

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Tuesday, 18th April, 2023**

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

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

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

Kindly, proceed to call the first Order now that the requisite quorum has been established.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM NEW RIVERSTAR
ACADEMY, NAIROBI CITY COUNTY

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation from the clubs and societies of New Riverstar Academy, Nairobi County. The delegation comprises five teachers and 31 students who are in the Senate for a one-day study visit.

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

(Applause)

I will allow the Senator for Nairobi to give very brief welcoming remarks.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. Let me join you and the rest of the House in welcoming the students from New Riverstar in Tasia, Embakasi East. I wish them a fruitful visit to the Senate. I hope they get to learn something from the

deliberations this afternoon. It is one of the better days to visit the Senate, and I hope we enrich their visit from the debate we will have here.

I take this opportunity to also thank their teachers and parents, who voted for me overwhelmingly as their Senator, together with Hon. Babu Owino as their Member of Parliament (MP) in Embakasi East Constituency.

The Speaker (Hon. Kingi): Hon. Senators, I have another Communication to make.

NOMINATION OF MPs TO THE PROPOSED JOINT SELECT
COMMITTEE ON BI-PARTISAN ENGAGEMENTS IN PARLIAMENT

I wish to inform the Senate that this afternoon, I received a letter signed by the Senate Majority Leader and the Leader of the Majority Party of the National Assembly. The letter Ref.No.ML/032/CORR/04 is dated 18th April, 2023.

In the letter, the two leaders of the Majority Party communicated that at a meeting held on Tuesday, 11th April, 2023, the Kenya Kwanza Alliance Parliamentary Group appointed seven MPs to be part of the team that shall spearhead and facilitate the bi-partisan engagements.

The proposed Members from the Kenya Kwanza Alliance are-

- (i) Hon. Adan Keynan, MP
- (ii) Hon. George Murugara, MP
- (iii) Hon. Mwengi Mutuse, MP
- (iv) Hon. Lydia Haika, MP
- (v) Sen. Esther Okenyuri, MP
- (vi) Sen. (Dr.) Boni Khalwale, MP
- (vii) Sen. Hillary Sigei, MP

Attached to the letter is a draft Notice of Motion calling for the establishment of a Joint Select Committee consisting of 14 members; seven each from the two coalitions in Parliament, to spearhead and facilitate bi-partisan engagements in Parliament. The draft Notice of Motion also states the terms of reference of the proposed Joint Select Committee.

Hon. Senators, in view of the importance of this matter, I have consulted the Speaker of the National Assembly on a common procedure by Parliament establishing the proposed Joint Select Committee.

Hon. Senators, this being a bi-partisan matter, I have instructed the Clerk of the Senate to forward the draft Notice of Motion to the Senate Minority Leader for his consideration and necessary action.

STATEMENTS

The Speaker (Hon. Kingi): Sen. Onyonka, these are Statements pursuant to Standing Order No.53(1).

Sen. Onyonka: Mr. Speaker, Sir, my apologies. I missed to meet my Personal Assistant (PA). Kindly, give me reprieve, so that I can collect it and give at the right time. I have been informed that it was delivered to the House. I can proceed.

The Speaker (Hon. Kingi): Kindly proceed.

CLAIMS OF ECONOMIC CRISIS IN THE COUNTRY

Sen. Onyonka: Mr. Speaker, Sir, I rise in pursuant of Standing Order No.53(1) to seek a Statement from the Committee on Finance and Budget, regarding claims over Financial and Economic Crisis on our country.

In the Statement, the Committee should -

(1) Clarify whether the country is, indeed, facing dire financial and economic crisis, occasioned by Government wastage and an excessive amount of debt. They should provide a list of the entities owed, the amount of money they are owed and the total figure of our debt as a country.

(2) State the reasons for delay in payment of salaries of all the public servants within our Republic.

(3) State whether the Government is adhering to the budget as outlined in the 2022/2023 Supplementary Budget. If not, state the extent to which the budget has been overshot and whether there is a need for us to change the debt ceiling for our country.

Thank you, Mr. Speaker, Sir.

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

Sen. Cherarkey: Mr. Speaker, Sir, I have read the Statement by Sen. Onyonka, that there is economic crisis in the country. That is far from the truth because the economy is doing very well.

Sen. Onyonka should call for audit of this because he is going the direction of public debt. With the increase of Finance Bill in the previous Parliament, Sen. Wambua, five others and I refused the raising of the debt ceiling. If there is any crisis, it is from the previous administration where Sen. Onyonka is a very good friend to a number of principals. There is no economic crisis.

As you are aware, the fuel import has just landed in the country. The price of *unga* is coming down to around Kshs150 from Kshs230, where our brothers who left office left at. I heard the Senator for Nairobi City County saying they want it at Kshs100. As farmers, we cannot sell a 90-kilogramme bag of maize at less than Kshs7,000 to Kshs10,000. The previous regime bought maize fertilizer at Kshs7,000 to Kshs8,000. So, we must sell at the same price.

The Government is intervening. They should tell us which crisis they are talking about. The Government is also providing subsidised fertilizer, which is assisting in subsidizing production over consumption. This will lower the price of food and ease the cost of living.

Finally, Mr. Speaker, Sir, on the issue of---

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

The Speaker (Hon. Kingi): What is your point of order, Sen. (Dr.) Oburu?

Sen. (Dr.) Oburu: Mr. Speaker, Sir, is it in order for Sen. Cherarkey to mislead the House that there is something called 'a previous regime,' when it is well known that his own boss was the number two in that regime and continued earning salaries up to the last minute? He was shamelessly earning salaries from Kenyans. You call it previous regime and yet half of the Cabinet Secretaries in that Government were appointed by your own boss. This includes Hon. Keter who is still a confidant of the President up to today.

(Laughter)

The Speaker (Hon. Kingi): Hon. Senators, kindly acquaint yourself with the Standing Orders. Once you stand on a point of order under Standing Order No.98, you are supposed to state the Standing Order that you feel has been violated by the Senator speaking.

Having not indicated the Standing Order that Sen. Cherarkey has violated, Sen. (Dr.) Oburu, I am afraid I am going to overrule your point of order.

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

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.105, for responsibility of statements of fact. I want Sen. Cherarkey to tell this country where I can buy unga at Kshs150, if I left this Chamber this afternoon.

Secondly, the history of this nation is known. There have been four or five governments in the past. The last regime is known as the Jubilee Government. There has never been a Government in this country called “handshake” Government. The Jubilee Government had the President as His Excellency Uhuru Kenyatta. His Deputy for ten years was none other than Hon. William Samoei Ruto.

Can he substantiate when he talks about this “handshake” Government, who was the leader of this Government, where they campaigned in this country and who voted for them? They should take responsibility for the problem that we face in this country.

Third, if he says there is no economic crisis in this country, I do not know the people the Senator for Nandi County leads. I can speak authoritatively for the people of Nairobi City County, that we are, in fact, struggling to put food on the table. We are unable to afford the high cost of electricity.

We were in this Chamber just yesterday with the Senate Committee on Energy, discussing the question of how we can lower the cost of electricity. Can he tell us how much they are buying maize flour and how much they are paying for electricity in Nandi County? We can all move there if there is no economic crisis in Nandi County.

The Speaker (Hon. Kingi): Sen. Cherarkey, the Senator is simply calling you to substantiate what you have stated.

Kindly, proceed.

Sen. Cherarkey: Mr. Speaker, Sir, my brother, Sen. Sifuna, has quoted Standing Order No.105. However, he is forgetting that the former President, His Excellency Uhuru Kenyatta, used to say that he has a big brother by the name Hon. Raila Odinga. In fact, a number of people were appointed in Government courtesy of the ‘handshake.’ For your information, Sen. Sifuna, through the Chair---

(Loud consultations)

Mr. Speaker, Sir, can I be heard in silence?

The Speaker (Hon. Kingi): Hon. Senators, let the Senator substantiate pursuant to what has been raised by Sen. Sifuna.

Kindly proceed. As he does so, he will be heard in silence.

Sen. Cherarkey: Mr. Speaker, Sir, I remember in the Finance Bill of 2021, the brother, who was the chief advisor of the former President, called for the scraping and increase of Value Added Tax (VAT). It is in the records of this House.

Mr. Speaker, Sir, are you aware that by the time we were objecting the increase of the debt ceiling to Kshs10 trillion--- Sen. Sifuna is a senior lawyer in this country, although he left a t-shirt with the police the other day.

The first charge of Article 202 is on the public debt. There can never be a crisis. The fact that the Kenyan Government is able to pay the debt that was incurred by the “handshake” government---

The Speaker (Hon. Kingi): Sen. Cherarkey, just take your seat.

What is your point of order, Sen. M. Kajwang’?

Sen. M. Kajwang’: Mr. Speaker, Sir, I rise pursuant to Standing Order No.55, which must be read alongside your previous rulings on the manner in which we prosecute statements on the Floor of this House.

You have previously ruled that requests for statements should not degenerate into a debate where people give partisan opinions. The request for statements is done to facilitate the respective committees to do an interrogation of issues.

Going by the Constitution of Kenya, we have a Presidential system; the Executive does not sit here. This is the Legislature. It is a mockery of this House, the Institution of Parliament and the Republic of Kenya for Sen. Cherarkey to purport to behave as if he is a member of the Executive. Sen. Cherarkey is behaving as if he is the Cabinet Secretary (CS) for National Treasury and Planning, to provide excuses and reasons the economy is in its current state.

Mr. Speaker, Sir, the Government that Sen. Cherarkey is so vehemently defending did not see him fit to become a Chairperson of any committee when it came to the distribution of leadership positions in this House. He had to come to my Committee where we donated to him the Vice-Chairperson position of the Public Accounts Committee (PAC). Why is he today mourning louder than even the Senator for Kakamega County, who is the Senate Majority Whip?

Mr. Speaker, Sir, my substantive point of order is that the direction that this debate is going to take will be in violation of your earlier rulings on the manner in which we should prosecute statements. Sen. Cherarkey must get rid of this notion that he is a member of the Executive. He is a Senator like all of us. He does not have answers.

When Sen. Onyonka asks that question, it is for the benefit of the House. It is not for the benefit of one side of the House. Therefore, he should stop the hallucination that he is in power. If he were in power, he would have been the Chairperson of Justice, Legal Affairs and Human Rights Committee (JLAHRC).

(Laughter)

The Speaker (Hon. Kingi): Hon. Senators, indeed---

(Sen. Olekina and Sen. Madzayo consulted loudly)

Sen. Olekina and Sen. Madzayo, kindly consult in low tones.

I gave a ruling on Standing Order No. 53(3), where a Senator stands to seek for a statement and Senators are allowed to make comments.

What then constitute comments? My ruling earlier on was that the comments should be able to enrich the probe that is going to be undertaken by the Committee.

Ultimately, this Statement is going to be committed to a committee. To guide or help that committee make a proper probe, that is when Senators can stand and maybe direct that committee to, 'As you probe this aspect of this statement, do not forget this statement.'

Sen. Cherarkey, you may have a valid question, but you are very poor at putting your points across. I said it earlier on. I gave you three chances to put your point across in a manner that will help the Committee to probe this statement in line with what you think they should probe. However, the way you put your comments always, it comes as if you are debating an already tabled report of the committee. I am afraid I will not allow that to happen.

If you are unable to put across your comments in line with Standing Order No. 53(3), giving the Committee guidance on what to probe from this statement or if you proceed the way you are proceeding, I will not allow that to happen. I will rule you out of order.

Kindly, proceed to conclude, consider the ruling that I made earlier on plus the guidance that I have given you now.

Yes, what is your point of order Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, you have directed the Senator for Nandi County to substantiate three things that I requested. I do not know if you are vacating that direction because he needs to tell us where we can get *unga* for Kshs150 this afternoon.

The Speaker (Hon. Kingi): Did he mention anything about *unga*?

Sen. Sifuna: Yes. I refer to the HANSARD. Let him substantiate the matters that he has said.

The Speaker (Hon. Kingi): Sen. Sifuna, what was the second point of order?

Sen. Sifuna: The second aspect that I would like him to clarify is when the "handshake" government, if any, was sworn in as a Government.

The Speaker (Hon. Kingi): Kindly, proceed to substantiate the price of *unga* at Kshs150.

Sen. Cherarkey: Mr. Speaker, Sir, I am at a loss whether to follow your direction or engage in gerrymandering by Sen. Sifuna.

The Speaker (Hon. Kingi): Sen. Cherarkey, simply just proceed to substantiate. You have said that *unga* is retailing at Kshs150.

Sen. Cherarkey: Mr. Speaker, Sir, with all due respect, there are many issues that have been raised by the Minority side. I might need an hour to substantiate.

(Laughter)

An hon. Member: You can withdraw.

Sen. Cherarkey: I cannot withdraw.

The Speaker (Hon. Kingi): Sen. Cherarkey, forget the many things they have raised, just substantiate on one thing; the price of *unga* at Kshs150.

Sen. Cherarkey: Mr. Speaker, Sir, you say I make comments pursuant to Standing Order No.55.

On the issue of *Unga* that has come down to Kshs 150, it is in every supermarket. I do not want to name them because I do not want to do marketing for any maize milling firm and supermarkets. We have a number of them. If Sen. Sifuna wants me to go and

buy in a supermarket then bring and table the receipt before the House tomorrow, I am ready. I will bring that particular type of flour and table it, so that he can see.

You have to appreciate that when we were campaigning, the price of a two kilograms packet of *Unga* was Kshs280 under the “Handshake” Government. This “Handshake” Government was formed in 2018 when President Uhuru Kenyatta and Raila Odinga greeted themselves at the steps of Harambee House. If you want paper cuttings and video clips, I am ready to table to show that the ‘handshake’ government was in existence.

The Speaker (Hon. Kingi): You have one-minute left, Senator.

Sen. Cherarkey: Mr. Speaker, Sir, finally, the budget for Financial Year 2023/2024 is Kshs3.6 trillion. We have a deficit budget of approximately Kshs1 trillion. The Government has gone ahead to save Kshs300 billion in terms of austerity measures. The relevant committee should factor in the saving of Kshs300 billion that has been taken from various ministries and ensure that the austerity measures are there.

They should even look into the Kenya Revenue Authority (KRA) projections. This Financial Year, we are looking at the KRA projection that has never happened in the history of Kenya. My colleagues on the Minority side, know this; it is a projection of Kshs2.9 trillion. Already, Kshs999 billion has been collected by KRA in the first year. The relevant committee should factor those issues of KRA and the deficit budget, so that we can proceed.

Mr. Speaker, Sir, finally under Article 202, my colleagues such as the Minority Leader, who is a senior Judge in this Republic – and that is why salaries for civil servants delayed a bit - know that the first charge is on the public debts. Just like when you have *fuliza* of Kshs10,000, and then I send you Kshs10,000, the first charge that will be taken as per Article 202 is the charge on the public debt. Therefore, there is no economic crisis in the country.

I do not want to respond to what Sen. M. Kajwang’ has said. Those are stories that belong to *chai and mandazi*. Some of us wield much more power than what is seen on the Floor.

Thank you.

The Speaker (Hon. Kingi): The next Statement is by Sen. Cherarkey under Standing Order 53(1).

CLOSURE AND RE-OPENING OF CHINA SQUARE

Sen. Cherarkey: Mr. Speaker, Sir, can I request that it be deferred? I want to take some water. It is not easy defending---

(Statement deferred)

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

STATUS OF CARBON CREDIT TRADING IN KENYA

Sen. Chute: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on the status of carbon credit trading in Kenya.

In the Statement, the Committee should-

(1) State Kenya's current position in the global carbon market, disclosing how the market has evolved over the past few years.

(2) State the main carbon trading projects currently being implemented in Kenya, outlining the amount of carbon sequestered in the last five years and state how these projects have contributed to the country's efforts to reduce greenhouse gas emissions.

(3) State ways in which the Ministry of Environment, Climate Change and Forestry is regulating and promoting the carbon market in the country, stating policies in place that support the growth of the market.

(4) Disclose the activities of the Northern Rangelands Trust (NRT), which is currently undertaking carbon market trading works with communities living in the Northern regions, tabling approvals, if any, that the trust received to undertake this trading and provide the total number and value of carbon credits that have been generated by the trust since it started operations in Northern Kenya, and how the income generated from carbon credit has been utilized to benefit local communities.

(5) State NRT's plans for expanding their carbon projects to other areas in the Northern Belt and other parts of the country, outlining criteria used to select the conservancies that participate in the carbon projects.

UTILIZATION OF COVID-19 FUNDS FOR UPGRADING
ICU UNITS IN COUNTY REFERRAL HOSPITALS

Mr. Speaker, Sir, I rise, pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Health on the utilization of COVID-19 funds disbursed for upgrading Intensive Care Units (ICU) facilities in County Referral hospitals.

In the Statement, the Committee should-

(1) State the amount of funding allocated and disbursed for upgrading of ICU facilities in county hospitals to deal with COVID-19 cases, disclosing the beneficiary counties and hospitals.

(2) Disclose the number of county hospitals that have completed the construction of these facilities, stating the ICU bed capacity achieved, construction completion levels and estimated date of completion for the hospitals still undergoing construction.

(3) State the specific equipment and supplies that have been purchased using the funds allocated for ICU upgrades in county hospitals, disclosing the amounts spent.

(4) Disclose plans in place, to monitor the ongoing constructions and report progress of the ICU upgrades in county hospitals.

(5) State the number of hospitals that received oxygen plants, disclosing their distribution in the counties.

STATE OF OPERATIONS AT THE CITY
MORTUARY IN NAIROBI CITY COUNTY

Mr. Speaker, Sir, I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Health on the state of operations at the City Mortuary in Nairobi City County.

In the Statement, the Committee should-

(1) State the optimum capacity of the mortuary, stating how this compares to the number of bodies being received on a daily, weekly or monthly basis and disclose the revenue generated in the last twelve months.

(2) Disclose the number of mortuary coolers, autopsy tables, body lifts, cadaver carts and embalming instruments available and in use, stating the average length of time cadavers are held before being released to families or buried.

(3) State the average cost of handling and storing cadavers, outlining challenges, if any, in ensuring that bodies are properly preserved and maintained.

(4) Undertake a visit to the facility to ascertain the state of operations, including whether there are any plans to expand or upgrade the mortuary's facilities or equipment, stating the amount of public funds the facility received in the last 24 months.

(5) State the number of morticians employed in the facility, disclosing their qualifications, remuneration and training offered, stating processes, if any, in which the staff are evaluated and monitored to ensure that they are providing high-quality services and maintaining ethical standards in their work.

(6) Establish how the facility competes with other private mortuaries, recommending measures to bring the facility to a competitive state and to improve transparency and accountability in its management.

Sen. Maanzo: Thank you Mr. Speaker, Sir. I rise to support the request of Statement by Sen. Chute.

I wish to state that the era of climate change is already with us. The world has become a global village and carbon credits have operated without much information to citizens and legislators like us. This is good because it motivates us to plant many trees. We are very lucky that rains are all over the country and it is time to plant more trees.

If there are any benefits from the carbon credits, Kenyans should know. When they are motivated to work hard and plant trees to improve the environment, they have a purpose to do so. I hope that the Committee dealing with this will go into detail and bring a report, so that we can make it known to the whole world exactly what that business is and how best it can be used to make sure we improve the environment. The weather has changed; we are either having El Nino or La Nina.

The City Mortuary is an institution that serves many Kenyans. Not every Kenyan can afford private morgues. Many Kenyans eventually end up there. People who are murdered on the streets or killed accidentally from Thika Road, on the way to Machakos or as far as Kitengela and Ngong Hills, end up converging at the City mortuary, especially when they are unknown.

Many times, the morgue is overwhelmed and some of these bodies are in terrible conditions and already decomposing. You go there and you are met by an unpleasant smell. For us to serve Kenyans better and give respect to the departed, that is a facility that has to be taken care of with immediate effect, so that we can improve on it.

I am surprised that Sen. Chute is a Muslim and hardly do they end up there, but I thank him for his concern for Kenyans.

Sen. (Dr.) Khalwale: Thank you Mr. Speaker, Sir. The issue of climate change and carbon credit is a mystery to all Kenyans. It is important that this Committee, in its report, clarifies to Kenyans how carbon credit is calculated and in which form payments are made to the beneficiaries.

Mr. Speaker, Sir, we have certain players in this country, like the communities around the Mau Forest, the Kaya Forest in your home, those around the Aberdare Forest and in Kakamega, the only existing tropical forest; awaiting to know how it is done, so that they can collect their credit.

I am afraid that given the increased traffic from the western world into Nairobi by agents of carbon credit, they might actually come here to collect our credit and go back with it to Europe. We do not need them to come teach us how to plant trees or protect our forests. In Kakamega we have been protecting this forest from time immemorial. We must be very careful.

My second clarification is on the important issue of the COVID-19 funds. When I was on my sabbatical, there was a lot of debate in this House and the National Assembly about the loss of COVID-19 funds that created the Covid millionaires. The then President promised this country that within a specific time he was going to release a report on who stole the Covid funds. Could the Committee come with a list showing who those Covid millionaires were, especially knowing that some of them being relatives of people who were politically correct, were being protected? We want to know these people who stole the money that was meant to save lives of Kenyans, who we lost during that time.

Finally, there was money that was taken to counties, which was meant to manage the COVID-19 crisis. Could they also come with an audit, so that we see what those monies did when it was released to the county government?

Some shocking stories abound, like in Kakamega millions of shillings were spent on buying two acres of land, which was meant for burying people who died of COVID-19. However, these people are just walking around. They have eaten that money.

In fact, some of that money was used to fight us during the campaign period, but because I know which side of the divide you are, you must have suffered in Kilifi because that money was used to fight you. We need to know whether the Minority Leader was a beneficiary of the COVID-19 funds or not because the money was used during the campaigns. This is a very serious issue. I can see the Senator for Nairobi looking at me with funny eyes. It is not a laughing matter.

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

Sen. Kathuri: Mr. Speaker, Sir, you know, my colleague, Sen. (Dr.) Khalwale, talks too much until he forgets some of the facts. I am standing pursuant to Standing Order No.105. Can he really confirm that you contested in Kilifi County and you were fought using this COVID-19 money because my hemispheres are telling me that you did not contest at all, and he is misleading the House and the public?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, you are totally out of order on the aspect of referring to the person of the Chair and on the aspect referring to the Minority Leader as to whether he was indeed part and parcel of the beneficiaries of the

COVID-19 funds. To that extent you are out of order. Withdraw that aspect and proceed to conclude.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I would like to proceed, but for God's sake---

(Loud consultations)

An hon. Senator: Withdraw and apologize!

The Speaker (Hon. Kingi): Just proceed to withdraw.

Hon. Senators, the Chair has made a ruling and Sen. (Dr.) Khalwale must abide by the ruling.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to abide by the ruling, but could you guide the hon. colleagues on the other side, who have no knowledge of how sound is made scientifically? You cannot blow sound into my vocal cords.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, can you abide by my ruling and conclude?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to, but let it be on record that as I do so, I never said you sought for votes as a candidate. Secondly, I never said that the Leader of Minority benefitted. I was wondering---

(Loud consultations)

I went to a good school. I am not like you who went to Karachuonyo High School.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, you are stretching the patience of the Chair.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, having made that clarification, I now withdraw. If I made such a remark and anyone is offended, I want to apologize because why should I offend colleagues? I was just driving my debate. Finally, the issue of COVID-19 millionaires must be brought to a close by this Parliament. It was the worst scandal that accompanied the loss of lives---

The Speaker (Hon. Kingi): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Mr. Speaker, Sir, Sen. (Dr.) Khalwale is getting away with a lot of mischief. I rise on Standing Order No.105 as well on responsibility for statement of fact.

Sen. (Dr.) Khalwale has said categorically in this House that the COVID-19 money, especially the one used in Kakamega, was used to buy two acres of land. This is a very serious matter that we cannot joke about. Can he substantiate and tell this House which acre of land was bought in Kakamega using the COVID-19 money? Who bought this piece of land? Who is carrying the certificate of that transaction and, more specifically, who is holding the title of these two acres of land that were bought by COVID-19 money? This is not a joking matter.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, it is a valid request that any time you allege a fact, you must be prepared to prove by way of substantiating that particular allegation. Indeed, you have stated in your contribution to this Statement that in Kakamega, COVID-19 money was used to buy two acres of land. Kindly proceed to substantiate that particular allegation.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I really must thank the Senator for Migori County for inviting me because you have mistakenly thought that somebody bought land for himself. What actually took place in Kakamega County was that the county government went to Lugari Constituency and bought this land. To justify why they bought the land, they stated that they were buying this land for purposes of creating mass graves in that purported cemetery because the bodies were so infectious.

I would be failing in my duty as the Senator of Kakamega if I do not challenge that expenditure on the Floor of this House. If it offends Sen. Oketch Gicheru because the then head of that government was their deputy party leader, carry your skunk with you.

I thank you.

Sen. Olekina: Mr. Speaker, Sir, I rise to support this very timely and valid Statement by the distinguished Senator, Hon. Chute from Marsabit. As a pastoralist, one of the things that we have difficulty in admitting is that meat is one of the main contributors of carbon emissions in this country.

Carbon trading is important. We have many companies that trade in this country that are leaving a huge carbon footprint. It is time that thought intelligently and realistically about how we can erase our carbon footprint as a country. We have got aircrafts such as helicopters that move around this country and they all create or leave a big line of carbon footprint.

Mr. Speaker, Sir, what I would like the committee that you will task this Statement to do, is to carry out a survey of neighbouring countries that have thought of introducing a carbon tax, so that you either pay taxes for what you are causing for the humanity to continue enduring, or you find a way to trade them to support other communities.

When you travel around the world, you will find that big companies have now resorted to coming to Africa. Netflix is one of them. You will be surprised that even in the carbon trading on the New York Stock Exchange (NYSE), there are companies that are benefiting from our forests. What we must be told is our people---

This is something that should worry all the distinguished Senators sitting here. We all sit here to defend the Constitution and say that we are Kenyans and that the sovereignty of this country belongs to the people of Kenya. Let me shock you. This country is 60 or 70 per cent owned by foreigners. Narok, Samburu, Marsabit, and even Uasin Gishu counties are mostly owned by foreigners.

Mr. Speaker, Sir, I would like the committee that you will task this Statement with to investigate. You will be surprised to be told that somebody is collecting dollars as a result of carbon trading of the Mau Forest. We need to be realistic and clever on how to pursue this matter.

When I was in the United Kingdom (UK) during the holiday season, I had a conversation with a good friend of mine called Nick Williams. He said that there is a Non-Government Organization (NGO) in Kajiado that is benefiting a lot from money from carbon trading. I did not know that. He mentioned Narok as well. It appears that there are many Memoranda of Understanding (MoUs) that were signed by the national and county governments that we do not understand.

The Israelis are in Narok. They are going around saying that they want to preserve the semen of leopards. However, when you dig deeper, you will find that they have seen

an opportunity in a country where people are sleeping, while people are trading billions of shillings in the language of carbon trading.

This is a timely Statement. When they examine the issue of carbon trading, it will be important for us to understand that whatever we introduce in this country---

The other day, I heard from our former colleague, now Cabinet Secretary (CS), Hon. Murkomen, talking about introducing a Trump system in this country. Have we carried out serious feasibility studies on how much carbon footprint that energy consumption will use?

Mr. Speaker, Sir, I support this Statement and hope that the committee will go deeper to find out and demystify further from every county the MoUs we have and who is benefiting from carbon trading in our counties when our people are languishing in poverty.

I thank you.

The Speaker (Hon. Kingi): We should now move to Statements pursuant to Statement Standing Order No.56. Before we proceed to allow the Chairperson of Standing Committees to make their Statements, I have a communication to make.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM PRECIOUS BLOOD SCHOOL,
RIRUTA, NAIROBI CITY COUNTY

The Speaker (Hon. Kingi): Hon. Senators, in the Public Gallery, we have 70 students, accompanied by three teachers, from Precious Blood School, Riruta, Nairobi City County, who are in the Senate on an education tour.

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

(Applause)

I will allow the Senator for Nairobi City County to make brief welcoming remarks.

Sen. Sifuna: Mr. Speaker, Sir, I thank you for allowing me to join you in welcoming the students from Precious Blood School, Riruta. This is a school that needs no introduction given the history of stellar performance that has been shown.

Just by way of information to this House, my wife is an alumnus of Precious Blood. That is one of the things we have in common with the Chair. I am aware that the Speaker's wife called Liz is also an alumnus of Precious Blood.

(Applause)

This is a demonstration---

(Sen. Olekina spoke off record)

Mr. Speaker, Sir, please, protect me so that I make my point.

The Speaker (Hon. Kingi): Feel fully protected, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, it is clear that the alumni of this school are a good group of people who are serious about life and look for good and solid partners with which to advance their lives.

I want to take this opportunity to mention that I have been to that school. Recently, I met Sister Mary Joyce. We call her Mary J. She asked me, as the Senator for Nairobi, to do a few things for the school.

I want to confirm to the teachers and students of Precious Blood that your Senator, in conjunction with Jonathan Jackson Foundation, is going to build for you a basketball court, as we agreed with Sister Mary J.

(Applause)

Since the Speaker also has a declared interest in the school, I am sure that if I build one basketball court, he will go a step further and do something else for the school as you may require.

Mr. Speaker, Sir, I wish the students of Precious Blood and their teachers a fruitful visit. For the teachers and parents who vote in Nairobi, I cannot miss to thank you for voting for me. I hope not to let you down in this House.

I thank you.

The Speaker (Hon. Kingi): Before we proceed to Statements, pursuant to Standing Orders No.56(1)(b), we had given Sen. Cherarkey a minute to catch his breath.

You may now proceed to make that Statement.

STATEMENTS

CLOSURE AND REOPENING OF CHINA SQUARE MALL

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1)---

(An hon. Senator approached the Clerk-at-the-Table)

I think the Senator is out of order because he is standing between you and me.

The Speaker (Hon. Kingi): Sen. Cherarkey, if you do not leave the Chair to do his work, then you will land yourself in trouble. It is up to the Chair to rule on the conduct of other Senators, not another Senator picking on other Senators.

Please, proceed.

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialization and Tourism on the closure and reopening of China Square. In the Statement, the committee should:

(1) Cause an investigation into the closure and later reopening of China Square along Thika Super Highway.

(2) Table the report by the Anti-Counterfeit Authority (ACA) on the alleged counterfeit goods that were reportedly being sold at China Square.

(3) Provide information supporting that China Square complied with all the Government requirements for foreigners to open and operate businesses in Kenya.

(4) Provide proof of tax compliance by China Square in its operations, including tax on import and retail commodities.

(5) State the measures put in place by the Ministry of Investment, Trade and Industry to ensure a conducive business environment for healthy competition between local and foreign investment, including promotion and collaboration between China Square and local traders in the country.

I thank you, Mr. Speaker, Sir.

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

Sen. Wambua: I thank you, Mr. Speaker, Sir. Let me maybe for the first time congratulate Sen. Cherarkey for coming up with that kind of Statement.

When this Statement is finally assigned to a Committee, I would request that Committee to help this country make a determination, between the endeavors made by this Government to attract foreign direct investment and the duty of care that this Government must also exercise to protect local businesses and industries.

That is so that we do not end up confusing ourselves and the people who want to do business with us. When it is right for us to protect local industries, then policy statements must be issued and clear positions taken that we are protecting local industries.

Mr. Speaker, Sir, when we want to attract foreign investment, it should be clear at what level of foreign investment we want to do this. Otherwise, we will end up with situations where people from other countries would be attracted into Kenya to roast and sell maize and compete with locals and then, we will mess up our own economy.

I thank you, Mr. Speaker, Sir.

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

Sen. Orwoba: Mr. Speaker, Sir, thank you for this opportunity. I wish to comment on Sen. Cherarkey's Statement on these foreign investors. It is a big topic when we say that the market must dictate itself because it is a willing buyer and willing seller basis but at the end of the day, we also have to look into the interest of the local manufactures.

We are having the same problem with the issue of imported sanitary towels. We are having a serious policy disadvantage to the local manufacturers, in the sense that taxes are actually exempted on the imported finished products but at the same time, the local manufacturers are heavily taxed on raw materials. Therefore, in a situation like that, it is the Government intervention that is needed to ensure that we have fair competition.

Therefore, while we look at China Square or any other that will come in that form and at the same time pushing for foreign investment, we are also really trying to create jobs for our youth. The only way to create jobs for our youth is to ensure that our local manufacturers are thriving.

Mr. Speaker, Sir, to whichever Committee that will take this up, while they consider the willing buyer willing seller basis, that it is okay to import anything while you are within the law, they should also remember that we have millions of youth out there, who do not have jobs because our jobs have been exported to China, where we are importing those finished products.

Thank you, Mr. Speaker, Sir.

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

Sen. Onyonka: Thank you, Mr. Speaker, Sir. I would like to be among the Members of this House that are seized of this issue. Hon. Cherarkey, in as much as I sometimes wonder whether you were a bad child to your parents, I am sometimes impressed with your intelligence and capability to prick our conscience.

Mr. Speaker, Sir, the reality our country faces now is that we must be honest with ourselves. The problem of China Square is not just that building. The problem with China Square is that you have Chinese traders who are able to bring materials which are actually underpriced and therefore, they are able to attract customers to their shops as if Nairobi does not have any other shop that sells what they sell.

If we remember, there was a time when it was raised by the newspapers, about four months ago. I do not think the current Government was in place. It was stated that the Chinese companies had actually not paid close to Kshs400 billion for goods imported to Kenya.

This problem is much more complex. I would like the Committee that would be assigned this responsibility to go deep into what the issues are about our country.

Mr. Speaker, Sir, if you ask many of us in this House whether we know what Kenya exports to China, even if it is tea, we cannot tell what the statistics are. We cannot tell you what we export from Kenya to such a point that we have got an ability right now where Kenya is a perennial importer of Chinese goods. If you look at the difference in terms of trade imbalance, it is embarrassing.

China has a population of 1.2 billion people, with a budget of about USD10 trillion, yet you find ordinary casual Chinese individuals, who do not have any expertise, coming to our country, roasting maize and walk around as if they are executives of some companies, yet what they do is selling *mitumba*.

The conscience of our Parliament and that of this House must be pricked, so that we come up with solutions on what to do with this issue of imbalances of trade between the Super Powers and our country.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. Tabitha Keroche.

Sen. Tabitha Keroche: Mr. Speaker, Sir, I thank you for giving me this opportunity. I thank Sen. Cherarkey for bringing this important Statement.

As much as we always stand to champion buy “Kenya build Kenya”, any time that a business is touched, especially when we now hear about the China Square, we know it is loss of jobs. Investors are discouraged, whether local or foreign.

Therefore, as we bring in investors and inspire many to ensure that we build our country Kenya, like any other part of this world, the minute we touch one, we really demotivate anybody thinking of coming up with an investment.

I know many people may not know but it takes a step back that any time you touch a business that investor is taken back. You will find that if an investment was to take five years, it takes 10, 20, 100 years or it may never happen. Therefore, I thank Sen. Cherarkey.

I am also talking with the Cabinet Secretary for the Ministry of Investment, Trade, Industry, Hon. Moses Kuria, who is one of us. I know he has been doing businesses in this country. He understands very well how he needs to build a conducive environment to do business in this country.

Some of us cannot talk. It is a long a story. However, it has taken a toll on us to stand here, talk and say that we need a conducive environment to do business. Nonetheless, we are happy now.

I am sure businesses in the country can smile with the Kenya Kwanza Government. There is hope that it will never be like the previous regimes, where people suffered for putting up businesses in this country.

I know the Chinese were happy to hear that the China Square is back. However, they need encouragement that this is not like the old regime which was there. This is a new regime of H.E President (Dr.) William Ruto, that will ensure that businesses thrive and go global. I know we will build brands that will go global. There is hope.

As you can see, I am smiling. It is the first time I am smiling since this regime. I have been known to be crying in the streets all these years.

Thank you, Sen. Cherarkey.

We thank you and we hope this debate will be taken to the right Committee to ensure that it is checked. This Statement is not only relevant to China Square. If you see one, just know that it is coming to your door. We are dealing with China Square today but we do not know who else will come tomorrow.

Mr. Speaker, Sir, we must curb this. You can only wake up in the morning, put up your business and only think of how you can grow it to meet international and global standards. Thank you.

The Speaker (Hon. Kingi): Sen. Osotsi.

Sen. Osotsi: Mr. Speaker, Sir, I thank my neighbour, Sen. Cherargei, for this wonderful Statement.

It is important for the Senate to understand the circumstances that led to the closure of China Centre and the reopening of China Square immediately thereafter. I support my colleagues that even as we push for foreign direct investment, we also need to protect the local manufacturers and businesses so that we do not flood our market with cheap imports from China and other countries.

That will affect the economy in a big way. I ask the relevant Committee to look at this matter in detail especially the effect on taxation of China Square. What has been the impact on the taxation volumes in this country?

Mr. Speaker, Sir, they also need to interrogate the so-called bottom-up economic model that our colleagues from the other side sold to Kenyans during elections. Is this decision sitting within that infamous bottom-up economic model or not? It is important for this House to understand that.

When we had the China Square problems, we had demonstrations in this town by traders from Nyamakima. They went around the city demonstrating. At that time, we did not see the police coming out to disrupt those demonstrations. The Committee should also tell us whether those demonstrations were part of the reason why the Cabinet Secretary (CS) decided to rescind his decision.

Mr. Speaker, Sir, we need to get serious with our economic management and we need to see tangible economic solutions to our problems and not what is happening now where decisions are made left and right. The Ministry of Trade, Investment and Industry needs to be looked at in details. Recently, we had some questionable deals. For example, the government-to-government deal on importation of oil products from the Kingdom of Saudi Arabia. It is important for this House to get full disclosure of this deal. We want to

know why Parliament was not involved in the approval of this loan, if there is any loan agreement. It is important we interrogate all these matters that touch on trade and the economy of this country.

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

The Speaker (Hon. Kingi): What is your point of order, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise on the rule of relevance. What is the relevance of government-to-government importation of oil to the issue raised on China Square? Is he in order?

The Speaker (Hon. Kingi): Sen. Osotsi, kindly state the relevance and proceed to conclude your statement.

Sen. Osotsi: Mr. Speaker, Sir, we are talking about the issue of trade. We are talking about the effect of some decisions that have been made within the Ministry of Trade, Investment and Industry that are affecting Kenyans. One of the decisions on trade in this context is the deal between the Kingdom of Saudi Arabia and the Government of Kenya.

When it comes to matters that concern people, it is important for us to look at them in detail. This matter is also relevant to the discussions we are having because we are referring to the Ministry of Trade, Investment and Industry headed by Mr. Moses Kuria.

The Speaker (Hon. Kingi): We shall now move to the Statements pursuant to Standing Order 56(1)(b). These Statements are made by Chairpersons of Standing Committees.

The Chairperson, Standing Committee on Information, Technology and Communication.

ACTIVITIES OF THE COMMITTEE ON INFORMATION, TECHNOLOGY AND COMMUNICATION

Sen. Miraj: 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 Information, Communication and Technology for the period commencing 4th October, 2022 to date.

The Senate Standing Committee on Information, Communication and Technology is established under Standing Order 228(3) of the Senate Standing Orders and is mandated to; consider all matters relating to technology, engineering and electronic research, information, broadcasting and information, communication and technology (ICT) development.

During the period under review, the Committee held a total of 27 Sittings during which it considered:

- (1) Legislative proposals.
- (2) Bills.
- (3) Six Statements.
- (4) One inquiry.

During the period under review, the Committee considered the following-

The Konza Technopolis Bill, 2023 (Senate Bills No. 2 of 2023) was referred to the Committee on Thursday, 16th February, 2023 following its introduction in the Senate

by a way of First Reading. The Committee facilitated public participation pursuant to provisions of Article 118 of the Constitution and Standing Order 145(5) of the Senate Standing Orders.

The Committee received submissions from the Ministry of Information, Communication and Digital Economy on 13th April, 2023, and will be considering the fully incorporated version of the Bill at the Committee on 25th April, 2023, and thereafter table its report.

Mr. Speaker, Sir, during the period under review, six Statements were sought from the Committee. The Committee considered and concluded three of them and is currently considering the remaining three. In considering the said Statements, the responses were shared with the respective Senators.

Mr. Speaker, Sir, the Committee is currently conducting an inquiry on the digital assets infrastructure in Kenya and will table a report once it is concluded.

In conclusion, I wish to thank your office and that of the Clerk of the Senate for the continuous support accorded to the Committee in undertaking its work. Lastly, I wish to thank the Members of the Committee for their commitment and diligence in the contribution during Committee's activities.

I thank you, Mr. Speaker, Sir, and I lay the Statement.

(Sen. Miraj laid the document on the Table)

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Energy.

ACTIVITIES OF THE COMMITTEE ON ENERGY

Sen. Wamatinga: 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 Energy for the period commencing on 14th October, 2022 to 31st March, 2023.

Mr. Speaker, Sir, the Committee on Energy is established under the Standing Order No. 228 of the Senate Standing Orders and is mandated to consider all matters relating to fossil oil exploration, development, production and maintenance and the regulation of energy.

Mr. Speaker, Sir, during the period under review, the Committee held a total of 24 sittings, considered eight Statements and has an ongoing inquiry.

Regarding the Statement pursuant to Standing Order No.53, eight Statements were sought from the Committee during the period under review.

The Committee considered and concluded five Statements. The reports and the responses received by the Committee were shared with the respective Senators who sought these Statements.

Mr. Speaker, Sir, three Statements are pending before the Committee are as follows –

(1) Statement sought by Sen. Hamida Kibwana, MP, on the 8th March, 2023, regarding the proposed energy draft tariffs applicable from the year 2022 to the year 2026.

The Committee has written to the Cabinet Secretary (CS), Ministry of Energy and Petroleum seeking a response. Additionally, the Committee has invited the CS for a meeting on the 30th April, 2023 to respond to the Statements.

(2) Statements requested by Sen. Alexander Mundigi, MP on the 9th March, 2023 regarding the national power outage.

The Committee has written to the CS for Energy and Petroleum seeking a response and will be addressed on the 13th April, 2023.

(3) Statement requested by Sen. Joe Nyutu, regarding the Status of the Last Mile Project in Murang'a County. The Committee has equally written to the CS and will be addressed on the 13th April, 2023.

Inquiry on the high cost of electricity.

Mr. Speaker, Sir, the Committee is currently conducting an inquiry into the high cost of electricity in the country. The Committee resolved to undertake this inquiry on the 1st March, 2023 and to look at the entire value chain from generation, transmission and distribution.

The Committee adopted and scheduled to meet at least ten Independent Power Producers (IPPs) who produce 50 megawatts and above. The Committee has so far established that between 2007/2009, Kenya Power and Lighting Company (KPLC), through a request for proposal requested for tenders for design, financing, supply, erection, commissioning, and operation of power plants.

A majority of the signed IPPs, Power Purchase Agreements (PPA) have a 20 years' expiry period and most of them are skewed towards the investors favour.

The objectives of the Committee is that, upon the completion of this inquiry, we shall have a clear roadmap for reducing the high cost of electricity in the country.

Mr. Speaker, Sir, during this period under review, the Committee visited the Kenya Electricity Generating Company PLC (KenGen) in Naivasha. During the tour, the Committee was impressed by the work done by KenGen in Olkaria.

From the Olkaria facility, KenGen produces 663 megawatts of geothermal power. This is commendable because geothermal is a renewable energy and it reduces the carbon footprint.

Mr. Speaker, Sir, the Committee also visited Kenya Pipeline Company Limited; Fuel Refinery Limited in Kipevu Oil Terminal in Mombasa County.

During the visit, the Committee toured the Kipevu Oil Terminus to a new facility that allows four ships to dock at the same time when unloading petroleum products. This reduces the cost associated with the demurrage.

The Committee also toured the old refinery site in Changamwe. This refinery ceased its operation in 2012 and it is currently leased to Kenya Pipeline Company for storage.

Mr. Speaker, Sir, the Committee has also met with the officials of Electricity Consumers Society and residents of Mukuru Slums on the challenges encountered while receiving power.

On the Committee Induction, during this period under review, the Committee undertook the induction from 9th March, 2023 with the State Department of Energy and 23rd to 26th March, with the State Department of Petroleum.

During the inductions, the Committee briefed all the said semi-autonomous organizations on their functions and roles in the energy and petroleum sector.

As I conclude, the Committee intends to carry out the following key activities during the next quarter–

- (1) Continue with its inquiry on the high cost of electricity in the country.
 - (2) Visit operations in Tullow Oil in Turkana County to ascertain the status of the exploration.
 - (3) Visit Kenya Pipeline facilities in Kisumu to understand the operations of Kisumu Oil Jetty.
 - (4) Meet the Ministry of Energy and Petroleum to determine the way forward on the refinery in Changamwe.
 - (5) Meet the Ministry of Energy and Petroleum regarding the Government to Government agreement on petroleum products importation.
 - (6) Meet the Ministry of Energy and Petroleum regarding the status of KPLC with reference to its financial status and massive debts owed to the IPPs.
- Mr. Speaker, Sir, I beg to lay.

(Sen. Wamatinga laid the documents on the Table)

The Speaker (Hon. Kingi): The Chairperson Standing Committee on Finance and Budget.

ACTIVITIES OF THE COMMITTEE ON
FINANCE AND BUDGET

Sen. Tabitha Mutinda: Mr. Speaker, Sir, this is the Standing Committee on Finance and Budget's report for the period commencing 13th October, 2022 to 31st March, 2023.

I rise pursuant to Standing Order No.56 to make a Statement on the following-
During this period under review, the Committee held a total of 26 meetings. The Committee held its induction and working plan retreat on 7th to 10 February, 2023 and met with key stakeholders.

The Committee also adopted an elaborate work plan which guided them on discharging their mandate. During this period, the Committee also attended a capacity-building seminar on the role of Parliament in the public sector of finance management.

Mr. Speaker, Sir, the Committee considered and tabled a report to the County Governments Additional Allocation No.2 Bill 2022 (Senate Bills No.4 of 2022) and the County Governments Additional Allocations Cash Disbursement Schedule for the Financial Year 2022/2023.

Mr. Speaker, Sir, the reports for the Equalization Fund Appropriation (Senate Bills No. 3 of 2023) and the Division of Revenue (National Assembly Bills No. 9 of 2023) were tabled in the House on Wednesday 12th April, 2023.

The Committee is currently considering the Prompt Payment Bill (Senate Bills No. 8 of 2023) which will be tabled upon conclusion. While considering the Bills, the Committee held a consultative meeting with all the key stakeholders.

The Committee considered the 2023 Private Partnership Agreements (PPAs) and also the Medium-Term Debt Management Strategy (MTDS) and tabled the report in the Senate. The report was approved without amendments.

The Committee, together with the National Assembly Departmental Committee on Finance and National Planning, conducted an approval hearing of Dr. Susan Koech, nominee for the position of Deputy Governor, Central Bank of Kenya. The Committee table the report which was debated and approved by this House.

The Committee considered and concluded on three Statements –

(1) The Statement concerning the alleged Kshs1.31 billion fine imposed by the Chinese Bank on the Government of Kenya for defaulting on the Standard Gauge Railway (SGR) loan that was requested on Tuesday 25th October, 2022.

(2) The Statement concerning the alleged predatory assets based lending by micro-finance lending companies in Kenya was requested on Wednesday, 26th, 2022

(3) The Statement concerning austerity measures imposed by the International Monetary Fund (IMF) on developing countries including Kenya that was requested on Thursday, 10th November, 2022.

Mr. Speaker, Sir, regarding the Statement on the Status of the pending bills in Kakamega County, the Committee considered the response submitted by the county executive and resolved to invite the governor to a meeting which was schedule today and we were able to have deliberations on the matter.

The Committee will schedule meetings to deliberate on the responses received regarding the following Statements –

(1) The Statement on status of the Kshs16 billion pending bills by Nairobi Metropolitan Services (NMS) requested by Sen. (Dr.) Khalwale.

(2) Statement on the re-introduction of bank charges on mobile wallets requested by Sen. Cherarkey.

(3) Statement concerning claims of fraudulent activities involved by various banks, requested by Sen. Tabitha Mutinda.

(4) Statement concerning the status of pending bills in Kisumu County, requested by Sen. (Prof.) Tom Ojienda, SC.

(5) Statement on allegations of unsettled unremitted statutory Pay as You Earn (PAYE) deductions for the staff in county assemblies, requested by Sen. Oketch Gicheru.

(6) Statement by the Kenya Revenue Authority (KRA) move to suspend tax relief funds exemptions, waivers and abandonments with immediate effects, requested by Sen. Crystal Asige.

The Committee has requested for responses from the National Treasury and Economic Planning on Statements regarding the tax incentives available that support climate change by Sen. Kibwana.

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Mr. Speaker, Sir, it is not ordinary for me to stop any Chair of any Committee at this point of presentation. However, I have heard Sen. Tabitha Mutinda reading that the Statement on pre-lending was concluded on.

I am a Member of that Committee and that Statement has already been concluded. I Just wanted to be sure that---

The Speaker (Hon. Kingi): Just allow the Senator to conclude, then I will give you an opportunity to share those comments with us.

Sen. Tabitha Mutinda, proceed to conclude.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. To my colleague in the same Committee, that is why it is always wise to attend all the meetings.

To proceed, the disbursement of funds to county governments sought by Sen. Osotsi on the 20th March, 2023.

Regarding the Statement on Delayed Disbursement of Funds to Counties, at its meeting held on the 5th April, 2023, the Committee engaged the Cabinet Secretary National Treasury and Economic Planning who made a commitment---

The Speaker (Hon. Kingi): Sen. Madzayo, hoja yako ya nidhamu ni ipi?

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, kwa heshima na taadhima ya hili Bunge la Seneti, hata ndugu yangu Sen. (Dr.) Khalwale ambaye ninamheshimu sana, anaweza kutanguliza hili swala.

Tukimwalia ndugu yetu, Sen. Methu, ni kijana shupavu, mdogo, pia ni Seneta katika Bunge hili na anaelewa sana jinsi tunatakikana kuvaa tukiwa ndani ya Bunge. Tukimwalia ndugu yetu, Sen. Methu, amevaa kwa njia ambayo haina heshima, ya kushusha hadhi ya Seneti na haikubaliki kwa mtu ambaye anaiga wale wakubwa wake walio ndani ya Bunge hili la Seneti.

Ukiangalia vile Sen. (Dr.) Khalwale alivyovaa na vile wale waheshimiwa wengine, *seniors* walio kule kama Sen. Mungatana MGH na yule ndugu yangu ambaye yuko pale, na zote pia upande huu, ukituangalia vile tulivyovaa, tuko kwa hali ya kwamba tuna heshima ndani ya Bunge. Vile alivyo vaa ndugu yangu, Sen. Methu amevaa kwa njia ambayo haina heshima na ya kushusha hadhi ya Seneti.

Bw.Spika, naomba umchukulie hatua unayofikiria kwa sababu ile nguo aliyovaa sio haki.

The Speaker (Hon. Kingi): Hon Senators, the dress code of this House is defined by Rule No.5 of the Speaker's Rules. I will read for clarity purposes.

“Senators are required not to enter the Chamber, Lounge of dining room without being properly dressed. This means that a male Senator shall be dressed in a coat, collar, tie, long trousers, socks and shoes or service uniform, religious attire or such other decent dressing as may be approved by the Speaker from time to time. An equivalent standard shall apply with respect to women Senators who may also wear kitenge or such other African attire.”

I have looked at how Sen. Methu is dressed today. Indeed, he is dressed in a shirt with a coat. What we need to look at is whether, how he is dressed conforms with the requirements of Rule 5 of the Speaker's Rules.

The dictionary defines a coat as an outer garment with sleeves, be it short or long and typically extending below the hips. That is the typical definition of a coat. I am afraid Sen. Methu, I wish at least what you are dressing had sleeves, be it short or long. In their absence, it cannot be defined as a coat. If it met the definition of a coat, then you could have gotten away with it.

Therefore, my ruling on your dress code today is that you are not properly dressed for the House and I ask you to withdraw from the Chamber.

(Sen. Methu withdrew from the Chamber)

(Laughter)

Yes, Sen. Madzayo, what is your other point of order?

The Senate Leader of Minority (Sen. Madzayo): Bw. Spika, hili Bunge la Seneti ni Bunge la heshima na tunajiheshimu tukiwa hapa. Hatuna ubaguzi. Huku kuna waheshimiwa ambao wamevaa kwa hali ya heshima zaidi na upande huu vile vile. Lakini tukiangalia upande huu, kuna doa moja ambalo ni bwana mwenyekiti wangu, ninamheshimu, ni kijana mdogo vile vile kama Sen. Methu. Sijui hii tabia wameanza lini.

Vile vile, kichapo kile kile alichokula Sen. Methu, ni kichapo kile kile ambacho ndugu yangu, Sen. Thang'wa - ambaye ni rafiki yangu mkubwa na ninamheshimu sana - anapaswa kukula pia. Anafaa kuvaa kama Sen. Wakili Sigei, ndugu yangu Kiranja wa Walio wengi Bungeni, Sen. Mandago na avae kama mimi kama kielelezo tunayowaonyesha.

Bw. Spika, tunataka uamuzi wako tafadhali.

Sen. Thang'wa: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): The Hon. Senator for Kilifi stood on a point of order and therefore, no point of order can be attracted out of his point of order. What is left is for me to make a ruling since the attention of the Chair has been drawn to the dressing of the Senator for Kiambu County.

The Senator for Kiambu is seated and I might not be able to see much. Senator, kindly, be upstanding so that I can get to know whether indeed what Sen. Madzayo is saying is true or it is a fabrication.

(Sen. Thang'wa stood up)

(Laughter)

Senator, just approach the Chair, please, because my spectacles are not seeing that far.

(Sen. Thang'wa approached the Chair and consulted)

(Sen. Madzayo spoke off the record)

Sen. Madzayo, you are totally out of order for asking a colleague to leave the House.

Senator for Kiambu, as far as your dress code is concerned, I will adopt the ruling that I made in respect to the dress code of Sen. Methu and ask you to kindly withdraw from the Chamber.

(Sen. Thang'wa withdrew from the Chamber)

Sen. Tabitha Mutinda, please proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. As I proceed, regarding the Statement on the delayed disbursement of funds to counties, at its meeting held on 5th April, the Committee engaged the Cabinet Secretary, National Treasury and Economic Planning, who made a commitment that by 15th April, 2023, counties will receive some disbursement.

The Committee is scheduled to consider the following business in the next quarter:

- (i) The County Allocation of Revenue Bill, 2023;
 - (ii) The County Governments (Equitable Share) Cash Disbursement Schedule for Financial Year 2022/2023;
 - (iii) The Prompt Payment Bill, 2022;
 - (iv) The Equalization Fund Appropriation Bill, 2023;
 - (v) The Division of Revenue Bill, 2023.
- Mr. Speaker, Sir, I beg to lay.

(Sen. Tabitha Mutinda laid the document on the Table)

The Speaker (Hon. Kingi): Let us now have the Chairperson of the Standing Committee on Health.

ACTIVITIES OF THE COMMITTEE ON HEALTH

Sen. Mandago: 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 Health during the First Session of the Thirteenth Parliament and the First Quarter of the Second Session.

Mr. Speaker, Sir, the Standing Committee on Health is established under Standing Order No.228(3) of the Senate Standing Orders and is mandated to consider all matters relating to medical services, public health and sanitation. During the period under review, the Committee held 35 sittings during which it considered Statements and engaged various stakeholders as set out below.

The Committee has considered 13 Statements sought by Senators and referred to the Committee as follows:

(1) Statement by Sen. Kibwana on the circumstances that led to the death of Master Travis Maina at Kenyatta National Hospital (KNH).

(2) Statement by Sen. Cherarkey on the recall and suspension of several edible oil products from various manufacturers by Kenya Bureau of Standards (KEBS).

(3) Statement by Sen. Chute on the operationalisation of the National Health Insurance Fund (NHIF) cover in Marsabit County.

(4) Statement by Sen. Osotsi on healthcare services provision at Vihiga County Referral Hospital.

(5) Statement by Sen. Crystal Asige on the Ministry of Health Strategic Plan 2018-2023 with specific regard to Persons with Disability (PWDs).

(6) Statement by Sen. Chute on the status of construction of Level 4 Hospital in Sololo Township, Marsabit County.

(7) Statement by Sen. Kibwana on the crisis of unemployed Kenyan doctors and the influx of Cuban doctors in the Kenyan health system.

(8) Statement by Sen. Kibwana regarding the prevalence of hyperemesis gravidarum, a condition characterized by severe nausea, vomiting, weight loss and electrolyte disturbance in pregnant women in Kenya.

(9) Statement by Sen. Sifuna, the Senator for Nairobi City County, on the migration policy for doctors.

Mr. Speaker, Sir, the Committee has received and shared written responses to the following statements as requested by Senators:

(1) Statement on the recall and suspension of edible oil products from various manufacturers in Kenya by the KEBS.

(2) Statement on healthcare services provision at Vihiga County Referral Hospital.

(3) Statement on construction status of health facilities in Nairobi informal settlements.

(4) Statement on the operationalisation of the NHIF cover in Marsabit County.

(5) Statement on the status of construction of Level 4 Hospital in Sololo Township, Marsabit County.

The Committee held meetings, at which the sponsoring Senators were present, with the acting Chief Executive Officer (CEO), NHIF and County Governor of Marsabit County on Thursday, 16th March, 2023, and Wednesday, 29th March, 2023, respectively. Supplementary information regarding the Statements has been sought from the County Government of Marsabit, NHIF, the Controller of Budget (CoB) and the National Treasury.

With regard to the Statements by Sen. Sifuna and Sen. Kibwana on alleged plan by the Ministry of Health to restrict Kenya health workers from seeking jobs abroad, the crisis of unemployed Kenyan doctors and the influx of Cuban doctors in the Kenyan healthcare system respectively, the Committee sought for and obtained written submissions from the Ministry of Health, the Ministry of Labour and Social Protection, the Council of Governance (CoG), the Salaries and Remission Commission (SRC), various health workers union and representatives of the Universal Health Coverage (UHC) contracted staff. From the above, the Committee held a consultative meeting with stakeholders on Thursday 21st and the sponsoring Senators were present.

Mr. Speaker, Sir, I wish to also note, as the Chair of the Committee, that we are having issues. It is good that Cabinet Secretaries will now be summoned to come to the House.

The Ministry of Health has not been cooperative. They have always preferred to send written statements after failing to attend meetings. As a Committee, we are going to take serious measures to ensure that is corrected and the Ministry appears before the Committee. Even when they make submissions, they also have to do it in time. It is imperative that the work of the Committee is taken seriously by Ministries.

The Committee requested for and obtained additional information from KNH and Moi Teaching and Referral Hospital (MTRH) with regards to the number of health workers that they lost to immigration.

In conclusion, the Committee has concluded its consideration of the following Statements and adopted reports which are due for tabling in the House:

(1) Statement by Sen. Kibwana on the circumstances that led to the death of Master Travis Maina at KNH; and,

(2) Statement by Sen. Kibwana regarding the alleged medical negligence at Mama Lucy Kibaki Hospital (MLKH).

On legislative proposals, Bills and Petitions, during the period under review, no Petitions, Bills or legislative proposals were referred to the Committee for consideration. However, by its own motion, the Committee has deliberated on priority legislation and has resolved to prioritize consideration of the following bills:

- (1) The Community Health Services Bill.
- (2) The County Health Facilities Improvement Fund Bill.
- (3) The County E-Health Bill.
- (4) The County Emergency Referral and Treatment Bill.

Regarding the County Emergency Referral and Treatment Bill, as a Committee, we have observed from a number of complaints, that most of the facilities are in breach of the Constitution by asking for deposits even on emergency treatment cases. That is why, as a Committee, we have prioritized the County Emergency Referral and Treatment Bill.

We have engaged various stakeholders. We have had meetings with the Kenya Network of Parliamentary Committees on Health and the East African Community on Global Fund Mission. We have also engaged stakeholders in the Public Health Committee Conference.

The Committee was scheduled to hold its induction and work planning retreat in February, 2023. However, owing to the concurrent membership attendance by various Members of the Committee to the induction and the work planning retreat, the approved dates stood to be affected by conflicting schedules with other Committees.

Accordingly, on 25th January, 2023, the Committee resolved to conduct induction and work planning retreat from 16th to 20th February, 2023, in Kwale County. However, owing to unavoidable circumstances, the meeting had to be rescheduled.

The Committee has since resolved to split the induction retreat into a series of targeted meetings with stakeholders from this week, Thursday, 13th to Saturday, 15th April, 2023, in Kiambu County. During the meetings, the Committee will meet with key stakeholders, both from Government and non-state actors, to discuss respective mandates and areas of convergence, identify legislative gaps and firm up opportunities for collaboration and co-operation during the term of the Thirteenth Parliament.

Mr. Speaker, Sir, I wish to thank your Office for the support accorded to the Committee in undertaking its work. I also wish to acknowledge the secretariat support and the Committee Members for the work they have done. I wish to commend Members of the Committee for their commitment, diligence and dedication to the work and mandate of the Committee.

Mr. Speaker, I beg to table.

(Sen. Mandago laid the document on the Table)

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

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii. Nilileta Kauli hapa kuhusu kusitishwa kwa huduma za umeme katika Coast General Teaching and Referral Hospital katika Kaunti ya Mombasa. Hadi leo, sijapata ripoti yoyote wala Mwenyekiti wa Kamati ya Afya hakitaji Kauli hiyo katika ripoti yake ya miezi sita tangu Kamati ilipoanza kazi mwezi wa Oktoba mwaka jana.

The Speaker (Hon. Kingi): Sen. Faki, let me give you an opportunity to proceed but not to proceed as a point of order rather as your contribution or comment to that particular Statement because it does not stand as a point of order. Proceed to make your comment on it.

Sen. Faki: Asante, Bwana Spika, kwa kunielekeza. Nilileta Kauli hapa katika Seneti kuhusu kukatwa kwa nguvu za umeme katika Hospitali kuu ya Pwani yani Coast General and Referral Hospital.

Niliomba Taarifa ile ninafikiri mwanzo wa mwezi wa tatu na hadi leo sijapata ripoti yoyote kuhusu mikakati ambayo Kamati imefanya ili kuchunguza na kuupata ukweli kuhusu kusesitshwa huduma katika hospitali kuu.

Ni muhimu kwa sababu nguvu za umeme zinahitajika katika hospitali hususan katika vile vitengo vya wagonjwa mahututi, watoto waliozaliwa kabla ya umri wao na sehemu zingine zinazohitaji nguvu za umeme. Ningependa Mwenyekiti wa Kamati, atoe shauku kuwa hakuweka Kauli ile chini ya kiti.

Asante.

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

Sen. Mandago: Mr. Speaker, Sir, indeed the hon. Senator of Mombasa County, Sen. Faki, sought a Statement on the issue of disconnection of electricity to the Coast General and Referral Hospital. The Statement was committed to my Committee and it is still under consideration. We have had so many Statements and in some, we opted to invite the Members and they are in our schedule of invitation for consideration.

The Speaker (Hon. Kingi): Thank you. Proceed, Sen. Orwoba.

Sen. Orwoba: Thank you, Mr. Speaker, Sir, I would like to---

The Speaker (Hon. Kingi): Sen. Thang'wa, what is your point of order? I can see you have pressed for intervention.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I respect the law and I have no objection with what happened earlier because I believe the Speaker is the supreme in the Senate when it comes to keeping the rules and law of this Chamber, though I have dressed like that for the last eight months.

I do understand maybe I was too smart to be noticed. On that ruling, I want to bring a point of order so that this House can be guided going forward.

Rule No. 5 says that all Senators are not to enter the Chamber, lounge or dining room without being properly dressed. That means that a male Senator shall be dressed in coat, collar, tie, long trousers, socks and shoes or service uniform.

Kindly from that, guide us regarding the Senator for Kisii County, Sen. Onyonka who is wearing a coat without a shirt. Is it okay for us to wear coats without shirts? Maybe tomorrow, I will come with only this coat, no shirt but with a tie. Kindly give us guidance so that going forward, we do not repeat the mistakes if we ever made them.

I thank you.

The Speaker (Hon. Kingi): Thank you, Sen. Karungo. Rule No.5 of the Speakers Rules gives different options. If you meet those options, you are properly dressed before this House. One of the options is that you can come dressed in a coat, collar, tie, long trousers, socks and shoes.

If you are dressed that way, you are deemed to be properly dressed before the House. If not, come dressed in service uniform. That is the second option available to a Senator.

The third option is a religious attire. If you are dressed in one, then you are properly dressed before this House. The fourth category is such other decent dressing as maybe approved by the Speaker from time to time. That is the final option.

The only decent dressing that has been approved by the Speaker is the Kaunda Suit. I remember in the first session, the hon. Sen. Chimera walked into the Chamber dressed in a Kaunda suit and my ruling was that he was properly and decently dressed. The Senator for Kisii County donning a Kaunda suit is decently dressed as approved by the Speaker.

Proceed, Sen. Orwoba.

Sen. Orwoba: Thank you, Mr. Speaker, Sir, for this opportunity. I want to raise three issues with regards to the report that has been read by the Standing Committee on Information, Technology and Communication (ICT).

As hon. Members, we have the duty of oversight and to expedite oversight in this House. However, it is improper when we have reports that are false to come and say that all the Statements or three of them - you can get it in the HANSARD - have been dealt with. The ICT Committee has Statements that I have raised on the Floor of the House which have not been dealt with.

I raised a Statement on data protection and the issue of Safaricom Kenya Limited in terms of the illegal activity that they were conducting but that was not dealt with. I also raised several Statements. The public is following the issue of the Media Council of Kenya (MCK).

Our role, as the Senate, is oversight. I raised serious concerns that needed to be dealt with in terms of MCK. That has not been dealt with either. As a matter of fact, while I was in the Committee, there was an intentional approach to never bring those issues into the agenda of the Committee. Now, I hear that those issues have been dealt with, which is false.

Mr. Speaker, Sir, one issue I have to raise on the Floor of the House is that in that Committee I have the Konza Technopolis Bill, of which I am the sponsor. If you would allow the HANSARD to pull out the record of how the Statement of the Committee has been read today; there has been an obvious omission of my name in terms of my work.

Even when matters of the Konza Technopolis Bill are being discussed, I am not invited or informed. They are doing it in a manner which is not transparent. There are so many interests in terms of the Konza Technopolis Bill---

(Sen. (Dr.) Khalwale spoke off record)

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

The Speaker (Hon. Kingi): what is your point of order, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, with due respect to the Senator. It is not that I want to challenge her but she has used the word false. Secondly, she is clearly casting aspersions on her own Committee---

The Speaker (Hon. Kingi): Under what Standing Order are you raising your point of order? Let us start from there, then you can proceed.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, under Standing Orders, Members are supposed to use language that is befitting---

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale that is why I am asking you to quote the Standing Order because it is a requirement under Standing Order No. 98, that any Senator rising on a Point of Order, must state the point of order that is in violation.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir that is Standing Order No--- I want to read it out for you which is why I am tracking it.

Mr. Speaker, Sir, Standing Order No.12--- Where am I?

(Sen. (Dr) Khalwale perused the Standing Orders)

Yes, Mr. Speaker, Sir. It is Standing Order No.101 on Contents of Speech.

The Speaker (Hon. Kingi): Yes, proceed. Are you done?

Sen. (Dr.) Khalwale: Yes, Mr. Speaker, Sir. I was just inviting you to decide whether the Senator was in order to contravene Standing Order No.101, by casting aspersions---

The Speaker (Hon. Kingi): Standing Order No.101 is very wide. Which of these sub-sections of No.101 are you referring to?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, allow me to read it out.

The Speaker (Hon. Kingi): Please, do.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, Standing Order No.101(4) speaks to contents of speech. It says:

“No Senator shall impute improper motive to any other Senator or a Member of the National Assembly except upon a specific substantive Motion of which at least three days’ notice has been given, calling in question the conduct of that Senator or Member of the Assembly.”

Mr. Speaker, Sir, as you heard, the Senator had repeatedly said that the Statement which was being made here was false. She went on and justified why she thought it was false.

Secondly, she said that they have been deliberately denying her recognition in the Committee, even in her industry within the Committee. To me, that amounts to casting aspersions against the Chairperson and the Committee.

Therefore, I was inviting you to decide if, indeed, the Member was observing Standing Order No.101.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, if I heard Sen. Orwoba – the HANSARD will bear me witness – she stated that the report contains certain expressions that may not necessarily be true. For example, it talks about having dealt with statements that it did not deal with. She went ahead to state those statements – her own Statements that she had requested – that are yet to be dealt with by that particular Committee. However, in the Report, the Committee says that it dealt with.

I think it is a very valid concern. If you rise to seek a Statement and a Committee comes to lay a report saying they dealt with that particular Statement and you know very well that that is your Statement and it has never been dealt with, then it is within your

right to rise and say that report contains misinformation. That is exactly what Sen. Orwoba did.

I was waiting for her to conclude her remarks and then invite the Chairperson of the Standing Committee on Information, Communication, and Technology (ICT) to confirm if it is true that her Statements are yet to be dealt with. We can then get an undertaking from the Chairperson of the Committee as to when those Statements are going to be dealt with. It is a valid concern from the Senator.

(Sen. (Dr.) Khalwale spoke off record)

We have concluded that matter, Sen. (Dr.) Khalwale.

Sen. Orwoba: Mr. Speaker, Sir, for purposes of clarity, the definition of false is not according to the truth---

The Speaker (Hon. Kingi): Just proceed, Sen. Orwoba. We are done. Proceed to make your remarks.

Sen. Orwoba: Mr. Speaker Sir, as I was saying, we are raising Statements and pushing business on the Floor of the House. It is then referred to Committees. I served as the Vice Chairperson of that Committee but I am no longer a Member. There are many red flags. When I hear that there is a report that my Statements have been dealt with and I know that they have not been dealt with, then I am highlighting that it is a false statement.

Correct me if I am wrong, but any Bill is normally referenced to its sponsor. Every time that a report has been brought, I have been keen. Today in particular, I was keen to follow the Report from the Committee on ICT. They have omitted my name as a sponsor.

I am raising this because I know right now, there are talks to try to find a way to pull the Bill from the Senate and take it to the National Assembly. I am asking so that I can be guided. When we bring Statements, business and Bills--- I have worked on the Konza Bill. I have put in time and effort into it. So, to hear and see in the HANSARD what is happening – that there is some sort of ‘cartelism’ to push down the Bill – I have to rise and comment on the Floor of the House and ask whether this is in order.

Mr. Speaker, Sir, I do not know which channel to follow. I have tried the Motion channel but it takes too long. I have tried the Statement channel and as you can see, they are saying that they have expedited my Statement yet they have not.

I am now left to rise on a point of order to ask how else we are going to conduct business, if certain Committees are conducting business in a non-transparent way?

The Speaker (Hon. Kingi): Sen. Orwoba, you have made your point. The Chairperson of the Committee on ICT, two issues have been brought up by the Senator. One is that in your Report, you have indicated that you have dealt with her Statements and you are yet to, hence the misinformation.

Secondly, the Committee wishes to have that Bill as a National Assembly Bill, instead of it coming under the sponsorship of Sen. Orwoba.

Sen. Miraj: Asante, Bw. Spika. Ningependa kumrekebisha Sen. Orwoba. Nimesoma na nikasema tumezitendea kazi lakini kuna zingine ambazo zinaendelea. Hizo Kauli mbili ambazo amezungumzia ziko njiani. Tutakuwa na kikao tarehe nne na hao

washikadau ambao aliwataja katika Kauli yake, ili tupate majibu yao ndio tuje tujieleze zaidi. Na---

The Speaker (Hon. Kingi): Sen. Miraj, that is not the issue.

Sen. Miraj: Naam, Bw. Spika.

The Speaker (Hon. Kingi): This is what Sen. Orwoba is saying; in your Statement that you have just read and tabled, you have indicated that you have dealt with her Statements.

Sen. Miraj: Mr. Speaker, Sir, which Statement in particular?

(An hon. Senator spoke off record)

Yes, kuna Kauli nyingi.

The Speaker (Hon. Kingi): Sen. Miraj, we are not going to reduce this to a question and answer session. This is my directive on this matter; kindly get hold of your Statements and sit down with Sen. Orwoba. If, indeed, in your Statement you indicated that you dealt with her Statement and you are yet to do so, kindly proceed to conclusively deal with the Statements as requested by Sen. Orwoba.

We are not going to have a tug of war on this matter.

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

The Speaker (Hon. Kingi): What is your point of order Sen. Osotsi?

Sen. Osotsi: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 100. It states:

“No Senator shall refer to the substance of the proceedings of a Select Committee before the Committee has made its report to the Senate.”

Mr. Speaker, Sir, I am a Member of the Committee on Information, Technology and Communication. The issues raised by Sen. Orwoba are very clear to me. We have other distinguished Members in this Committee, like Sen. Kisang. The matters that have been referred to in the report by the Vice-Chairperson of the Committee are works in progress.

The Chair has tabled a progress Report before this House. The matter that the good Senator, Sen. Orwoba, is referring to is under progress. Therefore, the Committee will table a substantive Report to this House. I expect her to raise the issues that she is raising at that point.

Mr. Speaker, Sir, pursuant to Standing Order No. 100, we cannot discuss the substantive matter on a Report that is yet to be tabled in this House.

The Speaker (Hon. Kingi): Very well, Sen. Osotsi. How I understood Sen. Orwoba is that, in your report as the Committee on Information, Technology and Communication, you had conclusively dealt with her Statement yet, according to her, that is not the position. However, if the Report that you presented today is work in progress, then, Sen. Orwoba, you have no cause to worry. We leave it that.

Proceed, Sen. Kisang.

Sen. Kisang: Thank you, Mr. Speaker, Sir. I wish to emphasize on what Sen. Osotsi has said. I assure Sen. Orwoba that the Committee is---

The Speaker (Hon. Kingi): We have concluded on the issue of Sen. Orwoba.

Sen. Kisang: I am making comments.

The Speaker (Hon. Kingi): Just make comments on the Statement. Leave alone Sen. Orwoba's issue.

Sen. Kisang: Mr. Speaker, Sir, I am a Member of the Committee on Information, Technology and Communication.

I challenge, the Executive because there are some entities that are running on expired legal notice, including Konza. The Konza Bill was brought because Sen. Orwoba noticed that the Legal Notice was going to expire and therefore, it was going to operate without any legal background. I therefore challenge the Executive to move with speed and for Members to pick up Bills of entities that are running without any legal basis.

I wish to also comment on the Statement by the Committee on Energy. We are doing an ongoing enquiry. It looks like there are some civil servants, in either the past or present, who are still committing the country into serious power purchase agreements that disadvantage the consumer and the country.

Going forward, we need to ensure that any new agreements that are signed put the consumers first and not the producers. The producers are taking advantage. It is very difficult to exit the agreements. If you exit, you pay. If you do not pick the power, you still pay. We are therefore in a catch-22 situation, in the power purchase agreements.

Finally, on the Statement by the Chairperson of the Committee on Finance and Budget, our county governments have not received their disbursements for the last four months, yet we expect the counties to run and people to go to work daily. I do not know what will happen.

The Cabinet Secretary (CS) National Treasury needs to move with speed. They committed to both the County Public Investment Committee (CPIC) and Committee on Finance and Budget that by the 15th April, 2023, they were going to disburse money for January. Today is 18th April, 2023 and from the reports we are receiving, nothing has been disbursed. How do they expect the people in the counties to serve our people, yet the Senate is the protector of devolution?

I submit.

The Speaker (Hon. Kingi): Hon. Senators, we have spent the maximum time allowable under our Standing Orders on Statements. We shall therefore leave it at that.

Clerk, kindly call the next order.

BILL

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 13.4.2023)

The Speaker (Hon. Kingi): Hon. Senators, we now resume debate on this Bill. A debate that was interrupted on Thursday, 13th April, 2023. At the point of interruption, Sen. Wakoli was on the Floor. He had a balance of 19 minutes.

Hon. Senators, before we now proceed to resume debate, we need to agree on the issue of time. Do we speak for 20 minutes per Senator or would you wish to limit debate?

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

We can do it by way of concurrence or go the Motion way. However, I believe that this is something that we can agree by way of consensus.

This is a debate on the Division of Revenue. Can we agree on 10 minutes per speaker?

(Loud consultations)

Sen. Sifuna. Let us seek concurrence on this. I do not have to let you vote by acclamation.

Sen. Sifuna: Mr. Speaker, Sir, the sad part is that the people who are narrowing the time of debate to five minutes have already spoken. If I remember correctly, they were given ample time to express themselves. This is the one reason why we were all elected to this House.

(Applause)

Please, even if you are going to limit it, let it not be less than 10 minutes, for us to address our issues. The people who have already spoken should not even have an opinion on this Motion. They do not have a voice. We are not many Senators who have not spoken. Please, let us have ample time to ask for money for our counties.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, debate is limited to 10 minutes per Senator.

(Applause)

Wonderful!

Senators, if you have already spoken to this Bill, kindly remove your name from the dashboard. I can see names of those who have already contributed.

Proceed, Sen. Mumma.

Sen. Mumma: Mr. Speaker, Sir, thank you for giving me this opportunity to speak to this Bill. This is the one Bill that I hope we can all have consensus on. I rise to oppose the Bill.

The core mandate of the Senate includes the business of the House today. As the House that protects and represents, the interest of the counties, we need to bring sense to the matter of division of revenue between the two levels of Government.

Mr. Speaker, Sir, what has been proposed by the National Assembly is a proposal of the National Treasury. I was disappointed last week when some stood up to suggest we should go with the figure proposed by the National Treasury. The neutral entity that has the responsibility with respect to this matter is the Commission on Revenue Allocation (CRA).

The CRA has proposed we go for Kshs407 billion to counties. That proposal provides about 10 per cent of the expected revenue that forms the basis for sharing this

revenue. The Kshs385 billion that has currently been proposed only allows counties to receive 4 per cent of the revenues that forms the basis for sharing this.

Mr. Speaker, Sir, in my view, the minimum 15 per cent should be what the national Government, in good faith, allows counties to receive from what we expect to get. The Kshs425 billion was proposed by the Council of Governors (COGs) because it is the minimum 15 per cent of the projected revenue that we are going to get.

I read bad faith in this proposal. This is because if you take into account the inflation rate that we currently have, what the counties are getting is less than the Kshs370 billion they have been receiving in the past three years. It is less because inflation has now shot in excess of 9 per cent. Therefore, when you average the 4 per cent of that revenue, in real terms, given the prices that currently prevail, counties will be getting about Kshs360 billion in order to meet their services at an inflated price.

Mr. Speaker, Sir, are we being fair to the counties? I am calling on all Senators to remember that the Senate exists to protect counties. We should not be part of the choir that the National Treasury says and we follow, because it has said. Let us be part of the House that will bring sanity to the matters of sharing the revenue.

The court ruled earlier that audited accounts of the preceding years should form the basis for sharing revenue. As a country, we are not working hard to use the correct formula in sharing of revenues.

We are using accounts that are two or three years back and yet the actual shareable revenue is the revenue we are projecting. I read a lot of insincerity in the way this proposal has been made. I do not see any good faith. The sectoral budgets in agriculture and health have received Kshs10 and Kshs15 billion extra and yet they are devolved. Why are they getting more funds instead of those funds going to the counties? If the Kshs15 billion, I am speaking about on the two sectors was moved to the counties, it would bring Kshs400 billion.

Therefore, I suggest the Senate looks at the report submitted by our committee. The Committees must mean something. We cannot trash our own Committees when they sit and spend a lot of time to come up with technical evaluations of what they are doing yet their recommendations align with that of the CRA.

This Senate needs to rise to the occasion and do the right thing. It should not just back this Bill because it has come from the National Assembly. Otherwise, why do we exist as the Senate? We need to do our job. I call upon every Senator to do the right thing.

Let us move an amendment and ensure we give our counties the correct figure.

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

Sen. Cherarkey: Thank you, Mr. Speaker, Sir, for this opportunity to support the Division of Revenue Bill (National Assembly Bills No. 9 of 2023).

As most of my colleagues have said, Article 96 is clear. Our unique role as the Senate is to protect devolution.

I remember after Covid-19, almost two years ago, we had a push and pull on whether we allocate resources based on population or land mass. Those are conversations we had under Article 202 of the Constitution. We discussed the County Allocation of Revenue Bill and the Division of Revenue Bill at the Floor of the House.

This is a Bill we should all support. This is the essence as to why this Senate is here. I know there is the Committee on Delegated Legislation.

We are lucky to have you being the first governor of Kilifi County for two terms. We should push to ensure functions follow costing and *vice versa*. The Senate must take a step and be accountable on how many functions are yet to be devolved. That is how we can allocate money.

Mr. Speaker, Sir, for example, Kenya National Library Services (KNLS) has now been given Kshs425 million. We want literacy programmes to improve in our counties to ensure that, our children through, Early Childhood Development Education (ECDE) get that capacity.

There is one thing I want the Committee to do. I agree with my colleague that our committees do not sit in vain. We should ensure all the devolved functions we are talking about as per the Fourth Schedule, like the transfer of library services, are transferred.

The CRA recommended Kshs407 billion, the National Treasury recommended Kshs385 billion, and the COG recommended Kshs425 billion. I am surprised by my colleagues who say that we should stand with the truth and take a position. What is the position of the Senate? Kshs385 billion is a realistic figure.

Mr. Speaker, Sir, in the first half year, the Kenya Revenue Authority (KRA) collected Kshs999 billion, but it fell short. The projection of collection is Kshs2.9 trillion. We cannot collect taxes when our brothers and sisters in the Minority side continue to call for demonstrations. It will mean disruption of business and it will affect the collection of revenue.

The Prime Cabinet Secretary mentioned one of the towns in this country that are as risky as 1000 ways of dying and it is the science of the stupid. We have to be honest. We cannot demand more allocation to counties while some of our colleagues and their principals are calling for mass action and demonstrations which affect the collection of revenue, unless they tell us where to get this money. When you look at Article 202, the first charge is more than Kshs10 trillion.

Mr. Speaker, Sir, we are talking about the 2023/2024 Budget Policy Statement of Kshs3.6 trillion. We want to laud President William Ruto's Government because at least it has been cut down from the previous "handshake government" austerity measures of Kshs300 billion.

Therefore, we cannot purport to lie to the country that counties can get more money yet the money we are dependent on the revenue collected. When we collect that revenue, the Chinese, external debtors and local lenders come for their loans. Therefore, we must be realistic.

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

Sen. Cherarkey: Mr. Speaker, Sir, number two, the fact that counties continue to misuse and abuse---

The Speaker (Hon. Kingi): What is your point of order, Sen. Oketch Gicheru?

Sen. Cherarkey: Mr. Speaker, Sir, I hope my time is frozen.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I rise under Standing Order No. 102, on Retractions and Apologies.

Mr. Speaker, Sir, we respect your Chair and we as Senators are constantly made aware of the magnitude of that respect that is bestowed upon you, by the rulings that you have made in this House.

Standing Order No. 102 indicates:

“A Senator who has used exceptionable words and declines to explain or retract the words or to offer apologies for the use of the words to the satisfaction of the Speaker; shall be deemed to be disorderly and shall be dealt with in accordance with rules pertaining to disorderly conduct which are further advanced in 122 all the way to 126.”

In this House today, the Senator of Nandi has constantly used the term the “handshake government”. Sen. Sifuna has stood on this Floor a number of times asking him to substantiate what the “handshake government” means; when it was voted under our laws in this country and who headed that Government in the best understanding of Kenyans?

He keeps on using that term in this House and misleading the House with that term thus ending up misleading the entire country. I wanted to invite the ruling of the Speaker once and for all; that can Sen. Cherarkey tell this House and this nation who voted for “handshake government” and if not, apologise, retract and if possible, make a determination that he should never use that word in this House.

We only know that there was a Jubilee Government that had President Uhuru Kenyatta and Deputy President William Ruto who used the resources of this nation for 10 good years and was influencing policies for 10 good years in over nine Ministerial positions that he had control over.

I beg your ruling.

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, we live in this country and there are some matters that you need to take judicial notice of.

(Applause)

Let us not go down that lane. The term “handshake” is known to all of us. What became of the last Government is known to all of us, the Chair, all Senators and Kenyans included. Please let us not go down that route.

Of course, there is no Government called “handshake” that was voted in by the people of Kenya, just like there was no coalition government that was voted into Government by Kenyans.

(Applause)

The coalition government was a creature of politicians after the elections. We know that after the election in 2017, Hon. Uhuru Muigai Kenyatta was declared the winner in a repeat election. However, the Leader of Opposition then in his wisdom decided to bury the hatchet with the then President by extending a hand that came to be known as the “handshake”.

It is public knowledge that, thereafter, the opposition then and the Chair were also on the other side; then sitting in the opposition. We know that instead of the opposition opposing Government policies - it is public knowledge and Sen. Oketch Gicheru you know this well - that at some point after the “handshake” instead of the Jubilee Government explaining Government policies, the opposition was expounding and explaining Government policies.

We live in this country, and we know exactly what it means when you say the “handshake”. It was done in broad daylight. The only people who never saw that but

heard it are maybe the Kenyans who are visually handicapped; but they heard about it. Nonetheless, all of us who could see, saw it.

Therefore, let us not run away from what confronted us and from what we all witnessed. So, to stand here inviting the Chair to rule that indeed that the word “handshake” is unparliamentary and therefore the Senator for Nandi should withdraw and apologise cannot be---

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

The Speaker (Hon. Kingi): I am rendering a ruling on your point of order. So, to that extent, I overrule your point of order and allow the Senator for Nandi to proceed to conclude his Statement.

Sen. Sifuna: Mr. Speaker, Sir---

The Speaker (Hon. Kingi): Proceed, Sen. Cherarkey, I have made my ruling on this matter let us proceed.

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

The Speaker (Hon. Kingi): What is your point of order?

Sen. Sifuna: Mr. Speaker, Sir, we have found ourselves in this situation before. What the Senator for Migori was objecting to was not the use of the term “handshake”. It was the use of the phrase “handshake government” and attribution to some of the things that happened to this creature called “handshake government”.

If you look at Article 3(2) of the Constitution, it says – “Any attempt to establish a Government otherwise than in compliance to this Constitution is unlawful”. Governments are not constituted by handshakes. There was nothing wrong with leaders in this country--- I shake hands with Sen. Cherarkey every day; we do not establish a handshake.

Mr. Speaker, Sir, what we are objecting to is reference to a government--- You know this is a House of records and the history of this country records that in fact we have had five Governments. These are the Kenyatta one administration, the KANU Government, the Kibaki Government which was a coalition government that was as a result of talks that resulted in an actual Government. We all know what the Government means.

Mr. Speaker, Sir, there is nothing wrong with referencing “handshakes”. Nobody is objecting to that and your wisdom has guided us. The phrase “Handshake Government” is what we have a problem with because you cannot establish a government by shaking somebody’s hand. That is not what is provided for under the Constitution. You have to go to an election, win and establish a government by the means provided for in this Constitution.

Mr. Speaker, Sir, for you to recognize any entity as a government established, other than using the procedure set up by this Constitution, is to elevate something that is an unlawful which we believe did not exist.

The Speaker (Hon. Kingi): Very well, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, allow me to conclude because I only have one point left.

The Speaker (Hon. Kingi): Proceed.

Sen. Sifuna: Mr. Speaker, Sir, just like you, I was the Secretary General (SG) of the Orange Democratic Movement (ODM), the largest party in the coalition called the

National Super Alliance (NASA) then. I am still the SG of ODM. I know for a fact that we did not join any government.

My failure to speak on an issue does not cause---

An hon. Senator: On a point of order.

The Speaker (Hon. Kingi): The Senator is on a point of order. You certainly cannot raise a point of order on a point of order.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. As the SG of ODM, I was never invited to any Cabinet meeting. I did not second any member of my party to be appointed as CS. Even the point that he said that there were people appointed to the Government by virtue of that, he should substantiate which CSs were from ODM.

Since this is a House of record, there is no problem for him to refer to the “handshake” since we all know what happened. However, reference to “Handshake Government” is where the objection is.

I thank you.

The Speaker (Hon. Kingi): Sen. Sifuna, indeed, you have read the Constitution regarding how governments are formed.

Members, I am going to make it clear in this short ruling. We never had a “Handshake Government”. We had a Jubilee Government governed through a handshake.

(Laughter)

Therefore, if you were to refer to the “handshake”, do not refer to it as a government. It was Jubilee Government. However, it was governed through the “handshake”. Let us lay this matter there.

Proceed to conclude, Sen. Cherarkey.

Sen. Cherarkey: Mr. Speaker, Sir, I hope that in future, Sen. Sifuna will advise his Azimio la Umoja-One Kenya Coalition Party leaders on how governments are formed, and we will not be having demonstrations daily.

Sen. Sifuna: Point of order!

The Speaker (Hon. Kingi): Sen. Cherarkey, to avoid these many points of order because we have an important Bill before us, let us avoid sideshows and jabs. If you are called upon to contribute, please go to the substance of the Bill before you.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. On the issue of delayed disbursement of funds, Kshs385 billion is more than sufficient for the counties because there will be an addition of Kshs15 billion from Kshs370 billion.

Counties are not offering services and now medical doctors are threatening to strike. I expected the Chairperson of the Committee on Health to comment on the Petition I brought on the UHC. In Nandi County, for example, Kapsabet County Referral Hospital has collapsed and no roads are being done.

Governors are complaining that they are yet to receive Kshs29 billion. The biggest soft underbelly in our counties is corruption, misuse and abuse of resources and non-provision of services. The day governors will prove that they can manage the resources, that is when we will give them even Kshs1 trillion.

The fact that resources continue to be abused, misused and used in other means to enrich few 47 millionaires across the country is unfortunate. From experience, Kshs385 billion is more than sufficient.

Mr. Speaker, Sir, still on the same issue, they must be accountable. I heard governors say that they want Kshs425 billion, yet they cannot account for money they are given.

I am a Member of the County Public Accounts Committee (CPAC). Sometimes, we are forced to literally drag governors to appear before the CPAC and the County Public Investments and Special Funds Committee because of transparency and accountability issues. Therefore, Kshs385 billion is sufficient and realistic.

We cannot achieve the KRA targets if we continue to disrupt and sabotage the economy, destroy businesses, and discourage investors. When people do not demonstrate as per Article 37 of the Constitution and there are chaos and destruction of property, it hampers collection of revenue in the country.

Mr. Speaker, Sir, finally, on the matter of Judiciary, I believe---

Sen. Osotsi: On a point of order.

The Speaker (Hon. Kingi): Sen. Osotsi, what is your point of order?

Sen. Osotsi: Mr. Speaker, Sir, I rise pursuant to Standing Order No.105 on responsibility for statement of fact. Is Sen. Cherarkey in order to claim that the challenge we are having in counties is as a result of lack of disbursement of funds to counties which has been there since December up to now? Was it caused by demonstrations?

Demonstrations just happened the other day. He cannot claim that the economic situation in December, which necessitated the national Government not to disburse funds, was caused by the demonstrations.

Mr. Speaker, Sir, this is a House of honour and record. Whatever we say in this House has to be backed by evidence and not just claims that Sen. Cherarkey keeps on making. Can he substantiate that?

The Speaker (Hon. Kingi): Sen. Cherarkey, you must prove that this country does not have sufficient resources to take to the counties following the demonstrations. If you are unable to make that nexus, then you may have to withdraw that section of your comments.

Sen. Cherarkey: Mr. Speaker, Sir, I noticed that Sen. Osotsi was resting his eyes. Therefore, he did not get what I was saying. I said that collection of revenue in the country will be affected by disruptions and economic sabotages, such as demonstrations that are not peacefully done according to Article 37 of the Constitution. That is what I meant and the HANSARD can bear me witness.

To conclude, I would like to talk about the Judiciary. We need to resource the Judiciary because Kshs20 billion is not sufficient.

Mr. Speaker, Sir, with those many remarks, I thank you for your indulgence. I call upon my colleagues to support this Bill and process it as soon as possible.

The Speaker (Hon. Kingi): Sen. (Dr.) Oburu, you have the Floor.

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir, for this opportunity. This is an important Bill, coming at a time when our country is going through serious economic difficulties. If there are Senators who believe that our country is not going through economic difficulties, I think they are living in utopia.

I am a seasoned civil servant. Since Independence, we have never had such a situation before, where civil servants are not paid on time and the Government admits openly that they are broke. Even during colonial times, that was never the case.

During colonial times, they used to say; if the Government has not paid you, it is not because it is broke, it is only because it is still making arrangements.

It is a very strange situation where we admit that we are broke. Civil servants normally receive their salaries by 25th or 26th of every month.

Mr. Speaker, the difficulties which we have in our country are not made by ourselves. It is because we are living in a global village where events which are happening in other countries also affect events happening in our own country.

I think the some of the reasons we are where we are because of our own making, but some of them, are because of the world economic situation. This has put our country in some kind of emergency.

Mr. Speaker, when one is in in the Intensive Care Unit (ICU), we do not apply ordinary measures to treat as if you are treating normal malaria. We use measures which are required to resuscitate the patient so that the patient can come up and be alive.

I am saying this because we are suffering and yet we are behaving as if things are very normal in our country. The cash crunch that we have in our economy and the high cost of living our people are going through need some emergency measures.

For instance, we remove subsidies and believe that we do not want to subsidize consumption. We want to subsidize production. Those are in normal times. Subsidies are just temporary measures to get the patient out of the ICU.

Whether we like it or not, somehow, they will have to be reintroduced in a temporary manner so that even though they are not sustainable, we shall remove them at a later stage once we have come out of this serious situation.

Mr. Speaker, at the very beginning, when we were discussing this Division of Revenue Bill, we do not want to mention about the report of the Committee on Finance and Budget. The amendments suggested by that Committee are necessary for us to comfortably support this Bill.

It is necessary because when you look at the sharable revenue from the National Treasury, the increase from the previous projected revenues, is Kshs379.2 billion. The proposed increment to KshsS385billion for the counties is only a four per cent increment.

First, it is not reflecting the rate of inflation. When we do not reflect inflation, it means we are reducing the allocation to the counties, which is very serious. We must consider that Kshs15billion is only four per cent. This is not acceptable.

I also want to agree that the counties are not using the revenue allocated to them properly and we should take more measures. We should control, supervise and oversight what they are doing. However, we are not given that facilitation.

Mr. Speaker, I think the corruption, which is devolved corruption in the counties, is because the counties are emulating what is happening up here. What is happening up here is almost official corruption and you can see it in appointments, on the way the government is behaving in even creating positions which are illegal and non-existent. The counties emulate what is happening and they also continue to reap the resources. We need to take more measures to control them.

We need to deal with corruption up here before we start tackling corruption in the counties. I know that the national Government is giving excuse that they bear the brunt or the cost of non-collection collection of the revenues. This might be true but whereas they bear the brunt, they are also responsible for non-collection of revenue.

How do you appoint somebody who has some cases to do with the income tax already in court to be the ones responsible for collection of revenue? You are not serious about collecting revenue. You cannot, because of your own inefficiencies in collection of revenue, now push that punishment to the counties and not give counties sufficient revenue because you predict that you are going to fail to collect revenue.

Mr. Speaker, demonstrations are a right of the people of Kenya that is given in the Constitution. I want to assure my friend that if the police were not interfering with the demonstrators, the demonstrations would be very peaceful and there would be no incidences.

Violence only occurs when police come in with their teargas and dangerous poisonous elements such as poisoned water. The Government should do its work. It should collect revenue---

The Speaker (Hon. Kingi): What is your point of order, Sen. Cherarkey? Sen. Oburu just yield. What is your point of order?

Sen. Cherarkey: Mr. Speaker, Sir, I have tremendous respect for my good friend, Sen. Oburu. He is more senior than all of us.

When you look at Standing Order No.101 and 55, Contents of Speech can he also substantiate how the police have been interfering with demonstrations? He has alleged that they have been on a peaceful demonstration, but the police have been interfering with them. I have not seen Sen. Oburu in those demonstrations. He is a wise man.

(Applause)

Mr. Speaker, protect me. He is a very wise man. Two days ago, they had even written to the International Criminal Court (ICC), complaining about the police. Can the Senator withdraw and apologize to the National Police Service in this Country because even his bodyguard comes from National Police Service Commission? Police officers are people we should respect. Is it in order?

The Speaker (Hon. Kingi): Sen. Oburu, you have been called upon to substantiate and in the event that you are unable, you proceed to withdraw and apologize to the National Police Service.

Sen. (Dr.) Oburu: Mr. Speaker, I think hon. Cherarkey is making a joke of what is very serious. It is well known. You could see it on TV the whole day in Kibra.

When demonstrators who wanted to come and demonstrate in town were trying to get out of Kibera, the police went and stopped them from moving to the city. They then started throwing tear gas at people. That is when the people also started protecting themselves and they were arresting them voluntarily.

Mr. Speaker, the police arrested Hon. Madzayo---

The Speaker (Hon. Kingi): Sen. Orwoba, what is your point of order? I thought the good Senator is trying to substantiate.

Sen. Orwoba: On a point of order, Mr. Speaker, Sir. I cannot reference the exact Standing Order, but---

The Speaker (Hon. Kingi): Sen. Orwoba, I am afraid. Kindly have your sit.

Sen. Orwoba: Mr. Speaker, Sir, let me reference it.

The Speaker (Hon. Kingi): Okay, proceed.

Sen. Orwoba: Mr. Speaker, Sir, the Senator is misleading the House under Standing Order No.101. Sen. (Dr.) Oburu is trying to say that the policemen were stopping the people from getting out of Kibera. According to what I saw on my television---

The Speaker (Hon. Kingi): Order, Sen. Orwoba!

Sen. Orwoba: Mr. Speaker, Sir, I have referenced the Standing Order.

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators! It is not up to you to ask the Senator to read it.

Sen. Orwoba, you stood on a point of order.

Sen. Orwoba: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Kindly proceed to cite the Standing Order that you feel is being violated by Sen. (Dr.) Oburu.

Sen. Orwoba: Mr. Speaker, Sir, it is Standing Order No.101(5).

(Sen. Orwoba flipped through the Standing Orders)

No, Mr. Speaker, Sir. We are allowed to reference from here. Please just allow me. It is Standing Order No.101. I want to reference the Order which talks about misleading the House.

The Speaker (Hon. Kingi): Sen. Orwoba, just get your act together and then you can raise it.

Proceed, Sen. (Dr.) Oburu.

(Sen. Orwoba spoke off record)

The Speaker (Hon. Kingi): Take your seat, Sen. Orwoba.

Sen (Dr.) Oburu: Thank you, Mr. Speaker, Sir. I was substantiating that when Sen. Madzayo, Hon. Opiyo Wandayi, Sen. Sifuna and Hon. Ken Chonga, were about to start their demonstrations at the Kenya International Conference Centre (KICC)---

(Sen. (Dr.) Oburu's microphone was switched off)

The Speaker (Hon. Kingi): Sen. (Dr.) Oburu, I am afraid your time is up.

(Laughter)

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

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

Sen. Madzayo: On point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Madzayo? If you do not have a point of order, then we shall move on. Do you have a point of order?

(Loud consultations)

Sen. Madzayo: Thank you, Madam Temporary Speaker. When a person rises on a point of order and is given the audience by the Speaker--- My colleague, Sen. (Dr.) Oburu, was on his feet.

(Loud consultations)

Madam Temporary Speaker, kindly can I be given a chance?

The Temporary Speaker (Sen. Veronica Maina): Can we kindly have order on both sides. Let me clarify something. When Sen. (Dr.) Oburu had fully submitted and the point of order had been raised, his minutes were gone.

Sen. Madzayo, kindly raise your point of order. That is the direction I have on the timing. That is accurate and computerised.

Sen. Madzayo: Madam Temporary Speaker, I do not know who has given that kind of information. I do not know whether it is the Clerks-at-the-Table here. I was here in the House when this was happening and my understanding was that my sister, Sen. Orwoba, rose on a point of order. It is at that time that Sen. (Dr.) Oburu gave a chance for that point of order as the procedure requires.

However, immediately after the change of Chair, the minutes were still on. I think Sen. (Dr.) Oburu should have been given a chance to conclude instead of being told his time was over.

The Temporary Speaker (Sen. Veronica Maina): Under what Standing Order do you cite that point of order?

Sen. Madzayo: I am just informing you.

The Temporary Speaker (Sen. Veronica Maina): Okay. Resume your seat. Proceed, Sen. Mariam Omar

Sen. Mariam Omar: Thank you, Madam Temporary Speaker. In as much as we want to give counties money, they are supposed to also be accountable. On this Bill, there is a section that says calculation of revenue sharing is based on revenue collected by counties. If we give them more money, it will be a good example for them not to collect revenue. If they collect more money, then they get more money.

Madam Temporary Speaker, 33 counties are benefitting from Kshs425 million library allocation. However, Mandera County is not one of the 33. I beg that when these allocations are being done, let the other counties that did not benefit be given first priority.

Health and agriculture functions are devolved. There is a budget allocation for 20,000 health workers at the national Government. That figure is supposed to be devolved to counties because health is devolved. Counties should be given this money as a conditional grant so that they can employ health workers. I am stating so because in Mandera County, for example, the turnover is so high. If Mandera County employs locals, the issue of turnover will be resolved.

There is also medical equipment under the line of the national Government. Health is supposed to be under counties. As the Government, maybe we could render it as a conditional grant and reference it, so that the money is not re-allocated to something else.

Madam Temporary Speaker, you give counties Kshs385 billion, but there are delays when it comes to disbursements. This leads to salary delays, which makes banks to benefit from the county governments. This is because the county governments have to arrange for salary payments with the banks. To avoid such costs, it is a high time the National Treasury stopped the delay in disbursement.

We are proposing to give counties Kshs385 billion. In the last Division of Revenue Bill, the counties received Kshs307 billion. There is a lot of misappropriation of money. Counties need money. They are supposed to have management of what they already have so that they can get more money.

I thank you, Madam Temporary Speaker.

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

Sen. Mwaruma: Asante, Bi. Spika wa Muda, kwa kunipa hii fursa ya kuchangia Mswada huu wa ugavi wa pesa za serikali kati ya Serikali ya Kitaifa na serikali za kaunti. Mwaka wa 2010, tulijipatia Katiba mpya ambayo ilileta awamu mbili za serikali; Serikali ya Kitaifa na serikali za kaunti.

Katika uundaji wa zile serikali ama ile Katiba, tukaunda Tume inaitwa Commission on Revenue Allocation (CRA) ambayo kazi yake ni kusaidia katika ugavi wa pesa za Serikali. Pia Katiba yetu ikaweka Bunge mbili katika nchi hii; Bunge la Kitaifa na Bunge la Seneti. Hizi Bunge, zinawakilisha wananchi katika viwango tofauti.

Nikiangalia huu Mswada ambao umekuja leo mbele yetu, ile tume ya ugavi wa pesa imependekeza kauti zipokee Kshs407 billion. Lakini National Treasury imependekeza serikali za ugatuzi zipokee Kshs385 billioni. Hilo ni ongezeko kutoka kwa Kshs370 billioni ambayo ilipeanwa kwa serikali za ugatuzi mwaka uliopita wa kifedha 2021/2022.

Bi. Spika wa Muda, napinga huu Mswada kwa sababu tuliweka tume ya CRA sisi ya kubaini vile pesa zitakavyo gawanywa. Nawaomba Wabunge wote kutoka pande mbili; yaani Walio Wengi na Walio Wachache tushirikiane kwa kuunga mkono pendekezo la CRA kuwa Kshs407 bilioni zipelekwe katika kaunti zetu. CRA ni tume ambayo tuliweka sisi wenyewe katika Katiba yetu na vyema tuiheshimu. Wamefanya kazi yao kisayansi na ni vyema tuangalie vile vigezo walivyoweka ama walivyoangalia ili kuafikiana kuwa Kshs407 billioni uwe ni mgao wa kaunti zetu.

Jambo la kwanza ambalo tume ya CRA ilibaini ni mfumuko wa bei ama ongezeko la gharama ya maisha ambayo sasa hivi ni asilimia 9.2. Kwa hivyo, naunga mkono kwamba zile pesa zitakazoenda kwa magatuzi ziwiane ama ziwe sambamba na mfumuko au ongezeko la gharama ya maisha. Nitashangaa nikiona Seneta yoyote katika Bunge hili ambaye atasema kwamba kaunti zinyimwe pesa au zipewe pesa duni.

Kwa wale tulikuwa katika lile Bunge lililopita, naona hapa Sen. Wambua na wengine; tulipigana vita sana na Serikali. Kupitisha Mswada wa Division of Revenue ilituchukua miezi minne. Maseneta wengine waliwekwa ndani lakini hatukufa moyo mpaka Serikali ya Kitaifa ikakubali kupeana kwa serikali za ugatuzi Kshs370 billioni.

Bi. Spika wa Muda, leo hii nawaomba Maseneta wenzangu, kwa heshima na taadhima tukubali kupeana kwa serikali za ugatuzi Kshs407 bilioni ambazo zimependekezwa na tume ya CRA. Serikali za ugatuzi zinafanya vizuri mashinani. Zimejenga hospitali, zahanati na shule nyingi. Je, tutajengaje shule bila kupeleka rasilimali za kutosha kuajiri waalimu wa shule za chekechea na kadhalika mashinani? Je, tutaajiri vipi waalimu wa vyuo vya anuwahi, madaktari na wauguzi bila kupeleka rasilimali mashinani?

Kwa hivyo, kama tume ya CRA inasema tupeleke leo Kshs407 bilioni na wametumia vigezo vya kisayansi ili kufikia kiwango hiki cha pesa hatuna budi sisi ila tu kuheshimu pendekezo lake.

Tukiangalia pesa ambazo Hazina ya Kitaifa inapendekeza zipelekwe katika kaunti zetu ni Kshs385 bilioni. Hilo ni ongezeko la asilimia nne. Kutoka Kshs370 bilioni hadi Kshs385 bilioni ni ongezeko la asilimia nne za pesa zinazoenda kwa kaunti zetu. Lakini ukiangalia katika Serikali ya Kitaifa, pesa zilizoenda ni Kshs413 bilioni. Hili ni kiwango cha asilimia 23.

Kwa nini tupewe ongezeko la kaunti asilimia nne na kwa Serikali ya Kitaifa asilimia 23 zaidi?

Hili ni jambo ambalo halikubaliki na katika Serikali ambayo inaongoza sasa ya ‘makalio juu’ ama *Bottom Up*, walisema wataangalia mtu wa chini. Kuangalia mtu wa chini ni kupeleka pesa zaidi katika serikali za ugatuzi ili mambo ya ukulima, viwanda, madawa na kujenga hospitali yaangaliwe. Lakini tukipunguzia serikali hizi za ugatuzi pesa, basi ule mfumo wa ‘makalio juu’ tutakuwa tuna uhujumu. Ni vizuri tupeleke pesa zaidi kwa magatuzi na pande zote mbili; pande ya Walio Wengi na pande ya Walio wachache tushikane mkono---

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

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

(Sen. Wafula spoke off record)

Please activate your microphone or you can move to the Dispatch Box if that one is not working.

Sen. Wafula: Bi. Spika wa Muda, je ni vyema na heshima kwa mhe. Seneta, kadamnasi ya nchi nzima kusema ‘makalio juu’ katika hotuba yake?

(Sen. Wambua spoke off record)

Hayo sio makalio juu. Hii ni falsafa ya chini kwenda juu. Sio ‘makalio juu.’

The Temporary Speaker (Sen. Veronica Maina): What Standing Order are you referring to?

Sen. Wafula: Matumizi ya lugha nadhifu.

(Sen. Wambua spoke off record)

Sijui namba lakini Hoja imefika.

The Temporary Speaker (Sen. Veronica Maina): Okay, resume your seat, Sen. Wafula.

Proceed, Sen. Mwaruma.

(Sen. Mwaruma's microphone was switched off)

Clerk's desk, kindly support the Senator.

Sen. Mwaruma: Asante, Bi. Spika wa Muda. Ninafikiri dakika zangu zimehifadhiwa kutokana na hitilafu ya mitambo.

Bunge la Seneti, chini ya *Article* 96 ya Katiba, liliundwa ili kulinda ugatuzi. Katiba ya kwanza ya 1964, ilikuwa na magatuzi na Bunge la Seneti. Lakini waliokuwa pale hawakuweza kulinda magatuzi. Ni jukumu la hii Seneti ya 13 na zile zijazo, kushikana mkono ili kulinda ugatuzi.

Ugatuzi tunaulinda kutokana kwa nani? Unapoangalia vile kunaendelea hivi sasa, ni miezi minne tangu serikali zetu za ugatuzi zipewe pesa. Hii ni njia moja ya kuua ugatuzi hapa nchini.

Njia nyingine ya kuua ugatuzi ni kupunguza zile pesa ambazo zinafaa kwenda kwa magatuzi na kupeana pesa nyingi zaidi Serikali ya kitaifa. Hii ndio njia nyingine ya kuua serikali za ugatuzi.

Bi. Spika wa Muda, kuna watu waliopinga hii Katiba ya mwaka wa 2010. Sasa hivi, wao ndio wako uongozini. Waswahili husema, "mama wa kambo si mama." Inaweza kuwa, yule mtoto ambaye wanamlea sio mtoto wao na ndio maana tunaona mambo kama haya ya kupunguza pesa za kwenda kwa serikali za ugatuzi kwa sababu, kwanza, hawakuamini hiyo Katiba. Huwezi ukalea mtoto ambaye sio wako.

Bi. Spika wa Muda, ninaomba kwa heshima, tuungane mkono na Maseneta wenzangu wa upande zote mbili, ili tupeleke pesa nyingi kwa ugatuzi. Kwa hivyo, tutapendekeza Mswada huu ufanyiwe marekebisho ili tupate kuupitisha.

Asante sana, Bi. Spika wa Muda.

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

Sen. Kisang: Thank you, Madam Temporary Speaker. As the Senator of Elgeyo-Marakwet County, I would have wished that we allocate Kshs425 billion or Kshs407 billion to the counties because it was scientifically done. However, as a Kenyan and leader, all of us who are here and also those not present in the House, know very well that our economy is not doing very well. Therefore, you cannot allocate resources that you are not able to meet.

In the current Financial Year 2022/2023, we allocated Kshs370 billion to the counties. Out of the Kshs370 billion, up to now, since the last four months of January, February, March and April, the National Treasury has not released the resources as per the schedule. This is because they have not collected and also the debt that we have which is the first charge. When Kenya Revenue Authority (KRA) collects, the first thing they do is to pay the Chinese debt. Therefore, I believe as leaders, we need to be reasonable. We need to live within our means. We cannot purport---

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

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Wambua? Please cite the Standing Order you are relying on.

Sen. Wambua: Madam Temporary Speaker, I thank you. I have been in this House long enough to know how to cite Standing Orders. I stand on the strength of Standing Order No.105, on ‘responsibility for statement of facts.’

We should not allow the Senator for Elgeyo-Marakwet, a man I have a lot of respect for to mislead his people and this nation, that what we are trying to do here is to compel the National Treasury to give more money than they can give.

The debate here is out of the amount of money collected by the national Government, putting together all revenue collected in a financial year, not a single cent above what has been collected. We are saying, let us allocate Kshs425 billion to counties and the rest to the national Government.

There is no argument here of anyone asking the National Treasury to allocate more money than it has collected. That misinformation should not be used to either mislead this nation or skew this debate to create wrong impressions.

The Temporary Speaker (Sen. Veronica Maina): Sen. Kisang, do you want to substantiate or clarify what you were addressing the House about the amount of money collected?

Sen. Kisang: Madam Temporary Speaker, I do not want to substantiate or speak more. What I was talking about is based on statistics that we are given regularly by the KRA, the National Treasury and the Kenya National Bureau of Statistics (KNBS). We are remaining with only 36 minutes and most of the Members want to also contribute. Therefore, I do not want to belabour and say much.

Madam Temporary Speaker, it is well known that last year, they were allocated Kshs370 billion. We are, therefore, saying, an increase of Kshs15 billion from Kshs370 billion to Kshs385 billion is an increase of 4 per cent. I know there are issues that we should have increased it to about 8.5 per cent or 9 per cent because of the inflation rate. However, the House is there. Members can still bring amendments at the Committee of the Whole and convince the rest of us. We have not completed the debate. This is a talk show. Therefore, when the right time comes, you can convince us otherwise and then we can raise.

Even my County of Elgeyo-Marakwet is in the bottom three. They get Kshs4.6 billion. I would have wished they be allocated Kshs6 or Kshs7 billion, so that we can serve our people better.

Madam Temporary Speaker, the other issue that I would wish to bring up is what most Members have said, about the Kshs425 million that will be sent to counties because the library function has finally been devolved.

This Kshs425 million is benefitting those counties that already have libraries. However, we have 14 counties from Northern Kenya that are not benefiting. Therefore, going forward, in the next allocation we need to ensure that the 14 counties that do not have libraries are given a conditional grant so that they can put up libraries in those particular counties.

The other issue that I wish to raise is on Appropriation in Aid (A-in-A). When devolution came, the A-in-A in most counties went down. We need to discuss this with CRA. The CRA needs to come up with incentives so that those who meet the target of their Own Source Revenue (OSR) are given incentives, for example, additional resources. Otherwise, most of the counties will not collect yet they are supposed to collect.

I know the Senator of Nairobi City County is here. Nairobi City County is able to collect about Kshs60 or Kshs70 billion, but they are not collecting it. Elgeyo-Marakwet County should be collecting over Kshs200 million. However, they are collecting less than Kshs100 million, or about Kshs130 million. Therefore, we need to tighten the rope, so that these particular counties and all the counties raise A-in-A towards relieving the national Government from giving them additional resources.

Madam Temporary Speaker, there are two issues that are maybe disadvantaging counties from getting more revenue. One, is the last audited accounts that are being discussed by the National Assembly. We need to push for audited accounts to be up to date so that the 15 per cent that is calculated on the national collection is up to date. That there is only a difference of a year or so.

(Amber light was switched on)

Madam Temporary Speaker, finally, we should ensure devolved functions are devolved and resources follow. I am happy to report and everybody knows that His Excellency the President has already reported that within six months, all the devolved functions will be released and resources will follow.

(Sen. Wambua stood in his place and consulted with Sen. Sifuna)

Sen. Mungatana, MGH: On a point of order, Madam Speaker, Sir.

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

Sen. Mungatana, MGH: Madam Temporary Speaker, I wish to bring to the attention of the House that Standing Order No.105, if I am not mistaken, requires all Senators to be seated. My colleague there knows that he needs to sit down when we are talking so that we can be heard.

Thank you.

Sen. Kisang: Thank you, Madam Temporary Speaker. Do you want to dispose of that one?

The Temporary Speaker (Sen. Veronica Maina): Senators, it is good we keep to the Standing Orders and refer to the correct Standing Order. Did you cite 105? I do not think it is the correct Standing Order.

I will request Sen. Kisang to proceed.

Sen. Mungatana MGH: Madam Temporary Speaker, I got mixed up, but it is Standing Order No. 118. My colleague there knows that what he is doing is wrong. Let us give other people respect when they are speaking. It does not matter.

Some of us are seated here to follow debate and when other people stand and move around, we get distracted and reducing this House to a market place. Let us keep the dignity.

The Temporary Speaker (Sen. Veronica Maina): Sen. Mungatana, MGH, it is in order that when you are addressing the House, you address the House through the Chair. The first Standing Order which you cited was wrong. The correct one was Standing Order No. 118.

When a Senator is on his feet, he requires the respect and the space that would be useful for him to contribute effectively without distraction.

Let us proceed, Sen. Kisang.

Sen. Kisang: Thank you, Madam Temporary Speaker. As I was saying before I got distracted, the two issues that we need to work on to ensure that more resources go to the county is to first ensure that the audited accounts are up to date so that even if counties get a minimum of 15 per cent, it should be a year behind.

The second issue is on the other functions that have not been fully devolved. We need to have these functions are fully devolved and resources follow because His Excellency the President said it will be within six months. If those functions are not devolved by September this year, the Senate should be able to ask why.

Madam Temporary Speaker, I know resources have gone to the counties. However, when you go to the ground in most counties, there is nothing substantial to see like a flagship project simply because of corruption. We devolved corruption from the National Government to the county governments.

The oversight committees need to be thorough to ensure that governors use resources so that our people can get value for money considering currently, they are not getting value for money. Most hospitals do not have medicine. There is no fire-fighting equipment in most counties. These are the basics that governors and county assemblies should be able to appropriate in order to ensure counties run properly.

Madam Temporary Speaker, I beg and ask my colleagues from the other side to support this Bill so that our counties can get money as soon as the next financial year.

We want to issue a warning also. For the last four months, our counties have been operating without disbursements from the National Treasury. The National Treasury needs to ensure that if they allocate resources to Ministries, Departments and Agencies (MDAs), they also need to disburse the same resources to counties so that counties run as the National Government is running.

Madam Temporary Speaker, I submit and ask my colleagues to support this Bill so that we can pass it as soon as even tomorrow.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna.

Sen. Sifuna: I thank you, Madam Temporary Speaker, for the opportunity to contribute to this very important Bill. Some would say this is the *raison d'etre*- the reason for the existence of this Senate.

I will begin with the Constitution of Kenya in determining who it is that Senators who swore to protect the interest of the counties and their governments should listen to. There have been submissions here by some of my colleagues. Some have chosen to listen to the National Treasury, others are listening to the Kenya Revenue Authority (KRA) and others are listening to their political leadership. I first heard of this figure of Kshs385 billion from one the leaders in Kenya Kwanza.

Madam Temporary Speaker, under Article 215, there is established a CRA and is given the principle function of making recommendations concerning the basis of equitable share of revenue raised by the National Government. It says that in doing that job under Article 216(3)(a), it shall make sure that it promotes and gives effect to the criteria set out in Article 203(1).

That Article 203(1) criteria under Article 203(1)(d) says that-

“One of the criteria is the need to ensure that county governments are able to perform the functions allocated to them.”

I also want to refer this House to Article 216(5). It says-

“The Commission shall submit its recommendations, first to the Senate, then the National Assembly, the National Executive, county assemblies and county executives.”

Madam Temporary Speaker, there is a reason why the Constitution specifically in this particular Article starts by indicating who should be first recipient of the recommendations of the CRA. This is because we are the House that is sworn to protect the interests of the counties and their governments.

Madam Temporary Speaker, recently in this House we passed certain new Bills that have placed certain financial obligations and responsibilities hitherto not placed to county governments. I will give the example the Vocational, Education and Training Centres Bill which now requires county governments to establish these vocational centres and they require extra allocation of resources.

We passed the promotion of Dignity and Social Rights Act here, which requires that county governments put in place certain measures to enable them meet social rights, especially under Article 43. All those require resources.

Madam Temporary Speaker, we had workers in the Universal Health Coverage (UHC) coming before this Senate to ask they be retained at the counties on the same terms as the other medical practitioners within the counties. The counties are telling us that for them to do that, they need resources.

I come from the County of Nairobi. Out of the Kshs160 billion that is the pending bills owed by the county governments to various suppliers, Kshs100 billion is owed by the County of Nairobi only. I have instructions from the people of Nairobi, including my Governor, that I must find the extra coin for us to be able to pay these pending bills for us to move forward.

If you look at the Bill, it has provided under Section V the rationale for the proposed county governments equitable revenue share allocation. You will see under Article 5(b) that they are talking of a high level of debt financing as well as elevated debt risk as the reason they are denying county governments more money and giving it all to the National Government.

As the people sworn to protect the interests of county governments, we must ask ourselves if the national debt is superior to county debts in terms of the ability to allow respective governments to be able to meet their obligations and the work they are supposed to do under the Constitution.

Madam Temporary Speaker, I propose to this House that the money owed by county governments, including the Kshs100 billion owed by the Nairobi County Government to suppliers, is just as important as the money that is owed by the Central Government to the Chinese.

We have been told under 5(c) of that Bill that from the last financial year, Kshs29.6 billion that was meant to go to the counties was not disbursed. These are the issues we need to address in this new financial year.

We have heard another excuse here called fiscal consolidation. They are telling us that they are adopting certain measures to cut Government wastage in spending. In the same vein, we have somebody as high as the Economic Advisor to the President going on

national television and admitting to the entire Republic that he has never seen a Government that is more wasteful than this one. That it is so profligate that there is no one in the Government with the ---

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, what is your point of order and cite the Standing Order?

Sen. Cherarkey: Madam Temporary Speaker, we have Standing Order Nos.1, 98, 101 and 55. Is it in order for Sen. Sifuna to mislead the House that the Chair of the Presidential Economic Advisory Council (PEAC), Dr. David Ndi, yet he said that all governments are wasteful?

Madam Temporary Speaker, is it in order to make that statement to suit his narrative that he is trying to push in this House? Can he clarify or withdraw and apologise?

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, he was on a point of order, which I want to dispense with

(Sen. Oketch Gicheru spoke off record)

Sen. Oketch Gicheru, kindly wait. He was on a point of order, which I want to dispense with.

(Sen. Oketch Gicheru spoke off record)

Sen. Oketch Gicheru, you are out of order! I told you to wait.

Sen. Sifuna, substantiate your statement based on Standing Order No.105 on responsibility for statement of fact.

Sen. Sifuna: Madam Temporary Speaker, I watched with my own two eyes and heard with my own ears on a television that I bought with my own money and on subscription that I pay with my own money.

The Chair of the PEAC was on Citizen Television. He said that he has never seen the sort of wastefulness that he is seeing in the Government and that there is no one who has the spine to do anything about it. He used those words himself and I will bring those clips here.

That is what impeaches the argument we had on this side, that if we are eating *sukuma wiki*, we should live within our means and budget. My position is if we are eating *sukuma wiki*, can we all eat *sukuma wiki*? It should not be *sukuma wiki* for the counties while people are eating rare steaks and aged beef in State House and other offices of the national Government.

Madam Temporary Speaker, let me proceed by saying---

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

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Oketch Gicheru? Please cite the Standing Order.

Sen. Oketch Gicheru: Madam Temporary Speaker, I rise under Standing Order No.105 on responsibility for statement of fact. It is dangerous where we are going as a House, if on a substantive matter that Sen. Sifuna was presenting on, a Senator of this

House can rise on a Standing Order, basically dishonouring your own Chair without your notice.

Sen. Cherarkey said that he rose on Standing Order Nos.19 and 55 which---

(Loud consultations)

Madam Temporary Speaker, he said 55 and we have the HANSARD. Sen. Cherarkey talked about Standing Order No.55.

(Sen. Cherarkey spoke off record)

You talked about three.

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, kindly resume your seat.

Sen. Oketch Gicheru: Madam Temporary Speaker, Sen. Cherarkey cannot take advantage of you as a Chair and say things that do not exist. It is not okay.

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, resume your seat.

(Sen. Oketch Gicheru sat at his place)

I want to give direction to this House. When the Chair is seated here, they are in charge of the House.

I am conversant with these Standing Orders. To my hearing, Sen. Cherarkey cited Standing Order Nos.98 and No.105.

Sen. Oketch Gicheru, to insinuate that he is taking advantage of the Chair is bordering on disrespecting the Chair. Please avoid that and get serious with the business of the House.

Sen. Sifuna, kindly proceed.

(Sen. Cherarkey spoke off record)

Sen. Cherarkey, maintain order.

Sen. Sifuna: Madam Temporary Speaker, kindly confirm for me how much time I have left.

The Temporary Speaker (Sen. Veronica Maina): You have three and a half minutes. Your time was paused.

Sen. Sifuna: Madam Temporary Speaker, let me address two final points. One was raised by my colleague from Taita-Taveta County.

If you look at the marginal increase of the money that will go to the counties, that is only 4 per cent. What will go to the national Government is 23 per cent. That is over Kshs400 billion.

The current administration told us that they were going to cut Kshs300 billion from the current budget in the expenditure of the national Government, but we are not seeing it. What we are asking for on behalf of the counties is just 10 per cent of that

Kshs400 billion that is being increased to go to the national Government. We believe that this is something that counties should get.

Finally, the Committee on Finance and Budget must request the Central Bank of Kenya (CBK) to show us all the income and expenditure of this country, so that we know whether we are being told the truth about the monies that are being transacted in the CBK accounts.

The money that is collected from taxes is not the only revenue that goes to the Government. We need full disclosure on this even as we have this debate. The CoB should explain to us why it is important for her to approve expenditure for unnecessary things that are asked for by the national Government, including salaries for Chief Administrative Secretaries (CASs). Yet she does not approve any of these similarly for the county governments and they continue to suffer.

In conclusion, let us do what we were elected to do. I am heartbroken to hear Senators who I know their counties require more resources because of political expediency, coming here to argue that the Kshs385 billion proposed is enough.

I have never seen anyone who has been given an opportunity to increase the stock of their own people giving up out of political expediency. Here in Nairobi, we have more than enough problems. We just opened an Intensive Care Units (ICU) at Mama Lucy Kibaki Hospital because we did not have. We want extra money to complete construction of the maternity wing with ICU beds at Mama Lucy Kibaki Hospital.

A Senator has just raised a question on the state of City Mortuary. We would like to have enough resources to hire people who had been employed under Nairobi Metropolitan Services (NMS) because 700 of them have been thrown out unceremoniously. They have nowhere go and they have no money because they have not been paid for the past five months.

When I speak to my county governor, he always tells me that we people in the Senate are the ones supposed to give them money. If we do not give them money, how are they supposed to pay suppliers and former employees of NMS?

Madam Temporary Speaker, we as the minority feel very strongly that we must bring amendments to this Bill that was passed by the National Assembly, so that we push this to the figure that was recommended by the CRA, who are the experts under the Constitution in terms of how much money should be divided between the two levels of government where we are asking for Kshs425 billion; no shilling more, no shilling less.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wakili Sigei, kindly proceed.

Sen. Wakili Sigei: Madam Temporary Speaker, thank you very much for granting me the opportunity to also speak to this Bill that is key and the core reason why the House we are in exists.

The Theme of the 2023 Budget Policy Statement (BPS) is what my colleague earlier own used a Kiswahili term which I cannot pronounce. That is; *Bottom-Up Economic Transformation Agenda for Inclusion Growth*. That is the basis upon which the Bill that is before the House was also anchored.

There are five pillars of this particular agenda that include agriculture, small and medium enterprises, housing, health and digital creative economy. The reason I am saying so is to ensure that as I speak to this Bill, we also speak to the allocation of

resources towards the county governments, so that these particular agenda items are achieved.

They can only be achieved if resources are allocated to the county governments and such resources are made available. It would make no sense to allocate and fail to disburse because it may not be in existence or it is insufficient as we have experienced in the previous months like a number of Senators have said.

The aim of this Bill is to ensure that county governments are given resources that this House will approve, so that they also serve the people by ensuring that the cost of living is brought down. They can also create employment opportunities for many unemployed youths who at any given time once an opportunity come their way fight for it to eradicate hunger and promote inclusive growth. Most importantly, to manage the debt ratio of the national Government and almost in all our county governments where most of the people who participated in running projects have pending bills unpaid by the county governments.

Madam Temporary Speaker, in essence, this Bill seeks to fulfill the core mandate of the Senate under Article 96 of the Constitution of Kenya. That is why it is the most important piece of legislation that we must, not only debate on substantively, but also ensure once it is passed, it is implementable to the extent that county governments benefit from its provisions.

To the amount of the resources that have been allocated under this Bill, we have Kshs385 billion being the allocation of the sharable revenue for the Financial Year 2023/2024. This Kshs395 billion is an increase of Kshs15 billion from the Financial Year 2022/2021 allocation of Kshs370 billion.

Article 203 of the Constitution requires that any such allocation must be above 15 per cent of the revenue that has been collected in any financial year. In terms of percentages, this gives us 23.03 per cent of the revenue collected that has been provided for in this Bill to be shared among the county governments. This is an increase in the allocation from the previous amount.

Madam Temporary Speaker, under that particular Article 76, there is the need for this House to protect devolution. Protection of devolution is allocating resources.

One of the most important items in this Bill which I have heard a number of Senators speak to is ensuring that the library services which were not devolved before have now been devolved. An amount Kshs425 million has been granted to it. The challenge that I would have is, out of the 47 counties that are supposed to benefit from this amount, only 33 counties that have been given this amount.

As representative of a service that has been devolved, in the next financial budget, this should be one of the major items for the counties, which have not benefited are granted the opportunity to do so.

Madam Temporary Speaker, there is also provision to increase the allocation for purposes of financing National interest from Kshs90.7 billion to Kshs92.5 billion in the Financial Year 2022/2023 and Financial Year 2023/2024, respectively.

This is aimed at enhancing security operations. If you remember, lately, we have had issues. There is actually a live debate in a Motion placed before the House on the security in the north. There is an increment to the allocation so that that the service in enhanced.

There is also the need to empower the youth. There is the National Irrigation and Fertilizer Subsidy Programme. The increment of an extra Kshs2.5 billion for the National Interest Services is aimed at ensuring that the very particular and most important services which affect all the counties, especially those counties where such issues have been raised, is also enhanced in the Financial Year 2023/2024.

As we debate on whether or not this amount is given, we should be alive to the fact that we are also sharing an amount that is available. The main aim, as I speak, is to ensure that the amount of the debt repayment that the country has is enhanced.

The Bill provides for an enhanced allocation to the National debt repayment so that we are able to sustain the economic status of the country by ensuring that the little resources available is shared to serve the purpose it is intended for.

It also intends to reduce on borrowing which is the main headache that the country has suffered for the period. The Speaker, hon. Kingi, indicated that it was incurred by the Jubilee Government governed by a “handshake” arrangement. We are here because of that particular arrangement which did not facilitate the remaining---

Lastly, on the public debt. If we are going to convince ourselves to tighten the belt and serve within what is available, we will balloon the public debt and we will never be out of the hole where the country is.

Madam Temporary Speaker, I support the increase of allocation of debt payment from Kshs930.4 billion to Kshs1.250 trillion. This will ensure that the country is self-sufficient.

I support the Bill and I urge my colleagues to support its passage. It will ensure our counties get the funds allocated to them and released in good time for service delivery to the public.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina.

Sen. Olekina: Madam Temporary Speaker, thank you for giving me this opportunity. I know I have a few minutes before the rise of the House. Therefore, I will try to contribute a little bit.

Madam Temporary Speaker, in Parliament, the term ‘debate’ is a technical one. It is used to say for or against. Today, I support the Report submitted by the Committee on Finance and Budget.

In its recommendations, the Committee is urging distinguished Senators to go on mediation. They are telling us that the ‘lower’ House has amended the recommendation and they have deviated from the recommendation by the CRA. County governments are being denied money. They have seen the only way for us to fight for counties is for us to go to mediation and demand for a minimum of Kshs407 billion.

Counties are denied money yet it is on record that the KRA has surpassed its annual revenue collection. In fact, I dare say the records presented to this House by KRA show that in 2023, they collected Kshs2.19 trillion. In 2024, they are projecting to collect about Kshs2.571 trillion. That is a net of Kshs380 billion more.

Madam Temporary Speaker, I am perplexed as to why counties are only being given Kshs15 billion. The CRA has recommended that counties be allocated an additional Kshs37 billion. If we are to be objective and argue why counties should be given more money, the first point of debate should be what the priorities of the current

administration are. The priorities are agriculture, Universal Health Care (UHC), Digital Superhighway, Small and Micro Enterprises (SMES) and housing.

All these priorities are for counties. On UHC alone, they are proposing to allocate an additional Kshs45 billion. That money is being retained in the national Government. It is about time we, Senators, remembered what we came to do in this House; fight for our counties.

Article 218 is very clear. It says that if the National Assembly or the Senate deviates from the recommendations of CRA, they have to give us a memorandum attached to the Division of Revenue Bill, with proper detail as to why they have done that.

In the Division of Revenue Bill, we are being told that county governments are denied money because money is being diverted to the Hustler Fund. The second reason is that the Eurobond is due and they want to pay the entire principal and interest. Who does that? Is it wrong to have a debt? It is not wrong, I dare say. I would hope that we should pay the interest and then we go seek refinancing of the principal amount.

It does not make sense. The first priority of anyone in business is to pay their interest---

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina will have six minutes when we resume. Hon. Senators, it is now 6.30 p.m., time to adjourn the House. Therefore, Senate stands adjourned until Wednesday, 19th April, 2023, at 9.30 a.m.

The Senate rose at 6.30 p.m.