wamekuwa wakitunza ardhi hii na waliahidiwa kwamba watapewa ardhi hii.

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Bw. Spika, katika malalamishi haya, ninazingatia ya kwamba hawa wamekuwa wakizaana. Nambari yao imeongezeka. Hili shamba lililoko hapa Pumwani ni haki yao kupewa. Hivi sasa tunaona hiyo shamba imeanza kugeuzwa. Wale matajiri wamefika hapo sasa.

Mipangilio imefanywa na imepelekwa katika hii Serikali ya Kaunti ya Jiji la Nairobi. Wametolewa katika ile ardhi yao waliokuwa wakiishi pale na wanafurushwa watu wengine wanapewa.

Sisi tunasema ya kwamba malalamishi haya yalioletwa ni ya muhimu sana. Ile Kamati ambayo itahusika na kuangalia hii ardhi hali iangalie kwa uangalifu sana kuona kwamba wale watu wa Pumwani wamepewa haki yao kama Wakenya wanaoishi katika nchi hii na kama haki wanayohitaji wafanyiwe na serikali yao.

The Speaker (Hon. Kingi): Proceed, Sen. Chute.

Sen. Chute: Mr. Speaker, Sir, this issue is not confined only to Pumwani. It is affecting the whole country. The housing issue is a devolved function. The county governments are now transferring public lands to individual developers.

I would like to give an example of Buxton Estate in Mombasa, which is before our Committee, which I happen to be a Member of. In Buxton, the land is 12 acres and the value is Kshs3.6 billion. The former tenants were evicted. They were given rent for one year. Up to today, the developer of that project has not completed it. The poor people who are former tenants of Buxton are still in the slums.

Mr. Speaker, Sir, the title deeds, they have been transferred from the national Government to an individual developer called Buxton Point.

When you find Pumwani people crying to the Senate, it is their last point. They cannot go to any other place to get justice. This issue of affordable housing is a scam.

The reason I am saying it is a scam is that I will tell you today, how can you evict 560 people who have lived in Buxton Estate for over 50 years and invite a developer, a rich man to come and invest on that land and start collecting money from rich people? To start with, a person has to first pay Kshs1 million. How do you expect a poor man who has been evicted from that land to afford Kshs1 million?

As we speak, Buxton Estate is going for Kshs3.8 million to Ksh5.6 million depending on the number of bedrooms. When you see people coming to the Senate, it is not to enjoy themselves. There is a problem in this country.

The Government is talking about hustlers. How can we evict hustlers from where they have lived for 50 years and take them back to the slums? In support of---

(Sen. Chute's microphone went off)

The Speaker (Hon. Kingi): Your time is up, Sen. Chute. Lastly, Sen. Kibwana.

Sen. Kibwana: Thank you, Mr. Speaker, Sir. I also rise to support the Petition for the Pumwani people. The community in Pumwani ward have been residents since colonial times. The population is 29, 616 and the NLC recommended they be resettled.

The land was granted to Nairobi Municipal Council for a period of 99 years for the residents. Where will the residents go?

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I speak with passion about Pumwani. I know so much about Pumwani. My kid brother and the rest were born in Pumwani and my mother happened to be a councillor of Pumwani for many years. She managed to relocate a few residents of Pumwani to the New Pumwani Estate. At that time, the area Member of Parliament (MP) was the late hon. Tom Mboya.

Mr. Speaker, Sir, I know the history of Pumwani and the residents should be sorted out and compensated through issuance of houses. In the event that any individual refuses to settle, monetary compensation should be done. Ninety-nine years is a long time for them not to have been settled. Time is overdue for Pumwani residents to be relocated or be given land. I pray for justice for them.

I speak passionately because I lived in Pumwani with my parents. My mother was the area councillor for many years but she managed to relocate. Unfortunately, the voice of the people has gone down but I am here and I wish I could scream on top of the voice that Pumwani residents be resettled, there should no otherwise.

I thank you, Mr. Speaker, Sir, and I support this Petition.

The Speaker (Hon. Kingi): Sen. Ogola, just two minutes.

Sen. Ogola: Thank you, Mr. Speaker, Sir, for the opportunity to contribute on the two Petitions and I support them. Land is a factor of production. That is why it is at the heart of every Kenyan.

It is important to note that the National Land Commission (NLC) was constituted to look into the management of both public and private land. Therefore, it is questionable that public land that was surrendered for public use could revert back to private land. This must be looked into.

Mr. Speaker, Sir, while we were in Turkana, it was sad to note that the whole of Turkana County that stretches over 77 kms has only one registrar of land. There is no injustice that is more than the injustice being played on the people of Turkana with regard to the absence of the services of a registrar. This registrar takes care of West Pokot and Turkana counties. We should take note of that and the Government must post another registrar to that area so that people of Turkana are served just as other Kenyans.

On the Petition by Sen. Kavindu Muthama, it is worth noting that as early as 1938, all cows in Ukambani were seized by colonialists. I suggest that Ukambani people must not only be compensated for that loss but an evaluation must be done at present cost for their compensation. I thank you.

The Speaker (Hon. Kingi): Hon. Senators, the Petition that I presented is hereby committed to the Standing Committee on Lands, Environment and National Resources for its consideration.

*(The Petition was committed to the Committee on Lands,
Environment and National Resources)*

The Petition presented by Sen. Kavindu Muthama is committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

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

Both Committees in terms of Standing Order No. 238(2) do have not more than 60 calendar days from today to respond to the two Petitioners by way of a report addressed to the petitioners and laid on the Table of the Senate.

Clerk, call the next Order. The Senate Majority Leader?

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No. 52(1).

UNTAPPED POTENTIAL OF LAKE TURKANA'S BLUE ECONOMY

Sen. Lomenen: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 52(1) to make a Statement on a matter of countrywide and general topical concern, namely the Untapped Potential of Lake Turkana's Blue Economy.

As we gather for the 3rd Senate Sitting outside Nairobi, hosted in the heart of Turkana County, I wish to draw the attention of the Senate to a matter of immense significance for our region and the entire region - the untapped potential of Lake Turkana's blue economy. The first potential of this natural treasure remains largely unexplored and its development could be a catalyst for economic growth, job creation and environmental sustainability.

Turkana County despite its abundant natural resources has faced persistent challenges in terms of development, access to basic social amenities and economic opportunities. The Turkana Community has been under-represented in the benefits derived from its own resources, including the magnificent Lake Turkana. This has left our people grappling with poverty and limited access to essential services in stark contrast to the potential prosperity that the Lake holds.

Mr. Speaker, Sir, Lake Turkana poses the following opportunities. One, it boasts of strong and consistent winds making it an ideal location for wind power generation. The Lake Turkana Wind Power Project (LTWP) has already demonstrated the immense potential for renewable energy generation in the country.

The lake supports a diverse range of species presenting a significant opportunity for commercial fishing, job creation and improved food security for our people. The lake had a fish factory before but it broke down a long time ago and no effort to date has been made by the Government to bring the plant back to life.

Three, Lake Turkana's unique landscape and sand dunes along its shores, beautiful and the Central Island National Park draw tourists from across the globe. Investing in tourism infrastructure and promotion can yield substantial economic

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benefits. Four, enhancing water transport on Lake Turkana can unlock trade routes, reducing transportation costs and foster regional integration.

Mr. Speaker, Sir, in order to fully realize the opportunities, the following challenges need to be addressed:

(1) the lake faces environmental threats such as pollution and siltation which jeopardizes the aquatic life and the fragile ecosystem. It is imperative that we prioritize stringent regulations and sustainable practises to safeguard our natural heritage;

(2) inadequate infrastructure including roads that hinder the movement of goods and people around the lake limiting its economic potential; and,

(3) the Turkana Community has historically been excluded from the benefit of the blue economy. This exclusion not only perpetuates poverty but also violates the principle of fairness and equity.

Mr. Speaker, Sir, I call upon the Senate's Standing Committee on Agriculture, Livestock, and Fisheries to engage the national Government and consider the following recommendations to address the aforementioned challenges for the benefit and welfare of the people of Turkana County -

(1) advocate for and enforce environmentally sustainable practices in and around Lake Turkana to protect its ecosystem and aquatic life;

(2) prioritise investment in critical infrastructure including roads, ports, and cold storage facilities to support economic activities around the lake;

(3) local communities must be engaged in decision-making processes and benefit-sharing mechanisms to ensure that they actively participate in and benefit from the blue economy; and,

(4) develop a comprehensive plan in collaboration with the Government and stakeholders to compensate the Turkana Community for historical neglect and deprivation of benefits from Lake Turkana resources.

In conclusion, the potential of Lake Turkana Blue Economy is a golden opportunity for development that cannot be ignored. We, as the representatives of Turkana County, must advocate vigorously for the responsive harnessing of these invaluable resources.

Let us unite across the party lines in this 3rd Senate Mashinani to drive discussion on how Lake Turkana can become a symbol of sustainable development inclusivity and prosperity.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Lomenen, proceed to make your second Statement.

DISPLACEMENT AND AGGRESSION FACED BY THE TURKANA COMMUNITY

Sen. Lomenen: Mr. Speaker, Sir, I rise pursuant to Standing Order No.52 (1) to make a Statement on a matter of countywide and general topical concern, namely; the displacement and aggression faced by the Turkana Community.

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As we convene for the 3rd Senate Mashinani, hosted here in the heart of Turkana County, I am compelled to shed light on this matter of grave concern that affects the very core of the existence of the people of Turkana.

The Turkana Community, which is known for its resilience, vibrant culture, and unique way of life, has historically inhabited a vast and diverse land space. Turkana County covers an extensive 77,000 square kilometers. It has been the ancestral home of the Turkana people for generations. However, in recent years, they have faced unprecedented challenges that threaten their very existence.

The factors behind this displacement and aggression are-

(1) Cattle rustling and tribal conflicts with the neighboring pastoral communities, which recently escalated to the killing of people in the borderline regions.

These activities by heavily armed bandits have inflicted immense suffering on the people and led to the displacement of Turkana Community from the affected regions.

(2) Encroachment by communities from the neighboring countries of Uganda, South Sudan, and Ethiopia, as is the case in Nadapal, where there exists a conflict with the Toposa Tribe of South Sudan. The Ethiopian and Uganda border regions have also experienced conflicts fueled by the search for grazing land and water.

It is imperative that we address these issues conclusively; focusing on safeguarding the Turkana community while preserving their land's integrity.

I propose the following solutions to the problem -

(1) Promotion of peaceful coexistence with the neighboring communities by establishing and addressing the root causes of conflicts through dialogue, peace caravans, and community engagement.

(2) Collaboration between relevant authorities in the country and the neighboring countries to secure the border regions and resolve the land disputes diplomatically.

(3) Promotion of sustainable resource management practices to ensure equitable utilization of land, water, and grazing resources while preserving the environment.

(4) Empowerment of the Turkana Community through education and skill development to reduce vulnerability.

It is our duty, as representatives of the people, to protect the interests of all Kenyans and, in this case, the Turkana Community. Their unwarranted displacement and the urgent need for the delimitation of the internal borders of the counties of Turkana, Samburu, Baringo, and West Pokot cannot be gainsaid.

During this 3rd Senate Mashinani, I implore all Senators to lend their attention, support and advocacy to this critical issue. The well-being and prosperity of the Turkana people depend on our ability to address these matters promptly and decisively.

I thank you, Mr. Speaker, Sir.

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

[The Temporary Speaker (Sen. Veronica Maina) in the Chair]

The Temporary Speaker (Sen. Veronica Maina): We have finished Statements under Standing Order No.52(1). We are now going to Statements under Standing Order No.53(1).

Sen. Mbugua, you may proceed.

LEASING OF IDLE PUBLIC LAND TO FARMERS

Sen. Mbugua: Madam Temporary Speaker, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the leasing of idle public land to farmers.

In the Statement, the Committee should:

(1) table a list of all underutilized public with the allocations, the custodian Government agencies, and plans to put them to productive use;

(2) provide an update on the implementation of the Government plan to commercialize idle public land to address the food deficit and increase agricultural productivity stating the acreage and location of public land leased out to private investors for crop and livestock farming, the lease period and the cost of the leases;

(3) report on the economic, social or environmental benefits derived from the productive utilization of public land stating measures put in place to monitor and ensure that the leased public land is put to intended use; and,

(4) apprise the Senate of measures established to ensure transparency, accountability and fairness in the allocation of idle public land by Government agencies indicating initiatives in place to encourage the participation of the youth and Persons Living with Disabilities (PwDs) in the process.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Thangw'a.

MITIGATION EFFORTS TO CONTROL OVERFLOW OF KARIMENU II DAM

Sen. Thang'wa: Madam Temporary Speaker, I rise Pursuant to Standing Order No.3(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources, on the mitigation efforts by the Government to control the overflow of Karimenu II Dam.

In the Statement, the Committee should-

(1) spell out any plans to mitigate the effects of the anticipated *El Nino* rains on the residents of Karimenu in Gatundu North, residing in close proximity to Karimenu II dam;

(2) state actions taken by the Government to achieve a permanent solution for the continuous overflow of the dam given the persistent destruction it has caused to the residents in the area;

(3) state plans by the Government to ensure timely relocation and compensation of the residents of Karimenu whose lands have been submerged due to rising water levels; and,

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(4) elucidate on the safety measures implemented in the vicinity of the dam, particularly in response to the increased number of fatalities in the area.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Cheptumo.

OUTSTANDING COMPENSATION CLAIMS FOR DEATHS
AND INJURIES FROM SNAKE BITES

Sen. Cheptumo: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the settlement of outstanding compensation claims for deaths and injuries caused by snake bites.

In the Statement, the Committee should:

(1) indicate a status of settlement of approved compensation claims by the Kenya Wildlife Service (KWS) arising out of the deaths and injuries from snake bites that were reported between 2014 and 2021, particularly in Baringo County, as well as the expected timeline and measures in place for the expeditious settlement of any outstanding claims;

(2) state any plans by the Government to develop antivenom for the treatment of snake bites, highlighting the projected timelines, objectives and guiding policy; and,

(3) provide details on the procurement per county distribution of antivenom from 2020 to date, explaining any plans or initiatives to enhance the availability and accessibility of antivenom in areas with high number of reported cases of snake bites, including in Baringo County.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Proceed, Sen. Chute, Marsabit County.

Sen. Chute: Thank you, Madam Temporary Speaker. I have three Statements and I will read all of them.

ADEQUATE REPRESENTATION IN THE RECRUITMENT
PROCESSES OF STATE AGENCIES

Madam Temporary Speaker, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

In the Statement, the Committee should:

(1) state the mechanism in place to ensure that Persons With Disability (PWDs), women and minorities are adequately represented in State agencies, including Kenya National Highway Authority (KeNHA), Kenya Urban Roads Authority (KURA), Kenya Rural Roads Authority (KeRRA), Kenya Medical Supplies Agency (KMSA), Kenya Veterinary Vaccine Production Institute (KVVPI), Kenya Agricultural Livestock Research Organisation (KALRO), Kenya Medical Research Institute (KMRI), Kenya Ports Authority (KPA), Public Service Commission (PSC) and Kenya Maritime Authority (KMA).

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The Committee should table evidence detailing the recruitment practices and quotas, if any, for these groups.

(2) provide evidence that the above-mentioned State agencies are ensuring inclusivity and equal representation in their recruitment, tabling any audits or assessment undertaken in the last three years to ascertain the level of inclusivity in the recruitment process.

VACCINE PRODUCTION AND DISTRIBUTION AT KVVPI

Madam Temporary Speaker, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on vaccine production and distribution at the Kenya Veterinary Vaccines Production Institute (KVVPI).

In the Statement, the Committee should-

(1) provide details about vaccine produced by KVVPI from 2010 to date, stating the types and quantities of these vaccines used and how many expired;

(2) indicate where and when these vaccines were administered and report the number of beneficiaries categorized by their geographical location; and,

(3) state the percentage of raw materials locally sourced and those imported in vaccine production.

STATUS OF CONSTRUCTION OF TVET INSTITUTIONS

Madam Temporary Speaker, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the status of construction of Technical and Vocational Education and Training (TVET) institutions.

In the Statement, the Committee should-

(1) provide an update on the status of construction projects for TVET institutions undertaken by the Government since 2013, particularly in Garissa, Wajir, Mandera, Marsabit, Turkana, Samburu, West Pokot and Baringo counties; explaining any disparities between the contractual and actual commencement and completion dates;

(2) inform the Senate of how the projects were tendered, providing details on the bids received, contractors who won the award and the respective bids amounts;

(3) indicate the expected completion dates of all ongoing TVET construction projects outlining measures put in place to ensure their timely completion and fast track their operationalization.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Kibwana.

ALLEGED ABUSE OF THE ELDERLY IN CARE HOMES

Sen. Kibwana: Thank you, Madam Temporary Speaker. I have three Statements but I will read two.

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Madam Temporary Speaker, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding reports of abuse of people residing in care homes for elderly people at the Presbyterian Church of East Africa (PCEA) Thogoto Care Home for the Aged, as highlighted by an investigative news featured by BBC Africa Eye.

In the Statement, the Committee should:

- (1) conduct an immediate investigation into the allegations of mistreatment of the aged at the PCEA Thogoto Care Home for elderly people;
- (2) explain what immediate steps are being taken to ensure that all care homes, including the Thogoto Care Home, comply with established standards; and,
- (3) review existing regulations and standards governing care homes, including staffing and care levels, and make recommendations for those who fail to meet these standards to protect residents' rights and well-being.

I will proceed with the second Statement.

DUMPING OF TEXTILE, PLASTIC AND SYNTHETIC WASTE IN KENYA

Madam Temporary Speaker, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee of Land, Environment and Natural Resources regarding dumping of textile, plastic and synthetic waste in Kenya.

In the Statement, the Committee should-

- (1) Detail the steps that relevant State agencies have taken to ensure that Kenya does not become a dumping ground for substandard textiles imported into the country.
- (2) Present a comprehensive report in collaboration with the Ministries of Investment, Trade and Industry, Foreign and Diaspora Affairs and Environment and Climate Change and Forestry outlining the handling of textile and plastic waste originating from international products within Kenya.
- (3) Investigate the feasibility of implementing a take-back or circular economy programme involving returning and repurposing unsellable and non-biodegradable items in collaboration with exporting countries.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey proceed.

BILLS OWED TO KEMSA BY COUNTIES

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health concerning Bills owed by counties to the Kenya Medical Supplies Agency (KEMSA).

In the Statement, the Committee should-

- (1) State the amount currently pending in Bills that counties owe KEMSA.
- (2) State the total amount in pending Bills owed to KEMSA by other entities outside counties and other medical institutions.

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(3) Apprise the Senate on the ongoing reforms at KEMSA, stating the strategies and plans, if any, being employed to address delays in supplying medical commodities and other supplies to the great counties of the Republic of Kenya.

(4) Disclose the nature of agreements and terms of engagement and conditions that have been established between the 47 county governments and medical suppliers stating the amount the county governments owe to these suppliers for the last three years outside KEMSA.

I request that this issue be dispensed off as practicably and soon as possible.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Next Order.

BILLS

First Reading

THE E - HEALTH BILL (SENATE BILLS NO. 32 OF 2023)

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

First Reading

THE DIGITAL HEALTH BILL (NATIONAL ASSEMBLY BILLS NO. 57 OF 2023)

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

First Reading

THE SOCIAL HEALTH INSURANCE BILL
(NATIONAL ASSEMBLY BILLS NO. 58 OF 2023)

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

Hon. Senators, we are done with the Bills, which were going through the first reading. We are now going to Motions.

Next Order.

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MOTIONS

EXTENSION OF MANDATE OF *AD HOC* COMMITTEE
ON PROLIFERATION OF RELIGIOUS ORGANISATIONS

Sen. Mungatana, MGH: Madam Temporary Speaker, I beg to Move in an amended fashion under Standing Order No. 62-

THAT, AWARE that at the sitting of the Senate held on Thursday, 27th April, 2023, the Senate by Resolution, established an *ad hoc* Committee to investigate the proliferation of religious organizations and the circumstances leading to the deaths of more than 95 people in Shakahola, Kilifi County;

APPRECIATING that the initial mandate of the Select Committee was due to lapse on Wednesday, 26th July, 2023, but was extended for a further 30 days at a sitting of the Senate held on Tuesday, 1st August, 2023 to allow the Committee to conclude the investigations owing to the evolving nature of the matter at the time with discovery of new grave sites;

NOTING that the renewed mandate of the Committee lapsed on 5th September, 2023, and the Committee is yet to meet a number of key stakeholders in order to prepare a comprehensive report;

NOW, THEREFORE, the Senate resolves to renew the mandate of the *ad hoc* Committee by a further period not exceeding seven days from 5th October, 2023 and to table its final report in the Senate on or before 11th October, 2023.

Madam Temporary Speaker, I beg to move-

That the last paragraph simply says that “the Senate resolves to renew the mandate of the *ad hoc* Committee by a further period not exceeding 14 days from 5th October, 2023”.

This is a Motion that was agreed upon by the entire Committee and the reason for it was very simple. The Committee was of the opinion that there are some extremely important---

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, hon. Senator?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, Sen. Mungatana is one of the ranking Members in this House and he is moving a Motion which is different from the one that we have on the Order Paper. Could we be guided on why the Motion reads seven days and he is moving a Motion that reads 14 days?

Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker. Obviously, my friend and colleague was not listening. If he was listening, he would have heard me say that I was moving the Motion under Standing Order No. 63 in an amended fashion. I had sought the indulgence of the Speaker. This Motion was meant to be moved in Turkana. We agreed it would be 14 days for practical reasons.

The Temporary Speaker (Sen. Veronica Maina): Senator, it is Standing Order No.62. You may wish to be guided.

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Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker. We have to serve the witnesses and give them a clear seven days. If we give only seven days from today, it will mean that these summonses will be typed today; go for approval tomorrow, those are two days gone and then the Serjeant-at-Arms is to serve on the third day. Those are three days gone. When you serve the witness and you give them less than seven days, they may choose to ignore the summons.

For practical legal reasons and standing advised by the legal counsels of the Senate, we are asking for 14 days to get the summons out, give Serjeant-at-Arms enough time to serve the summons and then have a sitting to conclude the report, which we are about to. However, the Committee was of the view that we need to meet at least four witnesses whom we have directed that summons be served for them to appear before the Committee.

I beg to Move and ask Sen. Wafula to Second the Motion.

Sen. Wafula: Asante sana, Bi. Spika wa Muda kwa nafasi hii. Kamati ya masuala ya Shakahola ilijadili kwa mapana na marefu, wahusika wakuu katika mchakato wa kupambanua na kupata ukweli wa mambo yanayoendelea Shakahola hawakupewa nafasi ya kujieleza ili kuhakikisha kwamba ripoti itakayoletwa katika Seneti hii ni kamilifu.

Unafahamu kwamba matokeo ya Kamati hii itapeana mwelekeo mwafaka katika masuala ya dini na itikadi za kidini katika nchi ya Kenya. Yote ambayo tutaleta hapa itakuwa kumbukumbu ya kazi ambayo Maseneta walipewa kuhakikisha kwamba mambo ya kidini na kiroho yanaweza kudhibitiwa katika muktadha wa maendeleo.

Kamati imeomba muda mwafaka ili wahusika wajieleze kisha tutamatishe na kuleta ripoti ili Serikali iweze kutekeleza mapendekezo ambayo tutakuwa tumeleta. Kwa hayo, ningependa kuunga mkono yale ambayo mwenyekiti wa Kamati amesema. Tunaomba nafasi kukamilisha yale ambayo tulipewa kufanya.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, at this juncture, I would have wished to call Senators to contribute to this Motion. However, I seek your indulgence to skip the contributions.

(An hon. Senator spoke off record)

I will allow contributions from one Senator from each side of the divide.

Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. The House will recall that we were part of the team that envisaged the creation of this *ad hoc* Committee. It gives me a lot of pleasure to see that this Committee was necessary. Now that the Committee is coming at the tail end of its good work and knowing that the problem, which was at 97 bodies at that time has grown to over 400 bodies, we should allow the Committee two weeks for it to have a comprehensive report.

I support.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Madzayo.

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The Senate Minority Leader (Sen. Madzayo): Asante, Bi. Spika wa Muda. Kwanza, Kamati hii inayochunguza maafa yaliyotokea na miili kupatikana inayopita 95 na Zaidi; hivi sasa idadi ni zaidi ya 500. Tukizingatia kwamba watu walipoteza maisha yao, ingekuwa vyema tupate ripoti nzuri. Ripoti hii inaweza patikana kulingana na muda ambao wanakamati wanahitaji, ikiwa wameomba muda uongezwe, ili waweze kukamilisha na kuwaambia Wakenya yaliyojili kulingana na ule uchunguzi waliofanya, basi litakuwa jambo nzuri kungeza.

Hili ni jambo la kusikitisha. Watu wa Kilifi wanasikitika na wana majonzi mengi kwa sababu ni kwenye ardhi yao ambapo kila uchao watu wanafukua miili. Hata ikiwa hatuhusiani kidamu, hawa ni Wakenya kama sisi. Ni jambo la kusikitisha kwa familia kupoteza jamii zao.

Mwenyekiti wa Kamati, Sen. Mungatana ametoka kwenye maeneo ya pwani na ningependelea kuona ripoti nzuri. Kamati ipewe wiki mbili kukamilisha kazi inavyo wafaa.

Asante, Bi. Spika wa muda.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Hon. Senator. I see two more requests. Sen. Cherarkey, you wanted to comment on this?

Sen. Cherarkey: Madam Temporary Speaker, I would like to congratulate the Committee led by Sen. Mungatana. This is a critical Procedural Motion for extension of time. We need to extend time for them to give us earth shaking and radical proposals on the issue of proliferation of religious organisations in the country.

It is not the interest of Parliament to regulate the operations of religious organisations in this country. I challenge the Committee to take time, so that they come up with policies and legislative interventions. As a result, in future, we will not have individuals who take advantage of religion.

We do not want to fall into the trap of Karl Max, who states that religion is the opium of the mind. We want them to give us policy and legislative interventions or propose constitutional amendments to ensure they deliver on their mandate.

I hope by the end of the days they have requested; they table a report. When they table their report, we will have an opportunity to discuss and debate it.

I finally thank your office for its magnanimity in facilitating this *ad hoc* Committee. I know there are many austerity measures within your office. However, out of your magnanimity, you have ensured that this *ad hoc* Committee functions. Therefore, we still appeal for facilitation and support from your office and the secretariat. We are proud of our secretariat. They are doing a commendable world-class job in all aspects of the Committees of this House, including the Committee that is dealing with the issues of Shakahola.

I hope this will put an end to the Shakahola issues, once and for all. It is not in the interest of Kenyans to see such issues happening again in the future.

I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Sen. Wakili Sigei, you will be the last one to contribute to this.

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker, for also granting me the opportunity to ---

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*(Sen. Kavindu Muthama crossed
the Floor without bowing)*

The Temporary Speaker (Sen. Veronica Maina): Sen. Kavindu Muthama, you know what you should do when you are crossing the Floor. Can you abide by the Standing Orders of this House?

*(Sen. Kavindu Muthama walked to the Bar
and bowed to the Speaker)*

Sen. Wakili Sigei, please proceed.

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker. What Sen. Mungatana is asking this House to do is to give them an additional 14 days within which to conclude and give us a report on the Shakahola stories. We all watched and read the stories. Therefore, we will need to get a comprehensive report from the information they will have collected from the public, those involved victims, or any other interested party. They are not asking for too much. The 14 days is a reasonable time for them to conclude the process of getting this House and Kenyans at large the report as regards the happenings in Shakahola in Kilifi County.

Madam Temporary Speaker, indeed, it is going to be something that will affect, not only the victims or their families, but also the country at large. This is because religious institutions cut across each corner of this country. Therefore, as we support, we also wish to indicate to the Committee that it is not only this House that is expecting them to give us the report, but the country at large.

I recall the fact that there was a judicial committee that was set out which, unfortunately, was gagged by the courts and they were unable to proceed. I believe there is still another *ad hoc* committee that is equally collecting views. That in itself confirms the importance of the role this Committee is undertaking for this country.

Madam Temporary Speaker, in my view, asking for an extension of 14 days is not too much to ask. I, therefore, support that this Committee be granted that time. We expect them to give this House and the whole country a substantive report. This is in order to enable us to understand and get to know the next course of action to be done to protect the people of Kenya, our religious institutions and the vulnerable people who, in most cases, are victims who end up suffering.

I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. That marks the end of the debate on that Motion. I call upon the Chairperson of the *ad hoc* Committee, Sen. Mungatana, to reply.

Sen. Mungatana, MGH: Madam Temporary Speaker, I am so grateful to the Senators who have supported this Motion. Being a Procedural Motion, I do not want to take time. I am just grateful that the Plenary has given us 14 more days. We shall be faithful to finish the work that is pending.

I thank you and I beg to reply.

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The Temporary Speaker (Sen. Veronica Maina): Pursuant to Standing Order No. 84(1), I hereby make a determination that the matter does not affect counties.

(Question put and agreed to)

Next Order.

Sen. Kavindu Muthama, you may have the Floor.

EXTENSION OF MANDATE OF *AD HOC* COMMITTEE
ON COMPENSATION OF VICTIMS OF USA
EMBASSY 1998 BOMBING

Sen. Kavindu Muthama: Thank you, Madam Temporary Speaker, for this opportunity to move a Motion on the extension of the mandate of the *ad hoc* Committee on Compensation of Victims of the 1998 USA Embassy Bombing in Nairobi.

THAT, AWARE that at the sitting of the Senate held on Thursday, 27th June, 2023, the Senate resolved to establish an *ad hoc* Committee to investigate the compensation to the Kenyan victims of the 1998 bombing of the United States of America Embassy in Nairobi and report back to the House within three months of its establishment;

REALISING that the three-month period will lapse on 30th September 2023, but owing to the magnitude of the work involved, the Committee will not have completed its work within the duration;

NOTING the need for more time to carry out a thorough inquiry into this matter;

NOW, THEREFORE, the Senate resolves to renew the mandate of the *ad hoc* Committee for a further period not exceeding forty-five (45) days of this resolution and to table its final report in the Senate on or before 10th November 2023.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Invite a Senator who will second the Motion.

Sen. Kavindu Muthama: I invite Sen. Mungatana to second.

Sen. Mungatana, MGH: Madam Temporary Speaker, I beg to second the Motion moved by Sen. Kavindu Muthama.

The Committee has been doing a lot of work. We have seen them talking to witnesses and attending the memorial services. There is no doubt in my mind that this Committee has put its best foot forward. As the Chairperson of the Committee has put it, it is clear to us that there is still pending work. We have no doubt that if they are given these 45 more days, they will be able to finish the work that is ahead of them.

[The Temporary Speaker (Sen. Veronica Maina) left the Chair]

[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]

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Mr. Temporary Speaker, Sir, I ask the Members present to support this Motion simply because it is for a good cause. It is also a Procedural Motion. We should not have too many arguments about it. I urge the House to support it.

I beg to Second.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, I see there are requests to contribute to this Motion. I call upon Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir. I applaud the Committee for what they have been doing. This extension of time is well within the law because we want this Committee to come up with legislative policy interventions.

If such events, God forbid, happen in this Republic, we should have a legislative intervention on how we can handle such matters. It is sad 30 years from 1998 to now, many Kenyans who were victims of the bomb blast in USA embassy here in Nairobi, are yet to be compensated.

We also have victims of the same in Nandi. I call upon the Committee to continue listening to many stakeholders so that by the time they are writing their report, they are able to give us the true picture, legislative and policy.

I also expect, I saw in their timetable, to visit the USA and meet the USA Senate and have comparison because apparently the comparative analysis between the USA Senate and us is almost similar. I wish the Committee well.

I know there are prominent personalities. After this extension, by the time they table their report, we will be excited to look into the content. I believe we shall be able to adopt it in our House.

What is important and is the joy of every Kenyan, is the day their justice is served through not only compensation, but apology from the American Government to the victims.

With those many remarks, I beg to support and wish the Committee well under the stewardship of the Senator of Machakos, Sen. Kavindu Muthama.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Cheptumo.

Sen. Cheptumo: Thank you, Mr. Temporary Speaker, Sir. I will be brief. I am a Member of this Committee. I rise to support this Motion to extend the time for another 45 days.

Under the leadership of our Chair, Sen. Kavindu Muthama, we have covered a number of stakeholders. We have been able to meet the victims of this bomb blast. We met the Cabinet Secretary, Ministry of Health and the team, the Ministry of Foreign Affairs and many other departments. We still have a number of stakeholders that we need to engage so that we are able to come back to the House with a very comprehensive report.

These Kenyans have suffered for a very long time and the challenges they are facing have not been addressed. There are those whose children have not been able to go

to school; orphans, widows and widowers. It is not a situation where we want to bring a report which is not complete and comprehensive. The extension is justifiable.

As said by a colleague here, we also need to go to America. We are already planning to have a session with the Senate of the USA so that we are able to look at the legal framework in that country. The challenge we have is that there is no legal framework that enables the Government of the USA to pay the victims of this bomb blast.

Kenya is a friend to USA. We also want to use that relationship, which is cordial to at least push the agenda so that we get these Kenyans who have been suffering from 1998 up to now are compensated. It is a very sad situation.

We have had Government of Mzee Moi. This situation arose while he was the President. President Kibaki came in for ten years. Uhuru Kenyatta also came in for ten years and now it is President Ruto leading us. It is therefore, a situation that has really been ignored and neglected for a long time.

I thank my Chairperson here because it is her initiative to raise this issue. It is a moment for this House to give this Committee reasonable time so that we comprehensively conclude these investigations and come back to the House. This House will also be counted as a House that was able to rise up and deal with the situation that Kenyans who were victims of the bomb blast suffered.

I support and I believe we will come back to the House with a very comprehensive report for posterity of our country.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. Allow me in supporting this Motion to use the opportunity to congratulate “my sister” *kiveti* Sen. Kavindu Muthama. When she started this initiative, little did she know that the industry was going to catapult her right to the top of the imaginations, not only of many Kenyans, but indeed of the world.

This was not a Kenyans problem. It was twin bombing that happened in Dar es Salaam and the one here in Nairobi. The rest of the world was rocked by this kind of unreasonableness of people who had lost their minds.

I, therefore, want to agree with those who have spoken before me, that the what they are asking for is not time to waste, but to put the house in order.

I urge you not to end this exercise until you go to Capitol Hill in the USA. They owe us a hearing. Somebody has to tell them the real voice of the leadership of this country on how our people suffered, died and how the generations that will come after them will always remain wounded by what befell our country in 1998.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. (Dr.) Khalwale. I do not seem to have any other Member who is willing to contribute to the Motion. I, therefore, call upon Sen. Kavindu Muthama to reply.

Sen. Kavindu Muthama: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to reply. I take this opportunity to thank the Members of this House who have contributed to this extension of days.

Mr. Temporary Speaker, Sir, we have met several stakeholders, including the victims. We also called their lawyers in the USA who came to Kenya and we met them.

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The victims gave the lawyers their background. I must say that this a very emotional situation. When these survivors appear before us, they cry until we all cry. Those wounds are still fresh for them. It is like the bomb blast happened yesterday.

I thank this House, the Liaison Committee for the extension and the Senate Business Committee (SBC) for granting us 45 days. I assure this House that we will not leave any stone unturned until our people are compensated.

Mr. Temporary Speaker, Sir, I beg to reply. I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Kavindu Muthama. Pursuant to Standing Order No. 84(1), I make the determination that the matter does not affect counties.

(Question put and agreed to)

Clerk, you may now call the next Order.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, under the Speaker's Rules on the conduct of Members in the House, Senior Counsel, Sen. Omogeni, the esteemed Member of the National Dialogue Committee (NDC) walked in casually while you were reading your directions on the matter. I request that you direct this distinguished Member and Senator for Nyamira County to go back and obey the House.

I expect a lot from him because he is a ranking Member, he should have frozen when he realized you were on your feet. Kindly call him out of order.

The Temporary Speaker (Sen. Wakili Sigei): Noted, Sen. Cherarkey. I noticed that. I will give Senior Counsel, Sen. Omogeni an opportunity to apologise.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I first want to profusely apologise to you and to the House. I have had a long day at the NDC; from 9.00 a.m., have not had tea or lunch. With my age, my sugar level is low and, therefore, I did not notice that when I walked in. I may also be getting bad eyesight.

Mr. Temporary Speaker, Sir, you can confirm that you were before us at lunch-hour. It was not deliberate or intentional and I tender my unreserved apology. This is the first time our Standing Orders have escaped me and I thank my colleague for pointing out that to me.

I assure you, Mr. Temporary Speaker, Sir, that this will not be repeated. I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni, I indeed confirm that I appeared before your Committee over the lunch-hour. We made commitments before you, especially with regard to time. We could notice that the sugar levels at that time of the Committee Members as well as for those presenting before you, were low.

I know Sen. Omogeni as a senior counsel. My experience with him for the time I have been in the House has been that of a Member without reproach. I, therefore, accept your apology without conditions.

Hon. Members, we will defer Order No. 13 – the County Governments (Revenue Raising Process) Bill (Senate Bills No. 22 of 2023) to the next Session.

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BILLS*Second Reading*THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL
(SENATE BILLS NO.22 OF 2023)*(Bill deferred)*

I call upon the Clerk to call the Next Order.

*Second Reading*THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL
(NATIONAL ASSEMBLY BILLS NO.23 OF 2023)

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to Move the County Governments Additional Allocations Bill (National Assembly Bills No. 23 of 2023) to be read a Second Time. This is a Bill which I hope will establish an Act of Parliament to provide for additional allocations to the county governments for the Financial Year 2023/2024 and state the responsibilities of the national Government and the county government pursuant to such allocations and for connected purposes.

The House will recall that when we were passing the Bill for the Division of Revenue, many people who do not know how devolution works, especially from the Minority side and who have also refused to read, were calling us names that we were denying county governments money. That is far from it. Those who are champions of devolution, a majority of whom are on the Government side, knew that there was no Bill in this House for allocating money to counties.

Mr. Temporary Speaker, Sir, the Bill which was before the House was for dividing money between the national and the county governments. We needed to do it responsibly so that both Governments continue functioning. We did it and gave Kshs385.6 billion and I am glad that time has now come for us to give more money. If this Bill goes through, county governments will now enjoy an excess of Kshs402 billion.

I, therefore, request colleagues that we support this Bill. It is important also that as we support it, we tell members of the public that additional grants were agreed on by the National Assembly and this Senate during the consideration of the Budget Policy Statement (BPS). Most of these conditional allocations to each county government from the national Government share of revenue for the Financial Year 2023/2024 shall be as set out in the First Schedule. I invite Members to read for themselves this Schedule.

Mr. Temporary Speaker, Sir, by proceeds of loans or grants from development partners to each county government for the Financial Year 2023/2024 shall be as set out in Column P of the Third Schedule

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It is important for members of the public to know that this comprises conditional allocations financed by the World Bank credit to finance agriculture and rural inclusive growth projects as set out in column B.

It also includes conditional grant allocations financed by the International Development Agency (IDA) of the World Bank. It also includes conditional allocations financed by the World Bank loan to finance the Kenya Climate Smart Agriculture Project and further includes conditional allocations from the World Bank credit to finance the Water and Sanitation Programme (WSP).

Further sources of this money included conditional allocations from the grant by the Danish International Development Agency (DANIDA) to finance primary health care whose debate is ongoing as we did in Turkana last week. Further funds are coming from conditional allocations financed by the credit from the World Bank to finance the locally-led climate action programme.

It also includes conditional allocations financed by a loan from the Government of Sweden to finance the agriculture sector development support programme further by conditional grants financed by both loans and grants from the German Development Bank to finance the drought resilience programme in North Eastern Kenya.

It also includes conditional allocations financed by credit from the World Bank to finance the Emergency Locust Response Project (ELRP).

We also have conditional financing by a loan from the World Bank to finance the Kenya Informal Settlement Improvement Project (KISIP). We also have conditional allocations from proceeds of loans from the International Fund for Agriculture Development (IFAD) to finance the Kenya Livestock Commercialization Project (KeLCoP).

We have conditional allocations from proceeds of the loan fund for the Agricultural Business Development Project as set out in Column M.

Finally, but not least, part of this money is conditional allocations amounting to Kshs6,167,500,000 financed by proceeds from the World Bank loan for the County Climate Resilience Programme.

Having set out where this money is coming from, it is my pleasure, as I conclude to move this important Bill to inform members of the public that out of this industry, we are now freeing Kshs15,816,000,000 to empower our county governments.

Once again, I would like to remind governors that this money that we are working so hard to ensure that they have is not meant to be at their disposal for self-aggrandizement. It is supposed to be for development.

Out of these allocations, you have seen several programmes that are addressing the problems that afflict the Semi-Arid and Arid Areas.

Having come fresh from Turkana, I hope that the Governor of Turkana is watching this debate. He should make sure that he uses his allocation of these billions to start a structured programme of rolling out the availability of clean water for the people of Turkana.

The shame we saw in Turkana where little children as young as five or six years stand by the roadside and wave you down. When you stop, they tell you *ejog, ejog*. When you ask what that means, they tell you “how are you, peace be with you”. Little do

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you realize that they are making those emotional remarks because they want you to give them water. The moment you give out a bottle of mineral water, you see their faces light up. This must stop. This House must refuse.

In the last ten years when Governor Nanok who is my best friend, was the Governor of Turkana County, this House, through devolved funds, enabled his government to access Kshs100 billion.

That is the amount before you include the additional allocation from all these bodies. Our good friend and Governor presided over it. There are children of the poor in Turkana whose parents have no idea that we exist in Nairobi for their own sake. With our fat English from our big education and our small English, from our commitment to equity, we owe it to them that we call out the corruption monster that is killing the poor in counties.

President Ruto has broken the glass ceiling. A chicken seller has become the President of Kenya. We want to see how, in 10 years, a chicken seller will turn the economy of this country.

We hope and pray that when the chicken seller exits, he will hand over to the son of a *changáa* brewer so that we can change this country.

With those many remarks---

An Hon. Senator: Do we have them here?

Sen. (Dr.) Khalwale: They are many. Sen. Mungatana on my right. I also see Sen. Cherarkey son of cattle rustle---

Sen. Cherarkey: Hustler!

Sen. (Dr.) Khalwale: The other one of cattle rustler was a slip of the tongue.

(Laughter)

I know with these remarks, the distinguished Senator for Mandera, who is the immediate former Governor, a captain, a party leader, the only sitting billionaire, who is a Senator---

(Laughter)

---will be very happy to see this Bill go through because this is what he works for in our Committee all the time.

With those many remarks, I invite Sen. Nyamu to second my Bill.

(Applause)

Sen. Nyamu: Thank you, Mr. Temporary Speaker, Sir. This Bill ---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Nyamu, just take your seat to allow the Hon. Sen. (Dr.) Khalwale to formally move the Bill.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. My apologies, Sir. Sen. Nyamu shot out of her seat so fast that I failed to conclude.

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In conclusion, with those remarks, I move that the Bill be now read a Second Time and invite Sen. Nyamu to second.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Nyamu, you may now take the microphone to second the Bill.

Sen. Nyamu: Thank you, Mr. Temporary Speaker, Sir. This Bill is another clear indication of the commitment of the Kenya Kwanza Government to entrench devolution in this country.

This Bill comes barely three months since His Excellency, President William Samoei Ruto signed into law the County Allocation of Revenue Bill and the County Equalisation Fund Appropriation Bill. A lot of money might not be utilised as planned if governors are not patriotic enough. They need to commit to the roles that they are elected for and make sure that this money is utilised for projects that are for the betterment of all Kenyans.

Mr. Temporary Speaker, Sir, I wish to remind my colleagues of our oversight role to make sure that devolution is working and be diligent to ensure that this money is utilised properly on what it is meant for.

I support this Bill. As a Member of the Nairobi City County Delegation, I still wish to register my complaints on the method and formula used to allocate funds every time. Just like the Equalization Fund, this Bill is no exception, that Nairobi City County suffered an unfair formula.

In the First Schedule, Nairobi City County has been allocated Kshs239 million. Our population is a whooping five million residents with 85 Wards. On the other hand, a county like Kilifi with 1.5 million residents and 35 wards, has been allocated Kshs359 million. Lamu County with 10 Wards and 150,000 residents has been allocated Kshs287 million. Are we being fair to Nairobi City County?

Mr. Temporary Speaker, Sir, I have said here previously that Nairobi City County is home to some of the biggest slums. The deplorable state of residents keeps being ignored by legislators and policy makers. I call upon the Nairobi City County leadership, led by Gov. Sakaja and Sen. Sifuna, that let us join hands with other leaders and change this narrative for Nairobi City County once and for all.

The assumption that Nairobi City County is rich just because it is a seat of Government or the capital City is wrong. It is a misrepresentation of our people because the majority of Nairobi City County residents are slum dwellers. Just because Nairobi City County contributes the highest to the Gross Domestic Product (GDP) does not mean that we ignore Nairobians who are living beyond the poverty level in the state.

With those many or few remarks, I second.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I call upon the Senators who have requested to contribute to this Bill. Let me start with the Chairman of the Committee, Sen. Ali Roba.

Sen. Ali Roba: Thank you, Mr. Temporary Speaker, Sir.

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

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The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I am not challenging anything. However, we can build traditions. Since this is the baby of the Chair, I thought it would be wise and neater for the Chairman of the Committee to listen to contributions of Members and then put a few things in perspective.

I am not saying it is anchored in the law or the Standing Order. I am not saying it is a must. I just request the party leader and the Chair to maybe hold his horses by listening to our thinking, then when he presents it, he can still answer or clarify a few issues. That is my thinking.

The Temporary Speaker (Sen. Wakili Sigei): That is noted, Sen. Cherarkey. However, you will note that this Bill has been sponsored by the Senate Majority Leader and not the Chairperson, Sen. Ali Roba. So, allow Sen. Ali Roba to contribute.

I believe Sen. (Dr.) Khalwale, who moved the Motion on behalf of the Senate Majority Leader will listen through the contributions by Members for his reply at the end of the debate.

Thank you.

Sen. Ali Roba: Thank you, Mr. Temporary Speaker, Sir. Thank you for informing my colleague, Sen. Cherarkey, that the Bill is sponsored by the Senate Majority Leader. So, I am only contributing as a Member, just like you despite the Committee on Finance and Budget processing the Bill.

Mr. Temporary Speaker, Sir, I rise to support the County Government Additional Allocations Bill (National Assembly Bills No.23 of 2023). This Bill allocates a whopping Kshs56.18 billion to county governments. This is a very important contribution in light of resource constraints.

Remember, when the Division of Revenue Bill was being passed, the discussion was all about that money being too little for county governments. As such, this Kshs56 billion will go a long way in complementing the budgets of county governments, conditionally in line with the grant providers such as World Bank, the national Government and the rest.

The Kshs56 billion in this Bill comprises additional financial allocation from the national Government share of revenue, amounting to Kshs15.18 billion. It also comprises conditional allocation to county government from court fines and royalties amounting to Kshs3.043 billion.

There is also conditional allocation from proceeds of loans and grants from development partners, totalling to a whopping Kshs33.192 billion. Finally, we have the national Government expenditure on devolved functions converted to additional conditional allocation, totalling to Kshs4.129 billion.

Mr. Temporary Speaker, Sir, the conditional grant also includes the conditional grant for aggregated industrial parks programme, amounting to Kshs4.5 billion. This programme is planned to be undertaken in 18 counties. Initially, it was envisaged and planned for the 47 counties to benefit from this fund at the rate of about Kshs100 million per county.

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However, when the preliminary engagements were done between county governments and the national Government, it was determined that Kshs100 million will be too little to do any meaningful industrial park programme. Therefore, the decision was reviewed to start with the first 18 counties that appeared to be extremely ready to pick up, where instead of Kshs100 million, Kshs250 million was conditioned to be allocated to these 18 counties, with a condition that these 18 counties match up the money with the 29 county governments. The remaining 29 county governments should be allocated similar amounts in the subsequent financial year.

The role of the Senate is to strengthen and protect devolution. The Senate also legislates and represents and oversight counties. The release of these Kshs56 billion to county governments is a very critical function of the Senate.

Mr. Temporary Speaker, Sir, as you are already aware, the first quarter of the financial year has already lapsed. Further delay in approving this additional allocation is going to really put the utilisation of the fund from the donors in jeopardy. Remember, conditions have been assigned to these funds and the National Treasury needs to release the funds in time. It is going to make it very difficult for the implementation of the fund. It will either lead to lack of release of funds from the National Treasury to the beneficiary county governments or funds being released too late for county governments to absorb the funds in line with the conditions required.

As I support, I would like to urge our colleagues in the Senate to prioritize the conclusion of this Bill as a matter of urgency. It has already gone through the National Assembly and undergone some amendments by the Committee as recommended because some funds that were left out have been included. This means the Bill has to go for negotiations between the National Assembly and the Senate, delaying the process even further.

As I give that information, I beg to support.

I thank you.

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir. I support the County Government Additional Allocation (National Assembly Bill No.23 of 2023). I hope that in future, the same way we process the National Assembly Bills with supersonic speed, our sister House shall do the same so that we do not have differences in processing Bills.

I thank the Committee for coming to look at the Bill. These are the issues we have been raising. Many people have been asking what the role of devolution is. This is a great milestone because in the past, we had not ring-fenced most of the funds that were going to the County Revenue Fund (CRF). I am happy that it is in line with Article 202(2) of the Constitution, which states that: -

“The county government may give additional allocations from the National Government share of the revenue either conditionally or unconditionally”.

This is very critical. When we passed Kshs370 billion in the last financial year, many of our colleagues on the Minority side who unfortunately are not present in the House, complained a lot. They were being selective by telling our people that Senators cut down allocations to counties, yet this is way above the revenue we are giving to counties.

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Looking at what we have allocated through additional funds in the next financial year 2023/2024; in the First Schedule, counties in 2023/2024 shall get a total of Kshs15.816 billion. That is a lot of money that shall go to counties. This is very important.

I want to assure the great people of Nandi that I am taking a whopping additional Kshs503,429,010, and will not entertain any pilferage of this money at whatever costs. When I say Nandi County is the headquarters of corruption, many people doubt it. I am happy that investigative agencies move with gusto to ensure financial impropriety does not become the order of the day in my county.

With the Kshs503,429,010 through additional funds to Nandi County, we hope to see many things change, including National Agricultural and Rural Inclusive Growth Project (NARIGP) and the Danish International Development Agency (DANIDA).

As we debate, we have the obligation to teach our viewers - Kenyans and the people we represent be it in Kakamega, Mandera, Nairobi City and the 47 counties including yours Bomet - that additional allocation funds means additional resources allocated to county governments from the national Government share of revenue in form of loans and grants from development partners.

When you see DANIDA, NARIGP, Japan International Cooperation Agency (JICA) and the World Bank Kenya support programme in terms of improvement, that is what we call additional funds that are being taken as per Article 202(2), which is way and above the normal revenue allocation that we give to counties. Out of Kshs15billion, Kshs503,429,010 will go to Nandi County. It is important because it will continue to support agriculture and medical aspects.

I am happy that the Presidential Climate Agenda has been captured very well. Less than a month ago, we had the African Climate Summit, which was World Class. The agenda is pushing to ensure we plant more than 15 billion trees in this Republic. I agree with the Mover of the Motion that this does not form the basis of stealing or pilferage of resources. We challenge counties to perform.

As we have this conversation, we are now doing more than 10 years of devolution; 2013 till now. There is a reggae song that says, 'if you look out the window, do you see anything to smile about?' You heard of the reggae artist, Burning Spear, who was shot and killed. There is also the reggae maestro Bob Marley and Lucky Dube. He said that when you see more prisons being built than schools, then there is a problem.

Ten years down the line, I paraphrase that song and say, 'do you see anything to smile about in Bomet? Do I see anything to smile about in Nandi?' I do not. I see only a few billionaires who have plundered and pilfered the county to the lowest level.

County governments were complaining about health because they are doing nothing. In Nandi, virtually there is not even Piriton. I know in your region there is a song that has been sung about piriton, which means something that can lull you to sleep. You cannot get Panadol or even minor surgeries done together, with anesthesia and few things provided. I know it is the same situation in Kakamega County because I have heard our Senate Majority Whip complaining about medical services in Kakamega.

In Nandi County, June 2023, there was a total of Kshs175 million that went into recurrent expenditure. This was the disbursement from the Controller of Budget (COB), and more than Kshs310 million was given to development.

El Nino is beginning across the country, and there is no feeder road that is passable in Nandi today. The feeder roads are managed by the county. We produce maize and it must be transported to Nairobi City County to ensure the cost of living comes down.

The Presidents has done well by giving us fertilizer and incentives as farmers. The problem is that we cannot get our crop from the farm to the towns, in order to ensure that places such as Mandera County and other far-flung areas, which do not have the benefit of maize, are able to access it because our roads, especially feeder roads being managed by the Nandi County Government, are not passable.

I saw a story on NTV that people in Tinderet Constituency were complaining that their roads were impassable, yet they want to access markets and take their crops such as sugarcane. We are part of the sugarcane nucleus. I am happy to see the Senate Majority Leader, through the Senate Majority Whip, Sen. (Dr.) Khalwale, will come up with the Sugar Bill. We are part of that nucleus, yet we cannot access to deliver the crop.

Some of us are at pains. We are not sure whether to support more funds to *mashinani* because every time you attend a function on weekends and tell people the amount you have brought, they look at you as if you are an angel; like you are the new stranger in Jerusalem because they do not feel the money. It is very unfortunate.

As a Senator, I wish that one day when I go home for the weekend and say that I brought money for the feeder roads, people will clap and say that the road I am using was constructed using the money I appropriated in Nairobi. My wish is that one day when someone walks to Kapsabet County Referral Hospital, it is not a signature to access the mortuary, but give life to the people of Nandi. You walk in unwell and walk out feeling well, not walking in unwell and get the proverbial President's statement of "*mambo ni matatu.*"

My wish is that I meet a student and they tell me that because I pushed for additional allocation, they got bursaries to go to school. I look forward to a day when through the agricultural programmes being run, there are milk cooling programmes in Bekekenya, Kabiyet, Ngechek. Farmers should meet me and state that, "courtesy of additional funds you passed with your colleagues, we have a milk cooling plant in this area." This is the future of devolution.

The tragic side of devolution has been the soft underbelly of corruption. My brother, Sen. (Dr.) Khalwale, has stated the issues in Turkana County. As the Committee on County Public Accounts, we have issued directives. The necessary agencies have picked the matter and are looking into the Kshs100 billion misappropriated in Turkana County. As the Vice Chairman of the Committee, we are seized of the matter. In whichever county we find culpability of corruption, whether Kakamega, Tana River or Mandera Counties, we shall not hesitate to take action. Our work is to protect the interest of counties.

My advice to counties is to tailor-make the money we are getting for specific functions. On the issue of Kenya Support Infrastructural Programme through World Bank

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– the former governor, Chairperson of Committee on Finance and Budget and United Democratic Movement (UDM) Party Leader – there is a song that states, “here comes the conqueror and lion.” I do not know whether in his time as Governor, Sen. Ali Roba, benefited from the World Bank support through Kenya Settlement Infrastructural Programme.

World Bank should be keen. Kapsabet Town, the headquarters of Nandi County, got some amount in the last financial year that was meant for road network improvement. However, there are still roads in Kapsabet Town that are impassable. We were given money by the World Bank to build footpaths. I know that Sen. (Dr.) Khalwale passes through Kapsabet when going to Kakamega County. The roads built have been washed away by rain because of the substandard works. The pathways are so narrow that two dogs cannot pass at the same time, let alone human beings.

I urge the partners to put in place evaluation and monitoring units. I challenge Sen. Ali Roba, who was a Governor before, that outside the issue of allocating and processing Bills, advise the Senate on how to effectively monitor the resources we give to Governors. We only discuss about the audited revenue.

I submitted a memorandum to the National Dialogue Committee. There were machismo issues to do with the term limit. However, inside my ‘earth-shaking’ proposal to the National Dialogue Committee – they declined my request to appear because they knew I would tell Kenyans the truth. I proposed an increment of allocation to counties, from 15 per cent to 40 per cent.

I want more resources to go to Bomet County, so that the county leadership can perform optimally. I also proposed that this House be made the upper house in a bicameral parliamentary system and ensure we have the power to veto Bills. The National Assembly rejected our amendments to a Bill the other day. I hope they will not reject amendments to this Bill because Sen. Ali Roba has proposed several. These are the issues I raised in the memoranda. I expected the National Dialogue Committee to drink from my wisdom.

Sen. (Dr.) Khalwale and Sen. Mungatana are senior legislators in this House. I proposed that we can either proceed with the presidential system or adopt a parliamentary system of Government. Also, we can agree on a hybrid system. Some of the proposals we made were on strengthening devolution, not to mention the issues of seven years. A seven-year term for the President is good because you finish your five years, and proceed for another 15 years in power to have a total of 19 years. The chicken seller is in the office and the son of the *chang’aa* brewer would like to be President. Also, the herder from northern Kenya has ambitions to this direction. They should be happy that I am giving concrete proposals, that is, 19 years in power.

As I conclude, I commend the Committee on Finance and Budget. This is the Committee of the year. This is a Committee that does a lot of work outside the Committee on County Public Accounts where I am the Vice Chairperson. We are the number one Committee followed by the Committee on Finance and Budget as the Committees of the year. We could be at a draw because of the way they process their Bills.

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I am happy that Sen. Tabitha Mutinda, the Vice Chairperson of the Committee, and Sen. (Dr.) Khalwale are here. These are eminent individuals who have ensured that the Bill is processed smoothly. I urge the Chairperson of the Committee to follow through the amendments proposed. Do not be blackmailed or cowed by the National Assembly. I handled the National Assembly well in the last session.

Hon. Duale, the current Cabinet Secretary for Defence was the Majority Leader and he tried to intimidate some of us. We told him that the price of intimidation, fear and blackmail had fallen. We have taken these matters to court and they have pronounced that the Senate has a role in the budget making process. It is not only on conditional grants and Division of Revenue Bill, but even the budget making process.

I challenge our Committee to be in the lead. When you proceed to Mediation Committee, protect the Senate at all cost. All of us will stand solidly behind you.

With those many remarks – so that I allow my colleagues to comment – I support the Bill with the amendments the Committee has proposed and wish them well.

I beg to support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, as you take your seat, today you must have rehearsed on music genres. I would like to remind you that Bomet County is the home of music. Among the songs you referenced, there is one from Bomet County.

Sen. Mungatana, proceed.

Sen. Mungatana, MGH: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to make some comments on the Bill. From the onset, I support the Bill. We should all support this Bill because it speaks to the framework that the national Government and the development partners have for the money appropriated to our counties.

There are a few things that the Majority Whip, who is the sponsor of the Bill can help us understand. I hope Sen. (Dr.) Khalwale will not be misled not to listen to what I am saying. I need some answers.

I am not a finance person, but it does not make any sense for all counties to receive an equal amount of Kshs124,723,403 to lease medical equipment as a conditional grant, and then, have them pay back that money. Someone to explain to me why that money is being released to the counties when it is supposed to pay the single person who leased that medical equipment. Why can this money not be paid directly? Why should we have that amount taken to the County Revenue Fund (CRF) for each county and then at the same time, it is taken back to pay for leased medical equipment?

We also need to question ourselves. We have had a lot of complaints from governors about the leasing of medical equipment. In fact, a lot of negative pronouncements have been made around the leasing of these medical equipment. As a lawyer, I understand that there must have been an agreement signed somewhere. Some of the governors have come out to say that they were coerced. Some of them had even refused to sign, but later on, they did.

If indeed there was an existing contract, do we not have an exit clause? Every good contract drafted by good lawyers must have an exit clause. If this exit clause exists, why can we not exit this process? It seems that the needs of some counties were not

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factored in. Maybe we need more medical personnel, but we are being forced to lease equipment from a certain company. This was something that we inherited from the previous administration.

Before we just push money to support a contract that is so unpopular and was coerced upon some counties, we should relook at this whole mechanism and see whether we can reshape it. If that Kshs124 million is coming to our hospitals in Tana River County, then it should come to deal with issues that are affecting us, not leasing equipment, some of which we do not have personnel to operate and it stays without being utilized, yet we still have to pay for it. I think this is something that I would like the Senate Majority Leader to explain further.

On the aggregated industrial park, every county has been given Kshs250 million. However, not all counties have started, only a few have. About Kshs4.5 billion in total has been allocated. From the First Schedule, I see that not all counties were given this money. Maybe, we will need some explanation. This is because, when we go back home and we are told the neighbouring county has been given Kshs250 million to develop the aggregated industrial park and yet yours has not and there is no explanation given, it promotes a feeling of inequality amongst the residents of various counties who have not been allocated the Kshs250 million in Colum D.

Mr. Temporary Speaker, Sir, there is a conditional grant for the provision of a fertilizer subsidy programme. I would be very interested for the sponsor of this Motion to explain why a county like Tana River, with 35 square kilometres receives Kshs15 million or thereabout and Nairobi City County, which is pretty small, is allocated Kshs14 million. I fail to understand, the reason being that when the fertilizers are brought to the county headquarters, the arrangements for transporting this fertilizer to the point where they are to be consumed by the registered farmers is not there. When you look at it, it will then mean that you are equating the transportation costs of Tana River to Nairobi. It does not make sense that we getting about Kshs15 million and Nairobi City County is getting Kshs14 million under the fertilizer subsidy programme.

I think when we are moving these Bills, we need proper explanations. Yes, we want the money, but let the logical explanations run, so that we can understand what these Bills are all about. Look at court fines on the column on the allocation of court fines for the Financial Year 2022/2023 from the national Government. For Tana River County, that column is marked dash, which means that the allocation for court fines is nil. This goes for several other counties. There is Baringo, Bomet, Busia and Bungoma.

You see several counties that were not given anything under allocation for court fines, yet in reality, there are courts in Tana River and they are levying fines, which are taken to the consolidated fund. The Consolidated Fund is supposed to allocate these monies back to the CRF. It does not make sense for a number of counties such as Vihiga, West Pokot, Tharaka-Nithi, Tana River, Taita-Taveta and so many others not to be given any allocation back from the Consolidated Fund at the national level, yet we are levying court fines in our various counties. We need a bit of explanation and seriousness when we are doing this work. You do not just come throwing figures that we do not understand.

Mr. Temporary Speaker, Sir, looking for the allocation for mineral royalties, we get Kshs10,623,000 in Tana River County, yet when you look at the amount of gypsum

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that is mined in Tana River County, this cannot reflect the 20 per cent value. Surely, we want proper explanations for some of these things. Gypsum is a highly valuable mineral and it is the one that makes the critical component in manufacturing cement. We support the Bill, but there are things that need an explanation, so that we can all move in the same direction.

We are thankful for the allocation of Kshs121 million for the completion of the county headquarters in Tana River County. Tana River County is one of the counties that has not been able to complete the construction of the county headquarters until after this allocation.

Mr. Temporary Speaker, Sir, I will use the Floor of this House to tell the county government that it is time that we move away from the list of shame. How is it that so many other counties have finalised this business of county headquarters? When you go to counties for benchmarking and see how they look and compare to how your county looks like, it is shameful. We need this money utilised properly to finalise this business as soon as possible.

Mr. Temporary Speaker, Sir, the final one on this Bill is that when you look at it, there is the allocation for the programme called Kenya Marine Fisheries and Socio-Economic Development (KEMFSED) Programme.

Just now, we have had the Senator for Turkana County, Sen. Lomenen, talk about the potential of Blue Economy at Lake Turkana and yet, if you look at the Bill, Turkana has been given nil allocation for this programme. We have just come from there and saw that the lake is big, if not bigger than so many other water bodies around Kenya.

I use the Floor of this House to urge that fairness be part and parcel of our legislation making process. Why would you deny a county such as Turkana, which has such a huge lake, even a single coin of this KEMFSED programme?

We have many times talked about a lot of segregation in terms of development. When you are allocating money to this area and not to the other, yet the potential for economic development in that area is as good as the other areas, then we are continuing to promote the Sessional No.10 of 1965; that economic paper that promoted unequal development within this country.

Tana River County has a very large coast and the potential for Blue Economy is very large. However, when it comes to the allocation, I do not know what factors these people use to give us little money than more to other coastal counties.

It is not understandable when you are given Kshs33 million and another county being given Kshs100 million. As much as we wish them well as they develop and do what they need to do to get their counties moving, it is not fair. The explanations are not even there to tell why some counties should get three times more from the same programme of Blue Economy, while other counties are being denied the same fund. We are in the same country and are the same citizens with the same coastline.

Mr. Temporary Speaker, Sir, my prayer is that as the Government Whip, who is holding brief for the Senate Majority Leader, replies, he can shed some light on some of these things because we would want to walk together. For a very long time, some of us have watched unequal development in this country and we should not keep quiet. We will keep on saying that this nation needs to be fair to all of us.

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Every time there are pilot projects, you will see that the project is on certain counties and not others. After those pilot projects are done, the project disappears and you are told that maybe the pilot never worked. However, during that time, the five or six counties benefited, having been given that money. Our counties where we come from are never in those pilot projects.

We want those people in Treasury to start being serious and know that this country is bigger than Nairobi and a few other counties. We belong to the same country and need to be treated fairly and equally. I speak this advisedly because I know so many of the northern Counties have suffered the same segregation that we have suffered over a long period of time because the same people in Treasury are the ones who come with these Bills. They never do consultations.

By the time they come here, they are just telling us, “help us to pass this Bill,” but they are the same people from the same areas. That is why I want to use the Floor of this House also to call for changes in that Treasury.

Mr. Temporary Speaker, Sir, we want to see more people from Arid and Semi-Arid Land (ASAL) Areas being employed in Treasury. Treasury is full of just one tribe. It is a known fact that a certain political dimension is there. They keep employing from the same area, the same people and the same thinking. That is why we, who are from the northern part of Kenya, are not inside there when the planning is being done. When the division of these revenues are being planned, we are left out.

The attitudes are the same. When you finish this administration, the next administration people tell you that this person has been in National Treasury for long, and so, he knows what to do and how the budget cycle goes. Again, we are left behind.

The National Treasury needs reforms. In fact, maybe it is time we need a clear tabling of the names of the employees in Treasury. We want to know how many people from Tana River County are in Treasury and the positions they are holding. Maybe it will advise us why they sometimes keep on doing things that do not make sense. I pray that fairness be part and parcel of this country. We will not keep quiet. We will keep on talking until something is done.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Mutinda.

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Bill. I am the Vice Chairperson of Finance and Budget, and I agree with Sen. Cherarkey when he said that this is one of the Committees that has quite a number of Bills in the Senate. We are always proud to be able to execute our mandate as Senators in regards to what is entailed.

I have totalled the grants as per the Bill and they are amounting to Kshs56 billion. Plus, the Kshs385 billion allocation for the year 2022/2023, we are looking at the next financial year at a total of about over Kshs440 billion allocation to the counties. This is additional.

As the Senate, we pride in ensuring that we support devolution by ensuring counties are able to have more funding and receiving the same funds timeously. It is in that timely disbursement of the funds that the counties are able to execute their mandate and able to partake different roles.

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These funds range from different aspects in terms of the fertilizer subsidy programmes, industrial park programme, medical equipment as had been mentioned and water issues. As you know, water and sanitation is a very critical issue.

One thing that is very clear is that these funds are also coming from the national Government. If you look at the First Schedule, it talks about conditional allocation to county government from the National Government revenue. This totals to about the first Kshs15 billion allocation.

At the same time, we also have the unconditional allocations to county that are coming from the court fines. As the Committee on Finance and Budget, we have really deliberated with the National Treasury on ensuring that monies collected through the courts in the different counties are remitted to particular County Revenue Fund (CRF).

One county – Laikipia, if am not wrong - is the only county that has been able to receive its funds. As a committee, we have been pushing the National Treasury to ensure that it disburses the other funds for the other different counties because this money belongs to these counties.

Mr. Temporary Speaker, Sir, I am happy to see that the Second Schedule, which amounts to Kshs3 billion, is an allocation from the court fines and mineral royalties. As you know, there is the allocation at 30 per cent and that of 10 per cent that we are still pushing the National Treasury that benefits the local communities. The last time we had a discussion with the same Ministry, they talked about how there is no clear framework as to who the local beneficiary is.

However, as a committee, we have emphasized that the locals should be able to benefit. I am happy that there is that discussion. This amounts to the Second Schedule of Kshs303 billion. Also, we have what we call the county allocation from proceeds of loans from the development partners for the same financial year, which gives the highest total in this allocation of about Kshs33 billion.

(Sen. Mungatana consulted with Sen. (Dr.) Khalwale)

I request Sen. Mungatana to give me his ear. I sit in the Committee on Finance and Budget, and he had tried to get clarity in regard to the issue of the Kshs124 million being allocated for the leased equipment. There have been agreements and individual contracts between the different counties as far as the equipment that had been leased earlier is concerned. These monies are normally not remitted to the County Revenue Fund (CRF) account. They are paid directly from National Treasury within the contract that had been put in place.

At the same time, there have been questions like why do you have different allocations? I know that in my county, Nairobi City County, if you look at the Second Schedule, our allocation is about Kshs139 million and our numbers are very big, as you all know, being in the City. However, we have other counties whose allocation is also very high.

I advise and share with colleagues that these allocations are neither done by the committee nor use the parameters that are in place. They are determined by the donors

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themselves. They are the ones who do the funds allocation depending on what they need to be achieved in those particular regions.

As my colleagues had mentioned earlier, especially Sen. (Dr.) Khalwale, we were in Turkana County last week and it is quite a sad state of affairs. I am happy if the Committee on County Public Accounts (CPAC) is looking into the funds that had been remitted earlier. It was a very good feeling interacting with the people and physically being on the ground to have a direct feel of what devolution is.

Our major focus was on as far as matters development were concerned. Water was a very prominent issue that came about. It is quite saddening because I am privileged to also sit in my other committee called the County Public Investments Committee (CPIC), which looks at the special funds and these grants are some of the funds. So, I sit in the Committee on Finance and Budget that gives the money and at the same time oversight the same money in the other committee.

It is sad because Turkana County has been one of the beneficiaries of the grants. I look at this allocation here and Turkana County is going to be receiving Kshs137 million. Then you ask the simple question, why can the Governor of Turkana County not be able to ensure he prioritizes the basic commodity that is water? Sen. Lomenen from Turkana County, we were in your beautiful county and you welcomed us very well. Kindly, because we saw the cry for water, we request that you try and push for the same. At this point, I do second and support the Bill.

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

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Mandago?

Sen. Mandago: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.105. Is it in order for Sen. Tabitha Mutinda to mislead this House and say Turkana County has been receiving grants? As a point of information, from inception, Equalization Funds have never been released to any single county. This is the first attempt. You can have money in the paper, but to have the money reach the counties, it is the first time. We thank His Excellency, the President, that counties have now been able to get their equitable share for the first time, timely and with all the arrears. So, it is not in order for Sen. Tabitha Mutinda---

The Temporary Speaker (Sen. Wakili Sigei): Your point of order has been overtaken by events because the Senator has already concluded her remarks on her contribution. However, I believe she has been informed by your comments about the allocations and the remittances to the counties.

Sen. (Dr.) Khalwale, please, proceed.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I agree with your ruling. However, as you correctly say that she has been informed, are we sure? Is that information accurate? This additional allocation is money from the World Bank and donor community. We know that the World Bank and donor community projects have been going on for the last ten years. Is the Senator for Uasin Gishu County right in his assertion, knowing that these projects have been going on, where the money was coming from if it is not an allocation?

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We congratulate the President not on additional funds, but on the sharable revenue, which he has released for the first time. Additional allocations from the World Bank and donor communities have been flowing. In fact, for the record, in Kakamega County, we have roads within the town that were done by the World Bank. So, where was Oparanya getting the money, unless the former Governor seated next to the former Governor are colluding to mislead the entire Republic?

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, take your seat. Sen. Ali Roba, I will not allow an extra point of order. I want to allow Sen. Mandago to make his contributions.

Sen. Mandago: Mr. Temporary Speaker, Sir, I believe Sen. (Dr.) Khalwale did not listen to the total contribution of Sen. Tabitha Mutinda. If you have heard the sentence correctly - and you might need to go back to the HANSARD - you will understand where I am coming from.

That notwithstanding, first, let me start by saying that I support this Bill. One, because we are sending additional resources to the counties. For my County of Uasin Gishu, we are going to send an additional slightly above Kshs1 billion. Nevertheless, even as we do this in this Bill and support it, there are a few things that I agree with my colleague, Sen. Mungatana.

One is on the issue of the managed equipment. The additional allocation of about Kshs5.6 billion that is meant for managed equipment is a figure that we still need to interrogate. It would not be fair for this country to pay contractors and suppliers of equipment figures, including for equipment they did not supply. I speak as a former Governor of Uasin Gishu County and in my own county, I still have issues with the managed equipment.

This is because the number of equipment that was alleged to have been delivered to the County Government of Uasin Gishu is not what we received, yet we were deducted money meant for the equipment. Now money has been allocated for repairs or servicing of those contracts again in a uniform manner to include even equipment that was not supplied. The managed equipment programme is a very good programme, but the way it was run and how we are going back to adopt the same, I do not believe is going to give good value for the people of Kenya, particularly for equipment that were not supplied.

I urge this House that those suppliers must be taken to task up until when they supply full equipment. The suppliers owe counties and the government some money, which they need to refund for the equipment they never supplied.

Mr. Temporary Speaker, Sir, I also agree with Sen. Mungatana---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, it is 6.30 p.m., and we have to adjourn. You will have 17 minutes tomorrow to resume your contribution to the Bill, and it will be in the Morning session.

ADJOURNMENT

Hon. Members, it is now 6.30 p.m., time to adjourn the Senate. We, therefore, adjourn until tomorrow, Wednesday, 4th October, 2023, at 9.30 a.m.

The Senate rose at 6.30 p.m.