

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 19th April, 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, confirm whether we have the requisite quorum.

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

Serjeant-at-Arms, please, ring the Quorum Bell for five minutes.

(The Quorum Bell was rung)

We now have quorum. Clerk, proceed to read the first Order.

PAPER LAID

Sen. Mumma: Mr. Deputy Speaker, this is from the Committee on Devolution and Inter-Governmental Relations.

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

REPORT ON THE RELOCATION OF NATIONAL GOVERNMENT ADMINISTRATIVE SERVICES FROM CHUKA TOWN TO KATHWANA COUNTY HEADQUARTERS, THARAKA NITHI COUNTY

Sen. Mumma: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, 19th April, 2023.

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Report of the Standing Committee on Devolution and Inter-Government Relations on a Statement sort by Sen. Mwenda Gataya Mo Fire, on the relocation of National Government Administrative Services from Chuka Town to Kathwana County Headquarters, Tharaka-Nithi County. I hereby lay the document on the Table.

(Sen. Mumma laid the document on the Table)

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

STATEMENTS

We have several Statements. Let us start with the Statements under Standing Order No.52(1).

Sen. Hamida Kibwana has two Statements under that Standing Order. Since she is not around, we will defer to a later date.

STATE OF HEALTH AND SAFETY IN SCHOOLS

ELECTIONS OF OFFICIALS TO KEWOSA

(Statements deferred)

Let us proceed to the Statement under Standing Order No.53(1) by Sen. Veronica Maina. That also stands deferred.

STATUS OF IMPLEMENTATION OF THE “BUY KENYA BUILD KENYA” INITIATIVE

(Statement deferred)

Next is by Sen. Orwoba.

THE NEED FOR IDENTITY PROTECTION

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security Defence and Foreign Relations regarding the need to protect the identity of Kenyans visiting public buildings and business premises.

In the Statement, the Committee should:

(1) Justify why many businesses do not protect the identity of members of the public when they require security guards to collect and retain original identification documents at the entrance of buildings they visit rather than noting the names and ID numbers and returning the documents.

(2) Outline the measures being taken by the Ministry of Interior and Coordination of National Government to prevent identity theft.

(3) State any plans by the Ministry of Interior and Coordination of National Government to develop an Integrated Population Registration System (IPRS) that can grant companies access to verify the authenticity of an ID number rather than insisting on the use of physical identity cards.

The Deputy Speaker (Sen. Kathuri): Let us get at least two comments. We shall start with the Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, this is a very interesting proposition that Sen. Orwoba wants the House to consider. I have never really thought about it in the direction she is pointing us to.

On many occasions when you go to public buildings or even private enterprises, you give out your ID without bothering to think what somebody will do with it.

Being street smart over time and now as a public figure, I rarely give the correct ID card number or even the phone number. This is because in most occasions when you leave your number with the security guard, then later in the evening when they have left work, you will find the usual calls that politicians get; ‘that I am so and so, I work at such a place you visited. I need this or that favour.’ It becomes quite untidy.

That is a situation that happens to those of us that are public figures. What about the people that we represent because they are primarily our duty and the reason we are here?

When we passed the Data Protection Bill, we created the office of the Data Commissioner to be able to look into these kinds of things; to ensure that publicly-availed data is not used for any purpose other than that which was intended.

The reason you give your identification details is to be identified. This came to the fore with the wake of terrorism issues in the country. Unfortunately, this has now become subject to abuse. You will find that ordinary Kenyans run into trouble for such reasons. It is rather unfortunate.

I believe that the Committee on Information and Communication Technology will consider this because this is an issue about data and we created an office under the State Department though independent, but administratively under the state department of ICT.

They should respond and perhaps issue additional regulations of how they intent to cut this menace. This is something if not properly addressed, can end up with the kind of situation Sen. Orwoba is describing, where private data is abused, yet it was intended for public good when given out. With keen interest, I look forward to see what the Data Commissioner will be proposing to the House as a possible solution, so that ordinary citizens do not have to fear. There has to be better ways of managing this information.

With those remarks, I support and appreciate Sen. Orwoba for bringing this issue to the House.

The Deputy Speaker (Sen. Kathuri): Thank you, Majority Leader. The author of this Statement is requesting the Standing Committee on National Security, Defence and Foreign Relations to look into this matter. However, your suggestion is very relevant because we have had a Data Commissioner from last year.

Sen. Maanzo, proceed.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. When we passed this law, it was clear that regulations would follow after. In the wake of terrorism, there has been a requirement in many places you will drive to. They will first take your car number, your full names and telephone number. That data is then left with a security guard. We may not have captured that in the law we passed and there may be need to check because that information can be used fraudulently.

That information can be used by conmen to con people who use Safaricom or Mpesa. These people can pretend that they are you and open a fake *Facebook* account. A lot of things have been done and reports have been made to police, but those cases have not gone far.

During the time when we had new generation IDs had been produced, they contained all the details of an individual in one card, what was being called a one-stop shop. There were court cases that first stopped the release of those new IDs.

This team came to Parliament and they took all our information using iPads. At that time, I remember a chief called me from somewhere in Nairobi and told me, 'please, come and pick your card.' However, whenever I went to pick the card, the chief was never available, and now all my data is still with some people somewhere.

It is high time for the sake of the security of an individual, that we come up with a way of--- Once all your details have been taken, who is responsible and how can we make sure that it is not misused in one way or the other, especially against your own personal security.

Many of us cannot go to places without being identified because you are a public figure and people know you. Some release you without picking your details, but some insist that they want all your details. I am sure at that particular moment, it is not for the best reasons.

While we consider this, we may need to multi-task. We may have Committee on National Security, Defence and Foreign Relations and the Committee on ICT working together, so that whatever proposals come out, we can address them sufficiently. Otherwise, I support the Statement.

I thank you.

The Deputy Speaker (Sen. Kathuri): This is an interesting Statement. I had limited to two, but because of the law of supply and demand, let me give an opportunity to two more Senators; one from the Majority Side and another from Minority side.

Let us hear the ICT guru, Sen. Kisang.

Sen. Kisang: Thank you, Mr. Deputy Speaker, Sir. You know very well what happened in the last Parliament. We passed the Data Protection Act in 2019 and already have the office of Data Protection Commissioner. Therefore, I believe, as Members have said, that it is good that the two Committees on ICT and Committee on National Security look into this matter seriously.

Some people have taken *fuliza* and loans using the identification details of others. When you leave your ID at the security desk, do you know they can photocopy it? While you are away for a meeting for an hour or two hours, photocopies of your ID can be

taken. They go and register with telecommunication providers, either Safaricom, Airtel or Telkom, and eventually, you will find that you have a *fuliza* loan, and you know very well you did not apply for it.

This is a serious security lapse. I agree with Sen. Orwoba that what needs to be done is automate the security desk in each building, so that they can have the Integrated Population Registration System (IPRS).

Mr. Deputy Speaker, Sir, they do not need to do a complicated system. They can use Unstructured Supplementary Service Data (USSD). Those are easy things to be done, so that we save our people.

Finally, I believe that the Office of the Data Protection Commissioner (ODPC) is not well-resourced. They do not have enough employees to check on these issues.

In the course of discussing budgets, like the other day when we discussed the Budget Policy Statement (BPS), once we have the budget passed, the National Assembly, the National Treasury and ourselves need to ensure that office is resourced, so that they have enough officers to check on data processors and controllers, to ensure they follow the law properly and regulations are passed.

Sometimes regulations take forever at the Office of the Attorney General. They should speed them up, so that our people can benefit from this particular data law.

Mr. Deputy Speaker, Sir, I support. It is good that Sen. Orwoba has come up with this.

The Deputy Speaker (Sen. Kathuri): Lastly, Sen. Crystal Asige.

Sen. Crystal Asige: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to add my voice to the Statement sought by Sen. Orwoba, which I support. It is a progressive and relevant Statement, and I congratulate Sen. Orwoba for bringing this to the House.

It also ties nicely with the previous Statements that Sen. Orwoba sought. She reminded us yesterday that during the First Session of the House, she asked Safaricom and the Communication Authority of Kenya (CA) to divulge more information regarding data protection in the country.

In addition to what has already been contributed by other Senators on this Statement, I want to bring the scenario, which I have been made aware of by the disabled community where Persons with Disabilities (PWDs) data is also being abused in the same way as has been spoken.

When I go to different forums, PWDs give me the experience of having their identification at entrances of shopping malls and office buildings, which sometimes are used to abuse and register under their names for benefits because of different types of reliefs that are accorded to PWDs. There are special reliefs accorded to us as PWDs because of our day-to-day challenges.

Secondly, identification (ID) cards are also used in relation to car registration. When you walk or drive to a shopping mall, your car is identified and when you walk to the entrance, you leave your ID card. So, it is easy for people who want to abuse, usurp or otherwise cause havoc, to correlate your ID card number with your car registration

number, which, as Sen. Orwoba has said, can cause a lot of danger and personal security issues or even national security issues.

Mr. Deputy Speaker, Sir, I also agree with the Senate Majority Leader who said that sometimes, you are forced to give one or two numbers that are different from your ID card or phone number because of personal security. This is something that should be added or probed further by the committee that you will commit this Statement to.

Mr. Deputy Speaker, Sir, I look forward to receiving the responses to the Statement, so that we can have supplementary questions and clarifications too.

I thank you.

The Deputy Speaker (Sen. Kathuri): Let us have the next Statement by Sen. Sifuna.

CONSTRUCTION WORKS ON NGONG ROAD

Sen. Sifuna: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the construction of Ngong Road, a crucial road for residents of Nairobi and neighbouring counties. In the Statement, the Committee should-

(1) Clarify whether the contractor awarded the tender for construction of Ngong Road has completed construction works on the road as per the terms of the contract, including restoration of the damaged sections.

(2) Inform the Senate of the scope of works undertaken by the contractor, stating who is responsible for works on the unfinished sections of the road and measures put in place to ensure that the road which has been under construction since 2017 is completed to the required standards.

(3) Spell out measures to be undertaken by the contractor to address concerns about the incomplete sections of Ngong Road that lack clear markings, lanes that end abruptly and have insufficient lighting, all of which pose safety hazards.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Before I allow time for comments, Sen. Orwoba, as I speak, your Statement is before the Committee on National Security, Defence and Foreign Relations.

However, if you want to do changes as advised by the Senate Majority Leader, you can approach the Liaison Committee to make the decision for two committees to look into that matter, because I can see there are a lot of Information Technology (IT) issues. Be well advised.

Sen. Osotsi, do you want to comment on this Statement?

Sen. Osotsi: Mr. Deputy Speaker, Sir, I wanted to comment on the one on identification.

The Deputy Speaker (Sen. Kathuri): Sen. Thang'wa, Chairperson of the Committee on Roads, Transportation and Housing, what is out of order?

Sen. Thang'wa: Mr. Deputy Speaker, Sir, I seek your indulgence and guidance. I am the Chairman of the Committee on Roads, Transportation and Housing and I have just heard the Senator for Nairobi requesting a Statement about Ngong Road.

I seek your indulgence because he is also a Member of the said Committee. Is it in order for a Member of the same committee to request a Statement to the committee that he belongs, yet that matter can be deliberated in the committee as an agenda or Any Other Business (AOB)?

The Deputy Speaker (Sen. Kathuri): Sen. Thang’wa, the Senator for Nairobi is none other than Sen. Sifuna and he represents the good people of Nairobi City County, including my children who use Ngong Road. So, he is very much in order to represent his people in this House.

You are out of order, Chairman, for saying that the Statement should come under AOB during your Committee meeting. The Statement is well placed. Please, consider it with the seriousness it deserves.

Sen. Munyi Mundigi, do you want to comment on this Statement?

Sen. Munyi Mundigi: Bw. Naibu Spika, asante kwa sababu umejibu Mwenyekiti wa Kamati ya Barabara, Uchukuzi na Nyumba.

Wiki jana nilipouliza kuhusu *macadamia*, Mwenyekiti wa Kamati ya *Agriculture, Livestock and Fisheries* alitaka kunipinga nisiulize kuhusu *macadamia* na hivyo si vizuri. Ikiwa wewe ni Mwenyekiti au Naibu Mwenyekiti, unafaa kujua kuwa kuna mambo yanayoathiri watu wa kaunti na mengine ni ya Kenya kwa jumla.

Kwa hivyo, ninaunga mkono aliyeliza maswali hata kama yanaelekezwa kwa Mwenyekiti. Hatufai kukatazwa kuuliza maswali. Maseneta wanafaa kuwa na uhuru wa kuuliza maswali ili tuweze kufanya kazi nzuri.

The Deputy Speaker (Sen. Kathuri): Hapo umesema vizuri, Sen. Munyi Mundigi.

Sen. Cherarkey, kindly give brief comments because we are taking a lot of time on Statements. You have a maximum of two minutes. I also request that you be timed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I know we have a Speaker in the House, but I do not know why Sen. Onyonka is uncomfortable.

The Deputy Speaker (Sen. Kathuri): I will ---

Sen. Cherarkey: Mr. Speaker, Sir, ---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, I was giving some communication and you are still talking. Why are you confusing my guidance to the House?

(Sen. Onyonka spoke off record)

You are protected. So, kindly use your two minutes.

Sen. Cherarkey: I support the Statement by Sen. Sifuna, the Senator of Nairobi. I think that Statement is timely. I agree that Ngong Road is not well marked, especially when you are driving through and you cannot tell whether renovations were done.

Just the way I was asking about Mombasa Road lower deck. When it is raining, it is very hard for motorist to navigate through because of poor drainage. You remember when the Jubilee Government governed by the “handshake” ensured that they inflated the Expressway and, therefore, the drainage, design and lighting is very poor.

Additionally, when you look at the Langata Road Interchange, it is not well marked. You have to remember that the lanes also were reduced. It is not only in Nairobi City County, but across the country.

Mr. Deputy Speaker, Sir, where I come from, the contractor does the road, they do not do signages, drainage and proper markings on the road. I do not know whether our contractors disappear with it or it is the complacency of the agencies that do not do their job anywhere in the country.

This is bad manners that is creeping into the country. A contractor does a very good road, but they do not provide for the drainage. So, we need to be told the Bill of Quantities (BQs), for example, Ngong Road. What was the BQs? Did it involve the markings and drainage? We had to lose lives.

Mr. Deputy Speaker, Sir, as you are aware, our deepest condolences and empathies are with the children and the families who lost their loved ones in Naivasha. There are many cases of road accidents across the country.

As much as we blame the drivers, there is also poor markings and reflectors on the road. The necessary agencies must rise up to the occasion and ensure that any contractor that does the job and it is very—

(The microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Your time is over, Sen. Cherarkey. On the screen, on my left-hand side, I can see Sen. Oketch Gicheru, Sen. Onyonka and Sen. (Dr.) Oburu. Of course, Sen. Onyonka, you were to get the chance, but now Sen. (Dr.) Oburu has requested that he should also speak.

Proceed, my Senior, Sen. (Dr.) Oburu.

Sen. (Dr.) Oburu: Thank you, Mr. Deputy Speaker, Sir, for the honour. I also want to briefly say that contractors normally leave out drainages in making roads and this is deliberate. This is because contractors cannot work at a loss.

Contractors are business people, but corruption within the Government, that is the Engineers and PSs up to the top are the people who misappropriate the money for the drainages and the ‘ears’ of the road. You call them the ‘ears’ of the road.

You will find a very beautiful road is built, but it does not have an ‘ear’ and drainage because that contractor is recovering the monies he has paid to the pockets of individuals. That is why they do not complete and do not do the good job that they should.

This Government, where Sen. Cherarkey is a very prominent member, should stop this corruption, which has been there from government to government. It is not whether you call “handshake” and so on. This has been there for many years, including those years when your boss was number two.

(Applause)

Mr. Deputy Speaker, Sir, if they stop this, then our roads are going to be good. It is not the contractors. It is actually the Government that 'eats' the money from the contractors.

I thank you.

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

The next Statement by Sen. Veronica Maina.

Just a minute Sen. Veronica Maina.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KERICHO DAY SECONDARY SCHOOL, KERICHO COUNTY

Hon. Senators, in the Public Gallery, we have 60 students, accompanied by two teachers from Kericho Day Secondary School in Kericho County who are in the Senate on an educational tour.

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

I thank you.

Proceed, Senate Majority Leader. This is your school.

The Senate Majority Leader (Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. I welcome the visiting delegation from Kericho Day Secondary School, one of the most celebrated day schools in our County. It is among the most cosmopolitan, actually being in Kericho Town. It has students from all over the country if you may want to put it that way.

They excel quite well both in academics and co-curricular activities. I have very fond memories of many things that we did there, either games or co-curricular activities in their Science and debating labs during my days as a student in Kericho High School.

I encourage the boys and girls from this school who have taken time to visit the Senate this afternoon to enjoy their stay, learn and get the full taste of their visit. Let them interact with as many staffers and Members of Parliament (MPs).

Let them be encouraged that many of the people that they see here as MPs or as staff, went through the stage of life as they are just a few years ago. Today, they have the opportunity to serve this country. Theirs is coming faster than they can imagine. In a short time, I believe that amongst those that are visiting will be Kenyans who will serve this country, not only locally, but internationally as well because the world is now their playground, as it were.

Therefore, I do welcome them. I wish them well in the course of their stay here in Parliament and, of course, even as they make their way back to Kericho, let them enjoy their trip back. I wish them comfort and, of course, safe journey.

Mr. Deputy Speaker, Sir, we spoke very much this morning about the issue of road safety. We get worried nowadays, especially when students get to travel, but I want to believe that they will enjoy God's protection as they travel back to Kericho. Pass our greetings back to the people and, of course, see you over the weekend as usual.

I thank you.

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

Sen. Onyonka: Nashukuru sana. Mimi pia ningependa kutoa maoni yangu kwa sababu ya Seneta Mheshimiwa anayesimamia Walio Wengi katika Seneti.

Kwa wale wanafunzi ambao wametoka Kericho High School ni shukrani sana. Nimeamua kuzungumza kwa lugha ya Kiswahili kwa sababu ningependa kuwauliza nyinyi kama wanafunzi muendeleo kuisifu na kuitumia lugha yetu ya Kitaifa.

Sababu ya hiyo ni kuwa katika Seneti, tukijadiliana na kuzungumzia maswala kuu kuhusu nchi yetu, tunatumia lugha mbili - Lugha ya Kiingereza na ya Kiswahili, haswa wale ambao ni viongozi wenu kama mhe. Cheruiyot na mhe. Cherarkey.

Unajua zamani, Bw. Naibu Spika, mtu aliyetoka katika jamii ya Kalenjin, hata Rais mwenyewe, alikuwa hazungumzi lugha ya Kiswahili vizuri. Siku hizi, lugha ya Kiswahili inazungumzwa na viongozi katika jamii ya Kalenjin kwa njia safi. Wanazungumza hiyo lugha kisanifu na ni heshima kuwa wameendelea kuhimiza kuwa lugha yetu ya taifa iendeleo kusifiwa na kutumika.

Vile mnavyojua, mimi kama Seneta wa eneo wakilishi la Kisii County, ningependa kuwasifu na kuwapa wosia kuwa muendeleo kuwa marafiki na wale vijana wetu ambao wanatoka Kisii. Hii ni kwa sababu ninajua wanafunzi wengi wametoka eneo la Kisii na wanasoma kule Kericho. Ningependa kusema kuwa, Kericho ni eneo la taifa yetu ambalo tunaliheshimu, kwa sababu ya kukuza chai na maendeleo mengine.

Nikimalizia, taifa hili ni lenu. Hakikisheni katika miaka 10 au 15 ijayo, na nyinyi mje hapa muwe Maseneta, Wabunge katika Bunge la Kitaifa. Wengine watakaokuwa wahandisi na kadhalika nao waendeleo kufanya kazi zingine.

Asante Bw. Naibu wa Spika kwa kunipa nafasi kuzungumzia hili jambo.

The Deputy Speaker (Sen. Kathuri): Sen. Orwoba, tumia dakika mbili.

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir. I take this opportunity to welcome the students from Kericho County.

I know that Senators do not know that while we were doing mapping of menstrual hygiene, we found that Kericho County was very aware about menstruation. I congratulate them. The Senator for Kericho County has done a very good job of talking to the students. Thank you for being ambassadors and for ensuring that we end period shaming.

The Deputy Speaker (Sen. Kathuri): Sen. Veronica Maina, you may make your Statement.

(Resumption of Statements)

STATUS OF IMPLEMENTATION OF THE
“BUY KENYA BUILD KENYA” INITIATIVE

Sen. Veronica Maina: Mr. Speaker, Sir, I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Committee on Trade, Industrialization and Tourism, regarding the status of implementation of the “Buy Kenya Build Kenya” initiative to increase competitiveness and consumption of locally produced goods and services.

In the Statement, the Committee should:

(1) Outline the policies that have been put in place by the Ministry to promote the “Buy Kenya Build Kenya” initiative.

(2) Explain measures the Ministry is taking to upscale the local furniture industry to encourage the purchase of their products, whose quality and workmanship is far superior to some foreign furniture currently flooding the Kenyan market.

(3) Elucidate the strategies put in place by the Ministry to promote the Leather industry in furtherance of the vibrant livestock industry instead of exporting wet blue leather, which is semi processed, and in turn, importing leather bags, shoes and apparel which can be manufactured locally.

(4) Provide information on any plans to encourage and support value addition to agricultural products, noting that most of the products grown in Kenya such as coffee are sold in their raw form to multinational companies, thus denying Kenyan industries the benefit of selling value added products.

(5) State what the Ministry is doing to ensure that, apart from companies in the textile industry which are currently able to sell their products locally with support from the Ministry, other companies in the Special Economic Zones that manufacture products for export are enabled to sell their products locally.

Thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. Let us get two or three comments.

First is from Sen. Mumma.

Sen. Mumma: Thank you, Mr. Deputy Speaker, for the opportunity to contribute to that Statement by Sen. Veronica Maina. I congratulate her for it.

The only way we will get this country to care for its youth is by getting into industry. The questions that Sen. Veronica Maina raises are very important that get us to introspect as a country. Are we doing the right thing in order to create that employment that we want? Are we doing the right thing in the agricultural sector, handicrafts and in the cattle and their products?

It is so shocking that at a time when we are needy and the country requires food, you hear of the Cabinet Secretary (CS) for Agriculture, Livestock, Fisheries and Co-operatives planning to take business to farmers in Zambia, instead of supporting farmers locally. It is so distressing when you hear he has acquired some land in Zambia and yet, we have a lot of land in this country that he could actually utilise. There are many farmers he could partner with in order to get this country going.

Mr. Deputy Speaker, Sir, the only way we will move to enable this country grow economically is to have industry everywhere. As a Senate, we need to encourage every county to set up industry within the counties.

We have not explored what she is talking about in terms of coffee, maize milling and adding value to our traditional foods. It is because we are not investing in industry. The Ministry of Trade will do us a big favour if it finds money to invest in this country, in partnering with county governments to set up Exports Processing Zones (EPZ) to---

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

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

Sen. Mandago: Mr. Deputy Speaker, Sir, I rise on Standing Order No.101 (4). Sen. Mumma alleges that the CS for Agriculture, Livestock, Fisheries and Cooperatives, has acquired land in Zambia for growing maize. Can she substantiate or provide evidence of acquisition of that land. Otherwise, she should withdraw and apologise to the CS.

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Mr. Deputy Speaker, Sir!

The Deputy Speaker (Sen. Kathuri): Let us get the second point of order from the Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I had actually tried to get your attention, but then I realised that---

The Deputy Speaker (Sen. Kathuri): I thought you wanted to comment.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, you thought I wanted to make a comment? Okay, no problem. It is in line with what Sen. Mandago is saying.

As Senators, we owe it to the House that every time we speak, we give a statement of fact. A statement of fact cannot be qualified by rumours, newspaper articles and such like stories. It is inaccurate, unless Sen. Mumma, my very good friend, has information to the contrary; that the Government has acquired land in Zambia to plant maize.

There is a process through which the Government does things, such as acquiring land for public use. I would wish to understand what Sen. Mumma means by that.

Secondly, I have seen questions that Senators have prepared for various CSs to come and address this House during the CSs appearance time. I know for a fact that this is one of the questions that is listed because I get copies in my office.

Would it not be in order to first understand if there is such a policy and the thinking that informs it, instead of reacting to rumours, *Facebook* posts and very sensational stories that are being posted without firm basis? Once you have the evidence of what has led to that thinking, get to know whether it is for the benefit of farmers or otherwise. I know the CS is slated to appear before this House either next Wednesday or the week after that.

Before we get there, should Sen. Mumma be measured in her remarks as opposed to being sensational? I take great exception to what Sen. Mumma is saying, just like my

colleague Sen. Mandago, that Government has acquired land in Zambia. If she has that information, we will also be glad to know if that is true.

The Deputy Speaker (Sen. Kathuri): Sen. Mumma, the two points of order touch on Standing Order No.105.

Sen. Mumma: Mr. Deputy Speaker, Sir, I am aware. If you give me time, I can bring the clip of the CS saying he has actually identified land in Zambia, where maize will be planted and that it will be enough to deal with the food security issue. I undertake to provide a clip to that effect.

The Deputy Speaker (Sen. Kathuri): Are you saying that you are ready to provide evidence or facts that the Government has leased or acquired land in Zambia?

Sen. Mumma: Yes, Mr. Deputy Speaker, Sir. 'Leased' is your word. I have not talked about any leasing of land. However, I will bring the clip that refers to the land in Zambia, where maize is going to be planted in order to---

The Deputy Speaker (Sen. Kathuri): Sen. Mumma, you were doing so well before you touched on that livewire. Are you saying that you want to table evidence, so that now you can go on record, you will table evidence that you have facts and evidence, so that we can now proceed?

Sen. Mumma: Mr. Deputy Speaker, if you give me time, next time I will table evidence.

The Deputy Speaker (Sen. Kathuri): Yes, I will give you enough time.

Sen. Mumma: Thank you Mr. Deputy Speaker, I will do so.

(Several Senators rose on points of order)

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

Sen. Cheptumo: Thank you Deputy Speaker. This is a House of record and whoever alleges must prove.

Mr. Deputy Speaker, I would like to inform my learned colleague that she should acquaint herself with the nature of evidence to produce. A video clip alone of the said CS alone is not enough. As you give that leeway for her to produce the evidence, it is important for her to ensure that she brings to this House what is admissible in the House to prove the allegations.

The Deputy Speaker (Sen. Kathuri): You have another point of order.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, I did not want Sen. Mumma, a very good friend of mine, to conflate issues. Nobody is disputing that the Cabinet Secretary for Agriculture made the comments that Sen. Mumma is referring. However, if you listened clearly to what Sen. Mandago and I take great exception to a specific part of your speech, which is what we are challenging you on, where you stated that Government has acquired land in Zambia. That is the part of your speech that we are challenging you on. If she can produce that evidence and satisfy us as a House, we will be more than comfortable to sit back, not to be general in her response and say I saw a clip somewhere.

Sen. Cheptumo, a ranking member, has also helped Sen. Mumma appreciate what passes as material evidence that can be brought before a House of Parliament. You cannot just pick a video clip out of *WhatsApp* and all these other places.

The Deputy Speaker (Sen. Kathuri): Sen. M. Kajwang', the Majority Leader is also on a point of order. You cannot stand on a point of order on a point of order.

Allow Sen. Mumma to proceed and then you can raise your matter. Let us get her moving then you can raise your point of order.

Sen. Mumma: Mr. Deputy Speaker, you had guided now to the extent that the Senate Majority Leader---

The Deputy Speaker (Sen. Kathuri): Sen. Mumma, pursuant to Standing Order 105(2), I give you up to the next Sitting to provide that evidence.

Proceed Sen. M. Kajwang'.

Sen. M. Kajwang': Mr. Deputy Speaker, my point of order was whether it was appropriate for Sen. Cheptumo, who is a very distinguished Member of Parliament, to attempt to put Sen. Mumma in a box on what she can bring and what she cannot bring because he cannot anticipate what Sen. Mumma is going to bring.

She might as well bring the title deed for the land in Zambia owned by the Government of Kenya. It is not in his place to direct Sen. Mumma on how to respond. The bigger issue is that when you are a Member of Parliament, you enjoy certain privileges that not many other Kenyans enjoy. In this House, the freedom of speech and expression is guaranteed.

Mr. Deputy Speaker, in as much as we want to talk about the accuracy of facts, these House is *quasi-judicial*. You cannot apply the evidence Act in its entirety when it comes to this House. Judicial institutions take judicial notice. We can never be in a situation where we are saying this House can never take judicial notice of what is going on in the country, and that when someone brings the attention of the chair to things going on in the country, you are told to produce tangible and hard evidence.

I encourage us not be too pedantic about the application of Standing Order No.105 because people will fear speaking here. If I rose and said, my name is Otieno, someone will tell me to prove and to provide my birth certificate. That kills and stifles debate. I want to urge the House across the aisle that let us not use Standing Order 105 to stop people from processing their minds and let us not be pedantic about it.

Let us allow Senators to exercise a freedom of expression and let us refrain from trying to defend the Executive at all times. We are all members of the Senate and, as we said yesterday, none of us here is a Cabinet Secretary, President or Prime Minister. We are all Senators. If we want the Government and the Executive to explain something, let us call them here and let them, be the ones to explain.

The Deputy Speaker (Sen. Kathuri): Your point of order is taken. One thing you must be alive to is that the Speaker has no eyes and has no ears. I did not stop the Hon. Member from continuing with her submission until the Senate Majority Leader and Sen. Mandago alerted me. Otherwise, this could have passed.

I consulted my Standing Order, which is the 'Holy Bible' that I use when I am here. If it is a statement of fact, it contravenes Standing Order 105. Sen. Mumma is not

complaining that she cannot produce that evidence. Why are you not giving her time to bring the evidence that she has? Why are you also interfering with her independence of mind?

Sen. Mumma, continue and finish.

Sen. Mumma: Mr. Deputy Speaker, I hope my time has been saved. You guided properly and I undertake to bring that clip. To the extent that I sounded like I know where that land is in Zambia, I want to confirm that I have not seen the land. I am speaking from the expression of the Cabinet Secretary.

In my learning of what government is, a Cabinet Secretary speaks for government and not for themselves. To the extent that you are a Cabinet Secretary, you will be speaking or when you speak about an issue you are doing in your docket, you are speaking for government. As guided, I will submit as provided.

Back to the beautiful Statement by Sen. Veronica Maina and the point that I was making, it is time for us to encourage building of industries in every county, since we are the Senate in order to get more of our youth better employed. It will be good for the Ministry of Trade, Investments and Industry to negotiate trade deals, not just for a few cartels, but for the entire country. We should make it possible for even *Mama Mboga* to export her vegetables to neighbouring countries. We need to get the true ‘hustlers’ that they purport to represent, to participate in the export markets with our produce, which are of extremely high quality.

Thank you, Mr. Deputy Speaker.

The Deputy Speaker (Sen. Kathuri): Sen. Tabitha Mutinda. Note that we are giving only two minutes to make a comment on the Statement. This is no time for debate.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, for this particular opportunity. I rise to support Sen. Veronica Maina on her Statement relating to the ‘Build Kenya, buy Kenya’ initiative.

I rise because as a local manufacturer, I really advocate and support for local manufacturing. This is an industry that if we focus on ensuring we support our local products our manufacturers are producing, then we increase revenue in this country. This platform gives opportunities to our youth as far as employment is concerned. We have a lot, especially in the agricultural sector, that if we put in place, we are going to actually harvest much more revenue from the products that can be locally manufactured. Case example is the animal skin, which can produce leather products from the animals that we have in this country.

Mr. Deputy Speaker, locally, our youths, apart from them getting employment, we are going to have an opportunity to encourage them to be more innovative. The education system that we have; the Competence Based Curriculum (CBC), is vast in that it identified students’ talents at an early age.

It is vast in that it identifies students’ talents at an early time. With this encouragement, our local young children will stop focusing on getting education to be employed rather to be the Chief Executive Officers (CEOs) and managing directors of this country. We have encouraged them to start their own companies by ensuring they have a market share and us being the clientele to these particular---

(Sen. Tabitha Mutinda microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Oketch Gicheru. Senator, you seem to not be prepared to make any comment on this. Are you prepared?

Sen. Oketch Gicheru: Yes, I am.

The Deputy Speaker (Sen. Kathuri): Okay.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I do not know why you always doubt me. You have just said you do not have ears and eyes.

The Deputy Speaker (Sen. Kathuri): I saw as if you were not being attentive.

Sen. Oketch Gicheru: No. I am always prepared. I was born ready. This is one of the most crucial Statements because it fundamentally contributes to the recovery of the manufacturing industry in our country.

I beseech the relevant Committee to advance the conversations around policies on taxes. If you observed what happened in our last audited Financial Year 2019/2020; the manufacturing industry contributed the least to our Gross Domestic Product (GDP) about 7.2 per cent yet in terms of taxation, it was the most taxed group of any kind of employment about 15.2 per cent.

This is important because taxation and policies pertaining to taxation in manufacturing make it impossible for any kind of local manufacturers to invest properly in the industry and cultivate an environment for which labor can be involved. Most importantly, as Sen. Veronica Maina has indicated, high taxation also contributes highly to the competitiveness of products by local manufacturers in the market.

This is a fundamental problem related to the national Government's idea of raising capital. However, the national Government should be advised by the Committee that high taxation, in the name of trying to prove to different countries that we are taking money from, that we can pay our debts, is not conducive for making a manufacturing recovery in the country. I will be very keen if this particular Committee emphasizes on the policies in regard to taxation.

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

Sen. Cherarkey: Mr. Deputy Speaker, Sir, "Buy Kenya Build Kenya" is a good Statement that tries to promote the country. However, over the years, we have done little.

A quick reaction and congratulations to our former Secretary-General of the United Democratic Alliance (UDA), Sen. Veronica Maina. There is a lot of monies used to brand Kenya but we are yet to see the revenue turnover. For example, through Sen. Veronica Maina's Statement, we can use our athletes.

Eluid Kipchoge, Evans Chebet and Hellen Obiri were trailblazing in Chicago. Billions of people around the world were watching that race. When Eluid Kipchoge ran under two hours, more than five to seven billion people in the world were watching. Did he wear any t-shirt that shows or showcases Kenya across the globe? Have you seen President Paul Kagame partnering with Arsenal to ensure that they visit Rwanda when they play the---

I do not know how Arsenal is doing at the moment but it says 'visit Rwanda'.

We need to use what we have. Let us use our athletes and products like tea so that when you walk anywhere around the world, you market Kenya so that people come to visit and buy our products. That should not get direct foreign investment into the country. We must welcome investors so that they work hand in hand and turn around our economy.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MUKOU PRIMARY SCHOOL,
KIRINYAGA COUNTY

The Deputy Speaker (Sen. Kathuri): Thank you. Hon. Senators, in the Public Gallery, we have 63 pupils, accompanied by four teachers and one Board of Management (BoM) member from Mukou Primary School in Mwea West sub-county in Kirinyaga County who are in the Senate on an education tour.

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

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Senator for Embu County. You neighbour Kirinyaga County at River Rupingazi

Sen. Cheruiyot: Yes. *Karibisha hao kabisa*

Sen. Munyi Mundigi: Bw. Naibu Spika. Ninapenda kuwakaribisha wanafunzi na walimu kutoka Kaunti ya Kirinyaga. Kaunti hii ni jirani ya Kaunti ya Embu. Karibu sana katika Bunge hili la Seneti ili muone ambavyo tunavyofanya. Sisi pia tulikuwa wanafunzi kama ninyi. Msome kwa bidii ili wengine wawe Maseneta na pia Rais wa nchi hii.

Pili, ni aibu kubwa kuwa mmewasili leo na mkapata tukiongea kuhusu mambo ya kilimo. Katika kaunti hizi mbili mvua ilikuwa kidogo ilhali tunahitaji chakula. Hadi wakati huu, hatuko mahali pazuri. Kwa hivyo, tunaomba mkirudi katika kaunti zenu mpande miti. Tunaomba pia *department* zingine zitusaidie na maji ya kilimo. *Ninasupport* huo mjadala kutoka Seneta. Pia, tuafaa tuone vile tutapata chakula kingi.

Sen. Mumma, ingekuwa ni mambo ya kurusha mawe, naona kuwa ungerusha. Tumewazoea. Lakini ikija ni mambo ya chakula, lazima tukubaliane. Mungu amefanya miujiza na mvua ikanyesha. Kwa hivyo, tuko tayari kupanda na kufanya kazi yote. Ninaunga mkono mjadala huo.

Ingekuwa ni mawe mngerusha.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Next Statement by Sen. Mbugua.

STATEMENT

STATUS OF SPECIAL NEEDS TEACHERS
AT NGAO SPECIAL SCHOOL

Sen. Mbugua: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education on reports of transfer of the only special needs teacher at the Ngao Special School at Oljororok Constituency in Nyandarua County, which admits students with special needs from most of Nyandarua County.

In the Statement the Committee should-

(i) Provide the current enrollment pupil-to-teacher ratio and social workers at the school stating the number of pupils who require specialized support from special needs teachers and social workers.

(ii) Shed light on the report of the transfer of the only special needs teacher at the school stating whether the transfer of the teacher was part of a broader restructuring plan for schools in Nyandarua County or an isolated incident giving the current status on the search for a replacement.

(iii) Ascertain reports of discontinued learning for pupils with special needs at the school following the transfer of the special needs teacher stating plans to ensure that pupils at the school continued to receive the support they need including posting of social workers at the school;

(iv) State the amount of public funds released as capitation in the last 12 months stating any plans to complete ongoing infrastructural efforts including the construction of a boarding block, fencing of the school and leveling of the school compound.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. Let us get a brief comment from Sen. Joe Nyutu, Chairperson, Standing Committee on Education.

Sen. Joe Nyutu: Mr. Deputy Speaker, Sir, although I am the Chairperson of the Committee on Education, I support the Statement requested by Sen. Mbugua.

We have a Bill on learners with special needs which we are considering at the committee level. It is sad to hear that the only teacher dealing with learners with special needs was transferred. Ideally, what should happen is that a suitable replacement should have been made before the only available teacher was transferred from that school.

So, Mr. Deputy Speaker, Sir, I support but I may not want to prosecute it further, being the Chairperson for the Committee on Education, the Committee to which you may refer this Statement. It is true that we need to be focused on serving learners with special needs. Even buildings and all public places should be friendly to people with special needs and not only learners.

I support.

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

Sen. Cheptumo: Mr. Deputy Speaker, Sir, I also rise to support the Statement.

I do not think institutions for learners with special needs receive equal attention like other institutions of learning. That is not good. I am happy that the Chairperson of the Committee on Education has confirmed that they are considering a Bill which when passed will help in this process.

If you look at Article 27 of the Constitution, it talks about equality and freedom from discrimination. Article 27(1) states as follows-

“Every person is equal before the law and has the right to equal protection and equal benefit of the law.”

As a country, we need to ensure that even students in special needs schools receive equal treatment, the way we do allocation of resources to other institutions. There is a need to even take stock. Even we, as leaders, today--- I want to encourage Members of this House that as we visit those primary and secondary schools, it is important that we also give attention to these institutions in our counties because they are a critical aspect of our society.

Article 27(4) of the Constitution talks about the state not discriminating against anybody because of the disability they have. When you look at a situation like what Sen. Mbugua said, where you transfer teachers in those schools with no replacements, you continue to expose those students to discrimination that they always face and so---

(Sen. Cheptumo’s microphone was switched off)

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

Sen. Wamatinga: Mr. Deputy Speaker, Sir, I also rise to support the Statement by Sen. Mbugua. It is indeed one of the requirements of the Sustainable Development Goals (SDGs) that we mainstream all the vulnerable in the society.

The case is not only isolated in one school in Oljororok. In Nyeri County where I come from, the special needs school has been faced with numerous challenges, including staffing, equipment and infrastructure development.

It is important that as the Committee on Education that is chaired by the Senator for Murang’a looks into this, they should go a step further and request the information from the Ministry. Out of 30,000 teachers who were recruited, we need to know how many of them were meant for schools that handle vulnerable learners.

It is also important to have the vulnerable not isolated but mainstreamed into the society because when they grow up, they will need to get around and live with other people who are abled differently.

Mr. Deputy Speaker, Sir, the Statement is important. Therefore, the Committee on Education should do justice by rising to the occasion and have the Ministry of Education answer the question; how come 60 years after Independence, we are still facing the challenge of mainstreaming pupils who are vulnerable?

I support.

The Deputy Speaker (Sen. Kathuri): The next two Statements are by Sen. Chute.

STATUS OF COMPENSATION AND RESETTLEMENT OF
RESIDENTS OF BUXTON ESTATE, MOMBASA COUNTY

Sen. Chute: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights on the status of compensation and resettlement of residents of Buxton Estate in Mombasa County. In the Statement, the Committee should-

(1) State the acreage of land earmarked for modernization of Buxton Estate in Mombasa County, outlining the current valuation of the land.

(2) Examine the bidding procedure for modernization of Buxton Estate carried out in 2016 and 2020, stating the tendering process, the number and cost of bids tendered with details of who won, and the amount of the award.

(3) State the number and type of units expected to be constructed, their completion date, and the estimated value at the date of completion, stating the criteria that will be used to share the units between the county government, residents, and the developer.

Mr. Deputy Speaker, Sir, I will proceed to seek my second Statement.

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

The Deputy Speaker (Sen. Kathuri): Just a moment, Sen. Chute. What is your point of order, Sen. Thangw'a?

Sen. Thangw'a: Mr. Deputy Speaker, Sir, when it comes to Standing Orders, we are taking time to--- Maybe the Senator can have a seat.

(Sen. Chute sat at his place)

Mr. Deputy Speaker, Sir, I seek your indulgence. I am the Chairperson of the Standing Committee on Roads, Transportation and Housing. The Senator seeking a Statement is a Member of the Committee on Roads, Transportation and Housing. The matter he is raising a Statement on is live in the Committee where he is a Member.

When I was giving my report today, I said that as the Chairperson, I gave the developers of Buxton Estate and the County Government of Mombasa 21 days to respond. The 21 days lapsed five days ago but we are yet to receive any information. So, I feel that Statement is in bad taste, or else those who prepared it did not understand the mandate of the Committee on Roads, Transportation and Housing.

Mr. Deputy Speaker, Sir, a matter that is live in another committee cannot and should not be directed to any other committee. That is why I seek your indulgence because no matter how long it takes, I will be standing on points of order, so that each committee is respected and Members of the committees too.

A matter on housing is being directed to the Committee on Justice, Legal Affairs and Human Rights.

Mr. Deputy Speaker, Sir, I seek your indulgence and guidance because the Committee is working on the issue.

Once the Committee concludes, and he is a Member of the Committee, he can raise the same issue on the Committee. We do not want to take the processes of this House. We are not protecting anyone and no one is protecting anybody. All we are looking for is for the procedures of this House to be followed to finality.

The Deputy Speaker (Sen. Kathuri): The Chairperson, Committee on Roads and Transportation, that issue was well canvassed when this Petition was approved. His Statement is touching on acquisition not compensation. Therefore, there is a clear line.

You are the Chairperson of the Committee. Once all these issues land on your desk, make the decision as a Committee. Do not feel offended because his wording is different. I can see the comments from the approving authority concerning that Statement.

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

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

The Deputy Speaker (Sen. Kathuri): Nothing is out of order. No Member is on the Floor, Sen. Orwoba.

Sen. Cherarkey, a point of order on who? Who is on the Floor contributing, so that you can raise a point of order?

(Sen. Orwoba and Sen. Cherarkey spoke off record)

Sen. Chute, proceed and conclude your Statement.

STATUS OF MANAGEMENT OF MUSEUMS AND HERITAGE SITES IN KENYA

Sen. Chute: Thank you, Mr. Deputy Speaker, Sir. I will proceed with my second Statement.

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Tourism, Trade and Industrialization, on the Status of Management of Museums and Heritage Sites in Kenya.

In the Statement, the Committee should-

(1) State the number of museums and curators under management and employment by the counties, disclosing the amount of revenue generated in the last 12 months from the facilities, noting that the management of museums is a devolved function.

(2) Disclose the particulars of ownership of the National Museums of Kenya, including share ownership if any, stating its management structure.

(3) Outline the strategies counties have put in place to ensure that the museums under their management generate revenue to make them financially sustainable.

(4) State steps to repatriate artifacts of notable value such as Ahmed the elephant from Marsabit and those that are from Koobi Fora among other artifacts from the National Museums of Kenya and the county of origin, stating when the artifacts were moved from the communities and amount of revenue generated since their relocation.

(5) Finally, state the amount of compensation and or repatriation of benefits due to the host communities from which these artifacts were removed, outlining plans if any, including legislative interventions to expand and improve the status of museums in counties, to bring them to a state of preservation of their sacred objects.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Chute. I am actually trying to get your prayers from the first Statement which the Chairperson Committee on Roads and Transportation was alluding to and what exactly is it that you want executed.

You have requested the Committee on Justice, Legal Affairs and Human Rights to look into this matter. However, when you look at the contents, they are clearly in housing. Why did you take it to the Committee on Justice, Legal Affairs and Human Rights?

Sen. Chute: Mr. Deputy Speaker, Sir, what I am trying to bring to the attention of the House is the procedure of acquiring that land, through a tender system. Initially, the procedure was for low cost housing. However, later on, it has been turned into another business.

I am trying to look at the procedure of how this land was acquired. We want to know how it was acquired. It is not an issue of housing. The issue of housing is before the Committee on Roads and Transportation, which I am also a Member. The issue I am asking here is, how did they get this land?

Mr. Deputy Speaker, Sir, the cost of this land today is about Kshs3 billion. However, according to me, it was fraudulently given. That is why I am asking that it should be investigated.

Thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Gataya Mo Fire.

RECENT DEATHS OF INDIVIDUALS IN CHUKA TOWN
AND ALONG THE BORDER BETWEEN
THARAKA AND ISEMBE SOUTH

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations, regarding the recent deaths of individuals in Chuka Town and along the border between Tharaka and Isembe South.

In the Statement, the Committee should-

(1) Explain the action taken to address security concerns within the border area of Toroni Location of Tharaka North in Tharaka-Nithi County and Igika Location in Meru County, including any steps taken to address incitement from politicians in the region, which resulted to two people namely, Evans Mutembei and Gitonga Njuki losing their lives recently.

(2) The same Committee should outline the timeline for providing compensation for families affected by the incitements of insecurity along the said border.

(3) The Committee should provide an update on the progress of investigation into the murder of Willis Mugambi also known as Kiraku, who was fatally shot by policemen during demonstration that took place in Chuka Town, on 9th March, 2023.

(4) At the same time, the Committee should determine reasons for the death of Daniel Mutembei and the sequence of events that led to his murder, ultimately resulting in the protest that occurred in the 9th of March, 2023 in Chuka Town.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Those three Statements stand committed to their respective committees.

I can see some requests here. I do not know whether they want to make comments or the reasons for their requests.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker. I rise to seek further clarification on the Statement by Sen. Chute about Buxton.

Mr. Deputy Speaker, Sir, this is a scandal in the making. In fact, it is a clever confidence game, meant to swindle the people of Mombasa County of 10 acres of prime land. The land in Buxton goes for Kshs300 million per acre and since they are developing 10 acres, that is Kshs3 billion.

I wish to be clearly understood as to why this is an attempt to swindle us. Against that Kshs3 billion of prime land, the strategy is to build 2,000 houses and then the county Government of Mombasa will be given 10 per cent, which is 200 houses.

Each house is going for Kshs3.2 million. Therefore, the County Government of Mombasa will then make around Ksh600 million after selling those houses, after losing property worth Kshs3 billion. They will have lost ownership forever. This scandal must be stopped by this Parliament.

(Applause)

Mr. Deputy Speaker, Sir, you have been around the world and you have gone to this kind of project on the island of Hong Kong. At a similar island in Hong Kong, they have put up skyscrapers. What they are putting up in Buxton are houses similar to those which were pulled down. Where is the logic?

We should just stop it. The entire Senate should just go there, charging and singing war and circumcision songs and chase out these people. Then they will know we are protecting Mombasa County.

Mr. Deputy Speaker, Sir, can they come and table evidence to contradict what I am saying, if it must go on?

(Applause)

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

Sen. Abbas: Mr. Deputy Speaker, Sir, I also support the Statement by Sen. Chute. The idea of low cost housing is a noble one. The purpose of that idea is to help

low income Kenyans to live in decent houses. However, the whole thing has changed now and the houses are now being taken by rich people. They are now buying houses at a high cost and the cost has even changed.

One other thing is that counties are losing a lot of money and prime land. This is not valid. The best thing would have been to first value the land, pay the counties and then change ownership of those houses. What has happened is that they are only giving 10 per cent of the houses that have been constructed. We hear that it is only Kshs600 million out of Kshs3 billion. That means that the counties are now losing a lot of money and have lost their land.

The honest people who lived there for many years were not compensated, neither were they given other houses. We are being told they are building low cost houses to take care of low income people; the poor who cannot afford decent houses. However, things are now changing. These houses cost Kshs3.5 or 5.5 million. These people will still be living poorly in indecent houses. The whole purpose is not there.

I beg to support.

The Deputy Speaker (Sen. Kathuri): I am trying to give Members who have not spoken today.

(An hon. Senator spoke off record)

I am not looking at your faces but at the screen.

Sen. Tabitha Mutinda, had you contributed?

Sen. Tabitha Mutinda: Mr. Deputy Speaker, Sir, I rise to support the Statement by Sen. Gataya Mo Fire with regards to the young man who was shot by police during demonstrations in Chuka.

I urge the Committee of National Security, Defence and Foreign Affairs to urgently give a report on that particular matter that took place during *maandamano*.

As we stated earlier, at this point, we encourage bipartisan talks to be tabled on this Floor. The kind of demonstrations that have ended made us lose the lives of our wonderful Kenyans, who worked hard to bring food on the table.

I support Sen. Gataya Mo Fire because he supports his people and as Kenyans, we back him up. We want this matter tabled very urgently. The County Commissioner should very fast give this Committee a report on the young man whose soul rested due of demonstrations.

The Deputy Speaker (Sen. Kathuri): Sen. Thang'wa, proceed.

Sen. Thang'wa: Mr. Deputy Speaker, Sir, I was warned when that Petition came to the Committee that the Buxton issue is a hot potato.

The Committee for Roads, Transportation and Housing had to make sure that people of Buxton get what is theirs. The County Government of Mombasa and the developer of Buxton Estate, must give the former residents of Buxton what is theirs.

As we are processing and progressing with that issue, I am a bit worried why the same issue is being requested in another Committee. We are in the progress of giving the people of Mombasa County what is theirs.

Mr. Deputy Speaker, Sir, I request you to give us a joint sitting together with the Justice, Legal Affairs and Human Rights Committee (JLAC); so that we do not have games that are played in this House and that this matter should continue. We have to follow and make sure that the former Buxton residents get what belongs to them.

Why is the matter being taken to another Committee when we are just about to conclude? That is my issue. What has been taken? Who has been seen? Who has taken what?

(Laughter)

I request those two Committees that we sit down together, listen to that issue and conclude this matter. After JLAC has taken the matter, the Committee on Land, Environment and Natural Resources might come again and say they are talking about land. After that, the Committee on Trade, Industrialisation and Tourism might say that Mombasa County is a tourism County and the matter should go to that Committee.

Mr. Deputy Speaker, Sir, let this matter be handled by both Committees. If not---

(Sen. Thang'wa's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, proceed.

(Loud consultations)

I gave the microphone to the Senate Majority Leader a long time ago.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, Sen. M. Kajwang' should allow me to prosecute the point first and I am sure you will give him a chance. It is not usual for him to be around at this hour. I was wondering what is coming up.

(Laughter)

Mr. Deputy Speaker, Sir, I do not know whether it is this Buxton issue. Having been in this House long enough, I know that when you see a matter making rounds from one Committee to the other, transcending one Parliament to the other, then there is chance that there is more than meets the eye. It is not the first time the Buxton issue is before this House.

I do not know what has informed the decision. However, I am concerned by the comments of the Chairman of the Committee on Roads, Transportation and Housing. We should trust our Committees. If a competent Committee of this House is handling a particular matter, it is only respectful to the membership of that Committee; and to the House, that we allow them the requisite time to conclude on a particular matter before moving it to another Committee.

Mr. Deputy Speaker, Sir, I stand to support the Chairperson of the Committee on Roads, Transportation and Housing, that if they were already handling this matter, then they should be allowed to conclude on the matter. Once they bring the report, should the

House hold the view that a particular matter has not been fully addressed or there is reason to believe that the Committee did not carry out its responsibility properly, then the House can be moved to think otherwise. However, I find it wrong that a Committee of this House is handling a particular matter and midway, that matter is taken and given to another Committee.

It does not matter if a Member coins the question in a different way. I have no ill will against any Member for bringing the matter before the House but we cannot encourage these kind of statements.

However, I feel what Sen. Chute brought is proper before the House but then that particular matter should have been added as additional matters for the Committee to find out. I do not know what informed the decision to take it to a separate Committee. Nonetheless, I hold the view that, whatever supplementary questions are brought, so long as it relates or even has the slightest of similarity to a matter that is before any Committee of the House, it does not matter which Committee. We should trust our Committees of the House and that is my point.

Hon. Senator: Point of order, Mr. Deputy Speaker.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Montet Betty.

Sen. Montet Betty: I rise not to talk on the hot potato but to support the Statement sought by Sen. Gataya Mo Fire.

Mr. Deputy Speaker, Sir, the issue of demonstrations in this country has always been handled very badly. Demonstrations are not illegal in this country. We have seen deaths resulting from these demonstrations while Wananchi are always there trying to just pass a message to the Government or to the relevant authorities if they are not taken care of well.

Additionally, by doing so, we end up losing very humble souls; the people who are just coming out of streets to demonstrate and give their message. As the police look into this report, I urge them to carefully handle the demonstrations in this country. I think the demonstrations are here to stay. We are going to demonstrate so long as the Government does not give us what is due to mwananchi. Can the demonstrations be handled with care so that we stop losing lives in demonstrations?

I thank you.

(Several Senators stood in their place)

The Deputy Speaker (Sen. Kathuri): This issue has elicited a lot of interest because I want to go to the Statements hour.

Let us get to hear from the Deputy Minority Leader.

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

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

The Deputy Speaker (Sen. Kathuri): Sen. Kajwang’, visit Standing Order No.98. When a Member is on the Floor, there is nothing completely. You cannot rise, what are you rising on now? How will you raise a point of order? Maybe when he is done contributing you can be able to do that.

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

Sen. Wambua: Mr. Deputy Speaker, Sir, my time starts counting now.

The Speaker (Sen. Kathuri): Yes, Sen. M. Kajwang’.

I stop my time then.

The Deputy Speaker (Sen. Kathuri): You should not contribute. Which Standing Order are you rising on?

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.55 (3) (e). Standing Order No. 55 (3) (e) requires that a request for a Statement should not repeat in substance any matter covered in a prior request for Statement responded to and so on. In raising this point of order, I want to buttress the point that has been put forth by the Chair of the Committee on Roads, Transportation and Housing.

Mr. Deputy Speaker, Sir, I am a Member of the Committee on Roads, Transportation and Housing which is seized with a Petition on the same subject. The distinguished Sen. Chute, was in the same delegation that I was in, where we met the Governor of Mombasa, the members of public and the developers in Buxton and he was sitting to my immediate left. If a similar matter is currently before another Committee, it cannot be a subject to debate, that is pursuant to Standing Order No.55. If you also look at Standing Order No.100, which states that matters before a Select Committee should not be referred to. The only area where I disagree with all the speakers who have spoken, is the part where they are insinuating that the Speaker has already made directions on which Committee the matter should go to.

The procedure in this House is that once the Statement has been read by a Member, it is the Speaker to give directions on the Committee to which the Statement should be sent. For those who are imputing that the Speaker has already decided that this matter is going to the Justice and Legal Affairs Committee (JLAC), I think they are anticipating the decision and ruling of the Speaker.

Mr. Deputy Speaker, Sir, having listened to the sentiments of Members, reservations of the Chairperson of the Committee on Roads, Transportation and Housing and contributions of other Members of the same Committee, that you shall exercise your power under the Standing Orders. I hope that the Committee that is currently seized of the matter will address this particular Statement. I urge the Members of this Committee to take very seriously what the distinguished Senator for Kakamega has said. He has given certain prescriptions on how the interest of the public and the citizens and residents of Mombasa should be safeguarded.

I believe that the Roads, Transportation and Housing Committee, with the competent membership of Sen. Chute, Sen. Tobiko, Sen. Wambua, Sen. Sifuna and Sen. (Dr.) Lelegwe Ltumbesi, will provide responses to the questions raised by Sen. Chute. It is in your power and hands at this point to direct that this Statement be sent to the relevant Committee which is the Roads, Transportation and Housing Committee.

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

Sen. Wambua you can use your two minutes. Let us conclude the Statement hour.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. I walked in when my Chairman was really agitated. I was wondering what the problem was but now I understand what the issue was.

Just to add on what the Senate Majority Leader, Sen. Cheruiyot and Sen. M. Kajwang' have said, the matter of Buxton Estate is properly before the Roads, Transportation and Housing Committee. I know Sen. Chute raised those issues when we met in Mombasa. His statement today could just be supplementary question on the usual Statement. I am very sure the Committee will deal with that.

Mr. Deputy Speaker, Sir, allow me to make a comment on the security issue raised by Sen. Gataya Mo Fire of Tharaka Nithi. One of things that we have to do as a country is to respect the sanctity of life. When we speak here and talk about so-and-so has been shoot dead, for us it could just be numbers yet we are losing lives. Irrespective of the reasons why people are demonstrating or found on the wrong side of the law, there is no law that authorises police officers to shoot to kill people. If we continue with this trend, then I do not know where we are going to stop.

My prayer is that once the Committee is seized of this matter or Statement, let the Senate be that Houses of reason that makes it very costly for police officers to go about shooting and killing people in the pretext of stopping demonstrations. As Sen. Montet Betty has said, we have announced that in the coming weeks, we could have more protests. It could happen.

We do not want a situation where police now are taking for granted that you can just go and kill people because they are protesting. Let us respect the sanctity of life. I thank the Senator for Tharaka Nithi County for bringing this Statement.

I thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, looking clearly at this Statement, and also listening to the sentiments of various Senators who have given their remarks on it, I rule that it should be handled by two Committees. That is, the Standing Committee on Roads, Transportation and Housing and the Standing Committee on Lands, Environment and Natural Resources.

(Sen. Thang'wa spoke off record)

The Chairperson Standing Committee Roads, Transportation and Housing, are you disputing my intellect?

(Sen. Thangw'a spoke off record)

Next Order.

(The Clerk-at-the-Table consulted the Chair)

There are Statements under Standing Order No.56(1)(b) by three Chairpersons of Committees. Let us start with the Chairperson, Standing Committee on County Public Accounts (CPAC).

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

The Deputy Speaker (Sen. Kathuri): Who is out of order? Is it the Chair?

(Sen. Methu spoke off record)

The Chairperson, County Public Accounts Committee, do you have a Statement from your Committee?

(Sen. M. Kajwang' spoke off record)

You must engage on one thing at a time

ACTIVITIES OF THE COMMITTEE ON COUNTY
PUBLIC ACCOUNTS

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, I apologize. Sen. Lemaletian distracted me a bit.

(Laughter)

It only happens three days in a week.

Mr. Deputy Speaker Sir, I rise pursuant to Standing Order No. 56(1)(b) to make a Statement relating to the activities of the Senate County Public Accounts Committee.

Mr. Deputy Speaker Sir, during the period under review, commencing 25th October, 2022 to 30th March 2023, the Committee held a total of 30 meetings.

The Committee has interrogated and prepared 13 reports awaiting adoption by the Committee before tabling in the Senate. The following are the county entities whose reports are awaiting adoption by the Committee-

- (a) Nyeri County Executive;
- (b) Nandi County Executive;
- (c) Bomet County Executive;
- (d) Tharaka Nithi County Executive;
- (e) Vihiga County Executive;
- (f) Homa Bay County Executive;
- (g) Nyamira County Executive;
- (h) Tana River County Executive;
- (i) Kiambu County Assembly;
- (j) Kitui County Assembly;
- (k) Isiolo County Assembly;
- (l) West Pokot County Assembly; and,
- (m) Narok County Assembly.

Mr. Speaker Sir, out of the interrogations of the above county entities, a number of issues of concern arose. Most of the 13 county entities had challenges with the submission of documents to the auditors as stipulated in the Public Audit Act, 2015.

The Committee noted that most county executives and assemblies did not avail relevant supporting documents to the Auditor-General during the audit exercise.

Mr. Deputy Speaker, Sir, the reports also revealed that most of the county entities were not able to apply proper accounting practices and their financial statements were characterized by lack of regular reconciliations.

Subsequently, the lack of regular reconciliations resulted in variances between the Integrated Financial Management System (IFMIS) and the financial statement. This resulted in inadequate reporting and presented an inaccurate position of the financial operations of the county assemblies.

Mr. Deputy Speaker Sir, the reports further revealed that a number of counties had weaknesses in executing their budgets. Most of the county entities did not adhere to their approved budget ceilings set for programmes, votes and sub-votes.

Mr. Deputy Speaker Sir, the audit reports also revealed that the entities made payments outside the IFMIS, contrary to the Public Finance Management Act. The practice of processing transactions outside the IFMIS could be an avenue to bypass financial controls and may have led to misappropriation of funds.

Mr. Deputy Speaker sir, the Committee further noted that most counties had weak human resource management, where most counties recruited staff without following due recruitment procedures in addition to absence of policy to determine optimal staffing levels.

Mr. Deputy Speaker Sir, the Committee was also concerned about the delays in exchequer releases to the counties from the National Treasury, thereby hampering programme implementation and budget execution. This also occasioned penalties levied on the counties from the Kenya Revenue Authority (KRA) for non-remission of statutory deductions, putting a lot of strain on the county entities who found themselves in the circumstances out of their control.

Mr. Deputy Speaker Sir, the Committee is in the process of adopting and tabling its report with recommendations of how to address the findings from the audit reports interrogated so far.

Mr. Deputy Speaker, Sir, because we had agreed at the Liaison Committee that we present a very summarized version, we will be happy to table a more detailed report of our activities which will include the position of the Committee on Article 226(5) of the Constitution.

Article 226(5) says that if a holder of a public office causes loss of public funds, that holder must make good whether they are in office or not.

My Committee is considering inviting former governors where they have been cases where the Auditor-General has pointed fingers at them for causing loss of public funds.

The other concern that this House has registered is that we are still dealing with Financial Year 2019/2020.

In our detailed report, we shall be recommending that we will be setting sub committees to fast track and to ensure that we are up to date so that we can close Financial Year 2019/2020 by 30th June, 2023 and ensure that we look at the current financial year.

Finally, it is important that as a Senate, 10 years after the commencement of devolution, we do a legislative impact assessment of the Public Finance Management

Act, Public Audit Act and the Public Procurement and Asset Disposal Act and ask ourselves whether they are fit for purpose or whether this House needs to amend them to reflect the realities that county government find themselves in.

I appreciate the Office of the Speaker, the Senate leadership and the Office of the Clerk, for the support that they have accorded this Committee.

The Deputy Speaker (Sen. Kathuri): Thank you for that brief statement.

Sen. Methu, what is your point of order.

Sen. Methu: Thank you, very much, Mr. Deputy Speaker, Sir. Since yesterday, after I came in, I have tried to be very respectful and obedient. This is because you told us that once we press our intervention button, you shall allow us to speak.

I was here until 6.30 p.m. yesterday, and you did not allow me to speak. This morning, I was in this Chamber, pressed the intervention button and again, you did not allow me to speak. Now that I have caught your eye, there is an issue that is out of order. I am not disagreeing with the ruling that you made yesterday on that Seat. You referred to the Speaker's rules No. 5 that says-

“Senators are required not to enter the chamber, Lounge or Dining Room without being properly dressed. This means that a Senator shall be dressed in a coat, collar, tie, long trousers, socks and shoes, or service uniform, religious attire or such other decent dressing as may from time to time be approved by the Speaker”

Equivalent standards shall apply in respect of women Senators who may also wear Kitenge or such other attire.

Mr. Deputy Speaker, Sir, when you ruled yesterday that I withdraw from the Chamber, I was not allowed to comment. It is very important that you allow me to mention this.

I came here yesterday donning a religious attire of the Hindu religion. It is perplexing that you on that Chair wanted to roll it down on me, that I cannot put on a Hindu attire because I am not a Hindu.

I do not agree with you to that extent. This is because if we do not have a Hindu in this House, you do not say that they are not represented.

In the Speakers Rules, it is allowed that we come here with the traditional attire like that of Sen. Olekina, the Minority Whip.

I do not agree that if we do not have a Hindu here, then we cannot put on Hindu attires. This means that the traditional attires of the communities that are not represented in this Senate will never find a place in this House.

In that regard, I implore you to review the ruling that you made yesterday and let us have respect for all religions. Do not force us to ---

The Deputy Speaker (Sen. Kathuri): Sen. Methu, you are using the word “you” in a way that is confusing me. You are referring to me because I understand the Chair who was here then, made a ruling on your dressing. Why are you using short cuts because it was not me who was on the Chair at that time? It was another Chair. Why are you bringing this issue again?

Sen. Methu: Mr. Deputy Speaker because I was not allowed to speak. I was told to go out and come back when I am dressed in a tie.

The Deputy Speaker (Sen. Kathuri): Now you are smartly dressed. Sit down and transact business.

Sen. Methu: I am agreeing with you. It is not that I want to disagree with that ruling.

The Deputy Speaker (Sen. Kathuri): The Speaker dispensed off this matter yesterday.

Sen. Methu: This particular issue that I am speaking about was not dispensed with. It was not dispensed with.

The Deputy Speaker (Sen. Kathuri): Maybe I need to look at the HANSARD.

Sen. Methu: You could look at the HANSARD, but the religious issue that I am referring to this afternoon was not addressed.

The Deputy Speaker (Sen. Kathuri): I will look at the HANSARD on what the Speaker ruled yesterday.

Sen. Methu: That would be fine.

The Deputy Speaker (Sen. Kathuri): I think that is better.

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

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka, I told you to refer to Standing Order No. 98 because we have finished that matter and we cannot go back to the issue. I have ruled that we must consult the HANSARD and that has been noted by the Clerk.

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

The Deputy Speaker (Sen. Kathuri): No, he is not on the Floor. You cannot inform him because he is not on the Floor now. You know, I have a lot of respect for you, Sen. Sifuna, but it is Standing Order No. 98 that has saved this House from unnecessary points of orders. If you had raised it when the Member was on the Floor, that could have been better. However, you are now raising the issue when we are done with this matter about the dressing.

What is it that you wanted to say?

Sen. Sifuna: Mr. Deputy Speaker, Sir, first, let me say or confirm that I am rising on Standing Order No. 122 (e) which says that a Senator shall be out of order if he deliberately gives false information to the Senate.

Mr. Deputy Speaker, I know Sen. Methu is a Christian. How can he come and deliberately give false information using religion? Since he felt bad because he was kicked out for being improperly dressed, he wants to ascribe the manner of dress yesterday to a religion that he does not belong to and is he lying to us. He is lying to us that he is now a Hindu because of wearing Hindu attire yesterday.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna how do you know whether he did not change his religion last night?

Sen. Sifuna: I know him. Unless he changed his religion last night. I know for a fact that ---

Sen. Methu: *(Inaudible)*

Sen. Sifuna: He is now heckling. You have the records of all of us here. Edwin Sifuna is a Catholic. He is a Christian. He spends all his time during weekends in church.

I follow him very closely on social media. He is always at African Independent Pentecostal Church of Africa (AIPCA) church. In fact, this weekend he was at an AIPCA church. He is laughing because he knows I am telling the truth.

According to this Standing Order, you cannot mislead or give information that you know is false to the Senate. You should rule him out of order and go let him go out of the House and resolve the religious crisis that he is going through.

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR

VISITING STUDENTS FROM ST. PAUL KINANGOP
ACADEMY, NYANDARUA COUNTY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, in the Public Gallery, we have 87 students accompanied by eight teachers from St. Paul Kinangop Academy in Nyandarua County who are in the Senate on an academic tour.

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

Thank you.

Proceed, Sen. Methu.

Sen. Methu: Thank you very much, Mr. Deputy Speaker, Sir. I rise to welcome my students that are from St. Paul Academy. St. Paul Academy is my neighbour at home. We come from the same ward.

It is a school that we all looked up to. I attended a public school. I really wanted and I hoped that I would ever get an opportunity to go to St. Paul but I never got an opportunity. I went to a public school, but through God's grace I am now here.

I want to welcome them to the Senate for this learning tour and encourage them as they go back to Kinangop that when they see me standing on the Floor of the Senate, it is a major encouragement to them that they can go to any length and to any House. They can achieve anything that they would want to achieve.

Had you given me an opportunity when Sen. Sifuna was on his feet, I would have said that I never said that I am a Hindu. I never said that I have changed religion. I only say that I came here in respect to all the religions. I saw Sen. Sifuna yesterday wearing a *kanzu* and I know he is not a Muslim. He did that because he respects that religion.

Finally, it is very unparliamentary for Sen. Sifuna to say that I lied. Lying is unparliamentary language. He should have said that maybe I misled the House.

It is not good for him to say that I lied - it is in the records of the House - the students from my county are here and they know that their Senator is an elder of the church. For them to hear that I lied on the floor of the House, I am sure it is not something that they would have wanted to take home.

I wish them well as they go back and they have my best wishes always.

Thank you.

The Deputy Speaker (Sen. Kathuri): Let us go to the Chairperson of the Select Committee on County Public Investment and Special Funds.

(Resumption of debate on Statements)

ACTIVITIES OF THE COUNTY PUBLIC INVESTMENT
AND SPECIAL FUNDS COMMITTEE

Sen. Osotsi: Thank you, Mr. Deputy Speaker. I wish to make a Statement pursuant to Standing Order No. 56 (1)(b) on the activities of the County Public Investment and Special Funds Committee for the period commencing 1st January, 2023 to 15th April, 2023.

Mr. Deputy Speaker, Sir, during this period, the Committee has held a total of 21 meetings. The meetings included the regular meetings to consider the Auditor General's reports on water companies within the counties, deliberation sessions with various stakeholders to create synergies in delivering the mandate of the committee; and lastly, consideration of the matter of the county regional economic blocs.

Mr. Deputy Speaker, during the consideration of the work plan, the committee noted that water companies formed a major part of the investment in counties and they face numerous financial, legal and governance issues. In that regard, the committee decided to prioritise the consideration of audit reports for water companies with special focus on the FYs 2018/2019, 2019/2020 and 2020/2021.

In that period of review, the Committee has considered the following audit reports:

Kisumu County, in relation to Kisumu Water and Sanitation Company; Vihiga in relation to Amatsi Water Services Company; Kakamega County in relation to Kakamega County Water and Sanitation Company Limited; Kericho in relation to Kericho Water and Sanitation Company; Narok County in relation to Narok Water and Sewerage Services Company; Uasin Gishu County in relation to Eldoret Water and Sanitation Company Limited; Kwale County in relation to Kwale Water and Sewerage Company Limited; Kisii in relation to Gusii Water and Sanitation Company Limited; Bomet in relation to Bomet Water Company Limited; Nairobi County in relation to Nairobi City Water and Sewerage Company Limited and lastly, Kajiado in relation to ole Kajiado Water and Sewerage Company Limited.

Mr. Deputy Speaker, Sir, we noted so many issues that affect water companies. As you know, County Public Investments Committee (CPIC) is a committee that was carved out of the County Public Accounts and Investments Committee (CPAIC) and many audit reports have not been handled by this House since 2014.

We noted several issues, some of them cross-cutting across all the counties and we have categorized them into four. One of the categories is management challenges. Top management and boards of several water companies were found to have capacity

issues. This includes the Amatsi Water Company in Vihiga County, Narok Water and Sewerage Company in Narok County, Kericho Water and Sanitation Company, Bomet Water Company and Eldoret Water and Sanitation Company in Uasin Gishu.

The Committee made instant directives to the respective governors to restructure the top management and boards of the said entities. I am happy to report that some of the governors have taken some specific steps to restructure the water companies and make them more efficient. Some of the counties are Narok, Kericho, Vihiga, Bomet and Uasin Gishu.

The second one is an issue regarding financial challenges. The Committee observed that most of these water companies had material uncertainty in relation to growing concern, meaning basically these water companies are technically insolvent. Therefore, the Committee directed that county governors and the top management to rationalize the staff establishment of water companies to a level that is lean and efficient in service delivery. The Committee further directed that the company management to review the water tariffs to enable them to generate sufficient revenue to sustain their operations.

The third one, which was cross-cutting, was the issue of non-revenue water. The Committee noted that most of the companies had non-revenue waters levels exceeding 25 per cent, which is allowable loss as per the Water Services Regulatory Body Regulations and the international best practice.

In all the counties we considered, the worst case which had the highest level of non-revenue water was Bomet Water Company. The Committee therefore made instant recommendations and directives to the governor. For Bomet County, we noted that the water company had dilapidated water infrastructure. We therefore directed the Ethics and Anti-Corruption Commission (EACC) to immediately institute investigations with the objective of ensuring that those who will be found culpable are prosecuted.

Mr. Deputy Speaker, Sir, I can see an hon. Member is excited about that. We have done the same for Kisii County. We have issued a directive to the EACC to investigate the operations of the Gusii Water and Sanitation Company.

The fourth issue, which was cross-cutting, was the transfer of assets. We noted that most water companies either maintained inaccurate asset registers that were not up to date or lacked the asset registers altogether. In other instances, the Committee noted that the national regional water bodies that got into contracts with water companies in counties to develop water projects had transferred the associated liabilities to the said water companies but retained the ownership of assets.

For instance – my good neighbour Sen. (Dr.) Khalwale should take a keen interest on this – Kakamega County Water and Sanitation Company Limited owes the Lake Victoria North Water Services Limited a whopping Kshs4.2 billion worth of loan, being money that went into the development of a water project in Kakamega County. The assets from the said project were still held by the Lake Victoria North Water Services Limited.

In our recommendation, we directed the county governor to put in place appropriate measures and ensure that all assets belonging to the water company are

transferred to the water company. Kakamega County Governor was requested to bring the matter of the Kshs4.2 billion to the attention of the CoG and the Intergovernmental Relations Technical Committee (IGRTC).

We have also dealt with the matter of the regional bloc which is ongoing. We noted that regional blocs continue to receive money from county governments and donors, which is not audited because there is no legislation in place for the management of regional economic blocs. Some of these regional economic blocs have received billions of donor money, which is difficult to account because they are not audited by the Office of the Auditor-General (OAG).

We are also dealing with the matter of unremitted staff pension which has not been remitted to Pension Funds. This amount is estimated to be Kshs52 billion, which counties have not remitted to the various Pension Funds. We will make a report on that.

The Committee has also sent out invitations to several governors to appear before it to respond to audit issues raised by the Auditor-General. We have noted that governors have been cooperative on this matter because they have been appeared appearing before us when required.

The Committee plans to conduct a fact-finding visit to several counties. Priority will be given to investments that are facing huge fiduciary risks across the country. The Committee have its first report writing retreat in mid-May and thereafter table the first report on water companies in this Chamber.

I ask Senators to take seriously the matter of water companies in their respective counties because we noted that most of these water companies are insolvent and are facing serious management and technical challenges which, if not addressed, we will not have water for our people.

I want to thank my Members because in our deliberations on the audit reports, the Committee has taken immediate steps, including making some orders, which our governors have gladly accepted and some of them have made changes. Very soon, we shall begin to see the fruits of our directives to the various counties.

Mr. Deputy Speaker, Sir, having said that, just like my colleague from CPAC said, we have a lot of issues to say but because of time, I submit.

I thank you.

Deputy Speaker (Sen. Kathuri): Thank you, Chairperson. We encourage the Chairpersons to do a comprehensive report and table so that we can also benefit from your knowledge on counties and water organs and bodies. So, prepare a comprehensive report and table so that all of us can access it.

So, let us get Chairperson on Delegated Legislation. After that, then we can take 20 minutes for brief comments on the three Statements.

ACTIVITIES OF THE COMMITTEE ON DELEGATED LEGISLATION

Sen. Gataya Mo Fire: Mr. Deputy Speaker Sir, I rise pursuant to Standing Order No. 195(1) of the Senate Standing Orders to make a Statement relating to the activities of

the Select Committee on Delegated Legislation during the first part of the Second Session, that is, 14th October to 30th March 2023.

Mr. Speaker Sir, The Senate Select Committee on Delegated Legislation is established under Standing Order 195(1) of the Senate Standing Orders and is mandated to scrutinize Statutory Instruments laid before the Senate.

During the period under review, the Committee held a total of eleven Sittings during which it considered one Statement and tabled one report.

(1) Legislative Proposals:

During this period, the following Legislative Proposals are being considered by the Committee for publication. They are: The County Statutory Instruments Bill and The Statutory Instruments Amendment Bill

(ii) Bills

During the period under review, the Committee did not consider any bills

(iii) Statements

Regarding Statement No.1, the Committee sought the Statement during the period under review. The issue raised in the Statement touched on the Remuneration and Benefits of State Officers by the Salaries and Remuneration Commission (SRC).

The Statement was sought by Sen. Faki. The Committee stopped further deliberations on the matter, as the Committee awaits the Salaries and Remuneration Commission (SRC) to be reconstituted.

(iv) Petitions: During the period under review, the Committee did not consider any Petition.

(vi) Committee Induction and Stakeholder Engagements.

The Committee conducted its induction retreat from 29th January 2023 to 1st February 2023. The Members of the Committee and the Secretariat were taken through the mandate of the Committee, unpacking the Statutory Instruments Act 2013, the need for a Regulatory Impact Assessment, Approval and Annulment Process of Delegated Legislation, and Strengthening the Parliamentary Scrutiny of Delegated Legislation.

Mr. Deputy Speaker Sir, the Committee has also been able to meet with the National Transport and Safety Authority (NTSA) Transport Network Companies, Owners, Drivers and Passengers) Regulations, 2022 (L.N. No. 120 of 2022).

It was observed that the Regulations were not in breach of the Statutory Instruments Act, 2013. The Committee resolved that the National Transport and Safety Authority (Transport Network Companies, Owners, Drivers, and Passengers) Regulations, 2022 (L.N. No. 120 of 2022) be approved.

In conclusion, I wish to thank your office and that of the Clerk of the Senate for the continuous support accorded to the Committee in undertaking its work.

Lastly, I thank the Members of the Committee for their commitment and diligence in and contributions during the Committee activities.

I thank you, and I beg to lay.

(Sen. Gataya Mo Fire laid the document on the Table)

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM JACKRIDGE
SCHOOL, KIAMBU COUNTY

The Deputy Speaker (Sen. Kathuri): Hon Senators, today we are blessed with many visitors. In the Public Gallery, we have 97 pupils, accompanied by six teachers from Jackridge School in Kiambu County who are in the Senate on an educational tour.

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

Thank you.

Senator of Kiambu is not around. Sen Cherarkey, do you want to welcome the visitors?

(Sen. Sifuna spoke off record)

Sen. Cherarkey: Mr. Deputy, Speaker, Sir, that is a United Democratic Alliance (UDA) stronghold.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, next time if you want to do anything, just use the machines. Then you will be assisted. Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy, Speaker, Sir. On my behalf and on behalf of the great people of Nandi whom I represent the Senate and on behalf of your Senator, Sen. Thangw'a, I extend a warm welcome to the Senate of the Republic of Kenya.

As you are aware, there are 47 elected Senators. Out of 67 you subtract 47, the rest are specially nominated Senators of the Republic of Kenya to balance the gender, People Living with Disabilities (PLWD) issues, regional balance, and other interests.

Therefore, we hope that the visit to the Senate will inspire you to be the leaders not of tomorrow but of today. I know there are quite a number of you who are either class monitors or class prefects who serve on the Student Council. We want to tell you that is where leadership starts.

Even when I was in St. Francis Chepterit Primary School somewhere in Nandi County, I was also a leader. Also, later in the school that has produced two Presidents in this Republic that is Kapsabet Boys High School.

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

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

The current President, Dr. William Ruto was a schoolmate in Kapsabet Boys and the former second President Daniel Toroitich Arap Moi too.

The future is luminous and bright, and we are proud of you. We wish you well. Even as you go for your holidays, keep learning, and listen. Obey your teachers, parents and elders and you will live long.

Karibuni sana. After this, since Sen. Sifuna is your neighbor, he will host you for a picture and maybe ensure that you have a cup of tea and mandazi.

Thank you very much.

(Resumption of debate on Statements)

Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator of Nandi. Hon. Senators, we have had the three Statements from the respective Committee Chairpersons. Under Standing Order No. 56, I will allow Members to comment on the three Statements for a period of not more than 15 minutes.

Sen. Mungatana, MGH: Thank you, Mr. Temporary Speaker, Sir, for allowing me to comment on the Statement by the Committee Chairperson of the Senate County Public Accounts Committee (CPAC). I stand to commend the hon. Sen. M. Kajwang and the Members of that Committee. They have been doing a good job. I attended a session as an invited Senator when my County was before that Committee.

I can attest to the fact that this Committee is working. The only single point I wanted to mention before this House is that I would like to read Article 226 of the Constitution. This Article deals with accounts and audits of public entities. Article 226(5) states that-

“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.”

Mr. Temporary Speaker, Sir, governors are the political office holders and we also have accounting officers. Whether in office or not, the previous governors or the people who were in charge of disbursing funds in counties, are to be held liable for losses made on public funds.

Further, Article 226 of the Constitution makes it mandatory that those who are found to have occasioned loss, directly or indirectly, whether in office or not, will be made to make good that loss that was incurred by the public fund.

I want the Chairperson of the County Public Accounts Committee (CPAC) to tell us how many governors and other Authority to Incur Expenditure (AIE) holders from counties, have been found to occasion loss to the various funds. How many of them have been made to make good of their losses?

Mr. Temporary Speaker, Sir, it is not enough from this Article, for Committees to just state that they will take this matter to the Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI) or another body. They then escape the responsibility that has been put upon them by Article 226.

We are asking the Chairman to be more proactive. We want to see people who have taken money and run away, made to pay it back, whether they are in office or they have left. We want the Committee to give us that Report.

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

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, apologies to Sen. Sifuna. I seek your guidance. You said that we have 15 minutes. It might be proper to guide on the maximum time a Member could take. If we follow the trend that has been set, the 15 minutes will be over after one or two Members.

The Temporary Speaker (Sen. Wakili Sigei): Very well. I had proposed the 15 minutes for the reason that we needed to resume the debate on the other Bill that was interrupted.

We will do a maximum of three minutes per Member. From the queue, I have four Members. The time I had allocated will be sufficient if we stick to that timeline.

Proceed, Sen. Sifuna.

Sen. Sifuna: Thank you, Mr. Temporary Speaker, Sir. First, I have noticed that the Senator for Nandi County has left the House. We, in the Senate, know that the person with the functions is the person with the resources. As he takes up the responsibility of welcoming the children, he must be the one to take the que to buy them lunch.

I am a very proud Member of the Minority side. It is because of the two Statements that have been made here by the Chairpersons of CPAC and County Public Investment Committee (CPIC). First, as a Member of CPAC, I have seen the tedious work that the Committee has put in, in the few months that I have been a Member. It is unfortunate that there are discussions to reconstitute our Committees and I might have to give way, now that I was assigned a bigger responsibility in the coalition.

Mr. Temporary Speaker, there are things that I have learnt, which this House needs to take que. First, the question of delay of Exchequer remittances has been worrying. Many counties are complaining.

We noticed the worrying trend of the Kenya Revenue Authority (KRA) levying very serious penalties on delayed remittances of Pay as You Earn (PAYE). This is also a result of delayed Exchequer. We have proposed in this House that KRA and the National Treasury are two sides of the same coin. There should be a discussion where, if the National Treasury is the reason why counties are unable to remit their PAYE, then KRA should not have those punitive levies on them.

There is also the worrying trend of stalled projects. We saw this especially with counties in western Kenya, including Homa Bay stadium. We also have a problem with our own stadium here in Dandora. We hope that counties will take the recommendations of the Committee seriously and resolve it.

Of course, it will be remised, if I do not mention the question of pending bills. As I have said, Nairobi City County is in a crisis. We have pending bills of almost Kshs100 billion.

A concept of payment in lieu of rates was introduced in the Budget Policy Statement. I expect the central Government to take it up. The central Government owes Nairobi City County a lot of money, the equivalent to that Kshs100 billion. If there can be an arrangement where they pay off these bills for us in lieu of the rates they are supposed to pay us, then it will help my County to move forward.

Mr. Temporary Speaker, Sir, finally, allow me to share an experience. As a lawyer, there is something called practice direction. When these counties appear before Committees, we want them to be given practice direction on how to present documents, bundle, number and label them. In fact, we have seen extremes. One of the best was Homa Bay County while the worst was Murang'a County. One of those governors is a lawyer. I will let you guess which one is the lawyer because you know him. He was your classmate.

Therefore, it becomes very difficult for you to follow conversations as a committee. It is because there are bulky documents which are not properly labelled or numbered. It encumbers---

(Sen. Sifuna's microphone was switched off)

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Sifuna. Proceed, Sen. Cheruiyot.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir. I am proud of the work of all Committees of the Senate, unlike my friend Sen. Sifuna, who has chosen to be proud of the work of Committees that are chaired by Members of the Minority Side alone.

It is good to belong to the Majority side; but it is greater to belong to the Senate. That is my thinking. In that regard, I celebrate the work that has been done by the Chairs of CPAC, CPIC and the Committee on Delegated Legislation.

Very important points are being raised by colleagues here on the Floor. One, is the issue of standardisation of reports by various county governments when they appear before both our Committees. That is something worth considering by Committees by way of regulations. The Committee can consider a standard letter, such that when an invitation to appear goes to various county governments, then there should be a standard way in which they respond to those issues.

There are proposals to amend various statutes and laws as raised by Sen. M. Kajwang', the Chair of the CPAC. As a committee, given that the legislative powers is within us as a House, we should not spend a lot of time. This is one such incident where as Chairpersons of Committees, apart from issuing Statements saying that we find these laws in conflict or non-consonant with our practices as a House, this is our proposal. We should see an amendment tabled before the House, saying that for this reason, this

Committee is proposing a change to either Public Finance Management (PFM) Act or any other law.

Therefore, we appreciate the work. I also appreciate the work of the Committee on Delegated Legislation, led by Sen. Gatya Mo Fire. I know there are various legislations that are presently before them and the National Assembly.

This is one of the areas where we continue to have a big fight with our colleagues from the National Assembly. Unless we are vigilant as a House, I see regulations – which in one way or the other – did not find their way into this House, quickly approved by the Committee on Delegated Legislation of the National Assembly.

One of the things I quickly do is pick a phone and ask Sen. Gatya Mo Fire whether those legislations were brought to this House. It is important that as House, we consider all regulations which in one way or the other, affect the operations of county governments. You will struggle hard to find any regulation that does not concern operations of county governments.

Lastly, Mr. Temporary Speaker, Sir, is a question I have tabled before this House before, on the need for the House to think beyond the after-the-fact nature in which CPIC and CPAC continue to work. If you ask any Senator present here today – who is keen to the works and goings-on in their counties – they will tell you that they have concerns. They will tell you their county government intends to hire, yet that county has burst their ceiling on recurrent expenditure and that kind of things.

Which is the specific Committee? We can either add responsibility to Public Investments Committee (PIC) or Public Accounts Committee (PAC). Alternatively, we can think of a new Committee. Each day, Senators continue to use the Floor of this House to send and sound warning to their county governments on various issues of governance malpractice practised in our counties. Unfortunately, the same have no place to be anchored on so that you can respond to it.

Mr. Temporary Speaker, Sir, it is unfortunate that we have to wait for a report from the Office of the Auditor-General to react to. The truth of the matter is that it does not matter even if our Auditors General are properly trained and prepared, they cannot know a specific county better than the individual Senator. It is unfortunate that we have to rely on them.

We used to see old tricks that continue to emerge. You will find an auditor has gone to Vihiga County and they will find a road that has been named or done twice. Such a road would be captured as a road from point A to B; and in another bunch of documents, the same road is named from point B to A. Unless you are a resident of that county, you are not likely to pick it up. Therefore, we need to think about it critically.

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senate Majority Leader. Sen. (Dr.) Oburu Odinga.

Sen. (Dr.) Oburu: Thank you, Mr. Temporary Speaker, Sir. First, I commend all the Chairpersons of these watchdog Committees; CPAC, CPIC and Delegated Legislation.

These committees are the eyes of the people of Kenya. They make good recommendations and work very hard. However, if there is no seriousness in taking the recommendations, they make further and in prosecuting those who steal public funds and dip their hands into public coffers, then the work of these Committees will rot in shelves and will not be useful to members of the public.

Someone made a Statement here that these Governors should be held accountable whether they are there or retired. In Nigeria, when devolution was first introduced, more than half of the governors went to jail. This is because ---

(Sen. Olekina consulted loudly)

Sen. Olekina, please let me finish.

Mr. Temporary Speaker, Sir, when devolution was introduced in Nigeria, 50 per cent of the governors went to jail because of dipping their hands into the public coffers. In Kenya, we only speak of people being investigated by the Ethics and Anti-Corruption Commission (EACC). Further, the CPIC and CPAC make recommendations but I have never heard that any governor has been jailed because he has dipped his hands in public coffers, yet they do that a lot.

I specifically speak about something that my friend, Sen. Osotsi, mentioned about the Lake Victoria North Water Services Board and the Kakamega Water Company. A sum of Kshs4.2billion is owed to State Parastatals. The Government should consider writing off that money if it was properly used to the benefit of the people of Kakamega County.

Mr. Temporary Speaker, Sir, I suggest that we make laws in this Senate that regulate the regional authorities because they do not have laws regulating them. I would like Sen. Osotsi to propose a law which legalizes these regional authorities so that it makes it legal for them to receive money from donor organizations and they become audited. Their money should not be channelled through the National Treasury.

Thank you for the opportunity. I can see that light is turning red.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. (Dr.) Oburu Odinga.

Proceed, Sen. Kisang.

Sen. Kisang: Thank you, Mr. Temporary Speaker, Sir. I also rise to make comments on the three Statements and thank the three Chairs for the good work they are doing. These three particular Committees are very busy and they do a lot of work.

I thank the Leadership of Senate for agreeing to split the Committee of Public Accounts and Investments Committee (CPAIC) into two Committees so that water companies and other special funds of the counties are checked and reports from the Auditor-General discussed.

From what the Chairperson has said, since 2014 the water companies and special funds were never audited by CPAIC. At least we know there is something going on now. The water pipelines across all the water companies in the country are mostly old and dilapidated and require rehabilitation.

County governments may not replace the pipelines. Going forward, it might be prudent for the county governments to seek funds from donors and the National Government so that they can be assisted to replace the old pipeline systems. Currently and from the reports we have received, they are losing close to 70 per cent of the water into non-revenue water.

Mr. Temporary Speaker, Sir, the acceptable percentage is about 25 per cent but most of them are above 40 per cent in most counties. One county loses 70 per cent. If you lose 70 per cent of what you get, it means you will go into losses. That is why we are saying most of the water companies are technically insolvent. They cannot run on their own. They get support from the county governments. We have also advised the governors to take charge. Some of the governors thought that the water companies are independent. They did not know that county executives are the ones who are responsible to ensure there is efficient management to run the water companies.

We are happy that most of them who have come to the Committee have already taken steps and have restructured to ensure that the water companies are run efficiently so that even if they do not make surplus, they are able to pay the day-to-day expenses of the company.

Mr. Temporary Speaker, Sir, on statutory deductions, most of the water companies have not remitted Pay As You Earn (PAYE), pension, National Social Security Fund (NSSF) and the National Health Insurance Fund (NHIF). The Committee was thinking that it is not because of water companies or county governments; it is because the National Treasury has not disbursed resources to the counties.

Going forward, if it is possible, before resources are sent to the counties, all the statutory deductions are deducted at source, so that we do not end up with unpaid statutory deductions.

I thank you, Mr. Temporary Speaker, Sir, and congratulate Members of these Committees and other Committees.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Kisang. Hon. Members, Standing Order No. 56 grants us 20 minutes. We have since consumed that amount of time. I can see we still have got Members in the queue but for purposes of going on with the Order Paper for today, I will not allow any additional comments on these Statements issued by Members.

We will go to the next Order.

*(The Temporary Speaker (Sen. Wakili Sigei) consulted with
The Clerks-at-the-Table)*

BILL

Second Reading

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILLS NO. 9 OF 2023)

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The Temporary Speaker (Sen. Wakili Sigei): I direct that the Clerk rings the Division Bell for five minutes.

(The Division Bell was rung)

Clerk, could you please ring the Bell for another five minutes?

(The Division Bell was rung)

Hon. Senators, can I have the Senate Majority Whip, Sen. (Dr.) Khalwale, approach the Chair.

(Sen. (Dr.) Khalwale approached the Chair)

Hon. Senators, we shall defer voting on this Bill.

BILL

Second Reading

THE DIVISION OF REVENUE BILL (NATIONAL
ASSEMBLY BILLS NO.9 OF 2023)

(Bill deferred)

Sen. Abbas: On a point of order, Mr. Temporary Speaker.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Abbas, kindly resume your seat. I have ruled that we defer voting on this one and consequently we will proceed with Order No. 10.

Order No. 9 is also deferred.

COMMITTEE OF THE WHOLE

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILLS NO. 9 OF 2023)

(Committee of the Whole deferred)

Next order.

BILL

Second Reading

THE EQUALIZATION FUND APPROPRIATION BILL
(SENATE BILLS NO. 3 OF 2023)

(Sen. Tabitha Mutinda on 19.4.2023 – Morning Sitting)

*(Resumption of Debate interrupted on 19.4.2023
– Morning Sitting)*

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, this is the resumption of a debate that we had on the matter that was interrupted on Wednesday, 19th April, 2023.

(Question proposed)

Sen. Cherarkey, you may have the Floor.

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I want to thank the Committee on Finance and Budget for the Equalization Fund Appropriation Bill, 2023.

The genesis of this Bill is Article 204 of the Constitution of Kenya where the equalization fund is given effect. Since 2013 to date, we have been using regulations that have been passed before to allow allocation of fund. It is the right time to have this Bill in place to ensure that all the monies meant for our people go to them; especially the basics services such as roads and schools. That was the real intention of the equalization fund.

Mr. Temporary Speaker, Sir, this Bill is to authorise the issuance of a sum of money out of the equalization fund and its applications towards the provision of basic services such as water, roads, health facilities and electricity to marginalised areas, before the end of the financial year on 30th June, 2023.

You have to note that 34 counties have been captured and Nandi County is one of the counties that have been captured. I am happy.

I know there is an argument under Article 204 that the counties captured should be specific to marginalised areas. However, through the CRA, there is a formula. I am happy that out of the 47 counties, 34 were able to qualify.

That is why I said that the traditional poverty that we know is totally different. When you go to Kiambu, it could be one of the wealthiest counties, but we have the urban poor. When you come to Nairobi, there are many families that go without food and they are what we call the urban poor.

There is also the creation of infrastructural evictees that when infrastructure is being built, we evict Kenyans. This was the case in Ruai and in many other areas during the COVID-19 period. That is how they qualified as marginalized areas. The aspect of marginalization needs to be debated on and changed.

Mr. Speaker Temporary Speaker, Sir, we are now having a conversation on the Commission on Revenue Allocation (CRA) formula. We have been having a discussion on the issue of one man-one vote-one shilling or one man-one vote-one kilometre.

I heard people arguing that when you go to the northern part of Kenya, they are able to pay school fees for the entire population using the National Government-Constituencies Development Fund (NG-CDF). When you go to Ruiru or Roysambu constituencies, the population is quite high. Therefore, this conversation of equalization fund must address some of these issues.

There are no good roads in Mandera, Kibra, or Mukuru kwa Njenga. In Nandi, where I come from, Tinderet, for example, is normally prone to landslides, especially during the rainy season.

Mr. Temporary Speaker, Sir, when you go to your County of Bomet, some areas in Chepalungu Constituency like Chebunyo, Nyangores and Sigor also have similar problems. Some people think that Bomet is good because of tea. However, others parts are like Nyeri, where if you go to Kieni, there are similar challenges.

You will find the same challenges in Kitui County. Those challenges may not be as enormous as many people would expect. Because of the equalization fund, our colleagues from traditionally marginalized regions are no longer marginalized.

I have talked about the urban poor. In fact, when you go to Mandera, people are living in better hygienic conditions than those in Kibra, Mukuru kwa Njenga and Pipeline.

We have people who have no water yet they live in Nairobi City where 60 per cent of the Gross Domestic Product (GDP) goes. They do not have roads, toilets and food. It means that there is a challenge of urban poverty that needs to be addressed. We should use the equalization fund to address affirmatively in those areas.

We thank God because we have tea, coffee, sugarcane and milk in Nandi. Now that we are a source of champions, it is assumed that we have everything. However, some areas in Nandi, like Tinderet Sub County and part of Kapchorwa Ward in Nandi Hills Constituency have challenges. We also have challenges in Songhor/Soba Ward.

I am happy this money will not go to the County Revenue Fund (CRF) accounts because these are more of affirmative areas. For example, Nandi Hills Constituency where we have Kapchorwa Ward will receive Kshs16,672,936. It means that more than Kshs16 million will go to specifically Kapchorwa Ward in Nandi Hills Constituency.

During implementation, let us also give priority to the people of Kapchorwa Ward in Nandi Hills Sub County. Let us agree on priority areas, especially when it comes to roads because they are very pathetic. When it rains, the roads are impassable and they cut off us from the rest of Nandi. We also have schools that need to be upgraded. Electricity is also a challenge.

We have Chemelil/Chemase Ward in Tinderet Constituency where a lot of sugarcane is grown and taken to Kibos Sugar Factory, Miwani Sugar Factory and West Kenya Sugar Factory. There is a nucleus and Chemelil/Chemase is part of it. The sugarcane is taken to the factories for crushing.

I am happy that when the Jubilee Government was being governed by the “handshake”, Sen. Wambua was the Vice Chairperson of the Committee on Agriculture, Livestock and Fisheries. We went and sat with farmers in Chemelil/Chemase Ward and

talked to them. As a visitor, he might have thought that we are living in a land of honey and milk, but the ward has its own challenges.

It is a very hot area and roads are still a challenge. Electricity is also still a challenge in Chemelil/Chemase Ward in Tinderet Constituency. I am happy that they will be allocated equalization fund because of the affirmative action. They will get Kshs15,805,883.

The roads in Songhor/Soba Ward are very pathetic. Electricity is also a challenge. Songhor/Soba is one of the biggest wards in Nandi. We also have Kilibwoni Ward. The roads to the ward from Kona Nyanya all the way to Taunet, Kaprer, Kibukwa through Maraba Centre where we have a hospital are not good.

There are many roads within Songhor/Soba Ward which are not good. The ward is vast. We have to appreciate that Tinderet has a very unique topography. It is a blessing from God, but doing roads and maintaining them is a challenge. I am happy the ward will receive Kshs108,851,992.

Mr. Temporary Speaker, Sir, I think you know this. In our local language, when there is lightning, they normally say; “*Ngolyal kegole bai.*” It means when there is lightning---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, stick to the parliamentary language.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, if you come from where I come from and you see lightning in Tinderet, we know the planting season is around. That is part of Tinderet Ward that borders Uasin Gishu and many other areas. I am happy Tinderet Ward will get a total of Kshs15,685,704 that will allow them to provide electricity, water and improve roads and schools under the affirmative action.

Tinderet Ward has not been left out. You remember the famous Fr. Boyle. He was a missionary who tried to improve lives in Tinderet. Although he died tragically, Fr. Boyle was dear to many Nandi residents, especially from Tinderet and Kaptengelei. Those are important areas.

In total, Tinderet Constituency will get Kshs140,343,580. Over Kshs140 million will go to two or three wards in Tinderet which are, Songhor/Soba, Chemelil/Chemase and Tinderet. Kapchorwa Ward will receive more than Kshs16 million. We are happy that we will get over Kshs200 million of the equalization fund to assist in doing projects as per Article 204.

(Sen. Wambua consulted with the Temporary Speaker)

Mr. Temporary Speaker, Sir, I do not know why the Deputy Minority Leader is concerned yet he sits in the Senate Business Committee (SBC) and they are the ones that generate what we do on the Floor of the House.

This is an important Bill. Sen. Wambua and I are ranking Members and he knows that under Article 96, we have a role to protect devolution. As a leader, he should ensure that we allocate sufficient time to canvass and put across our points. I will take into consideration what he is saying.

This Bill should be passed in a bipartisan manner. I know there is another meaning of ‘bipartisan’ term. This Bill should be passed through consensus. Let me not use the word ‘bipartisan’ because this is an important Bill. All the 34 counties, whether from Azimio la Umoja-One Kenya Coalition Party or Kenya Kwanza regions are here. As a Senate, we just need to pass this Bill.

Kisii is where God resides. I think they do not have many problems, unlike other areas, but we also get unique cases from Kisii. That is a story we can have a discussion with Sen. Onyonka, who gives me good company. He can give you good stories, especially in the evenings.

When you look at the Bill, a sum Kshs13 billion is meant for the counties. I do not know whether it was Sen. Wambua or Sen. Olekina who talked about Article 219. When money is appropriated, it should be disbursed immediately.

The National Treasury continues to violate Article 219. Whenever we collect revenue, we pay the public debt. Sharing of revenue between the national and county governments is very clear. Why should the National Treasury allocate more than Kshs129 billion, but since January, money is yet to be disbursed to the counties?

Mr. Temporary Speaker, Sir, through your Office and the Clerk's Office, you have always called us for special sittings to pass the cash disbursement schedules.

Counties are coming to a complete shutdown. I appeal to the Cabinet Secretary (CS) National Treasury and Planning that, in as much as we agree, there are challenges in terms of collecting revenue because of political temperatures that my brothers continue to put high every time be in the churches, funerals or when they are doing *Iftar* dinner.

Mr. Deputy Speaker, Sir, you are aware that the budget is Kshs6.3 trillion. The President has been deliberate to cut by Kshs303 billion, the funds that the Jubilee Government governed by the handshake raised. We are looking at Kshs2.9 trillion of Kenya Revenue (KRA) projections. We were being told that there were tax reliefs. I am happy that Sen. Onyonka brought a Statement to discuss if there are any challenges in the economy.

In the last financial year, there were many issues being raised on the Floor of the House. Tax exemptions and reliefs were going to a high of up to Kshs370 billion. There were even allegations that imports from China worth Kshs400 billion had not been paid for. If we tighten the collection of revenue in the country, we shall be able to finance. We will be rocking a chair, signing music and playing guitar to a goat if we do not do it in a way.

There is a reggae song that says whether if you look outside the window you see anything to smile about. Lucky Dube says - although I do not know its title - if you look outside and we are building more prisons than schools there is a problem. That problem needs to be resolved. When we pass a budget here, the National Treasury must release the money to the relevant entities of government so that they can function.

I am happy about one of the flagship projects of the President the “hustlers fund” is taking off steadily and slowly. I encourage the young people of Kitui and Kisii counties where my brother Sen. Onyonka comes from take up the fund and also pay it back. There has been a narrative to take the fund and to pay back.

This is a revolving fund. We want our young people to be good business people. The respected Bishop, Sen. Deputy Minority Leader of the House, a ranking member should be the one encouraging Kitui youth...

To be politically correct, he can say that in a rally somewhere in Kakamega County. I want encourage him that when he is in Katutu Parish to encourage young people to take that money. The same case for Sen. Onyonka and Sen. Mumma. I know Sen. Mumma is a fiery lady who has been in these politics for some time.

Finally, on the Kshs13.9 billion because I know my time is spent, the Committee report looks okay, but I know we might amendment at some point. We need to discourage this use of rules and regulations. The High Court ruled in 2017 that we need a stand-alone legislation or legal instrument to govern this.

If this is not going to CRF, I do not know whether we shall come and audit for the County Public Accounts Committee (CPAC) where I am the Vice-Chairperson. Since it not going to CRF, they should tell us who will oversight. Is it the Public Investment Committee (PIC) or PAC of the National Assembly, or will it land to where yours truly is presiding so that we can have clear cut-off results?

I ask the Controller of Budget (CoB) to release this amount of money as per Article 219. That is how we can develop our counties. Looking at the Committee report, I commend the issue which they have stated--- I take an exception with a statement in closing remarks on feminization of poverty criteria. It goes ahead to state that most women and girls face secondary discrimination hence their plight is not recognized and hence their need to put them to consideration from the onset.

The boy child is endangered. There is only one man we are going to appoint as Chairman of men's conference. He is called Achraf Hakimi. He was sued by the wife for divorce, but he had taken all his money to his mother. I am not saying we encourage mommy's boy, but he should be the Chairman of the men's conference.

The boy child is facing extinction. Everything we are making anywhere is about the girl child. Talk about sanitary pads. Nobody is saying that if we give the girlchild sanitary pads then we should give boxers or briefs to the young men. They also need to be hygienic as we make sure that women are hygienic because of their good nature.

When the men's conference shall be called next time; the guy called Hakimi who is a Moroccan player will be the chair. I support and look forward to bring more amendments. I thank you and cede the ground for Sen. Wambua.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, is it official that there shall be a men's conference and that you shall be the Vice Chairperson?

(An Hon. Member spoke off record)

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

Sen. Mumma: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to speak to this very important Bill. The equalization fund is an affirmative action fund. As a beneficiary of affirmative action in this House, I am passionate about the role that affirmative action tools play in the equalization of society at large.

We are at a very critical point as a Senate. We are in the final stages of the budgeting process. Contrary to those who feel that Senate does not participate in the budgeting process, this is it. We are actually participating in the legislative approval of the Finance Bills that have been put before us. It is important that we play our role during this time with a lot of passion because the role of the Senate is around the county governments.

It is during this time that we are able to protect the interests of counties in terms of the equitable share that they get to receive. The equalization fund is provided for under Article 204 of the Constitution. That is one of the clauses that is extremely clear contrary to the belief that the Jubilee Government was people-centred.

Four or five years after 2013, the equalization fund was operationalized. If the Government then, really cared about the marginalized and the need to bring up the areas that are marginalized, this was the one fund that should have been operationalized much earlier.

The Equalization Fund Appropriation Bill before us is actually for the two years preceding, 2021/2022 and 2022/2023. In fact, we are not looking at it for the financial year beginning 2023/2024. I wish to call on all the Senators that even as we pass this Bill because it is better to have one bird in hand than chase the two in the bush.

I request that we must immediately ask the Committee on Finance and Budget to go back to the drawing board and in the next few days bring the Equalization Fund Appropriation Bill for the Financial Year 2023/2024. Then we shall be up to date.

Mr. Temporary Speaker, Sir, we have been told to appropriate Kshs13.8 billion, which is the amount that should go to the Equalization Fund in accordance with the provisions of the Constitution. The Constitution provides for half a per cent of the revenue collected nationally.

Unfortunately, we have received a report that of the Kshs13.8 billion, Kshs3.5 billion has been hived off. I would want us to record that, that is unconstitutional. It is not up to the National Treasury to determine how much money goes to the Equalization Fund because that is provided for in the Constitution. So, the reduction of that money is unconstitutional.

I wish that the Senate will carry out, bring this to the attention of the House and seek to ensure that the Kshs.3.5 billion is appropriated in later times. We need to make good or else, we are encouraging the national Government to engage in lawlessness.

The last time I heard His Excellency the President William Ruto speak, he was encouraging that we respect the rule of law. The law number one that we must respect is the Constitution. In this instance, the Constitution has defined the amounts or the percentage we need to put into the equalization fund. We need that percentage to be appropriated and put in the fund in accordance with the Constitution.

Mr. Temporary Speaker, Sir, I know that the fund is supposed to benefit areas that are historically marginalised. The fund is supposed to bring them to par with other more developed areas. Even though we have been given some guidance by the Commission on Revenue Allocation (CRA), it is not clear whether CRA has also put in place an index

that can assist the Senate to know that marginalised area ‘x’ has since moved from point ‘a’ to ‘b’; and now is still either on the schedule of the marginalised or it is not.

As we think through how the Senate will oversight the implementation of these funds to counties, we should get a Special Committee to put an index that will assist us to be able to tell Kenyans that this fund was intended to bring certain levels of development and it has done so or it has failed.

This is also a fund that is also supposed to be implemented by the county as a conditional grant, moving it from the national Government to counties. I am aware the National Assembly is also trying to come up with a Bill, to try and get the equalization fund implemented as Constituency Fund.

Whereas we note that the marginalised areas identified by CRA are situated in constituencies, I would urge that the Senate ensures that we stick to the provisions of the Constitution on this fund. The Constitution is very clear. It is a national fund, but it is supposed to be given to counties as a conditional grant towards the implementation of several devolved functions.

These includes water, roads, health facilities, electricity and so on. It says; “Including water and roads”, which means that CRA must not be fixated with only the ones which have been named here. The CRA should find other matrices, criteria or indicators that can help us to identify marginalisation and include them in this decision.

Mr. Temporary Speaker, Sir, the equalization fund has a sunset clause. It is expected to come to an end after 20 years. However, this fund was not implemented by the Jubilee Government, which was there for 10 years. I would ask the Senate to consider passing a law recommending either the extension of the time because now we have about seven to eight years to go since promulgation of the Constitution.

Either we extend this term to ensure that the 20 years are achieved or get the Government to commit to deploy all the arrears within the next seven years. As I speak, the arrears are approximately Kshs43 billion in 2023. These are funds which should have been put in the equalization fund, but they were not. Therefore, they were not deployed to the marginalised counties.

I have heard a few Senators from different counties also feel that they come from counties with marginalized areas. They feel that they have been excluded in the 1,414 marginalised areas that have been identified by CRA. I suggest that the Senate looks at this issue in a more scrutinised manner to ensure that we are not excluding any marginalised area in a county because the formula of CRA did not capture a marginalised issues in a particular area.

As we come up with those indices or indicators on marginalisation, I request that the Senate urges CRA to also include indices like gender, disability, minority, ethnicity and so on, as parameters in considering marginalisation.

Overall, I request the Senate and the Senators to request the Committee on Finance and Budget to immediately bring the Equalization Fund Appropriation Bill for the year 2023/2024 for consideration. It should also bring the issue of the outstanding Kshs43 billion that needs to be given to counties. It should start the consultations to

ensure that we have criteria and possibly a fund that the Senate can use to ensure oversight of these funds once they start going to counties.

I beg to support.

Temporary Speaker (Sen. Wakili Sigei): Sen. Wambua, proceed.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir, for this opportunity to also contribute to the Equalization Fund Appropriation Bill, Senate Bills of 2023.

I wish to begin by saying that this is long overdue. As previous Senators have said in their contribution, this is a Bill that should have been brought to the Senate at the return of devolution or the House of the Senate in 2013.

I say this because one of the issues that successive governments have been struggling with is the question of even distribution of resources to counties. The failure of which, has given birth to regions that were referred to as marginalised. An admission on our part as leaders and Government is that we have not done a good job in ensuring that the resources that are collected nationally are shared equitably in a way that people across the country enjoy the fruits of development

Mr. Temporary Speaker, Sir, Article 204 of the Constitution is very clear on the amounts of money that should go to this fund. It is 0.5 per cent of revenue that is collected nationally. Therefore, the question that Sen. Mumma is raising is a matter that we cannot debate. The National Treasury cannot and must never be allowed to decide how much money should go into the fund or slice off, for whatever function outside the fund as prescribed in Article 204.

Mr. Temporary Speaker, Sir, we have walked a long journey in getting to where we are today. When I joined the Senate in the year 2017 to my dismay, I was told that Kitui County was not in the list of marginalized counties. Therefore, we were never supposed to benefit from this fund. We engaged the CRA. I remember having a meeting with CRA in their offices where I quarreled on behalf of the people of Kitui County.

This is not something that somebody should be proud of. If you walk outside this building and, probably, ask people at random to tell you some of the areas that are dry in this country, probably, out of ten people, six or seven, even those who have not been there will mention Kitui. Therefore, when I came here and was told that Kitui County does not qualify, I was terrified. We engaged in a serious fight.

I am happy now, that the conversation has changed from marginalized counties to marginalized areas or villages in counties such as Chuluni Ward in Kitui East. In fact, the day before yesterday, I had a conversation with the Member of County Assembly (MCA) of Chuluni Ward. He was very excited that finally his ward has been included in the list of marginalized areas. He is not happy because he is a leader of an area that is marginalized, but at least there is now hope that some money will go down there to assist his people.

We have Chuluni, Endau Malalani, Mutitu/Kaliku Voo/Kyamatu and Zombe/Mwitika Wards. In total, Kshs178 million will be going to Kitui East Constituency to assist the specified areas of roads, water, health and electricity. For that, we can only be grateful and hopeful that before this money finds their way to areas where

they are needed, another obstacle will not arise in the way and stop the disbursement of this money.

I wish to very respectfully defer with the position taken by Sen. Mumma that we begin to ask questions as to whether areas that were marginalized in 2013 are still marginalized in 2023. If we take that route, it will be 2025 before we complete that study. After that, we will again ask the question whether the areas that were marginalized in 2023 are still marginalized in 2025. We will, therefore, never start rolling out the funds. Let us start rolling out this fund now and do reviews, as it is operational.

Mr. Temporary Speaker, Sir, I am grateful that in Kitui South, we have several areas that will benefit from this fund. They include Athi Ward, Ikanga/Kyatune Ward, Kanziko Ward and Ikutha Ward. In total, Kshs124 million will be going to Kitui South Constituency in the areas that have been earmarked as marginalized.

I can only hope that when this money gets there, it will go to good use and that our people will be part of the team that will actualize the dream of the drafters of the Constitution. That their livelihoods and standards of living, especially in matters relating to water, roads, health and electricity will be brought closer to the national average of the people enjoying those services.

Mr. Temporary Speaker, Sir, in Mwingi Central, I am happy that Nguni Ward, Kivou Ward and Waita Ward have been considered to receive a total of Kshs78 million. I am hopeful that the areas of Nguni, Kivou and Waita, which have been earmarked to receive this funding will also benefit, so that the standards of living in those areas will be brought to almost at par with the national average.

Lastly, in Mwingi North, we have marginalized regions in Kyuso Ward, Mumoni Ward, Ngomeni Ward, Tharaka Ward and Tseikuru Ward have been earmarked. A total of Kshs153 million will be brought to Mwingi North. If there is a place in this country that the definition of marginalization would apply, is a region called Tharaka in Mwingi North. Recently, we fought for them and they got a sub-county called Tharaka Lagishu Sub-County. The battle has not stopped there. We are now pushing for divisions, locations and sub-locations.

Mr. Temporary Speaker, Sir, there is an area in Kitui County inhabited by Tharaka people. An entire sub-county in Kitui County. It is to the north of the county, bordering their ancestors, friends and relatives in Tharaka-Nithi County. These people in Kitui County feel like - and rightly so- they are marginalized. They are at the edge. Kitui County is a Kamba speaking county. However, in the neighbouring county, which is Tharaka-Nithi, where their relatives live, they cannot get services from there because they do not belong there. They belong to the other side. Therefore, they are lost in between.

Mr. Temporary Speaker, Sir, I am happy they have made into the list of marginalized areas in Mwingi North. These people of Tharaka Nithi can benefit from roads because the road network there is awful, access to water is a big problem for them, electricity is a pipe dream and health services are what they are there. Therefore, I am happy that, at least, the people of Tharaka, alongside other marginalized areas in my county, have been listed to benefit from this fund. In total, Kitui County will receive Kshs534 million. I will be grateful when this money is received and gets into good use.

Mr. Temporary Speaker, when matters like this come to the Floor of the Senate, this is one instance where Senators are called upon to show and demonstrate leadership. There are going to be issues arising from this list. There will be people we lead who will feel that in their own estimation, they are marginalized and should have benefitted and yet they have not been listed to benefit.

There will be other people who will be feeling they have been earmarked to benefit from the fund, but we believe we could have gotten a little more.

It has been more than 10 years since the drafters of the Constitution gave us this document. Kenyans passed it almost unanimously that we needed to create this fund so that we develop areas that are not properly developed.

Mr. Temporary Speaker, Sir, my appeal to my colleagues is that we demonstrate bipartisanship on this matter of Equalization fund. Let us pass this Bill. After passing it, let us push the National Treasury to release funds.

I have read in the report of the Committee that this fund should not go to the CRF. That will be an issue of debate. One of the things we must be clear about as we pass this Bill is to ask ourselves several questions.

How shall the functions under the Kshs13 billion to be released to the Equalization fund be oversighted? How shall we hold the people responsible for rolling out those funds in those areas accountable?

(Applause)

Mr. Temporary Speaker, Sir, and hon. Members, it only sounds good in this Senate when we fight for money to go to our counties. However, things turn south when we start asking questions as to how these monies get used.

It is now almost 6.30 p.m. Sen. (Dr.) Khalwale and Sen. Tobiko are seated here. Sen. Wambua is on the Floor and we are trying to fight for money to go to the counties and the governors are happy wherever they are.

(Sen. (Dr.) Khalwale spoke off record)

Sen. (Dr.) Khalwale thinks they are taking whisky. However, some of them do not take whisky, but they are taking what they take.

They should equally respond positively to questions of audit on the use of monies that we send to our counties.

Lastly, I wish to commend the Committee for a job well done. It is my hope and prayer that we will take the shortest time possible to process, pass this Bill and get the funds to help our people and develop this country equitably.

Mr. Temporary Speaker, Sir, with those many remarks, I support.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. How I wish it was a full House when the Senator for Kitui was addressing us. He has raised many issues that have formed food for thought about where we want to take this country.

Mr. Temporary Speaker, Sir, I rise to support and want this afternoon to speak not to the letter, but to the spirit of Article 204 of the Constitution that gave effect to the equalization fund. Every time I look at what has happened in the last five year and the Temporary Speaker and Sen. Tobiko were not in the House, but Sen. Wambua was there.

I do not know what happened. They went for the letter in the last five years and completely moved away from the spirit. The letter then became: “Go around with a microscope across the 47 counties, see if there is any little location, division, sub-location, village or polling station where people are faced with challenges”. This is what would be defined as being marginalized.

The noble spirit of Article 204 of the Constitution which was to right the wrong that was done to the people of Kenya by a policy of Government that was based on Sessional Paper No.10 of 1965. We were supposed to right that wrong. What happened while we were away? Murang’a County and Bungoma County from Western, found themselves on the list. What a lie.

Lack of a philosophy when you are governing a country is one of the most dangerous things. In 1963, it was clear that the philosophy of the founders of the nation was African Socialism. They went all out of their way to make sure that they kept on pushing development to improve the socio-economic status of our people.

Out went the late President Kenyatta and the late President Moi came in. President Moi said wait a minute; this African socialism is a good thing. It has been pushed by my boss, let me carry it on. So, he brought it with the spirit of perpetual succession of government which they called at that time “Nyayo”. That is the principle of Perpetual Succession of Government. President Moi might not have had the degrees that Omollo, Sarah, Kavata and all of you have, but he understood Government. He called it “Nyayo”.

Come Mwai Kibaki, the gentleman saw that we needed a new philosophy moving away from perpetual succession and he told us we are only going to succeed if the nation decides to work. So, Kibaki said our philosophy is going to be for 10 years, the working nation that pays taxes. However, come in the Jubilee Government, no philosophy. People came here and stated sharing the equalization funds like robbers. How would people of Bungoma, Murang’a and the others compete with Turkanas’? Really?

Have you ever been to Kitui? You know the areas described by the hon. Senator sometimes they do not see rain, not for months or years. Why would Bungoma compete with it when our problem in Western is that we have too much rain in a year? The purpose of this fund was to give people water, health and electricity connectivity---

The Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, how I wish I did not have to interrupt you. You will have your 15 minutes to continue tomorrow when the House resumes.

Sen. (Dr.) Khalwale: Most obliged.

ADJOURNMENT

The Speaker (Sen. Wakili Sigei): Hon. Members, it is now 6.30 p.m.; time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow Thursday, 20th April, 2023 at 2.30 p.m.

The Senate rose at 6.30 p.m.