

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 18th October, 2022

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

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

PRAYER

QUORUM CALL AT COMMENCEMENT OF SITTING

The Temporary Speaker (Sen. Veronica Maina): Members, we are certain that we have quorum pursuant to Standing Order No.40.

Let us begin.

PETITION

PUBLIC TRANSPORT IN LAKE VICTORIA

Sen. M. Kajwang’: Thank you, Madam Temporary Speaker. I wish to present this Petition regarding public transport in Lake Victoria between Mfangano Island in Suba Central Sub-County and Mbita.

“We, the undersigned citizens of the Republic of Kenya, on behalf of concerned stakeholders, shareholders and residents of Mfangano Island on Lake Victoria in Homa Bay County, draw the attention of the Senate of the Republic of Kenya to the following, pursuant to Article 35 and 119 of the Constitution of Kenya and Standing Order No. 235 of the Senate Standing Orders: -

That, maritime transport is an essential component of sustainable development in Kenya today. This has been and will continue to be a major backbone of the blue economy and a support system for fishermen and other business institutions within the lake region and more importantly the only transport medium for thousands of Kenyan citizens who live on Mfangano Island;

Noting, that there are a number of islands on Lake Victoria namely, Mfangano, Takawiri, Remba, Atego, Risi, and Ringiti, inhabited by over 30,000 people who purely depend on water transport inter-islands and the only way to connect to the mainland, and whom fishing is a source of income and support for livelihood;

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That, the said islands on Lake Victoria have since time immemorial suffered from the lack of a public ferry to ensure safe and secure access of the islands and the mainland by the residents which has led to an increased cost of transportation of goods and services to and from the island thus affecting the cost of living in the island and the cost of doing business between the islands and the main land and more importantly, loss of lives in the use of unsafe water transport methods;

That, due to lack of a reliable public ferry, even the operations of the only private ferry that operated within the islands was suspended on 21st December 2021, almost one year ago, following non-compliance with Kenya Maritime Safety Regulations;

This has adversely and negatively affected movement between the islands and the main land leaving the residents and school going children to rely on other forms of transport including wooden boats which are not only insufficient to ferry high volume and heavy cargo from one island to another and to and from the main land but are also highly risky and dangerous to life and property;

That, the Government initiated a number of public projects on the said islands like construction of classrooms to promote Competency Based Curriculum (CBC) and other public installations including Kenya Power off grid generators, which are unlikely to receive enough fuel, public schools that have experienced delayed acquisition of essential learning and non-learning facilities and materials;

That, a continuous lack of a reliable public ferry is adversely affecting development and growth of the said islands considering that they have a good potential to contribute to the Gross Domestic Product (GDP) of the country through blue economy, lake transport, tourism, cage fishing, livestock farming and other forms of business;

That, we the petitioners, wish to confirm that as per Standing Order No. 235 of the Senate, this matter is not pending in any court of law or any other constitutional or legal body;

That, the efforts to have this matter resolved urgently through the Ministry of Transport and Infrastructure and the Kenya Ports Authority (KPA), though on going, has not yielded any immediate solutions;

Therefore, your humble petitioners pray that the Senate through the Committee on Transport and Infrastructure consider the following-

(i)With a view to return normalcy in people and cargo transportation between the said islands and the mainland, the Government through the Ministry of Transport and Infrastructure should support the current private investors through Public Private Partnerships (PPP) to ensue compliance with the safety maritime regulations;

(ii)That, in the meantime, the Government through the Kenya Ferry Services (KFS) now under the KPA, should allocate and install a fully equipped public ferry to ply the Mfangano Island, Rusinga Island, to Mbita Route free of charge and as a constitutional right for the people of Mfangano Island ferry being a road extension;

(iii)The Government through the National Treasury and the Ministry of Transport and Infrastructure through the KFS now under the KPA to immediately procure a public ferry with the Kshs3 million, allocated for the same in the current Financial Year 2022/2023 under vote 0204000 and purchase or construct a new free public ferry with a view to ensuring safe and secure lake transport within and without the island;

(iv)The Government through the National Treasury and the Ministry of Transport and Infrastructure through the KPA to rehabilitate the Mfangano Island jetty and port at Sena, the main town in Mfangano Island with financial resources already allocated for the same in the current Financial Year 2022/2023 to ensure safe and secure landing zones for the ferries plying the Mfangano Island, Rusinga Island to Mbita Route;

(v)The Senate Committee on Transport and Infrastructure, Ministry officials and any other relevant organisations should visit the respective islands to ascertain the suffering and the challenges experienced by the people.

Madam Temporary Speaker, I beg to lay the Petition.

(Sen. M. Kajwang' laid the document on the Table)

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. M. Kajwang'. Hon. Senators, pursuant to Standing Order No. 237, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Osotsi: Madam Temporary Speaker, I rise to support this timely Petition. I know the area that Sen. M. Kajwang' was referring to. I understand that people in that area have many challenges with transport, particularly the fishermen of that area.

I, therefore, call upon the relevant Committee to move with speed and process this Petition, so that a report can be tabled in this House and the relevant Ministry can deal with this issues that the Senator has highlighted.

I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Let us have Sen. Cheruiyot.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. This is a very interesting Petition. I love that the Senator has decided to use the Floor of this House to send out a call to the Government on an issue that is extremely important to the people of Homa Bay County. It sounds to me as a well reasoned, fair plea by Kenyans who deserve to be served by their Government like any other Kenyans.

Madam Temporary Speaker, the petitioners have even gone deeper into the details and ensured that they are aware that there is a budgetary allocation for this purpose. They even know the vote upon which this money has been allocated. I suspect that they may even have a supplier ready.

Sen. M. Kajwang is my friend. I know that he is a very pragmatic citizen and he may have planned his citizens well. This is a very important Petition, which I believe should be addressed as fast as possible.

Finally, I would like to encourage my good friend, Sen. M. Kajwang. One of the favourite counties of the new President is Homa Bay. In fact, that is where he took his first prayer as President after being sworn in. Unfortunately, their good Senator did not find it fit to attend the function. He would have mentioned it to him if he was there and showed him the direction of Mfangano Island, to ensure that the good citizens of Homa Bay enjoy the services that this ferry can provide.

I support this Petition and hope that our Committee on Transport and Infrastructure can help expedite it, so that the good citizens of Homa Bay can live happily like the rest of the citizens in the country.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Cheruiyot.

Let us have Sen. (Dr.) Oburu. I am sure that he is interested in this Petition.

Sen. (Dr.) Oburu: Thank you Madam Temporary Speaker, for this opportunity. I also join my colleagues in supporting this Petition, which is very important for us coming from around Lake Victoria. My county is just few Kilometers from Senator M. Kajwang's Constituency. We border the lake.

I would have wished that Sen. M. Kajwang included Luanda K'Otieno and Mageta Islands, which also border. This is because our people interact on a daily basis and transport is not for a constituency or a county. It is normally for interconnectivity between counties and for the whole country.

In the lake, there are many people who die because of the safety of the boats they use in crossing. It is high time that the Government intervened and introduced safe transport in the lakes, so that our people can stop dying. The deaths are not reported, but they occur on a daily basis. Sen. M. Kajwang', I hope the Petitioners are from your area, which is why they only petitioned for those islands.

When the provisions are enacted, there should be ferries connecting Luanda K'Otieno and those other islands, so that our people can have safe transport and sail through. This is an important Petition.

I support

The Temporary Speaker (Sen. Veronica Maina): Sen. Maanzo, you may proceed.

Sen. Maanzo: Madam Temporary Speaker, I rise to support this Petition. First and foremost, transport is about equity in the country, which is in the Constitution. What is happening in the Port of Mombasa or any other place with water mass happens to other citizens of this country in any part of the country.

For equity and there having been details as to the budget and the preparedness of the House having allocated monies to solve this problem, the Government should move with speed.

Even before our Committee proceeds to Homa Bay, this matter should have even been sorted because of the urgency it has, especially on the issue safety. Private entrepreneurs are the ones operating there, yet in Mombasa, the ferries there belong to the Government and give services for free to residents. There is no equity because it is a private entrepreneur and the people have to pay.

It is very important that these ferry services are offered to Kenyans in Homa Bay, so that they can enjoy the privileges other Kenyans in all other parts of the country are enjoying.

I heard Sen. Faki say that I do not have a water mass in Makueni. I want to inform him that I am preparing Thwake Dam in Makueni, which is going to be the biggest dam in East and Central Africa. I will, therefore, also need ferries to be connecting Makueni and Kitui Counties.

The Temporary Speaker (Sen. Veronica Maina): Thank you Sen. Maanzo. We will see how that will work out for you when you connect the two counties. Let us have Sen. (Dr.) Khalwale give comments.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, it is a pity today in Kenya that it looks like the Kenya Ferry Services was created for Likoni. In fact, the people of Homa Bay and Kenyans should know that there are only several ferries in Kenya: The Nyayo, MV. Harambee, Kilindini and Kwale, all operating in Likoni.

Sen. Faki: On a point of information. Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, do wish to be informed by Sen. Faki?

Sen. (Dr.) Khalwale: Sen. Faki, would you like to inform me? Most welcome, Sir.

The Temporary Speaker (Sen. Veronica Maina): Sen. Faki, you may proceed.

Sen. Faki: Madam Temporary Speaker, I would like to inform my brother, Sen. (Dr.) Khalwale, who resided in Mombasa for a long time. Firstly, we are grateful for his services to Port Reitz District Hospital then. However, at the moment, there are about seven ferries which operate across the Likoni Channel. Even in Mtongwe, they have started the service.

Unfortunately, after the incident, which occurred in the year 2020, where the lady, Mariam, drowned with her daughter, the Kenya Ferry Services was transferred to Kenya Ports Authority. So, there is no longer Kenya Ferry Services. It is now a department of Kenya Ports Authority.

Sen. (Dr.) Khalwale: Thank you for the information. However, when you are informing me, you should advance my frontier of knowledge. I have started by giving you the actual ferries. I have told you that there is Harambee Ferry, Nyayo, Kilindini, Likoni and the fifth one is called Kwale.

You should have just told me the two additional ones, so that I know that you are adding knowledge to what I had said. Otherwise, thank you for acknowledging---

For this reason, it is wrong that the Government has not seen the importance of using ferries. Ferries are important for transportation. In fact, as we cry for the people of Mfangano Islands, why are we not making economic capital out of water transport? The entire island of Mombasa, Mfangano Island and the other attendant Islands in Lake Victoria can actually thrive on ferries as a mode of transport. In fact, it is faster to move from the Islands to come to Siaya using ferries than to go round to Kisumu until you come by road.

I, therefore, support this Petition for good reason, and for historical reasons. The Abaluha people who live in Mfangano Island, the small house of the Luhya House called the Abasuba have been marginalized in that area. When people address issues of the Abasuba, they do not realize that they exist as an independent Luhya House.

I, therefore, congratulate Sen. M. Kajwang, who is a fellow Luhya from Abasuba House, for coming up with this Petition.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. M. Kajwang'?

Sen. M. Kajwang': It is a point of information to Sen. (Dr.) Khalwale.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, do you wish to be informed?

Sen. (Dr.) Khalwale: Yes, Madam Temporary Speaker.

Sen. M. Kajwang’: Madam Temporary Speaker, the good Senator has talked about the roots of the Abasuba. I am a proud Abasuba. However, I just wanted to tell Sen. (Dr.) Khalwale that there is the river and the source. The source of the Abasuba could not have been the Abaluhya. The source of the Abaluhya could have been the Abasuba. So, he needs to distinguish the river and the source.

Sen. (Dr.) Khalwale, the Abasuba who live on Mfangano and Rusinga Islands and the areas called Kaksingri were members of the royal household of the Baganda, who were purged when Kabaka Semakokiro led an uprising that led to the death of Kabaka Junju. They cut off his testicles.

As a result, they were flushed out of the Kabaka Kingdom and came to the Islands. Therefore, we, the Abasuba, are part of the royal household of the Baganda Kingdom.

Sen. (Dr.) Khalwale: I challenge the good Senator to a DNA test at the community level.

I thank the Senator and the petitioners because they have now acknowledged the new thing in town, which is, the bottom-up policy of developing Kenya. This is classical bottom-up. We want you to embrace that at the economic level and politically too. Politically because some of the things I see happening on the Minority Side is because of lack of democracy in the political thinking of that area. You have pinned your thinking around a prominent personality.

If it was not the case, my good brother-in-law, Sen. Omogeni, would not have been trending the way he was last week, when---

Sen. Olekina: Point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, what is your point of order?

Sen. Olekina: Madam Temporary Speaker, you have reiterated on the importance of relevance while contributing to debates. Is the Senate Majority Whip in order to deviate from discussing a very important matter about the transportation of Kenyans, who are being denied that service? He is now discussing the content of a party leader and suggesting lack of democracy on this side of the isle?

I wish that you would find him completely out of order and direct him to either withdraw and apologise; or substantiate the allegations that he is making.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, do you have a response to that?

Sen. (Dr.) Khalwale: Yes, Madam Temporary Speaker. The good Senator for Narok County, if you had seen the nexus, I started by stating the importance in the economy of the people who are served by the ferry. Surely, those ferries are going to carry goods and people to social functions. That improves the economy of the people.

How I have now veered away from the Motion, I do not see. However, if it pleases you that I have mentioned a party leader, please recall that on the HANSARD. I

have not mentioned any particular political party, coalition or leader. I spoke as a standard of language. Bear with me, Sen. Olekina.

I support this very important Petition and hope that it will be processed quickly through the Committee. As the Chief Whip in this House, I guarantee the Abasuba that I will help in mobilising Members of Parliament (MPs), so that this Petition can move quickly.

May I request Members of the National Assembly to expedite in ensuring that Hon. Alice Wahome becomes the substantive Cabinet Secretary (CS). This is so that this Petition can be referred to her Ministry for action and eventual unlocking by His Excellency President William Samoei Ruto.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. (Dr.) Khalwale.

Sen. Olekina, your point of order was noted. Just allow the robustness of the debate. Unless it has completely veered off, allow the wider perspective.

Sen. Sifuna, please, make your contribution.

Sen. Sifuna: Thank you, Madam Temporary Speaker. I rise to support this Petition. I have been privileged to visit the islands that my brother, Sen. M. Kajwang', has spoken about on multiple occasions. The first time, I was accompanied by Sen. Wakili Sigei, the Senator for Bomet County. He can bear me witness that this is one of the most beautiful places you can ever visit in our country.

In fact, I have had a discussion with the Nairobi City County delegation; my sisters, Sen. Tabitha Mutinda and Sen. Nyamu, that when we retreat to discuss matters of Nairobi City County, we will go to these beautiful islands. It is the only place in this country where you can see the sun setting on water. For those of us who are hopeless romantics – I can see Sen. Lelegwe cannot relate – we know the value of a sunset in the eyes of lass when you are advancing your case.

(Laughter)

I have seen very few places on Lake Victoria that have white, sandy beaches and palm trees. I have seen only one on the other side of Uganda in Entebbe and this Takawiri Island.

Madam Temporary Speaker, it is very unfortunate and inequitable as the Senator for Makueni County has alluded to, that we have ferry services on one side of the country.

Many of us here will bear witness that if it is not the ferry connecting Mombasa to Kwale County, in fact, the tourism business and industry in Kwale would not be thriving the way it is. It is a lifeline. We are praying that the same consideration that is given to the Likoni Channel is given to these islands.

I have friends in Kakimba Village, which my brother here knows very well. Some of them may be beneficiaries of the car loan from this or the other House. Do you know you cannot transport your car, so that your villagers can see that the God that President William Ruto worships has also seen you and given you a motor vehicle of the standing

of a Member of Parliament? There is simply no way for you to get that vehicle to your village.

We stand with the people of the islands. It is the most beautiful place as my senior, Sen. (Dr.) Khalwale, has alluded to. Those of us who come from that side of the country sometimes feel that there are Government services that are not applicable or available for us. We have not felt the weight of the Ministry of Tourism and Wildlife in Western Kenya. There are beautiful places there that are never marketed by this Kenya Tourism Board (KTB) that I hear about. Mt. Elgon has caves and elephants, but we do not see the same level of marketing that we see in other places that have tourism activities.

Madam Temporary Speaker, if this Petition is allowed to succeed, I personally have seen the difference that it will make. If you are left at the hands of private ferry operators, then you know they are exposed to the ravages of the economy. These people are free to set the prices of these goods, yet they are an essential good that is a lifeline to the people of these islands.

I assure my friend, the Senator for Homa Bay County, that he has a friend in the Senator for Nairobi City County and its entire delegation. I want Sen. Tabitha Mutinda not to leave this House without having seen the sunset on Lake Victoria from Governor's Camp on Mfangano Island.

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

Hon. Senators, since this is a Petition, the observations and comments should be brief. We have only 10 minutes or maybe even eight minutes now. I request all the Senators who will speak to take at least two minutes. We will have about five Senators before we close this matter.

Sen. Olekina, you have the Floor.

Sen. Olekina: Thank you, Madam Temporary Speaker. I will go straight to the importance of ferry services. I rise to support this Petition by the good Senator for Homa Bay County. When we are in this House, we try to make sure that we support each county to generate own source revenue and deliver services better to the people.

Ordinarily, when petitions are brought to this House, the Committee concerned carries out an investigation and reports its findings to the House. The report is also given to the petitioner, so that they can follow through.

I beseech the Senate Standing Committee on Roads and Transport to move further and call the Maritime Authority (MA) to a discussion. The people and Homa Bay County Government should also be included, so that they get details on the importance of these islands.

We talk about the blue economy but seldom do we now move forward. I hope that when we are investigating this Petition, we can move forward and pronounce ourselves as the Senate. I beseech the Chairperson of Senate Committee on Roads and Transport to introduce a Motion, so that we see a tangible outcome.

Ordinarily, we call people here and grill them, but what is the outcome or take home? Even if a project is through a Public-Private Partnership (PPP), just like the Nairobi Expressway, that can also help the people of Homa Bay.

Madam Temporary Speaker, I support and call upon the Committee on Roads and Transportation to seriously consider moving a Motion for this Senate to pronounce itself on what needs to happen in order to build a blue economy.

The Temporary Speaker (Sen. Veronica Maina): Senator for Kilifi, Sen. Madzayo, please, proceed.

The Senate Minority Leader (Sen. Madzayo): Bi. Spika wa Muda, kwanza, nawashukuru sana wale ambao wameleta hii ardhihali, wakiongozwa na Daniel Rakoko, kuhusu maisha ya watu wanaoshi kwenye visiwa kule Homa Bay.

Tunaelewa kwamba watu hao hupitia hali ngumu ya usafiri. Watu hawawezi kutoka nyumbani wakiwa na mizigo ama wakienda shuleni au popote penye haja kwa sababu inawalazimu kuogelea ilhali hawawezi kufanya hivyo wakiwa na mizigo.

Watu hao wanahitaji huduma za usafiri kikamilifu kama Wakenya wengine, jinsi *Kenya Ferry Services (KFS)* inavyotoa huduma za usafiri kwa watu wa Mombasa na pande zingine.

Mara nyingi, kwenye visiwa, utapata kuna wakulima, wavuvi na wafanyabiashara mbalimbali. Wavuvi na wakulima huhitaji usafiri ili kupeleka bidhaa zao sokoni. Hali kama hiyo ni ngumu kwao.

Ikiwa hali hiyo itaendelea, wakazi wa visiwa kama vile Mfangano na Rusinga wataendelea kuumia. Kwa hivyo, KFS inafaa kuchukua hatua kwa haraka. Kama kuna pesa, ni vyema Serikali yetu kuchukua hatua kwa haraka na kuhakikisha *ferry* zimepelekwa kule ili kusaidia watu wanaoishi kwenye visiwa.

(The amber light at the timer was turned on)

Bi. Spika wa Muda, naomba dakika moja tu nimalizie.

The Temporary Speaker (Sen. Veronica Maina): Sen. Madzayo, you have 20 seconds.

The Senate Minority Leader (Sen. Madzayo): Bi. Spika wa Muda, kwa kumalizia, ningependa kuhimiza wafanye haraka kwa sababu kuna wagonjwa, wafanyabiashara na watu tofauti tofauti wanaohitaji huduma za feri. Nasisitiza kuwa Serikali inafaa kuchukua hatua mwafaka haraka iwezekanavyo.

The Temporary Speaker (Sen. Veronica Maina): We will now have Sen. Mungatana, MGH.

Sen. Mungatana, MGH: Madam Temporary Speaker, the issue of transportation between Mbita and Mfangano Island is not new. The Governor, Her Excellency Hon. Wanga, raised this issue in the National Assembly of the Twelfth Parliament when she was a Women Representative.

When an issue is raised again and again, it points out the importance and it must be given some weight. So, I congratulate Sen. M. Kajwang' for revisiting this issue. The point I want to make is on the regulations of safety by the Kenya Maritime Authority (KMA). The Committee on Roads and Transportation should expedite the process and make sure that the matter is addressed as per this Petition before this House.

It will also be an opportunity when the Committee on Delegated Legislation is formed, hopefully today, to look at the rules of safety, so that we update and make them

viable, so that as ferries continue to operate, they do not become a source of grief for all of us.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wambua, please, proceed.

Sen. Wambua: Madam Temporary Speaker, I will say just two things in support of the Petition that has been presented by Sen. M. Kajwang’.

First, I find it a clever way of pushing forward the accountability agenda. What Sen. M. Kajwang’ has done is that together with the petitioners, they have identified the funding that has been set aside for this project, including the vote head.

With that, it will be difficult for anyone to say that funds are not available for the project because the question would be, where was Kshs300 million allocated for the project diverted to? Therefore, it is a clever way of ensuring accountability before they start spending.

Secondly, is the importance of marine transportation in the whole issue of blue economy. It is true that marine transportation is an integral part of the blue economy. Without transportation of human beings, it is difficult to extend services and deliver goods from one point to another, especially on the lake transportation corridors.

Madam Temporary Speaker, I sit on the Committee on Roads and Transportation and want to commit to my brother, who is also a Member of the Committee. Sen. Sifuna said that Sen. Tabitha Mutinda must make sure that she visits the islands. Maybe it will be an opportunity for her to visit those islands, and I believe she will come back safe.

I thank you.

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): It seems to be a personalised invitation for the Senator to visit the islands.

Sen. Faki, please, proceed.

Sen. Faki: Bi. Spika wa Muda, asante kwa kunipa fursa hii kuchangia ardhihali ambayo imeletwa Bungeni na Seneta wa Homa Bay, Sen. M. Kajwang’.

Jambo ambalo Sen. M. Kajwang’ amezungumzia katika ardhihali hii ni muhimu sana kwa sababu usafiri wa majini hutumika hususan katika Jiji la Mombasa na Mji wa Lamu ambako kuna visiwa vingi.

Tangu huduma za *ferry* zianzishwe kule Mombasa, hazijawahi kupanuliwa kwa njia yoyote. Ijapokuwa *ferry* zimeongezeka, hakujakuwa na upanuzi wowote wa huduma za *ferry* katika Kaunti ya Mombasa. Labda kina Sen. M. Kajwang’ wanalina ngoa kwamba hawana *ferry*. Kwetu sisi, huduma zinazotolewa pale ni duni sana kwa sababu Serikali haijawekeza katika huduma zile.

Bi. Spika wa Muda, itakumbukwa kwamba KFS iliundwa baada ya ajali ya *ferry* ambayo ilitokea mwaka wa 1994 ambapo karibu watu 250 walipoteza maisha *Ferry* ya Mtongwe ilipozama. Baada ya muda, huduma zilidorora kwa sababu Serikali haijakuwa ikiwekeza kule. Mpaka wananchi wapige kelele ndio *ferry* ziongezwe.

Swala hili si la Serikali kuu pekee yake. Serikali za kaunti pia zinafaa zieceze katika mfumo huo wa usafiri,

Bi. Spika wa Muda, Katiba inasema kwamba feri na bandari ni jukumu la Serikali za kaunti. Kwa hivyo, iwapo hizo fedha ambazo zinawekwa katika feri zitaweza kuregeshwa katika zile kaunti zinazo pahali ambapo wanaweza kugesha vyombo, itasidia pakubwa kurahisisha usafiri.

Jambo lingine ambalo tumeona ni kwamba, *Kenya Maritime Authority (KMA)* ambayo inafaa kuangalie maswala haya---

The Temporary Speaker (Sen. Veronica Maina): Sen. Faki, please, wind up your comments in ten seconds.

Sen. Faki: Asante, Bi. Spika wa Muda. *Kenya Maritime Authority* haijafanya jambo lolote kuhusu maswala haya. Ni Mombasa pekee yake ndipo wameweza kukaa na mpaka sasa hawajaenda pahali pengine popote kufanya huduma kama hizo. Ukiangalia mambo---

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Faki. We are winding up comments on the Petition. I will only allow brief comments from Sen. Chimera and Sen. Oyomo.

Sen. Chimera: Thank you, Madam Temporary Speaker, for this opportunity. I rise to support the Petition by Sen. M. Kajwang, the Senator for Homa Bay County. This is a crucial Petition.

It is worth noting that some of us come from areas where we use ferries on a daily basis. We also have areas in Kwale County, specifically Funzi Island, Mukwiro and Wasini, where it is risky to cross without the ferry.

I urge the Committee on Roads, Transportation and Housing to cast their net wide when investigating this situation. I believe that this service will not only empower the people of Homa Bay, but also empower the people of Funzi, Wasini and Mukwiro. It should help our people access transport services and conduct their businesses in time, effectively and efficiently.

I support this Petition. Thank you, Madam Temporary Speaker.

Sen. Oyomo: Madam Temporary Speaker, I rise to support the Petition by my Senator. If you ever get yourself at the shores of Lake Victoria, you will witness how our people travel to Mfangano Island and it brings a lot of misery. Each morning, they travel across the lake without proper ferry services. They are never sure of reaching their destination. Our people travel in undignified ways.

Madam Temporary Speaker, the transportation mode not only touches on the safety of the people that use the lake, but also their dignity. The boats that they use carry everything at the beginning of the journey. In those boats, you will find cows and building materials among other things. You can only imagine what will happen if something goes wrong.

I support this Petition. Thank you.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, safety and mobility on water is very crucial. Pursuant to Standing Order No.238(1), this Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Roads, Transportation and Housing.

In terms of Standing Order No.238(2), the Committee is required in not more than 60 calendar days from the time of reading this Prayer, to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

Thank you.

(The Petition was committed to the Standing Committee on Roads, Transportation and Housing)

PAPERS LAID

AUDITOR-GENERAL REPORTS ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I beg to lay the following Papers on the Table of the Senate, today 18th October, 2022, being reports of the Auditor-General, for the year ended 30th June, 2021, on the financial statements of the following: -

Report of the Auditor-General on the Financial Statements of Narok County Executive for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Narok County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Narok County Assembly Loan & Mortgage Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Narok County Bursary Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Narok Water & Sewerage Services Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Executive Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Assembly (Members) Car Loan & Mortgage Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Assembly (Staff) Car Loan & Mortgage Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Assembly Catering & Health Services Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Older Persons and Persons with Disability Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Lake Bogoria Community Grant for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Community Wildlife Conservation Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Bursary and Scholarship Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Baringo County Emergency Fund for the year ended 30th June, 2021.

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Report of the Auditor-General on the Financial Statements of Kirandich Water Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kirinyaga County Assembly Mortgage (Members) Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kirinyaga County Assembly Car Loan (Members) Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kirinyaga County Facility Improvement Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kirinyaga County Alcoholics Drinks & Substance Abuse Control Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kirinyaga County Health Sector Service Fund (H.S.S.F) for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kirinyaga County Education Bursary Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kirinyaga Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Rukanga Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kisii County Veterinary Services Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Executive Committee Members' Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Assembly (Members) Car Loan Mortgage Scheme for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Assembly (Staff) Car Loan and Mortgage Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Civil Servants' Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Bursary Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nyandarua County Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Olkalou Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Executive for the year ended 30th June, 2021.

*(Sen. Orwoba crossed the Floor of the House
without bowing to the Chair)*

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Sen. Wambua: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wambua, what is your point of order?

Sen. Wambua: Madam Temporary Speaker, have you seen what Sen. Orwoba did? She walked across to this other side, just to talk to Sen. Abdul Haji.

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, kindly bow.

(Loud consultation)

The Temporary Speaker (Sen. Veronica Maina): Proceed, Senate Majority Whip.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I am happy that you have forgiven Sen. Orwoba. If it actually comforts you, she got confused by my melodious voice. That is why she forgot.

(Laughter)

Report of the Auditor-General on the Financial Statements of Kajiado County Executive Staff Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Education Bursary, Grants and Scholarship Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Alcoholic Drinks Control Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Youth & Women Enterprise Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kajiado County Disability Mainstreaming Fund for the year ended 30th June, 2021.

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

Madam Temporary Speaker, may I congratulate you for sitting on that Chair. I do not know whether this is your first time; you might have sat there when I was out of the country. However, if this is your first time, you truly look like a Speaker; very authoritative, collected and your future is bright in that Chair.

(Laughter)

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, for the compliment.

Hon. Senators, before we proceed to the next Order, I have the following Message to communicate.

MESSAGE FROM HIS EXCELLENCY THE PRESIDENT

PARLIAMENTARY APPROVAL OF THE NOMINEE FOR APPOINTMENT AS INSPECTOR-GENERAL OF THE NATIONAL POLICE SERVICE

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, Pursuant to Standing Order No.47 of the Senate Standing Orders, I wish to convey a message from His Excellency the President. The Message was delivered to the Office of the Speaker via a letter referenced OP/CAB.26/4A VOL.I/(46), dated 29th September, 2022, and received in the Office of the Speaker of the Senate on 18th October, 2022, regarding Parliamentary approval of the nominee for the appointment as Inspector-General of the National Police Service.

In the Message, His Excellency the President conveys that: -

“In exercise of powers conferred by Article 245 (2) (a) of the Constitution of Kenya, I William Samoei Ruto, President and Commander in Chief of the Kenya Defence Forces, nominates Eng. Japhet Koome Nchembere for appointment as Inspector-General of the National Police Service.”

Hon. Senators, Article 245 (2) (a) provides that the Inspector General is appointed by the President with the approval of Parliament. Further, Section 12 (2) and 7 of the National Police Service Act, No. 11 of 2011 states as follows: -

“The president shall within 14 days after vacancy occurs in the Office of Inspector-General, nominate a person for appointment as an Inspector-General and submit the name of the nominee to Parliament.”

Section 12 (7)

Parliament shall within 14 days when it first meets after receiving the names of the nominees: -

- (a) Consider the suitability of the nominee.
- (b) Either approve or reject the nominee for appointment
- (c) The Speaker of the National Assembly shall notify the President of the decision of the Parliament.

Hon. Senators, as was agreed and executed during the previous approvals for the position of the Inspector-General of Police, and in order for Parliament to effectively conduct the vetting process, the following procedure shall apply: -

1. That the vetting of the nominee for appointment as Inspector-General of Police shall be conducted jointly by the Committees of the two Houses mandated to deal with matters of National Security. The vetting process will, therefore, be conducted by the Standing Committee on National Security, Defense and Foreign Relations of the Senate and the Departmental Committees on Administration and Internal Affairs of the National Assembly.

2. The Chairpersons of the two Committees will Co-Chair the joint sittings and the secretariat will comprise of officers of the two Houses.

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3. That, the quorum of the joint sittings will be the respective quorums of each of the Sub-Committees as stipulated by the respective Standing Orders.

4. That, as contemplated under Rule 9 (6) of the joint rules, unless a decision is reached by consensus, any vote to be taken in the joint sittings of the committees shall be by separate Houses. This will ensure that the numerical difference of the individual Members representing the Houses in the joint sittings has no effect on the decisions of the joint sittings of the Committee.

5. That the Committees shall having conducted the vetting hearings, submit a joint report to the respective Houses in the manner contemplated by Paragraph 7 of the Joint Rule 9.

Hon. Senators, Section 8 (1) of the Public Appointments Parliamentary Approval Act, 2011. States: -

“Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate, and decision within 28 days from the date on which the notification of nomination was given in accordance with Section (5).

Section 9 of the Act, Further states: -

“If after the expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected the nomination of a candidate, the candidate shall be deemed to have been approved.”

In this regard, the period on the matter that is now before Parliament, starts running upon the Speaker of the National Assembly committing the name of the nominee to the Departmental Committees on Administration and Internal Affairs.

Hon. Senators, Standing Order No. 77 (1) of the Senate Standing Orders provides that upon receipt of a notification of nomination for appointment to a public office required to be approved by the Senate under the Constitution of any other legislation, the nomination shall stand committed to the relevant Standing Committee for consideration.

This Message, therefore, together with the resume of the nominee, stands committed to the Standing Committee National Security, Defense and Foreign Relations of the Senate for vetting jointly with the Departmental Committee on Administration and Internal Affairs of the National Assembly, in accordance with the provisions of the National Police Service Act, Public Appointment and Parliamentary Approval Act and the Standing Orders of the Houses of the Parliament.

I thank you.

I have read the Message on behalf of the Speaker of the Senate (Hon. Kingi).

Next Order.

NOTICE OF MOTION

APPOINTMENT OF A JOINT SELECT COMMITTEE ON ELECTION OF MEMBERS TO EALA

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to give notice of the following Motion-

ACKNOWLEDGING that the East African Legislative Assembly (EALA) is established under Article 9 of the Treaty for the Establishment of the East African Community (EAC) as one of the key organs and institutions of the Community responsible for the Community's legislative matters;

RECOGNIZING that Article 50 of the Treaty provides for the election of Members of EALA by respective partner States' Legislatures in accordance with their parliamentary procedures for a term of five years;

FURTHER aware that the East African Legislative Assembly Elections Act, 2011 contemplates conclusion of the election of Members of a new Assembly to be within ninety (90) days before the expiry of the term of the subsisting Assembly;

NOTING THAT, the term of the current East African Legislative Assembly will come to an end on 17th December, 2022;

COGNIZANT of the need to urgently conclude the election process for the East African Legislative Assembly to commence transacting business of the EAC;

NOW THEREFORE, in accordance with the provisions of Rule 9 of the Houses of Parliament (Joint Sittings) Rules, the Senate resolves –

(i) to establish a Joint Select Committee consisting of seven Members from each House of Parliament to undertake the functions contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017:

(ii) that the following Members represent the Senate in the Joint Select Committee:

1. Sen. Daniel Kitonga Maanzo, MP - Co-Chairperson
2. Sen. Raphael Chimera Mwinzangu, MP;
3. Sen. Joyce Chepkoech Korir, MP;
4. Sen. Miraj Abdullahi Abdulrahman, MP;
5. Sen. Chute Muhamed Said, MP;
6. Sen. Joseph Githuku Kamau, MP; and
7. Sen. Beatrice Akinyi Oyomo, MP.

(iii) that the Offices of the Clerks of Houses of Parliament provides secretariat services to the Joint Committee in accordance with the Standing Orders; and,

(iv) that the Joint Committee reports to the Houses of Parliament within the timelines stipulated in the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.

Thank you.

STATEMENTS

The Temporary Speaker (Sen. Veronica Maina): Let me first invite Sen. Wambua who had an urgent Statement on security issue, to read his Statement before we proceed with the rest.

HEIGHTENED INSECURITY IN MUTHA WARD-KITUI COUNTY

Sen. Wambua: Thank you, Madam Temporary Speaker, for indulging me and giving me an opportunity to seek this Statement on matters security.

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the heightened insecurity situation in Mutha Ward, Kitui County.

In the Statement, the Committee should –

(1) Apprise the Senate on the measures the national Government has put in place to respond to the current insecurity situation affecting the residents of Mutha Ward in Kitui South Constituency of Kitui County, perpetuated by gun-wielding bandits who have invaded parts of the ward, leaving in their wake death and destruction.

(2) Undertake a visit to the County to ascertain the level of response by the security apparatus at both county and national Government, which has been wanting and investigate the underlying reasons for the attacks.

(3) State the reasons for the delay in response to the matter noting that on Friday 14th October, 2022, bandits armed with crude weapons invaded Mutha ward of Kitui South and hacked to death a man named Mutuku.

(4) Provide targeted interventions to resolve the matter noting that this was the second attack by bandits in the space of one month as another similar attack happened on 18th September 2022, at Masungwa Area of Tseikuru Ward in Mwingi North-Kitui County in which two men namely, Musyimi Ndana and Muthui Kamuti were attacked with machetes by camel herders who invaded their farms and are hospitalized at Mwingi Level 4 Hospital.

(5) Clarify whether the Ministry of Interior and Coordination of National Government has established additional police posts in the affected areas, or deployed Rapid Deployment Unit (RDU) and National Police Reservists (NPR) to complement security apparatus to ensure that Mutha Ward, parts of Ngomeni Ward n areas of Kasiluni, Mandongoi and Inyanzae, parts of Nguni Ward especially Sosoma Area. Parts of Tseikuru Ward, in the area around Masyungwa and parts of Endau/Malalani Ward are ensured of sustainable efforts to secure the residents and enforce lasting peace.

Madam Temporary Speaker, allow me one minute to comment on the Statement. As I speak, residents of Mutha Ward are running away from their wards. They have been invaded and are being attacked by bandits who are masquerading as camel farmers.

Camels in Kitui have become an enemy of the people. Every time a resident of Kitui sees a camel, they see death. The minute you try to drive away a camel from your farm, you are attacked by the herders and killed.

I hope that the Committee on National Security, Defence and Foreign Relations will take this matter seriously, to ensure lasting solution to this menace.

Yesterday, when the Cabinet nominee for Defence was being vetted, he went on record and stated that he had 250 camels grazing in parts of Kitui. This is a matter that must come to an end.

Sen. Abass: On a point of information.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wambua, do you want to be informed?

Sen. Wambua: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): I will allow only two comments on that Statement, then we move to the rest of the Statements on the Order Paper.

Sen. Abass, proceed.

Sen. Abass: Thank you, Madam Temporary Speaker, for giving me this opportunity.

As much as we appreciate the Statement by the hon. Senator from Kitui, I would like to inform the House of the terrible drought and famine. Those camels belong to Kenyans. Therefore, we would appreciate if they are taken care of by our brothers and sisters in Kitui.

This is a resource for all Kenyans. If we discover oil in Wajir County, we will not discriminate whether one comes from Kitui or Wajir.

Equally, those animals have the right to graze in those places. With due consideration, I request the Senator of Kitui, Sen. Wambua, to be lenient and consider the situation.

Today, those animals are faced with death, the owners stressed with famine and they need to keep the animals alive. Therefore, we will appreciate the people of Kitui County and Ukambani at large.

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

Sen. Kinyua: Asante sana, Bi. Spika wa Muda kwa kunipa fursa hii. Mambo ya usalama na ufugaji yamekuwa yakilandamana. Ni vuzuri ijulikane wazi kuwa kazi kuu ya Serikali ni kulinda maisha na mali ya wananchi.

Jambo ambalo limekuwa likitendeka katika Kaunti ya Laikipia ni kuwa wafugaji wanalisha wanyama wao kwenye mashamba ya watu, na kusema kuwa wanawalisha nyasi sio mchanga. Mchanga ni yako lakini mimea ni ya wanyama.

Ni vizuri ijulikane kuwa mashamba yana wenyewe. Hakuna mtu anayesema kuwa mfugaji hafai kuwa na mifugo yake. Anafaa kufuga mifugo inayoweza kutoshelezwa na shamba lake. Mkulima pia ana haki yake, kwa sababu anategemea mimea ile. Wewe unayetegemea mifugo, iweke mahali inapotoshea. Tunafaa kuheshimiana. Mkulima na mimea, na mfugaji na mifugo yake,

Kenya ni yetu sote tunafaa kuishi kama kitu kimoja. Mimea haipandwi kwa shamba la mfugaji. Naunga mkono Taarifa iliyoletwa na Sen. Wambua, ya kwamba wale ngamia wachungwe katika mashamba yao. Wafugaji wapewe haki yao kikatiba na kisheria kwa kuwa wanaishi katika nchi hii yetu.

The Temporary Speaker (Sen. Veronica Maina): Senators, this being an important matter, I hereby commit it to the Standing Committee---

(Loud Consultations)

The Temporary Speaker (Sen. Veronica Maina): I had made a ruling that two people would contribute to that Statement. We have very many Statements today, unless we do not want to receive some of them.

(An hon. Senator spoke off record)

Okay, that is noted. I will give you a chance, but you have to wait until I have finished what I am reading out. We are committing this matter to the Standing Committee on National Security, Defence and Foreign Relations to issue a Statement on the Insecurity Situation in Mutha Ward, Kitui County.

The Senate Minority Leader (Sen. Madzayo): On a point of Order, Madam, Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Okay, Proceed Senate Minority Leader.

The Senate Minority Leader (Sen. Madzayo): Bi Spika wa Muda, katika Mjadala unaoletwa katika hili Bunge, singependa kukueleza utakavyofanya. Najua kazi unafanya kisawasawa lakini haki na utendaji kazi lazima uende pamoja. Upande huu una haki ya kuchangia.

Nashangaa kuwa unaelekeza pande moja waongee na upande huu huapewi nafasi. Sitaki kukosoa uamuzi uliofanya, lakini kwa wakati mwingine tukipata fursa kama hiyo ingekuwa bora utoe nafasi upande huu ili usikize maoni yao sawasawa. Isiwe kuegemea upande mmoja na kuwacha mwingine.

Sen. Cherarkey: On a point of order, Madam Temporary Speaker. The Senate Minority Leader should be fair since he is a lawyer. I noted that during the last contribution on the Petition, you gave two Senators a chance from the Minority side. Saying that there is discrimination in terms of people who can speak on a Motion, Statement or a Bill, is a bit unfair.

For Heaven's sake, it is your maiden presiding over the House. Let us be fair at least. However, you are doing extremely well. Furthermore, for purposes of record, the Statement came from the Minority side. They should be gracious enough when it comes to it and we are supporting them.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): I will exercise my discretion. I assure both sides of the House that the Speaker is allowing everybody to contribute to the Motion. The Statement came from the Minority side, but to give further assurance, I will give one more person a chance to comment on it. Let us have one.

*(The Temporary Speaker (Sen. Veronica Maina)
consulted with the Clerk-at-the-Table)*

I am advised that because we have committed it already, we should move on. I stand guided. You are all assured of the Speaker's neutrality in allowing everyone to contribute.

We shall go to the next Statement. I also want to comment on Sen. Cherarkey's note. I did not give them two; I gave them a little more than what was given to the Majority side. Stand assured that you are in safe hands.

Proceed, Sen. Abdul Haji.

CONCERN OVER THE PLAN BY SAFARICOM
PLC TO BLOCK SIM CARDS

Sen. Abdul Haji: Thank you, Madam Temporary Speaker. I rise, pursuant to Standing Order 52 (1), to make a Statement on a matter of inter-county importance and general topical concern, namely, concerns over the plan by Safaricom PLC, to block SIM Cards that would not have been Re-registered by Saturday, 15th October, 2022.

There are millions of Kenyans in need of humanitarian aid, especially in the Northern counties and other Arid and Semi-Arid Lands (ASALs) areas of Kenya, where the populace is faced by the debilitating effects of severe drought.

It is appreciated that many Non-Governmental Organizations (NGOs) have stepped in to offer the much-needed support during this time. These humanitarian organizations reached at least 598,100 people in the ASAL region, with life-saving and life-sustaining assistance between October, 2021 and May 2022, including 534,000 in 2022 alone.

This support, aimed at mitigating the effects of the drought, includes water trucking, provision of human and animal feeds to protect livelihoods, health services and, most importantly, cash transfers to thousands of beneficiaries across the more than 20 drought-stricken counties. Needless to say, these cash transfers run into billions of Kenya Shillings.

I am not in contention of the fact that SIM cards must be registered to prevent crime, fraud and other such malpractices. I am also aware that the need to re-register the SIM cards is a compliance requirement in accordance with the Kenya Information and Communication Act.

However, Safaricom needs to take cognizance of the special circumstances of most of the people in the ASAL areas. All these cash transfer beneficiaries, mostly pastoralists, receive this support through Mpesa. They live far from places where they can promptly update their registration details. Further, not only is the network hard to access in these areas, but it is also quite erratic.

Madam Temporary Speaker, illiteracy is another confounding problem. It is my opinion that disconnecting these beneficiaries in the midst of humanitarian crisis brought about by the drought situation amounts to a violation of their rights. I, therefore, appeal to the Senate to prevail upon Safaricom and other telecommunication service providers to defer the deadline.

They could also consider having mobile registration centres for pastoralists especially in the Arid and Semi-Arid Land (ASAL) areas, in order to ensure compliance.

This way, humanitarian aid will not be disrupted by the action of disconnecting these customers.

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Madam Temporary Speaker.

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

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, just to confirm something although I am not certain; I thought I saw a communication from the Communications Authority (CA) of Kenya, that they have extended the deadline for this registration by a further 60 days.

With your guidance, perhaps Sen. Abdul Haji could let us know if this has been done. If so, we may not need to dwell too much on this.

The Temporary Speaker (Sen. Veronica Maina): Before I respond to that, I request, let me allow four Senators to comment because it is a serious issue. Two Senators from the Minority side and two Senators from the Majority side.

Sen. Osotsi, proceed.

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

Sen. Osotsi: Madam Temporary Speaker, this issue is of major concern. The CA may have been justified in trying to get the SIM details of all the subscribers, however, the process undertaken by Safaricom in trying to get this data is unlawful.

We passed the Data Protection Act in the National Assembly and established the Data Commissioners Office, which later came up with regulations. Safaricom has violated the internationally recognised data protection principles, which require that when you pick data from a data subject, you must get proper consent before you pick that data.

Whereas I appreciate that Safaricom came up with an online form and even sent messages to subscribers with a link, that link was not functional. Hence, more subscribers went to their outlets to give their information. Subscribers gave their ID details without filling any form at all. This is against the law, the Regulations and the international best practice on data protection.

They say that data is the modern oil and it is expensive. We have allowed citizens to give their private national registration data to a private company and we do not know what these data is going to do. There was no consent at all. The consent is supposed to clearly state the usage of that data but that was not done.

On that basis, Safaricom has violated the Data Protection Law. I am sure Information and Technology (IT) experts in this room will agree with me that this process was unlawful. It does not matter that it is necessary to get this data for other purposes like security; but they needed to state that purpose. It is because today, if you allow a private company to get data, that is one way of promoting state capture. You do not know what that data will be used for.

I know it is the Committee on Information, Communication and Technology (ICT) that will deal with this. They need to look at issues of violation of the Data

Protection Law. The Data Commissioner and CA must be invited to explain why they oversaw violation of the data protection principles, the law and the Regulations. That is the most important part, regardless of the fact that Safaricom has extended the period.

They disconnected my line. Yesterday I went to Safaricom and I asked them if I needed to fill any form. They told me there was no form to fill. They just picked my ID card, scanned it and reconnected my line. That should not happen in this country, especially when you are dealing with a private company and giving your national registration data.

Madam Temporary Speaker, the Committee must also be directed to look into the illegalities committed by the providers - Safaricom included.

The Temporary Speaker (Sen. Veronica Maina): Thank you.

Hon. Senators, please, take only two minutes to contribute.

Sen. Orwoba you are next.

Sen. Orwoba: Thank you, Madam Temporary Speaker. First, let me inform the House and the general public that there is no such a thing as re-registration of SIM cards. It does not exist in any Communication Act. No one should come out here and tell us about re-registration.

Under SIM registration, the Communication Act, 2015 only talks about registration of any SIM card holder. This means at the point of purchasing the SIM card, you are registered. The guideline in that Act is that you will provide information; full name, ID card or passport number, alien or service card, date of birth and gender. This information is classified as sensitive information.

Under the Communication Act, data handlers are guided on how to deal with sensitive information. Sensitive information is any information that puts out your sexual orientation, gender, genetic background and so on. This SIM registration process that they are calling re-registration, is an illegal act. It is only registration. If you bought a SIM card at any one point and gave your details, nobody should come back to you asking that you re-register because nothing like that exists. I gave my name, Id number and other details to procure a SIM card.

In that process that they are calling re-registration, they are asking for additional information. However, Safaricom and Airtel have not sensitized the public on why they need this additional information. For instance, they ask you to take a photo and give them---

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

The Temporary Speaker (Sen. Veronica Maina): What is your Point of order, Sen. Cherarkey?

Sen. Cherarkey: Madam Temporary Speaker, I stand under Standing Order No.52. I appreciate the fact that Sen. Abdul Haji has brought a very serious issue to the Floor of the House. On Sunday, Safaricom decided to switch off my line. Some of us were supposed to be praying and I think my prayers were affected,

Standing Order No.52(3) on Senators' General Statements says:

“The Speaker may, where appropriate, refer a Statement made under paragraph (1) to the relevant Committee for consideration.”

Therefore, this matter is serious and I know almost every Member has an issue with it. Now that the Committee on ICT has been formally formed and having heard what the Senate Majority Leader has just said about a communication from CA extending the deadline, I request that this matter be referred to the Committee so that these issues raised by Hon. Senators can be looked at.

Madam, Temporary Speaker, I request that this matter be referred to the relevant committee although it was a general statement.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, while that was a good contribution, I doubt if it was a point of order.

I will allow Sen. Orwoba to wind up her contribution in 10 seconds then we proceed to the third person.

Sen. Orwoba: Madam Temporary Speaker, I would like to wind up by stating that the process of re-registration does not exist because it is not in any legal framework nor the Information and Communications Act of 2015, or any other Act.

Just to sensitize the House, a lot of data mining is happening. I was talking about photographs, where when you want to track a person, you can, for example, get Veronica Maina. With additional information like photographs, I can see the people holding phones and how they look like. It gives away information that should be protected and that infringes on one's privacy.

Regarding data protection, which I know we will discuss on a later date, Safaricom and Airtel together with the Communications Authority of Kenya (CA) are infringing on the rights of people and they should be stopped. Re-registration, which is illegal, should be halted and the service providers sued because they have already breached on our privacy and they should---

(Sen. Orwoba's microphone went off)

The Temporary Speaker (Sen. Veronica Maina): Thank you Sen. Orwoba. Sen. Olekina, kindly proceed.

Sen. Olekina: Madam Temporary Speaker, one of the things I have noted is that we are partial in prosecuting this matter. This is a matter that cuts across all the telecommunications service providers, including Safaricom, Airtel, Telkom and any other company. We should be impartial because when we keep on prosecuting one company, we are being unfair to them.

I would like us to note that we have the CA. I am aware that they have extended the period for SIM card registration. What the committee ought to further investigate is why we have a problem of pre-registration.

When we were considering the Data Protection Act---

Sen. Orwoba: On a point of information.

Sen. Olekina: Madam Temporary Speaker, I will be more than happy to be informed. So that I do not interfere---

The Temporary Speaker (Sen. Veronica Maina): Do you want to be informed?

Sen. Olekina: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Very quickly, Sen. Orwoba.

Sen. Orwoba: Madam Temporary Speaker, I would like to inform Sen. Olekina that we are referencing Safaricom and Airtel because the list of registered processors and controllers of data is limited to those in the list. It is only Safaricom and Airtel that are switching off the lines and that is the reason I referenced the two. It has nothing to do with victimization. Have a look at the list.

Sen. Olekina: Madam Temporary Speaker, I am aware of that. That was not information but it is okay because the Senator is among those who have contributed on the matter. Speaking after her, I was not referring directly to her sentiments.

To conclude, this matter is provided for under Article 31(c) and (d) of the Constitution of Kenya. One of the things the committee ought to relook at is whether what we are discussing forms part of what was declared unconstitutional in the Data Protection Act by the Judiciary.

I support the Statement by Sen. Haji. However, I request the committee that will investigate this matter to be impartial when calling witnesses. We need to ask ourselves tough questions such as; is Parliament also responsible for these problems? The CA is acting under instructions from this Parliament.

Madam Temporary Speaker, the law is quite clear. It requires that information is protected. If the telecommunication companies are violating the law, it should be made clear. The business of targeting one multinational corporation should be stopped.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): I request Sen. Cherarkey to make his contribution before we close this matter.

(An hon. Senator spoke off record)

He spoke on a point of order, which I overruled. Allow him to speak because I have given him a chance.

Sen. Cherarkey: Madam Temporary Speaker, I would have expected the Senate Minority Leader to know what is happening in the House.

I have two quick points. First, just like any other Kenyan, on Sunday morning when most of us have morning glory prayers being a prayerful nation, Safaricom decided to switch off many SIM cards. I agree that we need to summon the Data Protection Commissioner and the CA.

Like my colleagues have said, data is critical. This matter is critical, hence the Committee on Information, Communication and Technology should come out strongly and ensure it is put to rest.

Lastly, in as much as the nominee for the position of Cabinet Secretary for Interior and National Administration, Prof. Kithure Kindiki, who was our former colleague, has indicated that some of the information is for the interest of the country and we appreciate that, it is important that we do it within the law. People might want to sell data and that could be a national threat.

Madam Temporary Speaker, the Committee on Information, Communication and Technology must be seized of this matter and report to the House, so that Kenyans are

comfortable. A number of salonists and other Kenyans who operate at mundane hours were not accessible. Therefore, this matter should be handled carefully and concluded like I requested under Standing Order No.52(3).

I thank you.

The Temporary Speaker (Sen. Veronica Maina): This is an important matter affecting all Kenyans. The mood of the House is that it should be committed to the Committee on Information, Communication and Technology.

Under Standing Order No.52(3), I hereby commit the matter to the Committee on Information, Communication and Technology and they should bring a report to this House.

Sen. Crystal Asige, proceed with the next Statement.

Sen. Crystal Asige: Madam Temporary Speaker, before I do that, I am proud and privileged to stand in front of a Madam Speaker today. You sitting in that Chair is not a small thing. I feel inspired today.

WORLD SIGHT DAY

Sen. Crystal Asige: I rise under Standing Order No.52(1) to make a Statement about the concluded World Sight Day held on 13th October, 2022.

Madam Temporary Speaker, everyone in the blind and visually impaired community knows that October is an important month because it is blindness awareness month. World over, people have been celebrating and creating sensitization activities around loving your eyes, which is this year's hashtag for blindness awareness month.

The World Health Organization (WHO) estimates that there are 2.2 billion people around the world who suffer from some kind of visual impairment and 1 billion of those live in Low Middle-Income Countries (LMICs), Kenya being one of them.

Of those 2.2 billion as well, one billion are preventable issues. This means that if they were addressed earlier enough, then they could have been prevented or reversed.

The visual impairment and blindness issue is important for me to bring it before the House this afternoon because it affects several spheres of one's life. It affects education, employment, social activities and integration in the community.

Madam Temporary Speaker, at this juncture, I would like to tell you about a personal story of mine. The reason as to why I am so passionate about eye care is because I was not born with the disability.

I was born with my full sight and I started to notice my eyesight declining when I was 14 or 15 years old in high school. This means that I acquired my disability. Reasons such as affordability, lack of awareness and sensitization, lack of prioritizing by Government and the Ministry of Health on eye care and the importance of eye care, are why I unfortunately began to lose my eye sight and I realized it at an earlier stage.

Madam Temporary Speaker, it affected my entire life and absolutely turned it upside down. There are millions of people in Kenya, approximately eight million, that as we speak, need quality eye care. That is, 15.5 per cent of our population. Unfortunately, this is compounded with the lack of ophthalmologists around the country. It is important to note that 58 per cent of the ophthalmologists are in Nairobi City County. This means

that the other 46 counties are missing quality eye care with specialized doctors across the board.

I would like to give a few tips to my colleagues and Kenyans who are listening to this on the importance of not ignoring symptoms when it comes to eye care. They should not ignore dry eyes, persistent headaches, eye care trends within their families and those who need glasses. They should not ignore sensitization efforts. Right now, there is free eye screening going on around the country through the month of October and that should not be ignored.

I am happy to report that eye screening happened right here in the Senate with some of my friends and partners from the Ophthalmologists Society of Kenya, City Eye Clinic and Kenya Society for the Blind amongst other consortium. I am happy to say that the Senate has now joined 20 other Parliaments around the world in promoting and prioritizing eye screenings on their grounds, which I am very proud of.

I would have made this Statement last week on the very day, Thursday, 13th October, 2022, but it is never too late to take care of our eyes. I encourage my fellow Senators, especially the Committee Chairpersons and Vice-Chairpersons to give Senators who are struggling with their eyesight a bit of a reasonable accommodation.

Additionally, they should make sure that everyone is accommodated throughout their term for everyone to serve in the best way possible. You do not want somebody to feel like they are being left out because of documentation, trips and meetings. All those should be made accessible for Members if they are struggling with their eye sight.

Consequently, we should continue to talk about the importance of loving one's eyes the way I am doing right now. That is the hash tag this year; '*love your eyes*'. Please love the eyes of your family members enough to get them checked at least once a year and not just by the optician but by an ophthalmologist. Not every single problem is solved by glasses, including my own.

Madam Temporary Speaker, I have glaucoma but glaucoma does not have me. I would like to end on that note and say that, with your guidance, can this issue be committed to the Committee on Health. That Committee should look into the fourth phase of the strategic plan of the Ministry of Health and what they are planning to do for us in terms of quality eye care across the country.

I thank you.

(Applause)

The Temporary Speaker (Sen. Veronica Maina): Thank you very much Sen. Crystal Asige. That is very well spoken and presented. We are proud of you as a Senate and remember your name is VIP. *Asante sana*.

I will allow a few comments; one comment from each side of the House.

Proceed, Sen. Oketch Gicheru.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker. I rise to make a quick statement in appreciation of what Sen. Crystal Asige has talked about.

One of the most ignored chapters of our Constitution is Chapter 4. The framers of the Constitution spent so much time on thinking and rethinking the idea of the Bill of Rights.

If you look at Article 19 of our Constitution, the Bill of Rights is seen as an integral part of our democratic Kenyan State to the extent that it should form the framework for social, economic and cultural policies that we make. I believe that this is one of those socio-economic cultural policies that institutions like the Ministry of Health should look into.

If you look at it further, you will realise that the framers of our Constitution wanted to recognize and protect human rights and fundamental freedoms. I believe that eyesight is one of the fundamental freedoms that somebody would not want to lose if asked whether they would rather lose their memory or eye sight.

Essentially, the preserves of the idea around fundamental freedoms were established for Kenyans to have dignity. This dignity would only help people as a matter of social justice and it would help them realize their full potential. There is nothing that impairs somebody from realizing their full potential as losing their eyesight.

I find this Statement to be critically anchored within the idea of fundamental rights and freedoms of Kenyans. I beseech you to commit this Statement to the Committee on Health for them to look deeply on how we can prevent loss of eyesight, so as to avoid the problems that Sen. Crystal Asige has talked about.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Ali Roba, please proceed.

Sen. Ali Roba: Thank you, Madam Temporary Speaker. Disability of any form is a reality that can find someone in the most unexpected way. As shared by the Senator, the issue of eyesight is a critical issue that needs to be shared.

Sometimes when one's entire wellbeing is intact, we tend to take a lot of things for granted. However, the line between becoming visually impaired or having other forms of disability is very thin. You can be very normal today just to find yourself unable to walk or see the next day.

As such, I support the need for a vibrant eye care centre in all the counties and sub county referral hospitals to attend to eye issues among the other issues that need to be attended to. This is a true clear present possibility that can happen to anybody.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Crystal Asige, do you have something to add.

Sen. Crystal Asige: Madam Temporary Speaker, I have a thought that I have not shared. Kindly indulge me for 10 seconds.

I would like to challenge the Senators to organize for an eye check-up in their counties for the eyes of their constituents to be tested especially those of the young people. Like I said, I got this condition when I was a teenager. When the problem is diagnosed early, we would likely help those young persons realize better eye care for the rest of their lives.

I would invite other Senators to at least pay for or organize for screening especially amongst the youth in primary and secondary schools in their counties.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Let us have the next Statement from Sen. Cherarkey.

SUSPENSION OF SALE OF EDIBLE OIL PRODUCTS BY THE
KENYA BUREAU OF STANDARDS

Sen. Cherarkey: Madam Temporary Speaker, I rise, pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the recall and suspension of sales by the Kenya Bureau of Standards (KEBS), of several edible oil products from various manufacturers in Kenya.

In the Statement the Committee should-

(a)Outline the process of standardization of products, specifically edible oil products with reference to the standards and specifications required to be met in all fortified oils and fats, considering these are sensitive products consumed by the public.

(b)Explain reasons for the recall order by KEBS on edible oil products from several manufacturers of over 10 brands that were already on supermarket shelves, explaining the extent to which each of the products breached the standards and at what stage they were discovered to be sub-standard---

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, what is your point of order?

Sen. Olekina: Madam Temporary Speaker, I know that some of us are quite new here, but the distinguished Senator who just walked out, Sen. Methu, just crossed the Floor to come to this side. Since we are all learning, all new Senators should be reminded that they have to walk all the way there, bow, and then come here. It is just a point of information.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Olekina. All new Senators, can we take note of that, please?

Senator Cherarkey, you may proceed.

Sen. Cherarkey: Madam Temporary Speaker, allow me to pick from where I left.

(b)Explain reasons for the recall order by KEBS on edible oil products from several manufacturers of over 10 brands that were already on shopping shelves, supermarkets and kiosks, explaining the extent to which each of the products breached the standards and at what stage they were discovered to be substandard and are already on the shelves.

(c)State whether there are plans to compensate retailers, supermarkets, shop dealers and customers affected by the recall and suspension of the oil products.

(d)State the measures, if any, that KEBS has put in place to facilitate the protection of consumers through the Federation of Protection of Consumers and Competition Authority of Kenya from potentially unsafe products specifically on the edible oil products and other consumable products and to safeguard the economic interest of manufacturers

I thank you. Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Next Statement by Sen. Mundigi.

CONFLICT BETWEEN MBEERE AND AMERU COMMUNITIES
IN SIAKAGO CONSTITUENCY

Sen Munyi Mundigi: Madam Temporary Speaker, I rise, pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the incessant conflicts between Mbeere and Ameru communities in Siakago Constituency, Embu County.

In the Statement, the Committee should-

(a) Explain measures that have been put in place to address the ongoing conflict resulting from allegations of theft of miraa between the Mbeere and Ameru communities in Siakago Constituency, Embu County;

(b) Give reasons for the rise in cases of insecurity in the constituency stating reasons for the reluctance by security agencies in the area to embrace the policy on community policing, thus causing serious disharmony between the two communities.

(c) Recommend interventions to alleviate the ongoing conflict.

ARSON ATTACK IN RUNYENJES CONSTITUENCY

Sen Munyi Mundigi: Madam Temporary Speaker, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding an arsonist attack that left seven members of a family dead in Ngimari village, Gichiche sub-location, Runyenjes Constituency, Embu County.

In the Statement, the Committee should-

(a) Appraise the Senate on the status of investigation into the incident that has left 7 family members dead---

The Temporary Speaker (Sen. Veronica Maina): There is a point of order from Senator Wambua.

Sen. Wambua: On a point of order, Madam Temporary Speaker, the Senator for Embu has proceeded to seek a second Statement. I do not know whether that was really supposed to happen or he was supposed to seek the permission of the Speaker to seek a second Statement.

The Temporary Speaker (Sen. Veronica Maina): The second Statement is actually listed on the Order Paper, so, it is okay for him to read it.

Senator for Embu, proceed

Sen. Wambua: Madam Temporary Speaker, there is a reason I raised that issue. I have a personal issue that I need to attend to and I had asked to be allowed to make my Statements that are listed but I was told that I could only do one Statement. However, if it is allowed for the Senator of Embu, then he is my neighbor. It is okay.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, we have agreed that he will be the last to read his Statements and then we will postpone the others because we have spent more than one hour on Statements.

Sen. Mundigi, proceed and finalize your Statement

Sen. Munyi Mundigi: Madam Temporary Speaker, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding an arsonist attack that left seven members of a family dead in Ngimari village, Gichiche sub-location, Runyenjes Constituency, Embu County.

In the Statement, the Committee should-

(a) Appraise the Senate on the status of investigation into the incident that has left 7 family members dead.

(b) State the reasons for the inordinate delay by respective agencies in treating this matter with the urgency it deserves, outlining the targeted interventions in strengthening security in the area and ensure the safety of residents of the county.

SALE AND CONSUMPTION OF ILLICIT BREWS IN SIAKAGO
CONSTITUENCY, EMBU COUNTY

Madam Temporary Speaker, I rise pursuant to Standing Order No. 53(1) to request for a Statement from the Senate Standing Committee on National Security, Defense and Foreign Relations, regarding the sale and consumption of illicit brews in Siakago Constituency, Embu County that left four dead and several others losing their eyesight.

In the Statement, the Committee should-

(i) Appraise the Senate on the status of investigations to bring to book perpetrators who sold illicit brew to innocent villagers in Siakago Constituency, leaving four dead and several others losing their sight.

(ii) State targeted interventions to encourage commercial production of legalized traditional brews in order to cut off quick in the recreative industry.

(iii) State measures to raise awareness on accessible and affordable traditional brews to discourage the making and selling of life threatening brews which has been going on across the country.

The Temporary Speaker (Sen. Muyeka): Hon. Senators, we will defer the remaining Statements because we have spent a lot of time on this.

INCESSANT HUMAN-WILDLIFE CONFLICT IN
TAITA TAVETA COUNTY

(Statement deferred)

STATE OF HEALTHCARE SERVICE PROVISION AT
THE VIHIGA COUNTY HOSPITAL

(Statement deferred)

STATUS OF VIABILITY OF THE LAKE TURKANA
WIND POWER PROJECT

(Statement deferred)

DROUGHT AND FAMINE CRISIS IN THE ARID AND
SEMI-ARID (ASAL) AREAS

(Statement deferred)

CIRCUMSTANCES THAT LED TO THE DEATH OF MASTER TRAVIS
MAINA AT THE KENYATTA NATIONAL HOSPITAL

(Statement deferred)

OWN SOURCE REVENUE COLLECTED ON BEHALF OF THE
NAROK COUNTY GOVERNMENT

(Statement deferred)

We move on to the next Order.

MOTIONS

APPOINTMENT OF A JOINT SELECT COMMITTEE
ON ELECTION OF MEMBERS TO EALA

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to move the following Motion-

THAT, ACKNOWLEDGING THAT, the East African Legislative Assembly (EALA) is established under Article 9 of the Treaty for the Establishment of the East African Community (EAC) as one of the key organs and institutions of the Community responsible for the Community's legislative matters;

RECOGNIZING that Article 50 of the Treaty provides for the election of Members of EALA by respective Partner States' Legislatures in accordance with their parliamentary procedures for a term of five years;

FURTHER AWARE that, the East African Legislative Assembly Elections Act, 2011 contemplates conclusion of the election of Members of a new Assembly to be within 90 days before the expiry of the term of the subsisting Assembly;

NOTING THAT, the term of the current East African Legislative Assembly will come to an end on 17th December, 2022;

COGNIZANT of the need to urgently conclude the election process for the East African Legislative Assembly to commence transacting business of the East African Community;

NOW THEREFORE, in accordance with the provisions of Rule 9 of the Houses of Parliament (Joint Sittings) Rules, the Senate resolves:

(i) To establish a Joint Select Committee consisting of seven Members from each House of Parliament to undertake the functions contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017:

(ii) That the following Members represent the Senate in the Joint Select Committee:

1. Sen. Daniel Kitonga Maanzo, MP - Co-Chairperson
2. Sen. Raphael Chimera Mwinzagu, MP.
3. Sen. Joyce Chepkoech Korir, MP.
4. Sen. Miraj Abdullahi Abdulrahman, MP.
5. Sen. Chute Muhamed Said, MP.
6. Sen. Joseph Githuku Kamau, MP.
7. Sen. Beatrice Akinyi Oyomo, MP.

(iii) That the Offices of the Clerks of Houses of Parliament provides secretariat services to the Joint Committee in accordance with the Standing Orders; and,

(iv) That the Joint Committee reports to the Houses of Parliament within the timelines stipulated in the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.

Madam Temporary Speaker, this is a fairly straightforward matter. It is more of a Procedural Motion. We are just setting up a Committee, whose main duty shall be to oversight or provide guidance that will be needed from one time to the other, for the technical team made up of representatives from both Houses of Parliament that will oversee this process of the election of Members of Parliament for EALA.

You are aware that Kenya and other the EAC communities were the founders in the year 1999. If I am not misguided, this will be the fourth cohort of Members of Parliament (MPs) that we are sending to the Legislative Assembly.

Each year, at the beginning of the term, we elect MPs who express their desire to join this House. It is largely a process driven by the political parties; the Majority and the Minority sides of the House. These Members shall work in consultation with the leadership of both sides.

Madam Temporary Speaker, you know very well, as per our election rules, for each position that is available, the parties of the House present three candidates. The total number of representatives from Kenya is nine. Therefore, the Minority side will have their list of 12 candidates and the Majority side will have their list of 15 Members. That is 3 for each of the five allocated slots that the Majority side has in both sides of Parliament.

Once the names have been listed, Members will campaign and MPs are the voters for that matter. They will move around, share their ideals and speak on why they think they deserve to represent Kenya in the EALA.

We are finalizing the process of the dates. As it is right now, the proposed date for elections to be held is 17th November, 2022. We do not want the previous experience

where the Kenyan Parliament delayed the setting up of the EALA. Perhaps, Sen. Oburu might know this.

This is because by Statute, you cannot set up the House until all the Member States have sent their representatives. Due to a delay in our own internal procedures as Parliament, we ended up delaying the establishment of the House by quite a number of months. That is not good practice, neighborliness and in the spirit of the EAC, the way we espouse and think of each other.

That is why, this time, we want to conclude this exercise way in advance, at least, a month even before the lapse of the current Assembly. This is so that our colleagues can begin to familiarize themselves with Arusha and the rest of the regions, study and move on to represent the country at this very important Assembly.

Madam Temporary Speaker, it is an Assembly of the future. If you listened to the Speech of the President and when he visited our two neighboring countries; that is, Uganda and Tanzania, you can see that the future is EAC on many things. For example, on matters trade, communication and so many things, which, our colleagues' representatives to EALA will be tasked with, is developing the necessary protocols and laws to have a stronger EAC and ensure we succeed together as a region. This is because when we do so, we are stronger together as a union as opposed to being the small fragments of nations that constitute the EAC.

Madam Temporary Speaker, this is a straightforward matter. I request my colleague the Senate Minority Leader to second.

If there is a lot of interest from Members, you can allow maybe one or two to just make a comment because it is fairly procedural and straightforward.

We have proposed the Sen. Maanzo to be the Chairperson of this team, given the fact that amongst the list of the Senators listed, he is the Senior most.

We have no qualms he comes from the Minority side, because we believe that he will represent the interest of the Senate in this particular Committee together with our colleagues in the National Assembly.

Therefore, I beg to move and request the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Madzayo): Bi. Spika wa Muda, cha kwanza ni kuwa Bunge letu la Afrika Mashariki linafika mwisho wake ifikapo mwezi wa 12. Kuna umuhimu tuwe tayari kufanya mikakati ya kuona ya kwamba kuna Wakenya wengine tutakaowachagua sisi wenyewe hapa Bungeni ili waweze kutuwakilisha katika lile Bunge la Afrika Mashariki.

Kama unavyoelewa, Bunge la Afrika Mashariki ni muhimu sana linaloweza kuleta mikakati ambayo sisi kama wananchi wa Afrika Mashariki tutashirikiana. Hivi sasa tuko Kenya, Uganda, Tanzania, Burundi na Rwanda. Hivi juzi tumepata kitinda mimba ambaye pia amekubali kuingia katika Bunge la Afrika Mashariki naye ni Sudan ya Kusini.

Itakuwa kiungo muhimu sana kwa Wakenya kuona kwamba ndugu zetu wa Sudan ya Kusini wameingia katika ushirika huu na katika Bunge la Afrika Mashariki. Ndio sababu, kwa umuhimu wao, ikaonekana ingekuwa vyema michezo hii ambayo hufanyika kila mwaka, mwezi wa kumi na mbili ifanyike Sudan ya Kusini. Ni michezo ambayo

wanasiasa ama wabunge wa Bunge letu la Kitaifa la Bunge la Seneti hujumuika pamoja, tukaenda kucheza michezo mbalimbali inayoweza kulisimua misuli.

Hata dada zetu pia wanaweza kujiunga na mambo ya mbio, ya kuvuta kamba na mengineo yanayoendelea katika ushirikiano huo.

Bi. Spika wa Muda, kuna umuhimu kuweka kamati maalum ambayo inaweza kuangalia zile taratibu zimefuatwa vyema. Sababu kuu ni kuona ya kwamba wale wanataka kupigania hivi viti, kujihusisha ama kuchaguliwa kutuwakilisha katika lile Bunge la Afrika Mashariki wameweza kupitia kwa Kamati.

Kuna umuhimu wa sisi kama Bunge la Seneti kuweza kukaa chini na kuchagua Maseneta ambao tunafikiria wana umuhimu sana katika ile kamati. Hao wataweza kuchunguza taratibu ili waweze kutuchagua watu ambao watakuwa sawa sawa kwenda katika lile Bunge la Afrika Mashariki.

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

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

Bi. Spika wa Muda, katika hiyo Kamati, tumesomewa majina. Katika hayo majina, sisi tumeonelea ya kwamba wote ambao wamechaguliwa wanafaa kabisa katika zile nyadhfa. Wote waliochaguliwa pia wanao uwezo wa kutuwakilisha sisi kama Bunge katika Kamati ndogo itakayochunguza.

Kwa hivyo, nina imani na yule aliyechaguliwa kama Mwenyekiti. Ni wakili aliyeboba, ndugu yetu Sen. Maanzo, Seneta wa Kaunti ya Makueni, na anayo tajriba ya kuifanya ile kazi.

Vile vile, amekuwa akijihusisha sana na Korti la Afrika Mashariki. Amekuwa huko na amekuwa akifanya hizi kazi na zingine zinazohusiana na Bunge letu la Afrika Mashariki. Katika ile hali, tumeona yeye ana tajriba ya juu sana. Anaweza kukadria na kufikia kile kiwango

Bi. Spika wa Muda, tunawatakiya kila la heri katika kazi hii ambayo watuwakilisha sisi kama Bunge la Seneti. Tuna imani ya kwamba kazi wanaijua na wataifanya. Niko na imani na Maseneta hawa wote ambao tumeweza kuwaweka hapo.

Naunga mkono yote aliyosema ndugu yangu Kiongozi Wa Walio Wengi.

(Question proposed)

The Temporary Speaker (Sen. Mumma): Members, I suggest that we give two chances on either side.

I have been requested to give one chance.

So, Sen. (Dr.) Oburu, because you are a current Member of EALA, we will give you a chance. Please proceed.

Sen. (Dr.) Oburu: Madam Temporary Speaker, thank you. This is a very important Motion because it has been worrying me. Nonetheless, the reason it has been delayed in the Kenyan Parliament is because of the elections.

Otherwise, all the countries of East Africa have already concluded the process of electing Members to EALA except the Democratic Republic of Congo (DRC). This is because it is a new member and now the East African community is going to have seven Members. We have been having six Members and the six Members appoint nine Members from each State. The membership of EALA has been 54.

Southern Sudan have already concluded their elections just last week. Uganda Rwanda, Burundi and Tanzania have already concluded theirs. This is an urgent matter that should be concluded as soon as possible because as you could see, the Treaty says the elections should be concluded 90 days to the end of the term of the current Parliament, which is 17th December.

Madam Temporary Speaker, integration is not something that can be gainsaid. Integrating our economies is the way to grow our countries. We cannot expand our economies if we are a small market. It is important to follow and implement the Four Pillars of the East African Community (EAC) as urgently as possible.

The First Pillar is the Customs Union, which is already implemented. The Second Pillar is the Common Market, which is at an advanced implementation stage. It is implemented through protocols. However, countries delay in implementing protocols because of their own national interests, which sometimes slows the integration process.

The Third Pillar is the Monetary Union, which is also at an advanced stage. An Institute has already been established and the Central Bank is going to be here in Nairobi.

The Fourth Pillar is a Political Confederation. It was originally a Political Federation but it has now been reduced to confederation because of sovereign selfishness. There are member States who want to retain more sovereignty and that is why it was moved from federation to confederation. That is also at an important advanced stage of negotiations.

We are expanding the Community. It is important that the Democratic Republic of Congo (DRC) joined EAC because it expands our area of economic interest. The DRC is very rich in terms of natural resources and it is a big market for our country.

Madam Temporary Speaker, I support this process. We had nine positions the last time we were elected. The Majority took five positions and the Minority took four. For elections to take place, each position attracts three participants. It means that each party recommends three people. Therefore, if you have four positions, you recommend 12. If you have five, you recommend 15, so that Parliament can vote, elect and recommend nine from the total of 27.

It is a tough election. I know Members here are just from an election. In our place, it was called 'jamna.' People were asked to shake something called 'jamna.' You had to cough out something. Members have coughed out quite a lot. Please, do not overtax those who want to be Members of EALA. Be fair and select the best people to represent our interests in EAC.

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Mungatana, proceed. You have only two minutes.

Sen. Mungatana, MGH: Madam Temporary Speaker, thank you for giving me this opportunity. I have only one point and I will be brief.

I congratulate the Senator who has just spoken before me, for the time that he spent in EALA. He is a senior Member of this House. The EALA has been a big disappointment, not only to Kenya but to the rest of EAC.

(Applause)

It is my prayer that those who will be chosen this time round, will not be like the past legislators, who have gone there and we never hear about them again. The only time we hear about EALA and EAC, is when the Executive Arms of governments are meeting in Nairobi, Arusha or some other place. We never get to hear about EALA. I wonder, why.

In Kenya, we always hear what the Senate or National Assembly says but we also hear from the Executive. However, in EALA, it is like people just go and disappear. We never hear from them. We do not know of their sessions. The last time we heard of them was when they had cycle movements. They came to Kenya for a few days and then they disappeared. We do not hear of any Motions or anything.

I appeal to those who will be selected this time round, not to let us down. Do not go there and kill East Africa. Do not go there and let us think that EAC is a Community of Heads of States. Let us hear debates and our views being expressed in EALA. Let us hear Motions being moved and decisions being made through the popular votes. We want to see a vibrant EAC Parliament. Do not go there to just pass the five years and create some Curriculum Vitae (CV). Let us see a difference.

Madam Temporary Speaker, that is all I have to say.

The Temporary Speaker (Sen. Mumma): Thank you, Senator. I now call upon the Mover to reply.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I thank our two colleagues who have responded to this Motion. They have spoken on behalf of the other Senators. I have taken keen interest in their contributions, both North and South, in terms of what EALA has been able to achieve.

Sen. Oburu has served in EALA and he has been very optimistic about what we can achieve as EAC, through EALA Statutes and the four main Pillars. We have benefited from your wisdom, Senator.

I also hear the concerns of my colleague, Sen. Mungatana. I largely agree with him that there is need to push EALA to be firmer with their determination. However, until all the seven partner States sign the Statutes that Sen. Oburu referred to, then I am afraid we will not be able to achieve what you are looking for. It is because as it is, resolutions of EALA just end up being urging partner States to do this or that.

For example, as you may remember in 2013, the Pillar on Monetary Union was signed into action. However, because we have not ceded our sovereignty as a union to EALA, it then becomes difficult for us to achieve real and actual integration. Many of the resolutions will end up being statements of urging partner States to do as follows. It then goes to the Council of Ministers and we again wait for the annual Head of States Summit. If there is no goodwill in even one out of the seven, then the entire process forestalls.

Madam Temporary Speaker, as we continue to integrate, I believe it is upon us to speak to the rest of our colleagues in the region. Let us help them understand and appreciate the importance of signing the Fourth Pillar. This is the Pillar that will make EALA a proper Parliament, whose decisions will be equivalent to the decisions of the partner States and will have the full force of law. Without that, it will be a completely difficult situation and we should not expect to achieve all the objectives of EAC.

There is a lot to be enjoyed at this particular point. Let us celebrate little gains like having the common passport for the region.

With the joining of the Democratic Republic of Congo (DRC), I can cross over to Kinshasa the way I do when I go to Kericho. That is something to celebrate about. I look forward to a time when we will achieve more like Sen. Mungatana has said.

I agree with my colleagues that we need to expedite the process. I urge Sen. Maanzo to lead his team tomorrow during the meeting with their counterparts in the National Assembly. They already approved a team of seven last week. You should have a meeting the first thing tomorrow morning and begin the work because we would like to conclude the exercise by 17th November, 2022, so that Members can vote.

Madam Temporary Speaker, the reason we need to do it by 17th November, 2022, is because from 20th November, 2022, many Members are likely to be out of the country for the East Africa Community Inter-Parliamentary Games (EAC-IPGs). We do not want a situation where a half of the Members are absent when we are having such an important exercise. Therefore, time is not on your side.

I thank you.

The Temporary Speaker (Sen. Mumma): Hon. Senators, pursuant to Standing Order No.84(2), I wish to make a determination that this matter does not affect counties. Therefore, I would like to put the question.

(Question put and agreed to)

APPROVAL OF SENATORS TO SERVE IN THE
COUNTY PUBLIC ACCOUNTS COMMITTEES

The Senate Majority Leader (Sen. Cheruiyot): I am moving this Motion in an amended form because there are changes since we gave the Notice of Motion.

Madam Temporary Speaker, I beg to move-

THAT, pursuant to Standing Order Nos. 193, 194, 195, and 199, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Select Committees of the Senate as follows –

- A. County Public Accounts Committee**
1. Sen. Samson Kiprotich Cherarkey, MP
 2. Sen. John Muhia Methu, MP
 3. Sen. Mariam Sheikh Omar, MP
 4. Sen. Julius Gataya Mwenda, MP

5. Sen. Moses Otieno Kajwang', MP
6. Sen. Fatuma Adan Dullo, CBS, MP
7. Sen. Richard Momoima Onyonka, MP
8. Sen. Edwine Watanya Sifuna, MP
9. Sen. Andrew Omtatah Okoiti, MP

B. County Public Investments and Special Funds Committee

1. Sen. Onesmus Kipchumba Murkomen, EGH, MP
2. Sen. Paul Karungo Thangwa, MP
3. Sen. Maureen Tabitha Mutinda, MP
4. Sen. Miraj Abdullahi Abdulrahman, MP
5. Sen. Eddy Gicheru Oketch, MP
6. Sen. Ledama Olekina, MP
7. Sen. Hamida, Kibwana MP
8. Sen. Tom Odhiambo Ojienda, SC, MP
9. Sen. Godfrey Atieno Osotsi, MP

C. Committee on Delegated Legislation

1. Sen. Julius Gataya Mwenda, MP
2. Sen. Danson Buya Mungatana, MP
3. Sen. Gloria Magoma Orwoba, MP
4. Sen. Joyce Chepkoech Korir, MP
5. Sen. Julius Murgor Recha, MP
6. Sen. Daniel Kitonga Maanzo, MP
7. Sen. Mohamed Faki Mwinyihaji, MP
8. Sen. Betty Batuli Montet, MP
9. Sen. Agnes Kavindu Muthama, MP

Madam Temporary Speaker, this should bring to a close the business of setting up various committees of the Senate. We began this work last week on Thursday but we did not conclude the debate because many Members wanted to speak at that particular time.

In fact, I recall that I owe Sen. (Prof.) Tom Ojienda and another Member. I promised them that when we resume today, although I do not have such powers, I will be their advocate in ensuring that they get the opportunity to make comments on how committees have been set up.

I remember we were running short of time and they were magnanimous enough to agree to drop their requests to speak at that particular time, so that they are given the opportunity today to make comments about the general feelings about how the SBC has set up various committees of the Senate.

Madam Temporary Speaker, we dealt with 14 standing committees. Today we are dealing with three sessional committees. We have Senators with diverse backgrounds and giftings. There are many attributes about each of the Senators that has been carefully selected to serve in each of these three committees.

I believe that the men and women that have been selected here, particularly Members of the County Public Accounts Committee (CPAC), which is important, have what it takes to serve this House and ensure that we achieve what was intended by the drafters of our Constitution.

I will not hide my feelings about it. This does not mean that I disagree with the formation of a particular committee. I support all of them 100 per cent. That is why I gave the Notice of Motion and I am now urging colleague Senators to vote for it.

My feeling is that the CPAC should include all the 47 delegations. That is the only way you can earn the respect of your county, such that when you voice certain issues, your voice is taken seriously.

What fellow Senators need to know is that if you find yourself in the unfortunate situation like Sen. (Prof.) Tom Ojienda and Sen. Sifuna, where you have county governments that are headed by former Senators, they understand the strength and limitations of the Senate. Sometimes you try to do your work diligently, but because they have been here and know the extent that this House can go, sometimes your voice is ignored.

You can only achieve that by ensuring that you have a committee your Governor appears before you with at least six colleagues from different counties where at least once every financial year. The Governor will then answer questions on how they have appropriated and used the public funds that you have devolved to the various counties.

From experience, we have had cases where your own colleagues, Senators, gang up against another Senator as they try to raise issues that concern the people that they represent in this House. That is because this is a political world and some of those governors have been Senators here, they have friends and family. I am saddened that this is a fact that we get to see. I pray that it does not happen in this Session of the County Public Investments and Special Funds Committee.

In the last Senate, we went to Kitui County for the Senate *Mashinani* programme and invited the governors of the three neighboring counties. That is when I discovered how the county governments fear being grilled before the members of the public, especially those who are in their own locality.

My thinking was that these committees should not hold their sittings in Nairobi. Instead, they should go to Kisumu, Busia, Kericho, Nyamira and the other counties and have those governors answer the questions.

There is no better auditor other than the public. They know if a dispensary has been put up or not. They also know the old tricks used by the county governments. A county government can put up a road and capture it as Point A to B and to pilferage public funds, they can list the same road as Point B to A. An auditor cannot pick such games. It will be easy for the county executive and the county assembly to respect a Senator who does not agree with certain decisions if the Senator holds a public sitting in their county and invites 50 to 100 carefully selected members of the public to see their governor answer questions.

When we went to Kitui, we invited the Governors for Kitui, Machakos and Makueni counties. Not a single one of them turned up. They mobilized goons to disrupt the sitting of the Senate. They did that because nobody wants to be questioned in the

presence of the people that elected them. Unfortunately, the present system, as currently constituted, is flawed.

It is unfortunate that I am saying this as I move a Motion to constitute a Committee. The nine Senators that have been charged with the responsibility of leading this Committee and look into the books of accounts of our county assemblies, executives and special funds should know that they are doing this important task on behalf of Kenyans and their colleagues. They should treat it as a position of honour and trust. They should ensure that they keep the dignity of this House in high regard in every assignment and duty that they undertake. Let us not be reduced to a laughing stock.

The County Public Investments and Special Funds Committee has made us a laughing stock because of the leadership that it has had over the years. In fact, in the Council of Governors, the governors consult for free. They say, “if you are appearing before the Committee tomorrow, I can help you with a number which if you call, you will have a favorable appearance.”

We do not want to hear such stories. We want people to be held to account. We want colleagues serving in this Committee to be people of honor. A county governor who has been found to have their hand in the county ‘cookie jar’ should be exposed and the citizens of that county should know the truth.

The Committee on Delegated Legislation is important. This administration intends to bring not less than 50 regulations before this House for this Committee to look through and agree whether those regulations are in conformity with our Constitution, statutes and Acts of Parliament that have been passed. The work of this Committee is clearly cut out for them.

I expect that Committee to work with a lot of dignity and honour and ensure that the Executive does not bring regulations that will claw back the gains of devolution. On many occasions, those regulations respect the letter and spirit of devolved county units. They should ensure that we no longer hear about the animal called Intergovernmental Relations Technical Committee (IGRTC).

How do you explain that 12 years after the set up of the county governments in 2013, we still have functions that have not been transferred and assets that are yet to be properly registered? It is 12 years down the line and we still have disputes rising between national and county executive. The Committee on Delegated Legislation needs to settle these issues with finality for the citizens of this country to enjoy the gains of devolution and build on it.

Lastly, I want to say this respectfully to my colleagues. It is not possible to have all of us in one Committee. I know people have different opinions. I have interacted with many first time Senators and I have heard them say, ‘I want to be a certain Committee. I hear it is most prestigious.’ For the many terms that I have served in this House, I have never met the manual, imagined or real, which ranks a certain Committee higher than the other.

When we had changes because of the political situations that were going on in this country in the last Parliament, some of us were removed from the committees we were serving. I wish Sen. M. Kajwang’ was here. I was taken to the Committee on Devolution and Intergovernmental Relations; a Committee which was not in many ways regarded to

be as prestigious as the rest. However, through the good stewardship of Sen. M. Kajwang', I enjoyed serving in that Committee and I do not recall a time where I enjoyed serving in a parliamentary Committee as I did on that occasion.

We had media attention to the work we were doing. We questioned county governments that were using clients accounting law firms to pilferage public funds. We drafted legislation and considered transfer of functions. We mediated disputes between county assemblies and the county executives. We did a lot of work.

Therefore, I want to tell my colleagues that no Committee is superior to the other. It is not the Committee that makes a man, it is the man that makes a Committee. A Senator can serve in any committee. All they need is dedication, energy and the belief that they are doing the right thing in this House. With that, they will achieve the objective that has been set to them by the people of Kenya.

I do not intend to be longer than that because I know the Senators want to speak on the Motion. Therefore, I will rest it at that.

I beg to Move and invite my good friend, the Senator for Narok County, Sen. Olekina, to second the Motion.

The Temporary Speaker (Sen. Mumma): Sen. Olekina, proceed.

Sen. Olekina: Thank you, Madam, Temporary Speaker. I rise to second the Motion of the consideration of Senators to serve in these three Committees.

If you look at all the Order Papers that we have considered since we started the term of this Parliament, you will notice that the Papers Laid revolve around the two Committees that we are considering their Members today.

The first Paper Laid out today is the Report of the Auditor General on the Financial Statements of Narok County Executive for the year ended 30th June, 2021. The fourth one is on the Report of the Auditor General on the Financial Statements of Narok County Bursary Fund for the year ended 30th June, 2021. Those two Statements fall under the County Public Accounts Committee. When you go further down, you will find Papers that fall under the County Public Investments Committee.

The sooner we dispense this matter and constitute these committees, the earlier it will be for us to complete the work we have been tasked with. Standing Order Nos. 193 to 195 are clear on the mandate of each of those committees.

The biggest challenge that we encountered during the last Parliament where I served as a Member of the Committee on Public Accounts and Investments Committee (CPAIC), before these two committees were split was that it was tedious; a governor would appear and we would sit for six hours and only be able to prosecute two issues or questions.

I want to echo the sentiments of my colleague, the Senate Majority Leader, that those Senators who have been tasked with the mandate to oversight county governments; that mandate is very clear. It calls for you, as a person, to respect the principle of the fiduciary duty. You are tasked with the fiduciary duty to ensure that the work you are doing will continue gaining respect from the members of the public who elected you to serve them in this House.

These are committees which require people who are going to commit their time, sweat and blood to make sure we can call for accountability among the 47 counties. I

heard my colleagues say that this is a committee that requires all 47 delegations represented. I dare say that all the 47 delegations are actually represented because when a governor is appearing before that Committee, as a Senator for that county, you have the right to be there and to question him.

Therefore, not all of us should want to serve in that Committee because only nine of us can do so; five members from the majority side and four from the minority side. I want to reiterate and plead that we should approve these Members so that we can start working.

On the issue of delegated legislation, we have seen the work done by the Senator for Mombasa County when we had the statutory regulations were brought for consideration by this House. If it was not for the work which was done by Sen. Faki, a lot of them would have been declared to be unconstitutional. The mandate is quite clear. I invite Senators to look at Standing Order Nos. 193, 194 and 195 so that they can understand their mandate.

The other issue is that these committees can be reconstituted at any given time. I know the Standing Orders call for a period of about three years, but nothing stops us since we have been given that power by Standing Order No.200 to make those changes and bring other people who can help the House to deliver on her mandate. I know for a fact that when I served as a Member of CPAIC, every single day, all nine Members were present.

It has now been divided into two. I do not see why we cannot complete the work. We ended up becoming morticians, looking into issues which had already happened. However, nothing stops the leadership of those two committees from taking on an active matter and investigating it.

In fact, this is the argument I had with the Clerk's Office on a Statement I sought and I was told that, that Statement can only go to a particular committee because one of these select committees does not have a tradition of bringing Statements.

I want to challenge that because when you look at the mandate of the CPAIC and read Standing Order No.193(1)(d), it says: "the mandate is to exercise, oversight over County Public Accounts". There is nowhere in that mandate that says that we have to do a post-mortem exercise and that we have to wait for the Auditor General to carry out investigation and submit the report following the process of the Public Audit Act.

Madam Temporary Speaker, I would like to challenge all the Senators who are sitting here that whenever we have an issue to carry out, we do so diligently. I believe that all the names of all the Senators who have been proposed to serve in these three committees are people who are able to deliver justice and to call for fiduciary responsibility among the 47 counties.

As I summarize, I hope that this will approve this Motion so that we can clear all the Papers that have been laid on the Table of this House and allow county governments to catch up. There is a lot happening in county governments. If we are not the true ombudspersons of our citizens, then we will be lying not only to ourselves but also to the almighty God, who has sent us to ensure that we deliver on the mandate that were elected; which is clearly described under Article 186 of the Constitution.

I support and hope that all the Members will support.

(Question proposed)

Sen. Osotsi: Thank you, Madam Temporary Speaker, and congratulations for being our Chair today.

I do not have much to say but I want to emphasize that the three committees are very crucial in our oversight work, particularly the Committee on County Public Accounts (CPAC) and the County Public Investments and Special Fund (CPISFC) which are the two that really oversight the financial status of our counties.

I encourage the Members who will sit in the two committees to put in a lot more effort in trying to help the Senate and the country on matters transparency and accountability in our counties. We have a lot of challenges on matters to do with financial transparency in counties. We see a lot of wastage and theft of public funds. This is happening in our various counties.

That Committee should help the Senate to come up with actionable reports so that the culprits who were involved in all this theft are brought to book and be punished. I am happy that I am a Member of the County Public Investments and Special Funds Committee. Therefore, I will exercise my time and experience to ensure that we produce reports that are actionable.

We have been blamed as Parliament, not just the Senate alone but also the National Assembly, for giving reports which are not actioned. Looking at the Standing Orders of the Senate, each Committee has powers to follow up on the implementation of its own resolutions. So, I expect every Committee including these three that we are passing today to ensure that whatever recommendations they give are implemented fully. In the Senate unlike the National Assembly, we do not have a Committee on Implementation. So, each Committee handles matters to do with implementation. Members of each Committee, either Standing Committee or Oversight Committee, do not only write reports. They make sure that the resolutions emanating from those reports are fully implemented.

I also want to express my interest to become the Chairperson of the County Public Investments and Special Funds Committee. I was a vice-chairperson of a similar Committee in the National Assembly. So, I think the experiences are the same. I will play a big role in performing competently and effectively the role of the Chairperson of the County Public Investments and Special Funds Committee.

For those few remarks, I support.

(Applause)

The Temporary Speaker (Sen. Tabitha Mutinda): Hon. Senators, we have a lot of interest in this debate. I request that every Member just do three minutes. Is that okay?

(The Clerk -at the Table Consulted the Temporary Speaker)

I am well advised that the Standing Orders provide for 20 minutes. However, I urge Members to just be cognisant of the fact that there are many of you contributing. So, just give a chance to the others as you can.

The next speaker is Sen. Gataya, Senator for Tharaka Nithi.

Sen. Gataya: Thank you, Madam Temporary Speaker. I start by putting across some information that my name is *Mheshimiwa* Mwenda Gataya Mo Fire and not 'Mofire' as you mispronounced it. That is a slight oversight.

Madam Temporary Speaker, I stand here today to support the Motion. I have gone through the list of the entire membership in all the Committees and they are men of integrity who are going to make sure that we have a face for this august House especially the County Public Accounts Committee.

I happened to be the Chairperson of the Committee on Public Accounts one time when I served in Tharaka-Nithi County Assembly. So, this Committee requires people of high integrity.

I am sure that this House is composed of ladies and gentlemen of high integrity who will make sure that the name of the Senate will be protected in that spirit.

We will endeavour to make serious deliberations in other Committees and meet the target.

So, I strongly support.

The Temporary Speaker (Sen. Tabitha Mutinda): Thank you.

Sen. Oketch Gicheru, please, proceed.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker. I am among the Senators who are very keen to make comments about the Committees that we are putting together as a House.

If you look at Article 92 of the Constitution, the legislative authority of the Republic is derived from the people and more importantly, it is vested in Parliament.

There is no any embodiment of this authority that is more powerful than the Committees that we are passing here today. This is because these three Committees look at the resources that go to counties under Article 203 of the Constitution.

Therefore, my comments today will be two. First, the Senate Majority Leader has talked about the limitations that we have under the function of oversight. I have seen that the ladies and gentlemen who were elected to this House have serious experiences, interest and backgrounds.

Therefore, I urge the House and Members of those particular Committees to be more adventurers and bring out the spirit of entrepreneur and critical thinking in terms of running these Committees.

If you look at Standing Order No.193 that talks about County Public Accounts Committee, sometimes people are limited to just making sure that counties look at the functions of these Committee with regards to Article 226 and 227 of the Constitution on basic financial and ordinary audit of finances that are going to the counties.

However, we can advance further and be creative in this Committees and look at things like social audit. Are these monies going to the counties having serious impact beyond just the idea of following typical financial audits? That means that we must go

further to invite creative thinking and make sure that counties do proper investments according to the priorities of their people.

In that regard, I also want to express to the House that given my background in investments and FinTech expert, I will be putting my name forward when we go to the Committees to vie for the Chairperson for the County Public Accounts Committee.

It is extremely critical that we bring about new thinking in this House. That new thinking does not just come with thinking about vested interests of today but also investing in the future by following through the investments that are going to the counties.

With that, I do support the Motion on the Floor.

The Temporary Speaker (Sen. Tabitha Mutinda): Sen. Methu, you have the Floor. Please, proceed.

Sen. Methu: Thank you very much, Madam Temporary Speaker. I rise to support the Motion on the Committees that have been proposed by the Senate Majority Leader.

I am very grateful that my party has nominated me to serve in the County Public Accounts Committee. In the same spirit, I wish my brother, Senator for Migori County, the best as he seeks to serve as the Chairperson of the County Public Investment and Special Funds Committee.

I am hopeful that he has consulted enough so that he does not come back and cry.

Mr. Temporary Speaker, as I rise to support this Motion, I have attended every session of this Chamber. There are very many Papers that have been laid on the Table of the House by the Senate Majority Leader every time we come here. I am told that they are going to the County Public Accounts Committee and the County Public Investments and Special Funds Committee. So, those are very busy Committees of this House. I am not saying that there is any committee that is not busy. However, I am certain that those are two very busy committees.

I am looking forward to learning from those who are coming inexperienced. I am also looking forward to committing my time to serve.

One of the responsibilities of this Senate is oversight. We are supposed to take care of the devolved funds so that we do not have a granary without a door because all the resources will be stolen.

Madam Temporary Speaker, I ask the colleagues going to serve in these committees to commit their time. I am happy that Sen. Olekina indicated that during the time of his service, all the nine Members were active. I am hopeful that the nine Members of the three Committees will be active.

I support.

Sen. (Prof.) Tom Ojienda, SC: Thank you, Madam Temporary Speaker. I rise to support the Motion. I had intended to speak before but I was not able because of time.

My learned friend, Sen. Omogeni, spoke on what has become a pointer on how there was non-consultation in the selection of Committees from this Senate Minority side. We are on course to settle that question so that Sen. Methu and his side should not celebrate too much. We are putting our House in order. I can assure that side that we will have an organized side that will render formidable opposition to the Government.

I serve in two Committees; the Committee on Public Investments and Special Funds Committee, and the Committee on National Security, Defence and Foreign Relations. There is already too much work for the two Committees. We must hold our governors to account and expect them to live by the book and to serve the people of the counties we come from.

As Sen. Olekina has said, the oversight that we must undertake as a House should not be where Members are called and told to do things according to script. We must hold accounting officers and governors in the counties accountable. We must summon them when there are questions on accountability.

The Public Investments and Special Funds Committee is a new Committee that was disengaged from the former Committee on Public Accounts and Investments (CPAIC). We want governors to account for county investments. Where they collect funds and run water companies, we want to see that the water companies are properly audited.

If they are running parks and benefiting from collection parks, for instance, at Maasai Mara, we want to see that those companies are run properly and accounted for.

Madam Temporary Speaker, we want to see that this Senate works differently from the previous Senate. I second. I need not to go beyond that so that my hand is not seen too early.

One point before I sit. I have two Statements that will come in tomorrow, a security questions for Sondu in my county. Let us wait and hear it.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. Congratulations for sitting in that Chair this afternoon. This being your maiden time, I was tempted to rise on a point order and you know why. I do not think we can go there.

This is the Committee. The Committees on Public Accounts (PAC), PIC and Justice and Legal Affairs and Human Rights (JLAC) define Senate.

If you get it wrong on these three Committees, there is no Senate. We will leave a very poor or no legacy whatsoever. Now going forward, we should re-think our position in society and agree that, as a House, when it is a matter on these Select Committees, we unite and save the country for the future.

In the short time that I have been here, I have been truly impressed by the commitment of all Senators. I have no doubt in my mind that all these Senators will live up to it.

When I first saw the name of Sen. Sifuna, I quickly reflected on what he has been saying during his talk shows on television stations and during rallies. This is a unique opportunity for the young Senator to walk the talk. He has been fighting corruption on television stations and public rallies and he now has the best platform, the Senate, as member of this Committee.

I also saw the name of Sen. Okiya Omtatah. Sen. Okiya Omtatah is a hero in this country. He has played more oversight than many elected Members of Parliament from the corridors he has been walking for many years. In fact, if Sen. Okiya Omtatah becomes the Chairman of this Committee, I promise I will be attending in what Sen. (Prof.) Tom Ojienda, SC will call *amicus curiae*.

Madam Temporary Speaker, on the Judiciary, the President has pronounced and demonstrated that he wants to allow the rule of law. In the history of the Judiciary, we unfortunately do not know whether it is the Executive that was dictating the Judiciary or if there was some other problem. The Judiciary has been a problem.

I remember I chaired the first impeachment committee of a governor. This House impeached that governor twice. The first time the courts overturned it on matters of procedure. We did it again and he went home. The guy lived in the courts for four years until he finished his term. Using the same money of which we had impeached him, he bought his way back for a second term.

Judiciary, you are now being supported by this Parliament and the Executive. Enjoy your independence and give Parliament freedom to properly carry out its oversight role.

Madam Temporary Speaker, another issue is political parties. Whereas I would have loved my kid brother, Sen. Sifuna, to become the Chairman, I do not vote there. If you became the Chairman, this is not an easy Committee. You will find it extremely difficult to work because the governors first port of call, once summoned, is the political party chiefs. I have been in this seat for three years and I know that the chiefs come for you as the Chairman claiming their governor and member of their party cannot be impeached.

Political party heads including my own political party leader, His Excellency President William Ruto, and other political party heads, should keep off the affairs of PAC and PIC. We want to put governors to check.

(An hon. Senator spoke off record)

You would want me to say that again so long as I do not mention the name *Baba*. I can repeat again and again, but the rules of this House do not allow me to mention his name unless I have either a Substantive Motion against or he can defend himself in the House.

Buoyed by the pronouncement from the courts last week or thereabouts – that governors now have a mandatory responsibility to answer to all our questions both on sharable and own source revenue, including grants – this is the time now for us to demonstrate to the Republic of Kenya that indeed we are the “Upper House”. Let us earn it through this window of opportunity of oversight.

Madam Temporary Speaker, on the membership of this Committee, let us think a little bit about it with all honesty. Without any bias or without having any of the present Members in mind, let us think about the future of the Republic of Kenya when we are all gone.

The first step is that we should review our Standing Orders, so that there is a tenth Member. I saw Sen. Olekina moving towards this and I am just lauding it. It is important that when the Committee is sitting on matters of Narok or Kakamega County, whether Sen. Olekina or the bullfighter is a Member or not, we must be there and have a voting presence. It is because this is the time they are talking about your county. If there is any attempt for anybody to push things under the carpet---

(An Hon. Member spoke off record)

Point of order? Am I out of order?

An. Hon. Senator: Point of information.

Sen. (Dr.) Khalwale: Okay, information. Yes, Sir. Give me the information so long as my time is held. I have three more points to finish.

(There was a technical hitch)

Madam Temporary Speaker, this is the time they are talking about issues of your county. The governor because of other reasons, including attempts to influence the Committee either through financial constriction – I am not casting aspersions against Members of this Committee because they are yet to become Members – or through the influence of political parties---

For instance, the Governor of Uasin Gishu County, with all due respect, will come before the Committee on County Public Accounts. Supposing his party leader who is the President, took a position, would you really manage to oversight again?

So, you need the Senator of that county to be there to challenge the governor and be given space and opportunity to vote. That way, the people back home can know that we are elected as Senators who are earning a salary. We are being paid Kshs1 million. The majority of us, being people with a hustler background, Kshs1million is a fortune. We want to be seen to be earning it.

(An Hon. Senator spoke off record)

Madam Temporary Speaker, with due respect, I know the Professor is not happy that I am thinking Khs1million is a fortune.

(Laughter)

The second issue on membership is something I would like us to really think about. With maximum respect to my colleagues, I am not thinking about those of us who are here now. I am thinking about going forward. We need to tweak our Constitution.

Sen. Madzayo, are you telling me when my brother, Hon. Lusaka, was the Speaker of the Senate, you could seriously debate and decide on whatever shortcomings he might have had when he was the Governor for Bungoma County. With due respect, I do not have the current Speaker in mind. However, if a matter comes and the Speaker of the House is in the Chair and he is the immediate governor of that county, you cannot expect proper oversight.

Going forward, we need to tweak the Constitution so that we bar governors who want to come to the Senate. They should cool at home for five years and then come.

(Applause)

An Hon. Senator: We have two of them.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I am saying this for the sake of my daughter. If she visited Parliament, she would ask all of you what is wrong with women because of all the pictures on the wall, there has been no women speakers. That is why I have never come here with my little girls but I come with my boys because they see the men. I am ashamed of what to tell my girls.

We need to tweak it so that they cool at home, we finish their cases and then they can come here.

On the issue of volume of work, I saw Sen. Olekina come to it. However, let me just put a little bit of flesh on the skeleton that he laid. Today, I have tabled 41 Papers that require the work of this Committee. There will be 47 reports from 47 counties that will require the work of this Committee. There is no time for this Committee to do all this work.

Madam Temporary Speaker, what do I propose? We should look at it critically so that we allow the Office of the Speaker to create and allow our research officers to be taking the reports of the Auditor General. They will go through them and flag out issues that require to be addressed by this Committee.

(Sen. Olekina spoke off record)

If you have improved on it, thank you very much. However, I am saying this because for example; when you go to this Committee, Members would like to pin down a governor. You find a governor wasted Kshs10 million on fueling vehicles. So, you waste time following that Kshs10 million and you do not go to projects worth Kshs100 of millions. The governor then he escapes.

For instance, if the last Committee on Public Accounts had worked--- I am not saying they did not work. They did their best but because of the volume of work, they did not reach Kakamega County. They scratched. For ten years, a multimillion stadium has not come out of phase one and yet billions of shillings have been spent already. This Senate did not pronounce itself on it for five years.

Madam Temporary Speaker, in Kakamega County, Mumias Hospital was being constructed using millions of shillings. It was eventually converted into a COVID-19 restriction centre but it is not operational. Shamakhubu Hospital in Shinyalu is not in use. The Kakamega Teaching and Referral Hospital was worth Kshs4.5 billion in ten years but it is not in use. You then come and tell me the function of the Senate is to oversight governors? We are failing.

If we had such a group because of the volume of work, they would flag out these four projects in Kakamega County. The Governor would have been pinned down, so that he tells us why he owns all these multimillion properties in Nairobi City and even in South Africa. This should be the work of the Senate.

This should be the work of the Senate. Given that we are in a world where a Minister in China was sentenced to death and he is serving a prison term, that is the route we should follow. We should make corruption completely unacceptable. It should be nothing personal.

Madam Temporary Speaker, I would like to conclude by responding again to the concerns by Sen. Olekina. Sen. Olekina is worried about it being a committee of morticians but we have an opportunity.

Whoever becomes the Chairperson, even if it is Sen. Okiya Omtatah, they should not waste time because we want to deal with current issues like Sen. Olekina said. We should not waste time waiting for the Auditor-General's reports that are five years old.

We should take the route of special audits. As the Chairman of the Committee, once Members support you, when there is a particular issue, you should request for a special audit and ask the Auditor-General to come. They will audit the use of the funds and give a report that you can use to pin them down.

One of the best Auditor-Generals that we have had in this country was Mr. Edward Ouko. He is now enjoying his retirement. I would call him and he would come and give us a special audit report. It is only special audit reports that can help us to scare governors, so that they do not think that they have an opportunity to loot.

Let me tell you this, Sen. Osotsi. I am waiting for you. There are two reasons why most Senators want to leave this great House to go and vie for the position of governor and I was one of them.

First, you are so angry because you can see people looting in black and white. You want to go back and stop it and correct things. The second reason is because you find that stealing is so attractive and you want to go and join the gravy train.

We should make stealing to be shameful such that no Senator would want to go there for the reason of looting. If you think that I am lying, we have now gone through a full circle of devolution, which is 10 years. Do we have any governor who served either one or two terms that is celebrated by the public? There is none.

There is something wrong. We should make the position of governor to be good that one day, a governor will be celebrated in this country, the way this country celebrates Hon. Mwai Kibaki.

Madam Temporary Speaker, I support.

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

Sen. Faki: Thank you, Madam Temporary Speaker, for giving me this opportunity to support the Motion on selection of Members to the three committees. We have the CPAC---

The Temporary Speaker (Sen. Veronica Maina): Just a second, Sen. Faki. Hon. Senators, please, log in again because the system was interrupted a little. Those who want to speak should log in again.

Sen. Faki: Madam Temporary Speaker, the three committees are mainly tasked with the oversight role in this House.

I was privileged to serve in the County Public Accounts and Investments Committee (CPAIC) in the first two years of our tenure in the Senate. That was from 2017 to 2020. I had the opportunity to also chair the Committee on Delegated Legislation of the Senate from 2020 until the end of our term in June this year.

From my experience, most of the issues brought before the Senate by the auditors, especially affecting the second-term governors were minor such as failure to do bank reconciliations, unsurrendered imprest and others that are mundane.

Most of the auditors were under the patronage of the governors. Therefore, they could not pick the major issues and concerns that led to the mismanagement of funds sent to the counties.

Madam Temporary Speaker, there were instances where governors were summoned and they refused to appear in the committees. The governors for Murangá, Kitui, Kakamega and Machakos counties refused to appear before the Committee and none of them was ever arrested by the police.

The Senator for Kakamega County has talked about special audits. Special audits were commissioned in the last Senate. However, most of the issues that were brought in were very minor and could not sustain progressive oversight of those counties. This is because the same governors who do the special audits are the ones who do the annual audits in those counties.

The Office of the Auditor General (OAG) has eight regional stations. That is where they take the auditors from to go look at the accounts of the counties but that is an exercise in futility.

The most important function is to have people do the audits in the specific counties. We did one audit in Mombasa County. We took the Senate Sessional Committee on County Public Accounts and Investments (CPAIC) to the County Government of Mombasa in 2019 and we only did half of what we had set out to do. The Governor sort of disappeared but we made the point that he can be questioned on the use of funds that belong to that county.

Madam Temporary Speaker, we are now going to have two Committees. One will be dealing with the accounts and the other one will be dealing with the investments which will make it easy for the two Committees to deal with the issues arising from those counties. However, we should not wait for the AG's reports. We should be proactive and visit the counties to see what is happening there. If there is a road project that is being done, we will see it on the ground. This is because most of the projects that are factored in by the auditors are phantom projects. In most cases, money is paid but there is nothing on the ground to show that the project has been commissioned by the county government.

The other aspect is the conduct of our committees. In the last Committee, the concern was that the county governments would just appear before them for the sake of it and nothing much was being done.

I attended a session where my Governor was being grilled over the accounts and I was asked not to ask many questions because time was running out. It was about midday and we had to finish up by 1.00 p.m. Therefore, we could not do much. We should not take that trend because the issues that were being asked concerned the county and the people of Mombasa and we should not have been stopped from asking those serious questions.

Madam Temporary Speaker, last year, I brought a Petition to this House on behalf of the residents of Buxton over the demolition of their estate by the County Government. Their houses were being demolished because an investor was rebuilding the estate. The Petition was referred to the Senate Standing Committee on Roads and Transport which was led by the now Governor of Kiambu County.

We went to Mombasa, made a lot of noise and the construction was stopped for a few days. After we left Mombasa, the construction started the following day. The Committee summoned the Governor and they were allowed to proceed with the construction. Nothing was given to the residents who had been evicted forcefully from their houses yet their properties had been destroyed. They were never compensated.

What I am saying is that sometimes, our own committees fail us. We wanted to have a clear way forward in such situations where assets of the county governments are being misappropriated or mismanaged for the sake of just a few individuals.

Madam Temporary Speaker, the Committee on Delegated Legislation is an oversight Committee. In other jurisdictions, for instance, the United Kingdom, this Committee has a majority from the Members who are not in the government; Members in the minority. For instance, the committee in the UK has 15 Members, seven drawn from the ruling party and eight from the opposition parties. This is because most of the subsidiary legislation, the delegated legislation that would be coming from the House, will be coming from the Government Ministries and, therefore, the Government should not be allowed to oversight itself.

More so, there are situations where even our colleagues on the other side feel that they are part of the Kenya Kwanza government, yet Parliament is an independent arm of Government which should not be associated with the Executive arm of the government.

Madam Temporary Speaker, even in Australia where such committees have been there since the 1940s, they are populated by Members from the party that is not in government, the party in the minority so that they can be able to effectively oversight the government in terms of the regulations that are being brought to the House.

During my tenure, the Committee was able to do a lot of regulations and we were able to go for trainings so that all the Members were equipped with the necessary knowledge on how those regulations can be scrutinized so that they are in conformity with the Constitution, the parent legislation or any other legislation for that matter and that they do not infringe on the human rights of the members of the public.

Madam Temporary Speaker, it is therefore my appeal that we need to review our Standing Orders so that this Committee, just like the other two Sessional Committees, is populated by Members from the minority side. This will enable us to do effective oversight of the government in terms of the subsidiary registration that is coming in.

We cannot underemphasize the importance of this Committee. On 27th July, the Salaries and Remuneration Commission (SRC) published a Gazette Notice to alter some of the allowances that Members enjoy in both Houses and even other public servants outside Parliament.

That particular Gazette Notice, under Section 11 of the Statutory Instruments Act is a delegated legislation which should have been brought before the two Houses of Parliament so that it can be scrutinized and considered whether it conforms with the Constitution, the Statutory Instruments Act and any other legislation that is in place at the moment in this country.

However, that was not done and now it is being applied to the detriment of some of the Members of this House and Members of National Assembly. So, the work of this

Committee is very crucial. Most of the County Governments are relying on subsidiary legislation which was passed before the advent of the county governments.

Under the Statutory Instruments Act, a subsidiary legislation, or a delegated legislation, a rule or regulation cannot be enforced for more than 10 years. It has to be automatically repealed after the period of 10 years. That is why the Senate Majority Leader is talking about 50 or so regulations that will be coming in because most of them are now expiring. Those which were done in 2013 with the advent of the county governments are now in their sunset years and will soon be repealed with the application of the law.

Madam Temporary Speaker, this Committee is very crucial and I am happy that I am one of the Members. I will be happy to be elected as the Chairperson of this important Committee because I am sure I will be in a better position to educate the new Members who have come into this Committee and also assist them to understand the important work that this Committee undertakes in terms of scrutiny of the subsidiary legislation.

I thank you and I support.

The Temporary Speaker (Sen. Mumma): Hon. Senators, for those I call upon to speak, please, be gracious enough, not to speak for too long.

Proceed, Sen. Thang'wa.

(Sen. Omogeni consulted loudly)

The Temporary Speaker (Sen. Mumma): Order, Sen. Omogeni.

Sen. Thang'wa: Thank you, Madam Temporary Speaker, for giving me this opportunity. I congratulate you for handling the Speaker's seat very well.

Madam Temporary Speaker, we need these committees like yesterday because there is a lot of work ahead of us. As the grapevine has it, we need to check what was done by the former governors who exited office after the last general elections.

I urge Members who have been placed into these committees to work with a lot of integrity. As Sen. (Dr.) Khalwale put it, this Senate is made or broken by these committees.

When it comes to oversight, we do not require the Supreme Court to tell us whether we are to summon the governors or not because the Constitution is very clear on that matter. Article 125 (1) states that-

“Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.”

Therefore, we do not require the Supreme Court's ruling. All we need to ask ourselves is what to do when such governors refuse to appear before this House.

Madam Temporary Speaker, these committees have the powers of a High Court. Therefore, I believe that they can come up with recommendations, that such governors who refuse to appear before this House, be reprimanded.

There are some who were summoned by previous Committees. If there is a report in this House which states that such governors refused to obey summons of the Senate, then they should not hold public office. A reprimand should be considered by Parliament

during vetting. These committees need to come up with recommendations on how to handle such issues.

The Government has stated that it is going to promote Public Private Partnerships (PPPs). The County Public Investment and Special Funds Committee should also come up with recommendations on how such PPPs would happen.

As it stands today, it is very hard for a county to do a PPP because they must seek approval from the National Treasury. If the National Treasury is not in good terms with a county, they might probably not get a nod to go on with the partnership.

The 'Hustlers' Fund is coming. I believe that even if it is a national Fund, who knows, maybe the governors or Members of the County Assemblies (MCAs) will be tasked to oversee the distribution of the Fund. This means that this 'special fund' will come to this Committee for scrutiny.

It is my prayer that those Members who have been nominated to this Committee, serve diligently, so that at the end of this Session, we will know that we worked for our people and we did it right.

I do not know whether I should agree with Sen. (Dr.) Khalwale, on the issue of governors who seek Senatorial seats to have a hiatus of about five years because there is no vacuum in Government.

If you want to know what the previous governor did, we just write to the current governor today and he or she will bring that information to these committees. The governor in question can only declare his conflict of interest and be put aside as we investigate.

We want governors to work knowing that there is somewhere else they can go. If we say they will never run anywhere, they will not treat our people well because they know that is the end of their game. So, we are giving them a hand to steal more if we bar them from running for any other office.

I support.

The Temporary Speaker (Sen. Mumma): Sen. Kavindu Muthama, do you still want to speak?

Sen. Kavindu Muthama: Yes. Thank you, Madam Temporary Speaker, for giving me this opportunity. Congratulations for sitting in that seat. You look good there. I am sure one of the days Sen. (Dr.) Khalwale will not be ashamed of bringing his daughters here because soon we are going to have a lady Speaker. That time you can bring your daughters to the House.

Madam Temporary Speaker, my governor was called twice to the CPAIC. We questioned him on the issues that made him be called here. There are a lot of issues not only Machakos County but all counties. As we speak now, we have more than 400 stalled projects in Machakos County and the monies for those projects have been misappropriated. So, PAC has a lot of work to do.

One time when he came, the Session was live. However, I do not know what happened on the second time. There were no cameras, so the Session was not live. The people back at my county were complaining why the Session was not live.

I would request this Committees to be live when the governors appear and the Senators of that County are present. This is so that the interrogation can be seen back at home and the Senators can be seen to be doing the right thing and working.

Just as one of us has commented, some of the Senators were asking us not to ask certain questions but instead seek Statements at the Senate Plenary. We are there to question and the Governor must answer every question. For example, my Governor was given two weeks to bring a particular report and another two weeks to bring another report. However, he has never brought those reports to date. So, I hope the Committee that has been tasked will follow up with the issues that the governors were to report on to ensure they are done.

I donate my one minute to somebody else.

The Temporary Speaker (Sen. Mumma): Sen. Oyomo, proceed.

Sen. Oyomo: Thank you, Sen. Kavindu Muthama, for donating the one minute. I support the Motion. I heard Sen. (Dr.) Khalwale say that we do this to scare governors. We will do this not only to scare governors, but we want people to answer the audit questions effectively.

I support the composition of the names that have been proposed for the three Committees because they are Senators with commendable credentials. The Committees is where the rubber meets the road.

The mandate of the Senate, through the audits done by the Committee on County Public Accounts was reaffirmed by the ruling of the Supreme Court. The Senate has powers to summon governors to answer to all queries from the Auditor General. The Supreme Court ruled that governors should not only be summoned to give specific information but any information---

The Temporary Speaker (Sen. Mumma): Order!

Sen. Oyomo: I support.

The Temporary Speaker (Sen. Mumma): Sen. Oyomo, you have a balance of 18 minutes tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. Therefore, the Senate stands adjourned until tomorrow, Wednesday, 19th October, 2022 at 2.30 p.m.

The Senate rose at 6.30 p.m.