

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 9th August 2023

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, can you confirm whether we have the requisite quorum?

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

I request we ring the Bell for 10 minutes. There is no problem. We can stop it midway.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

Serjeant-at-Arms, we have quorum. Kindly stop the Bell.
Clerk, read out the first Order.

COMMUNICATIONS FROM THE CHAIR

I have two Communications to make this afternoon. The first one is on the annual general meeting of the Commonwealth Parliamentary Association (CPA), Kenya Branch. Senators, make your way to your seats.

(Several Senators walked into the Chamber)

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Let me proceed.

ANNUAL GENERAL MEETING OF THE COMMONWEALTH
PARLIAMENTARY ASSOCIATION, KENYA BRANCH

Hon. Senators, as you may recall, on Thursday, 3rd August, 2023 I issued a Communication on the annual general meeting of the Commonwealth Parliamentary Association (CPA), Kenya Branch.

In the Communication, I stated that an annual general meeting of the CPA Kenya branch had been convened by the Joint Presidents and was scheduled for Thursday, 10th August, 2023 at 10.00 a.m. in the National Assembly Chamber.

This is to bring to the attention of Senators that the time for this meeting has been re-scheduled to 9.00 a.m. on the same day, and the venue remains the same.

As I stated in the Communication, the agenda of the meeting will be, among other things, to conduct the election of Members of the Executive Committee which will have the responsibility of steering the branch towards achieving the objectives of the Association. Kindly note that only subscribed Members will be eligible to participate in the election.

Hon. Senators, I encourage Senators to join the Association. For those who have not done so, the membership forms are available at the Office of the Clerk.

I also invite Senators interested to become Members of the Executive Committee to tender their applications for election to the Executive Committee through a written notification to the Office of the Clerk by close of business today, Wednesday, 9th August, 2023.

I thank you.

Senators proceed to your seats.

(Several Hon. Senators walked into the Chamber)

Sen. Faki, no greetings. I requested you to make your way to the seats. Greetings may be done later.

Sen. Gataya Mo Fire, let me give you the opportunity to also find your way to your seat.

(Sen. Gataya Mo Fire walked into the Chamber)

VISITING DELEGATION FROM THE NATIONAL
ASSEMBLY OF THE GAMBIA

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of Serjeant-at-Arms and security officers from the National Assembly of the Gambia. The officers are in the Senate for a benchmarking visit with their counterparts.

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

1. Bakebba Ceesay - Serjeant-at-Arms
2. Momodou saidy - Serjeant-at-Arms
3. Buba Carr Banjika- Security Officer
4. Amadou B. Jaiteh - Security Officer

(Applause)

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

Hon. Senators, find your way to your seats.

(Several Hon. Senators walked into the Chamber)

Sen. Mandago, that is good speed.

VISITING DELEGATION FROM KATALEL PRIMARY
SCHOOL, ELGEYO MARAKWET COUNTY

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from Katalel Primary School. The group comprises six teachers and 42 students who are in the Senate for a one-day academic exposition.

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 behalf wish them a fruitful visit.

I thank you.

I thought that we have visitors, there is at least some recognition from the Senate. Who is from Elgeyo Marakwet County?

Sen. Kisang', the Senator for Elgeyo Marakwet County, are you in the House?

Sen. Kisang': Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Okay, proceed and welcome your voters.

Sen. Kisang': Thank you, Mr. Deputy Speaker, Sir. On behalf of the Senate and myself, I take this opportunity to welcome the pupils from Katalel Primary School in Elgeyo Marakwet County, Keiyo North Constituency.

Welcome to the Senate. This is where your parents and your teachers brought me on the 5th of January, 2023 to represent you as your Senator. It is important to be disciplined as students, work hard, respect your parents and teachers and God will bless you. If you are disciplined, some of you might find yourselves here in the future as Senators, Women Representatives, Governors, or MCAs.

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Pongezi and as you go back to Elgeyo Marakwet County, we pray that you have journey mercies. Safe journey back home; when I get an opportunity, I will see you outside there.

I thank you and may God bless you.

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

I understand that the Chairperson of the Senate Standing Committee on Justice, Legal Affairs and Human Rights has a report on a Petition.

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

Next Order

PAPERS LAID

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader or his representative to lay the Papers.

Sen. (Dr.) Lelegwe: Mr. Deputy Speaker, Sir I beg to lay the following Papers on the Table of the Senate today, 9th August, 2023 –

ANNUAL REPORT OF THE NATIONAL GENDER AND EQUALITY COMMISSION

Annual Report of the National Gender and Equality Commission (NGEC) for 2021/2022.

REPORT ON THE FINANCIAL STATEMENTS OF THE VIHIGA COUNTY EDUCATION FUND

Report of the Auditor-General on financial statements of the Vihiga County Education Fund for the year ended 30th June, 2022.

(Sen. (Dr.) Lelegwe laid the documents on the Table)

The Deputy Speaker (Sen. Kathuri): There is a Paper to be laid by a Member of the Senate Standing Committee on Powers and Privileges.

(An hon. Senator spoke off record)

Okay, fine. It is not ready.

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Deputy Speaker (Sen. Kathuri): Let us get the first Statement under Standing Order No.52 (1).

Sen. Okenyuri, you may proceed

RECOVERY OF THE TOURISM SECTOR IN THE COUNTRY

Sen. Okenyuri: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement on an issue of general topical concern namely, the recovery of the tourism sector in Kenya post-Corona Virus Disease (COVID-19) pandemic of 2020.

The importance of the tourism sector in the recovery of our economy cannot be gainsaid. Tourism is a top foreign exchange earner in many countries. A Dollar earned for our economy through the tourism industry comparatively has the least ratio of production cost to output.

The Ministry of Tourism, Wildlife and Heritage has been rolling out a recovery plan to revive this sector since the global slump in tourist numbers as a result of the COVID-19 pandemic.

In Kenya, tourism is a significant contributor to the country's Gross Domestic Product (GDP). According to the annual tourism sector performance report of 2022, the sector accounts for 10.4 per cent of the country's GDP, 5.5 per cent of Kenya's formal employment and 4.2 per cent of the National Gross Fixed Capital Formation. The multiplier effect of the sector in trade, agriculture, construction, manufacturing, and transport sectors has led to improvements in the socio economic well-being of Kenyans.

Mr. Deputy Speaker, Sir, globally, the tourism sector has also shown great improvement with world arrivals accounting to 63 per cent of recovery against the 2019 figures. Kenya has registered 72.4 recoveries towards the 2019 figures, which is above the global average.

In 2022, international tourist arrivals stood at 1,483,752, which represents a 70.45 per cent increase as compared to arrivals of 820,465 in 2021. Inbound receipts in 2022 also grew by 83 per cent to 268.09 billion from 146.61 billion in 2021, which is drawn from the annual tourism sector performance report of 2022. According to the Annual Tourism Sector Performance Report of 2022, the Jomo Kenyatta International Airport (JKIA) recorded a 44 per cent growth in passengers compared to the year 2021.

Mr. Deputy Speaker, Sir, the growth was also recorded in domestic airports such as Malindi, Kisumu and Ukunda indicating a recovery in the aviation sector for both international and domestic travel. The same growth was recorded for domestic travellers to the Coast of Kenya and other tourist destinations in the country.

Mr. Deputy Speaker, Sir, the growth and improvement of the sector can be attributed to many factors including easing of the COVID-19 restrictions and thus

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opening up the country; development and implementation of the tourism strategy for Kenya 2021-2025; entry of new domestic airlines; resumption of cruise tourism and destination marketing campaigns. Further, the number of international delegates attending meetings, international conferences and events also increases due to high-profile meetings held within the country.

This was attributed to a safe electioneering period and the lifting of travel advisories. However, the number is still below the pre-COVID-19 period by 30 per cent. Despite the country not attaining the performance it had before the COVID-19 pandemic, there has been improved performance in 2021 and 2022. If this growth is sustained, most tourism sectors will recover faster to surpass the 2019 numbers.

Mr. Deputy Speaker, Sir, having said the above, there is an urgent need to innovate and offer new products to our visitors to enrich their experiences while visiting the country. This calls for a new approach and deeper imagination by players in the tourism sector, the Senate being one of them.

To this end, I would like to urge the Senate to take the lead in encouraging counties that share cross-county tourism sites and facilities or tourism circuits, to collaborate and plan together by ensuring their governments engage in strategic cross-county tourism promotion programmes. Such counties should explore ways of jointly financing the development of such cross-county tourism facilities or circuits. I also urge the Senate to provide the appropriate legal framework for such collaborations.

There is also a need to increase tourism earnings from counties and ensure that these earnings trickle down to Kenyans by supporting Micro Small and Medium Enterprises (MSMEs) engaging in tourism activities.

I further urge my fellow Senators to sensitize their constituents on the need to continue protecting the environment and the wildlife as our treasured natural heritage. I also call on national and county governments to support indigenous efforts by communities to support tourism, especially in the face of climate change and the ongoing global economic turmoil.

Additionally, the national Government should support counties living along international boundaries in ensuring that the benefits from such natural resources benefit the host counties, for instance, benefits accruing from the Maasai Mara Game Reserve in Narok County, which borders Serengeti National Park in Tanzania.

I take this early opportunity to appreciate and congratulate the Ministry of Tourism, Wildlife and Heritage, and relevant Government agencies for their successful efforts towards reviving this critical industry. It is also very important for us in the legislature, even as we oversight and critique where things might not be going as desired, that we stop for a moment and appreciate the good work that the other arms of Government might be doing to uplift the wellbeing of our people.

The Deputy Speaker (Sen. Kathuri): Let us have the next Statement by the Senator for Elgeyo Marakwet County.

(Sen. Faki spoke off record)

Sen. Faki, you know how to rise on a point of order.

Sen. Faki: Bw. Naibu Spika, taarifa aliyoisoma dada yetu Sen. Okenyuri ni muhimu sana, kwa sababu inazungumzia maswala ya utalii. Ni masikitiko kwamba ameizungumzia katika Kanuni ya Kudumu ya 52(1) ambayo haitupi fursa hususan wale ambao wametoka kwenye maeneo ya kitalii, si kama maeneo ya Nandi ambayo hayana utalii, ili waweze kuchangia taarifa kama hii. Namshauri dadangu kwamba siku nyingine akiwa na Kauli nzuri kama hii, aweze kuileta kwa kanuni ambayo itatupa nafasi ya kuchangia.

(Sen. Cherarkey stood up in his place and spoke off record)

The Deputy Speaker (Sen. Kathuri): Order, Sen. Cherarkey, why are you standing up? Sen. Faki is on a point of order. You are a ranking Member in the Senate and have been here for some time. When a Member is on a point of order, you cannot raise another one.

Sen. Faki, proceed.

Sen. Faki: Bw. Naibu Spika, wakati mwingine akileta Kauli nzuri kama hii inafaa ashauriwe na ofisi ya Katibu, ili Kauli kama hizi zisisomwe bila kuchangiwa na Maseneta wengine. Jana Sen. Okenyuri alisoma taarifa muhimu sana, lakini hatukupata---

The Deputy Speaker (Sen. Kathuri): Sen. Faki, Seneta wa Mombasa, kupitia Kanuni za Kudumu Nambari moja, nakupa nafasi uchangie kwa sababu una hamu ya kuzungumza maswala ya utalii.

Sen. Faki: Bw. Naibu Spika, Nampongeza ---

(Sen. Boy spoke off record)

Sen. Faki: Bw. Naibu Spika, Nampongeza dada yetu Sen. Okenyuri kwa kuzungumzia swala hili la utalii. Utalii ni moja ya zile---

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): Naomba Sen. Faki asikizwe bila hitilafu yoyote. Utalii ni kati ya sekta za uchumi ambazo zinachangia pakubwa pesa za kigeni kuingia nchini. Jambo la kusikitisha ni kwamba utalii umewachwa nyuma katika sekta zile ambazo zitachangia kufufua uchumi wa Kenya. Wengi wa wageni wanaoingia nchini, wanakuja kupitia *Jomo Kenyatta International Airport, Nairobi*. Tulileta Kauli kuhusiana na kufunguliwa kwa anga huru. Ni jambo kubwa kwa sababu, watalii wengi wanaenda Zanzibar ambayo inapakana na Kenya. Kuna ndege karibu 17 zinazotua kule kila siku. Ndege hizi zinapeleka biashara na watalii.

Tukiweza kufungua anga huru kwa kaunti ya Mombasa, Kaunti ya Kilifi tufunguliwe *Malindi International Airport*, Kaunti ya Kisumu tufungue *Kisumu International Airport*; Kaunti ya Kwale tuinue uwanja wa Ndege wa Ukunda; Kaunti ya Uasin Gishu turuhusu ndege mpya za abiria katika uwanja wa Eldoret, uchumi wetu na utalii pia utainuka pakubwa. Uchumi wa Zanzibar hutegemea ufuo wa bahari. Hapa

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nchini tuna fuo za Bahari. Wanyama pori, hutoka Mombasa mpaka Taita Taveta kwa ndugu yangu Sen. Mwaruma. Ni safari ya saa moja pekee yake. Tukienda Kwale kwa Sen. Boy na Sen. Chimera, kuna fuo nzuri za bahari na wanyama pori katika Mbuga za Mwaluganje na kwingineko. Wale ambao wana shida za kushika nyumba kama Sen. Cherarkey watapata pweza na ngisi katika eneo la Kwale ili kuamsha mishipa ili aweze kujipa dawa vizuri.

Swala la utalii ni muhimu sana kwenye Kaunti zetu. Hii ndiyo njia kubwa ya kuweza kuinua uchumi wa Mombasa na pwani nzima. Kutoka Lamu mpaka Shimoni kuna fuo za bahari. Kuna wale waliosema kuna simba wanaogelea kwenye sehemu ya Lamu. Tunajaribu kujenga uchumi wetu na tuweze kuinua utalii katika eneo letu la pwani.

Asante kwa kunipa fursa hii kuchangia taarifa ambayo imeletwa na dada yetu Sen. Okenyuri.

The Deputy Speaker (Sen. Kathuri): Naona kuna Maseneta kadhaa ambao wangependa kuchangia swala linalozungumziwa. Ningependa kuruhusu Seneta mmoja kutoka upande wa walio wachache na mwingine kutoka upande wa waliowengi ili tutamatishe swala hili.

Sen. Kisang', proceed.

Sen. Kisang': Thank you, Mr. Deputy Speaker, Sir. You had called me earlier to read my Statement. However, now that you have given me an opportunity---

The Deputy Speaker (Sen. Kathuri): Let us give another Member the opportunity to contribute to this issue.

Sen. Kisang': Mr. Deputy Speaker, Sir, allow me to thank Sen. Okenyuri for bringing the Statement and giving us statistics on tourism in the country.

In the years 2020, 2021 and 2022, the country suffered because of the COVID-19 pandemic. Most places were closed and tourism went down to zero. However, for the last one year or so, the sector has grown. Some of our youth who had lost employment have gone back to work.

Elgeyo Marakwet County has great potential for tourism. We have Rimoi National Game Reserve that has not been fully utilised. We have had discussions with the Governor of Elgeyo Marakwet County to put up cottages. The county executive should visit Maasai Mara so that they can learn about conservancy so that we can have Appropriation in Aids arising from both local and international tourism. Senator for Narok, people are complaining that they are queuing for more than three hours at the gate of Maasai Mara because of the migration of wildebeest from Tanzania to Kenya. Maybe your county needs to do something because international and local tourists are getting frustrated. They want to visit, but they are held for more than five hours trying to go and see the Big Five in Narok County.

Mr. Deputy Speaker, Sir, ---

Sen. Wambua: On a point of order, Mr. Deputy Speaker, Sir.

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

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. I am sorry I have to do this. I do not think we are doing the right thing. Under Standing Order No.52, a statement that has been issued does not have a window for Senators to contribute on that statement.

Standing Order No.1 is very clear that it only applies where there are no provisions on an issue. Standing Order No.52 is also clear.

(Sen. Madzayo spoke off record)

I am just going on record, Sen. Madzayo. This is a House of record. I am just trying to say because---

The Deputy Speaker (Sen. Kathuri): Now that the Chair used Standing Order No.1, are you challenging the Chair or the process?

Sen. Wambua: Mr. Deputy Speaker, Sir, Standing Order No.1 has limitations.

The Deputy Speaker (Sen. Kathuri): Who are you challenging, Sen. Wambua?

Sen. Wambua: Mr. Deputy Speaker, Sir, I am challenging the ruling of the Speaker because the Speaker ---

The Deputy Speaker (Sen. Kathuri): You are out of order, Sen. Wambua. Have your seat, kindly.

Sen. Wambua: Mr. Deputy Speaker, Sir, this is a House of record.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mwaruma. You have two minutes. Just give two minutes for every Member that speaks.

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to comment about this very important statement by Sen. Okenyuri. I come from Taita Taveta County and 62 per cent of the land of Taita Taveta County is under Tsavo conservation area. Much as we have tourism in my county, we are not benefitting from the proceeds and collections from Tsavo Conservation Area. However, be it at it may, I would like to mention two things. First, the Government can support tourism in Taita Taveta County by opening up Ikanga Airstrip, which was started 20 years ago. It is complete but still undergoing expansion. However, it is not in use up to now. I urge the Government that in support of growth of tourism in Taita Taveta County, that Airstrip is meant to function.

Secondly, there was a COVID-19 stimulus programme where credit of five per cent was offered. I urge the Government that we are not out of the woods yet. We still have the effects of COVID-19 up to now. I would urge that the low interest credit of five per cent to still be advanced to people who are doing tourism.

The Deputy Speaker (Sen. Kathuri): Thank you. Proceed, Sen. Miraj.

Sen. Miraj: Asante, Naibu Spika.

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

The Deputy Speaker (Sen. Kathuri): What is your point of order, Senate Majority Whip?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, Standing Order No.101 forces me to request that the Chair becomes clearer. Sen. Wambua has breached Standing Order No.101. In the process of breaching it, he has raised a substantive issue. That can a ruling

by the Chair on a matter that is already provided for under the Standing Order, be made otherwise?

Since this is a House of record, instead of just shutting the Senator to sit down, we should come out of that corner. Let the record reflect that there are some of us who agree with Sen. Wambua. I am not discussing the Chair.

The Deputy Speaker (Sen. Kathuri): You see there are so many loopholes in these Standing Orders.

Sen. (Dr.) Khalwale: Yes.

The Deputy Speaker (Sen. Kathuri): These are the issues that we really need to-- - These Standing Orders are meant for our use. They should be as easy as possible. Why should we curtail debates because of Standing Order No.52(1)? Why should we do that?

I remember there is a day you brought a congratulatory message to two of our athletes. Actually, I raised that issue with the Speaker. Should Sen. Cherargei all the time when congratulating athletes who are Kenyans like us, always stand under Standing Order No.52(1)? The Speaker allowed us to make some comments for almost 20 minutes. So, I am doing this out of precedence.

Therefore, as I said, I was to give a chance to two more Members. I want to give you the last one on this side and then one more Senator from my left-hand side.

Sen. Miraj: Asante, Naibu Spika, kwa kunipa fursa hii nichangie Kauli iliyosomwa na dada yangu, Sen. Okenyuri. Tarehe 24.4.2023, niliitisha Kauli isemayo: Kwanini anga ya Moi International Airport hairuhusu ndege za kimataifa kutua moja kwa moja?

Ninashukuru kwa sababu juma lililokwisha, Rais William Ruto pamoja na Waziri wake wa Miundo Misingi, Mhe. Murkomen, walizuru Pwani. Baada ya ziara hiyo, walitangaza ya kwamba wamefungua anga ya Mombasa ili utalii ushamiri katika majimbo yote ya Pwani.

Dada yangu Sen. Okenyuri, Mwenyezi Mungu akubariki. Sisi Wapwani tunategemea sana utalii. Utalii ndio uti wa mgongo wa uchumi wa majimbo ya Pwani. Ndiposa nimeona tunapofika hapa, sisi sio waakilishi tu wa yale maeneo tuliyotoka, bali waakilishi wa Taifa la Kenya. Kuona kwamba Mjumbe kutoka Kisii anajali wananchi na raia wenzangu wa kule ufuo wa Pwani, inanifariji roho. Hilo linaonyesha ya kwamba sisi kama taifa, tunapendana licha ya upungufu wetu na mikwaruzano ya kisiasa.

Ningependa tena kumpongeza Rais wangu kwa kuifungua anga kupitia kauli yangu. Hiyo ni kumaanisha ya kwamba sisi kama Bunge, hatuko tu hapa kuuliza kauli. Ni wazi kwamba hizo kauli zinafanyiwa kazi na *Executive*. Mwenyezi Mungu akubariki dada yangu Sen. Okenyuri.

Asante.

(Applause)

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I rise to support ---

The Deputy Speaker (Sen. Kathuri): Okay, I sympathize with the Senate Minority Leader. After he finishes, I will give you a chance.

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Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. You have rightfully used your discretion to allow us to comment on the Statement by Sen. Okenyuri. The issue here is tourism; what it is bringing to this country and what we can do to enhance revenue that is coming from the tourism sector.

Mr. Deputy Speaker, Sir, I am happy that my brother raised a very serious concern about tourists queuing for long hours at Maasai Mara National Reserve. I will go and deal with that issue. I can assure you that we are making progress. We are doing away with cash payment to a cashless system. This will enable tourists to just go into the Maasai Mara National Reserve when they arrive at the gate.

It is quite clear that the revenue this year; the revenue from the tourism sector in this country is projected to go up to around Kshs430 billion. This is an upward trajectory from the previous years. In fact, if you look at tourism in the East African Region, Tanzania only has about a million tourists. Today, Kenya has almost 1.5 million tourists coming here. That means that we are doing something.

Mr. Deputy Speaker, Sir, we need to balance between supporting Kenya Airways and allowing more tourists to come. The Turkish Airlines has been pleading to be allowed to fly directly to Mombasa where they can bring in tourists all the way from Istanbul to Mombasa. That is an issue that I would want to plead with the Cabinet Secretary for Roads and Transportation, Hon. Murkomen, who is also a former distinguished Senator, to at least consider. When more tourists fly into Mombasa, we earn more revenue. I am sure they will also come inland, go to Maasai Mara and we will get more revenue. It is important that we have these direct flights.

One of our colleagues who spoke raised the issue of regional airports. Last year, I was against an airport being built in the Maasai Mara because one, it increases the saturation of carbon. The carbon foot print will be extended. Number two, animals will be disrupted. However, building it in Narok Town increases the revenue, activities and jobs in that area. So, we need to balance.

I hope that Sen. Okenyuri can bring that Statement again, using Standing Order No.53 so that we can engage the Ministry of Roads and Transportation and ensure that we have that balance and allow more airlines to fly directly from their original areas to tourist destinations.

Thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. Let us have two minutes for the Senate Minority Leader.

The Senate Minority Leader (Sen. Madzayo): Asante sana Bw. Naibu Spika. Jambo la kwanza, nataka kumpatia kongole dada yangu Sen. Okenyuri kwa Taarifa hii ambayo ameleta hapa.

Utalii ni uti wa mgongo wa uchumi wa nchi hii. Asilimia 30 ya mapato ya uchumi wa nchi hii, ni pesa ambayo inaletwa na watalii. Kwanza, inaleta ajira. Vijana wengi wamepata ajira kupitia mambo ya utalii. Lakini ukiangalia hivi sasa katika sehemu nyingi huku Kenya, vijana wanakosa ajira kwa sababu utalii umekufa---

The Deputy Speaker (Sen. Kathuri): Samahani Kiongozi wa Walio Wachache. Naomba tusikize hoja ya nidhamu kutoka kwa Sen. Cherakey. Amesimama kwa hoja ya nidhamu kwa zaida ya dakika 30.

Sen. Cherarkey: Bw. Naibu Spika, nasimama kwa Kanuni za Kudumu No.101 za Bunge la Seneti. Nimemskia Seneta mwenzangu ambaye ni Kiongozi wa Walio Wachache akisema “azimia.” Ngingependa kujua inamaanisha nini ili niweze kufuatilia haya mazungumzo. Itakuwa ni bora ikiwa atafafanua.

Bw. Naibu Spika, sisi pia ni watalii na tunachangia utalii.

The Deputy Speaker (Sen. Kathuri): Endelea, Kiongozi wa Walio Wachache. Ulimaanisha nini ukisema “azimia” ama ulisema “asilimia”?

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Naibu Spika. Wakati mwingine ni vigumu sisi sote kuelewa Kiswahili. Hata mimi pia bado ninajifunza Kiswahili. Sikusema “azilimia” bali nilisema “asilimia.” Kwa hivyo, nadhani amenielewa.

Kitu ambacho nilikuwa nataka kusema ni kwamba, vijana walikuwa wakipata ajira hapo zamani. Lakini hivi sasa, ukiangalia hali ya uchumi na utalii katika nchi hii, haswa tukizingatia sehemu zote za pwani, utapata kwamba hoteli zimefungwa na vijana wamerudi nyumbani. Kile ambacho nasema ni kwamba, inatakikana kuwe na mikakati bora, kulingana na Taarifa iliyoletwa na Sen. Okenyuri, ili utalii uweze kurudi.

Katika Kenya, tulikuwa na Utalii *College* na *colleges* zingine ndogo ambazo zimekuwa zikizingatia mambo ya utalii. Kulikuwepo pia na Ronald Ngala Tourism University ambayo ilikuwa pale Vipingo. Serikali ilianzisha huo mradi na ulikuwa mradi mzuri sana. Lakini, imepita miaka 18, kufikia hivi sasa, na hicho chuo kikuu bado hakijamalizwa.

Serikali hii iliyoko kwenye mamlaka sasa inafaa ifanye juhudi zote ili chuo kikuu cha Ronald Ngala kimalizwe kujengwa kwa sababu kitasaidia watoto wetu kutoka kila sehemu ya Kenya ambao wanataka kujifunza taaluma ya utalii.

Mwisho, tumekuwa tukisema hapa kila siku ya kwamba ni lazima tupanue *airport* zetu, ili ziwe kubwa na za kisasa. Tunafaa tuwe na viwanja vya ndege ambavyo ndege zinaweza kutoka nchi kama Italy na kutua kule Nandi ikiwa kutakuwa na *airport* kule Nandi.

Vile vile, Malindi International Airport, mpaka hivi sasa, iko vile ilivyokuwa miaka kumi iliyopita. Ikiwa itaweza kupanuliwa, basi tutapata watalii kutoka Italy hadi Malindi. Ni lazima tuwe na mikakati ya kuongeza mambo ya utalii hususan tufikirie mambo ya Malindi International Airport.

Bw. Naibu Spika, tumekuwa tukizungumzia mambo ya Lamu kila siku. Lamu iko nchini mwetu. Lamu ni mji wa utalii. Sehemu hiyo inawakilishwa na Sen. Githuku. Anasema---

The Deputy Speaker (Sen. Kathuri): Umezungumza mambo mengi mazuri sana kaka yangu.

(Sen. Madzayo spoke off record)

Ameomba sana. Mpe dakika moja.

The Senate Minority Leader (Sen. Madzayo): Asante sana. Tunajua Lamu hupata watalii wengi. Kuna ile *airport* ambayo hata sisi tukiwa na mikutano Lamu, huwa tunapanda ndege na kushuka huko. Hiyo ni Manda Airport ambayo mpaka sasa ni kidogo sana. Tunasema kwamba Serikali ni lazima izingatie ya kwamba pale panaposhuka watalii pafanyiwe utaratibu.

The Landing Jet ya Manda Airport pia sio nzuri ilhali hapo ndipo sisi hutua tukienda Lamu. Itakuwa vyema ikiwa Serikali itaongeza upana ili watu wakishuka pale waone kwamba iko sawa.

Asante.

The Deputy Speaker (Sen. Kathuri): Asante sana. Umesahau ule uwanja wa ndege wa Ukunda ambao pia una matatizo.

Let us now go to Statements under Standing Order No. 53(1). The first Statement by Sen. Munyi Mundigi is deferred to the next sitting.

WELLBEING OF TEACHERS POST-RETIREMENT

(Statement deferred)

The next Statement is by the Senator for Elgeyo Marakwet County, Sen. Kisang’.

PAYMENTS MADE TO GARBAGE COLLECTORS AND SEWERAGE SERVICE PROVIDERS BY COUNTIES

Sen. Kisang’: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding payments made to all garbage collectors and sewerage service providers by all counties for the Financial Years 2021/2022, 2022/2023 and 2023/2024. In the Statement, the Committee should-

(1) Give a list of all registered garbage collectors and sewerage service providers for the Financial Years 2012/2022, 2022/2023 and 2023/2024 in all counties.

(2) Submit an itemised list of all payments made to each garbage collector and sewerage service provider for the three financial years.

(3) Provide details of the allocated budget for the garbage collection and sewerage services for all the counties for the three financial years.

(4) Give a comprehensive analysis of the actual expenditure by each county on garbage collection and sewerage services for the three financial years.

Thank you.

The Deputy Speaker (Sen. Kathuri): The next Statement is by the Senator for Nairobi City County, Sen. Sifuna.

ATTEMPTS TO GRAB LAND OCCUPIED BY KIMATHI
PRIMARY SCHOOL, NAIROBI CITY COUNTY

Sen. Sifuna: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on reported attempts by a private developer to grab the land occupied by Kimathi Primary School in Kamukunji Constituency, which has been under the management of the defunct Nairobi City Council and, subsequently, the Nairobi City County Government for the past 48 years. In the Statement, the Committee should-

(1) Establish how a private developer managed to acquire documents from the National Land Commission (NLC) that allegedly grant him ownership of the land where Kimathi Primary School has been operating for the past 48 years.

(2) Provide details on land ownership status of all the public schools in Nairobi City County, stating when a comprehensive land audit will be initiated.

(3) State the measures taken to ensure the safety of the students, teachers and staff at Kimathi Primary School amidst the land ownership dispute.

(4) Determine if there were any illegal dealings involving public servants within the NLC, Ministry of Lands, Housing and Urban Development and the Nairobi City County Government, who might have colluded with the alleged land grabber, stating what actions, if any, to be taken against the culpable officers.

The Deputy Speaker (Sen. Kathuri): The next Statement is by Sen. Mwaruma.

TRANSFER OF LAND OWNERSHIP TO THE LOCAL COMMUNITY
IN MKAMENYI VILLAGE, TAITA-TAVETA COUNTY

Sen. Mwaruma: Mr. Deputy Speaker, Sir, I have two Statements. The first one is on transfer of land ownership under Voi Point Limited to the local community in Mkamenyi Village.

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to request for a Statement from the Standing Committee on Land, Environment and Natural Resources regarding transfer of land under Voi Point Limited to the local community in Mkamenyi Village in Taita-Taveta County. In the Statement, the Committee should-

(1) State the progress made in reverting the ownership of land under the Voi Point Limited to the local community in Mkamenyi Village in Taita-Taveta County, stating the total acreage of land under Voi Point Limited and the total acreage of land ceded to the community so far.

(2) Indicate whether Voi Point Limited has plans to allow public access to the road in the said land that links Mkamenyi Village and Mombasa-Nairobi Highway.

RATIONALE FOR INSTITUTING MANDATORY NSSF DEDUCTIONS
ON MEMBERS OF VARIOUS SUPERANNUATION SCHEMES

Sen. Mwaruma: The second Statement is on the rationale for instituting mandatory National Social Security Fund (NSSF) deductions on members of various superannuation schemes.

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare concerning the rationale for instituting mandatory NSSF deductions on employees who are already members of various superannuation schemes. In the Statement, the Committee should-

(1) Provide a list of all superannuation schemes currently registered in Kenya.

(2) Explain the legality of employees being subjected to contributing to two retirement plans, outlining the legal basis for the same and stating how the various superannuation schemes are managed and specifically, how the workers will benefit from each scheme, particularly those who make double contributions.

(3) Explain the rationale behind making NSSF contributions mandatory in disregard to other superannuation schemes such as Public Service Pension Scheme, Local Authorities Provident Fund (LAPFUND) and the Local Authorities Pension Trust (LAPTRUST), stating whether there was any stakeholder engagement and table documentary evidence of any such meetings, dates, location and attendance registers.

(4) Provide proof of remittances, by employers, of deductions from the employees to these retirement schemes as well as confirmation that all deductions are up to date.

I thank you.

The Deputy Speaker (Sen. Kathuri): The next Statement is by the Senator for Nandi, Sen. Cherarkey.

HIGH INTEREST CHARGED ON LOANS OFFERED
BY MOMENTUM CREDIT COMPANY LIMITED

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Finance and Budget regarding high interest charged on loans offered by Momentum Credit Company Limited.

(Sen. Wambua spoke off record)

Mr. Deputy Speaker, Sir, could I be protected from Sen. Wambua?

In the Statement, the Committee should-

(1) Present a comprehensive compilation of the criteria requirements and operational standards that microfinance companies must comply with to obtain full registration and authorisation to operate by the regulator.

(2) Find out whether Momentum Credit Company Limited is a duly registered microfinance company operating under the regulation of Central Bank of Kenya (CBK)

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and provide an explanation for the reasons behind the company's implementation of high interest rates charged to its customers.

(3) Shed light on the underlying factors contributing to the numerous court cases pertaining to high interest rates charged to customers reaching as high as 72 per cent per annum and 70 per cent per month.

(4) Disclose Momentum Credit Company Limited's current financial status, including details of all customers currently servicing their loans and those who have completed their repayment obligations since the company's inception in Kenya.

The Deputy Speaker (Sen. Kathuri): The next Statement is by Sen. Chimera.

PAYMENT OF IMAMS IN KENYA

Sen. Chimera: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding payment of Imams in Kenya. In the Statement, the Committee should-

(1) Apprise the Senate on existing legal and policy frameworks that address the payment of Imams for the services they render in their capacity as religious leaders.

(2) State whether the Government plans to employ Imams in the country.

(3) Clarify whether the Government offers any financial support to imams in Kenya, and if so, indicate the amounts extended to each Imam, the frequency and status of payment.

(4) Recommend measures to ensure financial wellbeing of Imams in recognition of their invaluable contribution in the society.

The Deputy Speaker (Sen. Kathuri): Before we clear with Statements under Standing Order No.53 (1), I will allow at least two Senators to make comments on those Statements.

Sen. Osotsi, proceed.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I wish to comment on the timely Statement by Sen. Mwaruma on the issue of double contributions to various retirement benefit schemes. This is a serious issue because employees contribute to the NSSF and at the same time they are contributing to other schemes like the Public Service Pension Scheme, the LAPFUND and the LAPTRUST

This is a matter of concern because in my County Public Investments and Special Funds Committee, one of the most common audit query is the issue of non-remittance of statutory deductions, particularly the NSSF and pension. This is one of the contributing factors. Having to pay or be deducted to two different schemes is one of the challenges.

Therefore, I expect the Committee that will handle this matter, which in this case is the Standing Committee on Labour and Social Welfare, to do a thorough job in ensuring that challenge is handled.

I also want to report that when I made my Statement as the Chairperson of the County Public Investments and Special Funds Committee, I mentioned that counties owe pensioners in excess of Kshs80 billion as a result of non-remittance of pension to LAP Fund and Laptrust.

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These are serious issues that our Committee has been dealing with. I am happy to announce to the House that on Friday we managed to partner with the National Treasury. We will be having a very serious engagement with all the stakeholders in the Pensions Sector. That includes the Council of Governors (CoG), the Retirement Benefits Authority (RBA), Inter-Governmental Relations Technical Committee (IGRTC) and counties, to try and resolve this problem.

Mr. Deputy Speaker, Sir, I believe we are nearing a resolution to this problem and will soon table a report to this House on this matter. I believe if Senate will be able to resolve this matter of outstanding pension liabilities in the counties, this will be one of our major contributions, as a Senate, in this country.

I support.

The Deputy Speaker (Sen. Kathuri): You know, there are many requests. I do not know whether they are under Standing Order No. 53(1). Sen. Onyonka? You see now?

Proceed, Sen. (Dr) Oburu.

Sen. (Dr.) Oburu: Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I want to comment on the Statement sought by my friend and neighbour, Sen. Cherarkey, on the Microfinance institutions. Microfinance institutions used not to take deposits. When eventually Parliament saw it fit to introduce a Bill to allow microfinance companies to take deposits, it was it was agreed that regional microfinance institutions will put a deposit of Kshs20 million as their capital and the national microfinance companies will deposit a capital of Kshs100 million.

This issue of interest rates is a very serious one. It is not only concerning the microfinance institutions, but also concerning the banks. You will recall that there was a time or even before the last two years, there was a limit which was put on the interest rates. There was a regulation that was put of a certain percentage above the Central Bank of Kenya rates to regulate the interest rates. However, banks complained and said that they wanted to lend more money to people. They wanted to be allowed to do self-regulation and that they would not go far off the Central Bank rates.

When the microfinance companies were allowed to take deposits, they also became under the Central Bank regulations. They were being regulated by the Central Bank. When the control of the limit for interest rates was removed, these banks and microfinance companies went haywire. They are now charging far above the Central Bank rates as recommended, yet they agreed to self-regulation.

Perhaps it will be better for Parliament to reintroduce controls on these interest rates. When they are there, the banks complain that it is not giving them leeway to charge reasonably depending on the risks they take in lending. However, when you give them the leeway to now use reasonable rates, what reason do the banks have to impose interests of, say, 24 percent when the CBK rate is at 11 percent?

Mr. Deputy Speaker, Sir, that is more than 50 per cent or 100 per cent of profit. Who makes that kind of profit in Kenya? No wonder, it is only these financial institutions who make money when Kenyans are going bankrupt. They are the only ones who declare windfall profits when the whole economy is nosediving. It is high time that Parliament

thought of ways and means of controlling these institutions, so that Kenyans can benefit. So many Kenyans are going bankrupt because of this overcharging of interest.

It is a very good Statement and I support it. Let the Committee do a good job.

The Deputy Speaker (Sen. Kathuri): Thank you for also summarizing in a very nice way all the Statements under Standing Order No. 53(1). Now let us go to Statements Standing Order No. 56(1).

Chairperson of Delegated Legislation, you have a Committee report.

ACTIVITIES OF THE COMMITTEE ON DELEGATED LEGISLATION

Sen. Gatya Mo Fire: Thank you, Mr. Deputy Speaker, Sir. I wish to read a Statement relating to the activities of the Select Committee on Delegated Legislation for the period between April, 2023 to 30th June, 2023.

During the period under review, the Committee undertook the following activities-

The Committee held a total of eight Sittings during which it considered the following –

Legislative Proposals: During the period under review, the Committee did not consider any Bills.

Statements: Only one statement on Review, Remuneration and Benefit of the State Officers by the Salaries and Remuneration Commission (SRC) was sought from the Committee. The matter under consideration was resolved while the Committee was deliberating on the Statement.

Petitions: The Committee did not consider any Petitions.

Statutory instruments: The Committee considered the following Statutory Instruments-

(a) **Draft the National Building Code 2023:** The Committee held a retreat with the Principal Secretary of State Department of Public Works and National Construction Authority (NCA) for pre-publication scrutiny of the National Building Code 2023 on 15th April 2023 and 2nd June, 2023.

The Committee made the comments on the draft Building Code 23, which was transmitted to the Ministry of consideration before finalization and tabling in the Senate.

(b) The Committee also considered some issues to do with water regulations. The Committee received a memorandum from the Agriculture Sector Networks (ASNET) on the impact of Water Regulation 221 on the agriculture sector.

ASNET decried that the Water Resources Regulation, 2021 and increased billing charges for water by 1,000 per cent for domestic public waters supply and for livestock watering, and at the 320 per cent increment on water for irrigation, making agricultural sector activities less rewarding in returns and that there was no public participation when the Ministry developed the said regulations.

Mr. Deputy Speaker, Sir, in response, the Committee invited ASNET and the Cabinet Secretary for Water, Sanitation and Irrigation to deliberate on the issue. It emerged from the discussion that the matter was already in court and that the court had

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suspended the implementation of the Regulations until the court made its determination on the same. It was further noted that the regulations were not tabled in the Senate.

The Committee recommended to the Cabinet Secretary to republish the regulations and adhere to the provision of the Statutory Instruments Act, including tabling in the Senate and engaging all the relevant stakeholders while developing the regulations.

(c) On the Statutory Instruments (Exemption from Expiry) Regulations, 2022, the Committee resolved to annul the regulations on the basis that they had been published by the Attorney-General, who had no authority to publish the same under Statutory Instruments Act, 2013. The law mandates the Cabinet Secretary to make regulations under the Act. The Senate voted and resolved to annul the Regulations on 4th May, 2023.

(d) on the Draft Public Finance Management Act Regulations, 2023, the national Government Public Finance Management Regulations is proposed to be amended to delete the debt limit set at Kshs10 trillion and replace the same with a debt anchor of 55 per cent, public debt in present value terms of Gross Domestic Product (GDP).

In addition, the Cabinet Secretary for National Treasury and Economic Planning is to provide a written explanation to Parliament, detailing circumstances that led to the breach of the ceilings and provide a time-bound remedy plan. It also introduced the term 'public debt' to replace the term 'national debt' and 'county debt' as enshrined in the Constitution of Kenya.

The Cabinet Secretary of National Treasury and Economic Planning is expected to appear before the Committee on 3rd August, 2023 to deliberate on the draft Regulations and the implications of sustainable public management.

(e) Mr. Deputy Speaker, Sir, on the he Crops (Miraa Regulations), 2023, the Committee is also considering the Miraa Regulations, 2023. The Committee is considering these regulations and is scheduled to meet with the Council of Governors (CoGs) and the Ministry of Agriculture and Livestock Development on 3rd August, 2023 to deliberate on the Regulations.

(f) We also have various regulations from the Ministry of Environment, Climate Change and Forestry. They are-

(1) Regulations on Forest Conservation and Management (Gums and *Resins*) Regulation, 2023.

(2) Forest Conservation and Management (Private Forest Registration) Regulations, 2023.

(3) Environmental Management and Coordination (Deposit Bonds) Regulations, 2023.

(4) Environmental Management Coordination (Strategy Assessment, Integrated Impact Assessment and Environmental Audit) Regulations, 2023.

(5) Environmental Management and Coordination, Electrical and Electronic Waste Management Regulations, 2023.

(6) Environmental Management and Coordination, (Waste Tyre Management) Regulations, 2023

(7) Environmental Management and Coordination, (Plastic Packaging Materials Control and Management) Regulations, 2023

(8) Forest Conservation and Management Charcoal Regulations, 2023

(9) Forests (Participation in Sustainable Forest Management) Regulations, 2023.

(10) Environmental Management and Foundation of Toxic Hazardous Chemicals and Materials Management Regulations, 2023

(11) Sustainable Waste Management, and Extended Producer Responsibility Regulations, 2023.

Mr. Deputy Speaker, Sir, those are the various regulations that are pending for scrutiny.

(g) On the capacity building of the counterpart assemblies Committee on Delegated Legislation, the Committee met with the County Delegated Legislation Committees of Nyandarua and Kilifi counties during the period under review. This was intended to provide an opportunity for the county assemblies committees to interact with the Committee, to enhance the capacity of the members of the assemblies to scrutinize the statutory instruments in their respective assemblies. The Committee will continue to host committees from the county assemblies for this purpose.

Mr. Deputy Speaker Sir, on the observations, the Committee has observed a worrying trend over the period under review, where various Cabinet Secretaries would table their statutory instruments only in the National Assembly and not in the Senate as expected. To date, approximately 43 statutory instruments have been tabled in National Assembly compared to only three statutory instruments tabled at the Senate over the same period.

The trend is so worrying that at times, some Cabinet Secretaries forwarded statutory instruments dealing exclusively with the devolved functions to the National Assembly and disregarding the Senate.

Mr. Deputy Speaker, Sir, arising from the above, the Committee recommends the following interventions to address the issue-

(1) The Senate leadership, Senate Business Committee (SBC) and the Senate Liaison Committee to take up this matter urgently and consider inviting the prime Cabinet Secretary to appear before the Senate to address the matter.

(2) The Committee also suggests/recommends that invitation where necessary, issuance of summons to Cabinet Secretaries who have failed to submit statutory instruments to the Senate, bringing their attention to the role of the Senate in scrutiny of statutory instruments.

(3) Republication of the Statutory Instruments (Amendment) Bill that was published in the 12th Parliament, to ensure clarity that all Cabinet Secretaries as regulation-making authorities shall submit statutory instruments to both Houses of Parliament.

Mr. Deputy Speaker, Sir, in conclusion, I wish to thank your office and that of the Clerk of the Senate for the continuous support accorded to the Committee in undertaking its work. I would wish to thank all the Members of the Committee for their commitment and diligence in executing the mandate during the Committee activities.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you, Chairperson of the Committee on Delegated Legislation.

Next Statement under the same Standing Order is by Sen. Kavindu.

ACTIVITIES OF THE *AD HOC* COMMITTEE ON THE COMPENSATION
OF THE KENYAN VICTIMS OF THE 1998 BOMBING

Sen. Kavindu: Thank you, Mr. Deputy Speaker, Sir, for this opportunity.

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.56(1)(a) to make a Statement on the activities of the *Ad hoc* Committee on the Compensation of the Kenyan Victims of the 1998 Bombing of the United States of America (USA) Embassy in Nairobi, for the period commencing 29th June, 2023 to Monday, 7th August, 2023.

Within this brief reporting period, the Committee has carried out various activities pertaining to its mandate. As a snapshot, the Committee has held a total of six meetings in which it transacted the following business-

- (a) Election of the Chairperson and the Vice Chairperson.
- (b) Consideration and adoption of the Committee work plan and the schedule.
- (c) Consideration of the preliminary report of the law firms in the USA that have been litigating on the compensation of the victims of the USA Government.
- (d) Meeting with the victims of the bomb blast tragedy and their representatives.
- (e) Attending the bomb blast victim's prayer day held on 5th August, 2023 and attending the 25th commemoration of bomb blasts held on Monday 7th August, 2023.

Mr. Deputy Speaker, Sir, all the above-mentioned activities have been crucial as they have provided invaluable insight that will enable the Committee to fulfill its mandate.

(Loud Consultations)

Mr. Deputy Speaker, Sir, I need to read in silence. Members are making noise and I cannot concentrate.

*(The Senate Minority Leader (Sen. Madzayo)
and Sen. Olekina consulted loudly)*

The Deputy Speaker (Sen. Kathuri): The Senate Minority Whip and the Senate Minority Leader, give Sen. Kavindu Muthama the opportunity she is seeking. She is almost done.

Sen. Kavindu Muthama: Thank you, Mr. Deputy Speaker, Sir. The Committee in the near future plans to-

- (a) Meet with the Ministry of Foreign and Diaspora Affairs on the matters regarding Kenya's Foreign Policy.

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(b) Meet with the United States of America (USA) ambassador to Kenya regarding the United States of America (USA) policy.

(c) Meet with the lawyers who have represented the victims in the USA.

(d) Meet with the National Council of People with Disabilities (NCPD).

(e) Meet with the local administrators and the security team.

(f) Conduct public hearings.

(g) Visit the USA for consultative meetings with the Senate of the United States of America on amendment of their laws to include Kenyan victims and consider the adoption of the report of the Committee.

The Committee shall also undertake any other activities that may be necessary during the discharge of its mandate.

I wish to appreciate the Office of the Speaker, the Senate leadership, as well as the Office of the Clerk of the Senate for the steadfast support they have accorded the Committee.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): There are two Statements under Standing Order No. 52(1) by Sen. Olekina.

(Several Senators spoke off record)

I know your problem, but let me first execute these two Statements and then I will give a few Senators opportunity to comment on the Statement by Sen. Kavindu Muthama.

PUBLIC SERVICE SUPERANNUATION SCHEME ACT, 2012

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 52(1) to seek a Statement on the Public Service Superannuation Scheme Act 2012---

(Sen. Murgor consulted loudly)

I wish the Chairperson of the Committee on Labour and Social Services can listen to this.

I rise pursuant to Standing Order No. 52 (1) to make a Statement on a matter of general topical concern, namely, the Public Service Superannuation Scheme Act, 2012 (PSSS Act); The Public Service Superannuation Guideline Handbook published by the National Treasury and Economic Planning in compliance to the PSSS Act and the Human Resource Policies and Procedure Manual for Public Service of May 2016.

The Public Service Superannuation Scheme Act No.8 of 2012, which has been in operation since 1st January, 2021, is geared towards provision of retirement benefits to persons employed in the Public Service, who are defined in the Public Service Superannuation Handbook published by the National Treasury and Economic Planning in Section 2.2.1, as contributors to the current Public Service Pension Scheme, in compliance with the PSS Act.

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The current membership includes-

- (1) Civil Servants.
- (2) Teachers employed by the Teachers Service Commission
- (3) Disciplined Service (National Police Service, Prison Service and National Youth Service (NYS).
- (4) Judges of the Judiciary except the Chief Justice and Deputy Chief Justice.

Mr. Deputy Speaker, Sir, the Human Resource Policies and Procedures Manual on the other hand provides guidelines in the management and the development of human resource capacity towards the achievement of various national goals and objectives. The manual incorporates provisions of the Constitution, labour laws and other legislations that govern various aspects of industrial relations in the Public Service. The manual details various benefits to public servants that include housing, medical, transport and terminal benefits provided by the Government.

Section D (4) on Page 54 of the manual defines the medical benefits, including medical treatment outside Kenya and medical ex-gratia assistance accorded to all public servants defined in the manual. Section D.39(2) defines the life and disability insurance cover in favour of every member of the pension scheme for a minimum of five times of the pension scheme member annual pensionable emolument.

Mr. Deputy Speaker, Sir, Section F of the manual further defines work-environment, health and safety of public servants. The section provides guidelines and standards for the prevention and protection of officers against accidental and occupational hazards arising at the workplace. The section also provides for guidelines, procedures and compensation for work related injuries and accidents contracted during and outside course of work.

Section F10 details the compensation requirements to Government officers in case of injury or death, compensation during sick leave and Section F17(1-6) defines the Group Personal Accident Policy and F17(7) defines the benefits both in Work in Injury Benefits Act (WIBA) and Group Personal Accident (GPA) cover to public servants.

The responsibility towards the provision of above defined benefits as anchored in the Constitution is a primary duty of the Government as the employer; and thereby places a statutory obligation on shoulders of the Government to ensure that the detailed benefits are provided compulsorily.

Section 6(4) of the Public Service Superannuation Scheme Act No.8 of 2012 also defines that in addition to the contributions specified in subsection (1) and (2) of the Act further provides that-

“Government shall take out and maintain a life insurance policy that has a disability benefit in favour of every member of the PSSS Scheme for a minimum of five times the member’s annual pension emolument”.

The responsibility of providing benefits defined in the Act to members of the scheme is placed on a board of trustees.

Mr. Deputy Speaker, Sir, the implication of the above statutory documents and legislation is that all public servants, and I repeat ‘all public servants’ who have suffered accidental injuries, occupational illness or death while in service are entitled to

compensation equivalent to benefits defined on Section 6(4) of the PSSS Act, and Section 10(1-6) and Table (7) of the Human Resource Policies and Procedure Manual for Public Service of 2016.

I would like to highlight that teachers, who form the bulk of the civil servants, have never been provided with the above benefits. Over 4,094 teachers have died since the year 2016 and over 30,000 have recorded occupational illnesses and injuries. The estimated value of compensation that is legally due to the teachers' next of kin is in excess of Kshs25 billion.

Mr. Deputy Speaker, Sir, further, the disciplined services (NPS and the Kenya Prison Service) too have not been fully compensated to date. For instance, there exists over 1,000 deaths and disability claims pertaining to a period from 2016 to 2018 that are still outstanding yet---

Mr Deputy Speaker, Sir, allow me to repeat that. Further, the disciplined services, which are the National Police Service and the Kenya Prison Services have not been fully compensated to date. For instance, there exists over 1,000 deaths and disability claims pertaining to the period from 2016 to 2018 that are still outstanding, yet the Government had procured insurance covers to cater for the above benefits.

Further, for the 2021/2022 Financial Year, the National Police Service and the Kenya Prison Services were provided with a one-year benefit by the National Health Insurance Fund (NHIF) insurer, as opposed to the five-years life and disability benefit as per the Public Service Supernatural Scheme (PSSS) Act. The Judiciary has also not procured the insurance benefit for their staff, in line with the Act.

The financial exposure to the Government arising from such errors and omissions is quite huge, and if any of the public servants or the next of kin of the deceased public servants were to resort to legal redress, this would be a huge embarrassment to the Government of the day.

Mr. Deputy Speaker, Sir, to safeguard the rights of every public servant in line with the Constitution and the Employment contract, which is in line with the Kenya's labour Laws that govern the relations between the employer and the employees, the Government through the Ministry of Public Service, Gender and Affirmative Action, and the National Treasury and Economic Planning, must fully enforce compliance with the PSSS Act No.8 of 2012 and the Human Resource and Procedures Manual of May, 2016.

Finally, the Senate and by extension the National Assembly, must oversight the Government and ensure that the above is implemented. It is important to note that non-compliance to the above requirement exposes the Government to financial losses, as the Government will have to settle claims from its Exchequer.

Therefore, this is a matter that I would like to plead with you to--- I brought this matter under Standing Order No.52 (1) because I wanted to lay out the foundation for Members to understand. I would like to plead with you to apply your discretion, so that it saves me time from bringing a Statement under Standing Order No.53, to commit this Statement to the Senate's Standing Committee on Labour and Social Welfare. This is so that these teachers, particularly the families of the over 4,094 teachers who have died and have not been compensated, can be compensated.

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If you do that, you will be putting discipline and this Parliament shall not be making laws just for them to be good on paper. If you make laws, make sure you implement them fully.

Thank you, Mr. Deputy Speaker, Sir.

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

You know, Sen. Olekina, all through your Statement, which is so deep and has a lot of concerns, I was wondering what you want to achieve under Standing Order No.52(1) by coming up with this comprehensive Statement. However, you will still go through that route of Standing Order No.53(1).

Now, proceed and prosecute through the system, so that they can appear next week or some time to come, so that the Senate Standing Committee on Labour and Social Welfare can prosecute this matter.

The next Statement is by Sen. Miraj

INDIGNITY AND CHALLENGES SUFFERED BY WOMEN AND YOUNG GIRLS DURING MENSTRUATION

Sen. Miraj: Thank you, Mr. Deputy Speaker. Sir. I rise under Standing Order No.52 (1) to make a Statement on a matter of general topical concern, namely, the indignity and challenges suffered by women and young girls during menstruation.

Kenya is composed of different ethnicities with some having deeply rooted cultures. In some of these ethnicities, menstruation is too shameful and embarrassing a topic to be discussed openly. As a result, menstruating girls lack enough information about their bodies and adolescent boys tease and stigmatise menstruating girls for failure to understand that menstruation is a normal biological process.

There is a huge proportion of adolescents and women who are unable to access information, safe materials and other facilities for proper menstrual hygiene management. Formative research indicates that 65 per cent of women and girls in Kenya are still unable to afford or access sanitary pads.

In addition, there have been appalling reports of girls exchanging sex for money to buy sanitary pads, and that two out of the three pad users in rural Kenya borrow money from sexual partners. This not only compounds the problem, but also increases the risk of early age pregnancy and getting infected with Sexually Transmitted Diseases (STDs) and Human Immunodeficiency Virus (HIV).

Mr. Deputy Speaker, Sir, no woman or girl deserves the indignity of reverting to using dry cow dung, leaves, newspaper, used socks, old mattresses cuttings, or rags to catch her menstrual flow. These crude materials are not only ineffective, but also unhygienic and uncomfortable.

In most parts of Kenya, school-going girls of menstrual age are either forced to this humiliation or be absent from school. For the brave girls who want to remain in school and build a bright future, a large number of them confess to facing the stigma that comes from unhygienic menstrual hygiene.

It is important to note that young adolescent girls lose significant learning time during menstruation. Moreover, this state of affairs is worsened by the lack of information on menstrual matters, as well as deep cultures of taboos, myths, and misconceptions surrounding menstruation and menstrual blood.

We believe that young girls should not be left alone to make such tough choices. They should be supported, empowered and allowed to have menstrual periods in a safe, confident and dignified manner. In a bid to restore dignity to these girls, retain them in school and enable them to face that period with confidence, several initiatives can help in mitigating the challenges.

One such initiative is the Jimbo Pad Project, which aims to break the silence on menstrual matters and debunk the myths and misconceptions on the subject. Sensitize boys and girls on menstruation, manufacture and donate sanitary towels to needy girls of menstrual age by pushing for the establishment of one sanitary towel factory per county. Further research in Kenyan schools indicates a very high dependency on non-governmental organizations (NGOs) to support sanitation and hygiene among school-going children.

Given the requisite support, the Jimbo Pad Project will offer the solution by promoting safe and proper menstrual hygiene management. This will be easily attained if every county could invest in constructing a sanitary pad factory, as this will enable the provision of sanitary pads to menstruating girls and even reach out to those young girls who have dropped out of school and give them a second chance to brighten their future.

Mr. Deputy Speaker, Sir, I wish to conclude by encouraging all Senators to come out in support of the Jimbo Pad Project. This initiative will present an immediate solution to several challenges facing menstruating girls in needy settings. The project promises to be a sustainable solution if it receives the goodwill of both levels of Government, as it will stem the use of unhygienic materials as well as the rise in the rate of school dropouts.

Thank you.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Miraj. Hon. Senators, I promised to allow two or three Senators to comment on the Statement by Sen. Kavindu Muthama. I will start with Sen. Oketch Gicheru, whose name is on my dashboard. Sen. Oketch Gicheru, what is your interest? Is it to comment?

(Sen. Oketch Gicheru spoke off record)

Okay.

Clerk, limit each Member to two minutes. We have overshot our Statement time by an hour. We are doing poorly, but I appreciate the fact that we had many Statements. Two minutes are enough to make brief comments.

Sen. Oketch Gicheru: Thank you, Mr. Deputy Speaker, Sir. I appreciate this Committee for their work. Sen. Kavindu Muthama has engaged the families of the victims. This has also rekindled the conversation around this matter in our country to the extent that it has made visible the frontline workers. These are people who respond during this kind of crisis.

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From what we have seen from the meetings that our esteemed *Ad hoc* Committee, many Kenyans are living in pain and post-traumatic stress disorder from the 1998 bombing. Most of them have lost opportunities because of this problem.

It is important and urgent for the Senate to work and make sure that the compensation equation that this Committee is seeking for the victims and survivors of the 1998 bombing receives the urgent attention of our national leadership and also of the United States of America (USA) leadership. Although this House requires an *Ad Hoc* Committee that is limited in terms of number, this is one thing that needs more concerted effort. Some of us would want to be friends of the Committee to put some more push so that these people can get justice.

Thank you.

The Deputy Speaker (Sen. Kathuri): Senate Majority Whip, Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. America is a valuable friend of Kenya, the region and Africa. It is important that the Committee makes progress and talks to the ambassador as they promised. The ambassador should come clean on this issue. We do not expect USA to talk down at us - to wait when an African country does legislation – like Uganda – then they start doing the things they are doing. They have to be humane.

In the public domain, I have seen a conversation starting to emerge to the effect that somebody is claiming some Kenyans were compensated. Those were the employees of the Embassy. We would like the humane side of the Americans to wake up, so that beyond the people who worked for them, they also address the people who got injured and lost lives when they were not employees of the Embassy.

I am not a Member of this Committee. However, when the USA ambassador to Kenya comes, I will sit in this Committee and talk to him eye ball to eye ball to remind them that they cannot be talking down at us.

The Deputy Speaker (Sen. Kathuri): Thank you. Minority Leader, proceed.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Naibu Spika. Kwanza, ninaipa kongole Kamati yetu ambayo inajihusisha katika mambo ya mkasa wa bomu wa mwaka 1998 katika Ubalizi wa Amerika. Wakenya wengi waliathirika na majeraha na wengine kufa.

Juzi nikitizama runinga, niliona mtu ambaye wakati huo alikuwa miezi saba tu tumboni mwa mama yake. Mama yake aliathirika katika huo mkasa wa bomu. Watu wengi walipata majeraha. Lakini wafanyakazi wa lile jumba la Amerika, kwa sababu ya sheria zao na mienendo yao ya kibinadamu, ilibainika wazi ya kwamba wale walioathirika na wale waliopata majeraha makubwa, walilifidiwa. Walifaidika ijapokuwa walipoteza watu wao na wengine kupata majeraha.

Ile bomu haikulenga Mkenya yeyote bali Ubalizi. Hata hivyo, Wakenya waliokuwa wanafanya kazi zao waliathirika na hii bomu. Ingekuwa vyema ikiwa roho ya imani itawaingia Waamerika na walipe watu wetu ambao walijeruhiwa na wengine kupoteza wapendwa wao.

Jambo la kusisitiza zaidi ni kwamba hawa Wakenya wetu ni binadamu pia. Hebu fikiria mtoto kuathirika akiwa tumboni mwa mama yake na anasema hadi wa leo anahisi kisunzi na macho yake hayaoni vizuri. Ni kwa sababu ya athari iliyotokea wakati ule.

(Sen. Madzayo's microphone went off)

(Sen. Madzayo's spoke off record)

(Laughter)

The Deputy Speaker (Sen. Kathuri): Seneta wa Kaunti ya Kilifi, huwezi kujigamba kwamba wewe ni kiongozi kila wakati. Ungesema tu kwa heshima uongezwe muda. Wengine wakuite kiongozi lakini sio wewe mwenyewe ujiite kiongozi. Nitakuongeza sekunde 30 lakini ujue kufupisha maneno kwa sababu ya muda.

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

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Naibu Spika. Sijui kama hiyo Hoja ya nidhamu---

The Deputy Speaker (Sen. Kathuri): Malizia.

The Senate Minority Leader (Sen. Madzayo): Bw. Naibu Spika, nilidhani umempa Sen. (Dr.) Khalwale nafasi kwa sababu alikuwa tayari na hoja ya nidhamu.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Wanakuchanganya, malizia hoja yako.

The Senate Minority Leader (Sen. Madzayo): Bw. Naibu Spika, Kamati hii iwe na ushirikiano mwema na utendakazi mzuri. Serikali ya Amerika nayo iangalie hili swala kwa jicho la imani ili Wakenya wapate haki yao. Asante.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. (Prof.) Kamar.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir. I join my colleagues in congratulating the Committee chaired by my sister, Sen. Kavindu Muthama, on the progress they have made so far.

Mr. Deputy Speaker, Sir, I would like to agree with Sen. (Dr.) Khalwale that the USA has been a friend to this country and it looks like some things have not been understood on this occasion because under normal circumstances, we should be discussing and concluding.

I am very happy to hear that the Committee is going to make a few visits, one of which, is to meet the ambassador. It is very important that they meet the ambassador and the Senators on the other side for a few reasons. One, is that there is need to audit these people who we are being told were paid.

On issue of the 25th anniversary, I congratulate the Committee for visiting and meeting their families for the first time actually because they had almost been forgotten. It was very clear that there are people who are still hurting. There are people who were

hurt at that time and have not been able to come to terms with what happened. They also said that nobody has talked to them about the issue of compensation.

I would like to encourage the Committee that as they move forward to meet the US ambassador, they should have their documents right. Who exactly was paid because it is known? If they do not have the documentation, let the documentation come before they even go to the USA so that it is very clear who was paid and who was not paid.

Audit is very important. Even if the people who were paid were those who were in the Embassy, we know the law of compensation in this land, leave alone the one in the USA. According to the law of Kenya, if you were involved in an accident that was caused by a vehicle, for example, a matatu, even if you were not inside that matatu, you will be compensated by the insurance company.

So if we are going to compensate people who have been affected by an accident, we are expecting that the USA will look at these victims mercifully knowing that they are victims of some accident of some sort.

Mr. Deputy Speaker, Sir, we know that there is a fund which we were informed was started in the USA in 2014; that is, the Anti-Terrorism Fund in the USA. These are the people who should be taken care of. We really want to close this chapter.

Our appeal to the US Embassy and to our colleagues, the Senators in the USA, is that we close this chapter. We believe that our colleagues, the Senators, have not heard the real story and we believe that if we take the real story to them, things will be done.

I thank you.

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

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

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Proceed, Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, two quick things. One, I want to thank---

The Temporary Speaker (Sen. Veronica Maina): There is no Mr. Speaker.

Sen. Cherarkey: Sorry, Madam Temporary Speaker. I note the change on the seat, my apologies.

Madam Temporary Speaker, I rise to continue to empathize with the victims of the heinous act of terrorism in 1998 where many Kenyans and other nationalities were killed.

One of the victims that died is my resident of Nandi County, Namosine Village by the name Wilson Mutai. I want to thank K24 journalist, Isaiah Cheruiyot for carrying a very incisive story about the loss and yet they have not been compensated.

I have sent the video to the Chairperson of the *Ad hoc* Committee, Sen. Kavindu Muthama, to do a follow up. It is sad when they were celebrating 25 years, that they were never given any psychosocial support or compensation.

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Finally, I appeal to the American Government because it is a friendly nation to compensate them. The American Government was compensated a whopping US\$335 million by Sudan Government to be removed from the list of terrorist countries.

The USA itself has received compensation over victims of terrorist attacks. Even in the 1988 Lockerbie attack, the Panama Airline that was shot allegedly by terrorists, the Libyan Government paid US\$1.5 billion in terms of compensation to the Americans and other nationalities that died during the Lockerbie Air Crash by Panama Flight.

So, this issue of compensation is not new. The American Government has been compensated by other nationalities. They should also reciprocate. Therefore, I hope by the time the *Ad hoc* Committee concludes each and every Kenyan including other nationalities must be compensated.

Just the way when you are travelling in a car and get an accident, the insurance company normally compensates you. I wish the American Government and the US Congress will be able to sit and quickly resolve this matter because the US Government is a friendly nation. We know of the input and investment that the US Government has put in the Kenya Government. We appeal that they should also do the same.

With those many remarks, I support the Committee and wish them well.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. We have one statement from Sen. Munyi Mundigi.

THE WELLBEING OF TEACHERS POST RETIREMENT

Sen. Munyi Mundigi: Madam Temporary Speaker, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Education regarding the wellbeing of teachers' post-retirement. In the Statement, the Committee should-

(1) Outline incentives and programmes the Teachers Service Commission (TSC) is implementing to prepare and build sociological resilience in teachers approaching retirement explaining how these efforts are tailored to address the concerns and challenges faced by the teachers;

(2) State the measures that the Government has put in place to expedite the payment of retirement benefits to teachers upon their retirement to mirror other institutions like the KPLC and limit the benefit within three months;

(3) Explain additional post retirement support activities and engagements that the TSC undertakes to promote the continuous wellbeing of retired teachers.

The Temporary Speaker (Sen. Veronica Maina): I will call upon Sen. Shakila Abdalla to lay a report from the Committee on Powers and Privileges and give Notice of Motion.

Sen. Shakila Abdalla: Thank you, Mr. Speaker, Sir. I beg to lay the following---

The Temporary Speaker (Sen. Veronica Maina): There is a change on the seat. There is Madam not Sir.

(Interruption of Statements)

PAPER LAID

REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES ON THE INQUIRY INTO THE CONDUCT OF SEN. ORWOBA

Sen. Shakila Abdalla: Sorry, Madam Temporary Speaker, my apologies. I beg to lay the following Paper on the table of the Senate today, Wednesday, 9th August, 2023-

Report of the Committee of Powers and Privileges on the inquiry on their own Motion into the conduct of Sen. Gloria Orwoba, MP and to establish if the conduct constituted breach of Parliament Privilege.

(Sen. Shakila Abdalla laid the document on the Table)

NOTICE OF MOTION

ADOPTION OF REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES ON THE INQUIRY INTO THE CONDUCT OF SEN. ORWOBA

Madam Temporary Speaker, I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Committee of Powers and Privileges on the inquiry on its own Motion into the conduct of Sen. Gloria Orwoba, MP and to establish if the conduct constituted breach of Parliamentary Privilege.

Thank you, Madam Temporary Speaker.

(Resumption of Statements)

The Temporary Speaker (Sen. Veronica Maina): Before we move to the next Order, I will give an opportunity to a few Senators to make comments on the report. I will allow two from each side.

Proceed, Sen. Khatib.

Sen. Faki: Hapa Seneti najulikana kama Sen. Mwinyihaji Faki Mohammed. Khatib ni jina la uwakili.

Madam Temporary Speaker, I thank you for giving me this opportunity to comment on the two Statements. The first one is the Statement by Sen. Kavindu Muthama on the *Ad Hoc* Committee on compensation of the bomb blast victims.

I commend Sen. Kavindu Muthama and her Committee for the splendid work they have done in the one month they have been in existence. The work they have done is commendable. I hope that by the end of their term, the victims of the bomb blast will have been compensated.

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It is not fair for the United States of America (USA) to compensate some victims of the bomb blast and leave out others. Those who were affected did not want to suffer. People died and others were injured. Some suffered because America was the primary target. Therefore, it is inhumane and unfair for America to choose to compensate their citizens and leave out Kenyans still clamouring for compensation 25 years later.

As it has been said by Sen. Cherarkey, America has been compensated by Sudan and Libya after it was established that the suspected masterminds of the bombings came from those countries. It is not fair for America to close its eyes to Kenya yet they have been compensated in similar circumstances.

Let me comment on the report by my Chair, Sen. Gataya Mo Fire. We have also done a lot in the Committee on Delegated Legislation. Sadly, is the fact that when the National Assembly passed the Finance Act of 2023, they also amended the Statutory Instruments Act to deny the Senate an opportunity to look at the statutory instruments that will expire after the lapse of 10 years. That is not fair.

Parliament is composed of two Houses; the National Assembly and the Senate and those instruments affect some of the devolved functions. Therefore, that legislation ought to have been brought to this House, so that Members can have an opportunity to debate and assist our counties in resolving their issues.

Madam Temporary Speaker, we have done a lot in that Committee. We look forward to working together, so that we look at pending and upcoming statutory instruments that will affect the functions of our counties.

I thank you.

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

Sen. Wakili Sigei: Madam Temporary Speaker, I wish to make comments on the Statement by Sen. Kavindu Muthama, particularly with regards to the plea by Kenyans on compensation for the bombing that we all witnessed. A number of us were still young those days.

We have watched and listened to experiences that Kenyans went through. The survivors have on many occasions laid out bear experiences which are sad. We cannot fathom the fact that the US Government has taken for granted the compensation that the people of Kenya expect to get from them.

As someone said earlier on, the USA is friendly to the Government of Kenya. We believe that with the setting up of this particular Committee, its roles and engagements they are expected to undertake, they will come up with a report that will ensure that Kenyans are compensated the same way other countries have done in such similar incidences.

With regards to the Statement by the Chairperson of the Committee on Delegated Legislation, Sen. Gataya Mo Fire, indeed, Parliament is defined by the Constitution as comprising both the Senate and National Assembly. Any legislation that affects devolved functions where the Senate is involved must come to this particular House for approval and support.

We have, time without number, insisted that the role of this House is constitutional. The Supreme Court has pronounced itself on the roles this House, which is empowered by the Constitution. We must play that particular role.

Where such particular legislations are not taken through this particular House, then they should not be applied because it is entirely against the dictates of the supreme law of this particular land.

Madam Temporary Speaker, I support the Statements and thank you.

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

Sen. Githuku: Madam Temporary Speaker, I thank you for giving me this opportunity to contribute to the Statement by Sen. Kavindu Muthama. I commend the *Ad Hoc* Committee for the good job they have done.

It is unfair for the American Government to compensate its citizens and leave out Kenyans. Yesterday I saw some video clips in the media. The victims of the bomb blast were crying because of the kind of life they have been undergoing since that time. It is unfair for the American Government, being a friendly nation to Kenya, to compensate its citizens and leave out Kenyans who are in dire need of the support because of that accident that happened to them.

I urge Members of the mandated *Ad Hoc* Committee to go and present their case accordingly to the US Senate. They should hold talks with Senators of the US. I believe that can be done since the US is a friendly nation to Kenya. Definitely they will listen to their grievances and compensate Kenyans who suffered as a result of the bomb blast.

I have had an opportunity to travel with the Senate Minority Leader to the US. We had an opportunity to speak with a lawyer representing the victims. According to the statement by that lawyer, the only thing we are required to do is for the Senate of the Republic of Kenya to seek an appointment with the US Senate and prosecute their case. I believe that the Government of the US is ready to listen to Kenyans.

Madam Temporary Speaker, with those few remarks, I support.

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

Sen. Cheptumo: Madam Temporary Speaker, I thank my Chair, Sen. Kavindu Muthama, for the Statement that she has read in the House. It is unfortunate that 25 years down the line, Kenyan victims of that unfortunate situation have not been compensated.

I am a Member of the Committee. We have had several engagements with various stakeholders. The suffering I witnessed on Monday, when we had a prayer session with the victims is heart-breaking. Let me confirm to this House that as it has been said by the Chair, as a Committee, we will engage various stakeholders. We have the consortium of victims, the Ministry of Foreign and Diaspora Affairs, the United States Congress and lawyers of the victims.

I believe that the Government of Kenya, led by His Excellency the President, will listen. This is an issue which our nation should support the victims. On that Monday, I got shocked that we have a new crop of victims of this incident, the so called silent victims. These are children who were born after the bomb blast. We can talk of very young people of 25 years.

Some are in school while others are still unemployed even after going through education. This situation is so serious that it is important that as a country, a Committee and a House, we rise to the occasion and push for the compensation.

The cordial relationship between the Kenyan Government and that of the United States of America (USA) should be an avenue through which we can receive the goodwill necessary for the support. It is unfortunate that yesterday, I read in the news that the USA Government is saying that they have already done the compensation. You therefore wonder, who are these people who are being compensated yet all the 230 victims have not been compensated?

I support the Statement by my Chairperson and hope that we are going to succeed as a Committee.

Madam Temporary Speaker, finally, on the issue of Committee on Delegated Legislation, I was the Chairperson of that Committee in the National Assembly. The Challenge we have is that the Statutory Instruments Act should be amended so that, it makes it mandatory that all instruments come to Parliament and not National Assembly. This is so that the statutory making body is able to forward those regulations to the National Assembly and at the same time to this House. This is so that then there is approval by the two Houses. It is important.

The delegation of making laws by the National Assembly, the Senate and Parliament to either a Ministry or a Corporation, is a delegated power. Otherwise, the institution that has the power to make laws is both the National Assembly and this House.

I agree with the Chairperson of Committee on Delegated Legislation that, there is need to relook at all this so that then, this House will have a role to play in approving regulations, which have the full force of the law.

Madam Temporary Speaker, I support.

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

(Sen. Cherarkey crossed the floor without bowing at the Chair)

Sen. Githuku: Madam Temporary Speaker, is it in order for Sen. Cherarkey to cross from the other side to this side of the Floor without following the rules bearing in mind that he is a very senior Member of this House?

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, you are ruled out of order. Can you abide with the Standing Orders by doing what you are supposed to do? Bow before the Chair.

(Sen. Cherarkey crossed bowed at the Chair)

We will have the final comment on the statement on bomb blast from Sen. Ogola. Her name had fallen off the list of those who were contributing.

Sen. Ogola: Thank you, Madam Temporary Speaker, for giving me the opportunity to comment on this outstanding issue that the *Ad hoc* Committee of the Senate is dealing with.

As I rise, I would like it to be noted that this weekend, in Homa Bay County, we are going to bury a former victim of the bomb blast by the name, Jane Odemba. This is a lady who suffered serious injuries and for 25 years has been waiting for compensation from the American Government.

It is unfortunate that we are going to bury her, 25 years later without getting this compensation. We hope that with the journey that the *Ad Hoc* Committee begins, Jane will get justice even as she rests in her grave.

It is important that Kenyans who suffered this crime get justice. We say, justice to the victims is justice to this country Kenya. I am impressed that the Committee is going to look into compensation of first, loss of life, Secondly, the injuries that were sustained and thirdly, opportunities that were lost.

If you listen to the victims of the bomb blast, it is so painful that a number of children who were born then, lost their parents and a number of them even dropped out of school. Therefore, it is important that all these groups of people get justice.

It is important to also say that the United Nations Sustainable Development Goal (UNSDG) No. 16 talks about, peace, justice and opportunity for all. It is also important to note that, the USA is a signatory to the UNSDG16. Therefore, it is only in order that the American Government lives to the expectations of the world.

Madam Temporary Speaker, this morning, we had mass presided over by the bishop of Malindi, Bishop Lago. There is a teaching that touched my heart. The Bishop talked about breaking barriers. These barriers include the barriers we have against each other, the discrimination we face based on race, countries, tribe, religion and so many categories. He referred to it as rubbing the marks of the past.

I talk of this because we are talking about discrimination that the American Government has shown the victims of the bomb blast. We would like the American Government to live to the expectations of the world, to show justice and non-discriminations to nations. This is important because Kenyans suffered on a path that they did not know of. That morning, there were people who were just going on with their daily lives, walking past the site and they were caught up in this horrendous crime. I support the work of this *Ad Hoc* Committee. Let them follow all these activities to the end.

As I wind up, I also wish to comment on the Statement by the Senator of Embu County, Sen. Munyi Mundigi, who talks about the post retirement effects that teachers have.

Madam Temporary Speaker, as I stand here, I am a proud daughter of teachers, a proud wife of a teacher and a proud teacher. Following those three, I know what teachers go through. All of us know the role teachers play in this country. Teachers remain the biggest opinion leaders we have in our communities and the main contributors to our economy. It is important that this nation looks at their welfare even as they retire.

This is important by even looking at the remuneration of the teachers by preparing them for retirement. This is because the Government has all the records of all the workers in this country.

Madam Temporary Speaker, thank you for the opportunity. I support these two Statements.

The Temporary Speaker (Sen. Veronica Maina): Thank you, very much Sen. Ogola.

Clerk, call the next Order.

BILLS

Second Reading

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

(Sen. Mariam Sheikh Omar on 16.2.2023)

(Resumption of debate interrupted on 23.5.2023)

(Division)

We will defer the division to tomorrow 2.30 p.m.

(Bill deferred)

Next Order.

Second Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 16 OF 2023)

(Sen. Cheruiyot on 08.08.2023)

(Resumption of debate interrupted on 08.08.2023)

We will defer the Public Finance Management (Amendment) Bill until to tomorrow 2.30 p.m.

(Bill deferred)

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

*Second Reading*THE EQUALIZATION FUND ADMINISTRATION BILL
(SENATE BILLS NO. 14 OF 2023).*(Sen. Ali Roba on 27.7.2023)**(Resumption of Debate interrupted on 3.8.2023)*

The Temporary Speaker (Sen. Veronica Maina): We will resume the debate on The Equalization Fund Administration Bill (Senate Bills No.14 of 2023).

Sen. Mumma had a balance of one minute. She's not here. So, we will have Sen. Wakili Sigei.

Sen. Wakili Sigei: I thank you, Madam Temporary Speaker, for the opportunity to also contribute to the the Equalization Fund Administration Bill.

This is a very important Bill that seeks to establish a legal framework for conducting regular reviews and assessment of the performance of the Equalization Fund that is provided for by Article 204 of the Constitution of Kenya.

The objective is to facilitate the necessary legal framework for purposes of managing the Fund in order to ensure transparency, minimize the misuse or abuse of the Fund, and also direct the Fund towards the marginalized areas in full compliance with the provisions of the Constitution.

This is very crucial for distribution of the resources in order to address the regional discrepancies in terms of development and promoting the social economic development of the country.

As I have said, this is a crucial Bill that seeks to ensure proper administration of the Fund and in order to ensure that there is full compliance with the provisions of Article 204 of the Constitution. More importantly, the Bill will ensure that the amount of funds which are dedicated to the Equalization Fund benefit areas which have been identified by the Commission for Revenue Allocation (CRA).

As I support this particular Bill, I have picked on certain crucial provisions. I will attempt to voice my concerns and hope that the relevant Committee will consider its amendment, in due course, in order to ensure that the Act serves the purpose as it is envisaged.

Part three of the Bill, from Clause Six on the establishment of the Advisory Board.

Under such provision, there is the Board that is established. In particular, Clause (6) (1) (f) provides that-

“One person nominated by the Council of Governors drawn from areas identified as marginalized by the Commission on Revenue Allocation”

That particular nominee under the provisions of Clause 6(3) is required to serve for a period of a term of three years renewable for one further term.

Unfortunately, Madam Temporary Speaker, Clause 8 provides that-

“A person appointed under section 6(1)(d), (e) and (f) shall hold office for a non-renewable term of six years”.

The two provisions contradict themselves. On the one hand under Clause 6 (i) (f), it is supposed to be six years of three renewable only once and under the provisions of Clause 8 the same person is supposed to serve for a period of six years non-renewable.

This is one of the provisions that the Committee needs to look at for purposes of amendment in order to ensure that the statute is in full compliance and possible for appropriate implementation.

Clause 10(i) of the Bill provides for the creation of the functions of the Advisory Board. Under Subsection (g), the Bill also refers to guidelines that have already been provided for as deleted under the provision of Clause 33 on the repeal Clauses.

Therefore, I submit that the Committee must relook at deleting that particular provision in reference to the guidelines that no longer exist. This is because, in section 33 of the Bill, the guidelines are deemed to have been repealed by this particular Bill.

The provision of part four of the Bill establishes county technical committees. I applaud the Bill and the drafters under for Clause Six that provides for a representative of the relevant county Senator in the Board of this technical committee.

In particular, Clause 16 has listed the roles or the functions of this particular Fund. It has fully complied with the provisions of Article 2 of the Constitution to ensure that the purpose of the Fund is to enhance the provision of basic services including water and sanitation, roads, health facilities, and electricity.

That is what Article 204 of the Constitution provides for. However, the Bill has enhanced an additional sub-clause under Clause 16(e) that, provides for the provision that other basic services, which shall be identified by the CRA as requiring implementation in a marginalized area.

I propose that in order to ensure that there is full compliance with that particular Article 204, sub-clause 16(e) be redrafted to ensure that it does not contravene with the provisions of Article 204 (2) which is specific on the basic services that the Equalization Fund is aimed at.

Under Clause 17, the county technical committee is set up and comprises certain people. Unlike sub-clause 6, which had provided for a representative of the area Senator, this particular one has left out that particular provision.

I urge the Committee to consider reintroducing that representative. Of course, the reason is it will ensure that the representative and oversight role of the office of the Senator is cascaded downwards up to the level of the technical committee at the county level.

Sub-clause 17 (d) and (f) are a repetition of the other. I propose that one of the two be deleted and replaced by introducing the representative of the Office of the Senate.

That way, Madam Temporary Speaker, we will retain the number of the membership to the technical committee and avoid repetition of the representative of the relevant county assembly as it is, I believe by mistake, provided for by Clause 17 (d) and (f).

The provisions of Clauses 19 and 20 of the draft Bill, in my view, are superfluous. The section of the Bill that creates the technical committee is provided for under Clauses 17 and 18. Clauses 19 and 20 create sub-county technical committees. In my view, this is irrelevant for two reasons. One, in the areas identified by the Commission on Revenue Allocation (CRA), they do not include all sub-counties. In fact, there are certain counties that do not benefit at all from this fund. For instance, in my county, there are only three out of 25 wards that are benefiting from this fund. These three wards are all domiciled in one particular sub-county.

Madam Temporary Speaker, I see no reason why we should create other technical committees from other four sub-counties that do not benefit. I propose that the committee re-looks at the importance and the relevance of this particular provision and delete the provisions of Clauses 19 and 20 because there will be no need.

I am aware that there are only three wards in Bomet County; namely, Chebunyo, Nyangores and Sigor to benefit, yet the Act will expect the county to develop and establish other technical committees from other non-benefiting sub-counties. I wish to convince the committee that we do not need the two sections.

For obvious reasons, we would need to utilize the unnecessary creation of legislations, which are not of any use. We also need to minimize possible utilization of public resources in the creation of such technical committees and the attendant expenditure that they will require for purposes of establishing and convening sessions. In most cases, these sessions are not necessarily of relevance to support the work of the fund.

Madam Temporary Speaker, Clause 23(1) provides for the functions of the County Executive Committee Member (CECM). In this case, the relevant person is the CEC member in charge of finance. Pursuant to Clause 23(1) of the Bill, the CEC member is required to report to the board under section Six of this draft Bill. The CEC member who will be sitting as a technical member of the committee, is expected to report to the board as provided for under Clause Six.

Madam Temporary Speaker, Article 179(6) of the Constitution provides for the mandate of the CEC of any particular county. Allow me to, make specific reference to that—

“Members of a county executive committee are accountable to the county governor for the performance of their functions and exercise of their powers.”

Whereas the Constitution mandates the CEC member to report to the governor, the draft Bill here anticipates that the CEC member will report to the board that is established under Section Six.

Madam Temporary Speaker, one is most likely going to challenge the constitutionality of that particular provision. When we provide for the functions of this particular CEC member, we should ensure that we do not contravene the provisions of the Constitution as well as the provisions of Section 36 of the County Governments Act that spell out the roles of a CEC.

Further to the provision Clause 3(d) of this Bill with regards to the extension of the time on the applicability of the fund. Clause 3(d) suspends the application of Article 204(7) of the Constitution and extends dependency of the fund. This is a very critical provision because whereas we are asking for an extension of the availing of these funds to the counties, Article 204(7) and (8) of the Constitution provides that this fund lifespan is 20 years.

This is a very important provision because it will give additional life to the fund so that the counties identified by CRA also benefit within the confines of the constitution.

I support this Bill and urge the Committee to consider those particular comments and position with regards the specific clauses that I have referred to, so that we pass this Bill to make sure that the Equalization Fund is going to directly benefit the counties identified and for the purpose that is envisaged.

Madam Temporary Speaker, I support and thank you for the opportunity to contribute to the Bill.

The Temporary Speaker (Sen. Veronica Maina): Sen. Catherine Mumma, I will give you just one minute.

Sen. Mumma: Thank you, Madam Temporary Speaker, for the opportunity to contribute. I extensively contributed to this Bill, but I just want to add one point. I can see the Chairperson of the Committee on Finance and Budget, Sen. Ali Roba, is here. We need to include a clause that can provide for oversight by the Senate on this particular fund.

That section should obligate the implementing entities and the counties periodically submit reports to the Senate for us to evaluate how the fund is using. It should also provide for opportunity for the Senate to go to the counties to verify that activities being carried out under the Equalization Fund are being carried out as provided.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. I will now call upon the Mover of this Bill and the Chairperson of the Committee, Sen. Ali Roba, to come and reply.

Sen. Ali Roba: Thank you very much, Madam Temporary Speaker. I beg reply. I take this opportunity to thank all the hon. Senators who have contributed extensively to this Equalization Fund (Administration Bill), Senate Bills No. 14 of 2023.

As I discussed during the contribution of opening of the second reading, the object of the Bill is extremely clear. Having listened to most Senators who have contributed, there a few amendments already proposed in the report that we have submitted with the Bill, which takes care of most of the comments that are shared.

There are comments relating to the representation of the office of the Senator at the county level. I feel that is valuable because most Senators have shared that. We will include that in the amendment as required.

On an issue of clarity, whereas the beneficiary counties are 34, the beneficiary areas are about 1,400. As such, the envisage position where the technical committees have become necessary for it to be formed at the sub-county level is that the originally envisage beneficiary counties which are the 14, are extensively covered in terms of the

marginalized areas. As such, all the sub-counties are equally affected. Hence, that makes it necessary for a technical committee at the sub-county level, meaning at the constituency level, to be in place.

I believe that with the contribution shared by my colleague, Sen. Wakili Sigei, on there being no need for establishment of a technical committee at the sub-county level on the basis of the situation in his county; I think it is a little bit different in the other counties. The other counties are extensively covered, particularly the original Arid and Semi-Arid Land (ASAL) counties.

Having listened to most of the contributions, I have noted that there is some information gap. Marginalisation has been equated to poverty and poverty has been equated to marginalisation. However, the reality is that marginalisation does not equal poverty or poverty does not equal marginalisation.

Madam Temporary Speaker, marginalisation is a state of underdevelopment arising from deliberate resource denial by successive Governments, starting from the colonial administration in Kenya. That has led to extreme poverty and lack of availability of basic services in selected areas.

Unfortunately, when the CRA opened up this discussion on marginalised areas and extended it further as envisaged in Article 204 of the Constitution that established the Equalization Fund, it was gravely diluted. Nevertheless, the situation is as is right now and the second policy has already been passed. We are at the stage of implementation and we are where the CRA is in the process of formulating the third policy.

Madam Temporary Speaker, as I reply, I take this opportunity to give credit where it is due. The Equalization Fund started in 2010 and it was supposed to be realised in 2011. However, 10 years have lapsed without any meaningful realisation of the impact and appropriation of it. It is only under this current Government that the Equalization Fund has found traction, that we have passed the Equalization Fund Appropriation Bill for 2021/2022 and 2022/2023 which has already been assented to by the President as an Act of Parliament.

We are now processing the Appropriation Bill for the Equalization Fund 2023/2024, which is at the tail end of its logical conclusion. Meaning the goodwill from the Government led by His Excellency, President William Ruto, cannot be understated. We have also had engagement with the Cabinet Secretary for National Treasury and Economic Planning and that goodwill has been explicitly expressed.

For the first time, we have made a request and the Cabinet Secretary for National Treasury and Economic Planning has responded, providing us with a schedule of how he intends to comply with the unreleased arrears of the Equalization Fund amounting to Kshs39 billion, which is a lot of money for these deserving cases. Accordingly, under the first policy and second policy, that shall be appropriated because it covers 14 counties.

Madam Temporary Speaker and hon. Senators of this House have made many contributions and there are common denominators that the Committee feels need to put into consideration as well as include in part of the amendments that we intend to move at the time when amendments shall need to be moved at the Committee of the whole stage.

I have taken note of most contributions and we will endeavour to take the underlying issues that have come out. Having listened to them keenly, the Committee will need to bring them on board as required and make sure that when we will be moving amendments, those issues will be taken into consideration.

Madam Temporary Speaker, I beg to reply and pursuant to Standing Order No. 66(3), request that the putting of the question be deferred to a later date.

Thank you.

Madam Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Ali Roba. The putting of the question is deferred to tomorrow, 10th August, 2023 at 2.30 p.m.

(Putting of Question on the Bill deferred)

Next Order.

Hon. Senators, the House will adjourn for the Committee of the Whole.

COMMITTEE OF THE WHOLE

THE LEARNERS WITH DISABILITIES BILL
(SENATE BILLS NO.4 OF 2023)

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Mumma) in the Chair]

The Temporary Chairperson (Sen. Mumma): Hon. Members, we are now in the Committee of the Whole to consider the Learners with Disabilities Bill (Senate Bills No.4 of 2023).

The Standing Committee on Education has some amendments to make and we will go through them.

Clause 3

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-

THAT, Clause 3 of the Bill be amended in paragraph (a) by inserting the words “at all levels of education” immediately after the words “right to education.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 4

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT, Clause 4 be amended in paragraph (c) by deleting the words “cultural and” appearing immediately after the words “sensitive to the”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 5

Sen. Tobiko: Madam Temporary Chair, I beg to move-
THAT, Clause 5 of the Bill be amended –

- (a) by deleting paragraph (b);
- (b) in paragraph (c) by inserting the words “augmentative and alternative communication” immediately after the words “Kenyan sign language”;
- (c) in paragraph (e) by deleting the words “institution of learning” appearing immediately after the words “to any” and substituting therefor the words “educational institution”;
- (d) in paragraph (f) by inserting the word “appropriate” immediately after the words “equal access to”; and
- (e) inserting the following new paragraph immediately after paragraph (f) –
- (fa) protection from any form of discrimination

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 6

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT Clause 6 of the Bill be amended –

- (a) in subclause (1) by deleting paragraph (a) and substituting therefore the following new paragraph –
- (a) present their child for admission to a school as the case may be, for the purposes of completion of the child’s education; and
- (b) in subclause (3) by –
- (i) deleting the word “and” appearing immediately after the words “such parent” and substituting therefor the word “or”; and

- (ii) deleting the words “a school or institution of basic education” appearing immediately after the words “absence of the learner” and substituting therefor the words “an educational institution”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 7

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-

THAT Clause 7 of the Bill be amended in subclause (2) by –

- (a) deleting the word “necessary” appearing immediately after the words “put in place the” in paragraph (c) and substituting therefor the words “appropriate and adequate”;
- (b) deleting the word “learning” appearing immediately after the words “with disabilities in” in paragraph (c) and substituting therefor the words “educational”;
- (c) deleting the words “at such intervals as may be necessary a” appearing immediately after the word “conduct” in paragraph (d) and substituting therefor the words “an annual”; and
- (d) deleting paragraph (h) and substituting therefor the following new paragraph –
- (h) ensure that educational institutions, parents and guardians have the necessary tools to support learners with disabilities.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 8

Sen. Tobiko: Madam Temporary Chairperson, I beg to move:

THAT Clause 8 of the Bill be amended –

- (a) in subclause (1) by deleting the word “learning” appearing immediately after the words “with respect to the” and substituting therefor the word “educational”;
- (b) in subclause (2) by –
 - (i) deleting the words “learners with” appearing immediately after the words “the needs of” in paragraph (e);
 - (ii) deleting the word “learning” appearing immediately after the words “existing public” and substituting therefor the word “educational” in paragraph (g); and
 - (iii) deleting the word “learning” appearing immediately after the words “them in the” and substituting therefor the word “educational” in paragraph (i).

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(Question of amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 9

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT Clause 9 of the Bill be amended in subclause (1) by inserting the words
“and private” immediately after the words “public” in paragraph (a).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 10 and 11

(Question, that Clauses 10 and 11 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 12

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT Clause 12 of the Bill be amended in subclause (1) by deleting the words
“early childhood education or technical and vocational training centre” appearing
immediately after the word “An” in the introductory clause and substituting
therefor the words “educational or training institution”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 13

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 13.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 14

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Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 14.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 15

- Sen. Tobiko:** Madam Temporary Chairperson, I beg to move-
THAT Clause 15 of the Bill be amended in subclause (2) by –
- (a) deleting the words “board of management” appearing immediately after the words “shall assist the” in the introductory clause and substituting therefor the words “governing body”; and
 - (b) deleting the words “parent-child-teacher” appearing immediately after the words “positive approach in” in paragraph (b) and substituting therefor the words “parent-learner-teacher”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 16 to 22

*(Question, that Clauses 16, 17, 18, 19, 20, 21
and 22 be part of the Bill, proposed)*

Division will be at the end.

Clause 23

Sen. Tobiko: Madam Temporary Chairperson, we propose-
THAT the Bill be amended by deleting Clause 23.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 24

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT Clause 24 of the Bill be amended in –

- (a) subclause (2) by deleting the words “shadow teachers” appearing immediately after the word “providing” in paragraph (c) and substituting therefor the words “learner support assistants”; and
- (b) subclause (3) by deleting the words “disabled children” appearing immediately after the words “supportive services to” in paragraph (c) and substituting therefor the words “children with disabilities”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 25

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-

THAT Clause 25 of the Bill be amended in –

- (a) paragraph (b) by deleting the words “learning institutions in the country are friendly” appearing immediately after the words “amenities in” and substituting therefor the words “educational institutions in the country are accessible and appropriate”; and
- (b) paragraph (c) by deleting the word “learning” appearing immediately after the words “amenities in” and substituting therefor the word “educational”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 26

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-

THAT Clause 26 of the Bill be amended in subclause (1) by deleting the words “special equipment” appearing immediately after the words “and distribution of” and substituting therefor the words “assistive devices.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 27

(Question, that Clause 27 be part of the Bill, proposed)

Division will be at the end.

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Clause 28

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 28 and substituting therefor the following new clause –

Training of auxiliary staff.	28. Every special needs education institution shall ensure that its auxiliary staff and any person providing special needs services within its premises are qualified in their special areas.
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(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 29

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT Clause 29 of the Bill be amended in paragraph (a) by deleting the word “fast” appearing immediately after the words “the redress of” and substituting therefor the word “vast”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 30

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT Clause 30 of the Bill be amended in subclause (4) by deleting the words “The board of management of a special education” appearing at the beginning of the clause and substituting therefor the words “The governing body of a special needs educational institution.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 31 to 34

*(Question, that Clauses 31, 32, 33 and
34 be part of the Bill, proposed)*

Division will be at the end.

Clause 35

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT, Clause 35 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “of the special” in paragraph (c) and substituting therefor the words “needs educational.”

(Question for the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clauses 36 to 38

*(Question, that Clauses 36, 37 and
38 be part of the Bill, proposed)*

Division will be at the end.

Clause 39

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT, clause 39 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “public special” and substituting therefor the words “needs educational.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 40

(Question, that Clause 40 be part of the Bill, proposed)

Division at the end.

Clause 41

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT, clause 41 of the Bill be amended by –

(a) deleting the word “centre” appearing immediately after the words “research or training” in subclause (1) and substituting therefor the word “institution”; and

(b) deleting the word “education” appearing immediately after the words “to be a public special” and substituting therefor the words “needs educational”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 42

Sen. Tobiko: Madam Chairperson, I beg to move-

THAT, Clause 42 of the Bill be amended –

(a) in subclause (2) by –

(i) deleting the word “education” appearing immediately after the words “curriculum at special” in paragraph (b)(i) and substituting therefor the words “needs educational”; and

(ii) deleting the word “education” appearing immediately after the words “provided at special” in paragraph (b)(ii) and substituting therefor the words “needs educational”.

(b) by inserting the following new subclause immediately after subclause (2) -

(3) Any person authorized by the County Education Board shall be entitled to have access, at any reasonable time, to a home under this section in order to monitor the special educational provision made under subsection (1).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clauses 43 and 44

(Question, that Clauses 43 and 44 be part of the Bill, proposed)

Division at the end.

Clause 45

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-

THAT, Clause 45 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “conducts a special” in paragraph (a) and substituting therefor the words “needs educational”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 46

(Question, that Clause 46 be part of the Bill, proposed)

Division at the end.

Clause 2

Sen. Tobiko: Madam Temporary Chairperson, I beg to move-
THAT, Clause 2 of the Bill be amended-

- (a) by deleting the definition of the term “special needs education” and substituting therefor the following new definition —

“special needs education” includes education and training for gifted or talented learners as well as learners with disability and includes education which provides appropriate curriculum differentiation in terms of content, pedagogy, instructional materials, alternative media of communication or duration to address the special needs of learners and to eliminate social, mental, intellectual, physical or environmental barriers to learners;

- (b) by deleting the definition of the term “special needs school”;
(c) by deleting the definition of the words “special service providers” and substituting therefor the following new definition —

“special service providers” means any person providing specialized, supplementary and related services to learners with special education needs and includes braille readers and technicians, sign language instructors and interpreters, orientation and mobility specialists, physiotherapists, occupational therapists, speech and language pathologists and therapists, counsellors, behaviour specialists, sensory integration therapists, psychologists, nutritionists, social workers and learner support assistants.

- (d) by inserting the following new definitions in the proper alphabetical sequence —

No. 3 of 2021.

No.14 of 2013.

No.29 of 2013.

No.42 of 2012.

“special needs educational institution” means an institution that is specially organized to make special educational provision for learners with disabilities and is for the time being registered or accredited as an educational institution under the Early Childhood Education Act, the Basic Education Act, the Technical and Vocational Education and Training Act, the Universities Act or any other Act of Parliament; and

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“reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure learners with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

The Title and Clause 1

*(Question, that The Title and Clause
1 be part of the Bill, proposed)*

Division at the end.

Hon. Senators, we have finished moving the amendments. However, we do not have the numbers to go into Division. So, we will be seeking to move this to tomorrow.

I, therefore, call upon the Mover to report progress.

Sen. (Prof.) Kamar: Madam Temporary Chairperson, pursuant to Standing Order No.148, I beg to move that the Committee of the Whole do report progress on its consideration of the Learners with Disabilities Bill (Senate Bills No.4 of 2023) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO.4 OF 2023)

The Temporary Speaker (Sen. Veronica Maina): I now call upon the Chairperson to report progress on the Learners with Disabilities Bill (Senate Bills No.4 of 2023).

Sen. Mumma: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the Learners with Disabilities Bill (Senate Bills No.4 of 2023) and seek leave to sit again tomorrow.

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Sen. (Prof.) Kamar: Madam Temporary Speaker, I beg to move that the House do agree with the Committee on the said report.

The Temporary Speaker (Sen. Veronica Maina): Who is a seconder?

Sen. Crystal Asige: Madam Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Mumma): Hon. Senators, Order Nos.12, 13, 14, 15, and 16 are deferred.

COMMITTEE OF THE WHOLE

THE AGRICULTURAL AND LIVESTOCK
EXTENSION SERVICES BILL
(SENATE BILLS NO. 12 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE START-UP BILL (SENATE BILLS NO. 14 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE MUNG BEANS BILL (SENATE BILLS NO. 13 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PERSONS WITH DISABILITIES BILL
(SENATE BILLS NO. 7 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL
(SENATE BILLS NO. 9 OF 2022)

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(Committee of the Whole deferred)

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

BILLS

Second Reading

THE COFFEE BILL (SENATE BILLS NO.10 OF 2023)

The Temporary Speaker (Sen. Veronica Maina): This Bill is supposed to be moved by the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries, but he is not here. The Bill is, therefore, deferred.

(Bill deferred)

Proceed to Order No.18.

Second Reading

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

The Temporary Speaker (Sen. Veronicah Maina): Equally, this Bill is deferred because the Mover, Sen. Cherarkey, is not in the House.

(Bill deferred)

Let us go to the next Order.

MOTIONS

ADOPTION OF REPORT ON THE DEATH
OF EDWARD OTIENO ONYANGO

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the death of Late Edward Otieno Onyango, due to alleged medical negligence, laid on the table of the Senate on Wednesday, 31st May, 2023.

The Temporary Speaker (Sen. Veronica Maina): The Motion is also deferred.
(Motion deferred)

Order Nos.20 and 21 are also deferred because the Mover of the Motions is the same. That is the Chairperson of the Standing Committee on Health.

ADOPTION OF REPORT ON THE
DEATH OF MAUREEN ANYANGO

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the death of the late Maureen Anyango at Mama Lucy Kibaki Hospital due to alleged medical negligence, laid on the table of the Senate on Wednesday, 31st May, 2023.

(Motion deferred)

ADOPTION OF REPORT ON THE DEATH
OF MASTER TRAVIS MAINA

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the circumstances that led to the death of the late Master Travis Maina at Kenyatta National Hospital, laid on the table of the Senate on Wednesday, 31st May, 2023.

(Motion deferred)

The Temporary Speaker (Sen. Veronica Maina): Let us go to the next Order.

NOTING OF REPORT OF THE 146TH ASSEMBLY
OF THE IPU AND RELATED MEETINGS

THAT, the Senate notes the Report of the 146th Assembly of the Interparliamentary Union (IPU) and Related Meetings, held in Manama, Kingdom of Bahrain, from 11th to 15th March, 2023, laid on the Table of the Senate on Tuesday 2nd May, 2023.

The Temporary Speaker (Sen. Veronica Maina): The Motion is also deferred because the Mover, Sen. Kathuri, is not in the House.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Thursday, 10th August, 2023, at 2.30 p.m.

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The Senate rose at 5.42 p.m.