

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 27<sup>th</sup> September, 2023

#### Morning Sitting

*The House met at the County Assembly of Turkana,  
Turkana County, at 9.30 a.m.*

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

#### PRAYER

DETERMINATION OF QUORUM  
AT COMMENCEMENT OF SITTING

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

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

Kindly, proceed to call the first Order.

#### COMMUNICATIONS FROM THE CHAIR

##### ACKNOWLEDGING INVITED DIGNITARIES

Hon. Senators, I take this opportunity to acknowledge the presence of invited dignitaries, who have joined us on this special occasion of the Sittings of the Senate in Turkana County. If they are present, I request them to stand when called out so that they may be acknowledged by the Senate.

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|---|---|---|
| 1. Sen. David Ekwee Ethuro                  | - | Former Speaker, Senate.   |
| 2. Sen. (Prof.) Malachi Charles Ekal Imana. | - | Former Senator,<br>Turkana County.  |
| 3. Sen. John Munyes                         | - | Former Senator, Turkana<br>County and former Cabinet<br>Secretary, Energy and<br>Petroleum. |

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4. Mr. Geoffrey E. Kaituko - Principal Secretary, State, Department of Labour and Skills Development, and former Speaker, Turkana County Assembly.
5. Mr. Erastus Ekitela Lokaale - Former Speaker, Turkana County Assembly
6. Mr. Chare Mato - Clerk, Marsabit County Assembly
7. Mr. James Worata - Deputy Clerk, Baringo County Assembly
8. Ms. Ajuma Nasenyana - High Fashion Model
9. Ms. Ikal Angelei - Environmental Activist and founder, Friends of Lake Turkana
10. Mr. Chris Erukudi - Member, Lodwar Municipality Board

On behalf of the Senate and my own behalf, I wish to thank our guests for honouring our invitation and joining us in this auspicious occasion.

VISITING DELEGATIONS FROM PAG SECONDARY SCHOOL AND ST.  
AUGUSTINE BOYS PRIMARY SCHOOL, TURKANA COUNTY

Hon. Senators, also in the Speaker's Gallery, we have students accompanied by teachers from PAG Secondary School and St. Augustine Boys' Primary School in Turkana County. They are here on an education tour.

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 KMTC, LODWAR CAMPUS

Also, in the Speaker's Gallery, we have 30 students accompanied by two tutors from the Kenya Medical Training College (KMTC), Lodwar Campus in Turkana County, who are in the Senate on an education tour.

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

*(Applause)*

I will call upon the Senate Majority Leader to welcome the two delegations under one minute. On the Senate Minority side, I will call upon the "youth leader" in the

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Senate, none other than Sen. (Dr.) Oburu, to also, under one minute, say a word of welcome in that order. Kindly, proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I join you in welcoming the visiting delegations of students from PAG Secondary School and pupils from St. Augustine Boys' Primary School. I hope I got the names of your schools right. I also welcome the students from KMTC.

Mr. Speaker, Sir, I hope they get to experience Parliament in its live nature. Save for the building of Parliament, there is nothing else that has changed. This is how business is run in the House of Parliament. So, you can save your money, unless you just want to see the buildings. You have already seen and lived Parliament in practice. You are most welcome.

I wish you well as you pursue your studies. May you achieve greatness and be the greatest that can ever be.

Mr. Speaker, Sir, finally, I wish that in the course of our stay here, our former Speaker, the retired Speaker, Emeritus Hon. Ekwee Ethuro, the Speaker who welcomed me to the House of the Senate, will find time to join us as we sit in his home county.

Many afternoons, in the heat of the debate, he would always remind us that he is a son of Turkana and therefore, can be threatened by nothing. I did not know what he meant, until now that I have visited Turkana, I now know that when you have made it from the soil here all the way to Nairobi, there is very little that can threaten you as you go about your duties.

So, welcome to the students and everybody else.

Thank you, Mr. Speaker, Sir.

**Sen (Dr.) Oburu:** Mr. Speaker, Sir, I also want to take this opportunity to, first, welcome the eminent persons who have been invited or who have come to visit the Senate. Some of them know very well what happens in the Senate, like Emeritus Hon. Ekwee Ethuro, the former Speaker, who was our colleague in Parliament and later became the Speaker of the Senate and the other dignitaries who have been invited.

I would also particularly like to welcome the two learning institutions, the Medical Training College and St. Augustine School for coming to have an experience and share what the Senate does. This is a very good experience because who knows, in future, some of you may be Senators or Members of Parliament.

It is good for you to learn at this early stage and see what your leaders do. You should aspire to go to heaven. The sky is the limit. The only secret to success is hard work. You have to work very hard. We wish you success in your endeavors.

I also want to take this opportunity, once again, to welcome you and wish you the best when you are around with us.

This county is a great county. I started coming here in the year 1982. I used to work here with the Norwegian Agency for Development Cooperation (NORAD) and we were involved in so many projects, including education. We built the Kakuma School. We also did the Katilu Irrigation Scheme and participated in the construction of coal storage facilities here at Kalokol.

We did almost everything to the extent that one time when I went to Norway, the Norwegians were complaining that Norway is establishing another colony in Kenya and that this county is no longer called Turkana, but it is now called Norkana and that they did not want Norwegians to continue paying.

Mr. Speaker, Sir, you said that I welcome them under one minute. Once again, I welcome the visitors to the Senate.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): The host Senator, Sen. Lomenen, under one minute, welcome the delegation.

**Sen. Lomenen:** Thank you, Mr. Speaker, Sir, for this opportunity. I take this opportunity to welcome students from St. Augustine Primary School, the students from the Medical Training College and our leaders who have been leading us in the past, including Hon. Erastus, the current Principal Secretary, who was also the Speaker of the County Assembly, and Emeritus Speaker of the Senate, Hon. Ekwee Ethuro.

I take this time to welcome them to learn from this Senate Mashinani. We have broken the record. I hope they see that Senate Mashinani is a good, vital and fundamental initiative that enables us to learn more about Turkana County and involve the citizens to participate in decision making as they learn and listen.

So, I want to take this time to welcome them to learn. After learning, they will work hard wherever they are in the institution and will even be more than what we are. We expect them to be presidents, speakers and other categories of leaders.

Thank you, Mr. Speaker, Sir.

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

### PAPERS LAID

**The Speaker** (Hon. Kingi): Proceed, Chairperson, Standing Committee on Energy and thereafter to be followed by the Chairperson Standing Committee on Finance and Budget.

#### REPORT ON INQUIRY INTO THE HIGH COST OF ELECTRICITY IN THE COUNTRY

**Sen. Wamatinga:** Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, 27<sup>th</sup> September, 2023-

Report of the Standing Committee on Energy on its inquiry into the high cost of electricity in the country.

Mr. Speaker, I beg to lay.

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

**The Speaker** (Hon. Kingi): Is the Chairperson, Standing Committee on Finance and Budget not here?

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Any Member from the Committee, kindly, proceed to lay the Paper.

REPORT ON THE COUNTY GOVERNMENTS ADDITIONAL  
ALLOCATIONS BILL (NATIONAL ASSEMBLY BILLS NO.23 OF 2023)

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, 27<sup>th</sup> September, 2023-

Report of the Standing Committee on Finance and Budget on the County Governments Additional Allocations Bill (National Assembly Bills No.23 of 2023).

Thank you, Mr. Speaker, Sir.

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

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

## QUESTIONS AND STATEMENTS

### QUESTIONS

**The Speaker** (Hon. Kingi): Hon. Senators, I am informed that the two Cabinet Secretaries are now airborne on their way to Lodwar for purposes of responding to these questions. I therefore suggest that we proceed with Order No.8. I believe that by the time we will be concluding this, the Hon. Cabinet Secretaries will be with us and therefore, we will come back to Order No.7.

Clerk, proceed to call Order No.8.

### BILL

#### *Second Reading*

THE PRIMARY HEALTH CARE BILL  
(SENATE BILLS NO.44 OF 2023)

*(Sen. Cheruiyot on 26.9.2023)*

*(Resumption of debate interrupted on 26.9.2023)*

**The Speaker** (Hon. Kingi): Hon. Senators, we shall proceed with the debate that was interrupted yesterday.

I call upon Sen. Munyi Mundigi to take the Floor.

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

**The Speaker** (Hon. Kingi): What is your point of order, Sen. Mungatana? Sen. Mungatana, you have the Floor.

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

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

**Sen. (Dr.) Khalwale:** Mr. Chairman, Sir, just a small matter of procedure. Since this might attract a lot of interest, I request that we limit debate to five minutes.

**The Speaker** (Hon. Kingi): You know that under our Standing Orders, that Motion is permissible but it should be before debate ensues. That Motion ought to have been moved before the debate started yesterday.

*(Sen. Cheruiyot spoke off record)*

Okay. Then, if it was moved and seconded and there was no Senator who proceeded to debate, then at that particular juncture, you may proceed to move that Motion. If there is consensus, we may agree on the time limits. However, if there is no consensus, then I may have to put that Motion to a vote.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, there are not many Senators in the House. We can do 10 minutes but if pressure increases, then at that time, we will limit. It is something we have always done. So, 10 minutes is sufficient in all---

*(Loud consultation)*

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

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I have heard the proposal from the Senate Majority Leader on 10 minutes. I am also hearing other people saying five minutes. Let it be a maximum of 10 minutes. If you cannot use 10 minutes you can use two minutes. Those who can use 10 minutes will do so. Let us agree on time.

**The Speaker** (Hon. Kingi): Hon, Senators, can we agree on a maximum of 10 minutes? For those who are persuaded for five minutes, please speak under five minutes. Ten minutes is the maximum.

Very well, Sen. Mungatana, you have under 10 minutes. You can use one minute or proceed to contribute to the substantive Motion.

**Sen. Mungatana MGH:** Mr. Speaker, Sir, I thank you for allowing me to make my contribution on the Primary Health Care Bill (Senate Bills No.44 of 2023).

First, I support this Bill. The spirit to make sure that there is primary health care at the village and ward level is accepted. We want to state from the very beginning that it is the way we should go.

There are some improvements that we need to make to this Bill. The primary improvement that I hope the Senate Majority Leader will listen in and see what we can do to improve this Bill is that this Senate, constitutionally, is established to help and protect the interests of the counties.

Unfortunately, in this Bill, while the spirit is very good and acceptable, we have created a lot of responsibilities to the Cabinet Secretary in charge of Health at the national level. We have given him or her the mandate to appoint the Advisory Council.

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We have therefore given her or him the excuse to withhold funds at the national level to the disadvantage of counties.

Counties have the delegated responsibility for health. We must not give the national Government excuses by law through this Senate to withhold funds that are supposed to be managed by the county governments.

The quarrel we have had with the national Government is that they are still holding onto monies at the national level when they could go down to the counties and be utilized.

Clause 13 of this Bill states that the Ministry is responsible for health in the management of primary health care. This is now at the national level. We are giving the CS of Health the management of primary health care services.

In the proposed Clause 14, we are allowing the CS to set up the primary Health Care Advisory Council which is being appointed there. He is supposed to appoint the Principal Secretary for Health, the Director General for Health, the Chairperson of the Council of Governors or their representative, the Principal Secretary for the National Treasury, the Chairperson of the County Executive Health Committee and even the Chairperson of Vice Chancellors.

When you look at this list, it creates a perfect excuse to withhold more funds at the national level. Look at the functions that we have created for them, they are supposed, according to Clause 14, to sit and advise the CS and the county governments on matters related to the delivery of primary health care yet at the county level, we still have the same.

The proposed Clause 14 says that, “each county government shall in the management of primary health care services---.” It creates the same powers at the county level.

In proposed Clause 14 of this Bill, again, you will see that each county government is supposed to establish a County Primary Health Care Advisory Committee. We heard the Senate Majority Leader, when moving the Bill, say that there will be 47 County Primary Health Care Advisory Committees.

So, for us in Tana River, we might have different requirements from those in Nairobi, for example. They will be advising us in a different way on how we are supposed to deal with primary health care at our level. The ones from Nairobi City County will be dealing with their issues in Nairobi in a different manner. The ones in Lodwar, Turkana County, might have a different approach.

We are creating on top of this another bureaucracy at the national level. I think we must come out strongly here and remove those roles that have been assigned to the CS.

I want someone to convince me that I need a County Health Care Advisory Board and then at the same time, I need a national one. In the national one, it is not the guy from Tana River who is sitting there but the Chairperson of CoG. Even if you put the Caucus of Health Ministers across, how many times do they sit or meet to create consensus on that?

Mr. Speaker, Sir, we will be giving powers to the wrong person in this particular case. This will expose this Bill to constitutional challenges because the money is supposed to follow the function.

If you create this advisory council at the national level, it means you have to fund it. Where will the money come from? The money that is supposed to come down to our governors and counties is now supposed to fund a national body that does not even visit us or know what we do in Tana River County. It does not know that maybe, traditional medicine is critical for us. The way we want to do primary health care might be slightly different from how Mombasa or Nairobi City counties want to do it. You then create a body that does not visit us or appreciate the role of primary healthcare workers at the local level.

Mr. Speaker, Sir, we need to sit down and really give it a thought. Why are we creating this bureaucracy at the national level and giving them powers? Are we doing something that is against the spirit of the Constitution?

We want primary healthcare to be devolved properly. If we should bring any laws from the Senate, they should be strengthening the nuts. They should make sure that the national Government has no excuse whatsoever for retaining that money at the national level.

I want to convince my colleagues to bring some amendments here in whichever form. These people at the national level will create work for themselves. They will say they need to sit down and visit the counties *et cetera*. This will be a lot of money and allowances which should go down to the county governments to buy medicine or do something practical with. I do not think they will be adding much more value. The same health professionals will be sitting at the national level.

I want us to look at this point and see where we can agree, as a Senate, to protect the interests of the counties and, at the same time, see how we can improve this. I see the Cabinet Secretary is trying to create a job for himself.

There is a second and last point that I want my colleagues to look out for. We have said in the proposed Clause 9 that-

“A community health promoter shall be selected by the community through public participation forum and appointed by the county government”

We have not made it clear how this community health promoter will be selected. If it is through public participation, already, the law in this country has defined the proper parameters for public participation. It would have been better for us to say at least three or four. This is because public participation can be a few friends of the governor. The same people who pass the County Integrated Development Plan (CIDP) and are paid to create quorum in some of these meetings can be called. Then, the health promoters, as one of our colleagues said yesterday, are picked from supporters of the governor without care for the public who are there.

We need to create more guidelines on how to conduct public participation. When we say we are going to create the position of community health promoter---

*(Sen. Mungatana's microphone went off)*

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**Sen. Beth Syengo:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I stand to support the Primary Health Care Bill (Senate Bills No.44 of 2023). It is key to know that Kenyans, in every county even in Turkana where we are hosted right now, deserve the best healthcare and services.

This Bill is meant to entrench the majority of people's health needs throughout their lifetime. There are three components of the Bill that should be considered seriously. Integrated health services must meet people's health needs.

When some powers and privileges remain at the national level, then we are denying the devolved units the powers and the say concerning health care. It is important to entrench broader determinants of health multi-sectoral policy and actions.

The Bill requires serious amendments. We really need to be given time to propose these amendments before the Bill is taken through. Primary health care is meant to empower individuals, families and communities to take charge of their own health needs.

Looking at what the Bill is addressing, I suggest that it is important to include how Kenyans will be empowered to take charge of their health so that they are not exploited by not receiving the best services from Government health facilities. When they fail to get these services from the Government, they will be forced to go to private hospitals where they will be required to pay a lot of money. Considering the high poverty levels in most of our communities, we are subjecting Kenyans to suffering which might even cut their lives short.

Mr. Speaker, Sir, primary healthcare systems must support the needs that Kenyans have. It should be most inclusive equitable and cost-effective in order to achieve Universal Health Coverage (UHC). This Bill lacks a clear route to achieve UHC. I suggest the amendments must take care of this.

I support the Bill with amendments. I thank you.

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

**Sen. Okenyuri:** Thank you, Mr. Speaker, Sir, for granting me this opportunity. Yesterday, you left before I could wish you a happy birthday. So, happy belated birthday.

I want to contribute to the Primary Healthcare Bill. I am a Member of the Standing Committee on Health that went through the proposals that were brought in. We mentioned that this does not close the views that most Members had and wanted to be incorporated.

This is a progressive proposal. I feel like this Bill should bring us together regardless of the political affiliations we belong to. First, health is a fundamental issue. This Bill captures the spirit of civic education. This is where you induct people into what they should know before carrying forward what you intend to do.

The community promoters that were commissioned by the President are a realization of one of the Kenya Kwanza Government's promises we made during our campaigns. You can see when leaders come together, good things happen.

That is why I urge my colleagues that this is a progressive Bill. We should support the Bill, but note the concern some of the Members have raised because, generally, it is a good initiative.

The qualifications of a community health promoter have been listed. I had worries related to confidentiality. You can imagine someone in the village who knows the health status of an individual and decides to publicise it. Measures should be put in place to ensure that community health promoters account for their actions. I am happy that this proposal has been captured.

I come from a rural set up and this initiative will be huge because of the number of young people being hired as community health promoters. We already have political goodwill and there is no room to back down on such a proposal. This is one of the progressive agenda the Government has prioritized. This Bill is in the spirit of leaving no one behind based on the Sustainable Development Goals (SDGs).

This Bill has highlighted the importance of building the capacity of communities by conducting trainings before any programme is rolled out. This is a positive way of doing it. We have had instances where *mwananchi* is invited to a platform and informed of new initiatives like immunization, but had no prior knowledge on why such initiatives are being carried out.

I support this Bill because it caters for the people in the grassroots by building their capacity. I am putting emphasis on the importance of civic education because an informed citizenry can make the right decisions on their health. We are building a society that is informed.

I support the Bill. As a Committee, we are grateful for the input that came from various stakeholders. This is a step in the right direction.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Oketch Gicheru, proceed. He has passed his opportunity to Sen. Wambua.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I thank Sen. Oketch Gicheru for donating his time to me. I will donate my time to him when that opportunity comes.

I will begin by thanking the Mover of this Bill, Sen. Cheruiyot. When he was moving it, he made it clear that it is one of four Bills whose aim is to ensure that we entrench Universal Health Care in the practice of medicine in this country.

It is not an idle saying that prevention is better than cure. When we focus on preventive healthcare, we are likely to attain a healthy nation. There is evidence of this. We remember the COVID-19 Pandemic. Everyone was focused on sanitizing, cleaning surfaces and washing hands. The level of health in our country – there was a time I took my son to Getrude’s Children’s Hospital and there were no children. People had observed the basics of healthcare and we had fewer sick people.

Based on the particulars of the Bill, perhaps each Senator would have been given 20 minutes to contribute, however, 10 minutes will do us well.

This is an important piece of legislation that we need to discuss and debate robustly. I will begin with the objects of the Bill. It perfectly captures the aspirations of Article 43(1) (a) of the Constitution -

“Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.”

The objects of the Bill are okay. Also, the primary healthcare workforce proposed is acceptable. However, I begin to have challenges from Clause 10 on the functions of the community health promoters.

Clause 10(2)(j) is a clear and outright violation of the provisions of the Data Protection Act -

“Submit reports, at such intervals as shall be determined by the county director of health, on the health of each member of an assigned household and the barriers to health and health care in the household to the community health officer.”

If the promoters are supposed to be in every corner of this country and in each household, then the status of health of each member of every household must become a subject of discussion between the health promoter and the public health officer. This is a violation of a basic right. There must be a way of dealing with that matter.

Clause 10(3) is on the code of conduct of the community health promoters in their functions specified on Clause 10(1) and (2). Clause 10(3)(d) states that the promoter should ensure accuracy of the information captured.

At times, information captured about the health of any person is not the responsibility of the person capturing the information. They could be using faulty machines. Sen. Cheruiyot should note the wording of this clause. The community health promoters should be responsible for the accuracy of the information. They can explain how they got the information, but they should not be the people to ensure the accuracy of the information.

I will proceed to Part IV of the Bill, where I have a problem. I am happy that Sen. Mungatana MGH has taken note of this. As a Senate, we must always remember that there are two sectors of the Kenyan economy that are our responsibility; agriculture and health. Everything we do must be done towards entrenching those functions in the county governments. This Bill is giving responsibilities and functions of primary health to the national Government.

What are we doing to ourselves? Clause 13(e) assigns the responsibility of the national Government to be a monitor of the functions of the county governments. The national Government must never be allowed to prefect county governments when it comes to rolling out health functions.

Clause 13(f) does the same thing. I propose that those two should perhaps, devolve more funds to the health function. It is time to build the capacity of county government to carry out primary healthcare responsibilities.

Clause 14 is now the constitution of the Advisory Council. I have a problem with that functional relationship between the Advisory Council and the Advisory Committee. Is it a power relationship where the Council is the boss of the county or are they complimentary? They need to tighten that aspect. Even looking at the representation, it is too national Government heavy. It leaves out very important segments of society and stakeholders in this function.

Mr. Speaker, Sir, we have many hospitals in this country that are run by faith-based organisations. My church; the African Inland Church (AIC), runs very successful health facilities. The Catholic Church runs very big hospitals. The Presbyterian Church of East Africa (PCEA), the Anglican Church of Kenya (ACK) and the African Gospel Church (AGC) run various facilities. All faith-based organisations must have a say in this Council and in the Committee as well. They have been left out.

We also have representatives of medical practitioners. These are the people who know where the rubber meets the road. They are absent in the Council and in the Committee. We must find space for this representation.

Since I see my time is almost elapsing, let me go straight to Clause 16, which is another problem. I did not expect this to come from the Senate Majority Leader. I know he is a man who really supports devolution. However, for him to constitute the Advisory Committee based in counties, assign oversight roles to it and exclude the office of the Senator, I do not understand what we are doing.

Mr. Speaker, Sir, I would propose that the county Senator automatically becomes a member of the Advisory Committee. He or she does not need to be appointed by the County Executive Committee Member (CECM). By virtue of---

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

**The Speaker** (Hon. Kingi): What is your point of order, Senate Majority Leader? Please, pause the time for Sen. Wambua.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, first, my apologies to Sen. Wambua. I hardly ever interrupt Members when they are making their submission, unless I feel that it is very necessary. However, there are various necessary things he said which I felt if they are left on record, then it will give a very bad impression.

One, as a Senate Majority Leader and Leader of Government Business, I do not originate Bills. I move Bills on behalf of the Government, so to speak. These Bills have actually undergone great work at Committee level. By the way, if you take time to read the report of the Committee, they are already proposing quite a number of the amendments that Members are speaking to, including the ones by Sen. Mungatana. You are right to point them out but, please, also refer to the report of the Committee.

Lastly, Sen. Wambua, in 2016, we tried that route. I cannot remember the exact time but the secretariat will remember.

*(A Senator spoke off record)*

No, it was not the County Oversight Board. However, courts struck out the proposals and said that you cannot be a beneficiary to your own legislation. They said it is not possible for us Senators to legislate and give ourselves a job. That is why whatever you are suggesting is impossible.

Thank you.

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**The Speaker** (Hon. Kingi): Senate Majority Leader, that is a point of information, not really a point of order.

**Sen. Wambua:** Mr. Speaker, Sir, my two minutes are still valid, I guess. I do not want to argue with the Senate Majority Leader on that issue of involvement of Senators. This is because we are not accruing a benefit by oversighting. It is a responsibility and not a benefit. That is what we were elected to do. We oversight. I think that one is not right.

On the matter of the membership to that Committee, I said, let us have the Senator as an automatic member. Let us also have the health practitioners and the faith-based organisations involved in that committee at that level.

Mr. Speaker, Sir, as I conclude, I must say that, yes, we would have benefited from the Report of the Committee. However, that Report was again tabled late yesterday. Let us find a way of being neat in dealing with these legislations. Let us have access to reports in good time. They will inform and enrich our debate. However, since the Senate Majority Leader wants us to push this, then we will push it, but we must capture those amendments to ensure that we get---

*(Sen. Wambua's microphone went off)*

**The Speaker** (Hon. Kingi): Sen. Murgor, you may have the Floor. Can you take it up in the *WhatsApp* Group? We are now in session.

**Sen. Murgor:** Thank you, Mr. Speaker, Sir, for allowing me to also air my views in addition to those of my colleagues. I support the Bill because it will enhance primary healthcare in rural areas. When I talk about rural set up, I am talking about places that have been left behind and never really had an opportunity to receive services such as primary healthcare.

My colleagues have expressed concern on the bureaucracy from the national Government, which become a bottleneck to devolving these services to communities. For example, Turkana County where we are, West Pokot which I represent, Isiolo and many others have been left behind for many years. The stages and bureaucracies should be eliminated as much as possible. The county government is supposed to be a recipient of the devolved health services---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Sen. Murango and Sen. Kinyua, kindly allow Sen. Murgor to be heard in silence.

**Sen. Murgor:** Mr. Speaker, Sir, I really support it. We should make sure that the devolved setting of healthcare is practically realised by rural areas that have not been receiving such services. The good thing is that the marginalised areas that have lagged behind will probably realise employment that has never been realised before. When their children begin to be Community Health Workers (CHWs), the community will also engage because it will be practically at the door step of every village and so on. Then,

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this will ensure that medicine is also made available in the health facilities as it is practically put into every dispensary and health facility that is in the village.

On the management, even though there is the technicality of who elects who to be in charge of those facilities, the fact is that if the medical personnel are there and also the medicine, this will enhance a lot of care among the people in the villages. It will also reach out and cater for maternal care that will care for the mother and the child which in some cases is really pathetic now.

When this service is devolved to such a level, it will really help mothers who are suffering and their infants who lack medical care. It will also help in spreading the care to the people even though there are challenges regarding roads and things like that. The fact is that if services are available, other additional improvements will come along and people will receive efficient services of devolved healthcare.

The management at the facility should also as much as possible involve the locals. Sometimes when a medical personnel who comes from another area is put in charge, he or she may not realize or be in a position to know which area really needs which services. So, the locals should be fully engaged so that they apply the services appropriately.

I support.

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

**Sen. Onyonka:** Mr. Speaker, Sir, fundamentally, this Bill is actually good but there is the 30 per cent that we must look at and interrogate because that is our responsibility. I have been going through this Bill and looking at it in bits and pieces and one of the issues that has come to my mind and is very clear - and I want to reiterate what my brother, Sen. Mungatana raised - that we are creating another public behemoth of leaders in the Ministry of Health (MoH).

We are going to have board after board. If you look at it, my interpretation is that you are going to have three layers of the team that is going to manage this primary health sector. I would want the Majority Leader to later explain this to me.

Mr. Speaker, Sir, the second issue that I am very sensitive about is the issue of responsibility of the county governments. The truth is that health has been devolved to the county governments. The feeling I have is that we are removing the responsibilities and powers of the county governments and taking them back to the national Government.

There is a very deliberate decision that is being made where the national team that is going to be managing the primary healthcare sector at the county level will have to be the ones to be consulted. That is the one that looks at the data and the one that handles policy and funds.

Mr. Speaker, Sir, given what has happened in the last 12 years, as we have been going through our devolution, the truth is that county governments have not done very well themselves. So, I would like to request the committees that are going to be responsible over this to deliberately sit down and make sure that the weighty and more loaded responsibility of managing this sector is handled by the county primary healthcare advisory committee. This committee is basically meant to handle what is happening in the county government, how these primary healthcare employees are going to be paid and

how their funds are going to be paid to and distributed online according to the positions which are going to be created.

I also want to support my brother, Sen. Wambua. He raised the issue of churches. I want to add that in that list, we must also include the Muslim Community because healthcare is a matter that deals with the very sensitive issue of reproductive health.

It is a matter that we must interrogate and agree on, as a Senate. If it is going to be handled at the local level, then the local churches and the local Mosques and religious organizations play a role. The fact that as they are getting data, distributing this information, participating in providing the necessary information that they have to, they must be part and parcel of the team that is going to sit down and discuss on the matters that are very sensitive in terms of reproductive health and the privacy of the individuals' health conditions and the data that we are going to keep that is going to be held by these committees.

Article 16(3)(a) states that the county primary healthcare advisory committee in each county shall perform the functions of oversight. That cannot take place. I hope that my colleagues in this House are aware that there is a ruling that has come from the High Court which says that the county government shall have no responsibility whatsoever in conducting oversight, whether it is on healthcare matters, matters pertaining to outstanding issue of pending bills or a matter of how the expenditure is used.

It is only the Auditor General's Office who will have that responsibility. I would want that to be stated there very clearly because it is important that we leave the independent bodies that we have to participate and make sure that we get the results that we need.

Mr. Speaker, Sir, there is an issue which I saw, and I think this could have been an oversight by default; where it states that one of the primary workers who is going to come to the county government and be given the responsibility of serving as one of the healthcare workers of this place must have lived in the local community for a period of five years. If a lady gets married into an area in a period of one year and she is a healthcare worker who was working in Malindi for the last seven years, then how do you discriminate against her because she has not lived in that area for five years? That might have come in by default. It is a small matter that needs to be followed up.

Mr. Speaker, Sir, the last one says that members who are going to be in the primary healthcare team at the county level should be five. I wish to point out to the Senate Majority Leader and Committee Members about this number and I will give an example. There are areas with five sub-counties. Kisii County has nine sub-counties. If you tell me members of this committee need to be five, then you are creating a problem. We all know how our country is.

I suggest that the team gets a sub-county leader or a criterion that can work. To a large extent, this is a good Bill and we should fine tune it. I also inform the Senate Majority Leader that this Bill makes a recommendation that the Cabinet Secretary and his team in Nairobi will be the ones engaging in this issue, advising downwards in a cascading manner to the county governments. It is not going to be easy to run this outfit

from Nairobi with such a large number of people managing the healthcare sector. This is because of the distance to Nairobi and the issues we notice in our audit reports.

Mr. Speaker, Sir, we need to reduce the number a little bit, make it more effective and probably have a department within the Ministry of Health that specifically deals with primary healthcare. If this is implemented and funded well, then the Kenyan people will be proud that we passed such a Bill. I thank you.

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

**Sen. Seki:** Thank you, Mr. Speaker, Sir. I also want to put my voice in supporting the Bill. I will go direct to Part II on recruitment of Community Health Promoters (CHPs).

This is a good Bill. We have been having a big problem on primary healthcare and issues that concern health workers in the community. Most of our counties are rural based and they have a big problem on health. Getting a health facility or a dispensary is a problem. That is why we are coming in with CHPs, so that they can be first-hand healthcare officers in the rural areas where one cannot even get a health facility.

Mr. Speaker, Sir, passing this Bill will be advantageous to remote and marginalized communities like in Kajiado, which I represent. It will be good for them to realize that the Government has come in to help them. I am also happy that county governments are going to appoint these CHPs. They will be a function of their governments. This is something that needs to be looked into carefully because there will be a large number of employees serving counties and the government of the day. Functions must be followed by funds. Promoters of this Bill need to ensure funds are devolved to the county governments.

Part IV, Section 13(e) of the Bill as earlier discussed by a number of Members says that the national Government shall provide capacity and technical assistance and monitor implementation for the effective management of primary healthcare across the Republic of Kenya. This function needs to be enhanced.

Mr. Speaker, Sir, I suggest that this should be part of what we are talking about on devolving funds to county governments like funds for training and building capacity of the CHPs. Most of the functions of the committee of health workers are technical and yet they are not trained. Therefore, they need to be trained for them to understand issues of community health and nutrition as required in (f). They need to be sensitized. Capacity building of health workers should be done by county governments and not by the national Government as indicated in this Bill.

On the issue of the council as indicated in this Bill, Section 14 gives the Cabinet Secretary powers to appoint it. We only have the chairperson of the CoG or a representative in the entire advisory council. That defeats the essence of devolution because this is a function of county governments.

Mr. Speaker, Sir, as indicated in Part IV Section 14, the members of the council in the first meeting elect the chairperson from amongst themselves. We should instead indicate that the chairperson of the COG should become the chair so that they take the responsibility and function of county governments.



I also suggest that on Section 14 1(g), the head of the primary healthcare at the national level who shall be the secretary, be the Chief Executive Officer (CEO) of the CoG, so that we have three members at the Primary Health Care Advisory Council (PHCAC).

Mr. Speaker, Sir, just to go back a little bit with regard to the recruitment of community health promoters. I also suggest that we have a small qualification on the community health promoters. It needs to have a small qualification even if it is just ordinary level certificate or something like a small certificate on healthcare. It will be much better.

I support.

**The Speaker** (Hon. Kingi): Sen. Maanzo? Sen. Maanzo, just press once and leave it.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir, for an opportunity to contribute to this very important Bill. I am looking forward to hearing what Sen. (Dr) Khalwale would say about this as a medical practitioner who is familiar with most of the things dealing with this Bill.

As you can see, this it arose when COVID-19 pandemic struck us. The last record of containment of such a serious disease ran back into the 1920s. The country found itself in a panic mood. We were using everything possible to contain COVID-19 pandemic.

One good method of preventing disease is through cleanliness and availability of clean water, which reduces diseases by more than 50 per cent. When there were sanitizers and hand washing promoted, hospitals were almost empty in country other than COVID-19 patients.

That goes back to the basis of this; first and foremost, that we need water in the country. That is what will stop typhoid outbreaks and other dangerous outbreaks such as Ebola, which kill doctors, health officers and ordinary patients. All that did not have a framework. Therefore, this Bill was developed to try to deal with that.

Part IV on Management of Primary Healthcare Services reads as follows –

“The Ministry responsible for Health shall, in the management of primary health care services –

(a) Formulate, develop and disseminate primary health care policies, guidelines and other relevant frameworks.”

You know under Schedule Four, health is devolved function. The Ministry should be handling the policy. In the whole of this Act, there is nothing about the financing of healthcare. So, that is left to the responsible Ministry. Up to now, health services, including money have never been devolved.

There is so much held by the national Government. A lot of procurements, including medicine and everything is done by the national Government and the counties are left begging the CS responsible for health.

There is such a chaotic manner of handling health services generally other than when you have an emergency such as the case of COVID-19. Therefore, there is a need to enact a law. Although we have gone back to the village and have defined that

community health workers must have these sorts of qualifications. How many community health workers are we training?

Even the Kenya Medical Training Colleges (KMTC), which I am happy we have students in the Senate is still a national Government affair. It is not a devolved affair. It is distributed in such a way that some regions in the country do have a lot of these services there.

Mr. Speaker, Sir, the people who we train, get absorbed abroad. They go to Botswana, UK or USA for further training and they never come back. Why? The county system has not been empowered enough to protect doctors and even to keep them in a certain level in the village.

Just like the Act that we dealt with yesterday, we need a little more number of people who protect devolution in the way and manner we have framed this. We have left all of it to the national Government.

When you form the national committee, you only have a CoG representative. CoG is so huge that we cannot have just one person or their representative who could be the Chairperson of the Committee of Health out of nine.

It is no longer a county affair. This matter must be devolved to the county and let the county take full charge. More importantly, we have not talked about the financing at all. It has been abandoned.

Just touch the training of medical personnel in this country. Most of them will not work for the Government. After some time, they run their own private hospitals and even some who are still working for the Government are directors in private hospitals. Therefore, we have minimum going to the people through the county government and the national Government as far as healthcare is concerned.

Then there is the issue of data. That particular officer in the village keeping serious data with them even for security purposes is dangerous. When you look at Kenya differently, we have different parts of Kenya with different security challenges.

If a community health officer has all the data of the village, if I am a person against the security of the nation that is the person I will completely apprehend and take hostage. This is because he has all the data and no protection or mechanism of protecting that data.

So, just like in the training of pilots in this country, it has similarly happened with the training of health. We train health workers, but the best brains are taken away to work outside our country. It is something we need to think about seriously.

How do we train these community health officers and how do we make sure that they are employed? We have many of them who have come out of training, but have not yet been absorbed in the counties or at the national Government. Since they have families to feed, they have to look for jobs elsewhere. When we need them such as when we have an emergency like COVID-19, we have no mechanism of getting them.

If you go to a dispensary in the village, you will find that it does not have someone who will handle a serious emergency. It will not have the necessary first aid equipment. There is no necessary first aid training at that local level. People who handle

it even if it is child delivery, do so, in such an unprofessional way because of lack of training. Eventually, these patients are forwarded to the district hospitals or Level 4 or 5.

Mr. Speaker, Sir, in my observation, there is a little bit of disconnect. We need to concentrate on the village unit. The so-called volunteers are the ones who have been there. Even the training of the volunteers and remuneration had no budget in the county and in the national Government. This was left to well-wishers. That has to be processed and put correctly in this Act, so that when we talk about community health workers and community health promotion, we mean it.

We cannot do it without taking water to the grassroots level. Therefore, we must have water in the village. That is the role of the county government. We have health facilities in the village. This is the role of the county government.

Mr. Speaker, Sir, when you put all this together, then it tells us as people protecting devolution, we have to be serious with this Bill which has been proposed by the Government through the Senate Majority Leader. When it comes to us, it needs enough time so that we can amend it sufficiently to serve the community.

There is a very big problem of health processing in the community. It results in very many unnecessary deaths, especially now with many *boda bodas* in the country which have caused many accidents. Handling victims of *boda boda* accidents and outbreaks such as cholera, is so serious. We end up to losing lives unnecessarily.

I, therefore, think that the main idea of this Bill should prevent the loss of lives at the very basic level. I support it with amendments.

**Sen. Wafula:** Asante Bw. Spika kwa nafasi hii.

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

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

**Sen. Kisang’:** Mr. Speaker, Sir, I was at the top earlier then my name disappeared when you called one of the Senators. Now, it has disappeared again. We cannot sit here throughout when our names are disappearing from the screen.

**The Speaker** (Hon. Kingi): Hon. Senators, let us agree on one thing; for me to know that you have intention to contribute, I must have your name in this gadget. According to this gadget, you have no intention of speaking. This is the only gadget I can use to pick Senators to speak. So, if your name has disappeared, you start queueing again.

Sen. Wafula, please proceed.

**Sen. Wafula:** Asante, Bw. Spika, kwa nafasi hii. Ningependa kuchangia mada ya siku ya leo kuhusiana na huduma ya kimsingi katika zahanati na hospitali zetu. Naunga mkono yale mapendekezo ambayo yameletwa kwa sababu ugatuzi unaanzia mashinani na katika boma zetu. Mswada huu unaafiki kwamba katika boma karibu 100 ama watu 1,000, kuna mfanyikazi wa Serikali wa afya ambaye atahudumu na kufanyia watu kazi. Mhudumu huyu kazi yake ni kuhakikisha kwamba iwapo kuna maradhi yamechipuka katika maeneo hayo, atawasilisha ujumbe huo kwa viongozi wa taasisi husika haraka iwezekanavyo.

Vile vile, kuna maradhi ya maisha ama hulka za watu ambao watu, kwa muda mwingi, hawajayagundua. Lakini wahudumu hao watapokuwa wanashughulika na pilka

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zao za kazi ndio wagundue kwamba watu wengi katika maeneo haya wana maradhi ya aina fulani, ripoti itafikia viongozi na wataweza kuweka kwenye---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Senators! Can the Hon. Senator be heard in silence please?

**Sen. Wafula:** Bw. Spika, nadhani ni hujuma lakini nitadhibiti mawimbi ya Maseneta wenzangu ambao wanahujumu kazi yangu ya Seneti.

Watu hao wataweza gundua maradhi haya na kuweka katika vitabu vya hesabu. Iwapo makadirio ya bajeti yatawekwa, rasilimali na fedha zitawekwa kulingana na ripoti na utafiti utakao---

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

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

**Sen. Kinyua:** Bw. Spika, umemsikiza Seneta wa kutoka Kaunti ya Bungoma akisema Maseneta wanahujumu kazi. Seneta hawawezi kuhujumu kazi.

**The Speaker** (Hon. Kingi): Sen. Kinyua, tafadhali keti chini. Kama unakumbuka, wakati Sen. Wafula anazungumza, nilipeana onyo la nidhamu kwa Maseneta kwa sababu---

*(technical hitch)*

Kwa hivyo, Sen. Wafula yuko sawa akisema kwamba anahujumiwa wakati anazungumza. Sen. Kinyua, ukiendelea hivyo, basi unajua ni mashaka gani yatakufuata.

*(Laughter)*

Sen. Wafula, endelea.

**Sen. Wafula:** Asante, Bw. Spika, kwa sababu leo amekuwa kombamwiko katika mahakama ya jogoo na kuku.

Wahudumu hawa wa afya ni uti wa mgongo wa kudhibiti maradhi na maenezi ya maradhi katika maeneo yetu ya vijiji na miji ya humu Kenya. Vile vile, jambo la muhimu ni nimeona yameorodheshwa jinsi atakavyopewa kazi na watakavyoteuliwa. Kwa sasa, wahudumu hawa hawalipwi pesa za kaunti na za kitaifa jinsi inavyotakikana.

Mswada huu utakapopita, wahudumu hawa watakuwa na uhakika kwamba fedha zitawafikia popote walipo kupitia taasisi ya kiuchumi ambayo kwao, wataweza kupata nafasi ya kupokea fedha hizo.

Zaidi ya hayo, ningependa wapewe nafasi kuunda ama kujihusisha na vikundi vya utetezi wa maswala ya wafanyikazi hapa Kenya. Hii ni kwa sababu tunaelekea mahali ambapo wahudumu hao wanaweza kutishwa na kuyumbishwa kwa sababu yule anaowaajiri kazi ataambiwa yenu ni kusema ndio na kama sio, uruke juu kiwango ambacho aliyekuajiri anataka.

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Lazima tuhakikishe kwamba wanapoajiriwa, wana mbinu ya kujieleza na kujitetea na maswala yao kushughulikiwa kikamilifu katika maeneo yao ya kazi. Mswada huu unashirika watendakazi wa idara mbalimbali. Wale ambao wanahusika na maswala ya maji wako pale kwa sababu wakati wa janga la COVID-19, tuliona kwamba maji yalikusika pakubwa kudhibiti maenezi ya maradhi haya.

Tumeona mhusika katika idhara ya barabara. Hao wote wanahusika kuhakikisha kwamba wananchi wanapotaka kupata huduma za matibabu, wanaweza kuzipata kwa wakati mfupi na vile vile kuhakikisha kwamba huduma hizi zinaafiki matarajio yao. Hawa wahudumu katika vijiji wanaweza kushauri wagonjwa iwapo wataenda kwa zahanati, hospitali ndogo ama hospitali ya rufaa. Haya yote yatawezekana iwapo tutapitisha Mswada huu kuhakikisha malengo yetu kama Seneti yanaafikiwa kwa sababu tutakuwa tunawamulika kurunzi na kuhakikisha wanafanya kazi kwa mujibu wa Katiba.

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

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I appreciate the fact that yesterday we had a good conversation around the idea of making the tenets of public health devolved as much as possible. I also appreciate the Senate Majority Leader and the Chairperson of the Committee on Health for bringing up a Bill that want us to start looking at how we can make the healthcare institutions in this country more independent and granular in terms of utilisation of resources.

Mr. Speaker, Sir, this is also a good attempt by both this committee supported by the Senate Majority Leader, to make sure that the vision of Article 43 of the Constitution on economic and social rights is entrenched. Particularly the right to great healthcare services in this country. This Bill would not be a Bill without revisiting Schedule Four of the Constitution on the devolved functions *vis-a-vis* the national Government functions.

Schedule 4(23) says that for the national Government, the only duty they are given in terms of health is national referral health facilities and health policy. However, if you look at Part 2 of that schedule, the county government is given four mandates on promotion of primary healthcare. I do not want to consider any part as not being important. However, for me, the definition of primary healthcare services is found under part two of Clause 4(ii) of this Bill.

It says -

"The Services referred to in Sub-clause (i) shall include; health promotion, prevention, curative, rehabilitation, and palliative services."

That part of the Bill is directly akin to what Part 2 of Schedule Four of our Constitution says; that County Health Services, including promotion of primary healthcare---

I start having problems with this Bill when you get to Clause 13. That is why I was saying that this is the core component of this Bill. It talks about the management of primary healthcare services. It is not talking about policies, but it is talking about the verb element – the action.

I usually have a problem with English verbs, somebody was saying that when the English verb says "he dances, you dance and I dance" does it mean that the earlier one is

dancing more than me? This is because the verb here of being able to anchor the healthcare services in the country is in the management of healthcare.

Then we have the definitive element – the action element. Clause 13(b), says that we are going to have the Ministry at the national level to (1) provide standards; not giving policy direction, but providing standards and guidelines to ensure that equitable primary healthcare services are delivered.

We are in a country where we know that healthcare has been an issue of marginalisation to communities since Independence and here, you have a leeway where you are giving a national executive to further marginalise counties.

Part (b) says that the Ministry shall consolidate and analyse national primary healthcare data from the counties and ensure a timely transmission to stakeholders to be used in decision-making.

Where is the decision-making bit being done at the most? It is at the county level. If you channel data to the national Government that is going to be affected at the grassroots level, it defeats the purpose for which the Constitution was created.

It also talks about facilitation of knowledge; it talks about providing capacity and it talks about coordination by the National Treasury.

I would like to persuade colleague, hon. Senators, that we simply need to edit this entire section of the Bill and say the Ministry of Health shall provide resources to facilitate consultations at county level; the Ministry shall provide resources to consolidate and analyse national primary care issues at the county level; the Ministry shall facilitate the release of resources to county governments to share dissemination of information at the local level; or the Ministry shall provide money to county governments to give technical assistance at the grassroots level.

This is an issue that we cannot take it lightly. This is an issue that we must stand forth as the Senate and ensure that we are enabling money to go to the grassroots level.

**The Speaker** (Hon. Kingi): Sen. Oketch Gicheru, would you like to be informed by Sen. Wambua?

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, you know that Senator is my senior and he is my--- I do not mind being informed by him.

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

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I want to inform the Senator for Migori County not because I am his senior, but it is important I do so.

The line that the Senator is taking on the Ministry providing money to the county governments for facilitation and to ensure the success of primary healthcare, I would rather, he changes that line and just pushes for the money to be directed to the county governments, so that they can make decisions and facilitate those decisions and regulations.

So that every time that the county government is ----

**The Speaker** (Hon. Kingi): Sen. Wambua, I am struggling with your information because you are contributing. Just give the information.

**Sen. Wambua:** Yes, I will, Mr. Speaker, Sir. I just want to say that information is part of the contribution. I am just saying that the county governments should not go to the

Ministry at the national Government to get money to facilitate the success of primary healthcare. That money should be devolved to the health sector.

It is a point of argument; the information is passed. I thank you.

**The Speaker** (Hon. Kingi): Sen. Wambua, that is not information; I thought that you were seized of certain information that would have aided Sen. Oketch Gicheru in his contribution. However, you are persuading him to take a particular line of argument. That is not a point of information.

Sen. Oketch Gicheru, you may proceed to disregard it.

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. I hope that in the same spirit, you will save the three minutes that have been taken away because I had about five minutes to go. I was timing myself. You know I am usually keen on time.

So, on that issue, I want to tell my senior that I am giving this information in context because we had the PBS earlier this year. In the PBS, the national Government retained over Kshs111 billion for healthcare and the counties only received about Kshs46 billion.

That is why I am saying that I would rather push any function that we are creating here that will consume that money, including the council, that has been created under Clause 14. You can see from its functionality, it will utilise this money. I rather we push that money to go to the county.

I just want to finish this in the next two minutes because of time. If you scan through the health issues in this county and Sen. (Dr.) Khalwale will tell you this, you can categorise this sector.

Today if you go to outpatient and inpatient data in our hospitals and health facilities in the country, 35 per cent of it is infectious and communicable diseases. About 40 per cent are diseases caused by lifestyle and about 11 per cent is an emerging component of health complexity in this country, which I will call accidents and injuries, and depression.

If you look further, we have failing health, which people have talked about more, but then we have only about five per cent that follows either--- There is something called the placebo effect in health. People feel better when somebody talks to them at the grassroots level or they go to institutions that give them an environment where they feel better.

All this cannot happen when you form another monster called a council or a national body that will consume money of this country. Hypothesising and talking about some ideas fed by some data when you could be using that money to go to the grassroots level and invest in proper healthcare intervention.

That is why as I finish, I invite Members to let us keenly interact with Clause 13 of this Bill with regard to the management element. Let us also interact keenly with Clause 14. We should adjust these two clauses to ensure that they can have the national Government mainstream these functions into the counties by making sure that money goes back to governors to execute---

*(Sen. Oketch Gicheru's microphone was switched off)*

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

**Sen. Wamatinga:** Thank you, Mr. Speaker, Sir. I also rise to support this Bill, but with amendments. I am persuaded to do a parallel clause in some instances, especially in Clause 14. As much as this Bill is moving in the right direction to ensure we strengthen the basic health structures that promote indigenous or local-based knowledge harvested from the village level. It is important that we put the right structures in place.

As we were trying to reform the agricultural sector, somebody came up with the idea of having an agriculture food authority. Previously we had various boards that were responsible for streamlining various crops across the country.

Clause 15 of this Bill is important. As it has been said before, health is a devolved function. Therefore, we need to reinforce it. We should do everything possible to ensure that we reinforce it at the grassroots level. As we are doing so, it is important that we avoid the overlap by forming another national body as is referred to in Clause 14, which will only see to it that we are incurring a lot of expenditure.

We know one of the biggest problems we have in this country is recurrent expenditure. Would it make any sense that we form such an important law with a move to UHC, but impede the same by forming a national controlling body in a devolved function? Aligning the national and county governments through policies and formulas that have been put in place has been hampered a lot by some of the bodies that we have put in place in the name of streamlining or giving policy direction.

Mr. Speaker, Sir, what we have managed to do is create another bottleneck. This Bill is one that is important in the achievement of UHC. It will be important to us, as Senators, to ensure we do not create another bottleneck that will hamper the already disadvantaged health sector. Leaving the money to the national Government and making a body that will oversight primary healthcare will not be doing this country any service. We will be creating another bottleneck, cost centre and institutions that will be at loggerheads with the county administration.

We should be talking about reinforcing the county structures in order to define what and how to implement policies. As much as they are formulated at the national level, we must get local interpretations. It is not lost to us that every county suffers a particular kind of ailment, which is defined by the diets that are produced within that county. It is very important. I would want to give an example of my county; Nyeri. Most of the people there suffer from non-communicable diseases such as diabetes and hypertension.

It will be very important that we enforce policies that will specifically address these issues at the grassroots level. Having a national body do that will make us lose the same magic we want to achieve of making sure that health services come closer to the people. It will create technocrats who will sit in offices, draw allowances and huge budgets. However, that money can be used well if it is devolved and be given to county governments by creating mechanisms for oversight in an effective way to ensure that the

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wananchi who we want to give UHC gets county and region-specific measures that will address ailments that affect their area.

Indeed, I commend the Standing Committee on Health and the Government for the political goodwill that it has demonstrated up to now. We must also make sure that we put the right framework in place so that it does not get abused in the process.

Mr. Speaker, Sir, so that we do not allow it to happen like it happened when you were a Governor when the national Government decided to buy machinery that the county governments could not operate. They did not have the technical capacity to handle them. It is the laws that we make in this House that will promote democracy. Our role as the Senators is to ensure democracy thrives. Ten years after devolution, the question of how much we have achieved is still one that we must answer.

Much of it can be blamed on the policy direction from the National Treasury and perceived to be implemented at the grassroots level. That has failed. Equally, we can draw a parallel example with what the Western governments attempted to do with the Structural Adjustment Programmes (SAPs) when they came and decided they had a prescription that was to be implemented across the board and most of the African economies went on their knees.

Let us not repeat that mistake again. Having drawn a parallel between this Bill and the Agricultural Food Authority (AFA) intention, we swore today as it stands that one of the biggest impediments in the agricultural sector is this AFA. I urge Senators to relook at the AFA because agriculture is devolved function. Why do we need a national authority to control a function that is devolved? Why do we need directorates to sit in Nairobi City County to control cashew nuts produced at the coast region? They have no idea how the process goes.

As we debate this Bill, it is important to look at the mistakes we have made in the past and intentionally make a deliberate effort to avoid those mistakes. I advise us all to relook at Clause 14 because this is what we should be reinforcing. The mechanisms at the county government level to collect, manage and most importantly to prioritise what they think is best for their people.

Mr. Speaker, Sir, as I conclude, as a Senate, we must ensure that devolution succeeds. The only way for that to happen is to ensure that the resources follow functions. It cannot be that we are standing here talking about health function which is devolved and, at the same time, we are creating a national body that will be governing and guiding the policy. We shall be missing the point.

I support with amendments. I thank you.

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

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir. I have listened very carefully to contributions from Members here. Clearly, we can all agree that though the intention is good, this Bill, just like the other one, requires some panel beating so that it serves the intended purpose. I have a few concerns about this Bill. I hope we are going to have the opportunity to make amendments to it, so that we get the right product out of this.

Mr. Speaker, Sir, you are aware that in our counties, we have Community Health Volunteers (CHV). They are doing a fantastic job. When most of us were campaigning,

we said we would come to the Senate and ensure that this particular group of people's rights and conditions of work are improved.

I am concerned because as I read this Bill, I got the impression that it would overhaul the structures we have for CHVs. It has cleverly replaced the CHVs with community health promoters.

*(An Hon. Member spoke off record)*

It is the same thing. I know the wording is the same. However, if you look at how they are going to be recruited, it is different. It implies the process is going to restart.

The definition of community health promoter on Clause 2 of the Bill—

“Community health promoter means a member of the community, who is selected by residents and appointed by the county and is trained to provide community services to defined households.”

It means that this process will start afresh. The statement, “selected by residents” is ambiguous. We need to know who will select the people. Is it an election? If it is an election, then we are likely to enter into serious problems because we are going to politicise primary healthcare in our communities. Election means that there will be a political process to get these people.

Colleagues, let us relook at this Bill. We will make governors more powerful than before. We will facilitate governors to have formidable structures up to the household level, which makes this arrangement a problem. This Bill does not indicate the processes after coming up with the structures.

*(Sen. Methu consulted loudly)*

**The Speaker** (Hon. Kingi): Sen. Methu, you will have time to contribute.

**Sen. Osotsi:** What is going to happen to the community health promoters after coming up with these structures? Also, what is the fate of the community health volunteers in place? We need to put an amendment to ring-fence---

**The Speaker** (Hon. Kingi): Sen. Osotsi, would you wish to be informed by Sen. Oketch Gicheru?

**Sen. Osotsi:** Mr. Speaker, Sir, Sen. Oketch Gicheru is a good friend of mine, I do not have problem with that.

*(Sen. Kinyua and Sen. Methu consulted loudly)*

**The Speaker** (Hon. Kingi): Sen. Kinyua and Sen. Methu, please note that the Chair is in charge.

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I want to inform my friend and the Chairperson Committee on County Public Investment and Special Funds that the community health volunteers have been working for the last 10 years and have not been paid. This is a crisis and I agree with you that their welfare need to be considered. If you

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select new people and the volunteers in their thousands have been working for the last 10 years and have not been paid, it will result to a crisis. This Bill will not be honest and fair to the community health volunteers.

**Sen. Osotsi:** Thank you. It is clear that there are outstanding matters that need to be handled even as we think about recruiting the community health promoters. We need to look at their welfare and remuneration. Also, the fate of those who have been working is not clear in this Bill. We must also appreciate ---

**The Speaker** (Hon. Kingi): Sen. Osotsi, would you wish to be informed by Sen. Kinyua?

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

**The Speaker** (Hon. Kingi): Sen. Kinyua, we do not have that provision. Sen. Osotsi, proceed.

*(Sen. Kinyua spoke off record)*

**Sen. Osotsi:** Mr. Speaker, Sir, Sen. Kinyua is my good friend.

**The Speaker** (Hon. Kingi): Sen. Osotsi, proceed to conclude your remarks.

**Sen. Osotsi:** Mr. Speaker, Sir, he is my good friend, but sometimes he can be a problem.

*(Laughter)*

The most important provision in law that makes us exist is Article 96 of the Constitution. We exist to protect our counties and devolution. However, when we are presented with pieces of legislation that propose to claw back the gains we have made in devolution, some of us get sad.

I request all of us regardless of our political affiliation, not pass any law in this House that claws back the gains of devolution. We cannot say that primary healthcare; a devolved function will be managed by people sitting in Nairobi calling themselves a 'council'.

If you look at the list of the people proposed to sit in that council, majority are at the national level. There are few people at the county level. We should make an amendment to remove the provision of having a council appearing to be overseeing primary healthcare in the county. It will be a sad day to pass this Bill as is.

I know we have pressure to pass this law. However, we will not die because we have not passed this law. Let us take our time, make appropriate amendments, improve on this Bill and pass it for the sake of our people and counties.

This Bill is against the data protection laws. There is no clause in this Bill that talks about data protection. Data will be generated from this Bill which will be managed, organized and manipulated at the national level. The Bill does not propose anything on data protection.

I will propose amendments to this Bill to ensure the data protection principles, guidelines and laws are complied with. Otherwise, we have a situation where data will be

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generated in the household and be with someone in Nairobi sitting on it and manipulating it for his own benefit.

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

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

Mr. Deputy Speaker, Sir, there are several clauses in the Bill that are not right. Every Member would like to contribute to this Bill. Therefore, I will not take much time. The idea of having the Bill is right. However, this Bill must be reinforced and panel beat to ensure that it complies with the law and not create monsters at the county and national levels.

I support.

*(Sen. Okenyuri spoke off record)*

I would like the lovely Senator from Kisii County to inform me.

**The Deputy Speaker** (Sen. Kathuri): Sen. Osotsi, your time is over. Hon. Senators, there is one advise I would like to give. All the Senators are proposing amendments. Sen. Osotsi, you should say “I will propose amendments” not “let us amend, let us propose”. This is the best way to argue and legislate.

Next, we have Sen. Cheptumo.

**Sen. Cheptumo:** Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill. As I do so, I would like to refer to Article 43 of the Constitution. In my considered opinion, this article places duty on the national and county Governments and Parliament to ensure we achieve UHC.

This responsibility is an attempt that has been made severally. Members have submitted that for the last 10 years, efforts have been made to achieve UHC, but it has not been possible. This piece of legislation is a further attempt by the Government to ensure that we achieve the UHC.

I support.

Mr. Deputy Speaker, Sir, Clause 3(e) states that the objective of this Act is to-  
“Provide for the role of community health officers, community health assistance and community health promoters in the provision of community-based primary health care services”.

This could be the first law in the country to take that role of ensuring that health is achieved in the villages and households. It is a very progressive law.

I agree with the submissions by Members. I have seen Clauses 13 and 14 of this Bill have raised a lot of concern. The argument is that we are beginning to lose the gains of devolution. However, we have the power and opportunity today and tomorrow to ensure that we do not fail in that gain.

I say this because if you look at the process of legislation, a Bill is proposed by a promoter, in this case, the Senate Majority Leader. The First Reading is done and then

Members will have a chance to read. Then, the Second Reading is done like it was done yesterday. Again, Members have a chance to read, then, we debate like we are doing today. However, the fundamental time that this House should take advantage of and rise to the occasion is the Third Reading. This is where proposed amendments by the Members of this House will be taken.

Mr. Deputy Speaker, Sir, I propose that we do not lament as a House. Let us take advantage of our powers under the Standing Orders and the Constitution to amend this law in a manner that will finally serve the purpose of strengthening devolution in the health sector. Therefore, I agree with Members that we have the opportunity and position to amend this Bill.

Mr. Deputy Speaker, Sir, I inform Members that we do not have Articles in a Bill; we have Clauses and Sections in an Act of Parliament. Maybe, it is something to understand, so that when you talk about---

**The Deputy Speaker** (Sen. Kathuri): Sen. Cheptumo, who are you informing?

**Sen. Cheptumo:** I am informing the House.

**The Deputy Speaker** (Sen. Kathuri): I can see that your eyes are directed to Sen. Oketch Gicheru.

*(Sen. Oketch Gicheru spoke off record)*

**Sen. Cheptumo:** I am informing everybody in the House. For those who know, I confirm. It is important to do that.

Let me refer to Clause 9 of this Bill. It talks about the recruitment of community health promoters. These are the same people who are currently called community health volunteers. In this Bill, they will now be referred to as community health promoters. He also raised a very critical point. How shall we ensure that the current community health volunteers will also be retained as promoters under this law? It is really a good point.

Clause 9 (1) states that-

“A community health promoter shall be selected by the community through a public participation forum and appointed by the county government.”

This takes us back to what Sen. Mungatana said. What is the nature of this public participation? Remember, you and I tried to pass a law on public participation in the last Parliament. Up to today, there is no single statute in the country that guides the process of public participation.

In the 12<sup>th</sup> or 13<sup>th</sup> Parliament, hon. Wamalwa tried. My Committee on Justice Legal Affairs and Human Rights (JLAC) Committee tried our best, but we adjourned before we passed that law. Therefore, who or what is going to guide the process of public participation? Sen. Mungatana’s argument is really important. Therefore, there is a need to define the context of public participation in Clause 9.

Mr. Deputy Speaker, Sir, if you go to part (f) of Clause 9 (2) it states that-

“A person qualifies for selection and appointment as a community health promoter under subsection (1) if the person-

is literate and can read and write in at least one of the national languages or the local language”

My problem is the use of the words “or the local language”.

I would have preferred to say “and.” When you say “or” it means, you may not know how to read in English or Kiswahili, but you can do it in your language.

The document that we are going to have to educate those members of the public, trying to prevent those situations they face, will be in English. As you directed, I propose an amendment to that section, so that the local vernacular alone can definitely not be a requirement for one to be appointed as a county health promoter in our communities.

Mr. Deputy Speaker, Sir, in conclusion, what we think is not proper, we have the powers and the opportunity to amend. What is right, we pass as it is.

I thank the President of the Republic of Kenya for coming out clearly on the achievement of UHC. We now have four legislations before Parliament, so that we are able to participate. The Senate has the best opportunity. I am happy that I am serving as a Senator for Baringo County at this time when we are going to pass a law that is going to ensure UHC is achieved in our counties.

I support.

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

Let the House benefit from a medic, Sen. (Dr.) Khalwale, the Senate Majority Whip.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. The Constitution of Kenya 2010, divides the Fourth Schedule into two parts. Part I assigns functions to the national Government and Part II to the county governments.

Due to the provisions in Clauses 13 and 14, we might like it or hate it, this thing will be challenged in court and will be found to be unconstitutional. My witnesses, Sen. Madzayo, Sen. Mungatana, Sen. Veronica Maina and Sen. Cheptumo who are lawyers, are here. End of story!

Mr. Deputy Speaker, Sir, I like it when you acknowledge that I am a doctor, when you introduced me. There is something called intellectual honesty. Since I am speaking to colleagues, let us not joke with the principle of intellectual honesty. You analyse ideas and transmit them to the public, the way you are doing it. You must do it honestly. Honestly speaking, Clauses 13 and 14 are against the provisions of the Constitution of Kenya.

*(Applause)*

Mr. Deputy Speaker, Sir, when somebody tries to remove the wind from my windpipe thinking that we are not practicing medicine because we are in this place, it reminds me of the story of a child in the United States of America (USA) sitting in a Science class. The child was asked, “What is the meaning of E is equals to MC squared ( $e=mc^2$ )?” The boy had listened to a song by Mariah Carey, a pop singer, who had called her song ‘E is equal to MC squared.’ So, the intelligent boy said it is Mariah Carey’s song.

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That is the theory that Albert Einstein revolutionised science and life by. Many people including colleagues of Albert Einstein used to belittle him because he was an ordinary man who used to ride a bike.

Colleagues, let us agree even with some Members of the Opposition, who think we should give this debate the time it requires, so that we make a law that we will not be embarrassed when people proceed to court.

Mr. Deputy Speaker, Sir, having appealed, let me take my colleagues to Clause 9. In Clause 9(2), you are trying to explain the qualifications of a community health promoter. Clause 9(2) (b) says that it must be somebody who understands the role of a community promoter. You go further to say that it must be a resident of a respective community. May I appeal to Senators that all these things are irrelevant if we were looking to promote health. The most paramount qualification is that they must have medical knowledge. Even the so-called community health volunteers are people who have some degree of medical knowledge.

When Sen. Osotsi speaks to the issue of data protection, did you know that long before the law on data collection came into power, all medical practitioners take a Hippocratic Oath meant to ensure that they do not share the knowledge they have about you? It remains a patient-medical practitioner confidential issue.

Here, you are in Clause 9 opening it up. You appoint a quack from nowhere and the quack starts saying that, in fact, Osotsi came to me yesterday with gonorrhoea.

*(Laughter)*

Yes, the quack will say it.

**An hon. Senator:** Use malaria!

**Sen. (Dr.) Khalwale:** This is serious. They will go ahead to say, “In fact, that 18-year-old girl I have known from the record, has sickle cell.” The moment you tell them the girl has sickle cell, intelligent parents will google and the girl will be denied an opportunity to marry because she is a carrier of a deadly illness that makes it impossible for people to have a normal family.

I agree with the Senate Majority Leader that this Bill is important and we must pass it. However, it should not be in so much hurry.

*(Applause)*

We are supposed to be informed by the Report of the Committee on Health. It was tabled here minutes before the Bill was moved. So, who has read it? Members of the Committee, the fact that you have brought here a Bill that has got Clauses 13 and 14, means that you are not properly seized of this particular Bill. Let us stop and not be arrogant because we are many on the Government side. We can pass it.

The thing is, when the time of reckoning comes, what will befall this House is what befell the National Assembly when, a few years ago, they arrogantly used the

numbers they had to pass the Miscellaneous Security (Amendment) Bill, which was declared unconstitutional. We are supposed to be a House of reflection.

When a small practitioner then goes to court and renders all of us, 68, including the Speaker, as being people who cannot reflect on issues, then I am afraid that it does not reflect on the principle of intellectual honesty.

Mr. Deputy Speaker, Sir, in Article 10, the functions of the community promoters are defined. I have marked them a, c, f, j, g and l. If we joke around, we are handling a very critical role of taking care of our children into the hands of people who will promote 'quackism,' as we call it in Science. These people will become so authoritative. Your child will get an asthmatic attack and you take the child to him. He or she will tell you to go home, that your child has a sore throat and it will be alright. You go home innocently because this person is very recognised now by this law, and the child dies.

It is time legislation accommodated professionalism. Where we need lawyers, populate it with lawyers. Where we need human resource professionals, do the same. Where you need people like us, accommodate them. That is the only way we will make our society all inclusive.

Having said that, yesterday, I spoke to the other Bill and said that I want to make amendments. However, I thought about it overnight. I am the Majority Whip and this is a Bill by the Senate Majority Leader. Why would I be amending that Bill? You think it does not look good? Something was missing.

We should have team spirit, so that people know what is coming. If I am whipping Senators to come and vote on a Bill, and I am the one who is moving amendments, then am I really part of the team? We do not want to be humiliated. Let consultations be done, so that we can do our job and when we get paid at the end of the month, my children 'eat' that money knowing that their father sweated for it.

I appeal to this House that there is something called impunity. I am not teaching anybody, but impunity is exempting somebody from punishment for an action that has got injurious consequences. Let us not introduce impunity in legislation.

I support and request that we do not rush this process. We ensure that this is done properly and finely. Do you know why? I have been a medical officer of health for the current Machakos and Kakamega counties. I know the appetite that might be in this drafting; people are eyeing global funds. Global funds tend to go for primary health promotion. Global funds for combating malaria, HIV and Tuberculosis (TB) go for primary care. A joker in Nairobi wants this money to be controlled from Nairobi, so that that they do what they usually do. Let us give salaries to Kenyans. Some of you come from places like Kiambu, Machakos and Kakamega, where literacy levels are high and poverty levels are reasonably lower.

Mr. Deputy Speaker, Sir, people in some counties, including Turkana, with all due respect, must be protected by the legislation that we make.

With those remarks, I support and call for caution.

**The Deputy Speaker** (Sen. Kathuri): Sen. Kavindu Muthama.

**Sen. Kavindu Muthama:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to do my contribution to this good Bill. As many Senators have said,



universal healthcare is important, especially at the primary level. Community Health Volunteers (CHVs) have been working for the last 10 years. When I came to Senate in 2021, I started fighting for them in Machakos because each was owed Kshs70,000. To date, they have not been paid.

Mr. Deputy Speaker, Sir, when I make noise as a Senator, the CHVs are given a month's token of Kshs2,500. That is not enough for them to walk around, visiting people in their homes, yet they do a lot of work. They volunteer, walking house to house to check who is sick.

*(Loud consultations)*

Mr. Deputy Speaker, Sir, please protect me from Senators.

**The Deputy Speaker** (Sen. Kathuri): Order, Senators! Consult in low tones, kindly.

**Sen. Kavindu Muthama:** Thank you, Mr. Deputy Speaker, Sir. Before we change the names of the CHVs to those to Community Health Promoters (CHPs), I kindly request the Mover of this Bill to make sure that CHVs are paid fully. Secondly, they should be the ones reinstated to these positions before others are picked, considering that they have been volunteering and working almost freely. What is Kshs2,500 because that is what they earn?

In Machakos County and the rest of the counties, CHVs are owed a lot of money by county governments. They keep on calling me. I do not know whether other Senators receive such calls from them.

Mr. Deputy Speaker, Sir, this Bill is not bad, but it must be changed to fit the people because we are the defenders of devolution. Therefore, we should not allow anything that will not promote our counties to be passed in this House. Sen. (Dr.) Khalwale has talked about literacy levels. However, in Machakos, literacy levels are not that high. It seems that people are more educated in Kakamega County, but I also do not think this applies to Kiambu County.

Sen. (Dr.) Khalwale's point is that if we pass this Bill and it falls on the hands of people who do not know what they are doing, then they will implement things that are not good or right. He has also said that someone might have asthma, and the CHPs might think that it is just an ordinary cough and send that person home. That person may die because such patients need emergency care and the attention of a doctor.

Mr. Deputy Speaker, Sir, even as we pick them, I would also support that we check on their medical background and take them to special programmes to train them on elements of health, so that they can help our people. I will say like the rest that let us not rush this Bill. We should look at it properly, so that we do a good job of it, for it to help our counties.

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

Sen. Methu.

**Sen. Methu:** Thank you, Mr. Deputy Speaker, Sir. I also rise to support this Bill. The House has built consensus that this is a very timely Bill. The Senate Majority Leader elucidated the reason we need to do justice to it.

As my colleagues have said, both the national Government and county governments have a responsibility to provide healthcare services, as indicated in the Constitution of Kenya:

“43. (1) Every person has a right-

(a) to the highest attainable standard of health, which includes the right to healthcare services, including reproductive health care...”

It is not a preserve of the national Government or the county government, but a preserve of everybody who has responsibility to ensure that we give this kind of a service.

Mr. Deputy Speaker, Sir, my colleagues have spoken to the issues around this Bill and the objects as to why we want this Bill to come into force. There are also issues in this Bill that need serious panel-beating.

Primary health care services shall be accessed at community and health facilities in accordance with this Act and any other written law. I will not belabour to explain why health is a serious issue. I said yesterday when we were dealing with the Bill that none of the Senators here, including Sen. (Dr.) Khalwale, a medical doctor, can provide healthcare to themselves.

Mr. Deputy Speaker, Sir, we need to come together in order to devolve health to the lowest unit. I am impressed with the objects of this Bill because we will push healthcare services to the household level, so that CHPs can meet people in their homes. Their services will commence in homes.

My colleagues have mentioned that if we can have people diagnosed at the lowest levels, then we can cut the amount of money we spend on health services because not everyone will go or be required to go all the way to a health facility. We have also spoken about education.

Mr. Deputy Speaker, Sir, Sen. Maanzo explained to us that when we had Covid-19, issues of cleanliness and hygiene were taken to the grassroots and this greatly reduced diseases. Few people visited hospitals. Therefore, this health education and promotion needs to go to the grassroots and the lowest level. Issues to do with disease prevention and all the things aimed at being done by these Community Health Promoters are things that I actually support.

Secondly, I actually feel just like my colleagues have spoken here, that we need to be a bit more careful with this Bill because we are not deficient in terms of our laws on who is that person who has been charged with the responsibility of providing primary healthcare.

If you go to Part II of the Fourth Schedule of the Constitution of Kenya, which you and I swore to uphold, county health services in particular promotion of primary healthcare, is a preserve of the county governments. It is then out of this that I find myself a bit conflicted that we want to legislate to remove powers from our devolved units and take them back to the national Government.

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If you look at Object 13(c) of this Bill on the role of the Ministry of Health, we are creating another monster and centre of power in the Ministry of Health on issues that are supposed to be dealt with by the county governments.

If I look at just Number 3 of this provision, the other two had been spoken about by some of my colleagues, and it reads-

“Consolidate and analyse national primary healthcare data from the counties and ensure its timely transmission to stakeholders for use in decision making and resource allocation.”

The Ministry is taking data to analyse, so that they can transmit it to the stakeholders. Who are the stakeholders in the provision of primary health? It is the county governments. Therefore, you are picking information from the county government, so that you can transmit it to the county government to use it for decision-making. Why are you doing something that you are not supposed to be doing? Why are you taking data to the people who are supposed to keep this data? Who are the people who are taking this data?

We are protectors of devolution. We cannot legislate to say that we want to remove powers from the county governments and yet, the Constitution has given them this power.

If you look at Object 14 of this Bill - and I am very happy that the Committee has made these observations and amendments - even on the face of it, out of the six or seven people in this thing we are calling the Primary Health Care Advisory Council, those of us who have not been here for a long time, except Sen. Kinyua, Sen. Cheruiyot and Sen. (Dr) Lelegwe--- When they hear about an advisory council, it is that advisory council that arrested Sen. (Dr) Lelegwe when he was coming to this House. I am referring to the National Security Advisory Council; a jargon that does not exist in law, but some people just want to form something and keep power to themselves.

Sen. Kinyua here was hunted like a gazelle in the last Parliament because they did not want him to come to Parliament. Then, we want to form another thing here that we are calling the National Primary Health Care Advisory Council, and Sen. (Dr) Lelegwe, Sen. Kinyua and Sen. Cheruiyot are here to support. We are not happy.

You know, a leader from the Opposition once said that the Government eats its own children. Sen. Cheruiyot at that time said that the National Advisory Council is not a creation of law, just the same way that this thing should not be a creation of law. Why are we taking so much power to the national Government and this is---

**Sen. (Dr) Lelegwe Ltumbesi:** On a point of order, Mr. Deputy Speaker, Sir.

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

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Deputy Speaker, Sir, I rise on a point of order under Standing Order No. 11 to limit debate. We have sat here for about three hours and the system is failing us---

**The Deputy Speaker** (Sen. Kathuri): Just have your seat, I put the House in order. I have a Communication to make to this House. We are interrupting this debate for a purpose.

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Your time is up, Sen. Methu.

**Sen. Methu:** Just give me one minute!

**The Deputy Speaker** (Sen. Kathuri): Your time is up.

*(Sen. Methu consulted loudly)*

The light was red. Your time is up. I am reliably informed and you have also made your point. Do not belabour the points that you made.

**Sen. Oketch Gicheru:** One minute! One minute!

**The Deputy Speaker** (Sen. Kathuri): Order, Senators! Sen. Oketch Gicheru, you cannot direct the Chair.

**Sen. (Dr.) Murango:** No, we are asking. We are not directing!

*(Interruption of Debate on the Bill)*

**The Deputy Speaker** (Sen. Kathuri): Order, Sen. (Dr.) Murango!

Hon. Senators, today being a Wednesday, you are aware that one of our core responsibilities is to invite Cabinet Secretaries to appear before the Senate. We have two Cabinet Secretaries who are here. There is the Cabinet Secretary for Energy and the Cabinet Secretary for Mining and Blue Economy.

Therefore, we have actually 43 minutes to listen to them as they answer questions that were asked by your colleague Senators. We will go by this order. We shall start with the two Questions for the Ministry of Energy and Petroleum for 20 minutes and then the last one by Sen. (Dr) Khalwale for another 20 minutes. So, we are really constrained by time.

Any supplementary questions will be very limited and should be focused on the subject matter. Today, we have no luxury of time to ask about issues concerning Nyandarua, Migori or Kajiado. We are very strict about the subject matter.

Serjeant-At-Arms, kindly invite the Cabinet Secretary for Energy. The interrupted bit will proceed in the afternoon session. Actually, I will request even the clerks to note those Members who are in the queue, to be fair to them. We will start with Sen. (Dr.) Murango. We have the list from both sides. Kindly note that.

*(The Cabinet Secretary for Energy and Petroleum*

*(Hon. Chirchir) was ushered into the Chamber)*

Order, Senators. We invite the Cabinet Secretary for Energy and Petroleum. Thank you for creating time. We know we are in the borders of Kenya. Thank you for creating time to come and enjoy the heat in Turkana.

So, thank you for your time and I want us to go straight to the question by Sen. Lenku.

## QUESTIONS AND STATEMENTS

## QUESTIONS

*Question No.036*STATUS OF KETRACO COMPENSATION TO LANDOWNERS  
AFFECTED BY THE CONSTRUCTION OF ELECTRICITY  
TRANSMISSION LINES AND OTHER  
ENERGY AND PETROLEUM MATTERS

**Sen. Seki:** Thank you, Mr. Deputy Speaker, Sir. I beg to ask the following Question to the Cabinet Secretary for Energy and Petroleum-

(a) What is the status of compensation by the Kenya Electricity Transmission Company Limited (KETRACO) to land owners affected by the construction of UMMA University Namanga, Umma Univeristy Konza and Emali- Loitoktok electricity transmission lines?

(b) Will the Cabinet Secretary (CS) state the measures put in place to ensure that Kajiado County benefits from energy resources, while indicating the status of explorations of gas, solar, wind and geothermal energy in the county.

(c) Could the CS provide details of Corporate Social Responsibility (CSR) agreements between National Oil Corporation of Kenya (NOCK) and local communities in Magadi in Kajiado County with regard to the Lake Magadi oil exploration, noting that Phase 3 of the project is about to commence and the community is yet to benefit since the commencement of exploration?

(d) What measures have been put in place to ensure the CSR agreements are implemented?

**The Deputy Speaker** (Sen. Kathuri): CS, please, respond to the first Question.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Mr. Speaker, Sir, it is nice to be here in Lodwar, appearing before Senate *Mashinani*. I congratulate Senate for bringing us to Lodwar.

I just circulated my response, which is signed and I want to confirm if all the Members have the written response, so that I can quickly, in a structured way, run through.

**The Deputy Speaker** (Sen. Kathuri): CS, I agree with you because it has a lot of tables. Members could benefit more if they could get the document, especially the owner of this Question.

Sen. Seki, do you have this document?

*(Sen. Seki spoke off record)*

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Mr. Deputy Speaker, Sir, I thank Sen. Seki for the Question in the Order Paper. The Question is on

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the status of compensation by Kenya Electricity Transmission Company (KETRACO) to landowners affected by construction of UMMA University in Namanga, UMMA University in Konza and Emali-Loitoktok electricity lines.

The current compensation status of the two lines is as follows-

For the Kenya-Tanzania-Isinya-Namanga transmission line, the project affected persons compensation status is as shown in the table, where with the 502 are project affected persons and 297 have been fully compensated; which represents 59 per cent.

Those who accepted the offer payment process are 19; offer accepted and registration of the easements is in process at 18; another 4 per cent.

Offer accepted with incomplete documentation are 6, which represents 1 per cent; offer rejected and we are working with the Ministry staff to make sure that we get through those 11 easements at 2 per cent. Offer letters issued, yet to be returned are 116. Other absentee landlords with succession issues and so on and so forth are 35. Those are the 502 project affected persons on that corridor, which will facilitate the interconnector between Kenya-Tanzania through Isinya.

In terms of payments, as of 27<sup>th</sup> June, we have paid payment for land and payment compensation for crops and structures and have equally shown the compensation that has so far been paid, and what is outstanding in terms of deficit. We are working to provide the budget.

In land, we have a total estimate of Kshs1,300,336,946. The payment so far made is Kshs1,076,592,279, with a deficit of Kshs233,744,670. We are working to make sure we get funding because this line is critical. Tanzania needs an interconnector because they want to pick some power through Kenya from Ethiopia.

With regard to structures, we have a budget of Kshs37,086,902 and so far, payment made is Kshs36,681,379.53. We have a deficit of Kshs405,522, which we are also working on.

In the matter of the crop for the wayleave, because we would normally buy the wayleave and compensate for the crops, we have a total cost estimate of Kshs277,817,105. So far, we have paid Kshs223,951,905 and we have a deficit of Kshs3,865,200. We are also working on that to make sure we do have the full allocation, so that we can do full compensation because we plan to finish that line in the next two months. In fact, we were targeting end of October to commission it. The total budget for that route is Kshs1,565,240,953.

**The Deputy Speaker** (Sen. Kathuri): CS, I want to make your life a bit easy. Since the hon. Member and some of the other Members have these documents, you can forward just the table as it is, instead of reading the figures. That would save us some minutes.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): With respect to Sultan Hamud–Merueshi-Loitoktok 132 KV line, which is 105 Kms, the status of the project affected persons compensation status is as shown in that table as guided. The total number of project affected persons is 156. So far, you will note that we have paid up 88, which represents 56 per cent.

Pending bills as at 27<sup>th</sup> June stands for land at Kshs156,375,243. We have so far paid Kshs133,917,000 and there is a deficit of Kshs22,458,000. We have given a summary for the land, structures and compensation for the crops on the wayleave and the total budget is Kshs302,594,705. So far paid is Kshs176,359,766 and we have a deficit of Kshs126,234,938 for Sultan Hamud-Merushi-Loitoktok 132 KV line, which is 105 Kms.

Isinya-Konza transmission line is another high voltage transmission line 400 KV, which is 40 Kms. The project-affected persons are 171, and you will also note that we are about 50 percent done with 75 persons already fully paid. Those who have accepted the offer are 22 and the rest of the summary is as shown on that table.

The pending bills are shown in the table below that. It has a summary of Ksh541,843,783 and total payments so far standing at Kshs263,692,882. We have a deficit of Kshs278million, which we are also working on.

Concerning measures put in place to ensure that Kajiado County benefits from its energy resources, while indicating the status of exploration of gas, solar, and geothermal energy in the county, I confirm that Kajiado County is truly endowed with solar and wind resources. Already, 100 megawatts is being harnessed by Kipeto, a concessionaire who has been dispatching 100 megawatts of wind.

We have 25 megawatts at Ngong, which is harnessed by KenGen and those are already operational. We also have 50 megawatts of wind power from Chania Green, which is under development with construction works at preliminary stages. There are plans to increase generation from Ngong Wind Power Plant by an additional 11 megawatts by KenGen.

In terms of solar energy, the Ministry has implemented the programme of installation of Solar PV in public schools, health centres and police stations. We have an aggressive programme to make sure we cover all the public institutions, which are not covered with some serious maximization on the transformers already installed on the ground.

In terms of Geothermal, Kenya has the potential of generating up to 10,000 megawatts. Among the sites with potential for geothermal are Mt. Suswa in Narok County and Magadi in Kajiado County. Exploration and development are expected to be done by the private sector and power will be procured based on the evolution of demand as per the lease course power development plan.

Finally, some 459 residents/customers of Kajiado County living along the 400KV line that is the Kenya-Tanzania interconnector are already benefiting from the connection of electricity under the last mile connectivity, which is a Corporate-Social Responsibility (CSR) project. As I have confirmed, we are working on an aggressive programme to make sure that all the public institutions are connected.

Concerning details of CSR agreements between the National Oil Cooperation (NOC) and local communities in Magadi, Kajiado County about Lake Magadi Oil exploration, we have noted the hon. Members talk to our going into Phase III of the project and what exactly we are doing. We have a Block 14T, which the hon. Member is talking about that is harnessed by National Oil Corporation of Kenya (NOCK.)

In 2019, NOCK signed a production sharing contract with the Government through the Ministry to carry out exploration activity for hydrocarbon resources in Block 14 T. The block is located in Kenya's Rift Valley geographical area and runs from Lake Natron border with Tanzania to Lake Bogoria to the North of Nakuru City, crossing over four counties of Kajiado, Narok, Nakuru, and Baringo.

The total gazetted area that defines Block 14T under that production sharing contract is 17,400 Kilometers. The Magadi Sub-basin is 7,280 kilometers, which is approximately 41 percent of the Block.

The remaining 59 percent, especially at the center of the block north of Suswa and South of Nakuru City is confirmed to be under geothermal resources that are associated with regions of low or no hydrocarbon prospectivity.

A number of exploration projects have been carried out on the Block by NOCK in-house and in partnership with Japanese Company called Japan, Oil, Gas and Metal National Corporation (JOGMEC).

A majority of production-sharing contract operation activities have focused on Magadi region owing to the information that NOCK has kept updating from subsequent technical programmes since the PSC was signed.

As the operator in this Block 14T, NOCK recognises the host community as one of the primary stakeholders whose well-being is key to the success of exploration activities in the region. In recognition, the best way to ensure future employability, decent life and reduced inequality is through investment in quality and equitable education at all levels. Hon. Members, it is worth noting that Kajiado people are largely pastoralists.

In addition to cattle raising, the people of Magadi have also ventured into agricultural activities. It is through this consideration that NOCK, therefore, prioritises facilities and support to the community through various projects as indicated in the table that has enumerated what we are doing in education. This includes purchasing some desks---

**The Deputy Speaker** (Sen. Kathuri): Pardon me for interrupting you severally, but I want to agree that Sen. Seki has this table. Kindly go through it and check whether you are comfortable with the projects. Get some guidance, so that we can save time. If the Cabinet Secretary will take us through it, then it might take us more than two hours on one question.

Sen. Seki, kindly, check on these facilities under Corporate Social Responsibility (CSR) and whether you agree with them, so that you can ask your supplementary question. Kindly make your conclusion.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you for that guidance again, Mr. Deputy Speaker, Sir.

On (d), the question was about measures that have been put in place to ensure that the CSR agreements have been put in place, to ensure that the CSR agreements have been implemented. I confirm that NOCK is fully aware of its responsibility towards its stakeholders. It has put in place measures to ensure the completion of projects initiated.

The on-boarding of the contractor by NOCK to carry out the CSR activities is guided by the Public Procurement and Asset Disposal Act. The CSR agreement with



local group ranch community leadership is implemented within the production sharing contract period. This has resulted in a high number of CSR activities that NOCK has managed to undertake, as detailed in the table that *Mhe. Seki* and hon. Members are scrutinizing together with hon. Members.

As exploration activities move to the next phase, additional CSR agreements will be made as per the arrangements. Sen. Seki, I confirm that as we go to this third phase, we shall work with communities to identify the projects and programmes that will be undertaken going forward.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Sen. Seki, I know you are really constrained to go through this response because you have just received this document. In the future, we request that the response comes early enough because we could have made a lot of progress with the owner of the Question.

Sen. Seki, are you in a position to give a supplementary question now?

**Sen. Seki:** Mr. Deputy Speaker, Sir, it is good that we give this opportunity to Members who have supplementary Questions, then I come in later.

**The Deputy Speaker** (Sen. Kathuri): Do you have any? First, let us establish that.

**Sen. Seki:** Yes, I do have.

**The Deputy Speaker** (Sen. Kathuri): This is your Question and we are really constrained by time. If you could just go---

**Sen. Seki:** Let me give Sen. Tobiko, then I will definitely come in.

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

*(Loud consultations)*

Just press and wait.

**Sen. Tobiko:** Thank you, Mr. Deputy Speaker, Sir. The Cabinet Secretary in his response has stated that a number of residents in Kajiado County who live along the Kenya-Tanzania interconnector are already benefiting from connection of electricity under the Last Mile Connectivity Project which is a Corporate Social Responsibility (CSR) project. This line criss-crosses Kajiado County. The line from Konza City is connected to Isinya, joins the Kajiado line to Namanga.

However, I request the Cabinet Secretary to get facts on the ground. The entire project has been in trouble with the community because they see a huge Government project that they have not benefitted from. Those along the grid were told to get their power from Rural Electrification and Renewable Energy Corporation (REREC) as CSR. However, REREC has not done that.

People see major lines pass through their land but do not have power. Power is connected from Tanzania which is taken elsewhere, and people do not understand the benefit of a huge Government line that crosses their pieces of land, but they do not have electricity. Residents along the grid have not benefited from the connection.

**The Deputy Speaker** (Sen. Kathuri): Senator, make it as short as possible. Go straight to the point.

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**Sen. Tobiko:** The point is, people have no electricity and the KETRACO line is passing through their land. Kajiado East was my constituency for a long time. We have had problems with the Kenya Electricity Transmission Company Limited (KETRACO) lines for long. Also, there are the substations at Konza and Isinya, but we do not have people from the community employed within the project. We wonder whether there are Kenyans who are meant to work and others who are not meant to.

**The Deputy Speaker** (Sen. Kathuri): Cabinet Secretary, respond to that intervention.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you, Mr. Deputy Speaker, Sir. Sen. Tobiko, I came with the Managing Director KETRACO Eng. John Mativo to help me document some of the concerns and ensure we follow up. I am also here with the Managing Director for Kenya Power, Eng. Joseph Siror. Sen. Tobiko, your point is noted.

As I prepared to respond to the question, I did take stock of the status of electrification in the public institutions particularly the primary schools in Kajiado County.

There are concerns on the level of electrification in Kajiado East which we need to pay attention to. Today, only 45 per cent of all primary schools in the area are connected. The lowest in Kajiado County against a high of 78 per cent for Kajiado West and 67 per cent for Kajiado South. For all the primary schools, 44 are electrified. I would like to confirm that we have done an audit with the Members of Parliament on the status of electrification of public institutions. We will run programmes and projects to ensure that even if we seek for funding, we will fund them directly and not setting up a pool of money that will end up being used in other projects.

We have heard the concerns; not only for Kajiado County but for all the regions where we get natural resources. As State Officers, we will be guided by Article 73 of the Constitution and pay attention to the people living within those counties and they will be rewarded accordingly. We will also pay attention to the concerns on employment with Eng. Mativo.

**The Deputy Speaker** (Sen. Kathuri): Sen. Seki, proceed to ask your supplementary question.

**Sen. Seki:** Thank you, Mr. Deputy Speaker, Sir and *Waziri*.

The Cabinet Secretary has answered the issue raised by Sen. Tobiko, on Corporate Social Responsibility (CSR). It was an agreement that the community where these lines go through must get power through the Rural Electrification and Renewable Energy Corporation (REREC). However, the public schools and homesteads within that area have no electricity.

If you look at the line going from Sultan Hamud to Loitokitok, there is no power in those homesteads and there is no arrangement for that.

Cabinet Secretary, it is good that you give this House the exact arrangements and plans of the Ministry to make sure that this prior arrangement is actualized. This is because, the line from Isinya to Namanga is almost six years since its establishment and yet, there is no electricity in those homesteads.

In Kajiado Central, we have a very huge electricity deficit particularly, in the two wards of Matapato North and Matapato South. You have the line that is going to Tanzania and our people have no electricity.

The number of people who have been compensated is still wanting. It is good that you give this House clearance on this.

Mr. Deputy Speaker, Sir, I do not know if I will get another opportunity to ask another question about---

**The Deputy Speaker** (Sen. Kathuri): Let the Cabinet Secretary answer what you have asked first.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you again, Sen. Seki.

Let me confirm that, for purposes of going to the ground further, I personally wrote to every Member of Parliament (MP) to confirm the status of electrification in their constituencies.

For example, when we talked to Kajiado Central MP, Hon. Elijah Memusi, he confirmed that, out of the 118 schools in that constituency, 76 have power. Therefore, for the balance of about 40, we are putting them under programmes to ensure that we provide and service them fully.

More importantly, is the point of working around public institutions. Once we electrify those public institutions, we will then run-on maximization to ensure that everybody around those public institutions, in centers where we live, have electricity. Subsequently, we will then look at the black spots and provide transformers to service those points.

Mr. Deputy Speaker, Sir, let me confirm that I have all the data for Kajiado Central. I have comprehensive responses. Out of session, we can spend time with the leadership to see the programmes that will be running. This will ensure that everybody is brought up to where the rest of the country is in electrification of public institutions and more importantly, maximization, to ensure that people get power.

With respect to the question asked by *Mheshimiwa* which I did raise, we have challenges going through those corridors. There are landowners who have not given us easement to date. Therefore, we need to work with the communities to ensure that they benefit particularly in those corridors. This is so that we can work together and expedite the development of this country.

Like you said, a programme which runs for six years when it is supposed to be finished in three years costs the economy so much loses. We should have developed by ensuring that this line is finished. It would then enable us to transfer power from Kenya to Ethiopia and Tanzania and vice versa. If we do that, we should be able to support one another in power trade with our neighbouring countries. This would apply whenever we have challenges of blackouts like we recently had.

I said that I am here with Dr. Mativo. We will pay attention to the Isinya-Namanga and Sultan Hamud-Loitokitok routes. Those projects are supposed to be finished by April next year. Therefore, you will see us working on accelerated

programmes to ensure that we cover the residents living along these corridors. However, the point has been noted. Thank you.

**The Deputy Speaker** (Sen. Kathuri): To be very sincere, I am aware that many Senators have supplementary questions. Allow me to give guidance because of the situation that we are in. *Bw.* Cabinet Secretary, maybe you will find some time to appear before the Senate Committee so that these Senators ---

You know electricity issue are in every county. Maybe we should pend some of the questions and then through the office of the Clerk, we get the Cabinet Secretary some time when we get back to Nairobi City, to appear before the Committee so that Senators can get a chance to discuss those issue.

I want to go to the next issue by Sen. Chute. Sen. Abbas, are you holding brief for Sen. Chute?

**Sen. Abbas:** Yes, Mr. Deputy Speaker, Sir.

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

*Question No. 052*

STATUS OF ELECTRICITY TRANSMISSION LINES

**Sen. Abbas:** Mr. Deputy Speaker, Sir, I commend the Cabinet Secretary for coming all the way. It shows how committed and serious he is in this business. Thank you for that.

Sen. Chute is asking the Cabinet Secretary:

(a) What is the current number of electricity transmission lights linking Loiyangalani to Suswa Town?

(b) Could the Cabinet Secretary provide an update on the progress of repair works on the weak transmission line ejecting from Lake Turkana Wind Power and also indicate the timelines for its completion?

(c) Could the Cabinet Secretary provide the clarification on the penalty imposed on the government by Lake Turkana wind power due to the construction delay over power line, detailing the amount and the average monthly payment made by the Government in relation to this project?

(d) What action has the Ministry taken to address the issue involving the purchase of power fluctuation stabilizer machine by Lake Turkana wind power at significantly inflated price?

Those are the questions, Hon. Cabinet Secretary. Thank you.

**The Deputy Speaker** (Sen. Kathuri): Cabinet Secretary, be brief and to the point. I can see your response here.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you, Mr. Deputy Speaker, Sir and Sen. Abbas on behalf of Sen. Chute. Loiyangalani-Suswa transmission line was constructed as a double circuit line, thus two transmission lines link Loiyangalani Town to Suswa at 400kva.

The next question is with regard to the update on the progress of repair works on the weak transmission line originating from Lake Turkana wind power project and expected timelines for completion. Following the collapse of some five towers along the 400kva Loiyangalani-Suswa line somewhere between Longonot and Kijabe, I confirm that Kenya Electricity Transmission Company (KETRACO) has completed the bidding process. That was done the other day on 19<sup>th</sup>.

The company signed a contract with the Engineering Procurement and Construction (EPC) contractor. The contract is to be executed within a period of 12 months. Therefore, we expect that challenge of those five towers to be corrected by October, 2024.

On clarification on the penalty imposed on the Government by Lake Turkana Wind Power (LTWP) due to construction delay of the power line, detailing the penalty amount and average monthly payment made by the Government in relation to this project, I confirm that pursuant to the Power Purchase Agreement (PPA), LTWP was ready by January, 2017. However, the transmission interconnector was delayed to September, 2018 with a lay-off of 482 days as broken down in my response.

Mr. Deputy Speaker, Sir, in accordance with the terms of the PPA and the Government of Kenya's (GoK) letter of support issued in February, 2013, LTWP was entitled to GoK transmission interconnector dim generation energy payments for the period of those days that I did indicate that generation was ready but the line to evacuate power was not ready.

Following a series of meeting between LTWP, GoK and Kenya Power Lighting Company (KPLC), we reached an agreement where LTWP agreed to write off some of the transmission interconnect delayed dim generation amounting to Kshs17.7 million. For the period of May 2017 to May 2018, GoK transmission interconnector delay dim generation amounted to 127 million Euros.

Although LTWP was entitled to 127 million Euros, the GoK could not pay the full amount and requested for a payment structure with LTWP that was mutually beneficial.

To record the above mentioned agreement, the parties entered into the second variation agreement whereby LTWP agreed to start the date of GoK transmission interconnector delayed dim generation payment to be 15<sup>th</sup> May, 2017, instead of January, 2017.

**The Deputy Speaker** (Sen. Kathuri): Hon. Cabinet Secretary, let me put the House to order. Please, have a seat.

Hon. Senators, according to Standing Order No. 34, the Speaker is allowed to extend the morning hours for a further 15 minutes. However, we are in Turkana, all the way from Nairobi. We came here to entrench devolution. The Senator for Turkana has an issue that he would like to canvass with the Hon. Cabinet Secretary concerning Turkana County. It will be very unfair if we come all the way and he does not get that opportunity to execute that issue.

I, therefore, will have to take extra-ordinary measures today, using Standing Order No. 1 to extend this Session up to 1.45 p.m.

(Applause)

This is so that we give the other Cabinet Secretary for Mining, Blue Economy and Maritime Affairs time to also answer the Question asked by Sen. (Dr.) Khalwale. He has also travelled all the way from Nairobi to Turkana and it would be fair if we dispensed off all these matters.

The Business in the afternoon can be transacted up to midnight. We are not in any hurry, Senate Majority Leader. We are here to work.

Thank you, Senators.

I kindly request the Hon. Cabinet Secretary to not mind reading verbatim because Sen. Chute is well-read. You can read all these issues. He is not in this House but if there are other issues he will raise like supplementary questions afterwards, he will have to use the usual channels to reach you, through the Clerk of Senate.

You can go to (d) on the actions the Ministry has taken in brief so that we make progress.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you, Mr. Deputy Speaker, Sir, and hon. Members. The actions the Ministry has taken to address the issue involve the purchase of power fluctuations stabilizer machine by LTWP at a significantly inflated price.

The dynamic reactive power compensator was not part of the initial design when the type of 7.2 cents Euros per kilowatt hour was agreed. What we are calling the dynamic reactive power compensator is a voltage stabilizer. It is what you normally hear us refer to as satcoms when we are looking for budget.

The intermittence in wind and solar requires managing the intermittence of power. Therefore, we needed this dynamic reactive power compensator that was purchased by Lake Turkana wind project. The cost of the equipment was basically amortized by allowing 0.3 cents per kilowatt hour; 0.03 cents per kilowatt hour to be built into the initial agreed 7.2 cents to get the tariff of the Lake Turkana wind project to 7.52 cents per kilowatt hour.

That is how the equipment is amortized through the tariffs as we pay for the power delivered by Lake Turkana. We built in 0.03cents into the initially agreed tariff to be able to amortize that equipment which helps us quite a bit in managing the voltage intermittence and the challenges like the one we saw recently when we had a 19-hour blackout in the country.

I beg to stop there.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Mr. Deputy Speaker, Sir. Actually, this project is touching on three counties including Marsabit, Samburu and Turkana. So, I will start with Sen. Abass, the supplementary question by Sen. Chute, then Sen. Lelegwe and we conclude with Sen. Lomenen in that order.

Sen. Mungatana, unless you get mercy from God, time is really constrained.

**Sen. Abass:** Thank you, Mr. Deputy Speaker, Sir. One, the response by the Cabinet Secretary, I think is in order. The question that I wanted to ask---

**The Deputy Speaker** (Sen. Kathuri): Just ask a specific question. Do not give a lot of stories.

**Sen. Abass:** Yes, Mr. Deputy Speaker Sir. I am asking two questions:

One is that in part (b) of the Question on the progress of work repair and the cost, the Government is spending Kshs250 million shillings on the repair of the five towers that collapsed. These same towers had been given to a contractor. Is there any liability that has been given to the contractor who has done this work because of the fictitious work that he has done? Why is the Government incurring that cost instead of the contractor who did the same work?

Secondly, the Energy Committee had the opportunity to visit the Lake Turkana wind power project. It was very impressive work. There were a lot of things that really impressed us. They said that they are giving out 7.5 billion kilowatts of power. So, we are saying that this is actually a green energy. Instead of installing all those machines in Marsabit, Wajir and Turkana, why are you not using this green energy so that at least we could have a proper supply of power in these counties that are neighbouring the wind power project?

**The Deputy Speaker** (Sen. Kathuri): Yes, Cabinet Secretary?

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Mr. Deputy Speaker, Sir, regarding the five towers which went down between Kijabe and Mt. Longonot, we have investigated and are looking at the report on how they came down. Was it poor workmanship on the base? We were told that the winds were very strong.

What we are doing as we mitigate and correct the situation is to ensure that we do not have the make-shift correction that is currently supporting that high-capacity line. We are going to get to the bottom of it to confirm whether it was poor workmanship. Therefore, are we really spending this money when we should possibly put it under the contractor who built the line.

Mr. Deputy Speaker, Sir, the question by Sen. Abass is something that I have asked the leadership of Kenya Electricity Transmission Company (KETRACO) to confirm whether we should be bearing the cost of correcting the challenge of the five towers. It should be borne by the contractor who built the line if it is established that it was due to poor workmanship and the contractor should be able to take liability. We are going to pursue that point.

I did not get the second question very clearly because I was trying to read some notes.

**The Deputy Speaker** (Sen. Kathuri): Sen. Abass, please repeat.

**Sen. Abass:** Mr. Deputy Speaker, Sir, when the Committee on Energy visited the Lake Turkana wind power, we saw a lot of beautiful things that have been done by the windmills. They said that they are supplying to the main grid 7.5 billion kilo hours.

I am asking myself, why is it that we are using environmentally unfriendly generators that emit a lot of carbons that is polluting the environment in Mandera, Wajir, Turkana and Samburu Counties while we have this facility just next to our doorstep? Why are these counties not benefiting out of this project that gives green energy, yet they have a permanent supply of power?

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you for that clarification. As an answer to this question, let me pick up one example of Marsabit County where we are picking all the power from Loiyangalani and taking it all the way down to Suswa. We now have a program where we are going to be building a 220 KV line from Loiyangalani to Marsabit County and down to Isiolo County.

In that programme, we are descoping and ensuring that we do drop the voltages to 110, 66 and 33 KV and be able to reticulate the power to the local communities.

Like I said in my earlier question by Sen. Seki from Kajiado County, under Article 73, there is absolutely no reason why we do not service the communities where the natural resources come from. Therefore, we are working to ensure that Marsabit County or the communities who live around Loiyangalani are properly serviced. For the communities who live around Turkwel, we should see a line coming to Lokichar, Lodwar and going all the way up to ensure that we service the communities where the resources come from.

Mr. Deputy Speaker, Sir, I am paying attention to that. I confirm that the funding, for example, for this project that I have talked about in Loiyangalani, Marsabit and Isiolo counties is already firmed up and we will be ensuring that there is reticulation of power in the right voltages to service those communities and likewise the communities where we get the natural resources, either oil or where power generation comes from. We will pay attention to that.

**The Deputy Speaker** (Sen. Kathuri): Sen. (Dr.) Lelegwe Ltumbesi, two minutes.

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Deputy Speaker, Sir, I want to ask this specific supplementary question to the Cabinet Secretary. Noting his response to the last question, he is forgetting a whole constituency or county that is hosting the Lake Turkana Wind Power Project line. Is the Ministry of Energy and Petroleum implementing any specific plans or measures to ensure that the Samburu North Constituency which currently lacks access to the National Power Grid, can benefit from it?

This particularly is significant considering that the transmission line of the Lake Turkana Wind Power Project is hosted in Samburu County, primarily in Samburu North Constituency.

**The Deputy Speaker** (Sen. Kathuri): Hon. CS, that is a very direct one about Samburu North. Please respond.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you, Mr. Deputy Speaker. I have spent time with Sen. (Dr.) Lelegwe in my office and I am very alive to the fact that the line from the L. Turkana wind project does traverse Samburu and particularly Samburu North.

I called Rural Electrification and Renewable Energy Corporation (REREK) and Kenya Power and Lighting Company (KPLC) to dimension some of the programs including supporting the abattoir in that area. Therefore, let me confirm that we have very specific programs as I said to ensure that the communities which really---

As you traverse our country, we are endowed with natural resources in different forms. I flew in this morning with my colleague the Cabinet Secretary for Mining, the hon. Mvuria. We were looking at the kind of endowment in mining, power generation



from the wind so that when we do not have agriculture, we have minerals or oil. There is no reason why we do not pay attention and ensure that those resources do service the communities.

Mr. Deputy Speaker, Sir, you know that under the Energy Act today we are very specific apportioning in line with Article 73 of the Ratio of resources that should go to the national Government, county Governments and the local communities.

However, and more importantly and even under the CSR, there is no reason why we are having adversarial engagement with the local communities where we are seeking to get wayleaves or where we are seeking to get land for purposes of exploration of those resources.

I confirm that Sen. (Dr.) Lelegwe's concern is being addressed. We sat down in my office with the leadership of Samburu and we are paying attention to what we promised.

**The Deputy Speaker** (Sen. Kathuri): Okay, thank you. Hon. CS, you know that when Sen. (Dr.) Lelegwe came to your office, there was no live coverage there. Therefore, he is serving his people from Turkana.

*(Laughter)*

Sen. Lomenen, you have the Floor.

**Sen. Lomenen:** Thank you, Mr. Deputy Speaker, Sir. I will ask a straightforward question

First and foremost, right now, Turkana especially Lodwar and Loima have been experiencing power blackouts. Even the Senate has a power backup because of the prior information that Lodwar and Loima have been experiencing blackouts.

When I visited the Station, I was told that there was a contractor called IberAfrica who has been providing electricity for the last years in Turkana and the County has never been short of electricity. The contractor was changed and some generators were brought in which cannot meet to demand for power in Turkana County, especially Lodwar and Loima.

Over that, I would also want the Hon. CS to clarify why there was change of contractor, yet the former contractor was performing well. You created more harm by getting generators that cannot meet the demand for power.

Moreover, in Turkana County, the only Constituency that is connected to the National Grid is Turkana South. These other constituencies are just supplied by generators yet Turkwel Gorge Power Generation is just 35 kilometres from here. You provide generators that are far away from Lodwar town instead of just connecting 35 kilometers in Turkwel Gorge. Turkana County is not benefitting from Lake Turkana wind power. I can even mention that what we are only benefitting from Turkana is the name Turkana.

*(Laughter)*

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I do not know whether the word Turkana will connect the power from Lake Turkana wind power. I wonder. It is a paradox.

Lastly, there is a village known as Lorokwen. It is just 500 meters from Turkwel Hydroelectric power station. Up to now, it has been 15 years, and Turkwel village which is across the river is enjoying power. Lorokwen which is across the river on the other side has no power, yet it has institutions such as hospitals, and secondary and primary schools. They are enjoying blackouts. Kindly clarify why we are denying Lorokwen village, Turkana County, and the Senate justice even after knowing Senate *Mashinani* will be held here.

You devolved blackouts instead of supplying power. I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you Sen. Lomenen. The Cabinet Secretary kindly handle the Turkana County issues as we conclude.

**The Cabinet Secretary for Energy and Petroleum** (Hon. Chirchir): Thank you, Mr. Deputy Speaker, Sir. I would like to seek your indulgence to spend more time with my friend Sen. Lomenen to look at some of the data that has been submitted by all the Members of Parliament (MP) from Turkana County with respect to the status of public institutions and the programs we have, to ensure that the county has been fully covered.

In terms of public institutions, we will run maximisations on some ratio of funding while we allocate funds to cover the public institutions in the counties that have been deprived maybe due to infrastructure challenges in the past.

Certainly, I would like to spend time because we have all that data. Like I said earlier; we are going to fund programs so that when we get money---you know that when you have a budget allocated to a program it cannot be transferred to another project.

With respect to Lorokwen which is just within Turkwel, I can confirm that sometimes we have built big projects and taken the huge amount of power we develop to load centers where there is a market for power and we do not pay attention to local communities from where the resources come from.

As I said earlier, I am here with the two Chief Officers from Kenya Electricity Transmission Company Limited (KETRACO) and Kenya Power and Lighting Company (KPLC). I want to look at a program where we do not just build a 220 Kilovolts (kV) substation. We do build such and bring down the power to the distribution voltages of 33Kilovolt-ampere (kVA) and 11kVA to serve the local communities.

With respect to the challenges we are currently experiencing, it is not just in Lodwar but also in Marsabit. We had some challenges. One of the power diesel generators went off. It was supposed to supply the load capacity to the town. Currently, whereas the market in Lodwar is 2.8 Megawatts (MW) we are supplying 2.4 MW. One of the 650 MW diesel generators went down. We are working round the clock to make sure we replace it.

On the issue of the International Bar Association (IBA) Africa, they moved out of the country. They are not in the country anymore.

We brought new generators in 2013, the 2X1250KVA and 3X650KVA which are currently servicing Lodwar. One of the 3X650KVA is down and whereas you might see power outage, it is actually load shedding. We are supplying 2.4MegaWatts instead of

2.8MegaWatts. The Chief Executive Officer (CEO) Kenya Power, who is here with me, is working round the clock to make sure – we should have done that before Senate sittings in Turkana County. Unfortunately, you understand the procurement challenges.

Sen. Lomenen, we will spend time over lunch to discuss and pay attention to the shortage of 400KVA because of the breakdown of the 3X650KVA generator. This should not be the case when the Senate is in Lodwar. This also applies to Marsabit County where there are breakdowns. The generator for Marsabit County is currently being installed. I would like to confirm that I pay attention and take the concerns seriously.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Cabinet Secretary. Hon. Senators, I know you have many issues to raise regarding power. This time is not enough. We need an interaction with the Cabinet Secretary so that we can raise all the issues in the counties.

Cabinet Secretary, Members still have questions and interventions. We will make an arrangement for Members to interact with you. I thank you for your time and commitment. It shows commitment to your duty. I thank you most sincerely for finding time to come to Turkana to answer questions by Members. Have a safe flight back to Nairobi.

*(Interruption of debate on Questions)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TURKANA UNIVERSITY  
COLLEGE, TURKANA COUNTY

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, in the Speaker's Gallery, we have Students 27 students, accompanied by three lecturers from Turkana University College, who are in the Senate on an education tour.

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

I thank you.

*(Resumption of debate on Questions)*

Sen. Kinyua, I know you have an issue to raise. However, the Cabinet Secretary for Interior and National Administration wrote to the Senate requesting to be pardoned this week because he was handling some issues in Boni Forest and Northern Kenya.

The Cabinet Secretary for Foreign and Diaspora Affairs also had some issues to attend to. They have made that communication.

Let us now have the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs, to answer to questions by Senators.

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*(Sen. Kinyua spoke off record)*

Sen. Kinyua, your issues have been placed in the right table. If at the end of the Session we will have one minute, I will allow you to speak. However, you will not speak now. Let us first clear the issue at hand.

I welcome the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs. I thank you for finding time to come to Turkana County to answer to these issues. Turkana County has a lot of issues to deal with the blue economy because of the lake and the resources they have.

Welcome to the Senate *Mashinani* in Turkana County.

Sen. (Dr.) Khalwale, proceed.

*Question No. 049*

STATUS OF GOLD MINING ACTIVITIES  
IN KAKAMEGA COUNTY

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir, the people of Kakamega County are happy that the Cabinet Secretary has given us the respect to come all the way to respond to this very important Question.

(a) Could the Cabinet Secretary provide an update of the current status of gold mining activities in Kakamega County and state the specific reasons for the stalling of the construction of the gold refinery in Ikolomani Constituency which was commissioned by the County Government of Kakamega in 2021?

(b) What measures has the Government put in place to ensure the resumption of construction and expedition of completion of the refinery to promote the expansion of the gold mining sector in the region, noting that gold deposits worth over Kshs365 billion in the county remain untapped?

(c) Could the Cabinet Secretary explain the measures the Government has put in place to promote responsible and sustainable gold mining practices in the county, in light of the many reported accidents in the mines that have resulted in injuries and loss of lives?

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. (Dr.) Khalwale, do you have the response from the Cabinet Secretary?

**Sen. (Dr.) Khalwale:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): I can see you have a comprehensive document. However, I request you go straight to the Question on page nine. This is because we only have 15 minutes.

**The Cabinet Secretary for Mining, Blue Economy and Maritime Affairs** (Hon. Mvurya): Thank you, Mr. Deputy Speaker, Sir and hon. Members of the Senate.

Before I read my response, allow me to congratulate the Senate for this noble initiative of Senate *Mashinani*. Having been one of the pioneers of devolution, I see this

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as a very noble step to further anchor devolution in our country and give an opportunity to residents in counties to interact with their Senators. This is a very good initiative.

Mr. Deputy Speaker, Sir, coming back to the Question raised by Sen. (Dr.) Khalwale, I agree with you that I have a lot to say about mining. However, I will limit my statement to the question that has been asked. For part (a) of that question, I would wish to respond as follows-

Currently, all gold mining activities within Kakamega County are carried out by artisanal miners who operate informally as they have not been issued with artisanal mining permits as contemplated under Section 95 of the Mining Act, 2016. This is because of the moratorium that had been imposed in December, 2019 against issuance of licenses and permits.

The Ministry has put measures in place to start granting artisanal miners permits upon lifting of the current moratorium on issuance of mining rights. These measures include the gazettelement of the Kakamega County Artisanal Mining Committee as per Section 94 of the Mining Act, 2016. The Committee is comprised of members from artisanal mining in the county.

Additionally, all other operators within the county, hold prospecting licenses with a few who have made applications for granting of mining licenses over the last few years. The same have not been processed due to the prevailing moratorium on issuance of mineral rights. On page 10, there is a table showing a list of companies who have been granted licences to prospect and others whose applications are hanging in our system.

Mr. Deputy Speaker, Sir, regarding part b of that Question, the Minister of Mining initiated the process of identifying an investor for the proposed gold refinery in Ikolomani, Kakamega County in 2021. However, before this process could be completed, the Ministry was advised that the said process was unnecessary as it did not meet the threshold prescribed under Section 121 of the Public Procurement and Disposal Act, 2015. Therefore, the process was terminated, and the tenderers were notified.

After that process, there was an effort by the county government, but we have realised that the Memorandum of Understanding (MoU) that had been done, did not mention the Ministry of Mining, Blue Economy and Maritime Affairs and the responsibilities of the National Government.

Further, there is no record showing the process used to identify the said investor by the County, had been properly documented. On 4<sup>th</sup> July, 2022, Kakamega County Government entered into an MoU with a private company, Ms Huno Kenya Company Limited. The MoU was for cooperation and establishment of the proposed gold processing plant in Ikolomani Constituency.

The land in which the proposed plant would be established was provided by Kakamega County Government and registered in the name of the Ministry of Mining, Blue Economy and Maritime Affairs. It was held in trust for the Ministry by the Principal Secretary (PS), National Treasury. This is in line with the mandate of the Ministry of Mining, Blue Economy and Maritime Affairs in as far as management of mining and mineral resources is concerned.

We also noted that Mr. Huno Kenya does not have a valid contract or engagement with the Ministry or County Government. Therefore, the Ministry intends to call for international bids from interested investors to put up a gold processing plant in Kakamega County. Upon conclusion of these consultations which we have already begun with the County Government, these projects will take off.

In a nutshell, what I am saying here is that initially, there was a bit of a gap between the National Ministry of Mining, Blue Economy and Maritime Affairs and Kakamega County Government in engaging this particular private investor. However, we have now embarked on a process of consultation because apart from Kakamega County, we have zoned the country. We want to identify and develop different value addition and mineral processing centres across the country. Kakamega County is one of the areas we have identified and so, we will be working with the County Government to ensure we realise this dream.

Mr. Deputy Speaker, Sir, allow me to now tackle part (c) of that question. Over the last few months, the Ministry has intensified efforts to promote mining as the next investment frontier. Towards this end, the Ministry has received funding from the National Government, aimed at implementing projects that are geared towards promotion of mining and provision of preliminary investment data specifically.

To ensure that mining is undertaken in a sustainable and environmentally friendly manner, the Ministry has allocated resources to the regional mining offices. It has also issued instructions for increased inspections and monitoring of artisanal and small-scale miners. This will ensure that potentially dangerous operations are closed and the risk identified addressed as a precautionary measure.

Additionally, the Ministry has carried out extensive sensitization of artisanal and small-scale gold miners on mine health and safety in gold mining. We are doing this across the country. The Ministry, in collaboration with Directorate of Occupational Safety and Health, has also carried out training of artisanal and small-scale gold miners on workplace safety.

Further, Mr. Deputy Speaker, Sir, the Ministry has embarked on an extensive process of organizing artisanal miners into marketing cooperatives to enhance their capacity, to market mineral outputs and reduce over-reliance on middlemen for marketing. The formalized cooperatives will then receive extensive training on a number of key modules such marketing, financial literacy and book-keeping as we progress them towards migration to small-scale miners category.

The Ministry will also institutionalize capacity building and training and sustainable mining practices within the cooperatives. The Ministry is also committed to implementation of Section 95 of the Mining Act by way of granting artisanal mining permits, environmental license and sustainable mining plans will be one of the conditions for grant of artisanal mining permits.

Mr. Deputy Speaker, Sir, I submit and I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Hon. Cabinet Secretary for that elaborate response. Sen. (Dr.) Khalwale, do you have any Supplementary Question?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. This is a satisfactory answer and I thank the Minister. We are excited to learn that the Cabinet Secretary is pushing for an international bid to attract an investor for the construction of that refinery. Could the Cabinet Secretary confirm that this bid will also involve an attempt to bring in an investor to carry out gold mining? I agree with what he has said that mining is being done by artisans and it needs to be done in a proper way.

**The Deputy Speaker** (Sen. Kathuri): Cabinet Secretary respond to that comment.

**The Cabinet Secretary for Mining, Blue Economy and Maritime Affairs** (Hon. Mvurya): Mr. Deputy Speaker, Sir, I confirm that we are working to ensure that we have an organized gold mining and refining in Kakamega County and across the country. Right now, we have companies that have been prospecting and some of them will graduate into mining licenses very soon.

The international bid to be placed is part of the value addition resolution that we have made. We want to make the Western region a center of excellence for gold refinery, touching on areas like Vihiga, Siaya and other areas adjacent to Kakamega County.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Cabinet Secretary. From my screen, I am unable to know who is interested in a Supplementary Question because some of the Members here are not in the Chamber. The Senate Majority Leader.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. I appreciate the Cabinet Secretary for finding time to come and respond to questions from Members, a couple of kilometres away from the Capital. This is important to us and we appreciate that they found time for this.

I have a Question for the Cabinet Secretary. Firstly, I am aware that towards the end of the last administration, for three or so years, the Government froze all mining license applications for people who were either doing exploration or for the mining activities that were going on. That has caused a bit of anxiety in companies that are already doing mining activities in the country as their licenses are about to lapse and for those that had secured investments, raised resources and were willing to begin such exercises in Kenya.

Mining is one of the industries that can earn us the elusive foreign income exchange because of the resources that we have underneath. Therefore, can the Cabinet Secretary confirm how far they are in doing that and how long Kenyans have to wait before this process can commence; and that people can get issued with licenses so that Kenya can hold against the slide by the Kenyan shilling against other world major currencies due to lack of exports.

Mr. Deputy Speaker, Sir, this is one avenue with which we can use to solve this problem. So, how long will the country have to wait?

**The Deputy Speaker** (Sen. Kathuri): Hon. Cabinet Secretary?

**The Cabinet Secretary for Mining, Blue Economy and Maritime Affairs** (Hon. Mvurya): Thank you, Mr. Deputy Speaker, Sir. It is true that the Government of Kenya imposed a moratorium on licenses in 2019. The reason given that time was to be able to have an opportunity to organize the mining sector.

We have made good progress. First, let me acknowledge that this is the first time the Mining Ministry has been allocated resources to function. Therefore, I want to thank His Excellency the President and Parliament for the allocation.

Through that process, we have concluded the geo survey that was happening across the country and found that we have 970 mineral occurrences. These minerals are 47 counties. In regard to the moratorium, we have worked on the key areas that had been identified which included also coming up with strategies for artisan on mining and strategies on how we can better organize the sector.

Right now, we have already made a brief to the Cabinet Committee. In fact, it is like in asking this question the Senate Majority Leader was reading our mind because we made this presentation yesterday on the recommendations from the Ministry. Therefore, we passed it yesterday and it is finding its way to Cabinet.

Once those recommendations find a favourable decision by the Cabinet, very soon we should be able to announce the way forward. In that particular arrangement, we have grouped the minerals into two groups. We have industrial minerals and strategic or critical minerals. So, that is the discussion that we are concluding within Cabinet and then we should be able to announce the way forward soon.

Kenyans will not have to wait for long because I am sure in the next few days or weeks, we shall make a determination on the way forward.

Mr. Deputy Speaker, Sir, I am already here in Turkana and the Senate has made this sitting here in Turkana. Therefore, it will not be fair if I leave this podium without saying anything about Turkana even though I know it is not part of the question. However, I assure you that I will take one minute.

**The Deputy Speaker** (Sen. Kathuri): Stick to one minute because of the time constraints.

**The Cabinet Secretary for Mining, Blue Economy and Maritime Affairs** (Hon. Mvurya): From the 970 mineral occurrences across the country, Turkana is a county that is blessed with key minerals including gold in areas like Lolupe, Sasame, Nakwaromu, Turkwel, Turkana South and also Turkana West.

We also have an abundance of gypsum in this region. We have gemstones in the name of Blue Sapphire, and green garnet, especially in Loima Sub County. Then we have a huge list of other minerals across Turkana County but key ones among the larger list are chromite, copper, graphite, nickel and traces of radioactive elements in Katilu Ward.

I thought I needed to, in a nutshell, share with the residents here in Turkana County so that they can also appreciate what they have. The ministry will be back here to discuss with the leaders and the county government and to see how we can do ground truthing on the minerals that are here in the county. I am glad that we have been able to have this opportunity to discuss this particular matter.

**The Deputy Speaker** (Sen. Kathuri): Cabinet Secretary (CS), thank you for your time.



**ADJOURNMENT**

Hon. Senators, as I had earlier directed pursuant to Standing Order No. 1, that the Senate adjourns at 1:45 p.m., this is the time. The Senate therefore stands adjourned until today, Wednesday 27<sup>th</sup> September, 2023, at 2:30 p.m.

The House rose at 1.45 p.m.