

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 23rd February, 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): From where I sit, I see we have no quorum. That has been confirmed. So, I request the Bell to be rung for five minutes.

(The Quorum Bell was rung)

The Deputy Speaker (Sen. Kathuri): Ring the Quorum Bell again for five minutes.

Majority Whip, approach the Chair with immediate effect.

(The Quorum Bell was rung)

*(The Senate Majority Whip (Sen. Khalwale)
approached the Chair)*

*(The Clerk-at-the-Table consulted the
Deputy Speaker (Sen. Kathuri))*

Ring the Quorum Bell for another 10 minutes.

(The Quorum Bell was rung)

The Deputy Speaker (Sen. Kathuri): Okay, now we have quorum. Let us transact business.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KAHAWA
GARRISON SECONDARY SCHOOL, NAIROBI CITY COUNTY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, in the Public Gallery, we have 92 students accompanied by four teachers from Kahawa Garrison Secondary School in Nairobi City County who are in the Senate on an educational tour.

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

I thank you.

Do we have the Senator of Nairobi City County? At least, the Senate Majority leader, recognise those students.

Sen. Tabith Mutinda: I thank you, Mr. Deputy Speaker, Sir. Ningependa kuchukua fursa hii kuwakaribisha sana wanafunzi kutoka hii Kaunti yetu nzuri ya Nairobi. Mmfanya jambo la hekima sana kutembea katika Bunge letu la Seneti leo. Tunafurahia kuwa nanyi.

Masomo ni kitu ambacho mzazi anaweza kukupa ambacho hakuna yeyote ambaye anaweza kuchukua kutoka kwako. Mafunzo mnayopewa myaweke kwa hali inayofaa. Mambo mengi yamekuwa sasa katika teknolojia tofauti. Ninazidi kuwaomba mfuata yale ambayo wazazi wanawaeleza, yale ambayo walimu wanawafunza ili muwe viongozi bora kama sisi.

Pia, ninawasihi kuhakikisha kuwa hakuna jambo ambalo litawazuia kutimiza ndoto zenu. Tia. bidii katika masomo yenu na mtakuwa bora. Hata sisi tulio hapa tulianza hapo mlipo na tukaweka ile bidii ambayo inafaa na pia Mungu tukamweka mbele na hapa ndipo tulipo leo.

Mungu awabariki sana.

The Deputy Speaker (Sen. Kathuri): There are few requests, I do not know whether they are on the same matter.

Sen. Maanzo, you have the Floor.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. It is always a pleasure for students to learn from us, to be role modelled by us. Every time we have visitors, we look forward to invite them and welcome them to follow the proceedings.

I encourage those young children one day to become Senators. There is a president of the United States of America who became president because when he was a student he visited the Congress.

I wish them very well and I encourage them to work hard so that one day they can sit here.

I thank you.

The Deputy Speaker (Sen. Kathuri): Okay.
Next Order.

PAPERS LAIDREPORT OF THE PARLIAMENT OF KENYA
DELEGATION TO THE 145TH ASSEMBLY OF IPU

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker Sir. I beg to lay the following Paper on the Table of the Senate today, 23rd February, 2023: -

Report of the Parliament of Kenya Delegation to the 145th Assembly and Related meetings of the Interparliamentary Union (IPU) held from 11th to 15th October, 2022, in Kigali, Rwanda.

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

The Deputy Speaker (Sen. Kathuri): Okay, Vice-Chairperson, Parliamentary Service Commission.

ANNUAL REPORT OF THE PARLIAMENTARY SERVICE
COMMISSION FOR THE FY 2021/2022

Sen. Korir: Thank you very much, Mr. Deputy Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, 23rd February, 2023: -

Annual Report of the Parliamentary Service Commission for the financial year 2021/2022.

(Sen. Korir laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): I thank you.
Next Order.

NOTICES OF MOTIONSDROUGHT MITIGATION
PROGRAMME IN PUBLIC SCHOOLS

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to give Notice of Motion.

I beg to give notice of the following Motion: -

AWARE THAT, Kenya is experiencing the most intense, severe and alarming drought in forty years, as a result of the failure of four consecutive rainy seasons, affecting more than twenty counties in arid and semi-arid lands (ASAL);

FURTHER AWARE THAT, more than 4.2 million people representing 24 percent of the ASAL population are facing high levels of acute food insecurity, with about 2.7 million in crisis phase and 785,000 people in emergency state;

NOTING THAT, the national and county governments, both local and international development partners and philanthropists have made attempts to respond to the dire situation occasioned by the severe drought;

CONCERNED THAT, thousands of children did not attend school during the third term of the academic year 2022 and beginning of 2023 as a result of the ongoing drought;

NOW, THEREFORE, the Senate urges:

(1) The Ministry of East African Community (EAC), the ASALs and Regional Development, to develop immediate and long-term interventions to alleviate the ravaging effects of drought and hunger periodically affecting the country and more severely the ASAL areas.

(2) The Ministry of Education, in conjunction with the Council of Governors (CoG), to establish modalities to ensure no learners are sent away from school due to lack of school fees and ensure children from vulnerable families have access to education; and

(3) The Ministry of Education, in conjunction with CoG, to implement effective school feeding programmes to ensure children from vulnerable families in drought-hit regions, have access to at least one hot meal per day and that no child misses class due to lack of food.

The Deputy Speaker (Sen. Kathuri): Next Notice of Motion is by Sen. Kavindu Muthama.

COMPENSATION TO KENYAN VICTIMS
OF THE 1998 USA EMBASSY BOMBING

Sen. Kavindu Muthama: Thank you, Mr. Deputy Speaker, Sir. I beg to give Notice of the following Motion-

THAT, AWARE THAT, disaster is defined as an overwhelming event and circumstance that tests the adaptation of responses of a community or individuals beyond their capability and leads momentarily to massive disruption of functions for a community or individual that often exceeds their capacity to cope using existing resources;

FURTHER AWARE THAT, such was the case with the 1998 United States of America (USA) Embassy bomb disaster in Nairobi in which many of the Kenyan casualties resulted from the collapse of adjacent buildings located within two to three block radius, and with reverberations being felt in most parts of Nairobi that resulted in 213 Kenyans and 12 Americans killed and over 500 citizens of both countries being seriously injured;

NOTING THAT, US Allies, including Kenya, have endured the great burden of death, and long-term and in many instances permanent, physical and psychological injury;

FURTHER NOTING THAT, the United States Government has since compensated some of the victims and families of US citizens, leaving the families of Kenyan citizens and certain other victims uncompensated;

NOW, THEREFORE, the Senate resolves that the Ministry of Foreign Affairs-

(i) Advances friendship and co-operation between the United States and Kenya by supporting the eligibility of Kenyan and American victims and their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act; and

(ii) Partners with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

Mr. Deputy Speaker, Sir, this issue---

The Deputy Speaker (Sen. Kathuri): That is enough for now.

Sen. Kavindu Muthama: Okay, Mr. Deputy Speaker, Sir. This issue has taken 24 years. I pray and plead with you that those responsible take it with seriousness and act on it.

The Deputy Speaker (Sen. Kathuri): Thank you, Senator. Next is Sen. Mungatana, MGH with a Notice of Motion.

NOTING OF RECORD OF PROCEEDINGS OF THE FIRST
ORDINARY SESSION OF THE SIXTH PARLIAMENT OF PAP

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion-

THAT the Senate notes the Record of the Proceedings of the First Ordinary Session of the Sixth Parliament of the Pan-African Parliament (PAP), held in Gallagher Convention Centre, Midrand, South Africa on 23rd October to 12th November, 2022 laid on the Table of the Senate on Thursday, 16th February, 2023.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you. The Senate Majority Whip, Sen. (Dr.) Khalwale, proceed.

NOTING OF REPORT OF PARLIAMENT OF
KENYA DELEGATION TO THE 145TH ASSEMBLY OF IPU

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

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 145th Assembly and Related meetings of the Inter-Parliamentary Union (IPU), held from 11th to 15th October, 2022, in Kigali, Rwanda laid on the Table of the Senate on Thursday, 23rd February, 2023.

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

Next Order.

STATEMENTS

The Deputy Speaker (Sen. Kathuri): We have a couple of Statements. We will start with Sen. (Prof.) Tom Ojienda, SC, Senator for Kisumu County. If my record is right, you have three Statements.

Sen. (Prof.) Tom Ojienda, SC: Yes, Mr. Deputy Speaker, Sir. I have three Statements. The first Statement is on the misuse of arms by Kenya Wildlife Service (KWS) officers in Kisumu County.

The Deputy Speaker (Sen. Kathuri): For neater work, start with the one on misuse of firearms.

MISUSE OF FIREARMS BY KWS
OFFICERS IN KISUMU COUNTY

Sen. (Prof.) Tom Ojienda, SC: Mr. Deputy Speaker, Sir, I rise under Standing Order 53(1), to seek a Statement from the Standing Committee on National Security Defence and Foreign Relations regarding the misuse of firearms by officers of Kenya Wildlife Service (KWS) in Kisumu County.

In the Statement, the Committee should-

(1) Investigate the circumstances leading to the injury of Biron Ochieng' Alango, identification No.39538206 who was allegedly shot by KWS rangers on 26th December, 2022 at Mamboleo Junction in Kisumu County.

(2) State the measures put in place to regulate the use of firearms by KWS officers in civilian areas in order to prevent misuse of firearms by KWS officers.

(3) Investigate the current state of insecurity in Kisumu County estates, stating the nature of insecurity cases, perpetrators and action taken by the security apparatus in Kisumu County.

(4) Inform the Senate of measures, if any, to compensate victims of excesses by Kenya Wildlife Services (KWS) officers and other armed security agencies as well as preventive measures to avoid future occurrences of misuse of Government firearms.

Mr. Deputy Speaker, Sir, that is the first Statement.

The Deputy Speaker (Hon. Kathuri): Read the second Statement.

STATUS OF CONSTRUCTION OF KORU-SOIN DAM

Sen. (Prof.) Tom Ojienda, SC: The second Statement is on the construction of Koru-Soin Dam.

I rise, pursuant to Standing Order 53(1), to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the status of construction of the Koru-Soin Dam following the compulsory acquisition, by the Government of the land for construction of the said dam several years ago.

In the Statement, the Committee should -

(1) Explain the progress made towards the construction of the Koru-Soin Dam, whose construction was meant to help stem the floods menace often experienced by the residents of Nyando in Kisumu County.

(2) State whether there is any budgetary allocations towards the construction of the dam in the current financial year and whether there are any plans to prioritize the construction of the said dam.

(3) Outline measures put in place by the National Government, if any, to compensate the owners of the land that was compulsorily acquired for purposes of construction of the dam, whether the Government and the residents have reached an agreement on the amount of compensation to be paid to the owners and whether there is a budgetary allocation towards the said compensation to the residents.

(4) Elucidate the extent to which the people of Kisumu County will benefit from the project.

DESTRUCTION OF FARM CROPS BY HIPPOPOTAMUS
IN WEST KANO IRRIGATION SCHEME IN KISUMU COUNTY

Sen. (Prof.) Tom Ojienda, SC: Mr. Deputy Speaker, Sir, my last Statement is on the threat to human life and destruction of farm crops by hippopotamus in paddy fields of West Kano Irrigation Scheme in Kisumu County which is a current menace.

I rise pursuant to Standing Order 53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the threat to human life and destruction of farm crops by hippopotami in the paddy fields of West Kano Irrigation Scheme in Kisumu County.

In the Statement, the Committee should: -

(1) Explain measures, if any, put in place by the national Government and the County Government of Kisumu to prevent the destruction of farm crops in West Kano by Hippos as well as address the threat to human life caused by wild animals.

(2) State the assistance extended to farmers and residents of West Kano to enhance their knowledge in dealing with human-wildlife conflict including fencing their farms as a deterrent measure against the hippos.

(3) List all reported cases of human-wildlife conflict occasioned by hippos in West Kano rice fields since 2022 to-date, stating the remedial measures taken including compensation of farmers and families of those killed or maimed by hippos.

Mr. Deputy Speaker, Sir, this is a current problem and last week, two family members were killed by the hippos in these rice fields.

I thank you.

The Deputy Speaker (Hon. Kathuri): Thank you. The three Statements to be considered by the relevant Committees.

(Statements referred to relevant Committees)

Sen. Sifuna, the Nairobi Senator.

ALLEGED PLAN BY THE MINISTRY OF HEALTH TO RESTRICT
HEALTH WORKS FROM SEEKING EMPLOYMENT OPPORTUNITIES BROAD

Sen. Sifuna: I thank you, Mr. Deputy Speaker, Sir.

I rise pursuant to Standing Order 53(1) to seek a Statement from the Standing Committee on Health regarding allegations of a plan by the Ministry of Health to restrict unemployed Kenyan workers from seeking jobs abroad.

In the Statement, the Committee should address the following: -

(1) Investigate allegations of the existence of a Workforce Migration Policy by the Ministry of Health through which there are plans or reported plans to restrict qualified unemployed Kenyan health workers from seeking work abroad.

(2) State whether, in developing the said policy, the Ministry of Health complied with Article 10(2)(b) and (c) and Article 232(1)(b), (d) and (i) of the Constitution, with specific reference to equity, social justice, non-discrimination and involvement of the public during the development of this policy.

(3) Explain the rationale for such a policy, given the state of the Kenyan labour market and in light of the plight of the thousands of qualified but unemployed health workers, stating what the Ministry is doing to ensure that all the qualified but unemployed doctors in the country are being employed expeditiously.

(4) Outline the measures that have been put in place by the Ministry of Health, if any, to revise and upgrade the remuneration of healthcare practitioners to ensure a fair and conducive working environment.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Hon. Kathuri): Very well. What is out of order, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I beg to seek further clarification to that Statement with your permission.

The Deputy Speaker (Hon. Kathuri): Proceed.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I thank Sen. Sifuna for this. Could the Statement also include a confirmation that the Government intends to deny the non-practice allowance paid to doctors and clinical officers who work in public hospitals? This is meant to cushion them when they are working in public practice because they do not enjoy the opportunity to benefit from their skills in private medical practice.

This is a cross-cutting issue, let them also confirm that the same non-practising allowance for judges and magistrates will also be scrapped. I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Hon. Kathuri): I can see several requests on this Statement. Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, it is not on this Statement, *per se* but on the comments by the Majority Whip, Sen. (Dr.) Khalwale.

The Standing Order No.104 says;

A Senator who wishes to speak on any matter in which the Senator has pecuniary or proprietary interest shall first declare that interest.

Sen. (Dr.) Khalwale is a practising gynaecologist. While making his comments on this particular topic, it would have been in order for him to declare publicly that he has a personal interest in this matter, either now or in the future should the people of Kakamega rethink their endorsement of him being here.

Mr. Deputy Speaker, Sir, put the Senator for Kakamega in order and ask him to properly address this House on that particular matter.

The Deputy Speaker (Hon. Kathuri): Sen. (Dr.) Khalwale should do that. He has said the Government wants to stop non-practising allowance. I do not know whether he is also interested to get paid by the Parliamentary Service Commission (PSC).

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, our Majority Leader is right but he should have started by asking me to define what is the non-practising allowance.

Non-practising allowance is not paid to doctors in private practise but to doctors in the Civil Service. I left the civil service when the Majority Leader was in the kindergarten.

(Laughter)

That was the last time I enjoyed that non-practising allowance.

The Deputy Speaker (Hon. Kathuri): Which year was that, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, because of the peculiar interest of the younger Members of the fair sex in this House, let me not disclose my age.

This is important so that the country is on the same page. A doctor currently working in a public hospital is paid the non-practising allowance of Kshs35,000, a clinical officer is paid Kshs20,000, a judge is paid Kshs20,000 and a magistrate is paid Kshs15,000.

This is meant to cushion them considering their colleagues make more money from their profession in the private practice and to not get attracted to go into private practice at the expense of the poor members of the public who cannot afford fees charged in the private sector.

On the part of judges and magistrates, imagine if a judge who, is looking for money, takes instructions from a client and later on in the day, in the fullness of time, the same client appears before him as a judge. So, we are supposed to cushion them so that they do not camp. There is confusion. People think that doctors are looking for Kshs25,00 or 35,000 which to them is peanuts.

When we carry out one operation, we make between Kshs50,000 and Kshs200,000 for a one-hour operation. So, when we sacrifice and not go for those operations and take care of your families, give us the Kshs35,000 so that we buy some little presents for our children and in my case, my grandchildren.

The Deputy Speaker (Sen. Kathuri): If you want to comment on the Statement, you have two minutes each

The time you take from your seat to the Dispatch Box is 30 seconds.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. My comment is only one minute to seek further clarification. We need to know why the direction that doctors are not supposed to travel was given and the number of doctors in the country that are qualified yet are unemployed.

Finally, you remember there was a collaboration between county governments and the famous Cuban doctors. What is the position? I thought there was a collaboration where the Cuban doctors were working within our county hospitals. The Ministry of Labour and Social Protection started a collaboration with the United Kingdom (UK)

Government to take nurses to work in UK. If those clarifications can be made, then we shall be able to put that matter to rest.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, do you want to comment on this? Your card has been on for quite some time. I am confused.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I want to speak to the next matter but I---

The Deputy Speaker (Sen. Kathuri): Let me give the opportunity to another Member. Do you still want to speak?

Sen. Osotsi: Yes. I can speak on this matter.

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

Sen. Osotsi: I must thank my colleague, the Senator for Nairobi City County, for bringing up this matter. Most of us were shocked to read in the media that over 4000 doctors are unemployed yet the Government has spent a lot of resources to train these doctors. They are also not allowed to seek jobs elsewhere.

This is a serious issue considering the shortage of medical staff in our hospitals. We cannot be having doctors who are trained, not able to work or travel.

It is a serious matter. The Statement by Sen. Sifuna should be taken seriously by the Committee on Health and a report brought to this House so that we discuss this matter of national concern. It is going to discourage young people from taking serious courses like medicine which require a lot of concentration and investment. After the course, you end up not getting the job or not being able to travel out of the country.

That is a draconian rule by this Government which the Committee on Health must seek to ensure the rule is stopped henceforth.

Allow me to comment on the Statements that we give in this House. I am concerned that every time we come to this House, Members request an average of about five to six Statements a day. However, Committees are not moving with speed to process these Statements.

I requested two Statements last year. To date, I am waiting for the first communication from the Committee to tell me when they are inviting the relevant people to come and respond to the issues.

We are making requests but the Committees should work aggressively so that these Statements are responded to in time.

Mr. Deputy Speaker, you are the Chair of the Liaison Committee. You need to call your Members to order and ensure that our contribution in this House in terms of request for Statements is not in vain.

(Sen. Osotsi microphone went off)

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

Sen. Wakoli, proceed.

Sen. Wakoli: Asante sana, Naibu wa Spika. Ningependa kuchangia yale ambaye mwenzangu Seneta wa Nairobi ametaja kwamba kwa usanjari huo kuhusiana na mkataba wa madaktari na mishahara yao.

Ni kinaya na kejeli kwamba Serikai ina mkataba na wahudumu madaktari kutoka Cuba ambao kwa mwezi mmoja, daktari mmoja anatumia sisi Wakenya million moja

kwa mwezi. Ihali, madaktari wenye tajriba kama hiyo, humu Kenya, hawana kazi, wanapiga miayo na hawaruhusiwi kutafuta kazi katika nchi za kigeni.

Ninaomba hivi, itawezekana kwamba hawa wa madaktari kutoka Cuba warudishwe kwao na pesa wanazolipwa zitumike kuajiri madaktari hapo Kenya?

Hoja ya pili, kuna wale madaktari mashinani, Community Health Volunteers (CHV) ambao wanafanya kazi butu, na nzito kule mashinani. Itawezekana vile vile wawezeshwe kuhusishwa na wapate mishahara ili kunufaisha Wakenya katika nyanja za mashinani?

Asante sana, Naibu wa Spika.

The Senate Majority Leader (Sen. Cheruiyot): On a point of order.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, sorry to interrupt the flow of the programme.

I wish to draw your attention to the very important business on item number eight. With your permission, I request that we refer to the long established tradition of the House that whenever we have such pressing matters, we can pause debate on any particular matter and dispense with it. We are only taking one vote. This should not take us more than five minutes. We send this money to our counties and then revert to the order that was going on.

With your permission, Mr. Deputy Speaker.

The Deputy Speaker (Sen. Kathuri): If hon. Senators would minimize request to make comments on Statements, then we can read three or four Statements, then we clear.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM SABIS INTERNATIONAL SCHOOL, RUNDA

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we have visiting students and teachers from Sabis International School, Nairobi City County, in the Public Gallery. We have 22 students accompanied by eight teachers from the school who are in the Senate on an educational tour.

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

On this one, there is a request from Sen. Tabitha Mutinda. You have two minutes.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. It is a special request because my good children from the Sabis International School in Runda requested to come to this House.

I plead with them to continue pursuing their educational goals. As I always say, education is the only thing that your parent can give you that is what somebody can never take away from you. I wish you the best.

I know you are in one of the best schools in this country. Do not take advantage because you get what your parents can provide.

I also urge you to continue visiting other schools that might not have the facilities that you have so that you understand what this country offers. You are our future leaders. The Senators you see here; we have walked an education journey. I humbly ask you to shine in your education.

I thank you.

The Deputy Speaker (Sen. Kathuri): Kindly proceed, the Senator for Nairobi County.

Sen. Sifuna: Thank you, Mr. Deputy Speaker, Sir. Probably for the benefit of the students in the gallery, the Nairobi delegation is quite healthy. We have one elected Senator in Nairobi but we have at least five nominated Senators who come from the Nairobi County and therefore, they form part of the delegation.

Sen. Tabitha Mutinda who spoke before me is one of the Members of the delegation in Nairobi. If she has taken the opportunity to welcome you, please, consider that to be the same position that I would take in welcoming you to this House.

I hope that you can learn something from your tour today and that you are proud of the representation you have in the Senate especially for your teachers. I want to say thank you very much to those who voted for me and enjoy your time here in the Senate.

I thank you.

Sen. M. Kajwang’: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. M. Kajwang’, what is your point of order.

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, is Sen. Sifuna in order to purport that Sabis International School, Runda, lies in Nairobi County when the boundaries are so clear that Sabis International School lies in Kiambu County? I say this with authority because that is my neighborhood.

Mr. Deputy Speaker, Sir, in as much as I want to say I live in Nairobi the reality is that I live in Kiambu. The Senator who should be inviting the ladies and gentlemen from Sabis International School should be the Senator for Kiambu not the Senator for Nairobi. The Senator for Nairobi should know where he gets his votes from. Beyond Githogoro, Sen. Sifuna has no further votes. After Githogoro, the votes are for Kiambu.

The Deputy Speaker (Sen. Kathuri): Sen. M. Kajwang’, now that you know those are your neighbors, kindly welcome them on behalf of the Senator for Kiambu who is not in the House.

(Laughter)

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, as a resident of Kiambu County, I would like to welcome the delegation from Sabis International School, Runda. It is a school that I am very well familiar with because I have previously taken my son there for an interview.

In as much as he was admitted to join Sabis International School, we were just not able to afford the fees.

(Laughter)

That tells you how a choice of school it is. However, I am extremely and immensely proud of the students from Sabis International School who I see in my

neighborhood; who are friends of my children including the staff of Sabis International School.

Additionally, the entrepreneurs; before coming to this House, I was in the financial services sector and was in a group of companies where Centum was part of it.

Mr. Deputy Speaker, Sir, I want to congratulate the entrepreneurs who partnered to bring this world class school to Kenya particularly in Kiambu County. If you do a poll in here and you ask yourself who went to an International school, you keep asking yourself where do they usually end up?

Mr. Deputy Speaker, Sir, I know you went to some rural DEB school in primary and secondary. The Senator for Uasin Gishu must have gone to some local school barefoot. I want to encourage the children at Sabis International School that the job that we do is not a dirty job. It is a job that you can do having come through an international school.

We need more enlightened and “woke” people in this House and I hope that many of you or some of you will find their way into this House.

I thank you.

The Deputy Speaker (Sen. Kathuri): The Senator for Kisumu County has approached the Chair because somehow he thinks that some of his children are in this House, in the Gallery.

Sen. (Prof.) Tom Ojienda, SC: Mr. Deputy Speaker, Sir, I have three children in Sabis International School.

(Laughter)

I think these are classmates of my children.

Let me just welcome them. I have Chrissy, Ruby and the little one. Welcome to the Senate. It is important at every point that students visit Senate, they need to understand the bicameral nature of parliament. They need to understand that it is important that any point in learning, the lower level and the higher levels, they must aspire for the best. There is only room at the top. So, when you come to the top, aspire to remain there.

I thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, as requested by the Majority Leader and the leadership of the House, there are a few other Statements that I may suspend for a few minutes. Let us dispense off with the business appearing in Order No. 8 on the Order Paper then we will come back to the Statements.

We will then proceed in that manner.

Next Order.

MOTION

ADOPTION OF REPORT ON THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATION CASH DISBURSEMENT SCHEDULE FOR FY 2022/2023

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the County Governments Additional Allocations Cash Disbursement Schedule for the Financial Year 2022/2023, laid on

the Table of the Senate on Thursday, 16th February, 2023, and that pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 189 (3), the Senate approves the County Governments Additional Allocations Cash Disbursement Schedule for the Financial Year 2022/2023.

(Sen. Ali Roba on 21.02.2023)

(Resumption of debate interrupted on 21.02.2023)

(Division)

The Deputy Speaker (Sen. Kathuri): Let the Division Bell to be rung for one minute.

(The Division Bell was rung)

Lock the doors and draw the bar.

Senators, we are voting electronically. Confirm whether the system is okay.

(Technical hitch)

The Deputy Speaker (Sen. Kathuri): Where is our technical team? Can you advise us?

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

The Deputy Speaker (Sen. Kathuri): Okay.

Hon. Senators, this system is not working. Therefore, we will go the manual way and use the roll call. The House leadership can give us Tellers, one each from either side. The Tellers are Sen. Chimera and Sen. Oketch Gicheru.

Let us proceed.

(Voting in progress)

The Deputy Speaker (Sen. Kathuri): Senator Dullo, let us take your vote again.

Sen. Dullo: I vote yes, Mr. Deputy Speaker, Sir.

(Loud consultations)

I can see people are excited. Congratulations.

(Voting in progress)

(An hon. Senator sought to vote on behalf of Sen. Lomenen)

The Deputy Speaker (Sen. Kathuri): Senators, you have no powers to vote on behalf of your colleagues.

(Voting in progress)

DIVISION

ROLL CALL VOTING

(Question, that the Senate Adopts the Report of the Standing Committee on Finance and Budget on the County Governments Additional Allocation Cash Disbursement Schedule for Financial Year 2022/2023, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, EGH, Tana River County; Sen. Kisang, Elgeyo Marakwet County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi County; Sen. (Prof.) Tom Ojienda, SC, Kisumu County; Sen. Wafula Wakoli, Bungoma County; and, Sen. Wambua, Kitui County;

Teller of the Ayes: Sen. Oketch Gicheru

NOES: Nil

Teller of the Noes: Sen. Chimera

The Deputy Speaker (Sen. Kathuri): The Chairperson now has the results. I hope there will be no one asking me to "open the server", Sen. Methu.

Hon. Senators, the results are as follows:

AYES: 32

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 32 votes to Nil)

The Deputy Speaker (Sen. Kathuri): Draw the Bars and open the doors. Now, let us go to the previous Order again and clear the Statements. Let us get the Statement from Sen. Chute.

(Resumption of debate on Statements)

STATEMENTS

NON-REMITTANCE OF STATUTORY DEDUCTIONS
FROM STAFF OF MARSABIT COUNTY GOVERNMENT

Sen. Chute: Mr. Deputy Speaker Sir, I rise Pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Labor and Social Welfare on the non-remittance of statutory deductions from the staff of the County Government of Marsabit to the National Hospital Insurance Fund (NHIF), National Social Security Fund (NSSF), and the Local Authorities Provident (LAP) Fund by Marsabit County Government of

In the Statement, the Committee should-

(1) Report on the status of NHIF, NSSF, LAP Fund and loan deductions from the staff of Marsabit County and subsequent remittances to NHIF, NSSF, and LAP Fund;

(2) State why the County Government of Marsabit has failed to remit the statutory deductions, despite deducting the same from the staff and inform the Senate on actions that have been taken against the staff responsible for this failure;

(3) Elucidate on the measures, if any, the Ministry has undertaken to mitigate against such incidences where County Governments do not remit statutory deductions so as to avert future health crisis;

(4) State the number of advisers, their status, full names, dates appointed, core duties and salaries directly employed under the Governor's office; and

(5) Provide the status of Gratuity remittances for CEOs, CECs, Public Service Board Members and County Assembly Members, detailing what is outstanding yet to be remitted and actions to be taken against the officers responsible for failure of timely remittance.

The Deputy Speaker (Sen. Kathuri): Senator for Nandi county, Sen. Cherarkey, you may read your Statement.

RE-INTRODUCTION OF BANK
CHARGES ON MOBILE WALLETS

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir.

I rise, pursuant to Standing Order 53 (1), to seek a Statement from the Standing Committee on Finance and Budget regarding re-introduction of Bank charges on mobile wallets such as Mpesa, Airtel Money and T-Kash.

In the Statement, the Committee should-

(1) Explain reasons for failure by the Central Bank of Kenya (CBK) to set a standard fee to be charged on mobile wallets by all banks to avert exploitation meted on Kenyans by commercial banks;

(2) Provide the current rates charged on mobile wallets per transaction in the process of moving funds to and from the bank, excluding the 20 per cent excise duty charged by the Government and state actions, if any, to be taken against banks that fail to disclose the amounts charged; and

(3) Outline measures, if any, put in place by the National Treasury to cushion Kenyans against exploitation by banks with respect to charges on mobile money transactions, considering the current hard economic times and noting that the KES.10 billion that is transacted on average per day via mobile money transactions make it a key driver of the economy.

The Deputy Speaker (Sen. Kathuri): We will consolidate the comments at the end of the next three Statements.

The next Statement is from Sen. Crystal Asige.

(Sen. Crystal Asige spoke off record)

Did you have a Statement to make?

Sen. Crystal Asige: Sorry, Mr. Deputy Speaker sir, I was not aware that my Statement was in today's Order Paper. Kindly excuse me and allow me to read it in the next Session.

The Deputy Speaker (Sen. Kathuri): Okay.

Sen. Crystal Asige: Thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Kibwana and Sen. Tabitha Mutinda are not on the House. Their statements are therefore deferred to the next sitting.

Let us have at least two comments from both sides of the House.

Sen. Kisang, the Floor is yours.

Sen. Kisang: Thank you, Mr. Deputy Speaker, Sir, my comments are on the last three Statements.

One, by the time employees are paid their gross salary, which includes Pay As You Earn (PAYE) which is a statutory deduction, National Security Fund (NSSF), National Health Insurance Fund (NHIF) and pension, it is part of the salary. We therefore do not see the reason why the County Government of Marsabit and others are not remitting these statutory deductions.

Mr. Deputy Speaker, Sir, we need to compel these counties to pay even the penalties. This is because I know NHIF charges a penalty of almost 2.5 per cent. The employees will not enjoy interest on non-remitted pension or NSSF. This is a serious matter that we need to look at and invite the governors to tell us why they are not remitting.

Mr. Deputy Speaker, Sir, on the second Statement by the Senator for Nandi County, Kenyans are going through very difficult economic times. I do not know why the Central Bank of Kenya (CBK) decided to reintroduce interest on mobile money transfer.

We need them to go back on that decision because Kenyans are still suffering from the effects of COVID-19 times. We need them to rescind the decision so that we go back to where we were two years ago.

Mr. Deputy Speaker, Sir, my final comment will be on the issue of doctors. I know we had made comments on the issue of Ministry of Health denying our doctors who are not employed from going out of the country. Just like any other profession, when doctors go to the university take a loan. They sponsor themselves while others are sponsored by their parents or the Higher Education Loans Board (HELB). Why should they be denied

opportunity to travel and look for opportunities so that they can start paying their HELB loans and help their families?

If the Ministry of Health wants to stop them from travelling and looking for opportunities, then, it is time that they employ all the doctors that have graduated and licensed so that they do not suffer staying within the country and doing nothing yet they have gone to school.

As you know, our doctors are students who excelled in the Kenya Certificate of Secondary Education (KCSE). What are we telling those students in class eight and high school and intend to pursue medicine? If we stop healthcare workers from looking for opportunities to help themselves and their families, what will happen?

We need to ask the Ministry to rescind the decision.

Thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Seki Lenku, you may have the Floor.

Sen. Seki: Thank you, Mr. Deputy Speaker, Sir.

I rise to support the Statement from the Senator for Marsabit County on the issue of non-remittance of staff statutory deductions. This is a very emotive issue where the counties are not remitting the statutory deductions. Not just the statutory deductions but even loans and Savings and Credit Co-operative Society (SACCO) dues for members. This is a very big and emotive issue in the counties. The non-remittance is accruing a lot of arrears in the counties and that makes counties to have a lot of pending bills even to their own staff.

I know very well that governors have a lot of money that they are getting from the Controller of Budget (CoB) in full, in terms of personnel emolument. This is an issue where we need the Committee concerned to ask the CoB why they are sending monies to counties yet they do not remit the same to the statutory institutions as required. This makes a ripple effect to the employees of the counties.

They do not go the hospital or enjoy the National Hospital Insurance Fund (NHIF) benefits. The statutory like Pay as You Earn (PAYE), the bank pays the net salaries for the county employees. This is an emotive issue. We support this Statement.

The Committee should sit down with the concerned governors. My county is also affected. To make the matter worse, counties are employing more staff to those offices without following due processes which also accumulate arrears within the employees.

I support the Statement and want to see its future as we get the response from the governors.

I thank you.

The Deputy Speaker (Sen. Kathuri): I had read two Statements which the owners were not around. However, since we agreed this is the week of forgiveness, I will give them a chance to give their Statements.

Proceed, Sen. Kibwana.

(Sen. Orwoba spoke off record)

The Deputy Speaker (Sen. Kathuri): Later. Proceed, Sen. Kibwana.

I am giving you the opportunity to give your Statement.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, can I say something on statutory deductions?

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

The Deputy Speaker (Sen. Kathuri): How can you call for a point of order when you are walking? We must have order, Sen. Orwoba. You are raising your finger when walking and raising a point of order.

Sen. Orwoba: Mr. Deputy Speaker, Sir, I have a point of order. It is---

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

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir. I have been waiting for my Motion very patiently for three days and the Order Paper keeps changing. People who have been absent when their Statement has been called are walking in and asking for leniency when I have been patiently waiting to move my Motion on sanitary towels---

The Deputy Speaker (Sen. Kathuri): Who are you challenging now in that aspect?

Sen. Orwoba: Mr. Deputy Speaker, Sir, I am just saying, if we can follow the---

The Deputy Speaker (Sen. Kathuri): Who has refused your Motion to be read?

Sen. Orwoba: My point of order is if we can follow the Order Paper. Let us be serious.

The Deputy Speaker (Sen. Kathuri): What is out of order, Sen. Orwoba? I do not get you. All those issues are in the Order Paper.

Consult your machine.

Sen. Orwoba: Mr. Deputy Speaker, Sir, when you called upon them they were absent in the House.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Kibwana.

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

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Chute.

Sen. Chute: Mr. Deputy Speaker, Sir, I also have a similar Motion. The clerks are following some---

(Technical Hitch)

The Deputy Speaker (Sen. Kathuri): The Clerks or the Chair? She is challenging the Chair.

Sen. Chute: Yes, she is challenging the Chair. That is why she is out of order.

The Deputy Speaker (Sen. Kathuri): She is completely out of order.

Proceed, Sen. Kibwana.

Sen. M. Kajwang': On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. M. Kajwang' you are eating into the next Order. What is it Sen. M. Kajwang'?

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, it is not always war when we are in the House. However, I want to inform Sen. Orwoba of Standing Order No. 45, on sequence of proceedings. Statements come before Motions. I want to inform her that the proceedings are fairly organized.

Mr. Deputy Speaker, Sir, you undertook that today we are not starting a fight. I congratulate you for that.

(Sen. Orwoba spoke off record)

The Deputy Speaker (Sen. Kathuri): Sen Orwoba kindly.

Proceed, Sen. Kibwana; can you expedite.

STEPS TAKEN TO ACHIEVE KENYA'S GREENHOUSE GAS
EMISSIONS REDUCTION TARGETS SET OUT IN THE NDCs, 2020

Sen. Kibwana: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Lands Environment and Natural resources on the steps taken to achieve Kenya's greenhouse gas emissions reduction targets set out in the Nationally Determined Contribution (NDCs) updated in 2020.

In the Statement the Committee should-

(i) Table a progress report on the achievement of the greenhouse gas emissions---

The Deputy Speaker (Sen. Kathuri): Sen. Kibwana, the Statement I have is totally different from what you are reading.

Sen. Kibwana: I have two Statements. Which one do you have?

The Deputy Speaker (Sen. Kathuri): Only one was recorded. You cannot read something I do not have. Otherwise, you can read "*mwakenya*" in the House.

Sen. Kibwana: I had two.

The Deputy Speaker (Sen. Kathuri): The one which is approved is the influx of Cuban doctors. The other one might be pending. Kindly read this one.

Sen. Kibwana: Thank you, Mr. Deputy Speaker, Sir. My Statement is on unemployed Kenyan doctors and the influx of Cuban doctors in the healthcare system.

CRISES OF UNEMPLOYED KENYAN
DOCTORS AND THE INFLUX OF CUBAN DOCTORS

Sen. Kibwana: I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Health on the crisis of unemployed Kenyan doctors and the influx of Cuban doctors in Kenya's healthcare system

In the Statement, the Committee should –

(1) State measures if any, to address the issue of unemployment among Kenyan doctors, giving reasons for the significant number of unemployed doctors despite the increasing demand for healthcare services;

(2) Apprise the Senate on plans to ensure that Cuban doctors are working in areas where there is a genuine shortage of specialised medical personnel and not displacing unemployed Kenyan doctors;

(3) State efforts in ensuring that Kenyan doctors are provided with the necessary resources and support to improve their skills and remain competitive in the job market;

(4) State measures, if any, by the Ministry of Health, to provide opportunities for young doctors to gain the practical experience necessary to be competitive in the job market; and,

(5) State strategic interventions made by the Government to ensure Kenya's healthcare system is sustainable and self-sufficient without doctors from other countries.

I thank you.

The Deputy Speaker (Sen. Kathuri): The last Statement is by Sen. Tabitha Mutinda

FRAUDULENT ACTIVITIES
INVOLVING VARIOUS KENYAN BANKS

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Finance and Budget regarding claims of fraudulent activities involving customer's accounts at various Kenyan banks.

In the Statement, the Committee should-

(1) Investigate claims of fraudulent withdrawal of funds from accounts belonging to customers at various Kenyan banks;

(2) Explain the measures that have been put in place by various banks adversely mentioned in frauds involving customer accounts and the Governor of the Central Bank of Kenya (CBK) to stem such activities that cast aspersions on the banks' security systems; and,

(3) Outline the actions put in place, if any, by banks where fraud cases have been reported, to ensure customers who may have lost their monies in such criminal activities are compensated.

I submit.

I would like to point out that from where I sit we got evidence---

The Deputy Speaker (Sen. Kathuri): Sen. Tabitha Mutinda, you have made your Statement unless any other Member can be able to support.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. I stand guided.

The Deputy Speaker (Sen. Kathuri): I cannot see anybody interested in saying something on that.

(Loud consultations)

Let us get the last Statement. The last one, Sen. Crystal Asige, please proceed.

I am told you now have the Statement in your system. Please proceed.

STATUS OF IMPLEMENTATION OF
THE LEGAL AID ACT, NO. 6 OF 2016

Sen. Crystal Asige: Mr. Deputy Speaker, Sir, I rise, pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights on the status of implementation of the Legal Aid Act No. 6 of 2016.

In the Statement, the Committee should –

(1) Apprise the Senate on the state of implementation of the Act in providing affordable, accessible, sustainable, credible and accountable legal aid services to individuals in Kenya in accordance with the Constitution since its commencement on 10th May, 2016, outlining the operations of the legal aid scheme;

(2) State the number of cases taken up by the National Legal Aid Service in providing representation of persons granted legal aid under the Act;

(3) State efforts undertaken by the office in promoting legal awareness and access to the service in the last five years, outlining any challenges encountered;

(4) State measures undertaken in supporting the legal services through establishing justice advisory State centres and research;

(5) State the amount of public funds allocated to the Legal Aid Fund since its inception, stating how funds allocated have been spent since inception; and

(6) State measures if any, undertaken in promoting alternative dispute resolution methods that enhance access to justice in accordance with the Constitution.

The Deputy Speaker (Sen. Kathuri): Let us get a few comments from Sen. Kinyua, Senator for Laikipia County. Please limit yourself to one and a half minutes.

Sen. Kinyua: Asante Bw. Naibu Spika kwa kunipa fursa hii. Kwanza, ningependa kumpongeza Sen. Cherarkey kwa taarifa aliyoleta katika Bunge. Wakati huu ambapo bado kuna janga la njaa, kuna ukame kila mahali ilhali Benki Kuu imesema ya kwamba watu wakituma pesa wakitumia simu zao za rununu, watarejsha yale malipo ambayo walikuwa wakilipa.

Bw. Naibu Spika, ningependa kuuliza Kamati ambayo imepatiwa fursa hii iangalie mambo hayo kwa kindani wakiwa na Wizara ya Fedha ili waweze kusaidia Wakenya kwa sababu wakati huu bado wako na shida na wangependa kuwa waendeleo---

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

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I am rising on point of order Under Standing Order No.1 on the time you provide for this session. Given that we have had a lot of Statements made that have got very serious concerns and I have seen you have given my colleague, the good Senator for Laikipia County, one and a half minutes, I plead with you to adjust it upwards a bit so that we can be able to contribute to some of the pertinent issues raised by these Statements. I believe they are almost four Statements--

The Deputy Speaker (Sen. Kathuri): You are now eating into the good time you are requesting Sen. Kinyua to have.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I yield back. If you could just consider that time.

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua, please conclude your comments.

Sen. Kinyua: Asante Sen. Oketch Gicheru kwa kusema niongezewe muda. Sikutaka kusema tayari alisema nikiwa hapa. Kama ningemwambia aniongezewe muda ni kana kwamba ningekuwa nikimuonyesha kwa sababu nimekaa katika kiti kile na mimi naelewa majukumu aliyo nayo. Kwa hivyo, nashukuru Sen. Oketch Gicheru.

Bw. Naibu wa Spika, ni vizuri Wizara ya Fedha iangalie hayo mambo kwa kindani na waweze kuambia Benki Kuu ni vizuri haya malipo yasiweze kurejeshwa. Hii ni kwa sababu, bado yale makali ya ugonjwa wa Covid-19 yanaendelea kuadhiri Wakenya kila mahali. Ni vizuri kwanza wangojee. Wapatie Wakenya muda hata kama ni miezi mingine sita ama mwaka mmoja waweze kurejelewa na hali yao ya kawaida.

Kufanya hivo itakuwa inafanya Wakenya kuendelea kuathiriwa na huu ukame. Ningeomba Kamati inayoshughulikia ifuatilie haya mambo kwa kindani.

Bw. Naibu Spika, kuna taarifa ambayo imeletwa kuhusu vile benki zetu zinavyowanyanyasa Wakenya kwa kuingia katika akaunti zetu na kutoa pesa kiholela. Ni vizuri haya mambo yaangaliwe kabisa. Unapata ya kwamba mtu katika akaunti yake, amewacha akiwa na kiasi flani cha pesa. Wakati anapoenda kutoa, pengine analipa hospitali ama anataka kulipa karo ya shule ya mtoto, anapata pesa tayari zimetolewa na zimetolewa kwa njia ambayo hafahamu na haelewi.

Kamati yetu ya Fedha inapaswa iangalie haya mambo kwa kindani na wale ambao watapatikana wamekuwa wakiwalaghai Wakenya kwa njia ile, wachukuliwe hatua za kisheria na waweze kuchukuliwa hatua kali ili benki zetu zionekane zinafanya kazi ambazo zinapaswa kufanya, kulinda pesa zetu, na sio kuwalaghai na kuwaibia Wakenya ambao wana imani na wao.

Kwa hivyo, naunga mkono taarifa iliyoletwa na Sen. Tabitha Mutinda. Kamati ambayo inajua inashughulikia mambo haya ikiongozwa na Seneta wa kutoka Kaunti ya Mandera, Sen. Ali Roba, atashughulikia mambo hayo kwa kindani na apeane taarifa ya kutosha. Asiogope mtu yeyote, benki zisiogopwe. Waangalie hayo mambo kwa kindani kwa sababu Wakenya wanadhulumiwa.

Bw. Naibu Spika, jambo linalonishtua ni kwamba ukitoa pesa kidogo uliyo nayo, kwa benki, unasikia ya kwamba, kama sahihi, Benki Kuu ya Kenya tayari wamerejesha. Wanasema wanarejesha yale malipo. Tayari unakatwa. Kuna wale ambao ni wakora tayari wameiba katika akaunti yako. Unashindwa, kwani unaishi katika nchi gani? Kama hautaibiwa na benki, pesa yako itachukuliwa na Benki Kuu ya Kenya.

Mtu ya Kaunti ya Laikipia yule ambaye ana mifugo, ameuza mifugo amepeleka kwa benki. Kama mifugo haijaibiwa na wakora, unapata ataibiwa katika benki. Kama sio kwa benki, ni hii mambo ya kutoa ushuru wakati unatuma na hizi simu zetu. Unashindwa ukimbilie benki, hapana, ukimbilie simu, hapana, ukimbilie nani? Mimi ninaona kile ambacho kitakachofaa ni kukimbilia Kamati ambayo inahusika na tumtegemee Mwenyezi Mungu.

Asante Bw. Naibu Spika.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, my comment is in reference to the Statement by the hon. Senator who raised the issue of the 4,000 unemployed doctors. I just want to say two very quick things.

First, at the continental level, we as a country are encouraging that we have a free movement of labour. This is the position Kenya is taking at the continental parliament in the Pan African Parliament. So, it is a very strange thing to hear that the Ministry of Health is telling doctors that they are barred from moving from this country to go and seek employment in other parts of the country or the continent or the world.

Mr. Deputy Speaker, Sir, this is where we are going. Kenya is noted as a country that has one thing which is a big resource; educated population. So, we are encouraging the Committee on Health to look at this question *vis-a-vis* continental and international commitments that Kenya has made in terms of encouraging migration of labour.

Secondly, we want to ask the Committee on Health, as it is looking at the Statement, to also look at the fact that some counties like Tana River County do not have sufficient doctors. How come doctors are unemployed, yet a county such as Tana River and others remain with insufficient medical employees? As they answer this question, they will also need to look at those two issues.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, you may proceed. You will allow me to give two more Members, then we make progress.

Sen Oketch Gicheru: Mr. Deputy Speaker, I thank you for the opportunity. I rise to make a brief comment on the Statement issued by the Senator of Marsabit County, Sen. Chute.

Statutory deductions in this country is becoming a very serious issue and a death sentence to many Kenyans. If one is able to work very hard over the course of a month to serve their county in different capacities and is paid a salary at the end of the month, why does a simple issue of a county making statutory deductions and remitting the same to various organs become so difficult and take many years?

We have similar situations as what Sen. Chute has talked about. The situation in Marsabit County is similar to a place such as Migori County. In Migori County, when you go to hospital, you are told that your NHIF is not working reason being there was no money remitted. There are families that today are stuck in hospitals because they cannot pay their bills. We cannot understand why after money has been deducted from your salary, you are told your NHIF card cannot settle your hospital bills.

This also goes to our national strategy for ensuring economic development. Workers in Kenya have almost five statutory deductions they must make. These are NHIF, Retention Fund, Pay-As-You-Earn (PAYE), National Social Security Fund (NSSF) and Pension Fund.

The deduction of PAYE, NSSF and Pension Fund take up to 57 per cent of a Kenyan's salary in these kinds of jobs we are seeing in the counties. We are going to a dangerous path that people will now not see the sense of working. This is because if we add NHIF and retention fund, it is over 60 per cent of what Kenyans are earning ends up going to deductions. There is no incentive to work.

As I conclude, apart from just committing this Statement to the relevant committee, I would propose that Sen. Chute considers bringing a Motion on having serious punitive measures taken against people who end up not remitting deduction for county workers and any other personnel we have in this country. With that, we can allow our people to get their right share of what they need to earn in the counties.

I passionately support Sen. Chute on this Statement. I hope you can bring it as a Motion next time and we will support it.

I thank you.

The Deputy Speaker (Sen. Kathuri): Last but not least, Sen. Olekina.

Sen Olekina: Thank you, Mr. Speaker, Sir. This is a good day that we are dealing with matters that affect our people.

I rise to support the three Statements. I hope that the Secretariat will extract our comments from the HANSARD so that they can follow now that we have a new system where we are commenting on Statements all at once.

Let me begin with a Statement by Sen. Tabitha Mutinda. I would like to request the Committee on Finance and Budget to which you have committed this Statement, to interrogate this issue of financial institution taping into people accounts and deducting money.

There is a famous case of a young lady who all banks now are afraid of in this country because she took them to court. The only thing she wanted was her bank statement. If you request for a bank statement, particularly if you take a loan, most financial institutions that probably have transferred from you loan from one bank to several banks will hesitate giving you that statement.

Recently, I was approached by a sitting Member of County Assembly (MCA) from Kiambu County. He brought in a gentle man who took a loan from the National Bank of Kenya. The manager of that branch advised him that the best way for him to grow his business was through invoice discounting. From that moment, the gentleman became disillusioned because he did not know how the interest started accumulating on and on.

Whenever he went there and asked to be given the amortization table, for him to see how much he had paid against what he needed to pay, the story will shock you. The gentleman had borrowed Kshs26 million. By the end of the day, the banks were discussing on how they could convert the Kshs26 million to a loan of Kshs126 million. This is affecting very many Kenyans.

I would request the Committee that will be looking at this matter to invite any other Kenyan who is suffering out there. They should also summon the Kenya Bankers Association and the Governor of the Central Bank so that they can be go through this. This is because the Statement that has been brought by Sen. Tabitha Mutinda is affecting very many Kenyans.

I have assisted so many Kenyans to renegotiate and restructure their loans from different financial institutions. Now that this Senate is seized of the matter, the Committee must now take a keen interest and have a serious inquiry. These are the kind of things that lead to a class action suit on financial institutions. There is a lot of fraud and charges in Kenyan banks. It is high time we broadened the scope so that we can save Kenyans who are losing lots of money.

On the second Statement by Sen. Chute, yesterday, we had the Controller of Budget (CoB) in one of our Committees. It shocked us because this issue of pending bills is really a creation of some unscrupulous individuals who sit in the county treasuries, and more so, the County Executive Committee Members (CECM) of Finance in every county government.

There is absolutely no reason for counties to be requisitioning money to pay a certain expense and end up diverting it. We looked at Article 207 of the Constitution and the PFM Act in terms of money being requisitioned from the Controller of Budget. Section 103(3) of PFM Act states that the head of treasury is the CECM Finance. However, the interpretation even by the CoB is that the CECM Finance is not the head of treasury and he needs second approval

I request that the Committee which will be looking at this matter to invite the CoB. Article 207 of the Constitution mandates her to only release money that she feel will be used effectively.

This House ought to come up with a mechanism to ensure that she can come up with an administrative process so that whenever county governments requisition for money, they must indicate there that they have done so to pay NHIF, NSSF and retirement benefits.

It is sad that Kenyans go to hospital and cannot be treated because their NHIF card is not working. Yet, the money was deducted as indicated in their pay slips.

Mr. Deputy Speaker, Sir, this does not affect county governments only. Here in the Senate, by the time we get money for our staff, we have got letters from Kenya Revenue Authority (KRA) stating that certain statutory deductions have not been remitted and that a penalty has to be paid. Sometimes we go into our own pockets to pay for our staff's NHIF or pay in advance so that if any of our staff - who are working so hard for us - falls sick, they can be treated.

We need to be proactive. I request Sen. Chute to have a discussion with Sen. Ali Roba on how the CoB can administratively ensure that before she approves any requisition for county salaries, they demonstrate that they have paid these statutory bodies.

Finally, let me comment on the other Statement by my good sister, Sen. Kibwana. We must seriously look at the issue of doctors and healthcare in this country. I would like to inform colleagues that I sit in the Committee on Health. When we are looking at the Budget Policy Statement (BPS), some of the directions that the Government wants to take us, leads to clawing back on devolved functions. Health is a devolved function. In fact, the budget which is held by the Ministry of Health is equivalent to shareable revenue for about five counties.

The National Treasury is proposing to hire community health workers and set up a commission similar to the one of teachers. This will claw back the gains we have achieved in health sector. In most cases, our doctors will not be employed. What we ought to do – and I hope the Committee can explore this – is for the Senate to push for more money to go to counties and mandate county governments to give us a list of all the doctors they have hired.

We are now getting doctors from Cuba. I do not have a problem with getting expertise. However, why are we getting doctors from Cuba, yet our own sons and daughters are unemployed?

We should look at the issue of health as a devolved function and push this Government to ensure that more money goes to counties. Also, counties allocate a minimum 30 per cent of their budget to the health docket. By so doing, we can hire more doctors.

Mr. Deputy Speaker, Sir, I know I am short of time, but hope that this item will assist this country.

The Deputy Speaker (Sen. Kathuri): Let us listen to the last Statement by the Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Before I give a Statement, I am laughing because it is my birthday and the Senator for Migori County has gifted me Kshs100 for tea.

(Laughter)

I wish to appreciate his kind gesture. It is not the amount of money, but the act and thought that matters. In my entire life in Parliament, Sen. Olekina has never bought me anything.

(Sen. Olekina spoke off record)

It was not your money.

Before I read my Statement, I would like to speak about one thing on the Statement on health by my good friend, Sen. Kibwana. I heard the comments of my good friend, Sen. Olekina. I hear his sentiments and concerns that we also keep raising about the health sector in our counties and how health is handled. We need to pump lots of money to our counties, especially on the health function.

Mr. Deputy Speaker, Sir, we must also ask ourselves difficult questions. Is it possible that we missed a step when we allowed teachers to keep their entire human resource and their practice held under the national function in Teacher Service Commission (TSC)? In that way, their promotional standards are similar, they can be moved across a country and they are assured of a pay?

Sen. Olekina, the sad reality is that if you speak to doctors in all our counties; you can imagine that the best of brains that we have in our country, sometimes go for three or four months without pay. It is because of the rise and fall of how county governments continue to operate. I recently spoke to a doctor friend of mine and transferred from one particular---

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

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Cheruiyot, the Uasin Gishu Senator wants to inform you on something.

The Senate Majority Leader (Sen. Cheruiyot): Okay, Mr. Deputy Speaker, Sir.

Sen. Mandago: Thank you, Mr. Deputy Speaker, Sir. Something has not come out clearly on this matter of doctors, salaries and human resource at the county. The payment of salaries in counties is not a favour to doctors or any other civil servant, but a right.

The fact of the matter is whenever salaries delay in counties, it is for the entire county public service staff, including doctors, drivers, agricultural officers, planners and others. The delay is not of the making of the county governments.

The Senate has tried to crack the matter of timely releases. However, because of the mischief in the National Treasury, Central Bank of Kenya (CBK) and CoB, we have had a difficulty in that matter.

We should have serious conversation on health and human resource management matters in our counties, so that this matter can be addressed, once and for all.

The Deputy Speaker (Sen. Kathuri): Did you want to inform the Senate Majority Leader?

Sen. Mandago: Mr. Deputy Speaker, Sir, I wanted to inform the Senate Majority Leader, that the delay of salary payments in counties does not affect doctors only. When there is a delay, the entire county public service staff is affected.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I thank the Chairman of the Committee on Health for that information. I was under no illusion that this is of the making of counties.

Maybe he missed the part where I introduced this conversation. There has been a conversation about a National Health Service (NHS) unit. For example, teachers continue to enjoy better treatment in terms of promotion and uniformity of service. They are able

to move from one county to another and timely payment of salaries. This is unlike our doctors. I was just drawing a parallel.

I wish to challenge Sen. Mandago, whom I agree with on most of the things he said. When doctors transfer from one county to another, this is where hell begins most of the time. I recently spoke to a friend who is a doctor and he pointed out to me that they moved their services from Elgeyo Marakwet to Bomet County. He said that for the last four months, they have been trying to get the unique number for public servants, the Integrated Personnel and Payroll Database (IPPD) number.

You can imagine the form and shape of our doctors. Most of them are not in the form of activists where they know how to push and chase things around. When they are professionally told to wait and that it is being handled, many of them will dutifully execute their job.

Imagine staying for three, four or five months, without pay. In the non-skilled sector, they do not have these challenges. That is why I picked on the one for doctors.

Mr. Deputy Speaker, Sir, I challenge Sen. Mandago, the Chairperson of the Committee on Health, based on his experience as a former two-terms county governor is to crack for us the issue of transfer of services for doctors. They should not lose their benefits, they should get promotions and are paid equally across counties so the challenges they usually raise when we meet them are sorted. It is a challenge that needs to be addressed.

(Sen. Hamida walked to the Dispatch Box and handed a bank card to Sen. Cheruiyot)

I thank Sen. Hamida for bringing this to the Senate and I hope she follows up with that Committee in order to get satisfactory answers. She has given me her Automated Teller Machine (ATM), but has not given me the Personal Identification Number (PIN).

Sen. Olekina also gave me Kshs1,000, but I want to spend it first before I thank him. I am not sure whether it was a legitimate bank note.

(Laughter)

Mr. Deputy Speaker, Sir, at least I got some money on M-PESA from Sen. Oketch Gicheru. With that, allow me to issue my Statement.

BUSINESS FOR THE WEEK
COMMENCING TUESDAY, 28TH FEBRUARY, 2023

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.57(1), I hereby present the business of the Senate for the week commencing Tuesday, 28th February, 2023.

On Tuesday, 28th February, 2023, the Senate Business Committee (SBC) will consider and approve the business for the day. This is projected to contain business that will not be concluded from today's Order Paper, and any other business scheduled by the SBC. Of note is the consideration of the Report of the Standing Committee on Finance and Budget on the Budget Policy Statement (BPS) and the Report of the Standing

Committee on Justice, Legal Affairs and Human Rights on the nominee for the appointment to the position of non-Member of Parliament Commissioner to the Parliamentary Service Commission (PSC). The deadline is next week on Tuesday. Members of the Justice, Legal Affairs and Human Rights Committee need to conclude on that business.

I urge the two Select Committees to consider these matters within the stipulated timelines and table reports thereon by Tuesday, 28th February, 2023.

The Order Paper for Wednesday, 1st March, 2023 and for Thursday, 2nd March, 2023, will contain business that will not be concluded on Tuesday, 28th February, 2023, and on Wednesday, 1st March, 2023, respectively, as well as Petitions, Statements and any other business scheduled by the SBC.

In terms of Legislative Business, 13 Bills are awaiting the Second Reading stage. Four of these Bills are scheduled in today's Order Paper at Order Nos.9, 10, 11 and 12. Further, three (3) Bills are undergoing concurrence as contemplated under Article 110(3) of the Constitution. I urge the respective Movers to be available in the Chamber to move these Bills for a smooth transition to the next stage.

Aside from the business listed in the Order Paper for today and the ones stated earlier for Tuesday 28th February, 2023, my office is following up on the Joint Committee Report of the Standing Committee on Finance and Budget of the Senate and the Departmental Committee on Finance, Planning and Trade of the National Assembly on the nominee for appointment to the position of Deputy Governor of the Central Bank of Kenya (CBK). I take this opportunity to request the Select Committee to consider the matters within the stipulated timelines.

Mr. Deputy Speaker, Sir, I must comment at this stage. Some of our Committees seem to not be aware of our legislative provisions and the Parliamentary vetting policy. I have seen many Committees pushing vetting and approval of certain reports to the last day which is not a good way of working.

I hope our Committees can be guided by their clerks and the technical office that is here, so that if they are supposed to vet and give a report, they should not wait until the 14th day to do public hearings, have Members read and approve the reports on that particular day. That does not give a good show.

Mr. Deputy Speaker, Sir, I hope that the Committee Chairpersons present here and secretariat members who assist our Committees can help us out of that behaviour that I see creeping into the Senate.

Members of the public continue to show their confidence in the Senate by submitting Petitions on diverse matters. Presently, there are four Petitions before the Senate, one referred to the Standing Committee on Roads and Transportation; the Standing Committee on Agriculture, Livestock and Fisheries, and the Standing Committee on Justice, Legal Affairs and Human Rights; and two committed to the Standing Committee on Labour and Social Welfare.

Appreciating that Petitions are of great importance to the people and that they give the Senate a basis for undertaking its Constitutional roles, we must resist the temptation of converting Petitions to full-blown inquiries that run months on end.

Mr. Deputy Speaker, Sir, this is an important point as well. I urge colleague Senators and Committee Chairpersons that have Petitions before me. A Petition is meant

to remind you or bring to your attention that there is a particular issue that the Senate should look into. Many times, matters that are brought before us need either the assistance of investigative agencies.

I challenge Committee Chairpersons and Members of various Committees that the 60 days provided for by the Standing Orders remain. I hope we can get to a point where if a Kenyan submits their Petition before the Senate, they will know that in 60 days' time, they will have a report before them and will have something to consider. I, therefore, urge Committees to consider these Petitions and also urge the Liaison Committee to take action when Standing Committees exceed the stipulated timelines.

Mr. Deputy Speaker, Sir, I have said this on Petitions and on public vetting as well.

With respect to Statements, there have been numerous Statements sought pursuant to Standing Order No.53 and a good number committed to Committees for consideration pursuant to Standing Order No.52(3). I continue to urge respective Committees to expedite consideration of the Statements and table reports pursuant to the Standing Orders.

Over and above the Statements and Petitions under consideration, which have highlighted a number of issues affecting our constituents, I encourage Senators and respective Standing Committees to identify and come up with legislative interventions that will be converted into Bills.

Mr. Deputy Speaker, Sir, I will make a comment on Statements and I wish we had many Senators present. We represent specific constituencies, but sometimes I see Statements presented here that are of an extremely narrow nature in the sense that if there is a problem that is affecting the entire country, a Senator will only ask for answers for their respective county.

This is the 'upper' House. We have sworn to defend and protect the Constitution. We are the Senators of the Republic of Kenya. If you are presenting before the Senate a particular Statement and you know that a particular problem you want addressed affects more than our county, there is no harm in drafting that Statement in a better way that reflects your standing as a Senator of the Republic of Kenya as opposed to a Senator of a particular county.

Mr. Deputy Speaker, Sir, we are moving out of that habit. Statements have really evolved if I recall back in our first days in the Senate. It was not unusual to find Statements on people wanting a chief transferred or a sub-location that has done something. Occasionally, you will find one or two Members making such requests.

Unless that matter is of great national importance that a Senator feels they cannot address it on their own, then that local matter can be brought to the Floor of the House. Most of the time, we borrow from the challenges that are in our specific counties, but seek a solution that will solve the problem across the country. That is the attitude I wish to request colleague Senators to adopt.

In conclusion, Mr. Deputy Speaker, Sir, I take this opportunity to request for patience and understanding of all Senators, as the Senate Leadership engages to resolve on the matter of change in the Minority Party leadership. Let us look beyond our differences in service to the people of Kenya.

I hope that we can quickly put this matter to rest as we agreed during the Leaders' meeting that we had this morning.

I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Deputy Speaker (Hon. Kathuri): Thank you, the Senate Majority Leader. All Statements that came under Standing Order No.53(1) stand committed to their respective Standing Committees of the Senate.

(Statements referred to respective Standing Committees)

Next order.

Is the Mover of the Bill, Sen. M. Kajwang' around? He is not around. So, we will defer that Bill to the next sitting.

BILLS

Second Reading

THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL (SENATE BILLS NO. 3 OF 2022)

(Bill deferred)

Next Order. Sen. Mungatana, are you ready?

Second Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 5 OF 2022)

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I want to thank you for giving me the opportunity to move this Bill and have it read for the Second Reading.

The Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No.5 of 2022) seeks in the memorandum of that Bill, to achieve certain goals. Just so that hon. Senators who are following from inside and outside the Chamber can understand---

The Deputy Speaker (Sen. Kathuri): Sen. Mungatana, you start by stating that you seek to move that the Bill be read a Second Time.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I thought I did that, but I will do it again.

I beg to move that the Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No. 5 of 2022) be now read a Second Time.

Some of these people are not listening. They are misleading the Chair. He heard me.

The Deputy Speaker (Sen. Kathuri): Proceed.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I wanted to lay the foundation why we needed to have this Bill and amend the Powers and Privileges Act, so that those colleagues who are following this debate from inside and outside the House can follow.

This Bill seeks to enhance the powers that Senate has over its decisions and resolutions as opposed to the powers that it has over its decisions which are passed into law.

What has been happening with all Bills is that we do a First Reading, Second Reading and Third Reading and it is taken to the President and it becomes law. Once it is assented by the President, civil servants and members of the executive take this attitude that a law is binding. It always has consequences. If you do not do this, then this will happen to you. If you are a member of the executive or a civil servant that supports the execution of the laws that we have passed in this Senate, ordinarily, they have a fear of the compulsion of the law that we pass here.

When we come to decisions of this House through Motions, as opposed to decisions of the House through Bills, the attitude is different.

When the Senate or the National Assembly pronounce themselves and pass a Motion, the attitude of the Executive is that it is merely persuasive. It does not have compulsion of the law. What has happened is Senators debate, come to an agreement that this is the decision and resolution of the House and all of us agree as a Senate that this Motion be passed.

Mr. Deputy Speaker, Sir, after that the process that happens is that the Clerk of the Senate would ordinarily write to the relevant department of the Government to inform them that there is a decision and resolution by the Senate that this be done as far as a Motion is concerned.

There are various Motions that we have passed. I have also moved a Motion in this House and we passed it. The Clerk has been able to follow up with the necessary action. However, the attitude of the civil service and the Executive has been and continues to be that if it is a Motion passed by the House, it is not compulsory to follow it. It is a strong persuasion.

Mr. Deputy Speaker, Sir, this Bill seeks to change that attitude. I have had the fortune of serving in the Executive and I know from experience what I am taking about.

When Parliament has passed a law and it has been assented to by the President, we use to take it very seriously and that attitude continues. When Parliament passes a Motion, we merely note it and say that it is a strong persuasion from the Floor of the House. However, it has no compulsion nor binding power.

This Bill seeks to change that by introducing a law that will make it compulsory for members of the Executive and the civil service, in general, that when a resolution of the House is passed here, it must be implemented. We have created a mechanism under this Bill of timely feedback on the resolutions that are passed by this House.

The Clerk of the Senate is now required upon passing of this to be law, to write to the relevant Government departments within a time limit of seven days to inform them that the House has passed this resolution and it is upon them to execute it. This Bill, therefore, creates a timely feedback mechanism for the resolutions of the Senate when we pass it.

Mr. Deputy Speaker, Sir, the Office of the Clerk will identify somebody in this Bill who is named as a responsible officer. That responsible officer will be required to take action on the resolution that has been passed by this Senate within 60 days.

This Bill is good because it is enhancing the role of the Senate and what it can do. It is also creating consequences for those who will fail to carry and execute the resolutions of the House through Motions.

What is the consequence of a responsible officer who fails to effect the resolutions? Normally, what has been happening is that we have been condemning, taking a dim light view of those people supposed to give effect to resolutions of this House. If it is a Motion and there are no consequences, what happens is, beyond the condemnations that we make, it lapses into no effect. This Bill is trying to correct that and make the resolutions of this House effective.

Mr. Deputy Speaker, Sir, everybody knows how these processes of a Bill are. They are long. You must have First reading, face the Committee and explain to them. The Committee then will have 60 days to do a report. After which, they will have to table the report. Thereafter, you will have to move the Bill then that Bill will have to be debated. When that Bill is debated, it has to come back again for Third Reading and amendments are brought. So, it is a long process.

Sometimes it is so urgent to have a resolution of this House and we cannot take that long when we are doing a Motion. A Motion will be speaking to a specific issue. Once the House has resolved that issue, it will now be mandatory within the time limitations that we have created in this Bill to make sure that, that Bill is given effect. Now, the attitude that it is just a Motion or persuasion by the House will come to an end. Responsible officers will face consequences.

Mr. Deputy Speaker, Sir, what are the consequences that we are proposing in this Bill? The consequences are that; if a resolution of this House has been made and we have said, for example, I have seen a Bill here for Institution of Measures to Curb Incessant High Electricity Cost which is pending that is being brought by Sen. Chute.

Once we pass this Bill and this law now is effective, it will mean that the responsible officers will have to effect what the resolution of this House is saying. They have 60 days to do so. If they do not bring a status report to show that this is how far we have gone in terms of compliance with the direction of the Senate, then the responsible officer will be liable to pay a fine of Kshs500,000 or in default, he or she will be liable to a six months' jail term.

Mr. Deputy Speaker, Sir, this Bill is as short as that. We are imposing statutory obligations on officers of Government so that they can do what they need to do as is the intention of this House.

Going forward, it would mean that from now on, these people in Government, sitting in the Executive, will be taking an interest on what Motions have been placed on the Order Paper. They will be taking an interest in the debates of the Motions in this House. They will be taking an interest in everything that is happening here. If it is a Motion that is touching on their department, they will be able to execute these Motions.

We are going to move away from the old era where people used to say that Motions are, but persuasions of the House. However, we will be waiting for the law. In those olden days when we were a bit younger and in the other House; when we moved

Motions and passed them, then we went ahead to have them executed by departments of Government. They would tell us that they will try, but why do you not bring a law?

It used to be the habit that you pass a Motion and then you start the process of creating an amendment to the law or bringing a fresh Bill which was very tiring and time consuming. What we are saying is that with this Bill coming into law, this will change the way we are moving in this House.

Mr. Deputy Speaker, Sir, Clause 4 of this amendment is proposing to insert a new part called Clause 4(a) to the Parliamentary Powers and Privileges Act, to provide for reports on action taken on parliamentary resolutions. Therefore, Clause 4 captures what I have been talking about. It goes on to define who is a responsible officer and to whom a resolution of this House is directed at.

The new Part 4(a) will mandate the Clerk to move within seven days to give the decision of the Senate as a resolution through a Motion to the responsible officer. The new Clause 4 (a) will be requiring a status report on the implementation of the resolution to the relevant Committee within 60 days.

It goes clearly to set out what kind of particulars are required in this status report. The responsible officer does not just write what he wants. He will be required within the arms of this law that I am proposing to state clearly all the information that we have sought and to state clearly the measures they have taken. It also allows for extension of time. If the responsible officer comes and says in this electricity cost issue that is being proposed by Sen. Chute, that we have done this much so far, but we require time, then this law provides for that.

It is not a punitive law, but it is changing what has been to the new era to deal with resolutions of this House. This particular law is a good law. I am urging fellow Senators to support it because it is necessary for the Senate to get its space.

I argued here yesterday that power is something that does not allow for vacuum. If we surrender our power, for example, to the Executive, the Executive will continue to claw away on our powers. This is a reality because the Executive through its Cabinet Secretaries, they have this attitude of creating delegated legislations and rules that sometimes even kill the entire intent of the Bill from which they are creating the regulations.

Mr. Deputy Speaker, Sir, what we are saying is that is our power as the Senate. If we allow the Executive to get away with it, they will claw on it. I also argued yesterday, that if we allow the Judiciary to micromanage the Senate and we say nothing about it, they will also claw away on our power as a Senate.

In this Bill, we are trying to increase our space and power; not only to limit ourselves to legislation or to have compulsion of law, but we are also saying that now resolutions of this House, through Motions, will have power and compulsion that officers of Government will take them very seriously.

I believe that this Bill is good for this Senate. I urge my colleagues who are listening and following inside and out to support it, so that we can increase our space and the effectiveness of the Senate as we continue to execute our mandate as elected by the people to come and do to it here.

Mr. Deputy Speaker, Sir, before I sit, I thank the Committee on Justice, Legal Affairs and Human Rights (JHLAR), under the Chairmanship of Sen. Wakili Sigei. They

really put in their time. You can see from their report that they took time to even look at High Court decisions which had sort of removed some sections of the Powers and Privileges Act. They advised on things that needs to be improved in this Bill.

I am grateful for the meetings they sat and the work they did in processing this. Their comments have made this Amendment Bill to be even richer. I thank the Chairman and the Committee.

Mr. Deputy Speaker, Sir, I beg to move and request Sen. Cherarkey to second.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. From the onset, I congratulate Sen. Mungatana, for this wonderful Bill. I think legislation is a continuous process to improve our efficiency and effectiveness in terms of our cardinal duty.

As the Constitution says that we derive our authority from the people. That authority as universal suffrage was exercised in the last general election that is why we are here.

I can see he still has the same energy he had when we were growing up. We used to watch him and he was very vibrant. That vibrancy has never left him. He used to be called, “*mila mwamba.*” I do not know whether he still eats crocodile. Maybe he can tell us in camera, when we are having tea in your office.

The Deputy Speaker (Sen. Kathuri): Did you say, *mila* ---

Sen. Cherarkey: *Mila mwamba.*

The Deputy Speaker (Sen. Kathuri): Is it *mila mwamba*?

Sen. Cherarkey: Yes. *Mila mamba*, sorry. The crocodile eater.

(Laughter)

He has done an exceptional work and it is important to congratulate him.

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

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

Mr. Temporary Speaker, Sir, this is a very straight forward Bill. I remember there was a time during the last Session, when we tried to come up with a Committee on Implementation. I note that the National Assembly has a Committee on Implementation, to follow up on some of the resolutions.

I note the change on Speaker’s sit to Sen. Wakili Sigei, the distinguished Senator of Bomet and my lawyer on record on other matters.

Sometimes the only thing that has a binding effect is legislation. We put some consequences that if you fail to follow, then it becomes a problem.

This Bill try to enrich the law that has been there. Article 117 of the Constitution talks about powers, privileges and immunity that we enjoy as Parliament.

It states –

“(1) There shall be freedom of speech and debate in Parliament.

(2) Parliament may, for the purpose of the orderly and effective discharge of the business of Parliament, provide for the powers, privileges and immunities of Parliament, its committees, the leader of the majority party,

the leader of the minority party, the chairpersons of committees and members.”

Mr. Temporary Speaker, Sir, Sen. Mungatana, MGH is trying to derive this powers from Article 117. We have been given the powers to legislate. The only binding effect is on legislations.

Mr. Temporary Speaker, Sir, there are resolutions, when a Committee goes to seek a Statement or when a Motion is adopted on the Floor of the House, there are other matters, many Reports and Messages that we adopt in the House. However, at the end of the day, no one acts on them. They gather dust. There is a famous saying in this country, that reports are gathering dust in some of the offices. This Bill will provide a cure because of the definition of a responsible officer.

In the last Session, for example, we adopted a Report on land injustices against the Talai Community in Nandi and across Kenya. I was then the Chairperson of JLAHR. There were a number of issues that we raised on their forceful eviction from Nandi to other parts of the country such as Kericho and Luo Nyanza.

In that Report, we recommended that the National Land Commission (NLC) issues an order of re-surveying and provide an alternative land and compensation. It is sad that no one followed to implement the resolutions.

We said that there must be affirmative action to ensure that the Talai Community which had settled in Talai, near Sironoi, be given an alternative land. The NLC was given a directive. The counties were to take an affirmative action and employ some members of the Talai Community. It was never done.

There was another issue in that report. I am using it as an example so that members can get it. Mutual legal assistance was to be provided by the national Government, through the Office of the Attorney General, to pursue justice, the same way some *Mau Mau* did, by going to London. It was never done. Why not? It was resolved and adopted, but there was no reporting mechanism to tell this House what the NLC had done on the issue of allocating alternative land for settling the Talai Community. This law is now trying to be prescriptive.

If today, we bring a Motion that says, there must be a school feeding programme for every child that goes to Early Childhood Development Education (ECDE). The Motion will have resolutions. The Committee on Education, through the Clerk, should be able to report back to the House, that all ECDE centres in 47 counties are feeding children daily. Therefore, they are not threatened by hunger thus ensuring attendance of classes.

Mr. Temporary Speaker, Sir, the President is working on cleaning the Nairobi River. Nairobi Rivers Commission has been formed. I saw my famous friend, Hon. Ferdinand Waititu, is part of that Commission. How do we ensure that the Committee on Lands, Environment and Natural Resources reports back, when the cleaning is done and ensures that the Executive cleans the river?

This Bill done by my brother Sen. Mungatana, MGH is prescriptive, in its reporting mechanism. Therefore, it is implementation.

Mr. Temporary Speaker, Sir, if today, for example, people are evicted, anywhere across the country, such as in Ruai during COVID-19 pandemic, who will ensure they are

resettled, if we do not have an implementation mechanism? That is why we have defined a responsible officer in Clauses No. 23A and 23B of this Bill.

It states-

“23A. In this Part, “responsible officer” means the relevant public officer to whom a resolution or report of a House or a Committee of Parliament is submitted in accordance with this Act.

23B. (1) The Clerk of the relevant House shall, within seven days of a resolution of the House or of the tabling of a report of a Committee of the House, convey the resolution or a copy of the report, as the case may be, to the responsible officer under whose portfolio the implementation of the resolution or recommendation of the Committee falls.”

Mr. Temporary Speaker, Sir, what does it mean? It means that if there is implementation, then it must be submitted to us.

After the resolutions have been done, we give it to the clerks for transmission. Some of our clerks are in the Table Office. I know their seniority. Some of them have been with us longer whereas others are new and learning the ropes.

For example, if it is about resettlement, we can adopt the Land Historical Injustice Report and transmit it to the Attorney General (AG), and a copy to the National Lands Commission (NLC). That is the work of the Clerk. That is why we have said that the responsible officer is what the report has been directed to do, including the reports that---

Mr. Temporary Speaker, Sir, I have remembered you are also the Chairperson of the Committee of Justice, Legal Affairs and Human Rights (JLAHRC) and we were doing a report on extrajudicial killings. Maybe there is an obligation for the Directorate of Criminal Investigations Office (DCIO) and the Director of Public Prosecutions (DPP).

For example, through JLAHRC, you can direct the DPP, Noordin Haji, to prosecute individuals who have been accused of extrajudicial killings. It is very sad. When we visited somewhere in Kwale County, I was shocked that only women came to that meeting. I inquired from my secretariat about it and they told me that the husbands and sons of these women had been killed in unexplained circumstances.

Let me give another example so that colleagues can get what we are driving at. Many Kenyans were killed when the Solai Dam collapsed. Millions of liters of water traveled a number of kilometers, sweeping many homes and quality soil. Many people died while others were maimed and some are living in trauma.

When we were investigating, a chief by the name Mr. Kiragu, decided to sign an indemnity form from some individuals, so that they do not move to court. It is after my Committee intervened that the perpetrators of this criminal negligence that caused the collapse of Solai Dam in Nakuru County were prosecuted by the DPP. They were trying to negotiate out-of-court, yet there was a criminal liability on that matter.

We visited the area and even to date, there is no mechanism to ensure the people who suffered are compensated with land, neither were their efforts of land reclamation. During the tragedy, a lot of top soil was swept. This means that most of the land around Solai is now barren. We ordered for land restoration and reclamation in that area.

Secondly, we recommended that, that company provides education scholarships for the children that lost their parents and compensation for the families that lost their

loved ones. The Kenya Red Cross was to build houses and the Government was to handle the compensation. No one is doing follow-up.

If we pass this law, my colleagues – sisters and brothers on the Floor of the House – we would have told Kenyans--- You know, we are politicians and people ask us questions. For example, my Talai people normally ask me what happened. How do you follow up and ensure it is implemented?

We need to be seen to be doing something. When you go back to Talai and tell them that you have given them land and there is a reporting mechanism, they will appreciate the fact that Parliament is doing something.

Yesterday, the issue of the Competency Based Curriculum (CBC) came up and even made headlines in some of the newspapers. One headlines read: “Stop CBC if you cannot fix it.” The National Assembly discussed CBC and came up with a resolution. Is there a mechanism of following up with Government to ensure the resolutions that were made by the National Assembly are followed? In all essence, we must ensure that there is a reporting mechanism.

Mr. Temporary Speaker, Sir, Clause 23(c) says;

“A responsible officer who fails to comply with Section 23(b) commits an offense and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.”

That is important. I heard of “Sex for Work” documentary that was broadcasted by the British Broadcasting Corporation (BBC) and it is a sad story. Allegations are facing James Finley and a number of multi-national tea estates in Kericho County. I think it is a rampant issue within estates across the counties, including Nandi, Bomet and even in Mt. Kenya.

Again, JLAHRC as the human rights Committee that deals with sexual offense and sexual violence, can order that the DPP prosecutes the alleged perpetrators of sex for work in James Finley. However, how will JLAHRC and Parliament track that those alleged individuals and perpetrators are taken to face the full force of the law? It is hard because we do not have a reporting mechanism, neither do we have an obligation.

People allege that the DPP is leaving individuals who are alleged to engage in corruption. My brothers in Azimio One Kenya Alliance normally allude to that fact. The Constitution is very clear. In as much as the DPP on his motion can start an investigation, it does not take the power of Parliament. This is because Parliament can summon or invite anyone.

If today we directed the DPP to arrest the perpetrators of ‘Sex for Work’ in the alleged James Finley scandal, where women have been affected, what happens if the DPP declines to follow the order? The law is very clear. He is taking personal responsibility of that officer.

In the Powers and Privileges Act, when we summon a witness, like Sen. Kibwana and she fails to show up, the law provides that we fine from their own money Kshs500,000 or under punitive. I am not saying Sen. Kibwana is a witness. In fact, the law is specific that the Inspector General (IG) of Police must look for that witness and bring him before the House.

Mr. Temporary Speaker, Sir, we just want neatness. We do not want to go to wananchi and tell them, “*Hicho kitu tulipitisha Bungeni tu.*” I think this is important.

However, when we will discuss with the Mover of the Motion, Sen. Mungatana, we will increase the fine because you cannot fine a Cabinet Secretary (CS) Kshs500,000. That is like chicken change. We need to enhance and make it punitive, even up to Kshs5 million, and enhance the term to even three years. We should even include another punitive measure of failure to appear.

For example, if it is a CS who fails to appear, a Motion of no confidence should be brought and we pass it. This should be serious because you are defying the House. The status of the House of Parliament is that of a High Court. You are defying an order of the Court. You and I know the consequences of defying a court order. So, we must be very punitive.

If, for example, the Clerk, Mr. Njenga, processes a report and takes it to NLC and the Chairperson of the NLC ignores it, we must make it painful and punitive in order to deter officers who do not follow the orders of Parliament. I am not saying Mr. Njenga is the Clerk, but he is a Clerk-at-the-Table because we have our substantive Clerk. I am saving him the trouble, so that people might not misinterpret. However, maybe he will grow old enough to become one. We need to increase the fine and ensure the term exceeds six months.

Finally, where a response is sought on the implementation of more than one resolution, the relevant speaker may direct the responsible officer to submit a single report on the status of the implementation of those resolutions. That just means a progress report.

You remember the President also has an obligation of tabling some of the reports before the House during the State of the Nation Address. Therefore, this part does not limit the power of Parliament to require information from, in accordance with the Constitution or any other law.

Therefore, in as much as we are asking the DPP to prosecute the perpetrators of extrajudicial killings, it does not limit our power to demand more information from him or any other role. Article 117 of the Constitution is clear, and those are the powers that we are trying to ensure that we put in order.

In conclusion, this is the 2010 Constitution and it keeps growing and improving. There are many court decisions that will always affect the way we implement our Constitution and ensure we come up with legislative and policy interventions at any given point.

I call upon our colleagues to support this Bill. This is a very straightforward Bill. It is more of a procedural Bill. I hope our brothers and sisters in the National Assembly will not in any way introduce the issue of Money Bill. I remember we went to the Supreme Court on the issue of Money Bills. I do not see a reason the National Assembly should delay our Bill.

In my proposal when we appeared in the Milimani High Court before Justice Weldon Korir, during my tenure on the Speaker's Panel, one of the things we sought was signing of a concurrence certificate by both Speakers of the Senate and the National Assembly. The Senate is the 'upper' House. I hope everybody is aware of that. We need them to sign a concurrence certificate to show that the Bill has been passed by both Houses.

Mr. Temporary Speaker, Sir, you also sit in the Senate Business Committee (SBC). You should even request the President that when he is assenting to any Bill of Parliament, it should be attached with a concurrence certificate from both Houses. This is so that we run away from the ugly scenes that we saw in the last session, where the National Assembly has passed a Law and they take it for assent without the concurrence of both Houses. I hope our colleagues in the National Assembly are watching this and will be ready.

I had a lot to submit. I would have submitted for the next three hours, but because I appreciate the fact that most of my colleagues want to give their unique input, I wish to second. I am hope to see this Bill to fruition for the benefit of Kenyans.

Thank you very much for giving me this opportunity to congratulate my brother.

Mr. Temporary Speaker, Sir, hunting down a crocodile is illegal in Kenya under Kenya Wildlife Services (KWS). The only gift I can give him is maybe a cow because that represents respect in our culture.

The Temporary Speaker (Sen. Wakili Sigei): Thank you very much, Sen. Cherarkey for seconding this Bill.

(Question proposed)

I call upon the Hon. Senator for Nyeri County, Sen. Wamatinga, to the Floor.

Sen. Wamatinga: Thank you very much, Mr. Temporary Speaker, Sir. I rise to support and congratulate Sen. Mungatana for that timely Bill.

Optimization and evaluation of processes is only possible if a feedback mechanism is created. For any efficient system to run, it is important to set a 360 degrees feedback mechanism. As has been ably prosecuted before this House, there comes a time when one feels like most of the resolutions and Bills that are passed in this House, there is no laid down mechanism to have a follow up on where they are and at what stage.

Therefore, putting in place a mechanism that will ensure that the resolutions and Bills passed in this House are followed up, feedback is given back to us and by whom will be very important. The Bill that Sen. Mungatana has presented in this House is going to cure that gap.

Sen. Cherarkey has mentioned about the *Mzungu Aende Ulaya Mwafrika Apate Uhuru (MAU MAU)*. It was passed and agreed upon, but there is no mechanism to follow up on what transpired. If we only debate and pass resolutions, yet we do not have timelines and apportion responsibility, then most of the work that we do here will end up being wastage of taxpayers' money and turning around in circles without moving forward.

As has been stated, the Constitution of Kenya promulgated in 2010 is not static. The laws that have been passed so far are not static. Today's changing times requires that we move with speed and look at things as they are and address them. Most importantly, we need to have a mechanism that will be feeding back, so that we know the gaps and measures that needs to be put in place. Therefore, it is very important that we support and pass this Bill.

Mr. Temporary Speaker, Sir, I support.

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

Sen. Wafula, you may have the Floor.

Sen. Wafula: Bw. Spika wa Muda, asante kwa nafasi hii. Ningependa kuunga mkono na kushukuru yale ambayo wakili, Sen. Mungatana, amewasilisha. Nimeona ya kwamaba ni kama mazoea ya viongozi wa Afrika kuwa na ugumu wa kutekeleza majukumu yao pasipo shinikizo za kisheria an zaidi ya hapo, kupewa adhabu kali.

Tumekuwa katika Kamati mbali ambazo tumeona Kaunti zinakosa kujukumika kulipa mishahara, kodi, halmashauri za afya, watendakazi ama wanakandarasi. Haya yote yataweza tu kupata matibabu iwapo sheria ambayo ndungu yangu Seneta analeta. Itaweza kufanya kazi.

Iwapo kaunti imepewa pesa za mishahara, yule anaye jukumika kulipa mishahara anapokosa kulipa ushuru, lazima apate kichapo cha mbwa mdomo juu. Pale ambapo wanakandarasi wamepewa kazi ya kufanya kwa mujibu wa muda fulani, wakose kufanya na wapate pesa, sheria iwepo vile wao pia wajukumike, kwa sababu wamepunja pesa ya mtozaji ushuru.

Kwa hayo mengi, ningependa kuunga mkono Mswada wa wakili, Sen. Mungatana. Vile, vile katika majukumu ya Serikali, kulikuwa na asilimia 30 ya vijana wanawake na walemavu kupata kandarasi. Ukichunguza katika kaunti na Serikali, hayo yote yamesahaulika kwa sababu yale mapendekezo ambayo yako katika vitabu vya serikali, ni kama hekaya za abunwasi. Lakini iwapo sheria kama hii itapitishwa, na tupitische katika kamati zetu na Bunge la Seneti, wale ambao wanahusika wasipofanya hivyo, vile watapata adhabu kali na wawe mfano kwa wengine ambao hudhani kwamba uongozi ni wa milele. Lazima wajue kwamba uongozi ni kama mapito na ni muhimu kutenda wema na kwenda zetu.

Asante sana Bw. Spika wa muda.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator. I must confess that Kiswahili *chako ni sanifu*. The House will learn a lot from your contributions in that particular language.

Sen. Mandago, you may have the Floor.

Sen. Mandago: Thank you, Mr. Temporary Speaker, Sir. I rise to support the Bill by Sen. Mungatana.

This Bill will cure the inefficiencies and effectiveness that I have witnessed in the resolutions that have been made by the House. There is no follow up action from the Executive or the concerned officers. Considering the number of government institutions that we have to engage as a House and considering for example the President, the number of Ministries and semi-autonomous Government agencies that he needs to supervise. This Bill will not only help this House to ensure that the resolutions are followed up with action, but also help the Executive in the execution of their parts. This is because civil servants and heads of Government institutions will have no place to hide, because the law will catch up with them. I, therefore, congratulate Sen. Mungatana for bringing this Bill.

From my experience in the previous service, county assemblies would also pass Motions. They would come to my desk and I would mark them to relevant officers for execution. However, because of the exigencies of work, you might not be in a position to remember all the Motions that have been passed and moved for action. Therefore, some decisions and actions that ought to have been taken would lapse without my knowledge. This Bill will not only cure that---

I hope that we shall find a way of making sure that the same is replicated in counties, so that Heads of Departments (HODs) can be taken to account whenever resolutions of Motions of county assemblies are not followed up with the requisite action.

This Bill will not only restate the position of this House, in terms of decision making in this country, and the trust that Kenyans have given to the House, but also make Government services and emergency responses required get the due attention that is required by the respective departments.

Therefore, I support this Bill. As a colleague, I assure Sen. Mungatana that we shall make sure that this Bill goes through. We would also want to see the results in terms of increase in efficiency in service delivery in Government within the period that the Bill will be passed.

I beg to support.

The Temporary Speaker (Sen, Wakili Sigei): Thank you, Sen. Mandago. As I call upon the Mover to reply, I must for the benefit of the Sen. Mungatana, indicate that when this Bill was brought before the Committee which I Chair, it made the Members appreciate it. The desire to ensure there is a follow up on the resolutions and decisions of this House and of its Committees in order and there is a mechanism within which implementation, can be enforced.

Secondly, the unique feature of punishing the authority, the person in office or the Chairperson of an entity is one of the reasons the Committee agreed that we must define who is the person in authority. This is such that if summons have been issued and there is non-compliance, we know the target person to go for and the punitive provisions for non-compliance or enforcing the decisions of this Committee.

It is the right thing that Sen. Mungatana has done.

I call upon you, Senator, to reply.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir. I thank all my colleagues who have made contributions to this Bill. I will start with you and let you know that before you took the Chair, when I was moving this Bill for Second Reading, I acknowledged the industry and the work that the Standing Committee on Justice and Legal Affairs and Human Rights did. I mentioned your name and read your Report. I was grateful for the work that you have done.

Being an old Member, I appreciate the work that other colleagues are putting towards the success of legislation. I mentioned that. I appreciate the comments from the Report of the Committee on Justice and Legal Affairs and Human Rights. I thank you, now in person, for the way you handled this matter when it was being processed through your Committee.

I also thank Sen. Cherarkey for passionately seconding the Bill. He gave live examples. We all remember what happened in Solai Dam. Many people felt that justice was not carried, yet the Committee of this House had made certain directions.

Previously, before the passing of this Bill, there was no responsible officer; nobody to push nor face any consequences for not following what the Senate Committee had resolved.

Sen. Cherarkey spoke on what they had resolved as the Senate on the question of the Solai tragedy, which continues to haunt us to date. When he goes to his constituency,

they ask him what happened and he says they passed it, but there is no action as the people had said. With the passing of this Bill, this is going to be a thing of the past.

I thank Sen. Wamatinga. When he contributed, he made it clear that we need a 360-degree reporting mechanism, so that when we come here and debate on issues, we are not doing so for the sake of it. We are not a House of talk. We are passing resolutions that are binding and Government officers are going to take us seriously. I am grateful for Hon. Sen. Wamatinga's observations and support.

I thank Sen. Wakoli. He stated that in this country, and not just Kenya, but Africa, people have a problem of following rules and regulations. It is important for us to put consequences.

It was not lost to mean that in the Second Reading of this Bill, there was a proposal to make the consequences of failure to comply with resolutions even stricter than what we have proposed in the Bill. We have proposed Kshs500,000 fine as a punishment. In the alternative, we have proposed a six-month jail term for the officers responsible for not obeying the resolutions of this House or given them effect.

It has been proposed in the House that we should go as far as three years and Kshs3 million. It was stated in the Second Reading debate that if you charge a Cabinet Secretary (CS) with Kshs500,000 fine for being guilty, it is a small change for them and they may not take it seriously. I will take those observations. During the Third Reading, we shall make appropriate amendments that I believe will have the support of the House.

I also want to thank the Hon. Sen. Mandago. In his contributions, he made a very important contribution on this Floor. He said that in his previous service, people used to bring very important resolutions in the county assembly, where he had the chance to serve as Chief Executive Officer (CEO). As Governor, he marked the resolutions to the relevant departments, yet they did not effect the resolutions of the people through the Members of County Assembly (MCAs), who have been elected to pass resolutions and reflect what the people on the ground want. He has said that we should find a way that this Bill can also have effect in the county assembly. I am grateful for that suggestion.

We will find a way, in the Third Reading to bring appropriate amendments. If the Committee on Justice, Legal Affairs and Human Rights sees them proper, we shall process them to see how we can capture and make them effective throughout the Republic and in all county assemblies, so that the resolutions of the MCAs can be taken seriously. We have bad experiences.

We have governors who do not respect our Members of County Assembly (MCAs). When they make resolutions, when they talk the language of the people, these governors tend to hide and try to find a way to get away from the resolutions of the county assemblies.

Mr. Temporary Speaker, Sir, we have had resolutions in county assemblies where a county assembly sits down and decides to pass a resolution to remove a County Executive Committee Member (CECM). That Member is then supposed to be sacked, but if he was serving in health, you find that he is taken to public service. The governor decides that he is not going to sack that MCA for whatever reason. He removes him or her from the docket that he or she is currently serving and takes them to another place and, therefore, defeating the purpose for which the county assembly has taken time to express the opinion of the people of the county.

Therefore, I am grateful for this proposal. We shall surely find a way in which we can bring it in the Third Reading, to see how we will be able to bring that thought captured within the law.

Mr. Temporary Speaker, Sir, as I finish making my response, I would like to say that this is not a small matter. It is going to affect all of us. I am grateful for what my colleagues have said. I know that some Members of the National Assembly are also listening and following this.

I take the comments by the Sen. Cherarkey that they should also support when it comes to their side concurrence, so that we do not have an issue because this affects all of us. This is something that needs to be looked at as a Parliament issue; an issue that affects all of us and is creating space for us, as Parliament.

It is also not lost to me that the people of Tana River County have had a problem; those who are down at the area of the Delta, where River Tana meets the sea. They have had a problem because we have had upstream developments that have continuously reduced the volume that goes down to the river.

Mr. Temporary Speaker, Sir, I brought a Motion here and the House agreed with me because they saw the suffering of the people at the delta. That Motion is so critical because what has happened in areas like Mathomba, because of reduced power, the river has cut away. It has now turned to go into other areas. Villages, 10,000 households; the river has turned away because upstream, the developments have affected the strength and the power. We pay twice when it is the dry season because the river moves away. Therefore, people have a serious water problem. When it is rainy season, they release the water upstream and it destroys us downstream.

That Motion is so critical to our people and yet, although the Clerk wrote to the Ministry of Water, Sanitation and Irrigation, they have not come back to the Committee in charge of water, land and resources to tell them that this is what we are doing. They have not told all our officers that no approval of any project shall be done without consultation and doing proper social impact, economic and environmental assessment. No just in the areas where they are trying to dam or do something like that, but also downstream. What is the social economic impact assessment?

Even for those that have taken place, what is the current situation? You find that as of this time, the Ministry just received the letter from the Clerk and they kept quiet.

We will, therefore, be forced to go to court if new upstream activities start and we are not told. Why? It is because this law was not in place at the time we passed that Motion.

Just as Sen Cherarkey was saying, at Solai Dam, it was not possible to do anything at that point other than make resolutions. This is a law for posterity. When things like these are passed in this House, we will have responsible officers. We will not just say "Ministry of Water," the way the letter has been written: "The Ministry of Water, Department of irrigation," you need to do this and that, but there is no responsible officer being named.

In this Bill, going forward, for all resolutions of this House, there will be a requirement on the Clerk now to identify the responsible officer and direct him to do what is required by that Motion and the resolution of the House.

I am very happy that we have had this general consensus. It has been bipartisan. Those who understand what we are doing today will be here, I pray, during the Third Reading and make their contributions.

I beg to move.

Pursuant to Standing Order No.66 (3) I request that you defer the putting of the question to a later date, possibly on Tuesday, because it possibly requires two thirds of the county delegations.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, very much Sen. Mungatana. Under Standing Order 66(3), the Chair has got the discretion on application by a Member to defer Division to a future date.

Even as I make the determination that the matter affects counties and that voting will be by delegations, we will defer Division until the next Sitting of this House, that is, on Tuesday, when we shall put the question and take the vote.

(Putting of the question on the Bill deferred)

Next Order.

Second Reading

THE NATURAL RESOURCES (BENEFIT SHARING)
BILL (SENATE BILLS NO.6 OF 2022)

Sen. Mungatana MGH: Mr Temporary Speaker, Sir, I am the Mover of this Bill and would request that to push it to Tuesday. I underestimated the strength and energy that I was going to require for us to move it.

The Temporary Speaker (Sen. Wakili Sigei): That is also noted, Sen. Mungatana. We shall defer this particular Bill to the next sitting of the House, that is, on Tuesday next week.

(Bill deferred)

Second Reading

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT
OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO.7 OF 2022)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mungatana, the next Order, again, is your Bill. We do not want to presume that you will also be making a similar application, but if you are, let the Chair know about it, so that we are appropriately advised

Sen. Mungatana MGH: Mr. Temporary Speaker, I will also be making a similar application.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mungatana, your application is equally noted.

(Bill deferred)

Next Order!

MOTIONS

PROVISION OF FREE SANITARY TOWELS TO END PERIOD POVERTY

THAT, AWARE THAT period poverty refers to the common challenge plaguing women globally wherein they are unable to attend schools or work as a cause of a lack of funds for sanitary products that is both a health risk and a signal of gender inequity;

FURTHER AWARE THAT in rural Kenya, 2 out of 3 pad users receive pads from sexual partners and 65 per cent of women and girls can't afford sanitary pads, forcing them to use alternative materials like grass, cotton wool and cloth which lack adequate absorbent qualities resulting in frequent leakage and hygiene issues;

CONCERNED THAT period poverty also referred to as the "shadow pandemic" contributes to global and regional gender inequity, as women are forced to solicit help from men in order to satisfy a basic health need with 10% of 15-year-old girls having sex to pay for sanitary products;

FURTHER CONCERNED THAT, data from the Ministry of Education indicates that a girl that is absent from school for four days a month loses 13 learning days, equivalent to two weeks of learning in every school term, translating to 39 learning days or six weeks of learning time in a term and up to 18 of 108 weeks in primary and 24 weeks of 144 weeks of learning in secondary school;

NOTING THAT, while the Government, through the State Department for Gender Affairs was charged with the responsibility of procuring and distributing sanitary towels for 3.7 million girls in public primary schools, special primary and secondary schools in the country at a cost of Kshs470 million during the 2017/2018 Financial Year, which amount needs to be increased in order to fully address and mitigate the problem;

NOW THEREFORE, the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action in partnership with the Ministry of Education and the Council of Governors to-

(1) Facilitate provision of feminine hygiene products in all public schools.

(2) Ensure that all schools that don't have bathrooms that facilitate privacy, cleanliness or proper disposal of hygiene products are properly equipped.

(3) Create awareness and take advocacy measures on reproductive health issues related to period poverty;

(4) Include in the curriculum a dedicated lesson per week to teach girls on menstrual hygiene; and

(5) Ensure that sanitary products will be obtainable timely, consistently, and in a way that respects the dignity of concerned persons.

The Temporary Speaker (Sen. Wakili Sigei): Since Sen. Orwoba is not in the House, we shall defer the Motion to the next Sitting.

(Motion deferred)

Next Order.

What is your point of order, Senator for Kiambu County?

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir. I am rising to seek indulgence and guidance on the Motion that has just been mentioned about ending period poverty in this country. I remember how that Motion started. There was drama and activism in the Senate. As a result, this Motion was drafted.

This is the fourth time this Motion is being deferred. I seek your guidance on what should be done. We do not want to take this House for granted; that you can use the Senate for your own advancement, but when it comes to dealing with real issues and matters such as this Motion, the Mover is nowhere to be seen. We have been taken round in circles when that activism happened in this Senate.

I wish to urge Members that whenever you bring a Motion, see to it that it has been discussed and use the right channels. I have been here wanting to comment and contribute to the Motion because I want period poverty to be eradicated in this country.

However, every time I come here, the Mover of the Motion is nowhere to be seen. How long are we going to defer this Motion, yet our girls are in problems at school? When are we going to discuss this important issue?

Mr. Temporary Speaker, Sir, I seek your guidance. If the Mover of the Motion is not willing to move it, I am willing.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, it is noted. Remember we had a discussion on Motions that are listed in the Order Paper and the Movers are unavailable in the House.

Part of the resolution made was to defer, not to the immediate next Sitting. It is because they will take place of other Orders, which ought to be listed in the Order Paper. We should push it further.

In this particular case where you insist on Moving the Motion, we should encourage the Mover to do it, so that when listed in the next Order Paper, it is debated. For now, in her absence, we are going to defer it to the next Sitting. Appropriate advisory will be given to the Mover of the Motion.

Next Order.

INSTITUTION OF MEASURES TO CURB
INCESSANT HIGH ELECTRICITY COSTS IN KENYA

THAT, AWARE THAT energy is an essential factor of production and its total consumption is a major determinant of performance of the economy with its cost and reliability spurring or stifling economic growth.

FURTHER AWARE THAT there has been a significant growth in the demand for electricity in Kenya driven by economic growth and increased efforts towards rural electrification while the supply has been constrained due to, among other factors, the overreliance on hydro-electric power generating plants that have been negatively impacted by perennial drought experienced in the country.

NOTING THAT the imbalance in the demand and supply of power coupled with payments by the Kenya Power and Lighting Company (KPLC) for produced power not consumed and fluctuation in the foreign exchange rates contribute to the high cost of electricity.

APPRECIATING THAT Kenya has made strides in diversifying its power sources with geothermal plants, offering tremendous potential for zero-carbon source of power, already producing nearly one (1) Gigawatt (GW) of power.

CONCERNED THAT private power generating companies popularly referred to as Independent Power Producers (IPPs) only supply 28 percent of power to KPLC but account for 47 percent of power purchase costs calling for the need to enhance energy management in Kenya.

NOW THEREFORE the Senate resolves that the:

(a) Standing Committee on Energy to undertake an inquiry into: -

(i) Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements and their implications on affordability of electricity in the country.

(ii) Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs.

(iii) The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, bypassing the inadequately supplied northern frontier counties of Marsabit and Samburu.

(b) Ministry of Energy to come up with a policy framework aimed at:

(i) Lowering the cost of electricity as a way of addressing the high cost of living.

(ii) Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy, among others as a way of reducing the carbon footprint.

The Temporary Speaker (Sen. Wakili Sigei): This is a Motion by Sen. Chute. Are you ready to prosecute your Motion?

Sen. Chute: Thank you, Mr. Temporary Speaker, Sir, we do not have much time now. Can the Motion be deferred to the next Sitting?

The Temporary Speaker (Sen. Wakili Sigei): This Motion is deferred to the next Sitting of the House.

(Motion deferred)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wamatinga was here, but he seems to have stepped out.

We shall also defer the Motion to the next Sitting.

ENHANCING HIGHWAY SAFETY AND CONVENIENCE

THAT, AWARE THAT 67 percent of road crash fatalities and injuries in the country comprise of the economically productive age groups of 15 - 64 years, and that the importance of good post-crash care reduces deaths and disability and the suffering for road crash survivors creates the urgent need for effective emergency medical care system elements and processes on our highways.

FURTHER AWARE THAT lives and properties are lost or irreparably damaged daily on major highways in the country due to accidents and explosion of fuel tankers, and the lack of accessible roadside amenities such as medical clinics.

COGNIZANT THAT setting up safe stopping points for road users at regular intervals with the necessary road-side amenities such as fuel stations, parking spaces, restaurants, telephone booths, minor repair shops, medical facilities, and toilets enhances total travel experience and the lack of these points make it impractical for drivers to stop as often as they would wish to resulting into driving-related fatigue, a significant contributor to accidents on the highways.

FURTHER COGNIZANT THAT provision of amenities such as ambulances, fire-trucks and satellite medical clinics to provide emergency services to road accident victims would save lives lost daily on major roads.

ACKNOWLEDGING THAT governments across the world have taken on the task of setting up such amenities through incorporation of the basic provisions in their road transport infrastructure through different models of Public Private Partnership (PPP), lease, or ownership.

NOW THEREFORE the Senate resolves that: -

(i) The Kenya National Highway Authority, in collaboration with the Council of Governors (CoG) to come up with a policy framework on the incorporation of road reserves for road-side amenities in all highway designs.

(ii) The Ministries of Health, Roads, Transport and Public Works in conjunction with the Council of Governors to undertake a survey to ascertain the specific amenities required but not available on the existing highways such as satellite medical clinics, fire-trucks and ambulances, and identify the most convenient locations to develop them.

(iii) The Ministries of Health, Roads, Transport and Public Works in conjunction with the Council of Governors to undertake a survey to ascertain the specific amenities required but not available on the existing highways such as satellite medical clinics, fire-trucks and ambulances, and identify the most convenient locations to develop them.

(iv) The Ministry of Roads and Transport in conjunction with the CoG to develop Public Private Partnership guideline on leasing of the road reserves to developers, financing the construction of the amenities, and the packaging of incentives to attract investors.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, there being no other business in the Order Paper, the Senate, therefore, stands adjourned until Tuesday, 28th February, 2023, at 2.30 p.m.

The Senate rose at 6.16 p.m.