

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 1<sup>st</sup> November, 2023

### Afternoon Sitting

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

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

### PRAYER

DETERMINATION OF QUORUM  
AT COMMENCEMENT OF SITTING

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

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

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

*(The Quorum Bell was rung)*

*(Several Senators walked into the Chamber)*

**The Speaker** (Hon. Kingi): Hon. Senators, I am informed that we now have quorum. Clerk, kindly proceed to call the first Order.

Hon. Senators kindly hasten to take your seats. I have a Communication to make.

### COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM VARIOUS COUNTY  
ASSEMBLIES UNDERTAKING TRACKER TRAINING

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation of members of staff from various counties undertaking the County Assemblies Legislation Tracker Training.

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The County Assemblies Legislation Tracker is a platform where information on legislation passed or being considered by the county assemblies is uploaded. The platform will also provide a centralised online space where members of the public and relevant stakeholders may access Bills or legislation being processed by specific county assemblies and promote openness, transparency and public involvement in the legislative process as required under Article 196 of the Constitution.

It is envisaged that the Senate will utilise the system in accessing first-hand and synthesised information on Bills and Acts passed by county assemblies in undertaking its oversight and legislative mandate.

It is for this reason, that the Senate, with the support from the Westminster Foundation for Democracy (WFD), engaged a consultant to develop an online legislative database that would bridge the gap.

I request each member of staff represented to stand when their county is called out-

Nakuru County, Narok County, Kajiado County, Machakos County, Makeni County, Kiambu County, Kakamega County, Vihiga County, Bungoma County, Busia County, Siaya County, Kisumu County, Homa Bay County, Migori County, Kisii County, Nyamira County, Wajir County, Samburu County, Embu County, Kitui County, Mandera County, Isiolo County and Kwale County.

*(Applause)*

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

VISITING DELEGATION FROM STAREHE  
BOYS CENTRE, NAIROBI CITY COUNTY

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of students from Starehe Boys' Centre who are undertaking a three-week Voluntary Service Scheme in the Senate.

I request the students to stand when called out so that they may be acknowledged in the Senate tradition.

1. Roy Victor Tanu
2. Yassir Adam
3. Hockings Juma
4. Jared Osira
5. Moses Ekutan
6. Emmanuel Amuhaya

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

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I will allow the Senator for Nairobi City County, under one minute, to extend words of welcome to the delegation from Starehe Boys Centre. I also call upon Sen. (Dr.) Khalwale to, under one minute, extend words of welcome to the delegation drawn from various counties in that particular order.

**Sen. Sifuna:** Thank you, most sincerely, Mr. Speaker, Sir, for the opportunity to welcome the students from Starehe Boys Centre in Nairobi City County. Starehe Boys Centre does not need introduction. It is an institution that is well known across the country for its excellence in academics and other areas for a very long time.

We are hoping that although the delegation is small, those who have gotten an opportunity to visit the Senate today will have a chance to interact with the Houses of Parliament.

I encourage them to put more effort in their studies and ensure they give it their very best. Really, if you are in Starehe Boys Centre, the path is laid out for you. This institution guarantees that in your formative years, you will have a solid base on which to build.

I have a few friends from Starehe Boys Centre and School. One of them is the Member of Parliament (MP) for Saboti Constituency, Hon. Caleb Amisi and he is very proud of the school. Honestly, Sen. (Dr.) Khalwale and I who went to schools like Musingu Boys Secondary School are a bit envious of those who went to schools such as Starehe Boys Centre. They say that those who went to provincial schools are those who failed to go to Starehe Boys Centre.

Mr. Speaker, Sir, I am proud of this delegation and I wish them a fruitful visit. When they go back, I would like them to pass my regards to the Director, Mr. Mwaura, who is a good friend.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir, for inviting me to welcome the staff from the 47 counties. I just wish to tell them that internationally, what is now in vogue is something called Open Government Partnership (OGP).

In fact, last month, I was in a Global Summit on OGP. This is based on the fact that leaders in Parliaments of the world must never hide from the public what it is that they are doing. For this to be done, we rely on staff. So, I wish to encourage them that you do quality work in your offices. More importantly, they should go back home knowing that under the Constitution of Kenya, no information is supposed to be shielded from the public.

We have problems in various counties. You have seen what is happening in Kisii and Meru counties. They are big problems because OGP is not working in those two counties. Probably the governors have a case, but nobody knows what they have been doing. Probably, the Members of County Assemblies (MCAs) have a case. So, support them for them to be able to make the running of government in county assemblies open.

Welcome and any time, my office is next to the stairs, you can come for a cup of tea and the other things beyond 5.00 p.m.

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

**MESSAGE FROM THE NATIONAL ASSEMBLY****PASSAGE OF THE NATIONAL RATING BILL  
(NATIONAL ASSEMBLY BILLS NO.55 OF 2022)**

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46(3) and (4), I received the following Message from the Speaker of the National Assembly, regarding the passage by the National Assembly of the National Rating Bill (National Assembly Bills No.55, of 2022.)

The Message, which is dated Thursday, 26<sup>th</sup> October, 2023, was received on Tuesday, 31<sup>st</sup> October 2023, in the office of the Clerk of the Senate. Pursuant to the said Standing Order, I now proceed to report the Message.

“Pursuant to the provision of Standing Order No.41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly:

Whereas the National Rating Bill, National Assembly Bills No.55 of 2022 was published via *Kenya Gazette* Supplement No.185 on 15<sup>th</sup> November, 2022 as a Bill seeking to provide a comprehensive legislative framework for imposition of property rates on land and buildings by County Governments, the valuation of rateable property, the appointment and powers of property valuers and establishment, powers and functions of the National Rating Tribunal;

Whereas, on Wednesday 11<sup>th</sup> October, 2023, the National Assembly considered and passed the National Rating Bill, National Assembly Bills No.55 of 2022, with amendments, and in the form attached herewith;

Now, therefore, in accordance with the provisions of article 110(4) of the Constitution and Standing Orders No.41(1) and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order No.163, which requires that a Bill which originates in the National Assembly, be preceded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.144, I direct that the National Rating Bill, National Assembly Bills No.55 of 2022, be listed in tomorrow’s Order Paper for purposes of the Bill being read the First Time.

Next Order, Clerk.

**PAPERS LAID****REPORTS ON FINANCIAL STATEMENTS OF  
VARIOUS COUNTY ENTITIES**

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, 1<sup>st</sup> November, 2023-

Report of the Auditor-General on the financial statements of the Gatundu Level 5 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

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Report of the Auditor-General on the financial statements of the Kiambu Level 5 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Lari Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Kihara Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Tigoni Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Ruiru Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Igegania Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Kigumo Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Nyathuna Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Ahero County Level 4 Hospital, County Government of Kisumu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Jaramogi Oginga Odinga Teaching and Referral Hospital, County Government of Kisumu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the financial statements of the Fort Tenan Level 4 Hospital, County Government of Kericho for the year ended 30<sup>th</sup> June, 2022.

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

**The Speaker** (Hon. Kingi): Next Order, Clerk. We now move to Statements pursuant to Standing Order No.52(1).

## QUESTIONS AND STATEMENTS

### STATEMENTS

#### PROPOSED INTRODUCTION OF SERVICE CHARGES AT HUDUMA CENTRES

Is there anybody holding brief for Sen. Mumma? That Statement is dropped.

*(Statement dropped)*

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No.53(1). Sen. Nyamu, please proceed.

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## DEATH OF MASTER HARDERS KANYORA MUTAHI

**Sen. Nyamu:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education, regarding the death of Master Harders Kanyora Mutahi, a grade six pupil at Kimathi Primary School in Bahati, Makadara Constituency, Nairobi City County. Master Kanyora died in the school swimming pool on 11<sup>th</sup> October, 2023.

In the Statement, the Committee should-

(1) Detail the sequence of events surrounding the demise of Master Mutahi on that fateful day, specifying circumstances leading to his tragic death and whether it occurred within or outside the school premises.

(2) Provide a comprehensive report on the school's actions upon confirming the death, the process of notifying the parents, details of the incident reporting and immediate responses by the authorities, including the Ministry of Education.

(3) Examine claims of attempts to compromise the ongoing investigations as well as allegations of witness coaching, including the possibility of coercion or intimidation of fellow pupils who may have witnessed the events leading to the pupil's death.

(4) Investigate allegations of abuse of office by the head teacher, including claims of religious discrimination, exorbitant fees charged for remedial teaching in contravention of directives from the Ministry of Education.

(5) State any plans the Ministry of Education has put in place to ensure justice is served to the late Master Mutahi, including compensation to his parents, who have been devastated both psychologically and financially by the needless death.

(6) Outline any measures by the school management and the Ministry of Education to ensure the security, safety and wellbeing of learners within Kimathi Primary School and other such institutions is enhanced from now on, while looking into the possibility of transferring the siblings of the deceased pupil, who may have been traumatized and also afraid of victimization and possible psychological torture.

I thank you.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, you have three Statements. Proceed to with the three of them.

STATUS OF EMPLOYMENT CONTRACTS BY  
COUNTY GOVERNMENT OF KAKAMEGA

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the status of employment contracts for the County Government of Kakamega staff.

In the Statement, the Committee should-

(1) Provide a breakdown of the workforce within the Kakamega County Government, specifying the number of employees on permanent and those on casual basis.

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(2) Clarify the duration casual employees have been working on a temporary basis, noting that some of these casuals in health facilities have worked there since the year 2015 as casuals. Furthermore, state whether the county government plans to employ them on permanent and pensionable basis.

(3) Disclose the elapsed time since the last salary disbursement for both permanent and casual employees was made along with the corresponding amounts allocated for salaries in each category.

(4) Explain the reasons behind the delay in salary payments to the Kakamega County Government workers, considering that there are no outstanding financial obligations from the national Government in terms of shareable revenue, conditional and additional allocations.

#### REVENUE GENERATION AND USAGE BY THE COUNTY GOVERNMENT OF KAKAMEGA

The next Statement is under Standing Order No.53(1) to the Standing Committee on Finance and Budget regarding revenue generation and how it is put to use by the County Government of Kakamega.

In the Statement, the Committee should-

(1) Establish the amount of money the County Government of Kakamega raised as its own source revenue in the financial years 2021/2022 and 2022/2023.

(2) State how much the said County Government has projected to be raised this Financial Year 2023/2024 as its own source revenue and shed light on the main sources of this type of revenue in the County Government of Kakamega.

(3) Outline any plans the County Government has submitted to the Ministry of Finance and Economic Planning on how to grow this revenue.

#### RENTAL FEES INCURRED BY THE COUNTY GOVERNMENT OF KAKAMEGA

Mr. Speaker, Sir, finally, I rise to seek for a Statement from the Standing Committee on Finance and Budget regarding the rental fees incurred by the County Government of Kakamega.

In the Statement, the Committee should-

(1) Provide a detailed breakdown of annual rental fees for office and utility spaces incurred by the County Government of Kakamega, disclosing details of the respective contracts, including the names of the landlords

(2) Outline measures put in place by the County Government of Kakamega to ensure that this is managed so as to reduce the loss of funds through rental costs.

I thank you.

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

## EXPANSION OF ROADS IN MACHAKOS COUNTY

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the expansion of roads in Machakos County.

In the Statement, the Committee should-

(1) Provide the timelines for the expansion of Tala-Katine-Syanthi, Tala-Oldonyo Sabuk, Tala-Kinyui-Miseleni- Kabaa, Tala-Kamulu, Kangundo-Mwala, Matuu-Ekalakala and Ngonda-Ndunduni-Katulye roads, stating the anticipated commencement and completion dates.

(2) State the cost of each of the projects and the contractors who have been awarded the tenders to implement the projects.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): The next Statement is by Sen. Oketch Gicheru.

## POSITION OF “ADVISOR” IN THE PUBLIC SERVICE

Is Sen. Oketch Gicheru not here? That Statement is dropped.

*(Statement dropped)*

Proceed, Sen. Okiya Omtatah. You have three Statements.

**Sen. Okiya Omtatah:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): You can take them at ago.

DEBT WAIVERS AND BAILOUTS BY THE  
GOVERNMENT OF KENYA

**Sen. Okiya Omtatah:** Most obliged, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Finance and Budget regarding bailouts and debt waivers by Government to various entities, including parastatals, co-operative societies, companies and the like.

In the Statement, the Committee should-

(1) Provide a comprehensive report on all debt waivers and bailouts by the Government to those entities since the coming into effect of the Constitution of Kenya 2010, explaining the criteria used and clarifying whether each debt waiver and bail-out conformed to the principles of public finance as stipulated in Article 201 of the Constitution.

(2) Explain the collective impact of the debt waivers and bailouts on the public debt portfolio.

(3) Outline actions taken by the Government to hold to account individuals responsible for the mismanagement of the affected entities that necessitated the debt

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waivers and bailouts, stating whether they addressed the loss as envisioned by Article 226(5) of the Constitution.

(4) Explain the specific measures the Government has put in place to promote good financial management practices within public entities and the other entities that were bailed out.

(5) Finally, recommend the best practices the Government can apply in assessing whether to grant debt waivers and bailouts to public entities and others.

I will proceed to read my second Statement.

#### IMPLEMENTATION OF JUNIOR SECONDARY SCHOOL CURRICULUM FOR CHILDREN WITH SPECIAL NEEDS

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the implementation of a junior secondary school curriculum for children with Special needs.

In the Statement, the Committee should address the following-

(1) Explain the criteria used for admitting children with special needs into junior secondary schools, providing details of children with special needs who sat for the Kenya Intermediate Level Education Assessment (KILEA) and the Kenya Primary School Education Assessment (KPSEA).

(2) State the number of teachers who are trained and employed specifically for children with special needs in junior secondary school countrywide.

(3) Provide a report of the learning resources, including electronic and non-electronic teaching and learning materials, such as textbooks that were evaluated, vetted and approved for use by learners with special needs as well as the programmes and curriculum support materials developed and reviewed to meet the standards of children with special needs.

(4) Outline any other measures put in place by the Ministry to ensure learners with special needs are facilitated to attend junior secondary school.

Mr. Speaker, Sir, I will proceed to read my third and final Statement.

#### FULL IMPLEMENTATION OF THE BASIC EDUCATION CURRICULUM FRAMEWORK

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the full implementation of the Basic Education Curriculum Framework (BECF).

In the Statement, the Committee should-

(1) State the level of operationalisation of the Education Quality Assurance and Standards Council (ESQAC) as provided for in the Basic Education Act, detailing its current staffing and financing levels; and

(2) State strategies in place to fully operationalize and strengthen the Board of Management (BOM) of the Council and extend its tenure to a period of 5 years.

Those are my three Statements. Thank you for the opportunity.

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**The Speaker** (Hon. Kingi): Thank you, Senator. The three Statements by Sen. (Prof.) Tom Ojienda, are dropped.

PROVISION OF AGRICULTURAL EXTENSION  
SERVICES IN KISUMU COUNTY

*(Statement dropped)*

EARLY CHILDHOOD DEVELOPMENT EDUCATION  
IN KISUMU COUNTY

*(Statement dropped)*

PENDING BILLS ACCRUED BY THE  
COUNTY GOVERNMENT OF KISUMU

*(Statement dropped)*

Sen. Kibwana, proceed.

STATE OF DIGITAL INFRASTRUCTURE IN THE PUBLIC SERVICE

**Sen. Kibwana:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Information and Communication Technology regarding the state of digital infrastructure in the public service.

In the Statement, the Committee should-

(1) Provide an assessment of the current state of digital infrastructure within the public service encompassing both hardware (like servers, computers and networking equipment) and software (applications, platforms and digital services offered to the public.

(2) Outline any existing plans or strategies aimed at bolstering Kenya's digital infrastructure, especially in areas that lag behind to ensure accessibility, efficiency and transparency in public service delivery as envisioned by Article 43 of the Constitution.

(3) Highlight any challenges faced in the digitization of public services and the measures in place to address these hurdles.

(4) Elaborate on any insights on partnerships with the private sector and international organizations on enhancing the country's digital capabilities.

**The Speaker** (Hon. Kingi): Sen. Chute, proceed. Sen. Abass, are you holding brief for Sen. Chute?

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

**The Speaker** (Hon. Kingi): Proceed and present the three Statements.

ALLEGED GRABBING OF PUBLIC  
LAND IN MARSABIT COUNTY

**Sen. Abass:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on the alleged grabbing of public land in Marsabit Town, Saku Constituency, and the Harry Thuku Forest in Marsabit County.

In the Statement, the Committee should-

(1) Provide the total acreage of public land in Marsabit County, specifying the location and size of each parcel of land.

(2) Investigate allegations of unauthorised occupation, encroachment and land grabbing in Marsabit County, particularly in Marsabit Town, Saku Constituency and Harry Thuku Forest, disclosing the individuals or entities responsible and any legal actions taken against them.

(3) Outline any long-term strategies and policies in place to safeguard public land from illegal encroachment and land grabbing.

STATUS OF CONSTRUCTION OF THE  
LAISAMIS-SARIMA ROAD  
IN MARSABIT COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the status of construction of the Laisamis–Sarima Road in Marsabit County.

In the Statement, the Committee should-

(1) Provide an update on the status of construction of the Laisamis-Sarima Road in Marsabit County, giving reasons for the stalling of the project.

(2) Inform the Senate of the tendering process for the project, providing details on the bids received, the contractor who won the award and the bid amount.

(3) Explain any disparities between the contractual and actual commencement and completion dates of the project.

(4) Outline any measures put in place to ensure the completion of the project without further delay, stating the projected timelines.

Finally, I will proceed to read the third Statement.

HANDOVER OF MACHINERY, MOTOR VEHICLES AND UNFINISHED  
PROJECTS FROM NMS TO NAIROBI CITY COUNTY GOVERNMENT

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the handover of machinery, motor vehicles and unfinished projects from the Nairobi Metropolitan Services (NMS) to the County Government of Nairobi City.

In the Statement, the Committee should-

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(1) Provide a comprehensive list of the machinery and motor vehicles purchased during the tenure of the Nairobi Metropolitan Services (NMS), detailing their mechanical state and whether they were handed over to the County Government of Nairobi City.

(2) Provide an update on the status of completion of all unfinished projects initiated by the NMS and handed over to the County Government, explaining any disparities between the contractual and actual commencement and completion dates.

(3) Outline any measures put in place to ensure the completion of the projects without any delay, stating the projected timelines.

On behalf of the Senator for Marsabit, I thank you.

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

DEATH OF MR. SAMUEL MWATATE NZAI  
THROUGH ALLEGED MEDICAL NEGLIGENCE

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to request a Statement on the death of Mr. Samuel Mwatate Nzai allegedly through medical negligence at Moi Hospital in Voi, Taita Taveta County.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Health regarding the death allegedly through medical negligence of Master Samuel Mwatate Nzai at Moi Hospital in Voi Taita Taveta County.

In the Statement, the Committee should-

(1) Outline the circumstances that led to the death of Master Samuel Mwatae Nzai at the Moi Hospital in Voi.

(2) Provide an update on the current status of the availability of oxygen, including any reserves in hospitals within Taita Taveta County.

(3) Explain the status of the Intensive Care (ICU) Units in hospitals in Taita Taveta County with detailed reference to the quality, suitability, viability and operational status of all machines, including the city scan machines, highlighting the procurement process for the machines and the staff operating them.

(4) Investigate allegations that the demise of Master Samuel Mwatate Nzai may have been as a result of negligence on the part of the medical staff at Moi Hospital outlining any measures to be undertaken by both the county and national governments against any officers who may be found culpable.

Mr. Speaker, Sir, I have another Statement.

ACQUISITION OF CITIZENSHIP FOR FOREIGN  
PERSONS MARRIED TO KENYANS

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security Defense and Foreign Relations concerning the procedure for acquisition of citizenship for foreign persons married to Kenyans.

In the Statement, the Committee should-

(1) Explain the reasons for non-compliance with Article 15(1) as read together with Article 13(2) of the Constitution with regard to acquisition of citizenship status by persons married to Kenyan citizens.

(2) State any progress made by the Ministry in ensuring that women married to locals in Taita/Taveta County who are mostly from Tanzania are granted citizenship status upon verification of their marital documents to enable them access essential Government services.

(3) Elucidate the possibility of decentralizing this service to the county or sub-county level with a view to making it more accessible to the citizenry.

I thank you.

**The Speaker** (Hon. Kingi): The Chairperson Standing Committee on Roads Transportation and Housing is not in the House. The Statements pursuant to Standing Order 56(1) (aa) are therefore deferred.

RETESTING OF PSV DRIVERS UPON  
EXPIRY OF THEIR DRIVING LICENSES

*(Statement deferred)*

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

*(Statement deferred)*

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

*(Statement deferred)*

ILLEGAL DIVERSION OF STAFF TRAINING FUNDS FROM  
KENYA MARITIME AUTHORITY ACCOUNTS

*(Statement deferred)*

SPEEDING BY DRIVERS TRANSPORTING MIRAA  
IN PARTS OF KIRINYAGA COUNTY

*(Statement deferred)*

DEATH OF BODABODA RIDERS AND THEIR PASSENGERS BY  
SUGARCANE TRAILERS OF SUKARI INDUSTRY  
IN NDHIWA CONSTITUENCY

*(Statement deferred)*

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Sen. Faki, proceed to make your request.

SAFETY OF MOTORISTS AND PEDESTRIANS  
ALONG THE MAKUPA CAUSEWAY BRIDGE

**Sen. Faki:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the safety of motorists and pedestrians along the Makupa Causeway Bridge and Changamwe roads in Mombasa County

In the Statement, the Committee should-

(1) State any plans by the Ministry to ensure that the construction of adequate drainage facilities, street lighting and clear road markings along the Makupa Causeway Bridge and Changamwe roads to ensure the safety of both the motorists and pedestrians.

(2) Outline measures being taken by the Ministry to mitigate the risks faced by motorists and other road users approaching the causeway from Changamwe direction and joining the highway alongside traffic from Mikindani, especially in the absence of proper joining lane.

(3) State when the Ministry intends to address the matter of absence of street lighting or non-functioning street lights along the Bonje-Dongo Kundu Road to alleviate risks faced by motorists and pedestrians along the Bonje- Port Reitz area.

Thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, I will allow intervention on all these statements for a period of 15 minutes.

Sen. Cherarkey, you may proceed.

**Sen. Cherarkey:** Mr. Speaker, Sir, I thank you. I congratulate colleagues who have brought statements. In quick succession, I support the Statement by Sen. Nyamu on the death of Mr. Adas Kanyora Mutai. The Ministry of Education and Directorate of Criminal Investigation (DCI) to fast track. In the recent months, we have lost many children in unexplained deaths in our schools within the city and across the country.

We have heard that some estates and schools in this country have high-rise buildings that do not have protective stairs. Children sometimes slide and get injured. In this case, the allegations are that the teacher meted out corporal punishment, went ahead, pushed the young man into the swimming pool and the parents were not informed.

The head teacher of that school has continued to shield the said teacher. We call upon the DCI, the Inspector General of Police and relevant agencies to move with speed. This school has been accused before of levying illegal school fees and charges against the circular by the Ministry of Education.

They have also been accused of religious discrimination. The issue of religious discrimination in schools has been dealt with before by the courts of law. I ask the Principal Secretary in charge of Education and Cabinet Secretary in the Ministry of Education to move with speed and ensure that this issue is resolved.

Finally, on the bailouts, I agree with Sen. Okiya Omtatah for bringing this issue. The other day, I was shocked by the Chief Executive Officer (CEO) of Kenya Airways

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(KQ), Mr. Kilavuka when he appeared before our counterparts in the 'lower' House. He said that by 2024, we would have bailed out KQ with Kshs212 billion. If it was a CEO in the private sector admitting that they needed Kshs212 billion out of losses they have made, he would be in trouble. That is an adverse opinion by the Auditor General. That person should be out of office.

I agree with the Statement by Sen. Omtatah. Why would we bail out circus and other institutions such as KQ when they do not give even *Mshwari* or complimentary tickets in their air tickets? KQ is the most expensive air tickets to travel across the country. We must be deliberate. Let the Kenyan money be used for the benefit of Kenyans. We do not need to bail out any institution. If that institution is underperforming, let it be allowed to go under and be given other options.

What is happening in KQ is very unfortunate, but we must bring changes. I remember there was an Aviation Bill in the last Session. We must look at the possibilities of nationalising KQ to ensure we turn it around to profitability and fight state capture among public institutions.

Mr. Speaker, Sir, I thank Sen. Okiya Omtatah and commend all colleagues that have contributed today. I support all the statement.

**The Speaker** (Hon. Kingi): Sen. Maanzo, you may proceed.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to comment on these statements. I want to concentrate on the statement that was made by Sen. Kibwana. I think it is carefully thought out.

Recently, the Cabinet Secretary in charge of ICT went around the counties launching spots where young people could access ICT. Unfortunately, for the ones in Kitui, Makueni and Machakos, as soon as he left after a day or two, went off. We were wondering, were the best practices employed in this?

With modern-day technology and the expectations of young people, we want to have ICT that is working in the country and a network that is available so that people can access the internet, google, get information and apply for jobs.

Mr. Speaker, Sir, when our Cabinet Secretary, the Ministry and all the technocrats do this all over Kenya and within a few days, it has hitches, something has to be done so that the promise becomes true.

The young people have a lot of expectations from the Government on this. The internet has made the world a global village.

Otherwise, I beg to support and also support all the Statements and thank the Members who have taken their time and effort to develop these Statements.

Thank you.

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

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. The statement by Sen. Kibwana about digital infrastructure is futuristic and current. We need to reflect on it. I support it. I would like the committee to further find out what the Ministry is doing in terms of digital sports, also known as e-sports.

Children from the middle and upper class enjoy digital sports. For example, in football, you will find children set by the computer in Arsenal and the child is set to play as Manchester United. So, the child plays the game and defeats Chelsea. Therefore, if he

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is a supporter of Manchester United, the confidence of that child goes up, especially if in the previous day, Manchester United was defeated.

It is so important. When I see children doing these things, I say what the Cabinet Secretary in charge of Information, Communication and Digital Economy is doing is so critical. However, if we do not avail these things to other children, we are starting to create a society with class that can clash either at the mental level or going forward.

I am glad to report to the House that further to what she is doing, I am developing a brisk e-sport of bullfighting so that the children who do not come from Kakamega can also enjoy bull-fighting when they are in Msambweni. Of course, not children from Nandi. In Nandi, the moment they will see, they will start having ideas of stealing the bulls.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, that was extremely uncalled for. Proceed to withdraw. Do not just take your seat. Withdraw that last thing.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I want to withdraw. What I meant by slip of the tongue is, it is the Senator of Nandi County who has the ideas of cattle rustling not the children.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, are you trying to imply that the Senator of Nandi County, Hon. Sen. Cherarkey, is a cattle rustler?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, he is not. Last week, he almost---

**The Speaker** (Hon. Kingi): Then proceed

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. With that particular remark, I congratulate the Senator. This is very nice---

**The Speaker** (Hon. Kingi): No. No, Sen. (Dr.) Khalwale. Can you withdraw that Statement?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I wish to confirm that this was with a light touch and it is allowed in speech craft. I withdraw and apologise if it meant anything else other than a light touch

*(Laughter)*

**The Speaker** (Hon. Kingi): Sen. Ogola, you may proceed.

**Sen. Ogola:** Thank you, Mr. Speaker, Sir. I rise to support three Statements; one by the Senator, my senior sister, Sen. Kavindu Muthama, on the expansion of roads in Machakos County.

Several roads have been listed. However, for good planning, we want to support that not only in Machakos County, but most of the urban centres in all other counties must work towards the expansion of their roads because, as the populations expand and increase, there is need for more of access roads in the counties and in all the urban centres. So, I support that statement.

Secondly, I support the Statement by Sen. (Dr.) Khalwale regarding revenue generation and usage by Kakamega County. It is not only limited to Kakamega County. There must be intense attention that is given to revenue generation because as the counties grow, we need more of the services that citizens require. This can only be

possible if revenue is generated. After the generation, that revenue must be used according to plan efficiently and effectively.

Lastly, I support the Statement by Sen. Okiya Omtatah on the implementation of the Junior Secondary School Curriculum, especially for children with special needs. However, this must be expanded to include all students that we have across the country in all our schools.

It is worth noticing that Junior Secondary School (JSS) has had several challenges in most of our schools. In a school that is close by in my ward, we have a class of JSS that has over 70 students.

Mr. Speaker, Sir, throughout the year, they have only had two teachers; one that teaches mathematics and another one that teaches music. It, therefore, means that these students have gone throughout the year without attention in most of the other subjects.

We all know that at the secondary level, the training of teachers is designed in a way that teachers are prepared and trained to handle two subjects. So, it means that if the students have 14 subjects and there are only two teachers, then it means that the students have gone through the year without attention to over 8 subjects.

There must be a relook into teacher preparations and teacher posting, effectively, efficiently and the infrastructure that is needed. I support.

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

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I rise to support all the Statements that have been put across by my colleagues. I will narrow down and start with the Statement from the Senator from Machakos County, Sen. Kavindu Muthama, in regards to the expansion of roads.

Issues of infrastructure are very important because they enhance the growth of particular areas businesswise and properties are also able to add more value. An area such as the Eastern Region of Machakos is very important because it is adjacent to Nairobi City County. Most of our people are now moving to Machakos County to invest.

The best that you can do is to ensure that more infrastructures are put in place to enhance mobility and easy transportation. This will then reduce the lead-time for the business people. It is very important.

I want to also support the Statement by Sen. (Dr.) Khalwale on the issues of own source revenue for Kakamega County. As the Vice-Chairperson of the Standing Committee on Finance and Budget, I am happy that this Statement will be coming to our Committee. This is a matter that as the Senate we will push and focus on all the 47 counties to ensure that they increase their own source revenue.

There is a high dependency on the national Government for the allocation and issues in terms of untimely disbursement that are then brought about. However, we have always asked, how much are the governors at the counties collecting, so that they can manage their current expenditure throughout, without really putting so much pressure on the national Government? They are not even putting pressures on themselves.

We have had cases of loopholes of money not being fully remitted. However, when these matters are put and focused on, as the Senate, we will ensure that there is much more increase on the own source revenue hence people are able to get the services that they deserve. You realize different counties are also charging their own taxes.

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Lastly, allow me to support the Statement by Sen. Kibwana. I support it from the perspective that as the ambassador and advocate of digital literacy in this country, it is important that the digital infrastructure, especially in the public service with regard to the hardware sector and software. It is key that the Ministry of Information, Communication and Technology (ICT) should be able to put out and indicate at what level it is at and what kind of networks are in place.

I note because as the Kenya Kwanza Government, our biggest focus is to ensure we go digital. Rwanda has done it. We are still focusing on that. When we came into Government one year ago, the services were at about 321 E-services. As I speak, there are over 15,000 services. The target is over 50,000 services. However, for these E-services to blossom and achieve what is needed to be achieved, then it is important to know the level of digital infrastructure that we have.

The skills that are needed is an important aspect because public servants should be equipped with the digital literacy that it needs to ensure services are easily delivered and minimise the time one uses to move from one place to another. This is because you can sit back and get the E-government services that are in a place.

I also note the e-farming that the President is focusing on through the digital focus. The other day, we were able to pass the Universal Health Care (UHC) Bill which has also the Digital Health Bill as is a key Bill that will reduce paper work in hospitals and ensure that we have these systems. Data security is an important factor.

With those few remarks, I support.

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

**Sen. Faki:** Asante, Bw. Spika, kwa kunipa fursa hii kuchangia maombi ya taarifa kutoka kwa Sen. Okiya Omtatah kuhusiana na kudhaminiwa kwa baadhi ya mashirika ya umma na Serikali kuu.

Ni masikitiko kwamba baadhi ya mashirika yanaendelea kupata hasara. Hasara hii inabebwa na wananchi wa kawaida ambao wanalipa kodi kuisaidia Serikali. Hususan Shirika la Kenya Airways ambalo kwa muda mrefu limeweza kutegemea Serikali kulieka hai. Juzi, Mkurugenzi Mkuu wa shirika hilo amesema kwamba kwa mwaka huu, watapata hasara ya Kshs85 bilioni. Wametoa mapendekezo kwamba mwakani, watapata hasara ya Kshs65 bilioni.

Katika hizi dhamana ambazo Serikali inalipa kwa niaba ya mashirika haya, hatuoni wale waekezaji wa kibinafsi ambao wana hisa katika mashirika haya kutoa mchango wao katika malipo hayo ambayo Serikali inapeana.

Tukiangalia kama shirika la Kenya Airways, wanapolipisha tikiti zao za ndege, utapata kwamba ni dhuluma kubwa wanafanyia wateja na wananchi wa Kenya. Nikisafiri baina ya Kaunti za Mombasa na Nairobi, unawezapata asubuhi tikiti ni Kshs9,000 lakini ikifika saa tano, tikiti imefika Kshs18,000. Inapanda marudufu kila baada ya masaa. Wakati mwisho wa mwaka shirika hili linaregesha hasara na hasara ile inadhaminiwa na Serikali.

Shirika lingine ni Kenya Power. Usipolipa malipo yako kwa muda wa siku moja, umeme unakatwa. Lakini shirika lile mwisho wa mwaka, linakuja kwa Serikali kupata ruzuku ili kujisaidia kulipa madeni yake.

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Bw. Spika, ni lazima mashirika haya yawajibike. Hii ni kwa sababu kodi hiyo inalipwa na mwananchi wa Kenya. Ni dhuluma kwamba inalipiwa mashirika ambayo nusu ya hisa zinamilikiwa na wenye hisa binafsi.

Asante kwa kunipa fursa hii.

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

**Sen. Kisang:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to comment on some of the Statements.

First is the Statement by Sen. Kibwana on digital space. I am a Member of the Committee on ICT. I know Kenya Kwanza Government has promised Kenyans that they want to have free 25,000 Wi-Fi spots across the country.

When we were in Turkana County for Senate *Mashinani*, we launched two of those free spots at the livestock and fresh produce market. It is unfortunate that some Senators have said some of the spots are not working. As a committee, we will take it up with the Ministry to ensure that they put proper quality equipment so that Kenyans can enjoy.

The reason why these things are being put across the country is to ensure our youth access free internet to access digital jobs. The President is passionate about digital jobs for our youth so that they can generate their own jobs, content, employ themselves and earn a living. They can even get digital jobs out of the country by working at the comfort of those areas where we have free Wi-Fi.

Mr. Speaker, Sir, on the Statement by Sen. Okiya Omtatah on grants and bail outs, for long; the country has given out grants to sugar and dairy industries and Kenya Airways. Kenya Airways is notorious. We pump in close to Kshs20 billion every year. It looks like it is not going to survive. I believe the best thing to do is for the Government to take Kenya Airways over, put in money through the ex-chequer and run properly like the Ethiopian Airline. The Ethiopian Airline is doing well. They are buying airplanes every year, but Kenya Airways keeps leasing expensive airplanes. Let Kenya Airways either collapse or the Government takes it up.

United Arab Emirates (UAE) have Emirates Airline that is doing well. They get new airlines every year. Why can we not do the same for our country? I know in the past, some of us bought shares when they floated them. However, it looks like the people who have been there are corrupt.

Lastly, on own source revenue in Kakamega and other counties; it looks like when this thing of sharable revenue and the counties are assured of particular billions that they get from the national Government, some of them slept on the job. I believe the best thing to do for Commission of Revenue Allocation (CRA) is to set up. One of the parameters is to have an incentive. If you meet your target, you are given additional resources by the national Government. Those who do not meet their target are denied a certain percentage.

It is something that this House needs to think and plan about so that our county governments are able to generate enough revenue at the counties. Before devolution, Nairobi City County used to sustain itself. Do they need money from the national Government? They can generate Kshs100 billion but because of what they get, they have slept on the job. If they collect, the money is diverted elsewhere.

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I support.

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

**Sen. Sifuna:** Mr. Speaker, Sir, I know that yesterday, my sister Sen. Nyamu said she would not support anything that I supported or proposed. I confirm to this House that I do not share the same feelings and that I stand solidly behind her on any agenda that is going to advance the best interest of the people of Nairobi City County. So, I stand here to support the Statement that she has brought regarding the death at Kimathi Primary School.

I assure the people of Nairobi City County and the parents of Kimathi Primary School that I have seen the work that has been done by committees of this House. Indeed, there is no need for us to speculate at this moment as to the events that led to the death of the student at that school. I have extreme faith in the Committees of this House to be able to unearth the sequence of events and the root cause of the death of that child.

I only urge that there be patience. I am sure the Committee will be able to call the families, the teachers, Parents Teacher Association (PTA) and the representative of the school to come here to the Senate to give an account of what happened. I am sure that in the end, justice shall be served.

Mr. Speaker, Sir, I also want to support the Statement by Sen. Kibwana. Many of us are a bit concerned about the state of the digital infrastructure in Government. A few months ago, I was invited---

*(Sen. Maanzo and Sen. (Dr.) Oburu consulted loudly)*

**The Speaker** (Hon. Kingi): Order, Sen. Maanzo and “youth leader” of the Senate.

**Sen. Sifuna:** Thank you, Mr. Speaker, Sir. A few months ago, I was invited by Hon. Owalo, the Cabinet Secretary for Information, Communications and Digital Economy to accompany him to a launch of what I expected would be something quite serious at City Market here in Nairobi. I must say that I was a bit disappointed because when we got there, it was nothing more than the launch of a Wi-Fi hotspot for the traders there.

Unfortunately, for me, few weeks later, I was receiving calls from the traders at the City Market that, in fact, the internet there was not working anymore. This is the story of many of this public Wi-Fi hotspots that we have seen the CS for ICT and Digital Economy launching.

So, I would be expecting the Committee to summon the CS and tell us if this is just a charade or if indeed the Government is serious about providing internet for “hustlers” in market such as City Market.

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

**Sen. Veronica Maina:** Thank you, Mr. Speaker, Sir, for this opportunity. I rise to support the Statements that have been brought by our colleagues to the Floor of this House. I am specifically looking at the Statement on the State of Digital Infrastructure in the Public Service.

This would be a foundation for growth in many sectors, knowing very well that ICT is an enabler for development. One of the key covenants and the promises that the

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Kenya Kwanza Government has given to the public in Kenya is that this is the one government that will go on record as having offered a digital super highway to the citizens of Kenya. This is because the future is in digital and in the ICT advancement.

For us to be able to achieve even the smart cities, we must have this infrastructure in place. So, this is a good starting point from the Senate. By committing this Statement to the relevant Committee gives an opportunity to the Committee to receive an audit of the infrastructure that has been laid out to serve the public.

I see this kind of audit and review of infrastructure being offered in the ICT sector to the public being a good thing. It will give an opportunity for smart cities to be established in Kenya and beyond the smart cities for efficient service to be given by the Government. When we talk about efficient service, I am looking at the digitization of public services.

One of the ways to completely eliminate corruption from public offices is to ensure that any service that can be given online should be offered to the public online without an interface of the human aspect. That way, some of the issues that Kenyans have been complaining about will be eliminated through the use of technology. Records can be preserved for years without having to deal with the manual records. There are many benefits.

The Senator of Nairobi has walked out. It is good he experienced the offering of smart digital services at the City Market in Nairobi. It is unfortunate that traders called saying that the Wi-Fi was not working. I do not know if it was data which was not available. However, as a good leader, he could have offered a solution. If the problem was data, he could have boosted Government effort from the Opposition. Since the infrastructure was offered, he could do the little he could to give data to those traders who voted him into office.

I have also seen a Statement by the good Senator of Kakamega County about own-source revenue. If the counties were to take such Statements seriously, we would find them now able to generate their own income. We have had an over concentration by the counties of where they just want to expend money and from other sources, especially from the national Government. This approach should be adjusted using the own-source revenue.

We, as Kenyans, would expect that counties be innovative in the way they raise their revenue in order to be able to feed into their budget. Indeed, it should be the pride of any county to generate revenue that caters for its expenditure in so far as is possible.

I know for some counties that may be difficult. However, for those counties that are expedient in the manner in which they manage their resources, their own-source revenue should be able to cater for the needs of the expenditure in the county.

Mr. Speaker, Sir, generating is not enough. There is need for good management of those resources. We also need officials and public servants who are able to manage resources in a way that is faithful and with a lot of integrity. That then supports the generation of own-source revenue and ensure that what is generated can continue to be injected into the development of that county.

So, I rise to support and congratulate the Senators who have brought these Statements. Let me also mention the student who died at Kimathi School. It is something

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that should never happen to any student who wakes up in the morning and goes to school. It is so unfortunate that a parent receives the news that their child is no more having released that child to attend a school, which is being managed diligently by competent officials.

I believe the Ministry of Education together with the Ministry of Interior and National Administration should be able to manage and tell Kenyans what happened to such a student. They should also tell us how we will manage issues in future to ensure our schools are safe grounds for students and that they are comfortable enough for any parent to send their children without the anxiety of thinking they will receive bad news of fatality or risk.

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

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity to support the Statements of our Senators. I will start with the Statement for Sen. Mwaruma about this demise of Samuel Mwate due to negligence of the doctors.

Mr. Speaker, Sir, this Intensive Care Unit (ICU) has many problems. This is not only of oxygen, but most hospitals do not even have generators. When electricity goes off, many of the people in the ICU and children in incubators die due to lack of oxygen and the necessities that they should have while in the ICU.

The Committee on Health must also check not only in Taita/Taveta County, but in all counties. This is because most of the hospitals do not have proper ICUs and generators to sustain lives after the electricity is gone.

I support.

Mr. Speaker, Sir, I also support Sen. (Dr.) Khalwale's Statement about own-source revenue. Apart from Kakamega County, the Committee must check in all the counties, especially Machakos County because I believe that we should be collecting much more own-source revenue in Machakos than we are doing at the moment.

The Committee should also check and ensure that counties collect this money and that whoever is collecting it is accountable and trustworthy. This is where most of the corruption is.

Mr. Speaker, Sir, I support.

**The Speaker** (Hon. Kingi): Sen. Orwoba?

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir. I support the Statement by Sen. Nyamu about the inquiry into deaths in schools. This conversation needs to be moved to another level. As much as you will refer it to the Standing Committee on Education, it is time we came up with a Bill so that we can focus on how to deal with deaths in schools from a legal perspective.

It is not only in Kimathi Primary. We have so many incidents that are unreported. Just the other day in Arap Moi Primary School, children perished in a boat accident. They had gone for a trip. Those kinds of incidents need legislation. We need to find a way to ensure that when there are school trips and engagements with the students where the duty of care has been moved from the parents to an institution or a third party, there is legislation.

We also have different types of deaths. I have spoken about the death of Jackline from Bomet County. The girl who committed suicide because of period shaming. That in

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itself is also an incident that still falls under deaths in school or surrounding circumstances within the institution. So, as much as this is being referred to the Committee on Education, we need to look into how we can legislate on that.

I also support the Statement on citizenship status for foreign persons. I know it is coming from the interest of Taita/Taveta where we have many Tanzanians married to locals and living in Kenya and are, therefore, seeking Government services.

When looking at this matter, it should also be broadened. This is because we have genuine cases of those looking to get their citizenship status so that they can access Government services. However, we need to control foreigners who want to come in and just get citizenship for whatever reasons, for example, doing business, avoiding to pay fees on business permits, acquiring property *et cetera*.

On that particular matter, when a Kenyan gets married in a foreign land, it is not as easy as we are trying to do it. They just do not get citizenship status. In Europe, for example, they are subjected to understanding the culture, history and the language. They have even created jobs for teachers. This is because as a foreigner, you have to go, sit for classes and learn the language. Once they believe that you have the best interest of that country at heart, you are granted some form of paperwork; residency or citizenship.

So, as much as we are trying to make it easy for these foreigners to get Government services, we should also ask ourselves how we are preserving, for instance, our language.

This is probably why the Swahili Language is disappearing. We have foreigners coming in and they do not want to learn the language, our history, or culture. This is why we have issues with our culture, beliefs and principles being corroded because we are simply handing out documents without interrogating what the end game should be.

So, when that Statement is looked at, I kindly ask the Senator to peruse through a Swahili Bill for immigrants that I am fronting in this House. In that Bill, there are many answers that we need to address on the preservation of our culture, beliefs and history. People need to understand and want to be Kenyans so that we do not dish out these documents just to the highest bidder.

Thank you, Mr. Speaker, Sir.

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

**Sen. Mariam Omar:** Thank you, Mr. Speaker, Sir. I support the Statement on collection of OSR. In our 47 counties, there is a lot of leakage in collection of OSR because of lack of systems. They will have to improve their collections through an automated system.

The other one is about road systems. In fact, in Northern Kenya, the roads are pathetic. We are just like second class citizens in Kenya. From Nairobi to Mandera, you travel for almost a week. During this rainy season, it will take a month because of the road system. If you use air transport, it is expensive. For one person to and fro, it is almost Kshs70,000. Therefore, I plead with the Government to check the road system in Northern Kenya.

The other one is education. We are behind in education, especially on the implementation of Competency Based Curriculum (CBC) specifically in public schools. The students are there, but there are no teachers.

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As a result of insecurity in Mandera, the teachers said that they could not go back to their jobs. I thank the Teachers Service Commission (TSC) for the action they have taken of not allowing those teachers to go back to their jobs.

I urge the Government to prioritise education and the road network in Northern Kenya.

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

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir. I also rise to support the Statement sought by my brother, Sen. (Dr.) Khalwale, on rentals, which are being paid by the County Government of Kakamega.

Counties are supposed to be landlords. They should not spend so much public money renting premises. They should be the ones being paid rent. Therefore, this is something that needs to be investigated so as to know how long those leases are and when they will expire.

Also, OSR is totally misused by the counties and its accountability is wanting. It needs to be streamlined. We need to be very clear as a Senate how OSR is collected especially from market centres. The money is not properly utilised. There are people who become rich in the villages using that money. County governments which misuse OSR also become rich. So, the Statement sought by Sen. (Dr) Khalwale is quite timely.

Mr. Speaker, Sir, there is also a Statement by Sen. Chute on land grabbing which is a big disease in our country. We recently saw in Mavoko very magnificent buildings and properties going into the air. The people had even gone to seek loans from banks, but they were blown and destroyed completely. Some of them had their life savings being destroyed.

Mr. Speaker, Sir, this disease called ‘grabbiosis’ or land grabbing in Kenya, must be dealt with, once and for all. There are few very smart land grabbers who even go to the extent of acquiring title deeds for grabbed land and sell it to unsuspecting Kenyans. Later on, when investigations are done and people go to court, those titles are nullified. These Kenyans then suffer by losing their life savings and sometimes even die out of shock from the destruction of their properties.

Mr. Speaker, Sir, I support this Statement.

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

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir, for this opportunity to comment on the statements made by colleagues. I wish to comment on the Statement made by the Senator for Kakamega County, Sen. (Dr.) Khalwale, regarding revenue generation and usage.

Mr. Speaker, Sir, this is a very important Statement. I wish the Committee concerned would look at the amount of revenue that all the 47 counties generate and how they are utilising that revenue. Most of this revenue that is generated by county governments is misused. In fact, in most cases, this money is spent at source which is against the law. I think the Committee on Finance and Budget should take their time to thoroughly investigate this revenue issue.

It beats logic that the old local authorities used to generate more money than our current county governments. County governments are more capacitated and resourced compared to the old local authorities. Something is not right. This House has the responsibility to find out where the problem is.

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Mr. Speaker, Sir, I also wish to comment on the Statement by Sen. Okiya Omtatah regarding the issue of debt waivers and bailouts. In the recent days, the Government bailed out of some of the inefficient parastatals, especially in the sugar industry and many other sectors.

I think we need to know the policy around these bailouts and debt waivers, so that we do not finance inefficiencies and corruption through debt waivers and bailouts. There must be some very consistent policy on how this will be done.

Mr. Speaker, Sir, if the failure of these institutions to perform efficiently and deliver services to Kenyans is as a result of corruption, before we bail them out, the people who have been involved in misappropriating public money and resources must be accountable before the bailout is carried out.

I also wish to comment on the Statement by Sen. Kibwana on the status of the ICT and digital infrastructure in the country. This is very important. In the recent past, we have heard about the changes at the Telkom Kenya. Telkom Kenya is a key institution as far as ICT infrastructure in this country is concerned. What we see happening there does not give us confidence that this country is going into the digital super highway.

Mr. Speaker, Sir, this is because the past regime sold Telkom Kenya to a foreign company. The current regime has basically done the same. This exposes the country very badly because if the key ICT of the Government rides on the Telkom network and we have this kind of scenario---

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

**The Speaker** (Hon. Kingi): Sen. Osotsi, Sen. Faki wishes to inform you.

**Sen. Osotsi:** Very well. Sen. Faki can inform me.

**Sen. Faki:** Thank you, Mr. Speaker, Sir. I want to inform my colleague, Sen. Osotsi, that Telkom Kenya was previously sold to foreigners and the former Government bought it back from the foreigners who had acquired it. The current Government is now trying to sell it to another foreign company.

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

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir. The point I wanted to say---

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

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

**Sen. Cherarkey:** Mr. Speaker, Sir, Standing Order No.105 gives us responses of facts. Is it in order for Sen. Osotsi and Sen. Faki to mislead the House that the current Government is trying to sell Telkom Kenya, yet it is the previous Government that was selling it to Helios? The current Government is trying to reverse that.

Mr. Speaker, Sir, the information we have is that Kenyans were losing money. Is it in order to mislead the country?

**The Speaker** (Hon. Kingi): Sen. Osotsi, could you proceed to substantiate that particular allegation by naming the companies involved? Sen. Faki, was informing Sen. Osotsi, but Sen. Osotsi, go by your earlier statement. You can elect to go by the information given or discard it, if you find it not so useful. If it is useful, you may proceed to act on it, but substantiate on the earlier statement.

**Sen. Osotsi:** Mr. Speaker, Sir, I mentioned that the former regime sold Telkom Kenya to a foreign company and Sen. Cherarkey is right to mention Helios as a company.

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That is a fact. However, I also mentioned that the former Government, after investigation, bought back Telkom Kenya. Nonetheless, it is also a fact that there have been reports in the media that there is intention to sell Telkom Kenya to---

**The Speaker** (Hon. Kingi): Sen. Osotsi, you know the rules of this House. You do not rely on media reports.

**Sen. Osotsi:** Mr. Speaker, Sir, I do not have immediate information regarding that particular part of the current Government selling Telkom Kenya to a foreign company. So, I wish to withdraw and continue with my deliberation.

Mr. Speaker, Sir, the point I want to emphasize is that it is very risky for a country's ICT backbone infrastructure to be controlled by foreigners. This means that we are exposed. Besides, when we talk about the digital infrastructure of this country, we cannot finish that conversation without talking about Telkom Kenya, which basically controls a large part of that infrastructure.

In the Committee on ICT, we are also investigating a matter together with Sen. Cherarkey, regarding the agreement between Telkom Kenya and an American company. The American company has decided to disconnect part of the infrastructure of Telkom Kenya because of contractual issues.

This is a very serious issue. I wish the Committee on ICT where I sit, exhausts this matter. They should not just look at the infrastructure on the face of it. They should go deeper into the details about the arrangement between Telkom Kenya and this American company, together with other foreigners who wish to invest in this.

As they do that, there is also the matter of data storage. We need to know how we are storing our data. Are there any foreign institutions involved in the matter of data storage because then our data would be exposed? In this era where we want to have digital IDs, we would like to ensure that the data we have is safely kept within the law and in line with the data protection laws, regulations and principles.

We cannot ask our people to provide their personal data and then we hand it over to foreigners. That would be a big mistake as a country. The Senate Committee on Information, Communication and Technology needs to take this matter seriously and make an inquiry into the status of digital technology in this country.

I submit.

**The Speaker** (Hon. Kingi): Hon. Senators, at this juncture, allow me for the convenience of the House to rearrange the sequence of today's Order Paper and move to deal with Order Nos.16 and 17, and thereafter, we shall resume the normal flow as per the Order Paper.

Clerk, kindly proceed to call that Order.

## BILL

### *Second Reading*

#### THE CARE AND PROTECTION OF CHILD PARENTS BILL (SENATE BILLS NO.29 OF 2023)

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*(Sen. Miraj on 19.10.2023)*

*(Resumption of Debate interrupted on 19.10.2023)*

**The Speaker** (Hon. Kingi): Hon. Senators, when debate was interrupted on Thursday, 19<sup>th</sup> October, 2023, Sen. (Dr.) Khalwale was on his feet and he had a balance of seven minutes. Sen. (Dr.) Khalwale, you can take it from there.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. At that time, the House adjourned prematurely because I was critiquing this Bill due to its contents, people became unhappy and they rudely stopped me. I beg them not to stop me again.

Hon. Senators, this is a very important Bill because the population of Kenya is young. The number of young parents can only increase. The number of child parents also runs the risk of increasing. We should make such a law watertight and critique it.

If you look at the provisions of Clause 21, the Bill establishes care centres. It then goes further and establishes the terms, conditions and legislative requirements for what should be taking place within the care centres. Finally, it goes on to speak to inspection and evaluation of safety in care centres. This should not be part of the Bill. We should delete Clauses 21, 22 and 23 in entirety. The reason for that is that whoever was drafting this Bill forgot two primary issues. The first one is that, today, we have the Children Act of 2022.

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

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

Mr. Temporary Speaker, Sir, these provisions that I have said should be knocked out contravene the provisions of the Children Act, 2022. Secondly, the Republic of Kenya is a signatory to the United Nations Convention and Protocols to the rights of children.

The particular parts that I am saying we delete are in contravention to that. Why? It has now been established socially and scientifically that the best place for a child to grow from, especially when they are under five years is in the family unit or within their community. Anywhere else exposes the child to the problems which you know exist in the child care centres. That is where you find little children being abused sexually. In the child care centres, you will find the problem of child trafficking. It is, therefore, also the policy of the Kenya Kwanza Government that within the next 10 years, in compliance with the Children Act of 2022, all child care centres and orphanages will be closed down.

My next comment in critiquing this Bill is on Clause 10. Clause 10(3) tells us that a principal of a school shall not inform a parent or guardian if the child is pregnant. If you stop the principal of a school from informing parents about the status of their child, where do you want the headmistress to take the pregnant child if not to her parents?

The best person to receive the pregnant child is not the principal of the school, but the parents. Then parents will know how to deal with the problem that they have. When

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this Bill proposes that pregnant children should remain in school, are you telling me that our teachers are also trained to be nurses beyond teachers and to provide antenatal care?

Mr. Temporary Speaker, Sir, we must create laws that are in tandem with the reality on the ground. In Clauses 14 and 15, this Bill is proposing that if a teacher is found responsible for the pregnancy of a child in a school, the only thing that should happen is that he should be reported to the TSC. Really?

We should legislate firmly that if a teacher is established to have impregnated a student, that teacher should immediately lose his job. Secondly, that teacher should be reported to the police. Thirdly, that teacher should be charged for the offence of causing grievous bodily harm to the student.

A teacher who makes a child pregnant causes grievous harm to that child. Therefore, if found guilty, should be sentenced. In this particular law, we are going further and saying in Clause 18 that -

“A parent or guardian of a child who falls pregnant shall not be discharged from their responsibility regarding the pregnant child and shall collaborate with the institution on basic education in supporting and maintaining the health of the child.”

This clause is again supporting Clause 10 to attempt to keep a young pregnant child in school, but in whose care? I appeal to Members of this House as a professional in this area that pregnancy is a high-risk condition. Pregnant mothers die. When you leave her in the hands of the teacher and other children have gone to class; she is just in the dormitory.

With those remarks, I support and propose amendments.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. (Dr.) Khalwale. In your last submission to this Bill, I believe you definitely might need to propose an amendment to the definition of body harm, both in the Penal Code as well as the Sexual Offences Act, which does not have it. This will add more input to the Bill.

Sen. (Dr.) Oburu, proceed.

**Sen. (Dr.) Oburu:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity. This is an important Bill. It provides for legislation on a girl child who is in school. Sometimes, young girls get pregnant without much ado. They might be playing with their peers in the adolescent stage and without bad intentions, you find the girl is pregnant.

**The Temporary Speaker** (Sen. Wakili Sigei): What sort of play are you referring to, Sen. (Dr.) Oburu?

**Sen. (Dr.) Oburu:** Mr. Temporary Speaker, Sir, I am referring to the general play of children when they interact in school and are of opposite sexes. These plays could be many and valid. They include some which can cause pregnancy. When these girls become pregnant, there is a stigma because there are parents who love their girls with so much love and emotion and believe in them.

They do not expect their children to have involved themselves in such a game. You find some of the girls commit suicide because of the stigma and fear of the parent and the consequences. Sometimes, the stigma gives them the impression that life has ended abruptly because it is a traumatizing situation.

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

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Sen. (Dr.) Oburu, assume your seat. There is a point of order.

**Sen. Kinyua:** Mr. Temporary Speaker, Sir, I would hate to interrupt my senior. Nonetheless, for record purposes, the Senator is a senior member of our society, which is why he is choosing his words well. However, he is talking about a play, a game and then stigma. I know he is choosing his words because of our culture. However, for purposes of record, he is putting us in a bad situation by insinuating games and stigma. I would like clarity on what he is referring to.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Kinyua, I am sure that you have answered yourself by referring to the seniority of Sen. (Dr.) Oburu about his choice of words. The words meant what he explained to me when the Chair asked him what sort of play he was referring to.

I overrule the point of order.

Sen. (Dr.) Oburu, proceed.

**Sen. (Dr.) Oburu:** Thank you, Mr. Temporary Speaker, Sir, for protecting me. Some of these young people enjoy interrupting me. They also want me to know them.

This is a serious situation. I know of a lady in my area who slept out of their home for one night and because of the love the father had for her, he was imagining what could have happened overnight to her girl while sleeping out. He took a spear and threw it at her. The lady disappeared and only came back after 35 years with children who were almost at that age when her father died. Our society would not want their girls, particularly in the community I come from to lose their virginity because of our culture. We used to respect virginity.

We used to expect that our girls would be married when they were virgins. These were the old days. These days that does not happen. However, this is something that happens in other ways in terms of love for our children. The protection being provided by the Bill is that a girl-child who gets pregnant while in school will not only sit for her exams, but also continue with schooling with support from both national and county governments.

A girl and a boy child should be enjoying equal rights. The boy who causes that damage to that girl goes scot-free and continues with his education unhindered, whereas the girl goes through stigma, trauma and suffering. The girl must be given all sorts of support by society so that she can continue to get her education, enjoy her rights and be useful to society.

When you educate a girl, you educate the nation. When you educate a boy, sometimes the boys are just around you and want your property, some of them even kill their parents. However, the girls are supportive. I love my girls. They support the parents and are the happiness of the family. They support the family and must be encouraged to study.

Our society did not encourage girls to get education. They thought that girls were meant for a dowry so that parents get money to educate the boys. Nevertheless, the society has changed and the girl-child must be looked at as an asset, not for making money or paying a dowry, but for contributing to the development of the nation. Equally or even better than the men.

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I am happy that someone has gone beyond the rules and regulations to allow girls who are pregnant to continue with their studies. Since there are poor families who cannot afford to give support to their girls to employ house helps to look after the children who are going to school, this Bill allows counties and the national Government to support those families so that their girls can continue with their education in the usual manner. When girls get pregnant, they can be offered support by employing maids to take care of their children when they have gone to school.

Mr. Temporary Speaker, Sir, I do not want to speak much more on this issue, but I hope that this Bill will be passed by the House so that it goes to support those families whose girls become unfortunate. Our society and parents should be educated to avoid stigma and accept their girls who get into such situations. We should not make these girls feel useless and unwanted.

With those few words, I beg to support. I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you very much, Sen. (Dr.) Oburu. The 21<sup>st</sup> Century definition of a housemaid is a house manager. I thought that will be very important for your information.

Sen. M. Kajwang, you may have the Floor.

**Sen. M. Kajwang'**: Mr. Temporary Speaker, Sir, I rise to support the Care and Protection of Child Parent Bill 2023 that has been brought to the Senate by Sen. Miraj.

When I listened to Sen. (Dr.) Khalwale speak to this Bill, initially, I thought he was speaking to the Bill that has been sponsored by Sen. Ogola, the Super Senator from Homa Bay County.

There is need for the Clerk and the Secretariat at the point of pre-publication scrutiny, to ensure that related Bills are merged. I do not think Members have a problem in co-sponsoring Bills. Where there are serious overlaps in Bills, it makes sense for us to have one instrument and then have the two Senators who have made the proposals co-sponsors. I hope that we can still open a window if we find that there is strong relationship between this Bill and the one sponsored by Sen. Ogola.

Nonetheless, being the representative of the people of Homa Bay, which is one of the counties with the highest leading instances of teen pregnancy, this Bill has come at the right time. It is unfortunate that 60 years after Independence and 10 years of devolution, we have not thought it fit to come up with some statute and legislative framework to care for and to protect child parents

Mr. Temporary Speaker, Sir, child parents in this Bill have been defined as persons who have not attained the age of 18 years and is a mother or a father of a child. This has been a problem among the fishfolk in Homa Bay, the fishing communities along Lake Victoria and communities in Narok. If my memory is correct, the leading counties when it came to teen pregnancies were Narok, Homa Bay and several others where there is some nomadism. It could be nomadic pastoralism or nomadic fishing.

When a child becomes a parent, the situation of children having children should not be a death sentence or the end of the road for them. When children have children, sometimes, it is not even as a result of what we have defined in the other statutes such as the Sexual Offenses Act. Sometimes it is not a premeditated act of illegality. It is not that

the children have sat down and they have decided they are going to break a law. Sometimes, children are just being children. In the process, there is conception.

If we do not have these clear provisions in law that assures them that to make mistakes is human and to make a mistake is not the end of life, our children will be going back streets to procure abortion services. If abortion is done in a manner that is not properly supervised, we will be killing our children. As parents, we sit on a high pedestal. We think that we are perfect and that our children should not conceive before the age of 18. If we were to do a proper and honest analysis, many of us, especially many Members of Parliament, whose parents are from the old generation, are children of children because our mothers would be married early and our fathers would marry early. Therefore, we should not condemn our children in this generation that if they conceive and have a child, then they cannot be readmitted to school.

In as much as we are coming up with laws, we must also ensure that a child, who has conceived and given birth, can be readmitted to a school. We should not have a situation where, members of the Parents Teachers Association (PTA) or some groupings of parents start protesting that, that a child cannot come back to this school because they are going to serve as a bad example.

In many cases, school principals and teachers have no problem re-admitting a child who has given birth. In some cases, it is the parents who resist. They say: “If this girl goes back to school and my daughter does not have a child, they are practically telling my daughter that it is okay for her to have a child. As such, a child who had a child should stay at home.”

That is the height of selfishness. It goes against the African spirit of socialism. That goes against everything that we stand for as a community. Everyone has an opportunity to get access to education and is entitled to the rights that are conferred, not just to children, but adults in the Constitution of Kenya.

Mr. Temporary Speaker, Sir, I know there could be policy statements that have come from the Ministry of Education. However, policy statements are at a lower level in the hierarchy compared to legislative frameworks like this. We believe that if the Senate is going to pass this Bill, we will make it very clear that if a child has a child, they can still go back to school, have access to the opportunities that other people have.

This Bill deals with the child of the child. The child of the child must also be given access to childcare services. We should not imagine those childcare services to be stand-alone facilities. This Bill must find a way of integrating those child care services to the Early Childhood Education and Development Centres (ECDEs) that have already been assigned to county governments in the Fourth Schedule of the Constitution. Let us not talk of alternative structures because when you say that, some governors find an opportunity for procurement and project management and the pilfering that goes along with new projects.

Child care centres should be an integral part of ECDE centres. Many counties have done fairly well in developing early childhood education centres. Recently, we went to Mombasa to look at the progress of some ECDE centres. We were impressed with the model that the county had adopted. They are not just building some four walled rooms and then throwing children in them. They have built actual centres where children can

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find spaces to play and be children. They are proper places where the optics, painting and graphics makes it attractive for children to come. I think they have even gone ahead to provide meals so that these children are attracted to those centres. The childcare centres proposed here must be an integral part of the early childhood centres.

Mr. Temporary Speaker, Sir, if in our Constitution, we have made abortion illegal, except in the opinion of a trained professional, or in cases where the life of the mother is in danger in the opinion of a trained professional. If we criminalize children having children, we will push them into unsafe abortion and practices. If we close the doors to children who have had children not to go back to school, we will push them to early marriages. Therefore, we will condemn them perpetually. It was easier for our mothers to be married early because society was different. We are in a different world now.

Research has shown that the children whose mothers have access to education, perform better in life as opposed to children whose mothers have not had access to education. Therefore, if we are going to build an equal society, then this framework through which an expectant girl-child or a child-parent can actualise their right to basic education, is one of the most important Bills that the Senate can deal with.

This Bill makes reference to child-parents to include child-fathers. That is a bit dangerous because a child-father is an offender under the Sexual Offences Act. The minute you are the father to a child of a child, you are an offender. I hope that this Bill is not going to legitimise and rewrite the Sexual Offences Act.

So, to be honest, the Sexual Offences Act must also be looked at so that certain definitions are brought up to date and made relevant. I know it is one of the most emotional pieces of law to talk about because there is nothing worse than--- Sexual offence is as bad as a war crime.

Few offences within humanity are as gross as a sexual offence. They include rape, those things that happen in war situations that affect breaching consent and inflicting pain and doing those things that have been defined in the Sexual Offence Act.

Mr. Temporary Speaker, Sir, when we get a child who has had a child with a child, why should we lock them up in prison? Why? We need to rethink those provisions of the Sexual Offences Act.

A child who has had a child with a child does not need to go to prison. He does not need to go to a borstal institution or to be forced to marry that child. Society must come up with means; society must come up with procedures for integrating and developing those children.

We have seen in certain cases where rich powerful men live in exclusive neighbourhoods with children who are fairly locked up in a controlled environment. God forbid, you have a gardener who perhaps is a child under 18 years old and engages in certain relationships with the daughter of the boss.

I think there is one Kenyan novelist who wrote a story with that kind of plot. If that matter gets to the police, the parents of the rich girl will make sure that the poor gardener, who made the rich man's daughter pregnant, rots in prison.

Sometimes, you ask yourself whether that is the best recourse for the mother who is a child. It could be a sense of vengeance for the parents, but is it the right decision and is it the right path for the children who engage in that?

Mr. Temporary Speaker, Sir, I do not propose anything to rewrite the Sexual Offences Act. This Bill should not attempt to rewrite the Sexual Offences Act. However, in recognition of parents of child-mothers, it veers into very dangerous territory.

Mr. Temporary Speaker, Sir, when we get to the final stages of this Bill, we will need to be sure that this Bill is not an encouragement of parenthood in childhood, but it deals with those unfortunate events that have occurred.

Let nobody say that the Senate is promoting children having children. What we are saying is that once mistakes have been made, then everyone has an opportunity and everyone must be granted an opportunity to pick themselves up, dust themselves, and move on and catch up with those who have not made those mistakes.

Mr. Temporary Speaker, Sir, with those few remarks, I support and would encourage Sen. Miraj to ensure that there is alignment with Sen. Ogolla's Bill and that we are not rewriting the Sexual Offences Bill.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. M. Kajwang.

Sen. Kinyua, you may proceed.

**Sen. Kinyua:** Asante, Bw. Spika wa Muda. Ninasimama kuunga mkono Mswada huu kwa sababu ni mzuri na wasichana ambao wanapata mimba za mapema waweze kutunzwa na kulindwa.

Lakini kwa usemi huo huo, ni vizuri ijulikane kuwa mimi sishabiki wala kukubali ya kwamba wanapaswa kutunzwa na kulindwa. Tukifanya hivyo, tutawahimiza wapate mimba za mapema. Ni vizuri ijulikane kuwa katika mila na desturi zetu, haswa sisi, Waafrika, kuna msemo tunaotumia kuwa, "Mtoto amevunjwa mguu". Jambo hili likifanyika, wazee huwa wanaenda katika ile familia na kufanya mambo ya kidesturi.

Ninakubaliana na Mswada huu kwa sababu baada ya wasichana hawa kupata mimba za mapema, wengi wao huwa wanataka kurudi shuleni waendeleo na masomo yao. Kwa hivyo, ni vizuri kuunga mkono Mswada huu kwa sababu unaangazia mambo hayo kuwa wasichana wale wanapaswa kupewa fursa ya kurudi na kuendelea na masomo yao ili tusiwanyima *human rights* zao.

Waswahili husema, "kosa si kosa, kurudia kosa ndio kosa." Kama waliyoongea mbele yangu walisema hawa ni wasichana wadogo, pengine wanafanya mambo haya ya kimapenzi bila kujua na wanajipata katika hali ya sitofahamu. Ni vizuri, wale ambao wako katika taasis za elimu, hasa waalimu wakuu na wale wanaohusika katika mambo ya kuendeleza masomo wawapatie fursa nyingine kwa sababu, wasichana hawa wanaweza kuwa walitenda jambo lile bila kujua. Wanaweza kuwa watu wa manufaa baadaye. Pengine lile lilikuwa kosa la mara ya kwanza.

Ukiangalia desturi zetu, utapata kuwa katika sehemu zingine hasa sehemu za Laikipia, wasichana wanaozwa mapema. Kuna mashirika ambayo yanaenda kuwaokoa wasichana wale ambao wameozwa mapema.

Ikiwa Mswada kama huu hautapita, tuendeleo kuwashughulikia wasichana wale, hatutakuwa tumewasaidia ikiwa tutawaokoa lakini hatuwezi kuwatunza kwa njia ambayo

inafaa. Ninaunga mkono Mswada huu kwa sababu unahimiza Serikali kuu imakinike na itilie mkazo kuangalia maneno hayo.

Mswada huu haukomi pale, unaendelea kusema ya kwamba, gatuji zetu zinapaswa kuangalia zile sehemu ambazo hawa wasichana ambao wamepata mimba za mapema wanapelekwa.

Kifungu cha 11(2) kinasema ya kwamba msichana akishukiwa kuwa na mimba, hawapaswi kushurutishwa kuenda hospitali ama kukaguliwa. Hapa kuna tatizo kwa sababu huyu ni mtoto ambaye hawezi kujifanyia uamuzi. Pengine tungesema ya kwamba ikiwa tayari amemwambia mzazi wake na wameangalia vizuri. Ni jukumu lao kuwa na ule msukumo kwa sababu huyu ni mtoto na hawezi kufanya uamuzi mwafaka. Hata sisi tutakuwa tumefeli katika maelezo na maagizo yetu.

Inapaswa kuwe na msukumo hata akiwa ni mtoto mdogo. Ninajua kuwa wale ambao wanahusika na mambo haya watasema kuwa hapaswi kuambiwa moja kwa moja kwa sababu ni mtoto. Hata hivyo, mzazi ama mtu yule ambaye ana uwezo wa kumwambia aende akaangaliwe hospitalini, basi anastahili kufanya hivyo.

Tena, mtoto kama huyu akipata shida katika ile shule, yule ambaye atachukuliwa hatua ni mwalimu mkuu ama wale ambao wanahusika. Inatakikana kuwe na ule msukumo wa kumwambia ya kwamba lazima aende hospitalini ndio aweze kupata maagizo ambayo yanapaswa kufuatiliwa.

Bw. Spika, Mswada huu ni mzuri kwa sababu kaunti zetu ambazo pesa nyingi tunapeleka zitatumika kutengeneza hizi sehemu ambazo hawa wazazi ambao ni wachanga wataweza kuwa wananufaika kwa maelezo, ndio waweze kujua watajilinda kiviipi.

Wengine wao sio kwa sababu walijihusisha kwa ndoa za mapema. Wengine wao wamenajisiwa. Kwa hivyo, wataenda pale kupata maagizo ya kutosha na waweze kuendelea na maisha yao ya usoni. Hata hivyo, kama ni yule amenajisiwa, unapata hajui atafanya nini. Lakini kwa maagizo na maelezo ambayo atapata katika zile sehemu ambazo zitatengwa kwa kaunti zetu, itamuwezesha kuendelea mbele.

Sitaki kurudia yale ambayo walioongea mbele yangu wamesema. Nafikisha hapo na kusema asante.

Namshukuru Sen. Miraj kwa Mswada huu na naunga mkono.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Kinyua, kidogo pale ukiendelea na mchango wako, umechanganyisha lugha kinyume na Kifungu 92. Pale ulipoitaja *human rights*. Lugha sanifu inasema haki za kibinadamu. Mara nyingine, tafadhali fuatilia sheria za lugha unayotumia.

Sen. Omogeni, please, proceed.

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to also make my contribution to this Bill.

First, I thank the sponsor of this Bill, Sen. Miraj, for thinking about our children, especially the ones who become children of children. Any child who finds himself or herself in this world deserves protection like a child who is born to adult parents. The biggest interest to look at here, the way they say, is the best interest of the child. The person that this Bill is trying to protect is the child.

I join Sen. M. Kajwang' and Sen. Kinyua in making the nation know that the Senate is not discussing this Bill as a way of saying that we want to encourage children to become parents. That is not the intention. The African charter on the rights of the children is very clear that anytime you are discussing a legislation, the paramount thing you look at is the best interest of the child. As a caring nation, we cannot abandon the welfare of a child simply because that child is a child of a child. That will be reckless and being an uncaring society.

It is good to bring it to the fore that there are many ways through which a child can become a parent. An example is the very many unfortunate incidences that have happened in Nyamira County in the last two weeks. Two weeks ago, robbers attacked a family in Keroka, Kirir Village. This family was staying together. The Principal of Nyasiongo High School, Ezekiel Okei, the wife is a nominated Member of County Assembly (MCA) in Nyamira called Zipporah Matundura and their brother is a County Executive Committee Member (CECM) in the County Government of Nyamira called Kennedy Angwenyi.

Mr. Temporary Speaker, Sir, just to demonstrate how heartless thugs within Kenya can be, they attacked the family, robbed them of phones and ATM cards, went to the ATM machine and withdrew money. However, the most unfortunate incident is that they defiled two young children in the presence of those three prominent citizens of Nyamira County. You can imagine. You do not know what would be the result of such an incident. It could be unfortunate that those children may end up becoming children parents; such a heinous crime being committed in front of such prominent Kenyans.

Just yesterday, at Kebirigo Market, a young *boda boda* guy called Abiud Matara, a 'hustler,' after doing his *boda boda* business during the day, was attacked and killed by thugs. I have just sent a message to the Cabinet Secretary (CS) for Interior and National Administration telling him that as leaders of Nyamira County, we want him to respond to the insecurity we are witnessing.

The relation to this Bill with what I am telling you is that this young man called Abiud Matara is a parent of children somewhere. You may find that such children, if you do not have a society that is caring, you may have young children, maybe a daughter that is eight years, because of that unfortunate incident, somebody may engage in some acts of passion and become a parent simply because you have lost your parent at a very early age.

Mr. Temporary Speaker, Sir, when we speak to this Bill, we are not saying there are people engaging in pleasure who become parents at an early age. There are other factors beyond our control. I hope the Cabinet Secretary for Interior and National Administration is watching this. We need him in Nyamira County. That is not normal. I do not think that has happened in Laikipia or Bomet counties. We do not want to hear that every time the Cabinet Secretary is out there addressing insecurity---

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

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

**Sen. Omogeni:** This is fairly emotional. I hope your point of order is in support of what is happening in Nyamira County.

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**Sen. Kinyua:** Mr. Temporary Speaker, Sir, I feel the Senior Counsel. What he is saying is very true. I am standing in support of him. He asked whether it happens in Laikipia County. It is true it does happen. These bandits attack. In a place called Kamwenje, they attacked and gang raped Form Two students; seven of them. So, I feel and understand him.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Omogeni, please proceed.

**Sen. Omogeni:** Sen. Kinyua, thank you for empathising and sympathising with your brothers and sisters from Nyamira County.

That issue is causing a lot of concern in Nyamira County. I know that I should not be saying issues of security in my contribution to this Bill. However, I am relating this to factors that can contribute to young girls becoming parents. If you lose your parents at a very early age and you do not have somebody to support you, it can lead to something else.

I thank the security operators in Nyamira County, especially the (DCC), Florence Obunga and Divisional Criminal Investigations Officer (DCIO), Paul Mokonge, who this afternoon, I have given a directive. I hope we will get the permit from the Cabinet Secretary for Interior and National Administration for the transfer of all police heads within Kebirigo. We do not want our young children and boys who are not able to get into formal employment and who are running *boda bodas* to be killed in the course of trying to fend for themselves.

If this Bill is enacted and we have partnerships within the national Government and county governments, it will be a good thing. You cannot condemn a child to stop her education simply because she has become a parent while she is a child. These mistakes happen in life. I can tell you that I know very prominent Kenyans whose parents became parents when they were children at 17 years old. However, because they were given a chance, they were able to finish school and educate those children who are now prominent citizens in the society.

There has been this stereotype in our villages that if you become a child-mother, your future is doomed. That should not be the case. Let us accept that these members of the society who may find themselves in a situation of becoming parents at a very early age should be given a second chance.

I am very happy with the spirit of this Bill. It is advocating that these children be given a chance to go back to society. More importantly, it is advocating that we must take care of the welfare of those children. As the parent goes back to school, we must take care of the child who remains behind. We must take into cognisance that the child who has become a parent does not have the means.

If you go to some advanced countries such as Australia, they amended their Constitution in 1967 to have social support programmes, where people who become parents and you are able to establish to the satisfaction of the State that they are not able to support the child, the Government will give them US\$1,500 every month to support the child.

These children are the future. If war broke out today, every Kenyan will be called upon to defend their country. So, we must bring up the young generation cognisant that

our days in this world are limited. After 70 years, the Bible says you only live with pain and suffering. So, we must ensure that we bring up the future generation.

I am impressed that this Bill brings to prominence the role that our County Executive Committees play at the county. This is because they are people who understand and live in the counties.

Every time we want to solve a problem, there has been this idea of saying that we must run to the national Government. Let us support devolution. Let us give hope to our people that devolution came to change lives at the counties and so that we can resolve issues. I do not know whether we are complying with the Fourth Schedule on assignment of duties between the national Government and county governments.

Mr. Speaker, Sir, as you know, the only role that is assigned to county governments on education is on Early Childhood Development (ECD). However, I am saying there is a proposal on this Bill that the county governments should also be involved in ensuring a child, whose mother is a child, is supported to go to school.

Maybe we need to interrogate the Bill further to see if there are any amendments that can be made, so that we make it constitutional compliant. We do not want such a good Bill to die because of being unconstitutional.

I am very impressed with the idea of establishing care centres. This happens. If you travel to industrialised countries such USA, childcare centres are all over. However, this one is dedicated to taking care of children whose mothers are children. It is a very progressive Bill.

I hope that we, as Senators, will support the enactment of this Bill, but do it with caution. I know that Sen. Kinyua agrees with me that we are not encouraging our children to become parents at an early age. We must always advocate what we are told in the Bible; that love is patient. Wait for the right time.

We do not want boys to tempt our girls and tell them that the Senate is passing a Bill that if they get a child, the Government will support. It can also have a negative impact in the society.

The Sexual Offences Act must remain in force. We do not want adults to start making mothers who are underage. The law on having sex with a child should remain and be enforced. The only interest this Bill should look at is the best interest of that child who has found himself/herself in circumstances where the mother is a child with no income and wants to pursue education.

Mr. Speaker, Sir, with those remarks, I support. I hope that the Cabinet Secretary for Interior and National Administration will take urgent and immediate action to address the issue of insecurity in the County of Nyamira. We live in a very small county. If this trend of killing our people in Nyamira continues, we will be depleted. These are serious matters.

As I said, I have had a discussion with the Cabinet Secretary for Interior on behalf of the leadership of the County of Nyamira. If you followed what happened today is that there was a big security meeting convened by the Deputy County Commissioner (DCC) and the Directorate of Criminal Investigations (DCIO) at the Kebirigo market.

He must have received reports from the citizens of the County of Nyamira. I hope that sooner than later, we will make a visit to Nyamira County, so that he can address the

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issue of insecurity. We want to live in a country where you can peacefully go around doing our day-to-day activities without fear of being attacked by people who do not want others to do their businesses.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you very much, Sen. Omogeni. I am very sure that your concerns of insecurity in my neighbouring County of Nyamira will be addressed. Remember, the Cabinet Secretary is a member of this House, or rather a previous Senator. Therefore, he is surely able to follow up the proceedings. We hope he will act accordingly.

Sen. Kinyua, what is your intervention?

**Sen. Kinyua:** Bw. Spika, ni kukupongeza tu wakati ulinikosoa kusema ‘*human rights*’ ukasema ‘haki za kibinadamu.’ Kwa moyo huo ningekuomba, kwa sababu naona wewe ni mweledi wa Kiswahili, tuwe tukiendeleza mazungumzo wakati umeketi, kwa lugha ya Kiswahili ili Kiswahili kitukuzwe.

Asante.

**The Temporary Speaker** (Sen. Wakili Sigei): Asante, Sen. Kinyua. Kile nitakueleza ni kuwa uweze kuleta Hoja ya kubadilisha Kanuni za Kudumu za Seneti ili tuweze kuitukua lugha ya Kiswahili.

Thank you very much.

Proceed, Sen. Tobiko.

**Sen. Tobiko:** Thank you, Mr. Temporary Speaker, Sir. I support Sen. Miraj’s Bill on the care of child parents. As a parent and a leader, it is scary to imagine the situation of children getting children. When that unfortunate situation happens and a human being brought into the world, then both children, or may even be three children, need care. They may be three because sometimes the father of the child and the child involved are all children.

It is a scary situation, but these are human beings. People whose lives are still in formation. They still need care from parents, community and law enforcers and from the Government of the day.

I support that these children need to be given a conducive environment, be it in school or at home. In situations where these children do not have parents and they get children, there should be shelters where they can be taken care of.

I agree with colleagues who have put caution that this does not mean that we are encouraging children to get babies. We are addressing a situation that is not a normal occurrence, but needs to be taken care of by law.

So, these children will need care. It is also good to take this opportunity to say that in most situations, you find that the law is used punitively and harshly on the underage boy who, just like the girl, was not in a position to make proper decisions.

So, the law should not be applied punitively to the boy child. Both the boy and the girl may need rehabilitation and taken back to school. The child that has been brought forth should be taken care of by the society.

When we were going around during the campaign time, I went to various parts of Kajiado County. I realised that there are parts of Kajiado County where I saw little girls. I imagine they must have been young girls because it cannot happen that in a whole crowd, so many women were small-bodied.

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My conclusion was that these were young girls and they were all having babies. They were either carrying babies on their backs or expectant. It shocked me that a whole community looked like that babies carrying babies. It shocked me so much. I asked myself how the community accommodated this.

In some parts of Kajiado County, it looked like a normal occurrence; every young girl was carrying a baby. If not carrying, then she was expectant, yet this is a community that we expect chiefs to be enforcing the law by making sure that teenage pregnancies are discouraged. There is a part that I do not want to mention. However, privately, we can talk with the administration because it shocked me.

It looked so normal to the members of that community. It looked like it was the order of the day. I wondered why we had never spoken about it. I was a constituency holder for 10 years. However, in my Kajiado East Constituency, I had not seen such a situation. So, it shocked me to know that in some parts of Kajiado, life is very different and many leaders are silent about this.

That is why I thought more than ever before, that maybe Kajiado needs a mother as a Governor because mothers will bring out some of these issues. I do not intend to be biased. However, there are many issues that male leaders will sweep under the carpet. I have never heard anybody speaking about it, but I saw a huge problem in Kajiado County that needs to be addressed.

Miraj's Bill is well-meaning and well-timed. However, caution must be put so that it does not look like this House is encouraging teenage pregnancies. However, once it occurs because of unfortunate situations that the child did not intend, was not in control, or was out of molestation, then the situation still has a law that takes care of that kind of situation.

I support, Mr. Temporary Speaker, Sir.

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

**Sen. Korir:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Bill by Sen. Miraj on the Care and Protection of the Child Parents Bill (Senate Bills No. 29 of 2023).

I agree with the sentiments by my colleagues in support of this Bill, which will cure a number of problems that our teenagers are facing. The teenage pregnancy and motherhood rate in Kenya stands at 18 per cent, which is high. This is because a number of teenagers lack information about sexual and reproductive health and rights.

It would be prudent for us to provide means and ways through the national Government and county governments to make sure that we have programmes that enlighten these teenagers on the dangers within the society that they are coming from. These are very vulnerable children. Sen (Dr.) Oburu talked about the games they play. I do not term them as games because they have very serious consequences to the extent of affecting their future lives.

The Bill is trying to address the issues of inadequate access to services related to young people. If the county governments and national Government hold their hands and come up with these programmes that these youths can access, we will cure this menace.

Part Three of the Bill talks about prevention. It is said that prevention is better than cure. Part Three 1(c) on the programmes that the Ministry of Education is putting for

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vulnerable children is to assist the two arms of Government; the county governments and the national Government in weeding out the problems or the causes that are bringing this menace.

So, even before we go to the issue of child care, it is our mandate as parents to make sure that every now and then, we have open communication with our children for them to know the dangers caused by early pregnancies. It is not only the child. We also have diseases that will hinder their progress in life.

Mr. Temporary Speaker, Sir, the Bill will cure the issues that have been touched by the Members. If this Bill is going to be approved, we will see a changed society that will address the issue of teenage pregnancy.

I support it.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Korir for your contribution.

Hon. Members, there being no other Member interested in contributing to this Bill, it ought to have been the time for the Mover to reply. Unfortunately, Sen. Miraj, the Mover of this Bill, is absent in the House. Therefore, the reply shall be deferred to the next Sitting of this House. Sen. Miraj will be called upon to reply to the Bill and thereafter, the processes will continue.

*(Reply to Debate on the Bill deferred)*

Clerk, let us move to the next Order.

Sen. Cherarkey, you had just begun moving the Bill and you have 59 minutes remaining to move the Bill. You may proceed.

## **BILL**

### *Second Reading*

#### THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILLS NO.12 OF 2023)

*(Sen. Cherarkey on 31.10.2023)*

*(Resumption of debate interrupted on 31.10.2023)*

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir. I have waited for this long, but I appreciate that finally I have a chance to move the Prevention of Livestock and Produce Theft Bill (Senate Bills No.12 of 2023).

Mr. Temporary Speaker, Sir, the principle of this Bill puts mechanisms for preventing, combating and eventually receding livestock and produce theft. As you are aware, cattle rustling and banditry is rampant in the northern part of Kenya, especially the North Rift region. Therefore, it goes without saying that 12 per cent of our Gross

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Domestic Product (GDP) and being a lifeline for a staggering 60 per cent of rural population depends on livestock.

From the onset, the issue of handling livestock and produce theft has been scattered in many laws. These includes the Penal Code, Branding of Stock Act and the Stock and Produce Theft Act. I propose the Stock and Produce Theft Act should be repealed, especially Section 278 of the Penal Code CAP.63 laws of Kenya.

Mr. Temporary Speaker, Sir, cattle rustling and banditry is found in North Rift and northern Kenya. It used to be a cultural event as part of initiation to manhood. One would go and “steal livestock” and then use it for dowry negotiations and payment. However, this issue has mutated into a serious and dangerous criminal enterprise. Deaths and theft of livestock have been the order of the day in this part of the country.

My heart goes out to the many victims and families who have lost their loved ones over a period of time because of these menace. The menace continues to be a threat to national security and continues to rob families of their loved ones, wherever they are. The other day, somebody was killed while herding his cattle near a primary school in Baringo County. He was killed by bandits who were later pursued by the security forces.

In the North Rift region, the guns have gone silent temporarily. We hope and believe the solution to prevent banditry and cattle rustling is to have development in those areas. Most of these parts are remote. We need to have security, roads, establish schools and have a proper way of shared resources such as water and pasture.

Mr. Temporary Speaker, Sir, this Bill is a bit complex. I have tried to address a lot of aspects to fight this criminal enterprise of cattle rustling and livestock and produce theft.

For the intention of the House, 60 per cent of Gross Domestic Product (GDP) and rural population depend on livestock, be it poultry or pigs. For example, in the country as per the population housing and census of the previous year, we have over 18 million cattle, 18 million sheep, 28 million goats, three million camels, 334,689 pigs and 31 million poultry across the country. This points to the 60 per cent of GDP.

One of the changes is the branding of livestock to ensure that, that identity cannot be stolen. The Bill has tried to address that issue. It is about time we agreed as a country to put it in law. We want to brand these animals and ensure that the movements of animals is tracked. We want to ensure that when they are slaughtered in the Nairobi City County abattoirs--- The biggest trend has been the commercial financing of the cattle rustling and banditry, where animals are stolen and taken to abattoirs in Nairobi or other major cities or towns.

This could be the same meat we enjoy at the parliamentary cafeteria or in the big five-star hotels in the cities and towns in the country. We could have unknowingly financed the ugly head of cattle rustling and banditry of livestock in the country.

It is high time we tracked the animals by branding them. When we are moving the animals to Nairobi for slaughter, let us ensure that tracking is done. Let the people who slaughter in the abattoirs have records. I propose that before you slaughter livestock, you must maintain that the records are there.

Finally, we look at the offenses. We have tried to deal with the offenses and that is why we are going to put an identifier, which is a permanent mark or representation on

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livestock. We had proposed a designation or combination of numbers, codes or signs as may be prescribed under the Act.

It is similar to when you have your own safe where you put money; you must have a combination lock or a password. We want to create a combination of numbers that are unique to animals. One of the roles we have given is objects of the Act, which is prevention, combating and identification of livestock theft and promote security and stability.

Mr. Temporary Speaker, Sir, these areas lag behind in development. There is no road network, electricity, water and schools. The fact that there is still insecurity, those areas continue to be a threat. I am aware that the government is trying to fight the issue of insecurity in those regions.

There is also the aspect of issue of registration and management of livestock by the owners. One of the ways is branding the animals, so that when we are bringing them all the way from Bomet, Longisa, Chepalungu or Sigor, where I am told there are famous artistes and musicians who are releasing very interesting songs. I am told they are about five gentlemen and one queen pin.

For example, when you are moving the livestock from Sigor all the way to Nairobi, you should ensure there is tracking. We need to regulate. Apart from fighting insecurity, it also assists in prevention of livestock diseases across the country, like foot and mouth. We will ensure there is tracking, recovery and tracing of livestock. If a cow moves from Kipteren, Mosoriot, Maralal or Marsabit County to Dagoreti corner where they are slaughtered, we can get the hide and skin and identify that the livestock was moved from Eldoret or Elgeyo-Marakwet to Nairobi County. It is part of retrieving and tracking.

This Bill is also meant to bring collaboration. Many people have argued that agriculture is devolved. This is factual because devolved functions have been listed in the Fourth Schedule of the Constitution. There should be collaboration and interrelations between both levels of Government.

This Bill under Clause 4 mandates the Cabinet Secretary for Agriculture, Livestock, and Fisheries to formulate a standard policy on the identification and movement of livestock. Also, establishing a national database system for communication, sharing and analysis of information relating to livestock. After we have branded and registered the livestock, we will create a national database. We are happy that the Government has moved over 5,000 services to digital space. The Government is now targeting to move 50,000 services online. Livestock could be tracked from Kajiado County and other counties in the country.

Clause 4(d) states that -

“The Cabinet Secretary shall be responsible for -

In collaboration with the security and other relevant agencies, establishing mechanisms for the disarmament and confiscation of firearms and ammunition illegally held by livestock owner.”

This has been a concern, especially in areas where the National Police Reservists have been a problem. In West Pokot, Elgeyo-Marakwet, Turkana, Marsabit and Mandera counties, communities have been accusing each other of violence. The Government has

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also been accused of arming one community against another. This clause is important because it reflects what the Ministry of Interior and National Administration is trying to do. They are confiscating firearms and ammunition illegally held by livestock owners.

Clause 4(e) states that –

“The Cabinet Secretary shall be responsible for –

(e) providing capacity building to the county governments on matters touching on identification and movement of livestock.”

These are highlights of the Bill that addresses the many challenges.

When you watch the US Senate Majority Leader, Mitch McConnell, he reads his moving notes. We used to have a Majority Leader, Sen. Poghio, who used to read moving notes. Under our Standing Orders, we are not allowed to read a written speech. I am not reading, but highlighting a few comments.

This is a complex Bill because we are addressing a complex topic. There is a thin line between culture and criminality. Under Clause 5 of the Bill, we have the functions of the County Executive Committee Member (CECM). One is to establish a county register.

When I visit Bomet County and meet the CECM in charge of agriculture, they should tell us the registration of livestock in the area; the number of cows and poultry in the county. I do not know whether *Kiptidinyo* is an animal. However, all the livestock in the county should be quantified.

Also, the Bill proposes that the CECM will develop a framework for the registration of brands. In addition, the CECM is mandated to design and formulate strategies and mechanisms for the prevention, combating and eradicating livestock theft.

The CECM should develop strategies for the county they represent. The biggest problem in the fight against cattle rustling and banditry is officials from the Ministry in Nairobi telling the locals about the frameworks in place, yet they do not understand the terrain in Elgeyo-Marakwet, West Pokot, Turkana and Baringo counties, amongst other areas, facing similar challenges.

We have been having a challenge. The county governments are not allowed to sit in the county security technical team. We are proposing that they should sit in the team for collaboration. It will also be like sensitizing the local community. I know this might not be popular, but we are proposing the County Executive Committee Executive Member (CECM) to give livestock farmers alternative means of livelihoods. If Sen. Tobiko was here, she would tell us whether the Maasai and others would want to abandon livestock rearing to go and look for other forms of livelihood. The idea is to change the cultural aspect.

Mr. Temporary Speaker, Sir, we also need to do the Geographical Information System (GIS) tracking system. We need the county to acquire that system to monitor the movement of animals. Nowadays, we use Global Positioning System (GPS). If I want to know where you are, I will just put a tracker. I can know you are seated somewhere in the Senate because of the GPS that we have in phones. We should put trackers on the animals.

In Clause 6, I am proposing that we have county assemblies---

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*(Sen. Korir consulted the Chair)*

I can see you are consulting on the issues of Bomet County. I hope all is well. We are giving the county assemblies power to go and domesticate this in Bomet, West Pokot and Nairobi county assemblies. The issue of cattle rustling is not restricted to northern Kenya alone. I have told you before that Nairobi County is unknowingly financing cattle rustling in this country. No one can tell us with certainty where the meat we eat in Nairobi is from.

Another clause states that when you apply for registration and branding, you must be given within 30 days. For example, if I apply to the CECM of Agriculture for Kajiado County for my animals, he should give it to me in 30 days. There must be an application.

Clause 7 talks about certificate of registration of a brand as provided for under Clause 5(3). The county executive shall issue the applicant a certificate of registration in the prescribed form. You must have a certificate of registration. Where the holder of the certificate claims that the certificate has been lost or destroyed, the holder of the certificate may make an application in accordance with Clause 7(4) to the CECM.

Clause 8 of the Bill states the process that the CECM should follow to transfer the rights of a brand to another person. Somebody may argue that if a farmer has been issued with a registration certificate, how do they get it back? For instance, if you buy in Kibiku area, Kajiado County, and you want to transfer to Nairobi; assuming you are the owner of an abattoir or a slaughterhouse, you have the right to transfer that brand to another person.

The CECM in Charge of Agriculture in the county government should approve receipt of that application and issue a certificate of transfer. Therefore, we shall be doing normal transfers, the same way we buy land and issue certificate of transfer because of a sale agreement.

Kenyans must understand this. When I buy livestock, you must do a certificate of transfer and this is the work of the CECM. I did not want us to lose sight of ensuring that we have the CECM. The CECM has the power to cancel the certificate of registration

Another unique thing in this Bill is that as an animal gets to six months, it must be branded with a registered brand. It say:

“It should be branded with a brand in which the livestock owner is the proprietor.”

If that animal is beyond six months, assuming that this law comes into effect within three months of the enactment of this Bill, it should be branded with a registered brand in which the livestock owner is the proprietor.

The branding should be conspicuous, present and done with the use permanent identification devices. There is a way that they put it. There was a time a bird was shot somewhere in Nandi County and we were told that, that bird had come from the Netherlands. The permanent identification device should be used.

On movement of livestock, there was a prescriptive way of ensuring that the removal shall be triplicate and indicated; it is basic. This is the first time such a Bill is coming before the House. It must have certain procedures like the date of birth of the

livestock, the purpose for the removal, the number and type of livestock to be moved, particulars and the premises with which they are being moved.

In short, we are trying to kill and strangle the financiers of cattle rustling and banditry. If you come to buy a cow or chicken from my place, I must take the particulars of the purchaser. It is as simple as that.

So, if the document or the search of the sale agreement--- and shall not issue a removal permit. When doing so, you must retain the removal permit. When I come and buy a cow from you, it must be in triplicate. As the seller, I will retain the original of the removal permit and give you a copy. This is serious stuff. This must happen three months before removal.

I was seriously thinking about how we could finish this issue of cattle rustling, banditry and livestock theft. We must be very innovative.

This is serious because what the Ministry of Interior and National Administration and other Kenyans have been telling us is that books and records of every livestock slaughtered and carcass must be kept. It has been very crucial. You must keep books for three months. If I have a slaughter in Chebunyo Trading Centre in Bomet County or in Gachek or somewhere in Kapsowar, when you come to my abattoir, I should be able to give you the list of the livestock I have slaughtered for the last three months. That is the point.

Most of the time, we are being accused of facilitating. These people who steal animals drive all the way to Nairobi City County without proper procedures, then it becomes hard to track them.

I do not know whether there is an organisation of butchers. They might find this inconveniencing. How do we fight if we cannot ensure we have a process of keeping in place? I know the abattoirs and owners of butcheries--- I used to be a butcher before, but a butcher of livestock. I did not butcher anything else other than what is legally allowed. The association of butchers and butcheries might think we are stifling their businesses. We are not intending to do so in this Bill.

I request the books of every carcass leaving abattoir to be indicated for a period of three months. It becomes hard from the date of receipt of livestock for slaughter or carcass leaves the abattoir.

Clause 15 (1) states -

“The County Executive Member shall designate such persons to be inspectors for each ward in the respective county for the purpose of enforcement of this Act.”

Mr. Temporary Speaker, Sir, if you are the owner of a butchery in Nyamira County, somewhere in Nyasiongo, you must tell me---

## QUORUM

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

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

**Sen. Korir:** Mr. Temporary Speaker, Sir, I know the Speaker does not have eyes, but I can see that there is no quorum in the House.

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**The Temporary Speaker** (Sen. Wakili Sigei): Clerk, could you ascertain the quorum.

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

Serjeant-At-Arms, could you, please ring the quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the Senate stands adjourned pursuant to Standing Order No.41(2)(a) until, tomorrow, Thursday, 2<sup>nd</sup> November, 2023 at 2.30 p.m.

Sen. Cherarkey, will have a balance of 29 minutes to continue prosecuting his Bill.

The Senate rose at 6.10 p.m.