

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 16<sup>th</sup> November, 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, do we have quorum?

*(Several Senators walked into the Chamber)*

We now have quorum. First Order.

### PAPERS LAID

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of this House today 16<sup>th</sup> November, 2022-

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

Report of the Auditor General on the Financial Statement of Busia County (Public Officers) Revolving Fund for the year ended 30th June, 2021.

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

Report of the Auditor General on the Financial Statement of Kakamega County Assembly Loans & Mortgages for the year ended 30th June, 2021.

Thank you, Mr. Speaker, Sir.

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

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

## NOTICE OF MOTION

### STATE OF FOOD SECURITY IN KENYA

**Sen. Gataya Mo Fire:** Thank you, Mr. Speaker, Sir. I wish to give Notice of the following Motion - State of Food Security in Kenya.

THAT, AWARE THAT Article 43 of the Constitution of Kenya, 2010, stipulates the rights of every person to be free from hunger, to have adequate food of acceptable quality, and to clean and safe water in adequate quantities;

FURTHER AWARE THAT there is a prevailing food shortage in Kenya which is as a result of among other factors, lack of and inadequate rainfall over the last two years, consistent decline in the number of farmers and lands committed to farming, and the Russia-Ukraine war that has led to an increased cost of fertilizer and fuel products which are critical farm inputs, subjecting 4.1 million Kenyans in the Arid and Semi-Arid Lands (ASALs) to an acute food insecure situation and about 942,500 children under five years and 134,270 pregnant and lactating mothers to acute malnutrition according to the Kenya Food Security Steering Group (KFSSG) report;

NOTING THAT about 1.5 million deaths of livestock have so far been reported in the ASALs and that the situation is expected to be dire in light of expert projections that we may miss the normal cycle of rain expected in October, November and December, 2022 and that this could be the worst drought we have experienced in 40 years;

CONCERNED THAT the country is recording incidences of conflict between crop farmers and pastoralists over the scarce resource of water and pasture which results in the destruction of crops and deaths of livestock further exacerbating the food crisis and that the challenge of food shortage is now spreading to areas previously presumed to be rain-rich such as Mt. Kenya whose residents are now relying on government emergency food supplies;

NOW THEREFORE, the Senate urges the Ministry of Agriculture and Livestock Development, to develop targeted policy programmes aimed at addressing the food insecurity in the country including the following-

- 1) Coordinate with county governments to establish strategic grain reserves across the country, with drought-stricken areas receiving priority.
- 2) Develop livestock feeding programs in Arid and Semi-Arid Land (ASAL) regions, providing water and feeds to the livestock farmers.

- 3) Coordinate with the National Drought Management Authority (NDMA), to do quarterly reports to the Senate on the drought situation in the country.
- 4) Subsidize agricultural production.
- 5) Establish abattoirs in ASAL Counties and further recommends that the National Treasury and Economic Planning increases funding to the National Drought Disaster Fund

I hereby give Notice.

PLIGHT OF KENYAN DOMESTIC WORKERS  
IN THE MIDDLE EAST

**The Speaker** (Sen. Kingi): There is a Notice of Motion by Sen. Veronica Maina. However, pursuant to her request, that has been deferred to further Notice.

*(Notice of Motion Deferred)*

Clerk, Next Order.

**STATEMENTS**

SUPERB PERFORMANCE BY KENYAN ATHLETES IN  
THE NEW YORK CITY MARATHON, 2022

**The Speaker** (Sen. Kingi): Sen. Cherarkey, proceed.

**Sen. Cherarkey:** Mr. speaker, Sir, I rise, Pursuant to Standing Order No.52(1), to make a Statement on an issue of general topical concern and national importance, namely; Superb performance by Evans Chebet and Sharon Lokedi at the just concluded New York City Marathon.

Mr. Speaker, Sir, Evans Chebet won the men's title at the New York City Marathon held on 6<sup>th</sup> November, 2022, by clocking two hours eight minutes and 41 seconds. Chebet won his first international race at Buenos Aires Marathon in Argentina, in a time of two hours five minutes.

In March, 2020, he won the Lake Biwa Marathon, in two hours seven minutes and 29 seconds. In December, the same year, Chebet set a world record when he won the 2020 Valencia Marathon, in two hours and three minutes. By the way, let people not be confused, Chebet is a man. In Kalenjin, there is always interchanging of names depending on the sub-tribe you come from.

In the women's Marathon, Sharon Lokedi, won the title in two hours 23 minutes and 23 seconds, bringing glory to Kenya. Lokedi had raced against Reinsat College at Kansas, where she was the champion in 10,000 metres in 2018.

It has to be noted to the House that New York Marathon is one of the five renowned International Marathons in the world. By winning the metical event, she has

validated the first grand slam in history for our nation on the world circuit. Our athletes have won all six events on the programme in 2022.

Evans Chebet, who won in Boston, took two of them as Eliud Kipchoge, the renowned legend who comes from my county, won six in Tokyo and Berlin, on 25<sup>th</sup> September. Amos Kipruto, who also comes from my County, won in London on 2<sup>nd</sup> October and Benson Kipruto won in Chicago on 9<sup>th</sup> October, to complete an outstanding performance.

This is not a mean achievement by these athletes that they have won almost all the six events against what had been organized in the calendar of 2022.

In conclusion, I wish to continue calling upon the Government, to use the upcoming and promising athletes as brand ambassadors, issue them with diplomatic passports and ensure their finances and rewards are proper, well-structured and not taxed, to enable them grow and remain motivated at all times.

In Uganda, when you win, they give you a car, build your parents a house and welcome you in a grand manner. If you are single, the Ugandan Government goes ahead to provide a wife or girlfriend for you.

On behalf of the great people of Nandi County, the source of champions, where Evans Chebet, Eliud Kipchoge, Amos Kipruto and other collegiate of athlete's train, I wish to congratulate them on this achievement of winning the six marathons. I wish them well and assure them of my commitment and that of the Parliament at all times as they continue with their career.

As the issue of doping continues to rear its ugly head, the solution is not only banning the athletes. We must go for the medics and suspend their licenses---

**The Speaker** (Sen. Kingi): Senator, are you debating your own Statement?

**Sen. Cherarkey:** Mr. Speaker, Sir, I am concluding my remarks. I am not debating. It is unfair to ban the athletes only. The people involved in this doping issue such as the medical doctors and nurses, must have their licenses withdrawn. The hospitals and pharmacies that participate in doping must also be suspended or closed.

The Director of Criminal Investigation (DCI) and the Director of Public Prosecution (DPP), must arrest even coaches, team managers and training camp owners, who have aid and abate some of these activities.

If we are not careful, we might go the Russian way, where the athletes and Russia as a country have been banned from participating.

Mr. Speaker, Sir, with those many remarks, thank you for this indulgence.

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

**Sen. Kinyua:** Asante Bw. Spika. Ninaunga mkono Taarifa hiyo. Ni vizuri hao wanariadha waliobobea watwikwe majukumu mengine. Wanaweza kuwa mabalozi ambao watapeperusha bendera yetu ughaibuni.

Ni jambo la kuvunja moyo kwamba huwa tunawapongeza wakati huu lakini baadaye, utapata wanaishi maisha ya uchochole. Ni vizuri kwamba hata baada ya wao kufanya vizuri, wapewe mafunzo ya utumizi na uwekezaji wa hela zao. Wakiwekeza hela vizuri, watazitumia katika siku zao za usoni wakati ambapo hawataweza kukimbia tena ama kufanya biashara zingine.

Ni vizuri tumeweza kuwapongeza wakati huu, wala sio kuwakumbuka tu wakati wamekumbwa na shida. Ninaunga mkono alivyosema, Seneta wa Kaunti ya Nandi, Sen. Cherarkey. Amesema ya kwamba Serikali ichukue jukumu la kutumia hawa wanariadha kama mabalozi ili wawakilishe Kenya yetu katika sehemu wanazotembelea.

**The Speaker** (Sen. Kingi): Sen. Mariam Omar, proceed.

ENROLMENT OF MANDERA COUNTY RESIDENTS TO  
NHIF AND RELEASE OF CAPITATION

**Sen. Mariam Omar:** Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on Health, regarding enrolment of residents of Mandera County to the National Health Insurance Fund (NHIF) and release of capitation to hospitals in the county.

In the Statement, the Committee should-

(1) Find out and report to the Senate, the number of residents of Mandera County who have enrolled in the NHIF, stating the distribution in enrolment to NHIF in the various demographics.

(2) Provide a list of accredited NHIF hospitals and health facilities in Mandera County for both outpatient and inpatient medical services.

Third, the state capitation amount paid to public and private health facilities registered with the National Hospital Insurance Fund (NHIF) for service rendered to patients for the last three financial years to date. Give reasons for instances of delays by NHIF in releasing funds to health facilities.

Finally, state measures, if any, put in place to ensure there are no delays in releasing capitation to NHIF credit health facilities in Mandera County.

I thank you.

**The Speaker** (Hon. Kingi): Mr. Clerk, there is a technical hitch. I cannot see any of the Senators who would wish to contribute. How do I get to know?

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

Proceed Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Mr Speaker, Sir. I want to congratulate Sen. Mariam Omar, one of my committee Members, for this Statement.

The issue of universal healthcare is very critical. As Kenya Kwanza, the Government has a plan on the same. NHIF should be available and accessible to every Kenyan. Everybody is aware that on the Fourth Schedule, one of the key functions is health.

NHIF is trying to do its best in terms of revamping itself and making sure it is accessible. I want to call upon the Committee on Health - and I have seen Sen. Mandago the chairperson of the Health Committee here - to look into this matter. If there are any reforms that are needed within NHIF then we must look at them properly.

The issue of Mandera must be re-looked at properly. Now that county governments have settled, we do not want to see coalitions or collusions between the

county governments and some busy bodies within the NHIF who want to take advantage of the problem.

Mandera has more problems and they do not need the extra problem of somebody making sure that they cannot access the NHIF card. As you are aware, Mandera is one of the counties that is being ravaged by drought and famine. If it reaches this level where the county government does not do its job then somebody must be called out.

I hope the Committee on Health led by Sen. Mandago will summon the Cabinet Secretary (CS) of Health, the Chief Executive Officer for NHIF and the Governor for Mandera. It is good the Senator for Mandera, who is also the Party Leader for United Democratic Movement (UDM), is here. The Senator must be there to look at this issue so that we have closure on this matter. Neighbours like Sen. Dullo from Isiolo and all of us can be invited as a Committee of the Whole because NHIF is a national issue.

I want to thank Sen. Mariam Omar for bringing this issue to the Floor. Even as we look at this, can NHIF give us a short-term solution because sickness does not knock on the door? It does not alert you that you will be sick today, so you should be ready. Can the Committee on Health, led by Sen. Mandago, with reference to Standing Order No. 1, give short-term solutions by Tuesday next week, on what can be done so that the card holders can continue receiving medical care as we look into the issue?

I thank you.

**Sen. Mungatana, MGH:** Thank you Mr. Speaker, Sir. I rise to support Sen. Mariam Omar and support that the Statement be committed to the Committee on Health.

Every time we hear issues to do with counties such as Mandera, Wajir or Tana River, we are always suffering from the same deficit of government service availability.

I want to support my colleague in how she sought the Statement. I am asking the Committee on Health to investigate about this universal health coverage in that county.

Mr. Speaker, I support.

**Sen. Dullo:** Thank you Mr. Speaker, Sir. I wish to congratulate Sen. Mariam Omar for this Statement.

I wish to state that health is a right. It is important that all Kenyans be provided with healthcare. There is a big problem with NHIF especially with the universal healthcare brought by the last government. A lot of money went into it. If I remember well, universal healthcare was connected to NHIF.

If you look back and see how universal healthcare was rolled out and the way it is being operationalized right now, you will note that there is no change. This matter raised by Sen. Mariam Omar is affecting the whole country. If the CS for Health and the CEO for NHIF can tell us how NHIF is rolled out, its impact, how they are re-imbursing the institutions, that would be critical so that we can have a comprehensive report and audit NHIF functions in this country.

**Sen. Mandago:** Thank you Mr. Speaker, Sir. I rise to support the Statement by Sen. Mariam Omar on this matter of NHIF.

We have a serious issue with NHIF particularly on the reimbursements to public facilities. I say this having been the immediate former Governor for Uasin Gishu County, that there has been a trend that has been set by NHIF where public hospitals are not reimbursed regularly. The delay can take as long as six months.

The reimbursements from NHIF are the funds that sustain these facilities because those are the funds spent within those facilities. There is a serious problem looking at that trend because you will find that there is no inordinate delay in reimbursing private facilities.

Therefore, my Committee is seized of this matter and we are going to look into it. I agree with the Senator for Nandi, Sen. Cherarkey, that the CEO and the NHIF management should appear before our Committee so that we put this matter to rest. It looks like the NHIF is not working in all counties at the moment.

I am also aware that even in the Moi Teaching and Referral Hospital (MTRH) there is a very serious issue of the NHIF. Right now, patients are no longer getting services at MTRH because these NHIF reimbursements are not happening. Indeed, the rollout of the universal healthcare program was done in a hurry. You may recall that even the results of the pilot that was done in four counties were not shared publicly and as such, we could not get the lessons learnt from the rollout of the UHC.

This House must be seized of this matter considering that health is a devolved function. We as Senators should look into the reforms in terms of legislation and the composition of NHIF, so that we the defenders of counties ensure counties have a role and a say in the running of NHIF.

I support the Statement by Sen. Mariam Omar and say that our Committee is seized of this matter and other matters raised by the Marsabit Senator and many other Senators who have raised issues concerning NHIF.

I thank you.

**Sen. Mumma:** Mr. Speaker, Sir, I rise to support Sen. Mariam Omar's Statement. As said by Sen. Dullo, the right to health and access to that right is important that it actually supplements the basic right, which is the right to life. As a country, it is therefore important that we take the implementation of this right seriously.

We have been talking about the Universal Health Coverage (UHC). Election after election, we hear about manifestos promising to deliver on the UHC. However, when it comes to implementation, governments pick on something like maternal healthcare and assuming it is the way of implementing the UHC.

Mr. Speaker, Sir, you have been a governor. Other governors who have been here know that the most important thing for county governments in terms of management is the health sector, yet we still do not have enough service providers. We do not pay healthcare providers well enough and our public hospitals are in pathetic conditions.

I am going to suggest something that is radical. I hope this House is a House of reason. We should begin to advocate for a radical move in order to enable this country to deliver on the UHC.

I propose that all National Hospital Insurance Funds (NHIF) that are paid in respect of bills for all senior public servants should be paid to public hospitals only. If we do that, we will be investing the monies that we have in our own public hospitals. In doing so, we will be able to handhold the so, called hustlers that my brother Sen. (Dr.) Khalwale talks about.

If my brother Sen. (Dr.) Khalwale wants to go to Nairobi Hospital and take all the funds there, but his hospital in Kakamega is not good enough for him to go to, if the

governor of Nairobi cannot go to Mbagathi Hospital but wants to go to the Nairobi Hospital, or if the governor of Nakuru needs to be flown to Nairobi in order to be taken care of but cannot go to the county facility that he is in charge of, then something is wrong.

The Prime Minister of the United Kingdom (UK) and the President of India go to public hospitals. It is time we reorganized administration of the NHIF. We also need to take care of the NHIF to ensure that the money paid by taxpayers who are public servants, state officers and others, should go towards supporting hospitals like Kenyatta National Hospital (KNH). That will ensure that the same funds can take care of the ordinary people who go to KNH.

I also want to support Sen. Mandago's suggestion that it is time we restructured the parastatals that have taken county functions. They should become intergovernmental parastatals and NHIF is one of them.

We need to reorganize it to change the perception. It should be an intergovernmental body where even the Council of Governors (CoG) will have a right to appoint some of the board members. That will enable us to have a board that holistically represents both counties and the national Government interests in order to steer the wheel. If we do that, the facilities in remote areas that have historically been marginalized will start coming up.

As I support, I request that we start thinking radically if we want to achieve the UHC.

**The Speaker** (Hon. Kingi): Let us now listen to Sen. Ali Roba.

**Sen. Ali Roba:** Mr. Speaker, Sir, I rise to support the Statement as shared by Sen. Mariam Omar and expounded on by Sen. Mumma, Sen. Mandago and Sen. Cherarkey.

As counties are striving to improve service quality, over the past 10 years that we have had devolution, the health sector has tremendously improved. I am talking from experience in terms of where we were in Mandera County and where we are currently in terms of health sector improvement.

The National Social Security Fund (NSSF) should support the improvement by making sure that they prudently reimburse clients who go to Government hospitals. This is because country governments are striving. I am aware that they are in the phase of establishing amenity wards.

That will enable people to pay nominal fees and get the same services that they get from private hospitals. Unfortunately, the information shared is extremely accurate based on my own experience as a former Governor of Mandera County.

The NSSF does not expeditiously reimburse Government hospitals at the same speed they reimburse private hospitals. As such, you will find that claims launched by county hospitals are put aside so that the Nairobi Hospital, the Aga Khan University Hospital and the rest are reimbursed first.

The NSSF should be put to task, so that they consider reimbursement requests at the same speed and priority like those from the private hospitals. By doing that, county government hospitals and other hospitals run by the Government will plough back that money and make sure that service improvement is undertaken. That is alongside other investments by county governments.



Statistical data indicates that in each of the 47 county governments, the highest budget allocation of the 10 ministries that county governments run, is the health sector. That is in terms of the allocations by county governments. So, there is no under investment under the circumstances with the limited resources that county governments get from the sharable revenue among county governments.

We also require complimenting efforts as the Government of the day strives to make UHC work. We also require institutions that will fast-track the implementation such as the NSSF. We say all of us are equal but others are more equal than others. That means that private hospitals are a priority while Government hospitals are tertiary priority.

As a result of that, I believe it is extremely important for the Committee on Health to have a meeting with the management of the NSSF. This is because the Cabinet Secretary (CS) for Health may do a collateral damage but this is entirely 100 per cent under the control of NSSF.

Mr. Speaker, Sir, the Chief Executive Officer (CEO) of the NSSF should be put to task in order to make sure that they go alongside the spirit of the Government of the day of improving and establishing UHC.

I thank you.

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

**Sen. Veronica Maina:** Mr. Speaker, Sir, the right to health is guaranteed under Article 43 of the Constitution. The fact that this right is guaranteed under the Constitution, means that it is an important right under the Bill of Rights where we have economic and social rights.

I rise to support the Statement by Sen. Mariam Omar. It is sad that an institution like National Health Insurance Fund (NHIF) can take public health institutions to their knees by lack of resources to render quality health care.

My proposition is that, contributions are timely done on monthly basis and submitted to NHIF. This House must ensure that NHIF pays its bills on time. These bills raised against NHIF by public institutions have an impact on the quality of healthcare given to Kenyans. The delay to settle them negatively impact healthcare services given to Kenyans in public institutions.

I support the wise Statement from the Senator. The time has come for NHIF to drop the bad culture of failing to remit their dues on time to public health institutions. In fact, it should be treated as impunity if NHIF can pay private hospitals in good time and fail to do so to the public hospitals. Their service charter must treat every institution equally. NHIF must also meet the conditions agreed upon by the respective institutions so as to enable them to deliver quality healthcare to all Kenyans.

As I conclude, let me note that if a Kenyan has an accident on Mombasa Road, the first hospital of intervention is most likely to be a public hospital and not a private hospital. The longer we keep our public hospitals in a deplorable state, the harder it will be for Kenyans to access healthcare. Not only one Kenyan, but all Kenyans who are utilizing the services of healthcare within the Republic of Kenya.

I support the Statement and ask the Committee to put to task the NHIF on accounting for why they cannot improve their service to make healthcare an achievable right in Kenya.

**The Speaker** (Hon. Kingi): This Statement stands referred to the relevant Committee for Consideration.

Sen. James Kamau, you may proceed.

**Sen. (Dr.) Murango:** Mr. Speaker Sir, I seek your permission to go through the various Statements that I have consecutively.

#### DISTRIBUTION OF RELIEF FOOD IN KIRINYAGA COUNTY

Mr. Speaker Sir, I rise, pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on National Security, Defence, and Foreign Relations on the skewed distribution of relief food in Kirinyaga County.

In the Statement, the Committee should -

(a) State the criteria used to identify the beneficiaries of relief food being distributed by government agencies and the measures, if any, to ensure that such relief food fully benefits the targeted people;

(b) Explain why Marurumo, Ciagini, Ndorome and, Ndindiruku areas in Kirinyaga County were not considered for the provision of relief food, despite being severely drought-hit; and

(c) Outline plans the Government has put in place to ensure there is sufficient relief food aid stock in order to ensure all targeted populations in drought-hit regions of the country benefit and to deal conclusively with drought and food shortage.

#### THE SECURITY SITUATION IN KIRINYAGA COUNTY

Mr. Speaker Sir, I rise, pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the security situation in Kirinyaga County. In the Statement, the Committee should -

(a) Explain the circumstances that have led to the escalating cases of insecurity in Karugoya, Sagana, burubani, Kagumo, and Kagio areas in Kirinyaga County following the recent wave of theft and mugging;

(b) State the number of reported insecurities ten incidents in the affected areas of Kerugoya stating the nature of the incidents, victims targeted including the number of fatalities and those injured, and the interventions made by the police to bring to book those behind the reported wave of insecurity in Kirinyaga County.

(c) Outline immediate and long-term action being taken by the Ministry of Interior, and National Administration to curb insecurity including dealing with the outlawed gangs like Roysame that are terrorizing residents of Kirinyaga Central

RECKLESS DRIVING BY KHAT TRANSPORTERS  
IN KIRINYAGA COUNTY

Mr. Speaker, Sir, I rise, pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on Roads, Transportation, and Housing on speeding by drivers transporting khat (*mira*) through Kirinyaga County.

In the Statement, the Committee should -

(a) Apprise the Senate on the extent of compliance to provisions stipulated in the Traffic Act by drivers transporting *mira*;

(b) State the measures put in place, if any, to curb accidents caused by the drivers, who continue to create havoc on Ndindiruku-Gathigiriri Prison road and Thiba, Red Soil, Murubara and Ngurubani areas in the county; and

(c) Enumerate the actions being taken by the Government to ensure peaceful co-existence among road users, including motorists, cyclists, and pedestrians, and dealing strictly with traffic offenders to curb cases of traffic offenses and accidents.

OLDER PERSONS CASH TRANSFERS PROGRAMME

I rise, pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on Labour and Social Welfare on the Older Persons Cash Transfers (OPCT) program.

In the Statement, the Committee should-

(a) Outline plans by the Government, if any, to register more beneficiaries to the Older Persons Cash Transfer (OPCT) program, considering that the last registration was done three years ago;

(b) State measures put in place by the Government to ensure the timely disbursement of funds to the elderly; and

(c) Inform the Senate of the steps being taken to update the list of beneficiaries to exclude deceased individuals.

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

**Sen. Osotsi:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1)---

**The Speaker** (Hon. Kingi): Sen. Osotsi, you had made a request. So, you are on your feet for the purposes of contributing to the just-delivered Statements. If you are not ready then, I will call the next statement.

**Sen. Osotsi:** Well guided Mr. Speaker Sir. Let me comment on one of the Statements by Sen. (Dr.) Murango on the issue of the distribution of food to people affected by the famine. I noted that he raised the issue of the system used in distributing this food. It looks like the system of identifying the beneficiaries is not efficient. That raises concerns because there was a recommendation from the International Monetary Fund (IMF) and other donors that the Government changes from physical food distribution to cash transfers which was more efficient. It had fewer challenges of procurement and corruption.

I wonder why the Government has gone back to the physical distribution of food which has a lot of challenges; procurement even logistical challenges and even corruption.

The Senator for Kirinyaga County has raise a critical issue. I ask the relevant Committee to move with speed and request sufficient information from the relevant Ministry so that we do not expose ourselves to corruption that is likely to arise as a result of this crisis disaster that we have.

I commend the Senator for bringing this to the House. May I ask the Committee to quickly do a report to this House on this matter so that we can save this country a lot of money which is likely to get lost as a result of corrupt practices by some public officers.

Thank you, Mr. Speaker, Sir.

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

**Sen. Cherarkey:** Mr. Speaker, Sir, thank you for giving me this opportunity. Out of the many Statements that Sen. (Dr.) Murango has said, one that has struck me is on the Older Persons Cash Transfer (OPCT). I commend because he is learning very fast and becoming very industrious.

Secondly, it is very unfortunate because we all at some point shall get old. We will need the Government to take care of us except when you are a pensioner. It is very sad that the registration of older persons for OPCT is done every three years.

It should be done even monthly because people grow old. It does not mean that people retire and get to the age that is required only after three years. I asked this question during the last session of Senate before we adjourned for elections.

Mr. Speaker, Sir, looking at the life expectancy, we should in fact lower the age of registering under the older OPCT programme to 60 years. Even the Bible talks about 70-80 or is it 60-70 years? How do your then register somebody who is 70 years and above? The retirement age of any person is 60 years. In fact, it should be lowered to 55-60 years.

Number three, these are old men. When you go to towns like Kapsabet, Eldoret, Vihiga and Kilifi, you will find *wazee* from all those small villages boarding Matatus all the way to towns. They are old and cannot even cross the road. They are illiterate and in poor health. We then allow them to sit on the verandahs to be taken advantage by the vagabonds in the cities and centers.

The Ministries of National Treasury and Planning and Labor and Social Welfare, must be creative enough to ensure that they send money through *Mpesa* to those *wazees* wherever they are in the village at their convenience. This is so that they do not need to travel using matatus. Some of them are sick and do not have support systems.

Finally, the commercial banks - I do not want to name them - are taking advantage. For example, why would you give that work to a certain commercial bank that does not have an agent up to the lowest small center for example, in Chepteruai Center in Mosop Sub County or Mwombo a furthest corner in Tindiret Sub County or somewhere in Kilifi?

Why would we give that work to a bank that does not have even one or two branches in Kapsabet town which is the county headquarters of Nandi County? To the Ministry of Labor and Social Welfare, let us use *Mpesa*.

I know some people might complain that they are being blacklisted through Credit Revenue Bureau (CRB). There is an amnesty from the Government up to early next year. This is in fact mercy that is only given once in a lifetime.

Our elderly people have served this Nation. Let us treat them with dignity they deserve by ensuring there is transparency and accountability.

Finally, when this Committee sits, the Cabinet Secretary (CS) and the Permanent Secretary (PS) must tell us how much they have dispensed. They must state the number of elderly people dispensed to, who they are and their Identification Number (ID) in the last three years in this Republic.

This is because we are being told that in the last term of Uhuru Kenyatta, they used Kshs50 billion in the last three months that no one can account for. We do not want to be told Kshs50 billion was given to *wazee* yet we do not know who they are. Maybe it was used for Azimio campaigns. That issue must be handled properly.

We want to protect the future. We cannot use Kshs50 billion and fail to account for it. These people must tell us where the money is. They cannot tell us they gave it to *wazee* yet they were using it for Azimio One Kenya Alliance campaigns in the Republic of Kenya.

Thank you.

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

**Sen. Ogola:** Mr. Speaker, Sir, allow me to just go straight to my point without deviating to the sentiments by the Senator of Nandi County.

I rise to make a point on the Statement by the Senator for Kirinyaga, specifically about the OPCT. If there is anything the Government has done well and had good intention on, it was the OPCT.

This initiative was started with the Grand Coalition Government to older persons in the two pilot areas of Nyeri and Bondo. If anybody would reflect on how those old people looked like, it was so pathetic. As soon as this fund was disbursed and with time, you saw the honor and the dignity of these older persons that were receiving these funds.

I emphasize the fact that this is a fund that has restored the dignity of our older persons. All we may ask for is that it should be disbursed in a timely manner. These funds are used for the upkeep of these older persons. If they are to be used well by beneficiaries, then it must be done in a timely way.

The Senator asked about when other older persons would be registered. For me, I would emphasize that all the older persons in this Republic must be registered from this fund. Most of the beneficiaries are always people who have a lot of responsibility. Some are older people that have lost their children and they take care of their grandchildren.

However, little some of us might consider this amount to be, some of the beneficiaries have even taken their grandsons and granddaughters to local schools around where they stay.

Mr. Speaker, Sir, as I support this Statement, the Government must go forth to register all older person into this scheme and let the disbursement also be timely.

I support.

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

EFFECTS OF GOVERNMENT AUSTERITY  
MEASURES ON THE HOTEL INDUSTRY

**Sen. Osotsi:** Mr. Speaker, Sir, I rise pursuant to Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialization and Tourism, regarding the effects of Government austerity measures on the hotel industry.

In the Statement, the Committee should-

(1) State the measures, if any, the Government is taking to help the hotel industry to recover from the effects of COVID-19 pandemic due to low volumes of international booking. This has led to closure of several hotels; Intercontinental Hotel, Laico Regency Hotel, Radisson Blue and now the imminent closure of the historic Hilton Hotel.

(2) Explain what informed the recent Presidential directive, to shave off Kshs300 billion shillings from the current financial budget, by among other measures, discontinuing trainings, conferences and other events by Government ministries and agencies in hotels which would exacerbate the already difficult operating environment for hotels.

(3) Table the Assessment Report done by the Ministry of Tourism, Wildlife and Heritage on how the proposed austerity measures would affect the hotel industry and indicate the measures being taken to alleviate the negative effects caused to complimentary industries such as transport, aviation and agriculture that depend on the hotel industry.

(4) State whether the relevant industry stakeholders such as the Kenya Association of Hotelkeepers and Caterers (KAHC) were involved in the decision to impose austerity measures and clarify whether donor sponsored events in hotel facilities will also be affected by this directive.

(5) Outline any additional policies the Government is implementing to seal budget cuts in Government and actions put in place, if any, to ensure that funds are not lost through corruption and tax evasion, which necessitates drastic and punitive austerity measures.

(6) Table a detailed status report on the successes or failures of such past austerity measures by the past Government.

Thank you, Mr. Speaker, Sir.

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

**The Senate Minority Leader** (Sen. Madzayo): Thank you, Mr. Speaker, Sir. First, I congratulate my colleague for bringing this Statement.

Secondly, it is not only in hotels as stated like the imminent closure of Hilton Hotel. As far as we are concerned, Hilton Hotel is an iconic hotel. It was among the first hotels we had in this country. It will be very unfortunate if the Government allows it to sink, knowing very well the efforts we have made to rescue Kenya Airways.

It is also important to note that if there is any place that has been badly affected by the mismanagement of the tourism industry, then Kilifi is one of the areas that is hard hit. We have iconic hotels like the Lawford Hotel, Whispering Palms Hotel and the Angels Bay Resort. If I can remember those days, tourists used to be many in Malindi,

Kilifi and generally the whole Coast. It was a tourist destination. However, it has been neglected.

I call upon the Ministry of Tourism to wake up. There is so much corruption in that Ministry. If the Government can concentrate on how we can rescue or bring back tourism in this country, then it will go a long way in creating job opportunities and having infrastructure in certain areas, as well as giving everyone opportunities.

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I congratulate Hon. Osotsi, the Senator for Vihiga County, for this important Statement. For a long time, agriculture was the main forex exchange earner for this country. Considering not too much thought has been put into it, this iconic status now been lost to unpredictable products like inflow of funds from Kenyans living in the diaspora.

We need to take it more aggressively, so that over and above reviving tourism, we should also cause tourists to come to Kenya for other reasons other than the Big Five of our wildlife and our sandy beaches at the coast.

Mr. Speaker, Sir, the tourism potential in Western part of Kenya is massive but it is not marketed as an alternative to the Big Five. Starting from Lake Victoria, Kit Mikayi, Vihiga Stones, Kakamega Forest, the Crying Stone of Africa at Ilesi and all the way to the rich culture of Isikuti and bull fighting. These are things that can bring billions of dollars on a weekly basis, yet the product is not being developed.

As if that is not enough, the hotels have collapsed. It is sad that the Hotel in Homa Bay and the Golf Hotel are going under simply because people are not being aggressive enough.

Therefore, I support and hope that this House will take it more aggressively and not take it as just a Statement from a distinguished Senator.

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

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. This is an important Statement from the Senator for Vihiga County, Sen. Osotsi. We understand the Government is trying as much as possible to impose austerity measures but hotels form a big base. Hotels in our counties form a big base of small and medium enterprises, where you see many of Government policies focus on.

In this country, the real estate industry in mostly far-flung counties, tends to be around hotels. We should not look at hotels as a mere function of the big players.

Trying to put austerity measures that indict hotels from holding meetings, is actually killing the same economy that the Government is trying to uplift.

Mr. Speaker, Sir, I know people like my brother, Sen. Methu, are in the “deep State”. I want to say that our approach to austerity measures is wanting because what is happening in this country is very simple.

Our economy works like this: It is like a river, where resources are flowing downstream and then somebody has dug dams around this river. Under the dam there is porosity that is going on. The policy we are seeing is an attempt to reduce expenses in Government. However, this is a wrong target because we know very well that in this country, income and expenses are functions of both Kenya Revenue Authority (KRA) and procurement.

Tax collection in this country is what is putting us into serious problems. People are paying a lot of taxes in this country and those taxes can actually finance Government budget. However, there is a lot of leakages in our taxes such that they do not end up getting to the Government.

Today, you want to take away Kshs300 billion from the hotel industry when actually tax collectors invest almost the same amount of money in real estate and it does not reach the Government. We have a lot of buildings in Nairobi City that have been built by KRA officials. They collect the money but do not allow it to get to the Government and this is quite known. I want to encourage the Government to first of all stop leakages in KRA who do not remit the taxes to the Government.

Secondly, the Government is trying to address the issue of value for money, which is caused by serious leakages by procurement officers. Procurement officers in this country have made it impossible for Government to get value for money. We go to Government offices and realize that procurement is always inflated to suit people who work in Government.

My plea to the Government is not to target the wrong areas. I do not think there is a problem with Government officials holding meetings in conducive areas.

Mr. Speaker, Sir, we did our training in Mombasa during recess. It was in a very nice hotel and we were very relaxed. Had we held that training here in this Chamber for those five days, I do not think it would have been quite as effective as it was.

That is the atmosphere that we need to create whereby the leakages and porosity that we are seeing in procurement and collection of revenue in this country can be corrected rather than targeting small and medium-sized enterprises such as hotels. I hope that Sen. Cherarkey will have the courage to convey these kinds of ideas to the Government.

Mr. Speaker, Sir, I thank you.

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

**Sen. Faki:** Bw. Spika, asante kwa kunipa fursa hii kuchangia maombi ya Taarifa kutoka kwa Sen. Osotsi. Kama tunavyojua, nchi yetu ilikumbwa na janga la Korona na vile vile, baada ya hapo kukawa na wasiwasi kutokana na uchaguzi uliofanyika mnamo 9<sup>th</sup> Agosti, 2022. Yote hayo yaliadhiri uchumi, hususan utalii kwa sababu utalii unapendelea mazingira ambayo yako na utulivu na usalama.

Bw. Spika, sasa kwa vile uchaguzi umekwisha na uchumi umeanza kufukuka, Wakenya wengi, mashirika na wafanyikazi wa serikali wamepata fursa ya kwenda kwenye mikutano, ili kuweza kujadili miradi na maswala mengine ya kuendesha Serikali. Hili jambo la kuzuia mikutano kufanyika katika hoteli itaadhiri pakubwa uchumi na biashara ya utalii kwa sababu utalii mwingi unaofanyika sasa ni wa mikutano, ama “*conference tourism*.”

Ukienda Mombasa hivi sasa, utapata hoteli kama Pride-Inn, White Sands na Serena zimejaa. Vile vile, hoteli nyingi kule Naivasha pia zimejaa kwa sababu mashirika mengi na wizara za serikali zimechukuwa fursa hii kufanya mikutano katika hoteli zile.

Bw. Spika, mwaka huu ni kama umeshapotea. Kwanza, tulikuwa tunapona kutokana na janga la korona. Baadaye, kukaingina kampeni, ambapo watu wengi hawakuwa tayari kuondoka manyumbani kwao, kwenda kutembelea mahoteli kwa



sababu ya wasiwasi. Sasa hivi, Serikali imepiga marufuku mikutano kufanyika katika mahoteli kama hayo.

Bw. Spika, iwapo agizo hili litatekelezwa, itaamaanisha ya kwamba wale wawekezaji wa biashara za hoteli, watakosa kupata faida yoyote, mwaka huu wa 2022. Agizo hili litaadhiri uchumi kwa sababu mapato yanayotokana na utalii yataweza kupungua na hata yale malengo ya Serikali ya kukusanya pesa walizotarajia mwezi wa sita, bajeti iliposomwa, hayataweza kutimizwa.

Ningependa swala hili liangaliwe kwa haraka, kwa sababu tayari tunafikia mwisho wa mwaka na wangependelea angalau wapate faida kidogo, ili waweze kuregesha raslimali zao mwaka huu wa 2022.

Asante, Bw. Spika.

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

**Sen. Githuku:** Bw. Spika, asante kwa kunipa nafasi hii. Nachukua nafasi hii pia kumshukuru Sen. Osotsi, kwa kuleta Taarifa hii. Utalii ni kitega uchumi kikubwa cha Jamhuri ya Kenya. Mimi natoka katika Kaunti ya Lamu iliyopo katika Jumuiya ya Pwani. Sisi watu wa Lamu tunategemea sana utalii.

Utalii ni jambo ambalo Lamu imejivunia kwa muda mrefu sana na sekta hiyo imeweza kuajiri vijana wengi katika Kaunti ya Lamu. Kwa hivyo, naunga mkono yale wenzangu wameweza kusema ya kwamba utalii ni jambo ambalo Serikali inafaa ichukulie na uzito sana, ikizingatiwa kwamba utalii umeajiri vijana wengi sana katika Jamhuri yetu ya Kenya.

Bw. Spika, kwa muda mrefu imejulikana ya kwamba utalii umebobeza zaidi huko Lamu. Serikali inapochukua hatua ya kupinga mikutano katika mahoteli, itakuwa inaua uchumi wa nchi yetu ya Kenya.

Bw. Spika, tuko na hoteli nzuri sana kule Lamu, kama vile Majlis Resort, Mahrus Hotel, Peponi Hotel na Jonathan Hotel. Hoteli hizi zote ni za kifahari. Huwa naudhika na kusikitika sana wakati ambapo mikutano mingi inafanywa Mombasa na Naivasha na huku Lamu hatupati wageni kutoka Seneti ama Serikali haitumi viongozi kuenda kule kufanya mikutano.

Bw. Spika, ningependa Maseneta na Wabunge waende kustarehe kule Lamu kwa sababu ni mahali pa mandhari mazuri. Wakienda kule, watajivunia kuwa Wakenya. Naomba tuunge mkono jambo hili. Namwomba Katibu wa Seneti na Manaibu wake wakubalie Maseneta kwenda Lamu.

Nachukua nafasi hii kuwaalika waheshimiwa wenzangu tarehe 24 hadi 26 ambapo tutakuwa na *Cultural Festival* ambayo itajumuisha mataifa mengi kutoka sehemu mbalimbali za ulimwengu. Kwa hivyo, naomba Waheshimiwa na viongozi wengine wa Serikali wafike kule ili wajivinjari katika Kaunti ya Lamu.

Bw. Spika, nawahakikishia Maseneta wote ambao watafika kule kuwa nitasimamia chakula cha mchana. Pesa za matumizi watakazopewa hapa wahakikishe wanatumia kule, ili watu wa Lamu pia wajivunie kupata wageni kutoka Seneti.

Asante sana.

**The Speaker** (Hon. Kingi): Hon. Senators, you will note that there are two more Statements on the Order Paper by Sen. (Prof.) Tom Ojienda, SC. However, he has requested that we defer them to tomorrow.

Pursuant to that request, I direct that those Statements be deferred to tomorrow, 17<sup>th</sup> November, 2022.

DEATH OF CAGE FISH IN LAKE VICTORIA

CHALLENGES FACED BY SUGARCANE FARMERS  
AND DECLINE OF SUGAR INDUSTRY

*(Statements deferred)*

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

**The Senate Minority Leader** (Sen. Madzayo): Point of Order, Mr. Speaker, Sir.

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

**The Senate Minority Leader** (Sen. Madzayo): Mr. Speaker, Sir, I have a Statement which was approved. I thought I would be accorded an opportunity---

*(Sen. Cherarkey spoke off record)*

**The Senate Minority Leader** (Sen. Madzayo): Mr. Speaker, Sir, I am not in any way challenging your authority as suggested by Sen. Cherarkey. I think it is just an issue of oversight. Maybe I can do it tomorrow because I do not mind.

*(Sen. Cherarkey spoke off record)*

**The Speaker** (Hon. Kingi): Senator for Kilifi, kindly approach the Chair.

*(Sen. Madzayo consulted with the Speaker)*

**The Speaker** (Hon. Kingi): Hon. Senators, I will allow the Senator for Kilifi to make his Statement. Kindly proceed.

**The Senate Minority Leader** (Sen. Madzayo): Asante Bw. Spika. Sen. Cherarkey is my brother. So, it is quite okay.

UBOMOAJI WA NYUMBA NA KUFURUSHWA KWA WAKAZI WA  
KIJJI CHA PINDUKIANI, KAUNTI YA LAMU

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, nasimama kwa mujibu wa Kanuni za Kudumu, Kipengele cha 53, kuomba Taarifa kutoka kwa Kamati ya Kudumu ya Ardhi, Mazingira na Mali Asili, kuhusu ubomoaji wa nyumba na kufurushwa kwa wakazi wa Kijiji cha Pindukiani, Wadi ya Ganda katika Eneo Bunge la Malindi, Kaunti ya Kilifi. Katika Taarifa hiyo, Kamati iangazie yafuatayo-

(1) Sababu zilizopelekea ubomoaji wa kiharamu ama kinyume na sheria kwa makazi ya familia ziadi ya 200 katika Kijiji cha Pindukiani, Wadi ya Ganda, Eneo Bunge la Malindi, katika Kaunti ya Kilifi.

(2) Kwa nini ubomozi huo ulitekelezwa kinyume na agizo la Mahakama Kuu, lililosimamisha ubomozi hadi kesi ya mzozo kuhusu ardhi hiyo itakapotatuliwa.

(3) Umiliki sahihi wa hati miliki kutoka kwa wakazi wa eneo hilo na iwapo mhusika aliyebomoa alikuwa na kibali kutoka kwa mahakama kuidhinisha utekelezaji huo.

Bw. Spika, kwa kufafanua zaidi, ningependa kujua kama alikuwa na *order* ya kubomoa nyumba katika kipande hicho cha ardhi ama alivamia kijiji kingine ambacho watu wana hati miliki na kuanza kubomoa nyumba.

(4) Ningependa wanakamati wazuru Kijiji cha Pindukiani na kubaini kama sehemu hiyo inayodhaniwa kuwa katika eneo ambapo nyumba zilifaa kubomolewa. Je, watu ambao walikuwa wanaishi kwenye shamba hilo la ekari 60 ambapo kulikuwa na ubomozi watafidiwa kiviipi?

Asante.

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

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I stand to support the request by Sen. Madzayo. The issue of demolitions that affect most people who do not earn a lot is a serious one. I can relate to that. In that particular case, there was no following of state laid down procedures.

We know that every time an order for demolition comes from the court, the steps of implementation are very clear. That order should not to be effected by auctioneers. It has to be taken to the police who then take it to their seniors. It has to be done in such a manner that the police are satisfied that there are no cases pending before court.

Auctioneers have taken advantage of people and destroy lives and life savings of many people. It is evident even here in Nairobi City County. Just recently, it was all over television stations. Auctioneers have made people to suffer. Sometimes they do not follow the procedure. Even police officers are compromised.

I know of a case in Malindi where an advocate whom I know well was threatened with arrest because he told officers who were executing the order that they were acting on an old order but there was another order that required stoppage of demolition until the pending case was heard.

Mr. Speaker, Sir, we need to bring some order. I pray that this particular case in Malindi will serve a lesson. I pray that when the committee goes there, all the people culpable of any procedural violations will be brought to book.

The Committee should also make a recommendation that this House looks at the Auctioneers Act and how demolitions are done. If a property is demolished unprocedurally, serious consequences should follow. An auctioneer should not go to court and get Kshs100,000 bond after demolishing a building and destroying livelihood. The other day, we saw this happening here in Nairobi. The same should not happen to people living in small houses and in our villages. Not in this administration or under the Constitution.

I support the Statement.

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

**Sen. Mwaruma:** Asante, Bw. Spika, kwa kunipa hii fursa kuchangi Taarifa iliyosomwa na Seneta wa Kilifi Sen. Madzayo kuhusu shida iliyowakuba watu wa Kijiji cha Pindukiani, Kilifi Kaunti.

Kisa kilichowapata watu wa Pindukiani kinaadhiri Wakenya nchi nzima. Watu tofauti wamepatwa na madhila haya kwa sababu wa mizozano ya mashamba. Migogoro ya ardhi hapa nchini imeongezeka. Kwa sababu ya mabwenyenye ambao wanatumia njia za mkato na zisizo za kisheria kunyakua ardhi za wananchi ambao ni maskini na kuwaacha katika shida na tabu nyingi.

Nilikuwa mwanachama wa Kamati ya Ardhi katika Bunge la 12 na sasa katika Bunge hili la 13. Kuna Taarifa nyingi ambazo zinakuja kwenye hii Kamati kwa sababu ya migogoro ya ardhi. Kamati hii itachuguza tukio hili lililowapata watu wa Kijiji cha Pindukiani. Tatalivalia njuga na kuwasaidia wananchi wa Pindukiani.

Watu wengi wamebomolewa nyumba zao. Watu wanaopata shida wakati wa ubomozi kama huu ni akina mama na watoto. Tumetembea mitaa mingi. Kwa mfano, mwaka wa 2020 tulienda huko Diani na tukaona watu waliyobomolewa nyumba bila kufuatwa kwa sheria.

Wakati nyumba zinabomolewa lazima tueke ubinadamu kwa sababu wananchi maskini watataabika zaidi. Kamati hii ya Ardhi, Mazingira na Maliasili tumekuwa na Taarifa kuhusu shamba la watu wa Mswambeni maeneo ya Voi. Kampuni ya Bata ilipewa shamba kule Voi lakini haijenga kiwanda cha viatu. Baada ya miaka miwili walishurutishwa na *lease* ya shamba kuwa wasiuze lile shamba. Hivi sasa mahakama imepitisha kwamba watu zaidi ya 3,500 watolewe kule Msambweni, Voi.

Ni lazima tuvalie njuga suala hili kwa sababu ni jukumu la Serikali kupeana makaazi kwa wananchi. Tunataka Serikali inunue shamba na kuwapa watu wa Mswabeni hati miliki. Tatalivalia njuga hili suala la Voi na la Kijiji la Pindukiani. Sisi kama Kamati ya Ardhi tumefanya mapendekezo kwamba Serikali kupitia kwenye *Settlement Fund Trustee Board*. Lile shamba linunuliwe ili wale wananchi wa pale Voi wapewe. Na hili suala la Pindukiani, pia wananchi kule wanafaa kupewa shamba hilo. Tutapendekeza hivi tutakapoenda Kilifi kufanya uchunguzi zaidi. Lile shamba linafaa linunuliwe na Serikali ili wale watu wa Pindukiani wapewe kama vile shamba la Waitiki kule Mombasa, Serikali ilinunua na kuwapa wananchi hao makaazi.

Nashukuru sana kwa fursa ya kuunga mkono Taarifa hii.

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

**Sen. Abass:** Thank you, Mr. Speaker, Sir. I rise to support the Statement made by the Senator for Kilifi County. As you are aware, this country has a lot of problems, especially in terms of land disputes. The other day someone's House was demolished in Westlands, Nairobi County. We also have situations where people are claiming other people's properties. Auctioneers move in at any time and take people's property. Mostly, poor people are affected since they are not protected.

It is high time this House revisited the issue and see what is happening now in Kilifi County and protect the poor people whose land has been taken. Where people's houses are being demolished, they need our protection.

I support the Statement.

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

**Sen. Omogeni:** Mr. Speaker, Sir, I rise in support of the Statement that has been brought to the Floor by Senator for Kilifi, Sen. Madzayo. Of late, our auctioneers have been roguish. The way eviction orders are being carried out by auctioneers is inhumane and there is no regard for property owned by Kenyans who are in the low cadre of income. This is extremely unfair.

When I used to serve as the Chairperson of the Law Society of Kenya (LSK), we came up with a board called Auctioneers Licensing Board. I used to pick two representatives to sit in that board. One of the mandates is to deal with auctioneers who behave in a roguish manner like the one I have heard from Sen. Madzayo. We must have deterrence.

If we do not take any action against some of these auctioneers, they will repeat the same violations. I hope when this matter is considered by this House, that the Auctioneers Licensing Board will consider making recommendation on the revocation of a license for auctioneers who have no regard for respect of human rights and property of Kenyans.

Secondly, when we enacted the Constitution in 2010, we created a Special Land and Environment Court. The thinking on the chapter on Judiciary was that issues like evictions should be dealt with by judges of the High Court and not magistrates court. Though I hear that this particular order - if I heard Sen. Madzayo clearly - was issued by a magistrate's court.

We need to rethink whether there is wisdom in giving magistrates' courts such expansive powers, including giving the power to give eviction orders. Land is a sensitive matter. When you are evicting 200 families, imagine how many poor and innocent children have been rendered homeless.

These are not people who will wake up tomorrow and get alternative homes. It is inhumane and we need to be extremely sympathetic to families that are vulnerable so that we do not render them homeless just by an act of eviction carried out one morning.

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

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

Madam Temporary Speaker, I hope that the Committee that will look into this can also have a hearing from the Registrar of the High Court. This is so that we relook at the existing jurisdictions of Magistrate Courts to issue evictions so that this kind of acts should not recur.

I am very sympathetic and say *pole* to the families of Kilifi. I thank their Senator, Sen. Madzayo for being proactive and bringing this matter to the Floor of the Senate. No wonder Sen. Madzayo is now doing his third term. It is because of the concern he has for his people and being at the forefront fighting for them. This is commendable. I plead with the House to stand with him and the people of Kilifi County in ensuring that the affected families get justice from this House.

I thank you.

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

We will now have Sen. Faki.

**Sen Faki:** Ahsante Bi. Spika wa Muda, kwa kunipa fursa hii. Ninaunga mkono Taarifa ya Sen. Madzayo kuhusiana na kufurushwa na ubomoaji wa makaazi katika maeneo ya Pindukiani Ward katika Kata ya Ganda, Kaunti ya Kilifi. Hili limekuwa donda sugu.

Hata mimi siku ya Ijumaa wiki iliyopita, nilipigiwa simu ofisini mnamo saa kumi na nusu, nikaalezwa kwamba kuna mama mzee mjane, aliyekuwa anafuruswa kutoka kwa nyumba yake katika mtaa wa Ganjoni eneo Bunge la Mvita, Kaunti ya Mombasa.

Nilipofika hapo, ikawa mambo ni kama hayo anayoyazungumzia Sen. Madzayo. Dalali alikuwa amekuja na amri ya kutoka mahakama ndogo. Wakati yule mama alikuwa na amri ya kutoka Mahakama Kuu. Dalali yule hakuweza kuheshimu amri ambayo imetolewa na Mahakama Kuu.

Masuala kama haya yanatokea licha ya kuwa sheria sasa imepanuliwa ili kulinda wananchi wanaotaka kufurushwa hivi. Hii ni kwa sababu huwezi kupata uzaidizi wa polisi kwanza mpaka uweze kupeleka *amri* ile kwao.

Polisi wao badala waje waulize mhusika kama ni ukweli kuna amri ya kufurusha dhidi yake, polisi wanakwenda mahakani kuchunguza amri. Wakiona kuwa kuna amri kama hiyo wanakuja moja kwa moja kumhamisha mtu yule.

Suala hili lazima liaangaliwe kwa undani zaidi. Hata kama itabidi lile jopo la madalali yafaa kuitwa katika Kamati hii ili waeleze ni kwa sababu gani hawawezi kutekeleza amri zile kwa njia ambayo itampa nafasi yule mhusika aweze kufuatilia mambo yote ya kisheria ambayo yatamwezesha asifurushwe na mali kuharibiwa kiholela.

Tumeona sehemu nyingi, nyumba zimevunjwa. Juzi hapa Nairobi katika maeneo ya Westlands, nyumba na mali ya thamana ya karibu million sabini imevunjwa na kuvurugwa wakati kuna watu ambao kupata makao ni shida.

Katiba yetu inatoa haki ya mtu kuwa na makao ambayo ni salama na ya kufaa. Tukipambana na madalali kama hawa ambao wameenda huko Pindukiani, haki ile imekuwa ni kama hewa moto ama *hot air*.

Ninaomba kamati hii itakapochunguza suala hili, iwaite wale wahusika madalali waje wajieleza ni kwa sababu gani hatua za kisheria haziwezi kuchukuliwa kwa yule amabaye amehusika na masuala kama hayo.

Mwisho, ninampongeza Sen. Korir kwa kuchaguliwa kama Naibu wa Mwenye Kiti wa Tume ya Bunge. Ninafikiri Imekuwa ni ndoto kwake lakini yametendeka. Sisi tutakuunga mkono katika kazi zako ili tuhakikishe kwamba unazitekeleza ipasavyo.

Ningempa pole ndugu yangu Sen. Cherarkey. Nimeona katika baadhi ya mitandao, inasema kuwa alipigwa kabari hapa mjini Nairobi. Pole sana Mhe. Sen. Cherarkey.

*(Laughter)*

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

We can have Sen. Shakila Abdalla.

**Sen. Shakila Abdalla:** Asante, Bi. Spika wa Muda, kwa kunipa nafasi hii ili niweze kuunga mkono Taarifa ya Mhe. Sen. Madzayo.

Ni masikitiko kwamba mambo kama hayo yanazidi kuendelea. Watu masikini wanafurushwa kwenye ardhi zao kiholela.

Kuna sheria ambazo zimewekwa. Tulipopitisha Katiba mpya, tulitengeneza National Land Commission (NLC) ambayo inafaa kuhakikisha na ithibitisha kwamba mambo kama hayo hayafai kutokea kwa sasa baada ya hiyo Tume kuwekwa.

Tume hiyo ilikuwa inafaa iangalie *historical injustices* katika masuala ya ardhi na iangalie ya kwa kwamba hatimiliki zinatolewa kwa njia gani kuanzia chini kuja juu.

Utakuta watu wanajitolea hatimiliki na wale ambao ni wamiliki halali wa hiyo ardhi wanakuja kufukuzwa kwenye ardhi zao kiholela bila thibitisho ya kusema kwamba huyu mwenye hii hatimiliki kweli ndiye mwenye hiyo ardhi ama ni yule mkaazi kwenye hiyo ardhi.

Bi. Spika wa Muda, kuna haja kamili ya watu kujua njia na mbinu za kutafuta hatimiliki zao. Utakuta Wakenya wengi hawana uzoovu na kuelewa njia zinazofuatwa ili mtu apate hatimiliki kwa ardhi yake ambayo pengine ameipata kuanzia mababu na mababu. Ukosefu wa kuelewa mbinu za kupata hatimiliki umefanya watu wengi kudhulumiwa. Wengine ambao wana uzoefu, walio na mapesa na mabwenyenye wanaenda na kujitolea hatimiliki kwa ardhi ambazo sio zao kihalali.

Kule Kaunti ya Lamu tuna mradi wa LAPSSET na miradi mingine mikubwa tunayotarajia Serikali kuyatekeleza. Hivi sasa kuna dhuluma kubwa ya watu kwamba ardhi zao zimechukuliwa. Wakulima na wengineo hawajapewa fidia yoyote. Vilevile vile, hawajapa chochote kusema kwamba wamelipwa ama watalipwa. Mpaka sasa hawajijui. Utakuta watu hawako katika mashamba yao karibu miaka minane au kumi iliyopita. Mashamba yao yaliyochukuliwa na Serikali kwa minajili ya kuanzisha miradi mbalimbali. Hatimiliki zimetolewa na makampuni na watu mpaka sasa wameachwa maskini hohehahe.

Tunahimiza ile tume ya NLC iwajibike kuhakikisha yule mwananchi wa chini atapata haki yake. Tulipopitisha Katiba, hiyo Tume iliundwa na jukumu lake kubwa lilikuwa ni kushughulikia *historical injustices*. Hata hivyo, wao wanaonekana wamezembea kazini. Kamati ya Ardhi ihakikishe Tume hii iwajibike kuondosha dhuluma kana hizo.

Kwa hayo machache, ninaunga mkono.

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

Sen. Wakili Sigei is out. We can now go to Sen. Boy

**Sen. Boy:** Asante sana, Bi. Spika wa Muda, kwa kunipa nafasi hii niweze kuchangia Taarifa hii ambayo imesomwa na Mhe. Sen. Madzayo, Seneta wa Kaunti ya Kilifi.

Suala la ardhi ni donda sugu sana katika nchi yetu. Mwaka uliopita katika Kaunti yangu ya Kwale kulitokea mkasa mkubwa sana kama huu ambapo hata wiki iliyopita niliukemea sana hapa Bungeni.

Pale Ukunda kuna ardhi ya ekari elfu moja ambayo *lease* yake ilimalizika. Juzi maafisa wa polisi walikuja pale na mabwenyenye wengine wakavunja karibu nyumba mia nane au mia tisa. Ukiangalia, haki iko wapi hapo. Leo hii, tumemsikia Mhe. Sen. Madzayo akileta Statement kama hiyo kutoka Kaunti ya Kilifi.

Ninakemea sana jambo hili la kuwafurusha watu wetu kwa nguvu kutoka ardhi wanamoishi. Waacheni tabia hii ya kuvunja watu nyumba zao na kuzifanya familia zao na watoto kuteseka. Bwenyenye anakuja na *title deed* na kusema kuwa hiyo ardhi ni yake, amepewa.

Sisi kama Maseneta katika Bunge hili tunatakikana tusimame pamoja zote tukemee hili jambo haswa la kuvurusha watu kutoka kwa ardhi yao.

Mimi ninaunga mkono Taarifa jhii. Mimi ni mmoja wa Wanachama wa Kamati ya Ardhi. Wakati kulipotokea tatizo kama hili katika Kaunti ya Kwale, nilipeleka Kamati ya Ardhi katika shamba hilo kule Diani.

Iwapo Taarifa hii itapelekwa katika Kamati ya Ardhi au nyingine kulingama na uamuzi wako, ikija katika Kamati yangu, tutahakikisha tumeenda kwa ardhi hiyo, tuione na tujue jinsi walivyopokonywa ardhi yao. Baada ya hapo, tutahakikisha kwamba wananchi wamepata haki yao.

Asante, Bi. Spika wa Muda.

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

**Sen. Beth Syengo:** Thank you, Madam Temporary Speaker. I stand to support this Statement by Sen. Madzayo.

Kenyans have been suffering because of land and land issues. Of late, we have witnessed many deaths because of people killing each other in the struggle to own land. The residents of Kilifi County and any other county where people are not settled because of land issues, must be supported.

As the Senate, we should lead by example to defend our people and put in place measures to ensure people own land and live peacefully in their own country.

I support.

**The Temporary Speaker** (Sen. Veronica Maina): Yes, Sen. Mandago.

**Sen. Mandago:** Thank you, Madam Temporary Speaker. I rise to support the Statement by Sen. Madzayo on this matter of demolitions.

The problem we are facing as a nation is the issuance of title deeds and leases, without respecting the laid down procedures and rules for issuing leases. This is particularly on property whose leases have expired. County governments need to be involved in the issuance of leases. What happens is that some unscrupulous people, through some unscrupulous officers in the Ministry of Lands, have been issuing leases and title deeds for lands with expired leases. At the same time, those lands are occupied by the owners who have been there.

As the Senate, we need to protect county governments so that their functions and roles in the issuance of leases is respected. If that is done, what we are witnessing will not be seen.

We must speak also to the matter of land administration in this country. Land administration is a concurrent function between county governments and the national Government. There is need to synergize and make sure that no level of government overlooks the functions of the other. That is how we will be able to streamline and bring to an end the shameless demolitions we are witnessing in this country. People are being rendered homeless when they had a place to call home.



I support this Statement. I hope that the matter will be referred to the Committee on Lands and Physical Planning and that they will take it seriously.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Sen. Wakili Sigei, proceed.

**Sen. Wakili Sigei:** Thank you, Madam Temporary Speaker, for the opportunity to speak to this Statement.

First, I acknowledge the fact that land is one of the factors of production. In this country, it is one of the major things that people fight for. Even if it is about ownership or housing; it is one of the very serious issues that people always fight about.

I appreciate Sen. Madzayo for bringing this issue. Evictions of persons, whether in illegal occupations or otherwise, is a matter of concern. This matter has been litigated beyond the lower courts. As I speak, we had---

**The Temporary Speaker** (Sen. Veronica Maina): Sorry to interject. Come and speak from here. We cannot hear you properly.

*(Sen. Wakili Sigei moved to the Dispatch Box)*

**Sen. Wakili Sigei:** Thank you, Madam Temporary Speaker. I support the Statement by Sen. Madzayo on the plight of residents who have been evicted or whose homes have been demolished.

I affirm that in Kenya, land is one of the factors of production that people fight for every other time, notwithstanding ownership or whether or not you have a title deed to it. Courts have also ruled to the highest level, that there is a procedure to be followed whenever anybody is in occupation of land. Whether they have a title deed or not, they are entitled to sufficient notice. They are entitled to an opportunity to get alternative housing or a place of abode.

In situations like these where auctioneers or the police facilitate evictions without following the right procedure, I urge this House to come to the support and rescue of such victims, by ensuring full compliance with the law in any situation where such evictions have been sanctioned. It does not matter the fact that one has already been served with a notice. If they do not have a place to stay, the law protects them.

It is the responsibility of the Government to still provide housing. I believe that is what Sen. Faki said in Kiswahili. I am sure I am repeating in English, the exact words he told this House in his support to the Statement.

I applaud the Senator for coming to the rescue of the people who have nowhere else to go but to seek the protection of the law. This House, being a House of law and order, should also come to the support of such people.

I support.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator. This Statement has been debated, but I will give two minutes to Sen. Tabitha Mutinda to comment and then we proceed to the next Order.

Proceed, Sen. Tabitha Mutinda.

**Sen. Tabitha Mutinda:** Thank you, Madam Temporary Speaker. First, I congratulate my sister, Sen. Korir, for her new position. As women in leadership, it is very encouraging. Big up, my sister.

It is sad for hard working Kenyans to put their effort into having a basic need - a home is a basic need - then auctioneers who do not follow the law come and do what they do. It is very saddening. It is sad to be evicted from your home. This issue should be addressed. Let the law take its course. Let Kenyans respect the effort that investors put in.

I also support the Kenya Kwanza manifesto with regard to the housing project. I believe this will be a long term solution because it one of the key agenda.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. That is the end of the debate on that Statement.

Let move on to the next order.

## MOTION

### EFFECTS OF UPSTREAM ACTIVITIES ON RIVER TANA TO RESIDENTS OF TANA DELTA

THAT, AWARE THAT water is a fundamental resource to life, livelihood, food security and sustainable development and an economic good, which is critical for the sustainable development of the country;

FURTHER AWARE THAT the River Tana plays an important role in the lives of the communities living along its banks including Garissa and Tana River Counties whose main economic activities are livestock keeping, farming and fishing;

RECOGNIZING THAT Article 43(1)(d) of the Constitution of Kenya, provides that every Kenyan has the right to clean and safe water in adequate quantities;

NOTING THAT the residents of Tana River County have perennially suffered from acute effects of flooding and inadequate supply of water to its residents and their livestock;

COGNIZANT THAT the challenge of flooding has predominantly been caused by KenGen's release of huge amounts of water from the seven forks dams which combine with rain water from the highlands;

FURTHER COGNIZANT THAT the hoarding of water at the seven forks dams and other significant upstream activities such as irrigation and small scale dams limits the amount of water that flows downstream through River Tana significantly affecting agricultural activities in irrigation schemes such as Bura, Galole and other small scale irrigation schemes in the Tana Delta as a result of inadequate water supply to the canals that channel the water to the irrigation schemes;

CONCERNED THAT limited water supply to the hinterland and irrigation schemes cause severe hunger to the residents of Tana River, death of livestock and conflicts between farmers and herders, and that

floods cause deaths, displacements and other challenges like waterborne diseases such as cholera downstream at Tana Delta;

NOW THEREFORE, the Senate urges the Ministry of Water, Sanitation and Irrigation in conjunction with the Water Resources Authority (WRA) to;

- I. conduct stakeholder participation before undertaking any major upstream activity including construction of dams, before the release of water during rainy season and limiting flow of water to River Tana during the dry season;
- II. develop a policy in line with the Nile Treaty of 1959 to guarantee average annual flow of the River Tana; and
- III. come up with mitigation measures to the perennial floods and water scarcity to the residents of Tana Delta.

*(Sen. Mungatana, MGH, on 15.11.2022)*

*(Resumption of debate interrupted on 15.11.2022)*

**The Temporary Speaker** (Sen. Veronica Maina): This Motion came up yesterday and it was due for debate. As I open the debate, I ask Sen. Abdul Haji to contribute.

**Sen. Abdul Haji:** Thank you, Madam Temporary Speaker. Before I begin, I would also like to take this opportunity to congratulate Sen. Korir for her election and wish her all the best in her duties.

I stand to support the Motion that was raised yesterday by Sen. Mungatana, MGH from Tana River County. I would not like to repeat anything he said because I felt he so passionately prosecuted the matter on the Floor of the House. I felt he did it in such a good way that it does not need any repetition.

Madam Temporary Speaker, the activities that are undertaken at the upstream level of the Tana River affect many of the people that live downstream. Let us look at the facts of this river. The fact is the source of the river is Aberdare's and the river is named after Tana River County and the people of Tana River.

Tana River is the longest river in Kenya. It meanders all the way down to the Indian Ocean in a small town called Kipini. As provided, all international treaties, agreements, protocol and legal instruments or provisions also recognize that a river belongs to the people at the downstream.

Tana River is already used to produce electricity and to provide water for the people of Nairobi and its environs. The fact also remains that the upstream activities have adverse negative effects to the people of Tana River who are downstream.

The Sen. Mungatana, MGH, told us about the adverse negative effects of the activities that are undertaken at the upstream of the river. The quality of the water is affected. We are occasioned to flooding at the downstream. There is extensive bank erosion, changes to riverbeds and banks. There are effects on the riparian habitats and the animal community. It has also had effects on fishing and tourism at the downstream.

Madam Temporary Speaker, what we are requesting is that an adequate environmental impact assessment is done so that it can lay out the effects that the activities upstream have on the people of Tana River and Garissa County.

The people of Tana River, especially depend on the river for their livelihood, farming and livestock. However, over the years, we have seen the level of the water decreased. This reminds us of a story of a gentleman who was relaxing by the river one time and he heard the noise of somebody drowning. He hurriedly tried to go and rescue him. As he was trying to rescue the person, other people nearby joined him and they managed to take the person out of the river.

Shortly thereafter, somebody else was drowning and they went back again to rescue him. Shortly thereafter, another person was drowning. So, one of the rescuers decided to go upstream. He was asked by the other people “why are you going upstream and the people who are drowning are down here?” He said “I have to find out why people are drowning and being brought down here.”

So, he went to the source of the problem which was upstream of the river. He found out that there was a bridge that was very risky to cross and that is the place where people were falling into the river and ending up downstream where they were being rescued.

The issue here is that we understand that the river and the water is important for the development of Kenya’s economy. However, the activities that are taking place upstream affect the people downstream and they end up bearing the cost of it.

We urge the Government to look at all the effects of the river. The people of Tana River are not selfish. They do realize that this water is beneficial to the whole country. However, in the process of developing our economy, it is also important to think about the effect that these activities have on the people downstream.

We urge the Government to do a proper environmental impact assessment and make it public and also involve the communities downstream to participate in giving beneficial experiences of what has been going on with the flow of the river.

With those few remarks, I thank you Madam Temporary Speaker for the opportunity and I support this Motion.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Let us now listen to Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute on the Motion by my good friend Sen. Mungatana, who is also my senior in the profession.

Under Article 43(b) of the Constitution, it talks about the economic and social rights where everybody has the right to clean and safe water in adequate quantities. This is one of the key basic rights for every person that lives in the Republic of Kenya.

A right like this should be respected. We are just coming from COP 27 from Egypt, where our President committed himself to interventions that will ensure that the effects of climate change will not affect us in any disastrous way.

I am happy that developed nations have taken the cue of putting in place the necessary interventions, especially regarding commitments that were made this year in

Egypt. Therefore, when companies and Government agencies do the things that they are doing to the residents of Tana Delta, one of the key ingredients is; can they be cautious?

Our Constitution talks about public participation. It also provides for national values and principles of good governance under Article 10. One of the key issues is consultation that is decision-making by involving the people.

Anything that they do on this river should involve the great people of Tana River County and other people who this river passes through their places. Therefore, it was not in good faith when you have agencies like the Water Resource Authority and Ministry of Water and Sanitation not involving the people in public participation. They must involve the people in public participation.

These agencies should be warned in advance that the moment they do not involve the people of Tana River County; they risk facing litigation. There is the famous case of Kiambu and others that was held in 2013. That was a landmark case whose determination was made though I cannot give the full citation now.

The reason as to why this case formed a yardstick for decisions by the courts of law in 2013 is because of the aspect of not ensuring that they take into consideration the role and the place of the public in decision making of things that affect them.

This country is facing the worst drought in recent times. We have the challenge of famine among many other challenges. If we allow such issues, we shall be risking food security and access to clean water. We call upon KenGen to ensure that any activity that they want to undertake around the river is well thought out.

Madam Temporary Speaker, you being the Secretary-General of the dominant and the ruling party and hailing from Murang'a County, you remember when the Government started constructing the famous Murang'a Tunnel that would bring water to Nairobi, there were cries about the need to have an Environmental Impact Assessment (EIA). What is hard about these agencies complying, so that we do not have what we are experiencing now?

There is also the issue of access to water. It is true that the residents of Tana River need water for their livestock and domestic use. The ongoing activities in Tana River are a violation of Article 43 (1)(d) of the Constitution which states that-

“Every person has the right to clean and safe water in adequate quantities.”

So, it is important that we agree that the issue of water licenses should not be compromised.

The other issue is about floods. When there is a lot of rainfall on the highlands, water flows and causes floods downstream which kill people. Sadly, there is no compensation.

There is a need for Government compensation to the family of anyone who succumbs to floods because of the negligence of water management agencies like the Water Resource Management Authority (WARMA) and the National Irrigation Authority (NIA), which are under the Ministry of Water, Sanitation and Irrigation. There is need for them to put mechanisms in place that will ensure compensation of flood victims. This is the sad reality. There is no worst form of death than being swept by floods.

It reminds me of the previous session when I was the Chairperson of the Committee on Justice, Legal Affairs and Human Rights. We had the Solai Dam Tragedy that swept the whole village and created a lake downstream.

I am happy that Sen. Olekina who was a Member of that *ad hoc* Committee that made radical proposals is here. Unfortunately, up to date, there are individuals in the Office of the Director of Public Prosecution (ODPP) who are trying to be mischievous in that case.

The people of Solai are yet to receive justice. This is because some people have taken blood money. Many people died. Up to now, the entire place is no longer agricultural productive.

The Senate Committee visited the place and noted that schools were destroyed. The then County Commissioner was transferred and the area chief was fired. However, prosecution of individuals who, out of their negligence, made Solai Dam to collapse and sweep the entire village, causing deaths of many Kenyans, has not been concluded.

I am happy that the Deputy Majority Leader and the Senator of the great people of Nakuru County, Sen. Tabitha Keroche, is here. She must find out from the ODPP what could have happened. The DPP is playing politics with the Solai Dam Tragedy case. I feel bad when people take blood money at the expense of Kenyans who die because many families that will never recover from the trauma.

The WARMA failed in the case of Solai Dam. We cannot allow them to fail in Tana River because they betrayed public trust. Therefore, when we hear that the case that was supposed to convict people for criminal negligence is being dragged or politicized, we feel sad because we buried many people. The villagers of Solai have never recovered from the shock. I hope Sen. Tabitha Keroche has visited the place.

When we went there to hear their testimonies, they told us that 200 million cubic metres of water flowed at a speed that they have never seen before. They have never recovered from that psychological trauma.

Many people do not know what happens when there are floods. Floods kill people. A classic case is the Solai Dam Tragedy. We will be putting the people at risk when we allow that to happen in Tana River.

Madam Temporary Speaker, we had the case of Brumadinho Dam in the State of Minas Gerais in Brazil. After that incident, all the owners of Brumadinho Dam were prosecuted and convicted and forced to compensate the victims. However, the owners of Solai Dam are walking scot-free in spite of their negligence. They have properties in London. Some of the individuals were in this Senate. They wanted to object to compensation under the then Senate Standing Order No.6.

In Brazil, the criminal justice system is efficient. In fact, the Brumadinho Dam was closed after every victim was recovered. The state prosecutor ensured that those culpable were arrested, prosecuted and convicted. The victims were compensated and the company was blacklisted. They cannot do business anywhere in the world.

We should not allow the people of Tana River County to face the same fate. I still empathise and sympathize with the victims of the Solai Dam Tragedy in Nakuru County. I hope that the Standing Committee on Justice, Legal Affairs and Human Rights where

Sen. Faki is a Member will follow up. I also hope that Sen. Tabitha Keroche will follow up with the committee.

*(The amber light at the timer was turned on)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey, you have 30 seconds to wind up.

**Sen. Cherarkey:** Madam Temporary Speaker, I thought I have five minutes. You can see the amber light has just been turned on. Kindly help me understand what it means when the amber light is turned on. I understand it to mean that I have five minutes to wind up. If it turned red, it would mean that my time is up.

*(The Clerk-at-the-Table consulted the Temporary Speaker)*

Madam Temporary Speaker, I am happy that the Deputy Senate Minority Leader is in the House. I know that he is waiting for us to vote for his proposed candidates for the EALA tomorrow. However, he will need to see some of us in camera, so that we can settle some of these issues.

*(Sen. Olekina spoke off record)*

What does “in camera” mean? It is something that is practiced all over the world.

As I wind up in the next three minutes, I propose that we conduct public participation.

Secondly, we need to have a policy that is in line with the Nile Treaty of 1959. Regarding mitigation factors, those culpable must be prosecuted.

We also have the issue of scarcity of water. Water is life. What is difficult in having CSR? The Ministry of Water, Sanitation and Irrigation and the WARMA should come up with an initiative to ensure that the residents of Tana River have water. That is not rocket science and we do not even need the Senate. Those are basic tenets of humanity. It is an initiative that should be premised on humanitarian grounds.

I feel bad that the Senate has to beg the Ministry of Water, Sanitation and Irrigation and the WARMA to give water to the people of Tana River. It behoves the people in charge of policy. I hope that when these resolutions are passed, we shall address that.

In conclusion, I urge my colleagues on both sides of the aisle to pass these resolutions in order to ensure that the residents of Tana River County are helped. If we pass them, it will assist other counties facing similar challenges.

Thank you, Madam Temporary Speaker, for giving me this opportunity. I know my colleagues want to contribute to this Motion. As such, I will stop there.

I would like to thank Sen. Mungatana, whom we jokingly call “Mla mamba” for bringing this Motion. That loosely translates to “crocodile eater”. I hope he will ensure that we “eat” this one, so that good things can go to the people of Tana River.

**The Temporary Speaker** (Sen. Veronica Maina): I was assuming you would use your five minutes in a judicious manner seeing that this Motion has attracted a lot of

interests. We have over nine Senators who are interested in contributing. Therefore, request that we be reasonable in the way we expend our 15 minutes.

Sen. Roba, you may have the Floor.

**Sen. Ali Roba:** Madam Temporary Speaker, thank you. I rise to contribute to this Motion on the Effects of Upstream Activities on The River Tana to the Residents of Tana Delta. Some of the effects the development projects that have been done upstream has on downstream communities of Tana River.

I was fortunate enough to have been the head of delegation of Riparian State Meeting on Daua River damming project that was proposed by The Intergovernmental Authority on Development (IGAD). However, what I experienced when riparian States met here in Nairobi is vigorous opposition from Somalia and Ethiopia because of what they termed as the impact on downstream communities. They said that the impact is not clear to them. As such, that project has not been implemented to date.

The people of Garissa and Tana River who are downstream in as far as this Northern Tunnel Intake project in Murang'a is concerned, the need is extremely apparent. It needed to have been undertaken in consideration of the impact it will have on downstream communities with respect to farming, livestock and the water content of Tana River. Now that the project has been finished and the impact has become apparent to the extent that Sen. Mungatana, MGH has brought this to the attention of the House, I rise to support a post-project Environmental Impact Assessment (EIA), Environmental and Socio-Impact Assessment (ESIA) on downstream communities to be undertaken by the relevant authority.

In order to weigh the extent to which downstream communities have been affected is mitigated by way of controlled exploitation of resources of Tana River in terms of the water and care of the original objective of the Northern Tunnel Intake Project.

As the Senator has said, the water levels have reduced tremendously. Farming activities along the river in Garissa and Tana River have been affected. We acknowledge the need for Northern tunnel intake for purposes of provision of water to Nairobi and Murang'a and other areas. However, we equally acknowledge that fact that downstream communities also need to be taken into consideration and their challenges looked into.

If this project was to happen and the water is not affected, then the project is worthwhile. If post implementation ESIA has not been adequately carried out for purposes of determining how much it has affected downstream communities, be done together with an economic impact assessment of the investment we have done as a Government. We want to see to it that Tana River and Garissa counties are cushioned against the impact by whatever means necessary.

I support and request that it is considered a resolution of this House that post project Socio-Economic Impact Assessment (SEIA) is done and whatever measures that need to be taken to cushion downstream communities are done.

Thank you.

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

Sen. Beth Syengo, you may have the Floor.

**Sen. Beth Syengo:** Thank you, Madam Temporary Speaker. I rise to contribute to this Motion by Sen. Mungatana. Allow me to start by citing a quotation-



“Any item, object, place or idea that gives a community its identity is very important and should be considered to be sacred.”

Tana River County has her identity from Tana River. Therefore, we should consider this to be sacred to the people of Tana River.

Madam Temporary Speaker, the activities upstream on Tana River have effects on the residents of Tana River County. If we talk of the issues and problems that come with the activities upstream, it is the residents of Tana River who suffer from lack of water. Residents of Tana River and Garissa should not be seeing water and not using it for their own benefits. The river carries the water to the India Ocean and those who live along the river banks should be the most beneficiaries of this water.

On the issue of public participation by the residents of Tana River, allow me to cite another quote that states-

“Nothing about us without us.”

Residents of Tana River and those who live along the river banks are not involved in deciding the activities that take place upstream; which ones are beneficial or harmful to their lives. Public participation is very important. What the residents of Tana River think is useful to them can be recommended. What has harmful effects on their lives should be discouraged.

Allow me to speak on the aspect of women and children. The effects on the lives of women and children upon the communities living along the river banks are so intense. During floods, when too much water is released from the KenGen dams and the activities upstream, women and children suffer. There are diseases that come with the flooding. Expectant and lactating mothers, children who are underage and those who cannot protect themselves suffer from these diseases.

Madam Temporary Speaker, considering the times we are living in, there are effects of climate change. We are aware and cannot run away from these facts. Residents of Tana River and Garissa counties will be recipients of serious effects of climate change when the water that flows along the river that identifies with the county. This matter should be taken care of. Residents should be involved in the education on how to take care of themselves and how to mitigate the effects of climate change.

The activities of the residents of Tana River and Garissa counties include farming and livestock keeping. When the flooding happens, their animals are carried away by water and they die. The effects after the floods are so severe that these people starve.

I come from the Mwingi region of Kitui County and we neighbour Tana River and Garissa counties. My people go to Tana River and Garissa counties to seek for employment in order to support their families and earn a living. When Tana River and Garissa are suffering, my people from Mwingi in Kitui County also suffer.

I urge the big companies that have activities upstream to take their Corporate Social Responsibility (CSR) seriously. They should bring benefits to the residents who live and stay along the banks of Tana River.

It is important that the Government of Kenya ensures that citizens are protected and taken care of.

Thank you, Madam Temporary Speaker.

I support.

*(Loud consultations)*

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I rise to support the Motion. Is there an issue behind me?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Oketch, you have the Floor.

**Sen. Oketch Gicheru:** I rise to support the Motion by my brother Sen. Mungatana. I strongly believe when we talk about issues with our rivers such as River Tana, then it is an issue of human rights. It is a human rights issue because across the world and the continent, when issues of scarcity of resources do emerge such as water and its management, it becomes an essential issue of historical connection to those waters as well as natural ownership of the same.

The Kenyan Constitution, 2010, Article 19(3)(b) encourages us that rights and fundamental freedoms in the Bill of Rights belong to each individual and are not granted by the State. It is natural to them.

Under, Article 21 of the Constitution, it is the fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.

The orientation of Sen. Mungatana's Motion being discussed today is towards seeking cooperation and reducing conflicts in the wake of scarcity. We have seen in our Continent that with the issue of climate change, the next biggest war in the world we will fight, bigger than previous world wars, will be the war on water and scarce resources.

Sen. Mungatana is inviting us today to start thinking about the management of these resources. This Motion recognizes the lack of regional cooperation among stakeholders benefitting from River Tana.

It also recognizes in extension, the lack of Government's engagement in this process. It, therefore, exposes a lot of weaknesses and negligence in the misuse of River Tana that results in the negotiations for propriety coming to deadlocks.

Madam Temporary Speaker, you find that agricultural practices upstream are not controlled. I am happy that my brother, Sen. Abdul Haji who has just stepped out, talked about the issue of Agriculture upstream, right from the Aberdare all the way downstream.

People start using inorganic fertilizers and pesticides in these rivers without being considerate to the people downstream, all the way down to Kipini who depend on this water even for domestic use. It then becomes extremely bad for the people of Tana River who draw their name from the River Tana.

We have these kinds of cases even in our continent. One of the biggest issues was with regard to the Grand Ethiopian Renaissance Dam the Ethiopian Government was building on River Nile. This river connects Ethiopia, Egypt and Sudan.

The 1929 and 1959 Water Course Treaties all recognized that the people downstream that the people of Cairo have ownership more than people of upstream. The people downstream have more honour more than the ones upstream to the extent that those treaties provided for Cairo to have veto powers over projects on the River Nile against riparian States that dotted the entire area of Egypt, Sudan and Ethiopia.

Even as we think about the resolutions Sen. Mungatana has proposed, I recommend that our Government carries out a comprehensive environmental audit of all existing hydro-electric power dams as required by the Environmental Management and Coordination Act (EMCA) 2000.

It should then institute proper, adequate, complete and appropriate compensation for loss of opportunities in the agricultural space and other livelihoods that the people of Tana River have faced as a result of mismanagement of this River all the way upstream to Kipini.

I thank you, Mr. Temporary Speaker, Sir.

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

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

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Sen. Oketch Gicheru. Sen. Tabitha Keroche.

**Sen. Tabitha Keroche:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Motion by Sen. Mungatana and also speak about what the Senator for Nandi mentioned regarding Nakuru County on Solai Dam issue.

The people of Nakuru County have suffered a lot. As I speak, Solai Dam tragedy is still fresh in our minds. We lost people and up-to-date, their families never been compensated. I have followed it up. We followed it with the previous Senator, now our Governor, Hon. Susan Kihika, but all in vain. I know where this matter was left at and I promise to pursue it to the end so that our people will be compensated.

I know many people have been intimidated. However, I will not be intimidated because I must fight for the justice of our people. This is an issue that needs to be addressed.

Every year, the people living around Lake Nakuru suffer a lot. Their houses are swept away, but nobody compensates them. There is no control of the overflow of that lake, yet that National Park collects over Kshs1 billion. It is a national resource in Nakuru County. We also know that 25 per cent is supposed to be left in Nakuru so that Nakuru people can manage how they can control the lake from overflowing and affecting people living around it.

I know there are so many other things affecting people, like animals getting out of national parks. I come from a village near Longonot National Park, where people do not harvest anything because of the animals. The Government is aware that these animals get out of national parks and destroy the crops of poor farmers, when they are about to harvest. Over Kshs1 billion is collected from the same Longonot National Park.

As Senators, we need to push for this and ensure that our people live in harmony and are well protected. They have a right to live anywhere. However, they cannot live in danger like in the case of Solai Dam. The Solai Dam was a manmade project that killed our people. To date, they have not been compensated. I will pick it up from where the previous Senator, Sen. Susan Kihika, left. I will push and ensure that our people get justice that they deserve.

This is a Motion that requires a lot of support. The Government should be pushed to ensure it arrests the negligence that causes suffering to our people. We should fight for our people across the country.

I support the Motion.

**The Temporary Speaker** (Sen. Abdul Haji): Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support this Motion on Effects of Upstream Activities on the River Tana to the residents of Tana Delta by the distinguished Senator from Tana River County.

Mr. Temporary Speaker, Sir, the residents of Nairobi City County receive 80 per cent of their water from River Tana. In this country, 70 per cent of our hydropower comes from River Tana.

I have noted keenly the issues that the distinguished Senator wants addressed. It begs a very big question as to whether KenGen has ever thought of unintended consequences by releasing water. That is the problem. I have read this Motion keenly. I beg that we limit our arguments to the effects of releasing water and the unintended consequences.

The distinguished Senator said that KenGen releases water from the Seven Folks Dam. It is the same dam that provides this country with almost 70 per cent of hydropower. It then begs the question: Why and what can we do to ensure that we benefit from both the electricity from hydropower and that the communities downstream do not suffer?

I do not believe that when KenGen releases this water, they intend to destroy the livelihoods of these communities. However, as it has been now elaborated and clearly stated, these communities are languishing in poverty.

The other big problem that the distinguished Senator did not indicate in this Motion is the canal diversion as a result of agricultural activities downstream. There are so many activities right from the Aberdare Range, the source of Tana River as you move downstream. We have agricultural activities, canals, water going to Nairobi City County and everywhere. What can we do as a country?

Mr. Temporary Speaker, Sir, I went to Cairo and Alexandria in Egypt. You cannot compare. I could see that 100 per cent of the population in Egypt lives along the River Nile. It would be excellent if we could think about the concept of maximizing on the benefits of this water. Ultimately, all of it drains into the Indian Ocean. We should move our entire population to live along that River.

I am glad that the distinguished Senator brought this matter here. One of the biggest problems in this country is land use policy. It is something that is not highly thought of. Another problem is our growing population which my brother should have alluded to. That is why people are affected downstream. We have a huge population downstream.

When KenGen releases water, it goes down to people who are not even close to the river. Every year when it floods in this country, we see people killing hippopotamus. Sometimes hippopotamus kill human beings, along Tana River.

Mr. Temporary Speaker, Sir, the Senate pronounces itself through Motions and Bills, but no action is taken by the Government. It is about time we pronounce ourselves in this Motion and no action taken by our Government.

I hope that both sides of the isle will support, approve and pass this Motion. If we do so, the distinguished Senator for Tana River County can follow up with KenGen in case of any unintended consequences such as deaths.

If you search on the internet about the Tana River Irrigation Schemes, you will see a lot of flowery, beautiful language in the website, indicating that people are doing very well. That poverty has been reduced. That there is over 1,600 acres of land where corn is grown and almost 2,000 acres of rice farms. However, we are being told by the elected Senator who understands the geography of that county that people are suffering. I do not know whether Tana River Irrigation Scheme is just showing us good things and not telling us the real happenings.

Mr. Temporary Speaker, Sir, we need water in Nairobi City County. The people of Kitui County also benefits from Tana River, but are also affected. The people of Isiolo, Lamu and Kilifi counties are all affected. Today, if you juxtapose and look at what happens along River Nile and River Tana, then you will not be able to understand why people in Kilifi and Kitui counties suffer from drought. This river is about 100,000 square kilometres and travels about 1,000 kilometres. Why is it not being used effectively?

This is a challenge to the Ministry of Water, Sanitation and Irrigation and the Government. If you want to impact the lives of Kenyans, let us revisit the issue of land use policy. Let us ask our population whether it is possible to reserve most of the land and move closer to the river and then think of other unintended consequences like pollution and how we are going to manage these matters. We can learn from other countries that have been able to use that resource.

I have heard my colleagues talk about the Nile Treaty of 1959 that is benefiting Sudan, Egypt, Ethiopia and Uganda.

I would say part of the source of the River Nile is the Mau Forest. When pronouncing ourselves we need to think about how to proceed. I have one problem because I have seen that my brother here is seeking the following: He says "Now therefore; the Senate urges the Ministry of Water Sanitation and Irrigation with conjunction with the Water Resource Authority (WRA) to: -

1. Conduct stakeholders' participation before undertaking any major upstream activities including construction of dams before the release of water during rainy season and limiting flow of water to river Tana during the dry season."

I have a problem with that because the distinguished Senator came to that conclusion, he has already told us the problem is KenGen releasing water from the Seven Forks Dams. The first thing we should do is to invite KenGen here in order to understand why they do so. Have they thought of the unintended consequences?

Secondly, we should develop a policy in line with the Nile Treaty of 1959 to guarantee average annual flow of river Tana.

The first question we should ask before we even talk about developing - although I do not have a problem with that - is what it would take to change the land use policy along the river? I believe there are so many studies that have been carried out.

When I was growing up, I learnt a lot about communities, for instance the Mijikenda and the importance of the river to their livelihood, their subsistence. I did not hear Sen. Mungatana talk about the cultural activities which these people who live along the river rely on to continue practicing. I believe the best person to educate us would be him. If there is any stakeholder engagement to be taken, the elders who we have now must be invited to tell us how important this river is to them and their cultural activities.

I would like to come up with mitigation measures to the perennial floods and water scarcity to the residents of the Tana Delta. It is literally hard to understand when you hear that there is a river that flows 1000 kilometers and drains into the Indian Ocean, yet people have no water. We need to realign our existing resources so that we can prioritize our people.

The Ministry of Water and Sanitation and WRA need to seriously take these matters we are discussing here and look at the studies which have been carried out on the benefits and challenges of this rivers flow. We should not just be happy here in Nairobi City County consuming this water, 80 per cent of which comes from River Tana. We should not also be happy with 70 per cent of the hydroelectric power; we should worry about the people in Tana Delta.

I expect the Governor of the great County of Tana River to start asking serious questions as to why his people are suffering yet his county is named after that river. It does not make any sense. I want to reiterate on one important thing that the people of Tana Delta closely depend on this river for their traditional subsistence. Any changes to the flow of this river will greatly affect them.

Some of the things that can help us learn - and I hope that when we pass this Motion the distinguished Senator can follow up - is for the entire House to invite KenGen to find out if they have carried out any studies on the effects of the release of the dam. I shall take up this is matter with the Committee on Energy. Let us not think about the issue of corporate social responsibility. Why Corporate Social Responsibility when you are the one affecting them?

One of the issues that I will agree on with my colleague Sen. Cherarkey is that in this country sometimes we do not really care. It is all about the Benjamins; it is all about money. When we sat here with the former Senator and now Governor of Makueni County together with the current Governor of Nairobi City County and the current Governor of Nakuru County regarding the issue of Solai dam, we came up with serious recommendations yet none of them were adhered to. You ask yourself whether these people have any humanity in them.

The people I am referring to are the DPP - because we gave serious recommendations on what should follow - the Judiciary and the criminal justice system in this country because people died. If we are going to reduce ourselves to a talk show in this House, then we might as well fold and go.

This Motion should be one that reminds us of the reason why we are elected by people to represent them. I would hope that by the time the Senator for Tana River

County goes back to his county, the people of Tana River will tell him that following the resolution or pronouncement by the Senate we are now benefitting from this River Tana and it is not a curse for us any longer.

I hear that the current administration wants to sign contracts with independent companies to buy water. Why, when we have billions of shillings to divert this water into private pumps? The budget of the Ministry of Water and Sanitation is enough to spend in order to help these people.

I support and thank the distinguished Senator from Tana River County for bringing this Motion.

I thank you.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you. Proceed, Sen. Abass.

**Sen. Abass:** Thank you, Mr. Temporary Speaker, Sir. I wish to support the Motion. As it has been said by the Senator for Tana River County, water is an essential commodity and it is life. River Tana meanders through several counties, including Kitui, Embu, Tana River and Garissa counties. Unfortunately, these counties have water scarcity.

According to the international protocols, rivers belong to the downstream people simply because upstream has a bit of the river. As the river goes far from the main stream to downstream, it goes to different communities and by going through their land they take ownership.

Unfortunately, the people upstream have made the people downstream to suffer. When there are enough rains and a lot of floods, the KenGen hydro dams get filled and then the water is released into the river without any notice or information about management of that water. As a result, the same water causes a lot of suffering and problems to the people downstream. Farms are destroyed animals are killed and people die because there is no proper management of that water.

When there is drought, people do not get water. People who live near the Tana River dams like Masinga and Kiambere do not get enough water during the drought season because KenGen does not care about the welfare of the people affected by the river. The KenGen must be held accountable. There is no time they have helped farmers whose crops are affected.

Mr. Temporary Speaker, Sir, you come from that area and you know that Tana River used to be the breadbasket of the Coast and Northern Kenya. We used to get a lot of food from irrigation schemes in Bura and Hola. Rice, maize and all kinds of foods were available. However, today the people in Tana River do not have food because of mismanagement of the water resources upstream which affects the farmers. People divert the water to go and feed other rivers, so that water can be available for people in Nairobi and Kiambu counties and regions nearby.

The people living upstream Tana River are advantaged because they get adequate rainfall. The unfortunate thing is that the same people are diverting the water. It rains in Mt. Kenya and there is enough flow of water from rivers such as Ewaso Nyiro. There are several water sources. Unfortunately, the river that meanders to the dry lands of Northern Kenya and coast is diverted. That is unacceptable because it is against all rules.

Therefore, we support the Motion by Sen. Mungatana, so that we can have justice for the people downstream. If there will be destruction caused by water released from the hydro-dams, then the farmers must be compensated. People die but their families are not compensated. They need to be compensated even when they lose their property.

With those few remarks, I beg to support.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Senator. Sen. Wambua, the Senate Deputy Minority Leader, proceed.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, I will try to be brief. On the first and third prayers of the Motion by my neighbour, the Senator for Tana River, I support.

It has been said and I reiterate that Tana River is one of the major rivers we have in this country. It traces its origins from the Aberdares and some parts of Mt. Kenya and flows down all the way to the Coast into the Indian Ocean.

For the people at the coast and those of us living in the lower Eastern Region, we are communities upstream. For those of us in the lower Eastern, the communities residing around Mt. Kenya region are communities upstream.

I agree with the Senator for Tana River. Perhaps a time has come as legislators, when we must push for the enjoyment of rights enshrined in the Constitution, and the economic and social rights as captured in Article 43 of the Constitution, including the right to clean and safe water of sufficient quantities.

Every Kenyan, wherever they live must begin to enjoy these rights. The burden to ensure that these rights are equally enjoyed today in a sustainable way is a responsibility of the Government and state actors.

The initial move by the Government in the late 1970s and early 1980s to create the seven forks dams was noble. It was supposed to achieve win-win outcomes; control flooding during rainy seasons but at the same time generate hydro-electric power for this country.

I said that upstream is relative. As communities upstream enjoy the right to Tana River and water resource in that river, it should not jeopardize the ability of counties and communities downstream to enjoy the same resource.

In Kitui, we have a portion of the river flowing across our county. There is a small community irrigation scheme called Wikithuki/Usueni Irrigation Scheme which draws its water from Tana River. The residents of Wikithuki and Usueni areas have a right to access and enjoy the benefits of the river flowing through their region. This is why I said that the rights must be enjoyed by everyone along the river course.

Secondly, I am in full support of the prayer to come up with mitigation measures to the perennial floods. There must be a way out of perennial floods which are followed by perennial droughts. There must be a way of the Government striking a healthy balance during the rainy seasons when we have floods and the dry spells when we experience drought. If we do not have technology and homegrown solutions to those weather patterns, there are a lot of examples to draw from the region and beyond.

As I conclude, I have a problem with prayer number two, on the development of a policy in line with the Nile Treaty of 1959. Without going into the details, we all know that the Nile Treaty of 1959 is a precolonial deal based on the earlier 1929 Anglo-Egyptian Treaty which advantages two countries; Egypt and Sudan.



Mr. Speaker, Sir, these two Countries, Egypt and Sudan, as well as the other countries through which the Nile flows are made to be just spectators of the water flowing and they are not allowed to undertake serious activities along the River Nile.

As I conclude, if you have to develop a policy, or any treaties, on the use of the waters of Tana River, the stakeholders that my brother and neighbour, Sen. Mungatana MGH, is referring to, let those stakeholders be drawn along the river course from source to where the river empties its water, so that all communities and citizens who have access, territorial counties can then contribute to the development of a policy that ensures present day generations enjoy the benefits of the water resource and that they do not jeopardise the ability of future generation to enjoy the same resource. I beg to support.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you Senator.

Sen. Mandago, please, proceed

**Sen. Mandago:** Thank Mr. Speaker, Sir. I rise to support the Motion for the distinguished Senator for Tana River on this matter of the activities that affect the downstream.

The government agency that issued permits for the dams upstream without considering the effects on the down-stream should appear before this House to explain how that happened. Other than the water that is being released when there are rains that cause havoc downstream, it should be noted that during the dry season, that river is hardly flowing because of the dams that have been established,

The residents of Tana River County and the counties in which the River Tana traverses are suffering twice. They are suffering when water is released and they are also suffering when the flow of the water in the river reduces because Kenya Electricity Generation Company (KenGen) need to maintain the necessary level of water for them to generate electricity.

As we appreciate the role of KenGen in the supply of electricity, which we all need as a country for industrialization and development, there is need for consideration of the downstream communities in terms of their livelihoods. Looking at the food situation that we have in the country, Tana River is among the counties that are adversely affected. That county has a potential for irrigation if the water will be properly utilized in consultation with the communities that live along that river.

The Water Resource Management Authority (WARMA) should consider relooking into the environmental impact report that was submitted and before they relook into it, the Committee on Environment and Water Resources should look at that Environmental Impact Assessment Report that approved the construction of those dams in terms of the mitigation of the floods that could occur.

As a House, we cannot forget the unfortunate case of the Solai Dam in Nakuru which has become a circus and it is never ending. Despite the fact that we lost lives, there is nothing much today that we can say has been achieved in terms of ensuring the safety of those communities or even compensation.

In my view, we need the WARMA to table the Environmental Impact Assessment Report that was used to approve those dams for us to check whether KenGen has followed the laid down process of mitigation in case there are floods and when there is drought to ensure that they release sufficient water to sustain the river.

It is unfortunate that in most parts of this county where rivers flow to, there is hardly any benefit except for a few commercial entities. If you look at the irrigation that is happening using the water from River Tana, it is only for the well to do.

It will be recommended that not only should stakeholders or the communities that live along the rivers be consulted; it is also necessary that also the communities that live in the source of the rivers be considered so that they can benefit. We have seen situation in counties like Murangá where water has been drained to come all the way to Nairobi and the people of Murangá County, in some sections where the water is flowing from are not able to get water for domestic use leave along water for irrigation.

It is therefore important that we balance the interests of the communities that live downstream and those that live in the sources of the rivers because those communities are always called upon to do conservation. It is time, as a House, that we also relook into the issue of natural resource whose counties can benefit and other counties can also benefit from those resources.

I rise to support this Motion by Senator for Tana River County and to note that Tana River is among the counties that in the present-day Kenya, 60 years after independence, it is among the areas we are calling marginalized. It is time we end the process of marginalization by ensuring that resources like the water in the dams that flow through River Tana are given to these communities so that they can improve their economic activities and even commercialize agriculture.

I remember there was a project that the Government intend to do in the year 2003 in Galana Kulalu. That project was a sugar cane growing project. The project was going to have canes that were going to be ripe in nine months for the first time in this country. That project had the potential of reducing the cost of sugar by more than 80 per cent. That project had the potential of turning around the economic activities of Tana River County from a dry land to a serious commercial agriculture sector.

It is time such projects are revisited for the benefit of the community. It is time we amend the law so that institutions like KenGen and others stop the business of tokenism in the name of Corporate Social Responsibility (CSR).

The CSR has been abused by most of the parastatals in this country by coming around and putting a small signpost, constructing a small toilet there and then they say that this is CSR for Tana River County. As Tana River is suffering from the floods and the effects of the dams upstream, I hope the whole of Tana River County has been supplied with electricity as the least contribution for the effects that they are suffering from dumping.

I beg to support this Motion.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Senator.

Sen. Sifuna, you can proceed.

**Sen. Sifuna:** Thank you, Mr. Temporary Speaker, Sir. Allow me to join the colleagues who have risen to support this Motion by the distinguished Senator from Tana River.

The argument for dams, at least where I come from has always been to try and mitigate the effects of flooding downstream. It is a tragedy as Sen. Mandago has put is that in fact the people downstream Tana River had to suffer the tragedy of flooding from

water that is released from a dam which we are told most of the time, it is spilled in order to stem downstream flooding.

On the River Nzoia, for instance, where I come from in Bungoma County, there is an argument to dam River Nzoia so that we can limit the effects of flooding downstream especially in the Lake Victoria Basin.

This is a very timely discussion because we are aware that this Government has told us that they intend to build 100 more dams. If the experience of the people of Tana Delta is anything to go by, then they should provide an eye-opener for the other projects.

I have had opportunity to visit Kipini, the Senator for Tana River, will confirm that there is a very beautiful spot called Delta Dames.

I do not know if it is still there, Sen. Mungatana, MGH. It is one of the most amazing places. I visited there as a young lawyer trying to help the communities there with registration of their community groups. I was able to see first-hand how the situation is.

During the campaign, I remember, my Governor because the Governor of Tana River is from the Orange Democratic Movement (ODM) party, flying me over a project where they were moving residents from the banks of this river to a new site out of the flooding zone. This is a matter that cannot be understated.

These mega projects that we come up with must be beneficial to us. I am happy about the Senators asking to see the environmental impact assessment of where this project was being done. As much as we are getting electricity from the dams that are upstream, we must not negatively affect the lives of people downstream.

I want to assuage the fears of my brother, Sen. Wambua. The way I understand Sen. Mungatana MGH, he is requesting for a policy in line with the Nile treaty. It is not to having the same colonial imposition of terms on people who are upstream. I followed closely the debate on Ethiopia building the Grand Renaissance Dam on the Blue Nile that almost brought a conflict that had the potential to escalate to war.

I do not think that is what the people of Tana River are talking about. There can be an agreement on the use or the volume of the water of the river without reference to the counties that are upstream. I know Sen. Mungatana, MGH, to be a very accommodative person. As a lawyer, I do not think he would want anything to be reached upon without the participation of all the stakeholders.

The way I understand him, and I am sorry, Senator, I was not here when you moved the Motion, is that we at least borrow from the Nile Treaty on having a minimum guaranteed volume of water flowing in the river constantly. Even during the dry season, the people downstream can be assured that X amount of water or that the volume of water will not fall below a certain line to guarantee them that there will be water for the animals, human use and other projects downstream such as irrigation.

This is something that I do not think any of the counties upstream would have a problem with. I know the Temporary Speaker is from Garissa County. When we visited Garissa as well during the campaigns, we were told that even for you, you have been limited in the amount of water that you can abstract from that river yet downstream your colleagues are crying of being flooded by the same water.

We should support a policy that takes into account of every need at every stage of the river to ensure that those upstream can derive benefit and those downstream are not encumbered with flooding.

This is a good Motion which I support fully. I would want to see this Senate resolve that in fact, there be some form of agreement with all the stakeholders including the power producers, Kenya Electricity Generating Company (KenGen) and the other counties including Garissa that would want abstraction of water.

It is quite ridiculous, Mr. Temporary Speaker, Sir. I am sure from your house you can see the river but in Garissa Town, there is a problem of flowing water. It does not make any sense.

We must come up with a policy when we are constructing such large scale damming projects. Now that we have been promised another 100 dams by this Government, let it be a template for all the other projects so that we do not have to deal with these matters perennially.

I support.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Sen. Sifuna and thank you for reading my mind on this matter. I appreciate.

Sen. Faki, the Floor is yours.

**Sen. Faki:** Asante Spika wa Muda, kwa kunipa fursa ya kuchangia Hoja iliyoletwa na Sen. Mungatama, MGH, Seneta wa Kaunti ya Tana River.

Masuala ambayo ameyazungumzia Sen. Mungatana, MGH ni mazito sana ikizingatiwa kwamba maji ni uhai na tumekuwa na maafa ya mara kwa mara katika eneo la Mto Tana, ikiwemo ukame ambao sasa unaendelea pakubwa. Vilevile, kuna mafuriko ambayo yanatokea mara kwa mara.

Bw. Spika wa Muda, Mto Tana ni sehemu ambayo iko na nafasi kubwa ya kuinua uchumi wa Kaunti yake na hata nchi nzima kwa jumla. Hii ni kwa sababu mahali ambapo Mto Tana unaingia katika Bahari ya Hindi, ni eneo nzuri sana kwa kilimo cha samaki. Kwa Kiingereza wanaita *aquaculture*. Sasa maji yamezuiliwa na hayashuki kwenda chini Mto Tana. Inamaanisha kwamba nafasi ya kufanya *aquaculture*, utalii wa bahari na vilevile kwenye mto, imeambulia patupu.

Mnamo miaka ya 1992 hadi 1997, kulikuwa na mwekezaji mmoja ambaye alikuwa anataka kufanya kilimo cha samaki kama vile kamba na wengine. Alikuwa na ekari 40,000 katika eneo hilo. Hata hivyo, kutokana na utepetevu wa Serikali na watu kutaka mlungula, ilibidi mradi huo uondolewe na kesi kuingia kortini. Hadi sasa, ninafikiri kesi zingine kuhusiana na swala hilo bado hazijaamuliwa.

Kwa hivyo, ni eneo ambalo lina utajiri mkubwa ambao unaweza kutumika kuwatoa wakaazi wa Kaunti ya Tana River kutoka kwa janga la njaa na mafuriko. Haya ni maafa mawili ambayo yamewakabili miaka nenda, miaka rudi.

Maji ambayo yametumika sasa kutokana na huu mradi wa Northern Tunnel Intake Project, kuenda Murang'a, Kiambu na maeneo mengine ya miji ya Nairobi, ni maji ambayo yangesaidia pakubwa maeneo ya Turkana hadi sehemu za Kitui na Garissa. Ni kwa sababu hiyo mto unapita hizi sehemu zote. Ilikuwa makosa watu wa sehemu hizi kutohusishwa wakati mradi huu ulipokuwa unapangwa na kutekelezwa.

Ninaunga mkono maoni ya Mhe. Ali Roba, kwamba kufanywe tena uchunguzi upya kuhusiana na mradi huu. Tuangalie hatari gani imeletwa kwa mazingira na wananchi wote, baada ya kuidhinishwa kwa mradi huu kuanzia sehemu ya juu kule ambako maji yanakwenda, mpaka sehemu ya chini ambayo ni mtoni, ambako maji yale yalikuwa yanafika kusaidia wananchi ambao wako katika sehemu zile.

Bw. Spika wa Muda, mradi wa Galana-Kulalu ungesaidia pakubwa maswala haya. Mradi wa Bura ambao pia uko katika Kaunti ya Tana River, pia ungesaidia. Hii miradi yote imesalia kuwa kitendawili. Hadi sasa, miradi hii haijaleta latija ambayo iliyotakiwa. Kwa mfano, kilimo cha pamba katika eneo la Bura, hakijastawi mpaka sasa. Kilimo cha mahindi katika mradi wa Galana Kulalu vilevile mpaka sasa hakijastawi. Kwa hivyo hata wale wakulima ambao wako karibu na miradi hii, hawajafaidika na miradi ambayo imepangwa na kutekelezwa na Serikali.

Lazima tuunge mkono Hoja hii wa Sen. Mungatana, MGH. Lazima tuzingatie kwamba kupoteza fursa za ukulima na njaa, ni maswala nyeti ambayo yataendelea kukabili kaunti hii kwa muda mrefu utakaokuja, bila kuwa na suluhisho lolote.

Mbali na hilo, kuna mmomonyoko mkubwa wa udongo katika sehemu za Kipini, ambao utaharibu mazingira ya samaki kuzalia. Hii ni kwa sababu samaki wengi huingia ndani kwenye mito ambapo wanapata chakula kwa rahisina kuwacha watoto wao kuja kuzaa baadaye wakati mayai yameshaiva kutegua samaki.

Hii itaathiri pakubwa mazingira katika sahemu zile. Tunapozungumzia mazingira, sio mazingira ya miti na binadamu peke yake. Hata viumbe vya baharini vitaweza kuathirika kwa sababu hii yote ni ile tunaita kwa kiingereza “eco system” ya eneo hili la Tana. Ikiathirika kwa upande mmoja, ni yote imeweza kuathirika, hususan, panapokosekana maji katika sehemu ile. Hii inamaanisha kwamba, ile sehemu yote imeweza kuathirika na hivyo basi wananchi, viumbe wa baharini, miti na wanyama wa nchi kavu watapata shida.

Ili kupatikane mpango endelevu, haya maswala yamezungumziwa katika Hoja hii ya Sen. Mungatana lazima yaangaliwe kwa makini na kwa haraka. Mambo ya Serikali mara nyingi huchelewa hususan ikiwa lile lengo lilikuwa linatarajiwa limekwishapatikana. Kwa mfano, safari hii lengo ilikuwa ni kupeleka maji kaunti za Murang’a, Kiambu na Nairobi. Kwa hivyo kwa vile hawa wameshapata, basi wale wako kule chini Tana River, Kitui, Ijara wote waweze kusubiri hadi kutakapo kuja watu wengine.

Hii haitaathiri peke yake kwa sababu ukiangalia sehemu zile zingine, kuna ukanda ambao kuna wale wanyama wanaitwa dolphins wanasafiri kutoka bahari kubwa na kupita katika ukanda ule sehemu fulani ya nchi. Wanapita pale kwa sababu kuna chakula fulani ambacho wanaweza kupata katika maeneo yale wakati wanapita. Hii ecosystem ni kubwa sana kiasi ambacho athari zake za muda mrefu zitakuwa kubwa na zitakuwa ni environmental disaster kwa eneo letu.

Kwa hayo mengi, naunga kuunga mkono Mswada huu.

**The Temporary Speaker** (Sen. Abdul Haji): Asante sana Seneta Faki. Sen. (Prof) Kamar, you may proceed.

**Sen. (Prof.) Kamar:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. First, I congratulate Sen. Mungatana for this wonderful Motion on the effects of upstream activities on River Tana in particular on the residents of Tana Delta.

I rise to support the Motion. I would like to agree with the Senator that clean water in the right quantities is a right of every Kenyan according to Article 43(1)(d) of the Constitution of Kenya.

Water flows from upstream to downstream. Naturally, the river must serve both groups; the source point communities and the receiver communities. This Motion is exposing a number of issues. I request that the prayers that have been made by Sen. Mungatana will be granted. One of the things that are being exposed is the injustice that development can cause if it is not taken care of nicely.

Before a dam is developed under normal circumstances - and I know that this was done - a feasibility study is done. This was done for the Seven Forks Dam. All of us know the Seven Forks Dam since when we were in primary school. When we were asked in the examination about the number of dams that Kenya has, this was among the first ones we knew about either in primary or secondary school studies. That was a long time ago.

We know that climate change has come in and it has caused a lot of problems.

We now have fluctuating rainfall patterns and dry seasons to the extent that the amount of water that the original feasibility study considered is not the same. The volume of water in Tana River is not the same because of climate change.

Being a soil scientist, biogas, soil and water conservation specialist, I say this because I have interest in the environment. That is why I have visited Tana River.

Mr. Temporary Speaker, Sir, for us to have solutions, it is not only stakeholder participation that needs to be done. We need to review the feasibility study that was done years back.

There is need for the Ministry to re-assess and evaluate the capacity of the dam and whether it still releases the amount of water that it should. Under normal circumstances, the spillway should release the same constant amount of water throughout.

Putting a dam across a river does not reduce the amount of water that flows downstream. A spillway is constructed for that purpose. In fact, when you construct a dam, you should ensure that you have a way of diverting the same amount of water, so that it can be filled by rain and not water flowing downstream. You should control the amount of water that flows downstream and conserve rainfall water which is God-given. Dams are good control systems as far as flooding is concerned.

Under normal circumstances, for example in Egypt, you will find that there is a series of dams. When rainfall fluctuates, there must be a way of diverting extra water, so that it is controlled in a manner that does not cause destruction.

It is important for the Ministry to do an assessment to establish the capacity of the dam and the excess water there as a result of climate change. That way, they can divert water. The water should not be diverted to downstream communities because it could cause flooding. Instead, it should be diverted to other storage tanks and dams.

If that is done, the Ministry will have excess water that can be used for irrigation, whether downstream or upstream. So, it is important to do an assessment. As we pass our resolutions in this House, we urge that they be taken directly to the relevant Ministry, so that they start addressing that.

A dam is not supposed to cause flooding; it is supposed to be a control measure in itself. However, that is not happening anymore because as I said, climate change interfered completely with whatever the Ministry had done at the beginning.

Mr. Temporary, Speaker, Sir, after doing that, we should then relook at the other functions of a dam. A dam must release water for consumption. We have to take care of the rights of Kenyans along Tana River to consume water.

It is sad that a river like Tana River flows downstream but nobody has water. People who live along the river fetch water from the river instead of having water supplied to their homes.

I agree that a company like KenGen should have obviously done this for the community in form of Corporate Social Responsibility (CSR). They should have distributed the water to the neighbourhood for free because they are the ones enjoying.

Mr. Temporary Speaker, Sir, out of the resolutions that we have here, KenGen should do the right thing. I agree that they should feed the communities around them.

If you have a dam, you can extract water for consumption and it does not cost much. They should provide for it in their own dams so that the water being extracted for consumption is over and above what they require. The danger that is usually there is releasing water back to the river in high speed such that it causes flooding downstream. They must control the water they release, not only for purposes of not flooding but also for having continuity of the river. They must only maintain the size of the river.

Mr. Temporary Speaker, Sir, My hope is that even as the relevant Committee addresses this issue considering it has come to this House, they need to look at the beneficiaries of upstream, midstream and downstream to extract water at the right positions. If there is need, we should have more dams than what we have now so that we have storage for irrigation downstream and storage that can be used to distribute water for the inhabitants of this country.

It is sad that in this country, women are still suffering carrying water from the river. Mr. Temporary Speaker, Sir, let me tell you what I saw when I went to Garissa, your home County. I am an environmentalist, so, I wanted to drive along the river. As I drove along that River I discovered a plant called *Mathenge*. It was introduced by a scientist called Mathenge in Baringo but was already in Garissa.

This plant is scientifically called *Prosopis juliflora*. I have researched on this tree before. It is one plant that multiplies itself in the highest speed. There is no other plant like that. We discovered this plant had clogged River Tana. The water is clean because it is covered by this tree but the women could not reach the water.

Mr. Temporary Speaker, Sir, there is need to have a major plan along River Tana. We also need the Tana and Athi Rivers Development Authority (TARDA) to relook at its own agenda. We have Authorities and bodies in this country that may have not reviewed their agendas for a long time.

I strongly recommend that TARDA and Tana Water Works Development Agencies should work together to ensure that they develop and rehabilitate that River as well as see what they can do with the *Mathenge* plant. They should also ensure that they divert water for drinking, livestock and irrigation. That water is a lot and is enough for all activities right from the upper side of the river to the lowest side. It is one of the gifts of a river that we have in this country.

Mr. Temporary Speaker, Sir, I know that my time is running out and there could be more Members who wish to comment on this. I strongly support this Motion and the resolutions that come out of this should never be left in the archives. We would like to see them implemented. Thank you.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Sen. (Prof.) Kamar. There are three Senators remaining to speak and because of time considering we want the Mover to reply, each Senator will have three minutes.

The next Senator is Wahome Wamatingi.

**Sen. Wamatinga:** Mr. Temporary Speaker, Sir, my name is Wahome Wamatinga. I also rise to support this Motion. I have a lot of technical knowledge having worked in the water sector in the last 20 years. The problem we have in this country is that when we designed the dams, we had not looked at the dynamics that will change in the future. We had not foreseen a situation where deforestation will take the dynamics that it has taken.

One of the biggest challenges in this country is that all the dams that were constructed, do not retain a third of their capacity.

I thank Sen. Mungatana, MGH for coming up with this very important Motion. As Kenyans we need to look at the impact of environmental pollution, starting with siltation of the dams.

The number of trees that have been felled upstream in the last twenty years one is of the major reasons why we have drought. When it rains, the soils are already loose, hence most are washed downstream and thus the dams are not filled with water but mud from the landslide.

Therefore, I think we need to relook at the conceptualization of dam construction. We should start by mitigating the measures of environmental pollution such as siltation. After that, we can address the effects of water shortage.

Mr. Temporary Speaker, Sir, if I had enough time, I could explain to this House what we did with the Budalangi dykes. There were perennial floods every couple of years. I was one of the designers of those dykes. Up to today, we have been able to mitigate the flooding. It can also be done upstream.

Dams can be constructed, not only to generate electricity but to also retain water that is released back to the river, whenever we do not have rainfall. That is the solution for this country.

Again, I am happy that the Government has committed itself to constructing dams and using a different approach which is Public Private Partnerships (PPPs). By so doing, we will be able to utilize our resources. Going forward, designs should be based on public participation. Our input will maybe help this country get where we need to go.

I thank you very much, Mr. Temporary Speaker, Sir.



**The Temporary Speaker** (Sen. Abdul Haji): Thank you Senator and I apologize for mispronouncing your name. The next speaker is Sen. Tabitha Mutinda.

**Sen. Tabitha Mutinda:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Motion on Effects of Upstream Activities on River Tana, by Sen. Mungatana, MGH. I acknowledge and appreciate the economic activities in Tana River County that is farming and fishing. These are activities highly in need of water.

Mr. Temporary Speaker, Sir, floods have been an issue for Tana River County. It has affected the livelihoods of our people. It is very sad that we have lost lives, livestock and food. I urge the Ministry of Water Sanitation and Irrigation, to look into this issue by ensuring that policies set are adhered to.

It is sad that stakeholders such as KenGen would set up dams for their own good, without considering its effects on the people of Tana River County. I urge for policies that will ensure public participation during implementation of dam construction, so that it is a win-win situation. The policies developed should also consider effects of dams on future generations.

I support.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Senator. Proceed, Sen. Madzayo.

**The Senate Minority Leader** (Sen. Madzayo): Asante, Bw. Spika wa Muda. Nampa kongole Seneta wa Tana River, Sen. Mungatana, kwa kuleta Hoja hii.

Kwanza, tangu tulipozaliwa, tunajua Tana River ni Kaunti ya Wapokomo. Ilibainika wazi Wapokomo ndio walioishi humo. Kwa sababu ya mchanganyiko, sasa tunakubali kwamba Tana River sasa imepanuka na vizazi vimekuwa vingi.

Bw. Spika wa Muda, Mto Nile unaanzia Afrika Mashariki, kutoka Ziwa Victoria. Hata hivyo, hakuna nchi ambayo inapata faida ya huo mto isipokuwa Misri. Sisi sote hapa tumetembelea Misri na kuona wanafanya mambo mengi sana kutumia huu Mto Nile.

Kwa nini hatuwezi kufanya hivi? Ni kwa sababu ya vigezo vya sheria za kitaifa. Ikiwa tunazingatia sheria zao na kuzijumuisha kuwa zetu, itakuwa muhimu pia tuheshimu vigezo hivyo. Ikiwa tunaheshimu Mto Nile, basi pia tuheshimu Mto Tana. Wakulima wanaoishi upande wa chini wa mto huo, wapewe nafasi ya kufanya kilimo chao ili wapate mazao ambayo wanaweza hata kuuza.

Siku zote, maji mazuri huwa na nguvu yanapotoka juu. Ni jambo la kusikitisha kwamba hivi leo, eneo la chini la Mto Tana, hasa mji wa Kipini, unaweza kupotea wakati wowote. Kipini ndio ulikuwa mji wa kwanza. Mji wa Hola ni wa juzi tu. Nilikuwa huko na ni jambo linalosikitisha kuona mji wa Kipini uko kidengudengu. Mji huo uko mwisho kwenye *cliff*. Sio busara kuruhusu jambo kama hilo.

Ni muhimu Serikali yetu iheshimu mikataba ya kimataifa ambayo tumejumuisha katika sheria zetu. Wale wanaoishi katika maeneo ya chini ya mito, wapewe heshima zao. Serikali nayo ifanye vyovyote vile kuona maji mazuri yamewafikia wale watu.

**The Temporary Speaker** (Sen. Abdul Haji): Asante. I would like to call the Mover to reply.

We have eight minutes remaining. If you can utilize six so that I have two minutes to put the Question.

**Sen. Mungatana, EGH:** Thank you, Mr. Temporary Speaker, Sir. I wish to express my gratitude to all the Senators who have given immense and very knowledgeable contributions on this Motion. I also thank the Secunder of the Motion, Sen. (Dr.) Khalwale, our very able Senate Majority Whip.

I thank all the distinguished Senators who have contributed. I cannot thank them enough. Sen. Sifuna, Sen. Mandago, Sen. Wambua, Sen. Abass, Sen. Olekina, Sen. Tabitha Keroche, Sen. Oketch Gicheru, Sen. Syengo, Sen. Ali Roba, Sen. Cherarkey and yourself, Mr. Temporary Speaker. I also thank Sen. (Prof.) Kamar, Sen. Faki, Sen. Wamatinga, Sen. Tabitha Mutinda and the Senate Minority Leader.

This House has made a choice today to stand with the people of Tana River County. It has chosen to stand with the people who have been over the edges, neglected, forgotten and despised by big mega projects that have had no consideration whatsoever.

River and water management is not an issue we can joke with. We have spoken here and many other speakers have contributed. People are really waiting to go to war when it comes to fighting for water rights.

It is just that we cannot do it in this country because we live here together. However, if we were in different territories, people would go to war because water is life. I remember the contribution by Sen. Oketch Gicheru. He said that the next world war would be about water resources. This tells us that we need to plan and start looking ahead.

Another contributor talked about how we need to protect the future generations. This country has never taken water management seriously. I want to take from what Sen. Olekina has said that we should not end it here as just an expression of beautiful platitudes. It should not be a talk shop.

I want to promise this House that we will make proper legislation founded on this Motion. I am a hardworking legislator. I will bring a proper legislation and amendments to the necessary legislation that exist so that we can anchor this Motion in what needs to be done for this country.

I am grateful for everything that has been said. I have been recording everything that has been said by hand. I will also check the HANSARD to see if there is anything I have missed out. We will take the expense to hire people who have expertise in river and lake ecology to draft necessary amendments. This is a matter of life and death for us. We will give Notice of this Motion to all necessary Government institutions so that they can start implementing the mitigation measures that they need to do even before we bring the legislation.

Mr. Temporary Speaker Sir, I thank you and beg to reply.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you Senator. Pursuant to Standing Order 84(2) this matter does not affect counties.

*(Question put and agreed to)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, it is now 6.30 p.m. time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow Thursday, 17<sup>th</sup> November, 2022 at 9.30 a.m.

The Senate rose at 6.30 p.m.