

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 31st October, 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 Clerk-at-the-Table consulted with the Speaker)

The Speaker (Hon. Kingi): I am informed that we do have quorum, so we will proceed with today's business.

Clerk, you may proceed to call the first Order.

PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON
FINANCIAL STATEMENTS OF VARIOUS ENTITIES

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, on behalf of the Senate Majority Leader, I beg to lay the following Papers on the Table of this Senate today, 31st October, 2024-

Report of the Auditor-General on the financial Statements of Nyamarimba Sub-County Level 4 Hospital – County government of Kisumu for financial year ended 30th June, 2022.

Report of the Auditor-General on the financial Statements of Naivasha Sub-County Level 4 Hospital – County government of Nakuru for financial year ended 30th June, 2022.

Report of the Auditor-General on the financial Statements of Bahati Sub-County Level 4 Hospital – County government of Nakuru for financial year ended 30th June, 2023.

Report of the Auditor-General on the financial Statements for Nyamarimba Sub-County Level 4 Hospital – County government of Kisumu for financial year ended 30th June, 2023.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Report of the Auditor-General on the financial Statements of Bungoma County Referral Hospital – County government of Bungoma for financial year ended 30th June, 2023.

I thank you.

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

QUESTIONS AND STATEMENTS

STATEMENTS

PERSONAL STATEMENTS

THREATS ON SEN. DULLO'S LIFE IN HER EXERCISE OF CONSTITUTIONAL OVERSIGHT FUNCTIONS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No. 52 (1).
Hon. Sen. Dullo, proceed.

Sen. Dullo: Thank you, Mr. Speaker, Sir. This is a Personal Statement pursuant to Standing Order No.52 (1).

As a Senator, my constitutional responsibility is to serve the people of Isiolo County, uphold transparency and ensure accountability in all county government operations. I am constitutionally tasked with exercising oversight over county government functions to safeguard the interests of the people of Isiolo County, including ensuring prudent and responsible management of resources.

This responsibility has come with significant challenges, most notably threats to my life and unwarranted interference by certain individuals within the county government.

I wish to bring the following to the attention of this House -

(1) I have credible information that plans are underway by some individuals aiming to obstruct my access to Isiolo County. These plans are an attempt to prevent me from performing my oversight role effectively and hinder my engagement with the people that I represent;

(2) My staff and supporters have faced continuous harassment, including confrontation by hired goons and repeated summons by security agencies in Isiolo intended to intimidate and dissuade them from supporting my work.

Such tactics are alarming and have hampered my staff's ability to perform their duties.

(3). Yesterday, 30th October, 2024, a meeting was held and attended by 10 county government employees, where discussions were centered on planning an attempt on my life. This conversation allegedly included plans for my assassination, posing a very real and serious threat to my life. I am, therefore, deeply concerned for my well-being.

Mr. Speaker, Sir, a Petition has also been filed against me at the High Court in Isiolo aimed at destabilizing, preventing my work and tarnishing my reputation as a public servant. This adds to the challenges that I face in discharging my constitutional oversight

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

functions. My county office was recently broken into and items stolen under suspicious circumstance. This act not only undermine my work but raises questions about the lengths certain individuals are willing to go to hinder my office operations.

I would like to state categorically that should anything happen to me, my family, my employees or my supporters, the County government of Isiolo must be held accountable.

Finally, I have reported this matter to the Directorate of Criminal Investigation (DCI) to ensure that it is addressed promptly and thoroughly.

I am committed to pursuing justice and transparency for the sake of the people of Isiolo County and will continue to carry out my oversight duties despite these threats and challenges.

I thank you.

The Speaker (Hon. Kingi): Sen. Crystal Asige, you had a personal Statement. Proceed.

NAMING OF SEN. CRYSTAL ASIGE IN
THE LIST OF 2024 TIME 100 HONOREES

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.58 to express my gratitude and share the immense honour of being named in the list of 2024 Time100 Next Honorees.

(Applause)

The Time100 Next is an annual list of the top 100 people worldwide who are defining the next generation of leadership. This list recognizes remarkable individuals in politics, technology, science, philanthropy, media, business and entertainment for their outstanding contributions.

Mr. Speaker, Sir, I have always said that I believe I was given this mountain to show others that it can be moved. I stand here today humbled by this accolade from Time 100. I am more convinced than ever that indeed mountains can be moved. Being a young Kenyan woman with a disability has given me a unique perspective on the power of the mind and the lived experience of how multiple barriers in society can limit our potential, but also that every twist and turn in life can work together for your good.

Whether it be through my legislative work in leveling the playing field for disability rights, through the five inclusive Bills that I am sponsoring in Parliament so far, bringing into focus the exemplary self-efficacy that can be found in the youth, empowering those that remain invisible to society through my Crystal Asige Foundation or continuing to connect universally through my first love; music, it is all to build a legacy of servanthood which I pray will outlast me.

Mr. Speaker, Sir, being recognized on the Time100 list is not just a personal achievement, but a testament that disability need not to be a barrier to making significant contribution to society. It goes beyond words how honoured I am to be in the company of individuals with immense influence, who are not only my peers but now also my friends.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

I am proud to be listed beside His Excellency Bassirou Diomaye Faye, Senegal's youngest President who is championing economic reforms and anti-corruption efforts in his country, inspiring us all. His Excellency Governor Wes Moore, the first black governor of the State of Maryland, United States of America (USA), who demonstrates extraordinary leadership in crisis response and so much more.

Chart-topping performer Shaboozey, a rising star in country music whose creative talent is reshaping the genre as we know it. Pop sensation Sabrina Carpenter, the petite powerhouse who is making her mark in pop music with wit and confidence and unfiltered charm. Three-time Grammy award-winning musician Victoria Monet, celebrated for blending R&B, funk, and pop with her soulful personal lyrics, crafting a sound that is both empowering and deeply intimate.

Journalist Agather Atuhaire, the bold voice unmasking corruption and defending justice right next door in Uganda. Chef Aisha Ibrahim, whose leadership in the culinary world is breaking barriers and creating inclusive spaces in an industry known for its stereotyping. Three-time National Basketball Association (NBA) all-star and Most Valuable Player (MVP) Jaylen Brown, also known as Juice, who is using sport and going beyond the basketball court to build generational wealth and transformation in communities of color through his Boston Exchange Initiative.

Brazil's Minister of Racial Equality, Anielle Franco, who through her work with the Marielle Franco Institute, is transforming Brazil's racial equality landscape through her lived experience and relentless advocacy. Long Beach hip-hop icon Vince Staples, who is transforming hip-hop with gritty storytelling, social commentary and also the star of Netflix's "*The Vince Staples Show*".

A special mention to fellow Kenyan Thomas Njeru, recognized in the advocates category for his groundbreaking work to provide insurance solutions to millions of smallholder farmers across Africa, Asia and Latin America.

I would also like to extend my heartfelt thanks to Kenya Airways (KQ), our national carrier, whose captain and crew celebrated me in the most special way on my flight home from the Time100 Next Gala event in New York, making this recognition even more memorable.

Mr. Speaker, Sir, finally, to you, my self-funded attendance to this incredible event in New York was hanging in the balance for reasons I was not able to control, but made you aware of. It is through your support and swift action of the Clerk's office at the 11th hour that my anxiety around traveling alone with a disability was lifted and this experience was made possible.

Allow me to also salute Dr. Brenda Ogembo and Ms. Caroline Cherop, who also went out of their way for me, and I sincerely thank them both. I dedicate this honour to every Kenyan, particularly those with disabilities, as well as my phenomenal family and my incredibly supportive team, fans and followers, the underdogs of the world, whom I want to remind that their lives and contributions, however small, can take the world by storm. I want this recognition to show you that the world needs your gift as much as you need to give it.

My call to the public is to always look beyond what is visible and continue to rise above and dismantle the barriers that continue to hold so many of us back. Disability, or

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

being unable to do something in whatever form, is not the sum total of who you are, neither does it have to define who you can be.

Thank you again to Time100. It is an honour and great privilege to represent my country on the global stage. I look forward to continuing my work in serving all Kenyans, no matter their ability or disability.

(Applause)

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.53(1).
Proceed, hon. Senator for Marsabit County, Sen. Muhammed Chute.

UTILISATION OF DEVELOPMENT FUNDS IN MARSABIT COUNTY

Sen. Chute: Thank you very much, Mr. Speaker, Sir. I have two Statements to read today, with your permission.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the utilization of development funds by the County Government of Marsabit.

For the past seven years, funds allocated for development in Marsabit County amounting to billions of shillings have been consistently diverted towards relief supplies.

This is despite the existence of a separate allocation specifically designated for drought mitigation and relief efforts. This diversion has hindered the achievement of the core purpose of development, which is to foster equitable development and improve livelihoods at the county level.

It is important to note that under Section 110 of the Public Finance Management Act, 2012, county governments are required to establish an emergency fund which shall not exceed 2 per cent of the county government's total revenue.

This fund is meant to cater for unforeseen emergencies, including disaster response and relief efforts. The continuous diversion of development funds to relief activities, therefore, contravenes the established framework meant to manage emergencies without compromising long-term development goals.

Mr. Speaker, Sir, in the Statement, the Committee should-

(1) Explain why funds meant for development in Marsabit County are being diverted to relief supplies instead of the purpose for which they are intended.

(2) Provide a detailed report on any public participation carried out on development projects for the Financial Year (FY)2021/2022, FY2022/2023, and FY2023/2024 and include information on the budget and supplementary budgets passed by the county assembly and assented to by the county government. Along with the percentage of development projects indicated in the initial budgets *vis-à-vis* those in the supplementary budgets.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(3) Outline the amount of money set aside for pro-poor programmes, unforeseen emergencies, relief efforts and drought mitigation during the same period.

STATE OF ONGOING INVESTIGATION AT KNTC

Sen. Chute: Mr. Speaker Sir, pursuant to Standing Order No.53(1), I rise to seek a Statement from the Committee on Justice and Legal Affairs on the state of ongoing investigation at the Kenya National Trading Corporation (KNTC).

The KNTC has lost over Kshs6.5 billion under unclear circumstances with established suspicion of fraud. This led to constitution of disciplinary committee which has been looking into the matter and dealing with all staff involved.

The DCI and the Ethics and Anti-Corruption Commission (EACC) have also been investigating the matter for fraud and potentially other offenses. To this end, there have been dismissal of some members of staff at the KNTC with others remaining in the office.

I am reliably informed of the ongoing tampering with evidence and process in this investigation. This is improper and continues to raise eyebrows on the retention of staff involved in fraudulent loss of more than Kshs6.5 billion at the KNTC.

Further to this, there are two companies that overcharged KNTC and upon investigation, it was established that the two companies had issued credit notes and are to refund KNTC. These companies are-

- (1) Multi Commerce International Limited which has been directed to refund Kshs2.28 billion to KNTC.
- (2) Chama Holdings Limited which has been directed to refund Kshs487 million to KNTC.

Mr. Speaker, Sir, in the Statement, the Committee should-

- (1) Provide status of ongoing investigation by the DCI and EACC at the KNTC.
- (2) Investigate the board resolution leading to dismissal of members of staff and retention of those who remained.

- (3) Investigate cash withdrawals done through vouchers and cheques by individuals at KNTC. I request they submit the names and identity numbers of the said individuals.

- (4) Furnish the Senate with details of how KNTC board determined the dismissal and retention of the involved members of staff.

- (5) Investigate why staff members who may have been involved are still in the office. These members of staff are; Lucia Anangwe, the General Manager of Finance, Edward Wachira, the Senior Accountant and Lydia Karue, the Finance Officer. It is fundamentally important that the Committee direct the members of staff mentioned above to step aside to allow investigations to be done.

- (6) Establish how the disciplinary committee handling the matter is to be administratively fair and transparent in this very apparent compromise in procedure and give a sound report.

- (7) Investigate and establish timelines and mechanism with which the companies directed to refund KNTC will settle the monies.

Thank you very much. I have one more Statement.

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

REALLOCATION OF DEVELOPMENT FUNDS BY
MARSABIT, TURKANA AND SAMBURU COUNTIES

Sen. Chute: Mr. Speaker, Sir, I rise, pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the reallocation of development funds by Marsabit, Turkana and Samburu counties towards special programmes for distribution of food and other relief supplies.

In the Statement, the Committee should-

(1) Indicate the original and supplementary budget allocation for those counties for the years 2020/2021, 2021/2022, 2022/2023, 2023/2024.

(2) Explain all instances where the said county governments reallocated development funds to a special programme for distribution of foodstuffs and other relief supplies in the aforementioned financial years, stating whether due process was followed each time.

(3) Provide a detailed breakdown of the respective expenditure by the county governments on the special programmes disclosing the type, quantity and unit price of the procured relief foodstuffs and supplies.

(4) Indicate whether the relief foodstuffs and supplies procured by the county governments met the required health and safety standards, and if so, table the relevant inspection reports.

(5) Explain how the relief foodstuffs supplies were distributed by the county governments across their respective counties, specifying the quantity distributed in each area.

Thank you very much.

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

SAFETY AND EFFICACY OF THE POLIO VACCINE

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the safety, efficiency, and side effects of polio vaccines administered in Kenya.

In the Statement, the Committee should –

(1) Provide a detailed report on the current status of the polio vaccination campaign across the country, specifying the number of children vaccinated in each county and the particulars of the vaccines administered.

(2) Provide detailed information on the adverse effects, if any, of the polio vaccines administered recently by the Ministry of Health and strategies applied to ensure that vaccine safety risks are identified and quantified against potential benefits.

(3) Outline measures the Government is taking to prevent the emergence of preventable diseases in light of the rising vaccine hesitancy.

(4) Provide relevant information regarding existing donor financing arrangements between the Ministry of Health and development partners, particularly on the provision of vaccines and other essential medical commodities.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

I also have another statement I am reading on behalf of Sen. Onyonka, who has been caught up in traffic.

This is a request for a Statement on the labour practises and welfare of the---

The Speaker (Hon. Kingi): Can you correct the record, Sen. Okenyuri.

Sen. Okenyuri: Okay. Mr. Speaker, Sir, I can see he has just walked in. He says I proceed with what I am doing. Thank you.

LABOUR PRACTICES AND EMPLOYEE WELFARE
AT SHIVLING SUPERMARKETS IN KISII COUNTY

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 labour practices and welfare of employees working for Shivling Supermarkets in Kisii County, as well as in other branches across Kenya.

My office has received multiple complaints regarding ongoing harassment and mistreatment of employees at Shivling Supermarkets in Kisii Town and other locations nationwide, allegedly at the direction of the management.

In the Statement, the Committee should -

(1) Provide a report on the terms of employment, remuneration, and policies that govern the general welfare of employees at Shivling Supermarkets in Kisii County and across Kenya.

(2) Enquire into allegations of racial discrimination and the non-remittance of statutory deductions to the National Health Insurance Fund (NHIF) and THE National Social Security Fund (NSSF).

(3) Establish reports that employee salaries are subject to deductions for stock variances and that employees work extended hours without compensation.

(4) Table the most recent audited report on wages and overtime payments made to employees of Shivling Supermarkets in Kisii County and nationwide.

On behalf of Sen. Richard Onyonka, I thank you.

The Speaker (Hon. Kingi): Sen. Kisang', proceed.

COLLAPSE OF ESPM STRUCTURE UNDER CONSTRUCTION
IN ITEN TOWN, ELGEYO MARAKWET COUNTY

Sen. Kisang: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.53(1), to seek a statement from the Standing Committee on Roads, Transportation, and Housing regarding the sudden collapse of the Economic Stimulus Programme Market (ESPM) structure under construction in Iten Town in Elgeyo-Marakwet County.

In the Statement, the Committee should -

(1) Provide a comprehensive report detailing the procurement method used to award the tender for the construction of the market and the procedure used in evaluating bidders and awarding the contract.

(2) State the name of the contractor awarded the tender and list all successful contracts completed by the tender awardee from 2019 to date.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(3) Disclose the tender award sum for the ESPM, providing a detailed breakdown of expenditure towards the project to date.

(4) Clarify the reasons for the structure's collapse, including whether all construction standards and quality control procedures were followed.

(5) Outline the actions taken by the State Department for Public Works in response to the unexpected collapse of the modern market structure.

Mr. Speaker, Sir, I have a second Statement.

DELAY IN UPGRADING KILANG'ATA-KOPASI RIVER ROAD TO BITUMEN STANDARDS

I rise by pursuant Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation, and Housing regarding delays in the upgrading to bitumen standard of Tot Junction -Chesegon, Kilang'ata to Kopasi River Road and Chesegon loop in Elgeyo-Marakwet County and West Pokot Counties.

In the Statement, the Committee should –

(1) Provide reasons for the prolonged delay in upgrading the said roads to bitumen standards.

(2) Explain why the completion status of the said roads remained below 10 per cent 36 months after the project implementation commenced.

(3) Clarify why the contractor and the resident engineer have been absent from the site for the past three months, and confirm whether the consultant APIC consortium possesses the necessary qualifications and competence to oversee the successful completion of the project.

(4) Outline measures put in place to ensure that the contractor and consultant complete the project, including specific timelines for its completion and commissioning.
Thank you, Mr. Speaker, Sir.

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

COMPENSATION FUND RELEASED FOR VICTIMS OF WILDLIFE ATTACKS

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for this opportunity. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment, and Natural Resources regarding the Kshs908 million compensation fund released by the Government for victims of wildlife attacks in Taita-Taveta County and across the country.

This compensation was announced on July 12, 2023, by the then Cabinet Secretary for Tourism and Wildlife, Hon. Peninah Malonza, at a ceremony held in Voi, Taita-Tabeta County.

In the Statement, the Committee should-

(1) List all claimants, specifying the nature of each claim, the date of the incident, the filing date, the claimed amount, and the payment date from 2014 to date, including a

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

breakdown of how the Kshs51.5 million set aside for 350 victims in Taita-Taveta County was allocated.

(2) Provide status on all paid and unpaid claims, detailing the reasons for any unpaid claims, and indicate the expected timeline for their settlement.

(3) State the annual budget allocated for compensation related to wildlife attacks on individuals.

(4) Specify the maximum and minimum period within which claims should be settled, stating reprieve measures by the Kenya Wildlife Service (KWS) if payments are delayed beyond this period.

(5) Provide an update on the status of Kshs322 million promised to settle claims dating back to the 1990s, and include a comprehensive list of these claims.

(6) Determine the status of the compensation insurance programme listing the counties in the pilot phase and detail cases that have been settled under this programme. Thank you, Mr. Speaker, Sir.

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

MEDICAL INTERNS REMUNERATION

Sen. Seki: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No. 53(1), to seek a Statement for the Standing Committee on Health regarding the medical interns who have not received their remunerations since being posted in August, 2024. This situation has left young health professionals in a state of financial and emotional turmoil.

In the Statement the Committee should-

(1) Explain the root cause of the prevailing stalemate between the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) and the Government concerning remunerations of medical interns, outlining any efforts by the parties to promptly resolve this stalemate.

(2) State whether a professional arrangement can be made to pay the medical interns' pending resolutions of the stalemate or final determination of the dispute before the Employment and Labour Relations Courts (ELRC) to prevent further hardship among the interns.

(3) Explain how budgetary allocations for remunerations of medical interns are determined in every financial year, outlining measures put in place to ensure the allocations are disbursed in a timely manner.

(4) Outline actions taken by the Government to address existing gaps in current internship framework that have led to the ever-recurring delay in payment of remunerations to medical interns.

I thank you.

STATUS OF NJORO-KISIMA LAND TITLE NO.9216

Sen. Tabitha Keroche: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee of Land, Environment and Natural Resources regarding the status of Njoro-Kisima land, Title No. 9216, purchased

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

by the Government in 2014 to resettle Internally Displaced Persons (IDPs) from the Njoro and Nakuru pipeline areas.

In the Statement the Committee should-

(1) Explain why the IDPs are still living in Nakuru pipeline camps despite the government purchasing 1,102 acres of land; Land No.9216 Njoro Ward, Njoro Sub-County, for their resettlement.

(2) Provide reasons why the government has not yet subdivided the land for distribution to the beneficiaries, many of whom are still languishing in poverty, living in inhumane conditions and exposed to diseases in congested camps.

(3) State the measures taken by the government to identify the genuine beneficiaries considering the attempts by the land cartels to introduce alternative lists of beneficiaries and;

(4) Explain the actions taken by the Government to address and prosecute the land cartels and local administrations involved in the illegal renting and leasing of land meant for the internally displaced persons.

I thank you.

MISAPPROPRIATION OF FUNDS IN ISIOLO COUNTY

Sen. Dullo: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding alleged misappropriation of funds in Isiolo County.

In the Statement, the Committee should-

(1) Investigate and table a report on the Integrated Personnel and Payroll Database (IPPD) and provide the list of staffers, both permanent and casual, as captured in the IPPD system, indicating their terms of engagement when they were recruited and when their details were captured in the system.

(2) Establish the resources allocated towards payment of staffers, both permanent and casual, vis-a-viz allocation to overall county budget for the past three years.

(3) Investigate and report on the allegation that there are discrepancies in the remuneration of the staffers, hence the county government, is losing insurmountable monies and interventions in place to hold those culpable to account.

(4) Investigate the allegation that the county government of Isiolo is losing millions of shillings as a result of having ghost workers on the payroll.

(5) Provide detailed information to ascertain the circumstances under which the County Executive continues to pay salaries using manual processes instead of the recognized, verified IPPD system, hence misappropriating funds.

(6) State what measures the Isiolo County Public Service Board (CPSB) has put in place to ensure proper checks and control in terms of ensuring IPPD data, staff, medical insurance and payroll management are free from manipulation and adhere to the law.

Mr. Speaker, Sir, I have one last one, if you can allow me.

The Speaker (Hon. Kingi): Proceed, Hon. Senator.

ALLOCATION OF BURSARY FUNDS BY ISIOLO
COUNTY GOVERNMENT

Sen. Dullo: Mr. Speaker, Sir, I rise, pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the allocation of bursary funds by Isiolo County Government.

In the Statement the Committee should-

(1) State the criteria for selecting and qualifying applications, applicants for the bursary, including how Isiolo County prioritizes applicants and ensure a transparent and fair process.

(2) Provide the details of the total bursary funds allocated by the county government for the financial year 2022/2023, 2023/2024 and 2024/2025.

(3) Explain the criteria used to allocate bursaries and whether the county government has a mechanism in place to ensure that the children from poor background benefit from the same.

(4) Provide how bursaries are allocated from grassroots up to the county level and finally;

(5) Table the list of bursary beneficiaries for the financial year 2022/2023, 2023/2024 and 2024/2025.

I thank you.

ALLEGED BREACH OF CONFIDENTIAL SUBSCRIBER
INFORMATION BY SAFARICOM

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir, for the opportunity. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Information, Communication and Technology (ICT) regarding the alleged breach of confidential subscriber information by Safaricom.

In the Statement, the Committee should-

(1) Determine whether Kenyans have in the past four years, raised concerns about data breaches by Safaricom and outline the measures taken to address them.

(2) Confirm whether Safaricom has data-sharing agreement with the government, including the data of its formulation and execution and whether subscribers were informed and consented to this agreement and provide a copy of that agreement.

(3) Establish whether it is mandatory for Safaricom to collect and store subscriber data, such as location and to monitor calls to provide its services and clarify why similar practices are not required for other telecom providers.

(4) Detail the safeguards Safaricom has in place to protect subscriber data when shared with third parties, either with or without court orders.

(5) Determine why Safaricom receives higher volume of data breach complaints compared to other service providers.

(6) Explain the discrepancy on access to subscriber data by the government and its agencies when tracking suspects but the same is not made available to assist subscribers in tracing lost phones.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(7) Assess the security of subscriber data considering that Subscriber Identity Module (SIM) card installation on Safaricom lines is handled by an international company by the name Neural Technologies and provide a copy of the agreement between Safaricom and the said company.

I thank you.

The Speaker (Hon. Kingi): Sen. for Nandi, Sen. Cherarkey, please proceed.

INCURRED DEMURRAGE COSTS TO CONSUMERS OF PETROLEUM PRODUCTS

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee of Energy regarding the passage of deliberately incurred demurrage costs to consumers of petroleum products.

In the statement, the Committee should-

(1) State the current daily tariff for demurrage of the Port of Mombasa for ships carrying petroleum products, indicating the maximum required *vis-à-vis* current average timelines for loading and clearing the petroleum products at the port.

(2) Disclose the total amount of money paid for demurrage so far in the Financial Year (FY)2024/2025 for delays in offloading and clearing petroleum products at the Port of Mombasa, providing reasons for the delay.

(3) Provide the details of the current arrangement for payment of demurrage fees under the Government-to-Government or G2G agreement between Kenya and the Gulf countries for the supply of fuel, stating whether the monthly Fossil Scheduling Meeting, (FSM), that normally approves payment of demurrage fees still takes place.

(4) Explain why the Energy and Petroleum Regulatory Authority (EPRA), passes down demurrage costs to consumers of petroleum products, yet some ships that are bringing in this product are deliberately delayed so that they can claim substantial amounts in demurrage fees at the port.

I thank you.

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

INCREASE IN BIZARRE ABDUCTIONS AND MURDERS

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. On behalf of my colleague, Sen. Hamida, I read her Statement on the increase on bizarre abductions and murders.

I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations, regarding the recent wave of abductions and gruesome murders across the country, which has left Kenyans deeply alarmed about their safety and security.

Mr. Speaker, Sir, these disturbing trends include recent cases of mutilated remains found in various counties, reflecting a broader crisis of unresolved murders, brutal violence, and the apparent failure to bring perpetrators to justice.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The tragic death of Waris Dawood, her daughter Nuseiba Dahir, her niece, Amina Abdirashid, and Wells Fargo executive Willis Onyango Ayieko, among others, exemplify the horror of these unresolved cases, highlighting systematic challenges within our investigative and justice system.

In the Statement, the Committee should-

(1) Conduct an inquiry into the surge in abductions and violent killings reported across the country, tabling on cases documented from August 2023 to October 2024, and assess any patterns that may indicate the root cause behind these brutal acts.

(2) Describe the actions taken by the Directorate of Criminal Investigation (DCI) and other law enforcement agencies to investigate and bring the perpetrators to justice.

(3) Detail the current protocols and resources allocated by the National Police Service for the protection of vulnerable groups, including women and children, who have been disproportionately affected by these heinous crimes.

(4) Outline the role of the Independent Policing Oversight Authority (IPOA), and the National Police Service Commission in ensuring transparency and accountability in the handling of murder cases, and state the steps taken to strengthen these bodies to address rising public concerns about the justice and system.

(5) Recommend additional measures for the establishment of a fully functional Coroner's Office to improve forensic investigations, provide transparency, and enhance accountability in addressing unexplained deaths and disappearances.

This is for Sen. Hamida Kibwana.

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

STATUS OF ENGAGEMENT AND REMUNERATION OF
ADMINISTRATORS, VILLAGE COUNCILS, AND
PROGRAM OFFICERS

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I rise pursuant to the provisions of Standing Order No.53(1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding various issues pertaining to administrators, village councils and programme officers.

Cognizant of the roles of administrators and village councils as set out by the County Government's Act No. 17 of 2012, Sections 50, 51, 52, and 53 to coordinate, manage, and supervise the general administrative functions, such as service delivery, provision, and maintenance of infrastructure, and facilities of public service, among others;

Acknowledging that Article 174(d) and the Fourth Schedule, Part 214 of the Constitution of Kenya 2010, recognizes the right of communities to manage their own affairs and to further their development as one of the key objects of devolution, where counties are to ensure and coordinate the participation of communities in governance at the local level;

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Appreciating that the sovereign power belongs to the people, and exercise at both levels of government, developing administrative capacity for effective governance at the local level is a fundamental role assigned to the administrators and the village councils, and aware that contracts of the majority of the county administrators lapsed early this year, 2024, and that those of village councils are still active, their interdependence notwithstanding;

Noting that the program officers were intergrated on permanent and pensionable terms to serve in all the awards and sub-counties, respectively in the county government of Bomet;

I seek the following information from the relevant Committee to-

(1) Provide copies of advertisements declaring and inviting applications for the positions of sub-board administrators between the years 2020 and 2024 in the County Government of Bomet

(2) Provide the schedule of all sub-board administrators regretted to date, and their respective sub-board units, attach copies of their appointment letters where applicable.

(3) Provide payroll schedule for the above appointees for their entire contract term. The payroll should indicate the net pay, statutory deductions, and proof of their remittances.

(4) Confirm whether the county government of Bomet is considering the renewal of their contracts, and if, yes, what has occasioned its delay, if no, who coordinates county government functions at the sub-board level and sub-county.

(5) Give the rationale behind utilization of administrators whose contracts ended and how they are compensated for such engagements.

(6) Give reasons why some pay slips are running to the year 2025, contrary to the appointment letters of such sub-ward administrators.

(7) Provide a schedule of active or inactive whether acting or substantive sub-board administrators, ward administrators, and sub-county administrators.

(8) Provide the updated schedule of sub-ward administrative units in the county government of Bomet.

(9) Provide the impressed warrants and payment vouchers for the ward and sub-county administrators for the FY 2022/2023 and the FY2023/2024.

(10) List the measures instituted by the county government of Bomet to ensure that every administrative unit has an active administrator for the coordination, management, and supervision of county functions after the expiry of the administrators' contracts.

(11) Confirm that the county's failure to operationalize and optimize the lowest administrative units has not only denied the people of Bomet their rights to participate in development, access, and enjoyment of their respective devolved services.

(12) Provide the advertisements inviting applications for the positions of village council members, a schedule of all the village council members in the County Government of Bomet and attach copies of their appointment letters.

(13) Give justifiable reasons why they have not been paid their allowances for the last 20 months despite budgetary allocations.

(14) Provide a copy of the advertisement inviting applications for the position of program officers and expound on the distinction of their role from those of administrators.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(15) Provide their schemes of service and respective qualifications; and lastly.

(16) Appraise how their appraisal and justification for their engagement on permanent and pensionable terms in their positions.

I thank you.

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

CLOSURE OF NAKURU WAR MEMORIAL
HOSPITAL IN NAKURU COUNTY

Sen. Tabitha Keroche: Mr. Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Health regarding the closure of the Nakuru War Memorial Hospital, despite issuance of orders on 1st October, 2024 by the Court of Appeal for the immediate reopening of the hospital and the formation of a five-member committee to manage the hospital on interim basis, pending the determination of the case relating to the land on which the hospital sits.

In the Statement the Committee should-

(1) Explain why the County Secretary for the Nakuru County Government was included in the composition of the five-member interim management committee of the hospital, despite his previous efforts to frustrate and prevent investors through threatening phone calls to the Hospital Matron; and by sending criminal goons to prevent patients from being admitted in the hospital, in total disregard of existing court orders.

(2) State reasons for the prolonged closure of the hospital despite the court issuing nine court orders for the re-opening of the hospital and outline steps taken by the interim management committee to ensure that the Governor and the other County officials comply with the court orders and adhere to the rule of law. Defying a court order is a very serious crime which is punishable by a fine of Kshs200,000 and imprisonment of six months or both.

I thank you.

The Speaker (Hon. Kingi): The Chairperson Standing Committee on National Security and Foreign Relations. Chairperson Standing Committee on Finance and Budget.

ACTIVITIES OF THE STANDING COMMITTEE
ON FINANCE AND BUDGET

Sen. Mutinda: Thank you, Mr. Speaker, Sir. This is a Statement relating to the activities of the, pursuant to Standing Order No. 56(1)(a).

I rise pursuant to Standing Order No. 56(1)(a) to make a Statement relating to a matter of which the Committee is responsible, namely, the Resolution of the Senate on the current state of the Nation.

As you are aware, the Senate passed a Motion on the Current State of the Nation on 24th July, 2024. In the Resolution, the Senate directed the Standing Committee of Finance and Budget to:

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

1. In consultation with the Parliamentary Budget Office (PBO) to independently undertake the audit of the national debt and present the actual status to Parliament.

2. Engage the National Treasury to submit a roadmap on its strategies to reduce the public debt to not more than 55 percent of the Gross Domestic Product (GDP) in present value terms, in compliance with section 52(c) of the Public Finance Management (PFM) Act, Cap 41.

3. Engage the National Treasury to identify and implement sustainable strategies to reduce the high cost of living.

Mr. Speaker, Sir, the Committee is seized of the matter and in addition to this Resolution of the Senate, the Committee has received the following documents from the National Treasury-

1. Revised 2024 Medium-term Debt Management Strategy (MDBMS);

2. A report on loans contracted by the Government from 1st May to 31st August, 2024.

To effectively deal with the matter and table a comprehensive report, the Committee tasked the PBO to scrutinize the public debt registry reports on newly contracted loans and the revised 2024 MDBMS.

The Committee has scheduled a meeting on the 7th November, 2024 to be appraised by the PBO on the progress and the status of analysis of the aforementioned documents.

Mr. Speaker, Sir, consequently the Committee will invite the relevant stakeholder, that is the National Treasury and Economic Planning to appraise the Committee on the current stock of public debt strategies put in place to ensure that public debt remains sustainable and does not exist the threshold provided for under PFM Act Cap 41.

Lastly, the Committee will table a comprehensive report in the Senate for consideration including its recommendations.

I thank you.

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

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

Sen. Korir: Thank you, Mr. Speaker, Sir. I wish table the status Report of the Committee on the National Cohesion, Equal Opportunity and Regional Integration on the Motion regarding the State of Employment in the Public Service and Compliance with the Public Procurement and Asset Disposal (PPAD) Act.

Upon the filing of the Motion by the Senate Majority Leader and the Senate Minority Leader, the Senate on Wednesday 24th July, 2024 mandated the Standing Committee on the National Cohesion, Equal Opportunity and Regional Integration to engage the Public Service Commission (PSC) and the National Cohesion and Integration Commission (NCIC) to audit the state of employment in the public service, including county governments and proposed strategies to adhere to the democracy, equality and

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

equity of opportunities across the public service, as espoused in Article 232 of the Constitution, on the values and principles of the public service and engage the Public Procurement Regulatory Authority (PPRA) to audit compliance with Section 53(6) of the PPAD Act by public procurement entities, with a view to establish a roadmap to ensure the compliance of the said provisions of the Act.

Mr. Speaker, Sir, the Committee thereafter engaged the stakeholders and sought information on the following areas-

1. The demographic composition of all employees of county governments in terms of gender, Persons with Disability (PWDs), age and ethnicity.
2. The demographic composition of counties executive committee members and chief officers in terms of gender, Persons with Disability (PWDs), age and ethnicity.
3. Any recruitment conducted by county governments in the last three years, outlining the positions that have been filled by the criteria applied in the selection of candidates.
4. The status on the compliance by county governments with Section 53(6) of the PPAD Act, Cap 41(2)(c).
5. Affirmative action measures being implemented by counties in promotion of women, youth, PWDs in recruitment and leadership and any audit or assessment undertaken in the last three years to ascertain the level of inclusivity in the recruitment process.

Mr. Speaker, Sir, the Committee met with the PPRA and the NCIC and it has also received submissions from the PSC. Additionally, the Committee also met and deliberated with the following counties; Mombasa, Kwale, Kilifi, Tana River, Lamu, Garissa, Wajir, Marsabit, Tharaka Nithi, Embu, Kitui, Machakos, Makueni, Nyandarua, Nyeri, Kirinyaga, Murang'a, Kiambu, Turkana, West Pokot, Samburu, Trans Nzoia, Uasin Gishu, Elgeyo Marakwet, Baringo, Laikipia, Nakuru, Narok, Kajiado, Kericho, Bomet, Kakamega, Vihiga, Busia, Homa Bay, Migori, Kisii, Nyamira, Bungoma and Nairobi.

The Committee also intends to meet Siaya, Kisumu, Meru, Nandi and Isiolo counties.

The Committee, therefore, wishes to submit the general observation made on the ongoing process of engagement with the relevant stakeholders.

On the demographic composition of all employees of the county executive in terms of gender, persons with disabilities and age, and ethnicity, the Committee observed that all the 42 counties executive engaged have not complied with the provision of Article 54 of the Constitution that at least 5 per cent of the members of the public in elective and appointive bodies are persons with disabilities.

The Committee further observed that some counties had affirmative action policies concerning persons with disabilities. It noted that all county executive officers have developed and implemented affirmative action policies, which facilitate the progressive implementation of the principle that at least five per cent of the public members in elective and appointive bodies are persons with disabilities.

On age, the Committee observed that most of the engaged county executive officers have staff comprised of youth. The committee further observed that the county executive has a largely ageing staff of 55 and above.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The Committee further noted the need for most of the county executives to develop and implement affirmative action programmes such as succession planning as part of their human resource policy to ensure that the youth access employment in line with Article 55(c) of the Constitution.

Regarding ethnicity, the Committee observed that the majority of the county executive have more than a third of its staff from the dominant ethnic community in the county. The Committee observed that some county executives justified having more than one third of their staff from the same ethnic community by considering sub-tribes within the Kalenjin, Somali, Mijikenda communities as distinct groups. Notably, governors acknowledged the political consideration influenced by hiring decisions, particularly for senior staff positions.

The Committee observed that the Senate should consider undertaking post-legislative scrutiny of Section 7 of the National Cohesion and Integration Act which restricts the public establishment from having more than one third of the staff from the same ethnic community to see if compliance with the provision is achievable.

In the demographic composition of the county executive committee members and chief officers in terms of gender, personal disabilities, age and ethnicity, the committee observed some county executives had employed personal disabilities as county executive committee members and County Chief Officers (CCOs).

The Committee observed the need for all the county executives to consider the appointment of persons with disabilities as county executive members and chief officers without undue reliance on their fair competition or merit in line with Section 10 of the Public Service Values and Principles Act.

The Committee observed that some county executives did not have representation of the minorities, marginalised groups and communities envisaged under Article 27(6) of the Constitution.

The Committee further observed that Section 35 of the County Government Act prohibits the county assembly from approving nomination for appointment of the executive committee if they do not consider minorities, marginalised groups and communities. In addition, all county governments must ensure compliance with Article 56(C) of the Constitution as read with Section 35 of the County Government Act when nominating and appointing county executive committee members.

On recruitment conducted by the county in the last three years, outlining the positions that have been filled and the criteria applied in the selection of the candidates, the committee recorded that some County Public Service Board (CPSB) have recruited more than 70 per cent of the staff and entry-level positions of the dominant community in the county.

The Committee further noted that the County Service Board must ensure that at least 30 per cent of the vacant entry-level positions are filled by candidates who are not from the dominant ethnic community in the county in line with Section 65(1) (e) of the County Government Act.

On the status by the county with Section 53(6) of the Public Procurement Act, Asset Disposal Act, CAP 412(C) the Committee, during deliberation with the County Procurement Regulatory Authority (CPRA) submitted the following counties who are non-

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

compliant with Section 157(12) of the Public Procurement and Asset Disposal Act, which provides for the requirement to report to them every six months as for the financial year 2022/2023 and 2023/2024.

The Counties are Meru, Nandi, Marsabit, Garissa, Isiolo, Kericho, Kiambu, Kisii, Mandera, Migori, Tana River, Tharaka Nithi, Turkana and Vihiga.

The Committee further observed that compliant county executives have developed and implemented affirmative action programmes such as the establishment of special funds and civic education programmes on Access to Government Procurement Opportunities (AGPO) to facilitate compliance with Section 53 (b) (6) of the Public Procurement and Asset Disposal Act.

The Committee observed that the county executives must develop and implement affirmative action programmes and carry out benchmarking with their better-performing counterparts to comply with Section 53(6) of the Public Procurement and Asset Disposal Act.

We would also like to note that the Committee has been guided by the relevant legislation while undertaking their engagement with relevant stakeholders. I would not want to mention the legal provision that is involved, but I want to move straight away, if you allow me, to the conclusion.

Mr. Speaker, Sir, you will note that the process is ongoing. However, the committee and the Secretariat have been diligently working to ensure that the report meets the highest standards. I believe a short extension will allow us to finalise the remaining details effectively.

It is now my pleasant duty and privilege to table the status Report of the National Cohesion, Equal Opportunity and Regional Integration Committee on the Motion regarding the state of employment in the Public Service and Compliance with Public Procurement and Asset Disposal Act.

The Speaker (Hon. Kingi): The Chairperson Standing Committee on National Security.

STATUS OF IMPLEMENTATION OF THE
MOTION ON THE STATE OF THE NATION

Sen. Dullo: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.56(1) of the Senate Standing Orders to make a statement on the status of implementation of the Senate resolution by Government departments, agencies, commissions and independent offices concerning the issues under the mandate of the Standing Committee on National Security, Defense and Foreign Relations as directed in the motion on the State of the Nation.

At the sitting of the Senate held on Wednesday, July 24, a motion on the State of the Nation was passed by the House. The Senate directed the Standing Committee on National Security, Defense and Foreign Relations to engage with the National Police Service on matters of security and Standard Operating Procedures (SOPs) for handling demonstrations; engage the government to compensate all persons whose property, both movable and immovable, were damaged or lost due to the demonstration; engage the

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

National Police Service to fast-track issuance compensation to police officers who either lost their lives or suffered injuries as a result of the demonstration and;

Finally, engage the directorate of the Directorate of Criminal Investigation (DCI) to have an investigation undertaken to ascertain the identity of persons or organisations funding and coordinating the protests and demonstrations in the county.

Consequently, the Committee resolved to invite the following stakeholders, to deliberate the issues raised by the Senate the Cabinet Secretary for Interior and National Administration, and the Inspector General (IG) National Police Service (NPS) to deliberate on the security situation in the country and standard operating procedures for handling demonstrations in Kenya.

Mr. Speaker, Sir, the Chairperson of the Committee, on first tracking the insurance compensation to police officers who either lost their lives or, were injured during the demonstration, invited the Director of Occupational Safety and Health Services on the status of claims filed by the injured police officers as a result of the demonstrations; the Attorney General to discuss the issue of compensation for the damage of property or loss of lives occasioned to the people as a result of the demonstrations; and finally, the Director of the Criminal Investigations Department on the investigation currently being undertaken to uncover the entities funding protests in Kenya.

The Committee met with the National Police Service Commission and the Director of Occupational Safety and Health Services on past the 24th October, 2024 to address the respective matters as raised in the Motion.

During the deliberation, the Committee resolved to adjourn the meeting and reschedule it to 4th November 2024 to allow the stakeholders to prepare adequately for their submissions for extensive engagement and meaningful deliberations.

The Committee further resolved to extend an invitation to the Social Health Authority (SHA) and the Insurance Regulatory Authority (IRA) to provide more insights on the issues that may arise out of the engagement with regard to insurance coverage.

The Committee also considered the submission from the Cabinet Secretary for Interior and National Administration on Tuesday, 29th October, 2024, and resolved that the Cabinet Secretary provide a conclusive report on all counties affected and the number of civilians that were injured or lost lives during the protests.

In addition, the Committee also resolved to write to the Kenya National Commission on Human Rights (KNHRC) to appear before the Committee on the number of Kenyans who were injured, killed, or reported missing as a result of the protests.

The Committee looks forward to meeting and receiving submissions from the following stakeholders before concluding on tabling the report:

- (i) the National Police Commission;
- (ii) the Director of Occupational Safety and Health Services;
- (iii) the Social Health Authority;
- (iv) the Insurance Regulatory Authority;
- (v) the Director, Directorate of Criminal Investigation;
- (vi) the Office of the Attorney General; and,
- (vii) the Kenyan National Commission on Human Rights.

As I conclude, I wish to thank the Office of the Speaker and the Clerk of the Senate for the steadfast support that they have accorded this Committee, as well as the Members of the Committee for their utmost dedication and commitment to the duty.

(Interruption of Statements)

The Speaker (Hon. Kingi): The Chairperson of the Senate Standing Committee on Justice, Legal Affairs and Human Rights, you are supposed to lay a Paper.

Sen. Wakili Sigei: Yes, Mr. Speaker Sir.

The Speaker (Hon. Kingi): Proceed, please.

PAPERS LAID

REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT)
(No.2) BILL (SENATE BILLS NO.46 OF 2024)

Sen. Wakili Sigei: Thank you very much, Mr. Speaker, Sir. I beg to table –
The Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Constitution of Kenya Amendment No.2 Bill, (Senate Bills Number 46 of 2024).

(Sen. Wakili Sigei laid the document on the Table)

The Speaker (Hon. Kingi): The Chairperson Standing Committee on Land, Environment, and Natural Resources, Sen. (Dr.) Khalwale, proceed to table that Paper.

REPORT ON THE LAND AMENDMENT BILL
(NATIONAL ASSEMBLY BILLS NO.40 OF 2022)

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise to lay on the Table –
The Report of the Senate Standing Committee on Lands, Environment and Natural Resources on the Land Amendment Bill (National Assembly Bills No.40 of 2022).

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

I thank you.

(Resumption of Statements)

The Speaker (Hon. Kingi): Now, Statement pursuant to Standing Order No.57(1). The Senate Majority Leader, please proceed.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 12TH NOVEMBER, 2024

Sen. (Dr.) Khalwale: Mr. Speaker, Sir. Pursuant to Standing Order No.57(1), I hereby present the business of the Senate for the Week, commencing Tuesday, 12th November 2024.

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

- (a) 58 Bills are pending conclusion, of which 40 are at the Second Reading stage while 18 are at the Committee of the Whole stage;
- (b) 30 Motions are pending conclusion;
- (c) 25 petitions are pending conclusion before standing committees, out of which 19 are due for reporting by the respective standing committees; and,
- (d) 430 Statements pursuant to Standing Order No.53(1).

As hon. Senators are aware, in accordance with the Calendar for the Third Session, the Senate will proceed on a short recess at the rise of the Senate today until 11th November, 2024.

Regular sittings will resume on Tuesday, 12th of November, 2024, and I urge Standing Committees to use the recess to conclude on business pending before them.

Mr Speaker, Sir, upon resumption from recess on Tuesday, 12th November, 2024, the Senate Business Committee will meet to consider the business for the week.

The tentative business for that day will include business not concluded from today's Order Paper as well as the business indicated in the Notice Paper.

The tentative business for the Morning Sitting on Wednesday, 13th November, 2024, will include scheduled questions to Cabinet Secretaries as approved by the Senate Business Committee, as well as Motions, the summary of which is as follows: -

- (i) Question No.49 to the Cabinet Secretary for Health, by Sen. George Mbugua;
- (ii) Question No.75 to the Cabinet Secretary for Health by Sen. Peris Tobiko;
- (iii) Question No.76 to the Cabinet Secretary for Health by Sen. Jackson Mandago;
- (iv) Question No.86 to the Cabinet Secretary for Health by Sen. Kavindu Muthama;
- (v) Question No.87 to the Cabinet Secretary for Health by Sen. Joyce Korir;
- (vi) Question No.89 to the Cabinet Secretary for Tourism and Wildlife by Sen. Julius Murgor;
- (vii) Question No.91 to the Cabinet Secretary for East African Community and ASALS and Regional Development by Sen. Julius Murgor;
- (viii) Question No.105 to the Cabinet Secretary for Health by Sen. Hamida Kibwana;
- (ix) Question No.116 to the Cabinet Secretary for Health by Senator Catherine Mumma;
- (x) Question No.117 to the Cabinet Secretary for Health by Sen. (Prof.) Tom Ojienda; and,

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

- (xi) Question No.121 to the Cabinet Secretary for Health by Sen. (Prof.) Tom Ojienda.

Mr. Speaker, Sir, the sixth one is the business for the Afternoon Sitting on Wednesday, 13th November, 2024, which will include business not completed in the Order Paper for the previous day of Tuesday, 12th November, 2024, and also it will include the following Bills: -

- (i) Bills that are at the Committee of the Whole Stage, namely: -
- (ii) The Street Vendors (Protection of Livelihood) Bill, (Senate Bills No.41 of 2023);
- (iii) The Local Content Bill, (Senate Bills No.50 of 2023);
- (iv) The Early Childhood Education (Amendment) Bill, (Senate Bills No.54 of 2023);
- (v) The Land Amendment Bill, (National Assembly Bills No.40 of 2022);
- (vi) The National Disaster Risk Management (Amendment) Bill, (National Assembly Bills No.24 to 2023): and,
- (vii) The Cooperative Societies (Amendment) Bill, (Senate Bills No.53 of 2023).

Also, there will be Bills currently at the Second Reading Stage. This includes: -

- (i) The Narcotics and Drugs Psychotropic Substances Control (Amendment) Bill, (Senate Bills No.1 of 2024);
- (ii) The County Oversight and Accountability Bill, (Senate Bills No.3 of 2023);
- (iii) The County Civic Education Bill, (Senate Bills No.4 of 2024);
- (iv) The County Statistics Bill, (Senate Bills No.5 of 2024);
- (v) The Provision of Sanitary Towels Bill, (Senate Bills No.7 of 2024).
- (vi) Sanitary Towels Bill (Senate Bills No.7 of 2024), the Statutory Instruments (Amendment) Bill (Senate Bills No.10 of 2024),
- (vii) the County Assemblies Pension Scheme Bill (Senate Bills No.14 of 2024),
- (viii) the Public Finance Management Bill (Senate Bills No.27 of 2024),
- (ix) the Creative Economy Support Bill,
- (x) the Livestock Protection and Settlement Bill,
- (xi) the Sports (Amendment) Bill,
- (xii) the County Government's State Officers Removal from Office Procedures Bill,
- (xiii) the County Government's (Amendment) Bill,
- (xiv) the County Library Services Bill, the Labour Migration and Management Bill; and,
- (xv) the Sports (Amendment) Bill.

Additionally, the business will include several Motions as follows-

- (i) The Report of the Standing Committee on Energy on its enquiry into the liquefied petroleum gas explosion in the Mradi area, Embakasi, Nairobi City County.
- (ii) Report of the Standing Committee on Labour and Social Welfare on an enquiry into the welfare of workers in export processing zones in Mombasa and Kilifi Counties.

- (iii) Report of the Standing Committee on Devolution and Intergovernmental Relations on its enquiry into personal security concerns raised by the Hon. Philomena Kapkory, the Deputy Governor of Trans Nzoia County.
- (iv) Report of the Standing Committee on Devolution and Intergovernmental Relations on its enquiry into the state of markets in Vihiga and Bungoma Counties arising from Statements sought by Sen. Godfrey Osotsi, MP, and Senator David Wakoli, MP.
- (v) Development of a Policy and Law for Social Risk Management in Infrastructure Development Projects in Kenya and reports of the Select Committee on County Public Investments and Special Funds on its consideration of the audit reports of various water, sanitation and sewage service companies for the Financial Years 2018/2019 Vol. 4 and 2019/2020 Vol. 6 and 2020/2021 Vol. 9.
- (vi) Progress report of the Standing Committee on National Cohesion, Equal Opportunity, and Regional Integration into the Enquiry on the Diversity and Inclusivity in the Staff Composition of State Agencies in Kenya.
- (vii) Establishment of National Teaching and Referral Hospitals in Kenya. County governments to set aside land for the planting of indigenous trees. Allocation of scholarships and bursaries by county governments.
- (viii) Development of safety officers in schools to enhance security and preparedness. Steps to effective waste management in cities, towns, and urban areas in the country. Strengthening support for pastoralist communities to combat cattle rustling and minimise livestock losses.

Mr. Speaker, Sir, also on the list will be the protected business for Thursday, 14th November, 2024. It will include business not concluded in the Order Papers for Tuesday, 12th November and Wednesday, 13th November of 2024 and any other business scheduled by the Senate Business Committee (SBC).

Mr. Speaker, Sir, I thank you and wish Members a fruitful and enjoyable 10-day recess in their counties.

The Speaker (Hon. Kingi): Thank you. We will now hear comments on those Statements for 15 minutes. Each Senator will be speaking for two minutes.

Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. Let me begin by appreciating the work of my colleagues in bringing to our attention very pertinent matters that require attention.

I wish to quickly comment on several Statements and I will go straight to the point. The first Statement is a Personal Statement read by the distinguished Senator from Isiolo.

We are here to become the ombudspersons of the citizens of Kenya. When a distinguished Senator who has been elected is threatened because of her work, it bothers me.

The Speaker (Hon. Kingi): Sen. Olekina, you know you cannot comment on a Personal Statement.

Sen. Olekina: Mr. Speaker, Sir, I appreciate and definitely, I am aware of that, but there are things which are brought here and they concern us in terms of oversight. I would

like to beseech you to apply your discretion on Standing Order No.1 in allowing me to comment on issues that need our attention.

The issue of the distinguished Sen. Dullo is something that this House must take notice of and really work on to bring sanity into that county because it is a crisis.

Secondly, because of my time, I would like to comment on the Statement by the distinguished Senator for Migori on the issue of data protection. It is imperative that since we have the Data Protection Act, everything that we do, as a country, is guided by that piece of legislation.

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

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

Mr. Deputy Speaker, Sir, one of my biggest problems is that every time you go in and change your SIM card, it is quite clear that Safaricom will tell you that we use your data or we receive your data when you are changing your SIM card or registering. However, one of my biggest pet peeves is when you go in and you are trying to send money, you have to give your Identification (ID) number, and your ID number is indicated there.

We have to ask ourselves what is the neatest way of ensuring there is security when you are sending money so that you are the only person who can be able to send that. We have to ---

Mr. Deputy Speaker, Sir, can I finish that sentence in 30 seconds?

The Deputy Speaker (Sen. Kathuri): One minute.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. When it comes to the issue of data protection laws, we may need to come up with different ways where these calls will allow, instead of you having to enter your ID and have your handheld device there, we can do a double-pronged approach or rather a two-way verification. This system, where you write your ID number in books, people will buy them, politicians will use them if they are seeking office independently and they are not sponsored by a political party or perhaps when you want to create fake IDs.

This issue of data is very important. There is one point which I would like more clarity on, which has got to do with number seven, that all this data is being managed by another company internationally. What are the security features there? Has Safaricom disclosed that in their disclosures your data will not be managed by us, since the relationship we have is between the client and Safaricom? However, the Senator for Migori has indicated here that, that data is being ---

The Deputy Speaker (Sen. Kathuri): The Senators queuing to make comments are not here.

Proceed, Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I want to comment on the Statement of Sen. Okenyuri. You are aware ---

The Deputy Speaker (Sen. Kathuri): You have two minutes.

Sen. Cherarkey: Okay, I am aware. I congratulate Sen. Okenyuri but also request further information. I do not know if, in their own Motion, the Committee on Health should give us an update on this issue of Social Health Authority (SHA).

We have seen a lot of challenges that Kenyans are facing when registering for the Social Health Insurance Fund (SHIF) across the country. We are being told there is a breakdown to access this service.

Mr. Deputy Speaker, Sir, can you direct under Standing Order No.1, that the Committee on Health briefs this House on the status of the rollout of SHA and SHIF across our Level 5 and Level 2 hospitals and their registration?

I am happy that the Government indicated yesterday that all National Health Insurance Fund (NHIF) employees will be transited to Social Health Authority (SHA) and Social Health Insurance Fund (SHIF). We need clarity because we see in the news many Kenyans complaining that they cannot access SHA services in the various hospitals they visit. It is very unfortunate. That must be addressed as an issue of national concern.

Concerning the issue of Kenya National Trading Corporation (KNTC), the Ethics and Anti-Corruption Commission (EACC) should come out very clear on the fight against corruption. The allegations of misappropriation of Kshs6.5 billion by KNTC must be looked at. We hope that the EACC will arrest all perpetrators of this KNTC heist.

Finally, on the Statement on data breach by Sen. Oketch Gicheru, you cannot access our data without a court order. What Safaricom is doing is illegal, unconstitutional and must be punished heavily. I expected that the Communication Authority of Kenya (CAK) would have already punished Safaricom by infringing the right to privacy. I echo the sentiments of American Ambassador Megan Whitman, who said the infringement of data privacy is a constitutional infringement.

I support the Statements, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Asige Crystal, proceed.

Sen. Crystal Asige: Thank you, Mr. Deputy Speaker, Sir, for calling my name backwards. I appreciate you putting Asige first.

First, I rise to say; "Free Aoko". I am finding it extremely difficult and alarming that there is a through line between some of the Statements that we have been discussing today and yesterday, including what Sen. Oketch Gicheru has raised today on data protection and the Motion we debated yesterday on killings of women, as well as the Statement brought by Sen. Kibwana today.

Digital technology has undeniably afforded us countless advancements and tremendous breakthroughs, but, unfortunately, there is a double-edged sword at hand. I want to teach you about Technology Facilitated Gender-Based Violence (TFGBV). TFGBV is described as an action by one or more people that harms others based on their sexual or gender identity, or by aiding in whatever way, any type of emotional, mental, or physical abuse to another using technology, and specifically when this action is carried out using the internet and or mobile technology.

Mr. Deputy Speaker, Sir, for me, technology has almost been equal to giving me sight itself. However, I also see that for women, it is causing more problems than ever before and being used in nefarious ways such as sexual harassment, defamation, hate speech, cyber bullying, cyber violence and now abductions through location tracking has

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

been widely alleged by Safaricom, and any other online behavior that demeans, frightens, or---

The Deputy Speaker (Sen. Kathuri): Sen. Asige, I have added you one more minute to conclude your contribution.

Sen. Crystal Asige: Thank you so much, Mr. Deputy Speaker, Sir. I was saying that when the focus is on someone else, the public usually laugh or say that it is harmless. However, one day the internet might turn against you and I. This is a huge problem, especially for women. TFGBV, like I said, must be every single person's problem, so when you see it, do not support it. Report it and put a stop to it because it is only a matter of time until it is you or I being targeted through this kind of technology. This should not be tolerated by this House or any other Government agency.

I thank you.

The Deputy Speaker (Sen. Kathuri): Very well. Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. Before I comment on the Statement by Sen. Okenyuri, allow me with due respect and tremendously so, to congratulate the High Court for lifting the conservatory orders that had made it difficult for us to enjoy our resolution of having impeached the former Deputy President. That small interference is the arrogance and impunity of leaders from big tribes; the Kikuyus, Kalenjins, Luos, and Luhyas. We want people from small communities to have equal access to leadership in this country.

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, you are out of order. You cannot use the Floor of the House to do things that we are not handling now. We are making comments on the Statements. You are completely out of order.

Sen. Okiya Omtatah, proceed.

Sen. (Dr.) Khalwale: My two minutes are not over.

Sen. Okiya Omtatah: Mr. Deputy Speaker, Sir, thank you for the opportunity to address this House. Since the time is very limited, I will contribute to Sen. Oketch Gicheru's Statement.

The question of data is a matter of life and death. Our data cannot be handled in the manner it is being handled. Safaricom was accused for aiding state agents to track and abduct citizens. However, up to this time, it has not responded. We are also having a situation where Government institutions are still using Google. Therefore, the Government does not understand how critical data is. When you go to the Judiciary, they are using free applications to do stuff. It is high time that the Government took the question of data seriously and went ahead to ensure that people are protected.

We have also seen that they want us to register our mobile devices with the Kenya Revenue Authority (KRA). Which mechanism are they using? Why should the Government snoop and spy on us? We cannot allow it. Safaricom must be call out and brought to this House to account for its activities. We are not negotiating. It has been implicated in so many crimes. We cannot allow this one to pass.

I thank you.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(Applause)

The Deputy Speaker (Sen. Kathuri): That is the end of the comments on Statement, but let us hear Sen. Gataya Mo Fire.

Sen. Gataya Mo Fire: Thank you very much, Hon. Deputy Speaker. Data Privacy and Security is enshrined in the Constitution. Data protection is something that has been captured very well in our Constitution.

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

Sen. Gataya Mo Fire: I do not know what is out of order, Sen. Oketch Gicheru.

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

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I am rising under Standing Order No.1. I have realized that today's statements were so many. It is also the last day in this House before we go on recess. I have listened carefully since I came to this House and the kind of statements that have found their way into this House are addressing very critical issues.

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

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I request for your discretion under Standing Order No.1 that you extend the comments on statements by 15 minutes, so that we can comment---

The Deputy Speaker (Sen. Kathuri): Have your seat. You have now consumed two minutes for one of the contributors.

Sen. Gataya Mo Fire, proceed to conclude?

Sen. Gataya Mo Fire: Hon. Deputy Speaker, I thought I was out of order. I did not know that Sen. Oketch Gicheru was---

In this country, we have agencies that are enshrined in the Constitution to make sure that we have the protection of every other person. I call upon all the agencies, including the National Police Service (NPS), the Directorate of Criminal Investigations (DCI) and Safaricom itself, to make sure that one's privacy is protected.

In winding up, I want to quote one of the previous speakers, Sen. (Dr.) Khalwale, who has just congratulated the High Court for breaching the conservatory orders. I captured him say that the Tharaka is a small community, but we are Kenyans as well.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, proceed.

Sen. Osotsi: Thank you, Mr. Deputy Speaker, Sir. Allow me to comment on the statement by Sen. Oketch Gicheru on the issue of data privacy and protection. For the last few days, we have had a lot of conversation in this House on data privacy and protection. We have also seen a lot of communication in media on the matter of data privacy. However, the problem we are having in this country on the matter of data protection is the law. The current law on data protection, which is the Data Protection Act, is very inhibiting. We need to repeal it so that we align it to global standards.

One other challenge is the management of the Office of the Data Protection Commissioner. It is high time we stopped giving all the jobs in this organization to lawyers

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

and give it to other professions who understand the job. Data protection, to a large extent, is largely Information Technology (IT) driven.

However, our data protection law says the head of that institution should be a lawyer. What does a lawyer understand about technology more than a computer scientist like Godfrey Osotsi? That is where the problem is.

This is a person who will need to understand the challenges we have with our telecoms and how our telecoms are being used to interfere with data privacy. One of the things---

The Deputy Speaker (Sen. Kathuri): Give the expert in data technologies just one minute to conclude.

Sen. Osotsi: One of the things to do is review that law. Two, it is important, according to the international standards in data protection, that the Office of the Data Protection Commissioner must be independent.

Right now, that office is a department within the Ministry of Information, Communication and the Digital Economy. It cannot guarantee data privacy and protection in this country. Our data protection law must be aligned with the General Data Protection Regulations (GDPR), a global standard with eight principles that must be adhered to. Some of it is security, accountability, integrity and confidentiality. This is what we are missing in our laws.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, proceed.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, with your discretion on Standing Order No.1, allow me to briefly say that it is important that when one Senator is under threat of governors, then the entire House is under threat.

The threat that has been channeled towards the Senator of Isiolo is something that we must all speak to. Today, the county assemblies have all closed across the country for 14 days until the missing Member of the County Assemblies (MCAs) is produced.

I propose that even as Senators, we can down tools if one of us is threatened by death for performing our accountability role. What is happening in Isiolo County is long overdue for us to bring the Governor of Isiolo County to this House and question him on why he is a hindrance to devolution when Senators are fighting to protect devolution.

Lastly, I must say that Sen. Chute's Statement is important. The Kenya National Trading Corporation Ltd (KNTC) is becoming a place for serious corruption. This Statement should be escalated to forming a commission of inquiry or a special committee to investigate what is happening in the KNTC.

It cannot be that people who have overseen the pilferage of over Kshs1 billion and then extended to over Kshs6.5 billion are left in the office; those who have done the work of a whistleblower to show the country what is happening in KNTC are the ones who end up being sacked. We cannot allow this to continue. This project has been going on in the KNTC to the extent that 25 metric tonnes of fertiliser---

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Eddy. You have been heard correctly.

Hon. Senators, that is the end of the comments on Statements, and under Standing Order No. 45(2), I want to re-organise the order of business.

So, we are now going to Order No.26.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

BILL*Second Reading*THE ENVIRONMENT LAWS (AMENDMENT) BILL
(SENATE BILL NO.23 OF 2024)

The Deputy Speaker (Sen. Kathuri): I will give further guidance. The Mover will move the Bill, the seconder will second, and then we will defer the debate.

So, I kindly urge you to use as little time as possible because, of course, you know what is happening from today, and we have several views that we really want to push ahead.

Sen. Abdul Haji, proceed.

Sen. Abdul Haji: Thank you, Mr. Deputy Speaker, Sir, and I will try to be quick in moving this Bill.

I beg to move that the Environment Laws (Amendment) Bill (Senate Bill No. 23 of 2024) be now read a Second Time, pursuant to Standing Order No. 146 of the Senate Standing Orders.

The Environment Laws (Amendment) Bill (Senate Bills No.23 of 2024) seeks to amend the Forest Conservation and Management Act, Cap. 385, and the Climate Change Act, Cap 387(a). The amendment aims to enhance afforestation, reforestation and carbon sequestration efforts across Kenya.

This includes promoting tree planting on public land, establishing nurseries with seeds suitable for different regions, and introducing tax incentives for private sector participation in forest conservation.

As we are all aware, climate change poses one of the greatest challenges of our time. Rising temperatures, shifting weather patterns and extreme droughts have become more frequent and severe. While many discussions around climate change often focus on reducing emissions or shifting to renewable energy, today, I was hoping that this Bill would highlight a solution that is sometimes overlooked; that is, that is, vegetating the vast arid and semi-arid regions that cover a significant portion of our country.

The amendment Bill itself is not specific about how to vegetate and plant trees in arid and semi-arid areas. It is not only limited to these areas; the Bill encompasses ensuring that this initiative is carried out across Kenya and covers all regions of Kenya.

Kenya is a country significantly impacted by climate change with its arid and semi-arid region covering approximately 89 per cent of the land. These areas are home to nearly 38 per cent of Kenya's population, and the livelihoods of the communities in these regions rely heavily on pastoralism and agriculture, both of which are increasingly under threat and face an existential risk.

Although arid and semi-arid areas may seem barren and inhospitable, they hold immense potential in the fight against climate change. Not to mention, the availability of vast pieces of land is a reason why the Kenyan Government should take the initiative to revegetate the arid and semi-arid areas.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Plants are the Earth's natural air purifiers. Through the process of photosynthesis, they absorb carbon dioxide from the atmosphere, and carbon dioxide is one of the main greenhouse gases that is driving global warming.

By reforesting and planting vegetation in arid and semi-arid regions, we can capture and store vast amounts of carbon. This process is known as carbon sequestration. It helps reduce the concentration of carbon dioxide in the atmosphere, slowing down the rate of climate change.

One of the key challenges we face in arid regions is desertification. The degradation of land into deserts due to unsustainable land use due to climate changes, and therefore, vegetating these areas not only prevents further land degradation but also restores the soil's health. Trees and plants act as barriers against wind and water erosion, retaining moisture in the soil, improving its fertility and allowing ecosystems to thrive once again.

A healthy ecosystem can regulate local climates making these regions more resilient to drought and extreme weather events. In effect, elevating these regions from relying on Government food aid and animal restocking during droughts and devastations caused by climate change at an expense the Government will be much too happy not to incur.

Thirdly, vegetating arid lands also provide a crucial habitat for wildlife. I am not sure if you are aware that Wajir County hosts the very rare white giraffe or albino giraffe species. In the south of Garissa, we also have an endangered species known as hirola, a type of antelope, which is only found in the south of Garissa.

Mr. Deputy Speaker, sir, many plants and animal species are native to these regions and play vital roles in maintaining the balance of the local ecosystem.

By restoring vegetation, we are encouraged by a diversity which strengthens ecosystem resilience and provides a natural defence against the impacts of climate change.

An initiative of re-vegetating or planting trees in Arid and Semi-Arid Lands (ASALs) is not a new thing because it is something which has been done before. Back in 1980s, a Non-Governmental Organisation (NGO) started cultivating *Mathenge* in Baringo County to fight land degradation. The World Bank partnered with Kenya's Ministry of Environment and Forestry, rallying local communities to plant trees where there were previously none.

The idea was to make land seemingly barren to the eyes appear green and beautiful. Today, *Mathenge* is one of the most problematic and invasive species that has come to Kenya. It has stretched out across from the Great Rift Valley to the coastlines, all the way up to the northern parts of Kenya. The plant which is native to Central and South America is an alien in our soils.

It spreads at an exponential rate, its dense stems obstruct access to natural resources, and it taps and dries out already limited groundwater supplies. It is one of the most devastating weeds that we have ever encountered. It makes the soil unusable.

Mathenge's harmful impact bleeds into the ecosystem, sickening animals and people. Its thorns puncture cattle hooves, and its sweet seed pods rot the teeth, often badly enough to deter goats and sheep from eating. To make matters worse, its dense branches incubate mosquitoes that spread malaria; a disease that kills more than half a million people, mostly children worldwide every year.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Meanwhile, the Ministry of Environment and Forestry has introduced workshops to encourage residents to harvest the shrub, converting the wood into charcoal. However, considering expansion of the weed, this strategy merely prolongs an ecological disaster.

I was hoping to introduce an amendment to this Bill to cater for our provision of weeding out *Mathenge* tree from Kenya completely. This has to be a concerted effort by the national and county governments and the communities.

To replace *Mathenge* tree is a very simple initiative, but what to replace it with is also something which is already available in Kenya. We need to select drought-resistant plants for ASALs like those which are already in Kenya. It is important to choose species that can survive with minimal water and can thrive in hostile environments.

Some of the best drought-resistant plants that can be used for reforestation, agriculture and landscaping are already available in Kenya, for example, acacia trees. They provide shade, prevent soil erosion and improve soil fertility through nitrogen fixation.

The *Moringa* tree, which is known as “miracle tree”, is valuable for food security and also provides fodder for livestock. *Moringa* can be used for human consumption, animal feed and even water purification.

Other examples are baobab, aloe vera, sisal, and cassava. Cassava is a staple food in many parts of Africa, including Kenya. It provides food security during periods of water scarcity.

How I wish the Kenya Government in 1980 introduced cactus instead of *Mathenge*. Cactus are highly resilient to drought and can survive in extreme environments. They help in soil stabilisation and can improve the biodiversity in harsh environments.

Plants like jatropha, napier grass and sorghum are all vegetations that can be introduced in ASALs. Trees like tamarind, neem and date palm are all highly drought resistant and can thrive in poor soils and saline conditions common in ASALs.

Drought resilient plants are crucial for restoring ASALs, providing food security and improving livelihoods. The key to success is selecting plants that are well adapted to the local climate and conditions, while also offering economic and environmental benefits to the community.

Mr. Deputy Speaker, Sir, realising the potential of vegetating ASALs requires coordinated efforts from the Government, NGOs and local communities. They all have to collaborate to develop sustainable land management practices, invest in drought resistant plant species, and provide the resources and education needed to ensure long-term success of this initiative. The task ahead of us is immense, but the rewards are far greater.

Vegetating ASALs is not just about restoring landscapes. It is about restoring hope, safeguarding our future and ensuring that the generations to come inherit a planet that is liveable, healthy and vibrant.

As mentioned previously, and fearing that I might be repeating myself, Kenya is facing environmental challenges, including deforestation, land degradation and effects of climate change. Over the years, forest covers in Kenya have diminished, leading to reduced biodiversity, increased soil erosion and decreased agricultural productivity.

The Bill is part of the national strategy to restore forest cover and address climate change. It aims to align Kenya’s environmental conservation efforts with international commitments, such as the Paris Agreement, by setting carbon sequestration targets. The

Bill also seeks to address gaps in the current laws by introducing region specific reforestation programmes and encouraging private sector involvement through fiscal incentives.

The Environment Laws (Amendment) Bill 2024 seeks to amend the following laws-

- (1) The Forest Conservation and Management Act of 2016, Cap 385.
- (2) The Climate Change Act of 2016, Cap 387A.

Mr. Deputy Speaker, Sir, the existing legal framework under the Forest Conservation and Management Act and the Climate Change Act is inadequate to handle the growing challenges of deforestation and climate change. The Environment Laws (Amendment) Bill 2024 seeks to address these gaps by ensuring that tree-planting programmes are tailored to Kenya's diverse environmental conditions.

The Bill seeks to introduce-

- (1) Mandatory replanting of felled trees.
- (2) Establishes nurseries in every county.
- (3) Incentivises private sector participation.

The Bill also seeks to ensure that Kenya can meet its carbon sequestration targets and fulfil international climate obligations by focusing on reforestation and forest protection.

The Environment Laws (Amendment) Bill (Senate Bills No.23 of 2024) introduces the following key amendments on the Forest Conservation and Management Act. Clause 2 seeks to amend Section 8 to expand the functions of the Kenya Forest Service (KFS) to include promoting afforestation and reforestation in arid and semi-arid regions and establishing tree nurseries in each county.

Clause 3 seeks to amend Section 21 to require county governments to promote tree-planting on public land and ensure trees felled for county projects are replanted or relocated under the direction of the KFS.

Clause 4 seeks to insert a new section, Section 40A, which requires individuals who fall trees to replace them under the direction of the KFS. It also introduces penalties for individuals who fail to replace trees that are felled. Non-compliance may lead to fines for up to Kshs5 million or imprisonment for a term not exceeding three years.

Clause 5 seeks to amend Section 54 to provide tax incentives for private entities engaged in tree-planting programmes. This includes income tax deduction and other physical benefits.

Clause 6 seeks to amend Section 55 to require the observation of a national tree-planting week annually, from March 15th to 21st, during which the national and county governments will be tasked with organising tree-planting activities in collaboration with public institutions and private entities.

Clause 7 seeks to amend Section 57 to require entities with timber licenses to replant harvested trees as directed by the KFS, ensuring sustainable forest management.

Mr. Deputy Speaker, Sir, the following are the amendments to the Climate Change Act: Clause 8 seeks to amend Section 8 to require the Cabinet Secretary in charge of climate change matters to set and formulate strategies to achieve annual carbon sequestration targets for the country.

The Environment Laws (Amendment) Bill (Senate Bills No.23 of 2024) will enhance reforestation efforts, particularly in arid and semi-arid areas by promoting tree planting and establishing nurseries that provide climate-appropriate seedlings, and by introducing penalties for failure to replace felled trees.

The Bill ensures compliance with environmental regulations. The tax incentives will encourage private sector investments in tree planting and conservation, fostering a collaborative approach to environmental protection.

The Annual National Tree Planting Week will also help raise public awareness and environmental conservation efforts, ultimately increasing forest cover and positioning Kenya as a leader in climate change mitigation.

Mr. Deputy Speaker, Sir, I submit and ask Sen. Cherarkey to second.

The Deputy Speaker (Sen. Kathuri): Sen. Samson Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I would like to thank you and the Mover of this Bill, Sen. Haji, our Temporary Speaker, for this wonderful Bill. The country is geared towards issues of climate change, led by His Excellency the President, who has been a great champion on issues of climate change. Therefore, this amendment is timely.

I would like to celebrate Sen. Haji for always pushing for serious agenda. In fact, I am excited to second this Bill because Sen. Haji comes from the northern frontier, where the ravages of climate change continue to be devastating. With the ravaging issues of drought in northern Kenya, we should also be pushing for livestock insurance because we know they are pastoralists. The issue of climate change is close to my heart. Therefore, having Sen. Haji as the champion is more than welcome.

“Madam Deputy Speaker, Sir,” secondly, I would like to join you in passing our deepest condolences for losing one of your best content creators from Meru County, Madam Tabitha Gatwiri, who unfortunately passed on today. This is a blow to entertainment industry, and we wish her family well, and the Kenyans who used to get relief, excitement and laughter after a hard day, from her comic relief.

Equally, as my brother has said, I would like join the County Assemblies Forum, who have said they will down their tools until the Member of County Assembly (MCA) of Della Anole Ward, in Wajir County, *Mhe.* Mohammed Hussein is found.

In the same spirit, we need to stand with our sister, Sen. Fatuma Dullo, when she says her life has been threatened in the course of duty. As a House, when we retreat, you need to guide us on how we can stand with our colleagues who are facing threats simply for doing their job.

“Madam Deputy Speaker, Sir,” let me go to the first bite at the cherry by saying the following: One of the foremost and winners of Nobel Laureates, the late *Mhe.* (Prof.) Wangari Mathai, is remembered for the fight and ensuring that the then-Kenyan Times could not build headquarters here in Uhuru Park. You can imagine if the development was allowed. When I pass there on Sunday, weekends or weekdays, and even holidays, many families who live in shanties in this City, and do not have a playground for their children, have the opportunity of going there. While we celebrate the work and legacy of Wangari Mathai that lives on through such amendments, we should be excited.

I would like to thank His Excellency the President---

The Deputy Speaker (Sen. Kathuri): I beg your pardon, Sen. Cherarkey, are you referring to me as Madam Speaker? You have referred me as so three times.

Sen. Cherarkey: I am sorry. I meant Madam Wangari Mathai. My apologies.

(Loud consultations)

Sen. Cherarkey: I thought she was a lady.

The Deputy Speaker (Sen. Kathuri): Can you reorganize your thoughts properly? You have some excitement.

Sen. Cherarkey: My apologies.

Mr. Deputy Speaker, Sir, can you protect me from the heckling of Sen. Eddy? He is used to that.

Mr. Deputy Speaker, Sir, let me go to Clause 2. I can see this is a brief Bill. I agree with the sourcing of tree seeds.

I thank the President for being the leading light in the issue of climate change in the world and in Africa. However, I would like to request that through the Sen. Haji's Bill, we need to use community-based organizations (CBOs) of the youth, people living with disability, women, especially in Meru and Nandi counties. Let us give that responsibility to the CBOs.

In Nandi, we have a place called Kingwal near Chepterit, where we have the rarest species of tress called Sakastunga. Therefore, in the tree planting exercise, we should give it to CBOs that belong to the youth, women and people living with disability.

In reference to this clause, on the issue of promoting reforestation in semi-arid areas, you are aware in some areas in Nandi County, most of the land has been taken for farming. This is similar in Narok County and many other areas that have a big challenge because of cultivation. We are losing most of the forest cover in the country. I therefore support reforestation and afforestation in semi-arid areas.

It is important that we ensure that we plant trees in public land, like Uhuru Park in Nairobi City, Nandi, or even Meru counties. Let us outsource the seedlings, and use the Kenya Forest Service and the CBOs, so that we give opportunity to the young people.

I have seen the Government has hired the Green Army to clean the Nairobi River. That is not only enough, we need to give seedlings by the Kenya Forest Service to CBOs.

On Clause 3, Mr. Deputy Speaker, Sir, just to give the background information, the forest cover of Kenya as we speak is 8.81 per cent.

According to the United Nations (UN) target, the forest cover in Kenya should be 10 per cent. However, with the advent and the guidance of the President, Mr. Deputy Speaker, Sir, the planting of 15 billion trees across the country will ensure that we reach 30 per cent forest cover. So, the intention of the President of having 15 billion trees will translate automatically to 30 per cent forest cover.

Mr. Deputy Speaker, Sir, in Africa, the country with the biggest forest cover is Guinea-Bissau, with 60 per cent forest cover. When you go to South America and Brazil, where I have visited several times, of course, Amazon comes first, although there have been challenges of afforestation and fires. I saw today in Makueni County that there were fire challenges. Some forests were burning down.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

So, we want to encourage all Kenyans on the issue of reaching 30 per cent. It cannot only be done in highlands of the country. It can also be done in semi-arid areas. Out of the 143 million acres that we have in this country, 104 million acres are in scrubland. Therefore, the Bill of Sen. Haji has the intention of ensuring that we have vegetation cover, even on 2.5 million acres of public forests.

In Nandi County, for example, we have three forests. We pride ourselves in Nandi North Forest, Tinderet and Nandi South Forest that covers both Emgwen. We also have Kimondi Forest near Kapsabet Town, Nandi Hills, and also part of Tinderet that stretches all the way to Kericho County.

Mr. Deputy Speaker, Sir, it is important to put in context the planting of trees on public land. I would like to encourage and say, some of us were a bit jittery when the Nairobi Expressway was being built because there were many trees where Nairobi Expressway is. That is why when they wanted to construct the entry point of the Expressway, and even bus terminals here in Nairobi City County, we were a bit uncomfortable because Nairobi should have more tree coverage.

I remember when Hon. Gakuo was the Clerk of Nairobi City, he tried planting more trees within the city. I encourage all our towns and cities in the country, including Meru and Makutano. We should encourage more planting of trees.

Mr. Deputy Speaker, Sir, allow me to mention and congratulate Mandera County. The other day, they were awarded the world's greenest city. They are using women to plant trees and adopt a tree. You plant a tree and take care of it.

I congratulate the people of Mandera County for the Mandera Green Initiative. If Mandera County, which is dry, has better forest cover, why do we not have in Kericho, Narok, Migori, Kapsabet yet we depend on rain?

Mr. Deputy Speaker, Sir, to put that part in context, the forest cover per county is as follows: Isiolo county leads with a forest cover of 53.4 per cent, Nyeri comes in at number two with 40.8 per cent forest, the third one is Lamu with 32.15 per cent, Nyandarua with 26.32 per cent, Bomet is 24.28 per cent and Kilifi concludes this list.

The counties with the lowest forest cover because ours is to protect the interests of counties are Siaya with 0.23 per cent. Migori, where my brother, Sen. Eddy, comes from is among the bottom five with 0.31 per cent, Busia, with 0.56 per cent, Wajir with 0.98 per cent and Marsabit with 1.1 per cent.

What Sen. Haji is trying to is very important and therefore, Members should be aware of their counties' forest cover. I wish to encourage Sen. Eddy that when is going home now that Migori is doing badly, he should plant more trees.

Mr. Deputy Speaker, Sir, on Clause 4, 40A(1):

A person who harvests a tree shall replace the tree under the direction and in an area designated by service.

I agree with that. There used to be a saying that when you fell one tree, plant two more. However, I would like to propose another saying that when you fell a tree, plant two more and adopt them. The issue is not planting but taking care of that tree until it reaches maturity.

We also want to encourage the logging and the harvesting of trees. A moratorium was lifted the other day. We want to ensure that there is a process of licensing, harvesting

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

and the end result. I therefore request KFS that during the harvesting of trees, especially in forests, they should only harvest mature trees and avoid harvesting indigenous trees like the Mugumo Tree.

The Mugumo Tree is very important in the Kikuyu Culture. There are trees like Simatwet in Nandi, which is a sacred tree. I also heard Moringa is important. There are trees that have both cultural and medicinal value. For us, Simatwet is very important in our culture. Even as we allow logging and the lifting of the moratorium of access to logging in public forests, we should be keen so that we do not lose such indigenous trees. I agree we must have stringent laws.

Mr. Deputy Speaker, Sir, I am happy with the proposal that Sen. Haji has introduced that in case you violate that section on logging, it is an offence and you should be fined Kshs5 million or three years imprisonment. I propose that it should be five years, so that people do not access our forests, do logging and export our trees.

On Clause 6 on the adopt-a-tree programme, when you plant a tree, make sure you assign someone to take care of it. I will add two things here. We need to encourage schools to plant trees and adopt them. Let us teach our children from Pre-Primary (PP1) to plant trees and adopt them.

We also need to use our prisons. Prisons have a lot of land from Shikusa, Ngeria, King'ong'ong, all the way to Kilifi Prisons. Let us use the land that belongs to prisons for agro-forestry and allow prisoners to maintain and adopt those trees and for the people who are there. When you commit an offence like for traffic offence, you should be given a Community Service Order (CSO) to go and take care of trees through CSOs so that we can bring discipline.

Mr. Deputy Speaker, Sir, I thank Sen. Haji on this aspect that we need to give further incentives he has included in there like tax exemptions and tax incentives that can be given to companies.

On Clause 8, there is the issue of carbon credits. I agree that this issue is important but Kenyans do not understand what that is. It is called *hewa kaa*. I know that the Democratic Republic of Congo (DRC) leads on the issuance of carbon credits followed by Kenya. This means that we are doing well.

I would like to encourage our farmers to do farming that is more environmentally friendly like natural farming by using compost manure, tillage and planting crops that protect the environment. I am happy that Kilifi and the coastal farmers are earning more carbon credits than the rest of the country.

Mr. Deputy Speaker, Sir, it is unfortunate that we lost the Finance Bill, 2024 because we were introducing the eco-tax which would have protected us from the dumping of electronic devices. Many Kenyans do not ask themselves what happens to their phones, radios or any electronic devices when it dies. How do we manage that dumping? It was unfortunate that in the Finance Bill, 2024, they were trying to introduce this tax.

This is an important amendment Bill that should be supported by all Senators. All of us should be climate friendly even when driving our cars. The banning of polythene was very welcome but we have seen them coming back. We ask the National Environment Management Authority (NEMA) to be on the lookout.

I encourage all of us that when you are driving your car and you have taken your water or soda or have eaten something, do not litter or throw trash along the road that dirties our environment. The country should be mindful the way the President has talked about the use of electric motor vehicles, even when it comes to the energy we consume or use.

With those remarks, Mr. Deputy Speaker, Sir, I am proud to second this Environment Laws (Amendment) Bill (Senate Bills No. 23 of 2024).

The Deputy Speaker (Sen. Kathuri): Order, Sen. Chimera.

(Question proposed)

I now open the Floor for debate.

Sen. Olekina Ledama?

Sen. Olekina: Thank you, Mr. Speaker, Sir, I rise to support the amendments proposed by the distinguished Senator for Garissa. At this age---

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

The Deputy Speaker (Sen. Kathuri): Sen. Murgor, I will give you that point of order after Sen. Olekina completes his contribution.

Sen. Olekina: Mr. Deputy Speaker, Sir, I am pleased to support and speak highly of these amendments being proposed by the distinguished Senator of Garissa. Tree planting should not be an exercise where people are forced to do it. Tree planting is something that all of us must make it a culture, that on a daily basis, when you have an opportunity to do so, you plant a tree.

As I stand here, I pride myself as one of the few Kenyans who have planted millions of trees in a big forest in Narok County. A few years ago, I introduced aerial seeding in this country. I am happy that later, the Government of Kenya also followed suit, hired the same aircraft I had hired and planted millions of other trees. This is the only time that we can say that we are proud of our culture and country.

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

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

Madam Temporary Speaker, I have seen some beautiful recommendations that have been made in this Amendment Bill. Some of them ought not to be a direction but they ought to be a call of duty to all Kenyans. I live in a beautiful place called Enkanasa Village Residence. It is a home that I rehabilitated. It was a desert and a murram pit where the contractors of the main road from Narok to Nairobi were harvesting murram to fix the main road to Nairobi. No one wanted that piece of land.

When I bought it, an acre was a mere Kshs18, 000. Today, even if you give me Kshs10 million an acre, I would not take. Today, that piece of land has over 30,000 trees, and no one would have thought that anything would grow there. When you leave my residence and you walk to the neighbours, the climate change is real.

When you get into my place, it is cold and beautiful. I am happy that my neighbours are slowly seeing the benefit of planting trees, and each one of them is doing so. I encourage all Kenyans to plant a tree a day.

Madam Temporary Speaker, I want to go straight and comment on the proposed amendments to several pieces of legislation. One is the Forest Conservation and Management Act, which the distinguished Senator wishes to amend and insert a new provision which says “promote afforestation and reforestation in arid and semi-arid areas of the country.”

I would like to beseech the distinguished Senator to expand that and not only limit it to semi-arid areas but to make it a national exercise for every part of the country. In a race, you have what you call your home ground; where no one can beat you. When you are going out to look for more support from elsewhere, for you to win your race, you must also protect what you already have.

I want to beseech the distinguished Senator, and I am going to be working with him because now the Bill is ours, that we expand this to ensure that we require every county, every urban area, every sub-county, every town, every school, every church, to make sure that they plant trees.

One of my problems with this amendment that he is introducing is that it requires that whenever you fell a tree, you then now have to go and plant a tree in a place where it is designated by the Kenya Forest Services. There is no point in creating a lot of red tape or bureaucracy when it comes to protecting the environment.

If you fell a tree, make sure you immediately plant two more trees there. If you now want to wait until you go and plant trees in a designated area, it means that we will create oasis in some areas and continue creating deserts in other parts of the country. So I would like to beseech the distinguished Senator that we amend that and ensure that we limit the bureaucracy.

When my colleague says a person who harvests a tree shall replace the tree under the direction and in the area designated by the Service, I plead with the hon. Senator---

Sen. Abdul Haji: On a point of information, Madam Temporary Speaker.

Sen. Olekina: Of course, I would like to be informed, if you allow that.

The Temporary Speaker (Sen. Veronica Maina): Proceed and inform the Senator.

Sen. Abdul Haji: Thank you, Madam Temporary Speaker. I would like to inform my distinguished friend from Narok. The Bill intended to introduce a clause that would cater for specific seedlings and trees, which can grow in harsh conditions of arid and semi-arid areas. That is why I introduced that clause. The Bill as it is already covers the rest of the country.

The problem I was facing, when I was looking at this Bill is that most of the arid and semi-arid areas of Kenya also fall under areas which have been marginalised. I introduced this is so that we are also not marginalised in the fight against climate change and the initiative of growing trees. This clause was just to introduce what was left out in the existing Bill.

The Temporary Speaker (Sen. Veronica Maina): Thank you. You may proceed, Sen. Ledama.

Sen. Olekina: Let me thank my good friend, Sen. Haji, for that wonderful information that has enriched my thinking. Maybe to respond directly to his new information, we must introduce a new clause to uproot all the *Mathenge* plants, which is not of any use in this country, particularly in arid and semi-arid areas and plant new trees. Arid and semi-arid areas are indeed left and ignored. There is a very easy way of planting trees.

There is a gentleman from Naivasha who I also worked with when I was planting trees in the Mau Forest. He has a company called Seedballs. He took charcoal and put seeds inside the charcoal and others in cow dung. He then spread them all across, particularly seeds for the acacia trees. When it rained, the seed found itself penetrating the ground.

In the areas where it is dry, you will find that there are so many acacia trees which are growing. I remember when I was planting trees in the Mau Forest, I brought this gentleman, I cannot remember his name, but he works for a company called Kenya Seedballs. We also planted many seeds from his company in the Mau Forest.

So, I support this. However, the only concern that I have is when it says that a person who fells a tree for a reason other than its harvesting shall replace the tree under the directions and the area designated by the Service.

My concern is the direction and the area designated by the Service. Hypothetically, suppose the service decides you fell a tree in Narok, now go to Nakuru and plant them there. I think it is important that we amend this further and say that a person who fells a tree for a reason other than its harvesting shall first demonstrate that they have planted more trees. They must report to the Service. That is when this direction from the Service comes in.

Let us make it that you want to fell a tree, first of all, plant trees, go to the Service, let them guide you and tell they want you to go and plant trees in Wajir County. When I went across Wajir, it was such a beautiful and actually the soil there is very fertile. We planted trees and when you could see the soil, it had some sand in it, which means any little rain that falls into the place, it is absorbed and it is retained there and trees can grow very fast.

So, I support this but I do not want the bureaucracy, the red tape because the Forest Service may decide to slow you down. They might say they do not have regulations on how to proceed.

I have seen the function of the Service and it is put there. I normally have a big problem with creating authorities because you just make it red tape. Why not just require every school to introduce a course in the curricula to teach young Kenyans how to plant trees or require young Kenyans to plant trees?

I remember when I was in university, I took a course in Physical Education (PE). I was asked to do PE and I did. I went and I played golf as one of my courses. Why should we not have it in the curricula that every school must have a course where people are taught about the environment and their children are required to grow trees?

If you go to every urban centre, you will be shocked. Instead of us making beautiful urban centres, we have kiosks everywhere. All of us in this House travel. Every time we go to the UK, downtown London or Central London, we see trees being planted.

I think that is what we should now require county governments to make sure that as part of the money that we send to them, they set aside an amount of money that must be dedicated to climate change.

Madam Temporary Speaker, we care about the future generation. If we do not do so when we exit this life, we will not eternally rest peacefully. This is because when we had an opportunity to make this world a better place, we destroyed it. I entirely support this.

I want to beseech my brother that we should not say that we celebrate. There is a clause here where it says that there will be a full week in March.

Clause 55 states that:

“The Forest Conservation and Management Act is amended by deleting Section 55 and substituting therefore with the following New Clause-

“The national and county governments shall observe a national tree planting week from the 15th day of March to the 21st day of March in each year for such other week the Cabinet Secretary may by notice of Gazette designate.”

The problem I have is that the amount of money, which will be spend during that week on other unnecessary things such as tea, fuel and choppers, will be more than what will be used to plant trees. So, the best thing to do is to say that during that week, or you set up a daily, or like once a week because going by statistics given here by the Seconder of this Bill is that the forest cover in this country is wanting.

Why do we not say that every Friday we only work until 11.00 a.m. and from 11.00 a.m. to 5.00 p.m., we plant trees? That will help people because if you plant trees you have to demonstrate and it has to be part of your payroll.

I have seen something which I highly support in these amendments. The introduction of tax incentives to companies that encourage tree planting. That I entirely support.

In fact, we were all talking about the issue of carbon credit. We have companies from United Kingdom (UK) in our country buying carbon credit. They are also investing in environmental preservation projects. When they go back to their countries, they are given a tax break. I fully support this incentive.

I can see my time is running out. However, I will sit down with the distinguished Senator from Garissa County who I thank for bringing these amendments and discuss specifically tree planting in arid and semi-arid areas.

If today this country can prioritize installing the electricity grid in Wajir, Mandera and Marsabit counties; companies will invest in industries and create job opportunities for our youth.

When we talk about every county having a tree nursery, you will see youths from Wajir, Mandera, Marsabit and Garissa, planting trees at night. If there is water they can pump up using electricity, they will plant many trees. When we fully engage our youth in those counties, we will improve security.

So, as we are all agonizing here and talking about all the things that we want to do for this country, let us prioritize the North Eastern part of this country. Let us not continue discriminating against them.

In fact, this Adani deal that everybody keeps talking about here will provide Wajir, Marsabit and Mandera counties with electricity, I will be the first one to support it. Let us build the grid, let us take it there and improve security. Let us run this country as one country.

Madam Temporary Speaker, when you tell me you are supporting Adani deal to enhance Molo line or Suswa line, I will say no because we already have electricity around those areas. We cannot concentrate everything in one place.

Madam Temporary Speaker, let us promote our environment by planting more trees. Let us reduce the red tape and allow people to plant trees. Let us make this tree planting exercise a competition. That should be an incentive. Everyone in this House today has one company or two. Every year as you plan activities for your company, make sure you allocate some amount of money for buying seedlings and planting trees.

Today, if you go to the Masai Mara Game Reserve, there is a beautiful camp called Olonana. When you go to Olonana, before you go into your room, they tell you, "Come, we want you to plant a tree here." If you are there with your children, they will also plant trees. They erect your name for remembrance. That encourages the environment to do well.

Finally, there is a gentleman whom I met recently by the name Mr. Mark Hughes. This gentleman is currently working in the Kakamega Forest. He is responsible for planting trees at the Red Hill Link Road. He is the one who has also planted trees in the Tigoni area. He has planted trees in Narok County and he is doing so everywhere. I heard him saying: "I wish I could be given the Southern Bypass Road to plant trees. I wish people would come to Kakamega and plant indigenous trees, not to bring exotic trees."

One of the biggest challenges he is facing in this country is seeing other trees being introduced in Kakamega, which are foreign to that environment. The Moringa is a good tree. Mathenge is not a good tree.

Senate Majority Leader, you do not know this. They are planting palm trees from Mombasa in Kakamega Forest. We need to take advice. This gentleman is almost 80 years old, but he is still planting trees.

So, ideally, we have beautiful trees in this country. We have the Meru Oak, Oloirien and the Acacia tree. The Oloirien is the African olive tree, scientifically called *Olea africana*. We have another tree in Masai called Osigonoi, which is beautiful. I see them being planted across.

Let us add a requirement here for every school to introduce a tree planting course. All students will be encouraged to plant trees. Let us do away with the *Mathenge* tree, uproot it completely and replace it with a new tree.

If Sen. Abdul Hadji would tell me that anyone who cuts a tree today and be directed by the service to uproot it, I would clap. If you go to Marigat, Baringo County, during a dry season, you will think that you are in a very beautiful green environment because of Mathenge trees. However, if you take a goat from Marigat and open its mouth, it has no teeth. The *Mathenge* tree has destroyed the dental structure of cows, sheep and goats.

Madam Temporary Speaker, this issue of the environment is very serious. We know it. I am so happy that I introduced aerial seeding into this country, where you plant with an aircraft? In the North Eastern, we can plant millions and millions of trees using aircraft. Instead of Cabinet Secretary using---

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Abdul Haji: On a point of information, Madam Temporary Speaker.

Sen. Olekina: Yes, Madam Temporary Speaker, I would like to be informed.

The Temporary Speaker (Sen. Veronica Maina): What is your point of information, Sen. Abdul Haji?

Sen. Olekina, your time was up, but you have to be informed.

Proceed, Sen. Abdul Haji.

Sen. Abdul Haji: Thank you, Madam Temporary Speaker. I like the contribution the Senator of Narok County is making. However, I want to inform him that there is a challenge in the North Eastern and most of the arid and semi-arid areas. We do not plant trees; we have to grow and nurture the trees. We cannot use the system that he was using in Narok County, where he takes an aircraft and throws the balls of seeds. Once it lands somewhere, it will eventually grow.

In most of the regions, you cannot plant trees or vegetation in about 60 per cent of the landmass in Kenya. It has to be planted. There has to be Government initiative to nurture and take care of these trees, so that they can grow. Once they grow and are conducive to the environment, then you will have changed the vegetation of that area. That is what I wanted to inform my good friend, the Senator of Narok.

The Temporary Speaker (Sen. Veronica Maina): Okay. Sen. Olekina, wind up. You have one minute.

Sen. Olekina: Thank you, Madam Temporary Speaker. I want to appreciate the information from my brother. I want to further contribute and say that I have seen this because I have studied much on this issue of environment. For instance, Brazil has different environments. There is an institution that went to a very dry area and dug some holes all across and left.

It rains in Wajir, Garissa and Mandera. Look at Mandera and this is something we do not recognise. When the distinguished Sen. Captain Ali Roba was the Governor of Mandera, he had an environmental exercise project where he, in fact, won a big award. Therefore, this thing is possible.

In conclusion, it is not only public land. Let us plant trees in public land private lands. When we plant trees in our private lands, you improve that environment. I love the fact that the Senator is pushing county governments to make sure that they plant trees in public lands. Let us start by planting trees in our streets and in our urban centres.

Nairobi is beautiful; it is called the green city in Africa. Nonetheless, we can plant trees here. Therefore, just change one last thing, this issue of keeping one week as a national tree week. Many people will spend money with choppers and everything than actually planting trees. Let us see whether we can work until 11.00 a.m. on Fridays, then from 11.01 a.m. to 5.00 p.m., go out there and plant trees.

I support.

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

Sen. Murgor, you had a point of order or what were you requesting for? Please, give him the microphone.

Sen. Murgor: Madam Temporary Speaker, pursuant to Standing Order No.110, I rise to move that the debate on the Environment Laws (Amendment) Bill (Senate Bills No.23 of 2024), be now deferred.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The Temporary Speaker (Sen. Veronica Maina): Who is your seconder?

Sen. Murgor: My seconder is Sen. Thang'wa.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Thang'wa.

Sen. Thang'wa: I second.

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

Next Order.

Hon. Senators, I will now re-organise the Order Paper and request the Clerk to call out Order No.27.

Proceed, Sen. Thang'wa.

MOTION

CONSOLIDATION OF BURSARY FUNDS FOR EQUITABLE ACCESS TO EDUCATION IN KENYA

Sen. Thang'wa: Thank you very much, Madam Temporary Speaker, for the opportunity to move the Motion on consolidation of bursary funds for equitable access to education in Kenya.

I beg to move the following Motion-

THAT AWARE THAT, Pursuant to Article 53 of the Constitution, every child in Kenya is entitled to free and compulsory basic education, and the Basic Education Act provides that, basic education should be guided by principles such as equitable access to all youth and equal access to education or institutions;

FURTHER AWARE THAT, many students in secondary schools and higher education institutions come from financially disadvantaged backgrounds, making it difficult for them to afford school fees and access education opportunities;

NOTING THAT, over the years, various interventions have been made, including the issuance of bursaries through the National Government Constituency Development Fund (NG-CDF), National Government Affirmative Action Fund (NGAAF), the Ministry of Education and county governments through various county bursary funds;

CONCERNED THAT, despite these efforts, school fees remain unaffordable for many parents and the allocation of bursaries has been plagued by nepotism, favouritism and political manipulation, lack of transparency and accountability;

FURTHER CONCERNED THAT public learning institutions are primarily funded by the Government through the Ministry of Education, and in the Financial Year 2024/25, approximately Kshs656 billion was allocated to the education sector, making it difficult to ascertain the specific funds

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

granted to each student and that the lack of transparency in the disbursement of bursaries from various agencies makes it difficult to determine the total amount allocated in a financial year, thus hindering efforts to ensure equitable access to education for financially disadvantaged students;

NOW THEREFORE, the Senate urges the Ministry of Education, to:

(1) Audit the funds allocated to bursaries by both the National Government and county governments;

(2) Consolidate the funds distributed by various government entities and agencies, with the aim of directing these funds directly to schools as supplementary capitation to facilitate the achievement of free secondary education; and

(3) Calculate the cost of education per learner and make this information public for primary, secondary, and tertiary institutions, including a detailed breakdown of the annual financial requirements for each student across the country.

Madam Temporary Speaker, this Motion could not have come at a better time than now. I am saying that because yesterday, we were treated with a show of ignorance by the Cabinet Secretary for Education, Mr. Migos Ogamba, who was here trying to answer questions raised by this House. Some of the questions that were asked by myself and others were asked by the Majority Whip, Sen. (Dr.) Khalwale.

Consequently, from the answers that we received, we were made aware that the Ministry is not aware of how much money goes to bursary across the country. They have no data or a way of knowing. They have no framework or network of understanding how bursary is given out in this country.

Madam Temporary Speaker, from that admission, this Motion comes at a time when we have realized that a lot needs to be done in the Ministry of Education. This Motion, as I said, is calling for consolidation of all bursaries so that we can have this money and add to the capitation in our education so that we can achieve free secondary education.

I start to move the Motion by giving a story. Between the year 2020 and 2021, I do not remember the exact month, I was driving home and passed through Garden Estate in Nairobi, near the office of the then Member of Parliament (MP) of Roysambu Constituency. It was about 3.00 a.m. Do not ask me where I was coming from. At least I was going home.

I saw so many women with *lesos* and heavy clothes to keep them warm. I wondered what those hundreds and thousands of women were doing outside at 3.00 a.m. and there was no party. They were all seated on the cabro on the road, waiting for the office to open.

I got out of the vehicle and I asked them what they were doing at that time of the night. They told me they were waiting for the Member of Parliament (MP) to issue them bursary forms at 6.00 a.m. You can imagine the women were there at 3.00 a.m. They could not sleep because they were waiting for the bursary form and it was not a guaranteed that they could get the bursary for their children. If you do not sleep the whole night, you lose an opportunity to work tomorrow. Then after you fill the bursary form, you are awarded Kshs2,000 or Kshs1,000.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Madam Temporary Speaker, it is time for this House to dignify our mothers. They should not be sitting down waiting for an MP, a Governor, an MCA or a Women Representative to give them bursary that they then take to a Government school as bursary. The same Government can send that money direct to the school and make education free.

I always ask myself, why should the Government give you money to go pay a Government institution? Just look at that; the Government is giving you money to go pay Government institution. Why not channel that money to secondary schools as part of capitation programme, so that we make education free?

Madam Temporary Speaker, who has the bursary? The same Cabinet Secretary yesterday told us that even the President has bursary that is domiciled in the State Department for Labour and Skills Development. The House was not aware of this, but we were made aware of it. We could not understand this. The MP, Women Representative, Governor and MCAs all have bursaries. The only person who does not have a bursary is the Senator.

If someone would want to argue that they want the bursary because they were elected and would want to give back to the people, then they should come and learn from this House. That you can lead people without making them sit down on the ground so that you give them Kshs2,000 for bursary.

That money can go directly to the schools, the same way money from the National Health Insurance Fund (NHIF) now known as Social Health Insurance Fund (SHIF), goes directly to hospitals. We do not give MPs or politicians to take that money to the people by going around asking for sick people in order to give them Kshs2,000 go to the hospital. If we do not do so with health, let us not do so with education.

What is this Motion trying to cure? There is a lot of inefficiency and duplication in issuance of bursary. As I mentioned, we have about five elected leaders who disburse bursary. However, they have no framework or network to connect and get to know who was given the bursary. Therefore, one person who is very active and politically aware can get a bursary from the MCA, MP, Women Representative, Governor or the President. All of them will issue that person a bursary and there is no way of them knowing there was duplication.

Madam Temporary Speaker, it has been said that there is a lot of duplication and inefficiency in the issuance of bursaries. So, to cure it, we need to consolidate all these bursaries and send them to secondary schools as part of the capitation to make education free.

There is a lot of corruption and bias when it comes to the issuance of bursaries. I can give you a case scenario of how they steal money from the bursaries. This is what the MPs do; I am not saying they steal. I want to explain how they do it and then I will tell you how it is stolen. When they issue a bursary, if there are 10 students or 20 from one institution, one cheque is written. If, for example, you are in a certain constituency and you want to issue a bursary to about 40 students in the same secondary school, one cheque is written.

When that cheque is written, because the name of the person or the beneficiary cannot be written, the name of the school is written. When the cheque reaches the school, for them to know who that money belongs to, they must attach a list of all the

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

students on that cheque. They cannot write on the cheque, so it is a list. When they show the cheque to the people, they will say that it has Kshs400,000 and the list of all these 21 students or has these 40 students and it goes to a certain school.

When that check is now taken to school, the list is removed. A new list of about two students is attached. So, in cahoots with either the office of NG-CDF or the issuance of the bursary and the principal of a certain school, that money only pays for two students, then the remainder is divided between the principal and the issuer. This is where corruption for bursaries comes in.

To curb corruption in the bursary issuance, I am calling for consolidation so that it can be given to the Ministry of Education as part of the capitation to make education free in secondary schools.

There is a lot of bias and favouritism in the issuance of bursaries. If a citizen does not vote for a MP, they will feel that they do not have a right to get a bursary. Sometimes they do not face the MP, MCA or anyone who is issuing a bursary.

Sometimes certain politicians will say that because you did not vote for them, they do not want to see you. For us to ensure equity, we have to ensure that no politician is given money to distribute to the people, just as we do not do so with NHIF and *pesa ya wazee*.

Madam Temporary Speaker, yesterday, the Cabinet Secretary for Education said the Ministry of Education has no idea how much is required to educate a child in Kenya from nursery school all the way to university. They have no data; they do not know.

Somebody would ask, where did you get the 27 per cent of the capitation of the expenditure in Kenya's education system? Where did you get that 27 per cent? Why not 30, 40 or 90 per cent? This is to say there is a lot of guesswork. We do not know how much a student's education will cost from nursery to the university.

If you read this Motion carefully, you will see that it proposes calculating the cost of education per learner. We have now given them that opportunity. So, we ask, how much do you need for a child?

Yesterday, the Cabinet Secretary also said that we have 4.2 million learners in secondary education. Each student or learner will receive a capitation of Kshs22,244. That is the money that the Ministry of Education is supposed to budget for. If we do the math, 4.2 million students multiplied by Kshs22,244, is Kshs93.4 billion for free secondary school education. If the Ministry can afford Kshs93.4 billion, why do we not take all the other money from bursary and scholarship funds and put it into this kitty? We can have more billions and increase the capitation to ensure quality and equal education.

To our surprise, yesterday we were told that the Ministry of Education, which is mandated to provide education to all, has a scholarship programme. We cannot ask you to provide education to all, yet you have a kitty that you give to special people. That is already discrimination. They have the Elimu Kenya Scholarship Fund (Elimu Fund) amounting to Kshs4 billion. If we add it to Kshs93.4 billion, it makes it Kshs97.4 billion.

If you take Kshs11 billion that the NG-CDF gives and add to this amount, it will make it Kshs108.4 billion. Every county gives about Kshs300 million per year. If you add all the counties, that is almost Kshs14 billion. If you add Kshs93.4 billion, Kshs4 billion, Kshs11 billion and Kshs14 billion, even without counting the Women Representatives' because I do not have the figures, you have about Kshs122.4 billion.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

If you do the capitation of Kshs4.2 million, that means each student will receive Kshs30,000 and not Kshs22,244 that we are talking about here. Kshs30,000 is enough money to take anyone through a whole year of secondary education, especially in a day school. For that reason, I ask Members of this House to support this Motion to help the Ministry of Education.

I really thank the Cabinet Secretary, hon. Ogamba. Though he portrayed the Ministry as clueless, he was truthful. Since he is new, let us help him because others before him never thought it was wise to have consolidation of bursaries and have the data or calculate the cost of education per learner. Let us take advantage of the information we got and help him to come up with a framework of establishing the cost of education per learner.

Madam Temporary Speaker, as I conclude, this issue of consolidation of bursaries has been spoken about by people who if I mention will enable you to see the importance. The Speaker of the National Assembly, Hon. Wetangula, is on record saying that we should consolidate bursaries. The Chief Justice (CJ), Martha Koome, is on record saying that we should consolidate bursaries.

This House and other agencies like Elimu Bora Working Group (EBWG) have also said the same. Sen. Chimera, Sen. Osotsi, Sen. Joe Nyutu and others who want us to consolidate issuance of bursary so that we make secondary education free in this country. That tells you that this is important.

We need to discuss and make sure we compel the Cabinet Secretary and his Ministry to do as we tell them. They should calculate the cost of education per learner and consolidate the funds distributed by various governments to ensure or facilitate achievement of free secondary education.

Madam Temporary Speaker, yesterday we asked the Cabinet Secretary in charge of Education how much bursary is given across the country and he said he does not know. We did not expect that from the Department of Education. He then continued to give a reason that the bursary is given by the NG-CDF, but not the Ministry of Education. So, you can imagine the Ministry that is entrusted to run the education of the country has no linkage with other players in the education sector. That is to say, we lose a lot of money in the name of giving bursaries to our people.

The issue of the presidential bursary being domiciled in the Ministry of Labour and Social Protection needs to be looked into by the CS Education or the Education Department. Why give bursaries, yet you can make education free, since there is money? The only problem is that nobody knows where this money is. Nobody overlooks them. Even the Ministry of Education told us yesterday that they do not know.

Madam Temporary Speaker, I wish to call the seconder of the Motion. I had requested Sen. Olekina to, but the *de facto* seconder has arrived. So, allow me to invite Sen. Chimera to second my Motion.

Thank you.

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

Sen. Chimera: Thank you, Madam Temporary Speaker. I commend Sen. Thang'wa for this well-thought-out Motion. As a nation, it is time we make the hard decisions.

I rise in support of this Motion and would like to urge Members of this honourable House to support it. This is an idea whose time has come before us. Many of our colleagues would come out and say we are trying to fight them politically, especially those who are in charge or those who have a fund that can propagate bursaries. We have seen from experience and I know some of the Members of this Senate have sat in the lower House as National Assembly Members, had a chance to interact, run, programme and channel funds known as the bursary funds.

Today, a Women Representative has funds under National Government, Affirmative Action Fund, to which I am a proud pioneer fund manager. Today, our colleagues are running the NG-CDF. Today, our colleagues who are governors have various scholarships in their own ways and rights in different counties, that are basically running robust and vibrant scholarship and bursary programmes.

We are not fighting these people. We are not saying it is wrong for the County Government of Kwale, for instance, to issue bursaries. However, the question that we are asking ourselves is, how sustainable is this programme?

I come from a little-known constituency known as Lunga Lunga in Kwale County. I would like to appreciate that I have been a beneficiary of a bursary programme. However, I was among the few privileged ones who could get access to the area MP. I had parents, who directly spoke to the MP, then. For that matter, I was able to qualify for many bursary programmes in Kwale County to enable me to pursue my education. Today I am here speaking as a Senator of this great nation.

How many people out there, have no access to the MP, MCA, or even the village elder? It is time to rethink on the architecture of the bursary fund, and delink it from politicians. Let politicians do their politics the way they want to do it, but allow the Ministry of Education through the State to ensure that every young Kenyan has the right to access basic education.

Madam Temporary Speaker, I am not saying these things from the blue. This very Constitution, a very fundamental documents that we all subscribe to, provides under Article 43, that every person has a right to education as a social and economic. It goes ahead in Article 53 and says that; every child has the right to free and compulsory basic education.

Madam Temporary Speaker, this Motion by Sen. Thang'wa seeks to make sure that every Kenyan irrespective of their race, political ideology, gender, colour and religion has access to free universal education. It is shocking that a whole Cabinet Secretary can come before this House and fail to tell this nation how much is spend on bursaries. How much then, do we lose in form of corruption or tokenism? It is time that those who are in charge of running these bursaries are put into account. We need to be told how much is capitation per learner.

If you look at the MPs, a quick math would give us about Kshs40 or Kshs50 million under the NG-CDF bursaries. Each county has about Kshs0.5 billion earmarked for bursaries and scholarship programmes. If you do that by 47 counties or the figure of Kshs50 million by 290 constituencies plus the Presidential Secondary School Bursary scheme, that gives you roughly around Kshs100 billion that is meant to make sure our students access bursaries.

Madam Temporary Speaker, I wish to also thank and commend Sen. Thang'wa for raising this because we need to dignify our people. This bursary programme has been used for far too long as a way of politicising how we roll out issues for our people. Today, if you do not vote in a certain MP, he will say that I never got votes from Lokichar and as such, I cannot help.

It happens by design, default or by way of circumventing how these bursary committees do their work and this is on record. The other day, we heard that officials from West Pokot County were arrested and arraigned in court because of misusing bursaries and diverting funds meant for bursary for needy students from Kacheliba and Chepareria which ended up in their pockets. How safe is this money when it is left at the hands of politicians?

Madam Temporary Speaker, I am not afraid of any political opponent and I am not trying to soften my politics. I am also not saying that I suffer from undue advantage when an MP has NG-CDF and a Senator does not have. However, it is time to talk about how best to fix this bursary question.

As I conclude, I would like to tell this honourable Senate that at times, you must do what is rightful even if you are alone. I know that under this Motion, we shall be fought. People will be against us, governors will make noise and say that we want to kill devolution. Hon. MPs will give beautiful and success stories of how the bursary programme has transformed many young lives. They will be up in arms against this Motion.

They might even go ahead as they are doing now, trying to disband this House for obvious reasons. However, we would like to tell them on the question as to consolidating bursaries, we must do it. If we are to attain free universal education, the first port of call starts from consolidating all the monies going to bursaries and putting it together under one scheme, take those funds to schools and allow every young Kenyan child to access education without having to beg an MP or a governor for this bursary.

Madam Temporary Speaker, as I conclude, I saw a photo of a very old lady who could pass for my grandmother somewhere in a political rally, kneeling before a sitting MP. This photo really trended across social media networks. It goes to show how Kenyans are forced to worship and bend before politicians just to get Kshs5,000.

You will find a student who has a fee balance of Kshs60,000 and an MP gives him a cheque of Kshs7,000 yet his fee balance is Kshs60,000. Please tell me, just basic mathematics, even my two-year-old son, wherever he is, can tell you that you cannot afford to go to school when you have a fee balance of over Kshs50,000. This politician will come with the media, will come with everyone and will parade these people.

This person comes from far many kilometres away. They have to trek to come and just pick a cheque that does not guarantee them admission into school. For how long shall we continue to jeopardize and threaten the lives of the young generation in the name of doing politics with these bursaries?

With those many remarks, I beg to second. I urge this honourable House to support this Motion towards making sure that in the fullness of time, this conversation will be a reality.

We want that young man from Tumwa, Vanga, Lamu or Lodwar, who is a student currently, who has to depend on the mercy of a sitting politician; be it an MCA, an MP of

the National Assembly, a governor or the presidential scheme as premised and run from the Minister of Labour and Social Protection; does not have to go through this indignity for him to access educational opportunity.

We want to see many Kenyans serving this nation as doctors and engineers. We want to see many of them participating in promoting jurisprudence and making sure the law of this country is much more progressive by working as lawyers, architects and hustlers in this country, but they have free access to education.

With those many remarks, I beg to second
I thank you.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, this Motion is now open for contribution by those Senators who are interested in putting in their contribution.

Sen. Olekina, the Senator for Narok County, you have the Floor.

Sen. Olekina: Thank you, Madam Temporary Speaker. Let me begin by appreciating the two gentlemen, starting with Sen. Thang'wa and my good friend from Kwale County, Sen. Chimera.

I have been sitting in this House for quite some time and I know that Parliament pronounces itself through Motions and Bills. The effort sought by my two colleagues is something, which as we speak right now, unless several pieces of legislation are amended, will be an academic exercise.

Bursaries are very important. However, it will be very difficult for Members of the National Assembly; Women Representatives, mandarins in the Ministry of Education and the Office of the President, to let go that ability to dish out goodies in the name of bursaries to their children, friends and constituents. They want to be seen as if they are doing so much for their community.

The Motion is very important. However, the question that I have with this Motion is whether it is going to be something that can be achieved by a Motion in this House. Yes. Every county government today has a County Bursary Act. With NG-CDF, there is money allocated. Under the NG-CDF they say we will allocate X amount of money; I think Kshs40 million per MP towards paying bursaries. If you go to the affirmative action as well, and the Women Representatives will say, we have got X amount of money for bursaries.

Will this Motion overturn all these legislations? My answer is "no." The Motion will not be enough to overturn all these legislations. This is only going to be an academic exercise. I would have hoped that my good friends would have tried to look into it and introduce a piece of legislation.

One of the recommendations in the Motion says:

"NOW THEREFORE, the Senate urges the Ministry of Education to: -

(1) audit the funds allocated to bursaries by both the national government and county governments."

Now, the first question that I ask then is, if you look at the Constitution of Kenya, I believe it is Article 187, there is an issue of cooperation between the two levels of

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

government, the national Government and the county government. Which county government will allow the Ministry of Education, which we know very well, that it is a body which falls under the national Government, to audit bursaries that are being given by MPs, MCAs, or governors?

It is important that sometimes when we come up with Motions, we become realistic. There is no county government entity, which will allow the Ministry of Education to audit bursaries unless that function has now been transferred to the national Government. It is important that when we are here we become realistic.

Let us talk about consolidation. Number two says, consolidate the funds distributed by various Government entities and agencies with the aim of directing them directly to schools and supplementary capitation to facilitate the achievement of free secondary education.

Madam Temporary Speaker, unless we amend all the 47 counties Bursaries Acts, if you go to Narok County today, you will find that there is a Bursary Act. Unless we come up with a piece of legislation. I want to challenge my friend, Sen. Thang'wa, a Motion will not help you in this case.

I can stand here and say I agree with you that bursaries are great because they allow children who are from very disadvantaged backgrounds to go to school. In fact, I will say here with a lot of pride that I was educated through bursary from the Narok County Council. My parents could pay little money when I was in high school.

I went to the USA. When I came back to the country and I funded over 25,000 girls to go to school through my other means. However, it is going to be practically impossible to consolidate funds distributed by various Government entities because the Ministry of Education does not have that mandate.

First of all, I would have been so happy if my dear brother, Sen. Thang'wa, would have said, we are moving a Motion to audit all the bursaries distributed by the Ministry of Education. I would have been very happy to entirely support it if my brother would have said, let us audit all county assemblies---

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, would you like to be informed by Sen. Thang'wa?

Sen. Olekina: Yes, absolutely.

Sen. Thang'wa. Thank you very much, Madam Temporary Speaker. I thank Sen. Olekina for the contribution. However, I would like to inform him that the Motion is asking the Ministry to audit all funds allocated to bursaries by both the national Government and the county government.

Again, nothing stops the Ministry from coming up with Bills. Like they said, they have two Bills after they formed a presidential task force on consolidation of bursaries.

Madam Temporary Speaker, when the Ministry is responding to our queries, we will be able to capture the contribution of every Member. If they need us to change any law, nothing also stops the Ministry from proposing a piece of legislation. This is to get the world to know that the Senate is not happy with the way the bursary is disbursed.

I thank you.

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Olekina: Madam Temporary Speaker, I wish my dear brother would listen to me and listen keenly to my contribution. My contribution is geared towards making sure that he achieves what he wishes to achieve; and maybe by just amending.

Article 189 of the Constitution of Kenya says:

“Government at either level shall perform its function and exercise its powers in a manner that respects the functions and institutional integrity of governments at the other level and respects the constitutional status and institutions of government at the other level and in the case of county government, within the county levels.”

This Motion will achieve some significant progress if only it focuses entirely on auditing county bursary funds. We need to start from there. This Motion would achieve significant progress if designed to audit the funds being allocated by the Ministry of Education.

The Ministry of Education is at the national level. The Acts in county governments are County Government Acts. I do not want my brother to misquote me on this - that I fully support his intention. I think he is on to something very big; something that will be able to bring discipline.

The truth is there is discriminated against the people in this country. You are poor, yet you cannot get a bursary to take you to school. I told Sen. Thang’wa that I do not see in the need for bursaries 21st Century because we are no longer a less developed country. We should have free primary and secondary education so that there is no child who will have to go and beg a representative to pay for them school fees.

God bless the former President of this country, the late His Excellency Mwai Kibaki, for what he did. In fact, last night I was watching a documentary on him. He did something significant. He introduced free primary education and encouraged so many children to go to school.

The only way we can achieve progress is to audit all county governments' bursary funds. I encourage Sen. Thang’wa to follow that route. We have a committee, which I believe we are Members with him. The first thing to do is bring a statement so that we audit every county bursary fund.

Right now, we are struggling. We need to develop a policy. The only way that we can achieve something great with that is to follow the route that this Parliament, which is the National Assembly and the Senate, did when it comes to the issue of health Facility Improvement Fund (FIF).

When that national legislation came in place, there was no reason as to why county governments could not have their own funds to manage their hospitals. We already have one big fund. I encourage Sen. Thang’wa to introduce a piece of legislation that amends all other legislations. He then defines the structure of how these bursaries will be distributed instead of it being given to individuals.

Let us carry out a survey. For example, we can go to a school that I went to, Ole Sankale Primary School, to find out how many children cannot pay for their uniform or books and give them some form of capitation that allows them to go school.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

I can see my time is running out. However, it is important for us to calculate the cost of education per learner and make this information public for primary, secondary and tertiary institutions, including a detailed breakdown of the annual financial requirement for each student across the country. I fully support Sen. Thang'wa on this.

I beseech him to pursue the root of coming up with a national legislation to manage bursaries. When you follow that step, please do not start an authority. Sit down with our legal counsel and come up with a piece of legislation, which is brief on how those funds should be managed. If you end up setting up another authority, you will be making some people grow their bellies double than they can to grow and continue to encourage corruption. You may need to look at the Public Finance Management Act to see how that money can be utilised.

Ultimately, a time will come when all of us will have a conversation of auditing our Constitution, but not now. I want to be honest. I do not want to anticipate debate, but I do not think this country will entertain any argument of amending the Constitution at this time. However, there will be a time when we will audit our Constitution to see the gains, hindrances or barriers in it.

That time, we can entrench the issue of bursaries in the Constitution so that we can do away with the mandarins of State House who apply for bursaries for their children when they can afford to send them to school. However, because they have access, they get the bursary. When you travel to London, Boston or New York, you will meet children who say they were given a bursary by the State House. When you interrogate them further to get to know who their father is and what they, you will find that the father is a doctor.

This is despite the fact that there is an A student child in Kakamega or Narok County, who cannot even afford a pair of shoes and can never get access to that State House money. You will find that there is money in the Ministry of Education to fund children from the disadvantaged backgrounds. However, they end up funding children of the staff in the Ministry of Education.

In county governments, the people who will be given bursaries are people whose parents are working in the bursary fund. Remember that in every county government, there is a bursary fund and a board. This is where people get their allowances. They get their money from selling those bursaries. They can sit down and agree that they will allocate themselves a certain amount of money. You know how we are in Kenya.

You are sitting on a board or the Budget Committee of the National Assembly. While there, you are asking whether the money for the road you want to be constructed has been appropriated. Since you are the one who will bring in the contractor to build the road.

For bursaries, people on the board will take an amount from selling the bursaries to the people who are your supporters on the ground. I do not know whether to support it. However, I will leave it there with those comments that I made.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Veronica Maina): Thank you, Sen. Olekina. We will have Sen. Murgor.

Sen. Murgor: Thank you, Madam Temporary Speaker, for allowing me to air my views. Like Sen. Olekina, I do not know whether to support this Motion or not. I thank Sen. Thang'wa for this elaborate Bill.

There is indeed a lot of manipulation in the current NG-CDF that goes to every constituency. When I was a MP, I inherited a situation where out of Kshs500,000 was given to a location for a project, and Kshs200,000 or Kshs300,000 went back to the office of the constituency. So, the project ended up getting half of the money.

This is not peculiar to West Pokot County alone; I know it is happening everywhere. It is also true that there is a lot of nepotism practised in constituencies and constituency offices and at the county level.

I was asking some parents in an area about bursaries given by a certain governor. Those parents asked me, which bursary? The bursary that goes to every child of that clan and leaving the rest just not being able to afford anything and eventually not being able to go to school? A lot of that is going on in the counties. Corruption is rampant. You do something to get something.

This practice is true at every level, even the level of MCAs, because sometimes some counties give bursaries to MCAs and the malpractice goes even to that level. This is also enhanced by the governor and the Member of Parliament of the area.

Interestingly, sometimes money that comes from the national Government is swapped with money that comes from either the county or parents. A parent may be asked to pay Kshs20,000 for their child, but the money is taken to have come either national or another level. That money is swapped. Therefore, the school administration or principal will have some money around. That is why parents are continually asked to pay school fees.

I was addressing a gathering in a public day school in my county. I counted sources of money that each sector contributes. For example, Kshs20,000 comes from the county, Kshs22,000 from the national Government and Kshs5,000 or Kshs10,000 from the constituency. That adds up to Kshs50,000 per year per student, yet students who are supposed to be getting that money are sent home all the time to go and get money from parents.

Parents as well contribute up to Kshs20,000 or Kshs40,000. Probably, there is about Kshs60,000 to Kshs80,000 that is contributed per child who is supposed to receive about Kshs40,000 or Kshs50,000 per year. However, because of corruption, advantage is taken at every level.

The national Government is taken advantage of. The worst is what the Cabinet Secretary said yesterday that they do not know how much it is per child. Out of that played or purported ignorance, there is a lot of manipulation that takes place.

Some of us went to school at a time when our parents were not aware of what used to happen in schools. The principal or headmaster was everything. Our parents did not know how much money used to be sent per a child. The same situation is still practical in some of our areas, especially those that had been marginalised for many years.

I am afraid that even if we centralise or consolidate the bursaries, corrupt principals will still take advantage of the ignorance of parents who do not know what goes on. Rogue principals and headmasters will still take advantage of parents and send their children home

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

even if they have received contributions from the consolidated money. They will still pretend that nothing was sent and, therefore, parents must pay school fees or have their children sent home. That is practically what is happening now.

My brother, Sen. Thang'wa, should emphasise on how we can thoroughly audit and have checks and balances in schools. Can we make sure that any money received in any school is transparently put on top of the table?

We should ensure that every child that is in school get information that his school fees is paid. Therefore, no parent should be bothered or disturbed about his child in school. The parents should as well get information that school fee is paid.

The chief and assistant chiefs in location and sub-locations, respectively should know that a certain child has benefited from bursary money. This will ensure that there are checks and balances. This awareness will also ensure all stakeholders know this information and that nobody will take advantage of it. I say this because some principals take advantage and line up their pockets yet this money is for bursaries.

Recently, I went to a school which was given Kshs2 million for construction of double laboratory. Another school was given Kshs500,000 which they used to construct their laboratory. However, it is a pity that the school which received Kshs2 million has not completed construction of the double laboratory. This is because of lack of accountability and serious auditing that would have saved them this money from broke principal and anybody that is corruptly taking advantage and not completing the project.

I do not know whether to support or not. I leave it there.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Sen. Boni Khalwale, Senator from the great County of Kakamega, please proceed.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I rise to strongly support this Motion. This Motion touches on one of the national values. It is enshrined in Article 10 of the Constitution. I want to congratulate the Senator of Kiambu County.

Senator of Kiambu County, look at Article 10(2). It says:

“The national values and principles of governance include-

b) human dignity, equity, social justice, inclusiveness, equality.”

In reference to human dignity, when you deny a child an opportunity to go to school because they come from challenged families, you are not affording them human dignity.

To expound on equity, when you allow certain children to have access to education and deny others that is against the principle of equity, a national value.

The value of social justice ensures that the children of Sen. (Dr.) Khalwale, privileged parent, have the same access to opportunity like the children of the late Moi who used to take care of my bull before he died.

Madam Temporary Speaker, in reference the value of inclusiveness, when you allow children to go to school based on bursaries, you miss out on that national value of inclusiveness.

On the value of equality, if children are not going to compete purely because of the content of their character, you bring in other issues like can your parents afford school fees and what not, then, you are breaching the Constitution on the value of equity.

In reference to the value of human rights, every child has a right to go to school.

(Sen. (Dr.) Khalwale's microphone went off)

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Boni Khalwale, when we resume, you will have 13 minutes to proceed on with the debate.

Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday 12th November, 2024 at 2.30 p.m.

Enjoy your recess.

Thank you.

The Senate adjourned at 6.31 p.m.