

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 12<sup>th</sup> April, 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 quorum?

*(The Clerk-at-the-Table consulted with the Speaker)  
(Several Senators walked into the Chamber)*

Clerk, now that we have the quorum, kindly proceed to read the First Order.

#### COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM ELGEYO-MARAKWET  
COUNTY ASSEMBLY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, officers from the County Assembly of Elgeyo-Marakwet. The officers are in the Senate for a five-day training on e-Parliament and HANSARD Systems.

I request each member of the delegation to stand when called out, so that you may be acknowledged in the Senate tradition.

Mr. David Barngetuny	-	Head of Procurement
Mr. Derick Bartai	-	Procurement Officer
Mr. Watson Kiplagat	-	Head of ICT
Mr. Ronald Sang	-	ICT Officer

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

*(Applause)*

VISITING DELEGATION FROM  
KAKAMEGA COUNTY ASSEMBLY

**The Speaker** (Hon. Kingi): Hon. Senators, again, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a delegation from the County Assembly of Kakamega, comprising Members of the Committee on Justice and Legal Affairs and its secretariat. The delegation is undertaking a three-day benchmarking visit in the Senate.

I request each member of the delegation to stand when called out, so that you may be acknowledged in the Senate tradition.

Hon. Silas Chiyenji	-	Chairperson
Hon. James Etabale	-	Member of the Committee
Hon. Charles Anyona	-	Member of the Committee
Hon. Joel Okwako	-	Member of the Committee
Hon. Zurack Nyongesa	-	Member of the Committee
Hon. Samuel Segero	-	Member of the Committee
Hon. Moses Musundi	-	Member of the Committee
Hon. Donald Okumu	-	Member of the Committee
Hon. Amos Liyai	-	Member of the Committee
Hon. Boniface Mabuka	-	Member of the Committee
Mr. Jean Opande	-	Clerk Assistant
Ms. Ruth Chikamai	-	Clerk Assistant
Ms. Phyllis Ong'ale	-	Hansard Reporter
Mr. Evans Katamu	-	Researcher
Mr. Jack Obote	-	Commissioner

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

*(Applause)*

VISITING DELEGATION FROM  
KILIFI COUNTY ASSEMBLY

**The Speaker** (Hon. Kingi): Hon. Senators, I have a third communication to make. I would like to acknowledge the presence of, in the Speaker's Gallery this afternoon,

officers from the Serjeant-at-Arms Department of the County Assembly of Kilifi. The officers are in the Senate for a four-day benchmarking visit with their counterpart.

I request each officer to stand when called out, so that you may be acknowledged in the Senate tradition.

Mr. Ibrahim Mwavinga Tembo	-	Serjeant-at-Arms
Mr. Harold Sipa Mwatata	-	Serjeant-at-Arms
Ms. Janet Amina Mramba	-	Serjeant-at-Arms
Ms. Margaret Karisa Kadenge	-	Serjeant-at-Arms Assistant
Ms. Salome Kasichana Konde	-	Serjeant-at-Arms Assistant

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

*(Applause)*

I will allow the two leaders of both sides; the Senate Majority Leader and Senate Minority Leader, to make short welcoming remarks to the three delegations.

Senate Minority Leader, you can take the Floor.

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, kwa heshima na taadhima, najiunga nawe kuwakaribisha wageni wetu kutoka kaunti tatu za nchi yetu ya Kenya.

Karibuni sana wageni kutoka Elgeyo-Marakwet, vile vile Kakamega; *Ingoo*, kule kwa Sen. (Dr.) Khalwale na hatimaye wageni kutoka nyumbani. *Enyeko*.

**The Speaker** (Hon. Kingi): Senate Minority Leader, the Chair is Speaking. You know Mijikenda is not one of the languages that is Parliamentary. Kindly withdraw the word *enyeko* and proceed to welcome the guests.

*(Laughter)*

**The Senate Minority Leader** (Sen. Madzayo): Mr. Speaker, Sir, as you are aware, *enyeko* ni kusema “wenyewe huko” ni kwamba unawasalimia kisawa. Pia, Kiswahili unaweza kusema wenyewe huko. Sikuendelea kusema hamjambo, nimesema tu wenyewe huko? Nafikiria imeeleweka hapo.

Bw. Spika, ningependa niendele. Nakushukuru sana kwa kunikaribisha na mimi niweze kuungana na wewe kuwakaribisha hawa ndugu zetu. Nina matumaini makubwa ya kwamba vile ambavyo wamekuja hapa ndani ya Bunge letu la Seneti, wanaweza kujionea kabisa utendakazi wa Bunge la Seneti ulivyo. Nina uhakika wameweza kukutana na Maseneta kadha kadha, nikiwa mmoja wao anayewaelewa sana.

Nina matumaini ya kwamba, wakirudi nyumbani taratibu za Bunge la Seneti watazokuwa wameona hapa wataweza kuzifikisha huko. Kulingana na vile sisi huwa tunajadiliana hapa, hili ni Bunge ambalo liko na wakakamavu.

Hapa hatuna siasa zile za kulumbana, za juu ambazo watu hawaelewani kama ndugu. Hapa tunafanya ile *bipartisan* debate kisha tukiona pande fulani kuna *suggestion* nzuri zaidi, huwa tunakubaliana.

Hata hivyo, kwa mara nyingi utakuja kuona kwamba misimamo mikali pia huwa tunaifanya ndani ya Bunge letu la Seneti. Kwa hivyo, tuna uhakika mmejionea na mtawajibika. Tuko na Serjeant-At-Arms hapa ambao wanafanya kazi kubwa sana. Nina hakika mkirudi nyumbani yale mliojifunza hapa mtaweza kuyatekeleza kule nyumbani.

Asante sana, Bw. Spika.

**The Speaker** (Hon. Kingi): Proceed, Senate Majority Whip.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. It is a privilege for me to welcome the delegations from Elgeyo-Marakwet, Kilifi and the land of bull fighting. With your permission, allow me to say in Kiswahili, *karibuni*.

Mr. Speaker, Sir, because of the respect I have for culture, I beg you to bear with me to tell my colleagues from Elgeyo-Marakwet *otogotin* and of course, my people from the land of bull fighting, I tell them---

**The Speaker** (Hon. Kingi): Hon. Senator, you know as the Chair, I do not have power to allow you to use other languages other than English and Kiswahili. Kindly, confine yourself to those two languages as you make your welcoming remarks.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I stand guided, but language is dynamic. The leaders who have come from Elgeyo-Marakwet, you come from a special county. It is one of the most beautiful landscapes in the Republic of Kenya. I hope through your leadership, that beauty will be translated into performance of the County Government of Elgeyo-Marakwet.

The county has produced one of the longest serving Senators in this House, Kipchumba Murkomen. He is now our able Minister or Cabinet Secretary (CS) for Transport and Roads. We look forward to a delivering department just he delivered when he was a Senator here.

As far as Kilifi is concerned, this is the Parliament that gave honour and recognition to Kilifi. Guests from home in Kilifi, did you know that history was remade? The first Speaker of the Senate in 1963, Rt. Hon. Chokwe, was from Kilifi and the current Speaker, Rt. Hon. Kingi, is from Kilifi.

Further, the Speaker, Hon. Kingi, was elected by both sides of the House unopposed. That was a lot of honour to the people of Kilifi. What is more, the Senate Leader of Minority is also from Kilifi. He is a very good man. The only problem with him is that sometimes he has bad manners of running in a tracksuit on a day when there is no race and ends up annoying the police.

*(Laughter)*

I, therefore, welcome you, people of Kilifi.

Mr. Speaker, Sir, finally, on the people of Kakamega County, allow me to tell them that I really regret that for ten years, the Committee of Justice and Legal Affairs (JLAC) has not been in existence in Kakamega. This is the first time JLAC is being

formed. How the Speaker of Kakamega worked for ten years making laws without this Committee beats logic. Given that he was a lawyer, posterity is really going to judge him badly.

I want to encourage the Members of JLAC from Kakamega County regarding certain committees. Just as here, the Committees of JLAC, Budget and Finance, Public Accounts and Investments, any government that does not have those strong committees cannot succeed.

Therefore, as we carry the shame on the rating of performance of county assemblies in Kenya, Kakamega County Assembly is number 46 out of 47. I hope that now that this Committee is there, we will move from number 46 to 1. I welcome them all.

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

**Sen. Kisang:** Thank you, Mr. Speaker, Sir. On behalf of the Senate, I wish to welcome the teams from Elgeyo-Marakwet, Kilifi and Kakamega counties to the Senate. Elgeyo-Marakwet is a county of champions. Most people who win in the marathon and other athletics are from Elgeyo-Marakwet County. It is a good county.

The former Senate Leader of Majority before he was sacked in the last Parliament was also from Elgeyo-Marakwet County. He did very well in this House. He has also started doing well in the Executive as the CS in charge of Infrastructure and Transport. I welcome all of them to the Senate.

Use the opportunity that you have come to Senate as three counties to learn. Take back something to our counties so that you add value as you serve in those three counties. Kilifi County is very lucky because they have the Speaker of the Senate and the Senate Minority Leader here.

I want to also declare that I have interest in Kilifi because my first born has worked there close to four years at The Kenya Medical Research Institute (KEMRI), doing a (Doctor of Philosophy) PhD. Therefore, perform and deliver for the people because we have been given opportunities to serve.

Elgeyo-Marakwet County, when you go back, greet our people. Thank you very much for also giving me an opportunity to serve you as your second Senator in this House.

God bless you all.

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

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to also join you and my colleagues to welcome the delegations from Kilifi, Kakamega and Elgeyo-Marakwet counties.

I have listened to the words of Sen. (Dr.) Khalwale on how gracious God has been to the people of Kilifi County. That, you started off the House of the Senate back in the days and today, the Speaker of the Senate of the Republic of Kenya and the very able Senate Minority Leader are both from Kilifi County.

To the people of Kilifi County, we welcome you to the Senate. When you go back, we urge you to join hands with these great leaders in this nation, to wipe off the Speaker some little shame that is coming out of the county; of people invading private farms and claiming ownership. If we take that direction, we are going to lose this country.

To the people of Elgeyo-Marakwet County, yes, it is true that it is a county that has produced runners and champions. However, there is also some little shame that is creeping into that county. We are being treated to news of bandits taking over the county, including going to take one of their own from a hospital bed. That is not a very good story.

To the people of Kakamega County, Sen. (Dr.) Khalwale has reminded us that the Assembly has operated without the Joint Legislative Audit and Review Committee (JLARC) for ten years. It is a shame but I am very sure Sen. (Dr.) Khalwale would also want to bear a bit of that shame because between 2013 and 2017, he was the Senator for Kakamega County. We hope that this time round, JLARC will do a good job in Kakamega County and improve the ratings of that County.

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

### PAPERS LAID

**The Speaker** (Hon. Kingi): The Chairperson or Vice Chairperson, Standing Committee on Trade, Industrialisation and Tourism, please, proceed.

#### REPORT ON THE COUNTY LICENSING UNIFORM PROCEDURES 2022 (SENATE BILLS NO.9 OF 2022)

**Sen. Okenyuri:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 12<sup>th</sup> April, 2023.

Report of the Standing Committee on Trade, Industrialisation and Tourism on the County Licensing Uniform Procedures 2022 (Senate Bills No.9 of 2022).

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

**The Speaker** (Hon. Kingi): The Chairperson or any Member of the Standing Committee on Agriculture, Livestock and Fisheries, proceed.

#### REPORT ON THE AGRICULTURE AND LIVESTOCK EXTENSION SERVICE BILL 2022 (SENATE BILLS NO.12 OF 2022)

**Sen. Wamatinga:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 12<sup>th</sup> April, 2023.

Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Agriculture and Livestock Extension Service Bill 2022 (Senate Bills No.12 of 2022).

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

**The Speaker** (Hon. Kingi): Next Order, Clerk.

**QUESTIONS AND STATEMENTS**

**The Speaker** (Hon. Kingi): Statements pursuant to Standing Order No.52. Let us have Sen. Lemaletian.

**WATER CRISIS IN NORTHERN PARTS OF KENYA**

*(Sen. Lemaletian was not in the Chamber)*

*(Statement deferred)*

**The Speaker** (Hon. Kingi): Statements pursuant to Standing Order No.56(1)(b). Let us have the Chairperson of the Standing Committee on Information, Technology and Communication.

*(Sen. Chesang' was not in the Chamber)*

If they are not ready, we can call the other Committees. We have three Statements to receive from the Committee on Information, Technology and Communication; Committee on Labour and Social Welfare; and the Committee on Land, Environment and Natural Resources.

Are the three Chairpersons ready to give their Statements?

*(Sen. Murgor spoke off record)*

Senator, if you are ready, just proceed. Take the Floor.

*(Sen. Murgor spoke off record)*

Is that Committee on Labour and Social Welfare?

**Sen. Murgor:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Kindly, proceed. Just so you know, your Statement should be ten minutes or less.

**ACTIVITIES OF THE COMMITTEE ON LABOUR  
AND SOCIAL WELFARE**

**Sen. Murgor:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.56(1)(b) to make a Statement on the activities of the Committee on Labour and Social Welfare for the period commencing 8<sup>th</sup> September, 2022 to 11<sup>th</sup> April, 2023.

Mr. Speaker, Sir, during the period under review, the Committee held a total of 50 sittings. We considered three Bills, three Petitions and 22 Statements. The Committee also considered two legislative proposals.

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In respect of the Bills the following were considered-

- (1) The Employment (Amendment) Bill, 2023 (Senate Bills No.11 of 2022).
- (2) The Persons with Disabilities Bill, 2023 (Senate Bills No.7 of 2023).
- (3) The Heritage and Museums Bill, 2023 (Senate Bills No.8 of 2023).
- (4) Legislative proposals of both Bills.

The Committee has considered the Employment (Amendment) Bill 2023, held public participation and tabled its Report in the House.

On the Persons with Disabilities Bill, 2023 (Senate Bills No.7 of 2023), the Committee has placed an advertisement on the local dailies, calling for submissions on 24<sup>th</sup> March, 2023. The Committee is scheduled to hold a shareholders' engagement on Thursday, April, 2023, after which it will sit to consider the submissions and write a Report on the Bill.

With regard to the Heritage and Museums Bill, 2023 (Senate Bills No.8 of 2023), the Committee has placed an advertisement on the local dailies calling for submissions in March, 2023. The Committee is scheduled to hold a shareholder engagement on Thursday 18<sup>th</sup> April, 2023, after which it will sit to consider submissions and write reports on the Bill.

The Committee also considered legislative proposals on the above mentioned three Bills.

With regard to Petitions, the Committee considered three Petitions during the period under review as follows-

- (i) Petition by Mr. James Muriu Kagonga and other residents of Lamu, Baringo, Nairobi and on Linda Soka tapping into Kshs302 billion football economy. The Committee has met with Petitioners and is scheduled to meet with the Ministry of Youth and Sports Affairs on Friday, 25<sup>th</sup> April, 2023.
- (ii) Petition by Mr. Kimtai Kirui and Mr. Chepses Arap Koech concerning illegal fraud by the First Choice Recruitment and Consultancy Agency. The Committee has met with the Petitioners and scheduled a meeting with the other stakeholders.
- (iii) Petition by Dr. David Finji Atela and others on the unfair terms of conditions for the Universal Health Coverage (UHC) staff and delay in internship posting, the Committee is scheduled to meet the petitioners on Thursday, 24<sup>th</sup> May, 2023.

Mr. Speaker, Sir, regarding the Statements pursuant to Standing Order No.52(1), where a Senator may make a Statement on a matter of countrywide, intercounty, national, regional or international concern or a matter of general topical concern; three Statements were referred to the Committee as follows in response to the Statements from the Ministries-

Statements pursuant to Standing Order No.53(1); A total of 22 Statements were referred to the Committee. The Committee has concluded on four of the Statements and others are in various stages of Committee consideration.



The Statements include the Statement concerning the status of white-collar employees laid off in 2009 at the Kenya Ports Authority (KPA). The Statement concerning the on-board process of employees in Marsabit County Government, the Statement concerning old persons cash transfer programme and the Statement concerning the distribution of relief food in Kirinyaga County.

On the Statement concerning the plight of immigrant workers in the Kingdom of Saudi Arabia, the Committee met with the Ministry of Labour and Social Protection and the National Employment Authority (NEA) on the matter. The Committee also had the opportunity to travel to the Kingdom of Saudi Arabia for a study tour and review of bilateral labour agreements.

The Committee is scheduled to meet the Ministry of Foreign and Diaspora Affairs and the Ministry of Labour and Social Protection before adopting the Report for tabling in the House. The Committee is scheduled to meet the National Treasury and the Ministry of Labour and Social Protection on Tuesday, 25<sup>th</sup> April, 2023.

The Statement by Sen. Enoch Wambua, MP, on the payment of one-off honorarium for former councillors of the defunct local authorities. The Committee has also scheduled a meeting with the Vihiga County Government on Tuesday 23<sup>rd</sup> May, 2023 to consider the Statement by Sen. Geoffrey Osotsi concerning the human resource audit process in Vihiga County.

Mr. Speaker, Sir, the Committee is awaiting responses from the Ministry of Youth Affairs and Sports and Arts for the following Statements-

- (i) Statement concerning the exemplary performance by athletes Eliud Kipchoge, Kipruto and Joyce Jepkosgei in Berlin and London Marathons respectively.
- (ii) Statement concerning the establishment and management of sports and training in the counties.
- (iii) Statement concerning the management of athletes in the county following poor performance at the Tokyo Olympics, 2021.
- (iv) Statement concerning plans by the Government to launch a bottoms-up football tournament in all 47 counties.

*(Sen. Lemaletian walked across the Chamber)*

**The Speaker** (Hon. Kingi): Sen. Lemaltian, you cannot walk from one side to the other. There is a procedure to be followed if you need to move from one side to the other.

You are out of order, kindly, abide by the rules.

*(Sen. Lemaletian walked back to her seat)*

**Sen. Murgor:** Mr. Speaker, Sir, the Committee is also waiting for responses of the following:

- (i) Statement concerning the African Fashion Week.

- (ii) Statement concerning the discrimination levels in recent employment at Bomet University.
- (iii) Statement concerning the status and welfare of Baby Junior Sagini.
- (iv) Statement concerning the regional and welfare of people living with disability.
- (v) Statement on the status of database pledge of Inua Jamii Programme.
- (vi) Statement concerning non-remittance of statutory deductions by the County Government of Marsabit.
- (vii) Statement on reflection and use of appropriate scheme of service for clinical officers.
- (viii) Statement on rampant sexual abuse in plantations owned by James Finlay Kenya Limited in Kericho and Bomet Counties.
- (ix) Statement on status of older persons cash transfer programme in Embu.
- (x) Statement on employment and pension to retired employees of the Kenya Railways Corporation (KRC).
- (xi) Statement on the state of labour experts from Kenya.
- (xii) Statement concerning claim of inaccurate data of persons with disabilities as reflected on the National Census of 2019.

Mr. Speaker, Sir, the Committee conducted inquiries on two Statements; namely, the plight of Kenyan immigrant workers in the Kingdom of Saudi Arabia and countries in the Middle East and the payment of one-off honorarium for pension of former councillors in defunct local authorities.

On foreign visits, as stated earlier, the Committee was invited by the Ministry of Labour and Social Protection to be part of the delegation to Saudi Arabia for a fact finding mission and view bilateral labour agreement with the Kingdom of Saudi Arabia from 7<sup>th</sup> to 14<sup>th</sup> January, 2023. The Committee will table the Report after holding a follow-up meeting with the relevant stakeholders.

The Committee held one stakeholder engagement for the Persons with Disability Bill.

With regard to county visits, the Committee visited Kericho County on matters of sexual harassment of workers in tea farms and visited Kisii County---

**The Speaker** (Hon. Kingi): Hon. Senator, kindly conclude. You have gone beyond the allowable time, that is 10 minutes. So, you can proceed to lay the Report. Senators will read the part that you are yet to conclude on. As long as you have laid it, Senators will be happy to read.

**Sen. Murgor**: Thank you, Mr. Speaker, Sir. I beg to lay the Report on the Table.

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

**The Speaker** (Hon. Kingi): Proceed, Chairperson Standing Committee on Lands, Environment and Natural Resources.

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

**The Speaker** (Hon. Kingi): Faki, what is your point of order?

**Sen. Faki:** I want to comment on the Statement.

**The Speaker** (Hon. Kingi): We will take comments on the three Statements.

**Sen. Faki:** Thank you, Mr. Speaker, Sir.

ACTIVITIES OF THE COMMITTEE ON LAND, ENVIRONMENT  
AND NATURAL RESOURCES

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.56 (1) (b) of the Senate Standing Orders to make a Statement relating to the activities of the Standing Committee on Lands, Environment and Natural Resources during the first part of the Second Session, that is 14<sup>th</sup> October, 2022 to 31<sup>st</sup> March, 2023.

The Senate Standing Committee on Lands, Environment and Natural Resources is established under Standing Order No. 228 (3) of the Standing Orders and has the mandate to consider all matters relating to lands and settlement, environment, forestry, wildlife, mining, water resources, management and development.

During this period under review, the Committee held a total of 16 sittings during which it considered one Bill, 24 Statements, two messages and tabled one report.

During the period under review, the Committee considered The Natural Resources Benefit Sharing Bill (Senate Bills No.6 of 2022). The Bill was referred to the Committee on 1<sup>st</sup> December, 2022 following its introduction in the Senate by way of First Reading.

The Committee facilitated public participation pursuant to provisions of Article 118 of the Constitution and the Senate Standing Order No.145 (5) and prepared its Report which was tabled to the Senate on 21<sup>st</sup> March, 2023 proposing the amendments on the Bill.

Mr. Speaker, Sir, the 24 Statements I have mentioned are as listed –

(1) Statement requested by Sen. Agnes Kavindu Muthama, MP, on the Human-Wildlife Conflict in Masinga Constituency, Machakos County.

(2) Statement requested by Sen. Mwenda Gataya Mo Fire, MP, on the diversion of rivers originating from Nyambene Hills and Mount Kenya by the locals in Tharaka Nithi County.

(3) Statement requested by Sen. Johnes Mwaruma, MP, on the human-wildlife conflict in Taita Taveta County.

(4) Statement requested by Sen. Daniel K. Maanzo, EBS, MP, on the human-wildlife conflict in Kibwezi East Constituency, Makueni County referred on 19/10/2022.

(5) Statement requested by Sen. Danson Mungatana, MGH, MP, on the diversion of River Tana in the Delta Region of Tana River County.

(6) Statement requested by Sen. Edwin Sifuna, MP, regarding the fate of owners of compulsorily acquired land in Lamu County following the termination of the coal and power projects.

(7) Statement requested by Sen. Beatrice Ogola, MP, regarding the lack of title deeds due to non-completion of adjudication.

(8) Statement requested by Sen. John Kinyua Nderitu, MP, regarding the incessant human-wildlife conflict in Laikipia County.

(9) Statement requested by Sen. Fatuma Dullo, MP, regarding criteria used in computing compensation to landowners along the Horn of Africa Gateway Project in Isiolo County.

(10) Statement requested by Sen. Peris Tobiko, MP, regarding the Status of the implementation of the Wildlife Conservation and Management Act, 2013.

(11) Statement requested by Sen. (Rtd) Justice S. Madzayo, CBS, MP, regarding the demolition of houses and eviction of persons residing in Pindukiani village, Ganda Ward, Kilifi County.

(12) Statement requested by Sen. Shakila Abdala, MP, concerning the land acquisition of the LAPSSET Corridor Programme.

(13) Statement requested by Sen. Joseph Kamau, MP, regarding the status of land discharge Process in Lamu County.

(14) Statement requested by Sen. Tabitha Karanja Keroche, MP, regarding the status of resettlement of informal settlers in Molo, Nakuru County.

(15) Statement requested by Sen. Johnes Mwaruma, MP, regarding the ownership status and adjudication of Kishamba B Land in Voi Sub-County, Taita Taveta County.

(16) Statement requested by Sen. Johnes Mwaruma, MP, on the residents of Ikanga whose land was encroached by Kenya Airports Authority.

(17) Statement requested by Sen. Sen. Wamatinga Wahome, MP, on alleged irregularities in land acquisition for dam construction projects.

(18) Statement requested by Sen. Edwin Sifuna, MP, on the illegal and irregular misallocation of public community land in Buruburu Phase 5 on Katulo Road (Nairobi/Block 79/789).

(19) Statement requested by Sen. Edwin Sifuna, MP, on the allegations of illegal allocation of public utility land plots in Woodley Estate, Nairobi City County.

(20) Statement by Sen. Julius Murgor, MP, on 30<sup>th</sup> March, 2023 on the grabbing of land belonging to Kanyarkwat Group Ranch in West Pokot County.

On the remainder of the Statements, the Committee is scheduled to meet the Ministry of Lands, Public Works, Housing and Urban Development on all the pending Statements.

Mr. Speaker, Sir, the remainder of the final set of the Statements which are mainly to respond to the Ministry of Tourism, Wildlife and Heritage, the Committee was schedule to meet the Ministry for them to respond on all matters pending within their mandate on 18<sup>th</sup> April, 2023.

The pending Statements are as listed-

(1) Statement requested by Sen. Samson Cherarkey, MP, regarding the impact of the current drought on wildlife in Kenya.

(2) Statement requested by Sen. Joseph G. Kamau, MP regarding the incessant human-wildlife conflict in Lamu County.

(3) Statement requested by Sen. (Prof.) Tom Ojienda, SC, MP, regarding the threat to human life and destruction of farm crops by hippopotamuses in the paddy fields of West Kano Irrigation Scheme in Kisumu County.

(4) Statement requested by Sen. Tabitha Karanja Keroche, MP, regarding the human-wildlife conflict in areas of Nakuru County.

(5) Statement requested by Sen. Johnes Mwaruma, MP, regarding the terms and conditions of service for the 5,500 Community Scouts engaged by the Kenya Wildlife Service (KWS).

On the Messages, Mr. Speaker, Sir, the Committee is currently considering two Messages from the County Assembly of Nyandarua. The two Messages are as listed -

(1) Message petitioning the Senate to consult with and initiate approval for construction of the Ithite-Aberdare Forest-Kahuruko-Ndunyu Njeru Road; and,

(2) Message petitioning the Senate to ensure-

(a) exploitation of water under the Sasumua Dam and Konoike Dam is reviewed and agreements amongst the respective Water Service Providers that own the two dams;

(b) exploitation of the forest harvest in the Aberdare Forest and other public forests in Nyandarua is done within the legal framework; and

(c) allocation of funds by the national Government for the construction of dams in Nyandarua County for the distribution and use by the residents of the county.

Mr. Speaker, Sir, on the Committee induction and stakeholder engagements, the Committee conducted its induction retreat from 2<sup>nd</sup> to 5<sup>th</sup> February, 2023 and met with the Ministry of Lands, Public Works, Housing and Urban Development, the Ministry of Tourism, Wildlife and Heritage, the Ministry of Water, Sanitation and Irrigation and the National Land Commission (NLC).

In conclusion, I wish to thank your Office and the office of the Clerk of the Senate for the continuous support accorded to the Committee, in undertaking its work.

Lastly, I also wish to thank the Members of the Committee for their commitment and diligence and for their contributions during the Committee activities.

Mr. Speaker, Sir, I thank you and lay the Statement.

*(Sen. (Dr.) Lelegwe Ltumbesi laid the document on the Table)*

**The Speaker** (Hon. Kingi): The Statement by Chairperson Standing Committee on Information, Technology and Communication. That is deferred.

ACTIVITIES OF THE COMMITTEE ON INFORMATION,  
TECHNOLOGY AND COMMUNICATION

*(Statement deferred)*

There is Statement pursuant to Standing Order No. 52 (1) by Sen. Lemaltian.

**The Senate Majority Leader** (Sen. Cheruiyot): On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Yes, what is your point of order, Senate Majority Leader?

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I thought you had guided Sen. Faki and many of us who were waiting that you will allow us to make comments.

**The Speaker** (Hon. Kingi): Absolutely.

**The Senate Majority Leader** (Sen. Cheruiyot): Would this not be the best time?

**The Speaker** (Hon. Kingi): Sure, under Standing Order No.56, we have 20 minutes for comments and interventions on those Statements. So, we may proceed.

Senate Majority Leader, you may take the Floor.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I will be very brief because I am cognisant of the fact that we have 20 minutes only and almost every colleague wants to speak. I will limit myself maybe to two minutes at most.

I appreciate the work that has been done by the various Committees and the two Committees that have laid their Statements today. These are the Committee on Labour and Social Welfare and the Committee on Lands, Environment and Natural Resources. They have updated the House on various Statements, Petitions or Bills that they are considering.

Mr. Speaker, Sir, I am concerned. This is because looking through the House - I hope I have the wrong impression - I expected colleagues to be writing down on work that is pending before a particular Committee and what has been colluded. I know each of the business that a committee considers is driven or extracted out of either a request by colleagues or something that concerns the various counties.

Be that as it may, I appreciate that this is a new practise that we want to set up, as a House, so that we can measure our chairpersons and see which Committees are taking their work serious. A Committee that can bring a report and say maybe out of 15 Statements, we have been able to settle 10 and we have five that are pending. Out of two Petitions, one is concluded.

As you know, the time for Petitions is 60 days but we were able to turn around in 30 days. Additionally, there is a Bill that is before us and we have done the report and public participation.

Any task that does not have a way of measuring it is not a task that is worth undertaking. I appreciate that now we have set in place a mechanism through which we can measure the output of our committees.

Mr. Speaker, Sir, perhaps, we can move even further. This is just but the beginning. Committee Chairpersons, unfortunately, do not have very rosy reports about the work that is ongoing in our committees.

Each Committee of this House has nine Members. Unfortunately, when you listen to the various Chairpersons, they will tell you that they are lucky, on most days, to raise a quorum of five. That is something that should worry us, as a House.

Mr. Speaker, Sir, I wish to encourage that if you feel that you serve in a committee where your talents are not well aligned, for one reason or the other, it is good to approach the Whip from your side of the House and have them redeploy you where

you will best serve. I know, there are colleagues who would give us best service if they were deployed to certain committees.

This is a very important exercise that we have begun, and I hope we can carry on, receive the reports of all the various committees and measure them. In fact, I was taught in school that apart from reporting by prose, the most effective way to give a report is by diagrams as well, either by charts or by tables.

I believe in the next reports that these committees will give, they will have a chart that will compare what report they give based on the outputs that are mentioned on the business that is before them, today being the 12<sup>th</sup> of April and the next one that they will give subsequently, be it a month or two. That way, we will judge our committees and appreciate the work that they are doing.

With this, it will not now be just the County Public Accounts and Investment Committee (CPAIC) that will have full membership for reasons that we do not want to indulge in. I thank you.

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

**Sen. Faki:** Asante, Mhe. Spika, kwa kunipa fursa hii kutoa maoni yangu juu ya ripoti zilizowasilishwa na kamati mbili muhimu; Kamati ya Ardhi na Kamati ya Leba.

Kuhusiana na Kamati ya Leba, ni ukweli, maendeleo ambayo yamefanyika ni mazuri kwa Kamati na Bunge letu la Seneti. Lakini ni masikitiko kwamba imechukua muda kidogo kuweza kukamilisha ile ripoti inayohusiana na shida wanazopitia wafanyikazi wetu ambao wako katika nchi za Uarabuni, hususan Saudi Arabia na nchi zingine za Ghuba.

Safari ilifanywa mwezi wa Januari tarehe 7 na kufikia sasa ni karibu miezi mitatu imepita na hatujaweza kukamilisha ripoti hiyo.

Kuna mambo mengi ambayo yalikuwa yamezungumziwa katika safari ambayo tulifanya kule Saudi Arabia na vile vile kamati ambayo ilikuwa inahudumu katika maswala ya leba mwaka 2017/2022 walikuwa pia wamefanya ziara katika nchi hiyo lakini masikitiko ni kwamba yale ambayo walipendekeza kutekelezwa hayajatekelezwa na Wizara pamoja na taasisi zingine za Serikali.

Ningeomba kwamba Kamati iharakishe swala hili kwa sababu ni swala ambalo liko hai kila siku. Kila siku tunapata ripoti kama hizo na itakuwa si vizuri wakati sisi tunakaa hapa na tunaacha mambo kama hayo yanaweza kupita. Asante.

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

**Sen. Kathuri:** Thank you, Mr. Speaker, Sir, for this opportunity also to make a brief comment. I really want to thank you and the Senate Business Committee (SBC) for giving the chairpersons of the Liaison Committee time to come and brief the House on the progress in their committees. We had requested through you, and we are happy that we requested this.

As the Chairperson, I have realized that there is something that we need to fine tune, especially because we have only 10 minutes for the Chairperson to present the Report. So, in our subsequent meetings, we will discuss how we can come up with a report that is as brief as possible so that we can stick to the timelines because I can see that chairpersons have been really struggling to shorten the time.

Mr. Speaker, Sir, we are happy and we will continue giving the three months' report. As we agreed during our induction of the chairpersons' retreat, at end of the year, with this progress, we shall be able to have a Senate Day which has never happened again. We will have a Senate Day whereby we will be able to give the Republic of Kenya a live media coverage on the progress of the Senate.

Nobody will never talk about us. It is only us, the Senators and the Senate, including the Speaker that will be able to tell the public what we have been doing here and what we intend to cover as we proceed in our five-year term.

I thank you and want to congratulate the chairpersons, those who have already presented and those others who are still in the queue. I want to encourage them to be as brief as possible so that also we do not eat into the time of other Senate business.

I thank you.

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

**Sen. Osotsi:** Mr. Speaker, Sir, I also want to thank the chairpersons of various committees for the progress reports. I wish to say that this is a very effective way of measuring performance of the committees. How I wish, even the turnaround time for issues in the committee could be improved.

The Chairperson has alluded to a matter which I presented to the Committee regarding ghost workers in Vihiga County. I am aware they have done a lot of work around it, but I expected that this matter be resolved within the shortest time possible because this is a cancer in my county which as a Senator, I have been working very hard to get it resolved. So, with the cooperation of the Committee, I expect that this matter will be resolved in the shortest time possible.

Lastly is the issue of former councillors. Hon. Members will agree that every time we go to our various counties, we normally come across these former councillors; some of whom are living in object poverty while others have died. Every time we face them, they tell us about their plight and they know that this matter is before us. So, I would ask the Committee to speed up this matter so that these former councillors can enjoy the fruits of their contribution to this country.

I thank you.

**Sen. Veronica Maina:** Thank you, Mr. Speaker, Sir, for the opportunity to compliment the Chairperson of the Senate Standing Committee on Labour and Social Welfare for the work they have done over the quarter. I want to highlight one of the issues that has been covered by the Committee, especially on the status of the immigrant domestic workers in Saudi Arabia and the Middle East.

It is commendable that they took steps and they were able to have a conversation with the Ministry and the Cabinet Secretary and they were also able to go on a fact-finding mission to Saudi Arabia to find out the status of the domestic Kenyan workers.

This issue has still not been resolved. We would urge the Committee to ensure that this issue is investigated because this is one of the avenues that our youth are going to tap into opportunities to work outside the Nation of Kenya and seek greener pastures.

So, I would urge the Committee to investigate this issue. We have received reports from media as late as yesterday that one migrant worker died in Saudi Arabia. I



would urge the Committee to monitor what is happening to migrant workers because it is an avenue that will benefit the Kenyan youth once they tap into these opportunities.

I also want to connect this Committee on Labour with a Bill that has been presented to this House by Sen. Mungatana, MGH, on Article 43.

When I listen to their report, it appears as though this Committee is already oversighting on social and economic rights and we commend them for the good work and hope that they will continue tracking the progress of those rights; how those rights are being rolled out to Kenyans.

I thank you.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I have two things to say. First, as I join my colleagues to congratulate the chairpersons of committees, I also want to challenge them through their chairperson of the Senate Liaison Committee and SBC to look for a more innovative way of delivering these reports.

Otherwise, just reading reports here may become a little bit boring. There must be an innovative way of delivering the same content but in a manner that does not take a lot of our time but at the same time, we are able to measure what Chairpersons are doing.

Mr. Speaker, Sir, secondly, the Chairperson of the Committee on Labour and Social Welfare has indicated in his Report that on 25<sup>th</sup> of this month, which is next week, he will be meeting the Cabinet Secretary (CS) for the National Treasury and Planning to look into the matter of the one-off payment to former councillors.

Mr. Speaker, Sir, I would like to have your ear. *Wakili* may also benefit from this. On the issue of former councillors, can you use the authority of your Chair to give a final direction on this matter? For the past three years, we have been having conversations about former councillors and their payments. I know that in every county represented in this Senate, there are former councillors who are in dire need of just Kshs200,000.

Can you direct the Committee that this time around, the CS should come with a final report on a date when the former councillors will be paid, so that we finish this business and get into other businesses?

I thank you.

**The Speaker** (Hon. Kingi): Sen. Kinyua, please proceed.

**Sen. Kinyua:** Bw. Spika, nawashukuru wenyeviti ambao wamesoma Taarifa zao hapa. Ijapokuwa tunawashukuru, ni jambo la kuvunja moyo kwa sababu suala la waliokuwa madiwani limekuwa sugu na nyeti.

Nakumbuka wakati Sen. Madzayo alipokuwa Mwenyekiti wa Kamati ya *Labour and Social Welfare*, nilileta Hoja hapa na tukajadili kuhusu suala hilo. Wakati Sen. Sakaja alipokuwa Mwenyekiti wa Kamati hiyo, pia suala hilo liliongelewa. Sasa tunaongea kulihusu tena.

Nakumbuka lililetwa hapa na Sen. Wambua na sasa limeletwa tena na Sen. Cherarkey. Sasa hivi ninapongea, limepelekwa kwa Kamati ambapo Mwenyekiti ni Sen. (Dr.) Murgor.

Badala ya kukaa hapa kusoma ripoti--- Sijui watu wanatuchukulia vipi kwa sababu suala hili limekuwa likiongelewa hata kabla tuje katika Seneti hii. Mapendekezo yaliletwa na aliyekuwa Mwenyekiti wa Kamati ya *Labour and Social Welfare*, Sen.

Madazyo, lakini hakuna jambo lolote limetendeka. Ni kama kazi yetu hapa ni kuongea tu lakini hakuna mapendekezo yoyote ambayo yanafuatiwa.

Si hilo peke yake. Kuna wafanyikazi ambao wanasononeka kila wakati. Hao ni wale ambao wanaenda katika nchi za Uarabuni. Mambo ambayo tumekuwa tukiongea hapa ni yale yale. Tunapooonea, ni kama mapendekezo tunayotoa yanachukuliwa na Mwenyekiti ambaye hungoja muda wake uishe kisha amkabidhi mwingine anayekuja baada yake bila mapendekezo yoyote kutekelezwa.

Wenyeviti huwa wanafanya juhudi na kuzuru sehemu ambazo wanapaswa kutembelea. Hata hivyo, ni kama mapendekezo ya Kamati huwa yanawekwa katika kabati na kuozea au kupata vumbi huko na hakuna lolote linatekelezwa. Kwa hivyo, kile ambacho tungenda ni Waziri---

Nashukuru Serikali ya Kenya Kwanza chini ya uongozi wake Mhe. William Samoei Arap Ruto kwa sababu Mawaziri watakuwa wakija katika Bunge hili kujibu maswali. Waziri anayehusika atakuwa anajibu maswali. Tutakuwa na nafasi ya kumwuliza peupe ili atueleze pale alipofikisha mambo ya madiwani.

Madiwani wanasononeka na kupata shida. Wengine wameandikwa kuchunga. Ukitembea katika Kaunti ya Laikipia, utapata kuwa waliokuwa madiwani wameandikwa kuchunga. Ukienda katika Kaunti ya Kitui, utapata kuwa hao ndio wachimba migodi. Waziri atakayekuja hapa anafaa kujibu hayo maswali magumu.

Nashukuru na kumpongeza Rais kwa kukubali Mawaziri wawe wakija hapa ili tuwaulize maswali, badala yao kujibu maswali kupitia kwa Wenyeviti wa Kamati.

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

**Sen. Sifuna:** Mr. Speaker, Sir, if you look at the Report by the Committee on Land, Environment and Natural Resources, one of the Statements that was sought, that is Statement No. 6, was actually sought by me.

I was conferring with the Chair of the Committee because in the Report, they said that they have submitted copies of the report on the specific questions to the Senator who asked that question. I want to confirm that the Committee has never given me a written report on the question that I asked regarding land owners who surrendered their land for the sake of putting up a power plant in Lamu County.

Mr. Speaker, Sir, you, other Members of the Senate Business Committee (SBC) and I, have agonised about how this thing is supposed to work. In my reading of Standing Order No.53(b), a committee may invite the Senator. I am sure they invited Senators to attend.

However, it further says that at the end, they are required to prepare and table a report on the matter. Therefore, a Chair of a committee should come here and tell us they had 'X' number of Statements, sorted them out and gave the reports to the Senators.

I am sure even the people of Lamu County, who asked me to ask that question on their behalf, would have loved a situation where the Committee Chair, somehow, if we are able to work it out as the SBC, would stand here and answer the specific questions with regards to the question of land for the Lamu Power Plant.

They should highlight the situation at the point when a Senator asked the question and the response from the Ministry, so that even when those people are watching,

because these proceedings are live for the benefit of the people, then it is easy for them to understand that they have gotten an answer to the question they asked.

I agree with what the Senate Deputy Minority Leader, Sen. Wambua, said, that we need to find another way for these Statements to make some sense for the House and for the Senators who request for these matters.

Maybe the report on the specific questions that I asked was lost somewhere in the Clerk's Office. I want to make this request again to the Clerk's Office, please supply me. I would want to understand in what form that report was submitted to my office or to me, because I have not seen it personally. That would be proper.

Something else we just noticed, even when a Committee Chair is submitting a report, it is good practise that we all have copies, so that we can follow as they present. If there are matters that you raised as a Senator, you will know if it is included or not. I believe we at the SBC will find a solution for this matter.

I thank you, Mr. Speaker, Sir, for the opportunity to speak to this.

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

**The Speaker** (Hon. Kingi): You cannot raise a point of order because the hon. Senator is already done contributing.

We are going to have the last person to contribute. We only have two minutes because we were to end at 38.

Sen. Wakili Sigei, you have one minute.

**Sen. Wakili Sigei:** Mr. Speaker, Sir, I appreciate the Chairpersons of the two committees that have presented their reports today; the Committee on Land, Environment and Natural Resources and the Committee on Labour and Social Welfare. The two Chairpersons deal with committees that are major factors of production when it comes to other aspects of our life out of this House.

I had checked with the Committee on Labour and Social Welfare. I have conversed as well with the Chairperson of the Committee. I sought for a Statement on the status of employment condition and the team that is undertaking such work at the University of Bomet. I am concerned, just like a few of us who have spoken on the Statements as issued, on the timeline that has been taken by the Committee to deliver the Statement.

I am aware that we are all working against time constraints and other pressing issues. However, I implore upon the Chairpersons of the relevant committees to ensure that they do their best within good time.

This is an ongoing concern, but it has taken over three months. I know the Standing Orders provide that a report should be presented within 60 days.

It is beyond that timeframe, and I am told the Committee will have a session with the relevant institution for us to get that report.

I wish as Committees, we can push beyond the comfort zone to make sure we deliver such reports within good time.

Similarly, there is also the question that the Committee on Labour and social welfare reported on sexual harassment cases that we had in the tea estates in Kericho and

Bomet counties. These two are very important and emotive. It has not only affected the people living and working within the estates but beyond.

As to the recommendations that the Committee will give following their additional assignment which I have also conversantly been informed by the Chairperson that they will do; is a time bomb. We would rather as a committee push ourselves to make sure we deal with it in good time.

I also raise a concern that Sen. Wambua has also raised in terms of the implementation of a number of these recommendations. It is time this House considers putting in place an Implementation Committee. Instead of the chairperson of a relevant Committee being put under scrutiny for purposes of following up, could we also look at it so that we have a specifically mandated Committee to follow on implementation?

Sen. Mungatana has presented a Bill that has already gone through Second Reading. Besides the Cabinet Secretary appearing to answer the questions, under the Powers and Privileges Act, we can summon the authorized personnel of various Government agencies to ensure that the recommendations of all the Committees of the House are implemented so that this House does not become a talk show or a Committee Session that does its work for the sake of it without follow up for implementation.

It is time that we look at this and see a way forward. Meanwhile, as Chairpersons of Committees, we should follow up on implementation, so that we fill the work of the Committee or the House, and also make sure that the recommendations made are also implemented or enforced at various levels where applicable.

I thank you.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, on a point of order.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, what is your point of order? My understanding of Standing Order No.98 is that you stand on a point of order if you want to bring a Senator back to order because in your understanding they are out of order. In this case, which Senator is out of order? You only rise on a point of order when a Senator is speaking.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, indeed, neither Sen. Sifuna nor Sen. Wakili Sigei are out of order. I am rising on this point of order to invite you to reflect on the remarks by Sen. Sifuna and to an extent Sen. Wambua.

Listening to the business we have transacted on Statements, we appear to be dealing with statistics. You need to make a determination, that if we shall receive Statements in this manner, then we might as well stop it.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, have a seat. You sit in the Senate Business Committee (SBC). Is it? Are you a Member of the SBC?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. You are right but the level of debate---

**The Speaker** (Hon. Kingi): The reason I am asking, is because I am going with your suggestion. Please, have a seat. The reason I did not want to pronounce myself on these matters is because I felt we can adequately handle those matters at the SBC level.

I have taken note of the concerns of Sen. Sifuna, Sen. Wambua, and the good input by Sen. Wakili Sigei. I believe when we retire as SBC, we will come up with a better way of making sure that these Statements respond to what we intend them to.

I may not pronounce myself on the issues now because I feel we should discuss the issues at the SBC. We shall then come up with a better way of making sure that this Statement give us the kind of results we are looking at. Your concerns are valid, and we will discuss them at the SBC.

*(Sen. Kathuri Spoke off record)*

Sen. Kathuri, you want to inform the Chair or the House? You need permission from the House---

**Sen. Kathuri:** Mr. Speaker, Sir, I want to contribute on this issue.

**The Speaker** (Hon. Kingi): Hon. Members, this is a House of procedure and rules. I understand some difficulties in terms of how we operationalize some of the good things we want to. However, they are not best canvassed at the Floor of the House when it is in session. Some of these things require we put our heads together but not here when the House is in session.

Either we can discuss them at the SBC or at a Kamukunji and then Ta decision is reached and we can implement that. All these are opinions. I know most of you have good opinions that may input the working of the Senate. However, this may not be the best platform for that.

Immediately we sit here as the Senate, then the rules of procedure take effect. If that is the case, then I may not allow those very good opinions you have. Allow it to run it through the SBC. If it is unable, then we can expand it to have a kamukunji, we discuss this matter and agree.

Is that fair?

*(Hon. Senators spoke off record)*

Next Order. We had a Statement pursuant to Standing Order 52(1) by Sen. Lemaletian.

#### WATER CRISIS IN NORTHERN PARTS OF KENYA

**Sen. Lemaletian:** Thank you, Mr. Speaker, Sir. I would like to put across that my Statement had been postponed due to unavoidable circumstances. It was very timely to make it during the drought. Nonetheless, I rise, pursuant to Standing Order No.52(1) to make a Statement on a matter of regional concern namely, the water crisis in northern parts of Kenya.

For decades now, water scarcity has been a major issue in northern parts of this country, mainly caused by years of recurrent droughts, poor management of water supply, contamination of the available water, and a sharp increase in water demand resulting from relatively high population growth.

The lack of rainfall also inhibits the ability of residents to acquire food and has led to eruptions of violence in this region. In many areas, the shortage of water in Kenya has been amplified by the Government's lack of investment in water, especially in the northern region.

Mr. Speaker, Sir, another population that is affected by this shortage of water are the urban poor. Their access to clean safe water has been a challenge. This has led to reported cases of cholera epidemics and multiple other diseases that has affected their health and livelihoods.

Despite this critical shortage of clean water, there also is a large rural-to-urban discrepancy in access to clean water in Kenya.

Despite the progress made by county governments and other private bodies, it is important to review the causes of Kenya's water crisis to improve the situation further and to prevent future disasters.

From my findings, the essential causes of the water crisis in northern parts of Kenya are drought, environmental degradation, poor management of water supply, and the rapid population increase.

Mr. Speaker, Sir, I would emphasize the drought effect since it is grievously affecting my people. Over the past decade, the northern region of this country has experienced a severe unending drought. Global warming is one critical factor that has prolonged the drought. As a result, millions of Kenyans living in the northern region are unable to survive and keep their livestock alive, which is their main source of livelihood.

When drought strikes, many pastoralists are left to starve to death. Food aid is not sustainable. A marshal plan by the Government to build mega dams in each of the northern counties to undertake water exploration in Samburu, Turkana and Marsabit counties is much welcome. This will diversify the means of livelihood and economic activities in order to curb insecurity in the region, introducing agriculture as an alternative means of livelihood.

Mr. Speaker, Sir, it is about time to shift our focus from poverty eradication to wealth creation. I have keenly noted that poverty eradication in this country has heavily resulted in overdependence on food aid and handouts, which are absolutely unsustainable and create a culture of laziness. Agriculture will avert banditry. It will improve livelihoods and contribute to the overall Gross Domestic Product (GDP) of the country; given that we have 75 per cent of the Kenya's land mass.

Agriculture will completely shift focus on the endangered, unsustainable pastoralism and provide a sustainable alternative to our livelihood. Widespread famine has led to the degradation of forests, desertification, loss of livestock and consequently, human lives. Extreme drought has hastened and heightened banditry, poverty and school dropouts.

Mr. Speaker, Sir, I am orthodoxically calling for the renaissance of an agriculture revolution in the northern region of this country. The next billionaires in this world will be coming from agriculture and Information Communication and Technology (ICT) sectors. Agriculture is a low-hanging fruit for the vast, bare and fertile landmass in the north. It is the most realistic approach towards economic and youth employment, wealth

creation, conflict eradication, and most importantly, the realization of Sustainable Development Goal (SDG) No.3 on good health and well-being.

The 17 SDGs will be achieved in Kenya by simply providing water to the northern parts of Kenya. Since all lizards lie on their bellies, one can hardly tell which has a stomach ache. Here is a lizard that is announcing that they have a stomach ache. We need water and we need to end the war.

Mr. Speaker, Sir, we cannot beat the drum with one finger. Therefore, I call upon my fellow colleagues to help me reinforce this agenda.

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No.53(1), by the Sen. Kathuri.

#### STATE OF PROGRESS IN EVALUATION OF TENDERS AND COMMENCEMENT OF DUALING WORKS OF MERU TOWN

**Sen. Kathuri:** Mr. speaker, Sir, I rise pursuant to Standing Order 53 (1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing on the state of progress in the evaluation of tenders and the commencement of dualling works of Meru Town roads B66/A9 Project, Phase One.

In the Statement, the Committee should -

(1) Apprise the Senate on the status of the evaluation of tenders number KeNHA/2536/2022 and KeNHA/2540/2022 for dualling, consultancy services for the construction and supervision of Meru Town roads B66/A9 Phase One works, noting that the two tenders were closed on 18<sup>th</sup> March, 2022 and 22<sup>nd</sup> March, 2022, respectively.

(2) State reasons for this delay in completion of evaluation processes.

(3) State when the dualling of Meru Town roads B66/A9 Project Phase One will commence, giving the projected date of completion, stating measures, if any, being taken to ensure that the project will be completed within the scheduled timeline and budget.

**The Speaker** (Hon. Kingi): Thank you, hon. Senator.

Before we move to the next Order, I have a message from Elgeyo-Marakwet County Assembly.

#### MESSAGE FROM ELGEYO-MARAKWET COUNTY ASSEMBLY

##### RESOLUTION BY ELGEYO-MARAKWET COUNTY ASSEMBLY ON MEASURES TO CURB BANDITRY IN KERIO VALLEY

**The Speaker** (Hon. Kingi): Hon. Senators, I wish to report to the Senate that I have, pursuant to Standing Order No.48(3) and (5), received a Message from the Clerk of Elgeyo-Marakwet County Assembly. The Message, dated Tuesday, 14<sup>th</sup> March, 2023, and communicated by way of a Petition addressed to the Clerk of the Senate, was received on 5<sup>th</sup> April, 2023.

The Message communicates a resolution by the County Assembly to petition Parliament for a declaration, *inter alia*, that:

- (1) Banditry be declared a terrorist act and bandits be declared a terrorist group. As such punishment attendant to the said offences to follow and that Parliament shall institute legislation on the same.
- (2) Pursuant to Article 241(3)(c), the National Assembly approves the deployment of the Kenya Defence Forces (KDF) in Kerio Valley to end the suffering of citizens there.
- (3) Parliament comes up with a long-term solution to banditry in Kerio Valley, Elgeyo-Marakwet County, including but not limited to allocating resources to open up regions by putting up infrastructure for socio-economic empowerment of the people in the affected areas.

Hon. Senators, pursuant to Standing Order No.48(7) which states that –

“When a Message from a County Assembly is reported, the Message shall be deemed to have been laid before the Senate and the Speaker may –

- a) Direct that the Message be dealt with forthwith;
- b) Appoint a day for the consideration of the Message; or
- c) Refer the Message to the relevant Committee of the Senate for Consideration.”

Hon. Senators, as you may be aware, Sen. Cheptumo on Thursday, 30<sup>th</sup> March, 2023, gave a Notice of Motion on “Declaration of Cattle Rustling as a National Disaster and Establishment of a Special Fund for Victims” seeking that the Senate resolves that the national Government, through the Ministry of Interior and National Administration and in collaboration with the Council of Governors,

- (1) Declares cattle rustling a national disaster.
- (2) Establishes a national taskforce on cattle rustling to:
  - (i) Investigate the causes of the rampant cattle rustling in the said region and the country at large.
  - (ii) Establish extent of loss and damage the cattle rustling has occasioned to the communities in all the affected counties.
  - (iii) Creates a special fund for mitigating the losses suffered by and in compensating all victims of cattle, rustling and settle all internally displaced persons occasioned by the menace.

In this regard, I refer the Resolution by the Elgeyo-Marakwet County Assembly to the Standing Committee on National Security, Defence and Foreign Relations. I further direct that the Clerk circulates the Resolution, as received from the Elgeyo-Marakwet County Assembly to all Senators so that you may familiarise yourselves with its contents.

Thank you.

Next Order.

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



Hon. Senators, we seek to rearrange the Order Paper, by starting with Order No.10. Clerk, kindly proceed to read the Order.

## BILL

### *Second Reading*

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT  
OF ECONOMIC AND SOCIAL RIGHTS BILL  
(SENATE BILLS NO. 7 OF 2022)

*(Sen. Mungatana, MGH on 23.03.2023)*

*(Resumption of debate interrupted on 11.4.2023)*

**The Speaker** (Hon. Kingi): The debate on this Bill had started before it was interrupted at the time of adjournment.

Hon. Sen. Veronica Maina was on the Floor when debate was interrupted. She has a balance of seven minutes.

**Sen. Veronica Maina;** Thank you, Mr. Speaker, Sir. We proceeded from that point as a way of information, though I do not know whether I should be informing the Chair. We did proceed yesterday.

I covered my final minutes on that debate, it proceeded on, and there was further debate from other Senators. Sen. Mumma was on the Floor at the time of interruption and had seven minutes left.

**The Speaker** (Hon. Kingi): Sen. Veronica Maina, allow me to consult the Secretariat because they are the custodians of the HANSARD to give us the true position.

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

I am informed that according to the HANSARD, at the time of interruption of debate, the Sen. Mumma was on the Floor and she had a balance of seven minutes. If she is in the House, she can take the Floor. If she is not in, then I ask Sen. Maanzo to proceed.

**Sen. Maanzo:** Thank you, Mr. Speaker, I am very delighted to support this Bill brought by Sen. Mungatana, MGH. Human dignity is one of the very important essentials in our Constitution.

That particular issue of preservation of human dignity and enforcement of economic and social rights Bill under the Constitution, a lot of legislation has to be enacted to effect some of those provisions of several things given in the Bill of Rights. One of it, is to treat human beings with dignity.

Part of the socio-economic bit of it is to make sure that people have provision of water, health, and those essential things in all those articles of the Constitution there is

that legislation will be made so that it can be brought to effect. Human dignity runs from so many things from land rights to so many other activities. It goes to so many other activities such that you can deal with quite a number of issues, which have not been implemented.

On the issue of historical injustices, there have been commissions dealing with one thing or another, conclusions made, but there has been no implementation at all. If there is historical injustice whereby the Government needed to compensate, you find that, that compensation has not taken effect. When it comes to social and economic rights, it should be that the country is balanced so that when we make a budget, we are able to cover every aspect of the nation.

I like what the nominated Member from the north has just said. That the north is the future of this country. We only require to beef up security. It has a lot of land and rivers. If all that water is tapped, then people will have enough food and there will be development. The biggest companies will be made in that particular part of the world.

In the example of America, the North West, California and all other desert states were for many years neglected. When they did Hoover Dam in in Las Vegas in the middle of a desert, there is a lot of agricultural activity, which takes place from that particular area and economic activity has gone there. Las Vegas is a very big commercial town, which started in the middle of a desert. These are some of the things we need to look at so that we balance the country. We should make sure that there are no disadvantaged people. We make sure that we do not have ten billionaires and 50 million poor people who cannot put food on the table; people who when their rights are violated, they cannot be attended to.

Mr. Speaker, Sir, there have been many abuses, which have gone untreated. It has to be a mixture of many things how the police work with the people, how to implement some of the Acts. Unfortunately, we have many regulations which have expired in many Acts of Parliament. I sit in the Committee of Delegated Legislation with Sen. Mungatana where Sen. Gataya Mo Fire is our Chairperson.

The law provides clearly that the Minister should bring regulations for renewal to us, then they want to hide behind the Attorney-General. The Cabinet Secretary should present the regulations to this House or to our committees for us to approve or disapprove. They make them again or we work together with them. We make sure there are regulations. One of the good examples is the Public Order Act. There are regulations which were made in the year 2000 by the then Attorney General, Sen. Amos Wako, which were wonderful regulations that expired in the year 2010. There was a leeway of two years, but nobody renewed them.

When there are issues and the Senate Minority Leader Minority was charged in a court, and then we realized there are no regulations to implement the Public Order Act. What is the process of declaring an assembly illegal? Consequently, after a few days, although there were other factors, the same matter was withdrawn from court because it could not be sustained for lack of regulations.

When these laws are made, they are also implemented with the regulations and to make them effective. They enable us to serve as our mottos says: "For the welfare of

society and the just government of the people.” Therefore, this sort of legislation is extremely important. It is not the only one. There are quite a number of other laws, other Acts of Parliament which have to still be enacted under the provisions of the Constitution to meet different purposes, especially economic and social rights, so that we have a just society.

We should have a society where when you want to register a company and you are a foreigner or you are a local person, it is efficient. We have a situation whereby if there is human rights violation like it has happened in the north, then that matter can be investigated and followed so that the families of whichever person has been killed accidentally, or by mistake, are compensated.

When this Bill goes for Third Reading, we want to enrich what Sen. Mungatana, MGH, has done so that the law can be potent to serve the people of Kenya.

I thank you, Mr. Speaker, Sir. I support.

**The Speaker** (Hon. Kingi): Sen. Mumma, you can have your seven minutes?

**Sen. Mumma:** Thank you, Mr. Speaker, Sir. Accept my sincere apologies for not being there when you called me.

Mr. Speaker, as presented yesterday in my submission, I support this Bill. I urge colleagues to support it because it may be the most important Bills that we will ever pass. It helps us to methodically put in place a mechanism that can assist us to implement Article 21 of the Constitution, which is putting in place legislative policy and other measures for implementing the rights provided for in Article 43.

I had said a number of things yesterday, but I wish to add that the implementation of socio-economic rights has come to Kenya in different forms. We have signed on to SDGs and have developed a mechanism for implementing them. We have signed on to Vision 2030, which phrases things differently, but it also implements provisions in Article 43.

We have the implementation of these rights by different sectors.

This Bill should be a tool that we, as Parliament, should use to put in place the mechanism that can help us to enforce those rights. We have different actors moving independently and developing the tools for monitoring the implementation of different things, for example, health or water.

We have the Department of Planning at the national Government. We have the National Treasury, the Vision 2030 team, the SDGs implementation teams, county governments and the Council of Governors (CoGs) trying to get all these things. This should be the law that should bring all these actors together. This should include the two Standing Committees of Justice, Legal Affairs and Human Rights of the National Assembly and the Senate to define the standards that can help us measure progressive realizations of the rights provided for in Article 43.

I support this Bill with the proposed amendments on this Floor. I also suggest that we remove the aspects of the law that may clash with other laws without providing a solution.

We should use this opportunity to bring together the different actors and agree that the implementers of health in this country cannot be in six locations. It is the

national Government and the county governments. So, we will have one policy. We will define the goals we want to achieve, then develop the standards that will help us to measure how we are progressing in the delivery of that right. We will be able, in a very simple way, to have implementers oversighted on whether they are achieving the set-up goals or not.

Mr. Speaker, Sir, today, I looked at the dashboard for monitoring implementation of the SDGs. We have made a dashboard that indicates how Kenya is doing on SDG one, two or three. It is a separate tool that we use to report at the international level. However, when you go to the Ministry of Health, there is no equivalent dashboard to that of SDGs. Vision 2030 has its own tool on how to monitor how we achieve economic growth and enable the rights to health.

Mr. Speaker, Sir, you will agree with me that the implementer is not in three locations. It is with the county governments and national Government and possibly the parastatals attached either to both. Therefore, this law should bring everybody together with its mechanisms. It should decide the role of Parliament and how to define it; the role of Article 59 Commissions and how it should be defined. Further, it should decide the roles of the implementers at the national and county level and how they should be defined.

This is how we want to define the intergovernmental mechanisms in order to enable a coordinated, methodical and periodic way of telling Kenyans that we have moved from 40 per cent implementation on health to 60 per cent or we have implemented 20 per cent of rights to water to 10 per cent and we need to do something about it.

I support the implementation of this important Bill with amendments proposed by the Committee on Justice, Legal Affairs and Human Rights and Members on the Floor.

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

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I rise to support the Bill. The Constitution of Kenya 2010 has been described as the most progressive document in the region. This is true because the entire Chapter Four is dedicated to the Bill of Rights. This is so because human dignity is a very essential aspect of our lives. As human beings, we wish to live a decent life. Some of us are lucky to have better housing. However, we have many Kenyans who are unable to access better housing and other facilities like water and health.

That is why this Constitution places the responsibility of ensuring that the Bill of Rights is guaranteed and implemented by the State and its organs, particularly the national Government and county governments.

Mr. Speaker, Sir, just a few minutes ago, you read a Petition from the Elgeyo-Marakwet County Assembly which is calling upon this House to discuss the Petition and deal with the issue of insecurity. There are parts of our country, today, where Kenyans live under threat and fear. Therefore, it diminishes the dignity that they are supposed to have.

I am a Member of the Committee on Justice, Legal Affairs and Human Rights. In my view, this is a very important Bill. I thank my colleague, Sen. Mungatana, MGH, for coming up with it.

It is time for this House and State organs, the Senate and National Assembly, to rise to the occasion and pass this Bill.

Article 53 talks about socio-economic rights. We have done very well as a country to address other rights. If you look at the right to life, privacy, human dignity, slavery, freedom of expression, media and political rights, we have done so well. However, when it comes to economic and social rights, we have not done well. In my view, for us to enjoy other rights, we have to deal with economic and social rights. Every person has the right to the highest attainable standards of health.

I come from Baringo County. I assure you that the conditions of health facilities and the provision of health are the worst. I also believe my colleagues in the House are facing the same problem. The right to healthcare services should include reproductive health care.

If you dissect the economic and social rights under Article 43 from sub-Article 9(a) to (f), all the pastoral communities; the entire North Eastern region, the Coastal region and a larger part of Rift Valley, which is actually more than 70 per cent of the country, those economic and social rights have not been achieved.

On housing, I want to appreciate the Kenya Kwanza Government for coming up with the housing programme. However, as we receive this particular programme, how many of the 50 million Kenyans can access them? It is still a big challenge and a fundamental requirement under Article 43 for us to ensure that our people access this and so on.

With regard with free from hunger; you witnessed recently up to even today when we got the rains, the kind of situation that our country faced. We were unable to feed ourselves. We depend on donor support. However, we are unable to produce enough food for our country and for our people.

When we come to the issue of clean and safe water; Vision 2030 is here with us. There was the proposal under the leadership of Kibaki that by 2030, every household should have clean water in compliance with this Article 43.

I do not know the Members of this House today if you were to ask them what percentage of their county is going to access clean water in the next seven years, I am sure that they will all say a small fraction of their population.

With regard to social security; the country has tried social protection. On education, in my county, there are schools that have been closed because of insecurity. Our young people are unable to access their schools because of insecurity. Even when they are able to be in those schools, they are unable to even access food. So, they are again not able to access this fundamental right to education.

Mr. Speaker, Sir, so that I do not take a lot of time on this matter, this Bill although there will be certain amendments as proposed by the Committee. I serve in the Standing Committee on Justice, Legal Affairs and Human Rights (JLAHR) and even in this House, I think that this is the right step in the right direction.

As a House, we should be able now to ensure that this House of the Senate, the National Assembly, the national Government and the county governments as State organs are able to fulfill the obligation placed on them under Article 21 of the Constitution of

ensuring the implementation of rights and fundamental freedoms of our nation and our people.

Mr. Speaker, Sir, I support this Bill and I think it is important that we pass it so that we move to the Third Reading and pass it into law.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to make a contribution to this wonderful proposed piece of legislation by Sen. Mungatana, MGH. From the onset, I want to say that I fully support it.

Human dignity is an integral part of life and living. If you deprive people of their dignity, then to a great extent, those people are deprived of a critical part of their lives. I want to go straight to just three or four aspects of the proposed Bill; the Bill that we are debating in the Second Reading.

I take note of part one of the Bill in Clause 4. That is where I want to begin my contribution. On the guiding principles of this Bill, Part 4 states clearly: -

“All persons shall, in the performance of their functions under this Act, be guided by the following principles, in addition to the national values and principles set out under Article 10 of the Constitution and the objects of devolution set out under Article 174 of the Constitution.”

I want to go to Clause 4(b)-  
Non-discrimination.

Mr. Speaker, Sir, these Bills allow us the opportunity to speak the truth to power and to correct misbehaviour by people in authority. Even if those people are Senators, then they must be called to order.

We have all listened to speeches from some persons in authority and because they are not here, we may not go into a debate without a substantive Motion. This Bill drafted by Sen. Mungatana, MGH, proposes that there should be no discrimination against human beings; Kenyans, irrespective of where those people come from, the religion that they subscribe to, and their political affiliations. That one line is a powerful line.

Even after an election and people go into the polls and elect their leaders: Senators, Governors, Members of the National Assembly, and their President and Deputy, once the results of that election are announced and either accepted or not accepted, you cannot discriminate any person in this country on the basis of how you perceive them to have voted.

*(Applause)*

I have heard many times the Deputy President making reference to people and how they voted and how access to national resources should be prioritized.

When this proposed Bill becomes an Act of Parliament and the law, I want to see what will happen to leaders who think that they can deny Kenyans access to resources simply because they think Kenyans did not vote in a way that they wanted them to vote.

Secondly, the rights as espoused in Article 43 of our Constitution, Kenyans in every corner of this country have a right to access the highest attainable standards of health. We have had a debate on this Floor. I am happy, and I congratulate Sen.

Mungatana, MGH, that he has brought an enabling legislation so that now Kenyans can access and test the veracity of Article 43 of the Constitution. We can say it is the right of every Kenyan in every part of this country to have access to health, education, good road networks and water.

You know there is one thing that we must also disabuse ourselves and disabuse this nation of. Governments do not give rights to citizens. The rights of the citizens are enshrined in the Constitution and enabling legislation. With the passage of this law, I believe Kenya will be a better place to live in.

Mr. Speaker, Sir, I will go to Part II of the Bill on obligations of the national and county governments. I like it that Sen. Mungatana, MGH, has properly applied his mind to this Bill. There are obligations that belong to the national Government and those to the county governments.

On the obligations of the national Government, in Clause 5(d), the proposer of the Bill says that the national Government should put in place adequate infrastructure that will be necessary to meet the obligations of its citizens in realizing their economic and social rights.

Mr. Speaker, Sir, some of these pieces of infrastructure include roads and dams. However, there is one thing that we hardly ever talk about. Therefore, I want to make it alive in this Bill. That is the issue of regional airstrips.

The other day, as I joined my principals in going around the country to preach peace and give people an opportunity to exercise their rights, I landed at Kakamega and Trans Nzoia airstrips. They are beautiful pieces of infrastructure.

In terms of making people access infrastructure to be able to realize their economic and social rights, I remember it was the promise of the Kenya Kwanza Coalition, that there will be at least one airstrip in every county. That is important because this country must begin to be aspirational even in terms of development.

It is a bit difficult for citizens of Kenya from far-flung areas who work in the capital to often visit their rural counties using roads because of ventures of road transportation. If we can achieve the dream of having a properly done and functioning regional airstrip in at least every county, that will really help in pushing forward the development agenda in this country.

Mr. Speaker, Sir, big counties like Kitui have only one dilapidated and unusable airstrip. The only aircraft that can land at Ithookwe Airstrip in Kitui is maybe a chopper. The smallest caravan cannot even land there. A county as expansive as that should have airstrips in Kitui, Mutomo and Tseikuru. That would spur development, communication and transportation.

Finally, on the obligation of the county governments, I have seen in Clause 5(2)(d), under the county government obligation, that the sponsor is talking about prioritizing allocation of resources to ensure the realization of economic and social rights, while taking into account the special needs of vulnerable persons. That is important.

Maybe this is the time that it should be illegal. Counties that do physical planning should not issue construction licenses and authority to contractors who do not take into account the special needs of Persons with Disabilities (PWD).

We should not have new buildings constructed that do not respond to the special needs of PWD. That is what the Mover of the Bill is talking about. Even PWD and those with special needs have equal rights to access buildings and transportation and be taken care of when it comes to infrastructural development in every part of this country.

Mr. Speaker, Sir, so that I do not take a lot of time, I thank Sen. Mungatana, MGH, for bringing up this Bill which I fully support.

I thank you.

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

**Sen. Tobiko:** Mr. Speaker, Sir, I rise to support this Bill. I congratulate Sen. Mungatana, MGH, for bringing a good piece of legislation.

It will be a bit challenging to contribute to this Bill because it is an all-encompassing piece of legislation since it speaks to our hearts. I actually had a doctor's appointment at 4.30 p.m., but decided to skip it in order to contribute to this Bill.

When you look at this Bill and the situation in our country at the moment, when other people are talking about political rights, freedom of association and all that, there are parts of this country and communities that are in dire need of attention in terms of basic rights as Kenyans.

As the nominated Senator from Samburu, Sen. Lemaletian, had said, there are regions without water. Every day is a struggle to even have drinking water and water for domestic or livestock use.

There are regions that are very wanting in terms of infrastructure. You may wonder whether Kenya has been put in paddocks. There are regions that are well developed and have moved forward. However, there are other regions that are still wanting.

Mr. Speaker, Sir, I will give an example of Kajiado. Kajiado is known to all Kenyans living in Nairobi because it is one of the suburbs of Nairobi. Whereas many Kenyans are investing in Kajiado because it is close to Nairobi and they can come to work in Nairobi and go back to Kajiado, there is no infrastructure in Kajiado.

I am sure many Kenyans and even Members of Parliament (MPs) live in Kajiado. However, making your way to Nairobi from Kajiado is a nightmare.

My home area is very close, but I cannot live at home and come to Nairobi daily because there is no infrastructure. However, if I was to stay in Kiambu or Thika, I would make my way easily to Nairobi.

Mr. Speaker, Sir, there are Kenyans who are still crying for basic services such as water, electricity and roads. For 10 years, I have represented a constituency that touches Nairobi. Those who live in Kitengela always asked why the leaders of that place were not talking about infrastructure; why there was no tarmac and electricity.

We have been in this House talking, screaming and crying for more than 15 years, but we have no roads. That is why the old Namanga Road is not tarmacked yet the Senator for Machakos can tell us how many roads are tarmacked that join into Mombasa Road at Machakos, Konza, Wote and Salama junctions. However, the road to Kajiado is the only one international road from Nairobi to the Namanga Border.



Mr. Speaker, Sir, you wonder whether this country has been divided into regions that are secluded for development and others that will never get development. I will say this because our people are still moving and wandering around with livestock because there are no dams. Rains come and the water is not harvested. They continue staying in dry areas yet these areas can feed the whole country.

If this rain water was harvested, we could get water for irrigation and livestock. Some regions enjoy agricultural extension services and others do not. We thought devolution will be a solution to our problems because our counties would address some of these things, but counties have become a let-down. They will need to address some of these services such as health and water provision.

Mr. Speaker, Sir, education is still a problem in some regions. I was speaking to a fellow Senator in the lounge who asked us to help him construct a school. You wonder at this day and time that there are schools constructed with *matope* in this country and yet in other places, we have high rise schools. This is a country of inequalities; a country that some have more say, more rights and others are spectators.

Sen. Mungatana, MGH, you have spoken to our hearts in this Bill. I urge the Members of this House to pass this Bill. Let us continue passing good legislation and see whether the conscience of those in the Executive will be pricked to treat Kenya as an equal platform for all Kenyans; to receive fair services for all people. It should be our right.

Mr. Speaker, Sir, during the campaigns, we went across the country. However, it hurts every day when you see well-developed regions continue getting more resources whilst there are regions that have been neglected for many years.

Right now, for a woman to give birth and remain alive in a place such as Kajiado, Samburu or Turkana is by the grace of the God. Our health facilities are wanting. There are no hospitals, roads or airstrips. It would be the greatest privilege for us to ask for an airstrip. We are asking for roads, in fact, murrum roads and not even tarmac roads.

Let us use this platform; this House, to equalize Kenya; a House platform that will treat all Kenyans equally, fairly and justly.

Thank you, Mr. Speaker, Sir.

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

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

**The Deputy Speaker (Sen. Kathuri):** Sen. Okiya Omtatah

**Sen. Okiya Omtatah:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Bill by the hon. Sen. Mungatana, MGH, of Tana River County.

Article 43 gives a not-exhaustive list of economic and social rights. A common factor of these rights is that they all require money. The right to a highest attainable standard of health, which includes the right to healthcare services, including reproductive healthcare, requires money to be invested in health infrastructure; accessible and adequate housing and to reasonable standards of sanitation require money; to be free

from hunger and to have adequate food to acceptable quality requires money. To access clean and safe drinking water in adequate quantities requires money. To have social security, education and emergency medical treatment require money.

Mr. Speaker, Sir, where does the money come from? The money must come from the enterprises within the polity. What are we doing to our enterprises? Since Independence, we have had a culture of cannibalizing public assets and enterprises and privatizing them.

As I support this Bill, we must realize these rights ride on a robust economy. If our economy goes to the dogs and become a basket case, we can only dream about these rights. That calls for a very important thing that must happen in this polity, the rule of law to ensure that public assets are put to the use and to the purpose which they are intended for. Otherwise, we will end up writing a lot of poetry about socio-economic rights, yet the Constitution itself at Article 20(5) states that:

(5) In applying any right under Article 43, if the State claims that it does not have the resources to implement the right, a court, tribunal or other authority shall be guided by the following principles -”

All those issues come down to money. Socio-economic rights can only be realized where the country is wealthy. We must work out and hard to make this country wealthy and protect public institutions.

Mr. Deputy Speaker, Sir, right now, the Government is obsessed with the idea of privatizing ownership of critical public assets instead of focussing on privatizing management of these assets where the public cannot manage them. We are trying to strip this country poor and naked, yet we talk of having a Constitution that declares rights that require a robust economy to achieve.

In supporting this Bill, my position is that if the Government wants to really ensure these rights are realized, it must do what is necessary to recover the economy. Right now, the Government must put a break on wild spending at the top of the Executive. A lot of money is being put to unnecessary use as the country bleeds.

Mr. Deputy Speaker, Sir, the Government has expanded the public service by introducing political actors called “Chief Cabinet Secretaries”. Sorry, what are they called?

**Hon. Senators:** Chief Administrative Secretaries (CASs).

**Sen. Okiya Omtatah:** Yes, Mr. Deputy Speaker, Sir, CASs. I am a bit confused because they are a political animal and yet they are in the public service, in total violation of the Constitution. They are bloating the cost of administration. A lot of money is going to recurrent expenditure yet we are talking of trying to develop this country.

It is time that this Government should tighten its belt, reduce unnecessary spending and ensure that it invests in the economy and make it grow. Socio-economic rights basically means giving everybody a share of the cake. When the cake is too small, it cannot be shared. It will result in some stampede.

To achieve socio-economic rights, we must bake a bigger cake. As I speak, I do not see any credible plans to bake a bigger cake, so that we realize socio-economic rights

by distributing it to more people. We will be wasting our time and dreaming to think that socio-economic rights are things we talk about.

Mr. Deputy Speaker, Sir, let us work on getting money and making Kenyans rich. If Kenyans become rich, we do not even need legislation or socio-economic rights. They will have money in their pockets. They will not go for Higher Educations Loans Board (HELB) and go to school. They will pay for whatever they want to pay for.

If we are trying to construct this country, but we coming up with policies that ensure people remain poor, then legislation like this becomes inevitable. It is inevitable where we are because since Independence, this country has been designed to exclude some people.

All the people who have submitted here have talked about inequalities across the country. The designs that made this country unequal or made some people 'more equal than others', require this kind of legislation to contain this as an intervention or temporary measure, but not as the end game or destination. The end game must be to make every Kenyan rich.

We must come up with policies that pull the masses out of poverty. That is the challenge that the Jubilee Government has.

*(Loud consultations)*

Sorry, not Jubilee, but Kenya Kwanza Government. I am sorry. I am unable to distinguish the two because the actors are the same. So, I am unable to distinguish Kenya Kwanza from Jubilee. The actors are the same, but the names are different.

Mr. Deputy Speaker, Sir, this Government must pull up its socks and put on the table credible policies and activities that can draw the masses out of poverty. If the Government does that, every person in this country will have within himself the capacity to realise the socio-economic rights without depending on the State. We know very well Kenya is not a welfare State neither is it a grand making institution. Nonetheless, it has an obligation to create the requisite environment for Kenyans to become rich.

As I support this important Bill, I do so with the understanding that it is an intermediary measure. It is just to use the law to address what is called historical injustices and staff in some areas. However, after we get this Bill, I still call upon the Government to come up with a marshal plan of sorts for this country to pull us out of poverty; a plan that will make the rural and urban areas, especially the informal settlements, thrive.

The Government should come up with a plan of creating more wealth and new wealth based on a resource-based leadership, whereby leadership looks at the resources that we have and comes up with a programme to transform those resources that are mainly under our feet in the soil. The plan needs to be the kind to convert the vast resources that this country has into wealth that can enter into the pockets of Kenyans so that we can have millionaires.

Next time, the Kenya Kwanza Government makes its State of the Nation Address, I would like them to stand up and tell us how many millionaires it has created, for

example, in Kilifi, Nyeri and Marsabit counties. They should tell us how many people they have pulled out of poverty out of its programmes.

It should not talk about creating employment because we know that real employment is created by the private sector. It should talk about creating an enabling environment where the people have become millionaires and they are investing and expanding the economy and creating new wealth.

We want to see factories thriving in areas like Kiambu County. They are virtually peri-urban. It is no longer viable to run these areas that surround Nairobi City County on peasant economies. That is why many youths have become delinquent because they see no future.

These socio-economic rights are very important. This Bill is long overdue and we support it. We should pass it immediately. Again, it must just be an interventionary or transitory law that addresses historical injustices. The challenge is on the Government of the day to come up with a formula of creating millionaires across the country. There are too many poor people in this country for there even to be effective taxation or anything that you can call a State. As a modern State and a middle-income economy, we do not need to have this kind of contradictions in our economy.

I support this Bill and I congratulate Sen. Mungatana, MGH, “the crocodile eater” – if I may be allowed to call him that – for giving us this special Bill. It will ensure that the medical care that I get at a clinic in Moyale is the same as that of a clinic in Runda.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Sen. Mariam Omar, kindly proceed.

**Sen. Mariam Omar:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Bill. Article 43 of our Constitution is more of a socio-economic right. First, I thank Sen. Mungatana, MGH, for bringing this Bill. If this Bill goes through, it will be more advantageous to the marginalised communities.

Mr. Deputy Speaker, Sir, in Mandera County, we were crying because of drought up until three weeks ago. As I speak, there is rain and floods everywhere. We need capacity building on how to harvest the water for a long-time plan. We also need capacity building on how to transform from pastoralism to agriculture in order for our region to be food secure.

Mr. Deputy Speaker, Sir, when it comes to service rendered such as issuance of birth certificates, passports and identifications cards (IDs), we are discriminated against on the other side. We only have one birth registration centre in Mandera Town yet people must access the service nearer to them. To access this service, our people are forced to walk from Takaba and other far-flung areas to Mandera. They travel almost 300 kilometres to get their rights. Service delivery must be nearer to the people.

The other issue is on vocational training. In Mandera County, there is a teacher’s training college, which has been built. However, it has not been operational because of lack of equipment. There is also a nursing training college that is not operational yet there is high turnover of nurses in our hospitals. If we train our people from Mandera in nursing, we can employ them and reduce the high turnovers in the hospitals.

Mr. Deputy Speaker, Sir, the other issue is on clean water. Every citizen in Kenya must get clean drinking and sanitation. Currently, there is an outbreak of Cholera in Mandera County. That means that people are consuming unclean water. The pastoralists must get clean water near.

Due to time constrain, allow me to conclude and congratulate Sen. Mungatana, MGH, for the Bill. I appreciate him for his efforts.

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

Sen. Faki, you have the Floor.

**Sen. Faki:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii kuchangia Mswada ambao umeletwa Bungeni na Sen. Mungatana, MGH, Seneta wa Kaunti ya Tana River, kule ambako mamba wanashindana na wananchi kwa huduma za maji.

Mswada huu ni muhimu sana ikizingatiwa kwamba Katiba yetu ya mwaka 2010 iliweka bayana haki za jamii - *social rights* na haki za kiuchumi - *economic rights*. Kifungu cha 43 cha Katiba ya Kenya kinatoa wazi haki hizo, zikiwemo haki ya afya bora pamoja na haki za kimsingi za kuzaa, haki ya kuwa na nyumba ama makaazi ya kuishi, haki ya kuwa na hali ya juu ya usafi, haki ya kupata chakula cha kutosha na chenye virutubisho vyote, haki ya kimsingi ya lishe kwa watoto, haki ya kuwa na maji safi ya matumizi na kwa wingi, na haki za kijamii kama vile ruzuku zinazotolewa kwa jamii tofautitofauti ambazo hazijiwezi. Pia, tuna haki za elimu.

Haki hizi zote ni muhimu na ni za kimsingi. Lakini jambo la kusikitisha ni kwamba, hata zile haki za kibinadamu za kimsingi, tumeona kwamba bado zinahujumiwa na Serikali yetu ya sasa. Kwa mfano, hivi majuzi, haki ya kuandamana; haki ya kupeleka stakabadhi kwa ofisi za kiserikali ilihujumiwa pakubwa wakati hata Wabunge na Maseneta walishikwa kwa kutekeleza haki hiyo.

Haki hizi zote zitakuwa ni ndoto mpaka pale Serikali itakapoona kwamba kuna umuhimu kwanza wa kulinda haki ya binafsi ya kimsingi ya maisha. Tumeona watu kadhaa waliuliwa katika maandamano ambayo yalikuwa ya amani. Tumeona kwamba itakuchukua muda mrefu sana kuweza kuzipata haki hizi iwapo Serikali itakuwa bado na zile fikra potovu kwamba maandamano yoyote ni maswala ya fujo. Kwa hivyo, watu wapigwe na kufukuzwa ili wasitekeleze azima yao ya kuandamana.

Tukiangalia, ijapokuwa ugatuzi umeweza kusongesha mbele haki hizi, tumeona, kwa mfano, kaunti tofauti zimeweza kujenga zahanati na hospitali za kisasa, wameweza kurahisisha kupatikana kwa maji safi. Kuna kaunti nyingi ambazo zinatoa ruzuku kwa watoto ama lishe kwa watoto wanaokwenda katika maeneo yale ili waweze kupata chakula. Hata wale ambao wanasoma shule za msingi au chekechea wanapata lishe ili wasisafiri kuenda makwao kupata chakula cha mchana wakati wameenda shule. Ijapokuwa kaunti nyingi zimeweza kufanya hivyo, hali hii pia inahujumiwa kwa kucheweleshwa kwa zile ruzuku ambazo zinapelekwa katika kaunti hizi kila mweli kulingana na sheria.

Kwa mfano, katika Kaunti ya Mombasa, pesa za mwisho zimepelekwa na Serikali kuu mwezi wa Disemba Mwaka jana. Hiyo inamaanisha kwamba zile huduma zote ambazo kaunti ile ilikuwa imepanga kufanya, kwa mfano, kupeleka lishe kwa watoto, kuleta maji safi kwa wananchi, zote zimemelemaa kwa sababu ya upungufu wa fedha.

Bw. Naibu Spika, tukiangalia wakulima, hivi majuzi Serikali ilileta mfumo wa kuleta mbolea. Ijapokuwa ni jambo nzuri, ni jambo la kushangaza kwamba Serikali yetu imetoka hapa mpaka nchi ya Zambia kuenda kuwasaidia wakulima nchini humo kuzalisha mahindi mengi ili walete Kenya wakati hatujaweza kuwahudumia wakulima wetu kikamilifu.

Badala ya kuwa na vipimo vya kupima Zambia, tutaleta mahindi ama tutaleta mazao kiasi gani, tuwe na vipimo vyetu hapa Kenya ili kuona kwamba wakulima wetu wote wanazalisha chakula cha kutosha ili kulisha nchi yetu ya Kenya.

Katika maswala ya maji, kunajengwa mabwawa kila mara lakini tatizo sugu la maji bado halijatatuliwa. Kwa mfano, tukiangalia sehemu za pwani hususan Mombasa, maji tunayoyapata ni yale ya Mzima *Springs* ambayo ilijengwa katika mwaka 1945. Katika miaka kumi na tano au ishirirni inayokuja, itakuwa Mzima *Pipeline* inasherehekea karne moja na hatujaweza hata kuunganisha pipe moja kutoka Mzima kuelekea Mombasa ama Taita ili tuweze kupata Mzima 2 ma Mzima 3.

Bw. Naibu Spika, sheria hii ambayo imebuniwa inakuwa na umuhimu kutekeleza lakini la kusikitisha ni kwamba, hata zile taasisi ambazo ziko kwa sasa, kwa mfano Kenya National Human Rights Commission (KNHRC) ambayo inatakikana kuchunguza matukio ambayo yanahujumu haki za binaadamu yameshindwa kufanya hivyo kikamilifu. Hivi majuzi, tuliona watu wakipigwa wakiandamana, na maandamano yametibuliwa bila kufuata sheria lakini hata siku moja hatukusikia KNHRC ikizungumzia swala hilo ambalo Katiba inalikubali.

Mwongozo uliotolewa katika sheria hii utasaidia pakubwa lakini hautoshi kwa sababu zile taasisi nyingi ambazo tunaziuunda zimelemazwa kutokana na *State capture*.

Tukiangalia, tume huru nyingi ziko na watu ambao ni vikaragosi ama vibaraka wa Serikali iliyoko mamlakani. Hivyo basi, wanashindwa kutoa ripoti muhimu ama kuzungumzia mambo muhimu ambayo yanatokea kwa sababu ya kuogopa na kusikitikia nafasi zao.

**The Deputy Speaker** (Sen. Kathuri): Samahani, Sen. Faki, umesema vikaragosi?

**Sen. Faki:** Ndio, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kathuri): Sijaelewa vizuri. Hao ni watu wa aina gani?

**Sen. Faki:** Kwa Kiingereza, tunaweza kusema ni *puppets* wa Serikali zilizoko. Na hii haikuanza sasa---

**The Deputy Speaker** (Sen. Kathuri): Vikaragosi kwa Kiingereza ni *cartoons*, vitu kama hivyo? Sijaelewa kama hiyo ni lugha ya kutumia katika Bunge letu la Seneti.

**Sen. Faki:** Samahani, Bw. Naibu Spika, kama umeielewa hivyo. Mategemeo yangu ni kwamba ni watu ambao hawana msimamo katika mambo ambayo wametumwa kufanya.

Kwa hivyo, hata tukiwa na sheria nzuri namna gani, wale ambao watatumwa kutekeleza sheria zile, ikiwa ni watu waoga ambao wanajali mkate wao kwanza kuliko kujali yale mambo ambayo yanafanyika, itakuwa ni kazi ya bure.

Ninampongeza ndugu yetu, Sen. Mungatana, MGH, kwa maswala haya. Tukiangalia maswala mengi ambayo kwa mfano, haki za wale---

**The Deputy Speaker** (Sen. Kathuri): Sen. Faki, lakini si---  
I can see Sen. Veronica Maina struggling to get my attention, but I cannot see her card on the screen.

*(Sen. Veronica Maina spoke off record)*

**Sen. Veronica Maina:** Mr. Deputy Speaker, Sir, I wish to raise a point of order under Standing Order No.98. Is our colleague, Sen. Faki, in order to veer off from the debate of the current legislation that is being---

**The Deputy Speaker** (Sen. Kathuri): Sen. Faki, kindly have your seat.

**Sen. Veronica Maina:** Is he in order to start talking about puppets and get completely irrelevant out of the current debate? He has veered off from the discussion and the content of the Bill that is under discussion and continues to consistently attack the Government of Kenya Kwanza, which has not yet been named in that Bill. He has talked about puppets. Is he in order to continue in that line?

**The Deputy Speaker** (Sen. Kathuri): Sen. Faki, you need to use proper parliamentary language, so that you avoid these points of order.

I corrected you when I heard you use some unparliamentary language. Therefore, I request you to---

You were debating well. Just use the right language.

**Sen. Faki:** Bw. Naibu Spika, kwanza, ninashukuru kwa maongozo yako. Lakini, najaribu kufikiria dada yangu, Sen. Veronica Maina, sijui amesimama kwa msingi gani ya Kanuni zetu za Kudumu za Bunge.

Yale anayoyazungunza ni mambo ambayo---

Mimi sijataja Serikali ya Kenya Kwanza. Nimesema Serikali zote. Hata Serikali ya Jubilee ilimweka ndani Sen. Cherarkey bila msingi wowote na wakamnyima *bond*. Hata Sen. Olekina aliwekwa ndani na Serikali hiyo.

Kwa hivyo, sijataja Serikali ya Kenya Kwanza. Hiyo iko katika HANSARD. Aangalie ni wapi nimetaja Serikali ya Kenya Kwanza.

Pili, kama amesoma Mswada huu kikamilifu, kuna mahali ambapo kuna Tume ya *Kenya National Human Rights Commission (KNHRC)*.

Ukiangalia kuna *Commission established under Section 3 of the KNHRC* na *Council of Governors*. Hizi ni taasisi ambazo zimetajwa hapa.

Nimesema kwamba ikiwa taasisi hizi zina watu ambao hawana msimamo, wandani wa wale wanaoongoza Serikali, ina maana kwamba yale yote ambayo yanatarajiwa kufanyika kulingana na sheria hii hayataweza kufanyika.

Tumesema kwamba licha ya kuwa na sheria, lazima pia tuwe na watu wenye msimamo wa kusimamia sheria zile ili zikitekelezwa, watu waweze kupata haki zao kikamilifu.

Bw. Naibu wa Spika, katika Bunge lililokwisha, kulikuwa na Mswada watu wa Kaunti ya Nakuru, walipokuwa wanaomba kupata nafasi ya kuwa jiji, yani *City County*, waliwakusanya randa randa wote wa mjini wakaenda wakawatupa msituni kule Kaunti ya Baringo.

Bunge la Seneti likapeleka Kamati kwenda kuchunguza na ikapatikana kwamba ni kweli waliwakusanya wale randa randa wa mjini wote na wakaenda wakawatupa msituni. Ni mambo ambayo yamefanyika. Ni lazima tuwakemee sisi kama Maseneta katika nchi yetu ya Kenya.

Kwa kumalizia, ninampongeza Sen. Mungatana kwa kuleta Mswada huu ambao utasaidia pakubwa kuziamsha kaunti zetu ambazo haziangalii sana maswala ya haki. Wanaangalia mambo madogo madogo ambayo kwa muda mrefu, hayapeleki mbele haki za wananchi katika kaunti zile.

**The Deputy Speaker** (Sen. Kathuri): Sen. Wakili, Sigei, please, proceed.

**Sen. Wakili Sigei:** Mr. Deputy Speaker, Sir, from the outset, I laud Sen. Mungatana, MGH, for standing up and promoting this particular Bill.

I would also like to laud the membership of the Committee on Justice, Legal Affairs and Human Rights that sat through this Bill, took it through the submissions by the very many stakeholders on the areas of interest and following up to submit, and also comment before the House.

I also commend Sen. Catherine Mumma, Sen. Veronica Maina, Sen. Cheptumo and the rest of the Members who have spoken to these Bill, including Sen. Okiya Omtatah.

Mr. Deputy Speaker, Sir, when the Committee received several recommendations and comments from various stakeholders, Sen. Mungatana, MGH, magnanimously supported such proposals.

I encourage him to continue and ensure that the proposals that were made by the stakeholders through the Committee and the report by the Committee are incorporated in the final version of this Bill because it will achieve the objectives that the hon. Senator had in coming up with it.

This Bill speaks to all aspects of our lives. It speaks to every Kenyan. The big question that came to us as we were deliberating it is the desire of its sponsor to ensure that the provisions of Article 43 of the Constitution are implemented. He has given it a way in which both levels of Government will ensure that implementation is done.

Mr. Deputy Speaker, Sir, human dignity rights are provided for under Article 21 (1) and (2) of the Constitution of Kenya. It obligates both levels of Government; that is, the county governments and national Government, as well as every other state organ, to ensure that they put in place means and policies that are geared towards promoting, observing, protecting and ensuring that such rights as provided for under Article 43 of the Constitution, are protected and achieved.

I support this Bill. I encourage the House to ensure that it is passed within the best time possible in order to achieve the objectives that Sen. Mungatana, MGH, had.

I will not pick on the specific provisions, but as the membership of the Committee on Justice, Legal Affairs and Human Rights have submitted before the House, generally, the Bill provides a framework for monitoring, enforcing and implementing the economic, social and cultural rights, which are provided for under the Constitution of Kenya.



It is a law on its own that will ensure that the Government of the day seeks to serve the people of Kenya. For instance, regarding what is provided for under Article 43(1) of the Constitution on the entitlement of Kenyans to adequate housing, the Government of Kenya Kwanza has gone out of its way to ensure that it implements a policy that was in its plan; to ensure that at every county there is affordable housing availed by the Government. Also, that provisions of Article 43(1)(d) on accessible and adequate housing and on reasonable standards of sanitation are provided to the people in each and every county.

I am aware that it is also aimed at pushing beyond the county level, so that we roll out the programme at the constituency level. The moment we have this Bill passed into law; Sen. Wambua said that we will have legislated almost in every aspect. He said that maybe we will not have the goodwill from the Government to implement this Bill.

I would like to encourage Sen. Mungatana, MGH, that the plan the Government of the day had as at the time of its campaign and now is to ensure that this is achieved.

It might not happen today or tomorrow. However, this legislation will ensure that in the fullness of time, Kenyans living in very bad housing conditions get an opportunity to live in proper and adequate housing. This Bill will ensure that the provisions and obligations under Article 21 are met.

There is also a provision in the Bill that ensures that at any level of Government, whether the county or national level, specific policy papers are done. At the moment, county governments are implementing the County Integrated Development Plan (CIDP) programmes. This legislation will ensure that the county development programmes in place are geared towards providing housing and food.

Food security is one aspect of the Government's plan that was rolled out in a big way through subsidized fertilizer that seeks to subsidize on production rather than consumption.

When this law is in place and cascaded downwards to every county government for implementation, the CIDP programmes will ensure that there is an obligation on the county governments and national Government to put in place such policies to ensure that this law is implemented.

This will not be achieved if there is no law in place. As I have said, this Bill will ensure that that goodwill put in the Government's plan is anchored in law so that there is an obligation on each person in public office to ensure that the particular provision of the law is implemented.

I will not speak on the issue of provision of clean and safe water in adequate quantities; social security, education and the denial of emergency treatment of every particular person who seeks such treatment. When this Bill is passed into law, there will be an obligation on every Government agency and officer to ensure that they perform it for the benefit of Kenyans and the people who put them into office.

Human dignity is the belief that we are all entitled without any consideration of our race, colour, the political divide or even the belief that we have; to the extent that when this law is in place, there will be no preference on any particular individual for

purposes of implementation, for them to benefit in the full and non-partisan implementation of the law.

I laud the position taken by Sen. Mungatana and support this Bill, so that we achieve more than what the Bill provides because for the longest time, we have been told the Constitution of Kenya 2010 is progressive. This is part of the progressive realisation of the provisions of this Constitution. The moment we pass this Bill into law, it will make part of the greatest achievements that the people of Kenya shall live to celebrate. I am sure that when they do, they will celebrate the person in Sen. Mungatana, who has pushed for this Bill to be enacted into law.

I support.

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

Sen. (Prof.) Kamar, the Deputy Speaker *Emeritus*.

**Sen. (Prof.) Kamar:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity to contribute to this Bill. I rise to congratulate our colleague, Sen. Mungatana, MGH, for spearheading the development and enactment of this Bill.

I participated in the Bomas of Kenya process for development of the Constitution. What appeared at that time to be bedevilling the development of this country was the lack of focus on the economic and social development of individual Kenyans. Several times people talked of ‘*yajenga nchi*,’ ‘we are building the nation.’

In Bomas of Kenya, it became clear that we seemed focused on developing the country and not developing the individuals, not knowing that you can develop a country, but if you ignore the development of the individuals, then you will pull the country back. If you do not have a country with people who have enough food and have developed economically, they will still drain the resources of the country.

I participated in two committees; one was on devolution and the other one was looking at human rights of Kenyans. I am very delighted that there is one law that is going to unpack the whole of it, and for that, I congratulate Sen. Mungatana, MGH.

If you look at the economic and social rights as articulated in Article 43(1), you find that it is the basic things or minimum that any country should give her people. We asked ourselves many questions in Bomas as we were bringing these documents in.

Finally, a few years down the road, about 12 years, we are now ready to address this and I think this is important. Some of the rights that are given here are rights that any nation should be proud to give her people.

We are over 60 years after Independence and we still lack access to basic nutrition for our children. We should ask ourselves how we could fail in that. If you look at the issue of clean and safe water, it was discussed from Independence.

After the enactment of this Bill, we should monitor the implementation of this Bill, so that we can ensure that everybody accesses these rights. Lack of clean and safe water is what is costing us a lot when it comes to the health sector. You miss clean water, then your health goes down.

The other day, we lost a child in the famous school, Mukumu, and we even had 70 children who were hospitalised. For those who went to hospital, it was very sad because a mother said that she went to Kakamega Hospital, which we were all proud of,

and she was told to go and buy very basic things. This means that even accessing proper healthcare in our county hospitals is still a challenge.

In the Constitution, we are talking of the highest attainable standards of health that we can give our people.

We should concentrate and focus on what this Bill is saying. We should focus our strategic plans to answer to the basic socio-economic rights of Kenyans because we have enough resources. I do not want to say that resources are not enough. What this Senate sent to our counties should be enough for that. It is upon the governors to start changing the direction of development.

It does not help you to have a road without a small maternity wing in every health centre. We have lost mothers. We also have children who have never been seen by nurses or clinicians, just because of lack of a dispensary near a family. If a family cannot afford food, how can they afford transport to take a child to a clinic? We know the hierarchy of needs; people look for basic things first.

This law is going to change how we behave and prioritise as a nation. We must ensure that basic things that our people require are not only available, but also accessible.

If you look at the map of this country, you will see a lot of imbalances. As we are talking about basic nutrition for children, there are people in some corners of this country who do not discuss about nutrition any more because they have enough food. However, lack of distribution of food to other areas that do not produce is causing a lot of imbalance in the way we raise our children.

I remember a colleague saying that if you go to Kakamega or Bungoma, any plant you find is food because they are very productive parts of this country. You will get *mapera* on the streets. Nobody even sales bananas in Kisii because you will find them on the roadside. Those are productive parts of this country.

I come from a region which is the grain basket of this country, that is, Uasin Gishu and Trans Nzoia. However, sometimes when we have a bumper harvest and start fighting over the prices, the people in Turkana and northern Kenya region are suffering, yet it is their right to get food. Access to food must be facilitated by the Government and nobody else. If you allow food to be transported by middlemen, prices go up.

There were days when we used to eat rice from Mwea. The rice was being transported by the Government to the National Cereals and Produce Board (NCPB) stores.

I did some work in Marsabit. When we reached Marsabit, we found that they had too much rice. They asked us to buy rice from their stores when we go back to Nairobi. That was in 1988. There was a time when this worked.

We really need to get things working. The producing counties should be supported to produce and counties that do not produce should have the right to access food at fair prices. There is no way the price will be fair if we use businessmen to buy and sell. We need Government intervention.

We also need our governors to think around the clock about the issue of food stability. It is sad that when there is a bumper harvest in Trans Nzoia, a governor in Kajiado does not have food, but does not do anything about it.

Mr. Deputy Speaker, Sir, agriculture and health functions are devolved. I am happy with this Bill because with the coming in of the Oversight Fund for Senators, we should have our committees going to the ground to question why some things are not happening. We need to know why we are not able to attain the highest level of health services and give adequate amount of balanced food to our people. Some of this could just be because of facilitation by the Government.

When we talk about reasonable standards of sanitation, there are people who do not even understand the meaning of the word “sanitation”. We have donors in this country who do not understand what we mean by “sanitation,” yet we have released funding to our counties. They are supposed to do that because those functions are devolved.

I am happy to support this Bill because I know it is going to change even the right to education. All these things are intertwined. If we do not give a balanced diet to our children in some parts of this country and do not have enough resources to send them to school, at the end of the year, the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) are not sensitive to that.

The same examination is done on one day by people who are well endowed and those who are not. It is also done by people who have access to good healthcare facilities and those who do not. That causes an imbalance.

When we talk about the right to education, it becomes imbalanced as you go higher. That is why access to higher education for some regions of this country is still a challenge because basic needs and socio-economic rights have not been implemented.

As we finalise this Bill, and it should happen as soon as possible, it is my prayer that we will go ahead to implement it. This should be the first agenda for our Oversight Fund. If we fulfil this, I dare say, we would have fulfilled the highest number of rights for this country and will be at peace. This is because somebody who has food security is healthy, has water, and they are secure, is a peaceful person. This will generate peace for the nation.

Mr. Deputy Speaker, Sir, in Clause 5, the Bill talks about obligations of the national Government and county governments with respect to economic and social rights. This is what we are going to oversight, to ensure that our county governments implement what has been articulated in this Bill. It is important that we push them and ensure that they do it.

Looking at the roles of the national Government and county governments, they are doable. I thank Sen. Mungatana for that. These are not difficult things to do. The problem is the goodwill. We must push for that goodwill because you can never force somebody to have goodwill.

We have parliaments which must ensure that we do enough oversight, to ensure that whatever has been passed is done. We must create awareness among the people and let citizens know their rights.

Once citizens know their rights, it will make our oversight work easy. That is why I believe in oversight funding, so that we can go out and talk to the citizens and let them know what their rights are as far as health and access to clean water are concerned.

This Bill should pass immediately, so that when we go there, we have it. It is going to be one Bill that will push devolution and make it work even much better.

We will also oversight how they develop the County Integrated Development Plans (CIDPs). The CIDP has become a routine document that is developed and nobody knows whether it is implemented or not. When we have this law, it will enable us to do that.

Mr. Deputy Speaker, Sir, I know my colleagues are keen to contribute before time lapses. Therefore, I would like to stop there.

Once again, I thank Sen. Mungatana for spearheading this. I pray that we will all support and make sure it passes as soon as possible, so that it becomes a template for our oversight.

I thank you and support.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen (Prof.) Kamar. Hon. Senators, I request that we give the Vice-Chair, Standing Committee on Finance and Budget, a minute or so to read these two important Papers, which are urgent and have timelines, then we continue with the debate. We are almost finalizing.

*(Interruption of debate on the Bill)*

Yes, Sen. Tabitha Mutinda.

### PAPERS LAID

**Sen. Tabitha Mutinda:** Thank you, Mr. Deputy Speaker, Sir. I beg to lay the following Papers on the Table of the Senate, today, 12<sup>th</sup> April, 2023-

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

Report of the Standing Committee of Finance on the Equalization Fund and Appropriation Bill 2023 (Senate Bills No.3 of 2023).

REPORT ON THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILLS NO. 9 OF 2023)

Report of the Standing Committee on Finance and Budget on the Division of Revenue Bill (National Assembly Bills No.9 of 2023)

*(Sen. Tabitha Mutinda laid the documents on the Table)*

*(Resumption of debate on Bill)*

**The Deputy Speaker** (Sen. Kathuri): Thank you. Sen. Okenyuri, you may have the Floor.

**Sen. Okenyuri:** Thank you Mr. Deputy Speaker, Sir. I rise to support this Bill by the good Senator of Tana River, Sen. Mungatana, MGH.

This encompasses so many other aspects that are going to strengthen devolution that have for some time got me worried on whether we are actually progressing or killing devolution. Sen. Mungatana, this was well-thought-out.

I want to bring to the attention of Members very worrying statistics that were given on 16<sup>th</sup> March, 2023 by the Ministry of Health. Six million Kenyans have no sanitation facilities. Twenty-eight of those are in rural areas, 32 per cent are in urban areas, such as we are in Nairobi. There is 90 per cent of open defecation in 15 counties.

I do not want to name the specific counties, but it brings into reality what we are actually facing. As I said, these were the basic issues that are being talked about and giving those worrying statistics. It is a cause for concern to us, honourable Members, to get to action.

Even though, I commend the initiatives by the Kenya Kwanza Government and the President to be specific. He seemed to have understood that once you make the basic things available to ordinary Kenyans, then even governance becomes very easy.

That was the same thing as what Sen. Mungatana has done. This Bill covers most of the aspirations of the “Bottom-up” blueprint we had and that we largely campaigned on during the last campaigns.

Sen. Mungatana, I also commend the bit on conditional grants to counties. I have seen how conditional grants in the area of education work. I worked for a long time in the Technical and Vocational Education Training (TVET) sector. One of the reasons the vocational training centres at the counties were doing very well was because of the conditional grants that were going there. That means counties cannot divert that money elsewhere, but use it for the intended purpose. This is what we want to see even in the health sector, so that we do not have a situation where money is going down and not where the intended purpose is.

Currently, if any ordinary Kenyan goes to hospital, and if I take Members back to the case of Baby Sagini Junior who lost his life after a fork *jembe* was lodged in his head, he was not able to even raise the deposit and get admission in hospital. Those are the scenarios we are faced with on a daily basis.

I hope this Bill is going to open room to some of those issues. As a very poor Kenyan, why should I give deposit for me to even receive the basic emergency services that I need before you consider whether I am in a position of giving the money or not?

The other thing is on the accessibility to housing, which is one of the basic rights we are seeing here. This Government is talking about affordable housing and with the major intention being supporting young people with the relevant skills to get into this housing and manufacturing initiatives we are engaging in. That way, you are also supporting young people because we make up most of the population in Kenya and the women.

Actualization of these rights will benefit us and several millions out there, who are looking forward to the provision of the same and being protected under the same Bill that is being proposed by Sen. Mungatana, MGH.

To be brief, I want to emphasize that this is timely. It is going to strengthen devolution. We have things to hold the counties accountable to. The other week, I was raising a concern on civic education. I see you have captured here public awareness, which is very close. I think as honourable Members, we equally need the civic education. This is because listening clearly, we, first, need to understand, so that when we are going to oversight our counties, we know exactly what we are looking for.

I strongly support this Bill. It is timely. It carries the aspirations of this Government and what the President has always been on the front-line advocating for.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Okay. Sen. Ogola, kindly proceed.

**Sen. Ogola:** Thank you, Mr. Deputy Speaker, for giving me the chance. I rise to appreciate and support the Bill by Sen. Mungatana, MGH.

When we talk about human dignity and when hon. Mungatana presents to us The Preservation of Human Dignity and Enforcement of the Economic and Social Rights Bill, I am excited to support it because it is about the life of all Kenyans.

I am also excited because on 29<sup>th</sup> September, at the opening of the 13<sup>th</sup> Parliament, I remember Point 15 by the President when he emphasised on service to all people. The President was very precise in mentioning service to people and service to the boss, and the boss here referred to the people of this Republic and their sovereign interest.

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

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

Mr. Temporary Speaker, this afternoon, I remember the Statement by the “Queen of the North”, the hon. Nominated Member, Sen. Lemaletian. She talked about the water crisis in northern Kenya. It is interesting that we talk about a crisis when there is no water and we have drought, but soon after that, we also come to lament about a crisis by water brought by floods.

It brings me to the aspect of planning in this country. Were we to plan, the Government and the county governments to plan well, then our people would be having the service they require. Back in our counties, we cry for certain services that Kenyans should not be crying about these many years after Independence.

If you harvest the water we are talking about here, which to me and everyone else, is a basic right; no Kenyan should go without water, food or shelter as provided in the basic needs of a person. However, look at other services; we talk about education for all, but where do we have education for all in this Republic? Some people do not have access to education right from early childhood. That is the preserve of county governments for which we sit at the Senate to guard their interests. There are children who are unable to

access primary education for all. It remains a preserve of few, basically because of poor planning strategy.

Just the other day on this Floor, we were complaining about the implementation of junior secondary. We were here as a country planning for it, and when the time came, the children were sitting in classes with no teachers. That is the dignity we are talking of here. It means we are not planning well as a country. We are messing up a whole generation of Kenyans when we have one teacher posted to a junior secondary school for two terms.

We all know the training background of teachers. At the secondary level, teachers are trained and prepared to teach two subjects. When children in a class have only one or two teachers, it means that the children are going for a period of time without being attended to in an equitable manner. That is the dignity that this Bill will bring to us.

When we talk about health for all, we can all picture the counties we come from. There are some villages with no basic roads. Once a woman, children or patients lack access, then it means they cannot reach a health centres. Some of them are far-flung from health facilities. If a generation is not taken care of well in terms of access to health, that tells it all. We are not giving Kenyans the dignity they require.

The services I am presenting are not only limited to water, education and roads. Let us look at other sectors. In Homa Bay County, where I come from, there are only two land registries that serve over 1.4 million people. One registry serves four sub-counties and the second one serves the remaining four. This reflects the inefficiency in this sector. A Kenyan should be able to access such a service close to them if they want to do a search. If four sub-counties are crowding in one land registry, then your guess is as good as mine. For example, the registry in Homa Bay Sub-county serves Homa Bay, Ndhiwa, Suba South and Suba North sub-counties.

This means we constantly have a crowd at the registries and our people have to travel long distances to get the services they require. Probably, they travel even thrice for a service they were supposed to get with one visit. Once this Bill is enacted, Kenyans and everybody should access such services.

Mr. Temporary Speaker, Sir, regarding the registration of births, everybody has a right to be born. The parents of a newborn should have ease with registration out of human dignity. What happens in the places we come from all over the country? We find the same crowds that we find in the lands registries. There are too many services that all Kenyans should have access to. I cannot name all of them.

Let us look at the issuance of passports. I was home over the Easter weekend and I met a brilliant and ambitious young man, who wants to venture into the world. He came to ask me to assist him to acquire a passport. These services must be made easier for Kenyans because that is the human dignity we are talking about. I could name so many of them.

In this era, we still have hospitals holding dead bodies of Kenyans who have no choice of living or dying. Once you go to hospital, your aspiration is to be cured. I have a case of a seven-month old baby who has stayed in a facility, despite the circulars that the Government keeps giving. However, the hospital is holding the body of this seven-



month old baby. What choice did that baby have? That baby had a right to live in dignity, though now being indignified in death. I hope this Bill will address all that.

I support Sen. Mungatana. All Kenyans have a right to dignity and socio-economic services. Let us reflect on what has been going on in this country. A few months ago, there was hunger. At Independence, we talked about ignorance and disease, and we are still talking about the same. In this country, you might see pictures of children dying of hunger because of drought.

I support this Bill and we hope that it will help Kenyans to get dignity for everyone in service, and how they live and work.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you. Hon. Members, there being no other Senator who wants to contribute to the Bill, I now call upon the Mover, Sen. Mungatana, to reply.

**Sen. Mungatana, MGH:** Mr. Temporary Speaker, Sir, I am very grateful this evening for having listened to many words of wisdom from fellow colleagues. Each one of them who took to the Floor of this House had something to add to this Bill. I am grateful to the Senate Majority Leader for seconding the Bill. I am also grateful to all the Senators who spoke to this Bill.

Mr. Temporary Speaker, Sir, I want to single out a few of my colleagues who contributed to this Bill. In particular, I am very grateful to the Standing Committee on Justice, Legal Affairs and Human Rights (JLACHR) led by you. I am very grateful for the comments that were contained and were very ably presented by my colleague, Sen. Veronica Maina. She pointed out various issues that could be included to improve this Bill. She made a lot of useful additions to what could be done to make it better. She pointed out that there could be a problem with overlapping of mandates within the Commissions that are established under Article 59. She made a point about the fund that we know as the Equitable Fund. She made a lot of useful suggestions that I took down. I am so grateful for the work that the Committee has done.

The work of the Committee was also ably explained by Sen. Mumma. She spoke of the need to create within this Bill an instrument that will ensure that there is monitoring of the implementation of the progressive achievement of the socio-economic rights that we seek to implement under this law, that is carried under Article 43 of the Constitution.

Mr. Temporary Speaker, Sir, Sen. Cheptumo spoke at great lengths about how there was a need for equality within this nation and how some areas of this nation have been left out. This Bill will attempt to bring an equalizing factor across the nation. I thank Sen. Wambua for his contribution. I thank particularly Sen. Tobiko who spoke passionately of the two 'Kenyas that exist. There is Kenya that is developed and has facilities, and infrastructure. There is another Kenya that is forgotten. People who are travelling from those sides say as they board their bus, they are going to Kenya, yet they belong to this nation.

I am very grateful for Sen. Okiya Omtatah and how he brought up clearly that these socio-economic rights need to be viewed within the purview of developing the cake

that has to be subdivided fairly to all of us. He said that if the cake is not sufficient, there will be nothing to share. Essentially, we will be creating a stampede.

He talked of the need for us to grow our economy and that this Bill ought to be seen and appreciated in the light of a transitory mechanism that will bring fairness. However, we must focus on a more permanent solution to the nature of building the economy and not cannibalizing the assets that make this nation.

Sen. Mariam Omar spoke about the two 'Kenyas'. She told us that in their area, some of these rights that are supposed to be realized under Article 43 and have been anchored within this Bill, are a dream. It is time this law becomes a reality, so that people from Mandera can also enjoy these rights.

Mr. Temporary Speaker, Sir, Sen. (Prof) Kamar, Sen. Faki, Sen. Okenyuri, and my good friend, Sen. Ogola, were on point adding various points of wisdom, and law. In particular, Sen. Okenyuri brought shocking statistics that brought to reality what we are talking about. She noted that there is a problem in Kenya. Consequently, we need to do our bit as the Senate. We need to start the process of making this Article 43 a reality.

I promise this House that we are going to put our best foot forward. This is not a simple Bill; it is a difficult one. It is the first attempt at trying to make a reality of Article 43. However, we are up to the task. I am grateful to Sen. Mumma who has even promised to get us in touch with resource persons, who can help us create the kind of instruments that will be useful when the Senate tries to oversight the implementation of these basic rights.

Mr. Temporary Speaker, Sir, I am very grateful for the way the whole Committee and the whole House has handled this debate. I am totally happy and this gives me the courage to go further and work. I have promised myself to put my best foot forward. Before this Bill gets to the Committee of the Whole stage, it is my wish and that of my support team on this Bill to come back *suo motu* and have a sitting with the Committee on Justice, Legal Affairs and Human Rights, again for them to hear us and tell us whether we need to do further polishing. We are prepared for the long haul. We are prepared to go and come back.

Some of us are still Doctor of Philosophy (PhD) students. Any person who has gone to that level of education knows that you will come up with a proposal, you go to your Professor, and he sends you back. You go again and he tells you to go back. You must be prepared for the long haul for you to achieve your goal.

Mr. Temporary Speaker, Sir, in this case, we want to bring to bear all our academic thinking and mixed with all these ideas, and the team that supports these ideas of this Bill will come back to you, the Committee on Justice, Legal Affairs and Human Rights. If the Committee sends us back again, we will do so until we come to the Committee of the Whole, when we have captured at least a majority of the ideas in a manner that is acceptable to this House and the people of the Republic of Kenya.

I thank you very much. I beg to reply to the Bill, so that it can now be read a Second Time.

**Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Mungatana, MGH, for replying. You will note that we do not have the requisite quorum---

**Sen. Mungatana, MGH:** I want to make an application.

**Temporary Speaker** (Sen. Wakili Sigei): Proceed, Senator!

**Sen. Mungatana, MGH:** As you very well know, in court after you make your final submissions, you always have some applications of one or the other. In this case, you are familiar because we are from that profession together.

Therefore, I wish to move pursuant to Standing Order No.66 (3), that the putting of the question be deferred to a later date.

I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Mungatana, your application has been heard and considered. Therefore, I nominate the next sitting, that is, tomorrow, for putting of the question.

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

Next Order.

## BILL

### *Second Reading*

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

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Mariam Omar, kindly proceed and move.

**Sen. Mariam Omar:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity.

I beg to move the Prompt Payment Bill (Senate Bill No. 8 of 2022).

The principal objective of this Bill is to put in place a legal framework to facilitate prompt payment for the supply of goods, works and services procured by Government entities, both at national and county level.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Mariam Omar, I direct that you appropriately move your Bill.

Please, comply with the Standing Orders.

**Sen. Mariam Omar:** Mr. Temporary Speaker, Sir, I beg to move that the Prompt Payment Bill (Senate Bill No.8 of 2022) be now read a Second Time.

Mr. Speaker, Sir, you had not heard me. I read it before just like that.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed.

**Sen. Mariam Omar:** Mr. Speaker, Sir, the principal objective of this Bill is to put in place a legal framework to facilitate prompt payment for the supply of goods, works and service procured by Government entities, both at national and county level.

Article 201(d) and (e) of the Constitution, on principles of public finance states -

“(d) Public money shall be used in a prudent and responsible way; and

(e) Financial management shall be responsible, and fiscal reporting shall be clear.”

Mr. Temporary Speaker, Sir, prudent management of public funds includes meeting of financial obligations by procuring entities, both in national and county Governments. The Bill, however, recognizes that apart from giving effect to the principles of public finance and prompt settlement of bills; it promotes trade and industry and by extension, support robust growth of the economy.

Mr. Temporary Speaker, Sir, a vibrant economy has numerous tangible benefits such as increase in the rate of employment, growth in revenue collected from thriving business and investor confidence in the country.

Therefore, at micro-level, the Bill sets to solve the problem of late payment of the supply of goods and services and at macro-level, to act as a catalyst for the growth of business and economic development.

The Bill, therefore, proposes to require procuring entities in the national Government and county governments to pay a supplier by the prescribed payment dates. Where procuring an entity fails to pay a supplier by the prescribed payment date, the Bill provides that the procuring entity shall pay interest to the supplier in accordance with the section on the amount due under the contract for the supply of goods, works and services.

In this respect, the Bill provides that the maximum interest rates chargeable shall be based on the rates set and published by the Central Bank of Kenya (CBK).

Mr. Temporary Speaker, further, the Bill proposes to place an obligation on procuring entities to ensure that priority is given to the payment of any outstanding debts for the supply of goods and services to the procuring entity.

In this respect, the Bill provides that in determining which dates should be given priority, a procuring entity shall have regard to the date upon which payment fell due and should pay debts in a chronological order.

Mr. Temporary Speaker, Sir, cognizant of the fact that delayed payment for public contracts is usually compounded by disputes on the term of the contract, the Bill proposes that where a procuring entity disputes an invoice, a procuring entity shall, within 14 days, return the invoice to the supplier and identify in writing any defects in the invoice and require the supplier to correct the defects.

The Bill further provides that where a procuring entity returns an invoice, the procuring entity shall pay the supplier at least 50 per cent of the amount due or as the procuring entity and the supplier may agree.

In this respect, a supplier who receives an invoice from a procuring entity shall within 14 days, deliver a corrected invoice to a procuring entity.

The interest shall accrue upon expiration of 14 days after the receipt by the procuring entity of the corrected invoice or after the prescribed payment dates, whichever is later.

Mr. Temporary Speaker, Sir, as a means of ensuring implementation of the provisions of the law, the Bill provides that where the supplier has delivered an invoice to the procuring entity and an accounting officer or responsible officer of the procuring entity negligently, maliciously or without a reasonable cause fail to return the invoice as provided for rectification or pay the amount due, commits an offence and is liable on

conviction, to a fine not exceeding Kshs5 million or to imprisonment for a term not exceeding five years or both.

Mr. Temporary Speaker, Sir, the Bill, therefore, seeks to provide the framework for the prompt payment of the money due to suppliers of goods and services to the national and county government entities.

The immediate consequences of the Bill will be a reduction in the amount of pending bills that consistently clog the budget of the Government at both the county and national level. This will give further effect to the principle of prudence and accountability in the use of public finance.

The Bill also intends to ensure that the person who undertakes business with the Government receives their dues in a timely manner, in a bid to create a conducive environment for business.

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

I thank you.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. I would like to congratulate my kid-sister Senator for this important Bill. If we go ahead and enact this Bill, we will now have moved to the direction of what is involved in developed markets.

I am aware that in the USA and Canada, the Prompt Payment Bill is a law. Nobody just pushes around suppliers as they wish in the name of the people who handed them the contracts. This Bill will be a redemption and a big win for business people.

Mr. Temporary Speaker, Sir, we know of very many business people in this country who have been auctioned, not because they are poor business practitioners, but because they took loans and placed collateral on them in the hope that upon completion of the contract, they would be paid. When they ended up not being paid, they got auctioned.

I am sure some of you back in your respective counties know of a case or two of people who fell sick with ulcers, high blood pressure, heart attacks and eventually died. On the lower part of Kakamega County in Mumias, there were two business people who lost their lives because they were not paid by the county government.

This Bill will make sure that counties look good considering that at the moment, counties are no longer attractive entities for doing business with because they are not paying. The problem is compounded further by the reluctance by the national Government to make immediate timely and prompt releases of shareable revenue as anticipated by this Senate to county governments, so that some of the blame is taken by the governor and the other by the national Government.

Mr. Speaker, Sir, I am aware that this Bill proposed by Sen. Mariam Omar intends to punish. However, as you go and punish, for example, the heads of county governments, what will you do with the national Government, which has delayed disbursements? We have to think a bit longer and harder about this, so that the governor does not end up carrying or being visited with the ills of the national Government.

I cannot end my contribution to this Bill without acknowledging the contribution that was made by the previous Senate. This is a Bill that we are carrying over, and I know

that this Bill was being driven by the then Sen. Johnson Sakaja, who is currently the Governor of Nairobi. I am sure that Hon. Sakaja was doing it because at that time, he was angry with the Governor for Nairobi who was not paying the business people of Nairobi on time. However, like Zacharia, now the shoe is on the other foot.

We are going to pass this Bill and now Hon. Sakaja will have to pay our business people. I am not saying that he is reluctant, but I am laughing at the irony of law.

You heard what the Senator for Siaya told us yesterday. When his father supported the Bill for detention without trial, little did the late Jaramogi know that he was going to be the first to be detained under that law and, indeed, he was.

What is more? Far in the East, that was in Pakistan, we had General Muhammed Zia-ul-Haq who allowed legislation that provided for hanging. The Act was passed and people fought, but Muhammed Zia-ul-Haq could not listen. Nonetheless, he was hanged under that very Act.

We should always be conscious of the fact that the best law, as Sen. Mungatana once said, although he likes to forget some of the good things he tells me - He once told me in the other Parliament that the best law is the one you can trust in the hands of your worst enemy.

This is a very exciting Bill. For instance, Clauses 4 to 6 of this Bill propose processing for payments. It states that a procuring entity shall pay for the goods, works or services provided by the prescribed payment date. Failure to pay the amount due within the stipulated time, a procuring entity shall be liable to pay an interest circulated on the basis of Central Bank of Kenya (CBK) base rates.

This is not punitive. It is a soft way of encouraging a procuring entity to make sure that if you do not pay, as the person whose payment you are delaying loses his money, you also lose your good money. This is very exciting and innovative. Senator, this is good work.

Mr. Temporary Speaker, Sir, in Clause 8, the Bill provides for offences. It provides that an accounting officer, who without reasonable cause or negligently fails to pay the amount due, commits an offence and shall be liable to pay a fine not exceeding Kshs1 million, or to imprisonment for a term not exceeding five years, or to both fine and imprisonment.

Colleagues, be aware of this clause. This clause is going to invite a fight behind the scenes. For many years, we have done legislation with Sen. Mungatana, MGH, you will find that you are doing well the way we are, but when you head to the Third Stage, you start getting invitations for breakfast meetings by people who fear Clause 8. They will tell you; let us have this breakfast and make amendments to this Bill by reducing the fine from Kshs1 million to whatever amount, or reduce the term, or just defeat the Bill.

One of the Members of Parliament (MPs) who was once involved in this in the Ninth Parliament is long dead. Due to that respect, I will not mention his name. What happened is that after we had passed a beautiful law--- We were in the House in the afternoon about to move.

In the days of paparazzi, do you remember paparazzi? That was when the media people would follow you with cameras quietly without you knowing. They filmed our

colleague while he was collecting money at Intercontinental Hotel and it became a big scandal for this Parliament because of provisions like Clause 8.

What does it call for? It calls for integrity from colleagues. You say that we cannot kill Sen. Mungatana's or Sen. Kibwana's Bill. You say that we cannot kill such a good law for the benefit of the people who are going to make use of that law.

Mr. Temporary Speaker, Sir, because of time, and since I do not want to speak again tomorrow, allow me to second this Bill and say how happy I am.

Thank you, Mr. Temporary Speaker, Sir. I second the Bill as moved.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, having heard Sen. (Dr.) Khalwale second, I will now propose the question.

*(Question proposed)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 13<sup>th</sup> April, 2023, at 2.30 p.m.

The Senate rose at 6.30 p.m.