

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 21<sup>st</sup> November, 2023**

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

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

### PRAYER

DETERMINATION OF QUORUM  
AT COMMENCEMENT OF SITTING

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

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

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

*(The Quorum Bell was rung)*

*(Several Senators walked into the Chamber)*

Serjeant-at-Arms, I am informed we now have quorum. Kindly stop the Bell and Clerk proceed to call the first Order.

### PAPERS LAID

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of this Senate, today, 21<sup>st</sup> November, 2023-

NLC ANNUAL REPORT FOR FY2022/2023

The National Land Commission Annual Report for Financial Year 2022/2023.

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ARCHITECTS AND QUANTITY SURVEYORS (AMENDMENT)  
BY-LAWS LEGAL NOTICE NO.133 OF 2023

The Architects and Quantity Surveyors Amendment By-Laws, 2023, Legal Notice No.188 of 2023.

I thank you.

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

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

Sen. Mungatana, MGH, your gadget unit seems to be having issues.

**NOTICE OF MOTION OF ADJOURNMENT  
UNDER STANDING ORDER NO. 37**

PREVAILING HEAVY RAINS AND FLOODING  
IN PARTS OF THE COUNTRY

**Sen. Mungatana, MGH:** Thank you, Mr. Speaker, Sir, for this opportunity. I stand on a point of order pursuant to Standing Order No.37, that the Senate do now adjourn to discuss a definite matter of urgent national importance, namely; the prevailing heavy rains and subsequent flooding in many parts of the country.

*(Hon. Senators stood up in their places)*

**The Speaker** (Hon. Kingi): Hon. Senators, I am satisfied that the requisite threshold has been met. Therefore, I direct that this matter be discussed at 5.30 p.m.  
Next Order.

**QUESTIONS AND STATEMENTS**

**STATEMENTS**

Sen. Methu, there was a statement pursuant to Standing Order No.53(1). The two statements by him are dropped.

HARASSMENT OF FARMERS IN BAHATI AND DUNDORI FOREST

AGRICULTURAL SUPPORT TO FARMERS IN BAHATI AND DUNDORI

*(Statements dropped)*

Sen. Chimera. Yes, proceed.

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ADHERENCE TO MERITOCRACY, TRANSPARENCY, FAIRNESS AND EQUAL  
OPPORTUNITY IN RECRUITMENT OF CAK DIRECTOR GENERAL

**Sen. Chimera:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration regarding the adherence to the principles of meritocracy, transparency, fairness and equal opportunity in recruitments at the Competition Authority of Kenya (CAK), particularly in the recruitment of the Director General of the Authority.

In the Statement, the Committee should-

(1) Explain the recruitment process for the Director General (DG) position at CAK, outlining the steps taken so far in the recruitment of the DG and the corresponding timelines.

(2) Disclose details of the tendering process for the procurement of recruitment services for the DG position, explaining the rationale for the award of the tender to ACAL Consulting.

(3) Report on the fairness of the recruitment process, explaining the failure of the Authority to provide feedback to candidates as well as publish the longlist and shortlist.

(4) Confirm claims of conflict of interest, secrecy or bias in the recruitment process, and if so, remedial action taken.

(5) Clarify whether the Public Service Commission is actively monitoring the recruitment process to ensure it aligns with the principles of meritocracy, transparency, fairness and equal opportunity.

(6) Outline measures put in place to ensure that the recruitment process is conducted in a transparent and fair manner without favouritism or bias and is insulated from undue influence.

I also have another statement, Mr. Speaker, Sir.

WITHHELD FUNCTIONS AND FINANCIAL  
CHALLENGES AT NCI-KENYA

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the withheld functions and financial challenges of the National Cancer Institute (NCI)-Kenya.

In the Statement, the Committee should-

(1) State the challenges, if any, experienced by the national Government in the implementation of the Cancer Prevention and Control Act, No.15 of 2012, specifically relating to the functions and responsibilities of the NCI-Kenya.

(2) State measures put in place by the Government to ensure that the NCI-Kenya effectively executes its mandate, including the restoration of its regulatory and oversight functions, outlining the specific functions that have been withheld and the rationale for such actions.

(3) Spell out actions being taken to address the financial challenges faced by the NCI-Kenya and ensure that it operates with the intended financial autonomy.

(4) Indicate the steps being taken to strengthen the collaboration between the Ministry of Health and the NCI-Kenya to enhance cancer prevention and control efforts in the country.

Last statement, Mr. Speaker, Sir.

DELAY IN PROCESSING MEDICAL INSURANCE  
CLAIMS FOR TEACHERS AND POLICE OFFICERS

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the undue delay in processing of medical insurance claims for teachers and police officers by the Medical Administrators Kenya Limited (MAKL).

In the Statement, the Committee should-

(1) Provide details of the medical insurance schemes for teachers and police officers managed by Medical Administrators Kenya Limited (MAKL) indicating the number of respective beneficiaries and panels of medical and healthcare service providers.

(2) Report on the criteria for processing claims at MAKL, explaining the delays reported by teachers and police officers in the processing of medical insurance claims.

(3) Explain actions taken by the Insurance Regulatory Authority (IRA), the Teachers Service Commission (TSC) and the National Police Service Commission (NPSC) to address the said delays.

(4) Outline measures put in place to ensure the timely and efficient processing of medical insurance claims in line with the terms and conditions of the respective schemes.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Shakila Abdalla? She is not in the House. Therefore, her Statement is dropped.

CUSTOMS REGULATIONS AND TAXATION OF  
TRAVELLERS RETURNING TO KENYA VIA JKIA

*(Statement dropped)*

Sen. Kibwana has two statements. She is not in the House. Therefore, her two Statements are dropped.

REVIEW OF CHARGES, FEES AND LEVIES RELATING  
TO IMMIGRATION AND CITIZEN SERVICES

## GENDER-BASED VIOLENCE IN KENYA'S POLITICAL SPACE

*(Statements dropped)*

Next Order, Clerk.

**MOTION**ADOPTION OF REPORT ON THE APPLICATION OF THE CONFERMENT  
OF CITY STATUS TO THE MUNICIPALITY OF ELDORET

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the application for conferment of city status to the Municipality of Eldoret laid on the table of the Senate on Wednesday, September 20, 2023 and pursuant to Section 8(6) of the Urban Areas and Cities Act, 2011, the Senate approves the conferment of City status to the Municipality of Eldoret.

This Motion is up for Division and clearly we do not have numbers to undertake Division. Therefore, it shall be deferred.

*(Motion deferred)*

Next order, Clerk.

**BILLS***Second Reading*THE EQUALISATION FUND APPROPRIATION BILL  
(SENATE BILLS NO.30 OF 2023)

Hon. Senators, this Bill is also up for Division. Unfortunately, we do not have the numbers to carry out the Division. Therefore, it will be deferred.

*(Bill deferred)*

Next Order.

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

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This Bill is also up for Division. Noting that we do not have the numbers to carry out that Division, this Order will also be deferred.

*(Bill deferred)*

Next Order.

*Second Reading*

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

*(Sen. Cherarkey on 31.10.2023)*

*(Resumption of debate interrupted on 2.11.2023)*

Hon. Senators, at the interruption of debate on Thursday, Sen. Chute was on the Floor. He a balance of five minutes. Sen. Chute, you may proceed.

**Sen. Chute:** Thank you, Mr. Speaker, Sir. I donate my time to anybody who wants to speak.

**The Speaker** (Hon. Kingi): Thank you. Sen. Wafula, proceed.

**Sen. Wafula:** Thank you, Mr. Speaker, Sir. Unfortunately, I was testing whether my buttons were working.

*(Laughter)*

I also hand over to the next person. Thank you.

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

**Sen. Kinyua:** Asante, Bw. Spika, kwa kunipa fursa hii. Nime bonyeza nikiwa na hakika kwamba nitazungumzia Mswada huu kuhusu kuzuia wizi wa mifugo ambao umeletwa na Sen. Cherarkey. Mswada huu unafaa zaidi wakati huu. Sehemu nyingi nchini Kenya, hasa Bonde la Ufa, wananchi hupatwa na shida za wizi wa mifugo.

Wizi wa mifugo ni jambo ambalo limesumbua watu wetu kwa miaka mingi. Wakaazi wengi wa Kaunti ya Laikipia hutegemea kilimo cha mifugo kuwapeleka watoto wao shule. Mifugo ndio tegemeo lao kubwa la maisha.

Kilimo cha mifugo ndio chanzo cha kuuana kwa waakazi wa kaunti yetu. Watu wengi katika maeneo ya Wangwashe, Ol Moran na Mateku, wamepoteza maisha yao kwa sababu ya wizi wa mifugo.

Wizi huu wa mifugo sio wa kawaida. Hapo zamani, watu walikuwa wanashambuliwa na mifugo yao kuchukuliwa. Wakati huu, wanashambulia na kuua watu.

Baada ya kuua watu, mifugo hupelekwa mahali fulani kufugwa na kisha husafirishwa hadi miji mikuu nchini. Sio wizi wa kawaida ambao hufanywa na walala hoi.

Naunga mkono Mswada huu kwa sababu ya kipengee ambacho kinasema wezi wa mifugo wakipatikana, watachukuliwa hatua dhabiti za kisheria. Siyo wezi wa mifugo peke yao ambao watachukuliwa hatua za kisheria pia wafanyibiashara ambao huhusika na wizi huu. Hii ni kwa sababu wao ndio wanawafanya vijana wetu kuasi shule na kujihusisha na wizi wa mifugo.

Kwa hivyo, sio wahusika wadogo ambao huiba mifugo wanaopaswa kuchukuliwa hatua pekee yao, bali watu wote wanaojihusisha biashara hii ya wizi na uzaji wa mifugo hiyo. Biashara ya wizi wa mifugo ikisimamishwa, hata wezi rejareja wanaofungulia mifugo ya watu wengine watakoma.

Mswada huu ukipita, wizi wa mifugo utakuwa jambo la sahau katika Kaunti ya Laikipia na sehemu zingine nchini. Najua maendeleo mengi yataweza kupatikana.

Naunga mkono Mswada huu na ninaomba tuupitishie haraka iwezekanavyo.

**The Speaker** (Hon. Kingi): Sen. Dullo, proceed to speak.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I wish to support this Bill. Over the years, in Parliament, we have really tried to come up with Bills that can support issues surrounding cattle rustling and banditry in this country.

Unfortunately, we have never seen any of those Bills seeing the light of the day. I remember in 2013, Sen. Naisula brought a Bill that was going to take care of that. More so, the issues between pastoralists and agriculturalists. Unfortunately, even that Bill has never gone through.

I must confess that issues of pastoralism and banditry are not being taken very seriously in this country. Many Kenyans rely on pastoralism and livestock to eke their livelihood. However, most of the time when people are considering budgets and policies, livestock and pastoralism becomes a second thought. It is high time that we deal with banditry and livestock.

Looking at the Bill, animal branding has been introduced. Branding, for some of us who are pastoralists, every community, clan or sub-clan has its branding traditionally. If my animal is being taken by somebody, automatically, I have a particular branding because I come from a certain community. Over the years, that has not assisted.

Banditry and cattle rustling used to be a traditional issue where certain communities feel that when they go through a certain process, they should steal animals so they become heroes and get married. They would use the same resources to marry. That has completely changed.

Cattle rustling and banditry has become a business. I have an issue with Isiolo County where our pastoralists are attacked by bandits from Samburu, Marsabit, Garissa and Wajir counties. Isiolo County has become a punching bag and we are boxed in a corner. We have even tried to use the provincial administration. I remember at one time, a former Provincial Commissioner (PC), Mr. Swaleh, was taken to Garissa to deal with banditry and cattle rustling. Mr. Swaleh tried and made sure any chief whose area was found with stolen animals, was removed from service. At that time, it really worked.

When these groups of bandits or youths come together, it is an organised crime. They sit and arrange to go and hit a particular area. Those areas have chiefs, elders, security organs and the provincial administration. Unfortunately, when those animals are taken, nobody will see them again. Two weeks ago, we lost almost 500 goats in Isiolo County. Immediately they leave the boundary, those goats are divided within certain villages. You will not even see where they go.

Mr. Speaker, Sir, we have tried the National Police Reservists (NPR) on these bandits, but it has never worked. If security, for example, police or provincial administrations are the ones following these animals, over the years, we are unable to get them back. We then decide to use NPRs to complement regular police and provincial administration. Even that has not worked.

As a country, we have to take this issue very seriously because for pastoralists, this is their source of livelihood. Today you have 1,000 animals and tomorrow you are reduced to nothing. Sometimes, you even sell these animals to take your children to school. After these animals are taken away, what do you do with your children? How do you feel as a person who had 1,000 camels and tomorrow, they are all taken away?

I support this Bill if it is for any reason that we are going to have a solution as far as banditry and cattle rustling is concerned. I remember many years back, we even introduced putting a chip in the animals. It did not work because it was very expensive to do so. We are unable to introduce it.

As pastoralists, we have a big problem in this country. During the rainy or drought season, we have a problem. During drought, people also fight because of pasture and water; they fight over resources. We do not get any solution in this country.

Mr. Speaker, Sir, as pastoralists, we are affected by this issue of cattle rustling. We must have a solution to it. We will support anything that will change the current situation of cattle rustling and banditry. I feel that we are being neglected by the Government and all the Government representatives as far as issues of pastoralism and cattle rustling are concerned.

Mr. Speaker, Sir, we have had a lot of rain. You can imagine animals crossing the rivers and being swept away. Today you are rich, tomorrow you are a nobody. Water harvesting that should be happening right now to alleviate the problem of drought is not even happening anywhere in our counties.

During the rainy season, you will see in the news that the rivers are killing people and houses are swept away. As a country, we do not even prioritise harvesting that water, so that tomorrow the pastoralists, the people who have cattle, can survive on those dams or water from the rivers.

Mr. Speaker, Sir, I support this particular Bill, but I think that as a country, we must have a candid discussion as far as issues of cattle rustling in the country are concerned. I know Cabinet Secretary (CS) Kindiki has tried. In fact, he has traversed this country from the day he was appointed. This has slowly come down. Unfortunately, as late as last week in my county, animals were being taken away. It is sad that we have security and a Government in place and we have chiefs, yet there is no solution at all.



I feel that maybe we need to introduce a curriculum that will say how banditry should be dealt with. I know there is a Bill before our Committee by the County Assembly of Elgeyo- Marakwet. We visited them two weeks ago. They are saying that the issue of cattle rustling and banditry should be considered as a terrorist act.

Mr. Speaker, Sir, we must support that as pastoralists because we are not getting a solution to the issue of cattle rustling and banditry. We are pained as pastoralists because there is no solution. If anything happens in an agricultural area, you will see people running to provide solutions. However, when it comes to pastoralists, cattle rustling, and the nomads, there is no solution at all.

We need to put our heads together and come up with a solution, as far as issues of cattle rustling and banditry are concerned in this country. Initially, we thought maybe banditry was being brought into this country by Al-Shabaab and other people, but now it is not even the Al-Shabaab. It is our own people doing the same thing as the Al-Shabaab. We know each other, but unfortunately, we sometimes protect even those who are doing the same thing.

I remember we were being told of an incident in Elgeyo- Marakwet, where a bandit was attacked and was taken to the hospital. Can you imagine people coming to release that particular individual who had committed a crime, who had killed somebody? People went to the hospital to release him. This is unacceptable.

I support the Bill, but we must get a solution to this problem of cattle rustling in the country.

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

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I rise to support this Bill. If you look at the intention and objective of this Bill, it proposes a law that will enable branding of livestock. The intention is to identify the livestock, so that if they are stolen, it is possible to identify in which county or constituency the livestock belongs to.

The intention is to help the security agents in the Government to facilitate the recovery of livestock and identify the owners of the livestock. However, this is the culmination of the situation that has been faced by the pastoral communities for a long time.

Mr. Speaker, Sir, this Bill is an attempt by Sen. Cherarkey to look for ways and means of reducing the so-called rustling and banditry because it is easy to track the stolen livestock.

In 1977, when I was in primary school, the first attack took place in Baringo North, in my own village. That time, the President of the Republic, was the first President of the Republic of Kenya, *Hayati Mzee Jomo Kenyatta*. One year later, the late President Moi, from Baringo County, took over as the head of State.

Mr. Speaker, Sir, for 24 years, this situation of cattle rustling continued despite the efforts being taken by the Government. It is sad that during the 10 years of President Kibaki, we had the same challenge in Baringo, Elgeyo-Marakwet, Turkana, Isiolo, Marsabit and the other counties.

The son of the first President, Hon. Uhuru Muigai Kenyatta, came on board for 10 years. The situation never changed. Now, with the fifth President of the Republic of

Kenya, His Excellency William Samoei Ruto, the situation continues. That is why, in this House, there is a Motion by me, seeking this House to pass a resolution to declare cattle rustling a national disaster, and we establish a fund to compensate the victims.

Mr. Speaker, Sir, the unfortunate situation is that it is only the pastoral people who feel the pinch, but the rest of the country where there is plenty, food, and communication, do not know what it feels.

Recently, a colleague of mine asked me, 'Sen. Cheptumo, how possible is it that you can drive away 300 head of cattle? Is it possible to steal 300 cows or 1,000 head of cattle?' I do not blame that Kenyan because practically speaking, it is not tenable. You cannot imagine how possible it is. However, where I come from, one Kenyan can have 100 head of cattle, 200 goats, a millionaire by standards. When the raiders come, they drive the entire livestock. A millionaire in terms of the value of livestock becomes a pauper one morning, not able to pay fees, dress or have food for the family.

Mr. Speaker, Sir, this is a challenge. I would like to say that we are talking about a situation that has persisted for 49 years, almost the age of our Independence. It has caused a lot of havoc. Sen. Lomenen is here. He will tell us the challenges that he is facing in Turkana County. A Member of my Committee, Sen. Dullo, keeps crying whenever we are in meetings in our Committee because of the situation. You talk of displacement of population, maiming of people, killings of people, you have widows, widowers, institutions of learning; people are unable to exercise and benefit from Article 43. Political, economic and social rights are completely denied to these people.

We will receive and support any attempt by a Member of this House to introduce any law or a proposal that we think can help to sort out cattle rustling. I request the Members of this House to support this Bill. We have so many challenges in our counties. Baringo County is the one of the counties that have suffered.

Three days ago, three young Kenyans were killed by bandits. These were innocent people, who were just looking after their livestock. Therefore, I say from this House that the way the Post-Election Violence (PEV) of 2007/08 Kenyans paid to compensate the victims of the PEV, cattle rustling is no longer a traditional way of life. It is becoming a commercial business and political, and it is the right time that we pass any law that will enable the Government to take stern action.

As I conclude, when I led my Committee to Elgeyo-Marakwet, as said by my colleague, Sen. Dullo here, one of the petitions, which is in this House - and I will be tabling the report next week - the Elgeyo-Marakwet County Assembly is proposing that we amend the law, so that we treat a bandit as a terrorist. I agree. Both the actions of a terrorist and those of a bandit are the same; they destroy, kill, maim and steal. What happened in 1998, the USA Embassy bomb last here, is exactly what a bandit is doing.

The situation is similar to what happened in the Westgate and Dusit incidents. Kenyans are dying in numbers. So, I will be moving a Motion in this House to amend our laws, so that the punishment of a bandit should be at the level of a punishment of a terrorist. This will serve as a deterrent to these criminals and facilitate our people live in peace. So, I join my colleagues in supporting this Bill.

I say that we pass this Bill, so that the Government can allocate resources and do the branding of the livestock, so that they can be tracked and returned to the owners. I conclude by saying this: It is the business of the Government of the day.

I want to thank the President because from the time he took over, he has given the political will by making it clear that he will do everything possible to ensure we restore and secure our country and particularly, the counties that have been facing cattle rustling for a very long time. It means that we have to provide enough personnel and sophisticated equipment.

Let me tell you something; sometimes the security forces of this country cannot actually face these bandits because the weapons the bandits have are more sophisticated than those used by our forces. It is a shocking trend.

I call upon the Government of this Republic that it is their responsibility, the Kenya Kwanza Government as per our plan, to secure all our counties - Baringo my county being one of them - so that we develop and continue enjoy the fruits of our Independence.

Mr. Speaker, Sir, I support.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to also contribute to this Bill. From the start, I thank Sen. Cherarkey for thinking through such an important Bill, especially that we take care of the interest of livestock farmers. In supporting this Bill, I will limit my comments to Part I, II and III.

I will begin with the Short Title. The Bill is titled; "The Prevention of Livestock and Produce Theft Bill." I am thinking that the Senator and the drafters wanted to capture the live animals and products from livestock. I will request the Senator to consider amending the Short Title to read; "The Prevention of Livestock and Livestock Products Theft Bill." This is because even when you read the introduction and object of the Bill, it dwells a lot on live animals, makes mention of firearms, but omits a very critical product from livestock, that is, skins and hides. You know that the leather industry in this country, basically more than 80 per cent of it, is from livestock. So, just to consider expanding the scope of the Short Title to include the livestock products.

The branding of animals is a very important aspect. How I wish that the Senator could have thought about putting in place or enforcing the formation and activation of livestock ranching societies. That way, it becomes a lot easier and neater to establish clear identifiers from specific ranches, as opposed to having 10 owners of livestock in the same household and each one of them is supposed to come up with a different brand for the animals' identification. It would be a lot easier if this could be done through ranching societies.

This has happened before. Where I come from in Kitui - and Kitui is one of the leading counties in establishment of cattle ranches - we used to have very vibrant cattle ranches in Kitui West. One was called Yatta B2 and the other one was called Mwakini Ranch. In those ranches, owners would just state their livestock, but would come up with their own unique identifiers for their livestock.

I remember my grandfather's identifier was No.123. So, everybody in the family would brand their animals 123, but they would know that they have a specific identifier for their specific animals within the larger family identification.

On the same Part II on branding, I see the Senator is proposing that in Clause six, every livestock owner shall apply to the County Executive Committee Member (CECM) for registration in their name of a brand of such nature and dimension as shall be prescribed in county legislation. I would urge and request the promoter of the Bill to remove the burden of the requirement for registration from the livestock owner and put that burden on the county government. It becomes the responsibility of the County Executive Committee Member (CECM) responsible for Agriculture and Livestock in each county to ensure that all animals in the county are branded and can be easily identified.

Clause 6(c) is on the requirement for the registration of the brand. Under Clause (c), there is a fee that is required of every livestock owner who applies for a brand.

Mr. Speaker, Sir, we have many livestock owners who cannot afford the fees to register a brand. I am thinking of a peasant farmer in Kitui who has one or two goats. According to this Bill, it will be a crime to own an animal, which does not have registered brand. A farmer who has only two or even one goat, how are they supposed then to apply and register a brand for their one goat? If they do not do that, then they will lose the goat or will be fined.

Part IV of the Bill is extremely punitive. If you are the owner of a goat and you have not registered a brand for it, then you are in breach of the law. According to this Bill, you should be imprisoned for a time not exceeding one year or a fine not exceeding Kshs100,000.

Mr. Speaker, Sir, I know Sen. Cherarkey minds the interest of the people he calls 'Hustlers'. Therefore, he should reconsider tightening that part of the Bill, so that you do not make poverty to be an offence. It is not a crime to be poor. Let that person who has one goat have time to multiply the goats to get to 10 or more.

Mr. Speaker, Sir, let me finalise because I know other Senators also want to contribute to this Bill. Part III of this Bill talks about the movement of livestock. It is a very interesting Section of this Bill. This part of the Bill introduces an officer called an Inspector. According to this Bill, one of the major duties and responsibilities of the Inspector is to ensure that permits are issued for the movement of livestock from the premises of the owner to any another place either for slaughter or the market, which is a good thing to do. However, Sen. Cherarkey should remember that is a function currently undertaken by the Ministry of Agriculture, Livestock and Fisheries. There is a requirement today that before you move animals, especially from one county to another county, you must obtain a no objecting letter from the recipient county.

Therefore, the promoter of the Bill will need to harmonize that role of the Inspector and the Ministry Official, who would be issuing the 'no objection' letter. However, what has caught my attention in this Bill in that provision is that if this Bill goes through, perhaps, the problems that I have been facing in Kitui of camel herders, who invade our land, could be a problem of the past.

According to this Bill, there is no camel herder who will be allowed to move their animals from the premises of the owner into my farms in Kitui without the express permission of the Inspector; be it the Inspector of Garissa, Wajir, Kitui, Kakamega or any other place that we have this menace.

The beauty of that is that this permit will also enable us to unveil the shadowy owner of the camels. In most cases, you will never know who the owners of the animals that invade our farms in Kitui. Nonetheless, this permit requires that the names of the owner and the handler are entered into the permit.

As I conclude, I would like to echo the words of Sen. Cheptumo on this menace that is called cattle rustling. I have never understood in my entire life why ---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Sen. Shakila Abdalla and your colleagues, Sen. Madzayo, Sen. Boy and Sen. Kibwana. You can consult, but keep your voices low, please.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for protecting me from the Coast region.

*(Laughter)*

I have never understood why we should tag an obvious open crime and baptize it cattle rustling. A thief is a thief whether they are stealing mangoes from plantations in Kitui or stealing livestock from the Rift.

I thank Sen. Cherarkey for thinking through this matter and proposing in the Bill that the people caught stealing animals or handling stolen animals through cattle rustling, will be liable on conviction to imprisonment for a term not exceeding 15 years or to a fine not exceeding Kshs1 million, or to both fine and imprisonment. That is the way to go. It must become very expensive for people to engage in cattle rustling in the 21<sup>st</sup> Century.

With those few remarks and recommendations for amendments, I support the Bill.

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

**Sen. Chimera:** Thank you, Mr. Speaker, Sir. Allow me in a special and profound manner to congratulate and commend Sen. Cherarkey for this wonderful Bill. May the record reflect that I am in support of this Bill.

Mr. Speaker, Sir, I come from Kwale County. Sen. Boy, who is present in this House, may bear me witness that there is a saying in my local dialect that says, *'Muduruma ye tse Ng'ombe tsi Muduruma'* loosely translated to mean, that a Duruma who does not own cows or a cow is not a proper Duruma.

The County Government of Kwale has for a very long time since the time of the reign of Cabinet Secretary Salim Mvurya been investing in the promotion and distribution of very good breeds of livestock in Kwale County. However, we have ended up losing these kinds of breeds through cattle rustling and banditry.

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Mr. Speaker, Sir, there are communities in Namelok, Naserian, Majongani, Mtsunga, Limtumwa where I come from, and other parts of Kwale County where basically most people are livestock farmers. Out of that basic thing of keeping livestock, they have been in agony and pain. This is because for far too long, we have had conflicts among communities.

I want to speak to Clause 5(e) where we have the function of the respective County Executive Committee Members (CECM) in charge of agriculture. That function specifically speaks about promotion of abandonment of livestock theft through the sensitization of the communities to at least adopt alternative sources of revenue.

This is a crucial point because there has to be a conversation somewhere. We must begin by telling our people that life is not all about keeping cows. When I am not practicing law or serving the great people of Kwale County and the nation at large, I run a small butchery in Diani Town. Sometimes when I have the time to take stock of the meat that I sell in my small butchery, I am faced with the challenge of sourcing for cows.

In the slaughter house there are no records. Most of us who are in the business of buying and selling meat end up in trouble because we do not have records at the point of sale and order; the abattoir. I am happy that Clause 14 of this Bill as proposed by Sen. Cherarkey cures that mishap.

As I conclude, I agree with Sen. Wambua from Kitui County on the introduction of an inspector. The mere fact that you require a permit to move animals from one point to another might be a heavy burden for those of us who are livestock farmers.

A farmer may only have five cows for instance and he wants to move them to a place with greener pastures. Are you telling us today that I must apply for a permit? Are we creating an office of the inspector which will end up becoming a toll station for mere movement of animals from one point to another?

I want to appeal to the CECMs who have been given enormous powers in so far as this Bill is concerned; under Clause 5, as you seek to exercise the powers given to you by this Bill, do it judiciously, in a fair and transparent manner.

I am impressed that the same Bill seeks to have a framework to regulate how we brand our animals. We have been doing it though in a very traditional manner. However, where I come from, there is something we call “*kupiga mola*” which is as good as branding. I urge Sen. Cherarkey to think through it very well. I appreciate the thought into this Bill. It is well thought out, but I know much more can be done.

Mr. Speaker, Sir, at the end of the day, we need to start from somewhere. The progress and the steps we take as a nation towards combating cattle rustling and banditry begin at this particular Bill.

With those many remarks, I support.

Once more, I congratulate Sen. Cherarkey for this Bill. I urge this House to support the Bill.

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

**Sen. Sifuna:** Thank you, Mr. Speaker, Sir. Whereas I support the general idea of dealing with the problem of cattle rustling, my brother, the Senator for Nandi County will

have to do a bit more to convince me whether we are not replicating laws that are already in existence in our books.

I have a few concerns about the Bill. Fortunately or unfortunately, last week I was unable to participate in an important debate on the deployment of police officers to Haiti. Had I gotten that opportunity, one of the issues I would have addressed was the adequacy of our own security forces to deal with the security challenges in this country.

I believe that the question of cattle rustling is a security problem. Moreover because the Constitution of this Republic places the responsibility of ensuring the security of all *wananchi* and their belongings on the national Government, any legislation that is directed against addressing our security matter must be alive to that demarcation between the national and county government roles.

I have perused through the Bill. I am afraid that we might be saddling the county governments with the responsibility that is essentially for the national Government. We have been promised by the current regime that, in fact, they are going to root out the problem of cattle rustling especially in the North Rift region. If I am not wrong, there has been an ongoing operation in the past six months or so. That is what we expect from the national Government in order to root out the problem. If I were here during the debate, I would have argued that, in fact, if you look at the ratio of police officers to the population of the country and compare it with the recommended ratio by the United Nations (UN), we are lagging behind.

We simply do not have the resources. I would want the national Government to focus on ensuring that there is enough security resources in areas prone to cattle rustling in order to deal with the problem. I thank Sen. Wambua because he has first addressed the requirement of registration of a brand. I support him.

Sen. Cherarkey, I hope you are persuaded that the responsibility should not be transferred to the 'hustler farmer' who has one goat or cow to come up with a brand and register it. Let the county governments be responsible for the registration of brands. I know Kenyans are creative. However, it is going to be an onerous task for every single farmer to come up with a unique identifier for all his cattle. Then there is also the question of fees. I am very sensitive these days. It appears like we are looking for every single excuse to levy new taxes on Kenyans. Even registering a goat, the Bill provides that a smallscale farmer who has one cow has to pay a fee.

Why can this not be a Government service if we convince you? If you look at the cumulative burden that has been put on the shoulders of Kenyans, we are reaching a breaking point. I am happy that in his Bill, Sen. Cherarkey has spared chicken farmers. That we shall not have to register our chicken. Let those who have cows fight this battle, but we shall fight it for them.

Secondly, I suspect that there could be some replication of already existing laws. Luckily, Sen. Cherarkey, is a lawyer like me. He understands that, for instance, the offense that has been created under the proposed Clause 18 of this Bill which is theft of livestock already exists under the Penal Code. The definition of theft under the Penal Code is wide enough to include anything capable of being stolen; be it cows or money.

I do not know or would like to be convinced whether creating a specific law on livestock is the right thing to do in light of the fact that this law already exists.

Clause 18(2) creates what is essentially a mirror of the existing laws on robbery with violence. That if you steal anything and under that particular moment of theft you are armed with an offensive weapon or use the threat of force, it graduates the crime from a simple to a capital crime. That would be a problem. The same goes for Clause 19. There is already an existing law on trespassing. Sen. Cherarkey is aware of the law.

Mr. Speaker, Sir, my greatest problem is Clause 34. I wish that in this particular Clause we go together. I believe the Constitution is clear in assigning jurisdiction over certain crimes.

The High Court ordinarily deals with capital punishment. If you state that stealing an animal while armed or committing violence in the course of the crime is a capital offense for which you are liable to be jailed for life, then state that any subordinate court shall try offenses under this Act or any rule made herein under, this would be interfering with the various jurisdictions of the courts as laid out in the Constitution.

We might be creating unnecessary libraries for documentation that would be rendered immediately unusable after a few weeks. We are required to register a brand, and you acquire a certificate for the brand. If you move animals, you need another document. If you take it to an abattoir, you require another document. There is more documentation that cannot be placed on the shoulders of ordinary farmers.

I implore this House to be persuaded that it is the national Government's responsibility to secure Kenyans' lives and properties. Let us not push legislation that would shift that burden to the *mwananchi* or the county governments where the commensurate resources will not fall. If this will be the responsibility of county governments, then the resources for that work must also be devolved.

I agree with the spirit of the Bill, but I urge the proponent of the Bill to consider some of the concerns. They are genuine and are from a place of love. If I can say that on the Floor of the House, without running the risk of kicking myself out.

Let us consider this so that we come up with legislation that is helpful to the country and does not excuse the national Government from its responsibility to secure Kenyans' lives and property.

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

**Sen. Abass:** Thank you, Mr. Speaker, Sir. I beg to support this Bill. As you know, seven per cent of this country is arid or semi-arid. The most helpful purpose we can use for that land is livestock keeping and production of livestock. As a result of neglect from successful governments, much development still needs to be done. Therefore, most of the time, pastoralists lose their animals due to drought and are left to fend for themselves without any intervention from the Government.

Livestock theft is a menace and has rendered pastoralists in a proper state--- Somebody owns almost 1000 herds of cattle or camel. However, these animals are raided by well-armed people. Most of these activities are across borders affecting our border with Tanzania, Somalia and South Sudan where pastoralists from neighboring countries own guns.

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In Ethiopia, guns are legalized and everyone owns a gun. Unfortunately, Kenyans are not armed and firearms are illegal. Therefore, Kenyans are the weaker side and need help to defend themselves. This has led to many Kenyans losing their livestock because our borders are porous. When the animals cross the border, you will hardly get them. If you get them, you will only recover one or two.

It is not only in the pastoral areas. The agro-pastoralists within the highlands lose their animals frequently. My driver told me he had lost his cattle which were stolen from his home. These animals are stolen and slaughtered at night. The hide is hidden or taken immediately to where they sell it. It takes work to get the animals back.

As a result of poverty and customary laws, when a young man's cattle are stolen, and he wants to marry, he is told to bring 100 cows and 50 camels, and he will not get this. The only option he has for him to marry is to raid and steal. This is why you have seen that cattle rustling cannot be stopped. There needs to be policies in place to sustain the livelihoods of pastoralists. When the maize farmer gets a loss, the Government has interventions in place in cases of drought. There is a fund for this. Coffee prices go down when coffee farmers have great production, but there is a safety measure. However, security measures are not undertaken in the livestock sector, which caters to 15 million Kenyans the same way crop farmers are saved.

There is no Government intervention in cases of drought, and pastoralists lose almost 90 per cent of their livestock. There is no system for restocking them. Pastoralists continue to live in poverty. These circumstances make them go and steal because of the lack of a proper policy, like in cases of farmers in crop production. When Somalia stopped importing *miraa*, the Government gave the farmers Kshs1 billion. In the last drought, we lost almost 100 million animals, and there was no compensation. There is a policy gap that discriminates against livestock producers.

The Bill also highlights livestock branding, whereas the Livestock Branding Act exists. If you go to any pastoralist community, they have a brand that is not registered. We should move to identify and register the branding. These days, we have microchips; the Government uses this as a registration system where the animal's stomach is injected with the microchip, and the animal is easily tagged. Even if they go across the border, the animal is tracked. In cases where they are stolen, the Government will follow the last place where the microchip was removed. If you can enhance this, then we can trace the stolen animals.

We had a Legal Notice signed by former President Hon. Uhuru Kenyatta. Legal Notice No. 87, which had most of these things including the formation of the Livestock Development and Services. He signed it, but up to date, it has never been implemented. As my colleague said, any policy concerning livestock is not taken care of. Many people survive and thrive on these animals. They sell them and use the cash to pay for school fees and food yet, it is not taken care of by any policy.

There is no Government or anybody that cares about them. The animals come in the morning, graze on their own, move around and cause conflicts. Even the grazing policies are not put in place. The Constitution and the policies are there. It is the enforcement that is a problem.

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Stock theft is a booming business that involves many people across the board. There are leaders such as Members of Parliament (MPs) and even Government officers. About 300 or 400 animals are stolen from one area, maybe Samburu, then, they are taken to Turkana's side and they cannot be found.

This is a long chain where people are connected. If you tell the security officers that animals have been stolen, they take their vehicles and they never find them found, yet they are just within the country.

On Clause 16(4), the selling of animals between 6.00 p.m. to 6.30 a.m. is already in the principal Act. The movement permit of livestock to be moved from place to place depends on what the veterinary officer says. In this case, there is no movement of livestock from 6.00 p.m. to 7.00 a.m. These animals come from far areas such as Mandera and Turkana. In the past, there used to be a holding grounds where these animals were offloaded. They could get water, rest and then be loaded. However, these days, all those holding grounds have been taken over by private business. Others have become settlement areas and the animals are kept in the vehicles.

In the Bill, we need to develop an animal movement system where we must have a holding ground.

With those few remarks, I beg to support.

**The Speaker** (Hon. Kingi): Sen. Gataya Mo Fire, you may have the Floor.

**Sen. Gataya Mo fire:** Thank you, Mr. Speaker Sir. I am happy that this Bill is before us today. I am a victim of banditry. Where I come from, away from the misconception that people know about Meru and Tharaka Nithi, I come from the far strip where we border some parts of Garissa and Tana River.

Bandits struck my home village in 1964, some years before I was even born. People lost lives and livestock. That trend has been with us all through from 1964 to date. As late as two weeks ago, bandits came and stole animals from one Mutiria Ndoko. That person has been rendered so poor because all his animals were taken.

It has been an issue that we are supposed to now interrogate as a country and a House. I am happy that Sen. Cherarkey has brought this Bill. It is now supposed to bring checks and balances to make sure that we mitigate the effects of banditry, which has rendered some parts of this country so miserable.

I do not know why, as a country, we are discussing about banditry 60 years down the line. People are stealing animals from their brothers or a certain section of the tribe strikes another and steals animals from them. It has been a trend from way back in 1960s up to now.

I have captured quite a number of contributions from a number of Members who have attributed this habit to many issues, including cultural values. If one is supposed to marry, they are supposed to go and raid animals from their neighbors so as to use them as dowry. We also have the cultural prestige where, when you really want people to know that you have matured and man enough, you must go and steal animals from your neighbors. We also have some elements of normal thuggery and politics. I do not know why we have been able to fight terrorism such Al-Shabaab, but we have been unable to eradicate banditry.

I congratulate the current Cabinet Secretary for Interior and National Administration, Hon. (Prof) Kithure Kindiki. He has been up and down many areas. Actually, he has been to so many places, more than any other Cabinet Secretary that Kenya has ever had. He has been very categorical with making sure that this menace is ended.

Mr. Speaker, Sir, away from that, as a country and a House, we need to have a resolve to make sure that this practice is ended. Sen. Cherarkey has brought in the Bill that we are supposed to brand our animals. We also have that traditional way of branding animals from where I come from.

Sen. Wambua, my neighbor and uncle can bear me witness. We have that branding where, we have a hot rod inserted in fire then you brand your animals. Of course, that one does not really have much effect.

I think branding animals where you transport them from Garissa to Kitui, then you get a permit in Kitui is also going to curb some levels of impunity. This is because, some people feel that when you own animals, you own everything in this world.

Mr. Speaker, Sir, I strongly support this Bill considering that banditry has reduced quite a number of us into beggars and paupers in their own country. Some of us have not experienced banditry. The likes of Sen. Joe Nyutu, who lives in Central Kenya does not know what banditry is all about and may not even understand. If you ask people such as Sen. Wambua, Sen. Abass, Sen. Chute and Sen. Cheptumo, we have been serious victims of banditry. It has reduced quite a number of us into poverty and homelessness.

This is the only time, as a Senate, we are supposed to pronounce ourselves and make some serious regulations on the best way possible through which we can make sure that this cancerous habit is capped to the head.

Mr. Speaker, Sir, with my submissions, we must make this Bill sail through so that we can have some serious remedies and a strong foundation on which we are supposed to make sure that this archaic habit is stopped once and for all.

I support.

**The Speaker** (Hon. Kingi): Sen. Thang'wa, you may have the Floor.

**Sen. Thang'wa:** Thank you, very much, Mr. Speaker, Sir, for giving me this opportunity to give my submission on this Bill.

Allow me to be the devil's advocate today in the sense that the Bill looks very good on paper, but implementation is going to be a menace. The Bill is talking about livestock. It has given a definition of livestock as cattle, camel, donkey, pig, sheep, goats and poultry.

We are giving counties an opportunity to harass their citizens. Just imagine what will happen when a county *askari* comes to your home and you have not branded your cows? They are going to confiscate them. What if they come and find your unbranded poultry, which you are supposed to have registered and branded? Probably, we are giving them an opportunity to harass the already harassed residents of our counties.

We give our views so that the sponsor of the Bill can see what to do. The issue should only be directed to abattoirs. That, you should never slaughter an animal without the registration certificate of whoever is selling that animal.

What do I mean by that? Before I sell my cow to be slaughtered, at that particular time, I should first be required to register so that there is documentation at the slaughterhouse whereby, if I want to know how many animals were slaughtered today, I would go to a slaughterhouse and they can give some documentation. However, we should not make it mandatory because if I have two cows and they are just for a cup of milk, especially in central Kenya--- let me talk about Kiambu County where we do not have this issue of cattle rustling. So, we should not make it mandatory. Let us make it voluntary.

If you own cows and you want to protect them, you should register them. If you feel you are in an area where you are going to lose your cows for whatever reason, register those cows.

When the county registers your animals, what other services are they giving you? Why are we telling them to register? For what reason? Are they helping you in fighting banditry? Are they helping you to protect against theft? So why are we telling them to just register?

We are supposed to tell the county that, if I am giving you my money to register my cows, help me protect them. We are in the middle of technology. If you have a thousand cattle, you can use GPS tracking system. The county should provide that to several cows randomly so that when they are stolen, they will easily be tracked.

Something else that requires to be done is education. We need to change the mindset of our people. Cattle rustling existed between the Kikuyus and the Maasais in the 1800s and the beginning of the 1900s, but it ended. We need to research why it ended instead of reinventing the wheel.

My grandfather used to tell us that they had to encourage intermarriages between the two communities, and probably it worked. I am not suggesting that now, but if it worked, it can work again in those communities that are doing whatever they are doing.

They also encouraged reserve and farming. You have to farm for your animals for them to get pasture. So, what we require is not necessarily a law for the farmers or a law for those who are keeping animals. All we need to do is, whoever is dealing with the animals at the slaughterhouses is the one who is supposed to be told that you cannot have an animal that is not registered. In that case, they will never slaughter anything that is not registered, and then at that particular time, the owner of the livestock should register them before they sell. However, if you are not planning to sell, why do I have to register my livestock? Why do I have to brand it? Why do I need it if maybe I have only two cows?

So, I implore my good friend, Sen. Cherarkey, that what this law is requiring us to do, or counties to do, is to provide logbooks for animals. That is what it is saying, that every animal should have a logbook so that when you sell it, there is a sale agreement to show that it is moving from one place to another. This should be voluntary so that you guard your livestock. The burden should be left to that particular person who feels threatened. You go and register your animals, brand them and colour them, until you feel that you are protected. But if you give it to everybody, this will allow the counties to harass our people.

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

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

Finally, Madam Temporary Speaker, the Bill has prescribed what should be done when you are found transporting cattle without licenses. You will be jailed for a term not exceeding 12 months. It is saying if you are dealing with animals, and you are slaughtering animals whose background you do not know, you will go up to 20 years in jail. That is what we are supposed to be implementing so that whoever is dealing with animals will always want to find the background of that animal. Just like we do with vehicles; before you buy a vehicle, you have to check. We leave this burden to the slaughterhouses to check with the Government whether this animal is registered so that they can deal with it. Otherwise, let us remove the burden on the owner of the animals.

With that, we should try this in the counties where cattle rustling is prone. I would suggest in the amendment, that we remove some of this livestock like poultry. I am trying to imagine branding a chicken. I am trying to imagine that you have a chicken for about 45 days, from one-day-old chick to 45 days when Ken-Chick and the others are coming to buy it yet the Bill is talking about applying to register and then waiting for 30 days.

So, knowing how counties work, I believe we should remove poultry from this category. Let us deal with cattle. If it works with cattle, we introduce all the other animals. I have not heard about pig rustling. So, let us deal with cattle for now within the counties where this menace is rampant.

So, with that, I support but we will be bringing amendments to the Bill. Thank you very much, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Mumma): Sen. Lemaletian, you may proceed.

**Sen. Lemaletian:** Thank you, Madam Temporary Speaker. I rise to support this Bill on the Prevention of Livestock and Produce Theft Bill (Senate Bills No. 12 of 2023) by the Hon. Sen. Cherarkey of Nandi County, one of the most brilliant Senators we have in this House.

I feel that this Bill will go a long way in tackling banditry. I also like that most of it is suggestions on what should be done. I believe that we have many corrections that need to be made, especially on the branding and the movement of livestock. However, my problem would be with the destination of this livestock.

When you talk about the northern counties that are prone to banditry, we are not talking about stealing of two or three cows, we are talking about the theft of a huge flock of livestock.

Last year, we had an incident where almost a thousand cows were stolen in Samburu County and they disappeared into thin air. I would like to redirect my attention to the Kenya Meat Commission (KMC) because a lot of this livestock ends up at the KMC. The Commission is responsible for meat, meat products, and exports in huge quantities.

Madam Temporary Speaker, I would be happy if this Bill addressed the movement of livestock into the KMC because that way, we will tackle the origin of this

livestock. We will be able to know where they are coming from and ensure that we do not have livestock stolen from the pastoralist communities moving into the KMC since they are dealing with a huge number of incoming livestock.

I would also like to remind Sen. Cherarkey, my good friend, that in some of the personalist communities, and I believe also in their Kalenjin Community, they have the traditional branding of livestock. I, for example, come from a clan of cows that leak fire and sleep on hot metal rods; that is the bravest clan of the Samburu County, and that is identified by fellow Samburus or people from Marsabit by the traditional trademark of our livestock.

In the Samburu Community, we brand our cows as per the clans. My uncle, Sen. (Dr.) Lelegwe also has his brand, but my branding of traditional cows is done by a hot metal rod, and it moves from one side of the mouth down to one side of the arm. That is why they say that our cows leak fire and sleep on hot metal rods.

I would like to urge my colleague, Sen. Cherakey, to ensure that this Bill comes up with a way to harmonise the traditional branding with the branding that he is recommending. That way, in some areas around these pastoralist communities, people live according to clans. You find that this clan lives on the highlands, the other one by the river, the other on the dry parts of Samburu County. Each clan lives their own way. So, if cattle move from one side to another, the community is able to identify that these cows were moved from this side of the county to this.

If only there can be harmonisation among these communities to create awareness among them such that we know how the Turkana, Pokot, Rendille and Borana communities brand their cows, we will be able to identify personally and individually even before buying, that these particular cattle came from this direction.

Madam Temporary Speaker, to summarize, I would also want to see this Bill speaking about the hefty punishments for the people that are caught in possession or transporting livestock that does not belong to them. I would like to know that the punishments are clearly and meticulously outlined.

I support this Motion.

**The Temporary Speaker** (Sen. Mumma): Sen. Joe Nyutu, please, proceed.

**Sen. Joe Nyutu:** Madam Temporary Speaker, I rise to support this Bill. Although I have not had a lot of time to go through it, it is a very progressive Bill. It is unfortunate that Sen. Gataya Mo Fire is out. He had indicated that those of us that live in areas where we do not have banditry do not encounter these problems. However, stock theft is present anywhere in Kenya where people rear livestock. In our place, it is even worse because you will find stock thieves getting a dairy cow from somebody's shed and slaughtering it. Sometimes, they slaughter even calves. This is not something that affects only areas where we practise nomadism.

I am encouraged by the identification of these animals although I am also worried. What happens to an animal that is stolen at night and slaughtered the same night? Even if it had an identification mark or was registered, then it would still be a problem. However, I am looking at the Bill in other later sections, there is also registration of carcasses. That is why I feel compelled that this is a very good Bill. The problem we

have been having especially in our place is where a number of livestock is stolen and slaughtered at night and meat is transported to some areas. Burma Market is notorious for this.

With this Bill where we will register carcasses, it will be upon our law enforcement officers to see to it that any carcass that is transported to all those areas such as City Market and Burma Market are transported with the proper registration and documentation. That is where we miss out.

I am a little worried because the provisions of this Bill provide for registration of animals that are six months of age and above. Although there is a provision somewhere near the end that the County Executive Committee Member (CECM) will come up with ways of registering animals that are under six months of age. If you could make an amendment, then we get an express way. We do not leave it to the opinion of the CECM. Theft could shift from grown animals to animals that are under six months of age. I believe Sen. Cherarkey will look into that and see whether he can propose an amendment of the same Bill so that we properly cover animals that will be under six months of age.

Madam Temporary Speaker, going forward to look at the punishment that is prescribed for those that steal stock, I am very encouraged. This is because it is 20 years for anyone who steals an animal. That is if they did not use violence while stealing this animal. What happens to people who use violence? The media is awash with news items of these bandits who kill women and steal animals.

I am very encouraged that such a person once convicted will be jailed for life. That is what we need. We need to have sentences that can deter those that plan and execute these plans of stealing livestock especially where they steal using violence and sometimes kill people.

I did not get enough time to go through the provisions of this Bill. Nonetheless, we should embark on a very serious programme of action relating to disarmament of people that have illegal firearms. As long as firearms continue being in the hands of people that are criminal in their minds, we will still get many problems. Of course, arresting somebody who is armed becomes a difficult task for you to make them face the law.

Generally, talking about identification of animals and controlled movement of animals, people will want to say that they are only moving these to a market or grazing at a particular place and they claim ownership. With marking and controlled movement of animals, we shall be at a better place.

Without taking more time, I support this Bill because even the sentences that Sen. Cherarkey proposes are not only punitive, but deterrent enough. Every one of us will want to live in a country where if you are rearing animals, then you know that they are safe and you as the owner is safe as well.

As it is now especially in some areas, both the livestock and the owner are not safe. The insecurity comes from ownership of the livestock. That is something that should not be happening in the present day Kenya.

With those many remarks, I support this Bill.

**The Temporary Speaker** (Sen. Mumma): Sen. (Dr.) Oburu, please, proceed.

**Sen. (Dr.) Oburu:** Madam Temporary Speaker, I rise to support this Bill by Sen. Cherarkey. It is a good Bill because it is addressing an issue of rustling. This rustling is not only cattle rustling, it is livestock rustling and it does not only occur in those areas where they keep large stocks of animals. It also occurs in areas where there are people with mixed farming; people who do fishing or farming and also keep animals, not in such large numbers but they keep it in sufficient numbers to sustain and support their economic activities.

Madam Temporary Speaker, these are subsistence farmers who have mixed farming. These things happen on a daily basis, but they are not reported nationally because it is thought that the impact on the economy of those families is not that big.

I can tell you it is very devastating when you lose your animals. I lost some animals like maybe 1,000 chickens. I could not feel it that much, but if that happened to a neighbour whom that is his or her lifetime savings, it can be very devastating. How do you put these marks which Sen. Cherarkey is speaking about on chicken?

It would be good if there was a classification, particularly when it comes to punishment on who should be punished and how much. If you look at those people who are coming with guns in the north eastern Isiolo, Turkana, Pokot, Baringo and Marsabit and so on, then compare them with people who are using Probox cars in my area, where if you just happened to graze your goats and the land for grazing is becoming limited by the day because the population is getting greater but the land size that does not increase, people come with a Probox and they put the goats inside. A Probox can carry even 20 goats and they go with them.

You cannot mete out similar punishment to somebody who has stolen two, three or 10 goats and somebody who has stolen 50, 100 or 1000 goats using a gun and even killing the herders with guns. This should be differentiated.

There is animal theft and animal robbery. There is robbery with violence and there is theft of animals. The theft should be differentiated from the robbery.

I know between my community and the community of Sen. Cherarkey, there is a theft of those animals almost on a daily basis, but they do not use guns. They use arrows to come and steal our cattle and go with them to the hill. Sometimes elders sit down, they talk and some are returned.

I do not know whether Sen. Cherarkey would like his people who come with those arrows to be jailed for 20 years, if that is okay. Theft should be differentiated from robbery; those who kill taking thousands and thousands of animals from people.

I think Sen. Cherarkey knows what I am talking about and he will consider some of these amendments which have been suggested by my colleagues before me. All in all, I would like to support this Bill because it is dealing with an issue which is affecting very large parts of our country where theft or robbery of animals has become a business.

Madam Temporary Speaker, it is no longer conflict between communities fighting for resources, water and grazing land, but it has become a very big business. I know that there are some people in this country who have connections with Middle East countries. They take these animals to slaughterhouses where they slaughter and export the meat. That is why very large stocks of animals disappear.



These people travel even in areas like Lamu where you have the army there. If you could see the distance, they travel from the areas where they pick these animals to those areas where they are supposed to go, it is maybe 200 or 100 kilometers. How do they transport these animals and nobody is able to recover them on the way until they reach their destination? This means that these animals do not go far. They are diverted somewhere, not very far and taken to a place where they are quickly slaughtered and the meat is then transported outside the country.

It is a very issue which impoverishes very many communities in our country and it must be taken seriously so that those who involve themselves in such big crimes are punished. However, we should not mete the same punishment to petty criminals who are stealing chicken, some two or three goats to cattle rustlers.

Those are thieves and there is the Penal Code which is there in the Criminal Act that deals with such petty thieves who steal such kinds of things. There must be a differentiation between big theft and robberies, the big criminals who rob with guns and kill people.

Madam Temporary Speaker, I do not want to speak much more on this, but to end by supporting this and hoping that my friend will take into consideration some of the amendments recommended by my colleagues before me and have this Bill passed as soon as possible.

**Sen. Mariam Omar:** Thank you, Madam Temporary Speaker, for giving me this opportunity.

I stand to support the Bill brought by Sen. Cherarkey. The objective of the Bill is very good and the Bill sorts two things at a go, that is, security and livestock keeping.

On branding in Part II, pastoralists in every community have their unique branding. The Bill must be clear and perhaps introduce or amend branding to be county branding. If I am ferrying a camel from Mandera to Garissa, let it be seen that this is a camel from Mandera. So, let the branding be specific to each county.

On Part III of the Bill, when it comes to the movement of livestock, we, the nomadic communities, normally move everywhere to look for pasture. The issue of permit of movement might be a challenge for nomadic people because we do not practice zero grazing. Let it be specific for the sales and slaughtering, but one should not require a permit when looking for greener pastures.

Madam Temporary Speaker, the other one is on offense, in Part IV. If your animals do not have branding, that should be an offence. Perhaps, we should make it a responsibility of the counties to brand all the livestock. If livestock from Mandera County is spotted in another county and it has not been branded, Mandera County Government should be responsible for that.

Madam Temporary Speaker, I support the Bill with amendments.

**The Temporary Speaker** (Sen. Mumma): Sen. Okenyuri, please proceed.

**Sen. Okenyuri:** Thank you, Madam Temporary Speaker, for this opportunity. I support the legislative proposal by the Nandi warrior, Sen. Cherarkey. Beyond having this legislative proposal, I would like to challenge him. I know he does not fear anyone. One of these days in this House, he should name the cartels behind cattle rustling and all

these things that we have been fighting since Independence. I know the more I continue talking about this, they might come for my head.

Madam Temporary Speaker, it is assumed that the only people who keep cattle and farm inputs in large numbers are the pastoralist communities. I come from a community that practices subsistence farming at the Kisii-Transmara border. We keep cattle. The issue of stealing cattle has threatened our coexistence between us and the Kalenjin community in the Kiango area where I come from, and Magenche.

Previously, we used traditional methods of Kisii fighters called "*Chinkororo*" who would follow the footprints of the animals to know where they have been taken. However, with the proposal of this Bill, we are now embracing new technology. We will no longer use *Chinkororo* to track footprints of our stolen cattle, because there will be branding and marking.

I do not know how we will ensure that we get the information of the subsistence farmer in the small compound who do not keep many animals. That would be a good step towards stopping stealing of cattle and farming inputs.

Madam Temporary Speaker, some of these issues are because of unemployment. This proposal by Sen. Cherarkey goes a long way in addressing unemployment in this country because we have many young people who are unengaged. They lack any other source of income; they seek solace in stealing and selling cattle.

Away from these small people, we have the cartels, as I have mentioned, who steal animals in large numbers. I am daring Sen. Cherarkey to name the cartels who steal animals in large numbers and export meat to different countries. I hope this legislative proposal is also going to seize such kind of people. We make so many laws and regulations in this country, but enforcement of the same is a different issue altogether.

Sometimes, we come up with proposals whereby we send a thief to catch a smaller thief. We should send a thief to catch the big thief. We should not want petty offenders to suffer at the expense of big thieves because we know them. Several reports have been done in the two legislative Houses. Why should we be running away from it is a question for another day.

Madam Temporary Speaker, this is a very good legislative proposal that has been brought by the Senator for Nandi. I know he is a man who means his word. The people of Nandi County are lucky to have such a person who is not threatened to speak his mind. This legislative proposal threatens most of the cartels who have made our people to continue being poor. This proposal will emancipate several people who are disadvantaged and their only hope is keeping cattle or farming.

I support this Bill, which has come at the correct time. The other day, the Kenya Kwanza administration issued fertilizer to farmers. I do not expect that after farmers have been waiting for such a long time, their produce will to be stolen by someone who has been sitting and watching them from somewhere.

This Bill is timely and good. Sen. Cherarkey, we support you.

**The Temporary Speaker** (Sen. Mumma): Sen. Maanzo, please proceed.

**Sen. Maanzo:** Thank you, Madam Temporary Speaker. I rise to support the Bill by my friend, Hon. Cherarkey. In fact, when this Bill came before the Committee on

Agriculture, Livestock and Fisheries, I am the one who chaired that day as he was busy chairing a different meeting.

Madam Temporary Speaker, this is an important piece of legislation that will work together with other legislations. Already, there is an Anti-Stock Theft Unit in the country, which operates as a policy, with a policy framework, but without a law. This law will realize that policy framework.

Madam Temporary Speaker, there is something which could be added in this Bill. There are modern methods of dealing with anti-stock theft. For example, we could install chips on animals. We talked of branding, but some forms of branding may amount to cruelty to animals such as burning the skin of the animal, having to pierce the ears and things like that. However, if we use modern technology and have chips installed, we could easily ascertain the identify farmers and their cattle. If a cow is stolen and slaughtered, it is traceable up to where it was slaughtered.

Madam Temporary Speaker, this is a serious matter. People have died in the northern parts of Kenya because of this. The police officers and soldiers who have tried to stop it, have died. When they arrest or apprehend somebody or people who has stolen cattle, ordinarily, there will be gunfire. Even when the police officers overpower that particular person, they will execute them summarily, without a trial or arrest. They end up failing to obey the Constitution. The rights of the accused person do not apply in this case.

Other than this legislation, how do we solve this problem? We need to engage the communities in this practice. One way of the Government engaging is to make sure there is development in their counties. The livestock farmers should be settled. They should not be allowed to wander all over the place. The Government should ensure that there is communication in the event of an attack. It is easy to get hold of the cattle rustlers because these are communities who are neighbours or from neighbouring counties.

Ordinarily, it is a matter of policy and practice, or by what the country has already been doing, we will be able to strengthen this by the law we are enacting here. I also find offences in this Act not matching with the penalties which should be meted to such people. We should also look at the ways in which the Government could rehabilitate such people to make sure that they are useful to the nation.

Some of the cattle rustlers are from neighbouring countries. How do we deal with international relations in that matter when we apprehend a criminal who is not a citizen of this country? That is likely to strain our relations with their neighbours. We need to go a step further to make sure that the neighbouring countries have an agreement with us. The people who come to steal and commit robbery with violence should be dealt with accordingly.

Most importantly, it is a cultural practice. Now there is a law to regulate them so that cattle rustlers know the consequences. Therefore, there is need to communicate and educate these communities so that people are aware that there is a new law by Sen. Cherarkey. If they proceed with it, they will get results.

If you look at the offences provided for in this Bill, some are duplicated in the Penal Code or found in other Acts of Parliament. However, this law leads the way.

As we go to the Third Reading, we could come up with suggestions to improve it much further to match with modern technology. However, now that these are cultural practices, if the respective Members of Parliament (MPs) from these areas are engaged and are able to talk freely to the State, they can give solutions. Other than having this law that will bring some order and sobriety in this business of cattle rustling, there must be knowledge to people who are useful to the country.

What is the role of the National Intelligence Service (NIS) in Kenya? Intelligence should be given as to who the dealers are so that they are dealt with in a better way. If they do not follow, the harsh law can be applied to them. They can be cracked down without losing lives on both sides.

Unfortunately, these seem to be very well-trained people. They are used to the harsh climatic conditions. So, when we send our army or the police who do not even know the geography of the area very well, it becomes very tricky for them.

Even when the police use helicopters, they have to fly very high because these cattle rustlers shoot without missing with the only bullet left which is dangerous to our officers. So, they cannot fly too low to identify, execute or stop. So, there is need to come up with a system and a law like it has been proposed now so that this matter can be settled, once and for all.

Most importantly, the communities and the leadership should be engaged. All these people are known. There is no community in Kenya with unknown people and where they live.

If someone is driving 1,000 cattle or sheep, which is such a huge number, they can be spotted from far. If they are drive 1,000 cows for 1,000 kilometres, do they not pass through places where there are chiefs, Assistant County Commissioner (ACC), County Commissioner (CC), police and Government systems, including the Anti-Stock Theft Unit? It means there is knowledge in the communities. Having been a cultural practice, we also have to respect the rights of these people.

This law has tried to come up with a solution. I believe it can do better. The Government also needs to get serious with the policies, which have been there and are now being legislated.

The information I have gotten by engaging our friends from those regions, is you could see the smile on their faces and know that there is some information they are not telling you. Where do these people get the bullets and guns? How come these guns are not known or registered? So, there is something here which has to be dealt with so that the cultural practices are also respected so long as they are not repugnant to justice.

One of the complaints given is that the Government does not give education to these people. Therefore, they have no other way of earning a living.

Again also, in some of the practices, getting married is a very expensive affair in terms of cows. So, a young man has to go for cattle rustling to get enough cows to give as bride price. Out of the pressure to get married, have a family and to show off to prove that you are a man, you end up in this practice and, probably end up losing your life, there. You do not come back to your community and that dream is lost.

It is time while we have this good law, to amend it in a way to include the use of Information Communication Technology (ICT) and chips so that you can identify and know who was the person who bought from the rustlers and where they went to slaughter. This meat ends up with in butcheries, Kenya Meat Commission (KMC) and other places, which slaughter animals or across the country. What border policies and international relations could we deal with?

I believe that in the Third Reading, we will sit down with Sen. Cherarkey and improve this Bill and it will become a very big part of the solution.

I would like to hear the submissions of the respective Senators in these particular counties. They can give a bigger input into this and tell us why this has been going on for years without stopping.

I thank you, Madam Temporary Speaker.

I support.

**The Temporary Speaker** (Sen. Mumma): Sen. Seki?

**Sen. Seki:** Thank you, Madam Temporary Speaker. I also rise to support this wonderful part of legislation from Sen. Cherarkey which has come to this House at the right time.

I support the objectives of this Bill where we are looking at the issues regarding the promotion of security of people and animals, registration and management of livestock and livestock owners and other objectives in this Bill.

This is a menace that has been there in the entire country, in the areas where there are livestock farmers, particularly the pastoralists. This Bill will definitely see the light of day for us who keep livestock. The Senator has tried to look at key areas that need to be looked into. I support this Bill because it has looked at areas where there is a big problem.

On the issue of branding, the Senator has looked at it as a problem. I support that. We can sort this problem of branding by going county by county to try to specify each and every branding.

Each county will have its own brand, which is known and there is a policy. If possible, county governments can come up with other legislation through the county assemblies. I hope that the Bill will give a provision where the county governments can do more legislative provisions to make their own guidelines on how to operate in this Bill.

As my brother, the Senator for Kitui has put it, we want to look at how county governments or this Bill can modernize the branding issue. There are areas where you just try to put neck marks on the animal through the skin, piercing of ears or something like that. It is good that we do a modern electronic ICT method of branding such that we can identify a cow when it is moved or even when it is still there in the farm.

This is something that this Bill needs to look into. The movement of animals is a key area that this Bill has also tried to focus on. We are worried because we have been seeing animals being ferried from one area to another, but no arrests have been made. Why is it that the Government is not arresting the people who are stealing our animals?

In order to pass to Bill, we need to talk about the issue of movement of animals from one area to another or from one county to another. This is something that this Bill is trying to solve these problems. This is particularly on the vehicles that are ferrying these animals. Probably, we need to understand what kind of vehicles we need to use to ferry, for instance, the live animals or carcasses.

The Bill has also talked about the area of offenses of which I am in support of it. I want to possibly add on one area where Sen. Cherarkey can improve on. He can add either part A or B. For instance, what about the carcasses? What will this Bill state about the carcasses, particularly when we are now taking the animals to the slaughterhouse?

What are the procedures that we need to follow when slaughtering these animals? That is where the other problem is. The slaughterhouse is where the farmers encounter the people who take these animals to slaughter. What kind of procedures or systems do we put in those slaughterhouses, so that we are able to curb this problem?

We are looking forward to more views coming in, particularly in the areas where there are more animals or livestock farmers.

During public participation, I am very sure Sen. Cherarkey will focus on those counties. The County of Kajiado is one of them because we are also much affected. Animals are being ferried from one place to another. A lot of theft is happening day and night. This Bill is a privilege to livestock farmers.

Thank you very much, Madam Temporary Speaker. I support.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Okiya Omtatah.

**Sen. Okiya Omtatah:** Madam Temporary Speaker, thank you for the opportunity to contribute to this very important Bill. I support it and I will give a few remarks.

First of all, the Title of the Bill is what I would like the venerable hon. Senator of Nandi to look into. It is considering the question of theft and yet the issues that we have in this country are bigger than theft.

We have very many issues around livestock that if we were to use a computer chip that carries data about an animal, I would expect it to be an identifier for that animal and not just for purposes of avoiding theft.

One thing that has really hurt us in this country has been the question of management of genetics. If you are a breeder today and you have to go and buy pedigree, it has become very difficult to be able to trace what kind of animals are available.

We have also seen the problem of inbreeding that has really reduced the size and health of our animals. With this kind of Bill, if somebody had data, you could be able to guide and say, if you are buying this heifer avoid this kind of--- You can look at the data of the animal and it will tell you how to manage it.

Madam Temporary Speaker, we are also looking at the question of vaccinations. You can look at a chip of the animal if it is real because it will be readable. You can also know whether it has been vaccinated and things like those can be carried on board.

I would exactly want to know how the database will be managed. The Senator of Kajiado has talked about the question of butchers. How would they be handled?

It is important that perhaps we have handheld devices into which the database about these animals can be downloaded in real time. Therefore, if somebody arrives with

an animal at a butcher or when you go to buy an animal in the market, a handheld device can help you identify the animal, know who owns it, where it comes from and stuff like those.

I feel that the branding should become part of the extension services that are offered by the counties for purposes of standardization. Let the animals be branded by counties not by individual farmers. Let us find a way whereby the county can brand, issue the codes and standardize all that.

This is a very important development because there has been a lot of damage to the skins and hides through branding. If you go through Maasai land today, there are very beautiful animals. However, some have their ears chopped off and the back scratched. The beauty of the animal has been interfered with just to try and help to identify it. Consequently, they do many cruel things to animals of which this kind of discrete identifier would help.

The branding of these animals should be more than the way we do when we put a chip on a vehicle to trace it. It should not just be for traceability to the owner and identification. It should go more into the modern uses of the animals and modern controls.

Additionally, we can use it to penetrate markets to show that our animals are clean on how they have been handled and the kind of vaccination they have gone through.

Madam Temporary Speaker, we can then penetrate the European Market through being able to demonstrate that this particular animal was born here, it has come through this kind of management. If we are talking of the meat being organic, we can demonstrate this from the kind of information provided in the chip.

This is a Bill that is long overdue; that tells us that people in this country are still thinking. You sometimes get to a point where you feel the people in this country do not think. Nonetheless, I am very happy that Sen. Cherargei is thinking and has brought us a very good Bill that will help us grow.

In terms of cattle rustling, we need to look at the crime. It is heavily mischaracterized. It is robbery with violence. However, it is passed over as a cultural event, which does not attract the kind of sanctions it should attract from the State.

If we could characterize these things in a proper way and allow the police to deal with it as a crime of robbery with violence, I am sure it will disappear. However, if we continue handling it with kids' gloves as a cultural activity, it will never die. It must be called by its name. It is robbery with violence. In the Penal Code, it attracts major sanctions.

This Bill has come at a timely time. I will pray that the Mover and the rest of us give this Bill the time and the attention it requires. We pore over it with the toothpick to fix it and make sure that it is able to serve this country going forward.

We need to be able to register our breeds. We have the Boran today and it is not benefiting us as much as it is benefiting the other people who took the genetics from here and tried to develop them. Nonetheless, since they have a proper record keeping system, they are able to get the premium matter of these kind of animals.

For me, nothing could be more important in terms of breeding or farming animals. The other day I saw a picture of the President and some fellows talking about Digital Identification (IDs) for human being. Nevertheless, before we put chips into human beings, let us begin by putting them in animals and see how we can manage them before you inject anything in any part of my body as a digital ID.

This will be a very good thing to begin trying, running databases and then we will be able to know how this thing works. Tomorrow when we say we should put a computer chip in the Senator of Nandi, then we will know that we have our own reasons in doing so. It is safe and acceptable. I fully endorse it.

As for cruelty to animals, the branding has been very cruel. The hot iron bars are cruel. I hope this Bill will be passed with the speed it deserves and the country will rally behind it. May Allah grant it the resources it requires, so that we can begin dealing like people who are living in the 21<sup>st</sup> Century; people who are competing with the rest of the world and who want to build homes on the moon and Mars, not just people fighting jiggers in their legs.

With those few remarks, I thank the Senator for Nandi County for having brought us this empowering and enlightening Bill. I pray that we pass it and make it law.

I thank you.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Ogola.

**Sen. Ogola:** Thank you, Madam Temporary Speaker. From the onset, I rise to support the courageous Bill by the courageous Senator for Nandi County; the young brilliant lawyer, Sen. Cherarkey.

The Prevention of Livestock and Produce Theft Bill (Senate Bills No.12 of 2023) is very progressive. Cattle remain the symbol of prosperity, security, pride and wealth for so many of our families in our many communities. Sometimes back in my community, the number of cattle a family had showed that, indeed, they were wealthy and they took seats at the table with pride. The symbol of pride can still be demonstrated even now, many years after modernisation and education have come to my community.

Whenever we have a funeral, I am not afraid to say, the wealth of a family is demonstrated by the number of cattle that will be provided as we celebrate the last rites at burial ceremonies. However, just to also demonstrate that cattle have been a sign of wealth, there are a number of families that still take pride in the fact that livestock are informal banks for them.

This is also demonstrated at the time when schools open. People who may not have cash, but have livestock, are very comfortable because their children will go to school even when they are not formally employed. I am happy with this Bill because it refers to prevention. A number of us only look at the cure. This Bill is out to prevent a number of ills that are in this sector. It is alleged that there are a number of people who also run butcheries in our communities. They sell beef and such. However, people do not see them as owning any cattle for that matter. That points out that this sector has a number of ills. These are the kinds of ills that this Bill is going to solve, which points to the robbery and stealing of cattle.



In some of our areas, there are people who move in Toyota Probox cars, as had been insinuated by senior Senator, Sen. (Dr.) Oburu. They pick cattle, goats and rams. I do not know how bulls are able to fit in those cars.

This Bill spells out a way in which this will be prevented. There must be decency in the movement of livestock. In some of our local markets and probably because the traders cannot afford more advanced movement of cattle, they are transported or their movements are facilitated physically from market to market over long distances. This must be addressed because it also shows a sign of ill-treatment of the livestock.

I am happy that the Bill spells out the role of county governments in managing livestock and its produce. This will give income to counties because of the number of roles they are going to play. However, as the county governments take on these roles, they must also enhance the services of extension officers in this sector, in order to improve on production of the right quantities and qualities.

Madam Temporary Speaker, I support this Bill not only because it will prevent some of the ills, but also because it will add to the quality and quantity in terms of livestock and its produce. The issue of theft is done by organised enterprises. There are people who benefit from the theft of livestock in this country. That has been demonstrated by the previous speakers. How then do we have thousands upon thousands of livestock moving from one region to another without the culprits being apprehended?

Madam Temporary Speaker, I support this Bill because it is going to restore the prosperity, pride and security of our communities. It is also going to address the criminality involved in this sector.

I support.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Mungatana.

**Sen. Mungatana, MGH:** Asante Bi Spika wa Muda kwa kunipa nafasi hii ili niyachangie mawazo yangu kuhusu sheria hii ambayo Sen. Cherarkey anataka kuleta hapa Bungeni.

Mambo mengi yamesemwa lakini sitayarejelea. Kuna jambo moja ningependa kusema kwa ufupi; shida kubwa ya wizi wa mifugo ambayo tumekuwa tuing'ang'ana nayo tangu tupate uhuru. Kama alivyosema Sen. Cheptumo, ni utamaduni mbaya. Kuna tamaduni nzuri na kuna tamaduni mbaya za Kiafrika. Sheria hii ambayo Sen. Cherarkey ameleta inaongea kuhusu mambo mengi na mazuri. Lakini kuna kitu kimoja ambacho ningependa Sen. Cherarkey akifikirie na pengine aiongeze kwenye mawazo ambayo ameandika kutoka kwa waheshimiwa walioongea.

*Female Genital Mutilation (FGM)*, ilikuwa inafanyika katika makabila ya kiafrika na mengine yapo nchini. Ushindi wa vita dhidi ya hizi tamaduni chafu na mbaya ulipatikana kutokana na *civic education*. Ningemuomba Sen. Cherarkey aangalie hili jambo. Watu wetu wafundishwe na kueleza kuwa kuiba mifugo si jambo nzuri. Pia wafahamishwe kuwa sheria hii itafungua mashtaka kama yale yaliyo kwenye ukeketaji wa wanawake.

Kwenye suala la ukeketaji kuna watu maalum ambao wanazungumza kulihusu wanaoitwa '*champions*.' Ningependa kuwepo na bodi na '*champions*' katika kaunti ambao watatembea haswa kwenye sehemu ambazo ziko na shida hii. Watu waketi chini

na kuelezwa kuwa utamaduni huu haufai kwenye miaka ya kisasa. Mbali na mambo yaliyopendekezwa lazima tugeuze akili ya wananchi. Tusipofanya hivi, tutawafunga vijana wangapi? Badala waende shule tutakuwa tunawafunga.

Pili, wananchi waelezwe sheria itakayopendekeza kiwango cha ng'ombe na mbuzi kitakacholipa mahari; katika sehemu fulani mahari isipite ng'ombe tatu ama kuku wanne. Watoto wetu waoane kihuru. Watu wasiibe ng'ombe kwa sababu wanataka kuoa. Sheria hii lazima iangalie shida hii.

Kuna tamaduni mbaya ambazo hatuwezi maliza na sheria pekee, lazima tuelimishe watu, tuwabadilishe akili zao na kuweka mifano ya vile tamaduni zitafuatwa. Kwenye Kaunti lazima kuwe na makubaliano kwamba mzee akiitisha ng'ombe 100 ama mbuzi 50 akamatwe. Watu waelewe kuwa kuweka mahari ya juu inasababisha wizi wa ng'ombe na mbuzi. Hizi ndizo shida ambazo tunajaribu kutatua. Ikifika miaka ya ndoa, tuwache wasichana waolewe. Ukikaa na wao wataibiwa ama kuzalishwa.

Tusiweke mahari ya juu. Kwa kila kaunti mahari iwe kidogo ya kutosha ili vijana wasipate moyo wa kuiba. Ikiwa nataka kuoa na yule msichana ananiambia lazima nitoe ng'ombe 300. Kule South Sudan mahari ni takrimu ng'ombe 300. Nikimpenda msichana, hata kama kuna hii sheria ya Sen. Cherarkey, nitaiba ng'ombe.

Sen. Cherarkey, kwenye hii sheria, weka taratibu za kulipa mahari ili tusipate shida ya vijana wetu kufungwa kwa ajili ya mambo kama haya. Sheria hii ikarabatiwe ili kuelimisha watu wetu watoke kwa tabia potovu na waingie kwenye miaka ambayo tunaishi.

Asante, Bi. Spika wa Muda. Naunga mkono.

**The Temporary Speaker** (Sen. Mumma): Sen. Oketch Gicheru, proceed.

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker, for allowing me to contribute to this fantastic Bill by the Senator for Nandi, Sen. Cherarkey. I hope he did not bring this Bill for the sake of trying to help people who are affected by cattle rustling. I hope he is a farmer. He has been talking too much about being a lawyer and might forget that farming is important. We could establish that Sen. Cherarkey is more of a farmer than a lawyer.

Cattle rustling has been with us for a long time. There used to be times when cattle rustling was seen as a means of wealth transfer and was accommodated in some areas. However, within our borders, it has become a serious menace. Owning cattle in this country is now causing the loss of lives, not only in the areas around the North Rift or in the Sahel region.

From where I come from, if you look at the Kuria and Luo communities, particularly those who are of Abasuba origin called the Suna in Suna West and Kurias in Kuria West, there has been an ongoing conversation about cattle rustling. People have moved from mere wealth exchange to serious crime. This has to be addressed. It looks like owning cattle is a serious threat to life. It is dangerous to own any cattle. If you own any, it means that you could be attacked at your home, maimed or killed. This is a great Bill that this House should support to deal with cattle rustling.

There is a sense in which this Bill can be improved. We must not be tempted to institutionalize crime. For instance, in Clause four, branding of livestock is an elaborate

process. We are encouraging criminals who will take people's animals without realizing that this is a crime. This Bill makes it difficult for a farmer to own cattle – this idea of branding is laborious and detailed. It is a great idea, but in terms of implementation, it could be expensive and difficult for farmers to follow.

People from Nandi County are serious farmers. They do not just hold two or 10 cattle. They hold 100 to 500 cattle. If you were to own 100 and 500 cattle and you are supposed to brand the entire herd, as conspicuous as proposed in Clause four of the Bill, it could be tedious. The reason people own cattle is because they are a means of wealth or asset keeping. When people take their children to school, have emergencies and want to build homes, they could sell the animals.

Someone in Migori County might come from Uriri Constituency to go to Oria Market - which is just at the border of Homa Bay and Migori counties - to sell their cattle in this market. People from Homa Bay, Mbita or Ndhiwa especially where Sen. Ogola comes from, like buying cattle from Oria Market and they go with it all the way to Kabuoch.

When you put infrastructure, however conspicuous it is, you brand this animal again. Before you realise, the next day, it will be in Kendu Bay. Then, you sell to somebody from Nyakach, which is now in Kisumu Constituency. Again, if the cattle goes to Kisumu, it has to be rebranded.

Madam Temporary Speaker, the branding element can be rethought. I would like to suggest to the Senator for Nandi to think about some economical ways of doing this rebranding proposal - which is a good one - to be able to trace and register animals. However, we should not make it expensive and also difficult for farmers considering that, some of these farmers are also rudimental. They still keep Zebu animals that are traditional. They do not have the improved breeds such as the Sahiwal or even the most prominent breeds like the Friesian. Most communities still have these Zebu cattle and sometimes branding can be very difficult to do. That is something a lot of improvement can be done on by Sen. Cherarkey.

The second thing is the idea around policing. I think we can improve the idea around policing because this policing system must be embedded within the grass root community.

When you think about things like *Nyumba Kumi* initiative that has been there, I am looking at livestock as a critical component of agriculture and agriculture has been devolved. Since it has been devolved, Part II of the Bill is really dedicated to look at the functionality and the role of the Cabinet Secretary.

If you look at the coordination and development of intergovernmental relations in terms of mechanism to deliver services, the movement of cattle in Part III of this Bill, especially Clause 12 is where we can be more innovative and take the genius of devolution. We can look at how devolution can really help us to police and monitor the movement of cattle.

I feel like this Bill tends to take some of these functions or makes it possible for the Cabinet Secretary at the national level to almost take control over this function.

Madam Temporary Speaker, I think if you look at it critically, the only element that this can help with is that of security because security is not devolved. Since security is not devolved, we can rethink some model of engineering a local community policing and monitoring mechanism of this movement other than giving the national Government this particular function. At the end of the day, it does not become as effective if this particular function of policing system or monitoring system of security can be put within counties and we empower counties.

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

*[The Temporary Speaker (Sen. Abdul Haji) in the Chair]*

If we look at those two, then the essence of offenses that has been articulated by Sen. Cherarkey in Part IV, Clauses 16, 17 and 18 are brilliant offenses that have been articulated. They end up talking very seriously about criminalizing the element of cattle rustling and basically thuggery of stealing people's animals. I think it will be effective if we combine this with local policing and monitoring system other than taking this function in a more pronounced way to the Ministry of Agriculture at the national level.

Mr. Temporary Speaker, Sir, that said, as I finish, sometimes there needs to be a time when as a country we are called to solve the root causes of problems. I really like what Sen. Mungatana talked about; the element of extreme poverty and economic emptiness among our communities that has always forced young people to find other ways and modes of survival. Some of these are criminal activities.

It is important that as a people and a House, we can constantly emphasize that the activities that constitute cattle rustling are just as criminal activities as any other criminal activities within our country. If we emphasize on that, then I will be very proud to support this Bill so that the offenses that have been articulated, especially in Part IV of this Bill, Clause 18(4) give very serious charges on people who have committed some offenses. This implies that the offenders should be taken and punished very seriously if found to have committed criminal activities.

However, before we even get there, it is important that the Senator for Nandi encourages the Government of the day to just think about critically investing in the economic modes of the local community. The other day we saw that fertilizer was hugely subsidized in the concept of subsidizing production, but we did not see any farm inputs that were subsidized in the same fashion in the livestock department.

Mr. Temporary Speaker, Sir, you can actually see that as important as the Senator for Nandi has emphasized on the role that livestock plays in agriculture, there is need to subsidize agricultural feeds for animals so that people who are rearing these animals are not faced with challenges like we have seen conflicts around pasture; people fighting over pasture. Now, it has even caused wildlife versus the pastoralists conflicts in places like Kitui because there is no subsidy around these animal feeds.

In as much as we want to invest in only crop-based agriculture, the Government must also start looking at how to invest in animal-based agriculture. This will suppress

the pressure that some of these communities have that they want to supplement their income by engaging in thuggery and going to steal other people's animals because their animals have died or they do not have the capability of producing their own fodder. This is very important.

Otherwise, I really congratulate my brother and now a farmer, the prolific Senator of Nandi for bringing this Bill. I hope that he can be more objective so that we can revisit it and ensure that when it comes to subsequent readings, we can explore some areas, tighten them and make cattle rusting history in the borders of Kenya.

I support the Bill with the amendments that will be moved together with Sen. Cherarkey.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Cherarkey, the House had earlier on agreed that at 5.30 p.m. we will adjourn to discuss a matter of national importance that was moved by Sen. Mungatana. I think two minutes is not enough for you to reply. You can reply tomorrow.

Senators, I call upon Sen. Mungatana to move his matter of national importance.

### MOTION OF ADJOURNMENT UNDER STANDING ORDER NO.37

#### PREVAILING HEAVY RAINS AND FLOODING IN PARTS OF THE COUNTRY

**Sen. Mungatana, MGH:** Mr. Temporary Speaker, Sir, I thank you for giving me this opportunity to move this Motion which we gave notice of.

Mr. Temporary Speaker, Sir, I beg to move that pursuant to Standing Order No.37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the prevailing heavy rain and subsequent flooding in many parts of the country.

Lately, we have experienced extremely heavy downpours of rainfall in various parts of our country. This rainfall in various parts of the country, especially the highlands, has resulted in flooding of the lowlands in our country. Those that have been badly affected are those in the coastal areas in this country.

Statistics that have been given to us state that at least 80,000 households have been affected in the Coast. In Tana River County, where I come from, at least 20,000 households have been affected. Farms and homes have been submerged while animals have been swept away, because of the waters that are coming down.

Mr. Temporary Speaker, Sir, schools, hospitals, areas of common amenities, like churches, and mosques, none of these places have been spared. We have lost lives in the last few days to the continuous heavy rains that have hit the nation.

We thank various county governments that have made an effort to find solutions within their capacities. Counties in the northern part of Kenya have also experienced extremely heavy rains. County governments have come out to do what they can. They have managed to do the little they can with their resources. We congratulate the county

governments that planned for these events in advance. I would like to single out my county where advanced planning was done, and because of that, many lives have been saved. The response has been good so far.

Mr. Temporary Speaker, Sir, we experience normal flooding in Tana River County. Nobody complains about the flooding that comes from the river because that is part of the riverine ecosystem where we expect the river to flood for part of the time, and then when the water recedes, people can plant and harvest their crops. This has been a traditional way of farming, where we wait for the flooding of the river that brings in alluvial soils from up in the highlands. We are normally able to deal with the farming downstream. This is not what is happening at this time. The amounts of water that have come are too heavy.

Initially, the weatherman had said that we would receive excessive rain. Later on, he apologized to Kenyans and said that it was not excessive rain, but it was in fact, El Nino. We are calling upon the national Government to intensify efforts to rescue people in various places. We know that food, water and medication has been sent to some of our counties, including Tana River County. However, there are specific issues that affect certain wards such as Wayu, Kone, Asa, and parts of Garsen Central wards. Further, there are areas in the north such as Pamba, where the roads have been cut off. There are no supplies going to those areas.

In Kone and Asa, there was a crime that was committed; people fought and somebody died. However, the police officers could not evacuate the body to do the normal processes because the rains have disconnected the way to those areas. People are suffering and one of the things that we want to ask the national Government to do, which the county government is not capable of doing, is to provide helicopters to those areas that have been cut off.

You will find that in the northern areas, army helicopters have been supplying food to areas that have been cut off. We saw the Cabinet Secretary visiting those areas yet right inside Tana River County, which is a neighbour in the north, has not received the kind of support that is required.

We are therefore using the Floor of this House to ask the national Government, first to double the efforts in supplying foodstuffs, temporary shelter, medicines and fresh water to various people who have been affected by these floods. Secondly, we want choppers to be deployed to various places, in particular Kone, Asa and Wayi wards, where there has been no form of support. Our people in those areas are facing a real threat of starvation because the only roads that go to those places are now completely inaccessible.

Using the Floor of this House, we are asking the Government beef up security for the people who have relocated from the lower Tana Basin to higher areas because, where they have gone are new areas. If those people are given security where they are settling because now they are sleeping outside; they are not in their homes; they are not where they used to be. We pray for security to be beefed up for where they are in the new area. We are also asking the national Government to create a special program, what I will

loosely call the Marshall Program, for the North Eastern and coastal areas which have been affected badly by these floods.

We are calling upon the national Government to put money into the rehabilitation of infrastructure; the roads and the schools. We are going to go behind like three, four or five years. Money should be made available by the national Government to allow for the rehabilitation of these places.

As I conclude, I would like to ask the national Government to come up with a plan. It is a shame that after four months of all these supplies---

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Mungatana, you had 10 minutes to move the Motion. I think your time is up. Finalise in one minute and then call your seconder.

**Sen. Mungatana, MGH:** Mr. Temporary Speaker, Sir, it would be a shame for the national Government, four months from today, to come and say that there is drought in those areas. We are asking the national Government to make serious arrangements to create water catchment areas in those places, so that this water does not all get wasted.

After this, a plan must come. The plan must not be around just River Tana and must have its own ecosystems. We are talking about all these seasonal rivers that are coming from Kilimambogo and the mountain areas to have a system of damming and preserving this water for our animals and irrigation and not let it go to waste as it is.

I beg to move and invite Sen. Oketch Gicheru to second this Motion.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Oketch Gicheru, please proceed. You have five minutes to second.

**Sen. Oketch Gicheru:** Mr. Temporary Speaker, Sir, I thank Sen. Mungatana for trusting me to share in his zeal for an intervention to what is now becoming a national crisis. In fact, I thought he would be bold enough to say this should be declared a national crisis.

If you cast your eyes on any news on television and listen to any news on our radio stations, the country is in disarray with these serious rains. If you look at the coastal region, which has been the bastion for tourism where people go and bask in the sun and walk anywhere they want, you will see that the coast has become flooded everywhere. In fact, the Senator for Kirinyaga County would think that it has become a place for growing rice.

This is not the only problem in that area. If you go to a place like Migori County, where I come from, the people from Kabuto are experiencing serious floods. These floods have caused serious havoc to their livelihood. It is difficult to think about going to get food from the supermarkets and local markets. More than that, people cannot think about proper planning for planting seasons that we have at this time approaching December. Usually, people of Kabuto are very industrious and those of Nyatike Sub-county are strong and like planning and planting on time. This is really affecting them.

Therefore, I would encourage the national Government to see this as a serious national crisis. I also believe that this crisis has not caught up with us unknowingly. We know very well that a few months ago, around April and March, we heard the Metrological Department cautioning the country that we need to have a serious disaster

readiness and preparedness that will be in good capacity to help the nation evade any kind of heavy rains that were akin to *El nino* at that time.

Even if this is not the magnitude that we expect of *El nino*, it is still destructive enough to make it difficult for the country. As a House, we also do know that there are resources that had already been dedicated by respective county governments. We saw a number of counties coming out strongly saying that they had set aside resources. For instance, in Nairobi City and Mombasa counties, there were investments in boats, drainage and increasing the service levels of the roads.

Right now, there is no county governor who is willing to talk about those resources. The Senate should rise above any other leadership in the country and question where these resources have gone to. If resources have been put in place to deal with floods and serious issues of emergencies and those monies are nowhere to help people now, where did they go to? We must question, summon governors, visit the counties affected by floods and ask where these resources are being deployed to help the people.

In the same manner, we must hold the national Government accountable for billions of monies that were put to deal with floods and complement those that the county governments had put in place.

Mr. Temporary Speaker, Sir, I support this serious Motion. I hope that Members do not just contribute to it, but perhaps in the subsequent Motion that we are going to have---

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

*(Question proposed)*

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Cherarkey, please proceed.

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

**The Temporary Speaker** (Sen. Abdul Haji): What is your point of order, Sen. Ogola?

## QUORUM

**Sen. Ogola:** Mr. Temporary Speaker, Sir, I rise under Standing Order No.41 on Quorum during the proceedings of the Senate. Do we have the quorum?

**The Temporary Speaker** (Sen. Abdul Haji): Clerk, please, confirm quorum. Let us ring the quorum bell for five minutes.

*(The Quorum Bell was rung)*

**The Temporary Speaker** (Sen. Abdul Haji): Can the Bell be rung for another five minutes?

*(The Quorum Bell was rung)*

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**ADJOURNMENT**

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the House stands adjourned pursuant to Standing Order No.41(2)(a), until tomorrow, Wednesday, 22<sup>nd</sup> November, 2023 at 9:30 a.m.

The Senate rose at 5.56 p.m.