

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 27th October, 2022

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

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

PRAYER

QUORUM CALL AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I confirm that we have quorum. Let us transact Business. Madam Clerk, please proceed.
Let hear from the Senate Majority Whip.

PAPERS LAID

AUDITOR GENERAL REPORTS ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. I beg to lay the following Papers on the Table of this Senate, today, 27th October, 2022, the year of our Lord. These are Reports of the Auditor-General for the year ended 30th June, 2021, on the financial statements of the following counties and institutions.

Report of the Auditor-General on the Financial Statement of Lamu County Executive Staff Housing Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Lamu County Youth Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Lamu County Gender and Social Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Lamu Municipality Board for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Lamu County Disability Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Meru County Assembly Members Car Loan and Housing Fund for the year ended 30th June, 2021.

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Report of the Auditor-General on the Financial Statement of Meru County Revenue Board for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Meru County Micro Finance Corporation for the year ended 30th June, 2021.

Report of the Auditor-General on the financial statement of Meru County Investment and Development Corporation for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Meru Water and Sewerage Services Registered Trustees for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Imetha Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Cooperative Enterprise Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Staff Mortgage and Car Loan Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Inua Biashara Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Education Revolving Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Bursary and Skills Development Support Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Uasin Gishu County Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Eldoret Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Municipality of Eldoret for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Executive State and Public Officers Car & Mortgage Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Assembly Car and Mortgage Fund (Members) for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Assembly Car and Mortgage Fund (Staff) for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County COVID-19 Emergency Response Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Cooperative Enterprise Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Biashara Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Education and Skills Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Youth and Women Empowerment Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Turkana County Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Executive Staff Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Executive Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Alcoholic Drinks Control Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Education Bursary Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Jijenge Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Githunguri Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Karuri Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Thika Water and Sewerage Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Limuru Water and Sewerage Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Gatundu Water and Sanitation Company Ltd for the year ended 30th June, 2021.

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

The Deputy Speaker (Sen. Kathuri): Do you have any more Papers lay on the Table?

Sen. (Dr.) Khalwale: No, Mr. Deputy Speaker, Sir. I do not have.

The Deputy Speaker (Sen. Kathuri): Next order.

STATEMENTS

The Deputy Speaker (Sen. Kathuri): We have several Statements under Standing Order No. 53(1). According to the Order Paper, the first Statement was to be made by the Senator of Marsabit County, Sen. Chute. He has requested that his Statement be deferred to a later date.

ONBOARDING PROCESS OF EMPLOYEES IN MARSABIT COUNTY

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(Statement deferred)

Sen. Faki, Sen. Madzayo and Sen. (Prof.) Ojienda, SC are not present. Proceed, Sen. Oyomo.

LACK OF TITLE DEEDS DUE TO
INCOMPLETE ADJUDICATION

Sen. Oyomo: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources, regarding the lack of title deeds in various Adjudication Sections in Homa Bay County. This is due to non-completion of adjudication by the Ministry of Lands, Housing and Urban Development and the National Land Commission (NLC).

Mr. Deputy Speaker, Sir, on its inception, one of the mandates of the NLC was to ensure that the land adjudication process in this country was completed in 10 years. In Homa Bay County, a number of sections have not been adjudicated whereas others are incomplete. These has denied the people in those areas security of tenure.

In the Statement, the Committee should –

(1) State when the adjudication will be concluded in order to pave way for titling at Kubia East in Gwasssi and Kaksingri West B in Suba South Constituency, as well as Waware and Wakula Adjudication Sections in Mfangano Island.

(2) Explain the reason(s) for non-completion of adjudication in Manyuanda, Rangwe Constituency, Homa Bay County, stating when it is likely to be completed.

(3) Outline the measures put in place, if any, by the NLC to eradicate the overlapping adjudication and Land Registration (LR) numbers at Mbita point. In Mbita Town, other than International Centre of Insect Physiology and Ecology (ICIPE), the rest of the town has overlapping LR numbers and thus the town has no title deed.

(4) Undertake a visit to the above Adjudication Sections to ascertain the serious challenges the locals undergo in their land ownership process with a view to aiding in streamlining of the same.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Oyomo. The Statement stands committed to the Standing Committee on Lands, Environment and Natural Resources.

*(The Statement was committed to the Standing Committee
on Lands, Environment and Natural Resources)*

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. I know we had agreed to avoid riding on Statements, but kindly allow me to make a comment on this issue because I have similar problems, especially in constituencies that border forests. There are number of forest evictees along the cutlines of Nandi that do not have title deeds.

It is worth noting that the new Cabinet Secretary (CS) of Lands, Public Works, Housing and Urban Development has been formally sworn in. I agree that it will continue to be a challenge.

Title deeds are important to our people. They can be used as collateral when taking loans. They can even be used in one way or the other, in either partnerships or cooperative societies.

Mr. Deputy Speaker, Sir, I congratulate Sen. Oyomo for bringing this Statement to the Floor. I have not seen the Chairperson of the Committee on Lands, Environment and Natural Resources. However, I believe that there are a number of Members of the Committee here, who will take up this matter because it is a serious issue.

The Ministry of Lands, Public Works, Housing and Urban Development had undertaken to do digital mapping. We are yet to understand the uses of Global Position System (GPS) and how the mapping has been done. It is very important that as we push for adjudication and titling, the Ministry of Lands, Public Works, Housing and Urban Development must also tell us the progress of GPS mapping.

Mr. Deputy Speaker, Sir, land grabbing is common across the country. It is important that to avoid land grabbing, let the rightful owners be given possession and ownership of those lands.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, Sen. Cherarkey has actually pointed out that we are trying to avoid many comments during Statements. If you can attend Committee sessions where Ministry officials are invited, then you can execute all the issues raised when Statement are read. It will save us on time.

Let me balance this equation by choosing one Member from this other side. Proceed, Sen. Wambua.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. I respect your ruling on Members riding on Statements. I also respect the fact that you also recognize that at times, hon. Members, might not have a chance to attend the Committee proceedings. Therefore, when they ride on a Statement, they are also able to give directions to the Committee to widen the scope on it.

I will point out two issues. First, I thank Sen. Oyomo for coming up with this Statement. The Statement is applicable in almost every county in this country. Therefore, many Members in this House have something to say about land adjudication and titling in their counties.

The delay in land adjudication and titling in Kitui County has been experienced for years.

Mr. Deputy Speaker, the Government has taken private property for public utility. However, because the people whose land has been taken have no title deeds, they are unable to access compensation. That is suffering double jeopardy because on one hand, you have been deprived of your land and on the other hand, you are unable to access compensation it.

Yesterday I was with the Chairperson of the Committee on National Security and Foreign Relations in Mutha Ward. This matter of land adjudication came up. The people of Mutha Ward want to know exactly where the cutline between a game reserve is and

where private land begins. If we can fast-track this adjudication process, then there will be clarity and these conflicts will be minimised.

The Deputy Speaker (Sen. Kathuri): Thank you.

Next Statement.

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

The Deputy Speaker (Sen. Kathuri): Sen. Cheptumo, what is your point of order?

Sen. Cheptumo: Mr. Deputy Speaker, Sir, it is not really a point of order. I just want to seek your direction in this matter. You indicated that you want to discourage Members commenting on Statements because it takes a lot of time. Instead, Members should be encouraged to appear in those Committees.

Mr. Deputy Speaker, Sir, there are two issues here. There are Statements and Petitions. My experience in the National Assembly is that the comments on Petitions are encouraged, but on Statements, they are not. I am not saying that we need to follow what happens there.

Hon. Members need to know the clear position and it is important for you to give clear directions. Do we comment on Statements? If it is so, you could give a short time. If the policy says no, then you should have that position. Looking at the nature of Petitions, I feel you need to give direction on that issue.

I am not saying we adopt what happens elsewhere, but as a Member of this House, I just want your clear direction.

Sen. Omogeni: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Cheptumo, before you sit down, there is an old Member who wants to inform you on the old rules that they have been using in this House.

Sen. Omogeni: Thank you, Mr. Deputy Speaker, Sir. I know Sen. Cheptumo has just arrived fresh from the National Assembly. I want to remind him that the National Assembly is like a double intake, with 349 Members. Here, we are only 67.

Sen. Cheptumo, in appreciation of that fact, Standing Order No.53(3)(a) states that-

“Where a statement has been requested from a Committee pursuant to paragraph (1) –

(a) the Speaker may allow comments in relation to the Statement for not more than 15 minutes.”

Mr. Deputy Speaker, Sir, riding on Statements is captured in our Standing Orders. This has been a tradition in the Senate that when a Statement is raised by a Member, we are allowed to make comments, provided we do not exceed 15 minutes. I know there is a tradition for the National Assembly, but there is also a tradition, custom and usage of the Senate.

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

The Deputy Speaker (Sen. Kathuri): The Standing Orders says that “the Speaker may”. So, I can give that time or not.

Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, with benefit of hindsight; in the National Assembly before Parliament became bicameral, what is today Statements in the Senate, was Question Time in the National Assembly.

We developed a culture of Members riding on Statements because the answer will not be brought by the Minister. It will be brought by the Chairman of the Committee. So, Senators in anticipation of possible supplementary questions, would then ride on the Statement. When the Committee now presents what transpired here, it includes the questions that rode over that Statement. With that, the answer is comprehensive.

I have been sitting here for the last few weeks when I rejoined this House and it looks like what concerns the Chair is time. Why are you worried that you will not finish the Statements on the Order Paper?

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, whom are you asking? Is it the Chair?

(Laughter)

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am asking this House. If the Statements on today's Order Paper are five; and the required time of one hour comes to pass and you are on Statement No. 3, you just carry the rest forward to the next day. That is the practice.

We want to do quality work here. We do not want people to think that we are joy riders. In fact, we are very serious. So serious that during campaigns we were making commitments on power, land title deeds and all that. Let us ventilate and rule this country---

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, I made some ruling or communication on this matter. I said I may give or not give time. I was very keen to see who is happy that you are making that statement. I have seen Sen. Cherarkey and Sen. Wambua. Are you clapping against my ruling?

(Laughter)

Let us have the next Statement from the Senate Minority Leader.

DROUGHT AND FAMINE IN KILIFI COUNTY

The Senate Minority Leader (Sen. Madzayo): Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations, on the severe drought and famine situation in Kilifi County.

In the Statement, the Committee should-

(1) State the measures, if any, that the National Drought Management Authority (NDMA) has put in place in response to the drought situation in Kilifi County. This is

especially in Magarini, Ganze and Kaloleni sub-counties which are the worst hit and in dire need of food aid.

(2) Provide details of the relief food distribution programme by the National Government across the country, including Kilifi County. This should detail the areas covered; the number and particulars of the beneficiaries, including their sub-counties; the type of food aid in distribution; and ascertain equity of food distribution across drought-stricken counties across the whole country.

(3) Ascertain whether illegal logging in Kilifi County is partly responsible for the drought situation in the county, stating measures, if any, put in place to sensitize residents against environmental degradation as a long-term measure to mitigate future drought disasters.

(4) Establish whether there are sustainable measures, if any, the authority and stakeholders seek to institute to address the issue of drought and famine in Kenya's Arid and Semi-Arid Lands (ASALs).

The Deputy Speaker (Sen. Kathuri): Sen. Madzayo, your Statement stands committed to the Standing Committee on National Security, Defence and Foreign Relations.

(The Statement was committed to the Standing Committee on National Security, Defence and Foreign Relations)

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM OLDONYO NYOKIE
PRIMARY SCHOOL, KAJIADO COUNTY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we have a visiting delegation from Oldonyo Nyokie Primary School in Kajiado County. In the Public Gallery, we have 103 pupils accompanied by five teachers and two parents from Oldonyo Nyokie Primary School in Kajiado County who are in the Senate on an educational tour.

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

I thank you.

(Applause)

Sen. Seki: Mr. Deputy Speaker, Sir, let me take this opportunity to welcome the pupils and teachers of Oldonyo Nyokie Primary School. I appreciate them for having time to be with us today because they are here on a tour to the Senate.

I would like to introduce myself to them because they are young. My name is Lenku Kanar Seki, your Senator for Kajiado County. I welcome you. In a few years to

come, many of you will come here as Members of Parliament (MPs). Your teachers will also learn something.

When you go back home, you will probably have learnt something. I thank you for coming. May God bless you as you go back to Kajiado County.

Oldonyo Nyokie is a remote area within Kajiado West Sub-County. I know that you have sacrificed to be here because we have extensive drought situation. Probably I will meet you outside there so that we can greet each other and discuss more about your trip before you go back home.

The Deputy Speaker (Sen. Kathuri): Hon. Senators who have requested to contribute, do you want to welcome the pupils from Oldonyo Nyokie Primary School?

Sen. Tobiko, proceed.

Sen. Tobiko: Thank you, Mr. Deputy Speaker, Sir, for the opportunity. Let me take this opportunity to welcome the students, teachers and parents from Oldonyo Nyokie Primary School.

I was happy to see young Maasai girls coming to see what happens in the Senate. I would like to encourage them to study hard. Let nobody put limits for you because there are no limits in this world. Even the sky is not the limit.

Yesterday we had a beautiful Maasai girl, Sen. Soipan Tuya, who was approved to be a Cabinet Secretary (CS). That should encourage you. I am seated at the Senate having served two parliamentary terms at the National Assembly and having been amongst the first Maasai woman to win an elective seat.

I know that some of you seated there can make it to this House. You can become pilots, legislators or doctors despite the fact that you come from a remote area.

Mr. Deputy Speaker, Sir, if you allow me, the Statement I am about to seek in a short while is about the drought affecting Kajiado County.

Welcome and feel encouraged that you can reach this level.

Sen. Crystal Asige: Mr. Deputy Speaker, Sir, I would like to join my colleagues in the Senate to welcome the young people and their teachers and parents.

I have never said hello to the young people who have been visiting the Senate. Today, I felt it necessary to share something with the young people who are here with us this afternoon.

I encourage them that apart from working hard in school, they should do the best they can, dream big, aim higher and reach further. I am a disabled woman who is also a youth in this Senate. Sometimes in life you face challenges. I believe these challenges are not for you to show weakness, but to discover your strength.

I want to remind the young people who are here with us today that even if your plans change, or rather God has a different plan for you, whatever that might manifest, sometimes God gives you a mountain so that you can show others that it can be moved.

For them to be here today it is an absolute privilege, just like I find it a privilege to be here amongst some of the most brilliant brains in the entire country.

Coming all the way from Bombolulu in Mombasa and standing here in the Senate, if they are looking for any inspiration, encouragement or a story to follow in the future when they find challenges, they should look for my story. *Tuko pamoja*.

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

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

Sen. (Dr.) Khalwale: Thank you for allowing me. I want to start by confessing that my wife is a Maasai and it is wrong---

An hon. Senator: Which number?

Sen. (Dr.) Khalwale: I have not stopped counting.

It is wrong for these children of Maasai origin to leave this House thinking that they come from a remote area. The words "remote area" are colonial lyrics. The whites thought that people living far away from Nairobi and cities and that were difficult to access were living in remote areas.

We would like our children to know that they do not come from a remote area, but one which is far away from Nairobi.

The Deputy Speaker (Sen. Kathuri): There is a lot of interest on the drought situation. There is a similar Statement by Sen. Tobiko on drought. Sen. Tobiko, kindly execute your Statement then we will have comments for both, including the one by Sen. Madzayo.

(Resumption of debate on Statements)

DROUGHT SITUATION IN KAJIADO COUNTY

Sen. Tobiko: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the drought situation that has adversely affected the people, livestock and wildlife in Kajiado County.

In the Statement, the Committee should-

(a) State strategies that the National Government will put in place to scale up the response to drought beyond December, 2022, in light of the anticipated below-average performance of short rainfall---

(Loud consultations)

Sen. Tobiko: Mr. Deputy Speaker, Sir, please protect me from a number of Senators who are making a lot of noise? They are distracting my attention.

The Deputy Speaker (Sen. Kathuri): Nobody is making noise Senator. You are okay. Kindly proceed.

Sen. Tobiko: Okay. Thank you, Mr. Deputy Speaker, Sir.

In the Statement, the Committee should-

(a) State strategies that the national Government will put in place to scale up the response to drought beyond December, 2022, in light of the anticipated below-average performance of short rainfall so as to save the lives of people and livestock in Kajiado and other affected counties.

(b) Provide evidence of plans by the national Government and County Government of Kajiado to release the available funding to enable most vulnerable households to meet minimum household needs and to create social accountability mechanisms for planning, monitoring and implementation of the targeted actions.

(c) Address the needs of women and young girls who are disproportionately affected by the adverse effects of the drought, including the resultant risks of sexual and gender-based violence and early marriages.

(d) Outline the adaptation measures put in place by both levels of government, if any, that promote drought preparedness, alternative climate-resilient livelihood options and targeted economic empowerment programmes for youth and women.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. The Statement stands committed to the Standing Committee on National Security, Defense and Foreign Relations. Let us have a few comments. We will start with Sen. Maanzo.

(The Statement was committed to the Standing Committee on National Security, Defense and Foreign Relations)

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. It is clear to the world that there is drought in Kenya and the rains are late. Ordinarily by this month, most parts of the country would be having rains. However, many parts of the country, including Makueni County, are dry and there is famine.

The national Government distributed food in Kathonzweni Ward, Makueni Constituency in Makueni County, but there are six other constituencies in that county and the same has not been extended to them. The Government has to step up not only in Makueni County, but in many other parts of the country where we have drought situations and people are suffering.

Most importantly, we must protect our environment. Trees have been cut all over and there are forest fires in many parts of the country. Very little has been done to stop these fires. These fires are raising the global temperature, which results to the rain failure due to depletion of the O-zone layer.

One of the solutions that we have as a country is to plant trees. We need to come up with a policy for every county to have part of its budget dedicated to planting trees and buying food for the people, especially counties which are facing serious famine.

The Government has to also find a way to provide grass and water to animals which are starving. Drought is the reason as to why we have conflicts like those in Kitui County. All these issues need solutions for the situation to be contained.

Counties also need to prepare seedlings because when the short rains come, they will be very brief. A lot of information should be provided to Kenyans in these areas about the rain situations for us to plant where we can. In future, we should have better mechanisms and should consider having irrigation fed agriculture rather than rain fed agriculture. Building dams in the counties will ensure there is enough water for the animals and people.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Ali Roba. You have two minutes to make your comments on the Statement. Those are enough.

Sen. Ali Roba: Thank you, Mr. Deputy Speaker, Sir. I rise to support the discussion on drought. As you are aware, we had earlier requested for a Motion of

Adjournment of the House for us to discuss drought situation in the country. Unfortunately, we did not get enough time to reflect on it.

The situation is extremely dire. It is unprecedented and it has not been seen before in the last 20 to 25 years in our region. The pastoralists in most of the Arid and Semi-Arid Lands (ASALs) counties have already lost more than half their livestock.

I want to say this for my colleagues to understand this. Previously, during such drought and drought declarations, non-state actors or donor communities used to swing into action to complement the efforts of the Government. Unfortunately, because Kenya has been declared a middle-income country, this response is not forthcoming. It is believed that a middle-income country should respond to the drought effectively.

The former President, President Uhuru, declared drought as an emergency, but I think that a renewed declaration might be required to synergize the effort of many respondents from different sectors.

I would like to urge the county governments, and we can do it through a Senate resolution, to defer implementation of certain projects for us to save lives and try to respond to the humanitarian crises that is taking shape.

The worry has moved beyond livestock into eminent, clear and present danger that is facing the pastoralist communities by loss of lives as a result of starvation.

It will be extremely embarrassing for a country of our status to report loss of lives as a result of drought. Some relief food is being given, but it is not the standard that the United Nations Food---

(Sen. Ali Roba microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Are these requests still on the same Statement?

The next Statement is from Sen. Faki. Kindly proceed.

REVIEW OF REMUNERATION AND BENEFITS OF STATE OFFICERS BY SRC

Sen. Faki: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Sessional Committee on Delegated Legislation on the review of remuneration and benefits of State Officers in the Executive of the National Government, the Senate and National Assembly under the Third Remuneration and Benefits Review Cycle for the Financial Years 2021/2022-2024/2025 as contained in Gazette Notices 8792 and 8793 issued on 22nd July, 2022.

In the Statement, the Committee should-

(1) Clarify whether the Gazette Notices comply with Section 11 of the Statutory Instruments Act of 2013.

(2) Ascertain whether appropriate consultation with relevant stakeholders was undertaken noting the transparency and fairness principle stated in the Constitution under Article 230 (5)(d) is applicable to these instances.

Mr. Deputy Speaker, Sir, under the Statutory Instruments Act; a statutory instrument means any rule, order, regulation, direction, form, tariff of cause, office, letters patent, commission, warrant, proclamation, by-law resolution, guideline or other statutory instruments issued, made or established in the execution of a power confided or provided by an Act of Parliament.

I wish the Statutory Instrument Subsidiary Legislation is expressly authorized to be issued.

The Deputy Speaker (Sen. Kathuri): I still have some requests here. I do not know want to contribute on this Statement. Let us have Sen. Omogeni.

Sen. Omogeni: Thank you, Mr. Deputy Speaker, Sir. I also want to ride on the Statement that has been sought by Sen. Faki

I would like the Committee to explain to the House why the SRC in the said Gazette notice has not reviewed upwards the remuneration of various cadre of lowly paid state officers, including Early Childhood Development Education (ECD) teachers, nurses, drivers and other cadre of members of staff.

On gazette Notice 5686, I want the Committee to make an inquiry whether there has been a conflict of interest from the Chairperson of the SRC and explain to the House why she has a car loan of Kshs10 million which is far above other key government officers.

I am surprised that the SRC chairperson is paying herself a car loan of Kshs10 million compared with the chairperson of Ethics and Anti-Corruption Commission (EACC) for whom she has set a car loan at Kshs8 million.

This House will be surprised that in the said Gazette Notice 5686, the car loan for the Director of National Intelligence Commission (NIC) is set at Kshs6 million while the car loan for the SRC Chairperson is set at Kshs10 million.

Whereas there has not been any review upwards for the salaries of the lowly paid cadres and members of staff that I have mentioned, including ECD teachers, nurses and drivers, the SRC Chairperson has reviewed her salary upward by a total of Kshs156,075.

I want the Members of this House to inquire whether there has been a conflict of interest whereby the SRC has set for herself a mortgage of Kshs40 million whereas the Mortgage of the Inspector General of Police (IG) has been set at Kshs25 million.

You will be surprised that the mortgage for the Chief Executive Officer of the EACC in the said Gazette Notice has been set at Kshs30 million. Even for Members of Parliament, our mortgage has been set at Kshs35 million.

Who reviewed and set terms for the Chairperson of the SRC? We were here when we converted the position of the SRC Chairperson from part-time to full time. When did she sit to review our own remuneration and benefits?

I Also want to know why the commuter allowance for the Senators has been reduced from Kshs284000 downward to Kshs150,000 whereas in the said Gazette Notice, the SRC Chairperson has set for herself an annual leave allowance of Kshs50,000.

If you look at the said Gazette Notice, we have been put in category F1. That is where you find Members of Parliament, Judges of the Court of Appeal and Permanent Secretaries.

However, you will note that contrary to Article 27 of the Constitution, the salaries of the Court of Appeal progress annually from Kshs710,000 to a maximum of Kshs1.1million whereas the salary of Members of Parliament stagnates at Kshs710,000.

The Committee should give a statement as to whether that amounts to discrimination in line with Article 27 of the Kenya Constitution, 2010.

Finally, I want the SRC to provide a gazette notice where they have set the car grant for the Cabinet Secretaries who currently enjoy a car grant of Kshs12 million for every four years.

That means CSs who have been sworn in office today will receive a car grant of Kshs12 million on top of an official government vehicle and this will be repeated after four years. The same applies to the judges of the Court of Appeal.

I also want to know why in the said Gazette Notice at page 5683, the SRC has set house allowance for governors at Kshs200,000 on top of them being provided with official residence on top of a mortgage of Kshs30 million.

(Applause)

Sen. Mungatana MGH: Thank you, Mr. Deputy Speaker, Sir. Further to the requests, I would like the Committee on Delegated Legislation to also clarify whether they define Government as a going concern or not. How it is that you can sit down and pass a legislation to the disadvantage of a sitting person who is occupying that office?

They should clarify if it is fair to disable State officers who are carrying out important functions by removing allowances that are supposed to be functional for them.

They also further clarify whether at any one time, they have registered a reduction on any of their own perks. They should also clarify why they have continued to target sitting MPs and Senators, capturing headlines and creating enmity between ourselves and the people while not revealing to the country that they have been increasing their salary, sitting allowances and mortgage.

We need to tell the Committee on Delegated Legislation---

(Sen. Mungatana's microphone went off)

The Deputy Speaker (Sen. Kathuri): Please, give him one more minute because we did not signal him that his time was lapsing.

Sen. Mungatana, MGH: Thank you, Mr. Deputy Speaker. The Committee should investigate and find out whether that Chairperson has carried herself in a manner that is befitting a State officer.

They should also clarify whether this Chairperson is fit to hold that public office when she is increasing her remuneration herself and then hiding all these by making people believe that it is the MPs who are bad.

We should get a proper recommendation whether the Committee on Delegated Legislation can bring a recommendation for the removal of this Chairperson of SRC.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, do you want to comment on this Statement?

(Sen. Oketch Gicheru spoke off record)

Please, log out from the system so that am able to tell who wants to contribute.

Sen. Wambua, proceed.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. Gazette Notice No.8791 of 27th July, 2022, will go down in history as the worst Gazette Notice to ever be signed by a public officer. I say this because of two reasons. First, there has been a serious discussion across the country on the fate and welfare of Early Childhood Education (ECD) teachers. Some were recruited from as early as 2013 and are still earning as little as Kshs7,000 a month in some counties.

I expected the Commission that is supposed to look into the welfare of Kenyan workers and public officers would have demanded for the implementation of the new scheme of service for ECD teachers. This would enable them to earn something so that they can at least put a meal on the table for themselves and their children.

Instead, this Gazette Notice increased the salary of the Chairperson of the Commission. The Gazette Noticed, signed by the Chairperson, increased the car grant and mortgage of the Chairperson---

(Sen. Wambua's microphone went off)

The Deputy Speaker (Sen. Kathuri): Give him one minute to conclude. Go straight to the point.

Sen. Wambua: Yes, Mr. Deputy Speaker, Sir, I will go straight to the point.

Our own staff at Parliament have had their per diems slashed to almost zero. We expect parliamentary staff to go on official business in New York and give them a per diem of less than 400 dollars per day. To be specific, it is around 390 dollars. Where are they supposed to sleep? What are they supposed to eat?

I ask the same question asked by my neighbour, the Senator for Tana River County. This Committee must establish whether the Chairperson of the SRC, should continue occupying a public office. A Motion should be brought to this House and the 'Lower' House, to discuss the possibility of sending her home and ultimately, disband the Commission.

(Applause)

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

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir. What that Chairperson is doing is disheartening. I recommend that the Committee on Delegated Legislation co-joins with the Committee on Health, so that they check her---

(Laughter)

Mr. Deputy Speaker, we need to look at the status of these officers because I am told if you get COVID-19, your mental status can be affected. Many of these Kenyans got COVID-19. I recommend that we include the Committee on Health so that we check her faculties.

Thank you, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua, I am reading Standing Order No.11 about the contents of speeches.

We cannot remove the SRC Chairperson through our statements in this House. There is a procedure on the removal of any State officer. If you want to discuss the officer, Standing Order No.11 clarifies that you should bring a substantive Motion. You should balance your comments.

I want to try Sen. Cherarkey. Let me see if you can balance your mind and thoughts with Standing Order No.11.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. It is very sad that we are discussing this.

In Article 230(4)(b) of the Constitution, SRC is mandated to:

“advise the national and county governments on the remuneration and benefits of all other public officers.”

In this Gazette Notice, the SRC Chairperson decided to remunerate herself. She allocated herself more money for mortgage and increased her salary while our workers and ECD teachers in counties are earning a paltry Kshs10,000. What can you do with Kshs10,000?

Mr. Deputy Speaker, Sir, nurses in the counties are on strike daily, like the daily dosage they give in hospitals. The only thing the SRC Chairperson did was to increase her salary and then use Members of Parliament (MPs) as a punching bag.

Hon. Senators: Yes!

Sen. Cherarkey: Mr. Deputy Speaker, Sir, she increased her mortgage, car grant, house allowance and rent.

Let me wind up because I know many colleagues want to comment of this. Secondly, the Committee on Delegated Legislation must come out strongly. I propose that they work with the Committee on Finance and Budget; and recommend the removal of the SRC Chairperson for gross violation of the Constitution and disbandment of the Commission.

We appreciate that the economy is not doing any better. However, how can the Chairperson give herself Kshs10 million for car grant and Kshs40 million for mortgage; and tell us that the economy is doing badly? These issues must be dealt with. When the time comes, I hope nurses, drivers and ECD teachers must be given---

(Sen. Cherarkey's microphone went off)

Mr. Deputy Speaker, Sir, please give me just 30 seconds to conclude.

The Deputy Speaker (Sen. Kathuri): Proceed and finish.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. In conclusion, when will SRC tell us about increment in the salaries of ECD teachers, drivers in the public sector and nurses?

It is time the SRC Chairperson and the Commissioners went home.

I support.

Sen. Onyonka: Thank you, Mr. Deputy Speaker, Sir. I congratulate my leader, Sen. Cherarkey. I recommend that he becomes the Prime Minister in the next Government. Those are such wonderful words from him.

The SRC has actually created a mess for the leadership of the country. They announce that MPs are earning unbelievable amounts of money, but they leave out most vulnerable State officers, such as ECD teachers. It is true that their salaries are Kshs10,000 a month. Nurses are earning a house allowance of less than Kshs3,000. It is unacceptable for her to continue to do this.

The other issue that I want to bring to speed with my colleagues, is about our car grant. Members of the Senate and the National Assembly receive car grants. However, most of the work under devolution is being done by Members of County Assembly (MCAs).

Mr. Deputy Speaker, Sir, we receive car grants as Members of the National Assembly and the Senate, but most of the work under devolution is being done by Members of the County Assembly (MCAs). They are given Kshs1.5 million and we know how our roads are, but they have to move around. It becomes difficult for them to do their oversight responsibility. I would like the Committee on Delegated Legislation to look at this matter in its totality.

Finally, for people like me, and I think this is a point that Sen. Mungatana, MGH, was raising, but I am not sure if people got it clearly---

Sen. Omogeni: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka, do you want to be informed by Sen. Omogeni?

(Sen. Onyonka spoke off record)

Sen. Omogeni: Mr. Deputy Speaker, Sir, I want to inform Sen. Onyonka, my neighbour from Kisii, regarding the amount of money he is making reference to. The Kshs1.5million car grant that was meant to assist MCAs to move around the country has been scrapped in the said Gazette Notice. Sen. Onyonka, that amount is no longer there. The SRC has scrapped it for the MCAs.

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka, you have one minute to conclude.

Sen. Onyonka: Thank you, Sen. Omogeni, for informing me. MCAs look at us Senators as the ones who are supposed to protect their interests, but guess what they think. We come to this House and negotiate for ourselves and leave them struggling on the ground without anything.

Finally, for those Members who have been in this Senate, or the National Assembly for more than three terms, by her changing my salary, yet I have been here for

five terms, it means she has unconstitutionally made it impossible for me to accept that. It is just that we have not gone to court.

An international labour practice does not allow for somebody who already had accepted the terms and conditions of their employment to be changed to disadvantage them, simply because the conditions have changed according to whatever circumstances.

Mr. Deputy Speaker, Sir, I recommend and support my colleagues. She must go.

The Deputy Speaker (Sen. Kathuri): I can see Sen. (Dr.) Khalwale is a bit agitated. You have two minutes.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, this matter brings questions on state officers. There is the issue of integrity.

Article 75 of the Constitution states that-

“A state officer shall behave, whether in public and official life, in private life, or in association with other persons in a manner that avoids –

(a) any conflict between personal interests and public or official duties.”

So, when she increases her own things, how then does it sit with this law which exactly refuses that? That is the same lady walking on the pedestal of integrity, when she is the same person who was commanded to release money that was not budgeted for by Parliament to MCAs, so that they could vote for Building Bridges Initiative (BBI). That is the same person claiming to have integrity.

Mr. Deputy Speaker, Sir, there is a place in Kenya called Nyambene in Meru. If you check the distance from Nyambene to Nairobi, it is the same distance as it was 20 years ago. So, when she lowers the millage claim of the MP for Nyambene yet the distance has not reduced, how is she applying that as a principle of science?

In the same issue---

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

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, you have got additional two minutes because you are a ranking Member of the House. However, there is no constituency called Nyambene in Meru. It is just an area.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I meant an area because I know the place. I was there on a tour.

If the lady cares about Kenyans, in this era when teachers have been given an overload of work in the name of Competency Based Curriculum (CBC), we would have expected her to acknowledge that teachers have got more work to do and review their salaries upwards. She is a self-seeker who is not fit to hold a public office that demands for integrity.

I support the Statement by Sen. Omogeni.

The Deputy Speaker (Sen. Kathuri): Sen. (Prof.) Tom Ojienda, do you want to make a comment on this Statement about SRC?

Sen. (Prof.) Tom Ojienda, SC: Since I am at the Dispatch Box, let me just make a comment.

Mr. Deputy Speaker, Sir, I support the Statement by Sen. Faki on the serial misconduct by the Chair of the SRC. This is in regards to gazetting guidelines for

remuneration that go way below because they are not in line with what the other state officers earn.

I have looked at the Gazette Notice. Apart from violating Article 27 of the Constitution, they are not only discriminatory, but they failed to do sufficient consultation to understand the work of the Members of this House.

My concern is on the per diems which have been lowered without consultation. Is it that Members of the previous House were better when they travelled? What happened to Senators? Are we lesser Senators in this 4th Senate than they were before?

Mr. Deputy Speaker, Sir, those guidelines are for rejection. I urge that this be committed to the Committee on Delegated Legislation. In fact, the Chair should explain why she did all that. These are not simple violations. They are unconstitutional violations and the Chair must be removed because that is misconduct of the highest order which undermines the ethos of the Constitution.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, I used to chair the Committee Delegated Legislation in the National Assembly. History repeats itself. There was a time when the former Chair of the SRC, Mrs. Serem, behaved in a similar manner.

The Gazette Notice that changed the entitlement of Members came before my Committee at that time. The reason the Statutory Instruments Act of 2013 was passed was to deal with the mischief like what we have today.

The Act of Parliament provides for the establishment of the Chief Executive Officer (CEO) or Chair to make regulations on allowances. This is the power that the SRC Chair used. However, before 2013, that power was misused. That is why this House revoked the power, so that MPs can approve the regulations made by a statutory body. At that time, my Committee annulled the Gazette Notice which is a Statutory Instrument.

The Committee on Delegated Legislation has powers to annul that particular Statutory Instrument.

(Applause)

Even before removing the Chair---

(Sen. Cheptumo's microphone went off)

The Deputy Speaker (Sen. Kathuri): He is passing some information to the House. So, allow him two more minutes.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, even before we think of removing the Chair, which I think should be an option, this Committee has the power to annul that Gazette Notice.

This Committee has the power to annul that Kenya Gazette Notice on the basis of it being unconstitutional.

Chapter Six of the Constitution deals with national values. That Chapter requires every State officer not to do anything in his or her responsibility that is unconstitutional. Anything infringing on the rights of a citizen, Members of this House, or the other House is unconstitutional. I, therefore, support the Statement by our colleague.

Mr. Deputy Speaker, Sir, it is important that this Committee, which has the powers, annuls the Gazette Notice for it to serve as a lesson. I have done it before when I was the Chairperson and I know that it can be done. If they will not do it, I can relinquish my position as the Chairperson of the Committee on National Security, Defense, and Foreign Relations and become the Chairperson of the Committee on Delegated Legislation then I will do it.

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo, you may proceed.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. I was a Member of the Committee on Delegated Legislation in the National Assembly for ten years. Right now, I am also a Member of the Committee on Delegated Legislation. I have shared this with the current Chairperson and his Deputy and they have declared me as the people's Chairperson. Therefore, I will lead this process.

One of the principles of law is that you can never be a judge of your own cause. This Gazette Notice is signed by the Chairperson. Her remuneration should have then been done by somebody else. She cannot sign a Gazette Notice conferring a benefit to herself and her team.

The other principle of the law is that equity, which is fairness, is as long as the Chancellor's foot. Therefore, this has been misapplied. She cannot decide for herself because it is similar to making a judgment for herself.

The Committee has the power to annul the Gazette Notice. They should have first approached either the Houses; that is, Senate or National Assembly, for approval, before publishing this Gazette Notice. They went on to make a law without the permission of the Parliament; the law-making body. This Gazette Notice is automatically unconstitutional and a nullity because public participation was not done.

There are actually several issues here. The Committee can actually make a recommendation for further action to be taken against the Chairperson in her capacity as a public officer who is in breach of the Constitution.

I thank you, Mr. Deputy Speaker, Sir, and I support this Statement.

The Deputy Speaker (Sen. Kathuri): Sen. Mandago, proceed. I am almost concluding on this matter.

Sen. Mandago: Mr. Deputy Speaker, Sir, the SRC has not been doing justice to the salaries of the public servants and State officers. If you look at the salaries of the Members of the County Assembly (MCAs), who are the first line of response to public issues in this country, you will realise that it is too low. That makes it difficult for them to effectively execute their constitutional mandate.

I have served as a Governor and I have first-hand experience of high poverty levels in this country. An MCA handles not less than ten *harambees* on a single weekend. People should not tell us that *harambees* are not part of the functions of politicians because they are part of the needs of the population that we represent.

An MCA cannot ignore a citizen who is in dire need of facilitation to access a hospital or a very bright child from a very poor background in a good school who

performed well, but is missing school fees of Kshs5,000 or Kshs10000. He cannot tell those people that *harambees* are not functions of the elected leaders.

SRC should review the salaries of the MCAs and increase it to a minimum of about Kshs400,000. The reduction of salaries of state officers by SRC while increasing their salaries is in itself discriminatory. SRC seems to have an attitude towards state officers, particularly politicians, in this country. SRC should know that we perform a constitutional duty. It was not---

(Sen. Mandago's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Give him one minute to wind up his contribution.

Sen. Mandago: Thank you, Mr. Deputy Speaker, Sir. I am saying all these because those commissioners and staff members do not actually review the salaries. They always outsource the services of consultants. All the money that is in SRC's budget for salary review is used to pay consultants to do the work that they are supposed to do.

I support the Statement and where possible, that Commission should be brought into review. There has been a lot of mess in the public service courtesy of SRC. There is serious need to rethink the role of SRC in this country.

I thank you, Mr. Deputy Speaker, Sir.

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

Sen. Osotsi: Mr. Deputy Speaker, I join my colleagues in supporting this Statement. Article 230(5)(d) of the Constitution is clear on the benchmark of SRC in the performance of its function. It states: -

“In performing its functions, the Commission shall take the following principles into account-

(d) transparency and fairness.”

SRC has been conducting this process and gazetting changes when Parliament is not in session. This Gazette Notice was released a week before the General Election and they did the same thing in 2017. This is unfair. There is no transparency because Parliamentary Service Commission (PSC) and the county assemblies were not consulted. I am sure that they did not also consult the Public Service Commission.

Mr. Deputy Speaker, Sir, I request the Committee to declare that Gazette Notice unconstitutional and have SRC disbanded for violating the Constitution.

The Deputy Speaker (Sen. Kathuri): Sen. Korir, you may proceed.

Sen. Korir: Mr. Deputy Speaker, Sir, I also want to echo the sentiments of my colleague on this issue of SRC. This House is a replica of the county assemblies. What we are getting in this House should be reflect the county assemblies. Removing the car grants for the said members is unfair. I agree with the rest of my colleagues that SRC should be disbanded with immediate effect.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, you may proceed. We will listen to the Senate Minority Leader after that.

Sen. Oketch Gicheru: Thank you, Mr. Deputy Speaker, Sir. We should not be calling for the disbandment of SRC because their action affects us. Out here, matters like these; salaries and benefits that go to politicians, becomes a very emotive issue.

This Gazette Notice calls upon the relevant Committee to come up with a way that this matter can be settled, once and for all.

A Member of Parliament (MP) is sincerely employed by the Public Service Commission (PSC). To that extent, if you go to Article 30 of the Constitution, you might ask yourself, who then is enslaving an MP.

As Sen. Mandago had said, this is a person who has got so many responsibilities in the villages. For example, as Senator of Migori County, when I go home, I have to go to about eight sub-counties to see the needs of all my constituents. It is very critical that this does not become just an issue of politicians seeking to be given more money or benefits.

It is critical that we as a people who are working under Article 1---

(The red light on the timer went off)

Just another minute, Mr. Deputy Speaker, Sir.

The SRC subjects hon. MPs who have got the most directly delegated sovereignty by the people to almost ridicule. This is because we appear to be greedy; that is what the nation is told by people such as SRC. The truth, as Sen. Mandago said is that an hon. MP does not have a coin in their pocket.

Mr. Deputy Speaker, Sir, today, I was with the Senator of Kisumu. I saw him assisting almost 30 people on the road just outside Parliament with issues of school fees and medical bills to a huge amount.

The Committee should have a serious deliberation on this matter, once and for all, to give hon. Members what is due to them to have respect under Article 30 of the Constitution.

(Applause)

Sen. Miraj: Asante, Bw. Naibu wa Spika. Ningependa kuweka msisitizo. Msisitizo huu siyo kwa Mwenyekiti wa Tume hii amejilimbikizia faida hizi zote na pesa bila kuangalia sekta nyingine ama watu wengine ambao pia wanapitia changamoto labda hata zaidi yake, bali kwa mtu yeyote ambaye ataweza kuhudumu katika ofisi ya Serikali.

Kwanza ajue majukumu na yale mamlaka aliyopewa, si kujipatia yeye mwenyewe binafsi, bali ni kuwafanyia kazi wananchi wa Kenya.

Nalaani vikali yeye kuondoa zile fedha ambazo wametengewa Wabunge wa Mabunge ya Kaunti. Sisi tuko huku Nairobi, lakini zile simu na jumbe katika WhatsApp groups ambazo tumeunganishwa ili tuweze kutoa michango, ni nyingi muno, sembuse wao ma MCAs ambao wako pale mashinani. Mbona awanyime usafiri watu wanaohudumia wananchi pale mashinani?

Kwa hivyo, kwa lalama na msisitizo wa juu ya kwamba hatua kali ichukuliwe dhidi ya Mwenyekiti huyu

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen Seki and then lastly, the Senate Minority Leader.

Sen. Seki: Thank you, Mr. Deputy Speaker, Sir. I support this Statement. The county Governments, especially the county assembly, is a very important organ within the devolution sectors. They play a very big role.

The MCAs run from one corner of the constituency of the county to another. They are the most affected politicians down there. I know very well, for them not having mobility within the counties and their wards can bring a very big effect to them.

I request the relevant Committee to summon the Chairperson of SRC to explain what parameters or at what level they trying to reduce these kinds of allowances and mortgage to these MCAs.

Again, as my colleagues have alluded to, it is very important that we also find out what makes them increase their own salaries without, probably, doing consultation with the MPs and the Senate.

(Sen. Seki's microphone went off)

The Deputy Speaker (Sen. Kathuri): Are you also requesting for 30 seconds?

Sen. Seki: Just a second.

The Deputy Speaker (Sen. Kathuri): Okay, conclude then kindly.

Sen. Seki: It is very important that we have the relevant Committee bring this Chairperson to the entire House to explain to us why and where she get these powers to reduce the salaries of MPs, Senators and the MCAs without consultation with the Members.

The Deputy Speaker (Sen. Kathuri): Okay. Lastly, the Senate Minority Leader. Give him four minutes if he will need. However, if you are comfortable with two minutes, well and good.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Naibu Spika. Jambo la kwanza ni kwamba naonelea hili Bunge la Seneti liweze kujiweka kama Kamati ya Seneti Nzima ili huyu mama wa Tume ya Mishahara na Marupurupu aje hapa ili aweze kujibu maswali kutoka kwa kila Seneta ambaye anahusika. Isiwe Kamati ya Delegated Legislation peke yake. Wachanganyike na Seneti Nzima ili sisi tupate nafasi ya kumuuliza maswali.

Jambo la pili ni kuhimiza zaidi ya kwamba askari walio mashinani ni Wabunge wa Mabunge ya Kaunti. Ikiwa *benefits* na *allowances* zao zote zimepigwa marufuku ama akazisimamisha na ameziondoa kabisa, watahudumi wananchi kiviipi.

Mfano ni Sen. (Dr.) Khalwale kule nyumbani Kakamega County, ambaye ako na wengi zaidi. Wabunge hao wote wa Bunge la Kaunti wamepoteza mapato yao yote kwa sababu ya huyu mama, lihali walikuwa wakipata kutoka zamani.

Sheria za utendakazi zinasema ya kwamba mshahara ama mapato hayawezi kupunguzwa. Ikiwa huwezi kuongeza, unawacha pale ilipo. Ni jambo la kusikitisha tukiona huyu mama anakigeuza hiyo sheria na akapunguza mishahara na marupurupu mengine.

Jambo lingine la kusikitisha ni upande wa wafanyikazi wetu hapa ndani ya Bunge. Leo mishahara yao imerudishwa chini sana mpaka wanapewa sijui shilingi elfu nne za Kenya. Hiyo elfu nne itakupeleka wapi? Huwezi kuketi mahali popote ukiwa umeondoka hapa umeenda kikazi kama Kisumu, Kakamega, Mombasa au Kilifi na upewe elfu nne. Utakula, kutembea na kulala namna gani? Haiwezekani.

Ninaona kwamba huyu mama aje hapa, ajibu maswali katika kikao cha Seneti Nzima.

(Applause)

The Deputy Speaker (Sen. Kathuri): Naomba umuite Mwenyekiti wa SRC, sio “mama”. Utakua unamdunisha.

The Senate Minority Leader (Sen. Madzayo): Mwenyekiti, yule mama wa SRC, anayeitwa Mengich.

(Laughter)

Asante, Bw. Naibu wa Spika, kwa kunipatia mwongozo.

Jamba lingine ambalo Bi. Mengich alikosea, hakuongea na mtu yeyote hapa Bungeni kabla ya kutoa uamuzi huu. Lazima kuwe na mashauriano kati ya wale wanaotoa uamuzi fulani na wenye kuathiriwa na uamuzi huo. Sisi tuko hapa. Angetuita kwa *public participation* tumweleze yetu na yeye atueleze yake, ndio achukue hatua. Sasa amechukua hatua baada ya kujadiliana na nani? Amekiuka Katiba kwa kutojadiliana hili jambo na wahusika.

Bw. Naibu Wa Spika, jambo la mwisho ni kwamba hata Wabunge wameathirika sana na huo uamuzi wa Bi. Mengich. Wabunge husafiri katika mataifa mbalimbali. Sasa hivi ukienda Marekani au Afrika Kusini, pesa unazopewa za kugharamia pahali pa kuishi na chakula, zitafanya hata usiende huko.

Ni kana kwamba amevunja safari zote ili Wabunge wote waketi tu hapa wala wasiende popote na wasifanye chochote. Kazi yao iwe tu kuja hapa kupokea na kwenda zao mashinani.

Hilo siyo jambo nzuri. Maoni yangu ni kwamba, Bi. Sarah Serem aliongoza Jopo la SRC vizuri.

An Hon. Senator: Ni Bi. Mengich.

(Loud consultations)

The Senate Minority Leader (Sen. Madzayo): Bw. Naibu wa Spika, ninasema yule aliyekuwa hapo awali, alikuwa afadhali kuliko Bi. Mengich.

Bi. Mengich aje hapa Bungeni na tumhoji. Ikiwezekana, hili Jopo lake liondolewe ama lifutiliwe mbali kabisa.

The Deputy Speaker (Sen. Kathuri): I had said you were the last contributor on this Statement. However, I can see the Chairperson of the Committee on Delegated

Legislation has now pressed his card to comment. Let him give his commitment on this matter.

Sen. Gataya: Thank you, Mr. Deputy Speaker, Sir. I am shocked beyond repair. I do not understand where this Commission gets its powers from because it has stepped on everybody's toes; the civil servants, Legislators and MCAs.

I have been an MCA for 10 years. On voting day, Kenyans usually vote for six people. However, the MCA carries the biggest burden because he is always at home and interacts with constituents or voters. They are a serious local Automated Teller Machine (ATM), as the National Assembly Speaker used to say. So, striking off the allowances and mortgages from MCAs is a crime against humanity, for that matter.

Mr. Deputy Speaker, Sir, I have risen to quite a number of recommendations, including having this Commission being brought before my Committee. I promise this House that the Committee will make radical recommendations. We will be proposing that this lady and the Commission be disciplined. She is not above the law, this House or anybody. So, we must give her the right medicine when she comes before my Committee.

Mr. Deputy Speaker, Sir, it is bad that we have been belittled, yet we bear the biggest burden in this country. I am still---

(Sen. Gataya's microphone went off)

The Deputy Speaker (Sen. Kathuri): Give him one minute to conclude. He is the Chairperson of the Committee.

Sen. Gataya: Thank you, Mr. Deputy Speaker, Sir, for your intervention. I promise this House that we will do as expected. When you see this Commission before us, expect some changes from us. We will make some serious, radical recommendations.

I support.

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

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

Sen. Korir: Thank you, Mr. Deputy Speaker, Sir. As much as I thank Sen. Omogeni for bringing this Statement, I also want to know if it is in order for us---

The Deputy Speaker (Sen. Kathuri): Sorry! Who did you say brought the Statement?

Sen. Korir: Mr. Deputy Speaker, Sir, I said the Senator for---

The Deputy Speaker (Sen. Kathuri): What is the name of the Senator? It is Sen. Faki who brought the Statement.

Sen. Korir: Yes, Mr. Deputy Speaker, Sir. Sen. Faki is my good friend of mine.

I would want to know the response of the Commission on this matter. Secondly, has it been implemented? Is it in order for us to call her here, when we have the Commission that is supposed to address that issue?

The Deputy Speaker (Sen. Kathuri): Thank you, Senator.

The Statement is committed to the Committee on Delegated legislation. When the Committee invites the Chairperson, inform Hon. Members so that as many Members as possible can go to ventilate their issues in that session.

Let us proceed to the other Statements and I will now be very mean with allowing any comments.

Proceed, Sen. Miraj.

STATUS OF CASUAL EMPLOYEES
LAID OFF FROM KPA IN 2009

Sen. Miraj: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1), to seek a Statement from the Committee on Labour and Social Welfare, on the status of white card or casual employees laid off in 2009, during a restructuring exercise undertaken at the Kenya Ports Authority (KPA).

In the Statement, the Committee should-

(1) Disclose the details of a Memorandum of Understanding (MoU) dated 22nd July, 2011 between KPA and its former employees, stating the enforceability of the agreement.

(2) Apprise the Senate on the status of 150 casual employees, who were laid off in 2009 at KPA. Note that the Authority has been employing employees on permanent basis without any due consideration to the workers who were laid off.

(3) Find out the terms of employment of the laid-off staff and their terms of termination, detailing why some of those laid off in 2009 had contracts of up to 2024 as casual employees. Further, state the relief, if any, extended by KPA to the affected staff following their laying-off.

Bw. Naibu wa Spika, watu wangu leo wananitazama. Kuna wafanyikazi 247 ambao walifutwa kazi wakati Mamlaka ya Bandari ilipokuwa ikifanya mageuzi. Katika vikao ambavyo vimekuwa vikiendelea baina ya Bunge la Seneti na la Kitaifa---

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

The Deputy Speaker (Sen. Kathuri): Just a minute, Senator. Resume your seat. When any Member is on the Floor, you should resume your seat and then wait.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, is it in order for Sen. Miraj to switch from English and Swahili?

The Deputy Speaker (Sen. Kathuri): Nimekaa hapa siku nyingi na ninajua kwamba Sen. Miraj huzungumza Kiswahili. Kwa vile hii Taarifa yake iko kwa Kiingereza, nimeonelea anataka kutafsiri mambo mengine kwa Kiswahili, lugha yake ya kawaida.

Seneta Miraj, tafadhali chukua dakika zako mbili.

Sen. Miraj: Asante, Bw. Naibu wa Spika. Ningependa tu kukujulisha ya kwamba hawa wananchi waliofutwa kazi baada ya mageuzi, walipewa matumaini ya kurejeshwa. Haya yalisemwa katika vikao tofauti baina yao na Maseneta na hata Wabunge wa Bunge la Kitaifa.

Tatizo ni kwamba muda unayoyoma na wengine wameaga dunia, ilihali wengine wamezeeka. Ninaomba Kamati hii iweke wazi vile tutawasaidia. Je, wataajiriwa? Kama hawataajiriwa, wapewe afueni wajitafutie kazi kwingine.

Siyu sawa kumchukua mtu kisha umpeleke *training* na kwa *pay slip* unaandika lini ataenda *retirement* ilhali humwaajiri kazi.

Ningependa Kamati husika ifungue faili ili tuweze kuwasaidia watu hao 247 ambao wana matatizo.

The Deputy Speaker (Sen. Kathuri): The Statement by Sen. Miraj is committed to the Committee on Labour and Social Welfare.

*(The Statement was committed to Committee
on Labour and Social Welfare)*

Let us have the next Statement by Sen. (Prof.) Tom Ojienda, SC.

STATE OF SECURITY IN KISUMU COUNTY

Sen. (Prof.) Tom Ojienda, SC: Thank you. Mr. Deputy Speaker, Sir for indulging me.

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 insecurity situation in Kisumu County.

In the Statement, the Committee should –

(1) Find out the cause of the upsurge in cases of insecurity in Kisumu County in recent weeks, noting that the number of reported casualties from violent night crimes has gone up and most of the victims who seek medical treatment at the Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) are reported to have sustained head injuries and deep cuts on their bodies. It is a security situation that is of concern.

(2) State the measures being undertaken by both levels of government, national and county, to assure residents of Kisumu County of their safety. This is because residents of Kisumu County, specifically Kisumu Town, are living in fear of their lives.

(3) State the actions taken, if any, to apprehend and bring to justice the perpetrators of violent night crimes in Kisumu County.

The Deputy Speaker (Sen. Kathuri): The Statement by Sen. (Prof.) Tom Ojienda, SC, is committed to the Committee on National Security, Defence and Foreign Relations.

*(The Statement was committed to the Committee
on National Security, Defence and Foreign Relations)*

Let us go to the next Statement by Sen. Munyi Mundigi.

COLLAPSE OF THE ENA RIVER BRIDGE IN EMBU COUNTY

Sen. Munyi Mundigi: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads and Transportation on the unfortunate collapse of the Ena River Bridge that connects Evurore and Muminji Wards in Karerema, Mbeere North Constituency in Embu County.

In the Statement, the Committee should-

(1) State why it has taken the relevant Government Department took long to assess the safety of the Ena Bridge for use by both motor vehicles and members of the public ahead of its collapse.

(2) Explain whether the Government has availed resources as a matter of urgency to construct a bridge along the Ena River to serve the people of Evurore and Muminji wards.

(3) Inform the Senate whether the Ministry and other responsible Government agencies have done an assessment of other bridges in the County of Embu to ascertain whether they are fit for use.

(4) State any measures the Government has put in place to facilitate access to public schools such as Kigwambiti Secondary School, St. Monica Secondary School and Kirie Secondary School as well as hospitals like Ishiara Sub County Hospital that have been rendered inaccessible by the collapse of Ena Bridge.

(5) Outline the measures the Government has put in place, if any, to cushion the people of Evurore and Muminji wards who depend on Ena River for their livelihood especially on sand harvesting and access to one of the biggest livestock markets in East Africa which is at Ishiara.

The Deputy Speaker (Sen. Kathuri): The Statement stands committed to the Standing Committee on Roads and Transportation.

*(The Statement was committed to the
Committee on Roads and Transportation)*

Sen. Osotsi, please proceed.

HUMAN RESOURCE AUDIT PROCESS IN VIHIGA COUNTY

Sen. Osotsi: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on a human resource audit process by the Vihiga County Public Service Board (CPSB).

In the Statement, the Committee should-

(1) Give reasons for the inordinate delay in finalizing an audit process on salaries for all employees on both manual and Integrated Payroll and Personnel Database (IPPD) payrolls, particularly for the Month of September, 2021, which gave the expenditure as Kshs213,133,757, while an analysis of employees at the work station established the actual total expenditure to be Kshs158,950,496.50, giving reasons for this discrepancy in salary expenditure.

(2) Investigate allegations that a number of employees are drawing salaries from the payroll yet they cannot be physically traced in the county records, disclosing the particulars of these ghost workers based on the available internal data and bank account details.

(3) State the targeted measures put in place by the County Government to stop further loss of public funds through monthly payments to ghost workers, stating the steps taken to recover public money paid to the said workers.

(4) Determine the number of Human Resource (HR) audits undertaken so far in Vihiga County Government, their outcomes and specific actions.

(5) Cause the Vihiga County Public Service Board to appear before the committee to shed light on the matters raised herein.

(6) Undertake an audit of the human resource function in the counties to ascertain optimization and prudence in the use of public funds, noting that a majority of the counties are spending beyond the capped 30 per cent of budget for remuneration.

The Deputy Speaker (Sen. Kathuri): The Statement is referred to the Committee on Labour and Social Welfare.

*(The Statement was committed to the
Committee on Labour and Social Welfare)*

Sen. Kinyua, you have two Statements. You can execute the first one under Standing Order No.53(1).

INCESSANT HUMAN-WILDLIFE CONFLICT IN LAIKIPIA COUNTY

Sen. Kinyua: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on the incessant human-wildlife conflict in Laikipia County. In the Statement, the committee should-

(1) Explain the reasons for the inaction by the Kenya Wildlife Service (KWS) in dealing with the incessant destruction of food crops by elephants, zebras, buffaloes and other wildlife despite the numerous complaints by the residents of Laikipia County especially the areas of Nibrom, Kafage, Muramati, Sirare, Mutara, Mbogoine *et cetera*.

(2) State the compensation measures and mechanisms in place to compensate families affected by this conflict, particularly stating the measures the government is taking to compensate the family of one Guthua Waweru Kamoche, who was killed by an elephant at Silale near Nyahururu;

(3) Cause the Kenya Wildlife Service (KWS) to set up base at Silale and undertake a thorough assessment of lost produce and provide compensation to the affected farmers; and

(4) Recommend measures such as putting up of electric fences by KWS to avert possible human wildlife conflicts in this area given that the residents feel aggrieved by the problem of animals.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you. The Statement is referred to the Standing Committee on Land, Environment and Natural Resources.

*(The Statement was committed to the Committee
on Land, Environment and Natural Resources)*

The Deputy Speaker (Sen. Kathuri): Thank you. Can we move to the next Statement?

Sen. Kinyua: Mr. Deputy Speaker, Sir, can I proceed with my next Statement?

The Deputy Speaker (Sen. Kathuri): Yes, please.

DESTRUCTION OF CROPS BY ILLEGAL
GRAZING IN LAIKIPIA COUNTY

Sen. Kinyua: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 52(1) to make a Statement on a matter of general topical concern, namely; the plight of farmers whose crops are being destroyed by the ongoing illegal grazing in Laikipia County.

Mr. Deputy Speaker, Sir, Laikipia County boasts of spectacular wildlife and majestic scenery, and has long been on the country's tourist circuit, as it sits against the backdrop of Mt. Kenya.

However, due to the debilitating drought situation currently prevailing in the country, pastoralists are illegally bringing tens of thousands of cattle to private and community lands in search of water and grazing lands, often bringing them into conflict with landowners and displacing wildlife.

Mr. Deputy Speaker, Sir, these illegal grazers have been grazing on private farms, destroying crops in parts of Matwiku, Rubere Mirango, Githima, Wagwachi, Muramati, Thome, Mutangara, Survey and Olmoran. Though the animals are driven away by security forces, they are often brought back immediately, much to the chagrin of the farmers. When they come in, they smash fences, buildings, security houses, solar panels, electric energizers and all other forms of infrastructure.

Mr. Deputy Speaker, Sir, the issue of illegal grazing is nothing new to Laikipia County. As far back as 2016, there have been altercations between owners of private ranches and farmlands in the County and these illegal herders. One of the worst instances was in 2017, where these invasions saw thousands of cattle stolen and ranchers injured or killed and lodges destroyed by invaders, thereby affecting the tourism business in the region.

Indeed, in March of that same year, Tristan Voorspoy, a former British army officer, was shot dead by herders as he inspected some of his lodges. Suyian and Loisaba lodges were the most affected before security officers contained the situation after almost a year.

Mr. Deputy Speaker, Sir, it is alleged that most of these cattle belong to senior Government officials and even politicians. Perhaps, this might explain the reason for the incessant problem.

Although the Government has warned herders invading private farms to graze their livestock in Laikipia County that stern action will be taken against them, this has not stopped these armed invaders, mostly from neighbouring counties, who have invaded people's farms and conservancies with their livestock and continue grazing in the areas forcefully.

Mr. Deputy Speaker, Sir, pastoralists wishing to graze their livestock in private farms and conservancies should adhere to the grazing guidelines by the owners, where they are charged a certain amount of money per animal to graze. They should not graze their animals with impunity on people's farms and the Government has a responsibility to protect private property.

Mr. Deputy Speaker, Sir, much as we may sympathize due to the fact that the increasing intensity of drought is amplifying the vulnerability of the communities and their ability to cope and that the prolonged drought has led to majority of pastoralist communities losing their livestock, it should not warrant the unbecoming behavior currently being perpetrated in Laikipia County.

It is incumbent upon the Government to actualize buying of livestock for slaughter in order to feed starving residents under the livestock offtake programme overseen by the National Drought Management Authority (NDMA).

Mr. Deputy Speaker, Sir, allow me to conclude by reiterating that private property should be respected. If the Government is unable to offer protection to these farmers, they should be compensated for the huge losses brought upon them by the illegal grazers' out-of-control actions.

Mr. Deputy Speaker, Sir, the people of Laikipia are looking forward to your protection from these illegal grazers, who have turned Laikipia into their grazing and shooting grounds. They shoot at people any time of the day.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Olekina. You have three minutes.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I appreciate the opportunity that you have given me to comment on this emotive matter. It is an issue that we have been dealing with for over two decades.

The biggest challenge that we have, which all of us must empathize, is on the rights of the Maasai people and the pastoralists. We, the Maasai people, do not understand what a title deed is.

I have sat here and listened to my colleague, narrating about the rights of private property. That people should respect private property, yet we know that our land and territories have been encroached upon by successive Governments. Individuals own over 100,000 acres of land, yet we the people who are original inhabitants of that land, do not have such acreage of land. Our people were chased away.

Mr. Deputy Speaker, Sir, when we talk about life; your life is not more important than the life of a pastoralist. The pastoralists who are there and cows which are being killed also have a right.

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

Sen. Olekina: The most important thing which we must do, is to admit and accept the fact that--

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Olekina. What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I rise under Standing Order No.101 on content of speech and Chapter Five of our Constitution of Kenya on Land and

Environment. It recognizes the presence and ownership of private, communal and public land. The lands have been classified as per Articles 61, 62, 63 and 64 of our Constitution. Therefore, the Senator is out of order, under Standing Order No. 101. He is also out of order for imputing that there is no classification of land in Kenya.

Even if we empathize and sympathize with the pastoralists, as they look for grazing land for their animals, it does not give them unfettered right to go and graze on private property. He is misleading the nation.

Mr. Deputy Speaker, Sir, as I conclude, we cannot allow him to say that the Government has encroached on their land. If he has facts or evidence, let him table them instead of making some sweeping statements.

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

The Deputy Speaker (Sen. Kathuri): Okay, thank you. Let me get the point of order from the owner of the Statement. Proceed, Sen. Kinyua.

Sen. Kinyua: Mr. Deputy Speaker, Sir, I feel for Sen. Olekina. He has just come in and has not read my Statement. It is clear. I have not talked anywhere about pastoralists. I have talked about illegal grazers. I am clear in my mind that I am talking of illegal grazers. It does not matter as long as somebody is grazing illegally.

He is now imputing improper motive by talking about Maasai people. I have not said anything about Maasai. We have Maasai in Laikipia. We are talking about illegal grazers.

(Sen. Olekina spoke off record)

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, the owner of the Statement is Sen. Kinyua. Do not put tribes into his Statement.

Sen. Kinyua: Mr. Deputy Speaker, Sir, he has not read the Statement.

(Sen. Olekina stood and spoke in his place)

Sen. Kinyua: Mr. Deputy Speaker, Sir, allow me to finish.

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, resume your sit. Sen. Kinyua, proceed and finish.

Sen. Kinyua: Mr. Deputy Speaker, Sir, we had the same kind of Statement that came from the Hon. Member from Samburu County about insecurity. People are being killed in Samburu County as well.

We are talking about the illegal grazers that end up bringing conflict. We are not talking about the good Maasai people who are in Laikipia, who request for a place to graze their herd. Laikipia County is cosmopolitan. We have Maasais and everybody.

Nothing can be further from the truth as for Sen. Olekina to come here and insinuate that we are talking about Maasai people in Laikipia County. We are talking about illegal grazers. It does not matter whether the illegal grazer is a Kikuyu, Samburu or Kalenjin. He is still an illegal grazer. We are supposed to deal with them cacophonously.

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, finish up on your comment. It is just a comment that you are making.

Sen. Olekina: Mr. Deputy Speaker, Sir, the distinguished Senator from Laikipia County does not have to tell us that he is wearing a tie to know that he is wearing one. We can see.

The Pastoralists are people who move from one place to another. It is not an issue of debate here. History will judge me, you or all of us, that the land originally belonged to the Maasai people who lived there.

I have read the content of the Statement. I am debating on the content of the Statement.

(Loud consultations)

(Sen. Kinyua, spoke off the record)

Mr. Deputy Speaker, Sir, if you allow me to finish without unnecessary point of orders and wrong interpretation of Standing Orders, I will complete my comment.

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, I have read this Statement when Sen. Kinyua was presenting, there is no any Land Reference (LR) number for any parcel of land. There is no specific piece of land---

Sen. Olekina: Mr. Deputy Speaker, Sir, it is a point of debate. It will be wrong for anybody to control how I debate in this House unless I am imputing improper---

(Loud consultations)

Mr. Deputy Speaker, Sir, allow me to finish my debate.

The Deputy Speaker (Sen. Kathuri): I am guiding you as a Chair of this House that this Statement has no specific parcel of land. It is talking of people who are grazing on other land owners' property. There is no specific piece of land that belongs to a Maasai or somebody else, which has been quoted.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I will be guided. However, my point is very clear. It does not deviate from the content of this Statement.

The Deputy Speaker (Sen. Kathuri): Finish up, because I had given you three minutes.

Sen. Olekina: Mr. Deputy Speaker, Sir, I have been interrupted. Give me 30 more seconds and I will finish.

The Deputy Speaker (Sen. Kathuri): You have 22 seconds.

Sen. Olekina: Mr. Deputy Speaker, Sir, it is a little bit hypocritical to stand here and say that we do not understand where history has taken us from. It is wrong for us to say that I do not understand the concept of a title deed. That does not deny me my rights as a Kenyan. I have repeated this.

What we are talking about here, are people who are being killed. We have seen pastoralists' cows being killed when they are grazing. If the distinguished Senator will be happy with me for using pastoralists instead of Maasais, I will be happy to do so. We now have a problem. This is a security issue.

Your rights end where mine begins. The rights of those pastoralists must also be protected.

I request that we be objective when committing this Statement. Let us also consider those people because they are Kenyans and taxpayers just like others. These are the liberties and rights that I am prepared to pursue the rest of my life. Our people shall be free. Their rights cannot be taken away from them while we sit here and say we are happy.

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, your time is up.

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

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

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, this is very sad. In the meaning of Standing Order Nos.121 and 122, the hon. Member has been disorderly under Standing Order No.121 and grossly disorderly under Standing Order No.122.

(Applause)

If 67 Senators will start arguing and exchanging words with you, there can be no transaction of business.

With all due respect to the hon. Senator, he is a new Member of Parliament (MP). I am telling you young man, you do not know these things. If you are deep, you would respect the Chair. I beg you. This arrogance that you are demonstrating does not earn you any *bonga* points whatsoever.

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

The Deputy Speaker (Sen. Kathuri): No. Sen. Olekina, no point of order.

(Sen. Olekina spoke off the record)

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, for the respect of this House, the Chair must order the Member to withdraw, apologize and seeing his arrogance, if he fails to do so, throw him out. Those are our Standing Orders. Yeah.

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, I dispensed of that issue with him. However, I want to warn him that he is treading on dangerous grounds.

Sen. Olekina, next time you bang the Standing Orders on my face, I will throw you out for a couple of days. Where I come, we are tough than the Maasais, my friend.

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM NAIVASHA
HIGH SCHOOL, NAKURU COUNTY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we have a visiting group of teachers and students from Naivasha High School, in Nakuru County.

In the Public Gallery we have 60 students accompanied by two teachers from Naivasha High School, in Nakuru County, who are in the Senate on an education tour.

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

I thank you.

Sen. Tabitha Keroche: Mr. Deputy Speaker, Sir, I rise to welcome the Naivasha High School students and teachers. I am so happy to have them here today. I am very sure they are not only visiting the Senate, but have also gone to the National Assembly and learnt a lot.

Take the advantage of your tour. During our time, we never got this opportunity. That notwithstanding, I am now here as the Senator for Nakuru County. They stand a better chance than us.

I wish them all the best. When you go back home, say hi to everyone. Looking forward to seeing you here many times. We are here just preparing for you. I know that you are the next Senators of Nakuru County.

I wish them all the best and God's blessings.

(Resumption of debate on Statements)

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua, did not indicate the wish of his Statement. It should maybe go to the Standing Committee on Lands, Environment and Natural Resources.

Sen. Kinyua, kindly approach the Chair.

(Sen. Kinyua approached the Chair)

After consultations, the Statement is referred to the Standing Committee on National Security, Defense and Foreign Relations.

(The Statement was committed to Committee on National Security, Defense and Foreign Relations)

Hon. Senators, we have another Statement under Standing Order No. 56 (1) (a), by the Chairman of the Standing Committee on Energy, Sen. Wamatinga.

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

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

HIGH COST OF ENERGY IN THE COUNTRY

Sen. Wamatinga: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.56 (1) (a), to make a Statement relating to matters in which the Committee on Energy is responsible, the High Cost of Energy in the Country.

Mr. Temporary Speaker, Sir, let me start by thanking Members of the Committee on Energy for unanimously electing me the Chairperson.

The cost of energy is a fundamental driver in any economy and society. In Kenya, that cost has increased significantly affecting the cost of living to the negative. Farmers are unable to plough land using tractors, irrigate their crops because of the high cost of fuel and electricity.

As a country, if we want to industrialise and attract international manufacturing firms, then the cost of power has to be lowered. If we follow the migratory patterns of international manufacturing firms, you will see that as the cost of production increased in North America and Europe, the companies moved to China, India and Africa.

The current average cost of electricity per unit is Kshs25. This means that for Kshs1000 you can only get 40 units or 4 units for Kshs100.

Energy is a factor of production. For us to spur our manufacturing and cottage industries as envisaged in the establishment of the Special Economic Zones in Naivasha, Dongo Kundu and other parts of the country, we need to ensure that the cost of energy is lowered. My Committee is planning to engage the relevant stakeholders in the energy sector to ensure that this matter is addressed amicably.

Mr. Temporary Speaker, Sir, the total installed capacity with the inclusion of off-grid power is 2949 megawatts. The energy mixes as follows; geothermal accounts for 863.1 megawatts; hydro 838 megawatts; wind 435 megawatts; solar, unfortunately only 90 megawatts; thermal, sadly 720 megawatts; and, off-grid power is 34.31 megawatts

The above mix indicates that 75 per cent of electricity is done through renewable sources. Only 24 per cent is through thermal or diesel. It is evident that renewable sources of power dominate our energy mix and electricity should, therefore, be cheaper.

According to the audited accounts ending Financial Year June, 2021 Kenya Electricity Generating Company PLC (KenGen) supplied a 8,443 gigawatt hours, which makes 70 per cent and was paid Kshs44,805,290,000. That is 44 per cent.

On the other hand, Independent Power Producers (IPPs) supplied 3,000 gigawatt hours. That is about 30 per cent of the total power and were paid over Kshs56 billion.

Mr. Temporary Speaker, Sir, the analysis shows that if KenGen had supplied 100 per cent of the power consumed, the amount paid would have been Kshs64,007,414,285. This would have been a net savings of Kshs37,143,044,715 to Kenya Power and Lighting Company (KPLC). KenGen charges only Kshs5.41 per unit. IPPs charges between Kshs9.89 to Kshs173.08 per unit.

As a Committee, we note that the cost of electricity charged by IPP is over 30 times compared to what KenGen charges. The above analysis shows that if KenGen supplied 100 per cent of power consumed, the amount paid would have been Kshs64 billion. This could have been a net saving of Kshs34 billion which is enough to construct 37 Level 4 hospitals.

The contracts signed by IPPs have an average length of 23 and 27 years. A majority of the IPPs expire in 2030. There are IPP contracts that will expire in January, 2043. This is so sad. KPLC has to pay for what has been generated, regardless of whether it has been consumed or not. This is a very sad occurrence, indeed.

My Committee intends to study the report of the Presidential Taskforce on IPPs. The report was presented to His Excellency the President last year and provides further guidance to this august House.

Turkana, Marsabit, Garissa, Wajir and Mandera counties are not connected to the national grid. These counties use generators that are powered by diesel for electricity. We have IPPs in these counties. In Marsabit County, we have wind power which have not been connected to the national grid.

Mr. Temporary Speaker, Sir, 26.94 per cent of prepaid bills accounts for fuel energy charge. This means that for every Kshs100, Kshs26.94 goes to fuel energy charge.

As we look at the cost of production, we also have to look at the entire value chain. No matter how much cheap electricity is generated, it will do people no good if it does not get to the end user on time and reliably.

The issue of faulty transformers has continued to plague KPLC. Just recently, the Cabinet Secretary (CS) for the Ministry of Energy directed KPLC to repair and reinstall 10,000 faulty transformers that were lying in a yard in Roysambu. It is very sad that during the procurement process, the sub-standard transformers were ordered all in the name of making money or giving kickbacks.

Faulty transformers have been the cause of prolonged power blackouts in many counties. In Nandi County alone, 800 transformers are faulty. This has caused reduced productivity in companies and increased insecurity.

As a Committee, we wish to tell KPLC to ensure that when procuring transformers, they should be ordered directly from reputable manufacturers. Additionally, those involved in the procurement process for any substandard equipment should be interdicted and charged in a court of law.

Mr. Temporary Speaker, Sir, I also have to mention that KPLC, as the only caretaker of power in the country, continues to make losses on a commodity that they alone sell. KPLC operates as a monopoly and commonsense would require that they make extreme profits.

It is very clear that there are governance and accountability issues in KPLC. Audited accounts by the Auditor General for Financial Year ended 30th June, 2021 revealed that KPLC current liabilities are over Kshs116 trillion, which is far above its current assets of Kshs49 billion. This is a difference of about Kshs66 trillion.

An impairment loss of Kshs205 million on stalled projects was incurred. This was in respect to projects that were part of the contract sum. It was paid yet no activities have transpired in those projects for the last three years. A total of Kshs159 million was related to fraudulent payments to contractors and which are subject to court cases.

I am happy that KPLC has now taken full responsibility of selling pre-paid token from vendors, as this will curb corruption.

As a way forward, from the above, it is clear that a radical surgery is required in the energy sector. To begin with IPPs should be incentivised to switch to solar as a mode

of production for electricity. This will reduce carbon emissions that has increased global warming. Additionally, it will be in line with the Presidents goal to switch to 100 per cent renewable energy by 2030.

Turkana, Marsabit, Garissa, Wajir and Mandera counties should be added to the grid. This would be done by working with IPPs. Lake Turkana Wind Power and Garissa Solar Power in collaboration with Kenya Electricity Transmission Company Limited (KETRACO) can provide power to these counties.

In addition, KPLC has agreed with Ethiopian Electric Power to purchase electricity at a cost of only Kshs9.04 per unit. This is far much cheaper than the majority of the IPPs.

Mr. Temporary Speaker, Sir, the denominations of all upcoming IPPs should be done using Kenya shillings. This would cushion Kenyans in the fluctuation of foreign currency. About 5.42 per cent of any pre-paid bills goes to forex exchange.

The cost of solar installation is high and regulations put in place for dealers and contractors are very punitive. While solar voltaic equipment have been zero rated, applying for a tax refund from Kenya Revenue Authority (KRA) is a cumbersome process.

IPPs, which include KenGen, should be allowed to sell power directly to consumers. My Committee will seek to make changes in the legislation that will facilitate this.

Finally, as we push for the reduction of the cost of power, as citizens, we have to be prudent in how we use it. When you walk into any facility, you can see the wastage.

Regulations should be put in place requiring facilities to install motion sensors that can automatically switch power on when somebody enters a room and put it off when there is no activity. A culture of switching off bulbs and equipment when not in use should be adopted in this country as a way of saving energy.

Mr. Temporary Speaker, Sir, as Members of the Committee on Energy, we shall engage stakeholders in the energy sector on how to bring the cost down. We will oversight the Executive and push for the enacting of laws and policies to reduce or eliminate taxation on renewable energy products and machines and spur industrialization in this country.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wamatinga that was quite a Statement which I know Members would like to contribute to.

I invite Sen. Sifuna. We shall also minimize the time we spend on this. I request that we have two minutes each.

Sen. Sifuna: Mr. Temporary Speaker, Sir, I rise to support the Statement by the Chair of the Committee on Energy.

As a way of illustration, this afternoon, my assistant purchased Kshs100 worth tokens. This is the average amount of tokens purchased by a Nairobi City County hustler. Out of that, we only got 3.9 units of electricity. The token amount is Kshs49.13, meaning that 51 per cent of the money that a hustler uses to buy electricity goes to taxes and levies. Out of that, the fuel energy charge is Kshs27.

The problem has been highlighted well by the Chairperson. In fact, this country entered into very expensive TECO pay deals with IPPs who rely on thermal energy to produce electricity and that is finishing our people.

For instance, in Nairobi City County, the most critical case is Mukuru kwa Reuben people who rely on informal power connections because the former and current employees of Kenya Power (KP), especially at the Nairobi South Office, have forced them to do so. There is rampant theft of electricity equipment, including transformers and metres. There is simply no reliable electricity in Mukuru kwa Reuben.

During the campaigns, we went there and we saw for ourselves. For every two minutes that a person receives electricity, five minutes are spent in darkness. Electricity is available for two minutes and disappears for five minutes. We could not even use our public address machines.

We need a total review and overhaul of the energy sector. I am willing to support my Chairman and I am happy that I am a Member of the Committee on Energy. That should not continue.

We had a discussion with Sen. Cherargei in the morning. He allocated some blame on some players in the energy industry, claiming that there were a few companies benefitting from the subsidies. I plead with this Senate that the person in Mukuru who has to buy kerosene now at Kshs152 does not know the companies benefitting from the subsidies. He only knows that he used to buy kerosene at Kshs127 because there was a subsidy.

Let us cushion our people even as we fight against the cartels. In the meantime, that “Panadol” that Sen. Cherargei talked about can ease the pain of our people as we sort out the problem in this sector.

I thank you.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I agree that there is still a problem largely because of the expensive electricity charges by the KP. The cost of fuel which continues to drive the cost of electricity up. In Nandi County, as you have been told, we have over 800 faulty transformers. We have suffered massive losses. Apart from using electricity in schools, we also use electricity in milk cooling plants.

I know Sen. Olekina is happy to listen to this. It is unfortunate that 800 transformers are not working. Therefore, somebody must be held accountable. The Director of Public Prosecution (DPP) should ensure conclusion of the cases and prosecution of the people who acquired the faulty transformers so that they are brought to book.

In Nandi County, for example, almost all the transformers that were taken to primary schools are faulty. I always receive phone calls and we try to work around it. It is important that prosecution of people who participated in the purchase of faulty transformers comes to a conclusion.

Secondly, we need to do away with the monopoly. I agree with the Committee that we should allow KenGen to sell electricity directly to consumers.

The third issue is about IPPs. Why do we use dollars to pay them? Why do we not use the Kenyan shillings so that we can save money? Sometimes the IPPs generate

electricity here in Kenya. We should use Kenya shillings when purchasing power from them.

Finally, we should start thinking about renewable energy. I remember during the previous session, we fought hard to ensure that we have zero-rated purchasing and installation of solar panels.

As the Chair mentioned, we have a lot of sunshine in the Northern part of Kenya. We can use it to provide renewable solar energy which should be zero-rated.

As I conclude, I want to confirm to the country that the Kenya Kwanza Government is committed to ensuring that the cost of energy and power comes down.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, I hope you did not direct the DPP because Under Article 157 of the Constitution, the Office of the DPP is independent of any direction. I want to believe that your statement was not a direction to the DPP.

Sen. Olekina: Mr. Temporary Speaker, Sir, I would like to begin by thanking my Chair for bringing this important Statement. I was a Member of the Committee on Energy in the previous Parliament and we did quite a lot of work in regards to trying to deal with the cost of electricity.

One of the biggest problems that we had was that KP borrowed money in US dollars at very high interest rates. We need to do something to reduce or refinance those loans in order to tackle that issue.

The second problem that I hope the Committee will assist us on is the issue of faulty transformers, which is like musical chairs or blame game. The Rural Electrification and Renewable Energy Corporation (REREC) said that the transformers that were handed over to the KP were faulty. On the other hand, the KP said that they were never given the transformers.

We need to carry out an audit to establish two things. Firstly, we need to know the percentage of access to electricity in each of the 47 counties. Secondly, because our time is limited on this matter, we must support the idea of doing away with monopoly of the KP.

Transmara Sugar Company in Narok County can produce and sell electricity in the whole of Narok County using bagasse.

(The amber light at the timer was switched on)

Mr. Temporary Speaker, Sir, kindly allow me 30 more seconds. I am happy that the President talked about relooking at the monopoly on electricity by KP. We need to have more off takers. Secondly, we need to encourage more mini grids in the country.

I have heard many people complaining that Transmara Sugar Company releases bagasse into the river. I know there is an investor who is willing to put US\$ 50 million. As a country, we can build a mini power station, so that when the sugar company produces electricity, it can be transmitted to the grid, which can help in reducing the cost of power.

Mr. Temporary Speaker, Sir, we also need to encourage these sugar mills to use biogas to produce charcoal that can be used, so as to reduce the use of electricity.

This is a matter---

(Sen. Olekina's microphone went off)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senator, your time is up. Thank you, for being compliant.

Senator for Tana-River, Sen. Mungatana, you have the Floor.

(Sen. Mungatana spoke off record)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mungatana, have you turned on the MC Button? You had not, but now it is on; go ahead.

Sen. Mungatana, MGH: Thank you, Mr. Temporary Speaker, Sir, for giving me two minutes. I will go straight to the point.

The IPPs who signed very punitive and unconscionable contracts against the people of Kenya were officers within the Government. They were working in the energy sector and were mandated to protect Kenyans. However, instead of doing that, they colluded to create such contracts. That is why one has to still pay for the units even when they are not being consumed, as the Chairperson of the Committee on Energy has said.

We need to pick it up from what the Chairperson has said. We have to establish the people who signed the contract. We should know who did these mistakes. Are these people now relaxing somewhere as we bear the cost, like Sen. Sifuna has said?

We are all suffering because some people deliberately colluded with these IPPs to corruptly acquire wealth. All the people who entered this industry at that time when they were creating artificial shortages made billions of shillings.

Some of these contracts are supposed to last for 27 years. The people who signed these contracts are enjoying themselves as the rest of this country pays the debt.

I encourage the Committee on Energy to correct this historical injustice. It is the only way for us to set the standard for the people who will serve in this industry in the future. They will learn to stick to the mandate given to them by the people of Kenya and act in their best interest and not in the way these people did.

(The red light was switched on)

Prosecutions must be called and people must be taken to account.

I beg to support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mungatana for your comments on the Statement.

Senator for Homa-Bay County, Sen. M. Kajwang', you can proceed.

Sen. M. Kajwang': Thank you, Mr. Temporary Speaker, Sir. This is a very important Statement and I congratulate the Chairperson of the Committee on Energy for bringing it before the Senate.

Energy, transport and infrastructure are important conditions for sustainable growth. Kenya generates about 2,000 megawatts and I do not think that will take us to our desired position of being a truly middle-income economy.

I urge the Chairperson to look at the distinction between policy implementation and oversight. As the Senate, our role will be to oversight the actions of the Executive and the actions of state players. I want to encourage the Committee on Energy to borrow a leaf from the Second Senate. That Senate set up a special inquiry into the affairs of Kenya Airways, which generated a Report that came to the Floor of this House. I would like the Chairperson to consider taking that approach. They can call all the IPPs, interrogate all the reports that are within this space and bring an actionable report before this House.

The Committee on Energy can also look at the regulatory framework on the people who wish to put electricity into the national grid. There were some two investors in my county. One was setting up a 40 megawatts solar plant in Nyagwere Hills, the border of Homa Bay and Kisumu. He was frustrated by the regulators despite securing a lot of funding from the United State of America (USA) Government and that project did not kick off.

We had another investor who set up a mini grid on Remba Island. That mini grid was shut down by the regulator because he had not followed some paperwork and they had not ticked some boxes.

Let us have a regulatory framework that makes it easy, cheap and efficient for Kenyans to supply electricity in the national grid rather than one that favours the IPPs that have captured the state.

Mr. Temporary Speaker, Sir, I support this Statement.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. M. Kajwang’.

Senator for Uasin- Gishu, Sen. Mandago, you have the Floor.

Sen. Mandago: Thank you, Mr. Temporary Speaker, Sir. I support the Statement by the Chairperson of the Committee on Energy

It is sad that we can have IPPs contracts in this country that are so punitive to the nation consuming thermal power. As you are aware, the issue of climate change and the need for clean renewable energy in the globe is not only a concern of the human race, but also a cheaper way of generating energy.

I would ask the Committee on Energy to also look into the various tariffs and regulations that have made it difficult for renewable energy, particularly solar energy, to be used in this country. Recently, taxes were levied upon solar products, which makes generating energy through the natural resource of solar very expensive. It is surprising that Kenya Power can make millions of losses, yet it is a monopoly that sells power to the citizens of this country.

In his Statement, the Chairperson of the Committee on Energy has alluded to Lake Turkana Wind Power supplying energy to various counties. I do support that, but Lake Victoria Wind Power must also be investigated.

(The Amber light was switched on)

As you are aware, that is part of the projects that caused electricity bills to be increased arbitrarily by the KP to cover for the loss that they created through Lake Turkana Wind Power.

There is need for KP to optimise on the transformers that are already there in various parts of this country. You will find one transformer serving two families, yet it has the capacity to serve more than two hundred households. Kenya Power should concentrate in optimising the already existing transformers as they look into the faulty transformers.

(The red light was switched on)

They should also consider the companies that collapsed because of the so-called wrong tenders. Majority of those companies were owned by youths, women and a majority were---

(Sen. Mandago's microphone went off)

The Temporary Speaker (Sen. Wakili Sigei): Sen Mandago, your time is up. Thank you, for your contribution.

Sen, Oketch Gicheru, you have signed in as Sen. Madzayo, Senator for Kilifi County. I hope you will properly represent the office of the Senate Minority Leader.

Sen. Oketch Gicheru: Yes, Mr. Temporary Speakers, Sir. Thank you. I stand in for the Senate Minority Leader, who has been called in for an urgent matter.

Energy and food are some of the issues directly related to policy, as the Sen. of Homa Bay County had said.

As you consider this matter as the Chairperson of the Committee on Energy, it is critical that you find nexus with the Executive. The moment you declare that food and energy have to go to the market, then they are subject to market forces. The high cost of energy in the country is a function of demand and supply.

The Energy and Petroleum Regulatory Authority (EPRA) basically uses the three adjustment indices or variables to look at energy prices. They use fuel, forex and inflation. This fuel surcharge, which is the biggest variable in energy issues, has skyrocketed the highest in the last month. We have seen a historic 6.7 point seven rise in the cost of surcharge because these issues have been left to the market forces.

One more minute, Mr. Temporary Speaker Sir. I am enjoying the rights of the Senate Minority Leader. It is critical that energy in all its senses should not be considered an issue of consumption, but of production. If the President chooses to subsidize fertilizer and not energy, which goes directly to production, then as a country we are bound to have these kinds of problems.

In January when the former President removed the subsidy on energy, last month, for the first time, we saw the increase in energy to about 15.7 per cent. We need to just find a way of ensuring there is nexus between policy that defines subsidies on energy as a function of production instead of consumption---

(Sen. Oketch Gicheru's microphone went off)

The Temporary Speaker (Sen. Wakili Sigei): Thank you, very much Senator. Proceed, Sen. Thang'wa.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir. As a House, we stand a very good chance of liberating this nation by coming up with legislations that will help the Executive lower the cost of energy.

During the President's Address to this House, he mentioned that he is going to allow cooperatives to generate and sell power within their areas of operation. I urge the Committee, as we try to lower the cost of energy in this country, to explore what the President meant by that.

We can then at least allow those who are able to form cooperatives and generate power if they come from areas where there is high speed of water flow or use solar. The counties themselves can turn waste to energy and the surplus can be hooked to the national grid.

There is so much we can explore from what the President meant during his Address. This Committee is up to the task. We can come up with a legislation that will help lower the cost of production and energy.

Thank you, Mr. Temporary Speaker.

Sen. Oyomo: Thank you, Mr. Temporary Speaker, Sir, for this chance. I support from the onset the Statement by the Chairman of the Committee on Energy.

My heart bleeds each time there is the mention of faulty transformers. In Homa Bay County where I come from, three quarters of the transformers are faulty. It is unfortunate that they were supplied and taken to schools under the Last Mile Connectivity Programme. It is a pity that three quarters of them are inactive. This has rendered our schools and the public facilities on which they were built, dark.

Mr. Temporary Speaker, Sir, it is worth noting that energy is an enabler of development. I insist that the Rural Electrification Authority must answer for the inactive transformers in the country, particularly Homa Bay County where I come from. Our people did not get value for money. It is unfortunate that somebody was paid for the supply, yet our area remains dark.

I support.

Sen. Tabitha Keroche: Thank you, Mr. Temporary Speaker, Sir. I thank the Chairman for the Committee on Energy, Sen. Wamatinga, for bringing this important Statement. I know that the Kenya Kwanza Government has a plan on how to bring the cost of energy down. Bringing the cost of energy down means lowering the manufacturing cost and the cost of living.

Nakuru County and in particular Naivasha, produces 50 per cent of the energy that we use in the whole country, yet Naivasha is dark at night. There are no streetlights. The people living there have no power in their rural areas. I am happy as I welcome the new Cabinet Secretary (CS) for Energy and Petroleum.

As we talk of lowering the cost of energy, we should also talk about where that energy comes from, which is Nakuru County. Through KenGen, geothermal and Olkaria, Nakuru County produces 50 per cent of the energy in Kenya.

It means that Nakuru County should be given power at a cheaper and lower rate than any part of this country. We will be pushing to ensure that the producers of electricity.

Thank you, Sen. Wamatinga. We will be seeing you many times.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, very much Sen. Tabitha Keroche. I want us to finish on this, but I am seeing one more request by Sen. Crystal Asige.

Sen. Crystal Asige: Thank you, Mr. Temporary Speaker, Sir. I want to chime in on this discussion about energy; a very important topic.

I must admit that it is not my area of expertise. However, I am a person who likes asking questions. Questions lead to research, which leads to more knowledge.

Mr. Temporary Speaker, Sir, comments have been made about solar power. Solar power is incredibly useful, especially for tropical countries in Africa because of solar energy throughout the year. However, I believe that the issue with solar energy is not about the 6.00 a.m. to 6.00 p.m. solar that we get and can harness, especially if you have a used case. The problem begins at night. At night, we need the lithium batteries to store the solar power that has been harnessed during the day.

In my research, I found that lithium companies are selling batteries at extraordinary rates. That is actually the problem. When we and the Committee of Energy are looking into solar power and how we can harness it more here in the country, we need not to look at it being an all-encompassing positive through getting the solar energy. We also need to look on the flipside on how we will store this energy because that is the problem.

South Africa used around 100 megawatts of solar energy last year because they have more technology around lithium batteries. Kenya used may be 30 to 40 megawatts last year. Pricing is the issue that should be looked into. How do we work with these lithium companies to make their prices lower?

Mr. Temporary Speaker, Sir, for instance, if an average household was to put up solar panels and get lithium batteries to store solar energy for use in the evenings, they would have about 67 years of pay back rate, to cover the expense that they have incurred from buying these batteries. However, for companies, factories and organizations that use a lot of solar power and have the money to afford these batteries, they could pay back in about two years' time.

Mr. Temporary Speaker, Sir, when we look at solar power, I encourage the Chairman of the Committee on Energy to look into the use of lithium batteries and how we can make them more affordable. This does not only apply to big companies or factories that can afford it, but also to smaller households across the country.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Crystal Asige. I was generous to allow you to go beyond the time I had allowed the rest of the Senators. It is because I wanted to listen to the exorbitant cost of lithium.

Lastly, let us listen to Sen. Munyi Mundigi. I will lock you out in the next one minute. Please, go ahead.

Sen. Munyi Mundigi: Asante Bw. Spika wa Muda. Yangu ni kuunga mkono Taarifa ya Sen. Wamatinga. Kama kuna watu ambao wameumia hapa nchini Kenya, basi

ni watu wa Kaunti ya Embu. Hii ni kwa sababu mabwawa mengi ya maji ya kuzalisha umeme, yako katika Kaunti ya Embu. Ninazungumzia kuhusu mabwawa ya Kiambere, Masinga, Gitaru na Kindaruma. Watu wa Kaunti ya Embu wanapaswa washughulikiwa vizuri kwa sababu hakuna stima upande wa chini wa Mbeere. Inasemekana KenGen wako tu kuzalisha umeme, lakini kuna wengine wa kuuza huo umeme.

Kwa hivyo, ninahimiza Serikali ya Kenya Kwanza, Kaunti ya Embu iwe ya kwanza kushughulikiwa na tupate stima kila pahali. Jambo la msingi ni kuwa tuko na mabwawa ya kuzalisha umeme, ambao unaweza kutusaidia upande wa elimu na pia kukuza chakula ndio tuweze kuwa na maendeleo. Watupatie hata maji ya kutumia kwa kilimo. Ingawa ni Kampuni ya kibinafsi, wanafaa kushughulikia mambo mengine ya huo mto unaotoka Masinga kuelekea Gitaru.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator. Hon. Members, I want us to move to the next Statement. I call upon the Senate Majority Leader to issue the next Statement.

BUSINESS FOR WEEK COMMENCING
TUESDAY, 8TH NOVEMBER, 2022

Sen. Tabitha Keroche: Mr. Temporary Speaker, Sir, pursuant to Standing Order No.57(1), I hereby present to the Senate the Business of the Senate for the week commencing Tuesday, 8th November, 2022.

In accordance with the Senate Calendar, approved on 12th October, 2022, the Senate is scheduled to proceed for a short recess between 28th October and 7th November, 2022. Therefore, regular sittings of the Senate will resume on Tuesday, 8th November, 2022.

On that day, the Senate Business Committee (SBC) will meet to schedule the Business of the Senate. This is projected to contain Business that will not be concluded on today's Order Paper and any other Business scheduled by the Committee.

The Order Paper for Wednesday, 9th November, 2022 and Thursday, 10th November, 2022, will contain Business that will not be concluded on Tuesday, 8th November, 2022, and on Wednesday, 9th November, 2022, respectively. It will also have Petitions and Statements and any other Business scheduled by the SBC.

Mr. Temporary Speaker, Sir, during the recess, several activities have been lined up. These include; induction of SBC scheduled for 30th October to 1st November, 2022. Thereafter, the second induction for all Hon. Senators, will be held from 2nd to 4th November, 2022.

These events are critical to the working of the Senate, as they will provide an opportunity for the Members of SBC to better understand the mandate of the Committee. The second induction of Senators will largely focus on the various tools and mechanisms available to Senators, in order to effectively discharge their constitutional mandate.

A session on the Senate Standing Orders will also be conducted, so that Senators can better understand and appreciate transaction of Business in the Senate.

I cannot overstate the importance of the aforementioned retreats and I urge all Senators to purpose to attend. Induction events for Select Committees will follow thereafter, in accordance with their respective work plans.

In conclusion, Mr. Temporary Speaker Sir, I encourage Senators and Committee Chairpersons who wish to sponsor Bills or have legislative proposals drafted, to liaise with the Office of the Clerk at the earliest opportunity to have the Bills fast-tracked.

Thank you and I hereby lay the Statement on the Table of the House.

(Sen. Tabitha Keroche laid the Statement on the Table)

The Temporary Speaker (Sen. Wakili Sigei): Thank you for your Statement.

I see interventions. Please, proceed, Sen. M. Kajwang’

Sen. M. Kajwang’: Mr. Temporary Speaker, Sir, the Statement of the Senate Majority Leader usually does not elicit debate because it is more of agenda setting for the coming period. However, when the leadership of the House retreats, I would like them to urgently look into the Additional Allocations Bill that is supposed to take money to counties.

It is unfortunate that the money that is coming from the World Bank, the Danish International Development Agency (DANIDA) and several other donors, is still stuck at the National Treasury and not going to counties. The Additional Allocations Bill was supposed to unlock what we used to call conditional grants.

The County Governments Additional Allocation of Revenue Bill, 2022, was supposed to unlock what we used to call conditional grants.

Mr. Temporary Speaker, Sir, many counties had put in their budgets and project proposals that they were going to have the money. Part of it was to go to agriculture, health sector, sanitation, and infrastructure, commonly known as the Kenya Urban Support Programme (KUSP). Part of the money was also supposed to go to capacity building, also known as the Kenya Devolution Support Programme (KDSP).

Some of the grants are expiring this year, yet money has not gone to counties. We need the Chair and the SBC to direct the Standing Committee on Finance and Budget to make this their top-most priority.

We can borrow a leaf from the National Assembly, where the Speaker, Hon. Wetangula, ruled that certain Bills do not have to go through pre-publication scrutiny, so that they can be fast-tracked and brought to the House.

How I wish when the Senate Majority Leader was telling us about the business of the Senate in the coming days that there would be a comment that this House will consider at the First Reading of the County Governments Additional Allocation of Revenue Bill.

This is an emergency and it is extremely important. The World Bank (WB), DANIDA, and all the other donors cannot understand us. They have given money to go to our counties, yet this Senate and Parliament as a whole is moving at the pace of a snail.

Our governors cannot understand us. The money is supposed to be with them, yet the two Houses cannot agree on small things. The people in the counties cannot understand us.

Mr. Temporary Speaker, Sir, this matter has been pending for far too long. I wish you could direct either the Chairperson of the Standing Committee on Finance and Budget or the leadership of this House to make this the top-most priority of this House. Even if we have to come back during the recess period, let it be, so that the money can go to save lives and unlock productivity in our counties.

I thank you.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Listening to Sen. M. Kajwang', I found him grossly out of order. Whereas the issues that he is articulating are indeed urgent and relevant, he should not impute improper motives by pointing to inefficiency on the part of the Senate Majority Leader when he knows what he is supposed to do.

It could be that he does not know. The Senator should be well guided by the Chair that the issues he is raising should not be a point of order. He is free to raise a Statement and seek for all those answers. If he wants us to come as the Majority side, he should be informed that those issues concern counties represented by Members of both the Majority and Minority sides of the Senate. However, we have to operate within the Standing Orders.

I will be glad to inform you that this morning we put our Government in place. Obviously, in all Departments of Government, you will be getting the answers required. So, kindly hold your horses. Otherwise, you should be ruled out of order.

The Temporary Speaker (Sen. Wakili Sigei): The Senate Minority Leader, do you also have a point of order?

The Senate Minority Leader (Sen. Madzayo): Asante sana, Bw. Spika wa Muda, kwa kunipa nafasi hii. Taratibu za Bunge ni kwamba ikiwa alikuwa anataka kumueleza Sen. M. Kajwang' kuhusiana na taarifa fulani, alifaa kukuambia kuwa siyo hoja ya nidhamu.

Angesema anataka kumfahamisha ili aseme kama amekubali lakini hakumuuliza Sen. M. Kajwang' kama angependa kufahamishwa. Kwa hivyo, yeye ndiye amepotoka.

Pili, Sen. M. Kajwang' amesema jambo muhimu sana. Alisema kuwa Sen. Tabitha Keroche asisahau. Wakati tuko kwenye likizo fupi, ni muhimu kusisitiza kwamba Serikali inafaa kuwajibika kwa sababu serikali za kaunti zinahitaji pesa hizo.

Tuko hapa kama Maseneta kwa sababu ya serikali za kaunti. Tunafaa kuwapelekea pesa ili watengeneze serikali zao. Hawawezi kupata pesa tusipoweka taratibu.

Kwa hivyo, yeye hakukosea. Alikuwa anawakumbusha walio ndani ya Serikali wafahamishwe kupitia kwa Kiongozi wa Wengi katika Seneti.

The Temporary Speaker (Sen. Wakili Sigei): Sen. M. Kajwang', do want to say something?

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, I encourage the Majority Whip not to be jittery. I was not imputing any inefficiency on the part of the Majority side. In fact, this has nothing to do with the Cabinet that was sworn in today.

In June, 2022, the County Governments Additional Allocation of Revenue Bill was brought to Parliament. We did not agree with the National Assembly on things that I

think are small matters. This matter is entirely in our hands. My appeal was on fast-tracking. I was just raising that sense of urgency.

Perhaps colleagues who joined the Senate in August might not be privy to the joking and all the lobbying that went into getting the County Governments Additional Allocation of Revenue Bill, 2022. The definitions alone in this Bill took us a long time to move from “Conditional Grants” to “Additional Allocation”.

I just want to encourage the Whips, the Senate Majority Leader and the Senate Minority Leader who sit in the SBC that they have the power and mandate to organize the business and whatever comes to this House.

Mr. Temporary Speaker, Sir, it is not out of order for you as the Chair or for the SBC to tell the Committee on Finance and Budget that this is a matter of urgency. We shall have failed in our role as a Senate if the financial year comes to a close when the money has not gone to the counties or if some of the programmes expire before the money goes to the counties.

As I finalize, I would like to bring it to the attention of the Majority Whip about three important Bills that this Senate processes. We have the Division of Revenue Bill, the County Allocation of Revenue Bill, and now the County Governments Additional Allocation of Revenue Bill.

We have successfully processed the first two. Regarding the third one, we have no excuse to the counties, the nation and the donors if we do not fast-track the County Governments Additional Allocation of Revenue Bill.

The Temporary Speaker (Sen. Wakili Sigei): I restrained myself from intervening because yours truly is a Member of the SBC and we have taken note. I am sure that the Majority side is up to the task in terms of its role in the House.

Hon. Senators, for the convenience of the House, I want to rearrange the Order Paper.

Let us go to Order No.11.

MOTION

ADJOURNMENT OF THE SENATE PURSUANT TO THE APPROVED CALENDAR FOR THE 2022 SESSION

Sen. Tabitha Keroche: Mr. Temporary Speaker, Sir, I beg to move the Motion-
THAT, pursuant to Standing Order No.31 (3) the Senate do
adjourn until Tuesday, 8th November, 2022.

This will give the Senators an opportunity to recharge to full batteries and receive further training from our secretariat and stakeholders.

I beg to move.

The Temporary Speaker (Sen. Wakili Sigei): Who is the seconder to the Motion?

Sen. Tabitha Keroche: The Senate Minority Leader can second.

(Sen. Madzayo spoke off record)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Madzayo, you may second.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika wa muda. Jambo la kwanza, naunga mkono taratibu ya dada yangu Sen. Tabitha Keroche kwa kuona ya kwamba imefika wakati ingekuwa vyema Maseneta waenda likizo kidogo.

Nina imani ya kwamba agizo la kwenda likizo kama hilo litasaidia pakubwa kwa wale maseneta ambao wameingia Bunge hivi sasa. Hii ni kwa sababu tumeona wakiwa na tabia ya kutembea hapa ndani na kuvuka upande huu bila kwenda pale mbele---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Madzayo, kindly second the Motion then we will thereafter -----

The Senate Minority Leader (Sen. Madzayo): Ndiyo, Bw. Spika wa muda. I am seconding the Motion.

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

The Senate Minority Leader (Sen. Madzayo): Naunga mkono na pia ninaeleza ni kwa sababu gani tunahitaji kufunzwa tukienda likizo. Hii ni kwa sababu kuna taratibu ambazo tunafaa kufundishwa kulingana na yale ambayo yamefanywa hapa na maseneta. Najua ya kwamba ndugu yangu, Sen. (Dr.) Khalwale, atakubaliana na mimi. Yeye mwenyewe amesimama hapa akisema tabia kama hio sio nzuri. Seneta anafaa aenda pale, ainame, asimame, alafu aende upande ule anaotaka ama aingie ndani wakati Spika yuko kwenye kiti.

Bw. Spika wa Muda, sio hiyo taratibu peke yake ambayo tunafaa kufundishwa. Kuna taratibu nyingi. Ni muhimu hawa ndugu zetu waweze kujua kile ambacho wanafaa kufanya wanapotaka kuongea wakati umeketi hapo. Sisi tumepitia hayo mafunzo kuanzia mwaka wa 2013.

Mtaalamu wa taratibu ama *Standing Orders* zetu za Bunge ni Sen. (Dr.) Khalwale na hakuna mtu anayeweza kumshinda. Yeye ni mtaalamu na mkongwe. Najua ya kwamba tutajifundisha mengi kabla turudi.

Kwa hivyo, naunga mkono Hoja hili. Ni jambo nzuri tukienda likizo kwa hizo siku nne ama tano ili tuweze kufundishwa mambo ya taratibu za hapa Bunge. Tukirudi, tutakuwa tumenoa kabisa msumeno ya kufanya kazi ndani ya Bunge la Seneti.

Asante sana. Naunga mkono.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I call upon those who want to contribute to this debate to do so.

Sen. Mandago, you may have the Floor. I know that this technology is still playing with us.

Sen. Mandago: Thank you, Mr. Temporary Speaker, Sir. I wish to contribute to this debate. Training is important, especially for those of us who are first-time Senators in the House, because learning is a continuous process.

As the Senate Minority Leader has stated, there is necessity to continue learning the rules of this House and gaining knowledge for us to represent our counties effectively.

I support the adjournment of the Senate for the Senators to go for a training retreat in order for them to be more efficient. It is also an opportunity for realising that this Senate is homogeneous. We have people with different experiences and this will add value to devolution.

Mr. Temporary Speaker, Sir, I support the adjournment and the training that the Senators are going to get.

Thank you.

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

Sen. (Dr.) Khalwale, you may have the Floor.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. It is important that in support of this Motion, we should probably make it clearer as to why we are going for this recess to the House and the public that sent us here.

Unlike what some people might think on the face of it, we are not going on recess. We are going to work outside the Chamber. We will be retreating to some corner in the country. Members, I hope that the communication has been made.

Allow me to tell you this if the communication has not been made. I sit in the SBC, and it is important that you organise yourselves in terms of travel arrangement, to join us.

The leadership of the House shall precede you on Sunday. We will work on Sunday night, Monday morning and join the rest of you when you come to the venue on 2nd October, 2022. We shall then work the whole week until Saturday. That is when we shall be through with the business then come back.

You will have a bit of time to go back to the counties to do a bit of consultation before we come back on 8th October, 2022 for reopening. It is actually a working recess in accordance with the programme of this Senate.

During that recess, we hope to rearrange our Calendar for us to be more effective. Over and above what the Senate Minority Leader has said, we will walk Members through the way Parliament works. In fact, I am glad that we had an element of altercation with the Chairman of Public Accounts Committee (PAC), Sen. M. Sen. Kajwang' on the important issue of unconditional grants.

I was in the former Provincial General Hospital in Kakamega and they told me that they are straining because of the stoppage of that particular fund. I look forward to this meeting in order for us to align and unlock all those things for available and due monies to be released to the county governments.

With those remarks, Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator for Kakamega.

Sen. Oketch Gicheru, you may have the Floor.

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. It is a critical one given that this first part of the first Session of the House has been very nice.

As said by my dear friend, the Senate Majority Whip, Sen. (Dr.) Khalwale, the bullfighter, it is critical that we build the capacity of this House. This is one of the things

that the adjournment of this House calls attention to. He has also said that we are going to a working session in Mombasa.

This retreat is also critical because this House has established some new committees such as the one I am sitting in; the County Public Investment Committee (CPIC). That Committee has a critical oversight role. There is need for us to familiarize ourselves with some of these Committees and their procedures. More importantly, it will be good for us to dissect the nexus between such committees and the other committees in the House.

I know that this Committee used to work with the other Committee that the Senator of Homa Bay County, M. Kajwang' currently chairs.

Sometimes, we do not want conflict in these roles. I recognize that we had the Supreme Court ruling that impacted this House in terms of our oversight and accountability roles. It will be critical for Members of this House to understand some of the terms that were used in that ruling in making our roles very efficient.

Mr. Temporary Speaker, Sir, the terms used by the Supreme Court included "having a secondary oversight role". These are issues that will feature more prominently next week when we go for this retreat.

Lastly, it is critical to appreciate the fact that between the two Houses of Parliament, this House has demonstrated that it is a House of reason and the most bipartisan.

When I came to this House as a first-time Senator, and saw the energy my brother, the bullfighter, Sen. (Dr.) Khalwale, put in the campaigns, I wondered about the temperatures of this House. The first part of this session has shown that there is maturity in this House.

This retreat is akin to the one we had in Naivasha. We saw Members from the Majority and the Minority side working hand in hand to promote a collaborative platform, where we can continuously be bipartisan on issues of oversight and accountability. When we go to Mombasa next week, I am looking forward to how we can cultivate that culture of bipartisanship.

Today, when we started the Sitting, temperatures were a bit high after the Statement that was made by Sen. Kinyua of Laikipia County and supported squarely by Sen. (Dr.) Khalwale. It looked like the temperatures were very high between them and Sen. Olekina. I hope that this retreat will make it possible to explore the concept of constructive criticism and constructive agenda raising in this House.

As has been said by Sen. Tabitha Keroche, this Adjournment Motion is not only for recess, but for work too. I hope that as we go to Mombasa, we will dedicate ourselves to work, but also have fun as we work because we need it.

I support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Oketch Gicheru. The Majority Whip had told this House that we will be retreating to a certain corner of the country. You have confirmed that it is Mombasa.

Sen. Oketch Gicheru, for your information, the Supreme Court added something to do with Tier one and Tier two oversight of this House. It is part of what we will learn when we retreat.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, I rise to support the Motion by the Deputy Majority Leader. Firstly, I record my thanks in the manner in which the presidium, led by the hon. Speaker himself has conducted the brief session we have had up to today.

When we elected the hon. Speaker and his Deputy, and even when the presidium was extended to include you, we did not know how they would do their work. You have done a good job. It is my duty as a regular and a loyal Member of this House to record my thanks in the manner in which the Chairs and the Speakers, both substantive and the Deputy, have conducted this House.

It is also proper for me to thank and say how proud I am of all Members in this House and how they have contributed. I am pretty regular and I have seen those who have bothered to look up their facts, done their research and have come here to present. I love to sit and listen to some of the people who have done their research.

I mention in particular, the Senator who has just spoken, Sen. Oketch Gicheru, who is a young gentleman. I am very proud of him and the contributions he makes in this House.

We have seen Statements in this House in the last brief part of the Session. We have also seen Notices of Motion being given and at least one Motion that was affirmed by a resolution of this House.

I join my colleague, Sen. M. Kajwang, in saying that so far, we have not been able to process a Bill through the three stages. I have been a regular and cannot recall a day in which we did a First Reading for any Bill, but I stand to be corrected.

Mr. Temporary Speaker, Sir, my prayer is that as we retreat this time round, we will definitely correct some of the minor mistakes. They include some of our colleagues crossing over and so on. Some of them are changing language mid-speech and some of them speaking in vernacular language. We will change that.

Critically, I hope this message goes to the Senate Business Committee. The Committee said that it will precede us on Sunday and have meetings on Sunday and Monday. What we need is to process Bills. Those Bills that lapsed in the last term of the House have been taken over by the hardworking Senators, who have volunteered to finish the work that was started by our worthy colleagues, who are not sitting in this House anymore.

Mr. Temporary Speaker, Sir, I pray that the message will go and we shall prioritize those important Bills. We need to process them. We need to come here, debate and make resolutions. We should finish those Bills that were almost going through and were frustrated at the National Assembly. At the end of it, those Bills will really count as the output of this House.

It is my prayer that this will be prioritized in the retreat and we shall have another opportunity to socialize with some of the Senators. We note that some of us are very busy outside. I do not know what they do out there because we do not see some of them. Therefore, this will be an opportunity to see them, maybe encourage them to attend the Chamber more. We will get to know each other better.

More importantly, we shall also agree on our course of action. I like that my Chief Whip and the Deputy Majority Leader are here. We will agree on a course of action as the Senate to process more Bills and Motions, prioritize them and get them done.

In this session, the question of Statements cropped up. The Senator for Nairobi City County, Sen. Sifuna, brought it up and I supported him a couple of times. In one way or another, we need to manage our time so that we can get to Motions. The Chair has been very magnanimous with all of us and we appreciate that.

However, we need to relook at that area because we will be restricted in terms of outputs if the Motions are not being processed.

The Bills, which normally come after Motions, will never be reached if we extend the time too much. That is an issue that we need to look at.

Mr. Temporary Speaker, Sir, apart from that, I am very happy and proud to be associated with this first Part of the Session. I know that we are going to achieve more. God bless this country and this Senate, which has produced very good Cabinet Secretaries (CSs). God bless us all.

The Temporary Speaker (Sen. Wakili Sigei): Sen. M. Kajwang', please, proceed.

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, I rise to support this Motion of Adjournment, that the House resumes its sittings on 8th November, 2022 and take that break to plan.

As we have said before, things do not go wrong; things start wrong. It is important that the Senate retreats to consider what we put forth as priority business. What we define as priority Business in the First Session, will dictate how this Senate is going to run.

Mr. Temporary Speaker, Sir, it is quite unfortunate that at the end of the term of Parliament and, particularly the Senate, you might find that the Bills that this House has processed are the constitutional Bills. Every year, we will process the Division of Revenue and the Allocation of Revenue Bills. You will find it very rare that the President assents to a Bill that has originated from the Senate.

In the last Senate, I believe it is only the Tea Bill that was sponsored by Sen. Cheruiyot and the Assumption of Office of Governor Bill that was sponsored by Sen. Wamatangi. The other one is an amendment to the County Governments Act.

Most of the Bills that originated from Senators got stuck. Some fell into purgatory because of disagreement between the National Assembly and the Senate. Some of them were time barred. Of course, there was also the issue of concurrence of Article 110 of the Constitution that brought back many Bills to the Senate.

I urge that during this short break and as we retreat to strategise, we prioritise those Bills that were brought before the House in the last Senate. Let us shorten the publication period and exempt some of them from pre-publication scrutiny, if already the Senate had rendered its decision. Of course, every Bill must come back through First Reading and go through the stages. However, we can shorten the processes and stages for the Bills to come to this House quickly.

Mr. Temporary Speaker, Sir, I had already talked of the Additional Allocations Bill, which ideally should have come for First Reading even before we go for this short break.

Secondly, when the President addressed Parliament, he expressed goodwill as far as the Senate Monitoring and Evaluation Fund is concerned. However, as a Senator, I do not seem to see any Motion on the part of the Leadership of the House, to actualise that good intention.

Mr. Temporary Speaker, Sir, I have been part of this struggle for the longest time that I have been in the Senate. When I joined the Senate, Sen. Kiraitu Murungi, then, came up with a proposal. It was a proposed amendment to the Parliamentary Service Commission (PSC) Act to set up a sub-committee of the PSC that would look into matters of the Senate. That Bill never went far even though it was passed by the Senate.

Thereafter, we went into this exercise of developing regulations for a Monitoring and Evaluation Fund. We went to the USA using taxpayers' money, visited several states and met a number of State legislatures. We saw how the USA Senate and State Senates carry out oversight. We then came up with a model, which was based on that best practice from the USA.

We came and crafted regulations. When they went to the National Assembly, our good friend, Sen. Cheptumo, then, being the Chairperson of the Committee on Delegated Legislation, killed those regulations.

Mr. Temporary Speaker, Sir, the regulations were so clear. We had even put an amount that was supposed to be the seed capital for that fund. That fund was supposed to be facilitated with Kshs1 billion. The function of the fund was clearly stated.

We were not using that money to go and build roads or do development projects. We were going to do social impact assessment and engage experts to evaluate projects in counties. We were going to use that Fund to carry out public participation and establish whether the needs of *wananchi* in counties were being actualised by the projects of county governments.

The Senator was not even going to handle that money. There are those who thought that Senators were looking for money for campaigns. Some of the most ardent opponents of that fund were Members of the National Assembly, who thought that Senators were going to use that money to either kick them out of their constituencies or to become Governors.

Mr. Temporary Speaker, Sir, some of those who were loud against the Senate Monitoring and Evaluation Fund, have unfortunately lost their positions and most of the Senators have come back here.

I encourage the House Leadership that the regulations had proposed that we set up a special Committee. This special Committee would be the one that receives reports from the 47 counties.

As a Senator, once you have engaged the services of an expert and come up with a report on the viability or the social impact of the projects out in the counties, where does that report go to? Do you send it to the County Assembly or bring it to the Senate? When you bring it to the Senate, does it come as a Motion or as a Statement?

We thought that we would establish a select Committee on Monitoring and Evaluation, that would consider all those reports coming from the various counties and then make actionable recommendations.

For instance, you have gone to your county and found that the County Government was supposed to set up a feed processing plant and money has been paid, but the plant is not in place. As a Senator, you have done your assessment and written that report. That report ought to come back to the Senate for the Senate pronounce itself on it and make recommendations to the necessary agencies to take action.

Mr. Temporary Speaker, Sir, I pray that in this short break and even as we retreat in Mombasa County, there will be an element or some time given, to see how we can actualise this Monitoring and Evaluation Fund. The biggest problem has been lack of goodwill from the Presidency and the President was on record when he came to Parliament. Let us not allow that window of goodwill to close before we move in and actualise this Fund.

When Members of the National Assembly go on recess, they will be busy issuing bursary cheques, handing over buses and classrooms. What does the Senator go to the village to do? Sen. (Dr.) Khalwale went to visit a hospital in his county, but he probably could not offer anything tangible. All he could do was promise to articulate their plight on the Floor of the Senate.

We have been very clear that we, Senators, do not want money for doing projects because it is a poisoned chalice. We want money to be able to oversee and ensure that the Kshs370 billion that we send to counties, is being put to proper and effective use.

Mr. Temporary Speaker, Sir, I pray that when we come back on 8th November, 2022 this matter will have been discussed. I hope that it will be possible for us to propose a select Committee that will advance this agenda, taking into account and taking advantage of the goodwill of the Presidency.

I also pray that we shall bring back the Implementation Committee of the Senate. This Committee was there in the First Senate then it disappeared in the last Senate. The argument was that every Committee should follow up the implementation of its recommendations.

Mr. Temporary Speaker, Sir, that has not worked. As a result, you have recommendations on Motions that have been brought to this House, adopted by the House and nobody follows them up. Recommendations come from various Committees and some are cross-cutting.

However, one Committee cannot follow them up to the end. That is why we had a dedicated Implementation Committee. I would love us to debate on this when we take our break. I would also like us to look at the merits and demerits of the Implementation Committee.

Kenyans are asking why after 10 years of devolution, there is still theft, stalled projects and pending bills in counties. The Nairobi Metropolitan Service (NMS) has shut down with billions of pending bills and yet this House has been sending money to Nairobi City County every year.

It is because we make lofty statements and hard-hitting recommendations on the Floor of this House but no one follows them up.

Again, to the leadership, the challenge goes to you. However, we as Members must also be part of that debate to ensure that we bring back the Committee on Implementation. Traditionally, the Committee on Implementation is led by the coalition that is not in Government because it is not easy to oversight if you are in the Government.

(Sen. M. Kajwang's microphone went off)

The Temporary Speaker (Sen. Wakili Sigei): Sen. M. Kajwang', the microphone went off without a warning, but I think you have made your point.

(Sen. M. Kajwang' spoke off record)

The Temporary Speaker (Sen. Wakili Sigei): I will add you a maximum of two minutes.

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, I have seen the reason. So, I will hold my horses on that. Otherwise, under normal circumstances, it is important for Members to ventilate and have their full allocation.

I support.

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

The Senate Minority Leader (Sen. Madzayo): Mr. Temporary Speaker, Sir, I would like to find out from our friends in the House. I wonder why the microphone of Sen. M. Kajwang' went off when he was on a critical point. I want to imagine that it was a coincidence and not a deliberate move.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Madzayo, I do not think so. Sen. M. Kajwang' had indeed made his point. By the way, his entire contribution was important. This being a House of records, we always take note of such important contributions.

Sen. M. Kajwang', I am sure you were not cut short. It was not in any way intentional that the statement you were making be cut short.

(An. hon. Senator spoke off record)

The Temporary Speaker (Sen. Wakili Sigei): I have to because he is a regular contributor in this House.

Hon. Members, under Standing Order No.32 (3), this Motion on Adjournment does not require a question to be put.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 22 minutes past Six O'clock; time to adjourn the House. The Senate, therefore, adjourns until Tuesday, 8th November, 2022, at 2.30 p.m.

The Senate rose at 6.22 p.m.