

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 19th April, 2023

*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 the Speaker)

Serjeant-at-arms, we do not have the requisite quorum. Kindly ring the Quorum Bell for ten minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

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

Serjeant-at-arm, you may stop the Bell. I am informed that we now have quorum. Clerk, proceed to call first Order.

PETITION

CONSTRUCTION OF A PEDESTRIAN BRIDGE AT CHIROMO AREA

The Speaker (Hon. Kingi): Hon. Senators, I hereby report to the Senate that Mr. Nickey Mouko Mwanacha, a citizen of the Republic of Kenya and resident of Nairobi County, has submitted a Petition through the Clerk of the Senate.

As you are aware, Article 119(1) of the Constitution states-

“Every person has a right to petition Parliament to consider any matter within its authority, including enact, amend or repeal any legislation”

Hon. Senators, the salient issues raised in the said Petition are as follows-

That the National Transport and Safety Authority (NTSA) is responsible for putting in place guidelines, rules and regulations for all road users, including motorist and pedestrians.

That all roads should have provisions for pedestrians use in form of either traffic lights, zebra crossing or footbridge to protect them from harm through accidents due to high number of speeding vehicles.

That for a long time, many pedestrians, especially University of Nairobi students, workers and other Kenyans within and around the Chiromo area and Waiyaki Highway have had challenges in safety crossing the Waiyaki Highway due to lack of provision of a footbridge hence they have to run from one side to the other amidst speeding vehicles.

That this trend predisposes both motorist and pedestrians to road accidents, endangering their lives and those of other people.

That the petitioner has made all efforts to have the matter resolved, but his efforts have been futile and the responses unsatisfactory.

The petitioner, therefore, prays that the Senate intervenes to recommend the relevant Ministry and all Government agency to construct a footbridge at Chiromo area of Nairobi to enable pedestrians cross roads easily and safely.

Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications relation to the Petition for not more than 30 minutes.

Proceed, Sen. Mariam Omar.

Sen. Mariam Omar: Thank you, Mr. Speaker, Sir, for giving me this opportunity to thank the person who brought this Petition to the House.

We lose so many brilliant people because of accidents by careless drivers. Last month, we lost a Member of Parliament (MP) because of a careless motorist on the road. The roads rules must be followed. The *boda boda* operators should be given proper instructions. Road users do not follow road rules. The police officers take bribes from those people who violate road rules and set them free.

As much as there are advantages of having motorist in our areas because where there are no roads, *boda boda* operators assist. However, most of the *boda boda* operators are not trained. The motorbikes are driven without riders following road rules. There is need for stringent punishment levied against reckless drivers.

Last week, a number of students perished in a grisly road accident. Those students had a bright future, but it was cut short. We have 'do not drink and drive rule.' If this rule is properly followed, it will minimize accidents on our roads.

I thank you Mr. Speaker, Sir.

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. That is a very practical Petition. He is speaking to a real issue. In fact, he is telling us that we have failed. People continuing to die while crossing roads that are designed and constructed by professionals beats logic.

I, therefore, support the Petition and make the following remarks:

One, even as we build a footbridge, are the traffic lights in Nairobi working? Where the traffic lights are working, why do the traffic police come there to interfere with them? The traffic lights are prompting you to move yet the police block you, hence promoting congestion in the process. To me, that is lack of functionality in the police traffic department.

My second comment is on the Nairobi Expressway. This was an idea, which ordinarily should have been a game changer. However, there are aspects of that highway that completely negate the purpose of the rapid transport. Namely; motorists come all the way from Mlolongo and upon arriving into the city, they are then unable to enter it.

There is either no entry to take people either to the Upper Hill, Central Business District (CBD) or the main CBD in the city centre. Therefore, motorists are forced to go all the way to Museum Hill. There is a need to rethink the exit outlets on the Nairobi Expressway so that there is entry into the CBD in Upper Hill and the main CBD.

My last point on this very important Petition is about *boda boda*. The impunity demonstrated by *boda boda* operators in Nairobi is amazing. They ride their motorcycles on the opposite side of the road. I am glad to inform Kenyans that I am doing a comprehensive law. A Bill that will bring order in *boda boda* operation. Since the relevant department is already seized of the Bill, I hope that as a House, we shall work on it quickly so that we can do to Kenya what Rwanda has done to their *boda boda* sector.

The Speaker (Hon. Kingi): Proceed, Sen. Veronica Maina.

Sen. Veronica Maina: Mr. Speaker, Sir, I rise to support the Petition that has been brought to the Floor of this House. The current number of fatalities in the Republic of Kenya, emanating from road traffic accidents, pedestrian accidents on the highways and on our road networks is alarmingly high.

Kenya is only second to Nigeria in terms of the number of traffic accidents that are happening in Africa. It is shocking to note that the traffic department which has been entrusted with managing and controlling the use of roads in Kenya has not aided much, or has not given much support to bring sober management of what is on our roads today.

Mr. Speaker, Sir, alarmingly, the traffic department has continued to receive tips and bribes on the roads. Even when offenders are blatantly breaching the traffic rules. It is shocking that most of the accidents and fatalities that has been experienced in Kenya could have been avoided if we had efficient camera and fining system as well as withdrawals of licences from drivers who offend the traffic rules. We to come up with a system that enhances the use of driving licencing policy.

Mr. Speaker, Sir, it is shocking that we have many road users who are never subjected to the normal licensing tests before they are issued with driving licenses.

Anytime you are driving on Kenyan roads, you will find *boda bodas* cascading around traffic yet they have not gone through any form of testing or preparation to use the roads. So, they do not understand road signage yet they have been given access to use all manner of highways. Therefore, I commend the petitioner who has brought this Petition to the House. This footbridge is not only needed at Chiromo, but also in many other places.

It is upon the Cabinet Secretary (CS) for Transport, Infrastructure, Housing, Urban Development and Public Works to ensure that pedestrians are safe and able to use the roads.

In a country like Dubai, it is difficult to find accidents happening on their roads because any form of accident or injury amounts to withdrawal of licenses and very stiff penalties.

If you look at the jurisdiction of the United Kingdom (UK), drivers who cause accidents are given an option of a 100 pounds fine or a two-week training where they are shown the effects of causing accidents. They are shown pictures of fatal accidents and

once more they are retrained. Once a licence is withheld, it is not returned until the authorities are satisfied that the driver is prepared to use the road in a safe manner.

I support the Petition. We need to be more careful and drivers need to be more courteous.

In many countries we have visited, it is very easy for a pedestrian to cross the road. However, in Kenya, if you attempt to cross the road at Kimathi Street or Moi Avenue, you will be shocked. You will easily find yourself in an accident.

It is also upon the drivers or road users to ensure they are courteous to the pedestrians and all road users. This will reduce fatalities and accidents by 60 or 70 per cent.

I urge the CS, to not only, build that footbridge there, but also look at blackspots in the country and ensure that pedestrians and road users are safe. Drivers must stop giving tips, bribes and any form of manipulation to the traffic officers. Only then shall we have sane roads in the Republic of Kenya.

I thank you

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, this is a very interesting Petition that is of great public interest. You are aware that today, *the Daily Nation* is running a story “72 hours of Death” of what is continuing to be a matter of great public concern. We continue to lose Kenyans on the roads on a daily basis and in large numbers. This is something that does not need to happen in a country of our size and economic ability.

When our good friend, Sen. Kipchumba Murkomen, was vetted by the Committee of the National Assembly, he assured the country that within a short stay in office, he would put measures in place to deter bad driving. This is because 90 per cent of these accidents occur because people do not adhere to the traffic rules that are already set.

Mr. Speaker, Sir, it is not lack of good traffic laws that we continue to have these accidents. Most of the time, these accidents occur because of reckless driving. For example, a driver can clearly see that an area has been marked a maximum speed of 50 Kmph, but they drive 80 Kmph and upwards till 100 kmph. There are signs for pedestrian crossing, but people zoom past them as if nothing is happening.

Sen. Murkomen gave the country an assurance that he will use technology, which is easily available in the country. If you go through all our highways; Mombasa Road, the road going to the Western part of the country, Thika Road as well as all the major places where accidents happen, there are cameras available which are used by the police most of the time.

Unfortunately, we have never used the said cameras to deter bad driving. It is exactly what Sen. Veronica Maina has said. People need to be fined and have their licenses withdrawn. It needs to cost you some money when you make a simple mistake such as going 10 kmph above the requisite speed limit in a particular part of the road.

When people begin to feel the pinch, then they will learn good driving habits. It is simple. It is a promise which I had hoped he would execute within the first three months of his being in office. I demand my good friend, the CS, that there can be no other way.

Countries that have brought down road carnage have leveraged on technology to ensure that bad drivers are first fined and eventually blacklisted from driving on public roads. There are no shortcuts to this.

Until people begin to pay for their sins, they will not stop the bad habit of reckless driving. We can put speed bumps and all the infrastructure we are talking about, but unless and until we eventually crack the whip on bad drivers, unfortunately, we shall continue to see heartbreaking results.

In this day and age, when you leave for your workplace, you are not assured whether the roads you are using are safe for use.

I hope our former colleague and Senate Majority Leader emeritus, is watching and listening to the sentiments of his former colleagues in this House. Together with the NTSA, they should give us a solution in the quickest time possible.

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

Sen. Mumma: Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this Petition, which I support. The construction of roads in Kenya seems to fall short of the standards that we should set or include.

I support the petitioner and add that as we construct the roads in Kenya, we need to know that there are more pedestrians than drivers. It is important that as we design the road networks, every contractor must provide spaces for pedestrians and Persons With Disabilities (PWD). This standard is normally short-changed by most contractors. I believe the law provides for it, but its enforcement is not taken seriously.

Mr. Speaker, Sir, I urge CS, Murkomen to take this matter seriously. He should know that roads are not made for vehicles, but for people. Many accidents that we have are not caused by vehicles, but lack of provision for pedestrians' walkways.

As I speak about vehicles and roads, I suggest we start monitoring the true standards of building roads to ensure we accommodate all possible road users including animals, in some areas.

I support.

The Speaker (Hon. Kingi): Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Bw. Spika, ninauunga mkono mjadala huu wa mambo ya barabara. Tunaweza keti hapa na kujilaumu kuhusu uendeshaji wa magari au mambo ya Kaunti ya Mji wa Nairobi.

Sisi kama Maseneta tumetembea sana. Mimi mwenyewe niemenda Colorado, Dubai na nchi zingine. Wakati walianza kujenga barabara zao walikuwa wamewacha sehemu kubwa sana ya barabara. Lakini hapa Kenya, wakati wa ujenzi wa barabara hatutenge sehemu hizo. Itakuwa ngumu kwetu sasa kutengeneza sehemu ya watu ya kutembelea

Huku mjini huenda ikawa mambo ya ajali ya gari si mengi lakini ukienda vijijini, utakuta vijana wetu wanaendesha pikipiki bila kujali. Kwa hivyo, ningepomba Waziri aweze kuangalia kama kuna uwezekano katika kila kaunti vijana wetu wanaweza kuchunguzwa kila mwaka kama wametumia dawa za kulevya, pombe na kama akili zao ni timamu. Hii ni kwa sababu kila siku, baada ya dakika chache, hata bila gari au bila kitu chochote kinamsumbua barabarani, unakuta ameanguka na ameaga dunia.

Jambo hili linapaswa kuchunguzwa na Kamati ya Seneti. Ni lazima Seneti ichukue hatua ili kusaidia vijana wetu kwa sababu vijana wetu wako hatarini.

Wakati kuna ukosefu wa usalama au vita nchini, ni vijana wetu wanaweza kutupigania. Hata wasichana wetu hawatapata watu wa kuwaoa ikiwa wavulana wetu wataendelea kufa ovyo barabarani. Kwa hivyo, jambo hili linapasa kuchunguzwa kwa makini. This is a matter of emergency.

Asante, Bw. Spika.

The Speaker (Hon. King): Sen. Mundigi, you concluded in English. You are not supposed to use two languages at the same time. So, next time you are contributing, you either stick to English or you stick to Kiswahili.

Sen. Beth Syengo, you may proceed.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I stand to support this Petition. We are really affected as a country by the loss of lives. Yesterday, I was very unhappy when I saw that some young people who were traveling along Naivasha route were involved in an accident and some of them lost their lives. It is not good for a country not to mind about the loss of young lives.

So, I stand to support this Petition and urge our friend the Cabinet Secretary (CS) for Roads, Transport and Public Works to ensure that road users are safe; not only when designing the roads, but also adhering to and following road safety rules.

In our country, we have a new emerging issue in our country where *boda boda* riders are major contributor of road accidents. I urge when roads are being designed, we make sure we provide a route for *boda boda* riders and pavement for pedestrians. This is the only way we can ensure there is safety for everybody in this country.

I do not know what entails in the licensing process; do we evaluate and vet drivers after a while? Maybe after six months, there should be fresh vetting to ensure that our drivers are compliant with road rules and regulations. That will ensure the safety of our people.

I support the Petition.

Thank you, Mr. Speaker, Sir.

Sen. Miraj: Asante, Bw. Spika, kwa kunipa fursa hii niweze kuchangia ombi kuhusu barabara zetu. Kwanza nimetoneshwa kidonda kwa sababu tulipoteza uhai wa vijana 19 wa Chuo Kikuu cha Pwani. Na imekuwa ni desturi kuwa ajali zinapotokea barabarani hakuna hatua inayochukuliwa kwa sababu maofisa wa polisi huchua hongo kutoka kwa wenye magari ya abiria.

Nasimama hapa kumuomba Waziri wa Barabara, Uchukuzi na Ujenzi, kando na matakwa ya huyu mlalamishi ya kuweka daraja ya kutumiwa na watu kuvuka barabara hiyo, kuna umuhimu kuweka ishara za barabarani. Hizi ni Road Safety Signs katika lugha ya Kingereza.

Tutaendelea kunyorosha vidole kwa madereva. Wengi wa madereva wa magari ya abiria wanachangia pakubwa katika hizi ajali tunazozishuhudia barabarani zetu. Sisi kama Serikali tunapaswa kuweka ishara za barabara ili tuweze kuwaongoza madereva wetu. Pia madereva wa boda boda bali na kuyahatarisha maisha ya Wakenya wengine, wanahatarisha hata maisha yao.

Nimezungumzia kuhusu hongo zinazochukuliwa barabarani na maofisa wa polisi. Mtakubaliana na mimi ya kwamba kuna vijana wengi baada ya kukosa ajira, wanapewa *squad* katika steji za mitaani. Kitendo hiki cha kumpa kijana ambaye hana ujuzi wa kuendesha boda boda kinahatarisha maisha yake na ya abiria anayembeba. Kwa hivyo,

ningeomba kuwe na *crackdown* ambayo itawezesha kuhakikisha kwamba wale waendeshaji wa boda boda wana leseni ya kuweza kuwapeleka Wakenya katika taifa hili.

Asante, Bw. Spika.

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. Road accidents remain one of the highest causes of fatalities in the Republic of Kenya. When we speak of a Petition like the one that you read this morning, what first comes into mind is what is the reason why the gentleman is asking for a flyover to be erected across Chiromo Road? It is for assisting students to cross over from one part of the road to the other.

Apart from road traffic offenses that normally ensure enforcement of road safety, there is also the need to encourage Kenyans to ensure that they follow road traffic regulations and rules. It does not help to have a flyover while it is common knowledge that Kenyans do not utilize such facilities.

Although the Petitioner is asking this House to have the flyover erected, we need to enhance, ensure and encourage road users to use such facilities because we have lost very many Kenyans. Not because of the challenges to do with the status of our roadworthiness of the vehicle or the condition of the drivers who in most cases are the greatest cause of the accidents, largely it is because of the inability of most road users to use facilities once they are availed for their utility.

Even as we support the erection of such a flyover in that place, we need to speak to Kenyans to ensure that any other facility that is available is utilized.

As my colleagues have stated here, the other cause of accidents is the use of motorbikes. It is not because of lack of laws or regulations. It is because of people, riders, pedestrians and drivers not complying with the regulations and the laws that are in place.

One of the reasons why we can have a conversation about the erection of proper flyovers for ensuring that our Kenyans are protected from road accidents is by enforcing what is in the law. We have many regulations and laws in place.

We have many laws and regulations in place, but they do not follow them. We encourage Kenyans to support the Government in ensuring that road facilities are made. Kenyans are encouraged to use and comply by participating in creating awareness on the need to protect their own lives when they are using the roads.

Mr. Speaker, Sir, I support.

The Speaker (Hon. Kingi): Hon. Senators, the half an hour meant for interrogation and comments is long spent.

Hon. Senators, pursuant to Standing Order No.238(1), the Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Roads, Transportation and Housing.

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

I thank you.

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

Let us go to the next Order.

PAPERS LAIDREPORTS ON FINANCIAL STATEMENTS OF
VARIOUS ENTITIES

Sen. (Dr.) Lelegwe Ltumbesi: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, 19th April, 2023.

Report of the Auditor-General on the financial statement of the Narok County Alcoholic Drinks Regulation and Control Fund for the year ended 30th June, 2020.

Report of the Auditor-General on the financial statement of the Narok County Alcoholic Drinks Regulation and Control Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the financial statement of the County Revenue Fund for the County Government of Narok for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Narok County Bursary Management Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Narok County Alcoholic Drinks Regulation and Control Fund for the year ended 30th June, 2022.

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

Report of the Auditor-General on the financial statement of the Bomet County Bursary Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kiambere Mwingi Water and Sanitation Company Limited for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Receiver of Revenue – Revenue Statements for the County Government of Bomet for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kajiado County Executive Staff Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kitui County Empowerment Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Baringo County Executive Car Loan Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Baringo County Bursary and Scholarship Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Baringo County Youth and Women Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Baringo County Community Conservation Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Revenue Fund for the County Government of Baringo for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Baringo County Older Persons and Persons with Disability Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Receiver of Revenue for the County Government of Baringo for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Baringo County Assembly Catering and Health Services Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Wote Water and Sewerage Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Nakuru Mortgage (Staff) Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Nakuru County Bursary Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Receiver of Revenue for the County Government of Nakuru for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Nakuru County Emergency Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Nakuru County Persons with Disabilities Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Revenue Fund for the County Government of Nakuru for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Machakos County Assembly Housing and Car Loan Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Machakos County Bursary Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kisii County Alcoholic Drinks Control Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the Receiver of Revenue – Revenue Statements for the County Government of Narok for the year ended 30th June, 2022.

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

The Speaker (Hon. Kingi): Let us go to the next Order.

NOTICE OF MOTION

DEVELOPMENT OF A POLICY AND LAW FOR SOCIAL RISK MANAGEMENT IN INFRASTRUCTURE DEVELOPMENT PROJECTS

Sen. Mumma: Mr. Speaker, Sir, I beg to give Notice of the following Motion-

AWARE THAT the Constitution has entrenched a strong Bill of Rights in Chapter 4, which recognizes human rights, including socio-economic rights and the principle of equality and non-discrimination;

FURTHER AWARE THAT Kenya lacks a policy for guiding the management of these social risks in the design and implementation of infrastructure projects;

CONCERNED THAT inadequate attention to social risks in the planning and implementation of infrastructure and other development projects at both national and county levels makes them unacceptable and end up costing the taxpayer colossal sums of money in suits filed before

the courts and tribunals by local communities and affected interest groups seeking protection from such social risks;

NOW, THEREFORE, the Senate resolves that-

- 1.The national and county Governments develop a social risk management policy that outlines the standards, guidelines and procedures for guiding infrastructure and other development projects both at the national and county Governments; and
- 2.The national Executive establishes an independent multi-sectoral agency under the authority of the Cabinet Secretary in charge of Social Security and Protection to design a mechanism that can factor in the inclusion of social impact assessments standards and monitor their implementation in infrastructure and other development projects in Kenya.

The Speaker (Hon. Kingi): Let us go to the next Order.

STATEMENTS

The Speaker (Hon. Kingi): These are Statements pursuant to Standing Order No.56(1)(b). Basically, they are Statements by Chairpersons of Standing Committees. The first one is by the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

ACTIVITIES OF THE COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

Sen. Chute: Mr. Speaker, Sir, I request that you defer my Statement for about one hour because it is not ready.

The Speaker (Hon. Kingi): Very well. Let us have the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations.

ACTIVITIES OF THE COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

Sen. Cheptumo: Mr. Speaker, Sir, I rise pursuant to Standing Order No.56(1)(b) to make a Statement on the activities of the Standing Committee on National Security, Defence and Foreign Relations, for the period commencing 14th October, 2022, to 30th March, 2023.

Mr. Speaker, Sir, during the period under review, the Committee held a total of 26 sittings and considered three legislative proposals, 34 Statements, held one approval hearing and tabled two reports. The Committee also undertook one county visit and held two retreats.

Mr. Speaker, Sir, in respect of the legislative proposals, the Committee reviewed the following Bills considered during the 12th Parliament and recommended the same for publication:

- (1) Disaster Risk Management Bill

(2) National Anthem Copyright Laws (Amendment) Bill

The Committee also undertook a comparison of the Military Veterans Act No. 18 of 2022 and the Military Veterans Bill (Senate Bill No. 41 of 2021), and recommended a minor amendment to the definitions clause to be carried through an omnibus Bill.

Mr. Speaker, Sir, regarding Statements, a total of 33 Statements were sought from the Committee during the period under review as annexed to this Statement. The issues raised in three of these Statements touch on relief food distribution and boundaries and were, therefore, redirected to the Standing Committee on Labour, Social Welfare and the Standing Committee on Devolution and Inter-Governmental Relations.

The Committee has received a total of 22 responses to the Statements sought which was shared with the respective Senators and awaits response to eight Statements from the relevant Ministries.

Mr. Speaker, Sir, it is important for me to notify the House that yesterday, we were able to receive further four responses and, therefore, we only have four outstanding questions without responses from the relevant Ministries. It is not eight but four.

The Committee further undertook a county visit to Kitui County in respect of a Statement sought by Sen. Wambua on the heightened insecurity in Mutha Ward, Kitui County, on Wednesday, 26th October, 2022 and tabled its report on 20th November, 2023.

The Committee made a number of recommendations to the Ministry of Interior and National Administration, the Independent Policing Authority (IPOA), the Kenya Wildlife Service (KWS), among others; and has been following up on the implementation of the said recommendations.

Mr. Speaker, Sir, pursuant to Section 3(6)(3) of the Public Appointments Parliamentary Approval Act, 2011, the Committee and the National Assembly Departmental Committee on Administration and Internal Affairs held an approval hearing for the appointment of Eng. Japheth Koome to the position of Inspector General (IG) of the National Police Service on 8th November, 2022.

The Committee approved the nomination of Eng. Koome to the position of IG of the National Police Service and tabled their report on 9th November, 2022.

The Committee held its induction and planning retreat between 9th and 12th March, 2023 in Naivasha, Nakuru County. It held fruitful deliberations with invited stakeholders. These included - the Cabinet Secretary (CS) of Ministry of Interior and National Administration, the Chairperson of IPOA, the IG of Police, the Director of Criminal Investigations (DCI) and the Chairperson of National Police Commission.

The Committee also held a retreat with the CS to the Ministry of Foreign and Diaspora Affairs and the Chief Executive Officer (CEO) of National Drought Management Authority (NDMA) between 30th March and 1st April, 2023, in Naivasha, Nakuru County.

Mr. Speaker, Sir, a number of legislative gaps emerged during the deliberations held at the retreat. The Committee is currently considering them with a view to sponsoring amendments to the existing laws.

Going forward, the Committee intends to conclude its considerations of legislative gaps with a view to sponsor Bills to remedy the same and undertake a county visit to various counties, including Baringo, Elgeyo-Marakwet, West Pokot and Isiolo to assess the on-going security situation.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Trade, Industrialization and Tourism.

As the Committee gets its footing together, we will move to the Chairperson, Standing Committee on Roads, Transportation and Housing.

ACTIVITIES OF THE COMMITTEE ON ROADS,
TRANSPORTATION AND HOUSING

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 56(1)(b) to make a Statement on the activities of the Standing Committee on Roads, Transportation and Housing for the period commencing 13th October, 2022 to 31st March, 2023.

The Senate Standing Committee on Roads, Transportation and Housing is established under Standing Order No. 228(3) of the Senate Standing Orders and is mandated to consider all matters relating to transport, roads, public works, housing, construction and maintenance of roads, rails and buildings, seaports and communication.

Mr. Speaker, Sir, during the period under review, the Committee held 26 Sittings and one Joint Sitting with the Standing Committee on Land, Environment and Natural Resources.

During the period under review, the Speaker has committed the following businesses to the Committee; three Petitions - we now have four, adding to what you have just committed to this Committee - 14 Statements and one Message.

Mr. Speaker, Sir, the following are the Petitions that have been referred to the Committee and are at various stages of considerations-

Petition concerning public transport in Lake Victoria between Mfangano Island in Suba Central Sub-County in Mbita, Homa Bay County. The residents of Mfangano Island in Lake Victoria, Homa Bay County petitioned the Senate to have a public ferry to ply the Mbita-Mfangano route in Lake Victoria. The Committee met with the Petitioners on Tuesday 8th November, 2022 and engaged them on the content and prayers in the Petition.

The Committee also invited the Ministry of Roads and Transport who expressed commitment towards the prayers in the Petition. In concluding this matter, the Committee scheduled to visit Homa Bay County from 17th and 18th March, 2023. However, the visit was postponed at the request of the Senator for Homa Bay. The Committee remains committed to conclude this matter.

Petition two concerns eviction and demolition of Buxton Estate, Mvita Constituency in Mombasa County. The former residents of Buxton Estate petitioned the Senate following the eviction and demolition of their houses. The Petitioners sought the intervention of the Senate to be accorded an opportunity for them to acquire the houses at the redeveloped Buxton Estate under affordable terms.

The Committee met with Petitioners, the County Government of Mombasa and the developer of Buxton Estate on various dates. Due to the unsatisfactory nature of the responses received from the County Government of Mombasa and the developer of the Estate, the Committee issued them 21 days within which to submit a report on options available for the Petitioners to own houses in the Buxton Estate. The 21 days lapsed on 14th April, 2023, that is, five days ago, and the Committee is yet to receive the response.

Mr. Speaker, Sir, Petition No.3 is concerning the title deeds for properties bought at Jamii Bora Estate Kisaju, Kajiado County. The petitioners petitioned the Senate regarding the purchase of houses and shops from Jamii Bora Charitable Trust and an off-plan housing scheme, but have never received the documents since 2008.

The Committee is considering the Petition and intends to invite the petitioners; Jamii Bora Charitable Trust and other key stakeholders involved in the matter.

Additionally, the Committee has just received a Petition this morning, that the Petitioner, Mr. Nicki Muoko Mwanja, petitioned the Senate this morning, regarding the construction of a pedestrian bridge at Chiromo area in Nairobi City County. The Committee will invite the Petitioner and other stakeholders on that matter.

Regarding Statements pursuant to Standing Order No.52 (1) and 53(1), during the period under review, 14 Statements were referred to the Committee for consideration.

Statement by Sen. Edwin Sifuna, MP, on the strike by the Kenya Airways Pilots. On this Statement, the Committee was asked to investigate the issues surrounding the Kenya Airways Pilot strike. Whereas, the Statement was related to labour matters affecting the pilots, the strike affected the operations of Kenya Airways and raised a number of management issues at Kenya Airways.

The Committee engaged the Ministry of Roads and Transport and was informed that the Government will pronounce itself on the strategic decision for revitalization of Kenya Airways, dubbed Project Kifaru by September, 2023.

Statement by Sen. Mohammed Faki, MP, on the Illegal Diversion of Staff Training Funds from the accounts of the Kenya Maritime Authority (KMA). On this Statement, the Committee received a response from the Cabinet Secretary (CS), Ministry of Mining, Blue Economy and Maritime Affairs, which was unsatisfactory and the Ministry was requested to provide more information. We are still waiting for that information.

Statement by Sen. (Dr.) Lelegwe Ltumbesi, on the Status of Implementation of the Lamu Port-South Sudan-Ethiopia Transport Corridor LAPSSET Project in Samburu County. On this Statement, the Committee is in receipt of the response from the CS for Roads and Transport to the Statement and has scheduled to consider it.

Statement by Sen. Alexander Mundigi, MP on the Adverse Effects of the Collapse of Ena Bridge in Embu County. On this Statement, the CS for Roads and Transport informed the Committee that the bridge collapsed due to the overloaded transportation track. Nonetheless, he informed the Committee that the bridge was repaired and was now accessible. The Committee established that the response was satisfactory and concluded the matter and this was reported before the House.

Statement by Sen. Kathuri Murungi, MP, on the Need for Redesigning and Realignment of Nithi Bridge. On this Statement, the CS for Roads and Transport responded to the Committee and indicated that the final designs and tender documents for construction of an alternative route and bridge would be finalized by 31st March, 2023. A few days ago, the Committee is following up on the matter.

Statement by Sen. Crystal Asige, MP, on Road Safety and Universal Design. On this Statement, the CS for Roads and Transport responded to the Committee by indicating that the process of stakeholder engagement for draft street design manual for urban areas in Kenya was ongoing. Once concluded, it will be adopted for implementation. The matter was concluded.

Mr. Speaker, Sir, I am almost done, if you can give a little of time or you can defer, so that I can continue tomorrow.

The Speaker (Hon. Kingi): Senator, you have one minute.

Sen. Thang'wa: Mr. Speaker, Sir, Statement No.7 is by Sen. Samson Cherarkey, MP, on Rehabilitation and Upgrading of Mombasa Road Section left in the state of disrepair, following the construction of the Nairobi Express Way.

Mr. Speaker, Sir, I may not be able to conclude my Statement because this is supposed to be a very conclusive Report, to show that the Committee has been giving its Statements and work very seriously. Therefore, I request you if we can continue next Wednesday from No.7 to No. 14. Otherwise, I may not be able to complete within---

The Speaker (Hon. Kingi): Hon. Senator, proceed to lay your Statement. The Senators will go through it at the appropriate time. Just proceed to ---

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I proceed to lay.

(Sen. Thang'wa laid the document on the Table)

The Speaker (Hon. Kingi): Thank you, Senator. Thank you too for the good work that the Committee is doing.

We go back to the Committee on Trade, Industrialization and Tourism.

ACTIVITIES OF THE COMMITTEE ON TRADE,
INDUSTRIALISATION AND TOURISM

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I rise Pursuant to Standing Order No. 56 (1) (b) of the Senate Standing Orders to make a Statement on the Activities of the Standing Committee on Trade, Industrialization and Tourism for the period commencing 13th October, 2022 to 31st March, 2023.

Mr. Speaker, Sir, during the period under review, the Committee held a total of 23 meetings. The Committee held its induction and work planning retreat from 5th to 8th February, 2023 and met key stakeholders. The Committee consolidated a matrix of legislative Bills from the stakeholders, which will be incorporated into its workplan.

During the period, the Committee undertook two foreign travel engagements. The first one was participation in the 22nd East African Community (EAC) Trade Fair held in Kampala, Uganda from 8th to 18th December, 2022. The second one was participation in the Industrial Park Study in Ethiopia from 12th to 20th February, 2023. The Committee considered and adopted the reports for tabling in the Senate.

During the period under review, the Committee considered the County Licensing 2022 Uniform Procedure Bill (Senate Bills No.9 of 2022). This Bill seeks to establish standard uniform procedures for licensing by county governments. The Bill mandates its implementors to adhere to the need to protect consumers, provide access to information on conditions for issuance of licences, cost effectiveness and prevention of multiple licensing processes. The Committee processed the Bill and tabled its report in this House on 12th April, 2023.

The other Bill is the Start-up Bill, 2022 (Senate Bills No. 14 of 2022). The Bill seeks to provide a framework to encourage innovation and incentivise the establishment

of start-ups through incubation programmes; and a streamlined administrative mechanism of registration and operations.

The objects of the Bill include, among others, to promote an enabling environment for the establishment, development conduct of business and regulations of start-ups. The Committee processed the Bill and adopted its report for tabling in the Senate.

Mr. Speaker, Sir, during the period under review, the Committee also considered Statements. The first one was on the Status of the Revocation Notice of Drumvale Farmers' Cooperative Society Limited vide *Gazette* Notice No.8427, in Machakos County. It was requested by Sen. Agnes Kavindu Muthama, MP.

The Committee requested a response from the CS for Cooperatives, Micro, Small and Medium Enterprise Development.

The Committee also engaged the affected farmers, the Ministry, the Commissioner of cooperatives and the liquidator on Thursday 6th, April 2023.

The Committee considered the Statement as concluded. However, the Committee will follow up on the supplementary and emerging issues within its mandate.

The other Statement was high sales levy on muguka cargo transporters in Mbeere, Embu County, requested by Sen. Alexander Mundigi, MP. The Committee facilitated a response from the Cabinet Secretary (CS), Ministry of Trade, Investment and Industry. The Committee also engaged with the affected farmers from Mbeere Embu Miraa Traders Cooperative Union. The Committee is set out to undertake an inspection visit in Mbeere, Embu County to interrogate the issues raised in the Statement.

The third Statement was on the effect of Government austerity measures in the hotel industry, requested by Sen. Godfrey Osotsi MP. The Committee requested responses from the Ministry of Tourism and Wildlife and the National Treasury and is yet to receive the responses.

The other Statement is on the rise in roadside hardware suppliers in Nairobi City County, requested by Sen. Tabitha Mutinda, MP. The Committee requested a response from the Ministry of Trade, and Nairobi City County Government. The Committee also resolved to follow up with the stakeholders and process reminders for the responses.

The other Statement is on the state of affairs at the Kenya International Convention Center (KICC) requested by Sen. Samson Cherarkey MP. The Committee requested a Statement from the CS, Ministry of Tourism and Wildlife and the KICC. The Committee also had a meeting with Sen. Samson Cherarkey, MP to deliberate on the Statement. The Statement was concluded. However, the Committee will follow up on the supplementary issues within its mandate.

The other one is a Statement concerning the state of foreign direct investments in Kenya, requested by Sen. Samson Cherarkey, MP. The Committee has requested a response from the Ministry of Trade and Investment and is awaiting it.

The other one is a Statement sought by Sen. James Murango, MP, on the measures taken to make Kenyan produce in external markets. The Committee requested a response from the Ministry of Trade and Industry, Kenya Investment Authority (Kenvest) and the Kenya Export Promotion Branding Agency. The response from the Ministry is being awaited.

Mr. Speaker Sir, the Committee is scheduled to consider the following business in the next quarter-

(1) Undertake an inspection visit to engage with affected persons of the liquidation of Drumvel Farmers' Cooperative Society Limited in Machakos County.

(2) Undertake an inspection visit to Mbeere Embu County to engage with affected Muguka Cargo Transporters in Embu county.

(3) Organize a conference on high cess levies charged on muguka transport involving the County Executive Committee Members (CECMs) of the counties of Embu, Nairobi, Mombasa and Garissa.

(4) Undertake a fact-finding visit to Busia county and Malaba One-Stop Border Post to evaluate the status of regional trade and the Kenya-Uganda Trade Floors.

I lay the Statement.

(Sen. Okenyuri laid the document on the Table)

The Speaker (Hon. Kingi): Proceed, Chairperson Standing Committee on National Cohesion, Equal Opportunities and Regional Integration.

ACTIVITIES OF THE COMMITTEE ON NATIONAL COHESION, EQUAL
OPPORTUNITY AND REGIONAL INTEGRATION

Sen. Chute: Mr. Speaker Sir, I rise pursuant to Standing Order No.56(1) (b) of the Senate Standing Orders to make a Statement relating to the activities of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration for the period between 14th October, 2022 to 30th March, 2023.

Mr. Speaker Sir, the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration is established under Standing Order No. 228(1) of the Senate Standing Orders and is mandated to consider all matters relating to the pursuit of national and intercommunity cohesion, the equalization of opportunities and improvement in the quality of life and status of all persons, regional integration, the East African Legislative Assembly (EALA) and Pan African Parliament (PAP).

During the period under review, the Committee held a total of 21 sittings during which it noted five EALA Bills, five EALA resolutions, two Statements, one county visit, one Committee retreat/induction and legislative proposals.

A. EAST AFRICA LEGISLATIVE ASSEMBLY (EALA) BILLS

Mr. Speaker, Sir, during the period, the Committee considered the following EALA Bills tabled on the Floor of the Senate and referred to the Committee:

(a)The East African Community Competition (Amendment) Bill,2021 (Committee Paper No. 14) ;

(b)The Community Appropriation Bill, 2022 (Committee Paper No. 13);

(c)The East African Community Supplementary Appropriation Bill, 2022 (Committee Paper No. 12);

(d)The East African Community Supplementary Appropriation (No. 2) Bill, 2022 (Committee Paper No. 11); and,

(e)The East African Community Persons with Disabilities Bill, 2022 (Committee Paper No. 15).

The Committee notes that in future, upon considering any bills referred to them, there will be a report to be tabled.

B. EALA RESOLUTIONS

Mr. Speaker, Sir, during the period under review the following EALA resolutions were referred to the Committee by the Senate:

(i) Resolution of the Assembly paying tribute to His Excellency Mwai Kibaki, 3rd President of the Republic of Kenya.

(ii) Resolution of the Assembly paying tribute to the late Rt. Hon. Jacob Oulanyah former Speaker of the Parliament of Uganda.

(iii) Resolution of the Assembly recommending to the Council of Ministers to urge Partner States to strengthen frameworks for eradicating child sexual abuse in the community.

(iv) Resolution of the Assembly urging the Council of Ministers to recommend the partner States to enhance gender equality in access to food and nutrition, and security in the community.

(v) Resolution of the Assembly granting Members of the Assembly permission to access official documents of the House to be used in evidence before the East African Court of Justice (EACJ).

C. STATEMENTS

Mr. Speaker, Sir, during the period under review, two Statements were sought from the Committee which are-

(i) a Statement sought by Sen. Beth Syengo, MP on the actualization of the not more than two-thirds gender rule in counties; and,

(ii) a Statement sought by Sen. Crystal Kegehi Asige, MP regarding the matter of representation of Persons with Disabilities (PWDs) in the county assemblies.

The Committee is considering responses from the Statements and will conclude in the next two weeks.

D. COMMITTEE INDUCTION AND STAKEHOLDER ENGAGEMENTS

Mr. Speaker, Sir, the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration held its induction and work planning retreat between 9th and 11th February, 2023 in Naivasha, Nakuru County.

The retreat equipped Senators with an understanding of the functions, objectives, policy directions, major projects and programmes, challenges, legislative gaps and possible proposals and opportunities for collaboration and cooperation with the relevant Ministries and State agencies falling within the mandate of the Committee. These include-

(1) The Ministry of Interior and Co-ordination of National Government.

(2) The Ministry of Public Service, Gender and Affirmative Action.

(3) The Ministry of Foreign and Diaspora Affairs.

(4) The Ministry of Information, Communications and Digital Economy.

(5) The Ministry of East African Community, ASAL and Regional Development.

(6) The Ministry of Co-operatives and Micro, Small and Medium Enterprises (MSMEs) Development.

(7) The National Cohesion and Integration Commission (NCIC).

(8) The Kenya National Commission on Human Rights (KNCHR).

(9) The National Gender and Equality Commission (NGEC).

(10) The National Council for Persons with Disability (NCPWD).

(11) The Council of Governors (CoGs).

- (12) The Youth Enterprise Development Fund (YEDF).
- (13) Uwezo Fund.
- (14) Women Enterprise Fund (WEF).
- (15) The County Assemblies Forum (CAF).

In the course of the Committee's deliberations with the various stakeholders, a number of legislative gaps were proposed and are currently being considered by the Committee, with a view to develop various legislative proposals.

Mr. Speaker, Sir, the Committee has also been able to meet with the Cabinet Secretary for Interior and Coordination of National Government, and the Chairperson of the National Cohesion and Integration Commission between the 22nd February 2023 and 1st April 2023, to discuss matters of national peace, cohesion and integrity.

Mr. Speaker Sir, the Committee also conducted a county visit to Kitui for community peace dialogue aimed at restoration of peace and cohesion.

E. CONSIDERATION OF THE BUDGET POLICY STATEMENT

Mr. Speaker, Sir, the Committee considered the 2023 Budget Policy Statement and the Medium-Term Debt Management Strategy on which it made critical observations and sustainable recommendations on the policies touching on the various challenges and risks that are facing the county governments.

Mr. Speaker, Sir, in conclusion, the Committee plans to carry out the following key activities in this session: -

- a) consideration of a legislative proposal for the County Youth Council Bill with a view of enacting it into law;
- b) a meeting with the Cabinet Secretary, Ministry of East Africa Community, ASAL and Regional Development;
- c) undertaking county visit to Tharaka Nithi and Marsabit counties for a peace dialogue meeting; and,
- d) regular retreats with key stakeholders and state agencies which fall under the mandate of the committee.

Mr. Speaker, Sir, going forward, the Committee intends to conclude pending legislative business that is before it, particularly such business as may be subject to timelines provided under the Standing Orders or any other law.

I beg to lay the document on the Table of the Senate.

Thank you.

(Sen. Chute laid the document on the Table)

The Speaker (Hon. Kingi): Sen. Maanzo, proceed.

Sen. Maanzo: Mr. Speaker, Sir, I wanted to contribute on the next Order, with your kind permission.

The Speaker (Hon. Kingi): Sen. Cherarkey, the Floor is yours.

Sen. Cherarkey: Mr. Speaker, Sir, I wanted your indulgence to raise one or two concerns on the Statement that has been laid on the Table by the Chairperson of the Committee on National Security, Defence and Foreign Relations and the Chairperson of the Committee on Roads and Transport.

First, I would have expected the Chair of Roads and Transport, although time caught up with him, to tell us the status of Mombasa Road, repair of the lower deck of Mombasa Road after building of the Expressway. I have heard and seen in the media that

the Ministry of Transport, Roads and Infrastructure has indicated that they want to do the repairs. You are aware that there are ongoing rains in the country, and as a result, Kenyans who use the lower deck of Mombasa Road or the old Mombasa Road experience a lot of inconvenience because when it rains the drainage is poor.

You remember that the road is now thin. Therefore, I would request that the Chairperson of the Committee on Roads and Transport gives the House a timeline on when that lower deck, underneath the Expressway will be repaired before the lapse of the rainy season, so that Kenyans are no longer inconvenienced.

Second and last is on the issue of national security, defence and foreign relations. I was keenly listening to the Chair when I was coming to the Chamber and really wanted to get to know whether the Ministry of Interior and Coordination of National Government is in the process of opening more registration centres.

We had asked to have immigration centres in the North Rift and Kisumu because Kenyans, especially from Nandi and the North Rift region, are forced to go all the way to Kisumu to get renewal of Visa or get a passport, when the Eldoret office was closed. The Eldoret office is temporarily functioning. I wanted to know whether the Eldoret office will be reopened for the convenience of the people of Nandi, Uasin Gishu and the North Rift.

Finally, you remember birth certificates, especially for parents who are registering their children for Class Eight and death certificates for purposes of succession. It is good that you are a lawyer and you understand the importance of birth certificates, especially in succession. Where I come from, we only have two registration centres in Kapsabet Town, that is, Emgwen Sub-county and Nandi Sub-county, and it serves the entire six sub-counties in Nandi.

Although one has been opened in Kabiyeet Township in Mosop Sub-County, I would have expected the Chair to say that in the budget that is coming, more registration centres will be opened, so that parents can conveniently process their children's birth certificates and be able to register their children for KCPE and KCSE, and also for processing of death certificates to allow our parents and other Kenyans who want to do succession, not only in Nandi County, but across the country, to ensure service delivery.

There is need to also improve border posts like in Malava and Northern Kenya; the issuance of national identity card for convenience. In conclusion, when you go to Nyayo House, you get Kenyans travelling from as far as Garissa and Mandera, only to come for such a service.

The e-Citizen services should be made a directorate, so that Kenyans should not travel from Mandera, Kilifi, Garissa, Kisumu, Malaba, Busia, Bungoma, Lunga Lunga, just to get a service that they are paying for.

The Chairperson and the Committee should be ready to tell us that this border outpost and access to issues like Visa, passport, death certificate and birth certificate will be accessible. Those are my three concerns, and I thank you for your indulgence.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Chairpersons, I believe you have taken note of those concerns.

Hon. Sen. Dullo, proceed.

Sen. Dullo: Thank you, Mr. Speaker, Sir. I wanted to make two contributions to the Statements made by the Chairpersons.

First, I thank them for the good work they are doing. My concern is the implementation of the good work the committees are doing. From 2013 to 2017, we had the Implementation Committee that did a very good job as far as committee work is concerned. I think over the years; we have raised the importance of having an implementation committee in place.

I am appealing to you, if we could have the implementation committee, so that our work is successful and to follow up with the relevant government departments, so that work is done to our satisfaction.

Secondly, Mr. Speaker, Sir, I wanted to alert the Chair of the Committee on National Security and Foreign Relations and the Chair of the Committee on Trade, although I sit in the Security Committee, that as a result of the rains today, the few murrum roads that are there have been swept away by rain water, especially what are called the security roads. At some stage, we need to sit and look at those areas where the rains have affected those roads, so that we can have issues of security not being affected as a result of the rains in our counties.

Thank you.

The Speaker (Hon. Kingi): Thank you, Senator. The Chair has taken note of the need to have the Implementation Committee, and I believe it is a matter to be discussed at the Senate Business Committee. We have taken note.

Next Order!

BILLS

First Reading

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

*(Order for First Reading read – Read the First
Time and ordered to be referred to the relevant
Senate Committee)*

The Speaker (Hon. Kingi): Next Order!

Second Reading

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILLS NO.9 OF 2023)

(Sen. Cheruiyot on 13.4.2023)

(Resumption of debate interrupted on 18.4.2023)

The Speaker (Hon. Kingi): Hon. Senators, we will resume debate on this Bill. The debate was interrupted yesterday, 18th April, 2023. At the time of interruption of

debate, Sen. Olekina was on his feet and had a balance of six minutes. However, I do not see Sen. Olekina. Therefore, we shall allow Senators to continue with the debate.

Proceed, Sen. Lomenen.

Sen. Lomenen: Thank you, Mr. Speaker, Sir, for this opportunity that you have given me. I have been waiting for this chance because I am in this Senate to represent the people of Turkana County.

If you look at Article 96 of the Constitution, you will see that the Senate participates in lawmaking. It also determines the basis for allocation of the national revenue among counties as provided under Article 217.

I support this Division of Revenue Bill because counties are waiting for these funds. Most of the counties, especially those in the Northern part of Kenya, are stranded and wondering because they have pressure. Funds should be allocated to the counties, so that they perform their functions well. The reason this Bill is important is because for counties to perform their functions well, they need funds.

To give an example, in certain counties, when revenue is collected and distributed, you will find issues of uncertainties. Areas such as Turkana and Marsabit among other marginalized counties, are affected by drought, which cause uncertainties throughout the year. We also have other natural disasters such as hunger and famine throughout the year. Funds that are allocated to these counties are used for disasters in form of provision of relief, bursaries and other emerging issues.

The Commission on Revenue Allocation (CRA) comes up with the criteria, but they forget some of these emerging issues such as disasters. I urge the CRA and the Senate to consider the emerging issues in these counties, so that we allocate funds specifically to deal with disasters and emergency issues.

There is an issue that is always forgotten. I have been waiting for the Chairman of the Standing Committee on National Security, Defence and Foreign Relations. Most of these counties are insecurity-prone areas because there are raids most of the time. In a week, you could have four raids. I should be specific because I represent a county.

When there is a raid, people lose lives because raiders kill people of that county or *boma*. They also take their livestock. You will find someone who has been rearing livestock, such as camels, cows or goats for eight years. However, when they are raided for one hour or even 30 minutes, a person is reduced from 100 camels to zero.

One camel is worth Kshs100,000. One may have taken eight years to rear and make sure the camels survive, but when they are raided, the person is reduced to nothing. That leads to increase in poverty in those counties. They are now forced to depend on relief, which sometimes is not available.

The National Disaster Management Authority (NDMA) is supposed to provide relief. However, sometimes families that are affected do not receive any relief that is supposed to come from the former provincial administration experiences logistical problems before reaching them, yet you will find that it is not even a kilogramme of maize or other food substances.

Insecurity issues are a big challenge to these counties. However, when the counties make their budgets, they forget some of these issues. After preparing their budgets, they claim that they forgot about insecurity.

Those areas are also vast. Turkana County is 77,000 kilometres square. That is about three counties in other areas. Surely, that beats logic. The vastness of the area is

inhibited by services offered. I am talking about 77,000 kilometres square, with a population of over one million persons, but with only one health centre, which is a Level 3 hospital.

You will find someone who is sick from Kibish travelling all the way to Lodwar, but does not get treatment.

He traveled again from Lodwar to Eldoret seeking health services.

As the national Government has stresses of paying public debt, counties also have stress of paying pending bills. Every governor has pending bills. These pending bills amount to a lot of money. For example, pending bills for Turkana County are over—

(Sen. Lomenen's microphone was switched off)

The Speaker (Hon. Kingi): Senator, your time is up. You had ten minutes. Sen. Wamatinga, you may proceed.

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I also rise to support. We know that the county governments form one of the political units at the grassroots level. The devolved units in the last ten years have been able to achieve life changing economic empowerment in the communities to the local counties. In absence of misappropriation and mismanagement of the funds allocated to the county governments, Kenya would be quite far in terms of community development.

We should also note with a lot of concern that there are very many resources, as alluded to by the Senator of Turkana, that are shared between counties. For example, where I come from in Nyeri County, we had the biggest Provincial Hospital that continues to serve several counties in the Mount Kenya region. However, when it comes to the allocation of resources, it is left on the shoulders of Nyeri County to carry and incur all the costs that go with it.

Moving forward, it will be important for this House to start looking at those services that are shared among counties. They should come up with a formula for how they will ensure that when we are allocating funds and resource revenue to the county governments, that is taken into consideration. It ends up overstressing the resources of one county, while the others enjoy the services that they do not pay for.

It is also important for this House, moving forward, to start looking at possibilities of how we can enact and bring into place a legislative framework that will support the county governments to raise their own-source revenue.

I remember when I was living and working in Europe, specifically in Germany, there was in every employee's tax deduction, what they used to call--- That is a tax that was deducted from every employee working in a particular area. That money was allocated to the area that you worked in. The rationale behind it is that you enjoy the services, infrastructure and other services provided by that particular region.

Maybe it is something that we should borrow from. This is because, we see some counties, despite receiving billions of money over the last ten years, cannot see the impact of the same. Why? For example, on the library service, which is a devolved function, some counties do not have that service at all. It will not be easy for the county to start that service on its own, unless we come up with a plan on how that can be done, so that we bring all counties almost to the same level.

It is also important as we are discussing the Division of Revenue Bill (DORB) in this House that we also be honest with ourselves. The issue of the pending bills is one of the elephants in the House. Some of them, especially in counties that have changed governors a couple of times, we find that the successive governments do not want to pay the bills left behind by their predecessors.

The law states that the pending bills must be the first charge. We must get ways and means of enforcing that, as the Senate, so that the entrepreneurs who provide services to the county governments are not forced to carry the burden.

Equally, as we were having this debate, I noted with a lot of concern that without pointing either side of the House, some of our colleagues would stand up and say that we need to add this or that. I believe that it is the effectiveness of how that money is spent. We know that the previous regime gave money in the budget that was eventually not disbursed. Failure to collect enough revenue, the savings were always met by a refusal to disburse money to the county governments.

However, since we have a Kenya Kwanza Government that is committed to ensuring that devolution works, it is the commitment of no less a person than His Excellency President William Samoei Ruto that the devolved units must be given the power, means, and most importantly, the framework to achieve and realize their vision.

We know that achievement in any part of the counties is development for this Country. Therefore, it is important for us, as the Senate, to ensure that we pass this Bill as presented, and most importantly, make sure that money that has been set aside is disbursed.

We must create a mechanism to ensure that the outstanding pending bills are paid. This will save many small entrepreneurs. This being a Government of bottom-up approach, we must get our people down there paid, so that they can continue with their business.

As I wind up, it is equally very important, as our colleagues on the other side talk about raising this revenue, to also notice that there is the principle of polluter pays for environmental pollution. We must also embrace this opportunity to put in place laws. Whoever calls for a demonstration, should be treated as such, knowing that we have freedom in our Constitution to demonstrate, but equally, to protect Kenyans' property.

We must ensure that those people who destroy and damage people's property are made to pay through the money allocated to their parties at the end of the year. This is so that no Kenyan loses because someone else is pushing for his political space in the pretense of calling for demonstrations.

It would also be important to note that the Government has started moving in the right direction. The cost of *unga* is and will continue coming down. We, as the Standing Committee on Energy, are committed to ensuring that the cost of energy comes down, so that we can create enablers to have an economy that works.

I support.

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

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I arise to oppose the DORB this year. We are here for devolution and the DORB is the heartbeat of devolution. Devolution is in the Constitution.

It is very unfair to have counties elect governors, they have their governments and they are unable to function because the national Government has not yet sent money

on the ground. Even when we pass this DORB, the money still does not find its way to the ground.

Unfortunately, for quite a number of counties, the expectations of the people have not been met mainly because of delays in funding, such that even the absorption of revenue that gets there has a problem because of time factor.

If the money is released too late in the day, by the time any meaningful project is done, time will have elapsed and it is abandoned.

Therefore, Mr. Speaker, Sir, we need to come up with a system where no matter how little the money is – which for now is about 15 per cent as per our Constitution – then, it must remain 15 per cent and not less.

That is why the Commission on Revenue Allocation (CRA) put it at Kshs407 billion. It means the Government should have made every effort to make sure it has Kshs407 billion or thereabouts. If it is less, it is either a minus or plus one. There is no justification at all. Article 218 requires justification for any variation, so that we do not continue stifling devolution and counties.

It is very difficult for a governor to sit in a county, when he is unable to pay doctors or do any development, year-in, year-out. The governor finds himself in a very difficult position politically because he has to deliver on the promises and meet expectations of the people.

Now, the money has been reduced without justification. For that particular reason, then, this Bill fails. It must be reconsidered again. The Government must make an effort to ensure this is met.

We may say we are paying debts or that we are not raising enough revenue. However, I can assure Kenyans that Kenya has a lot of money and a lot of sources of money. It is only that they have been mismanaged.

We have many cartels in various sections of Government, whereby a lot of money is lost. It is estimated that money is lost through cartels and people who are well connected to the system. These cartels do contracts and many other things – which they never even perform to expectations – and eventually get paid.

Mr. Speaker, Sir, we are losing close to Kshs2 billion on corruption. Therefore, if we check the corruption and pay up or renegotiate our loans; if we have goodwill from donors, get grants and partners, then I am very sure we will have more than enough money for counties.

Instead of giving the governors a very difficult task, it is only fair that this House reconsiders this Bill, renegotiate with the national Government and raise money as the Senate had said earlier and CRA proposed. The CRA ended up with Kshs407 billion after thorough investigation, research and consultation.

If governors will continue not paying pending bills, what will happen to private citizens, who work for the national Government and county governments? Their payments are delayed and yet they have taken loans from commercial banks to complete projects on behalf of county governments. It is only fair that the county governments pay these private citizens who have contracts with the Government. If they are not paid, then it means taxes are delayed and revenue collection in the country also slows.

It is important to have effective governments, whether national Government or at the county level. For the county government to be effective, they must have money to pay pending bills in good time.

(The amber light was switched on)

There has been a debate on Own Source Revenue (OSR) in counties. In fact, if you drive to many towns in our counties, you park for free. Systems have to be put in place, such that you pay for parking. There are many other services from which we can raise revenue. However, they must be automated and digitized. Probably, we should use modern technology such M-Pesa to make payments.

Mr. Speaker, Sir, the other issue is on land rates. Counties own a lot of land, where people have plots. If all these revenues are collected, I am sure counties will meet their expectations. For them to be able to put these systems in place, we must fund them under the Division of Revenue Bill, so that governors can re-organize themselves to make this investment and improve on their OSR collections.

We should even sensitize Kenyans on the need to pay the rates and all these charges and taxes at the county level, in order to raise money. Quite a number of businesses are running in counties but revenue is not collected from them. This systematically affects collection of OSR.

The Government has to be serious. There have been many promises and do not blame *maandamano*. *Maandamano* are perfectly within the law. They can be peaceful and they can send a message. It has happened all over the world. In fact, *maandamano* have even developed to revolutions, when the Government does not listen to the people. The latest *maandamano* in France, had 70 per cent participation of the citizens. The Government of France had to listen to what the citizens were saying.

Therefore, Mr. Speaker, Sir, there is no need to amend or suspend the Constitution. It is only that people have to be responsible enough so that a message can be passed. We cannot blame that on ability of the Government to raise revenue. The Government has to be serious.

We are losing money through corruption. There is no proper strategy on how to deal with corruption in this country. We have not seen devolution of anti-corruption services to counties. The structures have to be strengthened, so that corruption is checked from counties to the national Government. That will make sure that we have enough money to perform our function.

Kenyans need to be honest and honorable enough to conduct business without shortcuts. People push for payments when they have not done the projects to the expected standards. You will find that a road has not been constructed in line with the specifications of the Bill of Quantities (BQs); but somebody still finds a way to be paid for services not rendered. This is where the country is losing money.

I am very sure, if the current Government wants to stop corruption, it can stop it. It has the goodwill and mechanism. There seems to be laxity. They allow cartels to penetrate the system and all our taxes end up in the pockets of a few people. The money that is lost could instead be used to develop the country and business and also offer support to tourism.

Tourism in Kenya raises a lot of revenue. When we have a peaceful Government, where there is debate and bipartisan agreement on the best way forward, then we can have fair systems for everybody.

Mr. Speaker, Sir, if the Independent Electoral and Boundaries Commission (IEBC) is an issue, let us agree that it is an issue. Where we make an error, let us agree it

is an error, correct it and have our country move on. I believe if we go in that spirit, we will build a strong nation and raise enough money to develop counties.

Honestly, development can take place in the counties. Although counties have not performed to the expectations, Kenyans have seen a difference. Kenyans have seen that counties have brought services which were not there before. Roads which had never been done since Independence have been done; services which had never been delivered to the people, especially health, have been delivered.

Finally, Mr. Speaker, Sir, we need to fully devolve health.

(Sen. Maanzo's microphone was switched off)

The Speaker (Hon. Kingi): I am afraid your time is up.
Sen. Olekina, kindly take your balance of six minutes.

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

The Speaker (Hon. Kingi): Please, have your seat.

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

Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I apologize for being late. The six minutes left for me are very important. Yesterday, when I stood on the Floor of the House, I rose to support the Report of the Budget Committee on the Division of Revenue Bill.

Today, I proceed with the same line of thought and convince my colleagues on the importance of debate. I define debate as a terminology used in Parliament for or against, any single position. We find ourselves at a point where we are in this House to defend devolution.

In this country, there is a lot of misconception that the President is the one who allocates money to county governments. I convince my colleagues that it is us who send money to the county governments and not the President. We have the rule of law which we are supposed to abide by when it comes to issues of division of revenue.

Mr. Speaker, Sir, the framers of the Constitution of Kenya saw it fit to have three arms of Government; the Executive, the Legislature and the Judiciary. The legislative has the power of the purse and money. Today, we are here fighting for our counties to get money. The framers of the Constitution saw it fit to set up an independent body called the Commission on Revenue Allocation (CRA) to advise. Article 218 says that when it comes to division of revenue, if Parliament will see it fit to deviate from the recommendation of the CRA, they have to follow with a memorandum that explains clearly why they are deviating.

Mr. Speaker, Sir, when I look at the Senate today, the only person who was in the Senate then from other side when we sat here and debated on a formula to send money, is the distinguished Senator from Nandi, Sen. Cherarkey. At that point, we came up with a bare minimum of Kshs370 billion. However, the National Treasury became clever. For them to agree after 11 sittings of debate, they bundled up the money supposed to go to counties as conditional grants. The other arm of Government, the Judiciary, actually

unbundled it. That is why we ended up coming up with the new Act of Parliament, the Additional Allocation of Revenue to counties, but, we are here again.

Mr. Speaker, Sir, it is important for us to make sure we defend our counties. The Kenya Revenue Allocation (KRA) has presented to this august House that they have had no problem in meeting their targets and have even surpassed their targets. During an election year, KRA surpassed their targets by Kshs100 billion. Their projection currently is that they will surpass their budget with a net of Kshs380 billion.

We are a country that has a lot of debts. Every child who is born today owes this country about Kshs150,000. The question is: What are the parameters we are supposed to look at when we are deviating from the recommendation of CRA? Are we supposed to deny counties money? That we are denying them money based on the division of revenue--- I invite my colleagues to look at the Bill as it came from the National Assembly.

The Division of Revenue Bill as it came from the National Assembly following the requirements of Article 218, had a memorandum that said they are deviating because money had been sent to the Hustler Fund. Distinguished men and women of this House, I want us to ask ourselves and I challenge the Kenya Kwanza Administration on this. Their priorities are health and agriculture. Those two are devolved functions. Why are they adding Kshs45 billion to health and keeping that money in the national Government without sending it to the county governments?

(Sen. Olekina's microphone was switched off)

The Speaker (Hon. Kingi): Your time is up. We agreed 10 minutes per speaker. Let us stick to it.

(Sen. Olekina spoke off record)

Sen. Olekina, it is 10 minutes per speaker. Kindly abide.

Sen. Cheptumo, proceed.

Sen. Cheptumo: Thank you, Mr. Speaker, Sir. I rise to support this Motion. The reading of Article 96(1) speaks to the role of Senate, which is to protect the interests of the counties and their governments. One of the ways that this House can protect the interests of county governments as envisaged in Article 96 of the Constitution is to ensure that counties receive enough resources in order to undertake the functions allocated to county governments in the Constitution.

Mr. Speaker, Sir, the entire objective of devolution was to ensure that resources go to our counties as opposed to the previous arrangement before devolution, where money collected was distributed in an unfair manner, using political considerations and so on. We need to begin this debate from that point.

Devolution was meant to benefit Kenyan people and by so doing, allocate money to counties for more development. I served Baringo North as a Member of Parliament (MP). Mr. Speaker, Sir, you also served as an MP. You saw what the Constituency Development Fund (CDF) did in terms of construction of schools and hospitals, before devolution and other facilities like roads, electricity and so on.

We saw the impact of what the CDF was able to do. That was the essence of devolution, so that when we allocate more money to counties, we could see more development in our regions. Unfortunately, our limitation of resources as said by a number of colleagues have made counties not to receive enough resources.

Mr. Speaker, Sir, my County of Baringo received Kshs6.4 billion in the current financial year. A substantial part of that money goes to recurrent expenditure on salaries and others. The county is left with a small amount for development.

Mr. Speaker, Sir, this is why in this particular Bill, we are proposing Kshs385 billion to go to the counties. However, if you go to the counties, there is little development. In fact, you see more of what the National Government Constituencies Development Fund (NG-CDF) has done as opposed to what money from county governments has done.

Mr. Speaker, Sir, I want to raise two issues in this particular debate. One is the huge sums of that allocation go to recurrent expenditure.

Mr. Speaker, Sir, you served as the Governor of Kilifi County for two terms. I know what I am saying is true. Even when you wanted to do much in Kilifi County, you did not have enough money. This is because much of the money given to you went to recurrent expenditure.

The other issue is that there is no value for the little money left for development. This is because the roads, hospitals, and Early Childhood Development Education (ECDE) classes are not done to standards.

Mr. Speaker, Sir, apart from suffering from the shortfall of the revenue allocated to the counties, there is need for this House---

That is why Article 96(4) of the Constitution talks about the oversight role of this House on the manner in which the money allocated to the counties is utilized.

Mr. Speaker, Sir, that brings me to the issue of the Oversight Fund. Unless, we empower this House to be able to follow the expenditure of that money, we will still have the same problem. This is because we will face two problems. One, the revenue is not enough and the little money remaining for development after recurrent expenditure is also misused in the manner in which projects are done.

Mr. Speaker, Sir, one of the ways to ensure we have value for money is to empower the Senate to undertake its oversight responsibility as envisaged in Article 96 (4) of our Constitution.

I want to agree with Members who have proposed that perhaps we need to agree with the proposal by the Commission of Revenue Allocation (CRA) of Kshs407 billion allocation to the counties. However, it is also important for us to be practical. Today, the country is using huge sums of money to repay the loans.

Mr. Speaker, Sir, as we move forward, as we restructure our loans and continue to improve our economy, these figures should move from Kshs385 billion to maybe Kshs450 billion and so on, as proposed by the CRA.

Mr. Speaker, Sir, I support the figure of Kshs385 billion because of our economic situation as a country. However, there is a need to pursue a further increment even as we advance as a country.

How do we enable county governments to enhance their own revenue? You are aware that we have economic blocs in our counties, for instance, in Central Kenya, Rift Valley, Nyanza and Coast.

In my view, the intention of these county economic blocs was to strengthen and create opportunities and jobs for our people and enhance business in the neighbouring counties. This will enhance the counties revenue collection in their respective areas. As a House, we need to see how best we can strengthen these economic blocs. Is it grounded in law? If not, we need to do so.

On the issue of disbursement of money, it is one thing to allocate Kshs385 billion to the counties and to disburse it.

As a House, we need to put in place rules, regulations and legislations that will make it automatic that once you allocate money to the counties, it is disbursed. This is because the challenge that we have is that we allocate the money and then counties wait for the collections of the resources.

I also believe that even after receiving the resources, there is no willingness by the national Government to quickly avail funds to the counties. So, it is an area which we need to also look into so that we have a clear mandatory position of remittance of the allocations to the counties.

Mr. Speaker, Sir, I heard my colleague, Sen. Maanzo, say that when we do *maandamano*, we collect more money. It is really shocking to me because when we go through the *maandamano*, it hurts the business. Direct investments by investors from abroad is discouraged and the local businessmen are unable to do their business.

We recently learnt that we lost a lot of revenue during the *maandamano*s because people were not working.

(Sen. Cheptumo's microphone was switched off)

The Speaker (Hon. Kingi): The Hon. Sen. (Prof.) Kamar, kindly proceed.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving me an opportunity to join my colleagues in supporting the Division of Revenue Bill. Although, I would like to support it with amendments to support our own internal Committee of the Senate that starts with the recommendation from the CRA.

From the onset, requesting for amendments will only take us to a very good mediation between this House and the other House. It is very enriching to do that because it is at that point that we see the two sides.

I want to thank our Committee because they worked very hard. They were able to calculate and understand.

Mr. Speaker, Sir, in the last Senate, I was involved in mediation only once. The CRA was able to rationalize the duties and functions of county governments in relation to the national Government.

In most of their recommendations, they were able to take us through the process. It looks like that we did not go through that process this year.

Nonetheless, they were able to take us through the functions especially the agricultural functions. Currently, we are having problems of high cost of production and fertilizers. I want to thank the Government for coming in with interventions that they have given us subsidized fertilizer. I come from a grain growing area and that has helped us quite a bit. However, we also need to look for long lasting solutions which will enable the devolved governments to do what they were supposed to do. This is because the devolved governments have areas that they have been assigned in the Constitution in the

Fourth Schedule. According to the Fourth Schedule, agriculture and health are 100 per cent devolved except for policy.

The reason I think that if we allow our Committee to have a mediation session it would yield fruits, is the fact that, there is one nice indication that has been proposed in this Division of Revenue Bill on the transfer of library services.

It may be time for us to transfer even some of the activities in the Ministry of Agriculture, Livestock, Fisheries and Cooperatives and some of the activities in the Ministry of Health. It might not require real new money. We may be able to transfer money that is already resident in the Ministries and just relocate it.

So, an amendment to support our Committee would have really helped in the mediation stage to look at the areas that need to be moved. It will not affect any other function of the national Government. It will only require that we relocate and allow our funding to flow.

Mr. Speaker, Sir, currently, if you look at the budget that has been given to the Ministry of Agriculture and 7 per cent of what has been allocated to the counties; the Ministries in the national Government are still holding more money than the money that goes to the counties as far as those areas are concerned.

When we listened to the County Revenue Authority (CRA) in the last Senate, it was able to give us the percentages that had been approved in the Maputo and Abuja agreements. They told us of the percentages that should be going to health, education and agriculture. If we used those as our standards - we are actually obliged to do it because we have signed these agreements - you will find that some of the areas where the county governments are suffering is just because of the non-transfer of the functions that have been given to them.

I was very happy to see that the library services are being transferred. I would really urge that through our Committee, we get to transfer more activities. Let us analyze what is being held by the Ministry of Agriculture that should be going down and then transfer them to the counties. The point to transfer is when we are dealing with the Division of Revenue Bill. This is because, if you transfer the function and it is followed by money, that money will go automatically, without looking for new money.

The same thing applies when it comes to the Ministry of Health. It is devolved to the counties, but we still see a huge budget that is in the Ministry of Health Headquarters. Why should we not facilitate our counties? Our doctors are suffering, they are now up in arms and they have threatened to go on strike in a few days. You ask yourself, why should that be? Why do we not start looking at what functions were transferred and which ones were not so that we transfer them?

Therefore, the CRA was right to give us that information. The other reason I believe that the Kshs37 billion increment from CRA makes a lot of sense is the fact that when you look at the revenue itself, it has increased by more than 15 per cent. All they are asking for is the increment of the money going to counties to be at 10 per cent. That 10 per cent is the Kshs37 billion out of the Kshs370 billion that is currently owed. That percentage is still below the increment in the revenue that is being collected. It makes a lot of sense to actually give that figure of Kshs37 billion that will give Kshs407 billion.

Mr. Speaker, Sir, as I wind up, it is so important that we allow the Committee of this House to have a healthy discussion with the other committee through mediation.

Nothing acrimonious, just to discuss and see what needs to be transferred and which money needs to be spent from which level of Government because it is just a matter of movement of those funds.

If we allow the movement of functions and the funding to follow the functions, we will not have to do anything more. We will not even touch the allocations that we are talking about in the analysis on the funds that should be catering for our debts, which we must pay.

I support the national Government on that and any other functions that the Government would like to undertake. It will still be the same. However, let us allow the flow of the transfer of functions. That way, it will allow the functioning of the devolved government the way it is supposed to be according to the Constitution.

Thank you, Mr. Speaker, Sir.

Sen. Veronica Maina: Mr. Speaker, Sir, thank you for this opportunity to contribute to this very important debate on the Division of Revenue Bill, which is before this House.

First of all, I would wish to note that if the Senate existed for any other purpose, then this is one of such core purposes. It is to ensure that a Bill of this nature is dealt with in an expeditious manner in order to ensure that the counties are very well resourced for the functions that they have been assigned under the Constitution.

From the very onset, while there is need to engage in a robust debating on a Bill of this nature, we must also understand that the process that is being done by the Senate right now must be done in such a manner as to ensure that it is dealt with in an expeditious manner without unnecessary bottlenecks.

Due to the fact that the allocation of these resources are needed to ensure that counties are functional and that there is sensitivity in our operations to the needs of the people of Kenya, that such can be dispensed with so that the resources that need to go to the counties are not unduly held. This is because, a long delay in dealing with such business at the Senate would necessarily mean that there is a delay in the functions being resourced or being supported.

Mr. Speaker, sir, I draw your attention to Section 5(e) of the Division of the Revenue Bill, 2023, the fact that the national Government continues to solely bear shortfalls in revenue in any given financial year, while county governments receive their full allocation despite the budget cuts affecting the national Government entities.

This provision having been pronounced in this Bill clearly shows the spirit with which the national Government has been dealing with county governments as far as allocation of resources are concerned. It shows that the national Government has gone out of its way to ensure that county governments receive the resources that are due to them in spite of the serious budget cuts that have been done affecting the entities and the functions of the national Government.

Does that potent good faith or bad faith? In my very humble proposal, it shows very good faith from the national Government insofar as allocating resources to counties is concerned.

Mr. Speaker, Sir, I also want to draw the attention of our colleagues to the principles set out under Article 203 that has been put into serious consideration before this Bill was drawn. Out of those stipulations, you will find there are considerations of national interest such as what must be provided for, for the public debt.

It is now common knowledge that our national Government is ridden with debt. This Bill has ensured that there is a provision for that debt. Indeed, if you look at how the surplus of a budget is supposed to be managed in the event that the national Government managed to get a surplus of revenue, then you will find that that surplus has been assigned directly to handle debt. This is because, when a country is ridden with debt, it continues to be a very big risk to the operations of that nation. That is why it is important that the Constitution has also provided that any surplus must then be applied towards reducing the debt.

If we look at the current Division of Revenue Bill, there are two things that one must consider: Does it meet the Constitutional stipulations? I would say, yes. I would draw your attention to Clause 6 of the Bill.

The calculations of the equitable share that is supposed to be allocated for Financial Year 2023/2024 is based on the last audited accounts of Financial Year 2019/2020. That is Kshs1.673715 trillion. This is the last audited account and approved by the National Assembly. The reference to that specific audited account of Financial Year 2019/2020 is in order and is the one that is constitutionally allowed.

If you also look at Article 203(2), it also stipulates that the allocation cannot be less than 15 per cent. If you look at the current allocation of Kshs385 billion, this stands at 23.5 per cent which is approximately 9.5 per cent above the stipulated constitutional provision. In my view, this allocation of the budget is practical.

It is reasonable and meets the legal stipulation and nothing should hold it away from being voted in.

I take this opportunity to persuade my colleagues on the other side to consider this as a good Bill and pass it, just the way the National Assembly passed it. We should pass it and accept the allocation of Kshs385 billion because it will give an opportunity to Kenyans to live within their own means.

We may want more than Kshs385 billion but funds may not be available for disbursement to the counties. For the past few months, everybody has been crying begging the Cabinet Secretary for National Treasury and Planning to release funds to the counties. Does it make sense then to draw a Bill which states big figures without considering fiscal capacity?

If you look at Article 203(e), it talks about fiscal capacity of county governments. In the same breath, we must consider fiscal capacity of the national Government to disburse resources. For that reason, this allocation is equitable. It meets the legal and accounting stipulation.

I support this Bill and ask my colleagues to avoid a situation or a trap of sending it to mediation because it will elongate the process and continue to deny counties resources that are required to go there.

I thank you, Mr. Speaker, Sir, and I support the Division of Revenue Bill, 2023.

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this important Bill on revenue allocation, considering the fact that these are some of the fundamentals as to why we are here as a Senate. That is our core responsibility; to make sure that we devolve resources to our mother counties across the country.

The inception of devolution created a viable environment for our locals downstream. It is therefore important that as we debate, we urgently consider the fact that

devolution created a way of life. We decentralized services to our counties, thus creating quite a number of significant developments across the board.

If I were to make some arguments, I would say that devolution was incepted without some levels of preparedness. I happened to have served in the counties for close to 10 years. There are some functions that were devolved because the old system was not prepared. For example, if you look at the Ministry of Health and the Ministry of Agriculture and Livestock Development, quite a number of counties are struggling. Those two Ministries form the backbone of a number of activities in counties.

I do not know for what reason the national Government decided to have little resources devoted to the counties. That is stifling and crippling the Ministry of Health and the Ministry of Agriculture and Livestock Development especially in the counties.

In that respect, I do not know whether we are supposed to move and create a policy through which we are supposed either to advise the national Government to retract that decision that the Ministry of Health and the Ministry of Agriculture and Livestock Development should be under the national Government, or maybe fund those two key functions in their counties.

I also think that the formula that the CRA has been using for close to 10 years is almost getting outdated. We are supposed to review the current formula that the Commission is using to allocate revenue. For example, if you look at my county, which is Tharaka Nithi, the money that will be allocated to the county is not even enough to cater for a number of activities. I am sure there are many other counties that are really struggling to make ends meet.

It is through this House that we are supposed to create a system to make sure that we make some reviews and considerations on how we are supposed to create better formulas, which the CRA is supposed to use to allocate money to counties. It is important to note that as much as we discuss---

I want to support Sen. Cheptumo who said that we have a problem when it comes to revenue collection in the counties. There are quite a number of leakages. One of the reasons we have pending bills is because counties budget but fail to meet revenue targets. That is why they end budgeting for things but along the way fall short of the budget. That way, you fail to meet your target and therefore you cannot even pay the contractors and so on and so forth. In that respect, we are supposed, as a Senate, to make sure that we create a system to strengthen the revenue allocation to counties. That way, we will strengthen their revenue base.

This is a critical Bill. As a Senate, we are supposed to make sure that we move with a lot of speed. Like now, there is a lot of cry in the counties. The information we have is that it is almost five months since counties last received their allocation. You can imagine five months down the line and people have not been paid salaries, there is no development going on or anything like that. There is quite a number of pending bills in those counties.

Mr. Speaker, Sir, in that respect, I beg to strongly support the Bill, so that we make sure that our counties realise the allocation that is intended for.

I thank you.

Sen. Thang'wa: Mr. Speaker, Sir, I rise to support the Division of Revenue Bill, 2023. As I support, I would like you to imagine if you had two uncles who you know very well are struggling financially.

On your birthday, one of them tells you that he will give you Kshs500,000 and another one tells you he will give you a Kshs1 million, but you have to wait for about six months. With your wisdom, you know they are struggling financially. The one giving you Kshs500,000 has the cash with him. Would you take the Kshs500,000, or will you wait for Kshs1 million that you will be given in a couple of months to come?

I believe you would take the available amount because you can see it and for sure, you know it is available. I want to equate this as a Government of that uncle who has the money and knows how much he has and how much he wants to share.

Counties have been given money through letters and previous Division of Revenue Bills but these monies have not been disbursed to the counties. They are given certain amounts. They are told they will be given millions of shillings, but they are rarely disbursed to the counties until the end of a financial year.

Mr. Speaker, Sir, to cure this, the current administration has come up with measures to make sure that they can only provide what is within the law, what is viable and what is available. I believe this Division of Revenue Bill, despite the counties not getting what they were proposing, at least, they will get a big share that is going to be remitted to them once we hit the national revenue target.

Mr. Speaker, Sir, an amount of Kshs385 million will be divided equally to all counties. It is also good to note that out of these monies, the national Government has unbundled one of the county functions, which is library services. The Library Services under the Kenya National Library Services (KNLS) will be getting about Kshs425 million every year.

That money has been given to the counties because it is a function of the county.

The counties have been cushioned in the sharing of this revenue and it can be seen in the memorandum under Section 5, which states:

“If the actually revenue raised nationally in the financial year falls short of the expected revenue set out in the schedule the short fall shall be borne by the national Government”.

That tells you that this is a genuine Government. It also says:

“If the actual revenue raised nationally in the financial year exceeds the projected revenue set out in the Schedule, the excess revenue shall accrue to the national Government and maybe used to reduce borrowing or pay debts.”

We are where we are because of debts accrued by the previous regime. This national Government has looked at it and in the course of trying to give remedy, it says we are going to clear the debts so that we can lower charges that our people pay.

The question we need to ask ourselves is whether we need to raise the taxes so that we can get more money to the counties or lower them and give what is supposed to be given to the counties. I have heard one of the Hon. Members of the opposition saying that he does not understand why the money was given to the Hustler Fund.

It is the same people in the streets saying we need to lower the prices of *unga*. This Government had seen that in order to buy *unga*, you need an income. For an income, you need capital, and somebody must accord you that capital. That is why the Government is giving the hustlers some funds so that they can do business and get some little money which will be used to buy *unga* whose price the Government is working on lowering.

I urge the county governments, especially the hon. Members of the county assemblies to come up with a law almost like this one. They should call it Equitable Distribution of Resources to the Wards. Nothing stops them. The amount of money they can get from the national Government can be allocated and distributed equally to every ward. For example, they can say that 40 percent of the development money will be shared equally in every ward. This way, we shall avoid governors who may not like some Members of County Assembly (MCA) or wards which they do not disburse money to. This will save such wards which do not receive recognition from the governors.

I urge the county assemblies to come up with a law close to this one so that citizens of each ward can get resources as they come from the national Government. As Senate, we are very good at disbursing, distributing and passing laws which results to money being disbursed to the counties. However, we are unable to check how the money is used by governors.

I urge hon. Members that as we take the money to the counties, they should follow it shilling by shilling and see what the governors are doing with the money that has been allocated by the national Government to the counties.

I support.

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

Sen. Abass: Thank you, Mr. Speaker, Sir. I would like to contribute on this Bill.

As you are aware, the responsibility of this Senate is to safeguard interests of counties and see that devolution succeeds. In the last budget of the Financial Year 2022/2023, counties were given Kshs370 billion. To date, Kshs125 billion has not been disbursed. Most counties are facing problems serving wananchi. We have seen our doctors on the streets which is very unfortunate. People of that cadre should not be on the streets demonstrating around because of salaries.

Another issue is that the national Government has abandoned most of the functions of the Ministry of Health (MoH) and taken them to counties. Equally, at the Ministry of Agriculture, Livestock, Fisheries and Cooperatives, functions have been abandoned and taken to counties. Counties are only crying for Kshs22 billion difference. The Kshs385 billion that is proposed here and what was proposed by CRA has a difference of only Kshs22 billion.

At the same time, the national Government has increased the budget for water, health, and agriculture. Most of these functions have now been taken to counties. They have been devolved and money has not followed. That is unfair. We understand the economic situation in the country. However, if only the monies for counties are released in time, they will be able to manage the situation on the ground.

One of our problems is the lack of proper oversight. A lot of corruption going on in counties. We are losing a lot of revenue through corruption and pilferage. The Senate must be in action and work hard to see that the monies in counties are saved. If that money is saved and we control the corruption, then counties will be able to meet their mandate and functions. However, the percentage of money that is lost through pilferage and corruption is more than what they are requesting.

Mr. Speaker, Sir, it is high time this House took responsibility to empower Assemblies so that they can do proper oversight in order to control corruption and at least minimize it.

This House needs to increase its efforts to see that--- My Standing Committee on Devolution and Intergovernmental Relations is of the view that all devolved functions must be taken to the counties. This is especially for the MoH and the Ministry of Agriculture, Livestock, Fisheries and Co-Operatives.

The same functions have been devolved and the money should also be sent to counties. It is just the same way they have done for the libraries. Equally, funds for agriculture should be sent to counties since this function has now been devolved. It is high time we settled this business of push and pull between the national and county governments.

With those few remarks, I beg to support the Bill.

The Speaker (Hon. Kingi): Hon. Senators, there being no Senators wishing to contribute, I will now call upon the Mover to reply.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I thank all the Senators that have taken the time to give their input and feedback on the Division of Revenue Bill of the Financial Year 2023/2024.

As I said while moving the Bill, this is one of the most important assignments that a Senator gets to undertake in this House. You sit down, discuss with your colleagues and agree on the vertical distribution of resources between the national and county governments.

I have listened to ideas from colleagues on how they intend to go about this exercise. Of course, I have listened to many of our colleagues lament about the need of ensuring there is more prudent utilization of these resources. I could not agree with them any better. That is given and we should not have a big fight about it.

Mr. Speaker, Sir, second and most importantly, we have also agreed as Senate, on the need to continuously defend and stand for the interests of county governments. I have listened to many Senators, especially our colleagues from the Minority side. It is unfortunate that as I reply, most of them are not here. They keep on humming and remind us that we need to send additional resources to the counties, so on, and so forth.

In my moving notes earlier on, I pointed out the economic challenges that we are experiencing locally. I reminded our colleagues that many of the sins we are paying for are sins of the past. Unfortunately, the economy is such that we live today under the trees that we planted in the yesteryears. Such is the guidance of the economy as well; that today, we pay for the sins of either prudent or improper management of the economy. It is the decision that we are making today. The real impact of the economic decisions that we make presently will be felt further years down the line. It is so evident given the financial situation that we find ourselves in.

As our colleagues find comfort in running on the streets, screaming themselves hoarse, saying that the economy needs to be managed better, of course, we have equally reminded them that many of these challenges, whether it is debt or complete pilferage of resources, was done under the watch of the previous administration, of which they were very strong supporters and defenders. We were in this House jointly with them. If you have a problem, go and speak it elsewhere. That is why we find ourselves in this situation.

I want to appreciate the new administration that is in office. The interventions that are being made in agriculture and even by just ensuring that we are fiscally

responsible by reducing on our fiscal deficit from 5.7 per cent to 4.0 per cent in the next financial year.

There are reforms that are taking place in the Kenya Revenue Authority (KRA). I know that many of the purveyors of graft in KRA are not happy. That is why they are begging to hire people across the media, in Parliament and in different places. They try to run fake stories and theories on why our revenue is not performing as per the expected levels. I am glad that KRA issued a clarification and said: Ladies and gentlemen, if you are looking for people to blame, please do not include us. In as much as there is a lot they could do better, they are really trying in very difficult economic situation.

People forget that the largest taxpayer is the Government. When Government is not doing well, then, do not expect your revenues to do any better. If Government is not spending, paying its suppliers because they are restrained, or do not have the resources to spend, then, you find yourself in the kind of situation or mess that we are in.

However, I am glad that as we discuss this, I saw that our colleagues in the counterpart House have already passed the Supplementary Budget. Many of the State agencies are now beginning to spend. The same can be seen in revenue targets. The KRA has issued a further alert indicating they are on course to raise in excess of Kshs2 trillion. Of course, a lot of it as we all know, in excess of Kshs1 trillion, will go back to fund debt. That will be an extremely difficult situation to find ourselves in.

Mr. Speaker, Sir, eventually, when they are done with putting in place a new administration, since I know they are recruiting a new Commissioner-General and so many things that are being done to ensure that as a revenue authority, they raise the necessary resources for us to share with our county governments.

Mr. Speaker, Sir, I appreciate that many colleague Senators that have spoken to this matter have insisted and implored on each other on the need to ensure that there is better use of resources at various levels of county governments.

There are two things I want to say: First, I challenge colleague Senators that after all is said and done, once we have passed the Division of Revenue Bill and the County Allocation of Revenue Bill, we should have discussions. Senators are akin to board chairpersons and governors are like Chief Executive Officers (CEOs) running the institution. We oversight.

We may not be involved in the day-to-day operations, but we see how the entities that we superintend perform. How can we possibly sit as the Senate of the Republic of Kenya and be comfortable that monies devolved to county governments, in excess of 70 per cent and 80 per cent in sub-counties, are consumed under recurrent expenditure. It leaves little amounts to do actual development, yet we have passed the Public Finance Management Regulations.

Mr. Speaker, Sir, we know what the statutory requirement is. However, not a single county government is compliant with the provisions of Public Finance Management Act, with regard to the division between recurrent and development expenditure. We need to sit down and pass a resolution as a House. We must demand each governor to stop giving us excuses and file a recovery plan with this House.

They need to tell us that their recurrent is at 80 per cent but in the next two or three financial years, the finance and planning department has assured them that if we stop recruiting, put a freeze on salaries and reduced on unnecessary expenditures, we will

be on course. That is why if you check through the current formula that was passed for division of resources, there is 1 percent of these funds that is enjoyed---

Let me put it better for Members to understand, as a compilation of all the factors that inform what goes to a specific county like population, poverty index and health index, there is 1 percent that goes to the specific counties that are properly managing their resources.

Mr. Speaker, Sir, I know in the next financial year, we will begin the conversation of the fourth generation formula for dividing or sharing resources amongst counties. We need to in-build this particular matter so that we demand our county governments to manage their resources better, so that we know that my county is currently doing 70 per cent.

It is a shame that if you ask a good number of Senators in the House what the split in their counties between recurrent and development expenditure is – these reports are available in the House, unfortunately, very few of them know the numbers off-head, yet that informs the direction that their counties take.

If your governor is spending 20, 25 or 15 per cent on development, it will not matter how much noise you make or demand prudent use of resources. If it is a small quarter or allocation, unfortunately, your constituents will never realize the proper fruits of devolution as enshrined in our Constitution and as our people expect of us.

Mr. Speaker, Sir, it is unfortunate that we find ourselves in this situation. I will be moving, together with colleagues in leadership, a joint Motion, concrete with resolutions. We shall expect the Controller of Budget and the Auditor- General that each of our counties file a recovery plan, so that we get a final solution.

With those many remarks, I beg to move.

Mr. Speaker, Sir, pursuant to Standing Order No. 66(3), I beg to move that putting of the question on this Motion be deferred to a later time, bearing in mind the quorum issue and the need for our Whips to mobilize.

I thank you.

The Speaker (Hon. Kingi): Thank you, Senate Majority Leader. Indeed, the putting of the question in regard to that particular Motion is deferred.

(Putting of the Question on the Bill deferred)

Next Order.

The Chairperson Standing Committee on Finance and Budget, kindly proceed.

Second Reading

THE EQUALIZATION FUND APPROPRIATION BILL
(SENATE BILLS NO. 3 OF 2023)

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I beg to Move that the Equalization Fund Appropriation Bill be read a second time.

Mr. Speaker, Sir, this is a very important Bill with regard to the marginalized counties. It is a Bill per Article 204 of the Constitution. The Equalization Fund, which

was established in 2004, has the basic mandate to facilitate the provision of basic services; that is water, health, electricity, and roads.

This Bill is with regard to 34 counties which constitute 1424 marginalized areas that have been spread across different counties. This is a Bill that has been appropriated funds amounting to Kshs54 billion in the financial year 2021/2022.

Mr. Speaker, Sir, on this Bill, Kshs26 billion has already been approved by the National Assembly in the First Supplementary Budget. Out of this, Kshs26 billion, Kshs12 billion has already been remitted to this Fund. Out of this, there is a balance that is amounting to Kshs13 billion out of the Kshs26 billion that had already been remitted and in this appropriation, the Bill provides a total of the Kshs13 billion which comprises of Kshs6 billion for the financial year 2021/2022 and Kshs7 billion for financial year 2022/2023.

This Bill also has a Schedule on the Equalization Allocation. As I said earlier on, the 34 counties out of 47 counties that have been identified. Within those 34 counties, 1400 are different regions within the 34 counties that have been identified.

This is a very important Bill because on the issues and the services that are supposed to be offered on the specific areas as far as health, roads and electricity issues are concerned; you realise as devolved functions as per the Fourth Schedule, these are very important issues with regard to this Bill because the health sector is a very important factor and these funds are going to improve the health sectors within the different areas of the 1400 areas that have been identified.

We have the first allocation that had been remitted to the counties and you will realize that out of the delay of the disbursement of the funds, some projects have not been completed. Some projects have also been completed but the contractors have not been able to hand over these projects hence delaying the key service that is supposed to be offered in these institutions.

For instance, even some of the buildings like the small hospitals have been put in place but they cannot be utilized by the local people in those regions, hence bring a challenge.

This is a very important Bill because it is going to ensure that these funds are going to cater for the services that they are supposed to cater for. We have in regions and areas like the Eastern region where electricity, which is part of this Fund, you will find that in some areas we have challenge.

You will see that education factor that the previous Government had mentioned in terms of ensuring that there is electricity in different regions. There are challenges in institutions like learning institutions that have not been able to have this commodity and element that helps in different aspects from use of different gadgets.

We are in a digital space. Without some of these services like electricity, then it becomes a challenge in this region.

This is an important Bill as far as ensuring that services reach the marginalised counties. It is not only about reaching, but also timeliness of the services.

The Equalization Fund Advisory Board will immediately commence identifying projects to be implemented. We have projects that had already been identified, but there will be an opportunity to also identify others.

Committees will be formed with the assistance of the National Treasury and the Equalization Fund Advisory Board. The committees at *mashinani* level will ensure that they come up with projects that will touch and help the communities in a particular area.

That is important because it will ensure total inclusion of the local *mwananchi*. That is the person on the ground who really needs the services directly. That is why, this Fund is strictly for the marginalised areas. These areas have been identified up to the region level and the amount of funds allocated cleared indicated in the Bill.

With this, it will be easier for the members who will sit on a particular committee in a particular region to budget as per what will be allocated. That is important because without that in place, then planning becomes difficult. They are going to have impactful results of projects, unlike situations whereby there is no committee and governors bring up projects without looking at how much is needed.

Mr. Speaker, Sir, during our committee meetings, we engaged different stakeholders. We have had good engagements with different stakeholders, ranging from the National Treasury, who have given their input. We have discussed one key element; why these funds have delayed.

As I said earlier, the initial appropriation amount was Kshs54 billion. Out of this, only Kshs26 billion is what the National Treasury approved. On top of that, only Kshs12 billion is what has already been disbursed to the different marginalised areas. Therefore, there is an outstanding of Kshs13 billion.

During our deliberations with Members of the National Assembly, we realised that out of Kshs13 billion, only Kshs10 billion has been appropriated in the first Supplementary Budget, hence, there is a deficit of around Kshs3 billion.

As a committee, we decided that let the Kshs10 billion pass and be disbursed to the marginalised regions because it was already appropriated, in order to avoid any delays, so that these funds can be appropriated as per the disbursement schedule. The balance of Kshs3 billion will be incorporated with the balance from Kshs54 billion less Kshs26 billion. The outstanding balance of Kshs28 billion will be added so that they can be allocated the funds.

We also met different stakeholders such as the Council of Governors (CoG). They clearly stated and tabled the existing projects. They mentioned about 300 projects that were in place in total, but about 120 are completed and the rest are stalling.

According to the CoG, the reason for stalling of projects is because of untimely disbursement of funds for projects. Another challenge they mentioned is that contractors do not work because of delays.

However, we were able to insist to the Council of Governors (COG), that it is very important. This was because we realized there was a technique whereby when new governors take office they want to come up with their own projects. We were able to advise that it is important for them to ensure they complete the exist in projects in place.

Further, to ensure that these projects are not just buildings but are going to impact the people as they are going to utilize those projects for the mandate set out.

The other stakeholder that we have been able to walk a nice journey with is the Commission on Revenue Allocation (CRA). They were able to have their input because they are the ones who guide as far as the allocation and identification of the marginalized areas are concerned.

That is how they were able to settle at 34 counties that are marginalized and the specific areas. If a county such as Tharaka Nithi, for example, is in this list, it does not mean it is the whole of the county but a section and an area that is identified as marginalized. These are areas strictly on matters of water.

As you know, water is life; it is everything. Without water, we tend not to be able to harvest a lot in different areas be it home use or agricultural sector. As you know, with water it becomes much more resourceful and impactful to the local regions.

Some of the regions in these 34 counties are areas such Mandera and Turkana. We believe through this Bill, in areas such Turkana, Marsabit and Mwingi, when we have these funds getting into the counties and being able to execute what has been identified as the main focus of this particular fund, there is going to be an impact.

The counties from all angles are going to receive the national allocation and receive this Equalization Fund and any other grants they normally receive. With proper implementation of the project, proper use of the funding allocated, there is going to be a very big improvement.

It is also wise to note that the University of National African Women Economic Empowerment hub was able to come on board and were able to state their input. Much more focus is because the National African Women Economic Empowerment hub were very positive as much as they focused on the women in the *mashinani* areas marginalized area.

These funds will ensure provision of basic elements such as water, electricity, good roads, then it will not only impact the local area but even the women in those regions. As stated earlier, these four essential mandates for these funds cut across a wider range of social, economic empowerment to our women in the marginalized areas.

Mr. Speaker, Sir, why am I insisting on women? This is because in these regions mostly, the number of women as far as gender is concerned, is bigger than the male gender. These are very remote areas where mostly it is the women who have been left. When these facilities are put here, it is not just for the area but also empowering the local women.

In our committee deliberations, we were able to note some of the conditions that the counties were able to put in place to receive the disbursements. Some of them included that the funds should be utilized for the projects in the marginalized areas.

If these funds are diverted to any other recurrent expenditure or projects that a governor could have started then, it deviates from the initial mandate of what it was meant for.

Mr. Speaker, Sir, this is a very important Fund and their areas which are well improved. This Fund needs to be adopted and quickly remitted to the counties because it cuts and offers those services that the national level does not offer. It helps unify and give an opportunity to all Kenyans and not just those in urban areas who have more advantages.

For example, the land surface area is quite big in Turkana and Mandera counties. However, if infrastructure such as roads are put in these areas, they will improve the infrastructure and the business element. There will be much movement. If water is provided, agriculture will improve and there shall be production. Once you have production and value addition, there shall be improvement of different economic areas.

This will increase revenue. An increase in revenue will impact the region and create job opportunities for the youth in those regions because of those facilities.

We have a devolved government to ensure that our people get opportunities. If we do not ensure that is in place, then we kill devolution indirectly. That is not something that the Senate take pride in.

The other condition that the Fund stated was that the beneficiary counties must open county special purpose account at the Central Bank of Kenya (CBK). This fund is not an additional allocation but a special fund. It is wise for it to have its own account. This becomes easier for better and transparent accounting systems without mixing up.

The funds and that account will have its own Equalization Fund Advisory Board (EFAB). At the *mashinani* level, there are members who have been selected to sit in those boards. Having these accounts specifically for this fund, makes it more manageable and clearer. There is no mix-up that the funds were utilised for any other project or used for recurrent expenditure. That shall not be the case. It will be easy to manage and offer transparent accounting for marginalised areas as far as these funds are concerned.

Mr. Speaker, Sir, further, we stated that the County Technical Committee (CTC) must be put in place as provided in the Public Finance Management (PFM) Act, 2021 Regulations. As I mentioned earlier, these are the Committees that shall identify the different projects depending on the area.

You release that for projects to be identified in these areas and the people need to be there. They need to interconnect with other public institutions. For example, if we are connecting electricity or digging a borehole in a particular area, it will serve a bigger range. The committees will ensure that the water serves a wider range of people.

The other condition we stated is that the spending unit must comply with existing laws and regulations. This is governed and guided by our Public Finance and Management (PFM) Act as earlier stated. The Committee considered the Bill and made several observations about it.

Some of these observations during the consideration of the 2022/2023 first Supplementary Budget, the Equalization Fund entitlement of Kshs6.8 billion for Financial Year 2021/2022 was reduced to Kshs3.5 billion leaving the Kshs3.3 billion for appropriation. As mentioned earlier, this is the fund that was not included in first Supplementary Budget. The total available appropriation is Kshs.10.3 billion.

The Committee, through its wisdom, suggested that instead of going back to insisting on the Kshs13 billion, we decided to let the appropriation of the Kshs.10 billion. If that is done, we can ensure that the balance of Kshs3 billion that has been left is going to be included in the balance of the Kshs.44 billion less Kshs.26 billion hence the Kshs28 billion plus Kshs.3 billion giving the outstanding of about Kshs31 billion which should be the main balance.

That is what our committee settled for. Project identification and implementation under the second policy on marginalization is yet to be undertaken and it will commence immediately after approval of the Equalization Fund Appropriation Bill 2023. This is important as I said earlier; this is when these funds have been remitted.

The good thing is that as per feedback and update of the National Assembly, the Committees are already in place. They are going to undergo the process of ensuring they

are gazetted so that they can appropriate the funds depending on the amount of the funds. That will guide on the type of project that the fund can undertake.

We have less than three months remaining before the Financial Year 2022/2023 lapses. There is a need to expedite very fast on this Bill. I also thank you, Mr. Speaker, for changing the Order Paper to prioritize this Bill. Some of the projects under the first marginalization policy are yet to be completed. Why? This is because of the delay occasioned by the stoppage of the expenditure of the fund by the High Court ruling which declared that Equalization Fund guidelines are unconstitutional, null and void.

There is a need to expedite the completion of this project so that the benefits are realized within the 34 counties as I stated earlier. The Committee has recommended that the National Assembly should submit by the end of April 2023 a framework showing a clear action plan of how the pending funds, entitlements, and arrears will be recovered.

This is about the arrears of the Kshs.31 billion. It is the Kshs28 billion plus the Kshs3 billion which was not budgeted for in the first Supplementary Budget. The Committee requested the National Assembly to give a framework on how the total balance is going to be remitted to the 34 counties.

The Committee also appreciates the support of our Secretariat led by Christopher Gitonga who is the Clerk of the Committee for ensuring that this Bill is timely. I also want to thank my Committee Members who have been supportive. We have been team players during the deliberations on this Bill.

I thank you and I request my colleague and a Member of the Committee, Sen. (Dr.) Khalwale, to second the Motion.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise to second this Motion.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, we have six minutes to go. I do not know whether that will be adequate. Do you want to second by way of Standing Order No. 108, so that you reserve your right to contribute later on to this Motion?

Sen. (Dr.) Khalwale: Yes. Mr. Speaker, Sir. It is better that way.

The Speaker (Hon. Kingi): Then, what you need to do, under Standing Order No. 108, is just bow your head and leave it at that. Then, you will have reserved your right to contribute later on, on this particular Motion.

(Sen. (Dr.) Khalwale stood in his place and bowed)

The Speaker (Hon. Kingi): Very well.

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

ADJOURNMENT

The Speaker (Hon. Kingi): Hon. Senators, for the convenience of the Senate, it is now 12.55 p.m. We are going to adjourn the sitting of the Senate. The Senate, therefore, stands adjourned until Wednesday, 19th April, 2023, in the afternoon, at 2.30 p.m.

The Senate rose at 12.55 p.m.