

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 2<sup>nd</sup> March, 2023

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

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

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, kindly ring the Quorum Bell for five minutes. We do not have quorum.

*(The Quorum Bell was rung)*

Serjeant-at-Arms, you may stop the Bell. I am informed that we now have quorum.

Clerk, first Order.

#### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION FROM BARINGO COUNTY ASSEMBLY

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a visiting delegation from Baringo County Assembly. The delegation comprises Members of the Budget and Appropriations Committee, who are on a five-day study tour with the counterpart Committee of the Senate.

I request each Member of the delegation to stand when called out, so that you may be acknowledged in the Senate tradition-

- |                                |   |   |
|--------------------------------|---|---|
| (1) Hon. Ernest Kibet Tarus    | - | Chairperson, Budget and Appropriations Committee      |
| (2) Hon. Simon Kimuge Kiplagat | - | Vice-Chairperson, Budget and Appropriations Committee |
| (3) Hon. Lawi K. Tallam        | - | Member, Budget and Appropriations Committee           |

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- (4) Hon. Marial Cheporiot Losile - Member, Budget and Appropriations Committee
- (5) Hon. Alex Kiprono Kurui - Member, Budget and Appropriations Committee, MCA
- (6) Hon. Lourien Sam Lokales - Member, Budget and Appropriations Committee, MCA
- (7) Hon. Ben Koech - Member, Budget and Appropriations Committee, MCA
- (8) Mr. Emmanuel Kubai - Principal Hansard Reporter
- (9) Mr. Jaffred Kipkorir Chepsoi - Assistant Director- Human Resource Management and Development;
- (10) Mr. Kiptum K. Jonathan - Clerk of the Devolution and Appropriations Committee
- (11) Mr. Ronald Cherutich - Principal Fiscal Analyst
- (12) Mr. Mutonyo Pirakol Dennis - Clerk Assistant, Budget and Appropriations Committee
- (13) Mr. Wilson Kechem Kiptui - Account Assistant
- (14) Mr. Amos K. Cherogony - Seargent-At- Arms

On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit to the Senate.

I thank you. Is the Senator for Baringo in the House?

**Sen. Cheptumo:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Kindly take the Floor and make your welcoming remarks to the Delegation from Baringo County.

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. This is the second time Members of the County Assembly (MCAs) of Baringo have a chance to visit the House. I sincerely thank the Members of the Budget and Appropriations Committee of the Baringo County Assembly and welcome them to this upper House.

I will repeat what I said last time. Baringo is known in this country as a County that has stood firm in upholding democracy. When the infamous Building Bridges Initiative (BBI) was being debated in the country, most county assemblies were shy or were not prepared to take up a position to either reject or approve the BBI. Baringo County became the first county to strongly reject the BBI.

Thereafter, the High Court of the Republic of Kenya followed the position that was taken by Baringo County Assembly. The Court of Appeal rejected the BBI too. Finally, the Supreme Court; the apex Court on the land also agreed with the Baringo County Assembly. As the Senator for Baringo, I am proud that some of the Members who were in that House are in this Chamber today visiting this House. I thank them and affirm to them that as their Senator, I will be at the forefront to stand and advance democracy in this country. I encourage the delegation to learn from this House.

There have been situations in this country where county assemblies have had some fracas, confusion and fights. However, I would like to state that there is a lot of order in Baringo County. Devolution, which we have embraced in this country, is our

business as the Senate. As the Senator for Baringo County, being a Member of this House, we will work together to ensure that democracy and devolution, which are the only ways we can take more resources to our people, are upheld.

We are now in the process of making our budget; the budget cycle. We passed a law in December to have more money going to counties. In that law, Baringo County is set to receive Kshs.800 million. We will continue to work together under the leadership of the Speaker to ensure that counties have enough resources to serve our people.

I welcome fellow leaders from Baringo County. I am proud of you people. We will move together and ensure that Baringo County, the County that has already been recognized to have stood firm and rejected the infamous BBI, continues to prosper.

Mr. Speaker, Sir, counties have problems. I am happy that our Standing Committee on Devolution in this House has begun visiting counties that have issues or challenges. I am glad that Baringo County does not have issues. Should there be issues, the colleagues in the County Assembly, the Standing Committee on Devolution of this House and I will move swiftly to address them so that we avoid the kind of fights that we have witnessed in other counties.

I welcome the delegation from Baringo County Assembly and urge them to learn from this House and ensure that they also add value to Baringo County.

I thank you, Mr. Speaker, Sir.

VISITING TEACHERS AND STUDENTS FROM UWALIMO  
SECONDARY SCHOOL, NAIROBI CITY COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I have a further Communication. In the public gallery this afternoon, we have 58 students accompanied by teachers from Uwalimo Secondary School in Nairobi City County who are in the Senate on an education 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.

I thank you.

I am not seeing Sen. Sifuna. I will pick a Senator from the Nairobi City County Delegation. Sen. Tabitha Mutinda, please welcome the students.

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker Sir, for that opportunity. I take this good opportunity this afternoon to welcome the students in this beautiful county of Nairobi City.

As leaders of this country, we are happy to see you in the education system. Mine is to urge you, as the younger generation, to pursue your educational goals. As I have always stated and encouraged, education is what your parents can give you and nobody can take it away.

I have always stated that generations have changed. We are in a digital space. We are in a Western time where cultures have changed over time. I urge you the generation

that we set these laws for, to take up the role and follow what is good. Take what is right that can positively open your future goals to what you want to pursue.

Politics is a career. I encourage you to follow suit. We are here; we started from far. I started from being a pharmaceutical student. I am a pharmaceutical student who is currently pursuing Ph.D. at the University of Nairobi (UoN). Education has no end. Each day is a learning opportunity for you, the youth. I take this opportunity to also state that matters Lesbians, Gay Transgender Bisexual and Queer (LGTBQ) normally sometimes have been stated to start from the younger generation.

I take this opportunity, on the Floor of the House today, to urge you, the future generation, to stick to the good culture because we are Africans. Some of these Western things are not good for you, the younger generation. I kindly urge and request you not to entertain the issues of LGTBQ. I strongly rebuke it.

I ask you also to always kindly listen to your parents. Put God first and all those good things shall be appended unto you.

I thank you, Mr. Speaker Sir.

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

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

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

### NOTICE MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 37

#### SUPREME COURT RULING ON LGBTQ COMMUNITY

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I rise on a point of order pursuant to Standing Order No.37 to seek leave of the Senate to adjourn to discuss a definite matter of urgent national importance namely; the decision of the Supreme Court of Kenya in Non-governmental Organisations (NGOs) Coordination Board verses Eric Gitari and five others, in Petition No.16 of 2019, which declared discrimination against Lesbians, Gays, Bisexual, Transgender and Queer Community (LGBTQ) unconstitutional and affirmed the rights of the Community to form an association.

*Simameni bana!*

*(Loud consultations)*

*Nini, wacha hiyo maneno!*

*(Several Senators stood up in their places)*

**The Speaker** (Hon. Kingi): Hon. Senators, I have, indeed, confirmed that the requisite threshold has been attained. I direct that the Senate will adjourn at 5.30.p.m to discuss the said Motion.

Thank you.

Next Order.

## STATEMENTS

### BUSINESS FOR THE WEEK COMMENCING TUESDAY, 7<sup>TH</sup> MARCH, 2023

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.57(1), I hereby present the business of the Senate for the week commencing Tuesday, 7<sup>th</sup> March, 2023.

Mr. Speaker Sir, the status of legislative business is beginning to get heavy. There are 13 Bills, which are at the Second Reading stage. Four of these Bills are scheduled in today's Order Paper at Order Nos. 11, 12, 13 and 14 while the remaining nine Bills have been referred to respective Standing Committees for consideration pursuant to Standing Order No.145.

The Senate Business Committee (SBC) will schedule these Bills for Second Reading upon completion of the 30-day period for committees to consider Bills. However, in the event that a Standing Committee tabled a report earlier than the stipulated timeline, the SBC will prioritize such Bill for Second Reading.

Mr. Speaker, Sir, I need to explain that there are committees that have worked so well. For the last two or three weeks, I have spoken on the need for chairpersons of committees to expedite and prioritize Bills and the committee reports being presented to this House before the stipulated timeline.

There are good chairpersons who have heeded this call. Therefore, this is just an assurance to them that once the House receives a committee's report on a particular Bill, even if that Bill is listed way further on the queue of Bills to be considered before the House, we shall give it priority.

I, therefore, urge Members of committees and chairpersons to give Bills and their reports the due consideration, so that they can be quickly processed by this House.

Five other Bills are undergoing concurrence pursuant to Article 110(3) of the Constitution and will be scheduled for First Reading upon completion of this process.

Mr. Speaker, Sir, we must register our appreciation with the cordial and collegiate relationship that you continue to enjoy with your counterpart Sen. Wetangula, the Speaker of the National Assembly. Each time we refer to Statements and Bills that are under consideration under Article 110(3), despite the fact that there are other matters that are pending between the two Houses, at least we celebrate the fact that ever since the two of you took reign of Parliament, there is no particular Bill that ought to have come to the Senate and has not been sent. We appreciate.

That is the intention of the drafters of our Constitution. They did not expect that we shall always have to battle it out in court as has been the case in the previous two sessions of Parliament. Having said that, it is still my sincere hope that we shall conclude on the mediation process that is going on between us and the National Assembly. This is because we want to put this matter to rest with finality.

In fact, if we can reach an agreement without having the Supreme Court issuing a determination - because we could not agree among the two Houses - then the country will have won. I hope that we shall conclude that process. I know that we still have a few days to run after the meeting that we had in attendance of the Senate Minority Leader, yourself, the team from the National Assembly and myself.

Mr. Speaker Sir, I cannot emphasize enough the need for Standing Committees to expeditiously consider Bills referred to them and table reports pursuant to Standing Order No.148. I also urge the respective Movers to be available in the Chamber whenever their Bills are scheduled in the Order Paper.

With respect to Petitions, members of the public continue to show their confidence in the Senate to hear and determine matters of concern to them. We have now received six Petitions, which have been committed to the respective Committees pursuant to Standing Order No.238(1). I continue to urge respective committees to consider these Petitions expeditiously and table the reports within the required 60-day period.

I take this opportunity to request chairpersons who are facing any challenges in processing House business to bring these matters to my attention so that appropriate interventions, either through the Liaison Committee or the SBC, may be made to address any bottlenecks.

With respect to Statements, there have been numerous sought pursuant to Standing Order No.53. I look forward to committee chairpersons making reports on Statements in the coming days. I continue to encourage Senators and respective Standing Committees to identify and come up with legislative interventions that will be converted into Bills.

Mr. Speaker Sir, in conclusion, on Tuesday, 7<sup>th</sup> March, 2023, the 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.

The Order Paper for Wednesday, 8<sup>th</sup> March, 2023 and for Thursday, 9<sup>th</sup> March, 2023, will contain business that will not be concluded on Tuesday, 7<sup>th</sup> March, 2023 and on Wednesday, 8<sup>th</sup> March, 2023, respectively. The SBC will also schedule any other business as well as Petitions and Statements pursuant to the Standing Orders.

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

*(Sen. Cheruiyot laid the document on the Table)*

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

#### HUMAN-WILDLIFE CONFLICT IN MAKUENI COUNTY

**Sen. Maanzo:** Mr. Speaker, Sir, with your kind permission, two months ago I made a request for a Statement in relation to human-wildlife conflict in Makueni County. Unfortunately, I have not been called by the relevant Committee to make a presentation or received an answer on the same.

Yesterday, an elephant killed somebody in Kibwezi East and *wananchi* refused to release the body until this afternoon when the Kenya Wildlife Society (KWS), together with the police officers, went there and teargassed them.

Mr. Speaker, Sir, I look forward to an answer from the Committee, the Cabinet Secretary (CS) in charge of Tourism and Wildlife, the Directorate of Criminal Investigations (DCI) and the KWS. This is now becoming a matter of criminal nature. There has been criminal negligence on the part of KWS officers. They have reports that elephants are there and yet they let them wander. The county government has done a perimeter wire. All they needed to do since Monday was to take the animals across, so that they are unable to come back to Kibwezi East.

The matter has really escalated. I look forward to seeing the Directorate of Public Prosecutions (DPP) so that we can pursue criminal prosecution on criminal negligence charges on the death of this particular man. We also need to wake up KWS officers, so that they know that when they neglect their duty and somebody dies, they can be charged in a court of law.

I thank you and look forward to quickly receiving an answer on this particular matter so that we save the people of Makeni County from being killed by elephants.

**The Speaker** (Hon. Kingi): The Chairman of the Standing Committee on Lands, Environment and Natural Resources can we have an indication to when that matter will be laid to rest due to its urgency.

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

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

**Sen. Kinyua:** Asante Bw. Spika. Ni ukweli kuwa wanyama wamekuwa wanasumbua watu huko Laikipia. Tumeandika taarifa tukiuliza hayo maswali. Ukitembelea sehemu za Sironi unapata watu wameshambuliwa na ndovu na kuuawa. Mimea yetu yote imeharibiwa na ndovu. Katika sehemu ya Manguo viboko wanashambulia watu. Mwenyekiti ambaye ni Seneta kutoka Kaunti ya Nyandarua, Sen. Methu, nimemskiza katika mikutano mingi akisema kuwa yeye ni kiongozi wa wanyama. Lakini inaonekana hawa wanyama wamemlelea.

Sen. Methu anafaa kutumia lugha anayoelewa vizuri kwa sababu amekuwa akituambia katika kila mkutano kwamba yeye ni mwenyekiti wa mazingira na wanyama wako chini yake. Sijui sasa kama wanyama wamekaa juu yake kwa sababu sasa amenyamaza kimya. Leo tunamuomba Sen. Methu aongee kuhusu viboko na wanyama hawa ili atueleze kiasi ya kazi ambayo amefanya kwa sababu wanyama wale wanatusumbua sana.

Katika Kaunti ya Laikipia, kama si kiangazi ni wanyama wanatusumbua na kama sio wanyama ni majangili wanaotuibia. Tunamgojea Sen. Methu kwa hamu na ghamu atujibu ili tutosheke.

Asante, Bw. Spika.

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

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise under Standing Order No.1. I note with concern and I did register with your office that sometimes there are issues which are of importance and very urgent. Is there a way through your office, you can give an order

where if we have an urgent matter such as what Sen. Maanzo and Sen. Kinyua are putting across; the chairpersons of those specific committees can give progress reports? I do not know whether the Deputy Speaker is the chairperson of the Committee on Liaison. For example, if an urgent matter comes before the House today on Thursday, is there a way through your office and secretariat, a progress report can be given at the next sitting probably on Tuesday or Wednesday? Some of these matters are sometimes very urgent; it could be a matter of life and death. Therefore, I request under Standing Order No.1, by your powers, that the chairpersons can be giving progress reports especially on urgent and important matters. Sometimes there are issues that are urgent, but not very important.

Finally, I suggest that if there are urgent issues for example, what happened in Marsabit County yesterday or the human-wildlife conflicts; is it possible for your office to give powers to these committees to have presence on the ground. Your office can facilitate them between Friday and Monday so that the people of Kenya can see that something is happening.

Mr. Speaker, Sir, if you can give direction on those issues under Standing Order No.1, then the House will be efficient in terms of discharge of its duties.

I thank you.

**The Speaker** (Hon. Kingi): Very well Sen. Cherarkey. That is a very noble issue that you have raised. It shall be discussed at the Senate Business Committee (SBC). Direction shall be given and it shall also be communicated to the Committee on Liaison.

Proceed, Sen. Methu.

**Sen. Methu:** Thank you, Mr. Speaker, Sir. First and foremost, allow me to condole with the family from Kibwezi that was mentioned by the Senator for Makueni who lost their loved one from human-wildlife conflict. I can confirm to him, Sen. Kinyua together with all the Senators here, that I serve in the Committee that deals with wildlife. Our Committee is broad. We also deal with the forests and the animals that live within the forests. So, I confirm that I am the chairman of the wildlife.

I want to commit that my Committee, which is well represented here today, will give the matter the urgency it deserves. Even as we look at this matter, there is a deeper matter that will finally get phased off. When we were looking at the Budget Policy Statement (BPS), there is something that my Committee noted, the Government takes responsibility for all these conflicts between human and wildlife and is aware that claims are supposed to be paid. We now have claims worth Kshs4.2 billion that are supposed to be paid by the Ministry of Tourism and Wildlife. In their budget they have only provided for Kshs1 billion.

Ultimately, that is why you will find claims from five years ago have not been paid. The Ministry says that this time around they are investing, in conjunction with the Ministry of Environment and Forestry, to ensure that they try and reduce the conflict. It is not just about settling claims. Settling claims happens after people have lost their lives and suffered serious bodily harm. The more we reduce the conflict and claims, the better it is for all of us instead of having the Senator and the Cabinet Secretary (CS) come, take responsibility, state what happened and say that they are looking into it yet five years down the line they have not have done anything. He has indicated that had the Kenya



Wildlife Service (KWS) done something what happened yesterday would not have occurred.

They should work towards becoming proactive rather than paying claims and accepting liabilities. I commit that we shall deal with this matter in not more than seven days.

This is just one of the many Statements that are raised in this House everyday including today. If you look at the Order Paper, you will see an issue to do with human-wildlife conflict that will come to our Committee. We must look for a way to address this matter - maybe not once and for all because it is not possible since we are living with these animals - but to ensure we reduce these problems such that the elephants that are disturbing the people of Makueni are taken to the forest. We need the elephants and the people. I commit than in seven days we shall be able to look at this matter.

### POINT OF ORDER

#### INAPPROPRIATE DRESSING BY SEN. CHIMERA

**Sen. Faki:** Kwa hoja la nidhamu, Bw. Spika. Nimesimama kulingana na kanuni zako hususan Kanuni Namba Tano kuhusu mavazi ambayo Maseneta wanastahili kuvaa wakiwa katika Bunge hili. Seneta mwanaume anafaa kuvaa koti, shati, tai, suruali ndefu, soksi na viatu, nguo za huduma ama nguo za kidini. Nimemuona ndugu yangu Sen. Chimera pale amevaa vazi ambalo sidhani lina ruhusywa katika Bunge hili. Kwa hivyo, ningependa utoe mwongozo kuhusu vazi ambalo Sen. Chimera amevaa katika Bunge hili.

Asante, Bw. Spika.

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

**Sen. Kinyua:** Bw. Spika nimemskia Sen. Faki akitaja mavazi ambayo yanafaa kuvaliwa lakini nikimuangalia Sen. Chimera amevaa mavazi ambayo yanakubalika katika Bunge hili. Amevaa “Kaunda suit” ambayo nimekuwa nikimuona Seneta kutoka Kaunti ya Kisii akivaa kila wakati. Tunaweza kumkubalia ndugu yangu Sen. Faki kwamba pengine haoni vizuri kwa vile amevaa miwani. Mimi niko karibu na Sen. Chimera na naona amevaa vilivyo. Ukimwona Sen. Faki, ako na miwani. Kwa hivyo, naweza nikamwia radhi. Sen. Chimera amevaa mavazi mazuri.

Bw. Spika, jana uliongea na ukasema ya kwamba mavazi ambayo hasa ni ya Kiafrika tunapaswa tuyatilie mkazo. Hii ni kwa sababu utamaduni wetu unafaa zaidi na tuweze kuutukuza.

Ni kama vile ninavyoongea Kiswahili. Wengine wanasema ya kwamba sipaswi kuongea Kiswahili kwa sababu mtu anayeongea Kiswahili ni kama hajaelemika vilivyo. Anapaswa aongee lugha ya nyani ambayo ni Kiingereza.

Sen. Chimera, ako sawasawa. Ijapokuwa sitaki kukwambia uamuzi utakaotoa, lakini, kwangu mimi na wengi walioko hapa, hata mwenzake wakili wa kutoka Kaunti ya Makueni anakubaliana na mimi kwa sababu anaona vizuri.

**The Speaker** (Hon. Kingi): I will rule on a point of order. What exactly is out of order in that dressing, so that I understand you? You have indeed read Speaker's Rule No.5. However, what exactly is Sen. Chimera breeching in that particular rule.

**Sen. Faki:** Bw. Spika, hakuna koti la mikono mifupi.

*(Laughter)*

Koti ni la mikono mirefu ambalo linatoka kutoka kwenye bega mpaka kwenye viganja. Hatuwezi kusema kwamba lile ni koti. Hata kama ingekuwa ni suti ya Kaunda, iwe ya mikono mirefu. Suti ya Kaunda ambayo Sen. Onyonka anavaa ni ya mikono mirefu na inaziba sehemu hizi mpaka kwenye vitanga.

*(Sen. Korir spoke off record)*

Sen. Korir, ungenipa nafasi niongee.

**The Speaker** (Hon. Kingi): Sen. Faki, please proceed with your explanation.

**Sen. Faki:** Lile vazi alilovaa Sen. Chimera sio vazi ambalo linakubalika kulingana na Kanuni zako. Kama lingekuwa ni vazi la kienyeji, tungeweza kumsamehe. Suti ya Kaunda sio vazi la Kiafrika.

### CONSIDERED RULING

#### SEN. CHIMERA IS APPROPRIATELY DRESSED

**The Speaker** (Hon. Kingi): Hon. Senators, the Speaker's Rules on dressing are very clear especially if you look at Rule No.5. It goes to define what we are supposed to wear as we come to this House. For avoidance of doubt, let me also read it out to all of us-

“Senators are required not to enter the Chamber, lounge or dining room without being properly dressed. This means that a male Senator will be dressed in a coat, collar, tie, long trousers, socks and shoes or service uniform, religious attire or such other descent dressing as may be approved by the Speaker from time to time.”

Sen. Chimera is dressed in a Kaunda suit. The definition of a coat does not include that it covers the entire arm.

*(Applause)*

I therefore rule that the Senator is properly dressed.

*(Applause)*

In any event, as a Speaker, I have the power from time to time to determine what a descent dress is. Using that power as a Speaker, I rule that indeed Sen. Chimera is decently dressed.

Sen. Tabitha Keroche, please proceed.

## STATEMENTS

### STATUS OF RESETTLEMENT OF INFORMAL SETTLERS RESIDING IN KASARANI AND ELBURGON IN MOLO SUB-COUNTY

**Sen. Tabitha Keroche:** Thank you Mr. Speaker, Sir. I rise pursuant to Standing Order No.53 to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources regarding the status of resettlement of the informal settlers residing in Kasarani and Elburgon areas in Molo Sub-County, Nakuru City County. In the Statement, the Committee should-

(1) Apprise the Senate on the progress made by the national Government towards the resettlement of residents of East Mau who are now residing at Kasarani and Elburgon in Molo Sub-County and Nakuru East, Pipeline, Nakuru City County.

(2) State whether there is any allocation in the budget by the national Government to resettle the evictees.

(3) State whether there has been any input by the national Government to address the public petition on resettlement of East Mau Forest evictees, which was made to the Committee.

(4) Explain why the East Mau evictees, unlike their counterparts from Bomet, Kericho and Baringo counties, have been resettled and have not been compensated.

### HUMAN-WILDLIFE CONFLICT IN VARIOUS AREAS OF NAKURU CITY COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources on the human-wildlife conflict in various areas of Nakuru City County. In the Statement, the Committee should-

(1) Outline measures, if any, that the Kenya Wildlife Service (KWS) has taken to deal with the rampant human-wildlife conflict in parts of Naivasha East, in particular Kiambugo village, Longonot, Hells Gate National Park, Kuresoi North and Kuresoi South in Nakuru County where several residents have been killed and crops and property destroyed by animals.

Mr. Speaker, Sir, I was raised in Naivasha Sub-County in Kiambugo Village. There, people have five acres of land. We were brought up and educated there to become who we are today. However, today as we speak, Kiambugo Village cannot harvest any of their crops. This is due to Mt. Longonot National Park.

**The Speaker** (Hon. Kingi): Sen. Tabitha Keroche, restrict yourself to reading of the Statement. Do not debate or explain it.

**Sen. Tabitha Keroche:** Thank you Mr. Speaker, Sir.

(2) List all reported areas of human-wildlife conflict occasioned by wild animals in Nakuru City County from 2020 to date stating the remedial measures taken, including compensation of families of those killed by wild animals.

(3) Spell out measure being put in place by the Government to provide a lasting solution to human wildlife conflicts in the said areas.

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

If you have nothing to say, you can as well just have your seat. Senators, as you walk in do not just queue to speak for purposes of queuing. This is because I pick the names as per the order in my computer.

Kindly, if you feel that at this juncture you would not wish to contribute to the matter that is before the Floor of the House, please wait until the matter you are interested in contributing to be called upon, then you can press your gadget.

**Sen. Beth Syengo:** Thank you Mr. Speaker, Sir. Actually, I really wanted to comment on the issue that was raised. Since I seem to have been overtaken by events, I can only say that Sen. Tabitha Keroche is concerned about the suffering that her people are going through. It is important that this is taken into account. We stand by her Statement.

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

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I wish to comment on the Statement by the Senator for Nakuru City County. Sen. Tabitha Keroche, has raised a very important issue. I urge the Committee which will deal with this Statement to extend their findings to other counties.

Baringo County has had situations similar to the ones in Nakuru County. We have lakes Baringo and Bogoria and up to date, there are families that cannot go back to their homes. It is because the water levels went up in those lakes. So, this is a very emotive issue.

We need to go beyond resettling people who have been affected by the high levels of water around the two lakes and also look into the issue of squatters. Many families in Baringo South and Baringo North cannot go back to their homes because they have been affected by cattle rustling. They were displaced and they moved away and settled within neighbourhoods. Their livelihoods have been affected and children cannot go to school. These people are suffering.

Apart from dealing with the Statement by the Senator for Nakuru City County, this House also has the responsibility to deal with matters of Kenyans suffering due to displacement. Such people should also be resettled.

I urge the Committee that will handle this matter to go beyond Nakuru County and also deal with the issue of displaced families in Baringo County. Those families are living in very bad conditions. I propose to join the Committee when they will be hearing this Statement, in order to argue the case for Baringo County and the entire country.

I thank my colleague for this Statement. It will help Kenyans who are suffering across the country.

**The Speaker** (Hon. Kingi): Sen. Maanzo, you can proceed.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. I rise to make a Statement on behalf of Sen. Oketch Gicheru.

**The Speaker** (Hon. Kingi): That has not been called, I thought you wanted to contribute to---

**Sen. Maanzo:** Yes, Mr. Speaker, Sir, I have the two assignments. I would like to support the Senator for Nakuru City County and reiterate our sentiments. We work very closely with her and I can see she is working very hard for her people. So, we support her in that cause.

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

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I support Sen. Tabitha Keroche and congratulate her for the Statement on resettlement of informal settlers in Molo, Nakuru County.

This issue of squatters arising from forest and infrastructural evictees continues to affect this country a great deal. In the last Session, the former President, Uhuru Kenyatta, committed to allocate Kshs10 billion for compensation of displaced Kenyans, especially those affected by historical land injustices.

The historical land injustices continue to be the biggest threat in terms of access to affordable housing and a life of dignity. I agree that there are many Internally Displaced Persons (IDPs) because of either Post-Election Violence (PEV) or other problems. The issue of Mau evictees also keeps rearing its ugly head. I hope with this issue, the people of Mau will be either compensated or allocated alternative land to settle.

We have the same problem in Nandi County, in places like Kipkurere, Natipkong in Nandi Hills and Tinderet constituency. There are many forest evictees who are living outside the forest. Nandi County is lucky because we have three forests, unlike any other county.

There are squatters and evictees in Kiptuya in Emgwen Sub-county. That matter even came before the Committee on Lands, Environment and Natural Resources. Many families in Emgwen Sub-county in one of the areas in Kiptuya are yet to be resettled.

Mr. Speaker, Sir, we also have the same issue of historical land injustices in Nandi Hills Constituency. Sen. Beth Syengo might one day fly over there. I know the Speaker has flown over Nandi County. When you fly over or drive through this area, you may think all is well and get the impression that those people are living in Canaan. We are not. Most people who are supposed to be beneficiaries of that land were evicted by multinational companies. They are living like monkeys and do not have a dignity. When somebody dies, there is nowhere to bury them. In Nandi Hills Sub-County, most people have been made squatters in their own country.

We saw the scandal of Lipton Tea in the “Sex for Work” documentary in Kericho County. That tea continues to be stained with the blood of many Kenyans. Apparently, as much as somebody enjoys the tea anywhere in Europe or the United States of America (USA), that tea is tainted with blood. For as long as we have not compensated many

families that were evicted for multinational companies to set up their tea factories, there will always be great travesty of justice.

I support the resettlement of Molo settlers. I also support the resettlement of evictees from Mau, Nandi Hills, Tinderet and Emgwen sub-counties. Let them have the right and feel nice. We are not saying the Government should give them chocolate and flowers, but we want them to appreciate the reason they are in the country.

In conclusion, Mr. Speaker, Sir, if an African man does not have land, it like you are nobody. That is how we were brought up. I am not talking about other things but land. Land is an identity.

I hope the Committee on Lands, Environment and Natural Resources will call us to enrich this discussion. With the Budget Policy Statement (BPS), I appeal to the Government to commit Kshs10 billion for resettlement of any squatters, forest and infrastructural activities.

With those many remarks, thank you for the opportunity.

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

**Sen. Abass:** Thank you, Mr. Speaker, Sir. I stand to support---

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

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

**Sen. Cheptumo:** Mr. Speaker, Sir, Sen. Cherarkey comes from Nandi County and I come from Baringo County. It worries me that according to Sen. Cherarkey, a man is defined by---

**The Speaker** (Hon. Kingi): Sen. Cheptumo, you ought to have rose on a point of order while the Senator was---

**Sen. Cheptumo:** Mr. Speaker, Sir, is he in order to---

**The Speaker** (Hon. Kingi): Kindly take you seat. Sen. Abass, proceed.

*(Laughter)*

**Sen. Abass:** Thank you, Mr. Speaker, Sir. I stand to support the Senator for Nakuru City County, Sen. Tabitha Keroche. As you are aware, this country has people who have not been settled for many years. There are people who have remained Internally Displaced Persons(IDPS) in their own country since Independence. From time immemorial, before Independence, we have had many people displaced by the white settlers. Today, they are landless and IDPs in their own country.

We have conflicts in the country resulting to people running away from their homes. They do not have places to settle and they form part of the informal settlers. It is a high time that this country settles its own citizens. Those people should live decent lives; their children should go to school. The IDPs would also like to enjoy farming and get all privileges that other Kenyans have. I support the Statement by Sen. Tabitha Keroche.

**The Speaker** (Hon. Kingi): Next Statement is by Sen. Wafula who is not in the House. The Statement is deferred.

ROUTING OF INTERNATIONAL GATEWAY TARIFFS BY MOBILE  
TELECOMMUNICATIONS FIRMS AND SERVICE PROVIDERS

*(Statement deferred)*

Sen. Cherarkey, please proceed.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I have two Statements.

**The Speaker** (Hon. Kingi): Senator, before you proceed with your Statement, the two Statements by Sen. Tabitha Keroche are committed to the relevant Committees in the usual manner.

Sen. Cherarkey, proceed.

**Sen. Cherarkey:** Mr. Speaker, Sir, I request your indulgence so that I read the two Statements concurrently to make it easy for colleagues who want to raise any comments on both of them. I hope you will allow me to read the two Statements concurrently.

RATIFICATION AND USE OF APPROPRIATE SCHEME  
OF SERVICE FOR CLINICAL OFFICERS

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on the ratification and use of appropriate scheme of service for clinical officers in Kenya. In the Statement, the Committee should-

(1) Explain why the Ministries of Health and Public Service, Gender and Affirmative Action have failed to ratify and implement the 2022 draft scheme of service for clinical officers in Kenya.

(2) State why the Ministry of Health has not concluded the Collective Bargaining Agreement(CBA) negotiations with the Kenya Union of Clinical Officers (KUCOs) and the implementation of return to work formula of October, 2010.

(3) Explain why the Ministry of Public Service, Gender and Affirmative Action has failed to issue a directive to county Governments, that continue to engage clinical officers using the 2014 scheme of service despite a circular advising them to use the 2020 draft scheme of service across the counties.

(4) State when the Ministry will issue the correction circular to cover diploma clinical officers whose job descriptions are similar to those in the scheme of service at Job Group J and K.

That is the end of my first statement. Allow me to read the second statement.

STATE OF AFFAIRS AT KICC

**Sen. Cherakey:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialization and Tourism

on the state of affairs of the Kenyatta International Convention Centre(KICC). In the Statement, the Committee should-

(1) Apprise the Senate on the State of the KICC management providing the corporation's current financial position in terms of assets and liabilities.

(2) State reasons, if any, for the failure by the KICC management to ensure general cleanliness and availability of basic amenities at the facility.

(3) Disclose the terms of engagement in the contract between the KICC and Lavington Security Limited, which is providing security services at the premises.

(4) State the measures, if any, being taken by the KICC to ensure the security of tenants and staff. You are aware that most of the Senators and Parliamentarians have offices in KICC.

(5) In view of the current access by all manner of unauthorized persons into the building, provide an updated list of all contracted service providers at the KICC.

Thank you for the opportunity.

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

**Sen. Mungatana, MGH:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Cherarkey on the question of the terms of engagement for clinical officers.

It is sad that the Ministry of Health has not taken up issues to do with labour matters seriously. We know that health is delegated, but the attitudes have also been delegated to the county governments. Clinical officers are treated with disdain and contempt in the county governments. When the Committee on Health is investigating this Statement, I urge them to not only restrict themselves to Nandi County, but to also focus on the rest of the counties in the Republic.

The clinical officers do more work than the doctors. They are the first line of defense when it comes to treating the sick in hospitals. We know that doctors are fewer than the clinical officers. They do more work than the doctors. The public health sector in various counties have not treated the clinical officers well.

The attitude of the public health has continued to deteriorate. I urge the Committee on Health to look into this matter as well. We have had a problem with interns who were employed under the Universal Health Coverage(UHC). This was done sometime in 2020. They were taken in because at the time the Government was trying to boost its universal health reach and to boost the war against COVID-19.

In Tana River County, we had 24 UHC interns who were also employed. They were given employment contracts for one year. When those contracts expired, they were told by the county governments that there is no money to absorb them. Even those who had graduated, those who were qualified and employed under the UHC arrangement were told to go away.

The treatment of our health workers is unacceptable. As the Health Committee sits down to look at the issue raised on the clinical officers, they should extend their tentacles to look at the issue of UHC interns and the other interns who were employed. The Committee must look into the matter and try to make sense of why the Ministry of Health took people and gave them employment numbers under the Ministry. Now that



they have those personal employment numbers, they are unable to get any other jobs within the public service. The unfairness must be corrected. I urge the Committee to treat that Statement with the heaviness and the seriousness that it requires, so that our health workers are given the dignity that they deserve.

I support that Statement by Sen. Cherarkey.

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

**Sen. Omogeni:** Mr. Speaker, Sir, I rise to support the Statement by Sen. Cherarkey that touches on clinicians in our health sector, not the one at the Kenya International Convention Centre (KICC). I do not know about it.

Mr. Speaker, Sir, you have been a Governor. Therefore, you know the excitement the people we represent in our counties had when devolution brought in health as a service that is devolved. The largest population in this country lives in *mashinani*. Therefore, when Sen. Cherarkey brings an issue that touches on clinical officers, it excites me to rise up, make a comment and support.

There is an adage that says that a healthy nation is a working nation. A working nation is a wealthy nation. For us to have a working nation, we have to ensure that the health of our people is taken care of. If you peek at statistics, we are staring at a crisis.

I serve in the Senate Committee on Health. Last month, we got a report that in January alone 50 trained nurses left Kenyatta National Hospital (KNH) for greener pastures in the United States of America (USA), simply because they are getting better pay on the other side of the Atlantic. This is a matter that should catch the attention of the Salaries and Remuneration Commission (SRC).

Last year, I spoke of the gazette notice that was released by the SRC that addressed increase of allowances and perks for people in higher levels, that is, commissioners, Cabinet Secretaries and the President. However, there was nothing that touched on the health sector in this country. That is not right. If this trend continues, we will wake up one day and find that we have no clinicians or nurses and it will trigger a big crisis.

I am making a very passionate appeal to the SRC. I saw that the supplementary budget has a proposal to give the national Government an additional Kshs92 billion to meet daily expenditure and not development. I hope that will also address salaries for this cadre of Kenyans.

Mr. Speaker, Sir, we know the President has his prerogative to appoint 23 Cabinet Administrative Secretaries (CAS) and that is okay. However, the people that should get our attention are the clinicians.

We moved around and that time we knew were getting the Presidency. We had Dr. Matiang'i and the State on our side. We assured Kenyans that once we came into power, they would have Kshs6,000 in their pockets, but we lost. Now, the United Democratic Alliance (UDA) is in Government. Remember you promised the people of Kenya that you would build the economy from the bottom-up. That is the message you delivered to Kenyans.

The best way to implement that policy is to ensure that Kenyans who are at the bottom of the pyramid, in terms of earnings, are taken care of. They are our brothers and sisters and voters at the county level. We really need to champion their cause.

I hope that the committee that will be tasked to look at this matter will summon the SRC to give us an update as to when they last viewed salaries of clinicians, nurses and other people who are in the healthcare sector.

Mr. Speaker, Sir, I support this Statement and plead with my good friend, Sen. Cherarkey, who is a close friend of the Head of State, to pass a message to His Excellency the President not to forget the true hustlers. He should take care of this cadre of Kenyans before he takes care of the CASs.

**The Speaker** (Hon. Kingi): Sen. Mutinda.

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Cherarkey and to state that health is a devolved function. In Nairobi City, we have over 165 county hospitals. Only four are national hospitals.

The issues of Community Health Volunteers (CHVs) and clinical officers is a very key in this country. I support this Statement because people come from different counties seeking services in the capital city of our beautiful country. As the representatives of the people, we are saddened by the way the health issue has been tackled, whereby the remuneration of CHVs remains at a low level.

I support the Statement by saying that the Committee should address this issue very urgently. I suggest that they summon the Cabinet Secretary (CS) for Health in order to give answers into the way forward as far as the matter of the health sector in general, is concerned.

I extend the same to the different other counties of this country because as Senate we oversight counties. We need to enhance devolution by ensuring that services get to the people at the *mashinani* level; which is why we are here. I urge the Committee to look at it quickly.

At the same time, the Committee should look at the issue of the diploma for clinical officers. This is an issue that has been there for a long time even when I was a studying pharmacy for my tertiary level education. I urge the Ministry of Education to look into this issue closely because it keeps recurring. It does not only affect the diplomas for the clinical officers, but also the pharmaceutical students. This is an issue that the Ministry of Education, through the Committee on Education, should address for long term and make sure it comes to a close.

**The Speaker** (Hon. Kingi): Sen. Beth Syengo.

**Sen. Beth Syengo:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Cherarkey. It is important that the terms of engagement for clinical officers are looked at critically.

My colleague has stated that health is a devolved function. It is unfair, from time to time to have our health workers in the streets demonstrating and demanding for a Collective Bargaining Agreement (CBA) while they disrupt health services in our facilities.

At the entry point, clinical officers in their training institutions are required to have high qualifications. It is unfair when they are not fairly treated in terms of their remuneration. This is discouraging our students in school. They feel that if they take up health courses, they will not be treated well and will not get a proper payment package. That is what makes many of our health workers to go abroad to look for greener pastures.

I request the Committee on Health, where this Statement is heading to, to treat this matter with the seriousness it deserves because we need to uphold the dignity of our health workers.

Thank you, Mr. Speaker, Sir.

**Sen. Abass:** Thank you Mr. Speaker, Sir. As you are aware in this country, the health situation and conditions of the people of Kenya, it is a healthy nation, but most of our health practitioners are not well taken care of.

We see our doctors in the streets every day. The registered clinical officers are not employed anywhere. The nurses are hustling. The other day we saw in the papers that doctors cannot go out of the country to look for jobs. If we are not able to employ them then they should be allowed to look for jobs outside.

Secondly, as Hon. Wakili Sigei said, nowadays we do not seem to have clinical officers. We have doctor and nurses. I know Kenyatta University has started a degree on surgery and clinical studies. It is high time that we focused on the health sector of our country.

If you look all over the country, most of the hospitals, dispensaries and health centres do not have enough doctors. The medical officers are not there. It is the clinical officers who are doing their job. Their welfare is not well taken care of. Generally, since the health sector was devolved, it appears to be just a way of getting employment. The registered clinical officers should be considered and should be part of the structures.

Mr. Speaker, Sir, I beg to support.

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to put some thoughts around this very powerful Statement by my friend, Sen. Cherarkey.

Just as my brother Sen. Omogeni has talked about the state of health in this country, if we do not solve the issue of healthcare, especially after devolution, it will be a very big problem.

At the heart of solving the issue is the payment of these officers. It is an attempt to try and professionalize healthcare in the counties. The one big part that sometimes misses in this conversation, both at county and national levels, is the operationalization of the scheme of service.

You remember in 2015, we had one of the most elaborate and most revised schemes of service for healthcare workers in the counties, but up to date, this scheme of service has never been implemented. We are in 2023, but this scheme of service, in the plan, was something that could have brought about a number of changes in 2016, 2017, 2018 all the way to 2022.

This is critical because one of the challenges that the counties are facing is that they find excuses when it comes to paying healthcare workers because one, there is no well-defined career structure which will attract, motivate and facilitate retention of these officers to the extent that if you look at some of the recurring pending bills in the counties, the bulk of them are these healthcare workers.

Additionally, there is actually need to provide for a clearly defined job description and specification of duties and responsibilities for some of these medical officers the reason being that the structure of healthcare in the grassroots communities tends to vary from place to place. If you think about a small dispensary in my village, a health care worker is sometimes reduced to a simple Panadol giver because there is no equipment, capacity and the issues they are dealing with sometimes need very serious attention.

If there is no proper scheme of service that defines their job descriptions it becomes problematic. As we know, money sometimes is a reward of work well done. What is happening is that if they do not do the job they are supposed to do, or they are not equipped to perform a duty, then there is always an excuse for mischief by the county structures not to be able to pay them.

Thirdly, there is a very critical element around standardization of recruitment and training and advancement for some of these healthcare workers. I know my sister Sen. Tabitha Mutinda talked passionately about community health workers, who are now referred to as community health volunteers. The process of recruiting and advancing the knowledge of some of these people becomes such a problem and it goes back to the idea of the scheme of service that is not implemented.

Lastly, one of the biggest challenges in the counties is that when you look at the healthcare sector, it is not taken as a serious career in the grassroots communities. The reason for this is that without pay people give up and start volunteering even after qualifying so well as my brother, Sen. Omogeni, talked about serious nurses that come out of our universities then go to the grassroots seeking for jobs. They do not get the jobs and they end volunteering.

There is need to ensure there is appropriate career planning and succession in terms of management of the entire healthcare infrastructure in the counties. This Statement is a very good nexus to appeal to the Cabinet Secretary for Health if she can be able to help counties to operationalize the scheme of service that we has been sitting on their desks since 2015.

Mr. Speaker, Sir, I support.

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by my learned junior, Sen. Cherarkey.

In every election, every government has a manifesto that talks about health. Health is a critical component of our society. We talk about universal healthcare, guaranteeing every Kenyan proper medical care.

The limitation we have as mentioned by the Member who has raised the Statement is that we have the personnel. We also have several medical training colleges across the country and every year several nurses and other healthcare workers graduate.

The problem is not shortage. They are available, but, the pay and the lack of a scheme of service.

Members of this House will always advocate for their interests. We talk about the Oversight Fund because we want to do our work as Members of this House. Teachers will talk about their salaries, promotion, salary increment and so on, which is in order but the worst situation today is that our healthcare workers are not paid well. There is no proper scheme of service and that explains why we have a shortage and a problem.

Mr. Speaker, Sir, you were a Governor for two terms in Kilifi County. I am sure if we were to give you a chance to speak about this issue, you would tell us the very clear experience you went through. These healthcare workers are not paid well because of lack of a scheme of service. I support that proposal through the Statement. It is, indeed, important that we have a scheme of service for these cadre of medical staff.

In the just concluded Budget Policy Statement (BPS), if you can recall as you were in the House, the national Government proposes to employ about 20,000 medical staff. I support that. However, as we continue to employ more medical staff, we should equally look into the welfare of the already employed members serving in the medical sector. This is so that, we do not produce many qualified staff for medical services, for instance, nurses, clinical officers and so on yet we lose most of them to either foreign employment, as said by Sen. Omogeni or even the private sector.

Mr. Speaker, Sir, Kenyans are unable to pay their medical bills in the private sector. We access more of the public facilities. If we lose the qualified medical personnel to go to the private sector or out of the country, we will be back to square one. In as much as we want to employ more medical staff, focus should also be given to those who are already employed. The scheme of service is important.

The critical institution here, which this Committee should address is the Salaries and Remuneration Commission (SRC). That is the same institution that is constitutionally mandated to look at all these issues. I have heard them talk about the teachers, Members of this House, public and civil servants, but less is given to the medical staff.

I join my colleagues in supporting this Statement. I call upon the national Government to devolve the health function 100 per cent to our counties. It is our business to ensure that we pursue this route until we have our medical staff go under the scheme of service, so that we have the devolution of health achieved for the betterment of our people.

I support.

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

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. This matter affects all counties and I rise to support Sen. Cherarkey.

I want to take a different dimension on it. When COVID-19 came, the people who suffered most were the clinical officers. The disease was new and there were no equipment to protect them. Many people did not even know what was happening.

In Makeni County, I assisted in burying quite a number of these officers who died when COVID-19 begun infecting people. Since they had the first contact, their remuneration after death was not defined.

Mr. Speaker, Sir, this being a devolved function, it must be fully devolved. I am sure you are very experienced on this. The national Government through the Ministry of Health has refused to fully devolve this function. They have devolved a few functions, but not the money. The money has to get to the counties.

The scheme of service is not clearly defined. Some counties are employing and the national Government is also employing. It has not been synchronized since the 2010 Constitution came into being.

While you deal with different sections like SRC and the Ministry of Health, some of the functions have remained in the national level, especially on insurance. Additionally, there is no proper way of synchronizing it with the counties.

I remember the experience of Makueni County. Although Prof. Kivutha Kibwana was then the governor and was trying to come up with insurance, it took quite a while even for the locals to understand what it was about, to believe in it, execute it or buy into it.

Therefore, the health sector continues to suffer while we have a policy and the Constitution. The Health Sector should be fully devolved and this matter addressed quickly so that they can be properly remunerated. This is especially so now that they work for long hours and sacrifice their lives. The profession has also become very dangerous in terms of new diseases or existing diseases, which attack the officers who are in the line of duty.

I support.

**The Speaker** (Hon. Kingi): Next Statement is by Sen. Mwaruma. It is deferred.

OWNERSHIP STATUS AND ADJUDICATION  
OF KISHAMBA B LAND IN VOI SUB-COUNTY

*(Statement deferred)*

The next Statements by Sen. Kibwana are also deferred.

STATE OF THE NUT INDUSTRY IN KENYA

TAX INCENTIVES THAT SUPPORT CLIMATE  
CHANGE PROGRAMMES IN KENYA

*(Statements deferred)*

The next Statement is by Sen. Oketch Gicheru.

ALLEGATIONS OF UNSETTLED AND UNREMITTED  
STATUTORY PAYE DEDUCTIONS FOR  
STAFF IN COUNTY ASSEMBLIES

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, thank you, once again. I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Finance and Budget on allegations of non-remittance of statutory Pay As You Earn (PAYE) deductions for staff in county assemblies. In the Statement, the Committee should-

(1) Give a report on state of remittance of statutory PAYE deductions for staff in county assemblies for 2022 to date, disclosing counties which have been flagged out by the Kenya Revenue Authority (KRA) for PAYE arrears;

(2) Explain why KRA has opted to appoint Central Bank of Kenya (CBK) as an agent for collection of unremitted PAYE arrears;

(3) Establish whether remittances to counties are being disbursed in a timely manner, providing a schedule of the timelines within which remittances were disbursed to the counties in the last 12 months;

(4) Investigate allegations of unauthorized expenditure of funds, which had been earmarked for staff statutory PAYE deductions, informing the Senate where such funds were diverted to;

(5) Cause an audit of the cycle from when disbursements are made to counties to when statutory deductions are remitted to the relevant statutory agencies for the last 12 months, outlining very clearly the challenges encountered by the counties, proposing possible interventions;

(6) Spell-out measures that have been put in place to ensure that the responsible officers within the County Assembly Service Boards are held accountable; and,

(7) Outline measures, if any, to regularize the illegal diversion of funds meant for staff statutory deductions tabling evidence of the same.

I thank you.

**Sen. Omogeni:** Thank you, Mr. Speaker, Sir, I rise to support this Statement by Sen. Oketch Gicheru.

Mr. Speaker, Sir, when I read Article Six of the Constitution, we have two governments that are interdependent. That is the national Government and 47 county governments.

Where you and I went to law school in the University of Nairobi, there used to be the Government Proceedings Act that prohibited attachment of Government property. I cannot understand how KRA can attach monies for counties at the Central Bank of Kenya (CBK) because these are two governments.

I am happy that in the House, we have two former governors and one of them is here - my Chairperson of the Health Committee. This should not happen. A government cannot attach another arm of government, unless we want to create anarchy and dysfunction.

Mr. Speaker, Sir, I wish to point out a case of Nyamira County. As we speak, the Kenya Revenue Authority (KRA) has attached the accounts of the Nyamira County Assembly. We cannot access the account. The allegations are that the County Government has not remitted Pay As You Earn (PAYE). I can authoritatively say that remittances for December and January have not been remitted to Nyamira County.

PAYE is deducted at source. You pay and then deduct. I pose the question; how can KRA purport to demand to be given PAYE for money that has not been disbursed and we have one Government?

I remember the Mwongozo Charter had the policy of “One Government, One Service, One Nation”. So, does KRA live in Kenya or elsewhere?

I request the Committee that will look at these allegations to summon KRA. Yesterday, I was at the National Treasury. You should sympathise with me because I walk with this letter from KRA wherever I go. I want the accounts of Nyamira County opened. I seek permission to table this letter here, so that the Committee that will look into this matter can summon KRA.

Mr. Speaker, Sir, you can attach accounts of private entities, but not of another Government body, by the same Government agency. This is not right. This has caused havoc.

We are celebrating the International Week for Women, but Members of Nyamira County Assembly (MCAs) have impeached the County Executive Committee Member (CECM) for Finance, Ms. Emily Ongaga. It is because of KRA attaching their accounts. We need to restore order on the functions of Government. We cannot have this kind of situation. Maybe Nyamira County has been isolated.

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

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

**Sen. Kinyua:** Mr. Speaker, Sir, I have listened to the Senior Counsel canvass this serious matter and I agree with him. I would only like to ask him; how then did the MCAs of Nyamira County impeach the CECM for a mistake she has not committed? It is KRA which committed this mistake!

I beg the Senior Counsel to advise the MCAs to sympathise with the CECM because she is suffering for an injustice that she has not committed. This being a day for women, Senior Counsel, maybe you can defend her in a court of law.

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

**Sen. Omogeni:** Mr. Speaker, Sir, I thought the Chairperson of the Finance Committee in the Parliamentary Service Commission (PSC) was going to be the bearer of good news. I thought he would say that tonight, he will have a word with His Excellency the President and by tomorrow, Nyamira County Assembly will have its money. However, I take the advice. I will speak to the MCAs so that they do not impeach this poor lady, the CECM for Finance. It is not her mistake that money has not been disbursed to Nyamira County Government.

Mr. Speaker, Sir, nonetheless, I want the Committee that will look into this matter to address the relationship that KRA has with county governments. I miss the days of the first Chairperson of the Council of Governors (CoG), Hon. Isaac Rutto. This would not



have happened during his tenure. Neither would it have happened during the tenure of hon. Oparanya.

We are now celebrating women, but where is the voice of Gov. Waiguru, the Governor of Kirinyaga? She should be speaking on this matter. I have not heard any statement. I request Commissioner, Sen. Korir, to reach out to Gov. Waiguru and tell her to talk about this issue. We do not want county governments to be harassed by KRA. We love our women. This is the International Women's Week. We need to hear her voice.

Mr. Speaker, Sir, I hope the CoG will also take up this matter, engage KRA and advise them not to attach accounts of county governments, before they receive their disbursements from the national Government. That is how devolution works. This money does not come from the source.

Mr. Speaker, Sir,---

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

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

**Sen. Korir:** Thank you, Mr. Speaker, Sir. Is it in order for the Senior Counsel to blame the Chairperson of CoG, yet he knows the same problem he is absolving the CECM for Finance of Nyamira County, is also the same the Chairperson CoG is putting to the National Treasury? Is he in order?

**Sen. Omogeni:** Mr. Speaker, Sir, how can I lay blame on the gracious lady, Gov. Waiguru? All I urge is that we want to hear her voice, as the CoG Chairperson. She should come and address issues facing our counties. In fact, I want her to take personal effort, the way I have been advised by Sen. Kinyua, to speak to the MCAs of Nyamira County, to spare this poor CECM for Finance. She is being impeached for lack of funds in Nyamira County Government, yet the mistake is not of her own making.

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

**Sen. Omogeni:** Mr. Speaker, Sir, advise Sen. Kinyua that he cannot speak twice on the same issue. He is totally out of order.

*(Laughter)*

**The Speaker** (Hon. Kingi): Sen. Omogeni, that is my work. Kindly proceed. You are out of order, Sen. Kinyua.

*(Laughter)*

**Sen. Omogeni:** Mr. Speaker, Sir, please, assist us. We are proud to have you as our Speaker. You have been a Governor and you know the financial problems that county governments go through. Assist us to ensure that we strengthen devolution.

I listened to the speech of H.E the President this afternoon. I heard that money being given to our gracious ladies, who are our representatives from counties, will get an additional Kshs1 billion to the National Government Affirmative Action Fund (NGAAF). I did not hear anything about the Senate Oversight Fund (SOF).

We also need to have our leadership engage with the President. I do not know where our leadership was when the gracious ladies were engaging H.E the President? Today, they got Kshs1 billion towards NGAAF.

Mr. Speaker, Sir, to date, Senators have no money for oversight. I guess maybe if we had money for oversight, we would be able to do capacity building for our MCAs, so that they do not harass our CECMs for mistakes that are not of their making.

Mr. Speaker, Sir, I thank the Senator for Migori County for bringing this Statement to the House. I hope that we will get some solutions to these problems facing our county governments.

Mr. Speaker, Sir, I support.

**The Speaker** (Hon. Kingi): Sen. Omogeni, I heard you say you wish to table that letter. Kindly proceed.

**Sen. Omogeni:** Mr. Speaker, Sir, on behalf of the great people of Nyamira County, I wish to table the letter dated 15<sup>th</sup> February, 2023. The letter is from KRA, closing Account No.1000009877 belonging to Nyamira County Assembly, on allegation of non-remittance of PAYE for the month of January, totaling to Kshs2,899,433. I beg to table.

*(Sen. Omogeni laid the document on the Table)*

**The Speaker** (Hon Kingi): Next, Sen. Crystal Asige?

**Sen. Crystal Asige:** Mr. Speaker, Sir, thank you very much for allowing me to stand and support the Statement brought by Sen. Eddie Oketch of Migori County.

Without repeating what any of the other Senators have contributed, I just want to tag onto something that Sen. Omogeni has mentioned about the Kenya Revenue Authority (KRA), suggesting that we summon KRA to the Senate to answer some of these questions being discussed here today.

Mr. Speaker, Sir, recently, we have been hearing of KRA in the news on different issues. Some of those issues are not being taken too well by Kenyans in general. Not just county, not just through county government accounts but also very recently as you know, this week on the 28<sup>th</sup> of February, the KRA Chairperson issued a directive to suspend all tax exemptions, waivers, abandonment and reliefs across the country, citing issues of leakages in revenue, and trying to streamline the process of KRA.

These kinds of issues, as well as what has been tabled here today by the Senator for Migori, are very critical to Kenyans of national importance and concern. As you know, Persons with Disabilities (PWDs) are amongst the most vulnerable members of our population today battling historical exclusions and deeply rooted inequalities across all areas of life, including health, well-being, education, social, economic, cultural, and political spheres. Not to mention the systemic oppression and discrimination every last one of us has experienced because of our disabilities.

Mr. Speaker, Sir, we also know that persons with disabilities are forced to struggle daily through the reality of Kenya's current high cost of living. That includes food prices that have increased, fuel prices, electricity prices, public transport prices,

home rental prices, inflation as well as a myriad of other hiked-up costs being experienced by the entire country.

Mr. Speaker, Sir, this special interest group must in addition simultaneously bear the burden of independently financing in the best-case scenario, frequently and in the worst-case scenario, life long medical costs, specialized treatment costs, therapy costs, rehabilitation costs, physiotherapy costs, mobility aid costs, digital equipment and technology costs, as well as the extra cost of hiring a fulltime caregiver at times, a sighted guide as I do, a signed language interpreter, special needs educator and in severe cases, the hiring of around-the-clock trained medical nurses to give specialized care to some of these severe and profound cases of disability.

The directive by the KRA has deeply concerned me because these people with disabilities are among those who are given some of these tax exemptions and because this directive is very ambiguous in nature and with immediate effect, it was said. Unfortunately, it has no immediate remedies or clarifications as to the scope of the directive and how much it will affect the person whom it falls under. We cannot continue to allow KRA to go without answering these questions we have.

Apart from what has been tabled here today, I agree with Sen. Omogeni, that we should summon KRA because there are several questions that we need them to answer regarding counties, regarding this special interest groups, and this matter that has been canvassing the media this week. PWDs across the country, the entire fraternity are asking questions. Are we affected by this directive? How much are we going to be affected by this?

What are we supposed to do in the meantime? We have all of the costs that are going to affect us and we have to bear the burden in the meantime, whilst these processes, which we do not know what they are, are being streamlined, whilst these loopholes are being sealed. This is extremely urgent, and I wish that the Chairperson and the team at KRA who put together this directive would be able to come and answer these questions as well.

This Government is supposed to offer social protection to PWDs and not allow these types of directives to go across the country and be announced because they end up disabling us even further than we already are. This statement is extremely important not just to me, but to the people who have been calling my phone the entire week and asking questions about what does this mean for us. For purposes of the dignity of people who are living in this country, we all know, any one of us, any one of you, shall I say, because I am ready in this eternity, can join the PWDs fraternity any day. If by some bad luck that happens, I am certain that this will be a priority.

Mr. Speaker, Sir, I support that the KRA should come and answer all of our questions.

I thank you.

**The Speaker** (Hon Kingi): Sen. Mandago?

**Sen. Mandago:** Thank you very much, Mr. Speaker, Sir. I rise in support of this Statement by Sen. Oketch Gicheru of Migori County.

Counties have continued to withstand the worst of the failure to release their equitable share of resources timely. For the KRA to close the accounts of the Nyamira County Assembly is not only unfair, but irrational. I say this because KRA is tasked with the responsibility of collecting taxes, and revenue, and submitting them to the National Treasury for onward disbursement to counties and the national Government. Not only has the KRA closed the accounts of Nyamira County, but it has also had another practice where when there is a delay in the release of salaries, and staff of county governments have gone without salaries for three months. KRA levies a penalty on accrued PAYE for mistakes that were committed by the National Treasury.

The KRA is an agency of the National Treasury. They should not blame county governments. The Senate must think of ways of amending the Public Finance Management Act (2012) Act and the Finance Act, so that funds meant for counties are disbursed before any other funds are sent to any other national Government. It is really unfortunate that a county can pay a levy of almost Kshs100 million or Kshs200 million on account of delayed remittances of PAYE when there have been serious delays in disbursement to counties.

The Senate will have to look into this matter. I agree with Sen. Omogeni that KRA should only appear before this House. When the KRA appears before this House, it should be in a Committee of the Whole because there are a myriad of issues that we need to discuss with them which touch on counties.

Mr. Speaker, Sir, the Central Bank of Kenya (CBK) and the KRA are all agencies of the national Government. It is not lost on the National Treasury, which has appointed the Kenya Revenue Authority (KRA) as their agent of collection of taxes and the CBK as the holder of the accounts of the county government. There is no way KRA will persuade us that they do not know whether they have received the money for Nyamira County. To the extent that they are acting on behalf of KRA to close their accounts and freeze all the funds that are coming, that should have gone to the County Assembly of Nyamira.

Mr. Speaker, Sir, we urge the Committee that will handle this matter to take it seriously. As a House, we would like to have a session with the KRA.

On the matter that has been raised by Sen. Crystal Asige about Persons with Disabilities (PWDs) and the exemptions they have been having, KRA must come out clearly on the fate of the PWDs on matters exemption.

In case KRA is not aware, in this country, the PWDs are already disadvantaged even when it comes to treatment or getting assisting devices. The only assessment center that is used to determine the kind of support PWDs need is only one at the Kenya Institute of Special Education (KISE). It is also simultaneously used for training and is not sufficient. Therefore, they lack the capacity.

The PWDs are already disadvantaged. As a nation, we cannot afford to disadvantage them further. No matter the tough economic times we are in, we cannot go to that level. KRA can think of other better measures.

There was a ruling from the Supreme Court that there are some associations that can be allowed in this country. Probably, KRA can think of how they can raise revenue from those kinds of associations instead of going for PWDs.

Mr. Speaker, Sir, I beg to support the Statement by Sen. Oketch Gicheru. I wish to see that the KRA appears before the Committee of the Whole to answer on this matter of counties. It is very detrimental to close the accounts of a county assembly, which has resulted in an impeachment of an innocent County Executive Committee Member (CECM) who cannot take her salary or her proceeds from the farm to finance the County Assembly of Nyamira.

I submit.

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

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. From the onset, I congratulate and thank Sen. Oketch Gicheru for bringing up this matter on the Floor of the House through a Statement. The situation at KRA and the old regime of remittance of revenues to counties is a matter that we need a substantive Motion to deal with.

Mr. Speaker, Sir, yesterday, you allowed me, alongside six other colleagues, to go to Kitui County Assembly for my annual address to the County Assembly.

One of the things that the County Assembly of Kitui bitterly complained about is the many instances that they have been pushed against the wall by KRA on matters revenue.

It is basic knowledge. You can only pay or deduct from an employee's salary Pay as You Earn (PAYE) if the salary is available in the first place. If there is no salary from where to deduct PAYE, then you cannot deduct it. It is not the responsibility of county governments to provide to themselves monies to pay their employees.

County governments receive their share of revenue through this Senate. Through the annual County Allocation of Revenue Bill, we horizontally share money among counties.

The Public Finance Management Act is very clear that once this decision is made and the disbursement schedules are passed, there are timelines given for remittance of monies to counties, to ensure that they run their budgets as they should.

Mr. Speaker, Sir, yesterday, when I visited the Governor of Kitui County, I was shocked. I also learnt that the last time that the counties received their batch of remittance was in November last year. Counties are supposed to be rolling out programmes and paying salaries yet when they do not pay salaries and remit PAYE, National Social Security Fund (NSSF) and National Health Insurance Fund (NHIF), they are penalized. The core responsibility of this Senate is to protect counties and their governments. That is one area that this House needs to close ranks.

As I said, I challenge Sen. Oketch Gicheru to bring a substantive Motion beyond summoning KRA to appear before a Committee of the Whole, so that we discuss this matter of remitting revenues to counties.

Mr. Speaker, Sir, what we are doing inadvertently is presiding over the death of devolution. This is because if monies are not available to run programmes in counties, then we will have a reversal of the gains that we have made in devolution.

With those remarks, I support.

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

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to support this very important course. The plight of counties is now worse than it has ever been. Monies have not been remitted to counties yet statutory deductions ensue. It seems that there is no communication from these different institutions as to what is happening to the counties.

When it comes to PAYE, it means, first, you have to be paid the salary so that then it can be deducted. PAYE is such an automatic deduction. You cannot close the accounts of a county assembly simply because PAYE has not been remitted for several months.

I have had an opportunity to follow this in the case of Makueni County and all counties. I realised that the CS for National Treasury and Planning has communicated that he is in short of funds to governors. At the same time, he is able to remit as he pleases to one county or another discriminatively.

I believe whatever monies have been found for the counties should be released at the same time so that all governors are treated equitably such that you do not punish Nyamira or Makueni counties by delaying payments to the hardworking governor of Makueni County, then you end up asking for PAYE and yet he has not even paid salaries.

It really puts them in a very difficult situation. This affects not only the county executive and assemblies, but also the Members of the County Assemblies (MCAs) and every other system in the county.

I believe as, Sen. Wambua said, we have to be careful not to preside over the death of devolution. We have a role and a duty. I believe when this matter comes up to the Committee, we would like to attend as many as possible.

I agree to the suggestion that it comes to the Floor of the House so that we can deal with it and do our oversight role on some of the activities that KRA is doing against the counties and making an effort to crush them. Devolution is very important and you know it. Some of the roads which had never been done or some of the activities in dispensaries and health were done when the first, second and current governors came into place. This would never have happened if we remained in the old system.

I thank you and support.

**The Speaker** (Hon. Kingi): That Statement is committed to the relevant committee.

Next Order!

## **BILL**

### *First Reading*

#### THE COTTON INDUSTRY DEVELOPMENT BILL (SENATE BILLS NO. 5 OF 2023)

*(Order for First Reading read - Read the First Time - and ordered to be referred to the relevant Departmental Committee)*

**The Speaker** (Hon. Kingi): Hon. Senators, we will defer Order Nos.9, 10 and 11 to Tuesday when we shall proceed to take a vote on those three items.

### MOTION

#### ADOPTION OF REPORT ON THE 2023 BUDGET POLICY STATEMENT

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2023 Budget Policy Statement, laid on the Table of the Senate on Tuesday, 28th February, 2023, and pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order No.186 (7) of the Senate, approves the 2023 Budget Policy Statement.

*(Motion deferred)*

### MOTION

#### ADOPTION OF REPORT ON THE 2023 MEDIUM TERM DEBT MANAGEMENT STRATEGY

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2023 Medium Term Debt Management Strategy, laid on the Table of the Senate on Tuesday, 28th February, 2023.

*(Motion deferred)*

### BILL

#### *Second Reading*

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

*(Bill deferred)*

**The Speaker** (Hon. Kingi): We shall now proceed with Order No. 12, which is the resumption of the debate interrupted on Wednesday, 1<sup>st</sup> March, 2023. Sen. Cheptumo, are you the one to second this Bill? Kindly proceed.

**BILL***Second Reading*THE NATURAL RESOURCES (BENEFIT SHARING)  
BILL (SENATE BILLS NO. 6 OF 2022)*(Sen. Mungatana, MGH ON 1.3.2023)**(Resumption of debate interrupted on 1.3.2023)*

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I beg to second this Bill. First and foremost, I thank my colleague Sen. Mungatana, MGH, for this important Bill. Since Independence, there has been no framework for sharing of benefits for natural resources. Every community in Kenya is blessed with natural resources. Others have minerals, water and some areas such as north eastern, Baringo where I come from, and Elgeyo-Marakwet are blessed with sunshine.

Some areas have geothermal and various other natural resources. Therefore, the lack of a framework for the sharing of the benefits arising from these natural resources has in a very big way disadvantaged the locals in those areas. This Bill is coming at the right time and I want to thank my colleague for taking this step. When we went the devolution way, it was one of the ways of ensuring that we get the benefits of our county governments and for the resources to be taken closer to the population.

Those counties and county governments will then have a chance of looking into the resources that they have. This Bill is intended, as moved by my colleague here, to benefit the locals.

Mr. Speaker, Sir, when you served as the Governor of Kilifi County, I am sure you took time to identify the various resources in your county. I am sure that perhaps you even took steps to see how your people would best benefit and especially now that we do not have enough resources.

This year, the Council of Governors (CoG) were fighting for more than Kshs400 billion. The national Government is only able to provide Kshs385 billion or so. We do not have resources to develop our counties. If we maximize, invest and extract the benefits of our natural resources, our counties can be better. Those extractive resources are not benefiting the locals.

The Bill is proposing a formula on the sharing of the benefits on the natural resources. The national Government has been benefitting from those resources and the locals have not been able to access even a portion. If, indeed, they do, it is very minimal. This Bill proposes that the national Government takes 60 percent while the county governments together with the locals take 40 per cent of the benefits from the natural resources.

I submit that this ratio in my view is justifiable because the resources belong to the people and also because the Government of the day is entitled to part of it. I think 60



per cent is justifiable for the national Government while 40 per cent should be available for the counties and local governments.

To actualize that sharing formula, the Bill proposes the establishment of a Benefit Sharing Committee through the Benefit Sharing Agreements (BSAs) where the person exploiting the resources - the private investors - are able to sit down with the local population and county governments and come up with a mode of sharing, so that we can have some fairness.

I will give a very unique case in Baringo. Lake Baringo is a fresh water lake and we have exploitation of geothermal energy in Silali which is several kilometers away from the lake.

The geothermal investment is in Tiaty, and Lake Baringo is in Baringo North and Baringo South; we share the lake. The water from the lake is taken all the way to Silali where the geothermal plant is located. The local people along the route of the pipeline do not benefit at all. When we develop the geothermal investment, Baringo as a county and the local people who are hosting the resource should benefit with that 40 per cent. That example alone is a situation that we need to deal with.

Mr. Speaker, Sir, in places such as Northern Kenya, part of Baringo County, Garissa and where Sen. Mungatana, MGH, comes from, we have the blessing of the sun. When you now talk now of tapping the sun, so that we have the solar energy, the private investors invest in that. The entire benefits go to either the Government or that particular investor especially when it is taken to the national grid.

In this law, we now want to propose that if an investor goes to North Eastern, Lamu, Garissa, Baringo or Turkana counties, does a solar investment and puts that power to the grid, a portion of that benefit should be available to the local people and the county government. This is a very important Bill. I want to shorten my contribution so that other Members can have time to also contribute.

Every part of Kenya is blessed. God is really fair because even in areas where there is plenty of rain, they have forest cover. I can assure you, if you look at the sharing of the benefits arising from the forest resource, it is so minimal to the locals and the county governments of those areas.

There will be no part of the country which we will not benefit from this law. It is a law that I believe we should all support. I am very proud that this House, through my colleague Sen. Mungatana, MGH, has been able to bring out this law in a very clear way.

I plead with Members that we pass this law, so that then we have a framework in our country to share the benefits arising from our natural resources.

Mr. Speaker, Sir, I second.

*(Question proposed)*

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

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to add my voice on this all-important Bill, the Natural Resources (Benefit Sharing) Bill, 2022 by our friend, our colleague, the Senator of Tana River County, Sen. Mungatana, MGH.

Mr. Speaker, Sir, this is a Bill that perhaps should have come to the Senate the day before yesterday. It is very important for counties especially on the matter of sharing benefits for resources found within counties.

I go straight to the Bill. In Part One of the Bill, Sen. Mungatana, MGH is proposing the natural resources for which this Act will apply. The Bill lists those resources as sunlight, water resources, forest diversity and genetic resources, wildlife resources, industrial fishing and wind.

Mr. Speaker, Sir, I wish I could get the attention of the promoter of this Bill. This is very important. Naturally, when you name one, then you exclude the others.

On this matter of the natural resources, I would want to ask Sen. Mungatana, MGH to consider including sand as a natural resource that should be covered in this Bill.

I come from a county or a region that perhaps supplies arguably more than 50 per cent of the sand that is used for construction in this city. However, the benefits that go to the people of our region arising from the sand cannot even be computed. The benefits are insignificant.

In this Bill, I see an opportunity where then sand becomes a resource for which there are benefits that would go to the communities. I ask the promoter of the Bill to consider including sand in the natural resources.

As we debate this Bill, let us all be guided by the need to come up with win-win arrangements. Everybody involved in the extraction of the resources should go home with something significant enough to be happy about.

I say this because I have seen situations in the exploitation of resources especially for my county where Government institutions and private entities are just interested in the share of their benefits. They have very little consideration to the people who live in the areas where these resources are exploited from. The percentages proposed by our Senator are fair. This is a fair arrangement and let us pursue it to conclusion.

Mr. Speaker, Sir, I also want to go to Part Two of the Bill on the functions of the Commission on Revenue Allocation (CRA). I invite Sen. Mungatana, MGH, to kindly look at the functions assigned to CRA and ensure they do not conflict with the roles that we have assigned to the Benefit Sharing Committees in the counties.

If Sen. Mungatana, MGH, will agree to include sand in this, the CRA should not come to Kitui County and begin to dictate what the people of Kitui County should get from their sand resource. Let the role of CRA be facilitated as opposed to helping in making decisions as to what the benefits will be.

Looking at this Bill, the functions of the CRA would emasculate the functions of the County Benefit Sharing Committees. Let us be very clear about that.

Lastly, so that we also give other Senators a chance to weigh into this, Part Four of the Bill is on Benefit Sharing Agreement. May I remind my brother and colleague, Sen. Mungatana, MGH, that the Senate exists to defend and protect counties and county

governments. When you talk about counties, it is not just the boundaries. It is also the resources found in the counties.

In the list that this Bill proposes for the County Benefit Sharing Committee, I see Sen. Mungatana has included the CECM for Finance and the CCEM responsible for matters relating to natural resources. He has also included technical people and five persons elected by the local community.

It is my submission that the office of the county Senator should be represented in the members of the County Benefit Sharing Committee. You cannot leave out the office of the Senator from such an important committee because it is our constitutional duty and responsibility to defend counties and county governments.

Mr. Speaker, Sir, I would have wanted to say more, but I am also considerate of other Members who want to weigh in on this Bill. I wish to just tell the promoter of the Bill that this is a very important Bill. Perhaps even in the course of debate of this Bill, he could organise a caucus with the Senators to just understand and enrich this Bill. By the time we get to Division, we will have a very good, nice Bill to take to our counties.

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

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. From the onset, I want to comment and congratulate Sen. Mungatana, MGH, the famous *mila mamba*. He is doing extremely very well, considering he is a seasoned Parliamentarian.

I want to pick it up from where my brother and bishop, Sen. Wambua, has just left. Resource is one of the very crucial and important elements. Anywhere in the world where there is conflict or a difference, the reason behind is resource sharing.

For example, the Russia versus Ukraine war is because of resources. In the last Session, the winning and losing counties fought because of resources. We fight daily because of resources that everybody needs to survive.

This Bill is so much important and very critical. Therefore, I find it honoured and privileged to be part of the people, who will leave a mark in terms of what we have done essentially.

I agree with Sen. Wambua that we should increase the scope of this Bill to cover natural resources like sunlight, wind, water, forests, biodiversity and genetic resources.

There is a lot of sunlight especially in the northern frontier and the world is talking about climate change. Why can we not use clean energy? I remember and maybe you can confirm this; in 2020, Sen. Halake brought a Statement asking why the Government was putting taxes on solar panels.

If we want to get rid of electricity, which is using water or diesel and generators, we need to zero-rate solar panels so that every Kenyan can afford one. I wish we even had solar panel factories. There is a solar company which generates power and sells it to Kenya Power. It is just the same way geothermal power companies do. There are solar power firms in Nyeri and Uasin Gishu counties which sell megawatts to Kenya Power.

Mr. Speaker, Sir, the only unfortunate underlying problem on that agreement is on the Independent Private Power Producers (IPPPs), who sell in dollars. That is where we are losing it as a country. Let this solar energy be sold to Kenya Power in local currency.

The dollar is currently at Kshs127. So, we need to zero-rate so that we also promote clean, green energy and manage climate change.

On water resources, you come from the coast region. We also have Lake Victoria and we are talking about the blue economy. We need to explore our blue economy.

As I said earlier in the day, Nandi is a very unique county. We have three sprawling forests; Nandi North, Nandi South and Tinderet forests. By the way, many people do not know Mau is not only in Narok County. That is a misnomer. Narok County was here. Mau complex stretches from Tinderet, all the way to Mwamba, Nakuru, Bomet, Kericho and Nandi up to Narok. That is what we call Mau Complex. Nandi County is within our borders and has three forests. This is unique because no other county has more than three forests. We need to have a conversation about this.

I remember the Deputy President, H.E Rigathi Gachagua, had even proposed the Shamba System, where families own and protect these forests. The late Nobel Laureate, Wangari Maathai, even said that if the Shamba System was allowed and people were disciplined, we could protect those resources. We do not want to create enmity between the forests and the communities next to the forests. Of course, we have to protect forests from land grabbing and other issues. So, we need to relook and see if we can do Shamba System and protect our forests at the same time.

Mr. Speaker, Sir, I will bring a Bill about biodiversity and genetic resources. Can you believe there are organisations who pick samples from Kenya and use them for research in Malaria, Tuberculosis, Human Immunodeficiency Virus (HIV) and many other diseases? The research is done in Harvard and other universities in the world, but they do not pay us anything. They are helped by Kenyan doctors to take blood samples for research, but do not even give credit or acknowledge those doctors when they publish the research findings.

I really welcome this Bill, which falls in a unique area. I will bring here a comprehensive Bill, which says you must pay revenue for any Kenyan sample that you take to South Africa, United Kingdom (UK) and USA. Therefore, it is a conversation that we must have.

You may have heard of the Academic Model Providing Access to Healthcare (AMPATH), which is working in partnership with Moi Teaching and Referral Hospital (MTRH). AMPATH is picking our samples for research abroad. They publish their findings and get money for it. However, they do not recognise the role played by our doctors and other people who researched locally.

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

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

Therefore, I am very particular on this issue of genetic resources and biodiversity.

Regarding the issue of wildlife resources, today, I heard Sen. Maanzo and Sen. Kinyua discuss human-wildlife conflict. Section 25 of the Wildlife and Conservation and Management Act No.47 of 2013 indicates that compensation to the claimant in the case

of death is Kshs5 million; and in case of injury is Kshs3 million. Why is it that when a Kenyan is found killing wildlife the penalty is harsh, but when somebody loses life, we just give minimal compensation?

Wildlife cannot be underscored since it is the pride of Kenya. Kenya is known because of unique wildlife we have; the famous wildebeests that cross River Mara all the way to Serengeti. You remember when the President of Tanzania, Her Excellency mama Samia Suluhu Hassan, addressed a joint sitting in the last Parliament, she said that the Kenyan wildebeest cross over to Tanzania to get pregnant. This is the unique nature of wildlife. It is on record and I remember Senators Wambua and Maanzo were in the sitting. Sen. Oketch Gicheru was still looking for votes.

The wildlife human conflict must be addressed. We need proper fencing and the sanctuaries to be protected. However, the communities around the national parks must be part of the establishment. We should give them businesses like running hotels in those parks. Let us give the citizens an opportunity to construct roads in the parks.

On the issue of industrial fishing, I cannot say much on that. There is the issue of countries which I do not want to name, have been accused of using trolling method, where they sweep everything; fish, crabs and every living creature in water, therefore, undermining the ecology of the sea.

The President has taken up a task of planting 10 billion trees in 10 years. As Sen. Wambua stated, a Senator should be part of the Committee. I do not want Kenyans to worry about the rain. It will begin on 15<sup>th</sup> March. Every Senator should plant trees in every---

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

**Sen. Cherarkey:** Madam Temporary Speaker, if it is bishop Sen. Wambua, I would not refuse.

**The Temporary Speaker** (Sen. Veronicah Maina): Sen. Wambua would like to inform you.

**Sen. Wambua:** Thank you, Madam Temporary Speaker. Sen. Cherarkey will definitely get some wisdom from us. I mentioned that Senators should be part of the county beneficiary committees. I would like to inform Sen. Cherarkey that in his moving notes, he may insist that the Senators be the chairpersons of the County Benefit Sharing Committees. I thank you.

**The Temporary Speaker** (Sen. Veronicah Maina): Sen. Cherarkey, you are hereby informed.

**Sen. Cherarkey:** Madam Temporary Speaker, I am properly informed by bishop Sen. Wambua. I agree. Even if it is not the Senator himself, the representative of the Senator can chair.

We need to be careful. We are edging ourselves from the real issues of wananchi. As we draft the law, we must look at our position. Why do we edge ourselves yet we are the people who draft these laws? We are lawmakers. We must use this weapon properly.

The issue of water resources is a challenge. The Government has said that 100 dams will be built in the next five years. The dams include; Thwake Dam, Karimenu

Dam, Bosto Dam in Bomet County and Chemasusu Dam in Nakuru City County. We have Sondu Miriu Dam that is built along the border of Kericho and Nandi counties. Nandi County would want to have a water resource. There is Keben Dam in Nandi Sub-county where the President has assured us it will be completed. We have the Kipkaren Dam, Keses Dam and two rivers dam in Uasin Gishu County. We also have the famous Chebara Dam in Elgeyo Marakwet County and Itare Dam in Nakuru City County which will be beneficial.

The Government is committed to ensure 100 dams are constructed. The larger Kitui, Makueni and Machakos counties will get their dams. There is still a challenge of shortage of clean water in the coast region. Many believe that because the ocean is near, the people at the coast have water. They need to do desalination. I do not know whether the word is correct.

**The Temporary Speaker** (Sen. Veronicah Maina): Desalination.

**Sen. Cherarkey:** Madam Temporary Speaker, Desalination. You know those words came with the proverbial “*meli*”.

There is also the famous issue of the dam in Murang’a County where you come from. We need to agree on the charges. We do not need to charge too much for water. Charging water at high prices for the water users should not happen. We need to collapse the authorities. We have the Water Resource Authority (WRA), Water Users Authority (WUA), National Irrigation Authority (NIA), and many others. Let us collapse all those bodies and come up with one so that it is easy for wananchi. I propose that we form rural water Savings and Credit Cooperatives (SACCOS) where wananchi in Makueni County in a place called Wote can access water easier.

I am conflicted on the role of Commission of Revenue Allocation (CRA) which we need to relook at. The role they are playing is important in drafting of benefit sharing agreements. What is important is that the county assembly should pass any county benefit sharing agreement.

Senators, if we are giving MCAs powers and not to ourselves, where are we placing ourselves? If there will be a commercial exploitation of the natural resource to billions and trillions of shillings, the people who will decide that agreement are the Members of the County Assembly (MCAs). As a Senate, who are the owners and drafters of this Bill through Sen. Mungatana, do not have a role. That is why we have a problem with Tullow Oil in Turkana County, which is represented by Sen. Lomenen.

The Bill proposes that the CRA should identify counties that are required to enter into a benefit sharing agreement, Oversee the administration of funds set aside for community projects, conduct research regarding the exploitation and development of natural resources and benefit sharing in Kenya. Also, resolving of conflicts which are many, but I hope this Bill will address the issues.

There are two points, the issue of conservation of natural resources, which is a clarion call of the President. He has insisted that the issue of climate change is here with us. Going into the future, we should improve on our forest cover. We should move it to more than 10 per cent. Then we will sell carbon credits to other nations. I must emphasise on the issue of restoration of the environment. When the Solai Dam tragedy happened

and 48 lives were lost, many injured and maimed, the environment was also destroyed in Nakuru City County.

We must be giving restoration orders of the environment. Even if you go and excavate a quarry in Migori County, you must ensure ---

*(Sen. Munyi Mundigi walked to the Minority Side without bowing)*

You must ensure that there is restoration of the environment.

**Sen. Kinyua:** Madam Temporary Speaker, on a point of order.

**The Temporary Speaker** (Sen. Veronicah Maina): What is your point of order, Sen. Kinyua?

**Sen. Kinyua:** Bi. Spika wa muda, Sen. Munyi Mundigi wa Embu anatembea kutoka upande wa Walio Wengi hadi kwa Walio Wachache bila kuzingatia Kanuni za Kudumu za Seneti. Ni kama yuko katika soko la Runyenjes, ambapo anatoka katika duka la muhindi akielekea duka lingine. Mwambie afuate sheria, arejee kwenye kiti chake na kufuata kanuni vizuri ili iwe funzo na aweze kuzoea.

**The Temporary Speaker** (Sen. Veronicah Maina): Sen. Munyi Mundigi, if that is what happened, you are lucky I did not see you.

*(Laughter)*

**Sen. Cherarkey:** Madam Temporary Speaker, all of us are still learning and as the Speaker said, he is lucky.

Lastly, I request an amendment to Clause 7, to have a reporting mechanism to Parliament. These are billions of shillings and the KRA will be collecting royalties. This is part of Own-Source Revenue (OSR) that is paid to a fund.

Madam Temporary Speaker, I agree on the issue of allocating 40 per cent to projects of local communities. The issue of local boundaries was in the County Boundaries Bill by former Senators, Sen. Mutula Kilonzo Jnr. and Sen. Sakaja. I do not know the fate of that Bill. It is in the National Assembly and it can assist here.

The other issue on oversight is in Clause 13 on Formation of Local Benefits Sharing Forum. I propose that they do an oversight role of that fund that is there.

It is almost 10 minutes to the adjournment hour. It is good that the bishop himself is the one against homosexuality in the House, and this is in order.

This is an important Bill. I hope that colleagues will look at it and enrich it. I also hope that when it reaches the Committee stage, we will be able to contribute and ensure that we amend it.

Thank you, Madam Temporary Speaker. I congratulate Sen. Mungatana.

**The Temporary Speaker** (Sen. Veronica Maina): Let us have Sen. Maanzo.

**Sen. Maanzo:** Thank you, Madam Temporary Speaker. This Bill is very important. I believe that it is still in the middle of discussions.

I thank Sen. Mungatana for cleverly and wisely crafting this Bill to avoid conflict of law. There are quite a number of other issues, which intertwine with what he is trying to do to help Kenyans and devolution.

He has done it very well. Firstly, he clearly states that it is not a money Bill. Therefore, it avoids the complications of a money Bill that needs to be taken to the National Assembly. The Bill concerns county governments because these resources are in the counties. The legislative powers and rights of the Senate concern county governments.

Madam Temporary Speaker, the objects of the Bill are clear. I will concentrate on a few vital things that touch this Bill. One of it is the role of the Commission on Revenue Allocation (CRA) and collection of royalties. The specific area we want to deal with is the sunlight, which we have a lot of in Ukambani. That is solar harvesting and it can be used for coolers to store mangoes and other fruits that we produce.

We have water resources that include Thwake Dam in Makueni, High Grand Falls Dam coming up in Tana River and other many water resources, including the ground water in Turkana. We have forests, biodiversity and genetic resources. We have wildlife resources. This afternoon, I have talked about human-wildlife conflict. The wildlife near or neighbouring our counties should benefit them. This is because the biggest damage is done to county residents in those particular areas.

There is industrial fishing in the coastal areas and wind, which we have a lot in Ukambani. Once all this is done and dealt with, then it becomes a serious matter of consideration and a big source of income.

Madam Temporary Speaker, international companies could deal directly with local companies and exploit the resources there. Investors can also go directly to the counties and lot of money can be raised. It carefully avoids the issue of mining although there is some relationship.

It makes sure that counties are able to deal with this on their own. Therefore, every county is going to benefit. We made a mistake when we were forming this nation in 1963, where some areas were thought not to be useful in the development papers, which were presented then in Parliament. The North is more useful and is the future of this country.

America had the Wild West and Nevada Deserts, where Hoover Dam was done, just like the Thwake Dam. Today, Las Vegas is a huge town that does a lot of business. That is where we copied the idea of Thwake Dam.

In future, our biggest industries should be in our deserts. That is where we should use solar. We have to do a lot of fishing in Lake Turkana and other places. Therefore, this Bill is for the future.

We can create many jobs if we invest in those areas. All we need to do is make sure there is security in Northern Kenya and North Eastern, so that investors are not scared of these places and can team up with us to invest.

In these areas we have big rivers where we can do a lot of irrigation. We can stop the clashes we see in the North involving stock theft and banditry, if we do irrigation.



My colleague, Sen. Oketch Gicheru, wants to contribute. I believe we still have time for debate on this big matter. I will budge because he has really insisted, so that he gets to make a statement or two on this important Bill. I believe we can do a lot of amendments at the Third Reading stage. Lawyers in this House can help Senior lawyer Mungatana who has done a good job.

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker, for giving me the opportunity to make a few comments on this Bill by Sen. Mungatana in spite of time constraints.

This is one of the most brilliant Bills that has ever come to this House. Resources define how societies thrive. Since the time of colonization, resources that are extracted from communities do not get to them. This is part of neo-colonization where a number of companies that are well-capitalized and resourced go to local communities and, take their natural resources without benefiting the local communities.

This Bill proposes that we need to have a way of ensuring that natural resources from local communities benefit even if they do not have the capacity to exploit those resources.

I come from Migori, which is one of the counties that has a lot of gold. We have seen people from Migori do not benefit from it, because they do not have the capacity to do proper mining and there are no proper structures to access the market. Migori County also has accesses to water from Lake Victoria.

Madam Temporary Speaker, this Bill speaks to my heart. I will comment on three areas that Sen. Mungatana can consider to improve on in this Bill.

Firstly, I implore upon Sen. Mungatana to not only think about a benefit sharing structure, but effective benefit sharing structure. This basically means that you need to be innovative enough to ensure that such funds at the national level are cascaded to the grassroots, so that counties ensure there is prioritization on how those funds reach communities to deal with their problems.

How do we ensure that there is a way that we can empower local communities to be able to have enterprises tied to the exploitation mechanism? What this means is that we will ensure that communities are able to constantly have a share to the retail price of all the commodities that come from the extraction that we have.

How do we ensure that this fund can enable communities to do enterprises that will last for longer and have a bigger share in the long term, to the extent that they can constantly be able to earn from these kinds of engagements with the private sector in their communities, rather than just depending on royalties, which looks like grants and donations?

Madam Temporary Speaker, because of pressure of time, let me end with that. I hope that will engage more with my colleague to put some more input even in capacity building to these local communities, to deal with the issues that my brother, Sen. Cherarkey, was talking about; the effect of extraction in our communities.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Senators, it is now 5.30 p.m. and Sen. Wambua was to move a Motion, which is of national importance.

I invite Sen. Wambua to take the Floor.

**MOTION OF ADJOURNMENT UNDER  
STANDING ORDER NO.37**

SUPREME COURT RULING ON LGBTQ COMMUNITY

**Sen. Wambua:** I thank you, Madam Temporary Speaker for this opportunity to move the following Motion-

THAT, pursuant to Standing Order No.37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the decision of the Supreme Court of Kenya in the Non-Governmental Organizations (NGOs) Coordination Board versus Eric Gitari and five others in Petition No.16 of 2019, which declared discrimination against Lesbian, Gay, Bisexual, Transgender, and Queer community (LGBTQ) unconstitutional and affirmed the rise of the community to form an association.

Madam Temporary Speaker, on Friday, 24<sup>th</sup> February, 2023, the apex court in the land, the Supreme Court of Kenya, in a majority ruling of three against two, shocked the moral foundation of this country. The court ruled and I quote:

“despite gayism being illegal in Kenya, they have a right of association.”

Madam Temporary Speaker, since the day of that pronouncement, the country has been thrown into a state of restlessness. The country is no longer at ease. We are not at peace. Parents are crying out loud demanding that the Court be stopped from defiling the moral fibre of our society.

Cap. 1(1) of our Constitution in simple plain English declares that all sovereign power belongs to the people of Kenya. Therefore, the three arms of Government; the Judiciary, the Executive and the Legislature only exercise delegated sovereignty. The Kenyan people are the real sovereigns.

Madam Temporary Speaker, if any arm of Government goes rogue, the sovereigns have both the moral and legal responsibility to beat that arm of Government back on track. The sovereigns in their millions have spoken. I speak today both as a member of the sovereign community and as a leader upon whom sovereign power has been delegated to say a big “No” to the registration or official recognition of LGBTQ in Kenya in any form or shape.

Article 45(1) (2) and (3) places the family at the core of society and social order. It talks about the right of adults to marry a person of the opposite sex. It also speaks about equal rights to couples.

Madam Temporary Speaker, I want to make full disclosure on the Floor of this house, that, yes, I speak as the Senator elected to represent the interests of the great people Kitui in this Senate, but I also speak as a Christian, a practicing, born-again Christian. The book of Romans 1:16 states-

“I am not ashamed of the gospel of Jesus Christ, because it is the power of God and salvation to those who believe.”

The Apostle Paul, speaking to the church in Rome, in Romans Chapter 12:1 and 2 tells the church-

“I beseech you, brethren, by the mercies of God, that you present your bodies, a living sacrifice, holy and acceptable to God, which is your reasonable service.”

He goes on to tell them not to conform to this world, but be transformed by the renewing of their minds, that they may prove that which is good and acceptable and perfect will of God upon them.

Madam Temporary Speaker, this country is at a crossroads because of that ruling by the Supreme Court on the 24<sup>th</sup> February, 2022. By giving that ruling, this is what the Supreme Court is telling this nation and, indeed, our children: “It is okay. Yes, we know that in this country gayism and any unnatural acts between people of the same sex is illegal, but people, you know what? You can go ahead and associate because you have right a right of association. You can form yourself into caucuses and groups.”

One day as we walk into the Senate, we will find our young people outside the entrance of the Senate holding hands, boys kissing boys, girls kissing girls, because the Supreme Court is telling them that they have a right to associate and do as they please.

Madam Temporary Speaker, the time has come for true leadership to be seen. The Senate of the Republic of Kenya has been invited to make a choice between conforming to the trends of the world or standing for the moral fibre of this country. Since that call has been made to me as well, I pick it immediately and say with everything that I have, I will defend the moral fibre of this country. We cannot allow people hiding behind offices to mislead our young people that the right to associate is superior to the morals of our nation.

If we allow this judgement to gain roots and allow these people that identify themselves as LGBTQ to associate in our country, then, we should be ready to be said one day that while we were leaders in this country, we sold our morals to gayism, lesbianism and to all those unnatural acts.

Madam Temporary Speaker, I know that there are many Senators here who would want to contribute to this Motion. I see one of the Christian fundamentalists, Sen. Methu, has just walked in. He said to me that he has to go on record on these matters.

I can see the Senator for Uasin Gishu County and he says he has to go on record on this matter. I do not wish to take a lot of time on this matter, but to give my colleagues an opportunity to weigh in.

I beg to move and request the Senator of Laikipia, Sen. Kinyua, to second.

**Sen. Kinyua:** Asante, Bi. Spika Wa Muda, kwa kunipa fursa hii. Siku ya leo ni siku ya hofu zaidi katika nchi yetu ya Kenya. Nina uchungu kutokana na uamuuzi ambao Mahakama yetu ya Upeo ilitoa kwa kukubali kwamba tunapaswa tuwe na miungano ya mashoga, wasagaji, watu walio na jinsia mbili na wale ambao walibadilisha jinsia.

Mimi ninajua kazi ya mahakama ni kutafsiri sheria sio kutunga sheria. Kazi ya kutunga sheria ni ya Bunge. Ninajua vizuri mamlaka ya mahakama inapatikana kutoka kwa wananchi wa Kenya. Ibara ya 159 ya Katiba yetu inasema mamlaka ya mahakama inatokana na wananchi wa Kenya.

Nikikumbuka vizuri wakati Wananchi wa Kenya walipokuwa wanatengeneza katiba yao, walisema dhahiri shahiri kwamba mwanaume anapaswa kumuoa mwanamke.

Kinachonisumbua zaidi ni kuwa Ibara ya 41 inasema kuwa mwanaume amuo mwanamke ama mtu wa jinsia tofauti, lakini si watu wa jinsia moja.

Sen. Wambua, aliniambia akimaliza mambo haya ya siasa atakuwa muhubiri. Kinachonisumbua ni kwamba, wakati atakapokuwa akiandika ile hati ya ndoa, kulingana na Mahakama ya Upeo, itakuwa ndoa ni ya Mueni na Mwendu. Itakuwa ni ya Wambua na King'ola ama Mutua.

Bi. Spika Wa Muda, itakuwa ni jambo la kuvunja moyo. Tutafanya huyu kiongozi ambaye atakuwa tayari amejitolea kuhubiri neno la Bwana kama alivyotangaza hapa aache kuhubiri kwa sababu hataweza kusimama wakati ule. Pengine atakufa tu kwa kupigwa na mshtuko wa roho.

Nikifuatilia mambo yalivyoanza ni ya kwamba Mashirika yasiyo ya Kiserikali yalisimama kidete na kusema ya kwamba hayatasajili hii miungano. Lakini Mahakama yetu ya Upeo, sijui ni kwa kutojua ama kwa kujua zaidi wakaendelea mbele na kusema ya kwamba wanahalalisha miungano hii.

Walitumbua ya kwamba, ukiangalia katika Ibara ya 27 ya Katiba, inasema ya kwamba; hupaswi kumzuia mtu yeyote ama huwezi kuwazuia watu kufanya vile wanavyotaka kuungana. Ijapokuwa Ibara ya 36 ya Katiba ya Kenya inasema ya kwamba inakubalisha miungano yoyote.

Wale ambao waliandika Katiba hii, na ni sisi Wakenya, hatukumaanisha miungano ya aina hii. Ndiposa Halmashauri ya Usajili wa Mashirika ambayo yalikuwa yamekataa kusajili miungano kama hii yakasimama kidete na yakakataa. Hata hivyo, mambo haya yalipelekwa katika Korti yetu la Upeo na yakaidhinishwa.

Ningependa kuomba, na pengine mawakili kama Sen. Maanzo, watatumbua zaidi kwa sababu wameboba katika kazi ili, Mwanasheria Mkuu wetu wa Kenya akate rufaa. Sababu ni kuwa majaji wale waliokuwa wamekaa pale ni watano. Ninadhani majaji saba ndio wanapaswa kuwa wamekaa pale waweze kutoa uamuzi wao.

Badala ya Mahakama yetu ya Upeo kutetea na kuulinda sheria yetu, wao wanasikiza mambo kutoka nchi za kigeni. Kazi yao ni kuharibu maadili yetu ambayo tumeyasimamia na tutakufa kwa maadili yetu.

Hata ikiwa watu wote katika hii Seneti watajiunga na hawa wasagaji na mashoga, mimi nitabaki pekee yangu kupambana na hizi sheria ambazo ni mbaya na zinagandamiza. Nitasimama kidete niweze kuhesabika. Hii ni kwa sababu Bibilia inasema hakuna goti halitapigwa mbele ya Mwenyezi Mungu.

Nikiona Mwenyezi Mungu amenisahau, nitamwambia, "Mwenyezi Mungu kumbuka nilisimama kwa Seneti nikatetea sheria zilizo nzuri. Ataniambia "Kinyua simama." Kwa sababu ninaitwa Yohana, "Kuja upande huu uishi milele na milele."

Nashukuru Bi. Spika Wa Muda.

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up.

*(Question proposed)*

I now call upon Sen. (Prof.) Kamar.

Sen. Munyi Mundigi, hold on until the Speaker calls you.

**Sen. (Prof.) Kamar:** Thank you, Madam Temporary Speaker, for giving me the opportunity to add my voice to the concerns that have been raised in this Motion by the Sen. Wambua, who is my very good student.

The issue before us surprised us as a nation, individuals and religious groups. I am a Christian and I believe in a marriage between a man and a woman.

It is also clear that in the law of Kenya, the only marriage that is recognized is heterosexual. It, therefore, surprises one to know how the Supreme Court of Kenya arrived at its conclusion. Since, I am not a lawyer, it is my understanding that the court used the law. If the law in Kenya says that we only recognize heterosexual marriages, how did they decide that a group that does not exist in law itself should exist in associations? In my understanding, it was a very clear conflict between what the Constitution says and the conclusion of the verdict of the three.

Madam Temporary Speaker, I say this because I participated in drafting our Constitution at the Bomas of Kenya. I was not in the drafting team, but I participated in the drafting and we debated many things, looking at what is good for this nation. We also looked at what keeps different communities together and even our culture. Many principles that are within the Constitution actually arose from our cultures. We have changed our cultures for many years, since pre-independence when we were a colony. Some cultures were lost, others preserved and some were recovered thereafter.

Madam Temporary Speaker, before a big decision like that is made and announced to the country, it would have been very important to go back and look at the reason the Constitution has that Section, stating that marriage in Kenya shall be heterosexual. If discussions around the development of our Constitution came up with that conclusion, how can we rush to recognize something that has been disowned by the Constitution itself? Therefore, it was very surprising for some of us to hear that kind of conclusion.

It would be important for this House to pronounce itself on a matter that is also touching the other arm of Government, so that all of us come up with a conclusion that is satisfactory. There is hue and cry all over, including churches. We are receiving calls from all over, that we must discuss this issue before it goes out of hand.

The reason is that it is touching the very core of our youth. Our youth are at crossroads, wondering what this is supposed to be. If we allow it to continue without any check, what will it take the society to be? Our culture has already been eroded.

Therefore, it is important that we demand that we look back at our Constitution as we discuss this. This is what the Supreme Court should have looked at. They need to give us an explanation on why they moved away from the Constitution. This is going to give

us a short cut. It would have been better for us to have a review of the Constitution itself, so that we know exactly where we are going.

Madam Temporary Speaker, I agree with the concerns raised by Sen. Wambua. I thank him for bringing them forward, so that we can do something that our people are keen on.

**The Temporary Speaker** (Sen. Veronica Maina): Let us have Sen. Munyi Mundigi.

As he takes the Floor, Senators, I would urge you to condense your remarks. Maybe, cede a minute because this is a Motion that many Senators are interested in contributing to. By consensus, we could say four minutes each instead of five.

**An. Hon. Senator:** Three minutes.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Three minutes each. The adjournment is under Standing Order No.37(3), where the maximum is five minutes. So, three minutes.

**Sen. Munyi Mundigi:** Bi. Spika wa Muda, ninaunga mkono maneno ambayo yamezungumzwa na---

*(There was a technical hitch)*

Kila nchi iko na vyama lakini katika Ufalme wa Mbinguni, vyama ni viwili; cha Yesu Kristo na cha shetani. Kutoka nyakati za mababu zetu, watu wengi walikuwa wanahubiri mambo ya Mt. Kenya. Tulipozaliwa na kuwa wakubwa, hatukusikia wakiongea mambo ya mwanaume kwa mwanaume au mwanamke kwa mwanamke.

Mambo ya Yesu Kristo yakaja. Tukahubiriwa na ikawa sasa ni Ufalme wa Mbinguni na shetani. Ufalme wa Mbingu ni Mungu Baba, Mungu Mwana na Roho Mtakatifu.

Wale majaji ambao walifunzwa na wazazi wao, hawakufunzwa mambo ya giza. Sasa hivi, wanataka kufunza watoto wetu mambo ya mwanaume kwa mwanaume. Hili jambo linaibuka wakati ambapo kazi zimekosekana, madawa ya kulevya na usherati umekithiri na dunia imeharibika. Wanatuletea mambo mengine ambayo in ya giza, ilhali vijana hawana kazi.

Wanataka kutufundisha kwamba hivi karibuni, tutasomesha watoto wetu hadi kiwango cha shahada, halafu wakose kazi na waanze mambo ambayo hayafai. Kazi yao itakuwa kukatana panga na vita vya usiku na mchana.

Kama Seneta wa Kenya kutoka Kaunti ya Embu, ninaunga mkono kwamba hawa majaji wachunguzwe vizuri. Walikuwa na fikira zipi? Je, nia yao ni kutaka kuharibu Kenya? Hakuna mtu hata mmoja nchini Kenya anayejua mambo ya Yesu Kristo, ambaye anaweza kuunga mkono hayo maneno.

**Sen. Cherarkey:** Pia Waislamu.

**Sen. Munyi Mundigi:** Hata Waislamu wanajua mambo ya Yesu. Wanajua kuomba. Siku hizi, Kanisa ni moja. Isipokuwa tu kuna wale wachache wa mambo ya giza ambao hawawezi kuunga mkono hayo maneno.

Ikiwezekana, ninaomba tupewe siku nyingine kwa vile Maseneta ni wengi. Hiyo siku, tutazungumza na tupige kura, ndipo haya maneno yote yakemewe kabisa. Nchi ya Kenya inaogozwa na Yesu Kristo. Hata watu wengi ambao walichaguliwa ni watu ambao walikuwa wanaomba asubuhi na jioni. Mungu akaja na tukashinda.

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up, Sen. Munyi Mundigi.

Proceed, Sen. Korir.

**Sen. Korir:** Thank you, Madam Temporary Speaker. I thank the Kenya Kwanza Government, led by His Excellency the President, Hon. (Dr.) William Ruto and his family; as well as the Deputy President's family, for taking lead in believing in the Bible. The issues that we are discussing today in this House directly touch our lives.

I rise to strongly oppose the Supreme Court's ruling that allowed the registration of Lesbian Gay Bisexual Transgender Queer (LGBTQ) communities as Non-Governmental Organizations (NGOS). It has caused an uproar among various sectors in the country.

Madam Temporary Speaker, most religious leaders and Kenyan citizens have condemned this latest development in different capacities. From the look of things, this will open a Pandora's Box and lead to imitation of negative western culture.

Remember, around 32 countries, including Argentina, Brazil and Germany, have legalised same sex marriages. I also want to bring to the attention of this House that the Constitution, under Article One gives the sovereign powers to the people of this country. As much as we respect the Separation of Powers, this House being a Legislative Arm of Government---

**The Temporary Speaker** (Sen. Veronica Maina): Hold on Sen. Korir.

Sorry to interrupt, but I would like to remind you to wind up. Your minutes are over.

**Sen. Korir:** Madam Temporary Speaker, I have been waiting for this opportunity. However, just allow me at least two more minutes to wind up quickly.

**The Temporary Speaker** (Sen. Veronica Maina): One minute, Sen. Korir, not two.

**Sen. Korir:** Being a legislative Arm of Government, we cannot sit down and watch our children being driven down a wrong social lane. Allow me to state categorically that as a parent, I will be the last woman standing to fiercely oppose that issue, without leaving room for any negotiation.

I laud the former Chief Executive Officer (CEO) of Kenya Films Classification Board (KFCB), Dr. Ezekiel Mutua, for the efforts he bravely put on the ban of the viewing of a movie titled *Rafiki* in 2018. Amidst much criticism and pressure to protect the youths from exposure, the same movie promoted relationships between ladies. Such stern actions should be emulated by the leaders in all arms of Government.

Finally, this decision is an attack on the family unit, which is an essential part of the community. In the Christian religion to which I subscribe, we have been commanded to increase and fill the earth with sons and daughters. With that development, I do not see the possibility of fulfilling the command since we are going against the rule of nature.

**The Temporary Speaker** (Sen. Veronica Maina): Clerk, Sen. Korir's time is up.

**Sen. Korir:** Madam Temporary Speaker, it was not yet over.

*(Laughter)*

*(Sen. Korir's microphone was switched off)*

**Sen. Mandago:** On a point of order Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Mandago?

**Sen. Mandago:** Is Sen. Korir in order to challenge the decision of the Speaker when her time is up? She is out of order.

*(Sen. Korir spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Korir, once the Speaker rules, you have to abide by the ruling in future engagements. Let us proceed to the next Senator to finalize this matter.

Sen. Maanzo, you may proceed.

**Sen. Maanzo:** Thank you, Madam Temporary Speaker. Allow me to quote the Bible. Leviticus 13:22 states-

“Do not practice homosexuality. Having sex with another man or with a woman is a staple sin”

Further, Leviticus 20:13 states-

“If a man practices homosexuality; having sex with another man as with a woman, both men have committed a despicable act. They must both be put to death for they are guilty of a capital offence”

The Penal Code says the same quote. Under Section 56 it says that you will be jailed for 14 years, yet this is a capital offence in the Godly penal code. This is a very serious matter. The Supreme Court is composed of seven Judges. The decision is reviewable by the Supreme Court before it is implemented. Secondly, these sorts of acts are very common in jails, schools, and in many parts of the community. It is a high time Kenyans knew that it is a serious matter. In the Swahili version of the Bible in quote says, “*ni chukizo kwa Bwana.*”

Madam Temporary Speaker, it is a very serious matter. The lawyers in this House are joining Hon. Kaluma on this to make sure that this decision is reviewed as quickly as possible before it is implemented.



Also, our Constitution is against that court decision. It is clear that in Kenya, marriage is between man and woman. At no point does Chapter Six, all the other good Sections of the Constitution and even the drafters of our Constitution such as Sen. (Prof) Kamar, intend marriages of that nature.

The only distinction is the freedom of association. You cannot have freedom of association while sinning. You cannot offer judgment that legalizes sin.

I am aware that this has taken 10 years in the courts. There is also another application trying to declare Section 76 of the Penal Code unconstitutional. This means that this will be completely allowed in the country. That is why a fight must be put immediately, so that the Supreme Court---

*(Sen. Maanzo's microphone went off)*

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up, Senator. Sen. Cheptumo, you may have the Floor.

**Sen. Cheptumo:** Thank you, Madam temporary Speaker. I arise to add my voice to this very important Motion.

The framers of the Constitution, 2010 were very clear in the wording of Article 45. This was well raised by the Mover of this Motion. Let me read it because I know that I do not have a lot of time.

“The family is the natural and fundamental unit of society---

Importantly, is the part that follows-

“---and the necessary basis of social order---”

Unless the foundation of the family is founded and grounded well, there will be no social order.

“--- and shall enjoy the recognition and protection of the State”

The State organs are the Executive, this House, Parliament, and the Judiciary. That particular Article requires that those State agents should be able to protect the family unit.

It is so sad that this is happening in a God fearing nation. I condemn that judgement by the Supreme Court.

Madam Temporary Speaker, I agree with Sen. Maanzo that this is a curable situation; that the Supreme Court can still review that particular ruling. They have no option because if the Kenyan people, the other State organs such as this House says no, then the Supreme Court, the Judiciary, which is mandated under Article 47 to uphold the family unit, will have no option but to review that particular ruling.

We are all blessed to have children, wives, husbands and relatives. The last one week has been a very challenging moment. This is because it is outside there that now people of the same---

*(Sen. Cheptumo's microphone went off)*

**The Temporary Speaker** (Sen. Veronica Maina): Time is up.

Sen. Lemaletian, do you have a point of order, an intervention or you want to contribute?

**Sen. Lemaletian:** Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Then you wait for your turn.

**Sen. Lemaletian:** Okay.

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

**Sen. Beth Syengo:** Thank you, Madam Temporary Speaker. I do not know where to start because the time is too short. I acknowledge that we are living in challenging times and witnessing societal fabric breakdown. Biblically, allow me to quote Romans 1:26-27 which states-

“For this reason, God gave them up to vile passions for even their women exchanged the natural use of what was against nature. Likewise, also their men leaving the natural use of the women burnt in their lust for one another. Men with men committing what is shameful and receiving themselves the penalty of their error which was due”.

I stand to support the Motion by Sen. Wambua and stand against the ruling by the Supreme Court. God gave functions of each part of the body. We cannot disapprove God and yet, he created us and assigned each part of the body its function. I am wondering about these Judges of the Supreme Court. When we had a very important national issue of the presidential election and when the ruling was to be made, we were treated to drama of hot air and other things. Why should the same Supreme Court now come to oppose what is God-given and allow people to doing things that are not right and surprise this nation?

My proposal is that legal action should be taken against these Judges who did this because they are leading Kenya to extinction. Marriage between same sex couples will not produce children. That means they want to finish Kenya. Where will future generations come from? I also noticed that this judgement was done at a time when a very important guest was visiting Kenya. What is the link between this visit and the ruling that followed immediately thereafter? I wonder what the connection is.

Allow me to say that as legislators in this nation, we must stand for this nation and protect the future generations. We need children that naturally come from a marriage between a man and a woman.

I oppose that judgement.

**Sen. Mandago:** On a point of order, Madam Temporary Speaker. I am seeking clarification. The hon. Senator stated that the ruling came immediately after a special guest came. Who is this special guest?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Beth Syengo you need to clarify that.

**Sen. Beth Syengo:** Thank you, Madam Temporary Speaker. We all witnessed the First Lady of the USA visiting this nation and it had something to do with Non-

Governmental Organizations. I am wondering why the ruling of the Supreme Court came immediately after this guest arrived in Kenya. I hope my time has not yet---

**Sen. Kinyua:** On a point of order, Madam Temporary Speaker. I would not want to interrupt her, but I find it not appropriate to insinuate about our judgement and visitors from other countries. Does it mean that our courts are not independent? Does it mean that they are influenced by external forces? Especially when she says the First Lady of the USA visited Kenya, then our Judiciary ruled in that favour, I do not find it appropriate.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Wambua? Make it short.

**Sen. Wambua:** Thank you, Madam Temporary Speaker, the time is not even on our side. We cannot be prisoners of our conscience. We cannot allow that.

The Senator has just asked a question about the time the judgment was being made; a statement of fact. There was a leader who visited our country and the visit was connected to Non-Governmental Organisations (NGOs). She is asking whether there could be anything to do with that visit.

Madam Temporary Speaker, we cannot gag Senators to the extent that they cannot seize facts and talk about them.

Secondly, it is not in the space of Sen. Beth Syengo to establish whether there is independence of the Judiciary. That is not her business, it is the Judiciary that should exert its independence.

**Sen. Korir:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order Sen. Korir?

**Sen. Korir:** Thank you, Madam Temporary Speaker. From the onset of this debate, it is clear that the entire leadership of this House is opposed to the ruling. The visitor who came to this country was making a visit and was welcomed by the Government. Does it mean the honourable Member is insinuating that it was the Government using the same visitor to make the court make that ruling?

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, I request Sen. Beth Syengo to take half a minute to finalize her contribution.

*(Loud consultations)*

**Sen. Beth Syengo:** Madam Temporary Speaker, I am just wondering. They say, “the guilty are always afraid”. I was just wondering and that is how my statement was. I am wondering about the connection between the visit and the ruling, and if the visit had connection with the NGO funding. That is my question.

However, allow me to say that as legislators in this nation, we have a role to play to make sure that we protect our culture, values and faith. Not Christianity, not Muslim can approve---

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up, Sen. Beth Syengo.

Sen. Kisang', please, proceed.

**Sen. Kisang'**: Thank you Madam Temporary Speaker. I was worried that those who had spoken earlier were interrupting and taking much of our time because we also wanted to contribute.

I join Kenyans to condemn the ruling that was done by the three Supreme Court judges about the association of LGBTQ. That ruling was a disguised ruling to allow marriages of the same sex because they said they can associate. It was a soft way of saying they can get married - same sex marriages - which they fought for the last ten years.

Nevertheless, we have opposed and people have gone to the streets. I do not know why we have not seen people coming outside the Senate or National Assembly or going to Supreme Court to condemn these things that happened on Friday last week.

Madam Temporary Speaker, most of us, including myself, are Christians. I am a staunch Christian and I believe in heterosexual marriages. The Bible is very clear. Our cultures as Africans are very clear. In fact, there is nothing in the African culture that states that a man with another man would associate for purposes getting married or being intimate. Therefore, I do not know why our Supreme Court judges are telling us to adopt the Western culture. It is an abomination.

If you read the Bible, Genesis, Chapter 2, God made the earth, he created man and he saw that man needs a helper and that helper is not another man, it is a woman. We are given a command to go to the world, procreate and fill it.

If this thing is now legalized, it means that in another 10, 50 or 100 years, we will be extinct. There will be no one in this world.

Madam Temporary Speaker, we condemn this. In Leviticus Chapter 13, it is detestable for a man to associate and have sex with another man. It is an abomination. In those old days, you would be killed.

I agree with the President of Uganda, His Excellency Museveni, who warned that if two men associate and get married, they will be jailed until one of them gives birth. I know none will give birth.

Madam Temporary Speaker---

*(Sen. Kisang's microphone was switched off)*

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up, Senator.

Sen. Methu, proceed.

**Sen. Methu**: Thank you, Madam Temporary Speaker. I will be very quick, so that I allow my colleagues to add their voices on this one. I commend the Motion that has been brought by our Deputy Minority Leader.

I have tried to imagine what we are speaking about. I have never imagined and I am lost for words. How can a fellow man look at me and with such a bushy face, see a

woman in me. How do you think or even associate a person who looks like myself, with a woman?

I do not want to speak about the female side because my colleagues have spoken about it. It is such a disgusting thing to even think about.

I am imagining if every man is made of very rough skin like me, there is nothing attractive to see. Look at my face and my rough beard. There is nothing soft in me that anybody can look at and see a girl. There is so much that would be attractive in--- Surely!

Madam Temporary Speaker, I know my time is over. I would want anybody to convince me; if we are bringing up a generation, how do these people intend to bear children?

Finally, because my time is almost up, one of the major grounds for divorce is when you cannot consummate. I want somebody to convince me how and why a car can be fuelled from the exhaust. Can a car be driven to a petrol station and be fuelled through the exhaust?

Therefore, this is something that we cannot entertain as a country. We should not even hold a debate on this. I commend the President who said that we do not agree with that decision of the Supreme Court. It is so unnatural, un-African and we cannot go there. We shall not do it.

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up.

Sen. Lemaletian, proceed. Condense your comments to maybe one and a half minutes, so that everybody can contribute.

**Sen. Lemaletian:** Sure, Madam Temporary Speaker. I will be very brief.

I rise to support the Motion by Sen. Wambua. I would like to shift focus a bit from the discussion of LGBTQ, to try and deliberate why the Supreme Court of Kenya has allowed this kind of absurdity that is against our religion and African culture.

Perhaps, we need to shift focus from poverty eradication to wealth creation. If the ruling was meant to please the organisations that are funding LGBTQ rights, then it is time our country shifted focus and concentrate on empowering the vast majority of the unemployed youth.

How about we also think of diversifying our sources of income, tap into our vast resources and strengthen our industries to ensure that we have more jobs for these people?

Madam Temporary Speaker, an idle mind is the devil's workshop. Hon. colleagues are alleging, which I agree with them, that Lesbian, Gay, Bisexual, Transgender, Queer or Questioning Persons (LGBTQ) is evil. Our youth are idle and this is why they are engaging in evil activities. How about we try to get jobs for them, so that we have better sources of income.

Thank you, Temporary Madam Speaker,

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

Sen. Cherarkey, proceed. You have to take minimal time.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker. From the onset, I support the Motion by Sen. Wambua. We need to move forward. The Supreme Court decision was hot air, uncultured and uncouth.

I thank the President and the Deputy President for saying that the Government of Kenya shall not allow issues of gayism in this country. Number two, there is an allegation that Kshs15 billion given to Government to fight drought was courtesy of support of gayism in the country. I want to deny that. The visit by Her Excellency Dr. Jill Biden is not connected with what is happening.

I, therefore, oppose this issue of homosexuality in the country. It is uncouth. I join other learned friends in the Senate to move to the Supreme Court to review the decision.

I thank you Madam Temporary Speaker.

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

Sen. Mandago, proceed.

**Sen. Mandago:** Madam Temporary Speaker, I rise to oppose the decision of the Supreme Court on this matter, of allowing the registration of an association of the LGBTQ.

In the ruling, the Supreme Court was relying on the Bill of Rights that is enshrined in our Constitution. However, the framers of the Constitution, knew that even though there are rights of every Kenyan, there must be limitation to those rights. The Supreme Court should have also read the limitation of rights and fundamental freedoms. This is why in the Constitution, there is a Bill of Rights, but at the same time, there is limitation to those freedoms.

I am one happy Senator today because the President has pronounced himself on this matter. We oppose same sex marriages, gayism and lesbianism. In fact, I will be speaking to my County Assembly of Uasin Gishu to ban any activity related to lesbianism and gayism. Any social club that will be seen to promote these activities, they must be removed and closed. We must make the opposition known.

I want to tell the West that if the aid coming to Africa is on condition that we must accept gayism and lesbianism for us to receive, we are ready, as Africans and Kenyans to even die for that one principle. We cannot accept, and we will not accept to be whipped by the West. This debate is coming at the right time where the African continent must rise and refuse to be intimidated by the West.

We know that there are countries funding these activities, sponsoring Non-Governmental Organisations(NGOs) who are doing recruitment. We are going to name and shame them. It is not lost that these countries who have also been advancing us loans at very exorbitant interest rates have been giving themselves loans from the IMF and the World Bank at zero point zero something interest rate. These are the funds they want to bring to this country to promote those activities.

The Senate will put regulations guiding that all funds that come to this country that in any way are associated with promoting this kind of behaviour that is not acceptable to us. We are going to tell them, “thank you, we would rather die than have their money.” We are going to oppose this. I urge our principals in secondary schools, primary schools and institutions of higher learning that they must be on the lookout of any funny behaviours in the school. Such activities must be wiped out in our institutions of learning.

As the Senator of Uasin Gishu County, we shall not allow gayism in my county. We shall have a sitting with the MCAs and citizens to make a declaration that this is a no-go-zone.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Veronicah Maina): Hon. Senators, it is now 6.32 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 7<sup>th</sup> March 2023, at 2.30p.m.

The Senate rose at 6.32 p.m.