

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 30th May, 2024

*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? Serjeant-at-Arms, kindly ring the quorum bell for 10 minutes.

(The Quorum bell was rung)

Hon. Senators, we now have quorum now. Clerk, kindly call the first order. Proceed, Sen. Mumma.

We will defer that Order.

PAPER LAID

REPORT OF THE 148TH ASSEMBLY OF IPU AND RELATED MEETINGS HELD IN GENEVA

(Laying of the Paper deferred)

Proceed to the next order Clerk. We will also defer that Order.

NOTICE OF MOTION

NOTING OF REPORT OF THE 148TH ASSEMBLY OF IPU AND RELATED MEETINGS HELD IN GENEVA

THAT, the Senate notes the Report of the Kenya delegation to the 148th Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in

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Geneva, Switzerland from 23rd to 27th March 2024 laid on the Table of the Senate on Thursday, 30th May, 2024.

(Notice of Motion deferred)

Clerk, kindly proceed to call out next order. Statement pursuant to Standing Order No. 52(1). Proceed, Sen. Kibwana.

QUESTIONS AND STATEMENTS

STATEMENTS

INTERNATIONAL DAY TO END OBSTETRIC FISTULA AND MENTAL HEALTH AWARENESS MONTH

Sen. Kibwana: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 52(1) to make a Statement on a matter of general topic concern; namely, drawing the attention of this House to two significant observances in the month of May –

The International Day of the End Obstetric Fistula, observed last week on May, 23rd with the theme: Breaking the Cycle Preventing Fistula World Wide and Mental Awareness Month which underscores the theme; Mental Health is a Universal Human Right.

These two observances, while distinct, are deeply interconnected. Obstetric Fistula, a severe childbirth injury, often results in profound psychological distress for affected women. The physical consequences of fistula such as incontinence and social ostracization led to significant mental health challenges, including depression, anxiety and Post-Traumatic Stress Disorders (PTSD).

Mr. Speaker, Sir, the theme of Mental Health Awareness Month resonates deeply with the principles of equality, dignity and inclusivity. It highlights the fundamental need for accessible and equitable mental health care for all individuals regardless of their background or circumstances.

Similarly, the fight against obstetric fistula demands that we provide comprehensive maternal health care and psychological support to those affected. As leaders, it is incumbent upon us to acknowledge the dual challenges faced by women suffering from obstetric fistula both physical and mental.

Despite progress in maternal health care, the stigma and discrimination surrounding fistula persists leading to social exclusion and barriers to seeking help. These challenges are mirrored in the broader context of mental health where misconceptions and prejudices continue to hinder individuals from accessing the care they need.

Mr. Speaker, Sir, addressing these issues, requires a multifaced approach including–

(1) Enhancing access to skilled birth attendants, emergency obstetric care and timely surgical interventions to prevent the occurrence of fistula. For those already affected, reconstructive surgery and comprehensive post-operative care are essential to restoring their physical health and dignity.

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(2) Providing mental health support as part of the maternal health care programme is crucial. Psychological counselling, supporting groups and community education can help women cope with the emotionally draining aftermath of fistula and reduce stigma.

(3) Raising awareness about both obstetric fistula and mental health within communities can foster a supportive environment. Education campaigns can challenge misconceptions, encourage empathy and promote the inclusion of the affected women.

(4) National and county governments and health organisations must prioritise maternal and mental health care in their health agendas. Policies that ensure access to comprehensive care services are vital. Advocacy efforts should aim to secure funding and support all these initiatives.

Mr. Speaker, Sir, I implore fellow Senators and citizens alike, to actively participate in initiatives that raise awareness about obstetric fistula and mental health. Let us reaffirm our commitment to uphold health as a universal human right and continue our efforts towards a more inclusive and compassionate society.

As I conclude, I urge everybody to use this opportunity to educate, advocate and promote comprehensive health care that addresses individuals' physical and mental well-being. Together we can break the cycle of suffering and build a healthier equitable country.

I thank you.

I have a second Statement.

The Speaker (Hon. Kingi): You may proceed with your second Statement.

ONGOING EVICTIONS AND DEMOLITIONS
IN MATHARE AND MUKURU KWA REUBEN

Sen. Kibwana: Mr. Speaker, Sir, my second statement is on the ongoing evictions and demolitions in Mathare and Mukuru kwa Reuben areas of Nairobi County.

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations, regarding the actions being taken by the Government of Kenya, concerning evictions and demolitions in Mathare and Mukuru kwa Reuben areas of Nairobi County.

The recent floods in the country, especially in Nairobi and its environs have resulted in devastating consequences, including loss of lives and extensive property distraction.

While I acknowledge the necessity of measurements to ensure public safety, I am deeply concerned by the Government's decision to evict people and demolish properties on riparian land along the Mathare and Ngong rivers, which has been executed in an inhumane manner and in violation of rights of the affected individuals.

(Loud consultations)

Mr. Speaker, Sir, kindly protect me.

The Speaker (Hon. Kingi): Order! Hon. Senators may Sen. Hamida be heard in silence.

Sen. Kibwana: Thank you, Mr. Speaker, Sir. In the statement, the committee should:

(1) Clarify basis and procedural framework under which the Government is conducting evictions and demolitions in Mathare and Mukuru kwa Reuben areas and inform whether due process and human rights have been upheld throughout these evictions.

(2) Provide information of the measures taken by relevant Government agencies to ensure that the affected individuals are provided with adequate support and alternative housing and compensation for losses incurred during these evictions and demolitions.

(3) State plans and timelines for resettlement or re-integration of affected communities to prevent displacement and alleviate their suffering.

(4) State whether consultations or engagements were conducted with affected communities and relevant stakeholders to address concerns, gather feedback and ensure transparency and accountability in the eviction and demolition process.

(5) Disclose how the national Government utilized the Kshs10 billion that had been set aside for El Nino preparedness in the Financial Year 2023/2024, particularly in implementing preventive measures and providing relief to affected communities.

I thank you.

(Interruption of Statements)

The Speaker (Hon. Kingi): Order, hon. Senators! Before I call for request for statements pursuant to Standing Order No.53, allow me to make the following communication.

COMMUNICATION FROM THE CHAIR

INVITATION TO THE SIXTH KEPSA – SENATE SPEAKER’S ROUNDTABLE

Hon. Senators, the Kenya Private Sector Alliance (KEPSA) is the apex body of the private sector in Kenya. The organization brings together the business community under a single umbrella body to engage and influence public policy for an enabling business environment.

Over the last few years, the Senate and KEPSA have held an annual roundtable conference to enhance greater private sector engagement and participation in Kenya’s governance structure and economic management.

The Senate Speaker’s Roundtable (SRT) is a high-level platform for public-private sector dialogue between the business community and the Senate that facilitates a joint review of the country's policy and legislative environment. It identifies crucial legislation for the private sector that needs to be reviewed or fast-tracked and addresses any gaps that require new legislative intervention based on the country's and private sector development priorities.

This year, the 6th KEPSA-Senate Speaker’s Roundtable is scheduled to be held in Mombasa County between the 12th and 13th June, 2024, at a venue that will be communicated in due course.

The event will be held under the theme: “Strengthening the role of the Senate in improving county business environment competitiveness for the creation of wealth, jobs

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and inclusive prosperity in Kenya.” To this end, the business community and hon. Senators will seek to set the legislative interventions for 2024 between the private sector and the Senate that is aimed at boosting county economic competitiveness.

Focus areas under this theme will be as follows-

(1) Improvement of the overall ease of doing business and competitiveness in the counties.

(2) Promotion of the manufacturing sector as a key driver of economic transformation and job creation.

(3) Addressing factors that inhibit agribusiness in counties.

(4) Ensuring counties integrate environmental and social considerations.

(5) Strengthening the Senate’s vanguard role as shepherds for devolution and county competitiveness.

Hon. Senators, I take this opportunity to invite all Senators to participate in this forum. Your involvement will be instrumental in driving positive change in our economic landscape, which will ultimately improve the quality of life for all Kenyans.

The Office of the Clerk will communicate further details on the event.

VISITING DELEGATION FROM
BARINGO HIGH SCHOOL

Hon. Senators, I have further communication to make.

In the Public gallery, we have 44 form four students and two teachers from Baringo High School in Baringo County who are undertaking an education visit in the Senate.

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

VISITING DELEGATION FROM
SACHO HIGH SCHOOL

In the public gallery, we have 39 Form Four students and three teachers from Sacho High School in Baringo County who are undertaking an education visit in the Senate.

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

I will allow the Senator for Baringo County in under one minute to extend words of welcome to the delegation from Baringo County.

Sen. Cheptumo: Thank you, Mr. Speaker, Sir. I wish to join you and my colleagues in welcoming the students and teachers from Baringo High School in Baringo County. I am proud to announce to this House that this is one of our best schools in our county.

In Baringo, we have two national schools: Baringo High School and Ossen High School. I am glad that the form four students are in the House to see what happens in the Senate. They have already witnessed the proceedings of this House.

I wish to thank those who planned the visit to the Senate and as they go back, I wish them a safe journey all the way to Baringo. Whatever they have learnt today, I advise them to apply that in their day today lives in their school.

We always speak about the leaders of tomorrow. I assure the young men of form four that at some point in time, they shall be leaders of tomorrow. They should work hard and take their studies seriously, be focussed, determined and resilient so that one day and time, one or more of these students will sit in this House as a Senator, governor, MP or a Cabinet Secretary.

The sky is the limit and it is possible if you work. I wish them well as they go back as we continue to expect more this year because they are in form four this year. I will see them later before they proceed for home.

The Speaker (Hon. Kingi): Thank you for your speech.

(Resumption of Statements)

Statements pursuant to Standing Order No.53(1). Sen. Tabitha Mutinda.

DEPLORABLE STATE OF MATERNITY SERVICES AT
MAMA LUCY KIBAKI HOSPITAL

Sen. Tabitha Mutinda: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health regarding the deplorable state of maternity services at Mama Lucy Kibaki Hospital in Nairobi County.

In this statement, the committee should:

1. State the total number of women detained in the hospital facility due to their inability to settle their maternity fees, stating the respective amounts owed.
2. State the payment modalities or options in place set by the hospital management for defaulters within the maternity section.
3. Explain the protocols followed by the hospital management in the event a patient is unable to raise the maternity fee and confirm whether a policy exists to guide how to handle cases related to the default of maternity fee payments.

I thank you.

The Speaker (Hon. Kingi): Sen. Orwoba Gloria.

BUDGETARY ALLOCATIONS FOR SANITARY
TOWELS FOR FY 2023/2024

Sen. Orwoba: Thank you, Mr. Speaker, Sir. This is my request for Statement on the sanitary towels programme for the financial year 2023/2024.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget concerning expenditure of the budgetary allocations to the Sanitary Towels Programme for the financial year 2023/2024.

In the Statement, the committee should:

(1) Provide a report of the budget allocations and expenditure by the Ministry of Education and the Ministry of Gender, Culture, the Arts and Heritage on sanitary towels for the financial year 2023/2024.

(2) Provide all tender documents, including advertisements and the details of the awarded tenders related to the procurement of sanitary towels for the year 2023/2024.

(3) Provide delivery notes or proof of receipts of sanitary pads by the beneficiaries, including reports of payments to suppliers of the pads during the year under review.

I thank you.

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

ACCESS TO OBSTETRIC FISTULA CARE IN KENYA

Sen. Mumma: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Health regarding obstetric fistula, a critical public health crisis disproportionately affecting women and girls in Kenya.

In the statement, the committee should:

(1) Provide the Senate with the data on the prevalence of obstetric fistula in Kenya, highlighting the regions with the highest incidence rates to showcase the magnitude of the issue.

(2) Assess the current state of access to fistula treatment in Kenya, indicating whether the proposed Social Health Insurance Fund (SHIF) will include fistula repairs under the maternal health package.

(3) Indicate the national policy guidance that the Ministry has provided the county governments for addressing obstetric fistula experienced by women in remote areas.

(4) State the number of distributions of skilled surgeons capable of performing fistula repair surgeries, and the number and capacity of specialized facilities for fistula care across the country.

I thank you.

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

MANAGEMENT OF MBELE PRIMARY SCHOOL BY TAITA TAVETA COUNTY GOVERNMENT

Sen. Chimera: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the management and operation of Mbele Primary School, which is located in Mackinnon Town, Kwale County, and is currently being administered by the County Government of Taita Taveta.

In the statement, the committee should:

(1) Explain the modalities and administrative processes under which Mbele Primary School, geographically situated in Mackinnon Town, reverted to the jurisdiction of Taita Taveta County from Kwale County.

(2) Determine if the Teacher Service Commission (TSC) is aware of the current administrative status under which Mbele Primary School operates within the jurisdiction of Taita Taveta County.

(3) Outline any measures the Ministry of Education intends to undertake to resolve this jurisdictional anomaly, particularly steps to revert the management of Mbele Primary School to Kwale County if deemed appropriate.

I thank you.

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

MALIPO YA WALIMU WALIOSTAAFU KUTOKA
TUME YA KUAJIRI WALIMU

Sen. Olekina: Bw. Spika, nashukuru kwa kunipa nafasi hii kwa niaba ya Mhe. Faki ili niombe taarifa kutoka kwa Kamati ya Kudumu ya Elimu.

Nimesimama kuambatana na Kanuni ya Kudumu ya 53 (1) kuomba taarifa kutoka kwa Kamati ya Kudumu ya Elimu kuhusu malipo ya malimbikizo kwa walimu waliostaafu kutoka Tume ya Kuajiri Walimu (TSC).

Katika taarifa hiyo, kamati:

(1) Ichunguze sababu za walimu waliostaafu kutopokea pensheni pamoja na malimbikizo yao ya kustaafu kuanzia mwaka wa 2020 hadi sasa.

(2) Iarifu Seneti hii lini walimu hao waliostaafu wataanza kupokea hayo malipo yao.

(3) Ieleze pia sababu za Hazina ya Malipo ya Uzeeni (NSSF) kukosa kuwalipa walimu waliostaafu malipo yao ya kustaafu kwa wakati unaofaa.

Taarifa hii imeombwa na Sen. Faki, Seneta wa Kaunti wa Mombasa. Asante.

The Speaker (Hon. Kingi): Sen. Wakili Sigei, proceed.

PROCUREMENT OF ROAD CONSTRUCTION
MACHINERY IN BOMET COUNTY

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir. I rise on behalf of Sen. Wakili Sigei. I have two statements. I will start with the first one.

I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Roads, Transportation and Housing regarding the procurement and management of road construction machinery by the County Government of Bomet.

In the financial year 2022/2023, the County Government of Bomet acquired five graders, five excavators, one roller, five tippers and one load loader at a total cost of Kshs250 million. Subsequently, an additional amount of Kshs56.6 million was sought to further finance the said procurement, bringing the total amount spent for the procurement of Kshs306.6 million.

Notably, this amount was not part of the county's budget and was only sought through a supplementary budget, which was not reflected in any county plan. It was not included in the County Integrated Development Plan (CIDP) nor the Annual Development Plan (ADP), contrary to Sections 107, 108 (4), 108 (9) (b) and 113 of the County Government Act.

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Additionally, this supplementary budget was introduced without public participation, which contradicts the stipulations under Article 10 of the Constitution and Sections 87 and 115 of the County Government Act, as well as sections 516 (1) of the Bomet County Public Participation Act, 2019.

Further, in continuous contravention of the Presidential Executive Order No.2 of 2018 on procurement of goods, works and services by public entities, the County Government of Bomet has failed or neglected to maintain and continuously update and publicise the relevant information in this tender in public forums.

Relevant information, including but not limited to full particulars of the awarded bidder, technical and financial capacity of the awarded bidder, award date and current market price of the specific goods as well as the price guidelines as published by the Public Procurement Regulatory Authority (PPRA), have been concealed from the public.

In the statement, the committee should:

(1) Provide a detailed account of the whereabouts of the machines and detailed account of the works undertaken by each machine. Additionally, provide the work tickets and particulars of the respective drivers operating the machinery and avail all the relevant fuel order details.

(2) Provide a detailed report of all the relevant information that the County Government ought to maintain and continuously update and publicise, including but not limited to the tender evaluation report, the sales contract and the terms of engagement employed by the county during the acquisition of this machinery, the assessment and inspection report and the concurrence report from the mechanical transport department regarding the procured machinery.

(3) Undertake an in-depth analysis of the prices at which these machines were acquired, highlighting the market value of the acquired machines *vis-à-vis* the price guidelines as published by the Public Procurement Regulatory Authority.

(4) Confirm whether the county acquired insurance for the machinery and disclose the details of this insurance.

By Sen. Wakili Sigei, Bomet County.

Mr. Speaker, Sir, I have another one.

PROLONGED WATER SHORTAGE IN BOMET TOWN

Mr. Speaker, Sir, on behalf of Sen. Wakili Sigei, I also rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the prolonged water shortage in Bomet Town, Bomet County.

Mr. Speaker, Sir, the residents, and business entities in Bomet Town have for several months now faced a shortage of clean treated water. This has forced them to use untreated water from Nyongores River, exposing them to risks of waterborne diseases.

The underlying governance and operational challenges contributing to the shortage are multifaceted and have been highlighted in reports of the Auditor General on the operations and performance of Bomet Water and Sanitation Company (BOMWASCO).

I request that the committee to:

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(1) Explain the circumstances that led to the Kenya Power (KP) disconnecting the electricity supply to BOMWASCO.

(2) Outline any measures put in place by the County Government of Bomet to alleviate the water shortage in the short-term and to ensure continuous and reliable water supply to residents of Bomet Town in future.

(3) Report on steps taken by the County Government to safeguard the health of residents who due to the prolonged acute water shortage face health risks arising from poor sanitation.

(4) State any actions taken to address the financial and operational challenges that are crippling BOMWASCO including financial irregularities, which are evidenced by unsupported board expenses, unverified staff welfare expenditures and unpaid salary arrears.

(5) Provide a status update on all ongoing water infrastructure projects in Bomet County explaining any delays in completing the projects and stating the projected timelines for the same.

I thank you.

The Speaker (Hon. Kingi): Sen. Joe Nyutu proceed.

UPWARD REVIEW OF WATER TARIFFS IN MURANG'A COUNTY BY WASREB

Sen. Joe Nyutu: Thank you, 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 regarding the upward review, by the Water Services Regulatory Board (WASREB) of water tariffs in Murang'a County.

In the statement, the committee should:

(1) Explain the rationale for the upward review by the WASREB of water tariffs in Murang'a County.

(2) Provide data on the water tariffs in the counties neighbouring Murang'a County and in the wider Mt. Kenya region explaining any disparities.

(3) Outline any measures put in place by WASREB to ensure that consumers are not overburdened.

I thank you.

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

FINANCIAL HEALTH OF PUBLIC UNIVERSITIES IN THE COUNTRY

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Education regarding the placement of students in universities and the state of financial health of public universities in the country.

In the statement, the committee should-

(1) Provide an overview of the current financial status of public universities, considering the recent financial strain that has led to many university staff going without salaries for months.

(2) Identify the number of public universities that are insolvent or facing financial difficulties and explain measures the Ministry of Education has taken to ensure these institutions remain operational and that students are not adversely affected.

(3) Assess the effectiveness of the Kenya Universities and Colleges Central Placement Service (KUCCPS) in undertaking the role of placing students in universities and tertiary colleges, particularly in light of the high number of complaints from students and other stakeholders.

(4) Explain the rationale behind the Higher Education Loans Board (HELB) providing loans to students in public universities only while excluding those in private and faith-based universities across the country.

(5) Clarify the reasons for the non-placement of students by KUCCPS in faith-based institutions.

I thank you.

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

ATTACKS TARGETING WOMEN DRIVERS OPERATING TAXI-HAILING SERVICES

Sen. Miraj: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on National Security and Foreign Relations regarding reported cases of attacks targeting women drivers operating taxi-hailing services.

In the statement, the committee should:

(1) Furnish the Senate with a comprehensive report on attacks targeting women drivers operating taxi-hailing services and provide an update on the status of each investigation.

(2) Conduct an inquiry into the reported trend of clients posing as women when booking cab services to lure women drivers only for them to be attacked and even raped.

(3) Implore the Ministry of Interior and National Administration, in collaboration with the Ministry of Information, Communications and the Digital Economy, to develop guidelines/tools for the registration and verification of clients using hail services applications to ensure the safety of both drivers and passengers.

(4) Outline the measures the Ministry of Interior and National Administration has taken to ensure the security and safety of women drivers, protect their rights and bring the culprits involved in such acts to book.

The Speaker (Hon. Kingi): Sen. Chute, this had been deferred because of the absence of Sen. Mumma. You will comment after Sen. Mumma has dealt with her business. There is a Paper that was to be laid.

You may now proceed to lay the Paper, Sen. Mumma.

(Interruption of Statements)

PAPER LAIDREPORT OF THE 148TH ASSEMBLY OF IPU AND
RELATED MEETINGS HELD IN GENEVA

Sen. Mumma: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today 30th May, 2024-

Report of the Kenya delegation to the 148th Assembly of the Inter Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 23rd to 27th March, 2024.

I thank you.

(Sen. Mumma laid the document on the Table)

The Speaker (Hon. Kingi): Sen. Mumma, you may also proceed to give notice of Motion.

Sen. Mumma: Thank you, Mr. Speaker, Sir---

Sen. M. Kajwang’: On a point of order, Mr. Speaker, Sir. This is a House of order and you have done a great job in maintaining order. I would like to bring to your attention Standing Order No.117(2) which, for avoidance of doubt, states as follows-

“No Senator shall pass between the Chair and any Senator who is speaking or between the Chair and the Table except in so far as it is necessary for the purpose of the administration of Oath or Affirmation of Office.”

Mr. Speaker, Sir, there are five Senators between you and Sen. Mumma.

(Sen. Cheruiyot spoke off record)

The Speaker (Hon. Kingi): Order, Senate Majority Leader. The Chair can defend himself.

Hon. Senator for Homa Bay, none of these Senators who have approached the Chair has come between the Chair and the Senator speaking. Senators that have approached this Chair have done so with permission from the Chair.

Sen. Mumma, proceed to give your Notice of Motion.

NOTICE OF MOTIONNOTING OF REPORT OF THE 148TH ASSEMBLY OF IPU
AND RELATED MEETINGS HELD IN GENEVA

Sen. Mumma: Mr. Speaker, Sir, I beg to give Notice of the following Motion-
THAT, the Senate notes the Report of the Kenya delegation to the 148th Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 23rd to 27th March, 2024 laid on the Table of the Senate on Thursday, 30th May, 2024.

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I thank you.

(Resumption of Statements)

The Speaker (Hon. Kingi): Hon. Senators, I will allow limited interventions on the statements, starting with Sen. Boni.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to seek further clarification on the issue raised about Mama Lucy Kibaki Hospital.

It is an oxymoron that the Governor of Nairobi City County can purport to wish to end the suffering of young people by attempting to give them lunch when, on the other hand, he sees nothing wrong in arresting and jailing newborn babies in that hospital. If you go to that hospital, you will see mothers on the floor with their children lying on lesos because mothers who go there are not rich. Mama Lucy Kibaki Hospital was not designed to be a slave centre.

Could the Governor quickly declare that before the end of today, all those mothers will be released? He is free to come and take our signature, so that we guarantee as parents to pay according to the agreed plan.

My second comment is on the important matter raised on the budget of the Ministry of Education by Sen. Orwoba. The money that was put aside for sanitary towels was not pocket change. It was hundreds of millions. In fact, it was to a tune of Kshs900 million.

In an era where we are seeing some politically correct so-called business people gyrating their hips and twerking on social media---

Sen. Crystal Asige: On a point of order, Mr. Speaker, Sir. I am a little bit shocked to hear some of the vocabulary coming from a senior Member of this House like Sen. (Dr.) Khalwale, the Senator for Kakamega County. I thought my hearing was---

The Speaker (Hon. Kingi): Under what Standing Order are you raising your point of order?

Sen. Crystal Asige: Mr. Speaker, Sir, that is Standing Order No.1. I would like you to guide the House if the words “twerking” and “gyrating” are---

The Speaker (Hon. Kingi): Order, Sen. Crystal Asige.

(An hon. Senator spoke off record)

Sen. Crystal Asige: Mr. Speaker, Sir, it is Standing Order No.101. I appreciate the support from Members.

Mr. Speaker, Sir, could you guide the good Senator if the words “gyrating” and “twerking” are parliamentary language? He is a doctor and holds a First-Class medal under the Order of the Burning Spear (CBS) and other accolades. Is it okay to use such words, especially when we have impressionable young students in our midst?

The Speaker (Hon. Kingi): Sen. Crystal Asige, I thought the Senator was referring to a material on *TikTok*. Sen. (Dr.) Khalwale, could you make yourself clear?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, despite the attempts by the Senator to try and take you to a wrong route, you have kept the real path. This is not a joke.

Allow me to clarify to Sen. Crystal Asige. I was not elected to come to the Senate to teach English on the Floor of this House. The words “twerking” and “gyrating” are not offensive. They describe movements that dancers make.

In twerking---

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators! Why is there a lot of excitement? Proceed, Senator.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, when twerking, a dancer is seen moving their hips rhythmically up and down. When gyrating, a dancer swings their hips in circles.

In an era where we see people twerking and gyrating their hips and telling us how they are making money, we would like the statement to go further and demand that names of companies and their directors, that were given tenders be brought because we suspect that those people twerking and gyrating their hips are the ones abusing millions meant for supporting our little children who have no access to sanitary towels.

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

Sen. Osotsi: Mr. Speaker, Sir, I wish to comment on the statement by the Senator for Murang’a, Sen. Joe Nyutu, on the issue of upward review of water tariffs in Murang’a County.

(Loud consultations)

Mr. Speaker, Sir, there is too much noise in the Chamber. I wish to comment on the statement by Sen. Joe Nyutu on the matter of upward review of water tariffs in Murang’a County.

The Water Services Regulatory Board (WASREB) has appeared before my committee and we raised concerns about the way they handle tariff reviews in the counties. That process is supposed to be participatory and involve the people of those counties and county governments.

This statement is important. As much as it is important to have water tariffs in our counties, some counties have not done a tariff review for a long time and that has been an audit query by the Office of the Auditor-General (OAG). That process must be done through intensive public participation considering economic situations in the counties and the country.

As I support that statement, I know a lot is happening in Murang’a County in terms of management of water service providers, which could pose a challenge. I wish the committee that is going to handle this matter could go to its depth and ensure that WASREB does not acquire powers that they do not have.

Mr. Speaker, Sir, they must follow the Water Act and ensure that tariffs that they formulate for the counties are done within the law and involve participation of the people of county governments involved.

I support.

(Interruption of Statements)

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The Speaker (Hon. Kingi): Hon. Senators, at this juncture, allow me to rearrange the sequence of the Order Paper. We move to handle Order No. 12 and thereafter, we will resume the normal flow of today's business. Meaning, I will still allow Members who wish to make comments on these statements to do so.

Clerk, proceed to call that Order.

BILLS

Second Reading

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2024)

(Sen. Cheruiyot on 28.5.2024)

(Resumption of Debate interrupted on 29.5.2024)

(Division)

Serjeant-at-Arms, kindly ring the Division Bell for five minutes.

(The Division Bell was rung)

Serjeant-at-Arms, proceed to close the doors and draw the Bar.

(The Doors were closed and the Bar drawn)

Hon. Senators, those who are still standing to take their seats. I will now proceed to put the question.

(Question put and the Senators proceeded to vote)

Hon. Senators, kindly log out. Serjeant-at-Arms, go around and pick cards that are still in the delegates units.

Hon. Senators, you may now log back into the delegates units and proceed to vote by pressing "Yes", "No" or "Abstain".

(Electronic voting in progress)

Sen. Murgor, kindly approach the Clerk's Table for purposes of being assisted to vote.

*(Sen. Murgor approached the Clerks-at-the-Table
and registered his vote)*

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DIVISION**ELECTRONIC VOTING**

(Question, that the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bills No.10 of 2024) be now read a Second Time, put and the Senate proceeded to vote by County Delegation)

AYES: Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Crystal Asige, Mombasa County; Sen. Dullo, Isiolo County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo-Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. Murgor, West Pokot County; Sen. Oketch Gicheru, Migori County; Sen. Olekina, Narok County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

NOES: Nil

The Speaker (Hon. Kingi): Hon. Senators, the results of the division are as follows-

AYES: 29

NOES: 0

ABSTENTIONS: 0

(Question carried by 29 votes to 0)

(The Bill was read as Second Time and committed to a Committee of the Whole tomorrow)

The Speaker (Hon. Kingi): I now order that the Doors be opened and the Bars be drawn.

(The Bars were drawn and Doors opened)

Hon. Senators, we will resume the normal flow of today's Order Paper. We were making comments on the Statements that had been raised. Before we take comments, I will allow Sen. Tabitha to present her request for a Statement. We are doing this because we know today is the last day before we break for recess.

*(Resumption of Statements)*MEASURES TO ENSURE FISH FROM LAKE
NAKURU IS FIT FOR HUMAN CONSUMPTION

Sen. Tabitha Keroche: Thank you, Mr. Speaker, Sir, for giving me this opportunity.

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Committee on Agriculture, Livestock and Fisheries regarding fishing activities in Lake Nakuru National Park that led to the shooting of four young men at Barut Area of Nakuru West.

In this Statement, the Committee should-

(1) Explain what actions have been taken by the national Government and county government to implement recommendations made by the Kenya Marine and Fisheries Research Institute (KMFRI) that established the presence of heavy arsenic metals such as lead, mercury, copper, zinc in fish and water sample collected in Lake Nakuru, which were found to cause health hazard like brain cancer.

(2) Explain measures and strategies the National Government and county government have taken to ensure that fish from Lake Nakuru, which is being sold in Nakuru Town, Naivasha, Nairobi, Kericho, Bomet and Kisumu, is fit for human consumption.

(3) Explain the circumstances that led to the shooting of four youth from neighbouring areas of Mwariki and Barut who were seriously injured as they were found fishing in Lake Nakuru. This happened after a similar case where a fisherman who was found fishing was arrested and taken to the deep end of the lake, drowned and mercilessly left to die.

(Interruption of Statements)

The Speaker (Hon. Kingi): Before we move to comments, allow me to make this Communication.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM KERICHO HIGH SCHOOL

The Speaker (Hon. Kingi): Hon. Senators, I wish to acknowledge the presence in the Public Gallery this afternoon of visiting teachers and students from Kericho High School in Kericho County.

The delegation comprises three teachers and 41 students who are in the Senate for a one-day academic exposition.

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 on my own behalf, wish them a fruitful visit.

VISITING DELEGATION FROM ICS TECHNICAL COLLEGE

The Speaker (Hon. Kingi): Hon. Senators, I would also like to acknowledge the presence in the Public Gallery this afternoon of six students from the Institute of Certified Studies (ICS) Technical College in Nairobi County.

They are in the Senate for a one-day academic exposition.

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 on my own behalf, I wish them a fruitful visit.

I will give the Senate Majority Leader under one minute to extend a word of welcome to both delegations.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I proudly declare that this is my Alma Mater. Therefore, these students are in the right institution and have made the right decision to visit the Senate.

I was in that school from year 2001 to 2004. It sounds very many years ago for Sen. Eddy, Sen. Cherarkey or Sen. Methu who is saying that it was a long time ago. However, to the likes of my good friend the Clerk of the Senate, that is just the other day.

I welcome the students and wish them well. I will shortly step out to greet them and observe a very important tradition that Senators have formed when students visit this House.

Secondly, I wish to welcome the members of ICS from Technical College in Nairobi City County.

I was a member of ICS as well in my university days. It is one of the very progressive societies that you can identify with. It gives you a global perspective on issues because of the interactions and the programmes that run across our universities in this country. Therefore, I welcome them as they visit the Senate. May they also get the full value of whatever they came to seek out in this institution.

The Speaker (Hon. Kingi): We now go back to the comments.

Sen. Ledama?

(Resumption of debate on Statements)

Sen. Olekina: Thank you, Mr. Speaker, Sir. I would like to make some observations and comments on the Statement issued by my dear sister Sen. Hamida Kibwana.

Mr. Speaker, Sir, although the Statement is very important because it talks about the welfare of young Kenyans, I think it is about time that we stopped being reactive and became proactive.

When we are reactive, we blame everybody for what is happening to us. Yet, we are the ones who are not strict in terms of policy by allowing the construction of houses along the rivers. Then, ultimately, when a government which is also reactive makes a decision, all of us are up in arms.

The only way that we can be responsible is for us to be proactive so that we can take responsibility for our actions. It is about time. This is why we keep on saying that we

should send more money to our counties. We should fight for more money to go to our counties so that we stop this rural-urban migration.

I have been to many parts of the industrial area in Nairobi. You will find that places where there were no dumpsites are now dumpsites. When people are moved from the river banks or the land adjacent to the rivers, it cleans up the environment.

I think we need to be serious and become future-centric in terms of our planning and thinking because my sister has raised serious concerns here.

In her first Statement, she wants the procedure and framework under which the Government conducted evictions and demolition in Mathare and Mukuru Kwa Reuben areas clarified.

We know the Government was reacting and trying to save people. I think it is about time that we all fight for more money to go to our counties to create more jobs so that we limit the number of people who have to come in and live as second-class citizens or as puppets in our urban areas.

Everybody here in this House today lives like a king or queen. They have beautiful apartments and houses which are not affected by the floods. However, the people we represent here are languishing in poverty.

In this Statement, I would like the Committee to go further and try to see what we need to do as a House, so that we can become proactive and take responsibility for our actions.

If you ask the Governor of Nairobi why he had to remove people from the river bank, he would say it is because he wants to save them from being washed away.

To be honest with you, when you look at Nairobi the way it is, when the colonial masters designed it to be a Capital City, they did not think that the population would grow this much. They thought that probably there would be a few people living in Nairobi.

The truth of the matter is that as we think clearly about the solutions, we need not think about two years in advance but 10 years in advance. We should create more cities.

Mr. Speaker, Sir, at first, I made completely unorthodox suggestions that we should move the seat of Government from Nairobi to some rural area so that we could create room. It is about time we did this. Let us go to Taita Taveta or Narok County - sorry, not Narok County; we do not have land there.

Let us proceed to the rural areas where we can put the seat of the Government. When you put the Government seat there, you will attract more people and decongest the city.

This Statement is important, and I thank Sen. Kibwana. I hope the Committee will take serious proactive measures to ensure that they extend not only in Nairobi but in all urban areas, which everybody is rushing to. We are neglecting our rural areas. There are pieces of legislation being introduced now, some of which we do not read but are passed. We will continue disadvantaging the poor people. I thank Sen. Kibwana for her Statement and hope that we can become proactive in our decision-making.

Thank you, Mr. Speaker, Sir.

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

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I rise to support the Statement sought by Sen. Kibwana. Indeed, our physical planning in the last 60 years has not only

failed us but also future generations. I agree with my colleague, the Senator for Narok, that we must plan our future cities to accommodate both current and future generations.

Successful Governments have been unable to make this unpopular decision to protect the riparian land. I would want to commend the Government that as much as it is a painful thing to do, it is equally more painful and destructive to see people washed away because they have built their shelters along river banks. This is not a preserve of Nairobi County but is repeated in various counties.

It is time, as Senators, we come up with laws that will ensure that riparian land across the country is protected and people are not allowed to build, construct, and obstruct waterways. We saw painfully houses, lives, and property being washed down the rivers. It was a sight that was painful, to see people die because we had not made a decision. The political class has made the popular decision to make sure that people continue living on riparian land despite knowing that this is unfortunate.

We must not allow this to happen tomorrow or ever again. Therefore, we must develop a legislative and legal framework to protect waterways and riparian land. We should not allow people to build structures because we have to see the consequences. We need political goodwill to ensure that we implement the environmental conservation measures, some of which are painful to our people.

Construction along riparian land destroys the ecosystem and endangers people's lives, encouraging erosion and pollution. Waters transferred from the counties of Nairobi, Machakos, Makueni, and Tana River to Kilifi Counties have affected people living in the counties downstream.

Our duty as Kenyans is to ensure that our brothers and sisters living downstream enjoy clean water and a clean environment in line with the Sustainable Development Goals (SDGs). This can only be done when we ensure that the riparian lands and waterways are free of contamination and human encroachment, so we do not lose lives. I support the Statement.

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, proceed.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I rise to support the Statement by Sen. Kibwana. In the last few weeks, I have been involved in the response effort toward those affected by floods. It is perturbing to see a number of families struggling. I want to be cautious and not politicize this matter. The Committee can devise a way of communicating a proper intervention during this response time and during recovery. I support.

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

Sen. Methu: Thank you, Mr. Speaker, Sir, for this opportunity. I want to make quick comments on the two Statements. One has been sought by my neighbor, and the other by the Senator for Nakuru, Deputy Majority Leader Sen. Tabitha Keroche, on the shooting of four young men in the Baruti area in Nakuru West.

It is a sad state of affairs that people who were out to make a living to feed their families met these uncalled-for deaths. I am asking this question: Is it for the young men or the people around this lake to know that arsenic metals are in fish or is it the work of the county and national Government to declare this a condemned area? Substantial questions have been asked by the Senator for Nakuru. What are the county and National Governments doing about it?

There should be a permanent solution to this menace. More dangerously, so what about the fishing that is happening? Fish is being sold. I come from a constituency that is next to the lake. How sure am I that the fish that the people of Nyandarua and Kinangop are taking does not have these metals that are causing the cancer of the brain and several other parts of the body? The county government and the people responsible for the aqua life must move quickly and ensure that this matter is sorted.

The second comment I would like to make is on the Statement that Sen. Tabitha Mutinda sought on the sad status of mothers detained at Mama Lucy Kibaki Hospital. We see the governor walk with flamboyance. We saw him in yellow colors abusing people yesterday and disrespecting His Excellency, the Deputy President. You would imagine that the health function is working in Nairobi. What are we seeing? Innocent mothers being detained in hospitals. What must a baby do if the mother cannot pay the bill to go home?

If you start suffering from your day of birth, you start detention on your birth date, what becomes of your life? The county government that is charged with your health cannot secure your freedom when you are born, we only see flamboyance from the governor. Committees of the Senate have to look for the governor to appear before us to be accountable.

It was said - and I should not be quoted - that the people who got the degree for the Governor of Nairobi forgot that getting a paper is not the same as imparting knowledge on a person. A paper cannot measure up. You could walk around with a degree, but if you do not have the knowledge, it will come out and will be seen.

This is what is being seen in this particular Statement that is being sought. You cannot address the question of health, but you are just masquerading, moving around, disrespecting people and saying that for the people of Nairobi---

I know this is just one issue but if the Senator for Nairobi was here, he would be speaking about the increase of garbage that is all over Nairobi. Additionally, somebody is making a joke that the dimples of the Governor of Nairobi are deep enough to throw that garbage. People must be serious and accountable.

I do not want to say anything more than that. I want to stop it at that. Thank you very much.

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

Sen. Kathuri: Thank you very much, Mr. Speaker, Sir. I want to make a brief comment.

Since I am mentoring Sen. Oketch Gicheru to be a very good legislator, you do not support a Statement, you just comment. You comment either positively or negatively, but you do not support a Statement.

Mr. Speaker, Sir, I want to make a brief comment on a Statement sought by the Senator for Nakuru County. Since I have little know-how about science, I know heavy metals affect the brain and cause brain cancer at a very high speed.

In Lake Nakuru, we have one major problem of heavy metals as a result of pollution, especially industrial pollution. There is a lot of pollution from the industries or factories in Nakuru, and that is why we have heavy metals in that lake.

What should be done by the Government as the Kenya Marine and Fisheries Research Institute has already declared there are heavy metals in that lake? I am getting

this information from the good Senator for Nakuru, who is aspiring to be the next governor. I can see she is overworking.

There is this recommendation by the Kenya Marine and Fisheries Research Institute, what is the Government doing to make sure that, that is implemented? The County Government of Nakuru should also protect its people and be accountable because the people in Nakuru belong to Nakuru County. Therefore, the Governor of Nakuru County should protect them.

Number two, because Lake Nakuru is under the Kenya Wildlife Service, (KWS), it should implement that advice by the Kenya Marine and Fisheries Research Institute.

Most of the boys access that lake because they are looking for food and they do not know whether there are heavy metals in the lake or the lake is clean. The boys are very innocent. When these KWS police shoot them, then they completely do not know what they are doing. Those people should be arrested and to me, this should not be a mere statement but should be a substantive question.

We should direct these questions to either the KWS, the Cabinet Secretary in charge of wildlife or even the Cabinet Secretary for Health or one of the cabinet secretaries. We must explore and see where we can fit this question.

I wish you could bring it as a question so that we can ask the Cabinet Secretary from the Floor of this House on what effort they are making. I know if we seek for statements, of course, they will go and write something and bring it to the Committee. However, when he or she appears here, we can get good statements from them and we can interrogate them.

Mr. Speaker, Sir, the National Environment Management Authority (NEMA), should also be held accountable. If there are heavy metals in the lake, why are they allowing pollution to take place in this Lake Nakuru?

Mr. Speaker, Sir, I also wish to comment on the statement made by Sen. Tabitha Mutinda.

County governments have greatly failed. Women are detained in our hospitals in this era by a Governor who was a Senator in this House and understands devolution perfectly. He served here for five years. I also served with him in the National Assembly for five years. Therefore, he knows and understands what should be done in the county.

The counties are almost stalling. Most of the counties are operating on autopilot. For instance, where I come from, we have high cases of cancer. I ask the Chair of the Committee on Health to give me a date to travel because we must go and see the situation. The Cancer patients are ailing in their homes. Tomorrow, my foundation will be looking at three cases in Igembe. The counties must work hard. These three departments of health, education, and agriculture should be devolved 100 per cent so that we can make sure that there is money in the counties.

What the governors are saying is that there is no money for health. They are saying the money is at the national Government. When you ask them about water, they will tell you regional water bodies have money, but they are operated from Nairobi. I wish one day we can directly give all this money to counties, so that governors can be accountable.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, the 30 minutes allowable under Standing Orders, more particularly Standing Order No.53(3), have long been spent. We shall therefore rest it right there.

Now, before I call the Majority Leader to make his Statement pursuant to Standing Order No.57(1), two Papers are supposed to be laid. There is a report by the Committee on National Security, Defense and Foreign Relations. Also, there is a report on the Ordinary Session of the Plenary Assembly and related meetings for the Forum of Parliaments of the Intergovernmental Conference on the Great Lakes Region that was held in Livingston, Zambia.

Proceed, Hon. Cheptumo.

(Interruption of Statements)

PAPERS LAID

REPORT ON THE FIRE AND RESCUE SERVICES PROFESSIONALS BILL, 2023

Sen. Cheptumo: Thank you, Mr. Speaker. I beg to lay the following Paper on the Table of the Senate today, 30th May, 2024-

Report of the Standing Committee on National Security, Defense, and Foreign Relations, on the Fire and Rescue Services Professionals Bill, 2023, (Senate Bills No. 55 of 2023).

I thank you.

(Sen. Cheptumo laid the document on the Table)

REPORT ON THE 14TH ASSEMBLY OF FP-ICGLR HELD IN ZAMBIA

Sen. Lemaletian: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 30th May, 2024-

The Report on the 14th Ordinary Session of the Plenary Assembly and related meetings of the Forum of Parliaments of the International Conference on the Great Lakes held in Livingston, Zambia from 15th to 19th April, 2024; on behalf of the Head of Delegation, Sen. Ali Roba, EGH, MP.

(Sen. Lemaletian laid the document on the Table)

The Speaker (Hon. Kingi): Thank you. Do you have another Paper to lay?

Sen. Lemaletian: I have a Notice of Motion on the same.

The Speaker (Hon. Kingi): You may proceed to give the notice.

NOTICE OF MOTIONNOTING OF REPORT ON THE 14TH ASSEMBLY
OF FP-ICGLR HELD IN ZAMBIA

Sen. Lemaletian: Mr. Speaker, Sir, I also beg to give Notice of Motion on the Report of the 14th Ordinary Session of the Plenary Assembly and related meetings of the Forum of Parliaments of the International Conference on the Great Lakes Region held in Livingston, Zambia from 15th to 19th April, 2024.

Mr. Speaker, sir, I beg to give notice of the following Motion-

THAT, the Senate notes the report of the 14th Ordinary Session of the Plenary Assembly and related meetings of the Forum of Parliaments of the International Conference on the Great Lakes Region held in Livingston, Zambia from 15th to 19th April, 2024.

On behalf of Sen. Ali Roba.

I thank you.

The Speaker (Hon. Kingi): Before the Senate Majority Leader takes the Floor, I have a Communication to make.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM GRACE BAPTIST ACADEMY

Hon. Senators, in the Public gallery, we have 20 students and five teachers from Grace Baptist Academy in Nakuru County, who are undertaking an education visit in the Senate.

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

I will allow the Senator for Nakuru County, hon. Tabitha Keroche, to extend a word of welcome under one minute.

Sen. Tabitha Keroche: Thank you, Mr. Speaker, Sir. I take this opportunity to welcome the students from Nakuru. I know that this is a good school. I would like to tell them to make use of this opportunity because during our time, we did not have the advantage of visiting the Senate and the National Assembly.

They should make use of the opportunity that they have to expand their knowledge. We wish them the best in their education and may they get what they came to learn. I wish them a bright future ahead of them.

Nakuru County is a county of opportunities. Let them feel welcome here. I look forward to seeing them before they leave. May God bless them.

(Resumption of Statements)

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The Speaker (Hon. Kingi): The Senate Majority Leader. Proceed to make your Statement pursuant to Standing Order No.57(1).

STATEMENT

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 25TH JUNE, 2024

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, pursuant to Standing Order No. 57(1), I hereby present the business of the Senate for the week commencing Tuesday, 25th June, 2024.

As hon. Senators are aware, in accordance with the Calendar for the Third Session, at the rise of the Senate today, the Senate will proceed on recess until Tuesday, 25th June, 2024. It is my hope that hon. Senators will take time to recharge and re-focus on the important tasks that lie ahead in Part Three of the Third Session.

The status of the legislative business before the Senate is as follows-

- (1) Forty-four Bills are pending conclusion in the Senate; of which 36 are at the Second Reading Stage while eight are at the Committee of the Whole stage.
- (2) Seventeen Motions are pending conclusion.
- (3) Seventeen Petitions are due for reporting by the respective Standing Committees.
- (4) Three hundred and sixty-eight Statements are pending before the respective Standing Committees.

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

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

I would like to point out that over the last seven weeks, the Senate considered and concluded on the following-

- (1) Six Bills were passed and referred to the National Assembly.
- (2) Eight Motions were adopted.
- (3) Five Petition reports were tabled by the Standing Committees on Energy, Health and National Security, Defence and Foreign Relations.

However, hon. Senators will note that the business before the Senate is still substantial. I would like to particularly single out Standing Committees and implore upon them to capitalize on the upcoming recess to conclude the business pending before them and to table reports thereon as required by the Standing Orders.

Upon resumption from the recess, the Senate Business Committee (SBC) will meet on Tuesday, 25th June, 2024 to consider the business for the week. The tentative business for Tuesday will include business not concluded from today's Order Paper as well as the business indicated in the Notice Paper that is appended to the Order Paper.

The tentative business for Wednesday, 26th June, 2024 morning Sitting, will include the Schedule of Questions as approved by the SBC as well as Motions.

The business for Wednesday, 26th June, 2024 afternoon Sitting will include business not concluded in the Order Paper for Tuesday, 25th June, 2024 and the following-Bills at the Second Reading stage-

(1) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023).

(2) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 49 of 2023).

(3) The Local Content Bill (Senate Bills No. 50 of 2023).

(4) The Co-Operative Societies (Amendment) Bill (Senate Bills No. 53 of 2023).

(5) The Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023).

(6) The County Oversight and Accountability Bill (Senate Bills No. 3 of 2024).

(7) The County Civic Education Bill (Senate Bills No. 4 of 2024).

(8) The County Statistics Bill (Senate Bills No. 5 of 2024).

(9) The Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024).

(10) The County Assemblies Pensions Scheme Bill (Senate Bills No. 14 of 2024).

Mr. Deputy Speaker, Sir, the projected business for Thursday, 27th June, 2024 will be business not concluded in the Order Papers for Tuesday, 25th June, Wednesday, 26th June and any other business scheduled by the Senate Business Committee.

I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): Clerk, next order.

BILL

First Reading

THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS
BILL (SENATE BILLS NO.19 OF 2024)

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

BILL

First Reading

THE COUNTY ALLOCATION OF REVENUE BILL
(SENATE BILLS NO.25 OF 2024)

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

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MOTION

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS
TO THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL
(SENATE BILL NO.9 OF 2022)

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, the National Assembly Amendments to the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022) be now considered.

I observed a few days ago that we are entering a very beautiful phase of our legislative journey. To the best of my recollection, this is the fifth or sixth mediation reports that I am moving before the House this year alone. I do not think my predecessors had such an honour. Things used to be different.

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

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

The fact that the two Houses of Parliament have come to appreciate the distinctive role of each other, and we now sit in mediation processes, complete, agree, and find common position and those reports are filed in both Houses of Parliament, is good progress. I must celebrate both Houses, the National Assembly and the Senate, for finding it within their space to close ranks and agree on the various issues. I like the new spirit.

One of the key things that I see in many of these Bills that go through a mediation process is, where there are instances where the Senate had been locked out of a legislative process or policy decision, where the reports were supposed to be taken to the National Assembly alone, I see our colleagues always include and say “Parliament”, instead of specifying one House.

Unless it is a constitutionally provided issue where the Constitution has limited its consideration, but on any other matter, so long as we have the opportunity, I believe this House has the brains and time. We love this country as much as our colleagues in the National Assembly. There are instances where the Constitution has provided limitation of the consideration only to the National Assembly or the Senate alone. So long as we are not constitutionally barred from considering any matter, I like the direction this House has taken.

There are few amendments that they have proposed after their mediation exercise. I am glad that they have acceded. Clause 2 of the Bill will now be ordinary definitions of the words like “Cabinet Secretary” and “licensing”. There will be deletions to be made.

Clause 4 is about the numbering. Then there is a New Sub-Clause, which state that, “a licensing authority shall, in considering an application for a license to carry out business which is ordinarily regulated by a professional body, undertake due diligence to ascertain whether an applicant is duly qualified and licensed to undertake such a business.”

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This is to ensure that we professionalize and observe these standards similarly across all our 47 counties. I like the fact that we are now standardizing the approach of these matters across all our 47 counties. Before this, there were counties which would set a process and other counties would choose a different procedure. Therefore, I like that.

Clause 5 is inserting words, which includes the new paragraph that will now read as follows-

“In consideration of a license, the applicant shall consult the relevant government entity responsible for standards in order to ensure that the high quality of goods produced, and services delivered are of high standards.”

It is the same thing that I was speaking about on standards and quality application.

There is a whole new definition of Clause 7 on policies. Many of the clauses including, Clauses 9, 10, 11, 14, 15, 17, and 20 are on the requirements from each of the county governments, the responsibilities of the CECM for that period, the members that will sit in that board, including representatives of the County Chamber of National Commerce.

I do not know if we have Sen. Seki in the House, but I know Sen. (Dr.) Lelegwe is the Vice-Chairperson of the Standing Committee on Trade, Industrialisation and Tourism. I challenge them that we need to standardize or perhaps give better legislation on how elections of the representatives for those chambers are done. If we are getting to the point where we are including members of the Chamber of Commerce into Government entities, then it means we must be serious in how elections for those chambers are done in those counties.

I do not know whether Sen. (Dr.) Khalwale knows the chairperson of the Kakamega Chamber of Commerce. Perhaps he might not know him. Given that he is a long-serving Member of Parliament, he knows everybody of means and the people that matter in Kakamega County. I hope it is not somebody who is irresponsible, but someone whom, when you include in Government agencies such as this board that is being set up for the licensing procedures, will represent the interest of business people.

Otherwise, if you do not standardize the elections and how people live, if it is just a kangaroo exercise where two or three hawkers meet and say that they have the ability to represent the business interest of every other person, forgetting about others that ply different trades apart from hawking, then we will find ourselves in a difficult situation.

On clause 24, the following words are being inserted on the definition of the specifications of what the respective counties will take into consideration. Those factors are the scope of the license, the economic considerations, regulatory costs, and so on.

Therefore, I thank our colleagues who served in the Mediation Committee for a good job. I am happy that the Senate and the National Assembly are finally agreeing and closing ranks on issues that are important to our nation. Previously, it was impossible. In fact, I recall that during my first days in this House, it was abnormal for a Mediation Committee to live to see their second meeting. Many of them would collapse at the first meeting. They would disappear and never meet again. However, we have come of age.

Yesterday, I tabled again the mediated version of the Division of Revenue Bill. I am told it took three meetings to unlock the deadlock. Even if it takes longer, so long as people sit down, talk, agree, and both Houses are able to accommodate and have the perspective of laws that we are making. This includes the interests of us that represent the

counties and those of our colleagues in the National Assembly who might represent other entities.

Therefore, I congratulate both teams that sat down in this mediation exercise. I urge our colleagues to support this exercise.

Mr. Speaker, Sir, with those many remarks, I beg to move. I ask the Senator for Kakamega County, the Senate Majority Whip, to second.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. This is the said Senator for Kakamega County, invited by the Senate Majority Leader to second the Motion. I agree and rise to do so.

Whereas, Senate Majority Leader has taken a fairly reasonable short time, but seriously speaking, this is a procedural matter. Being procedural matter, the good comments and the comments adding value that the Senate Majority Leader has spoken to, and which subsequent speakers might speak to, will come at the actual time of consideration.

I, therefore, support and second this Motion that the National Assembly Amendments to the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022) be now considered.

Mr. Temporary Speaker, Sir, I have been in the United Kingdom (UK) for 10 days. Like most parliamentarians in the Commonwealth, one never misses a chance to visit the two Houses of power in the UK, both the House of Lords and the House of Commons.

When I was there recently, I was happily reminded of how we transitioned from the old system to the bicameral one. I am glad of this, in keeping not only with the United Kingdom (UK), but also with the USA.

Mr. Temporary Speaker, Sir, just like the Senate Majority Leader said, we want to standardise these issues. We want to attract the right people into place using our common practice. To allay the fears of the Senator of Kericho, the long-serving head of the Chamber of Commerce in Kakamega County is a very respected man from Shinyalu by the name of George Musindi. I would love many other areas to have a man with those kinds of qualities.

With those many remarks, I second the Motion. I thank you.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, I have seen a good number of you with requests. I believe these requests are towards the Motion that has just been moved by the Senate Majority Leader. I will start by inviting Sen. Mungatana, MGH.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, may I pass because I think I have been given the wrong Motion.

The Temporary Speaker (Sen. Wakili Sigei): From my dash board, I have Sen. Oketch Gicheru. Senator, you have requested to speak to this particular Motion. Unless you pass as well? Sen. Methu?

Hon. Members, it appears there is no member who is interested in speaking to this particular Motion. In the circumstances then, I will direct that the mover proceeds to reply.

Senate Majority Leader, proceed to reply.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I thank you for this opportunity. I sympathize with the young Senator from Nyandarua. He wanted an opportunity to speak to this Motion because he is a man who is involved in many businesses across various counties. Therefore, this law affects him specifically.

However, allow me to reply on his behalf and say perhaps what he would have said, that this is great progress that you have made. I thank Sen. (Dr.) Khalwale for seconding this Motion that the mediation report be adopted. I appreciate them for their comments. I do not think there is much to say because you had already spoken on this Motion.

(Sen. Methu spoke off record)

Sen. Methu: Point of information.

The Senate Majority Leader (Sen. Cheruiyot): I do not mind.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Methu let me first confirm whether the Senate Majority Leader is willing to be informed by you, sir.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, you know I found Sen. Methu from Nyamakima where he was working as a trader. When you are doing any law on licenses, he knows this matter very well. Therefore, I shall do very well with his advice.

The Temporary Speaker (Sen. Wakili Sigei): Very well, Sen. Methu, proceed to inform the Senate Majority Leader.

(Sen. Cheruiyot's seat broke)

Sen. Methu: Sorry to the Senate Majority Leader. Metaphorically, I once heard that in my county where the then powerful Minister for Finance came from; on one of his trips, the flag of his car fell off and it was an indication that his days as Minister were almost coming to an end.

I imagine that it is not the same for the seat of the Senate Majority Leader. Without running the risk of being seen to contribute, I wanted to inform the Senator because he is now at the point of replying.

As a person who deals with small-scale business and him dealing with big businesses, I have this very small comment to make. I want to---

The Temporary Speaker (Sen. Wakili Sigei): Is it a comment or a point of information? Proceed to inform the Senate Majority Leader.

Sen. Methu: It is not a comment. I am informing my elder brother from Kericho County. First, this mediated version is giving birth to a law, that will become a solution to some of the very pertinent issues that are serving but hurting our people. He was actually on that point when he was contributing.

Case in point, for the last about three, to five weeks, there has been a big physical battle between traders in Nyandarua and the county Askaris. This is because the traders are accusing the Nyandarua County Government of raising their licenses fee over 100 per cent.

Now that we are passing this to become law, it will bring uniformity, sobriety, and eliminate a small route that has been used by finance committees in the county assemblies and executives that send these memorandums. This is where they get a small clique of people to conduct public participation and when you ask the traders if this public participation was conducted, no one can stand up and say that it happened.

Out of about 1,000 registered traders in Ol Kalou, less than 15 participated in the public participation of the Finance Bill. The Bill is now a matter that has gone all the way to the Ol Kalou High Court, where orders have been issued against traders paying the new licences.

Mr. Temporary Speaker, Sir, when we get a County Board that will rely on regulations that will even come from the Cabinet Secretary in the National Government, the same parameters that are being used in Lamu County can be borrowed. A business in Lamu County will have some similarities to a business in another place. I do not want to say anything more because I was informing the Senate Majority Leader.

I am sure Sen. Cheruiyot, is just about to reply, but is a bit engaged. I know he has have benefited largely from my legendary wisdom and knowledge. He can now reply.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cheruiyot, proceed to conclude on your reply. I believe you have been informed.

The Senate Majority Leader (Sen. Cheruiyot): I am not sure whether I have been informed or misinformed. However, it is always good to learn. Therefore, with those many remarks, I beg to reply.

Mr. Temporary Speaker, Sir, in accordance to Standing Order No.66(3), I request that you defer the putting of a question until a later date.

(Putting of the Question on the Motion deferred)

The Temporary Speaker (Sen. Wakili Sigei): Next Order. Hon. Senators, we will have to rearrange the Order Paper so that we progress with the business that is ready for transaction. Therefore, Order Nos. 11, 13, 14, 15 and 16 are deferred to the next sitting.

BILL

Second Reading

THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL
(NATIONAL ASSEMBLY BILLS NO.44 OF 2023)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE GAMBLING CONTROL BILL
(NATIONAL ASSEMBLY BILLS NO.70 OF 2023)

(Committee of the Whole deferred)

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COMMITTEE OF THE WHOLE

THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL
(SENATE BILL NO.9 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE TEA (AMENDMENT) BILL
(SENATE BILLS NO.1 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.2 OF 2023)

(Committee of the Whole deferred)

The Temporary Speaker (Sen. Wakili Sigei): Clerk, proceed to call the next Order.

BILL*Second Reading*

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL (SENATE BILLS NO.40 OF 2023)

(Sen. Kibwana on 28.5.2024)

(Resumption of debate interrupted on 28.5.2024)

The Temporary Speaker (Sen. Wakili Sigei): This Bill was moved by Sen. Kibwana. At the time the House rose, Sen. Tobiko had 16 minutes to conclude her submissions. I do not seem to see Sen. Tobiko in the House. Therefore, I will pass.

There are requests by Sen. Mandago, Sen. Eddie and Sen. Orwoba. I do not know whether you desire to speak to this Bill as well.

(Sen. Mandago spoke off record)

Fair enough. I will therefore ask Sen. Kibwana, who is the Mover of this Bill, to reply.

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Sen. Kibwana: Mr. Temporary Speaker, Sir, I appreciate my colleagues who contributed to this Bill. I took note of every contribution that they made.

I relate to Sen. Mumma's contribution on the need to put in place a system so that Kenyans are not defrauded by the Government. There is also need to allow digitization to be left squarely for people using the system.

I also appreciate Sen. Mungatana because he spoke about automated system and criminal liabilities. He said that there should be no limitation for bribes.

I thank you, Sen. Cherarkey, for your hearty contribution. It was quite handy. I also appreciate Sen. Tobiko. She commented on having the necessary capacity building to cure all county issues. County assemblies are the first respondents when it comes to oversight. Therefore, the Intergovernmental Relations Technical Committee (IGRTC) labouring function to county governments is necessary.

My very able chairperson, Sen. Eddy Oketch, also had a lot to discuss on this one.

Mr. Temporary Speaker, Sir, since I took note of all the contributions on the PFM (Amendment) Bill, I do hereby reply and request that the putting of the question to be deferred to a later date.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Kibwana. Division on this particular Bill is deferred to the next sitting, pursuant to Standing Order No. 66(3).

(Putting of the question on the Bill deferred)

Hon. Members, I will further rearrange the Order Paper, so that we have the Motion by Sen. Cheptumo, which has been pending for a long time. Clerk, call out that particular Order so that Sen. Cheptumo can prosecute it.

MOTION

DECLARATION OF CATTLE RUSTLING AND BANDITRY AS A NATIONAL DISASTER AND ESTABLISHMENT OF A FUND FOR VICTIMS

THAT AWARE THAT, cattle rustling/banditry is a major menace and security threat in the South and North Rift regions and some other regions of the country.

CONCERNED THAT, the menace has since left irreparable and negative socio-economic impact which include but are not limited to increased number of widows, widowers, orphaned children, poverty, displacement of people leading to Internally Displaced Persons (IDPS), disruption of educational health programs and other economic activities owing to the destruction and/or closure of educational, health and other institutions.

FURTHER CONCERNED THAT, the people living in the affected regions have been denied the enjoyment of their social, economic and political rights as guaranteed to them under the Bill of Rights as enshrined in Chapter Four of the Constitution.

NOW THEREFORE, the Senate resolves that the National Government through the Ministry of Interior and National Administration and in collaboration with the Council of Governors:

1. Declares cattle rustling a National Disaster.
2. Establish a National Task force on cattle rustling/banditry to:
 - (i) Investigate the causes of the rampant cattle rustling and banditry in the said region and the Country at large.
 - (ii) Establishes the extent of suffering, loss and damage the cattle rustling/banditry has occasioned to the communities in all the affected counties.

(Sen. Cheptumo on 28.2.2024)

(Resumption of debate interrupted on 6.3.2024)

The Temporary Speaker (Sen. Wakili Sigei): Before this Motion was deferred, Sen. Murgor had a balance of six minutes. Since he is not in the House, I will therefore permit Sen. Cheptumo, who is the Mover, to reply.

Sen. Cheptumo: Thank you, Mr. Temporary Speaker, Sir, for giving me a chance to reply to this Motion. It has been on our Order Paper for a very long time. When I got indisposed, I was unable to finalise.

This Motion received overwhelming support from Members of this House. Out of all Members who spoke to this Motion, nobody opposed it. All Members who supported this Motion justified that banditry and cattle rustling have become a serious challenge of insecurity in our country.

Every Member supported that banditry and cattle rustling should be declared a national disaster. Some Members also agreed with the need to establish a Fund to facilitate compensation of victims of banditry and cattle rustling.

When moving this Motion, I demonstrated that this menace has caused a lot of suffering.

Mr. Temporary Speaker, Sir, we are talking about several Kenyans in seven counties, that is, Baringo, Elgeyo-Marakwet, Turkana, West Pokot, Isiolo, Marsabit, and even Laikipia who have become Internally Displaced Persons (IDPs) in their own land; not because they do not have somewhere to stay, but because they have been evicted by force.

The socio-economic and political rights guaranteed by the Constitution have also been denied to the Kenyan people affected by this menace. Schools, hospitals and all other social amenities have been destroyed.

I was able to justify population displacement when moving this Motion, So, my aim today is to reply. I also explained to the nation and this House why this menace of banditry and cattle rustling is a national disaster.

Mr. Temporary Speaker, Sir, in replying to this Motion now, allow me to say that when you look at the national policy for disaster management in Kenya, it defines disaster as; a serious disruption of the functioning of a community or society, causing widespread human, material, economic and environmental losses, which exceeds the ability of the affected communities to cope using its own resources.

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Therefore, three questions arise: has cattle rustling caused a serious disruption of the functioning of the community or society? The answer is yes, in fact, a big yes. Two; has cattle rustling caused widespread human, material, and economic loss and suffering? Again, the answer is in the affirmative. Thirdly, does the suffering caused by cattle rustling exceed the ability of affected communities or society to cope using its resources? Yes, because the affected communities have tried their best to resist and fight, but they have not been able to because they are unable to use their resources to cope.

I therefore have been able to justify to the House that indeed, cattle rustling should be declared a national disaster.

Mr. Temporary Speaker, Sir, as I conclude, five regimes have not been able to sort out this problem. As I said, cattle rustling started in 1977, particularly in Baringo North, when my village, Kalabata, was raided. I was in primary school at that time.

At that time, Mzee Jomo Kenyatta was the Head of State. President Moi took over one year later and this menace persisted throughout his leadership of 24 years. He tried his best, but he was unable to sort out this problem. President Kibaki then took over for the third regime in our country. He tried his best, but he was unable to.

Then, Uhuru Kenyatta, came in. He also tried his best, but he was unable to. Finally, now we have President William Samoei Ruto, the fifth President of the Republic who is trying his best. He declared that he would sort out this problem.

I am very hopeful and optimistic that, due to the commitment we have seen so far, the Government of William Ruto will indeed be the Government that will sort out this problem. I thank the President because he has made this public and put in place certain measures that I do not want to disclose here. I believe that when all these structures and efforts are implemented, we will have this problem come to an end.

Mr. Temporary Speaker, Sir, finally, recently we lost our Chief of Defense Forces (CDF) and 12 other Kenya Defense Forces (KDF) officers in a plane crash. If cattle rustling and banditry never existed in the country, maybe we would have our CDF alive today. The blood of our late CDF, our soldiers who perished in the same plane crash, the police officers and the Kenyans shed during this time, should inspire us to make this issue a serious national disaster.

The CDF and the other staff were going to oversee the reconstruction of schools that were destroyed by bandits and visit the KDF officers who are dealing with this situation in the North Rift. Therefore, we are talking of a situation where even our CDF lost his life because of this menace.

I appeal to the House to rise to the occasion and pass this Motion. When the House passes this Motion, I appeal to the Cabinet Secretary for Interior and National Administration to implement it because it is worth doing so. I also thank him for the effort he has made.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, what is your point of order? Sen. Cheptumo, please resume your seat.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I know you are finishing. However, under Standing Order No. 105, I do not know what the senior meant by saying that the CDF died because of this menace. I wish he rephrased and said: He died because he had visited there to fight cattle rustling so that, there is no confusion. You know it is a very sensitive matter.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Very well. Sen. Cheptumo, proceed.

Sen. Cheptumo: Thank you, my learned junior, Sen. Cherarkey. You are right. I think I had earlier said that our CDF was trying to visit the schools that were destroyed by the bandits and in the process, he lost his life together with the other officers. So, it is true that he died in the process of helping the situation.

Mr. Temporary Speaker, Sir, I had said that when this Motion is passed, I will appeal to the Cabinet Secretary for Interior and National Administration to implement it. I will never stop pursuing the resolutions of the House until we have a Fund established to compensate victims of cattle rustling.

I continue to stand with my people of Baringo County. As their Senator, I will use this Senate to advance our interest, which is security and solutions for this challenge.

I beg to reply.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, pursuant to Standing Order No.84 (1), I have determined that the matter does not affect counties. Therefore, I will proceed to put the question.

(Question put and agreed to)

Hon. Members, having concluded on that particular Motion, we will go back to Order No.18.

Clerk, please, call out that Order.

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL (SENATE BILLS NO.52 OF 2023)

The Temporary Speaker (Sen. Wakili Sigei): The Mover of this Bill is Sen. Raphael Chimera.

Proceed to move.

Sen. Chimera: Mr. Temporary Speaker, Sir, I beg to move that The Constitution of Kenya (Amendment) (No.2) Bill (Senate Bills No.52 of 2023) be now read a Second Time.

Let me begin by appreciating and thanking the immediate former Senator for Trans Nzoia for attempting to push through this Bill during the previous term of Parliament. Wherever he is, I assure him in a profound and special manner that his thoughts, vision, aspiration and ideology for this Bill are well captured by Sen. Chimera.

The success story of devolution cannot be underestimated. Devolution has tremendously transformed the progress of our society. I thank governors who are doing a good job. I know it is not all of them, but we have some who are doing a good job. I take this special chance and opportunity to congratulate them for a job well done.

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Today, as I speak before this House, the people of Mavirivirini, Kadzandani, and Mwavumbo in Kwale County are set to enjoy the first tarmac road in those particular localities since Independence, thanks to devolution. As I speak before you today, the people of Adu and Kamale in Kilifi County are enjoying proper healthcare services, thanks to devolution. As we use that yardstick to pour praise on our many governors out there, the same yardstick should be employed and used by this House in demanding accountability, transparency and oversight.

Mr. Temporary Speaker, Sir, this Bill seeks to amend Articles 99(2) and 193(2) of the Constitution, as well as Sections 24(2) and 25(2) of the Elections Act, to provide that a person who has served their full term as Governor shall not be eligible to be elected as Senator or Member of County Assembly (MCA).

I want to imagine that there is no serving governor who will want to seek the office of MCA. However, many of them currently serving their second term and will have served their full term by 2027 are desirous of running for the Senate.

As the leadership of this great nation, it is time we spoke to the reality of accountability and holding various officers in governance structures accountable. I shudder to imagine that a governor---

Mr. Temporary Speaker, Sir, permit me because what I am about to say might fly in the face of the principles of natural justice. We have a governor from Isiolo County who, for lack of a better word, has gone rogue. The same governor has refused to honour invitations and summonses by two committees that I sit in.

I shudder to imagine that they can serve their full term as governor and find it fit to seek election as senator. If they do not want to co-operate in the oversight process as governor, what can they do when they become Senator? We must be truly accountable to our people.

Mr. Temporary Speaker, Sir, those who will come on this Floor and perhaps attempt to oppose this particular amendment Bill will tell you one thing. I am thinking ahead of them. They will come before you waving the Constitution on your face and cite Article 38(3) that speak about fundamental freedoms and political rights. That is a conversation we should not be prepared to have for now as a country.

I am a lawyer by profession, and I understand the Constitution very well. I know that many opponents will think this attempt by Sen. Chimera to try and bar governors from coming to Senate is unconstitutional. However, I plead with them to read that same Article 38(3). For the benefit of doubt, perhaps I will read it for them, just to stress what it says.

It says-

“Every adult citizen has the right, without unreasonable restrictions-

(a) to be registered as a voter;

(b) to vote by secret ballot in any election or referendum; and

(c) to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.”

Mr. Temporary Speaker, Sir, they will use this particular in the Constitution as a carte blanche to advance the argument that this Bill is not fit. However, the literal reading of this Article has two words; “without unreasonable restrictions.”

This therefore means that if you intend to push through such a Bill, as I am doing now, the only recourse is to have that particular amendment excusable and justifiable in law.

This Bill, in my considered opinion, the proposed limitation that seeks to bar governors from running for Senate and our county assembly is reasonable and justifiable. This is because it is limited to the offices, which directly exercise oversight of our county governments.

With all due respect to my colleagues, I have tremendous respect for the Senator for Uasin Gishu, Sen. Jackson Mandago and Sen. Ali Roba. Equally, I also have tremendous respect, and, of course, I benefit from the very amazing wisdom of the Speaker of this House, who also served as a full term governor.

However, even if we pass this law today, it will not apply retrogressively. So, those Senators who are already sitting in this Senate as former governors have nothing to worry about. Then, the question is this. Out of respect for colleagues, in Swahili, we say, *kutohoa*. I will attempt to coin a new word. That “colleaguesm” we have in this House is impossible. It is impossible to allow a sitting Senator to come before any oversight Committee of this House to answer questions during his tenure as a Governor in his area of jurisdiction.

There is a Latin saying that says *nemo iudex in causa sua* to mean, ‘no one can be allowed to be a judge of his cause.’ Article 96(3) of the Constitution, if my memory serves me right, vests a lot of power and authority in the Senate to protect our counties and carry out oversight functions. I know there is an ongoing silent debate among us, as Senators, on how we intend to carry out this oversight function.

I do not want to go much into that because it is not material to this Bill. However, I just want to remind my colleagues that what we seek to do here is in the Constitution. Our mandate is just purely to oversight people who are in charge of the management of public funds.

I shudder to imagine that somebody who served as a full-term governor appearing before a Committee that he sits as a Member or he chairs to answer questions on misdirection, and misapplication of finances under his watch. There will be no conflict of interest in that Committee.

I have spoken to many people. The last conversation I had was with a colleague, a Senior Counsel (SC) in the profession. He asked me one simple question on why I am seeking to limit my future political choices. Without the fear of contradiction, even if, God willing, I become the governor of the great County of Kwale, I will serve my full term and then leave to serve the people of Kwale and Kenyans in another capacity, but not as a Senator.

In any case, all I am asking is to give us a cooling period of about five years, so that the Senate can look into audit issues raised against that particular county, in an impartial manner, without being afraid that it is a colleague who is supposed to answer those questions. At the end of the day, we will end up achieving real, tangible and results-oriented oversight.

I also wish to thank the Committee on Justice Legal Affairs and Human Rights (JLAHRC), of which I am a Member, for their time in going through this Bill. We took time to go to counties, especially Mombasa County for public participation to receive feedback from the people over this Bill.

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The people of Mombasa spoke loudly and clearly. I was shocked that the proposal was that if a governor serves his full term, he has no business even seeking the position of a village elder. That speaks to the need, as a country, to have a very honest conversation on how best to oversight our funds.

I am not doing this out of witch-hunt or the fear to compete fairly with our colleagues who are serving as governors, but out of the prosperity and the need to ensure there is proper accountability and transparency in the manner in which these funds that we passed here last week, get to the people of Kenya.

Mr. Temporary Speaker, Sir, with those many remarks, I beg to move and call upon Sen. Boni Khalwale, the bullfighter from Kakamega, to second.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. It is now 12 years since we promulgated the Constitution of Kenya, 2010. Not just promulgation but applying it in its current form.

We have had elections in 2013, 2017 and 2022, and soon, we are going to have an election in 2027. We would only be dogs if we have not learned any lessons during this period that we have applied.

I am one of the proponents of doing a total audit of the entire Constitution, so that where it has been good, we continue, and where it has been bad, we discontinue. During that exercise of discontinuing where it has been bad, we replace it with something better. Where it has been good, we make it even better. That is all that audit is supposed to do.

I, therefore, proudly stand in my place this afternoon to strongly support the proposal by Sen. Chimera.

If this Motion is carried, it will be a win for the youth of this country. Through their young colleague, they would have proved that if you send a young Senator to this House, they make a difference.

Secondly, it is going to be a win for integrity. Sen. Chimera has been looking for support up to now, including being elected for the first time. Nonetheless, because he has cut off the fabric of integrity, he is saying that he will put his foot down, so that integrity can have its place in the Republic of Kenya.

This is not a theoretical proposal. We already have a case where the current Governor of Bungoma has served for five years as a Speaker. This could happen. Number two, the current Speaker of this House is an immediate former governor who is serving. This is happening. Number three, Sen. Mandago and Sen. Ali Roba serve in the Senate. We are not in the realm of theory but reality.

Are you telling me that while Speaker Lusaka was sitting where you are with those immense powers, there were no questions of oversight arising from his tenure in Bungoma County? Are you telling me that there are no such questions emanating from the counties of Mandera, Uasin Gishu, and Kilifi? They are there.

Therefore, the only goodbye we can tell the four distinguished leaders I have mentioned is that nothing is personal when this law is applied. The principle of application will be the usual standards. You do not take laws backward, as the Mover of the Motion has said, which is the principle that governs lawmaking all over the world.

It is not possible for a report finding a sitting Speaker culpable in matters of integrity arising from his tenure in office when he was in his county to find its way on the

Floor of this House. We do not want to pretend. Number two, if that Senator moves on and becomes a chairperson of a committee, he cannot put his neck on the guillotine.

We are doing hygiene by making the integrity of a person who becomes a Speaker or a Senator higher than that of one of the wives of Caesar, as they say in literature.

Therefore, I request this House and, more importantly, the whole country that we must make this amendment. We would like integrity to be the standard in this country. I have a personal disclaimer to make. I have served this country faithfully for many years as a Doctor of Medicine, working in Nairobi, Kisii, Kakamega, and Mswabweni, where Chimera was born around the time I was practicing medicine. I have served in Mombasa County.

I have also served as a Member of Parliament and a Senator twice. God willing, I will have an opportunity to serve at another level. If the country can have that kind of confidence in you, then you owe them service and integrity.

I want to make it very clear that God willing, if I was to become the governor of any county in this country, and the great County of Kakamega in particular, that would begin my journey of exiting from politics.

There is no political hygiene when somebody is climbing to the highest seat in a county, and then starting to scramble back to compete with people who are now building their careers. It is tantamount to taking your child to a nursery school, kindergarten, primary school, or high school, and when the person is ready to go to the university, you tell them, “wait a minute, we want you to go back to Class Eight, so that you resit the exam.”

Mr. Temporary Speaker, Sir, the worst that could have happened is if the Mover of the Motion had said that they be barred completely. He is only saying they cool for five years, to allow any mess that might have taken place in the office to be sorted out.

With those many remarks, I strongly second this Bill.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I will call upon the Senators who have made their request to contribute to this Bill.

I will start with Sen. Cherarkey.

Sen. Cherarkey: Thank you very much, Mr. Temporary Speaker, Sir. This being the last day before we go for a short working recess in county visits, I want to say this is a very interesting Bill. However, from the onset, I oppose this Bill on only two fronts.

Under Article 38 of the Constitution on political rights and freedoms, I rise to oppose any way to limit unjustifiably anyone to run for any elective seat. The universal suffrage of democracy is very clear. If governors want to run for a Senate seat, so be it. If Senators want to run to be governor, Members of the County Assembly (MCAs), Members of the National Assembly, President or Deputy President, they can run for those seats.

In the upshot, if somebody today is a Cabinet Secretary and wants to run for Presidency, and the National Assembly has audit queries against him, should we prevent him or her? No, Mr. Temporary Speaker, Sir.

This Bill while it is noble, it undermines the freedom of rights. When you look at the limitation of rights and fundamental freedoms under Article 24 of the Constitution, then

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you cannot limit rights unjustifiably. Also, in Article 38 on political rights, there must be justifiable reasons as to why you deny a particular right.

Let governors have the opportunity to run for whatever seats they want. I saw the former Governor of Busia, Hon. Sospeter Ojaamong, ran for MP, Teso North Constituency seat. I know also a former Senator, the late Godliver Omondi, ran for an MCA seat. We should not fear political competition. Let the governors run for the seats that they want, including but not limited to the Presidency.

I know in a fair competition of politics, we must ensure the tenets of democracy under Articles 10, 38, and 24, that everybody has a right to run for any seats that they wish to run for. We should not limit it at any given time. We can never be a prescriptive nation and should not pass laws based on prescription.

Mr. Temporary Speaker, Sir, I sit as the Vice-Chairperson of the Senate County Public Accounts Committee. Let us assume that our committees function optimally, although, we have a challenge and we are aware that in this Parliament, the Joint Services has more money than the Senate. I am informed that as we go for this working recess, committees do not have even a penny or shilling to even visit the KICC to check on its status or that roundabout if it had a problem.

This is because the Joint Services has a lot of money than the Senate and the National Assembly combined, but we do not know what they do with that money. We wanted to do county visits. How can we have value if we cannot visit Bomet and look at the county projects?

How can we have value if we cannot go to Nandi and see the stalled projects that Gov. Sang is presiding over? How can we visit Mama Lucy Kibaki Hospital where mothers are detained after giving birth, but they are unable to pay the hospital maternity fees? How can we visit the Kisii Referral Hospital?

Mr. Temporary Speaker, Sir, the other day, courtesy of your office and allocation, we visited Isiolo and got firsthand information. We fought here and sent our Senators for mediation; we wanted to give counties Kshs415 billion and wanted value for that money. How can we be allocating counties Kshs415 billion, which was reduced to Kshs400 billion, and yet, we cannot have administrative resources to oversight the same resources and projects?

This is sad to many committees because they will not even afford water in their committee meetings or logistical support. We are not saying we be given resources to travel outside the country. We just need resources for committees.

This brings me to this other point. The reason Sen. Chimera has proposed in this Bill that former governors should not be senators is because of their audit reports. For example, there are former Senators who are now governors.

If we were to resource our committees such that by the time, the 2027 elections are done, the CPAC should have considered the audit reports of FY 2026/2027. The governor serving his second term, like the Bungoma Governor, can run for Senator and come here. That is the point we are trying to make here; that it is our own making. We are shooting our feet.

We cannot be saying that the reason we do not want governors to cool off for five years is because of audit queries and yet, our committees are being crippled. We are Parliament and we appropriate the money to other arms of the Government. We appropriate

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money to ourselves, but the Joint Services and Parliamentary Service Commission found it wise to keep money at the Joint Services, as opposed to giving money to the Senate.

Mr. Temporary Speaker, Sir, we should be discussing getting financial autonomy of the Senate and the National Assembly. Let them be given their own money to decide on what they want to do with it. We cannot be held hostage because some Joint Services somewhere sits and decides to have more money, and they cannot even fix a lift. You can wait for a lift for 30 minutes.

We are treating the symptoms and not the disease. Let the committees function optimally, so that we do not run around with Bills because we do not want people to run for seats. Let us fix and ensure that our committees function optimally.

The Governor of Nakuru was a county assembly Speaker. You can imagine if we had told the current Governor of Nakuru not to become a Senator or Governor. She was first a county assembly Speaker, became a Senator here and now, she is the Governor. If she completes her 10 years, she can still come back and become a Senator.

Mr. Temporary Speaker, Sir, we need to be careful on how we make laws. I would like to ask colleagues that we make laws that can be used on our worst enemies. Let us go and compete politically and not put obstacles. We should not fear political competition. We are serving in trust in these seats we were elected in, on behalf of others.

Even if you do not like somebody running against you because he is a governor, for your sake, you should prepare yourself politically. At the end of the day, we do not want to disfranchise voters. They should vote based on their belief on whom they want to elect.

The other aspect is that governments exist in perpetuity. Someone might say that an audit query may arise from a health or human resources department or a project when that person was a governor. Every Government, both the counties and national, exist in perpetuity. Therefore, we should allow the counties to exist in perpetuity.

The reason we passed the Assumption of Office Act is that in ending notes, one will hand over to the new governor assets and liabilities. In the Sessional Committees on County Public Accounts Committee (CPAC) and County Public Investment and Special Funds Committee (CPIC), we invite the sitting governors because governments exist in perpetuity. We grill and ask them questions, not based on their time in office, but on their predecessors' offices.

If they are culpable, the cure is in the Constitution. I hope Sen. Chimera is taking notes. Under Article 226 (5), personal culpability can be cured. If a governor misuses resources, like a number of them have, you invoke Article 226 (5), and they are taken to court and charged. The Constitution envisages what the Senator is trying to achieve by saying, "if you are elected a governor, and you misuse and abuse your office, you will be held personally culpable."

We cannot subject a person to principle of double jeopardy. If for example, Governor X runs for the Senate seat and the Ethics and Anti-Corruption Commission (EACC) are investigating him, when we come to Parliament and again subject him to the legal hurdle of not being elected, and there is presumption of innocence, we are subjecting those individuals to principle of double jeopardy.

They are saying that it is because of corruption in counties. How do we cure that? We make sure the National Assembly appropriates more funds to EACC to fight corruption. We do not need to come with a prescriptive law to prevent governors to go and

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cool off as we audit them. We should be giving more resources to the EACC even if they do not work. This is because it is a creation of the Constitution. It is us to give resources to EACC and Director of Criminal Investigations (DCI) to do their job.

I saw the other day Members of the National Assembly decided to increase their own money of National Government Constituency Development Fund (NG-CDF) from Kshs130 million. Out of their own selfish interest, they have added themselves Kshs30 million. So, Members of National Assembly through NG-CDF, will be getting Kshs160 million. Why then do we not give money to the EACC and DCI to have the capacity to fight corruption? That is what we are just saying.

I agree with the industriousness of our in-law because Sen. Chimera is our son-in-law in Nandi. We gave him our daughter with the necessary customary approvals. We are happy he is growing in stature and wisdom. However, on this one, he misfired with a lot of tremendous--- I wish he would have played the Russian roulette. On this one, he is firing blanks, no pun intended. The young people tell him, “*ni kufinish kumalo.*”

Take an example of the miracle Senator who is seated behind me, Sen. Thang’wa; the distinguished Chairperson of the Committee on Roads, Transport and Infrastructure, who is doing a fantastic job. He is the Senator who got the highest number of votes in the Republic of Kenya. *Njamba* of which area? He was a Member of the County Assembly (MCA) and people wanted to impeach him. You can imagine if this law existed, he would not have run to be a Senator of the great people of Kiambu.

I ask my brother, with all tremendous respect, can he withdraw this Bill and redesign it? I know the intentions and principles are good. Sen. Chimera is a good friend, although among Senators, he is not a so good a friend.

What we are saying is, can we negotiate so that the Senate does not appear like we are fighting any section such as Governors? People have started misinterpreting this law, saying that we are fighting Governors by preventing them running for office such as a Member of County Assembly (MCA) or Senate.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Chimera?

Sen. Chimera: Mr. Temporary Speaker, Sir, I rise under Standing Order No.105. Is the Senator for Nandi County in order to refer to me as being chair of a caucus in this House? I am not aware that I am a chair of any caucus.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, could you confirm which caucus Sen. Chimera chairs?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, the term ‘caucus’ is not defined in our Standing Orders. It is a meeting of like-minded individuals such as the Caucus of women Senators in this House. That is why he is laughing heartedly because he is leading a battalion. He knows the reason I do not want to go to details.

Allow me to conclude. The Senate should be listening to Solomonic wisdom, as I dispense it free of charge and on *pro-bono* basis. Let us not appear as if we are fighting Governors. Let us fight them based on audits and what they are doing with the Kshs401 billion that we are allocating to counties.

Mr. Temporary Speaker, Sir, I am sad. Can you believe the national Executive budget is Kshs4 trillion, yet we are only giving Kshs401 billion to counties, which is around 10 per cent? It is not even 15 per cent.

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Let us make laws that strengthen oversight. Let us ensure that the money going to Bomet, Nandi, Kisii, Kiambu, Lamu, Turkana, and Tana River Counties has value. This amendment to the Constitution is a threat that undermines individual political rights.

That is why I want to ask Sen. Chimera; if a Cabinet Secretary in the national Executive presiding over a Ministry wants to run for Presidency, will we say that because of his position, he cannot and has to wait for five years because we are still auditing that Ministry?

Mr. Temporary Speaker, Sir, Gov. Lusaka sat in your seat as the Speaker of the Senate, yet we were looking at his audit queries during his tenure. Speaker Kingi was also the Governor of Kilifi County. We are doing these things in good faith.

I know the Seconder said that as the Speaker they have the enormous power. I have sat in the Committee on County Public Accounts. There is no day that the Speaker of the Senate, as we considered Kilifi County audit queries, has called us to say he does want them to be looked at.

We are leaders and all is entrusted to us. I thank Sen. Chimera for bringing this proposal that is well intended, but as they say in the old words of governance and democracy, let the people decide. *Vox populi*. That is what Kenneth Matiba said. Let us not decide for the people. We must as a country push for more value in Kilifi County.

Peter Tosh in his reggae song stated that when you look outside the window, do you see anything to smile about? Even Lucky Dube said in one of his songs that if you are building more prisons than schools, then there is a problem in that society.

We should push for an equal society. We should also ensure that as the relocation in Mathare area is happening on the riparian land measuring 30 meters, we do not punish the *wananchi* living there, but the people who approve them living along the riparian lands in our cities.

I beg to reject this proposal and wait for the amendments. We shall either amend its skeletal version - not to ban anybody - or we reject it.

Mr. Temporary Speaker, Sir, with those many remarks, I oppose and reject in toto this Constitution of Kenya (Amendment) Bill. However, I will still buy Sen. Chimera a drink even after rejecting the Bill. He knows where to get me.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Gloria Orwoba, you have the Floor.

Sen. Orwoba: Mr. Temporary Speaker, Sir, I rise to strongly support this Bill by Sen. Chimera, not because I want to limit anyone's political career.

There is one thing we must start understanding. Every single industry that exists on this planet has rules and regulations, except politics. What we are trying to do as a progressive country is to create rules and regulations, so that people can take politics as a career such that when they grow up, they want to become politicians.

In that sense, I wonder why any sane legislator aspiring to be a governor can oppose that after two or even one term of being governor, which is the highest seat in a county, they want to bring themselves down to the Senate.

When you listened to the arguments that Sen. Cherarkey gave, they were premature. He talked of not imagining if Gov. Susan Kihika was limited because she was

a Speaker--- We even have a presidential term limit. That has nothing to do with opposing or limiting someone's political career. It is simply streamlining the political industry.

I have also heard people quoting our Constitution. However, they forget to highlight that particular phrase that says: "Unreasonable restriction." Is it not reasonable that we say, because of a conflict of interest, we do not want someone to serve as a judge? We have had former governors who somehow end up in committees that play oversight on their former administrations. Obviously, there is a conflict of interest.

There are former governors in this House. With due respect to them, we now have Sen. Ali Roba and Sen. Mandago. Sen. Ali Roba is the Chairperson of the Committee on Finance and Budget. There are a number of oversight activities that we are doing for previous administrations of county governments. He has to be a prefect of his former colleagues. Already, there is a conflict of interest.

The spirit of this Bill has nothing to do with limiting anyone's rights. It has everything to do with oversight and ensuring that those who intend to take up offices, governors particularly, understand that you are not going to be a governor then come to the Senate to cover up corrupt dealings that your administration was involved in.

I have gone through the Report of the Committee on Justice, Legal Affairs and Human Rights on the same. The Ethics and Anti-Corruption Commission (EACC) strongly supports this Bill. That is an indication that they also feel the pain in terms of how to hold these people accountable.

You have a former governor that was involved in corrupt dealings, who is now a Senator enjoying privileges of this House. One of the privileges is that they get to influence the spirit of oversight committees. How then does the EACC operate independently without any coercion and deal with a situation like that? It is difficult. Sometimes we put so many expectations on these independent bodies, but when you look at the arrangement of our politics, it is impossible to deal with corruption, this being one of the reasons.

Back to Article 38 of our Constitution, many people quote by saying that it talks about political rights and that there is what you can do and what you cannot, and what you must not take away from me in terms of political rights.

We are not saying that we are stopping former governors from vying, we are saying that just as we are talking about the term limits of the presidential or the gubernatorial candidates, we are putting a limitation. Immediately after your tenure as a governor, you cool off for five years. This is so that you do not have an opportunity to go to the Senate or the county assembly to meddle with the affairs of your corrupt dealings and interfere with the oversight arm.

Mr. Temporary Speaker, Sir, I have also heard Sen. Cherarkey say that we might say that governors are not immune to oversight after they leave office. Yes, we understand they are not immune. You can actively investigate a former governor through the processes of this oversight House by putting in petitions and having committees go in to look at the audits.

However, what we are saying is that the presence of that particular individual in that House during that time of audit and investigation is obviously going to affect the outcome in one way or another. Either, through intimidation, influence or whatever it is, in one way or another.

It is common sense that you are asked to step aside when anyone is being investigated, even in a public office. The reason they ask you to step aside is so that you do not meddle with the investigation. We do not want to get into a situation where we have former governors being investigated by certain committees in the House, as Senators, and we cannot legally ask them to step aside. So, we are trying to clean up that space to ensure that, in the event that there is any misappropriation of funds or corrupt dealings from these former governors, they do not participate in cleaning up their mess or influence the wheels of justice while in the Senate.

This Bill serves as a stopgap measure, so that we do not have conflict of interest. Obviously, you anticipate that if there is an allegation thrown to a governor sitting in the Senate at that time, the human outright defence mechanism will be for that governor to try and see how to defend themselves. They will go out of their way to ensure that they are found innocent by talking to their colleagues in the Senate, to try to explain things in their personal view. For example, they would try and state reasons as to why they did not use the money, so as to try and influence or coerce the committee Members, who at that time are actually their peers.

What we are trying to do is create a stopgap measure. Since we know you are human and we anticipate that you will try and influence the wheels of justice, we are serving you with this opportunity to ensure that you do not commit a further crime or sin in the eyes of the Lord.

We are putting you aside for those five years, so that you can cool off in the event that you have any oversight that needs to be done in your former government or administration.

I will point out one thing that many people do not see. In that sense, I know that the Office of the Attorney General and the Kenya Law Reforms Commission (KLRC) are not supporting but saying that this might conflict the Constitution. We are legislators; we amend laws and so many times, whatever is in the Constitution has been declared unconstitutional by the court.

So, what we are doing is nothing new. In fact, in this spirit of creating this five-year cool-off for governors, the argument from the Attorney General's Office is that, if you are going to carry out this kind of amendment to governors, it should not be specific only to governors.

In fact, I understood the feedback from the Attorney-General and the Kenya Law Reform Commission (KLRC). They are asking why stop a former governor from vying in the Senate? You should stop a former governor from vying for the Senate, which is the "Upper House" and the National Assembly, which conducts oversight that touch on county governments to some extent.

My understanding of the feedback by these two agencies is that they are almost encouraging us that it should not be limited that a governor who has finished their term should not only serve in the Senate, but also the National Assembly and county assembly for a period of five years. All these Houses perform the oversight function. Therefore, you cannot discriminate that particular limitation to just the Senate. I agree 100 per cent.

There was a question by Sen. Cherarkey on why target just former governors and not presidents or deputy presidents. Should they finish their term and be allowed to go to the National Assembly? Absolutely not. In fact, thank you, Sen. Chimera, for bringing this

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Bill because the more we talk about it, the more we realise it should not just target former governors. It should be extended to include former presidents, deputy presidents *et cetera*.

The basis of this Bill is to safeguard and act as a stopgap measure. Can you imagine a situation where you have a former president or deputy president deciding that their people want them to represent them as Member of Parliament (MP)? What will that mean in terms of oversight or conflict of interest in the event the administration of a former president or deputy president engaged in misappropriation of funds that were going to projects in a constituency or county?

Let us not be discriminatory towards governors alone. This should apply to everyone because we are trying to clean up politics. It should apply to any political seat that poses a conflict of interest. President and Deputy President are political seats. Do not assume that the deputy president will not go back to Mathira to vie as an MP. Our Constitution allows that.

If we propose that former governors should have a five-year cool-off period, the same should apply to former presidents and deputy presidents and it should not just be limited to the Senate, but also the National Assembly and county assemblies. I dare say that they should also not become Speakers because all these seats are political, and they play oversight role.

Sen. Chimera has just scratched the surface and opened a can of worms. Whether we want to ignore this because some of us--- I know that Sen. Cherarkey is going to vie for governor of Nandi. He is actually younger than me. I am sure he has foreseen that he may serve one term. I am sure that the sentiments he brought to the Floor of the House are because he knows that after five years, he will need to go back somewhere in the political arena. That means he will either come back to the Senate or the National Assembly.

It is not that he is not a political heavyweight. In Nandi, you expire as a politician at the age of about 40. Nandi is one of the counties that has youngest legislators. At 40 they start looking at you as an old wiseman, who should go to the Senate.

I am pretty sure that Sen. Cherarkey knows that he can only serve one term in Nandi as a governor. Therefore, he has to oppose this Bill because if it passes, after his one term starting 2027, he will expire after five years. If you are not too young after a five-year cooling period, you automatically fade out of the political scene. I was empathizing with him when he was giving his sentiments because it was more from a selfish perspective.

Having said that, I thank Sen. Chimera, for having the balls and the courage to bring this to the Floor of the House. This House is very intimidating. I thank him for deciding that he will go forth with this, whether or not he will be supported. You have my support. This is a good idea and I hope we see it to fruition.

Thank you, Mr. Temporary Speaker, Sir.

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

Sen. Thangw'a: On a Point of Order, Mr Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): What is your Point of Order, Sen. Karungo?

Sen. Thangw'a: Thank you, Mr. Temporary Speaker, Sir. I know Sen. Orwoba just used the "B" word. I rise pursuant to Standing Order No.110 to move that this important Bill's debate be adjourned to a later date. I believe that we have heard those who have contributed today.

We have got two sides of the coin. I think by adjourning this debate, you allow us to consult further. Remember, as we go on recess, we are going back to our constituencies. We will ask our people questions, so that when we come back, we can make an informed decision. We will give our people's views on how we will correct it.

So, I urge that the debate now be adjourned until a later date. I invite the Senator of Busia, Sen. Okiya Omtatah who is a good friend and a fellow Catholic to second me.

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

Sen. Okiya Omtatah: Sen (Dr.) Khalwale, for your information, I am more Catholic than the Pope.

Mr. Temporary Speaker, Sir, I rise to second this Motion of adjournment because the matter we are dealing with concerns an amendment to the Constitution. It is an extremely weighty matter that demands that the House be full, and everybody be given a chance to contribute to it. Also, as my friend, the Senator of Kiambu has said, people should go home and reflect.

We have heard the opening shots on both sides. We need to go and digest them, then come back here with big guns, so that we can do justice to the Motion.

Therefore, I second.

The Temporary Speaker (Sen. Wakili Sigei) Thank you, Senator.
Hon. Senators, I find merit in the Motion.

(Question, that debate on the Bill be now adjourned proposed)

I will allow three minutes for Members to debate on this request on the Motion.

(Question, that debate on the Bill be now adjourned, put and agreed to)

Now, having had that debate adjourned to the next sitting, we will rearrange the Order Paper and deal with Order No.32.

Clerk, Call out Order No. 32.

MOTION

ADJOURNMENT OF THE SENATE PURSUANT TO THE APPROVED CALENDAR FOR THE 2024 SESSION

The Temporary Speaker (Sen. Wakili Sigei): Majority Whip, are you moving this Motion?

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Proceed.

Mr. Temporary Speaker, Sir, I beg to Move-

That pursuant to Standing Order No.31(23) the Senate adjourns until Tuesday, 25th June, 2024.

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Standing Order No.31 states that-

“(1) Except for the Session commencing immediately after a general election, regular Sessions of the Senate shall commence on the second Tuesday of February and terminate on the first Thursday of December.”

In Standing Order No. 31(3) –

“(3) Subject to paragraph (1), the Senate shall continue to be in session and may adjourn for such number of days as it may determine in its calendar.”

Our Calendar is determined, and it shows that we should go on recess and resume on 25th June, 2024. I, therefore, move that we adjourn and request that the Senator for Tharaka-Nithi, the distinguished Sen. Gataya Mo Fire, second this Motion.

Sen. Gataya Mo Fire: Thank you, Mr. Temporary Speaker, Sir. I stand to support, and Second the Motion moved by the Senate Majority Whip.

We have had a marathon engagement as a House since January. We have transacted crucial business for this House. It is high time that Members take a rest. Considering the fact that we have had torrential rains, which have caused havoc in quite a number of places in this country, it is important for us, as Members of the Senate, to crisscross the counties and check on the damages and create solutions for the problems caused by torrential rains.

I congratulate the Senate Majority Whip for moving the Motion. I also congratulate the entire membership of this House for having diligently committed themselves to the business of this House.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Gataya Mo Fire, you are meant to Second the Motion. If you need to contribute further to the debate on adjournment, do it later.

Sen. Gataya Mo Fire: Thank you, Mr. Temporary Speaker, Sir. I am well guided. I Second.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I will invite Members to contribute to this Motion of Adjournment. I will start with Sen. Mungatana, MGH.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, I rise to support this Motion. As I always say, the independence of this House was earned. People imagine that we just go and come back. In the Constitutional history of this country, we were there when the President had absolute power.

If something is happening in this House that the President does not like, he had the prerogative to dissolve this House. If it was a Motion or a Bill that he did not like, he had the prerogative of dissolution of Parliament. Members who have been elected would be sent home until the time the President sees fit that they should come back.

We should not take this for granted. We should remind those who are new that we have come a long way. The Senate can now set its timetable, free from the clutches of the Executive. We should not take it for granted that, as a House, we are independent and can set our timetable, consult and come back when we can continue with the business of this House.

Mr Temporary Speaker, Sir, as we go to our various counties, I take this opportunity to say how grateful I am to the people of Tana River for having elected me and all the contributions and for the wonderful people that we have met here.

I know very many of us have been going over the weekends, but now we have a longer opportunity to consult. We shall look at the issues that are facing us and one of the major issues facing our county includes the challenge of floods. As I speak, we have people who are still in camps and it has been a very difficult time.

At some point today, I had wished to speak on a Statement concerning water scarcity. Can you believe that people's dwelling places have been flooded, pushed into camps, and there is no water in the camps? It is a very interesting situation where the Tana Water and Sanitation Company is not doing its duties. They are not doing what they are supposed to be doing, and people continue to suffer.

As we go for recess, we also need to think about the business that we have left here. I had hoped for an opportunity to speak to the Motion, but as we agreed, we are joining so that we can reflect more. I would invite my colleagues to reflect on this issue.

The 27th President of the US, His Excellency William Taft, served his presidency, and then he went back to Tennessee and was elected as the Senator for Tennessee. The people wanted him to serve. So, let us go and think about it. You and I may not want that Senator who was a governor to come and serve here. However, let us reflect. What about the people? Why are we only talking about ourselves here? Why should we limit the rights of the people? Let us go and digest this thing again.

Mr. Temporary Speaker, Sir, Bassirou Faye, the President of Senegal, who was elected in place of Ousmane Sonko, the leader of the opposition, is so young and he will be serving. If he goes the way he is going, then Senegal will be shining. It is coming to the levels where Kenya is and I am speaking with the authority as the Head of Delegation to the Pan-African Parliament. I know what I am talking about.

This man is a celebrated person and he is only 44 years. Let us go and think about it as we go on this pending business. Can we say a governor who finished university, got elected and served his term, should not serve in the Senate or the National Assembly if his people want? Why wait for five years? Let us go and think about it, and maybe when we come back, we will be able to persuade each other.

Mr. Temporary Speaker, Sir, I am the one person who will always stand for the expansion of the political space and of the freedoms that we have so much struggled for. Scenarios where we were beaten in the streets and thrown around by a restrictive regime, to cramp that space and restrict those freedoms, then, I think I will invite colleagues to go and think some more. If governors want to run, let them run. Let the people decide.

If the Members of Parliament (MPs) want to run for the Presidency and so on, let us talk about an expanded space rather than a restricted space. I am just saying that as we go, we reflect on some of these issues that we have left here pending. Let us reflect on the pending business of this House.

With those remarks, I wish fellow colleague Senators, a happy short recess. We should be careful on the roads at this time, so that we can all come back here safely.

I beg to support.

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

Hon Members, I still have a list of three Members who would like to speak to this Motion. As you contribute, kindly be mindful of the time because of the colleagues who have queued.

Sen. Karungo Thang'wa?

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir. I also wish to support the Motion of adjournment of the Senate for the hon. Members of this House to go and replenish, rest, be with their families and their constituents. We need to know that good work ethics requires good resting ethics, remembering that I have a pending Bill here of holidays because I believe that those who work extra hard, require a day to reconnect with their families.

Despite calling this period of recess a break, it is not a break, but a time to engage the public and take stock of what is happening. We should go to our villages and talk to them. We should also talk with our governors because we need them to understand that devolution is dying from within.

Previously, we used to say that the national Government was killing devolution but, today, it is the governors are killing devolution. I can give an example of Mombasa where a Governor gave a roadside declaration and executive order that a particular crop or good cannot be sold in his county. They have no power to do that.

We should take this opportunity to go and educate governors as well. This is because no governor has the power to give an executive order that goes against any law or legal ethos. If the Governor of Mombasa wanted to ban *muguka*, he should have just told the MCAs to pass the law. However, the MCAs cannot pass such a law that goes against a national law.

Mr. Temporary Speaker, Sir, I am saying that this is a period of engagement.

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

Sen. Thang'wa: Mr. Temporary Speaker, Sir, because of time and the fact that the hon. Senator has contributed, I would like to be heard in silence.

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

Sen. Mungatana: Mr. Temporary Speaker, Sir, did I hear the Senator for Kiambu suggesting that a governor cannot ban, and in particular, the governors from the Coast region cannot ban *muguka*, or that the governors cannot take action to tame a habit that is killing a whole generation?

Did you hear the Senator suggest that what is existing as law cannot be changed? Are we now saying that the law is for man or the man is for the law?

When we were fighting for independence, it was said that the Constitution put the White man at the top and the Black man at the bottom. Are we saying that if a wrong---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mungatana, your point has been made. Resume your seat, so that Sen. Thang'wa can clarify on that. Take your seat.

Give Sen. Karungo Thang'wa the microphone.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, the hon. Senator misunderstood what I said. I said no governor can give a declaration that goes against the law.

I did not even comment on the goods that he is banning because the next time, you will hear a governor banning coconut in his county. You might hear another governor banning ugali in his county, or another one banning *mabuyu* or *korosho* in their counties.

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We are trying to say that if you are banning anything, ban it within the law. Use the law that is there.

Mr. Temporary Speaker, Sir, I thank you.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday, 25th June, 2024, at 2.30 p.m.

I wish you all a restful session.

The Senate rose at 6.30 p.m.