

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 19<sup>th</sup> October, 2022

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

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

### PRAYER

#### QUORUM CALL AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, please confirm whether we have quorum.  
Hon. Senators, we seem not to have the requisite quorum. I, therefore, ask for the Quorum Bell to be rung for five minutes.

*(The Quorum Bell was rung)*

Order! You may stop the Bell because we have so far attained the quorum.

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION FROM THE COUNTY ASSEMBLY OF GARISSA

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, a visiting delegation from the County Assembly of Garissa. The delegation consists of officers from the Research Department who are on a benchmarking visit with the counterpart research department in the Senate from 11<sup>th</sup> October, 2022 to 21<sup>st</sup> October, 2022.

Hon. Senators, I request the two officers to stand when called out so that they may be acknowledged as per the Senate tradition. They are-

- (1) Ms. Sadia Abdi Salaa - Senior Research Officer
- (2) Mr. Abdi Siat Keynan - Senior Research Officer

On behalf of the Senate and on my own behalf, I welcome the delegation and wish them well for the remainder of their visit.

VISITING DELEGATION FROM THE NATIONAL  
ASSEMBLY OF ZAMBIA

Hon. Senators, I would like to also acknowledge the presence of the following delegations in the Speaker's Gallery. We have a delegation of staff from the National Assembly of Zambia who are on a five-day benchmarking visit in Parliament.

I request each member of the delegation to stand when called out so that you may be acknowledged in the senate traditions. The officers are-

- (1) Jimoa Muzungu – Team Leader
- (2) Lillian Mwanza
- (3) Beverly M. Chisenga
- (4) Rose Mwanza
- (5) Victor Chilufua
- (6) Stanley Mulenea

VISITING DELEGATION FROM PRINCE ALEX MIXED DAY  
SECONDARY SCHOOL, THARAKA NITHI COUNTY

Hon. Senators, in the Public Gallery we have 31 students accompanied by four teachers from Prince Alex Mixed Day Secondary School, Tharaka Nithi County, who are in Parliament on an education tour. You may stand so that you are acknowledged in the Senate tradition.

Hon. Senators, on behalf of the Senate and on my own behalf, I welcome the delegations to the Senate and wish them well for the remainder of their visit.

I thank you.

Proceed, Sen. Maanzo.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. I have a request for Statement on the Human Wildlife Conflict---

**The Speaker** (Hon. Kingi): I actually thought you were contributing to welcoming delegations. Quite a number of Senators have requested to speak and welcome the guests.

**Sen. Maanzo:** Mr. Speaker, Sir, I apologise. It is only that I have a pressing matter in Makueni County. However, it is not a problem.

Mr. Speaker, Sir, I take this opportunity to welcome the students from Garissa County to the Senate. I believe they will learn from their counterpart while visiting the Senate. While here, they will learn a lot from us and get inspired to become Senators one day and live their dreams. I hope that they as they move around Parliament, they will learn more as they watch our proceedings, get encouraged, inspired and look forward to success in life.

**The Speaker** (Hon. Kingi): Proceed, Sen. Mungatana.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I rise to join you in welcoming the delegation from Zambia. I serve as a Commissioner in the Competition Commission of

the Common Market for Eastern and Southern Africa (COMESA). We have held very many meetings in Lusaka.

The people of Zambia warm my heart. If you listen to their television stations, they speak with a Nairobi accent. They also dress like Nairobi City people, laugh like us and even have *nyama choma*.

*(Laughter)*

May I ask them to feel at home because they are most welcome to Kenya. The best thing about travelling to Lusaka is that you will not be asked for a visa or anything; it is just like flying to Mombasa to go and do your business and back. We thank the people of Zambia. Please, feel welcome. If you need anything, I am around for you.

*(Applause)*

**The Speaker** (Hon. Kingi): Proceed, Sen. Kavindu Muthama.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity. I join you and my fellow Senators to welcome the delegation from Zambia, Garissa County and the students from Tharaka Nithi County. I take this opportunity to welcome them.

To the Zambian delegation, welcome to Kenya. This is a peaceful country and I am sure you will learn a lot from us and our staff. The lady called Rose; your surname sounds a lot like a Kamba name. I am sure we have something in common. Welcome.

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

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I rise to also join you in welcoming the visiting delegation from Zambia. It is an honour to have them. I have noted that they are on a benchmarking visit and it shows that as Parliament, we are doing very well. Welcome.

This is the Pan-Africanism that we need to see exhibited in Africa. We need to work together and share common practices. We do not need to fly to United States of America (USA), France or any other country to benchmark. We need to encourage intra-exchange of best practices in Parliaments within Africa. I think we have a problem in Africa. We see things in sadistic ways and do not believe in our ability or capacity.

I thank the delegation because they decided to visit the Republic of Kenya instead of going to USA, Europe or South America. They are specifically in the right House, the “Upper” House. This is the House of union. I know Sen. Maanzo is now in the right place; he was lost in the “lower” House.

Finally, I also join you in welcoming our students and teachers from Prince Alex Mixed Day Secondary School in Tharaka Nithi County. We are proud of them.

There once lived one of the best legislators in this House. The first Senate Majority Leader who later became the best Deputy Speaker, was from that county. The current Cabinet Secretary (CS) nominee for the Ministry of Interior and Co-ordination of National Government. That is Hon. (Prof.) Kithure Kindiki. You are in the right place.

Currently we have also Senator ‘More Fire’ from the Tharaka Nithi County. From the look of things, the House will be on fire, but not literally.

*(Laughter)*

It is also an honour to have him here with us. We wish you well. I believe one day you shall come back as speakers, chairpersons of committees, hon. Senators and leaders in this House. The future is luminous.

We encourage you to work smart and hard. We wish you well. Behave well and respect your teachers. I can tell you that with the current Government, your future is well defined. Work hard and God bless you.

**The Speaker** (Hon. Kingi): Lastly, the Speaker for Tharaka Nithi County.

**Sen. Gataya:** Thank you, Mr. Speaker, Sir. One day I will be the Speaker.

I take this opportunity to welcome my good school, Prince Alex Secondary School, in Tharaka Constituency, Tharaka Nithi County.

This is a House of big and great minds. When I look at you, I see future Senators and Members Parliament (MP). I am very sure from today; you are going to learn a lot.

The big names that you hear on television stations are in this House. This is the House where our senior most Member of Tharaka Nithi County, Hon. (Prof.) Kithure Kindiki used to sit. He has been here for 10 years. Today we are lucky because he was being vetted as the CS nominee for the Ministry of Interior and Co-ordination of National Government.

Now that you have made it here through your teachers, it is a clear gesture that you are making yourselves great. Feel most welcome. I am sure you must have switched off your phones. I have talked to your teachers and I am going to take care of you as you go home.

Mr. Speaker, Sir, I also take this opportunity to welcome the Zambians and the Garissa County delegation. This is a House of honour and we are glad that we are receiving visitors every day.

**The Speaker** (Hon. Kingi): Next Order.

## MESSAGE FROM THE NATIONAL ASSEMBLY

### APPOINTMENT OF MEMBERS TO THE JOINT COMMITTEE ON ELECTION OF EALA MEMBERS

**The Speaker** (Hon. Kingi): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the appointment of Members to the Joint Committee on Election of Members to the East African Legislative Assembly (EALA).

Pursuant to the said Standing Order, I now report the Message:

“PURSUANT, to the provisions of Standing Order 41 of the National Assembly Standing Orders, I hereby convey a Message from the National Assembly on its passage of the following resolution during its sitting of Thursday, October 13<sup>th</sup> 2022-

THAT, ACKNOWLEDGING, that the East Africa Legislative Assembly (EALA) is established under Article 9 of the Treaty for the Establishment of the East African Community as one of the key organs and institutions of the Community responsible for the Community’s legislative matters;

RECOGNISING THAT, Article 50 of the Treaty provides for the election of Members of EALA by respective partner States’ Legislatures in accordance with their parliamentary procedures for a term of five years;

FURTHER AWARE THAT, the East African Legislative Assembly Elections Act, 2011 contemplates conclusion of the election of Members of a new Assembly to be within 90 days before the expiry of the term of the subsisting Assembly;

NOTING THAT, the term of the current East African Legislative Assembly lapses on 17<sup>th</sup> December 2022;

COGNIZANT, of the need to urgently conclude the election process for the East African Legislative Assembly to commence transacting business of the East African Community, and in accordance with the provisions of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 –

(i) a Joint Committee comprising of seven Members be appointed by each of the Houses of Parliament, to undertake the functions contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017;

The following Members shall represent the National Assembly in the Joint Committee.

- (1) Hon. Wanjiku Muhia, MP – Co-Chairperson
- (2) Hon. John Mutunga Kanyuithia, MP
- (3) Hon. Daniel Nanok Epuyo, MP
- (4) Hon. Francis Sigei Kipyegon, MP
- (5) Hon. Ruth Adhiambo Busio, MP
- (6) Hon. (Dr.) Makali Mulu, CBS, MP, and
- (7) Hon. Sabina Chege, CBS, MP

The Offices of the Clerks of the Houses of Parliament will provide secretariat services to the Joint Committee in accordance with the Standing Orders; and

That the Joint Committee will report to the House within the timelines stipulated in the East African Legislative Assembly (Election of Members of the Assembly) Rules, 2017.

Now, therefore, in accordance with the said provisions of the Standing Orders and the East African Legislative Assembly Elections Rules, 2017, I hereby convey the affirmation Resolution of the National Assembly and invite the Senate to also expedite the establishment of the Joint Committee.

Hon. Senators, you will recall that during the sitting held yesterday, Tuesday, 18<sup>th</sup> October, 2022, the Senate approved the Motion on the appointment of Senators to the

Joint Select Committee on the election of Members to the East African Legislative Assembly (EALA).

Hon. Senators, the Joint Committee is now properly constituted. I urge the Joint Committee to deal with this matter expeditiously and table a report within the stipulated timelines.

I thank you.

Hon. Beth Syengo, what do you want to say. I can see you have placed a request. Do you want to contribute on this Message?

**Sen. Beth Syengo:** Mr. Speaker, Sir, I do not want to contribute on this Message. I had pressed the button earlier on so that I welcome the visitors.

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, you have urged Members of the Joint Committee to perform their mandate in accordance to Standing Order No.230.

I agree with you and request Members of the Committee to know that our representatives on the joint Committee are from the Senate; the House that is a symbol of equity. Once you are done with shortlisting, we would like to have nominated persons to serve as Members of the EALA who represent the face of Kenya. As much as possible, we should have representation from all the eight regions of Kenya.

More importantly, we hope that this Committee will move us from the bad habits we have seen in the past, where political party leaders have used the committee to get their relatives to go and sit at the EALA.

Mr. Speaker, Sir, this should not be the reason we form joint committees for them to go and please their political party leaders, tribal chiefs and tribal kingpins.

I thank you.

**The Speaker** (Hon. Kingi): Let us go to the next Order.

## PAPERS LAID

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 19<sup>th</sup> October, 2022. These are reports of the Auditor-General for the year ended 30<sup>th</sup> June, 2021, on the financial statements of the following-

Report of the Auditor-General on the Financial Statements of County Executive of Nyandarua for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Maasai Mara Community Support Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Turkana County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Turkana County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Lamu County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Lamu County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Lamu County Fisheries Revolving Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Lamu County Bursary & Scholarship Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Lamu County Emergency Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kericho County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kericho County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Garissa County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Garissa County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Garissa County Scholarship Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Garissa County Investment Development Authority for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Garissa County Emergency Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Gatamathi Water & Sanitation Company Ltd for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Gatanga Community Water Scheme for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Murang'a South Water & Sanitation Company Ltd for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kahuti Water & Sanitation Company Ltd (Murang'a) for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Elgeyo Marakwet County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Elgeyo Marakwet County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Bungoma County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Bungoma County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Nandi County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Nandi County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statement of Kiambu County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kiambu County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kiambu County Assembly Staff Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Ruiru Juja Water & Sewerage Company Ltd for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kikuyu Water Company Ltd for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of County Executive of Nairobi City for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of County Assembly of Nairobi City for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Wajir County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Wajir County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kisumu County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kisumu County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Busia County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kwale County Executive for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kwale County Assembly for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kwale County Trade Revolving Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kwale County Youth, Women & Persons with Disability Revolving Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kwale County Disaster Management Fund for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor-General on the Financial Statements of Kwale County Bursary Fund for the year ended 30<sup>th</sup> June, 2021.

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

**The Speaker** (Hon. Kingi): Let us move on to the next Order.



## STATEMENTS

INCESSANT HUMAN-WILDLIFE CONFLICT  
IN TAITA-TAVETA COUNTY

**Sen. Maanzo:** Mr. Speaker, Sir, I have a request for a Statement on the human-wildlife conflict in Kibwezi East Constituency in Makueni County.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding human-wildlife conflict in Kibwezi East and Kibwezi West constituencies, among other sub-counties, in Makueni County.

In the Statement, the Committee should-

(1) Outline measures the Kenya Wildlife Service (KWS) has taken to deal with the rampant human-wildlife conflict in Masalani, Kyuasini, Ngiluni, Ngomani, Mbetwani, Manguluku, Mwakila, Kathekani, Mberia and Ilikoni locations, among others bordering the Tsavo and Chyulu Game Parks, where many cases of residents being killed or sustaining life-threatening injuries leading to permanent disabilities have been reported, their food and cash crops destroyed and their livestock killed.

(2) State when the affected residents would be compensated for the loss they have incurred from the incessant human-wildlife conflict given that some have lost their lives in addition to the animals and crops which they depend on as their source of livelihood.

(3) State whether there are any plans by the Ministry of Tourism, Wildlife and Heritage to fence these parks.

(4) Spell out measures, if any, to institute sustainable and lasting solutions to the human-wildlife conflict in the said areas.

Mr. Speaker, Sir, with your kind permission, I would like to make one Statement. Three days ago, a form four student was killed by a hippo and in the last one week five people have been killed by hippos and wildlife officers around that particular area.

I urge the Committee to assist me on this matter and urge the KWS to take urgent action so that no more lives are lost on River Athi along Makueni and Kibwezi East and West constituencies.

Thank you, Mr. Speaker.

## KOITALEL SAMOEI MEMORIAL DAY

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir, for your indulgence. I rise to issue a Statement on a topic of general concern. Today is Koitalel Samoei Memorial Day. It is normally held on the 19<sup>th</sup> of October.

I rise pursuant to Standing Order No. 52(1) to make a Statement on an issue of general topical concern and national importance, namely; Koitalel Samoei Memorial Day that is to be held today 19<sup>th</sup> October, 2022.

Mr. Speaker, Sir, Koitalel Samoei was born in 1860 at Samitui in Aldai to Kimnyolei Arap Turgat. He was the last born among the four sons of Kimnyolei Arap

Turgat and belonged to the Kaplelach age-set of the Nandi. For the benefit of the House, the President belongs to the same age set as Koitalel's, the Kaplelach age-set. Even though he was the youngest, he was reportedly close to his father and displayed the greatest ability in understanding prophetic signs.

Koitalel Samoei succeeded his father at the age of twenty-five as the Orkoiyot who was the supreme spiritual and political leader of the Nandi people and were traditionally from the Talai Clan believed to be chosen by God (*Asis*). He prophesied about the coming of the British and the railway, which he revealed to the people as a snake passing through the land of Nandi spitting fire. It took little time before the British arrived and Koitalel rallied his men in fighting and resisting the construction of the railway through the land of Nandi.

Mr. Speaker, Sir, Samoei led the Nandi people in resisting the British fearlessly though they had no guns. They strategically attacked and stole railway construction materials when the British least expected. They resisted them for twelve years. On 19<sup>th</sup> October, 1905, a number of years ago, a British Colonel named Richard Meinertzhagen tricked him to a meeting to negotiate a truce where Koitalel Samoei was shot dead.

Koitalel's head was chopped off and taken away to the United Kingdom (UK) in London together with his weapons where they are up to date. The skull has never been returned. Koitalel's death marked the end of the Nandi resistance towards the British.

It is after the death of Koitalel Samoei that the Talai clan and the Nandi community suffered serious injustices at the hands of the British colonial rule such as mass murder, detention without trial, forced evictions from ancestral land, confiscation of property and other serious abuse of basic fundamental human rights also captured by the International Criminal Court (ICC) Charter.

Mr. Speaker, Sir, Koitalel Arap Samoei is among the Kenyan super-heroes and pre-independence legends who fought for their communities' land, freedom, spiritual well-being of the people and the independence of Kenya. They include: Field Marshal Dedan Kimathi, Mekatilili Wa Menza, Bildad Kaggia, Harry Thuku, Jaramogi Oginga Odinga--- We are lucky that the son of the scion is in the House, the Senator for Siaya. The others were: Paul Ngei and Ole duma, a Samburu hero. Once again, we are lucky that Sen. (Dr.) Lelegwe Ltumbesi, our Deputy Majority Whip, is in the House.

On 31<sup>st</sup> July, 2021, the United Nations Council wrote a letter ordering the United Kingdom Government to make public apology and compensate the Talai Community of Kenya for horrendous violations of their rights. The above circumstances are a clear indication that the rights of Talai clan and the Nandi community were grossly violated.

On that premise, it is worth to note that when I was the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, this House adopted a Report on Talai Historical injustices. That Implementation Report was supposed to be transmitted to the Government of Kenya, the Attorney General's Office and the National Land Commission (NLC) to work on repatriation and re-writing the wrongs that the British Government committed.

We call upon the Government to expedite the implementation of all reports touching on the violations of the right of the Talai and the Nandi people at large and any

other person who should be compensated for fighting for the country's Independence. I call upon the country to join us in celebrating our hero; Koitalel Samoei, among other legendary heroes who fought for Independence in this country today 19<sup>th</sup> October, 2022.

I request under Standing Order No. 52(3) that you refer this matter to the Committee on Justice, Legal Affairs and Human Rights. I wish everyone a happy Koitalel Samoei Memorial Day and a Happy Mashujaa Day tomorrow.

Thank you.

INCESSANT HUMAN-WILDLIFE CONFLICT  
IN TAITA TAVETA COUNTY

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for this opportunity to raise this Statement on human-wildlife conflict in Taita Taveta County.

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the incessant human wildlife conflict in Taita Taveta County.

In the Statement the Committee should-

(1) Outline the long-term strategies put in place by the KWS to ensure that the encroachment of wildlife into residential areas and farms is dealt with permanently.

(2) State the measures and interventions in place to compensate families affected by human wildlife conflict with specific reference to victims of deaths, snake bites and crop destruction which were removed from the list of items for compensation, detailing the particulars of those compensated in the last four years.

(3) State the amount collected by the Tsavo Conservation Area and remitted to the communities around the Tsavo National Park in the last two years in accordance with the Wildlife Conservation and Management Act, which requires that a minimum of five per cent of the benefits from national parks be allocated to local communities neighbouring a park.

(4) Outline the legislative interventions the Committee seeks to introduce to address gaps noted in the above Act such as benefits due to communities neighbouring the parks and mechanisms to address compensation for crop destruction and victims of snake bites which have been exempted from the list of items for compensation.

**The Speaker** (Hon. Kingi): Sen. Mwaruma, the approved Statement is substantially different from what you have just read out. Could you confirm the genuine Statement so that we know which one to go by. You may want to approach the Clerk's desk to confirm that.

*(Sen. Mwaruma approached the Clerk-at-the-Table)*

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

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, that is a serious deviation from procedure. Our understanding is that before a Member reads a Statement, he has received the

consent of the Office of the Speaker and the Speaker has read and approved that Statement.

If the Member is reading something which is divergent, it means it is without your approval. According to our Standing Orders and traditions, you should strike it out and the Member to seek a fresh opportunity to read his Statement.

**The Speaker** (Hon. Kingi): Very well. Hon. Senator and that is why we need to verify because it is an approved Statement that carries the day, not any other Statement.

Sen. Mwaruma, you may take your seat. I think we have managed to get to know where the problem is and indeed you have read the correct Statement. So, we rest that matter at that.

Before we proceed, I would wish to order that the Statement by Sen. Cherarkey be committed to the Justice and Legal Affairs Committee (JLAC) for action.

*(The Statement was committed to the Justice and Legal Affairs Committee)*

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

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

**Sen. Cheptumo:** Mr. Speaker, Sir, we were almost believing that the Hon. Senator misled the House by reading the wrong Statement. So, who is misleading the House?

**The Speaker** (Hon. Kingi): Hon. Senator, that matter has been dealt with. Let us now listen to Sen. Olekina, please.

**Sen. Olekina:** Mr. Speaker, Sir, I thank you for allowing me to comment briefly on the Statement that has just been read by the distinguished Senator from Taita Taveta.

Earlier this year, we travelled to Masimba where four Maasais were killed by the police officers as a result of a demonstration by women because of the serious human-wildlife conflict. At that particular time, the issues which have been canvassed by Sen. Mwaruma were supposed to have been dealt with.

We came up with four measures that were supposed to be taken by the Executive. These measures were confirmed by the current Interior Minister that the people who have been killed or whose crops have been destroyed would be compensated.

As I stand here today, my own father's crops were destroyed by wild animals way back in 1983, but he has never been compensated. This is a matter which I hope that this current Committee will take it seriously. If you look at the HANSARD reports of both the Senate and the National Assembly, you will see year in, year out, this matter being debated.

I hope that this time around we can begin to really pronounce ourselves. I really wanted to request the Senator from Taita Taveta that instead of just asking for a Statement, I think it is about time that we should now move a Motion so that the Senate can pronounce itself on this matter.

There are so many people in Taita Taveta, Kajiado and Narok counties who are killed on a daily basis by wild animals. We value these wild animals so much because

they bring us a lot of tourist dollars. In fact, whenever the Maasai people kill a lion, they are sent to jail for five years. However, when a lion kills a Maasai, he is never compensated. It is about time that we started valuing our people and respecting the pronouncements from this House.

When we stand here and we represent our people, we should be able to plead with the Executive to compensate those people. Let us not just be paying lip service here all time. We travelled there and we were so many of us.

I would like to request that this committee that you will commit this Statement to, to consider - if it is not the Senator from Taita Taveta who will move this Statement - the committee by *suo motto* should come up with a Motion so that we can finally pronounce ourselves on this issue of human-wildlife conflict.

Mr. Speaker, Sir, I really thank you for allowing me to comment on it.

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

#### STATE OF HEALTHCARE AT VIHIGA COUNTY HOSPITAL

**Sen. Osotsi:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health on the state of healthcare service provision at the Vihiga County Hospital.

In the Statement, the Committee should-

(1) Shed light on allegations of negligence and bribery for service provision at the Vihiga County Hospital, giving details of those involved in the bribery allegations and outline the disciplinary measures, if any, preferred against officers found culpable.

(2) Table an audit of medical service provision and related functions undertaken at the Vihiga County Hospital in the last 36 months, stating the amount of public funds utilized within the period.

(3) Ascertain the current state of service provision at the hospital, making reference to the actions taken by the County Government to rid the hospital of corruption and mismanagement and table a detailed report on corrective actions.

(4) Outline targeted interventions aimed at improving the status of service provision at the facility to ensure that the hospital achieves proper Level 5 status, noting that the County does not have a Level 5 hospital.

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

**The Speaker** (Hon. Kingi): What is your point of order, the Senator for Laikipia County?

**Sen. Kinyua:** Mr. Speaker, Sir, did you see what the nominated Senator from Samburu did? She just left the Clerk's table and she walked across without following the correct procedure of this House.

**The Speaker** (Hon. Kingi): Senator, unfortunately she is very lucky, I did not see her. So, she may get away with that.

*(Laughter)*

Proceed, Sen. Osotsi.

**Sen. Osotsi:** Mr. Speaker, Sir, if you wish, let me make a comment. A few weeks back we received information that there are individuals who are asking for bribes at the Vihiga County Hospital for patients to be treated. Indeed, the county government carried the investigation and one person who is not even an employee of the hospital was arrested. This person has been at the hospital receiving money and, probably, there are others who are receiving money from patients so that these patients can be treated.

Clearly---

**The Speaker** (Hon. Kingi): Hon. Senator, after you have read the written Statement, you can now proceed to---

**Sen. Osotsi:** Mr. Speaker, Sir, that is why I asked for permission as to whether I should give my comments.

**The Speaker** (Hon. Kingi): Permission was not granted. Once the Statement is committed, at some opportune moment, you will have that opportunity to do exactly what you are doing. Once you have read, let us leave it at that.

**Sen. Osotsi:** Thank you.

#### STATUS OF VIABILITY OF LAKE TURKANA WIND POWER PROJECT

**Sen. Chute:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Energy on the status of viability of Lake Turkana Wind Power Project.

In the statement, the Committee should-

(1) Disclose the terms of the contract between Lake Turkana Wind Power Project and the Government, giving the particulars of the individuals who signed the contract on behalf of the Government;

(2) State the amount in sales of units the project has sold to the Government since it began operations.

(3) Appraise the Senate on the status of construction of electricity line from Lake Turkana to Naivasha, stating whether the project was tendered, providing the details of who won the award, disclosing penalty, if any, the Government has been billed and paid for the delay in the construction of the line.

(4) State the amount of funds the project earned in the Carbon Credit (CC) since the project began stating the amount to the communities around the project, and state the share of the project due to the communities around the project who contributed the land.

Mr. Speaker Sir, I have a second Statement.

**The Speaker** (Hon. Kingi): Proceed to make the Statement please.

#### ACQUISITION AND DISTRIBUTION OF RELIEF SUPPLIES TO MARSABIT COUNTY

**Sen. Chute:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Committee on National Security, Defense and Foreign Relations

regarding the process of acquisition and distribution of relief supplies to Marsabit County.

In the statement, the Committee should-

(1) Table a detailed report of the amount of relief supplies provided by Government to the people of Marsabit in tonnage in the last five years.

(2) Disclose the nature, type and the cost of relief food supplies that have been disbursed to the county in the last five years stating the particulars of the beneficiaries, indicating the benefits and the benefitting sub counties.

(3) Audit the procedure of how the suppliers are arrived at, stating the tendering process, providing the details of who won and the cost of the award.

(4) State measures if any to ensure that such relief supplies fully benefits the targeted communities in the future.

I thank you.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Lelegwe, you may proceed.

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

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

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(3). I know that it is at your discretion, but some of these issues are of great concern, especially the Turkana Wind Power Project.

Standing Order No.53(3) 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 fifteen minutes.”

Mr. Speaker, Sir, I appreciate that this is at your discretion. However, appreciating the fact that some of these are live matters, I request that you, at least, allow one Member from the Majority and Minority sides to contribute so that we speak to these live issues.

I know that we are running against time. Appreciating the fact that there are a number of Statements, I kindly beg that you give each side one opportunity to contribute. I am not encouraging the culture of riding on Statements, but allow us to ride to some extent.

**The Speaker** (Hon. Kingi): I believe that the requests that are on the screens are for contributing to the two Statements made by Sen. Chute. If you do not intend to speak to those Statements, please exit the screen so that we pick the Members who would wish to speak to those Statements.

Hon. Senators, I will pick one Senator from each side to contribute to the Statements made by Sen. Chute.

Sen. Syengo, you may proceed.

**Sen. Beth Syengo:** Thank you, Mr. Speaker, Sir. The issues that the Senator brought on board are very key. The concerned Committees can take charge and give information and details on the same.

**The Speaker** (Hon. Kingi): Sen. Cheptumo, you may proceed.

**Sen. Cheptumo:** Mr. Speaker, Sir, I want to comment on one of the Statements which has been referred to my Committee.

The issue of distribution of relief food in these affected areas is very critical. Sometimes the food supplied from the national Government do not reach the affected persons. Therefore, it is important that this House takes up this matter so that the supplies from the national Government which are taken to the regional, county and sub county offices reach the affected people.

When I was serving as a Member of Parliament (MP) for Baringo North Constituency, we received communication about the ratio.

Mr. Speaker, Sir, I am sure that when you were an MP, you used to receive letters from the Office of the President (OP) saying 90 kilogrammes, 50 or 30 or 100 bags have been supplied to the sub counties. However, when you go there, you may receive less than that. Therefore, it is very critical that the Government ensures that what is being allocated to our locations, sub locations and our counties, is delivered.

I appreciate the Statement from the Member.

As the Chairperson of the addressed Committee, we will deeply go into this so that Kenyans benefit from what the Government provides.

#### DROUGHT AND FAMINE CRISIS IN ASAL AREAS

**Sen. (Dr.) Lelegwe Ltumbesi:** Thank you, Mr. Speaker, Sir. I rise to seek a Statement on the state of alleviating drought and famine in Arid and Semi-Arid (ASAL) Areas and other affected areas of Kenya.

Pursuant to Standing Order 53(1), I seek a statement from the Senate Standing Committee on National Security, Defense and Foreign Relations on the Drought and Famine Crisis in ASAL Areas of Kenya and all other affected areas of Kenya.

In the Statement, the Committee should-

(1) State the measures put in place to alleviate the scourge of drought and famine in ASAL areas and other of Kenya affected stating when the drought will be declared a national disaster.

(2) Disclose how much relief has been disbursed since the start of the drought both in terms of food rations and any other humanitarian assistance to drought-hit communities of Kenya.

(3) Appraise the Senate on the measures put in place to protect the livelihood of the drought-affected communities, including stating the regions targeted by the Kenya Meat Commission (KMC) for the livestock off-take programme.

**The Speaker** (Hon. Kingi): I will give to one Senator from each side. We will hear from Sen. Mungatana, and then immediately after him, we will have Sen. Olekina from this other side.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I thank Sen. (Dr.) Lelegwe on this issue of drought.

As the Committee looks at his statement and request, can they add why it is that in this ASAL regions, we cannot have the huge silos so that food can be stored. This is



because it is such a predictable thing. There is the rainy season, then the dry season followed by drought.

In those days, at least we knew there used to be strategic grain reserves. It is now a matter of national security that in our regions, such as Tana-River County, we do not have those strategic reserves. We do not have places where we can be assisted when there are problems.

I do not know what the problem is. This is because even in the olden days, the Egyptians in the Bible, we read about Joseph that in good times you spare some for the bad times. What is it that the Government cannot do to help these areas?

Mr. Speaker, Sir, as you commit the Statement to the relevant Committee, consider this also as a security matter. We should strategic grain reserves in some of our places such as our county- Tana-River.

**The Speaker** (Hon. Kingi): Sen. Olekina, you may have the Floor.

**Sen. (Dr.) Lelegwe Ltumbesi:** On a point of order, Mr. Speaker, Sir.

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

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, I rise on Standing Order No.53(a). Last week on Thursday, there was an Adjournment of Motion to discuss the matter of drought in Kenya. You note that during the debate on that Motion, most Senators could not contribute on that very important matter currently in Kenya because of time. Therefore, this necessitated my statement today so that Senators get opportunity to speak on this matter.

I have heard your ruling that you are giving two Senators from either side time to contribute. This is a very important matter. I request, if possible, you give enough time to Senators to contribute.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Lelegwe Ltumbesi, are you suggesting that the Speaker is out of order?

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, not at all. I am just requesting that you give us enough time because this is a very important time in our country now.

**The Speaker** (Hon. Kingi): That is not a point of order.

Proceed Sen. Olekina.

**Sen. Olekina:** Mr. Speaker, Sir, thank you. I begin by thanking the distinguished Senator of Samburu County for raising this matter which we must talk about on a daily basis.

When you wake up in the morning and watch Cable News Network, Inc. (CNN), they will give you the news. Twenty minutes later, they will remind you of the news and keep reminding you until someone acts.

Drought is ravaging our economy. Our people, the pastoralists are now languishing in poverty. We all know there is no way we can detect drought. It is not like any other natural hazard such as a tornado which you can detect. It is something that we need to learn so that we can prepare for it.

The more we talk about the challenges that we face because of drought, the more this Government should now start preparing itself. I echo the sentiments of the

distinguished Senator of Tana-River County for asking why we cannot prepare ourselves year.

I believe that it is about time we now start coming up with measures to conserve water when we have floods. It is time for us to preserve food for areas which are hardly hit.

This morning when I was reading the news, I saw a picture of a journalist, Mashirima Kapombe, holding a child from Kilifi County, suffering because of the drought. We were able to see that child. What about the other children who were not seen by anybody; who have no journalist to go there and highlight their plight?

*(Applause)*

On a serious note, we talk about trying to improve the standard of living of our people, but I think it is just about time that we now started planning. We collect so much revenue from every county. These are things that I keep talking about.

It is about time that this House of union should now pronounce itself through Motions directing each and every county to set up an emergency fund where we can more revenue from it and map out. Just like they can carry out a spatial plan to collect revenue for building that county, they can also carry out a plan so as to know areas that are prone to drought.

*(Applause)*

I keep talking about Kajiado County because it is one of the two counties, Narok being the other, which are neighbours and belong to the same economic bloc. I represent Narok County. When people in Kajiado County suffer, the people of Narok County also suffer. This is because all the cows in Kajiado County are moved.

This morning, I had a call from a friend of mine who now wants to get into the meat industry. The first thing he said was, "I want to go to Kajiado County, Il bisil Market, to buy cows because they are now very cheap". These are cows that a pastoralist has spent most of his life rearing, walking for miles on a daily basis to be able to feed them only for him to come and sell one at Kshs1000.

If we care to listen, let us not just talk, but move with action. The new Ministry set up by the President should now come up with a clear policy on how they will develop uptake programmes that will buy the cows from the farmers at high prices, preserve that meat and sell it for more money.

Mr. Speaker, Sir, finally, we might be talking from two different isles, but when it comes to an issue that will be able to destroy livelihoods, we should all stand together and talk. We should not only look at our counties.

I talk about Kilifi County because, it pains me when I see a child suffering who depends on the parents and never asked to be born in this country. During the Division of Revenue Bill, we sent billions of Kenya shillings to Turkana County. In fact, Turkana is the county that gets the highest revenue. However, when people are dying there, that

County Government cannot even take 30 per cent of their sharable revenue and put it into the drought prevention measures.

Mr. Speakerr, Sir, I beseech my colleagues here and the national Government, that it is about time we moved in action to save Kenyans from this ravaging drought. That is the only time we will justify earning salaries that are paid by those poor people who struggle to buy a kilogramme of sugar. They pay taxes yet we here, spend millions of shillings wearing very expensive clothes and do not care about them.

I hope somebody out there will listen.

**The Speaker** (Hon. Kingi): Hon. Members, I know you wish to speak on this matter. Unfortunately, according to the Standing Orders, however generous I should be, I can only stretch it to 15 minutes. We have gone long beyond the 15 minutes on that Statements. So, we will rest there and move to the next Statement.

Sen. Olekina, please request. If you are not ready, we will understand.

Sen. Kibwana, please, proceed.

**Sen. Kibwana:** Thank you Mr. Speaker, Sir---

**The Speaker** (Hon. Kingi): Senator, please just have your seat. Sorry to interrupt.

Hon. Senators, allow me to make this Communication before we allow the Senator to make a request.

*(Interruption of Statements)*

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM ST. CHRISTOPHER MIXED DAY SECONDARY SCHOOL

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from St. Christopher Mixed Day Secondary School in Embu County.

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

If the Senator for Embu County is in the House, I now allow him two minutes to welcome the visitors.

**Sen. Munyi Mundigi:** Bw. Spika, nimefurahia kusikia wageni kutoka Kaunti ya Embu wametutembelea. Ninawakaribisha waje waone vile tunafanya kazi. Ni Baraka kuwa nao hapa.

Bw. Spika, mjue kwamba kuna njaa katika Kaunti ya Embu. Kuna njaa kule Kiambere na Mutuobare. Mbuzi wanakufa na miraa imekauka. Kwa hivyo, ninaomba---

**The Speaker** (Hon. Kingi): Hon. Senator, restrict yourself to welcoming the visitors.

**Sen. Munyi Mundigi:** Bw. Spika, ni sawa. Nikimalizia, tunapongea mambo ya janga la njaa, mkumbuke Kaunti ya Embu kuna njaa. Tuangalie jinsi tunaweza kuchimbiwa mabwawa ili tuweze kuwa na kilimo kizuri.

*(Resumption of Statements)*

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

CIRCUMSTANCES THAT LED TO THE DEATH  
OF MASTER TRAVIS MAINA AT KNH

**Sen. Kibwana:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health on the circumstances that led to the death of Travis Maina at the Kenyatta National Hospital.

In the Statement, the Committee should:

(1) Shed light on the circumstances that led to the death of Master Travis Maina which occurred on Monday 10<sup>th</sup> October, at the Kenyatta National Hospital. Master Maina 2022 was two and a half years and had a medical emergency of a fork jembe lodged in his head.

(2) Give reasons for the inordinate delay in attending to the boy, noting the time difference between which the patient arrived in the hospital and the time he was seen, considering the urgent and critical nature of the care he needed.

(3) Undertake an investigation into the conduct of the hospital in dealing with the patient and propose disciplinary actions on the medical officers found culpable.

(4) Undertake a visit to the hospital to ascertain the state of healthcare provision.

Thank you.

**The Speaker** (Hon. Kingi): I will allow some intervention on this. This is a weighty matter which has been highlighted in the mainstream media. So, if we are brief, we will hear more Senators because we only have 15 minutes to offer.

Sen. Madzayo, please proceed.

**The Senate Minority Leader** (Sen. Madzayo): Asante, Bw. Spika. Kwanza, ninampa kongole dada yangu, Sen. Kibwana, kwa kuleta taarifa hiyo.

Pili, ninakubaliana na yote aliyosema. Tuliona picha za huyo mtoto katika magazeti, akiwa na uma jembe kichwani mwake. Ninaunga mkono ya kwamba madaktari walichelewa kumhudumia yule mtoto.

Hata hivyo, hilo silo jambo pekee. Kulikuwa na ukosefu wa madaktari katika hospitali za kaunti lakini wakaandikwa lakini sasa inaonekana wamezembea kazini.

Miezi miwili ama mitatu iliyopita, Bunge la Kitaifa lilimpoteza Mhe. William Kamoti, ambaye alipata ajali katika barabara ya Mombasa-Kilifi. Alipelekwa hospitali saa mbili usiku lakini madaktari walikuja saa nane. Hiyo ni baada ya masaa sita.

Hospitali ya Kilifi iko karibu sana na pale ambapo ajali hiyo ilitokea. Ni kama kilomita mbili ama tatu. Wasamaria wema walimchukua Mhe. haraka na kumpeleka hiyo Hospitali ya Wilaya ya Kilifi.

Iwapo daktari angefika mapema, labda baada ya nusu saa hivi au dakika kumi na tano, tuko na imani Mhe. Kamoti asingepoteza maisha yake. Mhe. Kamoti alikuwa wakili mkubwa huko pwani na Kenya nzima na pia alikuwa mwakilishi wa eneo Bunge la Rabai.

Bw. Spika, madaktari kutofika hospitali katika masaa yanayotakikana ili kuokoa maisha ya wagonjwa, ni jambo ambalo linaonekana linaanza kupata moto kila mahali. Huu utepetevu unatendeka maeneo ya Kisumu, Kilifi na pia hapa Nairobi.

Ninaomba hiyo Taarifa ijumuishwe pamoja na ya Mhe. Kamoti ili ziangaliwe pamoja. Ni kwa sababu gani madaktari hawakuwa kazini na kama walikuwa kazini, ni kwa nini walichelewa kumhudumia mheshimiwa. Na pia yule mtoto ambaye Sen. Kibwana amemzungumzia? Itakuwa vyema hii kesi ya mheshimiwa ijumuishwe na mtoto Travis.

**The Speaker** (Hon. Kingi): Sen. Tabitha Mutinda, proceed.

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, the story of Travis is a sad one. The mother lost her two-year-old simply because she had gone to a public hospital which is supposed to offer services in this country.

As mothers, we go through pain if we are not attended to because of lack of money. All the doctors did at KNH was to look at the innocent child and take photos.

It is sad that we are still losing children, yet we have invested in hospitals. Many such cases have been reported at KNH. The matter should be investigated. We are saddened by the response from KNH. We should not be losing our children. That was a traumatizing situation to the mother.

Mr. Speaker, Sir, as a nation, we send our condolences. As parents in this House, we request that the Committee should prioritise this matter.

I thank you.

**The Speaker** (Hon. Kingi): Unfortunately, 15 minutes are over. If you take less time, we will allow more Senators to speak. However, the two Senators, especially the Senator for Kilifi decided to speak for more than 10 minutes.

*(An hon. Senator spoke off record)*

Yes, it is a live matter, but we are guided by the Standing Orders. It is stated that the Speaker may allow for comments in relation to the Statement for not more than fifteen minutes.

The next Statement is by Sen. Gataya.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. This is a matter of procedure and it requires that you give us a considered ruling. What you are talking about is Standing Order No.53(3). Standing Order No.53(3)(a) requires you to allow for comments for 15 minutes. Standing Order No.54(4) states as follows-

“The Speaker may allow the Senator who made the request for a Statement under paragraph (1) or any other Senator to make comments or observations in relation to the report tabled under paragraph (3)(b), for not more than twenty minutes.”

*(An hon. Senator spoke off record)*

I know the meaning of the word “report”. The medium of learning where I went to school was English. Therefore, I understand it well. Whatever you table here is a report because you are reporting to us.

I request that we do not rush. Let us allow the Speaker to make a considered opinion. It could be that a total of 35 minutes are available because we have 20 and 15 minutes as per the Standing Order Nos.53(4) and 53(3)(a), respectively.

This is a matter of national importance like the drought that is affecting the country. This Senate would not have contemplated a situation where we are gagged. We should speak about this important issue.

**The Speaker** (Hon. Kingi): Hon. Senators, we have a lot of business to conduct. I am not in any way demeaning the case of this child by limiting time. In fact, I am not limiting time.

The time given by the Standing Orders for debate is not more than 15 minutes. We have used 15 minutes. I have gone through the Standing Orders to find out if there is any other Standing Order that allows me to extend the time.

We will still have an opportunity to speak to this matter at either the Committee level or when the report is tabled. Then you will have interrogated the report and gotten to know exactly what caused the hospital to behave the way it did.

Hon. Senators, an opportunity will come. Let us rest that particular matter and proceed.

**Sen. Cherarkey:** On a point of order, Mr. Speaker, Sir. You need to protect me from Sen. Korir because you are the only one who can rule me out of order.

Mr. Speaker, Sir, you need to provide further guidance in view of Standing Order No.53. It talks about 15 minutes, but Sen. Madzayo spoke for more than the requisite time. If you allow us 15 minutes, maybe each Senator should speak for two minutes on such a matter like the death of the child which has affected the whole country.

Mr. Speaker, Sir, as you make your Solomonic ruling, for future purposes, you need to guide such that every Senator who wants to comment to use only two minutes, so that a number of us can contribute. The issue of the unfortunate death of the child at KNH should be dealt with firmly. Somebody must be held accountable.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, sometimes it is not good for the Chair to micromanage Members. If you know well that the window that we have to comment on a weighty matter is 15 minutes and every Senator wishes to contribute, the Chair does not need to micromanage you. However, now that we are unable to manage our time, you will allow me to micromanage in the next Statement, when such an opportunity arises. I am really sorry, but I will have to do it.

Please proceed, Sen. Gataya.

RELOCATION OF THARAKA-NITHI COUNTY HEADQUARTERS  
FROM CHUKA TO KATHWANA

**Sen. Gataya:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the relocation of Government administrative services from Chuka Town to Kathwana Town Headquarters in Tharaka-Nithi County. In the Statement, the Committee should-

(1) Investigate the reasons why there are no Government officers in Kathwana, which is the gazetted county headquarters, despite public participation and consensus. This defeats the spirit of devolution as investors, business people and the public are unable to receive services.

(2) The Committee at the same time is supposed to facilitate the actualization of county headquarters and ensure public officers move to the designated county headquarters from Chuka Town.

(3) The Committee should recommend for the towns of Chogoria, Chuka and Marimanti to be designated as commercial industrial towns.

Mr. Speaker, Sir, it is important for this House, and especially the Committee on Devolution and Intergovernmental Relations, to know that as of today, Kathwana Town, which has been in existence since the inception of devolution, has been a ghost headquarters for the past 10 years.

That is killing the spirit of devolution because through public participation, the people of Tharaka Nithi woke up one day and---

**The Speaker** (Hon. Kingi): Hon. Senator, once you are done with your written Statement, you should move to the next. You do not debate your own Statement.

**Sen. Gataya:** I am well guided, Mr. Speaker, Sir. I have a second Statement. I do not know whether I should proceed.

**The Speaker** (Hon. Kingi): Hon. Senator, proceed.

DIVERSION OF RIVERS ORIGINATING FROM  
NYAMBENE HILLS AND MT. KENYA

**Sen. Gataya:** I rise Pursuant to the Standing Order No. 53(1) to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources concerning the diversion of the rivers originating from Nyambene Hills and Mt. Kenya by the locals in the neighboring Meru County.

In the Statement, the Committee should-

(1) Explain why the Ministry of Water, Sanitation and Irrigation has not taken any action to deal with the intended drying of the rivers in Tharaka-Nithi during the dry season.

(2) Apprise the Senate on the status of investigations into locals who block and divert rivers from flowing from Nyambene Hills and Mt. Kenya to their farms.

(3) Explain the recourse available to the residents whose livelihood and livestock are being affected as the drought situation is alarming.

(4) Recommend investigations and interventions by Water Resources Management Authority (WARMA) to alleviate the ongoing drought crisis.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): I believe that we are okay with those Statements since there is no intervention.

Let us move to the Statement by Sen. Orwoba.

#### DATA PROTECTION IN SIM CARD REGISTRATION PROCESS

**Sen. Chimera:** Thank you, Mr. Speaker, Sir. I have been given authority to read the Statement on behalf of Sen. Orwoba. The same has been communicated to the Clerk and approval sought and granted.

I rise Pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Information, Communication and Technology (ICT) on allegations on data poor protection measures in the sim card registration process.

In the Statement, the Committee should-

(1) Give the schedule timeline on the approved data protection general regulations submitted by the 2021 taskforce under the Data Protection Commissioner of Kenya's office will come into force;

(2) Table a list of all licensed data controllers and processors;

(3) Outline the step by step procedure used in the sim card registration process, stating the storage of this data, noting that such data should not be transferred or cross Kenya's borders;

(4) Verify the physical location of the storage of the data collected by telecommunication companies such as Safaricom and Airtel, noting the sensitive nature of personal data such as individuals photographs and Identity Card (ID) numbers, giving reasons for the need of additional sensitive information such as data owners' photograph of the face in contravention to the Kenya Information and Communications Consumer Protection Regulations, 2010;

(5) Investigate the manner of collection, processing and storage of data, stating the security measures in place to limit access and manipulation by third parties; and,

(6) State targeted interventions to curb the illegal sharing of personal information and invention of privacy by marketing firms and companies promoting products and services.

**The Speaker** (Hon. Kingi): In the absence of intervention on that particular Statement, I will call upon the Senate Majority Leader to issue a Statement on the Business of the Senate for the week commencing Tuesday, 25<sup>th</sup> October, 2022.



BUSINESS FOR WEEK COMMENCING  
TUESDAY, 25<sup>TH</sup> OCTOBER, 2022

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. The Senate Majority Leader is accompanying the Deputy President to a national function and has, therefore, appointed me to hold his brief.

Mr. 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, 25<sup>th</sup> October, 2022. As you are aware, tomorrow, 20<sup>th</sup> October, 2022 is a public holiday and as such, the Senate Business Committee (SBC) has not scheduled any business for this House.

Regular sittings of this Senate will resume on Tuesday, 25<sup>th</sup> October, 2022. On that day, the SBC will meet to schedule the business of the Senate. This is projected to contain business that will not be concluded from today's Order Paper at Orders Nos. 8, 9, and 10 and any other business scheduled by the Committee.

The Order Paper of Wednesday, 26<sup>th</sup> October, 2022, and for Thursday, 27<sup>th</sup> October, 2022, will contain business that will not be concluded on Tuesday, 25<sup>th</sup> October, 2022 and Wednesday, 26<sup>th</sup> October, 2022 respectively, and any other business scheduled by the SBC as well as Petitions and Statements.

Mr. Speaker, Sir, the Standing Committees of the Senate are now fully constituted. I take this opportunity to congratulate all Members who have been appointed to serve in the Committees and wish them the very best in the discharge of their duties. I also hasten to congratulate those Members of the Standing Committees who have been elected Chairpersons and Vice-Chairpersons respectively.

I am aware that the process of elections to the positions of the Chairpersons and Vice-Chairpersons of the various committees is still ongoing. I urge the Senators who will be elected to these positions to take on their responsibilities with utmost dedication, so as to ensure that the Senate effectively discharges on its mandate.

Several Statements have already been requested and accordingly committed to the relevant committees. Additionally, a number of Petitions have been filed and one was presented to the House at yesterday's sitting and was committed to the Standing Committee on Roads, Transport and Housing.

On this and other business of the House, I would like to emphasize on the need for the committees to adhere to the timelines set out in the Standing Orders. This will ensure that the business of this House is disposed off in a timely manner.

Standing Order No. 56(1)(a), provides that a Committee Chairperson may make a Statement relating to a matter for which the Committee is responsible. I urge Committee Chairpersons to use this mechanism to regularly apprise the House on the activities of the committees, so that the House is adequately informed and appropriate guidance on the next course of action is given in good time.

Finally, a number of critical Bills that lapsed at end of the 12<sup>th</sup> Parliament are being re-published. Senators and Committee Chairpersons who wish to sponsor such Bills are once again encouraged to liaise with the Office of the Clerk at the earliest opportunity to have the Bills fast-tracked.

Mr. Speaker, Sir, before I lay the Statement, allow me to congratulate Members from the Minority and Majority side of this House. We have been around and seen that there are a new crop of Senators who are completely committed to their work. Nobody has embarrassed us. Also, we have not had cases where a Motion has collapsed because of lack of people who can contribute to it and neither have we had issues of quorum. I lay the Statement.

Thank you, Mr. Speaker, Sir.

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

*(Applause)*

**The Speaker** (Hon. Kingi): Next Order.

### MOTION

#### APPROVAL OF SENATORS TO SERVE IN SELECT COMMITTEES

*(Sen. Cheruiyot on 18.10.2022)*

*(Resumption of debate interrupted on 19.10.2022)*

THAT, pursuant to Standing Order Nos. 193, 194, 195, and 199, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Select Committees of the Senate as follows –

**A. County Public Accounts Committee**

1. Sen. Samson Kiprotich Cherarkey, MP
2. Sen. John Muhia Methu, MP
3. Sen. Mariam Sheikh Omar, MP
4. Sen. Julius Gataya Mwenda, MP
5. Sen. Moses Otieno Kajwang', MP
6. Sen. Fatuma Adan Dullo, CBS, MP
7. Sen. Richard Momoima Onyonka, MP
8. Sen. Edwine Watanya Sifuna, MP
9. Sen. Andrew Omtatah Okoiti, MP

**B. County Public Investments and Special Funds Committee**

1. Sen. Onesmus Kipchumba Murkomen, EGH, MP
2. Sen. Paul Karungo Thangwa, MP
3. Sen. Maureen Tabitha Mutinda, MP
4. Sen. Miraj Abdullahi Abdulrahman, MP

5. Sen. Eddy Gicheru Oketch, MP
6. Sen. Ledama Olekina, MP
7. Sen. Hamida, Kibwana MP
8. Sen. Tom Odhiambo Ojienda, SC, MP
9. Sen. Godfrey Atieno Osotsi, MP

**C. Committee on Delegated Legislation**

1. Sen. Julius Gataya Mwendu, MP
2. Sen. Danson Buya Mungatana, MP
3. Sen. Gloria Magoma Orwoba, MP
4. Sen. Joyce Chepkoech Korir, MP
5. Sen. Julius Murgor Recha, MP
6. Sen. Daniel Kitonga Maanzo, MP
7. Sen. Mohamed Faki Mwinyihaji, MP
8. Sen. Betty Batuli Montet, MP
9. Sen. Agnes Kavindu Muthama, MP

**The Speaker** (Hon. Kingi): Sen. Oyomo, proceed.

**Sen. Oyomo:** Mr. Speaker, Sir, I am happy that I have been given the remaining minutes from my contribution yesterday. I only used one minute to contribute and the House adjourned.

I stand to support and appreciate the leadership of the House for the selection of the Senators to these crucial committees of the Senate. The Senate serves to protect the interests of the counties and the county governments.

It is worth noting that the Supreme Court in its latest ruling touching on the Senate only reaffirmed what is well stated in the Constitution about the mandate of the Senate. The Supreme Court stated that the Senate has powers to summon governors, to not only answer questions, but give any information that the Senate may require.

Our people deserve accountability and transparency in the usage of resources that have been sent to the counties either from the national Government or the ones that are locally generated. It is for this reason that I support the formation of the three committees that have been presented here. As a Senate, we are looking forward to oversighting the county funds.

This is crucial because we, as a Senate, need to be sure that resources that have been sent to the counties are properly used for the benefit of our people and that our people get value for money spent by the executives at the counties.

In the past - and it is on record - that there are governors who have not come to the Senate when they are summoned by the committees we are approving now. We are only reaffirming to them as a Senate, especially this Fourth Senate that we are looking forward to the governors responding to the summons and answering questions from the Senate committees. Not only answer questions, but we want to see that the funds sent to the counties are well utilized. Other than the proper utilization of funds, the County Public Investments and Special Funds Committee (CPISFC) should check whether the investments done in the county are done to the expectation of Kenyans.

I, therefore, support the composition of the three committees that were presented to the Floor.

I thank you.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I rise to support this Motion. I am one of the Members proposed to join the County Public Accounts Committee (CPAC) by the leadership.

For the first time, we amended the Standing Orders and now we have the CPISFC. I am aware my brother, Sen. Osotsi, is salivating for the chairmanship of that Committee and also Sen. Oketch Gicheru has similar appetite.

I cannot understate the role of these three important committees. Having served in the County Public Accounts and Investments Committee (CPAIC) for three years in the last session, there are many challenges. Sen. Olekina, a number of Members and I have been regular in some of those committees.

There are a number of lessons that you can learn from our experience. It is also good to acknowledge that you were a good client to our Committee on several occasions and you did appear before us. I am happy that you are a good example.

When you were the Governor of Kilifi County, there is no day when you ever declined an invitation or showed contempt towards this important Committee. You diligently, with a lot of commitment and passion appeared before the Committee when called upon. You provided the necessary evidence and support to the Committee and this assisted us in doing our work.

The Senate Minority Leader, Sen. Madzayo, who is your Senator, was always present. There were a number of governors who did not honour committee invites. You need to whisper to some of your former colleagues that Article 226(5) states that even if you leave that office, you can be held liable.

Mr. Speaker, Sir, if you had disobeyed or not appeared before our Committee, it would have raised serious issues before we elected you as the Speaker of the Senate. Governors must be held accountable and there is no option or two way traffic about it.

I call upon the Committee to do their job without fear, favour or contradiction. We gave out billions of shillings to counties. Sen. Olekina talked about the push and pull that we had here over the revenue formula.

Those days, I was the general of one-man, one-vote, one-shilling. I still stand by that principle. There were a number of colleagues whose counties were gaining, but decided to join the losing counties. It is embarrassing that after fighting so hard for three months on the revenue formula as provided by the Constitution, that money cannot be accounted for.

Mr. Speaker, Sir, the counties affected by drought and famine were the ones who were given large amounts of money. They misquoted me in the media and said that I said: "you cannot allocate money to trees." I was misquoted.

The same counties that are lamenting about drought like Kajiado, Turkana and others are the same counties that got billions of shillings that cannot be accounted for.

It rains daily in my county and it is raining even today. In Nandi County, for example, it rains for 11 out of the 12 months. However, there is nothing to show for it.

Mr. Speaker, Sir, there are no drugs in hospitals from Kapsabet and other facilities. As I speak, there is no passable road. We grow tea, coffee and we have milk, but all the roads across the six sub-counties are impassable. From Tinderet, Aldai, Chesumei, Nandi Hills, Emgwen and Mosop and all other constituencies, there is no passable road that allows our people to take their milk to the market.

We are now approaching the maize harvesting season. We will need that maize to be taken to the National Cereals and Produce Board (NCPB) strategic reserves, so that it can be transmitted to counties that suffer drought and famine. As much as God has blessed Nandi County with rains, there is no passable road and yet the Governor is engaging in public relations exercises.

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

*[The Temporary Speaker (Sen. Mumma) in the Chair]*

Madam Temporary Speaker, the Governor should know what we are doing audit here. A social audit needs to be done to ensure we bring accountability. As I speak, the County Government---

*(An Hon. Senator spoke off record)*

You are aware I have 20 minutes? Relax, my brother. Sorry, Madam Temporary Speaker, protect me from some hecklers in this House. I was on a good trajectory--- I withdraw and apologise.

*(Laughter)*

Madam Temporary Speaker, protect me from colleague Senators who are shouting across the aisle yet I am making very important points. There is a reason why I have 20 minutes in the Standing Orders. It was not by default or design.

That is the essence. We need to hold county governments accountable. What have we done with devolution for 10 years? In some places, wananchi will tell you that the National Government Constituency Development Fund (NG-CDF) has done more than the county allocation funds. That is why when NG-CDF was declared unconstitutional, there was a lot of hue and cry.

The President pledged to return NG-CDF. It is because there is “eating” of the funds. You find that somebody has disappeared with Kshs400 million in Siaya County and yet the Ethics and Anti-Corruption Commission (EACC) is down there. Every county has a story to tell that there are so many village millionaires and billionaires as we talk.

In Kakamega County, for example, land has not been spared. It looks like there has been competition on how to steal from the public, especially in our devolved unit. It looks like when the Council of Governors (CoG) meets, they ask each other: “How much have you stolen?” They do not ask: “How much have you done for your people?”

In Narok County, no one can tell how much has been collected in the Maasai Mara National Park to date. It is shameful that after 10 years of devolution, there is nothing to account for even in this city. The Nairobi Metropolitan Services (NMS) left close to Kshs100 billion of public debt, yet it was money allocated after the functions were given to them.

Furthermore, if you ask somebody about it, they say that the military is more effective. They know you cannot summon a General to the Senate because they have court martials. They are stealing through the military and they must be called out as such. The moment the audit report of NMS will be tabled, even the devil will cry and mourn because of the theft and plunder of resources meant for Nairobi City County.

Madam Temporary Speaker, as the Senate, we must stand in defense of devolution as one of our roles under Article 96 of the Constitution. At this point, let me call out EACC because they are sleeping on the job.

During the reign of the Jubilee Party, I was once the Chair of the Committee on Justice, Legal Affairs and Humans Rights. I summoned the multi-agency that was formed to fight corruption. It was chaired by the current Attorney General, Mr. Paul Kihara Kariuki; the former Director of Criminal Investigation (DCI), Mr. George Kinoti; and the current Director of Public Prosecutions (DPP), Mr. Noordin Haji.

The only report they tabled before my Committee was where they had succeeded in prosecuting a case where somebody was charged a fine of Kshs20,000 over a small bribe. At that time, the DPP had promised to go whaling for the big whales and fight corruption. However, up to date, you can hear the Chief Executive Officer (CEO) of EACC calling the media saying that he is going to arrest some governors. However, you never hear anything after that.

We must be honest that no one has acted upon the recommendations that CPAIC has made. We have recommendations. The EACC Liaison officer sits in CPAIC, but no one has implemented the recommendations. Therefore, Kenyans should not accuse the Senate of being complacent in fighting corruption.

At this point, it is good that I remember Sen. Gataya, famously known as Mo Fire. I did not know it was an official name, but I have seen it today. Although he has stepped out at the moment, but I can see that there is fire in Meru County. Members of County Assembly (MCAs) walked out on Gov. Kawira Mwangaza. I am not imputing that they will initiate an impeachment Motion in Meru County Assembly, but when they initiate those Motions, they will give us those accountability tools.

Madam Temporary Speaker, the only reach we have is to recommend. That is why there are many cases, including the former Governor for Kakamega County. At that time, he went to court because he did not want to appear before the CPAIC. Why did we have to go the Supreme Court to restate the obvious, by saying that the Senate can oversight based on shareable revenue and own source revenue?

**Sen. (Dr.) Khalwale:** Thieves!

**Sen. Cherarkey:** Madam Temporary Speaker, it is because they want to hide and run away. However, we are saying: “Murife do not run away.” They must be held accountable and I appeal to Kenyans.

I remember when Sen. Olekina and I appeared in a show last week and Kenyans were asking why governors were stealing and why counties were not performing. One of the critical tools of accountability that we have been given in the Senate is the CPAIC.

I have seen the name of the famous public watchman, Sen. Okiya Omtatah, in this Committee. He has done much more oversight in this country than any person living among the 50 million people. I would want to see the fire – not literary – during the CPAIC sittings on the submissions by county governments. I do not want to call it grilling or summons, but I think there is a confusion. However, I want to see what he can do given that he has done good oversight over the years.

*(Sen. (Prof.) Tom Ojienda, SC shook his head)*

My repute and reputation precedes myself on the performance in that Committee. I do not know why my lecturer, Sen. (Prof.) Tom Ojienda and neighbour from Kisumu County, is shaking his head. He taught me well and should be happy that I am doing good.

Finally, Madam Temporary Speaker, is the issue of delegated legislation. The Committee membership I have seen is important. Before I go to the final part, I thank your office, the Clerk's Office and colleagues whom we have worked together. Your office has been instrumental in providing us the necessary support in terms of researchers, report writing and facilitating venues. I thank the Speaker's Office for doing a good job.

Madam Temporary Speaker, I want to inform all the governors that there is no option. They must appear before committees of this Senate once summoned. If they do not, we will not tire to summon them. I pray that one day, some of these governors who decline to appear before the Senate, will be frog marched. I challenge the Inspector General (IG) of Police nominee, Eng. Koome, that some of these governors who refuse to appear, must be arrested.

There is no option because we are handling millions of Kenya shillings. For instance, the immediate former Governor of Murang'a County - Hon. Mwangi wa Iria and Governor Oparanya refused to appear before our Committee. Article 226(5) of the Constitution of Kenya must kick in. They do not have to cherry pick. It is the law and it is as good as done.

I am just sounding a warning to governors, especially the new ones, that there is no option, but to appear. Governor Otichillo must appear on the issues of health that Sen. Osotsi is struggling with.

Finally, the Committee on Delegated Legislation is a very important one where, I think Sen. Omogeni has sat. We must be creative. Why should we use a lot of resources to go through regulations and then to do a nullity? Is there a way Government agencies, parastatals and ministries ensure before they bring a regulation to Parliament whether it meets the constitutional threshold?

At times, we do public participation as per Article 118 of the Constitution. We do sittings and report writing, but annul when it comes to the Floor of the House. It is waste of public resources

I call upon the Senate Committee on Delegated Legislation to come up with a more innovative way so that we do not waste a lot of Government resources by bringing regulations, sitting here, dispute and then annul.

That is how the Executive and other Government agencies normally sneak in regulations. The Data Protection Act, which Sen. Olekina talked about yesterday, was sneaked in through the regulations on data protection.

The regulations and the parent Act are totally different. That is how Government agencies mischievously behave. If you ask them, “where is it in the parent Act? They tell you that it is not there, but refer you to the regulations.

I look forward to starting business. There is a lot of backlog of audit reports that we need to look at. It is exciting to work with the CPAC. I am more than happy to serve this country and county governments in giving my best.

Those are my submissions. I support.

**The Temporary Speaker** (Sen. Mumma): Sen. (Prof.) Tom Ojienda, you have the Floor.

**Sen. (Prof.) Tom Ojienda, SC:** Thank you, Madam Temporary Speaker. I was one of the Senators who were supposed to speak. I am glad that I finally have the opportunity to contribute specifically to the committees.

We cannot underscore the importance of the CPISFC and CPAC.

**The Temporary Speaker** (Sen. Mumma): Sen (Prof.) Tom Ojienda, let us consult a little bit.

*(Sen. (Prof.) Tom Ojienda, SC,  
consulted the Temporary Speaker)*

**Sen. (Prof.) Tom. Ojienda, SC:** Madam Temporary Speaker, I think the confusion was because I had indicated that I was supposed to read a Statement on the Sondu Boundary-the Kisumu County-Kericho Conflict. I did not have time to speak, but I was listed to speak on the three committees.

I just wanted to highlight the importance of the CPAC and specifically on the question of oversight and the need to ensure that Senators...

**The Temporary Speaker** (Sen. Mumma): Sen (Prof.) Tom Ojienda, please, approach my desk.

*(Sen. (Prof.) Tom Ojienda, SC approached the Chair)*

**Sen. (Prof.) Tom Ojienda, SC:** Thank you, Madam Speaker. I highlight and support submissions that have been made by my colleague, Sen. Cherarkey, who is always raising issues.

I will speak to the importance of CPAC and CPISFC the fact that CPISFC is now disengaged from the CPAC.



First of all, let me highlight on the outcome of the two petitions - Petition No.31 and No.27 on the filling at the Supreme Court. The previous speakers have spoken to the importance of a summon to governors. I think it is that accountability that is important, that a personal surcharge will be a consequence of governors not appearing before Senate Under Article 226(5).

Governors in this country must know that when the Senate summons them, they have an obligation to appear. This Senate must work differently from the previous one. Sen. Cherarkey, this Senate must go beyond over and above what you did so that where a governor refuses to appear before the Senate, this Senate should take further action.

I am alive, for instance, to the statement that will be brought to this House by the Senator of Narok County on accountability. It is on what Narok County has done to the CPAC and we have no clear accounts.

We must emphasize that under this new Senate, now that the CPISFC is separate from the CPAC, we want to see all those public investments and special funds set by counties accounted for.

We want to see independent institutions, for instance, Jaramogi Oginga-Odinga Teaching and Referral Hospital in my county- coming up and showing us how it runs the facility. It should also show how it accounts for funds and how services are rendered to the public and the citizens of the county.

We want to see the Committee on Delegated Legislation working and delivering. Where that Committee sits, I hear Sen. Omogeni is in it, that we see results. We do not want to see a back and forth.

The Senator of Kakamega has spoken to the question of accountability. Today, he wears the big shoes of the Senate Majority Leader. He has pointed that under Chapter 10 of the Constitution, accountability and basic accountability of Senators and all public officers underpins the work of the three Sessional Committees.

It is a message that we must send to all the governors that this time round, we should do things differently in the Senate. I do not need to take more time on that. I support all Members who have been nominated to serve in these committees. I see diverse skills in these committees have to rise to the occasion and do something differently.

I understand that in the last Senate, Chairpersons would have meetings with some of the people who had been summoned and some of these questions would then just disappear. That culture must stop. We must have a Senate that calls upon every governor in this country to account. This is so that all those funds that are disbursed to those counties find work in what they are intended for.

We want to see roads constructed if there are funds that are supposed to be used for putting murrum or making transport issue. My learned friend has spoken to roads in his county which cannot be used.

Finally, it is the public that suffers where funds meant for public purpose are diverted for use in other sectors or find their way to the private pockets of individuals.

It is sad. For instance, we have heard of the NMS and the act of none-service that it did to the people of the Nairobi City County. We would want to see the report that my

learned friend has spoken to, so that we know if NMS served its purpose as was created when powers was given by the former Gov. Sonko. I am sure he later regretted his act.

Madam Temporary Speaker, I rise to support.

**Sen. Mariam Omar:** Thank you, Madam Temporary Speaker. I rise to support the Motion. The establishment of these three committees is very important. The reason is to examine county funds.

I am a nominee to the CPAC. My fellow nominees who contributed to the Motion yesterday are capable and can manage. I am new to this House and to the committee. However, I am not new to the finance institution. I am an auditor. If I chip in, I can put effort and be an asset to the committee.

*(Applause)*

The role of a Senator is to oversight counties. As elected Members, our people are waiting to see if we are working or not. The funds disbursed to the counties must be accounted for and go to the right place for the right projects and in service delivery to the people.

Hon. Senators, let us put our aim and goal towards our people gaining while we are here. We are all here for a reason and for our people. Even if some governors are resistant to come to the Senate, we encourage committees to work as a team so as to achieve our goal as Senators, of oversighting and investigating what is going on in the counties.

Madam Temporary Speaker, I support the Motion. I believe I will be an asset to the CPAC.

**Sen. Maanzo:** Thank you, Madam Temporary Speaker. I rise to support the Motion as drafted.

The CPAC, CPISFC and the Committee on Delegated Legislation are very important. Article 226 is clear on accounts and audit of public entities and the county is one of them.

For the last 10 years, counties have existed and received billions of shillings from Government coffers. The Senate has also worked hard to make sure they have money. Unfortunately, when you go to the grassroots level, you find very little that can be associated with counties compared to the amount of monies given.

The reason why the NG-CDF worked so well is because where there would be a school or a project, the villagers would own the project and be the first ones to oversight. Similarly, we should request the same from Kenyans. They should assist the Senate in oversight.

We get information from the people working with the counties at the grassroots level as Senators. If that information is equipped, then it makes our work easy when dealing with these particular committees and in ensure there is accountability.

I believe we have been given enough teeth to chew as a Senate. We can summon these governors to appear here. We are not toothless bulldogs. We have teeth and we can bite under Article 125.

In the event it seems like it is not enough, Article 126(v) empowers the Senate to take action. Even if the governor does not show up, later on after he has left office, whatever monies he signed and got lost through him or her, can still be pursued through different agencies that deal with the issue, especially the anti-corruption agency. It does not spare the governor whether he is in the Senate or has become a Cabinet Secretary (CS) or in whatever capacity he is serving in. There is enough teeth to chew.

On the Committee on Delegated Legislation, I am pleased to inform the House that I have served in that Committee for the last 10 years in the National Assembly. It is equally a very important Committee. When devolution units or Ministries associated with devolution make regulations, they must come to this House.

There was a time there was an issue as to the application of Statutory Instruments Act to the Senate and the National Assembly. As a result, this committee was created. I believe it serves well here, not only on regulations created by the departments that are devolved, but also those created by agencies in the counties.

Some agencies have an Act of Parliament that originated from here. Whatever is being done by the county assemblies or whenever they need help in relation to statutory instruments or legislation made by authorities at the grassroots and national level, they should be properly checked.

We should make sure that the law conforms with the Constitution, the existing law. The regulations should properly be made with public participation having taken place.

I believe, as a Member of that Committee, I will be very useful in that particular matter.

I am also grateful to have been nominated without my knowledge to co-chair the matter dealing with the East African Legislative Assembly (EALA).

I was among the first lawyers who went to the East African Court of Justice (EACJ) to make sure particular regulations and directions are made in the election, which will also happen in this House.

I believe as alluded earlier by Sen. (Dr.) Khalwale, we will do our level best by following the law to the letter. We cannot stop parties from nominating Sen. (Dr.) Khalwale if they want to do so. Eventually, there will be an election as indicated by law and under The Elections Act. That is what we found at the EACJ.

By and large, you will realize that devolution has to serve its purpose and this House is very important. In fact, other than the interchangeability of which House is senior, the National Assembly is being served by a Senator because once a Senator always a Senator.

It takes the leadership to that side. I still believe that this is the “Upper” House because of the matters that we handle. We have to make sure that devolution succeeds.

Devolution cannot succeed when these two committees are not efficient. I believe that we should be tough enough on following up how the monies are used. All the accused persons should be brought to book, so that governors can respond.

A Senate committee has powers like those of a High Court. We can have contempt proceedings against a governor. When a governor breaches the law or disregards the institutions of law, that particular governor is impeachable.

I believe that impeachment Motions which begin at the county assembly and end up here can even be instigated by a Senator in one way or another. A governor who gives the Senate a difficult time should find themselves in trouble with the law. They should be removed from office in order to make sure that what is supposed to be done in the county happens.

One of the areas of weakness is construction of roads. The problem is complying with the quantities and ensuring that what is supposed to be done is done. Somehow departments collude. You will find a road which was allocated a certain amount of money not being worth it. For that matter, a lot of monies are lost.

A governor has to be watchful so as to receive reports. That should not only be the responsibility of a governor. At times, you may find that a governor is not aware, although by virtue of his office, he or she is supposed to be aware of everything.

We have to make sure that individuals implied in our reports are dealt with. The moment we pass recommendations which come to the Floor of the House, those recommendations have to be implemented by the relevant authorities like the DCI or the EACC. If that happens, we will improve Kenya and make devolution a reality. We are already seeing results of devolution. Devolution has worked to a certain extent. We are not yet where we should be, but I believe through this House and the two committees, devolution will succeed and improve the lives of Kenyans.

Madam Temporary Speaker, I support.

**The Temporary Speaker** (Sen. Mumma): Let us now listen to Sen. Cheptumo.

**Sen. Cheptumo:** Madam Temporary Speaker, I rise to support this Motion. I would like to inform the House that I served as the Chair of the equivalent committee in the National Assembly in the Eleventh Parliament. Sen. Maanzo was a Member when I was the Chair of the Delegated Legislation Committee.

Standing Order Nos.193, 194 and 195 clearly sets out the functions of these committees. As hon. Members have said, there are important in ensuring that devolution works.

Mr. Speaker, I want to comment about the Committee on Delegated Legislation. This Committee is critical because in every Act of Parliament, there is always a provision at the end that the Cabinet Secretary shall make regulations. That is what is done in this House and the other House. In every Act of Parliament, there is always a provision towards the end that requires the Cabinet Secretary in charge to come up with regulations from time to time.

Regulations---

**Sen. Omogeni:** On a point of order, Madam Temporary Speaker. On more than two occasions, I have heard the Senator for Baringo referring to you as Mr. Speaker. I do not know whether he does not believe that you are worth occupying that seat. Is he in order to refer to you as Mr. Speaker?

**Madam Temporary Speaker** (Sen. Mumma): Senator for Baringo, I am a madam and that has not changed.

**Sen. Cheptumo:** Madam Temporary Speaker, I apologize for that. Thank you my learned senior for raising that. It is demeaning and I apologize. I will try my best to ensure that I do not repeat the same mistake.

Madam Temporary Speaker, regulations are like laws. That is why this House approves regulations. According to the Constitution, this House has powers to pass regulations. Initially, before the Statutory Instruments Act came into force, Cabinet Secretaries used to make regulations which were implemented. Some of the regulations were illegal. That is why the whole process was reversed. Under the Statutory Instruments Act, it is mandatory for a Cabinet Secretary or an institution to ensure that all the regulations passed are approved by Parliament in order to give them full force of law.

The Standing Order establishing this particular committee sets out the requirements. It highlights what an authority that comes up with regulations should look for before those regulations are brought to this House. Like I said before, when I used to chair the Delegated Legislation Committee in the other House, we annulled many regulations because the standards set were not being followed.

My appeal to the Ministries, CSs and CEOs of institutions is that it is important for them to acquaint themselves with the provisions of the Statutory Instruments Act, which sets out what they are supposed to do in terms of public participation and complying with the parent Act and the Constitution. That is important.

I appeal to Members here that we should never compromise the regulations. If they do not follow the standards, I encourage the Chair of the Committee to annual them. That is the only way they will follow the procedure.

I agree with colleagues that these three committees are important. I am aware that several regulations will come to this House, now that we have the Kenya Kwanza Government, which is going to introduce new Bills.

When we were in Naivasha, I asked a question on the scope of oversight by this House. That is an issue we still need to discuss. The two committees, that is the CPAC and the CPISFC will help us in ensuring that the money we allocate to the counties is utilized well.

Madam Temporary Speaker, if you look at the membership of this committee, you will realise that there are very serious Senators in there. They have what it takes. I am very certain and have no doubt in my mind that this House will use this committee to execute and address the issues of devolution in a manner that our country will feel our presence and our function as an “upper” House.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Mumma): Sen. Omogeni, you may proceed.

**Sen. Omogeni:** Madam Temporary Speaker, thank you for giving me an opportunity to make my contribution on this very important Motion. I want to begin by thanking the Senate Minority Leader, Sen. Madzayo, who has demonstrated that he is a leader with a conscience. He magnanimously surrendered his slot in the Committee on Delegated Legislation to Sen. Kavindu Muthama.

(Applause)

Leadership must be coached with shame. A leader must have a conscience. A leader must have self-inspection. The Senate Minority Leader, Sen. Madzayo, has shown that he can lead by example.

What is even more appealing to me is the fact that the Senate Minority Leader, Sen. Madzayo, has also surrendered his slot in the Committee of Labour and Social Welfare in response to my cry that Sen. Crystal Asige needs a slot in the Committee on Information, Communication and Technology. Madam Temporary Speaker, in summary, the Senate Minority Leader, Sen. Madzayo, has surrendered two committees and he is only a Member of two Committees.

I hope that those who are in the leadership such as the Minority Whip and the Deputy Minority Whip will reconsider giving a slot to Sen. (Prof.) Ojienda in the Committee on Justice, Legal Affairs and Human Rights. The Senate Minority Leader, Sen. Madzayo, has led by example. I hope that they will respond accordingly.

Secondly, I want to congratulate the lucky Members who have been successful in getting slots in these three committees, and more particularly, the Committee of CPAC and the CPISFC.

When I joined this Senate, I was told that one of the most difficult committees to join is the CPAIC. I came here with my Curriculum Vitae as a former Chairperson of EACC. With excitement, I told my colleagues that I am bringing the experience of fighting corruption from EACC. I was told that it is not easy. Today, I have never been successful to be a Member of that committee.

That notwithstanding, I have full confidence in the ability of the Members who have been nominated to serve in those committees. I am sure they will do a good work and even much better than what we could have done. I wish them success.

My appeal to the Members who have been privileged to join these committees is please assist the Senate in pushing the accountability card. Since inception, and if you listened to the address of His Excellency the President, we have sent close to Kshs3 trillion to the devolved units in the last ten years.

However, when you go to the ground, you do not see the impact. Year in, year out, the Auditor General presents damning reports to this House on corruption, mismanagement and misuse of public funds that takes place at the counties. It is sad that ten years after devolution, not even a single governor has been convicted for a corruption offence in any court of law in the Republic of Kenya.

It is sad. What is more saddening is the trend that we have seen in the past five days or so where corruption cases that had been filed against governors being withdrawn. This means that nobody will ever pay the ultimate price for corruption. It is sad.

I could give you what the Auditor General has been reporting to this House. In one instance, he told this House that county governments have deliberately failed to bank locally collected revenue. In my County, for example, Nyamira, the projection of own source revenue, which is in the budget, is a collection of Kshs258,592,832. However, when he goes down to Nyamira, he finds that the county can only account for Kshs97

million which is 38 per cent of own source revenue. This means that a whooping Kshs160,711,000 disappears into the pockets of some people at the county government. It is a shame.

As this happens, our counties have no drugs. The projects that were meant to have been completed in the first five years of devolution remain incomplete up to date. We are one of those few counties that eleven years after devolution is yet to complete the construction of the county assembly headquarters.

Nyamira County has never completed the construction of the Doctors Plaza. We do not have offices for consultants yet we are stealing from the poor people of Nyamira a tune of Kshs160 million every year. As I speak today, nobody has been arraigned in a court of law.

Madam Temporary Speaker, the distinguished Senators who are going to be Members of this committee should please make a difference. We do not want them to write the Book of Lamentations. We want to see action. The Constitution has given us powers similar to that of the High Court of Kenya in Article 125 of the Constitution of Kenya.

We want to thank the Judiciary and more so the Supreme Court. We sat here for five years in the last Parliament and were unable to bring to the Floor of this House the Governor of Murang'a County, Hon. Mwangi wa Iria. He kept flashing a court order at us telling us that the courts had told him that he cannot be summoned by the Senate.

Now the highest court of the land, the Supreme Court, and whose decision is binding on all of us, including governors who have just been elected, has affirmed with finality that this Senate has powers to summon governors. I hope Members of these committees; CPAC and CPISFC can one time convene a Committee of the Whole and have governors answer questions in here.

We have governors from our respective counties answering questions here because that is the main reason Article 96 of the Constitution says Senators are there to protect counties and the people who reside in counties. The job is cut out for the 18 of you.

We really must ensure that it is not a ritual of us sending money to counties and the money ends up in the pockets of governors. When it comes to this House, we create another forum where we are "clearing and forwarding" governors. We need to see consequences for those who steal public resources.

Madam Temporary Speaker, on the issue of automation, most of our country governments have never automated revenue collection. If you read the reports that have been written by the previous committees, on several occasions the Committee has made recommendations to various county governments that they should automate their reports. Even as I speak today, giving an example of Nyamira County, collection of locally generated revenue is still manual.

The issue that was being raised by Sen. Cherarkey about revenue from our national reserves being verbal is the same problem that the Senator for Narok County will tell you. There is no automation. Therefore, we have created a very easy ground for

governors to enrich themselves at the expense of the people who elected us and who had many dreams that devolution will change their lives. We must do something.

I am, therefore, appealing to my colleagues who are serving in these committees to make an impact. This idea of telling us that EACC has forwarded a junior officer to sit in the committee as a liaison officer is not acceptable. We want a report to be given to us by EACC on the status of the corruption cases that have been filed in court against governors and senior officers serving in county governments.

I do not know whether we can use Article 125 of the Constitution to have the CEO of EACC to appear before us the challenges he is facing in ensuring that in line with the EACC Act, prosecution of corruption cases is within a period of six months. They should be heard on a day today basis. Why are these cases pending for more than two years in our courts of law? Which are these cases that courts are giving priority more than the corruption cases facing our governors? These are the issues we need answers from EACC.

You can imagine in Nyamira County we intended to have a stadium within the first two years of devolution after 2013. There was a budgetary allocation of Kshs62 million to construct a stadium. As I speak and I am sure Sen. Olekina has details of this issue, we have paid a contractor more than Kshs44 million. However, to date, we do not have a stadium.

At least give credit to Gov. Mutua because Machakos County has a stadium. For us, we have paid Kshs44 million, but there is no stadium in Nyamira County.

Madam Temporary Speaker, on the issue of MES equipment, we have paid a lot of money to the proprietors of this equipment.

*(Sen. Olekina spoke off record)*

No, I am saddened because we appointed a Special Committee last time to do an audit on that issue of the MES equipment. You can imagine, for three years, Nyamira County paid Kshs93 million for equipment that we cannot see. In the next financial years, it was raised to Kshs95 million. By the time the Senate was probing that issue, that money had risen to Kshs200 million for leased medical equipment.

These are the issues that we want the Senators who have been privileged to be selected to sit in these committees to look into and give us answers and where necessary, give recommendations for the culprits to be investigated. Where there is adequate evidence, they should be charged in courts of law.

I support this particular Motion with the names that have been forwarded by our leadership. As I said, where we have reservations, I hope that our leaders will soul search and do the necessary just like what Sen. Madzayo has done.

*(Interruption of debate on the Motion)*



**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM PASTOR MBAGO  
VICTORY ACADEMY, HOMA BAY COUNTY.

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, I have a Communication to make on visiting teachers and students from Pastor Mbago Victory Academy, Homa Bay County.

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from Pastor Mbago Victory Academy, in Homa Bay County, who are on an academic trip.

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

I thank you.

Sen. Oyomo, you may have the Floor.

**Sen. Oyomo:** Madam Temporary Speaker, I take this chance to welcome the visiting delegation from Homa Bay County. On my behalf as a Senator from Homa Bay County and on behalf of Sen. M. Kajwang' who is the Senator for Homa Bay County, I welcome the delegation. It is very honourable to see the young pupils and their teachers visit the Senate.

It is more exciting to me because I am a teacher by profession. I want to assure the teachers that it is because of the teaching profession that all of us are here. Therefore, we thank you teachers for the work that you do, teaching our pupils and students back in your schools. Welcome to the Senate, learning is a continuous process.

I thank you.

*(Resumption of debate on Motion)*

**The Temporary Speaker** (Sen. Mumma): Continuing with the debate, I would like to call on Sen. Seki.

**Sen. Seki:** Thank you, Madam Temporary Speaker. I rise to support this Motion on the three Committees as stipulated by law. I want to take this opportunity to thank this Senate, the leadership of Kenya Kwanza and the rest of the leadership of the other side, for nominating these Senators to these committees.

We believe and trust them. We know that they will make a difference to devolution. I know very well that we are here to provide oversight to our counties, even to the national Government and such committees are required to take up this responsibility and role to make sure that we see the light at the end of the tunnel.

I believe that there are many things that need to be discussed and brought on board by this committee, particularly the issues that are affecting counties, for example, budget planning. I know that is where the problems come in.

Madam Temporary Speaker, I have a lot of experience in issues of devolution. Over the last 10 years, I worked as county secretary in several counties. I was the county

secretary during the Transition Authority (TA) and later in the County Government of Narok and County Government of Kajiado.

Sometimes failure comes in when counties are planning their budget. They mess a lot by exaggerating their Own Source Revenue (OSR) figures. However, towards the end, they end up having shortcomings in their collections and much more on areas of the allocation of funds provided by this Senate.

I know very well that we have a lot of issues in implementation of projects and change of priorities. When counties do their work plans to the Controller of Budgets (CoB), they have good ideas. They even attach documentation to say that they have programmes they want to do. However, immediately they get their allocation from the CoB, the governors completely change priorities in regards to what they want to pay or what they want to do.

It is important for the two Committees to carefully look at what the counties do with their allocations. Their requests can be looked at carefully. When we were in Naivasha for induction, the CoB came in strongly to say that at times, she has no mandate to follow up on what counties do or get after she does the authorisation of allocation of counties. Therefore, it is for this Senate, particularly the CPAC and CPISFC to look at it carefully.

I hope that we can provide a way in the regulation to give right to Senators to view Integrated Financial Management Information System (IFMIS) that counties are using to do payments at any given time.

On issues of huge payments that are done by counties in terms of imprest, they do a lot of personal imprest, draw a lot of money to individual staff. This is the money that the governors take back to their own staff. The intention is probably to go for official programmes, but they again sit back and request for that money. These are the kinds of things that these Committees can really look at and make sure that it is brought back to our attention as Senators.

Pending Bills have been a menace in the counties and the entire country. There are huge pending bills in these counties. People are really suffering because we have 'hustlers' who seek to do projects in the counties with their own money. However, towards the end, the county does not pay them. It becomes a cry to the entire county because the bank loans follow them and their properties are taken by the auctioneers. This is a very discouraging situation in the counties.

Without wasting time, I support this Motion and the entire list for the three committees. The committees have a lot of work to do. I am happy that whenever our individual counties come for questioning in these committees, we will be called upon to give feedback on what is happening.

I support the Motion.

**The Temporary Speaker** (Sen. Mumma): Sen. (Dr.) Oburu, please proceed.

**Sen. (Dr.) Oburu:** Madam Temporary Speaker, I thank you for the opportunity. I stand to support the Members who have been selected to these three very crucial committees.

I will start with the Committee on Delegated Legislation, which is very important. I was a Member of this House at a time when there was no such committee. It was a very sad situation. I recall when the loss on the Procurement Act was passed and the old Procurement Act was very loose, the officers used to like it so much. When the Act was passed and there was no Committee on Delegated Legislation, it took more than one year to enable regulations to be developed by the Executive.

Whenever we asked the Minister why the procurement laws are not in place, we were told the regulations are still being worked on. They just used to prepare the delegated legislations, which is in terms of regulations, gazette them and that is all. They could take their sweet time to do it.

When this Committee was formed, Parliament can follow up and make sure that these regulations are developed, are in the interest of the people and actually help in the implementation of the Act as enacted by Parliament. This is because you could not be sure whether regulations which did not come to Parliament were implementing those provisions which were in the law.

*[The Temporary Speaker (Sen. Mumma) left the Chair]*

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

Madam Temporary Speaker, I urge our Members who have been selected to this committee to work very hard to ensure that devolution works. This is because it is this committee that will ensure that the laws which are enacted by this Parliament and by Senate are implemented and put into force as intended by Parliament.

Madam Temporary Speaker, I recall that I have been a Member of both PAC and PIC in the National Assembly. There was one time when I was the Vice Chairman of PAC.

Madam Temporary Speaker, when devolution was introduced in Nigeria, more than three quarters of the governors were incarcerated. As Sen. Omogeni said, it is a shame that since devolution was introduced in Kenya, not a single governor has been convicted and jailed. In Nigeria, in order to stabilise devolution, more than three quarters of the governors were sent to jail for various violations.

Theft of public funds in the counties is so rampant. It is even encouraged by the investigative authorities. Those governors who rape and reap public resources are very good friends of the EACC, DCI and all other investigative authorities.

Once a governor is involved in those types of activities, they also become friends of the local oversight institution, which is the county assemblies. The bulk of resources go to the pockets of the governors, but a good portion of it also goes to those investigative authorities.

It is a very sad situation that billions of Kenya shillings are pumped into the counties, but when you go there, nothing can be seen. There is no impact of investments made by the Kenyan public. The public does not get the services which they are rightfully entitled to because of misuse of public resources.

I extend the same to our own Parliamentarians. Some people work very hard. That is why one of the Senators said that it is very difficult to be a Member of the PAC or PIC. It is difficult because some people fight very hard to be Members. It is not to serve the public or the interest of our counties, but because all those 'fat' boys will come around looking for our Senators to see they can compromise them, so that the truth does not come out.

There are cases that come from the Auditor-General's report. Some queries are caused by laziness of officers in providing information to the auditors. Sometimes, they waste a lot of Parliament's time because they will eventually provide it to the auditors. When they are summoned to appear, the information would have already been provided to the auditors to their satisfaction. However, there are other clear cases of fraud, which come before Parliament.

My experience with Uganda is that whenever the PAC or PIC Committee sits, there is also a Criminal Investigation Department (CID) officer. This is so that any information of a criminal nature that is gathered is used to pin down the criminal. Our Parliament is a bit lenient, but even if we do not do that ---

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

**The Temporary Speaker** (Sen. Veronica Maina): Senator, would you like to be informed?

**Sen. (Dr.) Oburu:** Yes, thank you.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I did not want to disrupt the flow of thoughts of my colleague. I wish to inform him that the CPAIC have officers from EACC, Office of the DPP and DCI, who sit and collect information. It was effected during the last Parliament.

I thank you, Madam Temporary Speaker.

**Sen. (Dr.) Oburu:** Thank you, Madam Temporary Speaker. I thank my brother for the information. I was talking of my previous experience in the National Assembly, which has now been overtaken by events.

I hope those officers who sit with us in our committees are not compromised by tycoons. The tycoons normally identify the person who is most dangerous and then they follow and compromise them.

It is upon Parliamentarians to make sure that these people do not reach and weaken us. We are responsible for making sure that devolution works; that funds, which are allocated to our poor people, do not end up in pockets of few individuals who are already damn rich.

Rich people just want to have more. Perhaps they are gaining wealth that even their children do not need. They might acquire thousands of acres of lands, but their children will be doctors or engineers, who want to live in the cities. They are not interested in those big farms that you are buying. Some of these things are just senseless reaping of the resources of the poor people of Kenya

*(Applause)*

We have a responsibility of ensuring that our people gain from the taxes they pay in this country. I hope the weaknesses that I have witnessed before are not a cancer that will spread and affect some of us. I really fear cancer. The cancer of corruption is very serious in our country. We cannot pretend that it cannot reach us. We are not super, but ordinary human beings like all others.

It is our duty as elected and nominated Senators to represent the interest of our people and to make sure that devolution works. We want strengthen even by increasing the devolved monies.

I understand that the Kenya Kwanza Government does not need to amend the Constitution, to increase the allocation of resources to Kenyans. We hope they will increase the resources going to the counties. Nonetheless, the resources should not be increased in order to line the pockets of individuals.

I do not want to speak more than that. Once again, I stress that we have been given a heavy responsibility. Therefore, we must ensure we do not disappoint. Let us work to satisfy the needs of the Kenyan people.

I support.

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

Proceed, Sen. Tabitha Keroche.

**Sen. Tabitha Keroche:** Thank you, Madam Temporary Speaker. I also thank my senior, Sen. (Dr.) Oburu. Speaking after you have spoken, I will try to speak.

The world over, the Senate is the “upper” House and controls strong veto power. According to the Senators who spoke before me today and yesterday, it seems like the first and the second governors and their teams in the county executive in some counties, used county resources like personal property. They did not have regard to the priorities of residents and there was little accountability.

The devolution dream is under threat of failure in our counties because of lack of accountability. We cannot sit for five years and then start complaining. We are now the people to hold the governors accountable on behalf of the people who elected us, on the resources that we will get from here and take down to our counties.

Madam Temporary Speaker, I had the privilege of being in the shoes of my former Senator who is now the Governor. We went round our county asking people whether they had seen any development. She kept telling the people that her work - which I believe is true - was to get funds down to the county and, thereafter, do the oversight.

I am surprised to see we have the CPAC and the CPISFC. I believe that the previous Committees were ineffective. I have looked at the team that is in those Committees, and I believe they must now work differently from the previous committees. As Sen. (Prof.) Tom Ojienda put it, they have diverse skills.

Some of us were elected based on the trust that people had in us, based on the leadership we had shown in the corporate world. While here, I believe our careers are on test. That means if CPAC and CPISFC do not work, when we get out of that door, we will have finished the career that we have built for the last 25 years or even more for others. Therefore, we are depending on CPAC and CPISFC. They must not let us down.

During his Speech, His Excellency the President proposed that we should work with the National Assembly in setting up the oversight fund for the Senate. I believe with the establishment of the oversight fund, we will ensure that we perform our roles and surpass the people's expectations. With CPAC, CPISFC and the oversight fund, I do not think we have any excuse not to do what people sent us here to do.

I will not say much, but wish them all the best. We are here to watch and monitor and ensure that the funds taken to county governments do what the people expect it to do. Any time we have an issue and CPAC needs to question a governor, CPAC should ensure the Senator of that area is also involved in order to represent the people of that county.

Madam Temporary Speaker, I heard that Gov. Mutua was here and he switched off the gadgets. We will ensure that will not happen again while we are in this House. Sen. Kavindu Muthama said that the people watched the session live for one day. However, the next day, it was not live. He had that power.

Madam Temporary Speaker, I do not think governors can have powers to that extend to control the media, us and everybody else. They are there to give service to the people. It is not their business or their houses. They must be oversighted to ensure that the money they are given is used entirely on the people in the county.

With those remarks, I second the Motion and support the membership of the three committees.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Let us now have Sen. Beth.

**Sen. Beth Syengo:** Thank you, Madam Temporary Speaker. I will be very brief. I rise to Support the Motion. I am confident of the ability of the Members of the three committees. I am sure that they will deliver. However, I have an appeal to the Members of these committees. As they go for their elections, kindly let them consider giving female Senators a chance to be either Chairpersons or the Vice-Chairpersons.

Madam Temporary Speaker, allow me to look back at the promulgation of the Constitution of Kenya, 2010. From the onset of devolution, Kenyans had a lot of hope and expectations on the working of devolution. They expected to get services nearer to them and resources to be devolved. This dream has not worked so well. Ten years down the line, there are still gaps that need to be filled.

I look at these two Committees, CPAC and CPISFC, as very crucial Committees. They will put the Senate on the map of delivering services to Kenyans. Kenyans expect to enjoy the fruits of devolution. It can only work if the Senate plays its oversight role well.

Madam Temporary Speaker, I listened keenly as the Senator for Narok County, Sen. Olekina, mentioned the names of governors who were summoned by the Senate. Majority of them did not honour the invitation to answer the queries that were there. All the governors that Sen. Olekina mentioned were men.

Madam Temporary Speaker, I urge Kenyans to elect more women and Persons with Disabilities (PWDs) as governors, if men continue to refuse to honour summons by the Senate because women are more submissive.

We know that---

**Sen. Olekina:** On a point of order, Madam Temporary Speaker. I know that my dear sister is fond of me. However, is it in order for her to mislead the House that I named only male governors who refused to appear before this House?

As a Member of the CPAIC, as it was called then, we had two distinguished female governors who refused to appear. It is on record that one of them from the Eastern part of this country was penalized. We asked her to pay a fine of Kshs500,000, which she did.

I wanted to ask whether the distinguished Senator is in order to mislead this House. I do not remember giving names of individual governors who failed to appear. I think she was referring to another Senator, but not the distinguished Senator for Narok.

**Sen. Beth Syengo:** Madam Temporary Speaker, allow me to clarify. When the governors who were summoned and did not appear were named, they did not mention a female governor. They were all men.

*(Sen. Olekina spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Beth Syengo, continue.

**Sen. Beth Syengo:** Madam Temporary Speaker, I was saying that I appeal to Kenyans to elect women and PWDs to those positions if men fail to show up.

Accountability in our counties is key. We need to see public funds meant for development being used for the purpose. They should not be diverted to people's pockets. Where cases of corruption are reported, governors should be held accountable. I appeal to both sides of the House that there should be no sacred cows. Any governor, regardless of whether they were elected by the party forming the Government or the Opposition, implicated in corruption cases must be held responsible.

I urge institutions charged with the responsibility of making sure that people are accountable to take action against corrupt governors, members of the Executive or any other individuals. These committees should be vigilant.

I saw the Senator for Kakamega in the House. He is popularly referred to as "Bullfighter". I beseech Members of the CPAC and the CPISFC to borrow a leaf from Sen. (Dr.) Khalwale. They should be "bullfighters" and make sure they defend public funds.

Madam Temporary Speaker, I am looking forward to effective oversight by the Senate. Senators who spoke before me stated that the second and third Senate did not do their work effectively. However, I believe that we are improving and given a chance we will do a better job.

I thank you and support the Motion.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Joe Nyutu, you have the Floor. I request that you exercise magnanimity in the use of time. You can condense your comments.

**Sen. Joe Nyutu:** Thank you, Madam Temporary Speaker for giving me this opportunity to give my contribution relating to appointment of Members and approval thereof to the CPAC, the CPISFC and the Delegated Legislation committees.

As we all know, these are the watchdogs of the resources that are sent to our counties. I do not know what has been happening for the past 10 years. Most of those who have spoken have lamented.

As a House, it is time that the three Committees did their job in a serious manner. I do not want to say that those who have served in the previous Senates have not been serious. However, we must see to it that county resources are expended in the right way to ensure service delivery to the constituents of our various counties.

It is an open secret that there has been pilferage of county resources. I heard my former county governor mention that he was one of those governors who did not honour the summons of this House.

As a resident of Murang'a County who was elected to represent the people of Murang'a in this House, unlike some Senators who have spoken before me have said, I believe that the NG-CDF has done much more than what county allocations have.

Murang'a County has seven constituencies. Assuming that every constituency receives at least Kshs120 million every year, if you multiply by seven, that is Kshs840 million in one year. Murang'a County receives about Kshs7 billion from the national Government. If you add own source revenue that the county collects, it totals to about Kshs8 billion. It is sad that we can see what Kshs840 million has done, but we cannot see what Kshs8 billion has been doing every year. That is a total of almost Kshs80 billion. That is what the two committees must seek to correct. We must know how the funds were spent.

There are Members who have talked about this. We have counties like Turkana that are drought-stricken. Those counties have been receiving the Equalization Fund, yet people are still dying of hunger. That is serious! This House must not allow it to continue. Somebody said that that is not money from your mother. I beg to be forgiven for using that language.

Somebody receives county resources and expends them as if they are resources that they inherited from their parents. This is something that the CPAC must ensure that it comes to an end.

When you look at the pending bills that we have in almost every county, you will be left wondering the rationale for contracting people; the hustlers. Those people take loans from banks to deliver their services yet they are not paid. Why would any rational human being; a governor, give someone a contract through his County Executive Committee Member (CECM) knowing very well that they do not have the resources to pay?

This is something that we all want to be done in the right way. If we do not have funds for development, we should not contract people who take loans then we fail to pay them. Some of those people end up facing auctioneers. This is something that the two committees, especially CPAC, should arrest.

Madam Temporary Speaker, I want to talk on the issue of Judiciary. I am glad that the Supreme Court has given direction and order that the Senate has the powers to summon governors and that those governors must appear when summoned. I appeal to our Judiciary not to retract this particular order even when some people appeal that ruling



for this House to be what it is supposed to be. This House keep the governors on their toes, especially when they have misappropriated public resources.

Madam Temporary Speaker, you have advised that I be magnanimous with the use of time, thus I do not want to speak much about this. I just want to appeal to the Senators, as I congratulate them for being appointed to these committees to be truthful and to do the work that they have been entrusted with.

They should be Senators who will stand to be counted as people who protected county resources. I want to underscore what Sen. (Dr.) Oburu said. He said that people need to have morals. Governors and everybody else who has been called to leadership must have morals. We do not have to be oversighted for us to expend county resources in the right way.

Madam Temporary Speaker, I am not here to preach, but given the opportunity, I would do it so well. A governor or anyone who wants to be entrusted with public resources should know that they will pay in one way or another if they misappropriate those resources. They cannot escape. One cannot spend county and constituency resources as if they were their own private resources and escape with it.

I want to tell them from this Floor that there is a God in heaven who will punish them. God forbid, but even their generations will be punished for stealing from the constituencies and counties. I have never understood why somebody would spend resources meant to equip our hospitals with drugs and the necessary equipment while people are dying in those hospitals and still have peace. Even if they have peace right now, they should know that they will one day pay for their actions. That is the sermon that should reach to our governors.

I want to stop there. I support the approval of these Members to serve in these committees.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you Senator, for that indulgence on the time factor. I will request the rest who come in to still indulge us.

Hon. Senators, let me now call in Sen. Shakila Abdalla.

**Sen. Shakila Abdalla:** Thank you, Madam Temporary Speaker. Congratulations, you really suit in that Chair.

I also want to support membership of the three committees, which are very important. I want to urge the Majority side - and I am sure my senior rank Member hon. Sen. (Dr.) Khalwale will support me - that we try and give the seats of the Chairperson and the Vice-chairpersons to the Opposition because these are oversight committees.

We know you are the Majority and you are there to take all the seats. However, on these particular two committees, please, be honourable and kind enough to make sure you give the seat of the chairperson and the vice-chairperson to the opposition for the oversight purpose.

A lot has been said. I also rise to support the Motion. Devolution has come from very far and now it is no longer a baby; it is a really grown up baby. It has made a lot of impact and changes in the counties and the grassroots level, but still we have a long way to go.

I am a bit concerned that apart from the corruption which has been narrated by many members, there are unfinished projects. Those unfinished projects which were being done by the previous governors, the incoming governors normally reject them. That is tax payer's money which was spent by the previous governor. It is only fair for the governor to take up those projects and make sure they finish them.

It is up to these two committees to ensure that those particular projects are finished because they are dispensaries or hospitals which had been started by other governors, but when they go out, the new governors come in and they reject the projects. They leave them to be "white elephant projects" which is not fair. I hope these two committees will take care of that area because it is one area where there is a lot of wastage of the resources.

I am glad that a Senator said that in those two committees there are officers from the EACC, DCI and the Judiciary. This is important because when those officers are there, they will realize that there is need for action to be taken against the culprits.

I think it is the right time and the moment for us to realize that there is no excuse whatsoever for not taking any action against any governor who has been misusing funds. This is because all the people concerned are there in those Committees to witness the issues which are being raised against those particular governors.

We are all talking of increasing funds to the counties. Those funds, which we talk of increasing are the same funds which again we are complaining that they are being misused by the governors. Now we are in a dilemma as to whether we should increase funds or not.

It is up to these two committees to be very vigilant to make sure they do their work properly for them to give us the mandate to say that yes there is a need for increasing the funds for the counties or there is no need yet because there is still misappropriation of the funds. Unless that is done, we will be wasting more funds by increasing the funds to the counties and yet, they are not managed properly; we do not get the value for money.

Corruption has been mentioned. It is the elephant in the room. It is very unfortunate that it is taking shape in different areas of this country, from top to bottom. We never expected county governments to be so corrupted more than any other areas. We thought those elected would want to leave a legacy of change in their counties after 10 years.

Unfortunately, they changed their lives instead of changing the counties they were mandated to. There is a lot of unfinished business. A lot was said here. The last Parliament had a lot of unfinished businesses by the two Committees. We want to ensure that all those businesses are done. We know there is a lot in the hands of these three committees.

They should not sleep or rest. They should work diligently to ensure they deliver and raise the bar of the Senate by demonstrating hard work and delivering accordingly. I have spoken about the action to be taken against the culprits.

With those few remarks, Madam Temporary Speaker, I support the Motion.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Tobiko. Kindly be magnanimous with time so that we finalize on this Motion today.

**Sen. Tobiko:** Thank you, Madam Temporary Speaker. I rise to support the constitution of these three important committees.

Kenyan envisaged in the promulgation of the 2010 Constitution devolution of services and resources to the lowest levels so that the common *mwananchi* gets to experience real development. The solution to *mwananchi* in *mashinani* was the county governments.

Kenyan expected to experience change in the standards of living, infrastructure, delivery of services, closer and greater access to water and health services, medicine in the local clinics and ambulances in close call. These are the things Kenyan expected. Devolution was a miracle to Kenyan were it implemented as envisioned by *wananchi*.

This is why Kenyan voted for the 2010 Constitution in huge numbers. What have we experienced in the last 10 years? We have devolved corruption to the lowest levels. Those working in counties are living in great opulence and have become small gods at their villages. They are living large and driving county vehicles fuelled at the expense of the taxpayers. Is their accountability? No. This House was expected to check the counties and protect devolution. This House was put in place to ensure the resources reach the lowest levels of our country.

Madam Temporary Speaker, this House must live to the expectation of Kenyan. It must rise to the level expected of the “Upper” House. When we were Members of the National Assembly and for those of us who were the constituency holders, we had the privilege to oversight and to be patrons of the NG-CDF.

Kenyan have repeatedly stated that NG-CDF has been felt on the ground more than the County Funds, yet NG-CDF is about 0.2 per cent a very small percentage of the national resources. Consequently, what goes to the counties is not more than 15 per cent. We expect the 15 per cent to be felt, but it has not been felt.

Worse still is the own source revenue from counties. They have refused to automate, account and people are paying themselves as they collect the revenue. They are employing ghost workers to collect the revenues and there is a lot of pilferage.

Madam Temporary Speaker, where are the agencies? Where is the EACC, DCI, the Auditor-General and the Senate when these resources are getting lost? The lives of Kenyan have not changed. That *mama mboga* is still waiting to access clean water and good roads to access the markets. Those good ladies who are selling tomatoes and potatoes in the markets, are still waiting to get proper shelter to be able to sell their goods in a dignified manner.

I am glad to see you seated there. I am not just seeing you as a Speaker, but you represent the yellow flag. Representing the yellow flag means the “hustler” is seated at the right place. We expect and hope, that with you and the rest of the Senators, the “bullfighter and the good Keroche lady and the others, will rise up to the occasion to protect the “hustlers”.

The “hustlers” should get water and roads. They are currently facing huge drought. They have moved with their cows until it is them who are facing extinction. Lives would be lost if we do not rise. What are our counties doing?

Madam Temporary Speaker, we expect the membership of these three committees to carry the flag of this House high in terms of oversight. The governors must be responsible and must be made to account.

As you know, I came to the Senate, maybe by design. God brought me here. I wanted to vie for the governorship of Kajiado County, to bring real change by making sure that our markets are properly done and that the women get water in their houses.

I am happy that Kenyans have elected more women and possibly they will elect more next time. Possibly soon half of the governors will be women. I know women are more accountable and responsible. From the way they handle their families, I know women will be able to handle communities.

Madam Temporary Speaker, I am grateful to be in the Senate and possibly not the governor, so that I learn all that there is to learn about counties. I want to learn what has failed and what has worked, so that tomorrow when I become the Governor of Kajiado County, I do a better job than my predecessors.

I know this House has the goodwill of the President. That is why he talked about the Senate being facilitated with the oversight fund for us to work. With that fund, we will get to protect the common *mwananchi* and deliver services. We will ensure that governors either deliver services or ship out.

I support and I am really looking forward to these three committees and others, being vibrant.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Finally, we will have Senator Nyamu in brief.

**Sen. Nyamu:** Madam Temporary Speaker, in the interest of time, I just want to note that these three committees are key in our oversight role. Oversight simply means that public resources that are going to our county governments, are utilised for the very purpose that they have been deployed for. These three committees really wrap up our role in the Senate. The performance and success of these committees speak to the success of the Fourth Senate.

As I said in the interest of time, I rise to support this Motion.

*(Applause)*

**The Temporary Speaker** (Sen. Veronica Maina): I now call upon Sen. (Dr.) Khalwale to reply.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. I rise to respond to this Motion. May I use this opportunity to thank all of you, Members. You have been fantastic.

Speaking from the bottom of my heart, Sen. Oyomo has been a big surprise to me. Anybody visiting this Republic and watching this television from their room, they can

think that she is a third term Senator. I am so impressed. I am telling you that she is a strong woman. However, that is not surprising because *Jaluo* very complex.

*(Sen. Sifuna spoke off record)*

*(Laughter)*

Sen. Sifuna likes me. He keeps my watch. I am confident that this very important committee will live to its billing. What should not be lost to the House is that the little spoken about this Chamber is that we are a trial Chamber. We will soon be asked to try governors, with a view of sacking them. God forbid, we can even be called upon to try the Deputy President (DP) and the President. So, we have to be very serious. You are the team that is going to lead us.

Madam Temporary Speaker, with those few remarks, I reply.

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

Pursuant to Standing Order No.84 (2), this Motion does not affect counties. Therefore, I will now put the question.

*(Question put and agreed to)*

**The Temporary Speaker** (Sen. Veronica Maina): Let us go to the next Order.

## MOTION

### PARKING CHARGES IN INSTITUTIONS OFFERING ESSENTIAL SERVICES

**Sen. Sifuna:** Madam Temporary Speaker, I beg to move-

THAT, aware that many urban areas and towns in Kenya lack designated car parking areas as a result of imbalance between parking supply and demand mainly due to ineffective land use planning and miscalculations of space requirements, thereby leading to exorbitant parking fees;

NOTING THAT, most essential services offered in hospitals, educational institutions, airports, shopping malls and other public utilities are offered in urban centres, and other designated areas that charge parking fees to access;

ACKNOWLEDGING, that whether they are delivered by public or private providers, essential services such as health, banking, education, shopping and other utilities are considered to be public services because they are public goods that sustain the well-being of every citizen and help in the development of the society as a whole;

CONCERNED, that access to hospitals, educational institutions, airports, shopping malls and other places offering essential services might be hindered due to exorbitant parking fees levied on motorists accessing these services;

FURTHER CONCERNED, that charging entry fees amount to double taxation as the motorists who would have paid the parking fees will still pay for the services they seek;

NOW THEREFORE, the Senate urges the Cabinet Secretary for Lands, Housing and Physical Planning together with the Council of Governors to come up with a policy framework to create an enabling environment for protection of motorists accessing essential services from paying exorbitant parking fees.

Madam Temporary Speaker---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Sifuna, it is now 6.30 p.m. You will have 18 minutes when this Motion appears on the Order Paper.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 25<sup>th</sup> October, 2022, at 2.30 p.m.

The Senate rose at 6.31 p.m.