

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 21st May, 2025

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.m.*

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

Hon. Senators, kindly let us take our seats. We do have quorum, so we will get on with the business of the day.

Clerk, you may proceed to call the first Order.

QUESTIONS AND STATEMENTS

QUESTIONS

Hon. Senators, this morning, we have the Cabinet Secretary in charge of Gender, Culture, the Arts and Heritage. I am told she is already in the precincts of Parliament. She is here for purposes of responding to Questions Nos.50 and No.76 by Sen. Mumma and Sen. (Prof.) Tom Ojienda respectively.

Clerk, you may now usher in the hon. Cabinet Secretary.

(Sen. Wambua spoke off record)

Yes, Sen. Wambua.

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Sen. Wambua: Thank you, Mr. Speaker, Sir. I would like to seek your direction before the Cabinet Secretary gets in.

I had received communication from the Office of the Clerk that the Cabinet Secretary for National Treasury and Economic Planning will be appearing this morning to respond to Questions, including a question I had raised. As you can see, we now have a Supplementary Order Paper, which means, the Cabinet Secretary is not coming. I just want your direction on this matter because the last time we had a conversation about the Cabinet Secretary not appearing, you directed us to stop whining. Today, I will not whine.

I invoked the clause on censure, that is, Standing Order No.51D. I put forward a request to the Speaker for a Censure Motion against the Cabinet Secretary for National Treasury and Economic Planning. I have not received any communication on the status of that Motion.

Mr. Speaker, Sir, if we continue like this, then we are completely eroding the dignity of this House. Just guide me on what I am supposed to do at this point.

The Speaker (Hon. Kingi): Hon. Senator, that matter was deliberated upon yesterday when it came before the Senate Business Committee (SBC). It was deemed that the two Cabinet Secretaries, that is the Cabinet Secretary in charge of National Treasury and Economic Planning and the Cabinet Secretary in charge of Tourism and Wildlife had valid reasons. They communicated to me through the Clerk and the reasons they had given were deemed valid. That is why the questions are not contained in today's Order Paper.

Immediately the SBC was done with the meeting, a communication was done to the effect that today's Order Paper was not going to contain the questions related to Tourism and Treasury. That is why we do not expect the Cabinet Secretaries in charge of National Treasury and Economic Planning and Tourism and Wildlife this morning.

Is the Cabinet Secretary in the House?

(Sen. Wambua spoke off record)

Well, this is a matter that is still under processing; it may or may not be approved. It has to journey through the normal procedure.

Sen. Sifuna: Mr. Speaker, Sir, there is a clarification I am seeking from you. The House had already made a decision that there was some misbehaviour on the part of the Cabinet Secretary for National Treasury and Economic Planning. So, when you say that the Motion by the Senator for Kitui County may or may not be approved, I become a bit concerned. It should be fast-tracked, so that we are able to finish that matter.

The Speaker (Hon. Kingi): The Motion is not a property of the House yet; it is still under processing. It may or may not get to the Floor, just like any other Motion. No decision has been made on the conduct of the Cabinet Secretary for National Treasury and Economic Planning. A decision of that nature is made pursuant to a Motion, and that Motion has not found its way to the House.

Sen. Sifuna: Mr. Speaker, Sir. The request we are making is just that the process of approval should be faster than what we are witnessing.

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The Speaker (Hon. Kingi): Hon. Senator, the Chair knows how to handle these matters. You simply put in your Motion and await---

Sen. Sifuna: Well guided, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Thank you. Is the Cabinet Secretary Gender, Culture, the Arts and Heritage in the House?

Hon. Senators, let us not waste time on this matter; let us get down to business.

(Sen. Wambua spoke off record)

Sen. Wambua, you have had your chance to speak on this particular issue. I have directed on how this matter is going to be handled. Let us leave it there. Let us dispense with these two questions then maybe time allowing, I will give you an opportunity to continue with your clarifications.

Clerk, is the Cabinet Secretary for Gender, Culture, the Arts and Heritage present?

*[The CS for Gender, Culture, the Arts and Heritage
(Hon. Cheptumo) was ushered into the Chamber]*

Good! Hon. Senators, we now have the Cabinet Secretary for Gender, Culture, the Arts and Heritage in the House.

(Sen. Munyi Mundigi consulted loudly)

Sen. Mundigi, you do not exchange directly with your colleague. You know exactly what to do if you have any issue.

Now, the Cabinet Secretary is here to respond to Question No.50 by Sen. Catherine Mumma and Question No.76.

Hon. Cabinet Secretary, welcome to the Senate. Since this is your first time appearing before this House, and I believe Parliament, I will guide you on the procedure that we ordinarily follow during Question Time. Now, the Senator who has a question will rise to ask the question.

Thereafter, I will ask you to respond to the Question. Once you are done responding to the Question, the Senator who rose to ask the question will have a chance to ask you two supplementary questions. The supplementary questions must be related to the primary questions that you have responded to.

Thereafter, all the other Senators will be at liberty to ask further supplementary questions. If I feel that a question asked by a Senator is not a supplementary question, I will guide whether you are in a position to respond to it or not. If you are not in a position to respond to it because you are unprepared and the question is unrelated to the primary question, you will not be under any obligation to respond to it now. However, you may undertake, at some later date, to supply a written response to a question that you feel is not a supplementary question in its nature, but it is important that it be responded to.

I will now ask Senator Catherine Mumma to ask Question No.050.

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Question No.050

PERFORMANCE OF THE WOMEN ENTERPRISE FUND

Sen. Mumma: Mr. Speaker, Sir, thank you, for the opportunity to ask this Question.

Hon. Cabinet Secretary, you are welcome to the Senate and congratulations for going through the processes of being appointed. The women of Kenya are looking up to you to help move ahead the step on matters of gender.

I beg to ask the following Question-

(a) How has the Women Enterprise Fund (WEF) performed in providing affordable and accessible loans since the digitization exercise initiated in 2023, and could the Cabinet Secretary provide data per county on the-

(i) number of women groups and individuals who have benefited since the inception of the new system;

(i) increase in the disbursement of loans to *Chamas*/ Small and Medium Scale Enterprises (SMSEs) over the last two financial years;

(iii) increase in the on-boarding of new *Chamas* into the Fund's database since the inception of the digital system; and,

(iv) number of groups that have dropped out of the Fund due to challenges they encountered during on-boarding into the new system and what the Ministry is doing to restore them.

(b) What measures is the Ministry taking to address concerns regarding the punitive decision of scrapping credit scores for groups that had built their credit scores over the years dating back to long before the digitization of the Fund?

(c) What is the Ministry doing to ensure women entrepreneurs who wish to do business outside of *Chamas* are not discriminated against when it comes to accessing WEF loans?

Thank you.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may now proceed to respond.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you, Mr. Speaker, Sir. I will go straight to answering the questions.

On Part (a) of the Question, the fund changed its lending business model to digital from January, 2023 following a presidential directive. The digital loan system went live on 1st January, 2023, allowing women groups to opt into own *254# without a requirement of prefunding criteria except to having a Safaricom line.

The initial phase was pilot, which ran till 16th September, 2023. Then it was halted due to an unprecedented loan default rate. Through this model, the fund had disbursed Kshs941,901,105 to 18,955 women groups. I invite the House to look at Annexure 1, which has the data. The data on the Annexure puts together all the digital loans given as per the counties, the groups, the amount and the loan balance. The loan balance as at September, 2024 is Kshs695,672,783. It is detailed as per the county, and

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you can see the groups and how much was given and how much has been paid back and the balance thereof. Bullet two on that question is increase in the disbursement of loans to *chamas*/SMSEs over the last two financial years.

Mr. Speaker, Sir, following the digital lending challenges experience, the Funds Advisory Board, through the Cabinet Secretary, made a formal request to revert back to manual lending. His Excellency the President, through a communication from the Head of Public Service, reference SHGM/Vol.1, dated 17th September, 2024 granted the approval to revert back to manual lending through bankers' Realm system.

Since the resumption of the lending, the Fund has disbursed Kshs457,400,000 to 1,180 groups, benefiting 12,538 members under the revised Constituency Women Enterprise Scheme (CWES), lending channel. See Annexure 2. It is at the back. As per the counties, there are 47 counties of Kenya. The groups, the number of members and the approved amount is tabulated there very clearly.

Number three in answering your question, hon. Member, on increase in the onboarding of new *chamas* into the funds database since the inception of the digital system. The digital lending product was halted barely three months after rollout, and not much data was collated to facilitate onboarding growth analysis.

Number four is on the number of groups that have dropped out of the fund due to the challenges they encountered during the onboarding into the new system and what the Ministry is doing to restore them. The Fund had lent to 136,499 groups since inception, but only 18,955 had borrowed under the digital loan product.

For the three; the product was on offer. Presumably, the rest of 1,117,544 groups had opted out due to the limiting loan amounts and shorter repayment period. However, upon reversion to the manual lending model, all groups with good repayment history have been able to express their interest in borrowing, resulting to disbursement of Kshs457,400,000 to 1,180 groups in the last four months.

On the measures that the Ministry is taking to address the concerns on the punitive decision of scrapping the credit scores, following the reversion to the manual lending model in December, 2024, the Fund has acknowledged the valid concerns raised by long-standing women groups regarding the loss of credit history and scores built over several years, particularly prior to the digitization phase. In response, the following strategic measures and policy interventions have been undertaken-

One, restoration and integration of historical credit records. The Fund has integrated historical loan performance data from pre-digitization and digital records into the bankers' realm system. This aims to ensure that groups with strong repayment histories are recognized and rewarded through improved loan access, faster approvals and ability to reinstate previous loan limits.

Two, reinstatement of loan graduation. The Fund has reinstated the tiered lending structure, allowing groups to progress based on their historical performance. Groups that had advanced to higher cycles before the digitization of their lending are being reassessed and reinstated to their previous cycles.

The third intervention is targeted vetting and fast-tracking for legacy groups. Legacy groups with established track records are being fast-tracked through manual

verification, including physical vetting by credit assistants to restore their access to credit without penalization.

Four, stakeholder communication. A structured communication and engagement strategy has been initiated to inform groups of their options. There is more sensitization at constituency and county levels on the reinstated manual lending model.

Five, policy review. The Fund has documented lessons learnt from digitization and endeavors to strengthen future transitions to safeguard borrower records and institutionalize credit score protection policies moving forward.

Mr. Speaker, Sir, Part C of the Question is on what the Ministry is doing to ensure that women entrepreneurs who wish to do business outside of *chamas* are not discriminated against when it comes to accessing WEF's loans. The Fund is aware that not all women prefer or are able to operate within the group *chama* structures and is taking deliberate steps to expand financial inclusion by creating more flexible individualized access products. The following measures are being implemented-

One, introduction of individual loan products. The Ministry through the Women Enterprise Fund has developed individual loan products tailored to meet the needs of women entrepreneurs who operate outside group *chama* models.

These products will consider business registration or proof of income instead of group guarantees, scalable limits based on individual payment capacity and customized training and financial literacy support. The products have been approved in the credit policy and will be rolled out progressively in the next financial year subject to availability of funds.

Two, policy framework to expand beyond group lending. The credit policy has been reviewed to diversify WEF's lending portfolio beyond the traditional group-based CWES model. This new framework will incorporate hybrid lending structures, including business loans, agricultural loans and asset financing loans.

The third intervention in that question is capacity building for individual entrepreneurs. The Fund is expanding its training programmes to cover individual women business owners. This includes modules on business management, record keeping and loan application readiness and transitioning from informal to formal entrepreneurship.

On strategic partnership with financial institutions, the WEF is engaging banks, savings and credit organization sacco's to co-design individual credit products that are accessible, affordable and scalable for women. This partnership also allows for shared risk and improved loan management infrastructure.

Five, on stakeholder consultation and feedback mechanisms, regular public participation forums and stakeholder engagement sessions are being held to understand the evolving needs of women entrepreneurs. Feedback is being used to inform the development of inclusive products.

The Fund is committed to eliminating structural barriers to credit for all women, whether in groups or as individuals. By broadening its approach and product range, the WEF is transforming into a more inclusive and responsive fund aligned with the diverse realities of Kenyan women entrepreneurs.

Mr. Speaker, Sir, I now seek your guidance whether I have answered Question No.050.

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The Speaker (Hon. Kingi): Yes. You may take your seat.

I will now allow Sen. Mumma to ask two supplementary questions.

Sen. Mumma: Thank you, Mr. Speaker, Sir, and Hon. Cabinet Secretary for the responses. Clearly, there is a lot that is happening around WEF that has potential. We will be engaging a lot more in order for us to advise women around this fund.

My first supplementary question is hinged on the fact that economies are going digital. I would want to know why the digitization exercise did not go well with regard to this particular fund. Secondly, I would like to know what is the highest amount lent and defaulted on and by whom?

I thank you.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may proceed to respond.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you, Mr. Speaker, Sir, and the Member for those two good questions, which informs exactly where we are and the challenges that were faced. On the first question of why digitalization did not go well, it is because of the way the system was put.

The amount that was being borrowed through the manual lending was a lot. It was Kshs750,000, but when it went digital, it was Kshs50,000 and most women did not embrace that. There is also the issue of follow-up because a person would borrow and there was no way of tracking the repayment of that money.

The second question is which group has the highest amount. There is a group called Pamoja Women Development Programme. The amount which was disbursed is a total of Kshs40 million. On 12th February, 2009, they were given Kshs20 million and on 13th December, 2009, they were given another Kshs20 million. Certainly, from the data that we have, that amount is still outstanding. They went to court and this matter is coming up tomorrow, that is, 23rd May, 2025, when we shall know the verdict.

At this point, I would like to usher in the Chief Executive Officer (CEO) of WEP, so that we can get finer details as to who these people are. It is important that this is disclosed.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, under our Standing Orders, your people, officers or staff can only communicate through you. You are the only person who can interact with the Senate. If there is any information you want to share, you can get it from your CEO and make it available to us. However, your staff may not have audience before the House.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you, Mr. Speaker, Sir. I am guided. I will mention the security that is held by the Women Enterprise Fund. We have the security held by Moses Karanja Tutha and Isaac Gitau Kamau. Since this is a matter that is before the court, we may wait to get the verdict from court, and thereafter, we shall communicate the details. We are willing.

The Speaker (Hon. Kingi): Very well, Hon. Cabinet Secretary. I will now call Sen. Wambua to proceed to ask his supplementary question. Senator.

Sen. Wambua: Thank you, Mr. Speaker, Sir. Mine will not be a question. I just want to make a comment on the response that the Cabinet Secretary has brought.

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I will begin by congratulating her. This is her maiden appearance in this House. Truth be told, from where I sit, she has done well for her first appearance in terms of the detail of the question that she has brought to the House.

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

The Speaker (Hon. Kingi): What is the point of order, Sen. Boni?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, on the point of relevance, is this Question Time or time to make comments? The Senator of Kitui has clearly said he has no question; he has a comment. Can he allow Members with questions to ask questions?

The Speaker (Hon. Kingi): Under Standing Order No.1, I will allow him to proceed.

(Laughter)

Sen. Wambua: Thank you, Mr. Speaker, Sir. What I do with my question time is my business. It is not the business of the Senator of Kakamega. Therefore, I will proceed to make my comments.

I have seen Cabinet Secretaries who have appeared before us before, and they have been all over with all manner of explanations and no detail. This lady, I must say it, Senator of Kakamega, has done a good job, especially given the situation that she finds herself in. We are human, we must not behave like people who do not know our history.

(Applause)

This lady is mourning her husband, who was your colleague. It is time to encourage her. There will be opportunities, the Senator for Kakamega, to dig in and push. For now, it is time to give her some strength and comfort. Madam Cabinet Secretary, you have done well.

(Applause)

This is the House where your husband used to sit. He was our colleague and we want to tell you, continue in that spirit and be strengthened.

I thank you.

(Applause)

The Speaker (Hon. Kingi): Proceed the Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I have a question to the Cabinet Secretary with regards to her answer on individual loan products to women.

Women entrepreneurs face very serious challenges and women have to overcome more barriers than us men in terms of access to opportunities. I have seen in the Cabinet Secretary's response that this individual loan product that she talked about has been approved by the Women Enterprise Fund Credit Policy Committee, which is a good step.

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She has further told the House in her response that this product will now be available in the next financial year, subject to the availability of funds. It will be important for her to tell the House how much they have requested from the budget that is presently before the National Assembly for us to know.

Secondly, apart from the work that they do at the national level, is there any intention to collaborate the efforts of the Women Enterprise Fund and our county governments, to capacity build for our counties? I see many counties try to run enterprise programmes for young people and for women. Given that the Women Enterprise Fund has been the model institution in the country and they have learnt over the years how to do this better, what is at stake in terms of planning and collaborating with our county governments?

Lastly, if you permit me, I would also like to make a comment like Sen. Wambua, to congratulate the Cabinet Secretary, first, on her appointment, and secondly, on her maiden appearance before this House, and to tell her that she has done well so far. She should keep up the good work, ensuring that she turns up to Parliament like this when she is invited. I appreciate that so far, she has given a good account of herself.

I thank you.

(Applause)

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, just note down those questions because you will take some more from Hon. Senators.

The hon. Sen. Kavindu.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. I want to first of all start by congratulating the Hon. Cabinet Secretary for the good work that she is doing. Keep it up, be strong and help the women of this country.

My question is, what are you doing about the Gender Based Violence (GBV) in Machakos? Are there houses that you are planning to build in Machakos as a rescue centre for gender-based violence women and girls?

Thank you.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, that is not a supplementary question because it is not related to the primary questions. However, if you are in a position to respond, you may, but you are not obligated to respond to it now.

Proceed, Sen. Kathuri Murungi.

Sen. Kathuri: Thank you, Mr. Speaker, Sir. I also want to encourage the Cabinet Secretary. Her performance is actually at 80 per cent since this is her maiden appearance in the Senate.

(Applause)

Mr. Speaker, Sir, I want to ask her a supplementary question on the performance of the loan; the Women Enterprise Fund.

The performance of the loans is bad since the inception of the Women Enterprise Fund to both groups and individual loans. There has been a debate that there are so many

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funds out there, there is the Women Enterprise Fund, Youth Enterprise Fund and micro and small enterprises, although little, it has money given to the small businesses. Therefore, is the Cabinet Secretary comfortable or does she support the collapse of all these funds, so that we can have one fund which is administered across board? This will ensure that that we do not have so many funds across the country or in Government.

Thank you.

The Speaker (Hon. Kingi) Proceed, Sen. Karen Nyamu.

Sen. Nyamu: Thank you, Mr. Speaker, Sir. I join my colleagues in congratulating the Cabinet Secretary and tell her that her work is cut out and the expectations by the women of Kenya are very high on her docket. We would like her to think about her legacy and the impact that position will have on the women of Kenya.

Hon. Cabinet Secretary, ignore the noise because public work can attract a lot of noise, but we will support you. Any time you need us to help you with any legislative proposal you may have, we are here to support you.

The Speaker (Hon. Kingi): Next is Sen. Veronica Maina.

Sen. Veronica Maina: Hon. Cabinet Secretary, welcome to the House and congratulations. I am confident that you will carry out your mandate and make all the women proud.

I have a supplementary to the Question asked by Sen. Catherine Mumma. In your response, you have indicated that 1,180 groups have benefited about 12,538 under the revised Constituency Women Enterprise Scheme (C-WES).

Hon. Cabinet Secretary, as you can see, so many women have been left out of that bracket. The figure of 12,538 is almost an underwhelming number. When you look at the women and the role they have towards families and communities, they make up of over 50 per cent of our population. We now have many women heading homesteads as single parents. We also have very many women in vulnerable categories.

What is the Ministry doing to ensure that this Fund is accessible to more women and the requirement of security, even by the formal banking sector when women want to borrow money, is eased off to give women access to more finance and loans to do business and support their livelihoods and those of their families?

The Speaker (Hon. Kingi): Proceed, Sen. Chute.

Sen. Chute: Mr. Speaker, Sir, let me take this opportunity to thank the Cabinet Secretary for appearing before the Senate today. I would also like to congratulate her on her appointment. I would like Madam Cabinet Secretary to know that the seat I am sitting on today used to be occupied by the late Sen. Cheptumo. Your response was very good. Somebody gave you 80 per cent, but I am giving you 90 per cent. I have one question only.

Madam Cabinet Secretary, we had women from Marsabit who were trained about six months up to one year ago. I would like you to visit Marsabit, if possible, and see how we can help the women of Marsabit County. As you are aware, Marsabit is among the poorest counties in this Republic. Kindly, *karibu sana* to Marsabit.

Thank you very much, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Next is Sen. George Mbugua.

Sen. Mbugua: Thank you, Mr. Speaker, Sir.

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Hon. Cabinet Secretary, I would like you to tell this House what specific interventions your Ministry has done to help women with disabilities access loans on digitized platform and how many groups of women with disabilities have benefited.

The Speaker (Hon. Kingi): Proceed, Sen. Eddy.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir.

Good morning, Cabinet Secretary? Let me also take this opportunity to congratulate you on your new role. Today, I am seeing Members of the House welcoming you to this House amicably. We, as a House, in our oversight role, have faced a lot of challenges.

There are a few Cabinet Secretaries who sometimes are contemptuous in terms of honouring invitations by this House. I want to wish you the courage to veer from that path even as you take this new role. When we invite you, I hope that you will honour this House more than some Cabinet Secretaries have done before.

That said, I would like to ask a quick follow-up question. I think it was last week when we had the Cabinet Secretary in charge of the cooperatives here talking about the Hustler Fund. One of the challenges is that there is no clear framework in terms of proper follow-up on how people pay for that money.

On this particular Fund that you administer, what is the framework to ensure that people abide by the rules and pay back when it is required and make sure that there is an evaluation framework for the impact of those funds for the women? What are the metrics that you use to evaluate that the money is used to ensure there is return on investment on those funds?

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may now proceed to respond.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you very much, Mr. Speaker, Sir, for those questions. I will attempt to answer. For questions that I will not be able to answer in full, we will make a commitment.

The first question was by the Senate Majority Leader seeking to know how much we requested through the budget process. What we have is Kshs4.5 billion. If that amount is approved, it will help us to push this agenda.

Another question was about the issue of county collaboration. The WEF is trying as much as possible to reach out to county governments because that is where majority of the Kenyan populace is. We can make strides if we work together with the counties. From the data that we have, WEF is in collaboration with Nairobi City, Uasin Gishu, and Kilifi counties. They are still engaging with the other counties, with our help as a Ministry, to ensure that other counties are also reached.

The other question was by Sen. Kathuri, who sought to know the performance of the Fund since inception. Since its inception, the amount of money that has been disbursed is Kshs27 billion to over 136,000 groups.

Another question was whether we support the merger. The challenge with the merger is specialised groups. For example, women have their special way of doing things and so are other groups. If we merge without looking at the ripple effect, most likely it will start frustrating efforts that have been made. As one Member said, women have a lot

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of issues and a specialised way of meeting their needs. Therefore, it is important that we pilot first before merging because it may kill the original objective.

Sen. Veronica Maina asked about the security that the groups are supposed to have. We are engaging the groups at the grassroots level, including the chiefs who know these women and help when we are tracking the monies that have not been paid. Actually, that is where we had a challenge when it came to digitalization because there was no follow-up. However, the 10 members who belong to that group are known to the local administration, and that is almost the main security that we are looking at.

We have officers who are monitoring and ensuring that we follow the repayment of that money on a daily basis because they are in contact and they have their records.

Sen. Mbugua asked the question about Persons with Disabilities (PWDs). On this, I would beg that I be allowed to get more details because this is a group that has to be dealt with clearly. I will be seeking for more clarification, although the answer that I have is that we will design a product that will be specific. Allow me to follow up, so that we get what is actually tailor-made specifically for the PWDs.

On the issue of the recovery framework, we are looking at the physical visits and meetings of the individual borrowers. The group members guarantee themselves. These people are being reached at the level in which they even understand the language, because forms and issues of borrowing are mostly in a language that sometimes may be difficult for them to interpret. However, the officers who are reaching out to them are able to explain to them how they can fill those forms, use the money and repay back. Those are the answers that I have. In case there is anything that we have not clarified, we shall be seeking for more time to respond.

About Marsabit County, yes, we commit to visit so that we can find out what is happening and how the women would want us to move together. I commit to that.

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

What is your issue, Sen. Veronica, before Sen. Madzayo takes to the Floor?

Sen. Veronica Maina: Perhaps, the Hon. Cabinet Secretary can take time and bring the answer later. What is the Ministry doing to make sure the Fund is reaching many more women, especially seeing that those who have benefited here are very few?

On the issue of security, it was in respect of what the Ministry is doing to ensure even the formal banking sector has reduced the need for the heavy securities that women do not own, for example, title deeds, that make it difficult for women to access more finance from the formal banking sector. What is the Ministry doing to ensure that those requirements are eased for women to make it easy to access credit?

The Speaker (Hon. Kingi): Hon. CS, please, take a couple of questions before you take to the stand to respond.

Senator for Kilifi County, Sen. Madzayo, please, proceed.

Sen. Madzayo: Asante Bw. Spika kwa kunipa nafasi hii.

Kwanza nampa kongole kwa kuchaguliwa na Rais kama Waziri wa mambo ya Jinsia na Utamaduni katika nchi yetu ya Kenya. Nina matumaini kuwa utafanya kazi inavyotakikana na utaweka bendera ya mume wako kama ilivyokuwa hapa akifanya kazi kwa bidii na juhudi kuona kwamba amesaidia watu wake wa huko nyumbani.

Swali langu ni kama Wizara yako iko na hesabu au *data* ambayo inaweza kuonyesha usaidizi wote wa kina mama katika taifa la Kenya, ambao wanaweza kufikia yale masoko ambayo yanaweza kuwasaidia katika biashara zao.

Asante.

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

Sen. Abass: Thank you, Mr. Speaker, Sir. I would like to also join my colleagues in congratulating the Hon. CS and thank the President for recognizing her ability and appointing her as a CS.

Hon. Speaker, Sir, if you look at the amount of money that has been disbursed, it is more in the urban side. That is where people are getting more money. For instance, Nairobi City County is getting Kshs236 million and Kiambu County Kshs155 million. Of course, as you go far from Nairobi, even your own hometown, Baringo, there are only 10 member groups. In my county, Wajir, there are only 24 groups that took Kshs5,550,000. This shows that people are not getting access to the fund, perhaps, because of lack of security.

This country is more of a patriarchal, where men only rule and own the titles deeds. Now that the women do not have security, what other plan does the Ministry have, so that at least the rural women can access credit from this fund?

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Ojienda, please proceed.

Sen. (Prof.) Tom Odhiambo Ojienda SC: Mr. Speaker, Sir, I have a Question. My Question No.76---

The Speaker (Hon. Kingi): No. Senators, kindly be attentive as we move forward.

Sen. Kisang', please proceed.

Sen. Kisang': Thank you, Hon. Speaker, Sir. I would like to also join my colleagues in congratulating Hon. Hanna Cheptumo for her appointment as the CS.

Mr. Speaker, Sir, as my colleagues have said, perhaps the CS needs to do some more civic education in the rural counties, so that more of our women may take these particular funds to at least empower themselves economically, especially in the groups, so that they can develop.

I remember when I was the Member of Parliament (MP) for Marakwet West, we worked very closely with the Ministry to ensure more groups came on board and also assist them to basically undertake projects that are more viable, that would give them a profit. That is what we ask her to focus and go to the youth. Send the officers to the ground to assist our women groups, so that they can be empowered.

Mr. Speaker, Sir, the Government needs to look at the Women Enterprise Fund, the Youth Enterprise Fund and the Hustler Fund. At some stage, it will be good to merge them into one serious empowerment fund to assist the youth, women and the PwDs.

Thank you.

The Speaker (Hon. Kingi): Hon. CS, you may now proceed to respond.

The Cabinet Secretary for Gender, Culture, the Arts, and Heritage (Hon. Hanna Cheptumo): Mr. Speaker, Sir, thank you for giving me a chance to clarify, especially on the questions that have been asked earlier. Sen. Veronica asked about the issue of funding. In order to reach many women, we require the funds. That is the

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challenge that is there, considering that the amount of money that had been given earlier, most of it has not been repaid back and it was supposed to be a revolving fund. However, subject to availability of funds, we shall be able to lend to as many groups as possible because we just require a group of 10 members and they do not require any security. The security is the chiefs, just the local leadership. These are people who know each other. So, there is no security required.

Sen. Madzayo, we have a department of market linkages and we are working to ensure that our women products reach the markets. Definitely, as a Ministry, we are looking at an all-government approach. So, this Women Enterprise Fund is not working in isolation. We work with the other Ministries to ensure that we make use of the already existing structures.

Sen. Abass asked about the sensitization of the women. We have the fund operators who are on the ground sensitizing women on how to access this credit. We use the same local administration to pass the information because that is where these women are. We work with them to ensure that in their normal meetings or in the local administration, women are sensitized on the need to borrow, so that they can also access funds for purposes of running their businesses.

There is also an introduction of a Sharia-compliant product because of the Muslim culture and you know that they do not believe in interest. They believe in profits, if I am not wrong. We are trying to ensure that we capture all sectors. We are also intensifying information to ensure that we reach women in the marginalized areas.

All these measures are in place to ensure that everyone - even if it means using the vernacular stations - knows what is happening but mostly, we have an all-government approach. We work with all the other sectors of the Government to ensure that we make use of the platforms that we have to pass the information.

I cannot quite remember the question that was asked by Sen. Abass.

The Speaker (Hon. Kingi): Sen. Abass, you may repeat the question, please.

Sen. Abass: Mr. Speaker Sir, considering that most women do not have title deeds and they do not own many properties, it is only men who own most of the land titles deeds, is there any other way or measures that can be used for women to access the Fund without title deeds or security?

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hannah Cheptumo): Thank you, Senator. I think I will just reemphasize that in the Women Enterprise Fund, we do not ask for security. Security is just the local administration and their own groups because they know each other.

There are officers who are there to ensure that they monitor and remind them. Sometimes it is not that they do not want to pay; it is because of monitoring. That is why digital platforms could not work. However, this one for borrowing one-on-one is what is helping, because we have their data and phone numbers.

On Sen. Kisang's question, civic education is what is very key. The women have to be reminded every time that this is a facility that belongs to all women. It is not for a special category of people. Civic education is being carried out at the constituency level and women are being educated through their forums. They are also meeting in churches

where they are told that this facility is there and it is available to anyone as long as you meet the minimum requirement of being at least 10 members.

I know that some of this information has not reached to marginalized communities, but that is exactly what we shall be endeavoring to do to ensure that we reach out in all forums, that they are available to ensure that they get to know that this facility is available and they should make use of it.

I thank you very much.

The Speaker (Hon. Kingi): Sen. Olekina, you may proceed.

Sen. Olekina: Thank you, Mr. Speaker, Sir. Let me begin by congratulating the newly appointed Cabinet Secretary. I was with her in Narok two weeks ago.

Madam Cabinet Secretary, knowing that you are the new kid on the block and women demand a lot from you, I have listened to the questions asked by my colleagues. It on this issue of women being able to borrow money and have access to that money. Are you in a position to devolve this Women Enterprise Fund?

I am imagining of a woman in Baringo County or a woman in Narok County in Mosiro who cannot access this information through the phone and is also not able to come to Nairobi. How is that woman going to know that there is money that she can apply either individually or through a group?

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): You may proceed to respond.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you, hon. Member, for that question. If you remember in my answer initially, we said this issue of digital borrowing has been almost vacated because not every woman has a phone. Not everybody has a phone, by the way. So, we are reverting back to manual borrowing and that requires personnel to ensure that they educate the women on availability of this Fund. We have officers at the constituency level who are tasked with that responsibility of ensuring that they educate the members on the availability of that Fund. When we talk about constituencies, that is where they are. We will have an officer who will educate them at that level. Then with time, maybe progressively, that information will reach them.

We shall also be making a follow up to ensure that we do not just pick that. We will ensure that we also get the reports from the constituency level on how much publicity has been made to our clients.

I thank you very much.

The Speaker (Hon. Kingi): Thank you, hon. Cabinet Secretary.

I will now allow the Senator for Kisumu County, Sen. (Prof.) Tom Ojienda, SC to ask Question No.076.

Hon. Senator, you may proceed.

Question No.076

CAUSES OF RECENT SURGE IN GENDER-BASED
VIOLENCE AND ENFORCEMENT
OF RELATED LAWS

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Speaker, Sir. I beg to ask the Cabinet Secretary for Gender, Culture and Arts and Heritage the following Question-

(a) What factors have been identified as the major causes of the recent surge in Gender-Based Violence (GBV) cases, including the alarming rise in femicide incidents, which reached at least 170 cases in 2024 (a 79 per cent increase compared to 2023)?

(b) What institutional challenges currently hinder the effective enforcement of GBV-related laws and what systemic reforms are being implemented to strengthen the capacity of law enforcement agencies and the Judiciary in handling GBV and femicide cases?

(c) Could the Cabinet Secretary provide data on the prosecution and conviction rates for GBV and femicide cases in Kenya over the past five years, and indicate whether there are plans to establish GBV courts to expedite and sensitively handle these cases?

(d) What is the current status of the implementation of the Protection Against Domestic Violence Act and the National Policy on Prevention and Response to GBV, and could the Cabinet Secretary provide an audit evaluation of their effectiveness?

(e) Could the Cabinet Secretary provide a status report on the availability, accessibility and distribution of safe shelters, psychosocial support services and legal-aid mechanisms for GBV survivors across the 47 countries?

The Cabinet Secretary for Gender, Culture, the Arts & Heritage (Hon. Hannah Cheptumo): Thank you, honourable Speaker, and the Member for that question. I beg to reply.

(a) The recent surge in gender-based violence and femicide in Kenya has escalated into a national crisis, prompting urgent calls for comprehensive action. Between August and October, 2024 alone, at least, 97 women were killed in gender-related murders.

Addressing this multifaceted crisis requires a concerted effort to challenge societal norms, strengthen legal frameworks and provide comprehensive support to survivors. Only through systemic change and sustained commitment can Kenya hope to reverse the rising tide of GBV and femicide. Increased cases of GBV and femicide are driven by a complex mix of social, economic, cultural, legal and institutional factors. Below are the contributors-

(i) Socio-economic factors: We live in a patriarchal society and patriarchal norms and gender inequality provide societies that prioritize male dominance and control over women often normalize violence. Harmful traditional practices such as child marriage and female genital mutilation contribute to GBV and stigma. Silence around GBV cultural taboos often prevent survivors from speaking out or seeking help.

(ii) Economic factors: Poverty and unemployment. Financial stress can increase household tensions leading to violence. Women in economically dependent positions are more vulnerable. An economic disempowerment of women limits women's ability to leave abusive relationships or report violence.

(iii) Legal and institutional gaps: Weak enforcement of GBV laws. Perpetrators often go unpunished due to corruption, poor policing or lack of evidence, inadequate protection mechanisms, lack of shelters, limited legal aid and psychosocial support services, which are wanting.

(iv) Slow justice systems: Survivors may be discouraged from pursuing cases due to delays or traumatizing processes.

(v) Political and conflict-related factors: Insecurity and conflict. During war or political unrest, GBV is often used as a weapon or becomes more prevalent due to breakdown of law and order and inadequate political support in some devolved units.

(vi) Media technology: There is normalization of violence in the media. Exposure to violent content can desensitize audiences or perpetuate harmful gender norms.

(vii) Cyberbullying and online harassment: Social media has become a new frontier for GBV, especially against women in public life.

(viii) Alcohol and substance abuse: Increased use of alcohol and drug abuse are linked to impulsivity and aggression, often escalating violent behavior at homes and in public spaces.

(b) Mr. Speaker, Sir, GBV remains a pervasive human rights issue in Kenya, affecting women, men and children across all socioeconomic backgrounds. Despite the existence of progressive laws such as the Sexual Offences Act, 2006, the Protection Against Domestic Violence Act, 2015 and various provisions in the Constitution of Kenya, the enforcement of these legal frameworks continues to face significant obstacles.

The institutional challenges undermine efforts to protect survivors, hold perpetrators accountable and deter future incidents of GBV. Addressing these systemic issues is crucial for achieving justice and fostering a society free from violence and discrimination.

Institutional challenges include, and I emphasize-

(i) Weak coordination among Government agencies. There is often a lack of coordination between key factors such as the police, judiciary, health services and social services. This fragmentation results in inconsistent responses and delays in case processing and inadequate survivor support.

(ii) Inadequate capacity and training of law enforcement officers. Many police officers, prosecutors and judicial officers lack specialized training in handling GBV cases. This leads to mishandling of evidence, insensitive treatment of survivors and poor case outcomes.

(iii) Limited resources and infrastructure. Critical institutions such as police stations, gender desks, shelters and forensic labs are under-resourced. This limits their ability to respond effectively to GBV incidents, especially in rural and marginalized areas.

(iv) Corruption and impunity. Corruption within the justice system often leads to their dismissal or manipulation of these cases.

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(v) Perpetrators may bribe officials to avoid prosecution while survivors may be coerced to withdrawing the cases.

(vi) Backlog and delays in the judicial system. Kenya's courts are overwhelmed with a backlog of cases leading to significant delays in the resolution of these matters. Survivors often lose hope or drop cases due to the prolonged wait for justice.

(vii) Cultural and social norms within institutions. Institutional personnel may hold patriarchal or victim-blaming attitudes, which influence their willingness to act decisively on GBV cases. Such norms often result in the trivialization or dismissal of complaints.

(viii) Poor data management and case tracking. There is no comprehensive centralized system for collecting and managing GBV data across institutions. This hampers evidence-based policymaking and the monitoring of enforcement effectiveness.

(ix) Inadequate survivor-centered approaches: Many institutions do not prioritize the safety, dignity, and the confidentiality of GBV survivors.

This deters survivors from reporting and engaging with formal systems.

Mr. Speaker, Sir, my Ministry, in collaboration with key stakeholders is undertaking significant systemic reforms to enhance the capacity of law enforcement agencies and the Judiciary in handling femicide cases. These efforts aim to address systemic challenges and ensure justice for survivors.

(x) The establishment of specialized gender-based violence courts. In 2023, the Kenyan Judiciary launched at least five specialized sexual and gender-based violence special courts in regions, including Shanzu, Siaya, Kisumu, Kibera, and Makadara. These courts are designed to expedite GBV cases, reduce case backlogs, and provide survivor-centered justice. Currently, Kenya has 12 specialized courts for victims of GBV.

(xi) Formation of a presidential working group on femicide. In December, 2024, the Kenyan Cabinet approved the formation of a multi-sectoral Presidential Working Group tasked with developing a comprehensive approach to address the increasing GBV cases, including femicide. This group, comprising religious leaders, parents, schools, security agencies and civil society organizations, is mandated to identify legal and enforcement gaps and deliver actionable recommendations within 90 days.

(xii) Specialized units within the Office of the Director of Public Prosecutions, ODPP. The ODPP has established specialized units focusing on SGBV, counter-trafficking in persons and child protection. These units are staffed with trained prosecutors who handle cases with a trauma-informed approach, ensuring effective prosecution and victim support.

(xiii) Standard operating procedures for GBV case handling. In July, 2024, the Kwale Court Users Committee unveiled the first ever SOP Manual to streamline the reporting and the handling of SGBV cases. The manual outlines procedures for proper reporting, meticulous evidence recording and effective prosecution, aiming to ensure victims receive prompt and effective justice.

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

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

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(xiv) Police reforms and capacity building. The National Police Service (NPS) has recommended several reforms, including the digitalization of P3 forms and post-rape forms, integration of GBV information management system and the establishment of specialized GBV response units at all police stations. These measures aim to enhance the efficiency and the professionalism of police responses to GBV cases.

(xv) International support and training. The United Nations (UN) Women has been instrumental in training over 600 officers across Kenya's National Police Service and the National Transport and Safety Authority (NTSA). This programme focuses on recognizing signs of potential femicide and promoting a victim-centered approach to law enforcement. These reforms represent a concerted effort by the Kenya Government and its partners to strengthen institutional capacities and ensure timely justice for survivors and ultimately reduce the incidence of femicide in the country, reduce or stop completely.

On part (C), Mr. Deputy Speaker, Sir, there is an Annex 3 at the back, which provides a summary of femicide data in Kenya. The source of this data is the Ministry of Interior and National Administration. I, therefore invite the hon. Senator to see that data, which clearly gives the summary.

The Deputy Speaker (Sen. Kathuri): Madam Cabinet Secretary, just a minute. I have been approached by the owner of this Question, Prof. Tom Ojienda. He has received the response and has gone through it. It is lengthy and he feels satisfied.

I would like us to save time because the Senior Counsel, the Senator for Kisumu is up. This document is the property of the House and the Member is satisfied, but he has a supplementary question. The reason this document is circulated is for the Senators to engage with it. So, Sen. Tom Ojienda, just have a seat. I do some housekeeping.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Unlike Sen. Cherarkey, I am a gender-based violence expert and I am happy with the response. I read a lot. I read the response and I am satisfied that Hon. Cheptumo has done a comprehensive response to the Question. I am happy unlike Mr. Cherarkey here. He rarely reads.

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

The Deputy Speaker (Sen. Kathuri): Order, Sen. Cherarkey. Just a minute, Sen. Cherarkey. I do not accept this behaviour of exchanging between the aisles. While presiding in this House, I will not accept those exchanges. You should wait for the Senator for Kisumu and then you can also make your point of order or whatever else you wanted to say, because you have interrupted whatever he was saying.

Sen. Tom Ojienda, did you conclude?

(Sen. (Prof.) Tom Odhiambo Ojienda, SC spoke off record)

Okay. Sen. Cherarkey?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, is it in order, under Standing Order No.101 on contents of speeches, for Sen. (Prof.) Tom Ojienda to allude that I do not read? I have even written books. He is the one who used to force us in class to read his own book and I read his book cover to cover; on principles of conveyance. He should

withdraw and apologize because I am known to be an avid reader. He can visit my private library after this.

The Deputy Speaker (Sen. Kathuri): It is out of order to ask your lecturer and teacher, a Professor of law, to apologize to you.

Sen. Cherarkey: We are equal before this House of union, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): No, let me first clear this. Hon. Cabinet Secretary, as you summarize your presentation, if there is anything you feel you want to insist on, you can do it.

(Sen. Veronica Maina spoke off record)

Sen. Veronica, who is now leading the communication in this House, is it Sen. Veronica or the Chair?

Hon. Cabinet Secretary, if there is anything you want to comment as you summarize, do it so that we take a few supplementary questions. Then we will create more time for other business. If you have nothing, then we get to the supplementary questions.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to make some recommendations for consideration.

Firstly, for the Ministry to effectively operationalize protection centres, including police care, there is need for increased funding. Currently, the protection against domestic violence is in progress. It is being spearheaded by the Kenya Law Reform, supported by the Attorney-General's Office. We are therefore seeking for consideration to be passed as an Act of Parliament, once it has gone through the entire processes.

We consider additional funds to operationalize GBV protection centres under NGAAF. The gender-related targets should be part of performance contracting, including gender targets in performance contracting. In Kenya, it is crucial for advancing gender equality and fulfilling national and international requirements. Performance contracts compel ministries, departments and agencies to actively implement gender-related policies, and for tracking of the same.

So, with the gender targets included, institutions are held accountable for translating policy into measurable action, and integrating targets in performance contracting is not just a compliance issue. It is a strategic tool to foster equitable, inclusive and efficient governance. It moves gender equality from rhetoric to results, ensuring Government institutions contribute to transformational change for women, men, girls and boys across Kenya.

There is also the establishment of the Survivors Fund as per of the Generation Equality Forum in partnership with the private sector. The arms of some of the survivors have been mutilated. The Survivors Fund will ensure that such survivors have life after what they have gone through.

Those are some of the recommendations we are bringing on board. We want this Ministry and the sector to be supported because it goes to the core of the family.

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Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you, Madam Cabinet Secretary, for the response. We have a few supplementary questions. The first question is by Sen. Mbugua.

Sen. Mbugua: Thank you, Mr. Deputy Speaker Sir. I would like the CS to highlight to us the partnerships which exist between the Ministry, the civil society and the faith-based organizations to strengthen the Gender Based Violence (GBV) reporting and survivor support systems.

The Deputy Speaker (Sen. Kathuri): Madam CS, just record the four questions. Next to ask the question is Sen. Veronica Maina.

Sen. Veronica Maina: Thank you, Mr. Deputy Speaker, Sir. Madam CS, you know we have had high escalation of GBV cases and femicide. His Excellency the President has reiterated the Government's commitment in tackling GBV. To this end, an allocation of Kshs100 million was done under Article 223 of the Constitution. The Ministry and women leaders across the whole country had a meeting on 20th November, 2024 to address this issue. Following that meeting, the women leaders submitted work plans and asked that we go across all the constituencies to deal with this issue and tackle it from the grassroots level.

Hon. CS, could you guide the House on when the funds will hit the accounts for us to hit GBV head-on and deal with it in all the constituencies in Kenya? We hope that the incidences of femicide can be reduced in the country. What is the current position on that Fund?

The Deputy Speaker (Sen. Kathuri): Next is Sen. Mumma.

Sen. Mumma: Thank you, Hon. Deputy Speaker, Sir, for giving me the opportunity to ask my question. Hon. CS, thank you for your responses. You are aware of the Nancy Baraza taskforce, which was put in place because of the rampant issues of femicide.

Hon. CS, we do not have a femicide law in this country hence it is difficult to prosecute a femicide offence in this jurisdiction. My question is: how is the Ministry bringing together different actors to ensure that all parameters around GBV and femicide are addressed? I am looking at the legal, justice, social and cultural parameters. Hon. CS, I know you are new in office, but I am asking this question to broaden your thinking. This is an approach you might want to look at as you settle in.

Mr. Deputy Speaker, Sir, allow me to make one comment. Hon. CS, the gender indicators will never improve unless we acknowledge that gender is a cross-cutting issue that must be discussed on every decision-making table. It needs to be discussed in the Ministry of Interior and Coordination of National Government, Ministry of Health, Ministry of Water, Sanitation and Irrigation and everywhere. So, greater collaboration by your Ministry and coordination in a technical manner will help us move forward. My question to you is: how will you get collaboration with the key stakeholders in order for us to reduce GBV and femicide?

The Deputy Speaker (Sen. Kathuri): That was the last question. Madam CS, you can answer the three questions.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Cheptumo): Thank you, Hon. Deputy Speaker, Sir. I will take the first question on the issue of partnerships. We have the gender sector working groups, which work with us very closely to ensure that we have solutions to the prevalent issues. We also have gender officers in every county. They collect data and report to us. That is how we are able to identify the hotspots and what is causing the prevalence or the surges of GBV.

There was a question about the Kshs100 million. We will make a follow-up on when this money will be disbursed for it to be used for its intended purpose. Allow us to follow up on it then we will report back or better still, ensure that it is disbursed. We do not have to wait until we come back here. It will be better if we can have it rolled down. That is one of the things that I will follow up on. I am aware about it.

Sen. Mumma has talked about the task force. The task force is still collecting information and once they come up with the report, we shall receive it and implement its recommendations as fast as possible. This task force is going around the country and receiving information on why femicide cases are on the rise.

We do not have femicide law as we speak. Femicide is in the penal code and it is considered as murder. For now, let us wait and see what comes out of the data. After which, we will work together with all the groups, including the Judiciary. We will look at the recommendations given and see what we can do to ensure that we bring femicide cases to an end.

There was a question on gender indicators and collaboration by all the sectors. This is an area where we have to go out of our way because gender is in every sector. It is in agriculture, all departments and all the ministries. As the lead Ministry, we shall reach out to all the sectors to ensure that the gender issue is addressed at every level. With that, the gender issue will not be left to a unit or a Ministry. It will be cross-cutting. With that, we will reach as many people as possible and we will be in a position to finish this thing that is becoming a snare in our country.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Madam CS, I appreciate your coming to the Senate. I also appreciate the way you have handled the questions from the Senators. For the commitments you have made, you will communicate through the relevant Committee or the Clerk of the Senate in order for you to answer the issues that you have not expressly responded to.

Thank you very much. I release you to go and serve Kenyans. That is the end of that Order. Members are happy with your response. We have concluded the session unless you want to stay around. I can see you are really enjoying the Senate. If you want to stay, you can sit and wait.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): No, thank you very much for listening to me. Yes, it is true this was my first time. I thank you so much for the contributions. We will definitely work on the recommendations that have been made.

The Deputy Speaker (Sen. Kathuri): Of course, you know your Senator by default.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo): Thank you very much.

The Deputy Speaker (Sen. Kathuri): Thank you very much, indeed.

(The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Hanna Cheptumo) was ushered out of the Chamber)

Clerk, let us move to the next Order.

BILL

Second Reading

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO.10 OF 2025)

(Sen. Cheruiyot on 20.5.2025)

(Resumption of debate interrupted on 20.5.2025)

The Deputy Speaker (Sen. Kathuri): When this business was interrupted yesterday, Sen. Godfrey Orosti had a balance of 10 minutes. If he is not around, he will forfeit the privilege to use his 10 minutes. We will therefore move to the next in line, Sen. Cherarkey Samson.

Sen. Cherarkey: Thank you, Mr. Speaker, sir. This is one of the crucial matters. The reason the Senate exists is to address the Division of Revenue Bill (National Assembly Bills No.10 of 2025), which is a precursor to the Financial Year 2025/2026. It is very critical that at this time we are discussing the Division of Revenue under Article 210. It provides that at least 15 per cent should be allocated from the latest audited accounts.

I want to join my colleagues in urging the National Assembly to move with speed. It does not make sense that we now have a budget of Kshs4 trillion, yet the proposal is to allocate only Kshs405 billion to counties. I urge the National Assembly to fast-track the process and ensure that the latest audited account is less than one financial year.

I hope the nation is following these proceedings. We have proposed that counties must receive at least Kshs465 billion. As we proceed to mediation, the Senate's position must stand to ensure that counties receive Kshs465 billion. This is an increase from the Kshs370 billion allocated in the Financial Year 2024/2025. Counties have many responsibilities and require adequate funding to ensure effective service delivery.

Yesterday, during the Institute of Certified Public Accountants of Kenya (ICPAK) meeting in Mombasa, I heard the National Assembly's Chairperson of the Standing Committee on Finance and Economic Planning argue that counties should not receive additional funds due to corruption. However, corruption exists everywhere, including in both national and county governments.

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That is one of the weakest excuses I have ever heard. The Chair of Finance and Economic Planning, during the ICPAK meeting in Mombasa claimed that counties should not receive more money due to corruption yet, as the Majority Leader mentioned yesterday, corruption is widespread. They say that before you kill a dog, you first give it a bad name. That is what the National Assembly is trying to do. I agree with the former Prime Minister Raila Odinga that all funds should be allocated to only two offices; the National Executive and the Governor. I urge Members of the National Assembly who want to manage funds to run for only those two seats; Governor or President.

The Constitution is very clear, as stated in Articles 94 and 96, that the role of Parliament is legislation, oversight, budget-making and representation. There is wisdom in why the Constitution of Kenya, 2010 ensured that Parliament should carry out these duties. This is because one cannot oversee oneself. As they say in Kiswahili, and I quote, “*Mganga hajigangi*”. That is the essence of the National Assembly to oversee the National Executive, while the Senate and county assemblies to oversee the governors. I do not see any reason for the National Assembly to argue that counties should receive less funding due to corruption. We have institutions like the Ethics and Anti-Corruption Commission (EACC) to deal with such issues.

You have seen the Governor of Trans Nzoia County arrested and arraigned before a court of law. Just the other day, the former Governor of Busia County was taken to court over an anti-corruption case involving Kshs8 million. Several governors are currently facing corruption allegations, with cases being prosecuted by the Director of Public Prosecutions (DPP) and the EACC.

We cannot allow anyone to derail devolution just so they can centralize funds. In fact, my hope for the future is that we must devolve sufficient funds and resources to counties to the extent that no one is overly concerned about who becomes the President of Kenya. That is my dream. I would like to see Kenya where, when you are in Meru, your people are satisfied and your county’s resources are well managed.

Over the weekend, I was disappointed that the County Government of Garissa, led by the Governor, organized a cultural festival, yet the city lacks water and even clean toilets. It is unfortunate that they have not even completed the Baraki-Malamin Water Project, 56 kilometres of water infrastructure that was valued at Kshs219 million. Instead, they are focusing on a cultural festival. In fact, Garissa County has 17 stalled projects, totalling Kshs504 million yet, they have millions of shillings available for cultural events. These individuals should be called out because they are giving devolution a bad name. In fact, they allocated Kshs34 million to purchase food for flood victims in Garissa. However, that money should be used fairly and transparently to ensure real value.

When we intervened in Meru by removing the former Governor, it was to restore order and sanity. I therefore call out governors who tarnish the name of devolution. That is why devolution is under threat from certain individuals. Therefore, as a nation, we must agree that funds should be allocated to counties in a manner that guarantees value for money.

Secondly, I have observed that as of March and April, equitable shareable revenue has not been disbursed to counties. There is Kshs74.98 billion yet to be released. Under Article 219, and the Cabinet Secretary for the National Treasury and Economic Planning

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should be aware of this, that once money has been allocated, it must be disbursed without undue delay, unless halted under Article 225. The Constitution only envisions withholding funds when Article 225 applies. The violation of Article 219 is concerning.

I recall that we did not sanction the former Cabinet Secretary, Ukur Yatani, over delays in county disbursements. I commend the National Treasury for releasing approximately Kshs22 billion in capitation fees for the second term of schools. However, they must also release the Kshs74.98 billion owed to counties from February, March and April to ensure that county functions can proceed seamlessly.

Apart from addressing corruption and ensuring prudent expenditure by counties, we must reach a consensus as a nation. As we proceed into mediation, we must agree that our position as the Senate is to push for Kshs465 billion. Members of the Senate Committee on Finance and Budget who are here should take note of that.

The other issue concerns concurrent functions. We need to have clarity on Community Health Promoters (CHPs) programmes. In various counties, CHPs have not been paid. Additionally, there is the issue of Universal Health Coverage (UHC). I hope you have noticed that whenever you drive into Parliament, UHC staff are always demonstrating. You have even directed from your seat that we receive their Petition. These are the people who stood at the frontlines while soldiers remained in their barracks and while powerful men and women sought shelter during the COVID-19 crisis. It is only these heroines and heroes of Kenya who bravely confronted the fight against COVID-19 pandemic.

It is sad today that the country does not see the value of the UHC staff. The other day the Council of Governors (COGs) said they do not have a budget. They were arguing that they gave us a pet to take home, but it turned into a skunk or they gave us a skunk to take home and turn it into a pet. I want to challenge the National Assembly, that under the conditional grants, we should give at least Kshs2 billion to ring fence the transition of UHC staff. They must first be given gratuity so that they can get value for money. The UHC workers are demonstrating daily. We must listen to them. If you can recall, the Cabinet Secretary for Health, Hon. Aden Duale, was here last week. Although he said he does not take my counsel, but my counsel is rarely given and it is valuable.

Sen. Oketch Gicheru: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): There is a point of information from Sen. Eddy Oketch.

Sen. Cherarkey: To who? To the House or me?

The Deputy Speaker (Sen. Kathuri): Do you want to be informed?

Sen. Cherarkey: Yes.

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

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, my brother, Sen. Cherarkey, has just spoken about the UHC workers. He has said that there should be Kshs2 billion allocated for them. I wanted to inform Sen. Cherarkey that, because we share the gravity of this issue, Kshs2 billion cannot be enough for them. The money that we need to make sure that UHCs are actually compensated properly is Kshs3.5 billion.

I wanted to inform you that is a very important number that we cannot go below. Most importantly, we also cannot compromise the issue of permanent and pensionable

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terms for them. Therefore, even as you combine those two, the Kshs2 billion is too small for them. It should be Kshs3.5 billion and above.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, you are well informed.

Sen. Cherarkey: He has the advantage of sitting in the Committee of Finance and Budget as a Member. As we go for mediation, our bare minimum is to ensure that Kshs3.5 billion is ring-fenced for payment of gratuity and hiring on permanent and pensionable of UHC staff. I am happy even during the debate on permanent and pensionable, we did push for Kshs 6,000 for Junior Secondary Schools (JSS).

I am coming up with a proposal to amend the Public Service Commission (PSC) Act; that all public service commission interns who intern with Government must be transited to permanent and pensionable terms after six months. This will ensure that we retrain the quality of training of those staff and we do not pay stipend.

As we talk, even as the UHC staff demonstrate, it is sad because in our hospitals, there are no services, yet we have staff who have already been trained. I want to advise the CoG and the Ministry of Health, let us not lose the UHC staff because they are already trained, they have worked and they have experience. The least we could do as a country is to appreciate the heroes and heroines of the COVID-19 pandemic. You remember, soldiers could not come out of the barracks because no one knew how to handle COVID-19 in this country. Therefore, we must look at the issues of the UHC staff and Community Health Volunteers (CHVs).

I have seen the reasoning of allocating the public debt, which is approaching Kshs11 trillion. I want to call upon and challenge the Committee on Finance and Budget of the National Assembly and the Senate and His Excellency the President, to do an audit of the public debt to help us know, in this Kshs11 trillion, who do we owe and who owes us. It cannot be that the country pays a public debt and an audit has never been done about the Kshs11 trillion. One of the things that Parliament can do, is to demand an audit of the entire public debt that the country is paying. We have to tax Kenyans and borrow, so that we can pay debt, because in the past regime, there was reckless spending and abandonment on borrowing. We cannot account for that money through the Standard Gauge Railway (SGR) or the infrastructure roads. We must demand for an audit of the public debt in this country of Kshs11 trillion. It is very disappointing that most of the businessmen in Meru, Nandi, Kilifi, Narok, Migori, Garissa and Isiolo, are suffering because of lack of payment of pending bills.

It cannot be that the Controller of Budget (CoB) is releasing money, yet we have pending bills of Kshs185.446 billion. You are killing our small business. I remember Sen. Gicheru was coming up with a Bill on Start-Ups. How will we support the small businesses in our villages and in our counties if we do not pay pending bills?

If you can recall Sen. Ledama's Motion, we had resolved as a House that pending bills must be paid. In the last session, the National Treasury issued a circular that counties must give an undertaking of payment of pending bills. Nonetheless, it is sad that pending bills as of today amount to Kshs185.46 billion, with Nairobi leading with over Kshs100 billion. We must be told where the money is going to.

When you go to the Controller of Budget, the requisitions have been met. When you come to the pending bills, we have a problem called voiding of payments whereby

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you take the money to pay X, but end up paying Y. We must be told about this public debt.

On the issue of the Equalisation Fund, under Article 204, I want to request that the Committee on Finance and Budget to tell the nation what happened to the Equalisation Fund. We have been passing time and Nandi is supposed to benefit in Kapchorwa Ward, Soba-Songhor and Chemelil Chemase Ward. Although Terek and Chepterwai Ward should be beneficiaries in Nandi County, we are yet to get it. We must also demand a special audit by the office of the Auditor-General (OAG) to look into the Equalisation Fund. I know Meru and Kilifi counties are beneficiaries. Many other counties should benefit from the Equalisation Fund.

Finally, the fifth point is on own-source revenue. We must agree, the revenue potential, for example, of Nairobi is Kshs63 billion, but when they collect Kshs11 billion or Kshs13 billion, they become excited. The revenue potential of Nandi is Kshs800 million, but when Governor Sang collects Kshs200 million, it is a celebration. Is it a case where a chicken lays an egg and makes a lot of noise as opposed to a cow, which gives a lot of milk?

We must relook at the own-source revenue. For Nandi, we have multinational tea estates, land rates, land rent, among others. I want to challenge counties and I want to warn the governors, no governor is special. Even if you criticize the President, you are not special. We want to tell the Governor of Trans Nzoia that he must be held accountable. However, much he tries to politicize the issue, he must face the full wrath of the law. In this country, people should avoid bad manners. I want to thank Her Excellency Samia Suluhu Hassan, for calling out the activists who wanted to go and disrupt the peace in Tanzania. Additionally, she should have detained and prosecuted them because they have taught this country bad manners. These activists have taught our people to insult, undermine and lose respect to the leadership of this country. Tanzania is a very peaceful country. What President Samia Suluhu Hassan said, we should respect our countries.

There is mutual respect. The activists who run around East Africa trying to meddle in the internal affairs of other countries must be stopped. Essentially, what business would you have to go and meddle in the affairs of Tanzania? I want to ask President Samia Suluhu Hassan of Tanzania to be very careful because these activists are funded by enemies of Africa, who want to destabilize the peace and tranquility of most African nations.

You even saw in the last Gen Z protests. There were allegations that international donors were financing instability in this country using what we call the international donors. I want to ask President Samia Suluhu Hassan, that in the spirit of East Africa, she should assist us to discipline some of these ill-behaved activists who have continued to destabilize Kenya. The island of peace of Tanzania must be protected *na awafinye kabisa*.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, can you relate what you are now discussing with the Division of Revenue Bill? Can you relate the two because you are digressing?

Sen. Cherarkey: Okay, I am trying to relate. What I am saying is that we need stability in Tanzania and Kenya because there is balance of trade. We export and import. We get taxes, then we build on the Division of Revenue. That is why I am saying we should not disturb the peace and unity of Tanzania. I am asking Samia Suluhu Hassan *afinye hao kabisa*.

The Deputy Speaker (Sen. Kathuri): Just a minute. Sen. Oketch, what is your point of order?

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, this is a very serious flaw in this House. I am rising on Standing Order No.105 on responsibility for statement of fact.

Mr. Deputy Speaker, Sir, is it in order for the Senator for Nandi, who is a lawyer, to misinform the House and the public on what informed the action of deportation of Kenyans from Tanzania? If you look at Article 104 of the East African Community (EAC) Common Market Protocol, it expressly guarantees the freedom of movement of services, labour and goods within the East African region. If you look at the Treaty that was established in 1999, it allows the tenets of democracy to permeate in the entire region. How can Sen. Cherarkey misinform Kenyans that it is right for Tanzania to deport Kenyans despite the existence of those treaties? That is something that must be condemned because it is not right. It could lead to reciprocation to other member states by Kenyans. Is it factual that those are tenets of democracy that dictatorship in Tanzania is exclusive to our dictatorship in the country?

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey has heard you. Let him respond.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, Sen. Eddy should withdraw the statement and apologise because there is no dictatorship in Tanzania because they conduct elections regularly.

(An hon. Senator spoke off record)

Mr. Deputy Speaker, Sir, I wanted to answer the point of order.

The Deputy Speaker (Sen. Kathuri): Give him one minute.

Sen. Cherarkey: He must withdraw that and apologise because President Samia Suluhu was elected into that office alongside the late Magufuli.

Secondly, the Treaty talks about movement of goods and services. Martha Karua and other busy body activists are not goods and services, unless I got it wrong from the Treaty of 1999.

The Deputy Speaker (Sen. Kathuri): It is goods, services and labour.

Sen. Cherarkey: Which labour was Martha Karua and busybody activist Boniface taking to Tanzania? They are using Non-Governmental Organisations (NGOs) money to clout-chase on *TikTok* and *Facebook*.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to submit. I pray that we go to mediation---

(An hon. Senator spoke off record)

Mr. Deputy Speaker, Sir, I shall not be intimidated. These are people who are financed by NGOs. I will not be moved. If they have eaten NGOs' money, that is sorrowful. He should withdraw---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, you have finished. Please, resume your seat.

Sen. Boni, you have the Floor.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, with all due respect, however emotional we can become during debate, we must uphold parliamentary language. Martha Karua is an hon. Member who served this Republic, not only in this House, but also in the Cabinet. Martha Karua was one of the engines behind the success of fast-tracking of the EAC.

For the Senator for Nandi to call Martha Karua and Prof. Willy Mutunga as busybodies should not reflect anywhere in the records of this House. If Tanzanians hear that we are disowning the former Chief Justice (CJ) and Martha Karua---

An hon. Senator: On a point of order.

Sen. (Dr.) Khalwale: You will have time.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, what is out of order?

Sen. (Dr.) Khalwale: In fact, Mr. Deputy Speaker, Sir, I am on my point of order.

The Deputy Speaker (Sen. Kathuri): It is like you are debating. What is your point of order? Please, be specific.

Sen. (Dr.) Khalwale: The point of order is this; is the hon. Senator in order to use unparliamentary language by calling distinguished Kenyans as busybodies? I demand that he withdraws and apologies abundantly to Prof. Willy Mutunga and Hon. Martha Karua. I would forgive him if he talked about people like Boniface Mwangi. That is okay, but not the other two distinguished Kenyans.

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

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I said busybodies. In fact, I used a polite language compared to President Samia Suluhu who said *viumbe*. I used the word busybodies because what is their job description as at now? They are former state officers and we know what they are trying to achieve. These are activists who want to---

The Deputy Speaker (Sen. Kathuri): Actually, Sen. (Dr.) Khalwale, your point of order is on Standing Order No.122(1)(b), which states that a Senator commits an act of gross disorderly conduct if the Senator declines to retract use of un-parliamentary language or declines to offer apologies, despite having been ordered to do so by the Speaker.

Sen. Cherarkey, it becomes gross misconduct. That is what you are doing and you know the consequences. We must respect the Standing Order like the Bible.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, with tremendous respect, since you are the Chair of the *Njuri Ncheke*, I withdraw and substitute---

(An hon. Senator spoke off record)

It is a respected decision-making body among the Ameru Community.

The Deputy Speaker (Sen. Kathuri): It is referred to as the council of elders.

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Sen. Cherarkey: It is recognised under the Constitution. In fact, Mr. Deputy Speaker, Sir, when I was there with you, the *Njuri Ncheke* went into a trance as you approached to address them. So, I have every right to ensure---

Mr. Deputy Speaker, Sir, I withdraw the words “busybodies” and “good for nothing individuals”.

I thank you.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Olekina.

Sen. Olekina: Mr. Deputy Speaker, Sir, I rise to support the report by the Committee on Finance and Budget in as far as their contribution to the Division of Revenue Bill is concerned.

Mr. Deputy Speaker, Sir, as I seek your indulgence because of my vocals, I want to remind this House that we have been here before. We are supporting the report of our Committee on Finance and Budget and rejecting the proposed amendments by the National Assembly.

If you were keen to listen to Members of the Committee on Finance and Budget, they told us that the National Assembly is completely violating the Constitution. It has violated Article 202 that demands that revenue raised be shared equitably. It has also violated the Constitution in the sense that they received the audited financial statements from the Auditor-General for Financial Year 2024/2025, but they have refused to consider. That means that any funds can never be shared equitably between the national and county governments.

If we rely on audited financial statements for Financial Year 2020/2021, the only amount of money that can be proposed by the National Assembly to be shared amongst counties is about 14 per cent. That tells us that all these new taxation policies being introduced by the Government are only going to hurt Kenyans more and create huge pending bills where all governors will be appearing before our Committee on Finance and Budget and oversight committees to answer questions as to why they are not remitting statutory deductions.

Non-discretionary expenditures alone amounts to about Kshs31 billion. The amount of money that we proposed through mediation that was back and forth for the last Division of Revenue Bill was about Kshs405 billion. However, even after the mediation processes, we were pushed down to about Kshs387 billion. Let us just be realistic.

We have had an agreement between our party, the Orange Democratic Movement (ODM) and the Kenya Kwanza Alliance that we are going to endeavour to ensure that we send at least Kshs450 billion to the counties. We had that agreement because we are alive to the fact that there are non-discretionary expenditures that must be taken care of.

If you deduct money from an employee as an employer, but you do not remit Kshs30 billion that you have deducted because you do not have enough money to pay your pending bills or introduce other developments, what will you be doing?

Mr. Deputy Speaker, Sir, we are continuing to dig a deeper hole when it comes to our fiduciary responsibility. It is about time that we ask ourselves whether these debates and the position we take, as a Senate, is a position that we all understand. We are fighting for our counties to get money, so that they can pay all pending bills, make statutory deductions and remit them to allow the Government to continue raising funds.

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Mr. Deputy Speaker, Sir, one of the biggest challenges that I see is that sometimes there is a huge disconnect. I strongly believe that the Committee on Finance and Budget of the National Assembly and the Senate Standing Committee on Finance and Budget should sit together and try to make sense of the Division of Revenue Act (DORA). Before it comes here, we waste time, debate and try to drill some sense into how money should be divided using the Constitution, but we seem to be getting nowhere.

We are trying to drill wisdom to the Committee on Finance and Budget of the National Assembly. There is no way for them to propose to give counties Kshs405 billion yet expenditures like the Housing Levy, Social Health Insurance Fund (SHIF) and the National Social Security Fund (NSSF) takes a whopping Kshs31 billion. Are we really supporting these counties? Even if you take the Kshs387 billion plus the Kshs31 billion, it gives you Kshs418 billion. We need to be candid enough. If we are supporting devolution, we do so with facts. Let us put facts on the table and try to educate these people on the need to ensure that we maintain our fiduciary responsibility.

Mr. Deputy Speaker, Sir, the reason many people blame the Controller of Budget (CoB) is because she does not read the Constitution and the laws. The other day we were arguing about money being sent to Nyamira County. Some of us were blaming the CoB for releasing money to two different assemblies yet we have a law that all of us must read and understand.

If you read Sections 103 and 104 of the Public Finance Management (PFM) Act, it is clear. Section 103 talks of establishment of the County Treasury. Section 104 says that the Head of the County Treasury shall be the County Executive Committee Member (CECM) in charge of Finance and Economic Planning. Only The CECM in charge of Finance and Economic Planning can be sent requisitions to the CoB. We need to be clear here because sometimes we talk yet we do not have facts.

Today, I want to demystify this issue of the Division of Revenue Bill. This Constitution, which all of us read on a daily basis is quite clear. Article 201 talks about a fiduciary responsibility. It says-

“The following principles shall guide all aspects of public finance in the Republic—

(a) there shall be openness and accountability, including public participation in financial matters;

(b) the public finance system shall promote an equitable society, and in particular—

(i) the burden of taxation shall be shared fairly;

(ii) revenue raised nationally shall be shared equitably among national and county governments; and

(iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas”

Mr. Deputy Speaker, Sir, in reference to the Equalisation Fund, already there is a mistake in this report. I hope that when a report is tabled, we go through it. The Equalisation Fund is not owed Kshs2.7 trillion, but it is owed Kshs27 billion. So, that should be corrected in this report. The Senate Committee on Finance and Budget is proposing that the money which should be set aside for the Equalisation Fund be Kshs9

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billion, yet there is a debt of Kshs26 billion. How are we going to resolve this debt? Are we going to compound debt over debt? We need to be realistic. In fact, this is why I differ with the Committee on Finance and Budget. If we already owed Kshs26 billion, yet they have proposed is Kshs7 billion. There is an additional Kshs2 billion. So, Kshs26 billion plus Kshs7 billion is Kshs33 billion. If you add another Kshs2 billion it will be Kshs35 billion, yet there is a sunset clause on this Equalization Fund.

The Constitution is clear in terms of the Equalization Fund. Article 204 talks about the Equalization Fund and it sets a sunset clause for 20 years, which are lapsing soon. So, the question that I have not heard the Senate Standing Committee on Finance and Budget responding to, or any of my colleagues, and I will seek some wise counsel from our colleague, Sen. Eddy, is what happens if we do not amend the Constitution to be able to extend the time of the Equalization Fund? The 20 years period is coming to an end? The money is yet to be released? Will this money be in a Fund which exists? These are questions that we must ask ourselves diligently and see where the problem is. How will we resolve this problem?

On the issue of accountability, we are all complaining that projects are stalling. There are so many projects which the national Government has initiated. When it comes to the issue of Narok County, I want to be candid and clear on this. There is an airport which is the responsibility between both the national Government and the county government.

I applaud my County Government of Narok and the Ministry of Roads and Transport because they have looked at issues to do with Article 187 of the Constitution in terms of a function which is for the national Government being undertaken by another level of government. They agreed that we need this service. If the national Government cannot afford it, we the people of Narok County, who we consider very rich, can afford to build the terminal. These projects must be completed. So, when we initiate projects, let us complete them.

I want to call upon the Ministry of Roads and Transport and the Kenya Airports Authority (KAA) to be on the site. I was there two days ago and I will be there again on Friday. I will be a thorn in your flesh to make sure that these projects are completed. That is the only way we will make sense.

Mr. Deputy Speaker, Sir, a couple of days ago, I listened to my colleague, Sen. M. Kajwang'. He raised a valid point by asking a very simple question. Why is it that when governors are exiting after serving a county for 10 years, they launch a huge project which becomes a burden to the incoming governor? In Narok County, we had a similar problem with the hospital and the medical technical training college, which was officially opened by the President the other day. Save from that technical college, the hospital had to be taken over by the national Government because it was a project that could not be managed by the County Government of Narok.

We had a similar case in Kakamega County where the Level 5 hospital, which was being built by the then Governor Oparanya, became a white elephant project that could not be completed. So, when it comes to the issue of accountability and financial management, all of us must be alive to the fact that there are limitations. There are things that we can do and there are things that we cannot do.

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If we are not alive to the fact that there are limitations, we will be unfair to the current and the future generations. People will commit suicide because their pending bills have not been paid and yet there is nothing we are doing. We passed a Motion here, but implementation has become a challenge.

So, when we are talking about amending the Constitution, it is because there are things that do not work, particularly financial management. There are a lot of companies that collect revenue on behalf of county governments. They are required by Section 109 of the Public Financial Management (PFM) Act and the Constitution to remit 100 per cent of the money that they collect to the County Revenue Fund for them to pay for their services.

Mr. Deputy Speaker, Sir, whenever these companies bill for their services, they are not paid and this creates a problem. So, you want this person to raise money for you, but you do not want to pay him.

Secondly, on sharable revenue, the law says that the National Assembly shall consider the most current audited financial statements. Guess what happens? Since we are uncouth, insincere and we do not subscribe to the principle of financial responsibility, we then play monkey games. We do not audit the current financial statements because we do not want to send more money to counties. We must come of age, so that we can be measured among other developing nations. Kenya is slowly developing. This is seen in the freedoms we have here; the ability for us to raise money. Therefore, we must live to that standard.

Mr. Deputy Speaker, Sir, it will make sense to amend the Constitution to all these companies collecting revenue on behalf of county governments, deduct their agreed share and remit the balance to counties. If that is done, more money will reach to counties. Currently, you have to send 100 per cent of the money collected in accordance to the provisions of the PFM Act, Section 109 and Article 207 of the Constitution of Kenya. It is a pity that after you have sent all collected money to a county, you now go and beg the county governor to pay for your services. This demoralizes you to the point where you do not even disclose how much money you have been able to collect. In fact, Article 207 of the Constitution mirrors Section 109 of the PFM Act.

In conclusion, I want to reiterate the fact that as a House, all of us must read this report. Secondly, we must always have a sense of occasion. All of us must debate on facts to be able to guide this nation.

We must come out and say that whatever we are debating is what our good committee has undertaken. We should not always deviate. There is always urge to deviate and talk about current affairs and regional politics, but it does not make sense. What will make sense, is if all of us understand the report being submitted by the Committee. The distinguished Senators sat down and burnt the midnight oil to be able to demystify the proposals from the National Assembly. It would only be better for us if we can read them.

After reading them and having a conversation with the Members of that Committee, I firmly believe that the only way that devolution will work is if we send the Kshs450 billion that we agreed between ODM and Kenya Kwanza. In the worst-case scenario, we send money that can take care of the all expenditures.

Thirdly, we also must make sure that we resolve this quagmire; this confusion. We should stop dilly dallying on the matter of the Equalization Fund, the Kshs26 billion, if we had an additional Kshs7 billion. I do not even support, my good friend, Sen. Eddy Oketch by saying he wants Kshs9 billion. If we cannot raise Kshs26 billion, if we are given the Kshs7 billion, it is good enough, but that Kshs7 billion should go and support and raise these communities. When you continue accumulating debt over debt, it does not help.

Finally, Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, your neighbour, Sen. Eddy Oketch wants to inform you.

Sen. Olekina: Mr. Deputy Speaker, Sir, I will be more than happy to be informed.

The Deputy Speaker (Sen. Kathuri): Proceed Sen Eddy Oketch.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir---

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

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

There is an exchange there.

Madam Temporary Speaker the Senator for Narok County has questioned whether I want this Kshs9 billion to be given to counties instead of the entire amount. I want to inform the Senator that the structure - and we have been fighting for this for some time now - of the Equalization Fund has been that every single year, this money is allocated. The money is allocated, but it never gets to leave the National Treasury because of a number of reasons in the implementation metrics of the Equalization Fund.

Madam Temporary Speaker, the Kshs26 billion that is already owed, and which he is quoting, is something that had been allocated and actually been given to the National Treasury. It had just never been released accordingly. However, we are saying that in this budgeting, the proportionate amount that must go to the equalization fund for this particular financial year is the Kshs9 billion. So, the Kshs9 billion will pay debt. The Kshs9 billion is what is rightfully meant for the counties in this financial year. However, the debt that is in the National Treasury is that the money that is there has been put aside on a special purpose.

Remember, the Equalization Fund is a special purpose fund and it has just not been released by the National Treasury. That is what Sen. Olekina as the Minority Whip and I must fight the National Treasury to release those funds to go and do the work that they are supposed to do. This is because they are never releasing them, but they keep on allocating them. This is just a commensurate amount tied to this particular financial year, the Kshs9 billion that we are requesting for. It is not necessarily the one to pay the debt.

I thank you.

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

Sen. Olekina: Thank you, Madam Temporary Speaker. Let me appreciate my good friend and neighbour, the distinguished Senator from Migori County, for informing me.

I am well informed and that notwithstanding my argument is very simple, this amount that we are allocating yet we cannot spend it before the financial year is over---

Madam Temporary Speaker, I need more time because my clock was running when I was being informed.

The Temporary Speaker (Sen. Veronica Maina): Please add him one minute, the one that was donated to Sen. Eddy

Sen. Olekina: Let me end by saying the following. That notwithstanding, it is imperative that we adhere to Article 201 of the Constitution of Kenya, 2010. Openness is very key. Public participation is very key. If you read the Constitution, it mandates the Cabinet Secretary in charge of any department to apprise the National Assembly and the Senate on the workings of their Ministries.

Madam Temporary Speaker, it will be good for the Standing Committee on Finance and Budget to now call the Cabinet Secretary here and tell us why are we allocating money and he is not spending this money. That is why I am arguing that the reason why they are not spending that money is not because that money is there, it is because it not there. Let us be realistic. So, if we are given Kshs7 billion, let us be happy with it and see whether now we can call for it.

Finally, I want to reiterate what I said earlier on. I would really want to plead with my colleagues. Please read this report and let us debate it. Always have a sense of occasion on what we are debating to help Kenya.

(Interruption of debate on Bill)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TENWEK
HIGH SCHOOL, BOMET COUNTY

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting teachers and students from Tenwek High School in Bomet County. The delegation comprises two teachers and 49 students who are in the Senate for a one-day academic exposition.

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

I request Sen. Joyce from Bomet County also to welcome the group and also to be supported in one minute by the Senator of Bungoma County, Sen. Wafula.

Sen. Korir: Thank you, Madam Temporary Speaker. I welcome the teachers and students from Tenwek High School. This is one of the best schools in the country that has produced a number of leaders in this country. One, Hon. Nanok, the late Hon. Kipkalia Kones, Hon. Isaac Ruto and others, including my own husband.

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I welcome them and hope they will learn a lot. Though they have a very limited time, within the few minutes that they will stay here, they will be able to see this House. I also pray for them that one day they will also come to this House.

Sen. Wafula: Asante, Bi Spika wa Muda, kwa kunipa fursa hii kuwakaribisha wanafunzi wa Shule ya Upili ya Tenwek na walimu wenzangu ambao wameambatana nao. Wanafunzi hawa wanaonyesha ari na azma ya kupita mitihani na kufuata yale nyoyo zao zinataka.

Wanafunzi hawa wanatoka Bonde la Ufa. Mwanariadha shupavu Kipchoge alisema katika dunia hii hakuna kisichowezekana. Binadamu anawezafanya chochote kwa utilimifu wa wakati wake.

Ninawapa mkono wa heri njema kwamba wanapotutazama sisi vile vile tumetembea safari ndefu ya masomo. Nimekuwa mwalimu wa shule ya upili na sasa mimi ni Seneta. Fanya kile walimu na wazazi wanasema. Jifunze kwa kwa Waswahili husema: “Ásiye funzwa na mamaye hufunzwa na ulimwengu.”

Msijitoze katika maisha ya ulimbwende na raha ilhali uzee uko njiani waja. Jienjoy, furahieni kuwa hapa Seneti, tengeneza urafiki kutoka pembe mbali mbali za nchi ya Kenya. Utakapofika umri utajua kuwa heri kuziba ufa kuliko kujenga ukuta.

Nawatakia kila la heri katika safari zenu za hapa na pale kujua jinsi Bunge la Seneti linavyofanya kazi.

(Resumption of debate on Bill)

Sen. Kisang: Thank you, Madam Temporary Speaker. I also rise to make comments on this Bill. I know there are several proposals. There was one by CRA of Kshs17 billion, then the National Treasury Kshs405 billion. Kenya Kwanza leadership and the ODM leaderships agreed on Kshs450 billion. So I do not know from where the National Treasury came up with the Kshs405 billion.

If you remember, in the current financial year, we had agreed on Kshs405 billion. They reduced it to Kshs380 billion, and then eventually, during the mediation, we went back to Kshs387.5 billion that included Kshs425 million for libraries whose services were devolved.

As the Senator for Elgeyo Marakwet County, the County has just been getting Kshs4.8 billion. For the last 10 years, I have said many times in this House that there are some 10 counties or so that are getting less than Kshs6 billion. The business that these counties have been doing basically has been putting up Early Childhood Development Education (ECDE) infrastructure, paying salaries for employees, maintenance and evaluation. There is nothing meaningful or a flagship projects that they have undertaken. If we go this way, I have said that in the next few years, some counties such as Elgeyo Marakwet, Lamu, Tharaka Nithi and Isiolo, basically devolution will have only benefited us in terms of payment of salaries, but no meaningful development.

As a Senate, I do not think we will support this Bill. We will ensure we do not pass it, so that we go into mediation. Let us get the Kshs450 billion, so that our counties can do some meaningful development to our people. The reason for devolution was to

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ensure there is equitable development across the country. That was the main reason the 2010 Constitution was passed.

If you go through the Bill, the CRA gave that proposal for Kshs417 billion. The National Treasury gave Kshs405 billion. The National Treasury is basing their figure on the last audited accounts and approved by National Assembly, basically financial year 2020/2021. I wonder why the National Assembly is not helping the counties by ensuring they look at the audited accounts up to date. At worst, we should be basing the sharable of revenue on Financial Year 2022/2023. Otherwise we should be basing it on financial year 2023/2024. The current Cabinet Secretary for National Treasury and Planning was the Chairperson of the Public Account Committee (PAC) in National Assembly. We will not accept anything short of Kshs450 billion, so that our counties can progress.

Madam Temporary Speaker, we also urge our colleagues in National Assembly that we fast-track looking at the last audited reports for the national Government. I think I agree with the Member who has said we have had this Constitution for the last 15 years. The current Constitution was passed in August, 2010. This year August, it will be 15 years. Maybe it is high time that we audit the Constitution. The Senate should be the one approving the audited accounts. We will fast track because we have the interest of the counties. The National Assembly is not interested to disperse proper resources to counties. For that reason, they can drag their feet in passing the audited accounts.

Madam Temporary Speaker, I know we have discussed the Equalization Fund that has been there for 12 years or so. Every year The National Treasury allocates resources. By end of the financial year, there is nothing that has been dispersed to the counties. This is because there is a fight between some ministries of national Government and also counties on who is supposed to do the actual implementation.

I know that we discussed several issues in the last Parliament in the National Assembly. The Ministries of Water Minister and Roads wanted to implement some projects and eventually nothing happened. I believe the National Assembly wanted to extend the Equalization Fund by another 10 years or so, because I think the 20 years are lapsing soon. We need to put down our foot. I heard Sen. Eddy saying we already have Kshs26 billion in National Treasury. If there is Kshs26 billion plus Kshs9 billion, that is Kshs35 billion.

Why are we not dispersing? Money in the budget is not money until exchequer is released. Where is the Kshs26 billion? Why can we not transfer it into an escrow account? We need to be alive to that and we call on the governors. There is a conversation to have a county integrated revenue management system by the Treasury and then there is conversation within the CoG to resist. Why are they resisting a system that will assist them to collect revenue?

We were discussing in the County Public Investments and Special Funds Committee (CPIC) that when Nairobi City County implemented a new management revenue system, they raised revenue from Kshs10 billion to Kshs12 billion in a financial year. If they can get a system that is supported by the National Treasury---

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

Sen. Olekina: Madam Temporary Speaker, I did not want to raise this point of order or raise it on my good friend, whom I have a lot of respect for. However, our Constitution is clear. Our county governments are semi-autonomous.

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

Sen. Olekina: It is under Standing Order No.105 on statement of facts. Is the Senator in order to purport that the national Government, the Treasury can control the management of finance in county governments and yet, the money that is deposited in the County Revenue Fund (CRF) is protected under Article 207 of the Constitution?

When you read Article 219, it says that a share of revenue raised by the national Government for a county government shall be released without undue delays or any deductible. So, is the good Senator in order to propose that county governors should agree to the Treasury controlling their revenue-making systems?

The Temporary Speaker (Sen. Veronica Maina): Sen. Kisang', can you clarify whether that is what you are asking for?

Sen. Kisang': Madam Temporary Speaker, the good governor and the Minority Whip have misunderstood me. I said what the National Treasury is trying to do and which is a good thing, is to look for a good county revenue integrated management system. They are basically giving them a grant, a donation, so they do not have to use their own revenue to buy a system, just the way the counties are enjoying the Integrated Financial Management Information System (IFMIS) on the expenditure side of the revenue.

What is wrong with giving them a system to collect their own revenue? They will be able to support the system on their own and have part of the system domiciled in their own server or in a cloud. Therefore, the National Treasury or the national Government will not control the revenue. They are only assisting them by giving them a system. In the past, they partnered to have an equipment system, but it was a scam. They are now planning to get additional things. However, this is not managing the system. It is helping them so that they can have a standardized ICT system instead of others going to Safaricom and others going to different people.

Madam Temporary Speaker, it will also be easy for us to audit. You can imagine auditing or checking 47 county revenue systems.

The Temporary Speaker (Sen. Veronica Maina): Sen. Ledama, are you clear now on the issue? I will give you one more minute to clarify. Sen. Kisang', you minutes will be paused.

Sen. Olekina: Madam Temporary Speaker, we need to be very careful. We are here to protect county governments and not to go to bed with the national Government. If the good Senator is saying that the National Treasury is proposing, but not putting conditions, that has to be clear. I want it to remain on record and I hope that my good friend will make sure that he clarifies his submissions.

This is not mandatory. We do not want scandals. This is a suggestion, but it is up to a county government to decide yes or no. I would be satisfied if that is what he is saying. However, it is that we, in the Senate, can audit then we will have a serious

problem with that. This is because we will now be micromanaging counties' revenue-raising measures.

I thank you, Madam Temporary Speaker.

Sen. Kisang’: Madam Temporary Speaker, this is still a proposal and I believe the National Treasury and CoG have a conversation. I am not speaking for the National Treasury, the governors or the county governments. I was just raising what is outside there and also as an expert in the ICT industry. I occasionally get consulted free of charge and that is why I want to advise the House, free of charge this afternoon, that there is a conversation outside there and it is a good thing. I believe if a county like Nairobi City County, which already has such a system say they were able to raise revenue from Kshs10 billion to Kshs12 billion, then it is a good system. They can proceed with their own. No one should be forced. If it is free, why not go for it?

Madam Temporary Speaker, I am speaking because the county where I come from does not have Kshs50 million, Kshs30 million or Kshs100 million to pay for software. We will go for this system. We will be glad to get that system because we do not have that kind of money to buy software. Those who have resources like Narok, because they get a lot of revenue from the conservancy and the Masai Mara Game reserve can buy their own.

We also need to put the governors to check. Why are they not collecting enough revenue? Every year, all counties budget a lot in terms of own-source revenue. However, by the end of each financial year, they will have only collected 40 or 50 per cent. In the process, they accrue a lot of pending bills. We need to audit and check. Say, if last year, Elgeyo Marakwet County collected Kshs200 million, we should not accept their proposal to collect Kshs500 million. What miracle is there for them to double? They should progressively add around 10, 15 or 20 per cent. Otherwise, at the end of the day, we will have a lot of pending bills. People are going to suffer. They will be given tenders to do work at the counties and there are no resources to pay for works that have been done.

There is also something that is not going right in our counties. When the CoB approves expenditures, some governors divert. The Senator for Narok was saying all governors divert. Instead of paying those that have been approved, they pay their friends. They pay where they know they will get a cut, like 10 or 20 per cent. However, those genuinely whom the CoB approved payment for, do not get money.

Madam Temporary Speaker, as the Senate, we want the CoB to automate the release of payments and then ensure that the counties do not have an opportunity to replace the payees. The only thing they can do is reduce the amount. For example, if they requested for Kshs20 million for a particular supplier, they can only reduce to it to Kshs15 million or 12 million. They should not change the supplier. This is what the CoB should do and put in place.

I know tomorrow we will be meeting and discussing the formula. I urge my colleagues, for the sake of equity and helping the younger brother, we should sit down and see how we can ensure our counties that are getting less than Kshs6 billion are cushioned, so that we at least move, do work and do something meaningful for our counties. We want the small counties have good hospitals and Level 5 hospitals.

Currently, we have so-called Level 5 hospitals, but when you go to there, they are Level 3 hospitals.

Madam Temporary Speaker, with those many remarks, I do not support the Bill. We should not approve it. Let us go to mediation for us to get the Kshs450 billion that our counties deserve.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Kisang'. Let us hear from Sen. M. Kajwang' or should I take Sen. Korir first? Okay, we will hear from Sen. Korir.

Sen. Korir: Thank you very much, Madam Temporary Speaker. Allow me to thank the Committee on Finance and Budget for the work they have done. I also commend them for giving room to a number of stakeholders to give their submissions which have formed part of this report.

The Division of Revenue Bill is an issue that this House needs to look into critically and compare notes with submissions of a number of stakeholders. I also want to congratulate the hon. colleagues on the number of submissions they have given.

I want to touch on the recommendation that has been spoken to by two stakeholders: the submission by the County Assemblies Forum (CAF). The CAF's concern is the issue of underfunding by the national Government. The underfunding has undermined some of the legislative role of the county assemblies such as oversight and representation. It has affected committees which are supposed to assist in fiscal accountability. We have been fighting to ensure that counties deliver their services. The PFM Act mandates the counties to use their resources prudently, but the challenge that we have in the counties is late remittance by the national Government. Late remittance has made the counties to increase their debt. They are also unable to deliver on their mandates and cannot deliver services on time.

We are fighting for the resources to go to the counties, but it is a constitutional mandate that the counties are to be given 15 per cent of the total budget. As I speak right now, the allocation that has been given to the counties is still far below the requisite percentage. The Kenya Devolution Civil Society Organization have raised a concern. They have said that the amount we are giving to the counties in this financial year is far below the 15 per cent that we are supposed to give to the counties. This means that a number of things that the counties want to undertake cannot be actualized.

Remember, there are some functions that have been given to the counties by the national Government such as the industrial parks, youth and women empowerment programmes and housing. I believe the counties should be given enough resources for them to counter-fund the projects that are supposed to be undertaken by the national Government. So, it will be prudent for this House to find a way of getting the fair minimum percentage that is supposed to go to the counties. I know we have the 15 per cent, but there are increasing demands on the county governments. This is because some of the functions of the national Government have been devolved to the county governments. We need to set a fair minimum that will help the counties to deliver.

I agree with the recommendation made by the Committee on Finance and Budget. I know their hands are tied in terms of making this decision. They got submissions from

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various stakeholders, but they have a challenge when it comes to the percentage. I once listened to Sen. M. Kajwang' and he made a lot of sense when he talked about devolution and the counties.

We are supporting the counties and that is why we have to look at this and rethink. This is because the monies that go to development raise a lot of questions. Imagine a scenario where a county gets Kshs13 billion or Kshs10 billion yet not even a Kshs1 billion goes to development. A lot of monies go to recurrent expenditure. We also have a lot of duplications in the counties. For sure, we need to relook at this. There are more questions than answers. A lot is needed to be done in the county governments. There is a lot of duplications hence they cannot do things the right way.

This means that we need to relook at devolution. I do not dispute or challenge the need to have 47 counties. However, if we look at it critically, we can come out with a better solution where more resources go to the ground. This is because at the end of the day, it is not about the number of representatives or duplications, what we want to see is tangible projects that assist our people.

Those are the concerns that I am raising. The Hon. Senator is here and he has also worked the county government. I saw a lot of sense and I feel we need to rethink. I challenge the Committee on Devolution and Intergovernmental Relations to look at this critically then tell us if this is the direction we need to take as a country.

If the percentage we are taking to development is minimal compared to what we have devolved, then it should raise concern. I do not want to belabour on this. I support the Committee on Finance and Budget and urge this House to look at the issues of the counties. We should give the counties enough resources to discharge their services.

I beg to submit.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Korir. We will now hear from Sen. M. Kajwang'.

Sen. M. Kajwang': Thank you, Madam Temporary Speaker, for giving me an opportunity to comment on the Division of Revenue Bill (National Assembly Bills No.10 of 2025), which is one of the most important functions of the Senate and us, as Senators. It is during this kind of debate that we determine what goes to county governments. Many people sometimes ask: what do these Senators do when they are in Nairobi? We are deciding what is going to county governments. When governors give out bursaries, launch roads and employ people, they do it courtesy of the Senate which approves certain estimates to go to the counties.

I want to strongly oppose the proposal by the National Assembly to allocate county governments Kshs405 billion. A number of players have cited different figures. The Commission on Revenue Allocation (CRA), the constitutional body that is mandated to advise Parliament on allocations to county governments and division of revenue between the two levels of government, had proposed a Kshs30 billion increment from the last financial year. The National Assembly has proposed a Kshs17 billion increment. Both positions by CRA, the National Assembly and National Treasury are untenable because of discretionary expenditure and a few other factors that I am going to highlight.

The Senate has proposed Kshs465 billion to be allocated to county governments, a position that I fully support. The CoG has requested for Kshs536 billion. That perhaps

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could be the ideal situation, but I will go with the Senate position of Kshs465 billion, which closely aligns with what the ODM party and the UDA parties signed up for in the 10-point memorandum.

The two parties agreed to protect and strengthen devolution, to increase funding to county governments and to protect devolution against claw back.

In the Memorandum of Understanding (MoU), it was proposed that counties should receive no less than Kshs450 billion. For those of us who recognize the Broad-Based Government, we can only acknowledge it if it delivers Kshs450 billion to county governments.

Beyond politics, science, figures and economics will influence our decision as a House on how much goes to county governments. First, the Constitution requires that the basis for the division of revenue between national and county governments be the latest revenue estimates as audited and approved by the National Assembly. However, this Bill proposes using the financial year 2020/2021 as the base. That is wrong and unconstitutional.

The Hon. Justice Jairus Ngaah made a landmark ruling in October last year, stating that when the Constitution specifies timelines, they are not optional or mere suggestions, but mandatory. Parliament must review, adopt, consider and debate audited reports within three months of their presentation. By now, the National Assembly should have already adopted the revenue estimates for financial year 2023/2024. It is, therefore, wrong for them to claim that the financial year 2020/2021 should be the basis.

On that point alone, someone may challenge Parliament's decision in court, arguing that it is unconstitutional to base revenue on estimates that are four years old. If the revenue share were based on the financial year 2023/2024, then it would be possible to yield to counties the Kshs465 billion proposed by the Senate.

Secondly, county governments face non-discretionary expenditures, which arise from national Government policy. We had that conversation previously. CHPs represent an expenditure placed on county governments. The UHC staff who I believe are the ones picketing outside Parliament and doing so rightfully. I saw a headline stating, *'The nurses that nobody needs.'* This is a sick country. We cannot have a situation where nurses are deemed unnecessary. We cannot train and educate our nurses only to export them to Qatar or the United Arab Emirates (UAE) while our own people remain sick.

We must ensure that UHC workers are employed under proper and decent terms of service. Instead of spending time in the corridors and streets of Nairobi picketing, they should be dispensing and delivering healthcare to the sick in this nation. This will ensure the success of the Social Health Authority (SHA), the Social Health Insurance Fund (SHIF), and other national government programmes. This can only be achieved if county governments are adequately financed.

The UHC workers are concerned that transferring them to county governments will result in 47 different employers, each with their own management styles and unpredictable approaches. They seek certainty and a structured scheme of service that is predictable. This is why we must recall the Cabinet Secretary for Health to explain what the Human Resource Advisory Council under the Ministry of Health is doing to ensure

consistency, transparency and synergy in the employment of health workers at both national and county governments.

Health workers have long advocated for a national health commission. Hon. President William Ruto assured us that unveiling the Human Resource Advisory Council under the Ministry of Health would be a step toward improving their treatment. However, with the picketing on the streets, it signals yet another failure of this regime, which we must correct for this broad-based arrangement to succeed.

Madam Temporary Speaker, county governments deserve Kshs465 billion because the functions allocated to them remain centralized in Nairobi. Many of us travel to Mombasa for conferences and are familiar with Nyali. One road that stands out is Links Road. Whenever it rains, a particular section is always flooded so severely that vehicles can become submerged. That road falls under the jurisdiction of the Kenya Urban Roads Authority (KURA). The Governor of Mombasa is powerless to address it. Even the governor himself gets stuck in the same floods.

The same situation applies to Nairobi City County. Roads flood, pavements become muddy and trenches pose risks to the safety and lives of Nairobi residents, yet the governor has no authority over them. We must return road functions to the counties. We must dismantle and restructure the Kenya Rural Roads Authority (KeRRA). If it is to remain in existence, it should be transformed into a parastatal or an entity governed by county governments. The funds allocated to road should be included in the Division of Revenue. We must also re-evaluate the mandate of the KURA. The urban roads that KURA manages should be clearly defined. There is no reason for KURA to be overseeing roads such as Bank Road in Homa Bay. When problems arise, they are nowhere to be found and yet the governor takes the blame.

We must transfer health, water, agriculture, housing, trade and market services to counties and fund them appropriately. If we remain faithful to the Constitution and fully devolve these functions, then counties deserve not just Kshs465 billion, but the Kshs536.8 billion that the CoG has been advocating for.

Madam Temporary Speaker, even as we push for more funds to go to counties, we must call out some of the bad practices observed in county governments. Just this week, a county appeared before the County Public Accounts Committee (CPAC). It is a relatively small county by population. It has 10 elected Members of the County Assembly (MCAs) and because of this, the law has capped the number of County Executive Committee Members (CECMs) at six. When you add the county secretary, the county attorney, the deputy governor and the governor, the total reaches 10.

The law imposes this cap based on the county's small size, reasoning that six CECMs can efficiently manage it. However, what does the governor do? He appoints 36 advisors on all kinds of matters, including the Equalisation Fund and cohesion, as well as on issues one would expect the governor to understand before assuming office. To make matters worse, a county with only six CECMs has 31 chief officers. On average, each CECM has five accounting officers under them.

That was not the intention of devolution. Devolution was not supposed to fund bureaucracy; it was supposed to fund development. That is why I put it out there that 47 county governments as the apex of devolution is a bad idea. I never proposed the removal

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of counties. In the original proposal, which perhaps was the real people's proposal, we proposed to have bigger regional tiers where planning, coordination and legislation could be exercised. However, implementation of development could be done at the county, ward and village levels.

My proposal in no way takes away the county tier. However, I would like to see a situation where we deal with this kind of nonsense, where a 10-Member Assembly is dealing with 36 advisors and 31 chief officers. That mess is replicated across counties. Governors must prove to us that they are responsible and prudent and will stop wastage.

We went to Uasin Gishu County over the weekend. We found projects worth close to Kshs2 billion stalled, despite almost 60 per cent of the funds having been committed. A hospital should be a place where there are drugs, doctors and services. It does not matter, it could be a tent. There is no reason for a county to spend Kshs600 million on brick and mortar and call it a hospital. Yet there are no doctors, medication, vaccines, or even snake antivenom. Governors must convince us that they will be more prudent.

Madam Temporary Speaker, governors must convince us that they will tame their appetite for corruption. I have seen a few governors taken to court. Having looked at the reports of the Auditor-General, even some of the amounts that are being put on the governor's heads is just like spare change, when you look at some of the things that the Auditor-General is reporting.

I was happy, I saw last weekend the Catholic Church, I believe was running a campaign of having triple-deckers in Kenyan cells. It is a very good idea because we will need triple-deckers in cells if we are serious about corruption. We will need to have many more governors, over and above the two or three that we have seen. Governors must convince us that they have the interests of the people at heart and it is not just the interest of their stomach. Governors must convince us that their revenue collection systems do not have backdoors which have some algorithms that divert money into their accounts.

We will stand with a higher allocation to county governments, not because this is money going to governors, this is money going to the people living in counties and constituencies. I want to encourage the National Assembly that we should never look at this thing as a county versus national Government thing. The people benefiting from these resources, the Kshs465 billion that we have proposed, reside in those constituencies and wards. They are members of this country called Kenya.

The national Government should not have a problem if county governments then become the theatre of implementation for the Kshs465 billion, unless there are other interests that they are looking at, by holding some of these resources upwards. However, governors must convince the nation that they will take measures against the 20 per cent that I reported to this House that has been lost through corruption and wastage, in the fiduciary risk report that I brought here on 27th of March.

Governors will come and go, but the people in the counties will remain. Let us legislate for our people. Let us not legislate for the leadership. I strongly oppose the Kshs405 billion proposal and support the Senate's position to grant counties Kshs460 billion, which is consistent with our agreement as a broad-based Government arrangement. I thank you.

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The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. M. Kajwang'. Proceed, Sen. Paul Thang'wa Karungo.

Sen. Thang'wa: Thank you very much, Madam Temporary Speaker, for the opportunity for Kiambu to also speak on the issue of the Division of Revenue Bill, 2025.

I equally oppose the Kshs405 billion that the National Assembly is proposing that we take to the counties for the financial year 2025/2026. If I can refer you to Clause 8 of the Bill, they are talking about Kshs405 billion, which they are boasting to be 25.8 per cent more from the previous year. However, they are basing it on the last audited and approved actual revenue raised nationally for the financial year 2020/2021.

We are in the year 2025, but they are basing this allocation to the year before the current governors got into Government. They have raised taxes, and collected more money, yet they are basing their allocation based on the Financial Year 2021/2022 before the Kenya-Kwanza administration took over. You can see, they have a sinister motion within the whole process.

We have talked about raising this money to over Kshs460 billion. I am a maths person. I can help them do the maths where this money is going to come from, so that they can give counties Kshs460 billion for the Financial Year 2025/2026. One, there is this allocation of county aggregation and industrial parks, where the national Government holds about Kshs250 million per county. If you do the math, that is Kshs11.7 billion. Hence, you add it to Kshs4billion or Kshs5billion.

There is a lot of money for bursaries that the national Government receives from the counties. They give the counties, then the counties give back through bursaries to national Government institutions. The national Government is actually taking the same amount of money through back doors. However, if you put this money together, so that counties are cushioned from the monies that they give as bursaries, they will get Kshs500 million per county. That is about Kshs23.5 billion.

Lastly, Madam Temporary Speaker, the national Government is encroaching on county functions. One of them are markets. Every constituency receives Kshs50 million for building markets. If you multiply Kshs50 million by 290, you will get Kshs14.5 billion. If you take Kshs14.5 billion for markets that the national Government is holding, add Kshs11.5 billion being held by the national Government for CAIPs and then add Kshs23.5 billion, which is money that the national Government gives to counties as bursary, you will get Kshs49.7 billion. Add Kshs49.7 billion to the proposed Kshs405 billion and you will get Kshs554 billion. At least I have helped them to see where they will get the money. So, we are short of Kshs6 billion only. If there was time, I would have given you enough information.

Madam Temporary Speaker, we need to ask ourselves a question as the Senate. We are letting the national Government encroach on county functions like building of markets. Today, my people of Kamwangi Market in Gatundu North are crying. The reason is that overnight, the national Government demolished a market that was built by the county government. The market was functional and people were okay with it. They did so in order to build another market. What is the rationale for the national Government to bring down a whole market? The people did not want a new market because they were okay with what they had. However, since somebody had taken a kickback from the

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contractor, they wanted the market built, whether through force or what, so that they retain the contract and get the same amount of commission.

My people of Kamwangi Market in Gatundu North are crying because of the national Government encroaching on county functions, they have lost a market. Now they have to wait for many months without a market, yet they had a market that was functioning. That market was built between 2013 and 2017 by the then governor when I was a MCA.

I would like to tell the national Government---

Sen. Korir: On a point of order, Madam Temporary Speaker. Is it in order for the hon. Senator to mislead this House without giving facts? I believe we have the Intergovernmental Relations Act that allows the national and county governments to undertake a number of projects. There is no government---

The Temporary Speaker (Sen. Veronica Maina): Sen. Joyce, under what Standing Order are you raising your point of order?

Sen. Korir: Standing Order No.105.

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

Sen. Korir: Madam Temporary Speaker, could he get us the facts?

The Temporary Speaker (Sen. Veronica Maina): What should he substantiate?

Sen. Korir: The issue of the national Government demolishing a market without following legal procedures that are laid down. We have the Intergovernmental Relations Act that allows the national Government to undertake its functions. Could he substantiate that?

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

Sen. Thang'wa: Madam Temporary Speaker, I am speaking about Kiambu; my home, my county, my people.

It is only yesterday that the people of Kamwangi in Gatundu North met with their Member of Parliament (MP). In unison, they said that they do not want a different market because they are okay with whatever they have. They agreed to use their spaces because it was not raining. The market was built between 2013 and 2017 and it was working. The MP---

The Temporary Speaker (Sen. Veronica Maina): Sen. Karungo, what Sen. Joyce wants you to substantiate is whether the national Government demolished the market.

Sen. Thang'wa: Madam Temporary Speaker, that is what I am going to substantiate. I was taking you there. After public participation yesterday, the people said that they are okay with the market and that they do not want a new one. However, since the national Government wants to encroach on the functions of the county government, last night they demolished the market, which was functional, to build a new one in order to get an opportunity to steal from "Wanjiku", so that the MP and their people continue getting 10 per cent from the contractor.

Madam Temporary Speaker, it is very painful. They lost their produce---

The Temporary Speaker (Sen. Veronica Maina): Sen. Karungo, when the Senate resumes, you will continue to substantiate and offer the evidence needed on that issue raised by Sen. Joyce Korir. You will equally have a balance of 12 minutes to continue debating on the Division of Revenue Bill.

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ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 1.00 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until later today, Wednesday, 21st May, 2025, at 2.30 p.m.

The Senate rose at 1.00 p.m.