

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 8th August, 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 a quorum?

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

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

(The Quorum Bell was rung)

Hon. Senators, we do have a quorum now. Clerk, you may proceed to call the first Order.

PAPERS LAID

REPORT ON INQUIRY INTO THE LPG EXPLOSION IN MRADI, NAIROBI CITY COUNTY

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker Sir. I beg to lay the following Paper on the Table of the Senate today, 8th August, 2024-

Report of the Standing Committee on Energy on its inquiry into the Liquefied Petroleum Gas (LPG) explosion in Mradi Area, Embakasi, Nairobi City County.

I thank you.

(Sen. (Dr.) Khalwale laid the document on the Table)

NOTICES OF MOTIONSALLOCATION OF SCHOLARSHIPS AND BURSARIES
BY COUNTY GOVERNMENTS

The Speaker (Hon. Kingi): Is Sen. (Prof.) Kamar not here?
That Order is dropped.

(Notice of Motion dropped)

Chairperson Standing Committee on Energy, Sen. (Dr.) Khalwale, proceed to give Notice of your Motion.

ADOPTION OF REPORT ON INQUIRY INTO THE LPG
EXPLOSION IN MRADI, NAIROBI CITY COUNTY

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Energy on its inquiry into the Liquefied Petroleum Gas (LPG) explosion in Mradi Area, Embakasi, Nairobi City County, laid on the Table of the Senate on Thursday, 8th August, 2024.

QUESTIONS AND STATEMENTS**STATEMENTS**

RISE OF CYBER BULLYING IN KENYA

The Speaker (Hon. Kingi): Is Sen. Karen Nyamu not here?
That statement is dropped.

(Statement dropped)

MEASURES TO CURB THE SPREAD OF MONKEY POX

Is Sen. Karen Nyamu not here? That statement is dropped.

(Statement dropped)

OPERATIONS AT THE LAND REGISTRY OFFICE IN EMBU TOWN

Sen. Munyi Mundigi: 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 operations at the Land Registry office in Embu Town, Embu County.

The residents of Embu County recently contacted my office with complaints that the Land Registry office in Embu Town, Embu County has not been rendering effective service. The office is understaffed with only two officers who are said to be rarely available thus rendering the registry inactive.

In the Statement, the Committee should-

(i) Explain why the Land Registry office in Embu Town, Embu County is understaffed despite the high demand for service from the residents.

(ii) State plans if any by the Government to address the lengthy time taken by the officers working in this office and if there are any plans to deploy more officers to the registry to aid service delivery.

The Speaker (Hon. Kingi): The next statement is by Sen. Wakili Hillary Sigei.

STALLED AND ABANDONED AGRICULTURAL
INFRASTRUCTURE PROJECTS IN BOMET COUNTY

Sen. (Dr.) Murango: Mr. Speaker, Sir, on behalf of Sen. Wakili Sigei, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding stalled and abandoned infrastructure projects in Bomet County.

Several incomplete and abandoned infrastructure projects in Bomet County represent a significant waste of public resources and have deprived the residents of Bomet of services and benefits they rightfully deserve. I would like to highlight specific projects that remained incomplete or abandoned for between three to 10 years, leading to a substantial waste of public resources. They include the following-

(i) Ndanai Dam Water Project in Ndanai/Abosi Ward.

(ii) Aonet Water Project in Masese, Singorwet Ward.

(iii) Bondet Water Project in Bondet, Merigi Ward.

(iv) Oinopset Water Project in Kapsimbiri, Merigi Ward.

(v) Ondieki Water Spring in Kiplenjini, Kembu Ward.

(vi) Chebangang Water Project in Chebangang, Kimulot Ward.

(vii) Skutiet Water Project in Chesoen Ward.

In the statement, the Committee should-

(i) State reasons why each project has stalled, been abandoned, remained incomplete or is underutilized and outline measures and timelines for the anticipated completion or utilization.

(ii) Indicate the individual budgetary allocations, expenditures and payments made to the respective contractors and any pending payments. (iii) Table the minutes of tender awards, copies of tender advertisements and tender evaluation reports for each listed project.

(iv) Provide the Bill of Quantities (BQs) for each project and their current implementation status or development stage.

I thank you.

The Speaker (Hon. Kingi): The next Statement is by Sen. Kathuri, but I do not see him.

Sen. Cherarkey, you know you cannot have an audience because you have got some substantiations to make. You may proceed.

Sen. Cherarkey: Mr. Speaker, Sir, I request for your indulgence. You directed that I substantiate two issues, which include status of repair and installation of security system within Parliament. That was after the invasion of Parliament.

I wrote to the Director General (DG) of Parliamentary Joint Services (PJS) in accordance with Articles 34 and 35. I still request for your indulgence to get the information to firm up my substantiation when we resume from recess. Since the DG is yet to give me more information to firm it up, I beg for your indulgence so that when we resume from recess, I will give a solid and substantive response to the House.

If you allow me, I can table the letter that has been received in furtherance of my further clarification.

The Speaker (Hon. Kingi): Can I look at the letter before I give directions?

(Sen. Cherarkey approached the Chair)

Sen. Cherarkey, your request has been granted. You will substantiate upon resumption after the short recess.

I had called the Senator for Meru, Sen. Kathuri Murungi. Is there any Senator holding brief for him? If not, then that statement is dropped.

STATE OF HEALTH SERVICES IN MERU COUNTY

(Statement dropped)

Hon. Senators, we will now proceed to the Statement pursuant to Standing Order No.(57) (1) by the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 3RD SEPTEMBER, 2024

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.(57)(1) to present to the Senate the business for the week commencing Tuesday, 3rd September, 2024.

Mr. Speaker, Sir, I am not sure how accurate this Statement is in light of some breaking news that I just saw as I was walking into the Chamber. I am more than certain that despite my statement stating that we will be back here on 3rd September, I know that there will be business by statutory demand that we must conduct in the next seven days should you receive a certain letter, which I suspect Sen. Kathuri has gone for. That is why he is not in the House.

Be that as it may, Senators are aware that in accordance with the Calendar for the Third Session, at the rise of the House today, the Senate will proceed on recess until 3rd September barring the letter that I have just pointed to and also the fact that presently, the Inspector General of Police (IG) is being vetted by both committees of the Houses in charge of national security. I suspect their report may be ready way in advance. Therefore, there is a likelihood that the recess might be interrupted.

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

The Speaker (Hon. Kingi): Sen. Eddie, what is your point of order? I thought this was rather procedural for the Senate Majority Leader to give an update on the business of the House.

Sen. Oketch Gicheru: Mr. Speaker, Sir, Standing Orders of this House do not allow us to anticipate any debate. The Senate Majority Leader is anticipating some debate that he keeps on quoting. I am now confused about the statement that he is presenting.

The Speaker (Hon. Kingi): Sen. Eddie, thank God you have stated your problem, that you are confused. Please, have a seat.

(Laughter)

Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): That is unfair. I must defend Sen. Eddie.

(Laughter)

A major hallmark of Part 3 of the Senate Calendar has been the passage of resolutions of the current state of the nation. In the resolutions, a Motion that was debated here for the longest time, that was for five straight days uninterrupted. Members shared their thoughts on what needs to happen in this Republic.

There were two or three things that we requested as a House. The House resolved that we needed to send the resolutions that the Senate passed to both the leader of Azimio la Umoja-One Kenya Coalition, Rt. Hon. Raila Odinga and President William Ruto. I can confirm that was done.

What I am not sure is whether our various Committee Chairpersons have begun working on the resolutions that were passed by this House. There are specific assignments that we gave to the Committee on Budget and Finance, Committee on Justice, Legal Affairs and Human Rights, Committee on National Cohesion, Equal Opportunity and Regional Integration and Sen. Chute is here, and the Committee on National Security, Defence and Foreign Relations. I will be perturbed if our Committee Chairpersons do not respect our resolutions.

It is my sincere hope---

(Sen. Cherarkey stood in his place)

The Speaker (Hon. Kingi): Sen. Cherarkey, have your seat. You are out of order. You are contravening Standing Order No.117.

(Sen. Cherarkey resumed his seat)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, Sen. Cherarkey is smartly dressed today. I am sure this is not from Toi Market, which he claimed he shops from.

(Laughter)

A major hallmark of Part 2 of the Senate Calendar were resolutions that we gave to the various committees. Therefore, it is my sincere hope that these chairpersons will comply with the resolutions of the House.

Concerning the business of the Senate, the status of legislative business is as follows-

There are 54 Bills that are pending conclusion in the Senate, of which 42 are at the Second Reading, while 12 are at the Committee of the Whole stage.

There are 21 Motions that are pending conclusion, 20 Petitions that are due for reporting by the respective Standing Committees and 394 Statements are pending before the Standing Committees.

As Hon. Senators will note, the business before the Senate is still substantial. It was my hope that this afternoon we would raise the requisite number of delegations in order to conclude on most of this business. Unfortunately, I can see that we are yet to achieve that. It is my hope that before the rise of the House this afternoon, the Whips can work a bit harder so that we can reduce on the number of Bills that are pending before us.

I would like to implore the Standing Committees to capitalize on the upcoming recess to conclude on the business that is pending before them, including the resolution that I have just pointed out to on the state of the nation and the various committees that were mentioned.

Upon resumption from recess, the Senate Business Committee (SBC) will meet on Tuesday, 3rd September 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 this Order Paper.

Mr. Speaker, Sir, I had noted earlier that there are about two businesses that are likely to interrupt our recess, but I am sure your office will be communicating once that agenda is properly before you. Following the reconstitution of Cabinet today, the tentative business for Wednesday, 4th September, 2024 will include schedule of questions to the Cabinet Secretary as approved by the SBC as follows-

The Cabinet Secretary for National Treasury and Economic Planning, Hon. John Ng'ongo Mbadi, will be coming to respond to a Question by Sen. Sifuna on economic planning issues.

(Applause)

The Cabinet Secretary for Labour and Social Protection will be appearing to respond to a Question by Sen. Wakoli. The Cabinet Secretary also has a question from Sen. Cherarkey.

The Cabinet Secretary for National Treasury and Economic Planning also has a Question from Sen. Mumma.

The Cabinet Secretary for Roads and Transport has to respond to Question No.61 by the Senator for Kisumu County, Sen. (Prof.) Tom Ojienda Odhiambo, SC.

The Cabinet Secretary for Roads and Transport will also respond to Questions from Sen. (Dr.) Khalwale and Sen. Gataya Mo Fire; Question No. 62 to No.65.

Question No.66, 67 and 74 are to the Cabinet Secretary for Roads and Transport, the Hon. Davis Chirchir, from Sen. (Dr.) Murango, Sen. Tobiko and Sen. Joe Nyutu.

The Cabinet Secretary for Labour and Social Protection also has Question No. 85 from Sen. Kavindu Muthama.

The final one will be Question No.88 to the Cabinet Secretary Hon. John Mbadi, from Sen. Korir.

Mr. Speaker, Sir, the business for the week of 4th September, 2024, Afternoon sitting will include business that will not have been concluded in the Order Paper for Tuesday 3rd September, 2024.

There are various Bills that are at the Second Reading stage. I need not mention because a good number are before this House and Members know.

There are Bills that are at the Committee of the Whole stage, which include the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bills No.44 of 2023).

Mr. Speaker, Sir, you are aware that when this Bill was brought up the last time, there appeared to have either been a miscommunication between the Chairperson and the membership or something was not accurately reported.

At the SBC, the Chairperson had reported that the Standing Committee on Justice, Legal Affairs and Human Rights (JLAHR) was deleting all the clauses that the Senate found to be offensive and replacing them with our view on interpretation of Article 110 together with all contentious issues. That is the work that we expect from the Committee on Justice, Legal Affairs and Human Rights. I hope when we resume we shall consider this Bill.

There is the Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023) and the Fire and Rescue Services Professionals Bill (Senate Bills No.55 of 2023) that are also at the Committee of the Whole. There is also a Motion on the development of a policy and law for social risk management in infrastructure development projects in Kenya by Sen. Mumma. I hope that Members who have Motions on the Order Paper can lead in being present on many afternoons.

There are certain days that we have allocation of time to consider many of these Motions, but amongst four or five Motions that are in the Order Paper, unfortunately none of the sponsors are in the House.

The projected business for Thursday, 5th September, will include business not included in the Order Paper for 3rd and 4th September.

I thank you. I hereby lay the statement on the Table of the Senate.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Senate Majority Leader, before you resume your seat. With a lot of hesitation, this week I approved a statement by the Senator for Bungoma

County on pending bills. The reason I did that with a lot of hesitation is because the Senate had passed a Motion on how to handle pending bills.

As the Senate Majority Leader, what will be the best way forward? I remember that in the Motion, all the 47 countries were supposed to file a payment plan with the Controller of Budget (CoB). Has that been done? If it has not, what is the next course of action for the Senate?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I would suggest that the Senate, at a sitting of the Committee of the Whole, invites the CoB and the Cabinet Secretary for National Treasury. Those are the only two offices who can help us to review this matter objectively. As a matter of fact, there is a pending bills committee that was gazetted about two months ago. However, they have taken inordinately long to review the pending bills both at county and national level.

I agree with the findings of the Senate, that the matter of pending bills is perhaps greater than all these other crises that we are handling presently. Therefore, I propose that your good office facilitates the CoB and the Cabinet Secretary for National Treasury when we resume, so that we can amicably conclude on this matter in a very simple way.

Regulation 18 of the Public Finance Management (PFM) Act permits that the CoB enforces the implementation of budgets that have previously been passed. Therefore, they are duty-bound to commit before the House. Before any county government makes a requisition and is allowed to draw, they should show their commitment in compliance with the resolution of the Senate by sorting out the pending bills at their county. That way, we will be able to sort this. I thank you.

The Speaker (Hon. Kingi): Is it your request, Senate Majority Leader, that the CoB is summoned to appear before the Committee of the Whole to inform the House how far her office has gone in implementing the Motion as adopted by the Senate?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, that is the request, given that on the same day, the Cabinet Secretary for National Treasury, Hon. John Mbadi, will be appearing before us to respond to the Questions I have listed here. Since they will jointly be here, we can transact that business before he leaves the plenary.

The Speaker (Hon. Kingi): Before, I give directions, let me allow Sen. Olekina to make his intervention.

Sen. Olekina: Thank you, Mr. Speaker, Sir. It now behooves us, as a House, to find a solution to the issue of the Integrated Financial Management Information System (IFMIS). The County Treasury changes the payments at the last minute when they receive money from the CoB. Instead of just leaving this to the CoB, it is about time that we amend the PFM Act expeditiously.

The Senate Majority Leader knows that whenever an Act of Parliament is required to be amended, it can take place within two weeks. We should amend the PFM Act to ensure that the IFMIS system is an end-to-end system; such that once an expense has been entered, it comes out at the end of the IFMIS system.

Mr. Speaker, Sir, number two, this House is now being invited again to consider amending the Schedule of the County Allocation of Revenue Act (CARA) that has not been signed yet. I request that we also decide not to send any money to counties.

Whatever we will amend, we should look through Regulation 109 of the PFM Act to ensure that the schedule that we send to the CoB for releasing funds to counties

includes pending bills. We ring-fence it such that pending bills become the first charge of the account.

Mr. Speaker, Sir, I welcome the request by the Senate Majority Leader to call the CoB and the Cabinet Secretary here. However, we know that those two State officers are limited by law; it is us who can actually bring in solutions.

I beseech the Senate Majority Leader, together with the Chairperson of the Standing Committee on Finance and Budget to bring amendments to the PFM Act, to specifically deal with the issue of the IFMIS.

Thank you.

The Speaker (Hon. Kingi): Hon. Senators, the reason I pose this question to the Senate Majority Leader is because there must be meaning to whatever resolutions the Senate makes. Otherwise, then you will be making resolutions that will never give you the results that you intended when you were making them.

I suggest that the Committee on Finance and Budget do call the CoB and the Cabinet Secretary for National Treasury and Economic Planning to appear before that Committee. In that meeting, the Standing Committee on Finance and Budget should invite all Senators, so that you have an opportunity to engage both the CoB and the Cabinet Secretary on the resolutions that you made on this particular matter.

It is so guided.

Sen. Eddy Oketch, the Floor is open to comment on the statements that have been requested.

Before I open the Floor, I have three or so statements that are not contained in the Order Paper today. However, being the last day, I will allow. There is one by Sen. Samson Cherarkey, proceed.

Sen. Cherarkey: Mr. Speaker, Sir, I needed your guidance because the Deputy Speaker had also requested that---

The Speaker (Hon. Kingi): Okay, proceed to hold his brief and then you read yours.

STATE OF HEALTH SERVICES IN MERU COUNTY

Sen. Cherarkey: Mr. Speaker, Sir, the Deputy Speaker requested that I read on his behalf.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Health on the status of health services in Meru County following an industrial strike of health workers that commenced on 1st August 2024, which in turn has led to a total shutdown in the delivery of health services.

On 15th and 16th November, 2023, the health workers in Meru County conducted an industrial strike that was called off after a negotiated agreement was reached on 17th November, 2023, between the County Government of Meru and health workers' respective unions; the Kenya Medical Practitioners and Dentists Union (KMPDU), the Kenya Union of Clinical Officers and Kenya National Union of Nurses.

The health workers have accused the County Government of Meru of being non-committal and lacking good faith in implementing the 2023 negotiated agreement, thus calling for industrial strike.

The people of Meru are under imminent apprehension that the industrial strike may be prolonged as the parties involved have not shown any signs of conciliation to end the standoff.

In the Statement, the Committee should-

(i) State whether there are any immediate interventions to ensure that the health workers resume their duties to avoid cases of loss of lives and financial strain as the people of Meru have been left with no other option, but to seek health services from private health facilities.

(ii) Explain whether the County Government of Meru has initiated any progress to implement the negotiated agreements between the County and the Workers' Union and whether there are long-term plans to end the perpetual and perennial industrial strikes that have for a long time denied the people of Meru their constitutional right to attainable standards of health.

This is on behalf of Sen. Kathuri Murungi, Senator for Meru County and Deputy Speaker.

Mr. Speaker, Sir, with your indulgence, my two statements are as follows.

BRUTALIZATION OF PEACEFUL DEMONSTRATORS BY ARMED GANG IN KAPSABET TOWN

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a statement from the Standing Committee on National Security, Defense and Foreign Relations regarding brutalization of peaceful demonstrators by an armed gang in Kapsabet town.

On Tuesday, 6th August, 2024, the residents of Nandi County took to the streets of Kapsabet town in exercise of their constitutional right to demonstrate seeking audience with the Governor of the County to address concerns regarding accountability and transparency in county governance as well as lack of development in the entire county.

Regrettably, the residents were brutalized by a gang armed with crude weapons and batons, who purported to be protecting businesses from the demonstrators. Three people were injured and one lost a motorbike.

I, therefore, request the Committee to-

(i) Explain the circumstances under which the armed gang was able to roam freely and brutalize residents in Kapsabet town on Tuesday, 6th August, 2024.

(ii) Outline any disciplinary actions taken by the police officers and Nandi County security personnel who either deliberately or by negligence, permitted the acts of lawlessness within the town.

(iii) State the number and names of individuals who have been arrested and arraigned in court for disrupting peace, maiming and violently mugging peaceful residents who are going about their business within Kapsabet town on the same day.

(iv) Outline any steps taken to bring to book all other individuals who are responsible for recruiting and financing this armed militia gang within Kapsabet town.

Mr. Speaker, Sir, thank you, that was the only one.

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

PERFORMANCE OF TEAM KENYA AT THE
2024 SUMMER OLYMPIC GAMES IN PARIS

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Labour and Social Welfare regarding the performance of Team Kenya at the 2024 Summer Olympic Games in Paris, France.

In the Statement, the Committee should-

(i) Assess the performance of Team Kenya at the 2024 Summer Olympics Games that is fallen short of expectations in Paris, France, outlining any planned strategic changes by the Government to improve our overall performance of our teams in future.

(ii) Clarify whether sports psychologists, sports nutritionists as well as strength and conditioning coaches were part of the complement of supportive staff that traveled with Team Kenya to the Olympic Games and if not, explain why.

(iii) Outline any measures put in place to address mental health needs of the team whilst participating in the current and future Olympic Games.

Thank you.

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

STALLED AND ABANDONED AGRICULTURAL
INFRASTRUCTURE PROJECTS IN BOMET COUNTY

Sen. (Dr.) Murango: Thank you, Mr. Speaker, Sir. On behalf of Sen. Wakili Sigei, I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding, stalled or abandoned infrastructure projects in Bomet County.

Several incomplete and abandoned agricultural infrastructure projects in Bomet County represent a significant waste of public resources and have deprived the residents of Bomet services and benefits they rightfully deserve.

I would like to highlight specific projects that have remained incomplete or abandoned for between three to 10 years, leading to a substantial waste of public resources:

Menet Tea Buying Centre in Kembu Ward, Mogindo Potato Factory in Ndarawetta ward, Chemomul Tea Buying Centre in Chesoen Ward, Chemiriot Tea Buying Centre in Chesoen Ward, Morit Tea Buying Centre in Chesoen Ward, Kipsonoi Tea Buying Centre in Kipsonoi Ward, Mengwet Hay Store in Kong'asis Ward.

In the Statement, the Committee should-

(1) State the reason why each project has stalled, been abandoned, remained incomplete or is underutilized and outline the measures and timelines for the anticipated completion and /or utilization.

(2) Indicate the individual budgetary allocation, expenditures and payments made to the respective contractors and any pending payments.

(3). Table the minutes of the tender awards, copies of tender advertisement and tender valuation reports for each listed project.

(4). Provide the Bill of Quantity (BQs) for each project and their current implementation status on development stage.

Signed by Sen. Wakili Hillary Sigei, MP, Senator for Bomet County.

Thank you, Mr. Speaker, Sir.

Now, the Floor is open for purposes of contributing to the statements that have been requested.

Proceed, Sen. Muhammad Chute.

Sen. Chute: Thank you, Mr. Speaker, Sir. Let me first take this opportunity to congratulate the Cabinet Secretaries (CSs) who have been sworn in today.

Secondly, the Senate Majority Leader has raised an issue here. I want to notify him as the Chairperson of the National Cohesion, Equal Opportunities and Regional Integration Committee, that we have already invited the Public Procurement Regulatory Authority (PPRA) today. We had a meeting with the National Cohesion and Integration Commission (NCIC) today. We have invited the Public Service Commission (PSC) who have asked for more time.

Coming back to the statements, I want to contribute to the Statement by Sen. Kathuri. We have a problem in this country, mainly health issues. In Marsabit, health workers were not paid for almost five months. Interns were not paid for almost six months and up to seven months for some of them.

Last week, a lady called me from Marsabit. She visited a hospital in Moyale, where she was given a list for an inpatient that she was to admit in that hospital. In the list, she was to bring a water bucket, bar soap, one bed sheet, slippers, a pillowcase, syringes, surgical gloves and mattresses. In some instances, a patient will be asked to bring water.

Mr. Speaker, Sir, I urge the Senate to visit hospitals. We need to ask the Standing Committee on Health to organise for a programme of visiting hospitals. Let me give you an example. About two weeks ago, staff at the Marsabit Hospital were demonstrating. What will happen to the patients if the staff demonstrate because they have not been paid their salaries? In November 2023, the CoB released Kshs264 million to Marsabit County, but salaries have not been paid for that period.

I brought that statement and got a response from CoB that the money has been dispatched. That if they have not been paid, the governor should be questioned. We have a problem in our counties. I support that we need to do something on the issue of pending bills.

The people suffering out there are Kenyans. Some of them have borrowed money or even sold their properties. You will find somebody going to the hospital not because he is sick, but because of depression. I thank the Senator for Narok for bringing this issue to the Floor of this House. The Motion he has brought must be dealt with as you said, Hon. Speaker.

Finally, we need to have a conversation on what is supposed to be done to the counties. This morning, we had an opportunity to have the Director General of PPRA before us. He told us that there is a big problem with procurement in counties and even the national Government.

That is why we have pending bills. When they come and source for money, the money that is supposed to go to a particular contractor or supplier is diverted somewhere else. We need to have a conversation on this as a Senate that can curtail those counties. I request this House to take this matter of hospitals of counties very seriously.

The Speaker (Hon. Kingi): Hon. Senators, before I call the next speaker, there are two statements that I will allow, being the last day before we break off for recess. Sen. Cherarkey, you may proceed.

UNSOLD STOCKS OF TEA AT MOMBASA
AUCTION MARKET

Sen. Cherarkey: Mr. Speaker, Sir, pursuant to Standing Order No.53(1), I rise to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on the unsold tea totaling to about 41 per cent of Kenya-produced tea at Mombasa Market, which is over Kshs32 billion.

In the Statement, the Committee should-

(1) Provide details of all the unsold tea currently being kept at Mombasa Tea Market or Auction.

(2) State the reasons that led to over Kshs20 million kilogrammes of tea remaining unsold for several months after delivery, stating its freshness level.

(3) Explain the details of the stored tea in terms of the number of farmers affected across the country, indicating total cost of warehousing accrued and who will pay for the storage.

(4) State the impact in pricing of the tea auction in Mombasa caused by accumulation of unsold fresh tea.

(5) What actions have the Tea Board of Kenya (TBK) and Kenya Tea Development Authority (KTDA) taken to mitigate the problem and ensure farmers get their pay without delay?

Thank you.

The Speaker (Hon. Kingi): We go back to the Floor of the House. Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Mr. Speaker, Sir, thank you for giving me this opportunity to support the statement by the Senator for Meru County, our Deputy Speaker.

As indicated by the previous speaker, the Senator for Marsabit, we have a big problem in this country concerning health care services. However, before I come to that, allow me to thank the President of the Republic of Kenya, His Excellency, Dr. Samoei William Ruto, for overseeing the swearing-in of the broad-based Government today.

Allow me to declare that it is the beginning of the solving of many problems in this country. I can declare without fear of contradiction that from today, we are heading in the right direction and we are going to get a new Kenya. There are issues to be sorted out from this moment, but the longest journey starts with a single step and that step has been taken today.

Mr. Speaker, Sir, back to the statement, health care services require serious thought in this country. We cannot have a sick nation. We need healthcare service providers to be paid and the system to be well managed. This problem is not only in Meru County, but also in all other counties in this nation such as Nairobi City County, including Kitui County, where I come from.

The issue of demoralized healthcare workers is a serious thorn in the flesh. We need healthcare workers, doctors, nurses and physicians to be well paid. They need to

live in good environments, taken care of and appreciated for that special service they offer to the citizens of this nation.

Unemployment of qualified healthcare workers makes our qualified, very good brains move from our country and to seek for greener pastures elsewhere. We are lacking the same qualified healthcare workers that we require in this nation.

Mr. Speaker, Sir, as a recommendation for the new Cabinet Secretary for Health who was sworn in today, I hope she will take a bold step and initiate a process of establishing a health commission. I am encouraged that with a health commission, many issues affecting our health workers in the counties will be sorted out.

We will have an energetic health workers team and things will be sorted out. We will have a healthy nation by having good and qualified health service providers in this nation.

Mr. Speaker, Sir, with those few remarks, I support.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I will try to be quick.

On this issue of tea raised by Sen. Cherarkey, we share partly in the blame as a Senate. For about three months now, the Tea (Amendment) Bill (Senate Bills No.1 of 2023) has been at the Committee of the Whole stage. With the Chairpersons of the Standing Committee on Agriculture, Livestock and Fisheries being here, tea farmers are looking up to this House to resolve their issues. If we cannot find time to consider a Bill that is at the Third Reading for three good months, then what other business do we have in this House?

I plead that the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries takes this matter with the seriousness that it deserves. They should treat this matter better than we have treated the Tea Amendment Bill by Sen. Wakili Sigei. They perhaps need to visit Mombasa and establish the truth about that unsold stock of tea, so that this House can be properly guided.

Finally, is to come up with a long-lasting solution, I do not know whether there is a scientific connection between countries that have political hardships and consumption of tea. Many of our traditional markets from Iran, Pakistan, Sudan and now Bangladesh, are amongst the largest consumers of our black tea that we produce in this country. Therefore, when there are political upheavals in those countries, markets are affected and we have this challenge such as what is being experienced in Mombasa.

Consequently, the country must be guided on how to establish new markets for our tea, so that our farmers can continue earning from their sweat.

Lastly, in just under a minute, is to agree with Sen. Crystal Asige. The performance of Team Kenya at the Paris Olympics has been nothing short of heartbreaking. As a fan of athletics, I do not recall a time that we have performed as dismally as we have done in these Olympic games.

I know there are a few races that are yet to be concluded. At the risk of sounding racist, it broke my heart to see Kenya lose the 3,000 and 1500 steeplechase races. These are races that we have previously dominated and have come to be associated with Kenya as a Republic.

The new Cabinet Secretary for Youth Affairs, Sports and the Arts, hon. Kipchumba Murkomen, has his work properly cut out. We must guide the country in the

proper direction. While many of our athletes are talented and can make do despite our disorganization, the truth of the matter, whether we like it or not, is that science has caught up with talent. Other people have learned how to do this art, despite them not being as talented as our athletes are. They come into this country study, train with us in Iten and then they disappear in January, to practice back in their country for the final race at the Olympic time.

We must as well come up with better solutions on how to manage our athletes. This starts with how we treat these athletes. You saw what happened with part of our athletes in Team Kenya. Forget about how they arrived there. You should ask the athletes how they travelled. Many of them had long connecting flights, tired and not paid in due time. I hope this will be things of the past.

I agree with Sen. Crystal Asige that we must get to the bottom of this matter and reclaim our space as the world's leading athletic and sporting powerhouse.

I thank you.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir, for giving me this opportunity. First of all, I want to support the statement by Sen. Crystal Asige. The mantra in sports is that the success in sport is one per cent talent and 99 per cent perspiration.

I like the idea that the Senate Majority Leader put in place that science has indeed caught up with talent. This is a big lesson for us. We must appreciate that we are not investing so much on the perspiration side of this success. We are not investing in the right science and areas that we need to. We are just waiting for our sportsmen and women to depend purely on talent.

More than that, I also think that the evil of corruption has bedeviled our sports industry. It is always very heartbreaking when you see your own playing for the other team and succeeding very well. For instance, the young lady who won the Steeplechase for Berlin.

This is a serious Kenyan who has been denied opportunities to be able to perform for Kenya just because of simple corruption issues. These are issues that the new Cabinet Secretary must address in the Ministry and be able to allow truly talented people get the opportunity that they deserve.

I am extending this issue of opportunity to the conversation that has been brought to the Floor of this House by the wonderful Senator for Nandi, Sen. Cherarkey. I call him wonderful because for the first time I have seen him standing very strongly with the Gen Zs.

He has brought a very eminent issue of Gen Zs who go to the street to protest and then, whether organically or through some dubious means, some people organize to go and attack those young people in the streets in Nandi.

This is not a phenomenon that we have only seen in Nandi. We have also seen this phenomenon in Migori and Nairobi counties. We are seeing it becoming a serious pattern of attacking protesters and pitting Kenyans against Kenyans. This cannot continue.

We cannot sit as leaders and then we see people who come to the street to express themselves to show their discontent and then we devise a means of having Kenyans fight among themselves in the streets. It cannot happen.

I would want us to appreciate as a country that even if in the mind of some leaders that seems like a temporary solution, we must focus on medium and long-term solution, which has made the young people agitated in this country.

I hope that the Senate Majority Leader because he is also a young man in this House, can listen to this. Young people in this country are facing an economic problem and we must devise a proper solution towards it.

With the naming and confirmation of the current Cabinet Secretaries, I hope they will recognize that we shall not know peace in this country, if young people are still wallowing in the miasma of economic disenfranchisement.

It is very important that the Cabinet Secretaries who have taken charge of this country to start a proper engagement with areas that are able to create economic opportunity for young people. There has been this phenomenon of sometimes exporting labour and sending young people outside the country. I saw the other day the Prime Cabinet Secretary flagging off about 167 young people, who are going to be teachers outside the country.

There are serious industries in this country. I hope that the Executive would listen carefully to this and start budgeting for those areas so that they are not excluded on the basis of tribal or regional budgeting that denies some areas opportunity that can create employment for those areas.

One of those areas that I am very keen on is the lake region. I saw the former Governor of Mombasa County, currently the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs being sworn in. If you look at lake region where I come from, the immense potential of Lake Victoria in that area has not been tapped.

As I speak, the country is facing a serious shortage of fish. The market for fish in this country is 600 million metric tonnes, and yet, what we currently have in the country is only 200 million metric tonnes, out of which 80 per cent is allowed as a wild catch and 20 per cent is what people are growing in fish caging.

One of the two companies in Lake Victoria that are today doing proper stocking of fish farming is American. It is called Victory Farm. They are doing wonderful farming in that region, but they are not yet able to scratch the surface. That farm alone employs 1,000 young people. You cannot compare. GASPI Africa has done research in Lake Victoria and shown that the lake on the side of Kenya alone can produce up to 400 metric tonnes. This is worth Kshs120 billion, yet we are struggling to raise Kshs145 billion in the county, which we have cut in national budget on fiscal consolidation. Rio Fish in Lake Victoria is now employing over 40 young people directly and 200 young people indirectly.

Mr. Speaker, Sir, young people in this country will not be leaving streets anytime soon if we are not deliberate about solving the economic problems of young people in this country. As long as young people are hungry and do not have jobs and an income, they will still go to the streets.

I call upon the Cabinet Secretaries that got the jobs today, starting from my very good friend, Hon. John Mbadi and Hon. Opiyo Wandayi, it is time that you go there as experts and make sure that you dissect the economy and put in place projects that can allow young people to get jobs in this country.

Mr. Speaker, Sir, with those remarks, I thank you so much. I hope that we will look at the issue of economic empowerment of young people in this country.

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

Sen. Veronica Maina: Thank you, Mr. Speaker, Sir, for this opportunity. I support the Statement by Sen. Crystal Asige on the performance of the athletes in Paris. We have a bulging population of the youth in this country. The sports sector can be an answer to the current emerging issues that need to be resolved. The sooner the Ministry calls every county into account on what they are doing with sports, and add other skills that would impact on the lives and transformation of young people, the better it will be for our nation.

If we look at the national budget and how much is being divested towards dealing with sports and such activities, it will tell us the much concentration and attention that is being given to that sector. We have seen a lot of efforts in the management of sports. I have even seen the enactment of anti-doping laws, which appears to be a commitment towards bettering that industry.

Unfortunately, the way sports are being managed, especially athletics, has left a lot to be desired. We have certain officials who have refused to move out of their offices. They seem not to have a timeline within which they should serve and exit and allow other officials to come in. Could that be one of the issues that is ailing the sports management in Kenya?

If that is the case, as this statement is being committed to the relevant committee, it is high time we reassessed where our focus is in relation to the youth. This is one Ministry that can respond adequately to the needs of the youth. We have a lot of talent in Kenya among the young people, including football and basketball.

When we were in Kigali last year, we saw the kind of a stadium that has been built by Rwanda. What stops our nation from building such stadiums? Indeed, both the private and public sector should be dedicated and committing to developing this sector.

It worries every Kenyan a lot when a contractor has been awarded a tender to construct a stadium, and they do a very shoddy job. We had to go to our neighbour in Kigali, Rwanda, which is a much smaller nation than the Republic of Kenya to learn the kind of a stadium that another nation has put up, which attracts international youths. Why do we have contractors doing this? Do they not have mercy for Kenya?

Mr. Speaker, Sir, the private sector will have to reassess how they are engaging also with the Government. They should engage with a lot of integrity when it comes to procurement processes and the quality of work. They should start becoming proud of delivering to Kenyans something that is equivalent to the public resources being utilised for the procurement.

If we are dedicated to give a good percentage of the national budget towards such a Ministry, nothing stops this nation from having enough engagement of youths. The youths will feel that we are giving focus to them.

We are also very concerned about the tea that has been grounded at the auction in Mombasa. For very many years in the Republic of Kenya, tea and coffee has always had market. Indeed, our tea happens to be among the best products in the whole world. Kenyan tea is used to blend every other tea in many nations. We are one of the biggest suppliers of tea to Egypt. Even the Pakistani tea does not beat Kenyan tea.

If you want to know the quality of tea from Kenya, just go to United States of America (USA) and order for a cup of tea. You will wonder whether what you are drinking is tea or coffee. The only tea that can effectively blend any tea to become tasty is

from the Republic of Kenya. It then becomes very worrying that we have stocks of tea stuck in the auction in Mombasa. Whatever is happening needs to be resolved.

The Standing Committee on Agriculture, Livestock and Fisheries must look into that issue very urgently because the number of farmers who are waiting for that auction to unlock will be so many. It will cause many peasant farmers to continue increasing the poverty index as opposed to reducing it.

Mr. Speaker, Sir, with those few remarks, I support that statement on the tea which has halted in Mombasa on tea auction that has gone wrong. I hope that the committee will render solutions to the House.

I thank you.

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

Sen. Kinyua: Asante, Bw. Spika, kwa kunipa fursa hii. Mswahili anasema kipitacho rohoni kinapaswa kuonekana usoni. Seneta Beth Syengo ameongea kuhusu Rais wa Jamhuri ya Kenya na yeye anaonyesha kwa vitendo. Hii ni kwa sababu nikimwangalia, ninaona amevalia kofia ya chama kinachoongoza. Hata mkoba wake---

The Speaker (Hon. Kingi): Sen. Kinyua, if you have nothing to contribute on the statements that have been read, please, give a chance to your colleagues.

Sen. Kinyua: Mr. Speaker, Sir, I am still contributing.

(Laughter)

The good lady talked about what the President is doing. Therefore, I am in order to say what I was saying.

The Speaker (Hon. Kingi): Sen. Kinyua, refer to your colleague as an hon. Senator. We do not have good ladies or good gentlemen.

(Laughter)

Proceed, Sen. Kinyua.

Sen. Kinyua: Asante, Bw. Spika. Ninaunga mkono ile Taarifa iliyoletwa na Seneta kutoka Meru, Sen. Kathuri. Kuna mikataba kati ya gatuzi zetu na madaktari kuhusu vile ambavyo matibabu yatakua yakielekezwa. Mikataba hii ni kama haina faida ya kukamilishwa ama wale wanaandika hii mikataba hawana haja ya kukamilisha.

Ndio maana kila saa unapata kuna migomo katika hospitali zetu. Wananchi wa gatuzi zetu wanafanya vile inapaswa. Unapata mtu amelipia bima ya NHIF, lakini akienda hospitali, hakuna dawa.

Nikiunga Taarifa hiyo, saa zingine inafika wakati ninakisia vile wananchi wengi wa Kenya wanavyosema, kwamba ni vizuri afya ama matibabu irudishwe kwa Serikali Kuu. Gatuzi zimezembea kwa kazi zao.

Muhula uliopita, madaktari katika Kaunti ya Laikipia na Kirinyaga waligoma wote. Hakuna kitu kinaendelea kwa sababu ukiandikiwa dawa katika hospitali zetu, nimesikia Sen. Chute akisema unaambiwa uje na maji, sindano na kila kitu. Ni kama hospitali yenyewe ni jengo tu na wewe unapaswa kuja na kila kitu.

Bi. Waziri wa Afya aliyeteuliwa yuko na uzoefu kama vile Gen Z walivyosema. Sasa tumeteua daktari aliye na uzoefu. Sasa tunataka tumwone Dkt. Baraza akifanya ile kazi aliyoteuliwa kufanya angalau Wakenya wapate afueni.

Kuna Taarifa iliyoletwa na Sen. Asige. Nilitazama mashindano kule Paris Wakenya wakikimbia. Niliona msichana anayeitwa Yavi na aliyetoka Makueni. Nikiangalia mitandaoni, niliona Yavi akisema ya kwamba kisa na maana cha yeye kutowakilisha nchi yetu ni kuwa aliitishwa zaidi ya Kshs200,000. Hawezi pata pesa kama hizi. Lakini anaendelea kusema hata baada ya ufisadi ulio katika Wizara, alijikakamua na akaingia katika nchi ile.

Bw. Spika, ninajua ya kwamba, Mhe. Kipchumba Murkomen ambaye tumekuwa na yeye hapa na mwenye kupewa hio Wizara, atawajabika. Nilitazama nikijua sisi tutafuzu sababu hizo mbio kila wakati tumekuwa tukifuzu. Lakini, niliona wakimbiaji wa Kenya wakishindwa na wakimbiaji wa nchi zingine. Nilidhania wale watu wangetushinda katika ndoto, lakini sasa, ilikuwa ikitendeka.

Kwa hivyo, Waziri wa Afya na Waziri wa Michezo walioteuliwa, na kazi chungu nzima. Ningependa kumrudishia Seneta Syengo shukrani kwa yale ambayo amefanya na tunamwambia heko na aendeleo vivyo hivyo, kwa sababu, umoja ni nguvu, utengo ni udhaifu.

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

Sen. Sifuna: Mr. Speaker, Sir, in that very same breadth, allow me to support the Statement issued by Sen. Cherarkey. In my other capacity, I am the Secretary General (SG) of the Orange Democratic Movement (ODM), a party that has suffered the brunt of some of the things that Sen. Cherarkey is referring to.

There was a public confession one time by the former Senator for Nairobi, hon. Mike Sonko, on what they used to do in order to paint the ODM party as a violent party, whenever we would want to exercise our rights under Article 37. He revealed this culture of people hiring goons in order to disrupt peaceful protests or even to paint the peaceful protests as anything other than peaceful.

I was very alarmed to see those scenes in Kapsabet. I saw the same scenes in Kakamega and here in Nairobi. This is very worrying. I do not understand why you need to interfere with anyone's peaceful protests. There are seven days in a week.

If Sifuna wants to protest on Monday, you can pick Tuesday to be against or show support for what I stand for. What is even more worrying is that this happens in the full glare of the police and the security forces in this country.

It is very disturbing that if the Constitution requires anyone proceeding on a street or in a public space should be unarmed, then how can the police look at a group of people openly armed with *rungus*, clubs and other weapons, walking around in order to scare other people from exercising their rights under Article 37?

Mr. Speaker, Sir, we must condemn this and I am happy that even Sen. Cherarkey has gotten to a place where he can agree with the SG of ODM that this is not right and it needs to stop.

(Sen. Cherarkey spoke off record)

I am saying that I am happy and I support him. Nobody should fetter on any other person's right to peacefully protest. It does not matter what your cause is. I do not have to agree with your cause. If I do not agree with your cause, let me sit at home and wait for the causes that I agree with to take me to the streets.

I have heard people sing praises about the Cabinet Secretaries that have been appointed. I was a bit disappointed with the ones who were re-appointed, especially in the security sector. This is because I do not believe that we are going to see any change in philosophy. We need to see police reforms and secure these rights under the Constitution. If the same brains are the ones that were present when we were seeing goons in Kapsabet and Kakamega, what expectation do we have that something will change?

Mr. Speaker, Sir, I want to say this as the Senator for Nairobi, I will never judge anyone going to the streets for any cause because I have been there. We have pushed for many things that are being pushed for by the Gen Zs right now and it is within their right. For the police to allow people to interfere with them is very wrong.

Here in Nairobi, people just see me these days, but they do not know how much I have suffered. There was a phenomenon called the Nairobi Business Community. Those people were used to scare us so that we do not go to the streets. However, I do not see them anymore. I do not know whether their businesses closed. They used to be deployed for the *maandamano* championed by the ODM and the opposition.

Mr. Speaker, Sir, sometimes, you would hire grounds like the Uhuru Park and then a conflict arises out of nowhere. You would hear a crusade was supposed to be held there by some obscure bishop, just so that you do not have that meeting at that point.

As a staunch defender under Article 37, I fully associate myself with the statement that has been sought. We also need to bring those security chiefs here, especially the re-invented Cabinet Secretary for Interior and National Administration. I want to hear him tell us on what he will do about this spectra of people mobilizing goons in order to dissuade other people from participating in peaceful protests.

Mr. Speaker, Sir, lastly, on the statement that has been sought by Sen. Crystal Asige, I do not know what Kenyans expected. This is because the output is as good as the input. The truth of the matter is that we are a county on a downward trajectory when it comes to anything to do with sports in this country.

We have not invested in sports. When Sen. Veronica Maina talks about the stadia that has been built in Rwanda, we should know that the last meaningful, international stadia were built by President Moi.

Mr. Speaker, Sir, successive regimes since the late President Moi built us the Nyayo Stadium and the Moi Kasarani International Sports Complex have never done a structure to that level.

Just a few months ago, I was here on this Floor complaining that we football fans missed a critical fixture between the Harambee Stars and the African Champions Côte d'Ivoire because it had to be played in Malawi. It was very embarrassing.

This afternoon, before I came to the House, I was watching the final of the National Secondary Schools soccer games between Highway Secondary School and my alma mater, Musingu High School. Of course, I was very conflicted because I am the Senator of Nairobi, but I also went to Musingu High School. I want to congratulate Highway Secondary School for their victory. I will be going to the school to see them later.

The thing that I noticed from this year's games and even last year's games that were in Kakamega is that there is a yearning for sports in this country and there is excellence in the grassroots. Last year, Bukhungu Stadium hosted these games and it was packed to the brim. The same happened to Gusii Stadium during this year's games.

What is it that happens between talent at the grassroots and them being able to make it all the way to the national stage and even international stage? You heard the story of the runner from Makueni. We have frustrated our own people. I cannot begrudge anybody who will want to go and look for opportunity elsewhere for as long as you are able to express your talent.

To this effect, I want to beg Members of this House; I have sponsored a Bill to amend the Sports Act. Initially, the Sports Act was supposed to bring some sort of cure to some of the problems we have identified. We were supposed to build academies in all the constituencies to support sporting activities at that level. It has never been done.

Immediately those who were in power then saw how much money was actually being realized in the Sports Fund, out of sports betting, they decided to introduce things that have nothing to do with sports. On application of the Fund, they introduced this thing of using money for universal healthcare and that is where the problem is.

I have sponsored an amendment to the Sports Act and it was read for the First Time here yesterday; that each county must set aside at least 1 per cent of the money that this Senate gives them to support registered sporting associations.

This idea was triggered by an experience that I have had, and I am sure every Member in this House has had. Every time the Nairobi Boxing Association has a tournament in Kirinyaga or Vihiga, they come to my office asking me to support them with mundane things such as just transport to the venue. They have no money to hire training halls and they have no money to pay referees.

So, we want at least 1 per cent of the money that this Senate sends to counties to be set aside to support these sporting associations. We believe that at that particular level, we should support them, so that they come up.

Lastly, if we do not deal with the question of corruption and favouritism in even selection of the national teams, we are doing this country a disservice. You go and watch these games at the grassroots, you watch grassroots football, you watch the high school games, you can see a player, a midfielder who can receive a pass, put his head up, look for somewhere to pass the ball and that person just disappears within the system. You go to the Nyaya Stadium to watch Harambee Stars and you are wondering, a guy cannot even make one pass and he is playing for Harambee Stars.

We used to have very low standards when we used to go to the Nyayo Stadium to say we do not want to score; can we just see three good passes and go home happy? The bar has been set so low. So, we need to see what is it that happens when these national coaches are selecting people.

There are allegations of favouritism and the most frustrating thing is you cannot even touch the management of football in this country. Immediately we say we want to disband Football Federation of Kenya (FKF) and have fresh elections, they run to their daddy in Switzerland. You get a call from Switzerland telling you if you interfere with the current management, we are going to ban Kenya for X number of years. It is very frustrating for us, especially soccer fans who know there is talent in this country that just goes to waste.

Thank you, Mr. Speaker, Sir.

Sen. Olekina: Thank you, Mr. Speaker, Sir. Let me begin by appreciating the Statement by Sen. Cherarkey.

In the last Parliament, I sat in this very House and we passed the Tea Bill. At first, I was a bit concerned that maybe we are redoing it again. However, I have just been informed that that the Tea Bill that we passed here did not pass in the National Assembly because the time of the election was nearby.

It saddens me when I hear that we have tea, which is stored in Mombasa. I know very well that the demand for the Kenyan tea around the world is steadily increasing.

I know very well that Pakistan leads in the import. It is actually very good for our foreign exchange earnings. They spend almost US\$520 million importing tea from this country. I know very well that the UK also follows; they spend about US\$111 million. Egypt spends about US\$300 million importing tea.

I am baffled because earlier this year, I saw the Deputy President launching a strategy for the tea sector and there were stories of a big warehouse costing over Kshs3 billion being built to store the tea. That shocked me because I have always known that although the auction for the tea industry is done in Mombasa, tea is not stored there. Tea was just going out of the country. So, it is imperative that the new Cabinet Secretary in charge of Agriculture should actually look at this issue. The Committee should look at what the previous Cabinet Secretary did.

I remember the previous Cabinet Secretary, former Sen. Linturi, went to Pakistan and had bilateral talks with the Pakistan Government in terms of increasing the uptake of tea from this country. So what happened? So instead of just picking up from here and moving on, we should look at what happened so that it advises our future.

When it comes to the issue of legislation, I hope that when we pass this Tea Bill this time around, it is not going to be reactionary and then next time again, because of certain specific interests, we now again come with other amendments. Let us now exhaust any form of amendments, so that we make laws that will stay and live in this world for the rest of God's creation.

Secondly, on this issue of sports, I have listened keenly to the contribution made by my colleagues. The one that strikes me is the one that was brought about by Sen. Sifuna, where he is suggesting that each county should set aside 1 per cent. I believe if we really want to improve the sports sector in this country, this Senate should now bring in a Motion to set up a conditional grant. It becomes very difficult to go and tell the Governor of Nandi County or the MCAs of Nandi that, set aside 1 per cent of your budget to be used to improve on sport. The best thing we can do is just like we passed a Motion for the Sports Complex to be set up in Mombasa, we have conditional grants which are ring-fenced.

Once we have done that, it is important for us to remind ourselves of our sovereign power instead of depending on the West so much for every decision we make.

I was sitting in this House when we were looking at reports on FKA and Sen. Sifuna is right. At that time, it was very difficult for us to bring in any changes. So, once we have our own funds and we nurture our own talent, we can actually go very far.

We have experts. In Narok County, we have Billy Konchella who set the world record in 800 metres. I think it was just broken recently by David Rudisha, who is also from Kilgoris.

So, if we tap into the resource of these legends who have played and demonstrated to the world that, yes, in Kenya, we have great men and women who can run and show endurance, we can actually go very far.

As I conclude, I want to remind my colleague, Sen. Beth Syengo, that the moment we now start praising the Executive is the moment we fail. No wonder today if you go on the social media, you will find two lawyers - who Sen. Sifuna has said he is going to give direct tickets to run for office - opining their negative views of the Senate.

They are saying we have become sort of like flower girls and boys for the Executive. I want to remind us that we are here to check the Executive.

We are not here to start thanking the President for appointing colleagues from our political party. Let us be reminded that we are here as Parliament to oversight the Executive. We are not here as an extension of the Executive. I completely detest that.

I want to remind my dear sister, the distinguished Sen. Beth Syengo that---

Sen. Cherarkey: On a point of order, Mr. Speaker, Sir. Standing Order No.101 is about contents of speeches. Is it in order for the Senate Minority Whip, who is seated next to the Secretary General (SG) of the Orange Democratic Movement (ODM), to dispute that when ODM sat under the leadership of our brother and the next Africa Union Commission (AUC) Chairman, "Baba" Raila Odinga, and resolved to work with the Government--- Is he challenging the position of ODM, yet they made a resolution? Can he table evidence?

The Speaker (Hon. Kingi): Sen. Cherarkey, you are totally out of order. Have a seat and allow Sen. Olekina to conclude his intervention.

Sen. Olekina: Mr. Speaker, Sir, I am in this House to ensure that we respect the doctrine of separation of powers, the rule of law and the Constitution. I am now going to deviate from advising my sister.

I sat here and received a Supplementary Order Paper. In the Supplementary Order paper, Order No.8 is the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024).

I have been in this Senate for the past seven years. By the time we pass the Division of Revenue Bill, there is a process. We start with estimates, the Budget Policy Statement (BPS), Medium-Term Debt Strategy and eventually pass the Division of Revenue Bill. We did that. Why are we reinventing the wheel? For once, let us respect the rule of law.

I sat in this House when we passed the Third Generation Formula, which determines how much money is sent to the counties and how much is left with the national Government. We set a bare minimum. What we are being asked to do is to go against the Constitution. This is ridiculous!

There is no time we have had all the money that we have passed going to the counties. The National Treasury has always had a debt. When we talk about these issues, let us be factual and remember that we are guided by principles. We have the rule of law. The moment we start opening debate on the Division of Revenue Bill, we will be abdicating our duties. If that is the case, let us just fold and go home. Are you telling us that Kshs400 billion that we passed here should be reduced?

Section 5(1) of the Division of Revenue Act, 2024, states that-

"If the actual revenue raised nationally in the financial year falls short of the expected revenue set out in the Schedule, the shortfall shall be borne by the national Government."

Why is the national Government not absorbing it? Colleagues, let us defend our counties. That is why we are here. We are here to make sure that we defend the rule of law. We should stop dancing to the tune of the Executive.

The Gen Zs are saying that there is a lot of wastage of public funds, but it is not about our counties' structures. Our counties need to be built. We need to support our counties. When it comes to the issue of accountability, we should deal with it.

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

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

Madam Temporary Speaker, we have the Director of Public Prosecutions (DPP), who is notorious for withdrawing corruption cases, yet we keep on talking about fighting corruption. The Ethics and Anti-Corruption Commission (EACC) is also there. I always say that the EACC is the most corrupt body in this country because they do not respect institutions.

As I conclude, let us remember that we are here for a very short time. For the time we are here, let us make sure that we leave a mark in this country called Kenya. We have laws but they are only good on paper or are determined by other interested bodies. The aspect of making laws which are reactionary must come to an end.

Madam Temporary Speaker, the Senate is there to oversight the Executive. It is not an extension of the Executive. It is not there to dance to the tune of the Executive.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Let us now listen to Sen. Cherarkey Samson Kiprotich.

(Loud consultations)

Sen. Cherarkey: Madam Temporary Speaker, I have not spoken about commenting on--- I just read my Statements. I wanted to comment on the performance in athletics.

Madam Temporary Speaker, I would like to support Sen. Crystal Asige on the issue of performance in athletics.

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

The Temporary Speaker (Sen. Veronica Maina): Resume your seat, Sen. Cherarkey.

(Sen. Cherarkey sat at his place)

Sen. Sifuna: Madam Temporary Speaker, it has been the tradition that when people read their Statements, they should allow other people who have not spoken to contribute. He read five Statements and now he wants to comment on another Statement. He should allow other people in the queue to also contribute. That is not proper.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, to ensure that equity and justice is seen to be done, let me allow other Senators. I will still give you a

chance to comment on the other Statements. Please, cede ground because you read Statements.

Let us listen to Sen. Wamatinga.

Sen. Wamatinga: Madam Temporary Speaker, allow me to start by thanking Sen. Sifuna. Indeed, these are people we need in this country, so that equity can prevail.

I also want to add my voice to the various Statements that have been raised today. Let me start by commending the Head of State, His Excellency Dr. William Samoei Ruto, for forming a broad-based Government. It is not about where the individuals who are named to be part of the Cabinet came from. It is the spirit.

Once we realise that this country belongs to all of us; once we realise that there is need for us to speak with one another; once we realise that nobody has a monopoly of knowledge; once we realise that this country is greater than any one of us, that is the moment we will start moving this country forward.

Sports in this country has made Kenya a great name across the world. However, as a country, we have not done justice to the ambassadors who have made us proud to ensure that our name, flag and the national anthem is sung in all Olympic stadia across the globe.

Therefore, I concur with my colleagues that it is high time we invested a little bit more in sports. Most importantly, we must come up with a policy. I agree that we should start considering giving counties conditional grants for them to invest in sports. We should not stop there. We must come up with a blueprint on how it should be implemented.

We know that different counties are endowed with different resources. That also goes for sports. Therefore, it is imperative to start exploring avenues that can give our young people who have talents an opportunity to compete in international arenas. That can only happen if we put equipment and resources in place to enable them compete with others from other countries.

Issues facing tea, coffee, and milk sectors have been raised here. I sit in the Committee on Agricultural, Livestock and Fisheries. Attempts by the Committee to ensure that we revive those sectors by formulating Bills and amending laws that are there have not been successful because we, as a country, have started concentrating on non-issues, leaving issues that affect our people which are more important, including issues facing coffee, tea and milk sectors.

When we were campaigning around this country, we promised our electorate that we will ensure that we came up with an elaborate and comprehensive solution. We promised to put in place a sound legal framework that will ensure that exploitation of farmers by cartels comes to an end.

When we hear about tonnes of tea lying at the Port of Mombasa, it makes us sad. Just the other day, our shilling was stronger against the dollar. Therefore, farmers could have reaped the benefits. However, we have waited for too long. Now, the dollar is getting weak, the Kenyan shilling is gaining and this will make the farmers to lose.

Madam Temporary Speaker, in light of the broad-based government, it is imperative that as a House and Senators, without being seen as if we are going to bed with the Executive, we address this. Nobody has monopoly of knowledge. It is an opportunity for all of us to set a new beginning, which is people-centric and inspires the young generation to start taking part in agriprenurship.

Madam Temporary Speaker, this might be a solution to some of the problems we are facing. The issue of Gen Zs has awakened us to start talking about a tribeless country. This can only be done when this House starts conducting politics that are issue oriented, free from political party divide and tribal ethnicity. If we join hands and state that we have a country that has a myriad of problems that need to be solved, we shall put our heads together and get solutions that are meant to address the future generations.

As I said, it is imperative to ensure that we give the younger generations a perspective and hope for tomorrow. This has been diminished by the very same policies from our politics on the Floor of this House and outside.

I urge my colleagues that in the spirit of the broad-based government, to embrace each other and come up with policies. Most importantly, let us try to look at issues that affect us, as a country, and ask ourselves how we should inspire, give hope and equal opportunities to our youngsters.

This can only be done if we close the political divide and say that this is our country and we have a sole and moral responsibility to shape its destiny for the future and the young generations.

As we discuss, formulate laws, come up with Bills and debate Motions, we must never forget that if this country goes down, it does so with everyone of us. Therefore, I agree with my colleague, Sen. Beth Syengo, that, indeed, seeing the National Treasury being led by somebody from the Orange Democratic Movement (ODM) gives us opportunity to develop equal models that will ensure every Kenyan enjoys equal opportunity.

I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Faki proceed.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia Taarifa kadhaa. Taarifa ya kwanza imeletwa na Sen. Cherarkey kuhusu biashara ya majani chai katika soko la Mombasa. Hapo awali, Bunge la Seneti lilipitisha kanuni ambazo ziliipatia Serikali mamlaka ya kuweka bei ya majani chai chini. Kutokana na kanuni hizo, uuzaji wa majani chai umedorora kwa sababu majani chai hayauzwi kulingana na mahitaji ya soko.

Bei katika soko huru inapatikana kutokana na wingi wa majani chai na upungufu wa haja yaani *demand and supply factors*. Kuweka bei ya kudumu ya chini ya majani chai imefanya soko kudorora. Mara nyingi, majani chai yanapouzwa hayawezi kupata ile bei ya chini kabisa ambayo soko imeweka. Kuna majani chai ambayo yanakuja katika soko kupitia Kenya Tea Development Agency (KTDA) na vile vile kutoka watu binafsi.

Majani chai ambayo yameleta matatizo ni yale yanatoka kwa shirika la KTDA. Swala hili litaweza kutatuliwa iwapo zile kanuni zinazosema kuwe na bei ya chini ya majani chai itabadilishwa ili kuhakikisha soko liko huru. Swala hili linafaa kutatuliwa na East African Tea Trade Association (EATTA) ambalo linasimamia soko hili, ili waangalie ni vipi watadhibiti bei ya majani chai ili yasipate bei ya chini.

Bi. Spika wa Muda, vile vile, ningependa kuchangia *Statement* ya Sen. Crystal Asige kuhusu kudorora kwa Team Kenya katika michezo ya olimpiki ya mwaka huu inayofanyika hivi sasa mjini Paris. Tumekuwa tukijipa kipao mbele kwa maswala ya michezo hususan riadha. Tulikuwa na uhakika tutapata medali ya dhahabu katika mbio za mita 800, 1,500, 3,000 vya kuruka maji na vuizi, 5,000, 10,000, *marathon* na vile vile kutembea kilomita 20.

Mpaka sasa, tumepata medali moja ya dhahabu pekee katika mbio za mita 1,500 za wanawake. Haya ni matokeo duni sana kulingana na vile ambavyo tumekuwa tunafanya katika michezo hii. Haya yametangamana na udhaifu wa Serikali kuwekeza kikamilifu kwa michezo hii. Tumeona mkimbaji kama Faith Kipyegon akishinda mbio nyingi hapo nyuma. Aliweka na kumiliki rekodi nyingi za ulimwengu nafikiri katika mbio za mita 1,500 na 5,000. Yeye ndiye mmiliki wa rekodi ya dunia. Lakini, juzi hakuweza kufua dafu. Labda alikuwa amechoka au kuumia akijaribu kufikia kiwango kile cha michezo ya Olimpiki.

Tungependa kuwe na uwazi wa uchunguzi wa matokeo haya duni. Vile vile, kuwe na mfumo wa kuboresha hali yetu ya michezo. Tutaiboresha michezo hii wakati tutaweka stadia au viwanja vya kisasa vitakavyotumiwa na wachezaji wetu.

Bi. Spika wa Muda, tumepiga kelele hapa kwenye Bunge kuhusu swala la Football Kenya Federation (FKF) - Mpira wa kandanda. Mwaka jana, tulifanya mikutano kadhaa na FKF pamoja na Waziri aliyeondoka, Mhe. Ababu Namwamba. Mpaka sasa, hali ni ya utata. Mahakama ilisema kuwa ofisi ya Mr. Nick Mwendwa imemaliza muda wake lakini bado yupo pale pale. Hajaitisha mkutano mkuu wa mwaka ili kupanga mikakati ya kuchagua atakaye miliki ofisi ile.

Hatuwezi kukaa hivi wakati hali yetu ya michezo inadorora. Nilifurahi juzi wakati ambapo Mheshimiwa Murkomen alikuwa anahojiwa na kusema kwamba atahakikisha amesafisha mashirika yote ya michezo. Alisema pia kuwa ameona kila mara Serikali ikitaka kuchukua hatua kwa mambo ya kandanda kila mtu anaikimbilia Fédération Internationale de Football Association (FIFA).

Hii ni Taarifa nzuri lakini sasa ni wakati wa kuibadilisha kuwa vitendo. Mheshimiwa anafaa aanze na FKF na ahakikishe kuwa tumepata uongozi mpya kufikia Desemba mwaka huu ili matayarisho ya Africa Cup of Nations (AFCON) 2027 yawe sawa sawa ili Kenya ifanye vizuri katika michezo hiyo.

Ni jambo la kusikitisha kwamba mpaka sasa hatuna kiwanja ambacho kinaweza kutumika kuaandaa michezo inayodhaminiwa na shirika la FIFA ulimwenguni au Confederation of African Football (CAF).

Bi. Spika wa Muda, naunga mkono *Statement* ambayo imeletwa na Sen. Crystal Asige. Sote tunahudumu katika Kamati ya Leba na Maswala ya Jamii katika Bunge hili.

*(Sen. Sifuna, Sen. M. Kajwang' and Sen. Beth Syengo
consulted in low tones)*

Nimeona hapa kiranja wetu, Sen. Sifuna, Sen. M. Kajwang' na Sen. Beth Syengo, wamendelea na mjadala mrefu wakati tulipokuwa tunatoa michango yetu kwa mambo muhimu ambayo inahusu taifa hili.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is important you pay attention to what Sen. Faki is contributing to the House. It is very important especially because he speaks on behalf of Mombasa County.

Proceed, Sen. Mungatana, MGH.

Sen. Mungatana, MGH: Bi. Spika wa Muda, ninachukua nafasi hii kusema asante kwa kunipa fursa ili nitoe mchango wangu kwa *Statement* ya Mheshimiwa Kathuri kuhusu shida za wafanyikazi wa hospitali.

Nakumbuka tulipokuwa wachanga, baba na mama walikuwa wafanyikazi wa Kitengo cha Afya. Walikuwa wakifanya kazi kwa Serikali. Ingawaje tulikuwa wachanga, tulikuwa tunaona dhiki na shida katika hali ya maisha.

Ukweli wa mambo tukiwa tunaunga mkono *Statement* ya Mheshimiwa ni kwamba, mara nyingi magavana wa Kenya wakishughulikia mipango ya afya, hawaangalii shida na changamoto za wafanyikazi katika kitengo cha afya. Mara nyingi, wanashughulikia mijengo. Lakini ikifika mahali pa kushughulikia wale wafanyikazi wa serikali za kaunti kwa upande wa afya, wanawachilia sehemu hiyo.

Kwa hivyo, ninaunga mkono hiyo *Statement* kwa sababu saa hii, wafanyikazi wa afya wa Meru wamegoma kwa sababu ya shida na kutojaliwa na mamlaka ya Gavana wa kaunti hiyo. Kwa hivyo, nimesimama hapa kuunga mkono *Statement* hiyo. Tuangalie na tuwafanyie haki wafanyikazi wa serikali.

Katika familia yetu tulipokuwa wachanga, kama baba na mama hawangetoka kwa Serikali na kwenda kufanya *private practice*, najua tungekuwa tumeishi maisha mengine tofauti kama vile waliobaki kufanya na Serikali.

Bi. Spika wa Muda, maombi yangu ni kwamba upande wa afya pia upewe pesa za kutosha. Na tuiseme haiwezekani, inawezekana. Wengine wetu ambao tumefanya katika kitengo cha haki miaka iliyopita, tulikuwa tunajua kwamba, mawakili ambao walikuwa wanafanya upande wa Serikali, hawakuwa wanalipwa vizuri. Mara nyingi, tulipokuwa tunaanza kazi, sote tulikuwa tunakimbilia upande wa kufanya kazi kibinafsi ama *private practice* kwa sababu huko ndiko tulikuwa tunajua kuna hela.

Lakini, miaka hii iliyokuja baadaye, tumeona Serikali inalipa mawakili wao vizuri. *Prosecutor* na Director of Public Prosecutions (DPP) wako sawa. Hakuna tofauti kubwa kati ya wale ambo wanafanya kazi kwa serikali na wale ambao wanafanya kazi za kibinafsi ama *private practice*. Ukweli wa mambo ni kwamba, kama Serikali imeweza kufanya vile kwa upande wa mawakili na sheria, hakuna sababu nzuri ya kutosha ya kutofanya hivyo kwa wafanyikazi wa kitengo cha afya. Kwa hivyo hakuna sababu ya sisi kusema kwamba magavana wasifanye hivyo.

Bi Spika wa Muda, ninasema hivi kwa sababu ya shida ambayo iko Tana River Kaunti. Maombi yangu ni kwamba, wakati Kamati ya Afya ya Seneti itakaa kuangalia suala hili, waangalie pia sehemu ya Tana River Kaunti. Wafanyikazi wetu wana mishahara duni. Wafanyikazi katika kaunti zingine wanapata mishahara mikubwa kushinda wale wa Tana River Kaunti. Hii inaleta mgogoro kwa sababu utakuta watu wengine wanatoroka ile kaunti ili wakafanye kazi katika kaunti zingine ilihali, wote wamefanya *training* sawa.

Kwa hivyo, suala hili liangaliwe na Kamati ya Afya. Waulize kwa nini Council of Governors (CoG) hawawezi ku-*standardise*. Ikiwa wewe unafanya kazi ya *nurse* kwa kaunti hii, uwe pia unalipwa mishahara sawa na wale wanafanya kwa kaunti zingine. Kwa nini tusiwe na *structure* ambayo itasimamia Kenya mzima, kaunti 47, ili wafanyikazi wawe wanapata mishahara ya sawa?

Jambo lingine pia ni *promotion* ya hawa wafanyikazi wa Serikali. Kuna kaunti ambazo watu wanachelelwa *promotion* na zingine, wanafanyiwa haraka na haeleweki ni kwa sababu gani. Kwa hivyo, naomba wakati ambao *Statement* hii inaangaliwa, CoG pia, waitwe ili wajieleze kwa nini hawawezi kuwa na *structure* ambayo itakuwa inafanya mambo ya *promotion* katika gatuzi 47.

Kule kwetu Tana River, kuna wale ambao walijajiriwa kazi katika kitengo cha afya kwa *contract*. Katika kaunti zingine, *contract* hizo zimeanzishwa upya ama zimekuwa *extended* na wamekuwa *absorbed*. Lakini katika kaunti yetu, wale ambao wamefanya kazi na *contract* hawajakuwa *absorbed*. Swali ni; kwa nini kaunti zingine wanafanya hivyo ilhali zingine wafanyikazi hawapewi zile *contract* zinazotakikana. Sisi tunaomba kuwe na *standardisation* ama usawazishaji wa mambo ya haki za wafanyi kazi wa afya katika Kenya mzima na gatuji zote za Kenya.

Bi. Spika wa Muda, katika *Statement* hiyo na kutokana na mambo yanayofanyika katika kaunti yangu, kwa sababu ya kukosa kuwapatia wale wafanyikazi *extended contract*, kuna kitu kinaitwa *understaffing* ama ukosaji wa wafanyi kazi wa kutosha katika *health department*.

Watu wengi wakienda hospitali, wanakuta pengine yule ambaye ni mkubwa wa hospitali ndiye *clinical officer* na tena yeye ndiye anasimamia *records*. Kuna shida katika hizi *dispensaries* kwa sababu wale ambo walikuwa wapewe hizi *extended four-year contracts*, hawakupewa, ilhali kaunti zingine wamekuwa *absorbed*. Kwa hivyo, ninaomba wakati Kamati ya *Health* itaangalia, pia waangalie sehemu zingine kama Tana River Kaunti.

Bi. Spika wa Muda; *poor working conditions*. Mtu anaenda kufanya kazi, anataka kipimo cha damu kifanyike na akienda kule, hakuna *reagents* ama dawa zinazotakikana ili hiyo damu ikipimwa, ilete majibu ambayo daktari atafanyia kazi. Mtu anatumwa *lab* ilhali hakuna *reagents*. Kwa *pharmacy*, hakuna zile dawa ambazo zingefaa zimsaidie yule mgonjwa baada ya kuonwa na daktari.

Tunataka Kamati ya Afya ya *Senate* waangalie pia sehemu zingine, sio Meru Kaunti pekee. Waangalie kuna shida gani katika kaunti zingine kama vile Tana River County ili wakati wanatoa uamuzi, watoe uamuzi wa kutosha.

Kweli, wafanyikazi wengine wa Serikali kule Tana River Kaunti wamepata nyumba lakini, ni nyumba za zamani. Zilijengwa wakati wa ukoloni na ukweli ni kwamba, nyingi zinaporomoka. Hakuna namna ama *budgets* ambazo zinawekwa kusaidia kutengeneza nyumba hizi ili wafanyikazi wa pale wawe wanafanya kazi vizuri.

Mfanyikazi wa hospitali yuko pale kazini lakini hata vyoo haviko safi wala katika hali ya kutumika. Mtu akiwa anafanya pale hospitali, inabidi arudi nyumbani akiwa na mwito wa haja.

Statement hii ikifika katika Kamati ya *Health*, iangaliwe zaidi na kwa ujumla wa Kenya mzima.

Naomba kuunga mkono *Statement* hiyo.

Asante.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator.

Proceed, Sen. Muthama Agnes Kavindu.

Sen. Kavindu Muthama: Madam Temporary Speaker, thank you for giving me this opportunity to support the Statements that have been read here. I will start with the Statement by the Deputy Speaker, Sen. Kathuri Murungi, Senator for Meru.

Madam Temporary Speaker, this Statement regarding what is happening right now in the counties is very timely. Doctors, nurses and even cleaners in hospitals are not well taken care of. One, they are underpaid. Two, they are vulnerable because they meet patients with all manner of diseases and they are to treat them without fearing for their lives. These are people to be taken care of, considered and made happy. They need to

work in a conducive environment that will even encourage them to continue doing the good work that they do.

Madam Temporary Speaker, in Machakos, I have seen cleaners cleaning blood, urine and all manner of dirt in hospitals. There is a contractor who has a contract with the county government to employ cleaners. The cleaners go for up to seven months without pay yet he is earning his pay every month.

When the Standing Committee of Health considers this Statement, they should also look into the welfare of the cleaners who clean in county hospitals at all levels. They should know how they are employed and what they can do if they do not earn their salary. I understand that most of them do not even have any insurance that can be used to treat them when they fall sick. Even the majority of these doctors and nurses complain about hospital insurance.

Madam Temporary Speaker, in most of the hospitals, patients cannot even get as little as blood tests from the hospitals. The Computed Tomography (CT) scan machines and X-rays are not working, so, patients are sent somewhere else for check-ups. You find that these doctors are unable to give services to the patients because these machines are not working. The Committee should also check on the environment where doctors and nurses live because it is key.

I support this Statement by the Senator for Meru County.

On the Statement by Sen. Asige, we have so many talented youths in this country. However, with the little monies that the counties get, they are unable to be supplied with all the equipment and techniques needed. They should be given all the materials needed and build the stadiums to the standards that are needed for them to work. I am shocked that the lady from Makueni was asked for a bribe to join sports. She is now winning gold medals for other people and not us here in Kenya. The Football Federation and sports should be checked. I thank God that hon. Murkomen has been taken there. I hope he will be keen this time round to do his work. I hope he does his work without partiality and considers all the counties across this nation with justice.

Madam Temporary Speaker, if I were the President of this country, I would have given that docket to one of the Gen Zs who have been demonstrating on the streets to be right inside the Government. Also, I would give the docket of Gender to one of the ladies from the Gen Zs, so that they can be right inside the Government. They demonstrated then the Orange Democratic Movement (ODM) just took over the game and brought in their people. The Gen Z were not awarded anything. We will continue to stand with you Gen Z, continue with the fight.

(Loud consultations)

They were threatened today not to do what they wanted to do. They should be given their freedom to demonstrate, and I request them to do it peacefully. I know the genuine Gen Zs are not the ones stealing, fighting and destroying properties. They are very diplomatic. I know they are doing it the right way. Gen Zs, do not be scared, we have people behind you.

I support the Statements.

The Temporary Speaker (Sen. Veronica Maina): Sen. Kavindu, your submissions are completely on fire.

Sen. Cherarkey, I will give you two minutes because you have already read the Statement and the Statements Hour has ended.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I only have two comments to make about the performance of athletics. It is not very good; it is disappointing. You know how passionate I have been about athletics.

You are aware that Nandi County is one of the greatest source of champions. We pride ourselves on one of the most extraordinary performers like Conseslus Kipruto, Ezekiel Kemboi and Janet Jepkosgei. You know the beauty that we used to feel in those days. The disappointment coming from Paris is not very good for the country. I agree with the Senator who said that we need talent development.

Madam Temporary Speaker, you could see the difference in the performance. I agree with the Majority Leader who said science has caught up with talent. When you see the short race trainers from the United States of America (USA) and Jamaica, the land of reggae and legends, you can see there is talent development. As a country, we must now look for talent development.

In conclusion, I thank one of my best schools in Nandi called Cheptil Secondary School. Today afternoon, they beat and thrashed Namwela Secondary School in the just concluded Kenya Secondary Schools Sports Association (KSSSA). Cheptil retained their title in volleyball. Although Kwanthanze beat Kesogon, Highway Secondary School beat the rest. We are proud of Cheptil from Nandi County in Mosop sub-county.

Madam Temporary Speaker, if you watched what was happening at KSSSA in Kisii, there is a lot of raw talent. I agree with Sen. Asige that we need to mind them. Let us do reforms in the sports sector. I have hope that with the interventions that we will put in the Ministry of Youth Affairs, Creative Economy and Sports, we can do reforms on football, volleyball, athletics, paralympics *et cetera* once and for all.

Madam Temporary Speaker, thank you for that indulgence. I wish Eliud Kipchoge the best as he goes for the golden glory. We remember Kelvin Kiptum, who unfortunately perished. We would have hoped that he be here in Paris 2024. However, we hope Eliud Kipchoge will bring it home.

The Temporary Speaker (Sen. Veronica Maina): Thank you.

Hon. Senators, I wish to bring it to your attention that we have a supplementary Order Paper. We will be moving away from the Questions and Statements because we have finalized the comments and the debate on that item. I will reorganize the Order Paper to allow for a Notice of Motion to be given by Sen. (Prof.) Margaret Kamar before I give a Message from the National Assembly.

NOTICE OF MOTION

ALLOCATION OF SCHOLARSHIPS AND BURSARIES BY COUNTY GOVERNMENTS

Sen. (Prof.) Kamar: Thank you, Madam Temporary Speaker, for allowing me to bring the Notice of Motion, because I was late due to unavoidable circumstances. I bring this very important Notice of Motion that I believe Members will be able to go through

when they are recess, on the allocation of scholarships and bursaries by county governments.

I beg to give notice of the following Motion-

THAT AWARE THAT, the Fourth Schedule to the Constitution distributes functions and powers between the National and County Governments with paragraph 16 of Part 1 of the Fourth Schedule providing that the national Government shall be responsible for university and tertiary education institutions, other institutions of research and higher learning and primary schools, secondary schools and special education institutions;

FURTHER AWARE THAT, paragraph 9 of Part 2 of the Fourth Schedule to the Constitution confers to county governments the responsibility to provide pre-primary education and other facilities such as village polytechnics, homecraft centres and childcare facilities;

CONCERNED THAT notwithstanding the provisions of the aforementioned Schedule of the Constitution, the quality of pre-primary education remains low as a result of poor infrastructure with majority of the counties paying teachers in such facilities below the gazetted minimum wage;

FURTHER CONCERNED THAT, the Report by the Office of the Controller of Budget on County Governments Budget Implementation Review for the first six months of Financial Year 2023/2024 indicate that allocation to the Education Sector in all the 47 counties range between 0.7 per cent to 10.3 per cent of their total budgets, and that a majority of the county governments spend a great percentage of the education sector budgets on provision of scholarships and bursaries to students in secondary and tertiary institutions, with some counties allocating up to 84 per cent of their education budgets for such scholarships at the expense of the core mandate of providing quality preprimary education and improving infrastructure in the village polytechnics and homecraft centres;

NOW THEREFORE, THE SENATE RESOLVES THAT –

(1) the County Governments stop funding national Government functions such as providing scholarships to students in secondary and tertiary institutions, and increase funding to pre-primary education, village polytechnics and homecraft centres for improvement of infrastructure and payment of better wages to teachers in such facilities;

(2) the Controller of Budget (CoB) ensures compliance and not approve monies to county governments for carrying out functions of the national Government; and,

(3) the Auditor-General reports on compliance status on funding of national Government functions by the county governments in the annual reports.

Thank you, Madam Temporary Speaker.

MESSAGE FROM THE NATIONAL ASSEMBLY**PASSAGE OF THE DIVISION OF REVENUE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)**

The Temporary Speaker (Sen. Veronica Maina): Resume your seats hon. Senators. I have a Message from the National Assembly on the passage of the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024).

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46 (3) and (4), I received the following Message from the Speaker of the National Assembly, regarding the passage of the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024).The message dated Thursday, 8th August, 2024 was received in the Office of the Clerk of the Senate on the same day.

Pursuant to the Standing Order, I now report the Message –

“WHEREAS the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024) was published vide Kenya Gazette Supplement No.143 on 17th July,2024 to provide for equitable sharing of the revised shareable revenue raised nationally for the Financial Year 2024/2025 by the national Government among the national Government and county governments;

AND WHEREAS the National Assembly considered the said Bill and passed it without amendments on Wednesday, 7th August, 2024 in the form attached hereto;

NOW, THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Orders No.41 and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order No.163 which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading, in accordance with Standing Order No.144.

I will, at the appropriate time in the course of this sitting, call the Clerk to read the Bill a First Time. Pursuant to this, I will call the Clerk to look at the Supplementary Order Paper and call out the Division of Revenue (Amendment) Bill.

Hon. Senators, we are moving into the Supplementary Order Paper and I request the Clerk to call out Order No.8.

BILL*First Reading***THE DIVISION OF REVENUE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)**

(Order for First Reading read – Read the First Time)

and ordered to be referred to the relevant Senate Committee)

MOTION

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS
TO THE EQUALIZATION FUND APPROPRIATION (NO.2) BILL
(SENATE BILLS NO.30 OF 2023)

THAT, the National Assembly amendments to the Equalization Fund Appropriation (No. 2) Bill (Senate Bill No. 30 of 2023) be now considered.

(Sen. Tabitha Mutinda on 6.8.2024)

(Resumption of debate interrupted on 7.8.2024 – Afternoon Sitting)

The Temporary Speaker (Sen. Veronica Maina): This Order is deferred because we do not have a quorum to push that business.

(Motion deferred)

Next Order.

MOTION

ADOPTION OF REPORTS OF THE AUDITOR-GENERAL ON
FINANCIAL STATEMENTS OF VARIOUS COUNTY ASSEMBLIES

THAT, the Senate adopts the Report of the Select Committee on County Public Accounts on its consideration of the Report of the Auditor General on the financial statements of West Pokot County Assembly for the financial year 2018/2019 and Reports of the Auditor General on the financial statements of Isiolo, Kiambu, Kitui, Marsabit, Narok, Nyamira, Trans Nzoia, West Pokot and Murangá County Assemblies for the Financial Year 2019/2020 laid on the table of the Senate on Thursday, 7th March, 2024.

(Sen. M. Kajwang' on 30.4.2024)

(Resumption of debate interrupted on 7.8.2024 - Afternoon Sitting)

Sen. M. Kajwang': Madam Temporary Speaker, the Vice-Chairperson of the Committee will reply on my behalf.

The Temporary Speaker (Sen. Veronica Maina); Sen. Cherarkey, you are standing as a rear guard for that Committee. You may proceed.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I have been preparing to reply under the directions of my able Chair. In the spirit of broad-based engagement, we are working closely now that our party leaders are also working closely. I beg to reply by saying a few things.

I congratulate my Chairman for ably moving the Motion and giving us direction. It is good the Senate Majority Leader is here. He had requested the leadership of both the Minority and Majority to fast-track the consideration of financial statements for both county assemblies and county executives in order to be up-to-date. Sometimes it is embarrassing to audit a governor who is no longer in office. We call it being morticians. We must be current and up-to-date. In that spirit, counties must function. I am happy that many Senators have expressed reservations. I request the House to adopt this report.

Madam Temporary Speaker, with your indulgence, before I proceed, I congratulate my school, Cheptil High School, in Mosop Sub-County for retaining the volleyball title by beating Namwela Secondary School. We are proud of them. In the future, we must ensure our schools are well-resourced in terms of sports to ensure that young people talent is developend.

I saw Kasmuel Mcoure a few minutes ago doing a 3,000-meter steeplechase outside the Nation Centre. If he had been sent to Olympics in Paris, we would be having a gold medal from him because of the way he was sprinting at the Nation Centre a few minutes ago. Our accolades go to him for that performance. I direct the Athletics Kenya to do a pre-trial engagement with Kasmuel Mcoure. With that sprint, we will not be beaten by Ethiopians anytime soon. That was on a light touch.

There are many things that our Chairman has guided us in the Committee. Nowadays, the Institute of Certified Public Accountants of Kenya (ICPAK) is taking action against accountants who prepare not-so-good report from the opinion of the Office of the Auditor-General. There is punishment and removal of accountants from ICPAK for professional misconduct in preparation of financial statements that get adverse opinion. We have made that direction. I assure the House that under the guidance of the Chair of the Committee, ICPAK has been directed to take action.

Two, the issue of late submission of documents is rampant across all county assemblies. I encourage county assemblies and county executives not to violate Section 65 of the Public Audit Act. They should ensure they give timely documentation for the Office of the Auditor General to do the audit in time.

Concerning the construction of county assembly chambers, we know county assemblies work is more of recurrent expenditure. I encourage many county assemblies that are yet to complete the chamber, including Nandi County Assembly, to do so. We saw one in Nyamira, where part of it has collapsed. We have one in Isiolo County Assembly that has stalled.

Concerning Speakers residences, this House has put a ceiling on it. A county speaker's residence should be Kshs35 million; and the deputy governor's residence should be Kshs35 million, and the governor's residence should be Kshs45 million. We have agreed that the expenses for building county headquarters should be below Kshs500 million.

Another issue we noticed is imprest management. I call upon the Ethics and Anti-Corruption Commission (EACC)--- We have seen the abuse of imprest. We have travelled and whenever we arrive back to the country, we surrender our passport documents and the necessary documentation to ensure we surrender our imprest for payment. This issue continues to be a challenge in county assemblies. I call the county clerks and county assembly's speakers and County Assembly Public Service Boards (CAPSB), to ensure they put in place necessary mechanism. We have made many recommendations to the Ethics and Anti-Corruption Commission (EACC) and the Director of Criminal Investigations (DCI). Under the Public Finance Management Act, when there is late surrender of imprest, it must come with interest. We have noticed that most clerks receiving surrendered imprest from Members of County Assembly (MCAs) and other members of the secretariat within county assemblies, do not take interest. I warn the county clerks from the Floor of the House that it is violation of the law. You need to recover the imprest plus the interest as per the law to ensure that it is not repeated. We have noticed that all these county assemblies have violated that.

Madam Temporary Speaker, another challenge is the County Assemblies Forum (CAF), Society of Clerks-at-the Table (SOCCAT) and the Council of Governors (CoG). These bodies are not anchored in law, but you will find county assemblies allocating money to SOCCAT and CAF. You are aware that nowadays there is what we call Association of Members of County Assembly (AMCA), which is not anchored in law. I encourage the county assembly speakers, clerks and the MCAs to bring a legislative intervention, so that they do not need to put money in some of these entities that are not anchored by law. I am happy that the Senate and the County Public Accounts Committee (CPAC) has taken a position that any money that is paid to CoG, CAF, SOCCAT and AMCA is illegal, irregular and unlawful, and should be treated as such.

Madam Temporary Speaker, under the guidance of our Chairman, Sen. M Kajwang', we have even directed a charge of the accounting officers who continue to make this illegal expenditure. The Senate Majority Leader has an opportunity of engaging CAF, CoG and SOCCAT. I hope with that he will ensure that there is legislative intervention, so that we do not spend this money. Sometimes the CoG gets Kshs5 million from every county per year within the financial, which is an illegal outfit.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, would you wish to be informed by the Senate Majority Leader?

Sen. Cherarkey: Yes, the Senate Majority Leader has a lot of information.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I would wish to point Sen. Cherarkey to today's Order Paper on Order No.23. The Intergovernmental Relations (Amendment) Bill (Senate Bill No.12 of 2024) addresses your concern. It does exactly what you are proposing.

I thank you.

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

Sen. Cherarkey: Thank you for that useful information. I hope the House will fast-track it.

Counties have been giving that money in the past. I am happy that the Senate Majority Leader has proposed legislative intervention. As Members of CPAC and Senators, we shall support it. I am happy that my Chairman, Sen. M. Kajwang', is in the House. I did not see him accompanying Hon. John Mbadi to the National Treasury, but I

know he is a fellow 'Subanese.' I hope after this, he will pay homage to the National Treasury Building and give his prayers and blessings.

I advise and encourage us to fast-track this Bill through the Senate Majority Leader, so that we cure this illegal unlawful and constitutional expense.

The fifth point that I wanted to make is on the wage bill. I agree Members raised an issue. The minimum wage bill should be 35 per cent of the budget. We need to ensure we follow the law. By the way, there is challenges in the wage bill. I wish the entire Senate was here. Most of the county assemblies are ethnic conglomerates. If you go to Kisumu, Murang'a, Mandera or any part of this country, you will find that the majority are the natives. I encourage the National Cohesion and Integration Commission (NCIC), and the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration in this House to follow it up to ensure that we put in place mechanisms to address ethnic diversity within our counties. We cannot be blaming the national Government, yet when we retreat to county governments, it becomes a very big challenge. Counties assemblies are still struggling with staff establishment and ethnic balancing as per Article 10 of the 2010 Constitution of Kenya 2010 on ethnic diversity.

Madam Temporary Speaker, when you re-organize the Order Paper, we are supposed to do the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024). You know I can dispense legal wisdom from this Dispatch and legally and constitutionally, what the National Assembly did was unconstitutional and unlawful. You do not amend the budget with amending the DORB but now, we are putting the cat before the horse.

On this Bill that we are discussing today, there is a lot of money that is going to the counties. I would like to remind governors that the way they take it with zeal and passion the money we allocate them, they should also take accountability with the same zeal and passion. I am disappointed that instead of my Governor, hon. Sang', purchasing drugs, he decided to purchase jembe sticks and helmets and gave them to the young people and yet, we do not have the Kazi kwa Vijana Programme in Nandi.

Madam Temporary Speaker, when people went to the streets to demand accountability for our resources, that should have challenged him but we are fighting here. I know the Senate Majority Leader will tell us to adopt the popular and convenient decision of cutting down because the Finance Bill 2024/2025 collapsed but every shilling matters, especially when I see Toi Market in Nairobi has no resources.

Today, my Governor was in one of the local radio stations. There was a man called Adolf Hitler who had a minister for propaganda. They also say that a lie repeated continuously might grow legs and become a truth. That is what is happening in Nandi.

Madam Temporary Speaker, on Tuesday, my people, the Gen Zs went on the streets in Kapsabet town to request for accountability. That is why we want accountability in Murang'a, where you come from. We want accountability from Homa Bay also. When we demand for accountability, it is not because we do not like the fact of the person that is there.

When they went to those individuals looking for audit reports, I got shocked to hear my Governor in that vernacular radio station saying that Kapsengere Dispensary is complete in Aldai Sub-County. This is far from the truth. This dispensary has stalled. They had wanted to expand land there but the project stalled.

I want to thank President Ruto because when he visited Nandi in 2018, he gave Kshs50 million. The Governor and the County Government were to fund more for the Chepterwai Sub-County. That has never happened. That money was given by President Ruto when he was the Deputy President.

Madam Temporary Speaker, even in the Kapsengere Dispensary, the President gave us Kshs20 million, which has been used so far and the county has given nothing. When you go to Kobujoi Sub-County Hospital, it is stalled and the President gave us Kshs50 million. The County Government has never given this project any money. The Mother and Baby Unit in Kapsabet Referral Hospital is also stalled.

Kabiyet Dairies is being funded by the World Bank and other international donors in Kabiyet, Mosop Sub County, is stalled. We must demand accountability because we struggle. At times, we are told that the Senate is a talkshop, but we must see value for money.

Madam Temporary Speaker, the greatest achievement that Governor Sang' has achieved in close to seven years is only buying *jembe* sticks and helmets for criminals in order to harass people in broad daylight in Kapsabet.

I am disappointed with the police and I challenge the Acting Inspector of Police (IG), Masengeli, to act on those criminals. Three people were injured on that day. One of the young people, Japhet Sangere, lost a motor bike near the showground when those goons harassed him and stole from him. That was robbery with violence.

Three people are nursing wounds after being attacked by the same criminals. The police watched as people walked around with *jembe* sticks, crude weapons and helmets harassing pregnant mothers, young people, the disabled and good business people of Kapsabet. In fact, all businesses were closed in Kapsabet because people became worried after seeing criminals and goons walking around with those weapons. However, if you go to Kapsabet Hospital today, there are no drugs. Even Panadol is not there. You go to dispensaries such as Kabiyet, Chepterwai, Kobujai, Maraba, Setek, Kapsengere or the Mosoriot Sub County hospital, there are no drugs on the shelves yet the Governor has the audacity to buy *jembe* sticks and helmets.

Where is the EACC and the DCI on this issue? I also call upon the speakers of county assemblies. I saw the Speaker for Isiolo County trying to harass my Chairperson, Sen. M. Kajwang'. After we cooled him, we frog-marched him out of our meeting because he was behaving in a manner likely to suggest---

Madam Temporary Speaker, when we visited Isiolo County to audit them, the Speaker ran away and closed the construction site and yet the other day when we questioned him, he was daring the Chairperson of the County Public Accounts Committee (CPAC). That is why I am saying we should borrow a leaf from them.

We are proud of Kakamega County Assembly. Sen. (Dr.) Khalwale is here, and I am told that he is nursing ambitions of becoming the governor. Kakamega County Assembly is doing extremely well and it is one of the assemblies we must emulate.

I challenge other county assemblies, including your County Assembly of Murang'a, to rise up to the occasion to ensure that their books are good. That is the future we want. I am cognizant of the fact that we have a new Cabinet in place and I join Sen. Ledama Olekina in saying that our work is to do oversight to ensure value for what we do here.

Madam Temporary Speaker, I was disappointed, but I would like to remind hon. Mbadi, the Cabinet Secretary for Treasury, to be aware of Article 219 – timely disbursements to counties. We even censured the former Cabinet Secretary, Ukur Yattani, for not disbursing money. The more you delay disbursing funds under Article 219, you are firstly violating the Constitution and statutory deductions like for the Kenya Revenue Authority (KRA), the National Social Security Fund (NSSF) and the National Health Insurance Fund (NHIF) attract penalties.

I call upon the Cabinet Secretary for the National Treasury to be disbursing monies to counties timeously. I am also happy that county assemblies will have financial autonomy. Let us do our work now that we have a Cabinet in place.

I hope the Cabinet Secretaries are aware that Article 93 defines Parliament as the Senate and the National Assembly. I know they have a tendency to think that the Senate does not do anything. I saw the Senate Majority Leader at the swearing-in in the State House. I hope he whispered to them that Parliament entails both the Senate and the National Assembly, so that when we raise issues, they must come here and answer them.

With those remarks, as I do it with the speed of McOure Kasmuel and pursuant to Standing Order No.66(3), I request the deferment of division to a later day and at the convenience of the House.

I thank you, Madam Temporary Speaker and I beg to reply.

The Temporary Speaker (Sen. Veronica Maida): Thank you. The Division in respect of that Motion is hereby deferred upon the application by the Vice Chair of that Committee.

(Putting of Question on the Motion deferred)

Next Order.

BILL

Second Reading

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

The Temporary Speaker (Sen. Veronica Maina): The Bill is deferred.

(Bill deferred)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, this Order is deferred because it was a Division and there is no quorum to sustain that.

Next Order.

MOTION

ADOPTION OF REPORT ON SENATE NOMINEES ON BEHALF OF
COUNTY GOVERNMENTS TO THE POSITION OF SRC MEMBER

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Senate nominees, on behalf of the county governments, to the position of Member of the Salaries and Remuneration Commission, laid on the Table of the Senate on Tuesday, 23rd July, 2024, and further pursuant to Article 230 (2) (b) (vii) of the Constitution and section 7 (2) of the Salaries and Remuneration Commission Act, recommends Ms. Lynette Washiali Muganda and Mr. Mohamed Aden Abdi to the Cabinet Secretary for the National Treasury and Planning for transmission to His Excellency the President for consideration for appointment to the position of Member of the Salaries and Remuneration Commission.

(By Sen. Ali Roba on 6.8.2024)

(Resumption of debate interrupted 6.8.2024)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, this Order is equally deferred to the next sitting of the Senate.

(Motion deferred)

Hon. Senators, I will now re-organise the Order Paper and request the Clerk to call out Order No.23.

BILL

Second Reading

THE INTERGOVERNMENTAL RELATIONS AMENDMENT BILL, (SENATE BILL NO.12 OF 2024)

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that the Intergovernmental Relations Amendment Bill, (Senate Bill No.12 of 2024), be now read a Second Time.

This is a very simple and straightforward Bill. It is something that we have debated before and tried to bring consensus on it. Sen. M. Kajwang' and Sen. (Dr.) Khalwale will remember the very difficult relationships we have had between the Senate and the Council of Governors (CoG).

In fact, in our initial Report of the Senate Committee on Finance and Budget, we pointed out to the Controller of Budget (CoB) that it was illegal and unconstitutional for counties to continue sending resources to an unregistered entity.

For many seasons, we could not agree with our colleague leaders, the governors of this Republic, on how to treat that particular institution. This Bill seeks to establish a long-standing legal relationship between the CoG, the national Government, the Senate, and many other institutions about it.

Just by way of background, this Bill was first published on 12th May, 2024 as Bill No.12 of 2024. This Bill seeks to amend the already existing Intergovernmental Relations Act of 2012.

Remember that this Bill was actually passed pre-devolution. These are part of what you would call, 'the Naivasha Bills'. I do not know if Sen. Mungatana was in Naivasha; I suspect he was. Yes, so my memory is right. That was when they were setting up the various enabling legislations to support devolution.

At that point, this was mostly about theory and had very little to do with actually the reality of the day. At that particular time, it was envisioned; and people were discussing devolution based on theory and what they had seen in other countries. Nobody had a clear understanding of how it would work and operate in Kenya.

Therefore, the Naivasha Parliamentary Committee came up with an array of Bills, many of them that we have either repealed in total or enhanced their understanding of the operations of county governments over the years.

This Bill seeks to amend the Intergovernmental Relations Act to establish a structured framework for intergovernmental relations. This is to enhance intergovernmental relations among the national Government, county executive and county assemblies.

I need not make a pitch for why this needs to be established. Sen. Cherarkey spoke on this Floor just a few minutes ago and I pointed out to him on the need for us to expeditiously consider this Bill.

It actually addresses many of the concerns that continue to arise during the audit process of the operations of our county governments and the executives and the national Government, so that it is not just left to the whims of those that are in office at that particular time, but it becomes actually established in law of this relationship.

The Bill proposes to provide a vertical role of an intergovernmental relations agency and enhance its functions and powers. It proposes to amend the Intergovernmental Relations Act to provide for the Council of Governors Secretariat, as well as County Assembly Forum (CAF) Secretariat to provide for their role in horizontal intergovernmental relations.

You know very well that in 2016 when the Senate and the County Assemblies established the Legislative Summit in Mombasa, part of the takeaways of that particular Conference eight years ago, was to set up CAF as anchored in law, so as to be the lead lobby agency for our county assemblies.

County Assemblies do an extremely important job as far as entrenching devolution in these counties is concerned. This House, being the primary institution charged with the responsibility of anchoring devolution in our country, must work hard to ensure that any institution that works towards achieving that particular objective is anchored in law.

Madam Temporary Speaker, it is unfortunate that it has taken us this long to listen and agree to the proposal that came from our colleagues in the county assemblies as well.

Many times, those of you that have attended the Legislative Assemblies Forum where you bring together county assemblies and the Senate; apart from sometimes the *ad hominem* arguments about car grants and what not, there is more serious discussion that normally goes on.

This is one of the serious discussions that comes out of that particular forum and they ask us to anchor them in law for a horizontal relationship with the county governments so that they are able to perform their duties and roles better.

I have been around all these years that this House has existed and I feel bad about the fact that, we, as the Senate, have actually been unfair to our colleagues who serve in the county assemblies.

Sen. (Dr.) Khalwale, do you know that even the offices of leadership in our county assemblies are not anchored in any legislation or any law? It is expected of us, especially the Senate, which understands the importance of proper leadership in our county assemblies to establish that, so that they are able to hold governors to account.

That is why we need a County Assemblies Forum (CAF) that is not just a lobby group. What exists today is simply a lobby group, where like-minded people come together and continue to lobby for and on behalf of our county assemblies.

That is why there is even a splinter group, the one that Sen. Cherarkey mentioned just a few minutes ago. It is called the Association of Members of the County Assemblies (AMCA). CAF brings together the Speakers, the Clerks and the Members of County Assemblies. The MCAs long got tired of waiting for CAF to bring out their issues and make sure they are properly addressed and so they set up an institution of their own, the one called AMCA.

I have told them many times that while I may agree with them in the diagnosis of the challenge that county assemblies face, I do not agree with their final prescription, which is the MCAs forming a union that is a body corporate separate to them. CAF brings together all the working organs and offices of the county assemblies and that is part of the proposal that is being given here.

To the specifics of the Bill, it proposes to change the name of the Intergovernmental Relations Technical Committee (IGRTC). That name is a mouthful. The committee is headed by a gentleman, whose name I keep forgetting. He is a very good friend of ours who never misses either devolution conferences or legislative summits to speak on behalf of the institution.

We propose to rename it Intergovernmental Relations Agency. We are not creating a new institution, but just renaming it, so that it is easier for everybody to relate to and understand what it is all about.

By having the word “technical” in that name, it reduces even their seriousness and how people perceive them. They imagine these are people whose duty is just to provide technical advice and it ends there. That is why we want to rename it such that when they speak, people listen, appreciate and understand what that institution does.

This legislative proposal proposes to remove the Principal Secretary (PS) responsible for matters of devolution from the IGRTC. We feel that the presence of the PS in that institution was misplaced. This is purely about our county governments and their assemblies. There will be another level at which they interact but not necessarily sitting together on one board.

This Bill also provides the qualifications and terms of the chairperson and members of the committee. Like any agency, you must set up the time or period for which people must serve. Like any good institution, it does not matter how talented you are.

Even the best dancers must know when to exit the stage. That is why I like legislative proposals that increasingly come to this House for setting up time limits. They are put in law, so that you do not have people overstaying in office. I do not believe in people who refuse to leave office.

This Bill also proposes to enhance the functions of the Intergovernmental Relations Agency to include following up on summit resolutions. Remember what I mentioned a few minutes ago.

In passing this law, I am fulfilling a summit resolution that was made more than eight years ago. That was in 2016 and I think we were at Pride Inn Paradise Beach Resort if my memory serves me right. That is why we need such an agency, so that once resolutions have been passed by the summit and other institutions that work along the lines of devolution, there is a body corporate that follows through and ensures that that comes to life.

It includes also maintaining a repository of information and knowledge on intergovernmental matters, coordinating the development of a standardised costing framework for the transferred functions in line with Article 187 of the Constitution, and witnessing the execution of all relevant legal instruments pertaining transfer of functions.

Transfer of functions is a topic that we need to bury. When President William Ruto came to office, at his Inaugural Speech at Moi International Sports Centre, Kasarani, he committed to the country that we need to complete the costing and transfer of functions to the devolved units.

Just like during the previous administrations, that is a promise that continues to be work in progress without a definite date of when that will come to an end. This is one of the key and core responsibilities of this agency, especially with the absence of interference by the national Government because we have removed the PS representing the national Government, so that this is purely about county governments and their assemblies. They can do the costing and agree with the National Treasury and raise matters at the summit, so that we bury this conversation about transfer of functions.

Clause 4 proposes to give the Intergovernmental Relations Agency powers to gather, by such means as it considers appropriate, any relevant information of reports where it considers necessary to perform its functions. It will give advice on disputes and take measures it considers necessary to ensure that the principles of cooperative government as set out in Articles 189 and 6 of our Constitution are achieved, ensuring that there is a better coordinated relationship between county and national governments.

Article 189 of our Constitution envisions a situation where counties and the national Government are in sync in terms of service delivery to the Kenyan citizens. It should not be the push and pull that we were accustomed to, especially in the formative years of devolution.

I know things have gotten better over the past couple of years, but we do not want a relationship that is founded on the whims of good relations between men and women who head these institutions. We want it set out in the law, so that it does not matter who is in office. We need a credible and strong institution that is duty-bound. It should be set out in law to ensure that this happens. That is how you build a cohesive and prosperous nation.

This Bill also proposes establishment of the Council of Governors (CoG) secretariat in law and sources of funding. I know the CoG receives resources, for

example, from the national Government because part of what they do are responsibilities that are shared across the two levels of government. They also receive contributions which are informally set.

I think it is an equitable amount from all the 47 county governments. With the establishment of the CoG secretariat in law, our county governments will make contributions without being offensive to the law.

As they do it, it continues to raise audit queries in almost all our 47 county governments because they are donating to a body corporate that is foreign and alien to the operations of our law on devolution. With the passage of this Bill, that will be history. It will ensure that there are mandatory subscriptions from county governments and even donations to the CoG.

There are many Non-Governmental Organizations (NGOs), for example, that want to partner with the CoG in entrenching the beauty of devolution in our country by making sure that it succeeds and all the other forms and organs of that particular institution.

Setting it up in law will assure those who want to work with these institutions have a good institution to work with that is set up in law whose leadership is known and agenda is clear. That way, people can donate.

It also provides for the establishment of the County Assemblies Forum (CAF), its function, secretariat, sources of funding, as well as subscription from the county assemblies.

I have mentioned why this is important. CAF is also a body corporate that needs to be the anchor link between the Senate and our county assemblies by ensuring that there is a standard practice and a reporting mechanism.

I do not see why, for example, many of our committees in the county assemblies do not mimic or copy word for word how we do our reports. We have Offices of Speakers. If you go to many of our county assemblies – I am sorry to say this – you will find that the speaker is the law, which is not what our Constitution envisions. The Speaker should be an arbiter, just like the Speakers in the Houses of Parliament here. They do not decide.

I follow what happens in many of our county assemblies. As a leader, I see *WhatsApp* messages, for example, that the Speaker just decided on change of leadership. You can find even a Speaker of a county assembly forming a select committee on their own.

Most Members of County Assemblies (MCAs) are serving their first term. As such, it is their first time to interact with a legislative body. Therefore, they do not understand some of the challenges. The Senate is supposed to play the big brother role and be a mentor to our county assemblies to make sure that they come of age.

There are issues of manipulation of budget processes. What powers do county assemblies have in amending budget proposals that are sent to county assemblies? The Senate needs to take its rightful place. It is impossible to do that with all our 47 county assemblies.

What do you do? You work better with the rest of the 47 county assemblies through the CAF, so that when you have a sitting with their leadership and when they have a competent secretariat like what we have here in the Senate, they can guide our county assemblies.

We look forward to sending Director Ruge here to train them. This man is a repository of legislative procedures here in the Senate.

The same knowledge needs to be passed to our county assemblies. How do you transfer and pass that knowledge? It is not with the visits that we get here every other afternoon. For example, the Speaker reads that today we have visitors from Tana River County who have come to learn about the operations of the Senate. Surely, we are taking that joke too far.

You need a proper institution established by law, that Members of County Assemblies (MCAs) can learn from. They can also send their lead clerks, lead legal counsels or fiscal analysts to interact with those at the Senate and copy the best practices. That is why it is important to anchor County Assemblies Forum (CAF) in law and ensure that the same way Council of Governors (CoGs) gets funding from the national Government and the various counties, the same is done with the CAF, so that our county assemblies can rise to the level that was envisioned when we set up devolution.

Madam Temporary Speaker, everything is about perception. People have learned how to tell their stories. We in the devolution family, must also learn how to do this. I speak about this so openly because this is something I appreciate.

Allow me to digress a bit but this is in relation to the point that I am trying to canvass on the Floor. People tell their stories in a different way. I do not know what it will take for Kenyans to know, learn and appreciate that how you portray your country to other people reflects on you.

Madam Temporary Speaker, there are riots, in the United Kingdom (UK) that are going on right now. I have been keenly watching and following how the *British Broadcasting Corporation (BBC)* is covering those riots. Compare that to what our local media does here when there are challenges in our country, and you can understand what people know about their country.

I was checking to see whether the *Cable News Network (CNN)* will look for a British journalist and send them to show a burning motor vehicle, the same way it does with Larry Madowo every time there are problems in the Republic of Kenya.

I have not seen it because people know that it matters how you tell the story of your country. I hope our journalists can take time to follow and see how the *BBC* or *Sky News* are taking time to analyze the contentious issues or condemning those that are using extra-legal means to pass their point. These are things that you will never hear in the riots or challenges that we have been facing as a country.

It is all about perception and appreciating that nobody will ever do your job of ensuring that even as you pass your point, you do not need to beat yourself too hard or try to paint how things are bad in order to appear intelligent or assume that you can do better.

This is our country. The good that exists in Kenya is for all of us and *vice versa*. We are duty-bound to make it better. I hope we could learn about that. That is why I felt it was important to mention that in relation to what CAF needs to do for our county assemblies.

I appreciate that county assemblies have come of age. Previously, all we used to hear about, especially in the 2013 to 2017 cycle of devolution, was that there was a fight in this county assembly, or they were impeaching this one or the other.

In fact, there was a bold headline one afternoon, and I remember us discussing here, where citizens were saying, we should disband this thing called county assemblies.

However, that was then. The debates in the county assemblies that we have in present day Kenya are just as good as the ones you would get even in a national Legislature like the Senate or the National Assembly of the Republic of Kenya, if not better even in certain instances.

Even the quality of legislators that are being sent there; citizens are beginning to appreciate that a representative needs to be somebody who knows how to pass on your issues, represent and feel with you when you have challenges and speak out for your sake.

Therefore, that sets the basis of why it will be important for us to support our county assemblies and ensure that they live up to the expectation that we set out. That is why it will be important for CAF to be set up in law, just as we are proposing.

I know CoG and CAF have proposed amendments. I saw the presentation and have seen letters in my office from both institutions on how they want this Bill to be enriched. I look forward to seeing how the Committee, when they eventually table their report before this House, will enrich this particular legislation.

It is a good start. Let us conclude on this business and send it to the National Assembly to ensure that we do one important assignment to the family of devolution that looks up to us as the lead institution in fostering and nurturing devolution in our country.

With those many remarks, I request my senior, the Senator for Kakamega County and the Senate Majority Whip, Sen. (Dr.) Khalwale to second this.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I want to thank the Senate Majority Leader for ably moving this Amendment Bill. The issue of intergovernmental relations is too important to be left vague the way it is. There is a greater need for us to explicitly provide for it through the kind of legislation that the Senate Majority Leader has just moved. I fully support the reasons he has used to move this Bill.

Madam Temporary Speaker, when I look at the Bill specifically, I have very few comments, which to my mind, I think are important. The first one is on Page 153 of the Bill. In Clause 3 (4), the Bill provides that a person shall be qualified for appointment as a chairperson of the agency if such a person holds a master's degree from a university recognized in Kenya.

Madam Temporary Speaker, seeing what is going on in other offices vis-a-vis the offices in the elective organs, namely the National Assembly, the Senate, and the Executive, we must apply the principle of what is good for the goose must always be good for the gander. I have seen Cabinet Secretaries serving this country without degrees. Here we are setting this high standard for this chairperson. This chairperson will be reporting to people who are supposed to be either equally or better qualified.

Therefore, if we want to use education as a measure to allow people to serve in office, then let us stick to it faithfully to the extent that during the interviews, this person would be forced to utter his testimonials, which will be vetted.

In my view, I would like the same to apply to all other offices, including the Cabinet Secretaries. I sit back and wonder, 60 years since the advent of education in Kenya, should we still be permitting people to lecture us on how they have limited or no

education, and are proud to be serving in big offices or have been considered for those offices?

Madam Temporary Speaker, if you are a passenger in an airplane which was currently airborne and somebody told you that the pilot in the cockpit is illiterate, how would you feel? To fly an aircraft, you must be competent. Surely flying an aircraft is a smaller calling than what is expected of us when we are in constitutional offices.

I, again, beg all of us to agree that education is important and it should be applied equally as a standard.

Madam Temporary Speaker, Clause 4(b) states that the chairperson should meet the requirements of Chapter 6 of the Constitution. Again, we should stop allowing the provisions of this Chapter in our Constitution and subjecting it to just lip service. It cannot be lip service. People must be subjected to Chapter 6 if we want to fight corruption in this country.

For the last two weeks, we had 15 people undergoing vetting painstakingly through a Committee of this House called the Standing Committee on Finance and Budget. Now, when the same people go into office, they will find that the people who were vetting them are less competent than them. We should respect Chapter 6.

In the same Clause, they are saying that the chairperson should have a distinguished career in their respective fields. Fine. When you just say distinguished career without specifying how long someone has been in that career, you are making it open-ended and also creating an opportunity whereby, people will start thinking that the longer the distinguished career is, the more attractive it is.

For example, we have young people from the university - I have such young people in my family, my own children - with two or three years of experience. They are perfect professionals. I look at my children and I say that anybody denying these young people from serving the country because they do not have those many years of experience, is actually denying qualified Kenyans an opportunity to serve us even better.

Madam Temporary Speaker, Clause 5 provides for the membership of this board. Clause 5(b) says that the member should have knowledge and experience of at least 10 years in matters relating to the devolved functions. I hope to amend this provision so that we reduce it from ten years to three years of experience on matters of devolution so that, one; to attract young professionals from the university to get employment.

Two, not to unnecessarily favour older members of society in hogging jobs that can be equally done by the youth. Three, this is also in recognition to the fact that even devolution itself has not been there for too long, it has just been there for 11 years. So, where will you get all these professionals who have 10 years of experience in matters devolution? There are not that many because the principle has been around for a very short time.

The Bill also provides that the person and the members of the Intergovernmental Agency shall serve on a full-time basis. Fine but let us reflect on this. Before we legislate that an agency like this one serves on a full-time basis, let us dissect the functions and ask ourselves; can these functions be done on a quarterly, half-yearly or whatever basis other than full-time? This is so that we save the high cost of running Government.

You know the experience we have today with the Salaries and Remuneration Commission (SRC). Why is a Commission that just sits to decide how much people

should be paid serve on a full-time basis? Let us assign functions to these agencies, dissect them and justify the need for us to make it a full-time agency.

Madam Temporary Speaker, you are a lawyer and you know there exists the Law Reform Commission (LRC) in this country. I am yet to hear or see proposals in the National Assembly or this Senate from the LRC on legislation.

The LRC was put there to purposely modernise our laws in resonance with the new Constitution and update our laws so that we migrate from how the laws had been structured under the old constitution to the new Constitution. However, the LRC is just there, not bringing those proposals. It, therefore, calls for this debate.

I do not want to speak for too long; let me just make one last comment in seconding this Bill. Clause 20(a) speaks to funding of the council.

We are being told that:

“(a) annual subscriptions by county governments; and

(b) such monies as may be lawfully granted or donated to the Council”.

If we leave it this way, we run a risk of having an agency that is facing a drought of funds and its functions will be poorly carried out. If it is an intergovernmental agency, why are we asking the county governments alone to make those subscriptions?

After asking the county governments to make the subscriptions, we must also ask the national Government, because it is intergovernmental. It means that the national Government and the county government should both make subscriptions.

Madam Temporary Speaker, with those few remarks, I wish to second.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. (Dr.) Khalwale.

(Question proposed)

I now call upon Senators to make their contributions now. Sen. Olekina Ledama, proceed.

Sen. Olekina: Thank you, Madam Temporary Speaker. I wish the Senate Majority Leader was here when I am making my submissions. Let me begin by supporting this Bill. I think this is a very important Bill though I have a few concerns, which of course, I will raise.

For the last 12 years which the CoG has been in place, it has been operating illegally. If you look at the current Statute, which is now currently being amended, it sets the Intergovernmental Relations Agency as the Secretariat of the CoG. I have a big problem with setting up this CoG in Statute if it does not respect the existing Act.

I am concerned that in these new amendments, which are being proposed by the Senate Majority Leader, a CoG is being established and the funding for it is being sought from the sharable revenue.

We sit in this House to divide money between county governments. When that money goes to the county governments, the Assemblies considers the budget for the Executive.

Then now, we are introducing another monster in the room whereby, the Assembly will be sitting down and setting some money aside from their own budget to subscribe to this new CoG or Council of Assemblies Forum.

The executive in its budget will also set aside some money to set up a club of men and women to sit down and chat. This is shareable revenue; money that is supposed to go to support counties.

When the framers of the Constitution set up the Intergovernmental Relations Agency, which was the Transitional Authority, they saw it fit to set up an independent body that could balance the relationship between the two arms of government; the national Government and the Council of Governors (COG).

Madam Temporary Speaker, I have a problem with over-legislation. I have a problem with saying that because the COGs have been operating illegally, we put them in statutes and give them the leeway to decide how much to send to employ a CEO to run this council or to employ a secretariat with the money meant to build hospitals and schools and fund our children in scholarships and bursaries

The neater way is to ensure that the current statute continues when it comes to the issue of the secretariat of the COGs. How do you tell us that you will set up a secretariat then we are to fund it and be accountable for it? There is a problem here. I strongly support the establishment of the County Assemblies Forum (CAF) but I believe that the Exchequer, which is currently funding this agency, should continue so that the agency can be independent.

We currently have a serious problem with the relationship between governors and Members of County Assemblies (MCAs) because the assemblies are not semi-autonomous. They depend on the governor to give them money. If you go to most counties, they will tell you that the governor has not given them money.

Why is that when this is a body to oversight the governor? Although I support this Bill, I persuade my colleague, the Senate Majority Leader to completely delete Section 20A, being proposed. I will be proposing to him to delete this new Section on funding of the council. Leave that role to be carried out by this Intergovernmental Relations Agency. You cannot say it is an Intergovernmental Relations Agency, yet you are coming in and telling me to fund it from your shareable revenue.

Shareable revenue should be used as per the intended functions. Number two, I would also be persuading the Senate Majority Leader to delete Section 23(C) on funding of the forum. Let the money given to the Intergovernmental Relations Agency by the Exchequer run all those functions of that forum. Even if you have COGs, let the secretariat remain as per the current statute, to be the Intergovernmental Relations Agency.

We need to differentiate between accountability and a club of men and women going there to sit and talk about what they have done. What I like about this is that Clause 4 of this amendment Bill, which is amending this Act, talks clearly of the following functions, which are very clear: Facilitate dispute resolution between the national Government and county government within the framework provided under this Act.

I support that. You always need to have an arbiter. Now, tell me, how will you have an arbiter yet you have your secretariat? Your secretariat will come out to say we do not agree with the powers that have been given to this current agency.

We want to be the ones to dictate to this agency what they should negotiate for us with this new COG being funded. This is wrong and I hope that my colleagues who will speak after me on this matter will agree with me that Section 20A is unnecessary.

Today's Order Paper talks about reinventing the wheel and, amending the Division of Revenue Bill.

Hypothetically, if we pass this Bill, rush it fast and it is assented into law, does that not mean that county governments will now have to redo their entire budgets again, and create a new budget line to be able to fund the COGs? Sen. Kajwang' will tell you that for the last 10 years, we have been agonising over the legality of county governments funding the COG. Since they have been operating in an illegal framework throughout, the best thing to do is to have a completely independent body. We talk about corruption here every day.

We talk about county governments being corrupt. I see that you have given this new council powers. I have seen it somewhere where it says, 'summon anyone to appear before it'. Let us do away with the unnecessary creation of secretariats. We are just creating jobs for people and even when those jobs have been established, they only go to certain parts of this country as if we are visitors in this country.

Madam Temporary Speaker, although I support these amendments, I will also be bringing amendments. I hope my colleagues will agree with me that we need to stop this waste.

I will summarize by saying the following: One, we do not need a secretariat of the COGs, the secretariat of the Intergovernmental Relations Agency, which is currently by statute the secretariat of the COGs should remain so. We need to make it very clear so that people know.

Two, we do not need to divert money meant for our people. The shareable revenue that we cry every day to be increased will be monies that these guys will be paying a subscription from. What convinces me that what I am saying should be adopted by this Senate is that Section 20(A)(1)(b) being introduced says such monies as may be lawfully granted or donated to the council.

It does not say who is going to donate. One county government might say we have so much money, we will donate to the council because the other county government is poor. It also says this council shall determine bi-annually the amount to be paid by county government as subscription.

That is wrong. I persuade my colleagues and hope that you pay attention to what I am saying. Let us do away with this new provision being introduced. It is not necessary and it is expensive. People are talking about austerity measures. There is nothing that will convince me that we practise what we preach if we reduce the expenses.

The moment you set up the COG secretariat and put it under statute, depending on the powers of the CEO of that secretariat, the county government might one day be told to donate Kshs100 million every year, so that they can have big events where it is just talk shop. You cannot find something tangible.

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

Sen. Tobiko: Madam Temporary Speaker, I stand to support the Intergovernmental Relations (Amendment) Bill 2024.

I have heard the concerns of the Senators who have contributed to this Bill. I have had a chance to interact with the Intergovernmental Relations Technical Committee (IGRTC), which is proposed to become the agency. We have also had a chance to listen to the Council of Governors (COG) and to the County Assemblies Forum (CAF).

I am personally convinced on the necessity of these various bodies. The Agency has been operating as the secretariat of the Summit. It has also been the one facilitating and coordinating the sectoral forums of the national county Governments.

Additionally, it has also been coordinating meetings of the Intergovernmental Budget and Economic Council (IBEC) because the IGRTC was a successor of the Transitional Authority. This House knows very well that there are so many functions and accompanying resources that should but have not yet been devolved from the national Government to the county Governments.

There must be this body to continue pushing, persuading and lobbying the national Government to let go the functions that are devolved. The functions according to Schedule Four of the Constitution, which should then be devolved to county governments, we know there has been a struggle.

The Transitional Authority tried as much as it could but its time expired before it completed this work. The IGRTC came in and has done its bit but still there is so much that needs to be done.

We have realized that the national Government will not let go of the functions or resources if it is not pushed. Sometimes it is almost coerced to let go of the devolved functions.

Ideally, it should be as smooth as possible. The national Government should let go because devolved units are a creation of the Constitution of this republic. The reality is that they are not letting go and there must be a body that will continue to push and ensure that this is done.

Sometimes the national Government has let go of functions without resources, almost in a way that they would want to see the devolved units fail. The agency exists of necessity and should be empowered by law with the necessary resource.

As far as the CoG is concerned, it has created a forum of standardization amongst our counties, so that they can compare notes and assist each. Therefore, even as these units were created, it was never meant that they would be so independent and autonomous of each other, that they cannot learn from each other.

The successes of Kakamega today would be good if Kajiado can get a chance to learn from Kakamega. It is the CoG that has been able to identify ---

(Sen. M. Kajwang' and Sen. Olekina consulted loudly)

Madam Temporary Speaker, do I stop and give them a chance to continue speaking?

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, continue with the debate. They will consult in low tones.

Sen. Tobiko: Thank you, Madam Temporary Speaker. We have seen the CoG pushing for resources to go to the county Governments. Unity is strength. When they operate together, they get the energy and courage to push further.

Seemingly, in this country things are not just done normally. If things were done normally, then one would let go when one is told for example, that something belongs to Sen. Mungatana. However, if you must be pushed to release what belongs to Sen. Mungatana then there will be a body or someone to push you to let go.

The CoG also exists of necessity and has become a forum for counties to challenge each other to perform better and to pull their socks. They have addressed situations such as in Meru County by even trying to go to see what ails the county. These bodies do exist of necessity and must be enabled by law, so that they do not exist in a vacuum or outside the law. This law is made to facilitate that.

The CAF has also given voice to the County Assemblies. The Speakers' Forum, the CAF and the Society of Clerks at the Table (SOCCAT), are bodies such as all the other professional bodies we see in this country for example, of accountants and engineers. These bodies have operated to ensure standards and ethics are met. The same thing is what these bodies are doing in the devolved arena.

Madam Temporary Speaker, I support what has been proposed, that we anchor these bodies in law and continue to protect and push for devolution. These bodies are not just there as Sen. Olekina would want us to believe. That it is just some club of men and women who are meeting for the sake of meeting. They are meeting to make devolution work.

It is important that we support this. I support the creation and facilitation of the Agency.

I support that the Council of Governors (COG) be facilitated from the Exchequer. Counties should not be struggling to pay a subscription fee and try to anchor the COG somewhere.

It looks like they are stealing money from the county executives or devolved functions to be able to support the COG. The COG is an important body, so, it should actually be financed from the Exchequer. So is the County Assemblies Forum (CAF). We need these bodies in order to have harmony, standardizations and a basis for devolution to work.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Tobiko. Sen. M. Kajwang', proceed.

Sen. M. Kajwang': Madam Temporary Speaker, I rise to support the Bill that has been sponsored by the Senate Majority Leader. In the last Parliament, I had the privilege of serving as the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations. These matters came before my chair, and, indeed, we brought in a legislative proposal before this House. However, it was too close to the elections, about a month or two to the elections.

At that point in time, the Intergovernmental Relations Technical Committee (IGRTC), which we want to rename as the Intergovernmental Relations Agency, wanted to be a commission. We thought that that was a bit self-serving and selfish. They argued that they should be established like a constitutional commission, like the other constitutional commissions in Article 250. That sounded rather ambitious.

Madam Temporary Speaker, I want to speak to the spirit of this Bill rather than the letter, as my senior, the Senator for Kakamega County, has done. He has spoken elaborately to the letter.

Let me talk about the spirit. Intergovernmental relations is a constitutional provision. If you look at Articles 185, 186, 187 of the Constitution going onwards, it requires that the two levels of Government to have formal mechanisms for consultation and working together.

Devolution is not just about counties, because sometimes we think that when you talk devolution, it is just about counties. Devolution is a balance of power between the subsidiary units and the national Government unit. When you are talking about devolution, you cannot talk about counties at the expense of the national Government. That is the reason why there was a need to have this coordinating mechanism, which was given effect by the Intergovernmental Relations Act.

In the last Parliament, I looked at the Intergovernmental Relations Act. It is an Act of Parliament that needs further amendments beyond what we are doing today. I will give you an example of the unprecedented transfer of functions that happened in Nairobi City County.

Transfer of functions should be guided by Article 189 and given further effect in the Intergovernmental Relations Act. We realised that there were a lot of gaps in the Intergovernmental Relations Act. That is why the Nairobi Metropolitan Service (NMS) was not able to be scrutinised properly. That is why the Nairobi City County Assembly was not able to provide oversight and be involved in allocation of budgets to the NMS in the manner that the Constitution expects of devolved services.

I encourage the Standing Committee on Devolution and Intergovernmental Relations to look at the legacy report that we left and bring further amendments to this Act to give greater effect on transfer of functions.

However, I congratulate the Senate Majority Leader because he has picked another element in that Act that has been a bit hazy. The IGRTC was supposed to be the secretariat to the summit. It was also supposed to be the secretariat to the COG. However, because the governors were better organised, and the inaugural Chief Executive Officer (CEO) of the COG was a lady who is now a judge, she did a great job in establishing the COG to an extent where the COG was almost in competition with the Senate.

I recall in the 11th and 12th Parliament, the Chairs of the COG would make pronouncements, which many at times would be at variance with the Senate, and yet the Senate is a constitutional institution that is supposed to represent and defend the interests of counties and their governments.

It got so bad that even the chairs of the COG, were unwilling to subject themselves to scrutiny at the Senate. When Sen. (Dr.) Khalwale was the chair of the Public Accounts Committee, the then governor of Kakamega County, who was the Chair of the Council of Governors, refused to appear before the Senate. The then governor of Bomet County, who at some point served as a Chair of the COG, Governor Isaac Ruto, refused to come to the Senate. They used public resources to take the Senate to court.

As we provide a legal framework recognition for the COG, I want the Committee that will be scrutinising this Bill to put this question to the COG. That out of their legal expenditure, what percentage has been litigation against the Senate? It forms the bulk of their legal expenses.

It is so ridiculous that at some point, governors were required by the COG to make a contribution for them to file a case against a report that was adopted by this House.

I was the Chair who tabled that report in this House. It was called the Fiduciary Risks Report. We had summarised the emerging crosscutting audit issues that the Auditor General has raised over the years.

The Auditor General generates a lot of reports, but many of them can be summarised into probably 20 issues. We brought the first Fiduciary Risks Report to this House, and amongst the recommendations that were adopted by the House was, all contributions that were made to the COG were nugatory, illegal, and, therefore, the CEOs should be surcharged for that contribution.

What did the Council of Governors do? They set up a fund to take the Senate to court. I am glad that along the way they found that it was a futile move and stopped that pursuit, even though they did not refund the counties the money that had been put in that fund.

The Senate cannot be struggling to go into mediation to propose Kshs400 billion and consider whether we should reduce allocations to county governments or not, only for the county governments to use the resources coming from the Senate for litigation against the Senate on matters that are neither here nor there, like whether governors should appear before the Senate or not.

That notwithstanding, I still feel that we need to decouple the Intergovernmental Relations Agency and the COG. Ideally, the powerful institution ought to have been the Intergovernmental Relations Agency.

At our last meeting with that entity when in Eldoret with the Liaison Committee, I put it to the Chair of the IGRTC that they have been subdued and outshone by the COG. Indeed, if you look at the strict interpretation of the Intergovernmental Relations Act, they should have been the ones providing secretariat and administrative support to the COG. However, we are where we are.

I agree with the spirit that the IGRTC should be independent, separate and have clear terms of reference. Whether we name it Intergovernmental Relations Agency or Intergovernmental Relations Technical Committee or Intergovernmental Relations Commission arose by any other name, smells just as good. The nomenclature is neither here nor there. What is important is that they need to have clearly delineated functions that will not overlap with those of the COG.

I support that you need to allow the governors to organise themselves. The COG is supposed to be funded from the consolidated fund. That has been our beef in the County Public Accounts Committee (CPAC).

When we say that contributions to COG by county governments is irregular, it is based in law, because the law says that their expenses shall be drawn from the Consolidated Fund. The audit of those expenses---

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

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

Sen. Olekina: Madam Temporary Speaker, I hate to interrupt my good brother, the distinguished Senator for Homa Bay County. I followed his submissions and wanted clarity on a couple of issues.

Madam Temporary Speaker, the first issue is that the distinguished Senator said that the first CEO of the COG, who is now a Judge in the Court of Appeal was smart, did a good job and outsmarted the IGRTC by setting up the COG secretariat.

Is the Senator in order, knowing clearly that Section 13 of the Act specifically sets the IGRTC as the secretariat of the COG? Is he saying to commit an illegality is right? It is just an issue of statement of facts.

The second issue I want some clarity on from the distinguished Senator---

The Temporary Speaker (Sen. Veronica Maina): Sen. Ledama before you proceed, which Standing Order are you relying on?

Sen. Olekina: Standing Order No.105 on statement of facts.

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

Sen. Olekina: Madam Temporary Speaker, everything we say here remains on record. I have a big problem with the existence of the COG illegally.

I would like to get some clarity from my good friend, Sen. M. Kajwang', who was the Chairperson of the Committee on Devolution in the last Parliament and I also served with him in the CPAC. We agonized on the legality of the COG.

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

I am on a point of order. No, you cannot, I am on a point of order.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, he is on a point of order. He has to finish.

Proceed, Sen. Ledama.

Sen. Olekina: Madam Temporary Speaker, the Chief Whip is an old dog. He has been in this House for some time. He knows that when there is a point of order---

The Temporary Speaker (Sen. Veronica Maina): Sen. Ledama, that is unparliamentary language. Withdraw and retract.

Sen. Olekina: No, Madam Temporary Speaker, it is a good word to use. It is not a bad word. He is the one who uses it every day. It does not mean that he is that.

I would like to know whether that illegality can be considered as outsmarting the Agency in setting up the COG's secretariat. We are now terming it as an agency---

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

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, wait until the hon. Senator completes his point of order.

Sen. Olekina: Madam Temporary Speaker, I am wondering whether my good friend is now losing his memory. He has just been told that I am on a point of order and he has to be patient. If I can just finish on the clarification, I am seeking from the distinguished Senator for Homa Bay.

I would like to know whether that illegality equates to being smart and how we are going to deal with it. I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', proceed and throw more light and clarity on the issue you have been asked.

Sen. (Dr.) Bonie, what is your point of clarification?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, this is a House of rules and because he was on a point of order, I was constrained. I wanted to challenge him on a point of order.

The clarification I want you to make is, is it right for a Member to hide in a Standing Order, so as to debate a point when he has already been given an opportunity to debate? He is out of order. I might be an old dog, which is a good thing because the old dog knows all the rules.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, it is on your own admission of how you have been described, but nonetheless, he has sought a clarification, which is in order. He has also referenced a section in law to distinguish whether that act of illegality can be referred to as a smart action.

Sen. M. Kajwang', it is in order for you to clarify exactly what your submission intended to mean.

Sen. M. Kajwang': Thank you, Madam Temporary Speaker, I was with Sen. Ledama Olekina in drafting the fiduciary risk report I have referred to. It has his footprints all over and I remember we spent a lot of time with him in retreats and report writing. It is a report that my Committee hopes to bring back to the House.

We pointed out that illegality. It is for that reason that the House adopted our report and said that those contributions were irregular. They were irregularities and illegalities by drawing money from county revenue funds rather than the Consolidated Fund, which statute requires should be the route through which the Council is funded.

We even said, assuming that I was the secretary general of a political party and I am not getting the money I am supposed to be getting from the Political Parties Fund, should county governments contribute towards the welfare of that political party? No, because in law, political parties should be funded from that Fund. In law, the COG and the IGRTC should be funded from the Consolidated Fund.

However, we must give it to those who established the COG. It is difficult to build institutions. We must give it to even the founding Members of this House. The National Assembly was in existence and there were structures. The founding Speaker, the Clerk, staff and Members had a tough responsibility to give effect to a new provision of the Constitution.

Madam Temporary Speaker, it is that ingenuity that I am talking about on the part of the CEO and the founding team of the COG. They gave it visibility, credibility and a voice that was louder than the IGRTC which was supposed to be the bigger institution. That is what I meant by saying that they outsmarted the IGRTC.

To date, with Ms. Mary Mwiti as the CEO, you will still hear the COG more than you will hear the IGRTC. The IGRTC has been led by very distinguished citizens. The Transition Authority (TA) was led by Kinuthia Wamwangi, who still continues to be a voice of reason and wisdom, when it comes to devolution.

There was Prof. Karega Mutahi and from where I come from, we hold him in very high regard. This is because, he came to Mfangano Island, an area that did not have schools and he established a school called; Prof. Karega Mutahi School. It is right in the middle of Mfangano Island and it is a school that has provided opportunities to many residents of Mfangano Island.

Currently, Mr. Githinji Kiragu, is the Chair of the IGRTC and we are happy that it is during his tenure, they have brought this amendment for us to have clarity.

Madam Temporary Speaker, let the Committee on Devolution ask the COG why we cannot find a way of acting in a complementary manner. Why is it we have always been acting in a competitive manner and yet ultimately, those with the responsibility in this Constitution, to defend and protect devolution, counties and their governments is this Senate? As we give effect and separate and give funding arrangements to the COG, let them not imagine that they shall be in competition with the Senate. Let them also not imagine that they shall be superior to the Senate.

Madam Temporary Speaker, the IGRTC has a lot of work to do as far as assets and liabilities are concerned. This job was started during Kinuthia Wamwangi's time and it is still stuck. Counties have done verification of assets and liabilities but the IGRTC has not concluded this report. That is why I wonder, if we make them an agency, are they going to move faster than they were moving when they were a technical committee?

Costing of functions and transfer of functions; moving too slow. Nowadays we are just bandying figures around what counties should get but we are not quantifying the cost of providing those services. This is something this Agency ought to have done and we hope that they will do it now that we have provided greater clarity.

Transfer of functions: Nairobi City County is one example of transfer of functions gone bad. Hundreds of billions of shillings were sunk in the Nairobi Metropolitan Services (NMS) and today we do not know how that money was used. I recently demanded the Auditor-General's report on the Presidency be tabled in this House. I was assured that it would be brought here.

Madam Temporary Speaker, the expenditure of the NMS was hidden under the Presidency. When we talked to the governor for Nairobi, he told us that he could only account for 30 percent of the revenues we sent. For the other 70 percent, he told us to go to the Presidency. Those are issues that this Agency ought to have resolved.

On dispute resolution; we are getting the third impeachment Motion coming to this House and without anticipating the matter, we take judicial notice that there could have been decisions in Meru County.

What role has this entity that is mandated to resolve disputes in county governments and between counties and the national Government done to save the people of Meru, from this perennial and seasonal impeachment Motions?

Madam Temporary Speaker, we must demand---

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', you will have five minutes when we resume debate.

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday, 3rd September, 2024, at 2.30 p.m.

The Senate rose at 6.30 p.m.