

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 23rd October, 2024

*The House met at the Senate Chamber,
Parliament Buildings, at 9.33 a.m.*

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Temporary Speaker (Sen. Wakili Sigei): Clerk, do we have quorum?

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

The Temporary Speaker (Sen. Wakili Sigei): Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

The Temporary Speaker (Sen. Wakili Sigei): Clerk, we now have quorum, you may proceed to call the first Order.

QUESTIONS AND STATEMENTS

QUESTIONS

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, as per the Order Paper, we were supposed to have two Cabinet Secretaries this morning. The Cabinet Secretary for Interior and National Administration and the Cabinet Secretary for Energy and Petroleum were supposed to appear to answer questions from Members.

We have since received communication. Yesterday, the Senate Business Committee (SBC) took a position with regards to the communication from the office of the Cabinet Secretary for Interior and National Administration that excused him.

This is the wording of the letter that was received-

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“The Cabinet Secretary for Interior and National Administration is not in a position to honour the invitation and all inconveniences are highly regretted.”

The second letter from the Cabinet Secretary for Energy and Petroleum is equally indicating regrettably-

“We wish to request for your indulgence to postpone the meeting scheduled for Wednesday, 23rd October, 2024, at 9.30 a.m. The Cabinet Secretary will be away on official duty from 22nd to 24th October, 2024. Kindly, reschedule the meeting to a later date of your convenience.”

Hon. Members, these are the two communications from the two Cabinet Secretaries who were supposed to appear before us today. Therefore, we will reschedule the appearances to a later date.

The Order Paper had questions for the two Cabinet Secretaries. These are Question No.044 from the Senator for Siaya County, Dr. Oburu Oginga, Question No.56 from Sen. Shakila Abdala, Question No.90 from Sen. Murgor, Question No.70 from Sen. Murango, Question No.73 from Senator Murango as well, Question No.77 from Sen. Maanzo, Question No.79 from Sen. Murango and Question No.84 from Sen. Kavindu.

Running through to Question No.92 from Sen. Kathuri, Question No.93 from Sen. Prof. Tom Ojienda, Question No.94, Professor Tom Ogenda, Question No.104 from James Murango, Question No.106 from James Murango, Question No.113 from Sen. Lomenen and Question No.114 from Sen. Hamida Kibwana.

In the absence of the two Cabinet Secretaries, we definitely will not belabour that bit. The questions are deferred to the next scheduled sitting that will be done by SBC.

Question No.044

UPGRADE TO THREE-PHASE CAPACITY OF ELECTRICITY
SUPPLY TO ALEGO USONGA SUB-COUNTY

(Question deferred)

Question No.056

DELAYED REPAIR OF PYLON DESTROYED DURING
A TERRORIST ATTACK IN LAMU COUNTY

(Question deferred)

Question No.090

EMPLOYMENT OF LOCALS AT THE TURKWEL
HYDROELECTRIC POWER STATION
IN LOROKON AND CSR
PROJECTS

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(Question deferred)

Question No.070

INTERVENTIONS TO ADDRESS FLOODING
IN KIRINYAGA COUNTY

(Question deferred)

Question No.073

INSECURITY IN NDIA CONSTITUENCY,
KIRINYAGA COUNTY

(Question deferred)

Question No.077

DATA ON LIVES LOST DURING HIGH COST
OF LIVING PROTESTS IN JULY, 2023

(Question deferred)

Question No.079

IRREGULAR DISMISSAL OF MR. JOSEPH ODHIAMBO
OCHORO FROM KENYA PRISONS SERVICE

(Question deferred)

Question No.084

REASONS FOR NON-OPERATIONALISATION OF SECTION
49 OF THE PREVENTION OF TERRORISM ACT

(Question deferred)

Question No.092

RECURRENT BANDITRY IN IGEMBE
NORTH CONSTITUENCY

(Question deferred)

Question No.093

OPERATIONALISATION OF KABONYO KANYAGWAL
DIVISION IN KISUMU COUNTY

(Question deferred)

Question No.097

DESTRUCTION OF PROPERTY DURING
THE GEN Z-LED DEMONSTRATIONS

(Question deferred)

Question No.104

OPERATIONALISATION OF GITWE POLICE
POST IN KIRINYAGA COUNTY

(Question deferred)

Question No.106

STATUS UPDATE ON CONSTRUCTION OF MWEA
EAST SUB-COUNTY POLICE HEADQUARTERS
AT WANG'URU POLICE STATION

(Question deferred)

Question No.113

IMMEDIATE MEASURES TO ENHANCE SECURITY
IN TURKANA AND WEST POKOT COUNTIES

(Question deferred)

Question No.114

DETERIORATING CONDITION OF
NYAYO HOUSE IN NAIROBI'S CBD

(Question deferred)

I call upon the Clerk to call the next Order.

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Yes, Sen. (Dr.) Khalwale.

POINT OF ORDER

NON-APPEARANCE OF CABINET SECRETARIES BEFORE THE SENATE

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I could not agree more with your ruling, but I am struck by the letter from the Cabinet Secretary for Interior and National Administration. I would like to persuade the Senate that the reason why the Minister for Interior is not in a position is because this House found that the former Deputy President was impeachable and was removed.

The statement from the Chair was that by dint of that Motion, at that moment, the then Deputy President ceased being a Deputy President. This Parliament, subsequently, approved Professor Kindiki as the Deputy President of Kenya. At the level of Parliament, the Deputy President of Kenya is Prof. Kithure Kindiki.

(Applause)

I appeal to the Secretariat to stop being superfluous by sending him invitation letters to come and respond on issues of the former docket. If you have got anything to ask him, it should be for him to speak on matters concerning the office of the Deputy President.

Thank you very much.

The Temporary Speaker (Sen. Wakili Sigei): I would like to defend the Secretariat because the letters of invitation to the Cabinet Secretary were done prior to his appointment and also approval by the National Assembly. I believe you have a point with regards to what the National Assembly and this House did in the course of last week.

Proceed, Sen. Wambua.

Sen. Wambua: Mr. Speaker, Sir, I have listened to Sen. (Dr.) Khalwale. Let me just educate him a bit. Words have meaning. From where I sit, nobody has been appointed to the position of the Deputy President. There has only been a nomination pending---

(Sen. Cheruiyot spoke off record)

Sen. Cheruiyot, I live in this world. I am in the same Senate with you. I will insist that words have meaning. Maybe where you come from in Kericho, appointment and nomination mean the same thing. In the English dictionary, they mean completely different things, but you can benefit from this, if you will.

Mr. Temporary Speaker, Sir, on the matter that Sen. (Dr.) Khalwale is raising, we all know that it is a matter being canvassed elsewhere. We can go into that debate if that will be necessary. I do not think it will be.

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The most important thing would have been for us to ask ourselves - over a period of time now, we have had questions listed for responses. In fact, if you remember and if my memory serves me right, we had to adjourn the sittings last Wednesday because Cabinet Secretaries that were expected here did not turn up.

The same thing as happened today. Maybe there will be need for proper communication or engagement between the Office of the Speaker and the Office of the Majority Leader with the Cabinet Office, so that the appearance for the Cabinet Secretaries before this House to respond to questions is prioritized.

We do not want a situation where Senators come here with questions, then we say we will not process that business because the Cabinet Secretaries have not appeared. I will continue with the English lessons for both Sen. (Dr.) Khalwale and Sen. Cheruiyot after this session. I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, I am seeing a lot of interest in having this conversation further. I will allow a few more Members.

Proceed, Sen. Mundigi.

Sen. Munyi Mundigi: Asante, Bw. Spika wa Muda. Nafurahi sana kwa kuwa tunafahamu kwamba tunaye Deputy President anayelitwa Abraham Kithure Kindiki. Nafahamisha Seneta wa Kitui, rafiki yangu anayetarajia kuwa gavana wa 2027, kuwa ni lazima Wakenya wajue ni ukweli kwamba ni yeye mteule na hangeweza kuja hapa kuzungumza kama Waziri wa Mambo ya Ndani na Utawala wa Kitaifa.

Kama Kenya, tuko na furaha---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mundigi---

(Laughter)

Sen. Munyi Mundigi: Bw. Spika wa Muda, ni vizuri kusherehekea kwa sababu tuko na Deputy President mpya. Wale wanajiita Mt. Kenya West mpaka mkubali tuko kwa serikali ya muungano. Sio serikali ya chama hii au ile bali ya Kenya nzima tukiwa kaunti arubaini na saba. Ni mpaka tukubali yaliyotokea.

Mtuunge mkono ili aapishwe. Hiyo ndiyo tunangoja kwa sababu hakuna kitu kingine.

Kwa hivyo, Bw. Spika wa Muda, ninaunga mkono.

Sen. Sifuna: On a point of order, Mr. Temporary Speaker, Sir. I am rising under Standing Order No.103 to direct the House that it is a matter of public knowledge and notoriety that, in fact, the subject being brought on the Floor of this House is a subject of court proceedings happening before the whole country. It will be highly prejudicial for us to engage in that debate at this particular moment in time. We need to respect constitutional institutions that we have.

You will remember that last week when this House was charged with that matter, the courts refused to intervene. I think we owe it to other constitutional institutions to also give them the respect they deserve under the rules of *sub judice*, not to discuss those matters when they are live before them.

Having said that, I have always laid this complaint on the Table of Parliament. There is something called continuity of Government. If you look at the matters in the

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Order Paper, those questions were not even filed last week. Some of them are as old as six months or a year. It is unfortunate that it takes that long for us to engage with Cabinet Secretaries.

One of the things we have tried to do in this House is to stay current. There are many matters that are live right now, including matters in the energy docket. I was expecting to see the Cabinet Secretary for Energy and Petroleum here.

At least for the Ministry of Interior and National Administration, you may say maybe there was confusion as to who should appear this morning. However, the excuse from the Cabinet Secretary for Energy and Petroleum is one that I will never accept before this House. We have said that constitutionally, they must prioritise appearance before this House.

We, as representatives of the people, have a lot of questions to put across to the Cabinet Secretary for Energy and Petroleum. We have not had an opportunity to have conversations about some of the things that are going on in the country, including the energy contracts that we hear are being signed in respect to the Adani Group that has become notorious.

Every single time, we must remind Cabinet Secretaries that this House requires them to be here to answer questions relating to issues being raised by our constituents. We need to stay live and relevant. You cannot come in 2026 to answer questions about the Adani Group yet we are hearing that deals have already been concluded.

Once again, Mr. Temporary Speaker, Sir, I want to register my disappointment that Cabinet Secretaries are not taking these appearances seriously, yet we have live matters for which our constituents demand that we ask questions.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Sifuna.

Hon. Members, a further reminder, as well put by Sen. Sifuna, these are matters which are live before courts of law. If you must comment particularly with regards to non-appearance by the Cabinet Secretary for Interior and National Administration, be alive to the fact that this is something that is ongoing before a judicial body. Therefore, limit your comments to the extent permissible in the House.

Sen. Maanzo was in court. So, he knows what it means to have such matters discussed on the Floor of the House when they are actively being dealt with by our courts of law. I will give one more Senator a chance to speak.

Proceed, Sen. Mo Fire.

Sen. Gataya Mo Fire: Mr. Temporary Speaker, Sir, I agree with the sentiments of quite a number of us, including Sen. Wambua, that the matter before us is being canvassed elsewhere.

We are aware as a House that the Cabinet Secretary for Interior and National Administration, Hon. (Prof.) Kithure Kindiki, has been faithful to his duties because he has been appearing before this House and in quite a number of committees. I think it is because of what has been happening for the past few days that we have not been able to have the Cabinet Secretary for Interior and National Administration in this House.

I also agree with Sen. Sifuna because there are many other Cabinet Secretaries who are supposed to appear before us, including the Cabinet Secretary for Roads and Transport, but they have not. I have some pending questions over that matter.

We must register some dissatisfaction over that perhaps to compel these people to appear before this House. It is an obligation that they are supposed to appear and answer questions.

Mr. Temporary Speaker, Sir, I agree with all the Senators that the Cabinet Secretary for Interior and National Administration has been faithful to summonses and other invitations by committees and this House. Now that the matter is being addressed elsewhere, I also agree with your ruling that we leave it at that, until when time allows us to discuss.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Lastly, Sen. Maanzo.

Sen. Maanzo: Mr. Temporary Speaker, Sir, on this matter of appearances by Cabinet Secretaries, it is true that some of these questions are very old and matters are pending in courts. It is also true that other Cabinet Secretaries have been invited, but they have not explained why they are not here. There must be a way of making sure that this House is respected and that questions are answered.

I am one of the Members who had questions for Hon. (Prof.) Kithure Kindiki who is my friend. I asked a question about six months ago in relation with the killings of demonstrators and abductions, but I know that I may not get the answers. We are waiting for the outcome of the court regarding his case, but the rest of the Cabinet Secretaries should be here.

Mr. Temporary Speaker, Sir, a stern warning must be sent that if you fail to show up, you ought to have a sufficient reason, such as having a Cabinet meeting or being outside the country and there must be notification to the House. The House must be respected because we represent counties and the people of Kenya. We are here on behalf of the people of Kenya who employed these Cabinet Secretaries.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator. Sen. Ogola, you will be speaking next. Therefore, you will make your comments after the next Order is called out.

Clerk, please, call the next Order.

MOTION

NOTING OF REPORT ON THE EXTRAORDINARY SESSION OF THE SIXTH PARLIAMENT OF PAP

(Sen. Mungatana on 9.10.2024)

(Resumption of debate interrupted on 9.10.2024 – Morning Sitting)

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THAT, the Senate notes the Report of the Kenya Delegation to the Extraordinary Session of the Sixth Parliament of the Pan-African Parliament (PAP) held at the Gallagher Convention Centre, Midrand, South Africa, from 20th to 27th March, 2024, laid on the Table of the Senate on Wednesday, 24th April, 2024.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, when the Motion was on the Floor, Sen. Ogola was making her contributions. You had a balance of seven minutes to conclude on your contribution. You may, if you wish, continue to utilise the seven minutes to conclude on your contribution on this Motion.

Sen. Ogola: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to complete my submissions as I was making them the last time.

Before I get to the Motion, I would also like to add my voice to the previous debate. As a Senator, we expect that Cabinet Secretaries, as notified, should appear before the House because we are representatives of the people. I was looking forward to the appearance of the Cabinet Secretary for Energy and Petroleum, because of the vast challenges my county, sub-county and many parts in this nation face. In my county especially, we have lots of cases of faulty transformers. Some of our villages have not had electricity for the past two to three months. I expected the Cabinet Secretary to be here to respond to that.

I know the Cabinet Secretary for Energy and Petroleum is a very sober officer in this country. Since he was appointed to that post, I have seen him transverse this country from region to region. That is a testament that he is keen on delivering to the people of Kenya. When he comes, I think he will respond to our queries.

Mr. Temporary Speaker, Sir, going back to the Motion, I had done my submissions. As I end, I only want to reiterate that we remain proud of Sen. Mungatana and Sen. (Prof.) Kamar who are Members of the PAP.

I look forward to Africa that will have an enhanced infrastructure that can serve the whole region. We are looking forward to a common currency and we are looking forward to ease of air travel.

Mr. Temporary Speaker, Sir, I support that Motion.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, seems no other Member is interested in making contributions to this Motion. I would like to call upon the Mover of the Motion, Sen. Mungatana, to reply.

Sen. Mungatana, please proceed.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, thank you very much for giving me this opportunity to reply to this Motion. I want to thank the honourable Members who have contributed immensely to this Motion. It started last week and today it is coming to an end. I thank Sen. (Prof.) Kamar, Sen. Ogola, and many other Members who spoke to this Motion. I appreciate the invaluable contribution they have made to this Motion.

Kenya has become a very important player in the African continental politics. It may have passed people, but yesterday we received the President of the Pan-African Parliament in Nairobi.

We had an occasion to spend time with President William Ruto. The President has been selected by the Assembly of Heads of States to spearhead and champion the reforms of the African Union organs. We had a very good meeting in State House where some of the issues that revolve around the reforms that need to take place within the organs of the African Union as per the mandate of President Ruto and also within Pan-African Parliament as per the mandate of the President of Pan-African Parliament, Chief Fortune Charumbira.

He was accompanied by the Deputy President and other Members of Parliament from different countries across Africa. All of them did not speak to us, but they attested to His Excellency the President the role that the Members of Parliament from Kenya and the role that we have played within the Pan-African Parliament.

I sit in the Monetary and Financial Affairs Committee of the Pan-African Parliament. The Hon. Sen. (Prof.) Kamar sits in the Education Committee, Hon. Majimbo Kalasinga sits in the Infrastructure Committee; Hon. Passaris sits in the Trade Committee; and Hon. Mukami sits in the Integration Committee.

These five Members who were with us yesterday and who joined us together with other continental Members of Parliament from the Pan-African Parliament spoke very highly of this delegation.

I am grateful for the opportunity to serve in that Committee and also in Pan-African Parliament. We have had a great opportunity to make the relevant improvements in that Parliament. For the first time, we were able to bring a President from Kenya to the Pan-African Parliament who addressed us and received a lot of support from the Pan African Parliament.

Mr. Temporary Speaker, Sir, President William Ruto has continued to support this Parliament. He has also proposed some changes in keeping with his authority as the new champion for reforms for the entire organs of the African Union. So, Kenya has taken its central place. Even as we leave next week for yet another session, I want to assure this House that we will make you proud as we go to represent you.

I dare say, unlike other Members of Parliament, when we go there, we sit through the sessions. We sit through our committees. We sit through the debates. This is distinguishable from many other people who attend that Parliament.

So, Mr. Speaker, as we continue to improve our nation, I urge Kenyans to be African-minded. We need to fight for the things that make Africa great.

If I want to go to Namibia today, we should have a road that can take me to Namibia. If I want to travel to South Africa to start a business there, there should be a road network to DRC Congo, to Uganda, all the way up this side to Morocco for free movement of the people.

If you have to go by air, we should not be asking for visas. These are the things we are fighting for, that our continent may be one. So, when you see someone from West Africa, the Nigerians, the Liberians, Ugandans, Somalis, Moroccans and South Africans coming here, we should encourage and feel the same. They are all our brothers and sisters.

I want to thank His Excellency the President because he has taken the lead, even before the protocols were passed, he opened up the skies for Kenya, so that African

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countries can come without a visa, so long as they are from Africa. Other countries have not done the same yet, but we hope they will.

We believe that as we push these things and as we do our part, trade also will come. So, when we sit in that Pan-African Parliament, we push for these things, that you should be able to go to Angola and do business there and come back in the evening. You should be able to go to DRC and start life there.

We should have an education system, so that if my child is in Grade Eight in Kenya and I relocate to Algeria because maybe that is where I am finding business, my child can continue with his education without a problem. We want to create a continent that will have one people speak with one voice; one nation so that we are all able to say Africa is great.

The truth of the matter is that other continents are not happy when they see the efforts we are making towards making Africa great again and towards uniting Africa. So, they will keep creating these problems that you see, this country fighting another country, instability in certain nations, so that countries in Africa do not speak with one voice. The majority of us are determined to make Africa the continent that is supposed to be; to take its space where it is supposed to be.

Mr. Temporary Speaker, Sir, America, by land mass, is a very small area compared to Africa, but even when they draw the map, they try to make it look bigger than Africa. However, they have made great progress because all the States within the USA are operating with one currency; they have one administration; they have one federal reserve; one central bank and one military. That has enabled them to make a lot of progress.

In Africa, in some places, even going from this country to the next country, making a bank transfer of just Kshs1 million, you have to take that money to New York via SWIFT. You pay the charges and then return that money to a neighbour next door because we do not yet have a platform that connects all our trade in Africa.

These are the things we are fighting for in the Pan-Africa Parliament (PAP). Our prayer is that as our Parliament and the unity of the heads of states grows stronger, the dream of people like Kwame Nkrumah, Julius Nyerere, who wanted Africa to be together will be realized within our time. Those are the things we are fighting for. We want to have an area where we can trade together that if you want to buy my coffee or anything, you do not have to pay in dollars. We do not want to be using European or international currencies. By doing this, we are not able to trade comfortably because we have to pay commissions on top of commissions.

Mr. Temporary Speaker, Sir, we are also fighting for peace. One of our members is in the Committee on Integration and Peace. We are doing what we can as a PAP to start bringing that sense of togetherness so that you do not segregate against people from Morocco, Somalia, Tanzania, South Africa and Zimbabwe when they are here, they are our brothers and sisters. The more we talk about these things, the more we should accept these people. Burundians and people from West Africa are our friends. Let us not segregate because Africa must rise again.

In order to be together, we have to start with the infrastructure. First, as I have said before, the heads of state had that vision. Then they saw the heads of state meeting

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alone is not enough. They decided to create a parliament of Africa and this is when the Pan-African parliament was created. We keep pushing for increased inter-Africa trade movement within Africa and creating a passport for Africa, so that you can move through any country.

It should not be as it is now that when you have a passport from the United States of America (USA), you are able to move in many countries in Africa without being questioned, and yet when I have a Kenyan passport, I do not move as freely as it should be. The East African countries have already created the African passport. Some of us who are in the African Parliament have the Africa passport. However, it should not be just us who are in that place. We need to see that the entire population of Africa, the 1.4 billion of us, have passports and identity that can make you feel at home whether you are in Djibouti, Mali, Kenya, Somalia or all these other places.

Mr. Temporary Speaker, Sir, I thank those who supported this Motion. I beg to reply. Pursuant to Standing Order No.66 (3), I request that you defer the putting of the question on the Motion to a later date.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mungatana. Pursuant to provisions of Standing Order No.66, the putting of the question is hereby deferred to the next sitting of the House.

(Putting of question on the Motion deferred)

Clerk, you may now call the next Order.

MOTION

ADOPTION OF REPORT ON DISCRIMINATION IN PAYMENT OF HARDSHIP AND ENHANCED HOUSE ALLOWANCE TO TEACHERS IN KILIFI AND TAITA TAVETA COUNTIES

THAT, the Senate adopts the Report of the Standing Committee on Education on a Petition to the Senate regarding the discrimination by Teachers Service Commission (TSC) on payment of hardship and enhanced house allowances to some teachers in Kilifi and Taita Taveta counties, laid on the Table of the Senate on Tuesday, 8th October, 2024.

The Temporary Speaker (Sen. Wakili Sigei): Chairperson, Standing Committee on Education, Sen. Joe Nyutu or any Member of that Committee, proceed to move the Motion.

In the absence of the Chairperson and any Member, that Motion is deferred.

(Motion deferred)

Next Order.

MOTION**ADOPTION OF REPORT ON CONSIDERATION OF AUDIT
REPORTS OF VARIOUS WATER SERVICE PROVIDERS**

The Temporary Speaker (Sen. Wakili Sigei): Chairperson, Select Committee on County Public Investments and Special Funds, Sen. Osotsi.

Yes, Sen. Sifuna, proceed.

Sen. Sifuna: Hon. Temporary Speaker, I heard you ask if there is any Member of the Education Committee on the Order that you called out last. I was reading the report and I can see the Senator for Lamu County is a Member of the Committee and is in the House.

The Temporary Speaker (Sen. Wakili Sigei): He could be in the House, but has no instructions from the Chairperson to move the Motion. This was a Committee report.

Sen. Sifuna: Very well. Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator. Sen. Osotsi, proceed.

Sen. Osotsi: Mr. Temporary Speaker, Sir, I have not yet received the notes from the Clerk. She is on the way coming. Nevertheless, I understand this Motion very well so I will proceed. I beg to move-

THAT, the Senate adopts the Reports of the Select Committee on County Public Investments and Special Funds on its consideration of the Audit Reports for the year ended 30th June, 2019, 30th June, 2020 and 30th June, 2021 of the following water and sewerage service providers-

- (1) Amatsi Water Services Company Limited - Vihiga County;
- (2) Bomet Water Company Limited - Bomet County;
- (3) Gusii Water and Sanitation Company Limited - Kisii/Nyamira Counties;
- (4) Kisumu Water and Sanitation Company Limited - Kisumu County;
- (5) Kwale Water and Sewerage Company Limited - Kwale County;
- (6) Nyeri Water and Sanitation Company Limited - Nyeri County, and the Audit Report of the Wajir Water and Sewerage Company Limited for the year ended 30th June, 2021, laid on the Table of the Senate on Thursday, 23rd November, 2023.

Mr. Temporary Speaker, Sir, as you are well aware, the Select Committee on County Public Investments and Special Funds has been processing the audit reports for water and sewerage companies in our counties for the years 2019, 2020, and 2021. I report that this is the first time that Senate has considered the audit reports of water companies in our counties. As a result of that consideration, we found out a number of challenges and governance issues, which we have been able to resolve.

As I stand here, I proudly say that the Committee has been able to resolve a significant number of governance issues in these water companies. We are talking of

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about 80 water companies in 47 counties. It is 80 because some counties have more than one water company depending on the vastness of that county. We have managed to process 80 water companies. This is just one of the Motions that we are going to do. We have about five Motions for different water companies. This is the first one that we are engaging. We have others that we will look at, but the story is the same. The key challenges is the ownership of these water companies.

Nearly all these water companies were not directly owned by the county government. The Water Act specifically provides that the county government will have a 100 per cent shareholding in these companies. When we moved into these companies, we realised that there were a number of gaps that needed to be addressed regarding ownership.

Through our innovative approach to the matter, we issued interim recommendations to various counties. One key recommendation was that counties speed up and own these water companies. I am happy to report that nearly all 47 counties now fully own their water companies.

The other issue was the mismanagement of these water companies. Most of these water companies are mismanaged. In fact, quite a number are insolvent. They cannot even pay salaries or pay for electricity. In fact, in most of the counties, county governments are the ones paying for electricity bills for these water companies.

So, basically, they are companies on deathbeds being financed to do critical operations like paying salaries and water bills by the county government. This has to change because these water companies were designed to be investment units for the county government in terms of water management. Therefore, they need to be self-sustaining and self-financing.

The other important challenge we found is that there are a significant number of audit queries regarding these water companies. Most of these audit queries have not been resolved for all these years. One reason is that the Senate has not been looking at the audit report, and therefore, there are outstanding issues that have not been resolved to date. So, all these audit queries, which are specified in the respective reports, have also been addressed by the Committee.

For the queries with high fiduciary risk, we have had to forward them to various institutions, including the Ethics and Anti-Corruption Commission (EACC) and other investigative arms of the Government.

In our meetings, we received a number of written and oral evidence from the governors in response to the various audit queries raised by the Auditor-General and the reports that were under consideration for the dates I specified. The Committee has adopted these reports for the financial years 2018/2019, 2019/2020, and 2020/2021.

In all these three financial years, the Auditor-General reported that the majority of the county water companies had high non-revenue water, which was above the sector benchmark of 25 per cent. Non-revenue water is basically water that is not accounted for; water that is either stolen or water that the water company cannot put a claim to. In most of these water companies, the non-revenue water is very high, above 30 per cent, which basically signifies that we will have a challenge in the future in managing the non-revenue water.

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There are various reasons why we would have non-revenue water. One is the dilapidated infrastructure. Most of the water companies in the counties are relying on the old infrastructure. For example, in Nairobi City County, the water infrastructure that we have was set up by the colonial government many years back in 1905 and 1910. Surprisingly, successful governments have not taken the initiative to try and revamp this water infrastructure. This is why we have high non-revenue water in our counties.

The other reasons are inaccurate metre reading and billing, illegal connections, and corruption. Though we are not discussing Nairobi City County, I will give an example of Nairobi water. The high non-revenue water is largely due to corruption. We have people who have been licensed to do that business, and they end up selling the same water that the residents are supposed to get.

These have resulted in many water companies recording non-negative working capital. If you cannot account for a large percentage of your water, your balance sheet will be affected. This is why we have high negative working capital in this water company. Therefore, it raises concerns about the sustainability of these companies. In fact, most of these companies have a query about growing concern, meaning that the companies are basically insolvent, and there is no guarantee that they will exist going forward.

Additionally, many of the water companies fail to fully transfer all their assets and liabilities from defunct county councils or local authorities, as well as regional water development agencies. You will find that the assets that these water companies are relying on are owned by defunct municipalities or local authorities. Others are actually in the hands of the regional Waterworks Development Agency.

The Intergovernmental Relations Technical Committee (IGRTC) has been trying to make this arrangement, but it is taking too long. We have a number of properties, vehicles, land, and buildings, that are still in the hands of regional water works and the defunct local authorities. This is one area that we want to ask the Committee on Devolution and Intergovernmental Relations to move into and speed up the transfer of these assets to the water companies.

The Committee further noted that the majority of the water companies had a challenge in the provision of documents to the Office of the Auditor General during the audit period.

Mr. Temporary Speaker, Sir, this does not just affect water companies; it also affects other entities, including the executive arm of the county government. Where an audit process is concluded, an exit report is provided, the audit report is published, a certificate is issued, and then documents are generated just before they appear in the Senate.

Moving forward, the County Public Investments and Special Funds Committee and County Public Accounts Committee will not allow documents that have not been examined by the Auditor General to be presented before us. We are not auditors.

We cannot reopen audit at the point where we have invited the governors to appear before us and then they bring evidence after the conclusion of the audit process. We will be giving direction on this matter as a committee. This indicates a challenge.

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Apart from poor record management, this is corruption because the authenticity of this document cannot be verified.

Some of these documents are generated and cannot be relied on. That is a challenge that we had in this process. Further, various water service providers did not apply proper accounting practices and their financial reports contained numerous inaccuracies and errors and this resulted in inadequate reporting and non-presentation of the actual accurate position of their financial operation.

Mr. Temporary Speaker, Sir, for example, to date, we have not concluded on Wajir County because the reports have high inaccuracies or errors and they cannot be relied on to give a proper report. That also applies to counties like Tana River, Garissa, Taita Taveta and others. This is another challenge. However, the idea of this County Public Investment and Special Funds Committee (CPIC) engaging counties on this report was very timely and worthy. We understand that the Senate has not been looking at this, but it gave us an opportunity to now establish a proper framework for governance of these water companies.

Mr. Temporary Speaker, Sir, I am sure that, moving forward we will begin to see some significant changes in the way these water service providers are managed. The Committee further noted that during that period under review, most of the water companies had weaknesses in executing their budgets. Budget control and performance was a key query in all these water companies. The county assemblies did not approve most of these budgets. They were not balancing nor were they made after a very elaborate planning process.

They were just done because it is a requirement. We have a serious problem with budget control and performance in these companies. They either over-utilized or underutilized appropriated funds and in some cases, funds were not reallocated to items that were not budgeted for and without proper approval by their boards or county assembly.

In addition, various water companies failed to comply with the provision of Public Finance Management (PFM) Act 2012, Public Audit Act 2015, Public Finance Management (PFM), County Government Regulations 2015, the Water Act 2016, the Company Act 2015, the Income Tax Act Cap.470 of 1974, the Retirement Benefit Act 1997, the Pension Act 1942, the County Government Act 2012, the Accountants Act 2008 and the Water Service Regulatory Board (WASREB) Regulations.

Basically, it means most of these water companies were not complying with the established law. As a result of the highlighted issues, the Auditor General rendered different opinions ranging from a disclaimer opinion, adverse opinion and qualified opinion. Majority of these water companies were either under disclaimer opinion or adverse opinion because of the challenges I have put forth.

Mr. Temporary Speaker, Sir, looking at every volume, as I have said, we have processed a number of counties here - actually all the Advanced Technologies (ATEC) companies; the reports have a section indicated as General Observation and Recommendations, which gives a summary of the recurring audit issues across the county water service providers contained in these reports. Members, if you have an opportunity,

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we have given a lengthy chapter on the observations for each water company and the recommendations that we have made for each company.

The General Observation and Recommendations contained in this report are as follows -

We have made recommendations and observations on the issue of high non-revenue water, poor bookkeeping preparation and accuracy of financial statement, non-compliance to reporting standards and accuracy of the financial statement, non-compliance to the law on ethnic inclusivity, material uncertainty to going concern - this was a common query - non-remittance of statutory deductions where these companies deduct money from staff and they do not remit; this is a common problem; non-transfer of assets and liability, breach of various provisions of the law, budget control and performance, unclear ownership of assets and lack of an updated fixed asset register; quite a number of these companies do not have a fixed asset register and that is a very serious governance issue; and cross county water companies, for example, Nyamira and Kisii Counties share one water company and there are a lot of disputes around it, which this Committee directed them to consider de-clustering so that we have a water company for Nyamira and another water company for Kisii. That process is ongoing and I can report that we are making progress.

The same also applies to Bungoma and Trans Nzoia counties, which share one water company. There are huge management challenges resulting from that arrangement. Again, through the committee we have recommended that we have a de-clustering of the company, so that we have a separate water company for Trans Nzoia and Bungoma. The two county governments are making progress on that process and very soon, we will have that de-clustering happening.

Mr. Temporary Speaker, Sir, the report also contains specific recommendations for respective audit queries for each county water service provider. That detail is contained in the report. It is also important to note that the recommendations contained in this report were arrived at by consensus by members of the Committee. Before, I conclude, it is important that the Committee appreciate the determination made by governors so far and various water service providers to appear physically before the Committee to present their responses and submissions.

These appearances, allowed the Committee to execute its oversight role over those county entities and help the management of water companies to understand what is expected of them in executing their mandates and especially on accountability. These efforts have seen a good number of the audit queries having been resolved, as you can see in the specific queries as contained in the reports that we have tabled here.

Mr. Temporary Speaker, Sir, we should have another opportunity to debate other water companies, because as I said earlier, we have five volumes of reports, which were tabled before this House, containing observations, recommendations, audit queries and their positions for 80 water companies for three financial years. Even before we get there, I encourage Members of this House to take keen interest in the management of water service providers in their respective counties. They say water is life and the management and provision of water is a key component in our oversight role.

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We also had an opportunity to visit the Mombasa Water and Sewerage Company and we will be reporting on this; where raw sewage is drained into the sea. That has been happening for 10 years. All the sewage in Mombasa is drained into the sea. Mr. Temporary Speaker, Sir, I know I can get more information from Sen. Faki after I have moved.

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Faki, kindly allow the hon. Senator to conclude.

Sen. Osotsi, proceed.

Sen. Osotsi: We visited Mombasa and saw it for ourselves. It was a sad moment to see all the raw sewage being drained into the sea for 10 years and nothing has been done about it. We will also be bringing a report on that. This is a serious issue, it can even affect our global positioning as a country. How can we allow this to happen under our watch?

There are issues about management of water in our key county cities. We have a serious problem, with the Nairobi Water and Sewerage Company. We have another serious problem in Mombasa and Nakuru. However, I would like to report that there are two towns that have done well; Nyeri, where Sen. Wamatinga comes from, and Kisumu.

The other county cities should go and learn something there. However, water service providers in most counties are on their deathbeds. I am happy to report that some governors did not even know that water companies belong to county governments. It is this Committee that awakened them and told them that the Water Act provides that a county government has to own a hundred percent of shareholding in water companies and now, they have become interested.

(Sen. Cherarkey spoke off record)

Company shares; not Gachagua shares.

(Laughter)

You know, Sen. Cherarkey is a proponent of the impeached Deputy President. So, he wants to talk about shares all the time. It is company shareholding.

We have made our contribution to get these water companies to work, and to work for the people of Kenya. I hope in our next review, where we will be looking at audit reports for the year ended June, 2022/2023 and June, 2023/2024, we will begin to see a lot of changes in the way the water companies are managed in this country.

Mr. Temporary Speaker, Sir, in concluding, I wish to register my appreciation to the Office of the Speaker, the Office of the Clerk of the Senate, and the Office of the Auditor-General for facilitating the work of the Committee and making the production of these reports possible. I also want to appreciate the secretariat of the Committee, and most importantly, Members of this Committee for working so hard to process 80 reports for the water companies.

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It was not an easy thing. We spend hours interrogating governors and we also spend hours doing reports. I can also see two Members of my Committee are here, Sen. Miraj Abdullahi and Sen. Ledama Olekina. They put in effort to make sure that we process this report for the first time so as to table it here in the Senate. We will also be doing the same for the remaining financial years, and hopefully, through that interrogation and intense oversight into this report, we will begin to see better management of water resources in our counties.

Mr. Temporary Speaker, Sir, with those few remarks, I move and I request Sen. Olekina Ledama to second.

The Temporary Speaker (Sen. Wakili Sigei): Senator Ledama.

Sen. Olekina: Mr. Speaker, Sir, I rise to second the report on the Select Committee on County, Publics and Investment Committee (CPIC) of the Auditor-General for the financial statement for the listed counties, water service providers for the financial years 2018/2019, and 2020/2021. Those counties have already been listed by the Mover of this Motion.

I will restrict myself to the observations that we made during the enquiry on the way these counties managed their water resources. One of the biggest problems is that many the water companies were being run by a board without the input of the county governors.

In most cases, county governors appeared before our committee and raised concerns as to why they were taking oath and responding to issues which they did not understand. These water companies were being run autonomously by their boards and it brought in a lot of conflict on how they can manage the resources.

The County Executive Committee Members (CECM) in charge of water and sanitation for each of the counties were represented in those boards. They worked tirelessly to set up budgets that could allow them run these water companies. However, the problem already explained by my colleague had to do with an issue where you find in Bungoma and Trans Nzoia counties have one water company. You go to Kisii and Nyamira, there is only one water company. So, it brings in the issue of autonomy and which county can be able to generate more resources.

Mr. Temporary Speaker. Sir, when we looked at that, our committee highly recommended that each of the 47 county governments have their own water companies. We also looked at the issue of regional water bodies. The Constitution is clear in terms of water and sanitation. Water and sanitation are devolved to the county governments. However, if you look at the Third Schedule of the Constitution, the national Government also has a role to play when it comes to the issue of protecting water sources, securing sufficient residual water, hydraulic engineering and safety of dams. When we sit in this House, we also confuse the whole process. I remember during the time when we were interrogating these counties on how they are managing their water resources, the Water Act, which was being amended---

Mr. Temporary Speaker, Sir, you will notice that the proponents of that Water Act were moving away all the functions of managing even the local companies to the national Government. That brought in a huge conflict. It is about time that all of us look at how we really fight for devolution.

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One of the key recommendations of our committee was that each of the 47 counties have got to look at their resources, so that we can avoid non-revenue water. They should look at what they need from these regional bodies, but ultimately, work towards managing their own resources. My colleague has already elaborated clearly on the losses that each of these companies were getting.

There was a lot of unaccounted for water, which came in as a result of dilapidated infrastructure because there are many leakages. So, when you come to a situation where two counties share one company and then water is bought from another company or from another county, by the time the water gets there, if you calculate how much was sold to those companies versus how much they generate after they sell the water, you will realize that there are many losses, which also led to a lot of financial mismanagement.

Mr. Temporary Speaker, Sir, when we are looking at the case of Nairobi City County, it was very difficult to tell how much that company was earning. In fact, some of these companies ended up being corruption dens, where people who work in these companies end up setting their side water companies and buying water bowsers, so that they can sell because mismanagement in the companies that were running water services was so high such that it was impossible to ensure sufficient water supply. This is a function of the national Government.

The National Government has to ensure that there is a sufficient sustainability of water supply to all the counties. This was the first time that this Senate was looking at these water bodies. There is still a lot of work that ought to be done. Quite a lot of work.

One of our recommendations was, and I do not know whether that recommendation found itself in the report, that each of the 47 county Senators must interact on a close watch with the water companies to ensure that these water companies, first of all, understand their budgets. Secondly, that the county governments allocate budgets to them. These water companies must also be run to produce enough water, which is sustainable to provide for all the citizens of these sub-counties.

In addition, we also have to deal with the issue of sanitation. You will find that some companies only deal with the supply of water. However, when it comes to the issue of sewage and sanitation, it is left for programmes to be funded by the World Bank. We have to be clear that these are our responsibilities.

Mr. Temporary Speaker, Sir, today, you will understand that there is a shift on the role that the World Bank and the International Monetary Fund (IMF) plays in countries. The ruler of Burkina Faso has said no to the support of IMF. The IMF continues to rate our countries. In fact, today, a friend of mine sent me a small note and said, “this is what is important to us” because the IMF has already downgraded Kenya and portrayed a very dark future for Kenya, just because we want to control ourselves. So, this trickles down.

Our water companies must be the responsibilities of the county governors, because the county governor is the Chief Executive Officer (CEO) of that county. If the CEO does not know how the water companies are being run in those counties, it becomes problematic. We now have a Ministry for the blue economy. It is important that those water companies and that Ministry work together to set up huge dams and ensure that we have reservoirs.

We have a big problem in Nairobi City County, for example. The water from Nairobi City County comes from Murang'a County, or maybe the next county, yet there are counties that do not have water. So, the water comes here. We need to start asking ourselves, how do we ensure that there is sufficient water that can sustain the residents of Nairobi City County? It is by investing in big water reservoirs. This is the responsibility of the national government. If the national Government can just take the third or fourth schedule, and look at what their role is, and they put resources there, we can make a lot of difference.

Mr. Speaker Temporary Speaker, Sir, let me reiterate on the importance of each of the 47 counties - establishing their own water companies, and they run them as a resource. They realign their own existing resources. A lot of water is washed away. Some of us who are farmers tap this water. If you go along most of the riverbanks, you will see people using the water, which eventually will drain into the lake, and using it for irrigation. We can as well encourage county governments to establish water reservoirs, where they can tap into this water. Once we realign our small existing resources, we can ensure that it supports our population.

Mr. Temporary Speaker, Sir, let me reiterate on the importance of legislation. When we draft legislations, or legislations are proposed in this House, we have to be cognizant of the fact that our Constitution has devolved certain functions. Water and sanitation are fully devolved. These original water bodies should be working with the national government to develop policies, but not to start running the distribution of water in the county governments. During the time when we were interrogating these water companies, we spent a lot of our time talking to the regional bodies. There was a huge conflict between Kajiado and Makueni Counties, coming all the way to Athi River, when it comes to the issue of Nolturesh, which is the water source.

That water, historically, was piped from Nolturesh, which is down Kajiado South, to water flower farms in Kitengala. So, the residents of that area, Makueni County, were not getting any water. The residents of Kajiado were not getting any water. Therefore, it is important that we look at our own resources, so that before we send out water to serve other people, we make sure that we serve ourselves first.

Mr. Temporary Speaker, Sir, if you and I travel, the first thing we will be told on an airplane is that you need to buckle up first. Even if you have a child, protect yourself first before you protect that child. So, we need to take this logic when it comes to the issue of running our own resources. There is no reason as to why residents of Kajiado County should stay without water, because that water is going into support people Athi River. There is absolutely no reason why the people of Makueni should not benefit from the Mzima Springs, because all that water is going downstream to support Mombasa County. We can share these resources. We should not give out all the resources. The Bible says that the poor man is the one who gives out all his wealth and is left begging. I am not a preacher, but I remember that. This applies clearly on how we run our resources.

Mr. Temporary Speaker, Sir, I would like to conclude by stating the following-

One, each one of us here must now start taking our job seriously when it comes to managing our resources. If you take some time and read the Auditor-General's Report,

you will be shocked. There is a lot of mismanagement of the little resources that we have in the country.

Whatever happens at the county headquarters also happens in those small companies that are open to run our resources. We must bite the bullet. Each of our 47 county delegations here must engage county governors to re-examine and carry out an audit of our water infrastructure.

There is no point of us buying a lot of water from nearby counties, and then all that water is lost because of leakages and dilapidated infrastructure, with some of them being carcinogenic. So, even if we were to get any grants from the national government, they should be utilized properly. There is so much that people can eat, but if you want to jeopardize even the supply of your water because you want to get a tender and line your own pocket... We need to rethink how we want to live our life.

Mr. Temporary Speaker, Sir, we must change the law to ensure that the people who serve in these Boards have experience on managing water companies. There is no point of rewarding our friends. We need to start introducing the concept of meritocracy. We should have people who understand the importance of this resource. If taken care of, how well will it support this current generation and future generations.

We must make sure we use a competitive process for the boards and appoint people who have got a background in water and sanitation, so that they can make infrastructure that will outlive them.

On financial management, it is imperative that the role of the County Executive Committee Member (CECM) in charge of finance of each of the 47 counties, CECM in charge of water and the CEOs in charge of water, the accounting officer must be very clear when it comes to managing these semi-autonomous companies.

It is not the board to have all the responsibilities. The CEO of finance should be tasked with the responsibility of ensuring that they go through the accounts of each of these counties' water bodies. This is so that when those counties appear before an oversight body, even the governors will be in the know. Most governors have got no clue on what is happening.

In conclusion, I hope that when it comes to passing this legislation, we can all be very selfish and protect devolution. Let the national Government handle the policy work, but implementation of the legislation should be the role of county government.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, this Motion is open for debate. I will call upon Members who have requested starting with Sen. Danson Buya Mugatana.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, thank you very much for giving me this opportunity to make my contribution on the audit reports of the various counties that have been mentioned there, including Amatsi Water Services Company Limited, Bomet Water Company Limited, Gusii Water and Sanitation Company Limited,

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Kisumu Water and Sanitation Company Limited, Kwale Water and Sewerage Company Limited and Nyeri Water and Sanitation Company.

Mr. Temporary Speaker, Sir, before I make my contribution, I wish to join other leaders in extending my best wishes to the students of Tana River County and the rest of Kenya who are sitting their exams. I wish them well and the very best. We all passed through there. Take heart and do the best you can. God will be with you.

Secondly, I acknowledge the industry and hard work that has been put by the Chair of this Committee. They have done a tremendous job as a team. I appeared before them when Tana River County was appearing. I know that we have a very capable Chairman Osoi, Vice-Chairman Prof. Ojienda and the rest of the team. We thank you because you have made this Senate proud.

Mr. Temporary Speaker, Sir, many issues have been raised about the companies that have been mentioned and whose report is before this Senate for consideration. I want to pick two issues to focus my attention on. There is a big complaint amongst Kenyan people that there is no water in their taps.

I remember many years ago when water reforms were underway. At that time, the Minister for Water was the very Hon. Martha Karua. She brought this idea to Parliament at that time that we needed to segregate these companies. We needed to create water bodies that would manage water in various levels. Some of them were regional and others national.

Obviously, from those days to date, a lot of changes have taken place. However, the principle remains the same, that if this water is managed at a lower level, in this case, at the county level, then we should have people who have a feeling for the people. People who are directly connected, who will not steal money and mismanage resources meant for water, so that the county can have water flowing in the taps.

Mr. Temporary Speaker, Sir, this has been a challenge everywhere. When we speak to the management, like the one in Tana River, they will tell us that they still depend on the old infrastructure that was built by the defunct county councils. County councils have been gone for more than 10 years but still, these water companies depend on that infrastructure. Therefore, we have this challenge of non-revenue water.

We have been told by our able Chairman while moving that non-revenue is that water which nobody can account for. It is there, it has been utilized but nobody can account for it. We have also been told that these companies are 100 per cent owned by the county governments. This effectively means that for the infrastructure to be upgraded and be where we want it to be, the new investment must be put into the infrastructure of water.

It is not enough for us to just blame the management of these water companies. We must start thinking of solutions. For new money to be put in these water bodies, it means that we must start thinking of a way to ring-fencing some money, which comes from the Senate to go down to the governors. They should be told that the money is for water and they cannot touch it.

Mr. Temporary Speaker, Sir, developing that kind of legislation is one way forward and we must start thinking around that issue. It appears that if that is not done, it will be like what one of our Senators here has said. That the money goes to the County

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Revenue Fund and the same fund is used to pay for trips by governors, officials of the counties, and so on. The money does not go to development of water, even where they have collected something.

Mr. Temporary Speaker, Sir, we had the same problems with dispensaries and health centres. When we were passing the laws that involved the Universal Health Care (UHC) laws, we said that some money needs to be left at the dispensary and the health centre level, so that if a fence has broken down or a car has a puncture, the local committee there can deal with that matter by withdrawing money from the revenues they are collecting there. What is so difficult about us creating some serious thinking, following that model, around ring-fencing money for water? This is so that, the money which we vote here can go down there to the governors who are the people mandated by law to organise budgets.

Nonetheless, in between, some money needs to be ring-fenced for water, so that the infrastructure of water can grow. Since, no matter what we say or do, if the infrastructure of water that we want to use in 2024 in Tana River for example is the same that was set up in the 1960s by the Tana River County Council, it will never work. We must start thinking as a Senate of a way of pushing money so that the infrastructure can be upgraded.

There is another thought also that we need to think because this is a House of ideas. We have been told 100 per cent of shares are owned by the county governments. In Tana River County, the Tana River Water and Sewerage Company (TAWASCO) is owned 100 per cent by the county government of Tana River.

The county government of Tana River will tell you “We do not have money to invest in infrastructure”. Money delays to come from the national Government. Our equitable share is little. We do not have sufficient funds to do fresh investments.” Therefore, why can we not start focusing on finding a way within the law to unlock that 100 per cent shareholding? Why can we not think of privatizing part of those shares, so that those who are interested in investing in water can come in and take over management? They can buy 30 or 40 per cent shares within the companies. They will be present in the management of our county water boards. This is to enable a person who may be benevolent or for instance has made his money abroad, in legal practise or investment elsewhere from whatever they do and wish to purchase shares within the water companies of their county, they can become shareholders because they want to do something for their county.

Mr. Speaker, Sir, if you have reached that level where Kshs100 or Kshs500 million is not an issue to you, you want to retire and feel like you want to do something special, it is possible. We must find a way in which we can create a law that allows even benevolent investors to put in money within our water companies.

I pity some of our managers in these water companies. They will come before Chairman Osotsi and tell them we are angling for World Bank or other grants to give us this money to meet these requirements. When you look at it, the money they are angling for is Kshs50 or Kshs100 million. They come to Nairobi and they tell you to help them achieve this or the other yet it is money that many Kenyans here can raise if the law allows them.

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Besides, we have this attitude that it is only *Mzungu* money that will be able to save us. Therefore, people keep on talking about money from outside the country. In the meantime, there is a lot of money in Uganda, Tanzania and Somalia, which if properly structured, can be put into these water companies. Thus, we will be able to improve the infrastructure and our people will be happy to pay those reasonable bills if they are having the service. This is the problem.

Nobody wants to pay water bills. Why? This is because no water flows through our taps, and the next time the water flows through our taps, they bring you a bill for all the months that the water never flowed through your tap. We had that experience in Tana River County. When the Head of State was visiting, suddenly water started flowing in the taps. It should not be that way. If the problem is investment, then we should create opportunities for people to invest in infrastructure, so that these monies can be used by management to create opportunities for our water bodies to function.

Having said that, I would like to also say that the water bodies, even with the difficulties that they are experiencing, audit is showing us in this Senate that there are some water companies that are just doing the wrong things. Some of these laws are not difficult to comply with. The National Cohesion and Integration Act states that if within that county there are some majority tribes, you make sure that 30 per cent should not be occupied by one tribe alone, so that the other people can have opportunities to be employed.

We have many water companies that have ignored these rules. In this report, Gusii Water and Sanitation Company (GWASCO) has been mentioned. However, the GWASCO is not alone, when they are told that 80 per cent of your employees are in contradiction of the National Cohesion and Integration Act.

There are many companies, including my own county's company the TAWASCO, where they have totally ignored the provisions of the National Cohesion and Integration Act. You will find the people who are employed are from one side. You do not find a proper mix. Small tribes that exist within the county of Tana River are not given opportunities.

What are the consequences of flagrant disobedience of the law? We make recommendations in this Senate, but there are no consequences. People come and tell us they will improve and next year they come, they are the same and there are no consequences. I am asking that it is time we started thinking about tightening the laws on people who are flagrantly disobeying the law.

Here, we have been told that in terms of the financial management of these companies, we have many of them that are getting unqualified opinions from the Auditor-General. Now, if the Auditor-General says that the opinion they are giving in terms of financial management of the funds that have been remitted to you is unqualified and then no consequences are visited upon them, instead, in the next meeting, they bring some documents. As the Chairman said, they generate documents and tell you we were only told our opinion was bad because we did not have this and this other document. Now we have them. The stance that the Chairperson has taken is that the documentation that has not been assessed by the Auditor-General should not be accepted by the Senate Committee.

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Mr. Temporary Speaker, Sir, people should go through the processes. After we make recommendations, there should be consequences. I always feel very let down by some of these people. The Ethics and Anti-Corruption Commission (EACC) sits in the County Public Accounts Committee (CPAC). They have a permanent representative there. When they are told that there is a problem or query, they sit there, collect allowances and do nothing.

There are also other bodies who come to listen. The reason they are put in that Committee is so that when recommendations are made, they can take action in real-time but nothing happens.

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

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

Mr. Temporary Speaker, Sir, we want to see action on these audit reports. Consequences must visit those who are flagrantly breaching the National Cohesion and Integration Act.

Water companies that are not following the law should feel the pressure of the Senate. A few people must be arrested for breaching the Public Finance Management Act. If this happens, then we shall have some discipline.

Aside from the investment, we need enforcement of the law, so that we can bring some form of discipline and direction from the Senate on these water companies.

We have been told water is life. An appeal has been made here that as Senators, we must take interest in the management of water companies in the places where we come from. I accept that that is a good appeal.

We also need enforcement from the national Committee. If somebody is not doing his work, surely let a few people take personal responsibility. If this starts happening, we shall create proper management of our water companies and our people shall receive and be billed for water that they have been using.

Why can we not create water tokens so that just like electricity, I buy my token? After I have used Kshs1,000 or Kshs500, I replace it instead of waiting until the end of the month, *halafu ninaletewa bill ya hewa*. The time has come to use technology to make sure our water companies are also functional. So, we should not only invest in the infrastructure but also technology, so that people can pay for services that have been rendered.

We are doing better in electricity, but we can also do good in the water sector. This means we must start focusing there as a Senate---

The Temporary Speaker (Sen. Abdul Haji): Sen. Sifuna, you may proceed.

Sen. Sifuna: Thank you, Mr. Temporary Speaker, Sir. Allow me to begin by commending the County Public Investments and Special Funds (CPIC) Committee, which is ably chaired by the Senator for Vihiga County, Sen. Osotsi.

I have had occasion to be present in some of its meetings, especially when the management of the Nairobi Water and Sewerage Company (NWSC) was appearing before this committee. I can assure you that I saw the sort of commitment by Members of

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the Committee and especially the Chairperson to make sure that we right the wrongs in many of these water companies.

As you can see from the report, the Chairperson and the Committee have demonstrated in-depth knowledge and understanding of the issues that are facing these water companies. They are making recommendations that will, help in trying to resolve some of the issues that have bedevilled these particular water companies.

I am also very proud that this Committee has done almost 80 reports of those water company reports so far. We are at 100 per cent in terms of addressing the question of ownership, which was not the situation that was obtaining prior to Sen. Osotsi being the Chairperson of this committee.

Therefore, I take this opportunity to thank the Chairperson, the Senator for Vihiga County, who is also my Deputy Party Leader. These are some of the things that Kenyans have come to expect from the very high-quality leadership of the ODM. We are setting the pace for other Committees.

Allow me to address two things that have been raised by the Committee. You have heard the Chairperson make various references to the situation with water in Nairobi County.

The first one is the question of non-revenue water. From the discussions before that Committee, the NWSC, is one of those companies with the highest non-revenue water and various reasons have been cited.

In very simple terms, non-revenue water is revenue that somehow leaves the company, but is not billed and the county or company does not receive money for that water. One of the issues that have been cited is dilapidated infrastructure.

The truth of the matter is, that here in Nairobi, the water and sewerage infrastructure that we are operating on has been stretched beyond its capacity. As the Chair said, we are still relying on the original water and sanitation infrastructure when the city was built by the *Mzungu*.

One of the things that I have never understood is if you look at our laws, there is a law that is called the Urban Areas and Cities Act. This law, under Sections Five and Six, provides for a framework of cooperation between the national Government and the county government and especially the city-county of Nairobi, recognizing the unique position of Nairobi City County amongst the 47 counties.

This uniqueness arises from many things, including the fact that Nairobi City County is the capital of the Republic. It hosts the diplomatic headquarters of many countries. It also is a seat of Government. Many national Government institutions are situated here in Nairobi. Under that Act, the expectation was that in the realization of the uniqueness of Nairobi, the national Government would support the development of critical infrastructure like the water and sanitation infrastructure, but this has never happened.

If you speak to the management of the water company and the County Government of Nairobi City in general, the amount of capital outlay that is required to bring the sanitation and water infrastructure up to speed is something that would require over five years allocation under the equitable revenue share for us to do that infrastructure.

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As we speak, the existing sewage network, for instance, covers only 30 per cent of the total square area of Nairobi City County. As you know, the past few years have seen a lot of rapid development in terms of housing. Very many new buildings are coming up, going up to 25 floors, and hosting thousands of tenants. However, it has not been accompanied by the commensurate infrastructure upgrade that is required. This is why much of our water and sanitation infrastructure is creaking.

So, I continue to call on the national Government to honor its responsibilities under the Urban Areas and Cities Act to support Nairobi's development of certain critical infrastructure, including our water infrastructure, so that we can meet the needs of the people of Nairobi.

Secondly, the Committee has highlighted the spectre of illegal connections and what the chair has called outright corruption. There are stories we hear in this city; very serious allegations are made against the management of the NWSC and the people who work there.

Even though they told us that there is a programme of equitable distribution of water across the city, there are unscrupulous people within the company who are merchants of water. They own water bowsers and are aware of the distribution schedule.

The running joke is that some of them have construction going on and they tell their contractors that *wacha nifunge maji* Nairobi West and then I will come and see you at the hardware. They do this knowing that they are shutting water supply to Nairobi West, then their water bowsers are available for the people of Nairobi West to buy water from.

Mr, Temporary Speaker, Sir, unfortunately for us, we rely on other institutions. We have complained even at the County Public Accounts Committee that unfortunately as a House, our role ends somewhere. Once we bring up these matters before these Committees, we depend on other institutions of Government, including the Ethics and Anti-Corruption Commission (EACC) to follow up and to be able to bring some of these matters before the courts so that we can stop these malpractices.

Mr. Temporary Speaker, Sir, I remember and I do not know if the Chairperson of this Committee can recall, that when the Nairobi Water team was before his Committee, there was a discussion about the discharge point for sewage from these exhausters in Nairobi. The management could not tell on average in a day what the identities of the trucks that have delivered or have discharged that morning are. They could not tell you the number of times a vehicle of specific registration number has appeared.

It becomes very difficult for you to manage revenue if you are operating like that. If we do not focus on illegal connections and corruption within our water companies, we are doing nothing. By the way, I used to think that cartels in the water sector, for instance, are shadowy figures whom you cannot point out. The people doing illegal connections are known within our communities. It is the inefficiency of the water companies that supports the existence of these cartels. The people, especially in the informal settlements, have come to realize that the suppliers who have made illegal connections somehow provide a more reliable service than the water company itself. If these issues are not addressed, then we will not be doing anything.

Lastly, I want to comment on something that the Chairman said, that the recommendations are arrived at by consensus. In replying, I would also want him to advise if this consensus is just amongst the Members of the Committee or, in fact, the management of the water companies themselves share in some of these recommendations. It is important that you get the buy-in of these stakeholders, especially on conflict areas such as the Kisii and Nyamira situation that you have referred to and the Bungoma and Trans Nzoia one. If there is no commitment from those stakeholders to resolve those problems, there is not going to be resolution.

Hon. Temporary Speaker, I thank the Committee. I thank them for the support that they are rendering to all these entities to enable them to improve. At the end of the day, the people of our counties expect reliable water supply. If you look at the statistics, the people who have access to water 24 hours in this city are less than 40 per cent. The rest of us have to play *pata potea* with our water supply. This is a situation that is not acceptable. We have to call out the management of these companies and our counties to ensure that this is done.

Nairobians have waited for so long. There is a project that we were following very closely on the northern collector tunnel that was supposed to add an additional 170,000 cubic metres of water to our daily supply. This would have helped because we are running a deficit of over 200,000 cubic metres of water every day. We need to be updated on the situation with the northern collector tunnel and all the other water projects that the people of Nairobi have been waiting on so that we are able to assuage the situation as well in the other counties.

Mr. Temporary Speaker, Sir, with those many remarks, I thank you. I support the position that has been taken by the Committee.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Sen. Sifuna. I was hoping that when you were talking about the honeysuckers, you would have informed the House that they discharged their sewer in rivers. We have that problem.

Sen. Cherarkey, proceed.

Sen. Cherarkey: Thank you, Mr Temporary Speaker, Sir, for this opportunity to make a few comments on the report of the Select Committee on County Public Investments and Special Funds. In the last session, we had a joint committee. I am happy that during that session, we were not able to look at these issues. I know they are very busy because they have to look back from 2013. We were unable to look at public accounts in the last session. However, I am happy in the wisdom of the Senate, we have seen the need to have a Public Investment and Special Funds Committee.

In the report of the Financial Year 2019/2020, I am happy with the pace at which Select Committee on County Public Investment and Special Funds of this House is doing its work. It is led by the Deputy Party Leader of ODM party, my brother, friend and neighbour, Sen. Osotsi. I am happy for the good job that he is doing. For us who interacted with him in the last session, he was a fiery legislator who almost destroyed one of our principles. However, I am happy that nowadays he is calmer.

Mr. Temporary Speaker, Sir, we are considering audit reports for-

- (1) Amatsi Water Services Company Limited - Vihiga County;
- (2) Bomet Water Company Limited - Bomet County;

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(3) Gusii Water and Sanitation Company Limited in Kisii/Nyamira counties. This is where we have problems even in waterworks development agencies. There are many that are shared. For example, in Nandi, we have Eldoret Water and Sanitation Company that covers both Uasin Gishu County and Nandi County and part of Lesos in Nandi Hill Constituency,

(4) Kisumu Water and Sanitation Company Limited - Kisumu County;

(5) Kwale Water and Sewerage Company Limited - Kwale County; and,

(6) Nyeri Water and Sanitation Company Limited in Nyeri County where Wamunyor Village is.

I want to be very clear on many issues. I agree that most of our water companies are on the red, including Kapsabet Water and Sanitation Company. For example, in Nandi County, we still depend on generators and electricity to pump water into Kapsabet Town and its environs. We had expected that the Government would expedite the construction of a Keben Dam, which was upscaled to Kshs24 billion.

I know there are a number of dams across the country like Thwake Dam, Karimenu Dam, Bosto Dam in Bomet, Itare Dam in Nakuru, Chemasusu Dam was complete and Arror and Kimwarer Dams in Elgeyo Marakwet County. We also have the Two Rivers Dam in Uasin Gishu. We also have Sondu Dam that is supposed to cost Kshs40 billion that is between Kericho, Nandi and Kisumu Counties, among other dams across the country.

It is very important that water is accessible because water is life. If it will reach a point that water is more expensive than soda or any other beverage, as a society we have collapsed. I know that in the northern part of the country we still have challenges of access to water. We remember we were being told that there is an aquifer, especially in Turkana and the northern belt. That we could get up to 70 years access to underground water, especially in regions in your county like Garissa, Wajir, Mandera among other counties in the northern frontier.

Many years ago, there were clamor for changes in reforms of the water sector. As we grapple with the challenges of access to water in eastern and northeastern part of this country, it is very critical to note that we do not have water for domestic use like drinking. We are lucky from where I come from in Nandi that our water is rain-fed. The reason why we do not have so much challenge of access to water for domestic use like drinking and other usage, is because of rain fed kind of access to water.

In fact, the Coast Water Works Development Agency that supplies water to Mombasa, Kwale and Kilifi counties that border the Indian Ocean had a proposal that Mzima Springs is not sufficient; that they needed to do desalination because the ocean water is salty. Those are some of the means to create water in these areas. Can you believe living in Nairobi is like living in some eastern or northeastern of this country?

Water only appears in Nairobi, like medicine. No one is sure. That is why the water bowser business is driving in this city. At the moment there are many water bowzers. When you drive on the Nairobi roads and streets, you will always spot water bowzers. It is a booming business. I do not know if the water supply in this city has collapsed by default or by design. We were told the northern corridor of Murang'a should provide sufficient water to Nairobi City.

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I can tell you that many Kenyans, four million plus, who are residents of Nairobi, are no different from people who live in Wajir or Turkana counties in terms of access to water. You have to buy water, which is expensive in terms of household expenditure.

Many families across the country spend 60 per cent of their income on food, including water. This is a challenge we must grapple with as a country. Our people should be able to access clean and safe water wherever they are, and this is for all the 50 million plus Kenyans.

Therefore, we want to ask counties, because most of these water and sanitization companies are domiciled within counties, I want to confirm that we do not have smart meters. We still have clerical water workers who are meter readers. I am told the first president of this republic was a meter reader in this city. I know Sen. Okiya Omtatah might be aware of this because he is good at litigation.

You can be a meter reader and become a multi-billionaire in this country. People still read water meters physically using motorbikes. We need to introduce smart meters, so that we can protect and ensure accuracy in financial statements. Water sanitation companies should introduce smart meters. Even Kenya Power - although one of the scandals that affected this country was the provision of smart meters by Kenya Power - should introduce smart meters. We need smart readers and smart meters. I was shocked that these meter readers come and read and then go and approximate how much you will pay. If we had a smart reader, it would give us the precision of a military marksman in determining what you should pay in terms of access. It will also assist in the non-revenue water issue. The fact that the water is lost means that revenue is lost. Kenya boasts of being technologically savvy. For example, we need to ensure that we have a Geographical Information System (GIS). When you have GIS, it can tell us where the pipe leakages are. Kenya Pipeline Corporation is using the GIS, such that if you are taking fuel from here to Eldoret, to Kisumu, all the way from Kipevu Terminal in Mombasa, these water sanitization companies should have a GIS to detect water leakages so that you prevent revenue loss because water is spilt or the pipes are broken.

I hope the Committee led by my brother has noted that when these companies have GIS, it will assist in detecting leakage, like in fuel. They can become precise and ensure that they can detect any leakages of water or burst pipes in the system or infrastructure within. I hope other companies, whether on the coast, in Rift Valley, or here in Nairobi, should use GIS.

When counties are upgrading to GIS, we should not be told that it costs Kshs104 billion, the way the ICT infrastructure upgrade was done in the upgrade of the National Health Insurance Fund (NHIF) to the Social Health Authority (SHA).

Mr. Temporary Speaker, Sir, Sen. Oketch Gicheru will tell you that getting an application to upgrade a system does not mean you own it. The way the Government has paid Kshs104 billion for infrastructure in terms of NHIF, then there is a big problem because you will keep improving the software.

I am happy that there is a report I have seen of a mediated version of the Water Act. This should resolve the issue of the Water Trust Fund. You remember the amendment that was brought, what we called the Water Amendment Bill of 2023. The

intention was to reverse, which was contravening the Fourth Schedule of the Constitution, where access to water and water sanitation was left to counties.

You remember there are still animals called waterworks. For example, now we have coastal waterworks. We have Victoria North, where Nandi, Kakamega Vihiga and other counties are falling within. We have Victoria South Waterworks. We have Central Rift Waterworks, Tana Waterworks, and Tana Athi Waterworks, which undermine devolution. They should be completely taken off. For example, in Victoria North Water Works Development Agency, where Nandi is, the headquarters is in Kakamega, but when you go there, you find that they have hired only one tribe. Yet it covers my county, Nandi, Vihiga, Kakamega, and Uasin Gishu, which was removed and is now in Central Rift. We are suffering.

Most of the development in Lake Victoria North, including drilling water in schools, hospitals and other community centres, is only done in Kakamega, Vihiga, and other areas. However, Nandi is left out because of perception. This undermines Article 10 of the principles of good governance and national values. When you look at the projects that come to Nandi County through that waterworks development agency as opposed to other regions, it is unfair. It is high time we disband these agencies and ensure Coastal waterworks, North Rift Waterworks Development Agency, Tana Athi Waterworks Development Agency and any other waterworks in the country are disbanded.

Let the counties and the county governments run those waterworks under the water and sanitation companies. I hope in the next report; the County Public Investments and Special Funds Committee will tell us that we need to bring down all water works because that is where the bastion of corruption is.

Most of the dams that I mentioned, like Thwake, Karmenu, Posta, Itare, Keben, and other dams, including Sondu, Arror and Kimwarer, are run by specific waterworks. These same water walks are becoming bastions of corruption, inefficiency, and ineptitude.

Number three, most of the boards that run these water companies in counties and sanitation companies are becoming a big challenge. For example, even in Kapsabet, where I come from, we do not have a functional sewerage and sanitation line. The one that is there was done by the Mzungu, who is near Kiropket, behind Kapsabet town. Environment Impact Assessment has not been done by the National Environment Management Authority of Kenya (NEMA).

We are trying to do one in Nandi Hills town that has been given to a contractor near Kosoiwa, next to Nandi Hills town. Sewerage and sanitation should be efficient. Can you believe most of the sewerage and sanitation lines were constructed by Mzungu?

Sen. Mungatana said something about the need to be careful as Africans. We believe that Mzungu money will change us, but it will not. If we want to remove the present neocolonialism running this nation, we need to improve that infrastructure. Even as we do affordable housing, we should ensure that we have proper sewerage and sanitation for the affordable housing programme, so that we have a complete circuit; such that when you live in a house, you are sure of access to water, sewerage and sanitation. Most of the sewerage and sanitation areas are next to public places. We must do that.

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I have seen a Nairobi regeneration programme where the Government is trying to hire most of the young people. Number five is the issue of the water service provider in terms of the bulk water programme and purchase agreement; we must agree water should be accessible.

There is a song in reggae that says that society becomes dysfunctional when there is nothing that is of development. They sang a song that said: “When you look outside the window, do you see anything to smile about?”

I think it was the singer Lucky Dube. Unfortunately, he was felled down by an assassin. You remember the song: “No One Can Stop Reggae?” Last time we could not say that because people of Azimio like Sen. Maanzo, were using it.

In 1987, Peter Tosh was felled down by an assassin and Lucky Dube went ahead to sing: “No One Can Stop Reggae.” In fact, last month, we remembered Peter Tosh because he was one of the biggest by-brands of the reggae genre. I know people like Sen. Oketch Gicheru listen to Trio Mios’ songs like Nimekumark and kufinish Kumalo. I am told there is a new one called Iani, and it has new mastingos and tutakufa kifo cha mende.

Mr. Temporary Speaker, Sir, as a country, even as we do regeneration of rivers, it is important we ask that even in provision of bulk water agreement--- I want to see the water mediation report, and thank your office for it. We must agree to stop undermining and reversing issues. Among all of us Senators who are seated here, one of us might want to become the Deputy President. Many people will become governors. My brothers and sisters are Senators. If we do not protect devolution, you will go back to become a governor in Makueni County when my brother has finished 10 years. Do not interfere with him in 2027. When he has finished 10 years, Sen. Maanzo, you do not want to go and run a county government that is a shell.

Sen. Osotsi, I know your governor is going for the last term and you do not see eye to eye, but you do not want to inherit a county government that is dysfunctional.

Mr. Temporary Speaker, Sir, as we talk, the counties are yet to receive their disbursement contravening Article 219 of the Constitution. Even in Garissa County, your Governor is serving the second term, but your ambitions look beyond that level. However, the point I am trying to make is that we should not be part of the people who will legislate themselves out of business.

I remember Hon. Ochillo Ayacko, who was the Senator here before my brother, Sen. Oketch Gicheru. He was the only young man in Nyanza who campaigned with a helicopter, so it looks he is a man of means. We used to tell the people like Hon. Ochillo, the current Governor, that we need to protect devolution, so that when you go back to become the governor, you do not suffer.

Mr. Temporary Speaker, Sir, let us be careful. Even on this water mediation version report; I want to ask colleagues to be very careful. Sen. Osotsi and your Committee, you need to assist us. I have seen Sen. Kisang is also part of the Committee members together with Sen. Oketch Gicheru. Let us ensure counties function into fruition.

In conclusion, on the issue of running of the companies, the Northern Corridor is providing water to Nairobi City County and they need to be compensated. Even Nandi County is providing water to Kakamega County. However, in Tuiyape, and Kapkangani

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there is no water. If you go to Chebara, where my brother Sen. Kisang comes from, water is taken to Eldoret. The people of Chebara are not receiving access to clean and safe water yet they are protecting the source of water that comes to Eldoret.

We are protecting the water that goes to Kakamega County. Murang'a County is also protecting water that comes to Nairobi City County. Even in Garissa town there is no access to clean water yet it is within a kilometer or so to the Tana River, which is just passing outside the city. We must speak as a Senate to ensure that devolution works. Access to water, bursary, adequate medical supply, passable feeder roads, is how devolution will work with this country.

With those very many remarks, I want to submit and support the Motion.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Sen. Faki proceed.

Sen. Faki: Asante Bw. Spika wa Muda kwa kunipa fursa hii ya kuchangia ripoti ya Kamati ya Uwekezaji wa Umma katika uchunguzi wao wa mashirika ya maji katika kaunti zetu; Mashirika za maji za Amatsi, Bomet, Gusii, Kisumu, Kwale na Nyeri.

Maji ni uhai. Inasikitisha kuwa ripoti hii imeweka wazi kuwa kaunti zetu nyingi zina shida ya maji. Mashirika ambayo yamewezeshwa kusimamia maji haya hayajui yanachofanya. Kaunti zetu haziwekezi katika mambo ya maji. Wanataka kampuni zile zilete faida ya kila mwaka lakini hakuna uwekezaji wowote ambao unafanyika. Katika bajeti za kaunti nyingi utapata kwamba mambo ya maji ni zero.

Kabla ya kuendelea ningependa kusahihisha Sen. Osotsi aliposema kwamba ile sewage yote ya Mombasa County inaingia katika Bahari ya Hindi pale Kipevu. Sio sehemu ya Kipevu wala ni sehemu ya Changanwe pekee na sio ya Mombasa County nzima. Sehemu zingine hakuna *sewage* na watu wanatumia yale mashimo ya kawaida. Tulipata kuyafuatilia mambo haya na Sen. Osotsi mwezi wa tano mwaka huu pamoja na kamati yake na ni ya Kipevu.

Bw. Spika wa Muda, jambo la kusikitisha ni kuwa mpaka leo hakuja kuwa na maendeleo yoyote pale Kipevu. Vile kulivyokuwa tulipokwenda ndivyo kumbaki kuwa hivyo. Walisema kuwa pesa zitakuwa *released* na World Bank *anytime* ili tuweze kumaliza ukarabati uliokuwa unafanyika lakini ni masikitiko kwamba kufikia hadi leo hakuna kazi yoyote ambayo imeendelea pale. Maji ya sewage bado inaingia kwenye Bahari.

Bandari ya Mombasa ni ya kimataifa. Hatuwezi kuruhusu *sewage* iingie katika bandari yetu wakati kuna meli zinakuja, pamoja na mizigo na vyakula. Marekebisho haya yalikuwa ni mradi uliofadhiliwa na World Bank. Tatizo lilikuwa kwamba hawakuweza kuapprove invoice fulani ili waachilie fedha za kutekeleza na kumaliza mradi huo.

Bw. Spika wa Muda, hili ni jambo ambalo ningeonmba kamati kama itapata fursa irudi tena ili iangalie kwa makini. Ni aibu kwamba kaunti ya Mombasa inamwaga sewage katika bandari ya Mombasa ambayo ni ya kimataifa. Katika kuangazia mambo yaliyo katika ripoti hii, fedha nyingi zinapotea kwa sababu maji yanapotea bila kuuzwa kwa wananchi ama kwa wale wanayoyahitaji; Kwa kingereza *non-revenue water*.

Miundo msingi ya sehemu nyingi za maji ni pipe ambazo zilijengwa kabla tupate uhuru-1963. Kenya sasa imefika karibu miaka 60 na pipe ni zilezile. Zimejaa kutu ndani na maji yanayobebwa pale haina uhakika wa kwa safi. Wengi wetu siku hizi hatukunywi

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maji ya mfereji. Wengi tunakunywa maji ya chupa. Hata hapa katika Bunge hakuna anayekunywa maji ya mrefeji kwa sababu hatuna uhakika kuwa maji yale ni masafi au la.

Hasara ya fedha nyingi inapatikana na kampuni hizi kwa sababu miundo msingi ambayo inapeleka maji inapasuka kwa muda mrefu na hakuna anayejua kuwa maji yanamwagika kiholela katika sehemu zile. Kule Mombasa County walianza kutumia smart meters. Lakini zile meters haziwezi kupima maji ambayo haipo. Ikiwa wewe huna maji inayoingia katika tank au nyumba yako basi ukiwekewa ile smart meter hutakuwa umetibu tatizo ambalo liko.

Mara nyingi katika uwekezaji wa umuhimu wa mambo ya maji tunafanya kinyume nyume yani *our priorities are upside down*. Tulikimbilia kuweka *smart meters* lakini maji katika mifereji hakuna. Kwa hivyo hata kama una *smart meter* huwezi hesabu kile ambacho hakuna.

Bw. Spika wa Muda, tukiangalia maswala ya uekezaji katika kampuni hizi, utapata kwamba ni ule ule mtaji uliwekwa na serikali wakati wa nyuma ndio unatumika kwa zile kampuni. Kampuni nyingi zinapata hasara. Ijapokua kuna haja kubwa ya maji na kila mwananchi anataka kutumia maji, kutoa maji kule yanapatikana mpaka kuyafikisha kwa wanaoyatumia imekua ni shida.

Kwa mfano, kule Mombasa, maji yake mengi yanatoka Mzima Springs lakini kutoka wakati ambao hiyo Springs ilijengwa, mwaka ya 1940 mpaka leo, hatujaongeza hata mfereji mmoja. Sisi yetu ni kukarabati mifereji na kuomba pesa za kufanya utafiti jinsi tutajenga mifereji mingine. Leo, ukienda pale Mzima Springs, utasikitika kwamba wale waliweka Mzima Springs, waliweka Mzima I, Mzima II na Mzima III. Lakini, leo baada ya miaka 60 ya uhuru, tuna Mzima I peke yake inayopeleka maji Mombasa.

Bw. Spika wa Muda, sehemu nyingine ya maji ya Mombasa ni Mwache Dam na pia inajengwa tena ili isaidie watu wa Mombasa kupata maji rahisi. Lakini, bado kuna mizozo baina ya kaunti zetu. Ijapokua zile sehemu za maji ni za kitaifa, lakini, bado kaunti zetu zina maji.

Kwa mfano, hapo nyuma, kulikua na mzozo baina ya Kaunti ya Kwale na Kaunti ya Mombasa kuhusiana na ule mradi wa Mwache. Watu wa kaunti ya Kwale walikua wanasema maji ya Mwache yatumike Kwale peke yake ili hali, yale maji yatapatikana pale Mwache Dam yataweza kutumika Mombasa na kufaidisha watu wa Kwale.

Sehemu nyingine inayoleta maji katika kaunti ya Mombasa ni Marere kule Kwale. Hivi majuzi, wale watu wanaokaa zile sehemu za Changamwe na Jomvu kule Mombasa walikosa maji kwa sababu, maji yote ambayo yalitakikana kuja Mombasa, yalipelekwa Kwale mjini ili kusaidia maandalizi ya Mashujaa Day yaliyofanyika juzi. Hayo ni masikitiko makubwa, kwamba tunafungia maji watu karibu milioni moja ili yapelekwe sehemu moja kwa sherehe ya siku moja.

Bw. Spika wa Muda, maji ni uhai na hakuna uekezaji wa kibinafsi katika maswala ya maji. Tukiangalia kaunti zetu nyingi, zina *water bowser* moja ama mbili au zikiwa nyingi, tatu. Mombasa ina nne, moja iko Likoni, Changamwe, Kisauni na Jomvu.

Ingekua kaunti zetu zinaekeza katika maswala ya maji, ingekua wananchi wanapata maji ya rahisi na yana uhakika kwa sababu ni masafi na zile kampuni zingepata fedha za kukimu mahitaji yao. Lakini, ukiangalia *balance sheet* za hizi kampuni, zinaendelea kupata hasara. Inabidi wananchi warudi tena mifukoni yao ili kufadhili hizi

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kampuni kwa sababu kampuni zenyewe, hazina njia ya kupata fedha za kuwawezesha kukua.

Jambo jingine ni kutegemea misaada ya mashirika ya kimataifa kwa swala la maji. Ijapokua ni wafadhili wetu na wanatusaidia, imekua sasa ni lazima sisi tujisimamie. Haiwezekani kuwa maji ambayo watu wa Mombasa wanapata yanatoka kwa Coast Water Services Board ambao wanauzia shirika la Mombasa Water na pia wanapewa muda wa kulipa, kama siku 90 au 100. Hiyo ni *credit window* ambayo inatumika. Hii pia haisaidii.

Utapata kwamba maji yanapofungwa, inabidi watu wapigiane kelele na kukumbizana ili maji yafunguliwe na wananchi wapate maji. Mbali na kuleta ripoti hii, Kamati iangalie kwa ndani vile tunaweza toa hizi kampuni zijinasue na lindi hili la ukiritimba unaosababisha wananchi kukosa maji na kampuni zisikue.

Bw. Spika wa Muda, kuna haya mashirika ya serikali kama Coast Water Services Board, Tana Athi Water Works Development Agency na Lake Victoria North Water Services Board na kaunti zetu zinatakikana zipewe hisa katika mashirika haya. Lisiwe ni shirika la serikali kuu na wanapeana maji. Ukiangalia kama wale wakurugezi waliochaguliwa, hawana uzoefu katika maeneo yale.

Kwa hivyo, inakua ni vigumi kuleta mawazo na fikra ambazo zitakusaidia kurekebisha zile kampuni. Kwa mfano, kwa shirika la Coast Water Services Board, serikali inaweza kua na hisa moja na kila kaunti ya Kwale, Mombasa, Kilifi, Tana River na Lamu ipewe hisa moja; ili wao pia wawe na uwezo wa kusikiliza maswala yao katika mashirika hayo.

Kwa hayo mengi, naunga mkono ripoti na kuipongeza Kamati hii kwa kazi nzuri inayofanya, ikiongozwa na kiongozi wetu, Sen. Osotsi ambaye pia ni naibu kinara wa chama chetu cha ODM.

Asante, Bw. Spika wa Muda.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wahome Wamatinga.

Sen. Wamatinga: Thank you, Mr. Temporary Speaker, Sir. I also rise to support the report by Sen. Osotsi. The issue of water reticulation and service providers has been wrongly handled for a long time. Indeed, Senators uphold and are determined to protect devolution. That being the case, we know this function is devolved and it must be undertaken by the counties. However, it must not be lost to us that we have aspects of water in some counties that cannot be handled by the county government alone and there must be concerted efforts by regional bodies. I support water development agencies because it is time that we changed our approach in water reticulation. The issue of non-revenue water has been discussed and addressed by various Senators in this House.

The amount of investment required to put intelligent water systems, including water lines and smart meters, reservoirs and dams cannot be achieved by a single county. Also, different counties are endowed differently. Some natural resources like rivers are not enjoyed by all counties. It is imperative therefore, that we look at the water issue as a cross-cutting issue and it can only be invested into by both national and county governments by making water accessible to almost everyone in this country.

Mr. Temporary Speaker, Sir, I am happy to say that Nyeri County is one of the counties that have minimum water challenges, but that is limited to some sub-counties in Nyeri.

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In Kieni East and Kieni West, we have a proposed Karimenu Dam and Naromoru that was proposed back in the 60s. However, garnering resources and the budget required to come up with those dams has remained a challenge. That can be achieved if we adopt this new approach of public-private partnerships; where we make water a tradeable commodity and ensure that private equity flows into the business.

On non-revenue water, some companies have up to 70 percent and that cannot be left unchallenged because, if we can address the issue of non-revenue water, we can generate enough resources to address the issue of equity private acquired. This can only be possible if we have a paradigm shift in the way we think.

In other countries, pension funds are invested to develop the infrastructure and ensure that water, both clean and sewage, is addressed. As we address the issue of clean and affordable water, we must at the same time look at what we should do with the sewage water.

In many counties, Nyeri County included, most of the areas do not have a functional sewage system. That means that most of the water that is used finds its way back into the rivers again. This is against the Sustainable Development Goals (SDG), of which Kenya is a signatory.

Therefore, Mr. Temporary Speaker, Sir, we must address the issue of ability to raise equity and attract investors into the water sector. Some of the water service providers are too small to achieve economies of scale.

In the Water Committee, we recommended that we must look at the size of a water company for it to achieve economies of scale. As much as we talk about the issues of governance, it is imperative that we also look at how big it is. For you to achieve a certain magnitude of investment, you must also have a certain number of consumers. Therefore, as much as we talk about this being a devolved function, it is also important we look at a new approach of having regional bodies where counties can merge and have a water service provider that can achieve economies of scale.

It is also important to look at the way the boards of management in water bodies are formed. Most of these are people who are appointed because they are politically correct. Most water development agencies and service providers, have become den of corruption because people who are elected as chairpersons, go there to regain what they lost in politics.

Moving forward, we must look at the issue of governance, accountability and transparency. We must also look at the issue of being able to generate private equity to invest in the infrastructure, so that we can reduce non-revenue water. At the same time, we should employ smart meters so that we know that the bulk water that has been generated is dispatched and consumed. That must happen for the clean and sewage water.

Mr. Temporary Speaker, Sir, one of the biggest challenges, especially in Nairobi City County, is having sewage flowing into the river. That can only be addressed if we account for every drop entering into the household and trying to address the same, but that it must also be treated so that what we discharge back into the rivers does not pollute our environment.

The issue of water in some counties has become disadvantaged because of their geographical location. However, by embracing the right technology, water harvesting

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technology and also water usage services, we can ensure that most of the water that we take into our houses is intelligently used. I do remember, one of the Motions that I tabled when I came to this House was application of intelligent water usage in buildings.

As we do with the movement sensors that chart the light on and off depending on whether the room is occupied, we can also have water reticulation system that is intelligent so that you do not have somebody using one bucket of water to brush their teeth, yet they could use a quarter of a glass.

This can only be achieved if we come up with the right legal framework, and have a holistic approach that does not look at water as an isolated county issue, but rather as a national approach, where we would have the law. That is why I am one of those who support the Bill that addresses the issue of bulk water.

Why, Mr. Temporary Speaker, Sir? In most western countries, because water is a tradable commodity, it can attract investors. Therefore, even the management of the reticulation itself should be managed in a more prudent way, since it is an asset that can amortize itself. This can also be achieved if we take the same approach.

The Northern Collector Tunnel has been named here several times. If we had put that private equity into that, by now, we could have realized the project and selling the commodity and at the end of the day, the goal of having cheap, clean and affordable water would have been achieved.

Mr. Temporary Speaker, Sir, as I conclude, I would like to commend Nyeri County because we have been performing well. It is one of the counties where we have the least non-revenue water. However, having said that, it is also not lost to me that we still do not have reticulation infrastructure that reaches all the households. At about 70 per cent, we still have another 30 per cent to go, and this can be achieved if we will renew our infrastructure.

To do that, it is high time that we come up with a legislative framework that will allow the water bodies to access private equity from the banks by making water a tradable commodity.

I take this opportunity to thank the Committee for having come up with this Report. For the Senators, it is a challenge that we must look at the water service providers, and put a keen eye on that because that is one of the low-hanging fruits, something that we can realize quick gains and by so doing help our people.

I support.

The Temporary Speaker (Sen. Abdul Haji): Sen. Daniel Maanzo, please, proceed.

Sen. Maanzo: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute on this important Report. Although Makueni County is not named here, and this was 2019 to 2020, I am sure the next report will include Makueni County.

Makueni, Kitui and Machakos counties are served by River Athi, among other rivers. However, River Athi goes through Nairobi City County.

One of the worst things which has happened to this river is that raw sewage, especially by 'honeysuckers,' is released fresh to this river. There has been an effort to clean up River Athi in Nairobi. I have seen the President launching cleanup projects. However, as soon

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as he leaves, the people who are supposed to clean the river also leave with him. Therefore, it becomes like a Public Relations (PR) exercise, and the water downstream continues to be dirty. In the last two weeks, the sewerage systems in Nairobi City County, have been really raw sewage water to River Athi, and it is green through Machakos, Kitui, and Makueni Counties.

Unfortunately, Mr. Temporary Speaker, Sir, many Kenyans use this water. It is used by many water companies in Makueni County. Therefore, we must come up with a system to make sure that there is clean and safe water being consumed by the people in Kenya.

There is water storage, and the water is devolved under Schedule 4 of the Constitution. Unfortunately, the national Government is still holding 90 per cent of all the water systems. The counties have not received their monies in the last four months, and it must be very frustrating for a governor to sit in a county. You want to deliver water to the people, yet you have no money to do this. There are boreholes, most of which are mismanaged through these companies. Most of the money is collected and stolen by individuals.

In Makueni County, out of the water companies from the last report, only one in Kibwezi, which is somewhere along Mombasa Road, near Kibwezi Town, seemed to have performed better. The rest could not account for the monies and many things, yet a lot of money has been put into these water companies.

So, what do we need to do? The country needs water. I started hearing it from the Moi era, in 1986, when I was in primary school. That, every home would have clean water. Up to today, water is still far away from most homesteads in Kenya. Piped water is still not available to every homestead in Kenya, yet it is the easiest thing to do if the Government seriously invested in water.

You would rather even stop all the other projects and deal with water first. Get water to the people, and then do the roads for the people. Probably by doing that, it will become much better. You will improve in education and agriculture. You will have enough food for the people, and then do the roads, so that the same can be transported to marketing places.

Although there are good policies, they have not been implemented. The people of Kenya have waited patiently for clean water into their homesteads. It has not happened, and it does not seem to be in sight soon.

Thwake Dam, which has been talked about by quite a number of contributors here, is 94 per cent done, but now stalled for the last two years. I am pushing the Government; I was there recently. It is very expensive to delay a water project, because the contractors are on site, and they are charging the country. It is not the only one, there were quite a number of them. Mwache Dam, the Northern Collector and all of them seem to have stalled. So, when will we give Kenyans water in their homes?

Thwake Dam was supposed to give water to Kitui, Machakos, and Makueni even for irrigation. When will this happen? This is a fertile land where farmers can grow a lot of food and become the food basket of Kenya and even sell abroad. Agriculture and agribusiness are some of the biggest businesses Kenyans can invest in. Every household can have a meal every day and have extra money to send their children to school.

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Mr. Temporary Speaker, Sir, this matter of water must be taken very seriously by this House and the Government. We must have a proper law. We must actuate the delivery of water services to the people. We must make sure that the pending projects are completed.

I am wondering why the National Treasury is frustrating the Ministry of Water so much. Why is the National Treasury frustrating the counties so much? Why does the money going to the counties not be given priority, so that governors can prioritize water?

The Nolturesh Water and Sanitation Company, which the Senator for Narok was talking about, comes from Mt. Kilimanjaro. For many years, it watered the flowers of individuals and the moment it was supplied to the communities around Kajiado and Makueni, it became another big problem. Serious corruption has riddled these water companies.

There are as many corrupt officials as you can get. There is no capacity to even try them. The Ethics and Anti-Corruption Commission (EACC) does not seem to have the capacity to deal with this. The police do not also seem to have the capacity to deal with corruption in water services companies. It is high time Kenyans became responsible where they work and deal with water, so that there we can minimise theft.

I want to finish with the money that is collected. We can have a system like M-Pesa pay bill system. All this money can be collected in one place, the account can be seen and the counties can make sure it is accountable. We need to invest in that, so that we have enough money to continue investing in water.

I urge the National Treasury to release monies related to Thwake Dam and monies to counties. Let us give people clean water so that we can have a healthy nation and use it in agriculture to grow the nation.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Abbas.

Sen. Abass: Thank you, Mr. Temporary Speaker, Sir. I also join the other members to support the Report. First, I commend the committee for the excellent work they have done. Visiting 80 water companies is not an easy thing, knowing the resources available in this Senate.

Mr. Temporary Speaker, Sir, water is a very crucial resource in our life. Kenya has plenty of water, but is always scarce to be utilized or accessed by people. Kenya also has the highest number of institutions that manage water. We have nine regional developments and companies in every county that manage water, but water is never available at any given time. This is purely due to lack of management and transparency.

The water companies in the counties are almost not functional, especially in my county, Wajir. Wajir Water and Sewerage Company (WAJWASCO) is getting resources from World Bank and the county. However, the water company has not even been able to pay itself for some time now.

Up to 200 staff were laid off and have not been paid their dues or other gratuity for almost five months. Some of them went to court and this week, some payments were made. About 70 of them have been paid for four months, but the rest have not been paid. That is how much of WAJWASCO is in dire need of money.

The money is available from World Bank and the county is supporting, but the resources are not well-managed. The company is also experiencing issues to do with resource generation. Wajir does not have a water source, it has no rivers, it is landlocked. It depends on boreholes. We currently have about 600 boreholes which have been managed by communities in different parts of the county. The boreholes are run by committees and have now become a cash cow for the communities. Instead of paying money now to WAJWASCO, the communities are not ready to let the boreholes be managed by the counties.

Mr. Temporary Speaker, Sir, the most important thing now is that water is a devolved function. The problem is that out of the nine water agencies and about four regional--- Lake Victoria, Tana Water, Indian Ocean water, people do not want to release these institutions back to the counties. It is high time that this House supports counties, so that at least these functions can be taken back to them.

One other thing is that most of these companies are not even registered. Some of them do not have legal status and cannot be operating legally. Appointments are done by the governors. The boards are appointed by the governors, yet most of these companies are supposed to be independent from the county management. The county is still macro-managing it and doing all the appointments. This could be the reason companies are not functioning well.

One other thing is that the money being received from donors is not being audited. The Committee on Public Investments and Special Funds (CPIC) needs to go deeper into the Auditor General's audit of these companies, so that we can know how they manage their resources. Most of them do not even have their own generated funds, the money is not even accounted for. It is high time because the World Bank or the counties cannot manage the water companies for the people of the respective counties.

We need these companies to generate their own sources to sustain themselves. As it were, it will not go far and most of them will be closed down. Legal sectors should ensure these companies are registered and have shareholders to generate their own funds. Of course, a limited company cannot depend on the resources from the counties, World Bank among other NGOs and donors.

Mr. Temporary Speaker, Sir, there is also duplication of functions. The company working there is supposed to take over water management, but we also have the department of water in the same counties doing the same businesses. We need to divide responsibility for these two institutions, and then these other companies. These other regional water works and water agencies should be devolved. It is what we are now doing; we are meeting with all the stakeholders in the course of next month, so that we can devolve these functions back to the counties.

Thank you so much.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Beatrice Ogola.

Sen. Ogola: Mr. Temporary Speaker, Sir, I thank you and applaud the leadership of the Committee led by the very able Deputy Party Leader of the Orange Democratic Movement (ODM) Party, Sen. Godfrey Atieno Osotsi, who also has a future elsewhere out of this Senate.

Water is life. Sustainable Development Goal (SDG) No.6 talks about clean water and sanitation. We all know the relationship between clean water and health and water and food. We all know the critical role that the availability of water played in this country when we had the disastrous COVID-19 pandemic. Water remains a basic need for all of us. That is why provision of water is critical to this nation.

There are nine reports for water companies in Busia, Elgeyo-Marakwet, Kirinyaga, Kilifi, Mandera, Migori, Mombasa, Laikipia, and Tharaka-Nithi, but the obstacles we continue to meet in this sector remains uniform in all the counties.

In the Report, the Committee makes reference to the aging infrastructure. I was lucky to have served as a County Executive Committee Member (CECM) in charge of water for six months in Homa Bay County, during the transition as we were going for the 2017 General Elections. Before that, I was the CECM in charge of lands. All the challenges that this committee has talked about are those that I encountered when I had that short stint as the CECM in charge of water.

The infrastructure that our counties have, especially in the municipalities and county headquarters, remains the same. In particular, in Homa Bay Town and Homa Bay Municipality, we have an aging infrastructure despite the growth. That means that the infrastructure cannot consistently and sufficiently serve the growing population in the town.

As much as the Lake Victoria South Water Services Board (LVSWSB), through development partners, has dealt with the supply of water, if the counties or the companies do not get funds to deal with expanse distribution lines that can serve the populations, then the issue of access to water by our people remains a pipe dream. That is why water systems break down because if they pump water to all the areas of the towns, the infrastructure available cannot withstand. County governments or boards and all the funders or development partners, must as a priority, deal with rehabilitation of the distribution lines of our water systems.

Alongside the aging infrastructure, we also have corrupt practices within these jurisdictions. There is a mention of illegal connections. When you look at all our urban centres, you often see the thriving business of water tankers. It is right to believe that most of the people dealing with water tankers or boozers are also people within the water sector. Therefore, they cause inadequacies in the provisions of water, so that their businesses can thrive. Water remains a basic need. As provided in the SDG No.7, everybody should access water as a basic need.

The Report also mentions high operating costs. This is a setback to the realisation of water supply in most of our companies. Most companies and municipalities, as we have, still rely on electricity as a source of power, but a number of them are not able to pay their electricity bills. Thus, we have a lot of interruptions in the provision of water in our municipalities.

There is also a mention of governance. In most companies, this is a menace. In providing water, the systems must be managed by competent people who are appointed. We urge our governors who oversee these companies to appoint people who can manage these water companies. Water companies must not only be limited to employment bureaus in our municipalities.

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I must also mention that our county bosses or managers of our counties must also work on physical planning of the towns. Physical plans enable the water system to be realigned to the urban centres.

Lastly, water provision must not only be limited to the urban space. Everybody in this Republic deserves to be provided with water. As our counties focus on water provision in urban centres, they must also enhance access to water in our rural areas.

Mr. Temporary Speaker, Sir, in my own sub-county headquarters, which is Ndhiwa Town, as I speak, we have no water, yet the LVSWSB had invested in a borehole that is capable of serving the whole of Ndhiwa Town and the environs. It is not just limited to one or two wards in that Sub County. What is happening is that there is a borehole and water is available, but all the distribution lines are destroyed.

I have raised this with the Cabinet Secretary for Water, Sanitation and Irrigation, but all I have been told is that the County Government of Homa Bay should look at the rehabilitation of the distribution lines. I call upon our County Government of Homa Bay to look at the rehabilitation of the distribution line of the main water supply to Ndhiwa Town, so that the people of Ndhiwa can be served.

We know that water plays a critical role. As I have said, water is related to health, food, and even security. In this country, we have had situations where we have floods when there are rains, yet the Government does not harvest water in order to solve its scarcity during drought. We walk from drought and run back to it but we can see how drought is related to lack of food and insecurity.

Mr. Temporary Speaker, Sir, as I support this Motion, I urge Kenyans to go for courses that will serve the water sector. The water sector is able to give a solution to the unemployment situation we have in this country.

In this country, we lack adequate plumbers and water engineers. This can be solved by our Form Fours leavers going for artisan courses and some joining the Kenya Water Institute (KEWI). The KEWI is sufficient enough to train skilled manpower for this sector.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Abdul Haji): Thank you. Proceed, Sen. Kisang.

Sen. Kisang: Thank you, Mr. Temporary Speaker, Sir. I also rise to support this Motion and declare that I am also a Member of this particular Committee. I thank the last Senate of 2017-2022, because, in its wisdom, they saw the need to split the oversight committees into two. Otherwise, the special funds and the water companies would not have been audited by this particular House.

I also thank my Chairperson, who is the Deputy Party Leader of the Orange Democratic Movement (ODM). I know he is leading the Committee very well. I have also told him that in 2027 he is likely to come and face us, so he needs to do a good job.

As we went through the audited reports, generally, one of the issues that we noted was weak management structures in the water companies. Governance issues especially most of the water service providers did not have competent boards. Some of them, if they had boards, they thought they were independent from the county governments. They thought they did not have to report to the governor, to the CECM for Water, and to the

CECM for Finance. However, at least, our Committee has been able to bring things to order, and now most of the companies are run well.

We believe in the next audits, especially FY2024/2025 going forward, some of these books will have unqualified accounts because all of them were either qualified or disclaimer accounts. So, we have done a good job. I believe soon, we will see the benefits of this particular Committee in water service providers.

What we want to urge our governors is to ensure they employ competent CEOs, and board members, so that they can drive the companies well, because those are the weaknesses that we saw.

You heard the Senator for Wajir County say that some of the boreholes within the communities are run by an association that have even refused to cede management of these boreholes to the water companies. So, basically, they are run as a club, and they do not pay, they just maybe charge a flat rate from the water users, and sometimes the water is not even enough.

What we also saw as a big and serious issue is non-revenue water. The standard loss is about 25 per cent, but the majority of the water service providers were way above, some even up to 72 per cent. I think it is only one or two counties; Nyeri County and one other county were below the recommended loss of 25 per cent. The others are at 70 or 60 per cent. So, it means you are losing more than three-quarters of the water that goes to the pipes.

There are two types of losses. There is a physical loss because of the state of the pipes, and there is a commercial loss. The commercial loss is the water is already in the pipe, there are no losses through the pipes, but either they do not bill the water that has been used by the users, or cartels cut and divert the water and sell it directly to the water users. It is like what the Senator for Nairobi City County had said. The NWSC should not be getting any support from the Nairobi City County Government. It should be self-sufficient because we need water.

If you go to Karen, almost every day, pipes burst everywhere and they do not have any means to detect if there are any leakages within the pipeline or not. So, governors have shouldered that. If county governments were not there most of these water service providers basically would have closed. This is because they all get support from the counties in terms of ensuring they can pay salaries and electricity bills. Otherwise, Kenya Power would have closed most of them a long time ago.

It is also important that we encourage them to get smart meters. They need to get detectors so that if there are leakages, they are detected quickly. Recently, I think they partnered also with the National Police Service (NPS), where we have water policing. The water police officers are supposed to help the water service providers to detect where there are illegal connections so that they do not lose water.

We have nine regional bodies, but some of these regional water agencies take loans on behalf of water service providers, and the water service providers do not know. They just find there is a loan yet they were not involved, they did not negotiate and a feasibility study of the water projects was not done through them. So, they just see loans and people coming to the regions where there is a project that is coming up.

I know most of my colleagues also want to contribute, but I just wanted to put the last comment, which is an issue in terms of property. There are some plants, vehicles, equipment and even land where some of the water service providers are domiciled and they do not have the title deed. They do not have log books for the vehicles. They are still within the regional bodies.

We have given the intergovernmental agency, counties, governors, and regional bodies to ensure, within a certain period, the assets that belong to the water service providers should be handed over to them so that it improves their balance sheet.

Elgeyo-Marakwet County is a young county. We have a few small water service providers, and they are still struggling. I believe the agencies within that region and the county government will assist them.

What will help mostly is that along the Kerio Valley, we have conflict as communities because of water. I believe if water is managed well, even inter-clan or inter-community conflict because of pasture and water, will be reduced. If our governors sit down and ensure our people get clean water across the counties.

Mr. Temporary Speaker, Sir, I do not want to say much so that I cede the time to my colleagues.

I support.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator.

Sen. Hamida Kibwana, you have the Floor.

Sen. Kibwana: Thank you, Mr. Temporary Speaker, Sir. I support this Motion, and commend my very able Chairman, our Deputy Part Leader of ODM, for the good work that he has been doing so far.

I just wanted to note for very few minutes the cross-cutting points. I was looking at the audit report which was considered by the team, and some of the water companies have taken loans due to developing infrastructure for big dams, but they end up not being able to do it. They might have gotten the funds for the big dams, but then they did not consult the counties. So, you may find that they expect the counties to pay for the services.

The other issue is the last mile connectivity that has not been developed when doing large dams. Now, a large dam without last-mile connectivity does not work very well, yet counties are expected to pay off.

When assets are developed by the water companies, they retain the assets but transfer liabilities to the county. You will find that counties are overwhelmed to pay these liabilities. This creates a challenge in the financial statements of water companies and counties.

I also remember that the Auditor-General was able to see the liabilities, but no corresponding assets to water companies. There is a big problem of the water companies to give a fair and correct view of their financial position. Each time, we are always having issues with the water companies that they cannot account for their financial position. To some extent, it is an indication that the national government is not ready to take care of those functions.

The other challenge is that counties do not have the co-ownership arrangements between the water companies at the national level and those at the county level. That one is also an issue.

The challenge of non-revenue water has also been mentioned. It is a thorn in the flesh. They blame the old piping system, breakages, illegal connections and many other issues, but water companies need to invest on this. They need to invest in new technologies like upgrading the pipes and using smart metres to detect leakages. We need to embrace the smart metres to tackle the commercial losses done through the interfering of the metres. We always have people reconnecting water and doing all sorts of issues. That is why counties go at a loss.

There are some counties that have multiple water companies. For example, Machakos County has about seven water companies. Kiambu County has about eight water companies. That is a challenge because most of the water companies are not economically viable. Oversighting and management of these companies is quite difficult for these counties. The recommendation is to bring down the water companies to a number that is easy to manage.

Mr. Temporary Speaker, I remember in the areas we have inadequate water supply like Gusii and Nyamira counties, they are co-owning a water service provider within the county. This leads to inadequate supply of water. In other places, you will find that there is adequate supply, but no infrastructure development. Replacements of the pipes puts the companies in a very awkward position. The Committee recommended to declutter such arrangements so that each county to have its own service provider.

Mr. Temporary Speaker, I know someone else needs to speak so I want to yield my time for him.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wakili Sigei, proceed.

Sen. Wakili Sigei: Thank you, Mr. Temporary Speaker, Sir. I appreciate Sen. Kibwana for according me the remaining minutes of the session so that I also comment on the Motion. I also appreciate the Chairperson of this Committee, Sen. Osotsi, for a job well done.

We have gone through the audit reports for the period 2019, 2020, and 2021. I listened to him tabling the report. They dealt with over 89 water companies across the various counties. I appreciate the Chairperson for leading the team and the recommendations they have given to this House towards the management of this water resource.

Mr. Temporary Speaker, Sir, it said that one can live without love, but one cannot without water. You only can appreciate and understand the value of water when the taps are dry. This report has highlighted several shortcomings in the management of various water companies and the consequences of such lapses.

We have seen the audited reports of Amatsi Water Services Company Limited, Kisumu Water and Sanitation Company Limited, Kwale Water and Sewerage Company Limited, Gusii Water and Sanitation Company Limited, Bomet Water Company Limited and Nyeri Water and Sanitation Company Limited. In all these reports, they have identified a common thread of the challenges that some of these companies have in their

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management. I will highlight a few, particularly those which have zeroed in towards the consequences of poor management of water companies.

They have identified, for instance, areas where we have unsupported property like land and equipment. Unreported or unregistered ownership to properties leads to poor management style and designs. In reporting, most of these companies have indicated the fact that funds allocated are always lost, especially where management and governance of these companies limits the reporting and loss of funds to sometimes acquisition of those particular properties.

Secondly, in the audit report of 2019, the honourable Chairman led us through companies that had previously borrowed loans for purposes of running the affairs of their water companies, but in the course of transition, they have failed to properly disclose that. This has led to pilgrimages of public resources.

There are recommendations that the Committee has made. If only most of these companies in their respective counties will comply with implementation of those recommendations, we will end up getting the appropriate management style. That will lead to support of the companies and also service provision to the public.

Mr. Temporary Speaker, Sir, I have picked from the report of the year 2019, 2020 and 2021 that there are continuous unresolved queries which have been raised. In the year 2019, a concern was raised with regards to, for example, inherited unremitted funds which have been deducted from employees for purposes of remitting statutory deductions. That has gone on from 2019 to 2020 and 2021 as per this Report. For instance, in the County of Bomet, the unremitted deductions for the period 2019 to the staff pension Laptrust Fund was at Kshs12 million in 2019, Kshs19 million in 2020 and Kshs30 million in 2021. That tells you that despite the recommendations that have come from the Auditor-General directing the management of such companies, because of the poor governance structure of the county governments, they have failed to commit to such recommendations. The consequences of that is continued ballooning of those unremitted collected deductions from the management of the staff salaries.

Another very important and key note we have picked from this report is non-revenue water. The rate at which the companies have lost on non-revenue water is because of either unmitering of the water or an intentional decision that the management of those companies take to get an avenue for corruption.

The regulations allow up to 25 per cent losses. In the audit reports for the three financial years, I have noticed that in 2019, Bomet County produced over 4.6 million cubic metres, but we can only account for 2.1 million cubic metres. We have a loss of 53 per cent---

The Temporary Speaker (Sen. Abdul Haji): Sen. Wakili Sigei, when we resume this debate, you will have a remaining time of 14 minutes.

ADJOURNMENT

Hon. Senators, it is now 1.00 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until later today, Wednesday, 23rd October, 2024 at 2.30 p.m.

The Senate rose at 1.00 p.m.