

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 3<sup>rd</sup> May, 2023

### Afternoon Sitting

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

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

### PRAYER

DETERMINATION OF QUORUM  
AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, do we have quorum?

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

Serjeant-at-arms, kindly ring the quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

Hon. Senators, we now have quorum. Therefore, we shall proceed with the business of the afternoon.

Clerk, proceed to call the First Order.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE  
COUNTY ASSEMBLY OF KILIFI

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon of a visiting delegation from the County Assembly of Kilifi comprising members of the Committee on Justice, Legal Affairs and

its secretariat. The delegation is undertaking a benchmarking visit with their counterparts in the Senate.

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

- |                                |   |   |
|--------------------------------|---|---|
| 1. Hon. Brown Safari           | - | The chairperson                                   |
| 2. Hon. Kalama Mumba           | - | Vice-Chairperson                                  |
| 3. Hon. Amina Sahara Bule      | - | Member  |
| 4. Hon. Oscar Wanje            | - | Member  |
| 5. Hon. Emmanuel Karisa Baya   | - | Member  |
| 6. Hon. Benson Karisa Ngirani  | - | Member  |
| 7. Hon. Felista Messo          | - | Member  |
| 8. Hon. Mariam Mkumbi          | - | Member  |
| 9. Hon. Haron Tete Ndundi      | - | Member  |
| 10. Hon. Stephen Baya Mwaro    | - | Member  |
| 11. Hon. Agnes Sidi            | - | Member  |
| 12. Mr. William Katana Nyanje  | - | Principal Clerk Assistant<br>Legislative Services |
| 13. Ms. Linda Nyamwata         | - | Legal Counsel                                     |
| 14. Mr. Shauri Nyule           | - | Second Clerk Assistant                            |
| 15. Ms. Charity Mwarumba       | - | Second Clerk Assistant                            |
| 16. Ms. Salome Kasichana Konde | - | Assistant Serjeant-at-Arms                        |
| 17. Ms. Peris Kache Kibarua    | - | Hansard Reporter                                  |
| 18. Mr. Rimba Mukuna           | - | Communication Officer                             |

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

I will allow the Senate Deputy Minority Leader to extend very brief welcoming remarks.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for according me the opportunity to welcome the visiting delegation from Kilifi County. Kilifi County is the county that has given this Senate the Speaker of the House and the Senate Minority Leader.

We appreciate your visit and it is my hope and prayer that your visit shall be fruitful; that you shall gain whatever it is that you are coming to benchmark or study and that as you go back home, you will go with a good report of the Senate of the Republic of Kenya.

Mr. Speaker, Sir, when you were listing the members that comprise the delegation, there is a name you mentioned and I saw Sen. Mandago almost sprung out of his seat to check who is that Kasichana. This is to confirm that Kasichana is not a small girl. She is an adult and Sen. Mandago is properly informed of the delegation that is visiting today.

*(Applause)*

**PETITION****DELAY IN INCORPORATION OF THE VICTIM PROTECTION  
BOARD UNDER THE VICTIM PROTECTION ACT**

**The Speaker (Hon. Kingi):** Hon. Senators, I hereby report to the Senate that a Petition has been sent by Nayan Salva concerning the Victim Rights Charter.

As you are aware under Article 119 (1) of the Constitution:

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said Petition are as follows;

THAT, the Victim Protection Act No. 17 was enacted in 2014 yet the Victim Protection Board is still unincorporated.

THAT, the Victims Rights Charter has not been implemented eight years since the enactment of the Victim Protection Act.

THAT, the staff of the Victim Protection Board have been receiving a salary for eight years yet the Board remains unincorporated and the Victim Rights Charter has not yet been launched.

THAT, the Petitioner has requested a copy of the Victim Rights Charter from the Victim Protection Board unsuccessfully and that the representatives of the Board have stated that elaborate procedure and budgetary constraints have caused the delays without providing any evidence to support this claim.

The reasons provided by the Victim Protection Board for the delay in launching the Charter are unconvincing and material published on the website mainly consisting of repetitive annual reports does not provide a satisfactory explanation.

THAT, the proposed legislation for the implementation of the Victim Protection Act including the Victim Protection Amendment Bill of 2019 and the Victim Protection Trust Fund Regulations 2021 have equally taken inordinately long to be enacted without satisfactory reasons.

THAT, the petitioner has made efforts to address the matter by the relevant authorities, all of which have failed to give a satisfactory response.

THAT, none of the issues raised in this Petition are pending in any court of law.

The Petitioner, therefore, prays that Senate:

1. Investigates the reason for the delay in the implementation of the incorporation of the Victim Protection Board and the launching of the Victim Rights Charter.
2. Inquires into the operations of the Victims Protection Board and its activities since 2014.
3. Inquires into the role of the office of the Attorney-General and the Department of Justice in the operationalization of the Act.

Hon. Senators, pursuant to Standing Order 237, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Since we only have 30 minutes, I would like to request that we limit the time that a particular speaker takes while making their comments so that we can have as many as possible of you making their contribution. We will limit it at three minutes per Senator speaking on this subject. We shall proceed in that manner.

Sen. Mungatana, please, proceed.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I rise in support of that Petition and I would like to say two things.

It is very sad that there are people in this country who have been collecting salaries for the last eight years. As per that Petition; they have not been doing any work and yet they have been drawing salaries from the Government coffers. It is a very deplorable situation and I would like to congratulate the petitioner who had brought this to the attention of this House.

This brings me to my final point. I stand on the Floor of this House to ask the Attorney-General of the Republic of Kenya – who has been a Member of Parliament (MP), whom we have served together in the National Assembly (NA) before and has been a Speaker of the House – to take up an audit of these laws and some of the bodies that have been formed under the laws, so that we do not have these wastages.

Measures to remedy the situation should be put in place, when these people or the various boards are discovered.

I support this Petition.

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

**Sen. Onyonka:** Mr. Speaker, Sir, I reiterate what Sen. Mungatana, MGH, has said. If people are paid and assumed to be working, yet nothing happens, then under those circumstances, I do not know what to do other than get the Speaker of the National Assembly to figure it out and come up with an audit, so that we can follow up on such issues.

I also support this Petition and hope it will come with better results than what we have right now.

I thank the team from Kilifi County for welcoming us when we were in their county three days ago. *Karibuni* Senate.

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

**Sen. Mandago:** Thank You, Mr. Speaker, Sir. I rise to support the Petition. It is extremely saddening to learn that there are civil servants in this country who can withdraw salaries for more than eight years without their work well cut out.

The issue of incorporations of boards is not only limited to the Human Rights Board we are discussing in this Petition. There are quite a number of institutions that are operating outside the law because of the absence of the Board.

I am also aware that the Tobacco Control Fund has been operating for quite some time without a board. It is high time that those organisations are given a timeline.

I ask this House and the Committee that is going to handle this Petition, to give a specific timeline for incorporation of these boards, so that the functions that were intended can be achieved with the board in place.

The person responsible for ensuring that this Board should have been in place, needs to be sanctioned and reprimanded for making this country lose for paying salaries without work being done.

I beg to support this Petition.

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

**Sen. Mumma:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute. I support the Petition.

The Victim Protection Board is provided for under the Constitution. The law to effect Victim Protection Board was put in place way back in the year 2014. The Petitioner is absolutely correct.

I suggest that the matter be placed before the Justice, Legal Affairs and Human Rights Committee (JLAC). It should have a timeline when we can look into what these civil servants have been doing in the name of this institution and see how it can be operationalized as soon as possible.

If we do this and provide the Executive with the necessary recommendations, we can stem a lot of abuse going on with institutions, that are live but not delivering any services.

*(Sen. Madzayo, walked into the Chamber)*

**The Speaker** (Hon. Kingi): Sen. Madzayo, kindly, have your seat. Hon. Senators, there being no other Senator wishing to contribute to this Petition, Pursuant to Standing Order 238 (1), the Petition is hereby committed to the Standing Committee on Justice, Legal Affairs and Human Rights for its consideration.

In terms of Standing Order No. 238 (2), the Committee is required in not more than 60 calendar days, from the time of reading this prayer, to respond to the petitioner by way of a Report addressed to the petitioner and lay on the Table of the Senate.

Thank you.

Clerk, proceed to read the next Order.

## PAPERS LAID

### REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS ENTITIES

**The Speaker** (Hon. Kingi): Senate Majority Whip, kindly proceed to lay the Papers and thereafter, the Chairperson, Standing Committee on Education to lay his Paper.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate, today, 3<sup>rd</sup> May, 2023-

Report of the Auditor-General on the Financial Statement of the Homa Bay County Executive Car Loan and Mortgage (Members) Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Homa Bay County Alcoholics Control Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Municipality of Homa Bay County Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of County Revenue Fund of the County Government of Homa Bay for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kajiado County Education Bursary Grants and Scholarship Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kajiado Alcoholic Drinks Control for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Narok for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Narok County Assembly for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Narok County Assembly for Car Loans, Grants and Mortgages Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Mombasa County Assembly Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Mombasa County Consolidated Revolving Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Mombasa Elimu Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Taita -Taveta for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Taita-Taveta for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Taita-Taveta Car Loan Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Kisii for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Kisii for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kisii County Assembly Members' Loan and Mortgage Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kisii County Covid-19 Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kisii County Health Facilities Improvement Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Nandi County Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Baringo County Executive Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statement of the Baringo County Co-operative Development Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Baringo County Micro and Small Enterprises Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Baringo County Lake Bogoria Community Grant for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Kilifi for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Kilifi Car and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Kilifi for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Municipality of Kilifi for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kilifi County Microfinance Mbegu Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Revenue Fund - County Government of Kilifi for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kilifi County Health Services Improvement Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Samburu County Executive Staff Mortgage Members Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Samburu - County Revenue Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Revenue Fund - County Revenue Fund of Migori for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Yatta Water Services Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Makueni County Revenue Statements - Receiver of Revenue for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Murang'a Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Laikipia County Assembly Members Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Municipality of Nyamira for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kwale Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Ewaso Ng'iro North River Basin Development Authority for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Nanyuki Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Isiolo County Education Bursary Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Revenue Fund – County Government of Machakos for the year ended 30<sup>th</sup> June, 2022.

Thank you, Mr. Speaker, Sir. I lay the said Papers.

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

**The Speaker** (Hon. Kingi): Chairperson, Standing Committee on Education or any Member from that Standing Committee, to proceed and lay the Paper.

Do we have any Member from the Standing Committee on Education?

Sen. Kavindu Muthama, kindly, proceed to lay the Paper on behalf of your Committee.

REPORT ON THE LEARNERS WITH DISABILITIES BILL  
(SENATE BILLS NO. 3 OF 2023)

**Sen. Kavindu Muthama:** Mr. Speaker, Sir, on behalf of the Chairperson of the Committee, I beg to lay the following Papers on the Table of the Senate, today 3<sup>rd</sup> May, 2023.

Report of the Standing Committee of Education on its consideration of the Learners with Disability Bill (Senate Bill No. 3 of 2023)

*(Sen. Kavindu Muthama laid the Document on the Table)*

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

**STATEMENTS**

PROPOSED MONTHLY CONTRIBUTIONS TOWARDS  
THE HOUSING FUND

**The Speaker** (Hon. Kingi): The next Statement is pursuant to Standing Order No. 53(1). Sen. Olekina is not present. Therefore, this Statement is dropped.

*(Statement dropped)*

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

**Sen. Madzayo:** Asante, Bw. Spika. Sen. Kibwana alinieleza nimshikie *brief*. I do not know how to explain that.

*(Laughter)*



Sen. Kibwana aliniomba nimwakilishe kwa sababu hatakuwa katika Kikao hiki. Nataka kutoa taarifa kuwa Sen. Kibwana hataweza kuendelea na kauli yake. Bw. Spika pia nataka kuomba ruhusa kwa heshima na taadhima katika upeo wa kuketi wa Bunge la Seneti, kunao waheshimiwa wa Bunge la Kaunti ya Kilifi pamoja na baadhi ya wafanyikazi wa Kaunti ile. Kwa sababu nilikuwa nimechelewa naomba unipe dakika moja nisiunge nawe pamoja na maseneta wenzangu kuwakaribisha. Nawashukuru kwa kuja katika Bunge la Seneti ili wajifunze mengi wasiofahamu.

Vile vile ni kwamba---

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

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

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, what is your point of order? Before you proceed to make your point, I had granted the Senate Minority Leader one minute. Immediately he is done with holding brief on behalf of Sen. Kibwana, he should utilize one minute to welcome the delegation from his home county.

I have given him that latitude for one minute.

**Sen. Madzayo:** Asante, Bw. Spika. Sen. (Dr.) Khalwale ni mpiganaji wa ng'ombe lakini hilo ni swali la kutafakari.

Bw. Spika, nakushukuru pamoja na watu wa Kaunti ya Kilifi wanaojua mimi ndiye Seneta wao. Si rahisi jambo hili kutendeka lakini kwa mara ya tatu nimeweza kurudi na kushirikiana na wenzangu ndani ya Bunge hili. Yale yote ndugu zangu kutoka sehemu hiyo watajifunza hapa wanafaa kuyaangalia yanayofaa na inayoweza kutekelezwa katika Bunge la Kaunti ya Kilifi ili wasonge mbele

Asante.

**The Speaker** (Hon. Kingi): The next Statement is by Sen. Cherarkey who is not in the House. That Statement is therefore dropped.

#### FUEL SUBSIDY PROGRAMME BY THE NATIONAL GOVERNMENT

*(Statement dropped)*

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

*(The Clerk-at-the-Table approached the Chair)*

**The Speaker** (Hon. Kingi): The Statement by Sen. Kibwana has been deferred but the Statements by Sen. Olekina and Sen. Cherarkey are dropped.

STATUS OF THE MEDICAL EQUIPMENT SERVICES  
LEASED TO COUNTIES

*(Statement deferred)*

*(The Clerk-at-the-Table approached the Chair)*

**The Speaker** (Hon. Kingi): Hon. Senators, if you look at the Order Paper Order No. 8, and 9 are ready to go for Division. Looking at the quorum and the numbers present, we may not be able to go through division today. Therefore, I will move to rearrange the sequencing of the orders in today's afternoon Order Paper.

We will leave Order Nos. 8, 9, 10 and 11. We will proceed to prosecute Order No.12 in the Order Paper, which is a Motion on the adoption of the Report of the Standing Committee on Devolution and Intergovernmental Relations on a Statement sought on the relocation of national Government administrative services from Chuka Town to Kathwana County headquarters in Tharaka Nithi County.

This is a Motion by the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations. Clerk, kindly proceed to call the Order.

**MOTION**

ADOPTION OF REPORT ON RELOCATION OF NATIONAL  
GOVERNMENT ADMINISTRATIVE SERVICES FROM CHUKA TOWN

**The Speaker** (Hon. Kingi): Chairperson of the Standing Committee on Devolution and Intergovernmental Relations, proceed.

Secretariat, can you kindly power the microphone of the Hon. Tobiko.

**Sen. Tobiko:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on a Statement sought on the relocation of National Government administrative services from Chuka Town to Kathwana County Headquarters, Tharaka Nithi County, laid on the Table of the Senate on Wednesday, 19<sup>th</sup> April, 2023.

At a sitting of the Senate held on Wednesday, 19<sup>th</sup> October, 2022, the Senator for Tharaka Nithi, Sen. Mwenda Gataya Mo Fire, MP, rose pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations. The Statement was on the relocation of Government administration services from Chuka Town to Kathwana County Headquarters in Tharaka Nithi County.

During its consideration and deliberations on the Statement on 27<sup>th</sup> October, 2022, the Senator for Tharaka Nithi, Sen. Mwenda Gataya Mo Fire, who sought the Statement, explained that despite having Kathwana as the gazetted county headquarters, the national

Government administrative services are yet to relocate to the town from Chuka Town. He also stated that most residents find it expensive to access the national Government offices at Chuka Town.

In a bid to respond to the request, the Committee took the following course of action-

(1) The Committee wrote to the Ministry of Interior and National Administration to seek information on issues raised in the Statement.

(2) The Committee also organized and carried out a county visit to Tharaka Nithi County for further investigations on the matter.

(3) The Committee held meetings with the Ethics and Anti-Corruption Commission (EACC) and the Controller of Budget (CoB) on the stalled buildings of the county headquarters and the County Assembly of Tharaka Nithi.

(4) The Committee held meetings with several stakeholders in an effort to shed light on the issues raised.

During the visit to Tharaka Nithi County, the Committee was made aware that in 2014, the County Assembly of Tharaka Nithi had initiated the process of constructing an ultra-modern county assembly in Kathwana. The project had failed to progress as anticipated due to challenges caused by lack of release of funds by the CoB following investigations by the EACC on the project over alleged misappropriation of funds.

Mr. Speaker, Sir, in its investigations, the Committee observed as follows concerning the county headquarters-

(1) THAT following the conditional grants allocated to Tharaka Nithi to supplement financing and construction of the county headquarters, the project was stalled at 82 per cent completion.

(2) There was lack of adequate infrastructure in Kathwana to accommodate all national Government departments, which has been a major issue hindering the operationalization of Kathwana County Headquarters.

The available offices had been allocated to six departments, including the County Commissioner and the Deputy County Commissioner. Twelve other departments have no space, among them, the Kenya Police, the Directorate of Criminal Investigations (DCI), Land Registry and Land Control Board.

(3) Civil servants posted to Kathwana would also face the challenge of finding accommodation since the town has no residential quarters including those of the County Commissioner and Deputy County Commissioner.

(4) Additionally, Kathwana lacks the necessary amenities for a functional county headquarters, among them, good all-weather roads, electricity, reliable water supply, referral hospital, law courts, upgraded post office with a *Huduma* Centre, among others.

Concerning the construction of the County Assembly Chamber, the Committee established the following-

(1) That the EACC had put a stop to the construction of the county assembly as it carried out the following two investigations:

(a) Inquiry into irregular procurement of consultancy services for architectural designs for the construction of Tharaka Nithi County Assembly Block at a tender sum of Kshs62,764,622.

(b) Inquiry into the procurement for the construction of the County Assembly of Tharaka Nithi Block at a tender sum of Kshs369,642,688.

In the seven years the Commission has been carrying out its investigations, it has placed a caveat at the CoB stopping the disbursement of funds to the county for the project. This has consequently clawed back smooth service delivery to the people of Tharaka Nithi County.

(2) Scaling down the project since the size of the proposed structure was significantly larger than what the Assembly's 26 Members actually required.

During his visit to Tharaka Nithi County on 12<sup>th</sup> March, 2023, His Excellency the President recommended scaling down the cost of the project to Kshs200 million down from Kshs369,642,688.

The Statement also required that the Committee recommends that the towns of Chogoria, Chuka and Marimanti be designated as commercial or industrial towns. However, it was observed that this is outside the mandate of the Committee as the process of granting town status is provided for in the Urban Areas and Cities Act, 2011. Nevertheless, the Committee recommends that the county government grants the towns commercial status in line with the provisions of the law.

Consequently, the Committee, in its report, makes recommendations for two multi-agency technical committees to be constituted to investigate and resolve the issues concerning the construction of the county headquarters and county assembly respectively.

The membership of these multi-agency technical committees should be drawn from of the Office of the Deputy President, State Department of Devolution, the Ministry of Interior and Coordination of National Administration, the National Treasury, the Ministry of Lands, Housing and Urban Development, the Office of the Attorney-General, the County Executive Department in charge of Public Works and Housing, the Office of the Governor, the County Assembly, the EACC, the CoB, and any other relevant entity. Details of their terms of reference are also indicated in the report and the role that this august House shall play in receiving their final reports.

The Standing Committee on Devolution and Intergovernmental Relations wishes to thank the Offices of the Clerk and the Rt. Hon. Speaker for their steadfast support in executing its mandate.

Mr. Speaker, Sir, with those few remarks, I beg to move that the House adopts the report of the Committee. I call upon Sen. Chute to second.

I thank you.

**The Speaker** (Hon. Kingi): Who is the Seconder of this Motion? Sen. Chute, kindly proceed to second the Motion.

**Sen. Chute:** Mr. Speaker, Sir, I beg to second this Motion. However, I would like to add two things. As you are aware, for construction of county headquarters, funds are

channeled through the Ministry of Roads, Transport and Public Works but most of them have not been completed.

Mr. Speaker, Sir, I suggest that counties should be given money through conditional grants, so that they can build their own headquarters efficiently. That is what has been happening in most cases.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, kindly have your seats.

*(Question proposed)*

Senators, the Floor is now open. Sen. (Dr.) Oburu, please, proceed.

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir, for the opportunity. At the onset, I must state that I am a Member of this Committee of Devolution and Inter-Governmental Relations. I must also state that I am one of those Senators who visited Tharaka Nithi County in both Chuka and Kathwana. It is a very sorry state of affairs.

When we visited Kathwana, it was in a very sorry state of affairs because we went to the Assembly and the reception and a bit of recreation was done under a tree. This was very surprising. Even where they sit as an Assembly is awkward.

Mr. Speaker, Sir, I was so surprised that just resolving an issue of corruption--- If there was corruption in the award of the consultancy services and in the implementation of the project, why should it take 10 good years for Ethics and Anti-Corruption Commission (EACC) to investigate and come up with a report?

The people who are suffering are the people of Kathwana and the people of Tharaka Nithi County. They are not getting proper services because of the delay in the implementation of a project, which, to me, looked very straightforward. We called the EACC here and we talked to them. When you talk to them, they take this matter very lightly. They say, 'We are few, that is why we are unable to investigate this matter. In any case, we have not stopped the implementation of the project, it can just go on.'

How can it go on when there is a query? The EACC is still investigating but they are saying they have not stopped it and they do not know why it is not continuing. It is very unfortunate, that we have to recommend the formation of a task force which is also going to consume taxpayers' money to do what should have obviously been done by those arms of the Government which are involved in the implementation.

Mr. Speaker, Sir, I do not want to speak much because this is a matter in which I was involved in. I doubt the recommendation to reduce the size. Even if you reduce it from Kshs369 million to Kshs200 million or to Kshs150 million, this Government is broke. It has no money. There is no way it is going to implement whatever is being proposed. I do not see how it is going to be implemented.

With those few remarks, I will stop there to give other Senators an opportunity to do the same.

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

**Sen. Okenyuri:** Mr. Speaker, Sir, I also rise to support this Motion and urge Members to support the adoption of this Report.

I am a Member of the Committee of Devolution and Inter-Governmental Relations and was among the few Senators who visited Kathwana. The state that we witnessed was really bad. Even the infrastructure to just host the County Assembly is wanting.

Can you imagine the County Assembly is actually more of a makeshift and it is cardboards separating where a Member is sitting from the other? I could not imagine that several years after Independence, that is where Hon. Members of the County Assembly sit to prosecute matters of the people of Tharaka Nithi County. It is such a sad situation. The Members' Lounge was actually under a tree. We are privileged to have a Senators' Lounge here. The Members of the County Assembly (MCAs) in Tharaka Nithi sit under a tree to deliberate on issues once they have a break.

Mr. Speaker, Sir, the other Senators might not have had an opportunity to be there but it is really sad. This is the first time I visited Tharaka Nithi County, and I could not imagine that we have such. For once, I appreciated the County Assembly of my home county.

So, I support the Committee on Devolution and Inter-Governmental Relations because we put in a lot of work and even considered visiting the county to find out the real issues. They are not even able to host national administrative offices. The County Commissioner there was literally begging.

I support this Motion and urge fellow Senators to support the adoption of this Report in whatever proposals they have given, but also issue a stern warning to the county chiefs who are looting public resources instead of availing them to help the citizens who have elected them to office.

*(Sen. Chute spoke off record)*

**The Speaker** (Hon. Kingi): Is it an intervention or a point of order? Proceed and tell us under what Standing Order are you prosecuting your point of order?

**Sen Chute:** Mr. Speaker, Sir, it is not a point of order.

*(Laughter)*

**The Speaker** (Hon. Kingi): Proceed. What is it? Just give it a name, Sen. Chute.

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

INTERCOMMUNAL KILLINGS AND DISPLACEMENT  
OF RESIDENTS IN MARSABIT COUNTY

**Sen. Chute:** Mr. Speaker, Sir, I beg to move a Motion of Adjournment.

I rise on a point of order pursuant to Standing Order No.37 to seek leave of the Senate to adjourn debate to discuss a definite matter of urgent national importance, namely; the intercommunal killings and displacement of residents in Marsabit County.

*(Several Senators stood in their places)*

**The Speaker** (Hon. Kingi): Hon. Senators, you may now have your seats. Indeed, I am persuaded that the Motion has met the requirements of Standing Order No.37(5). Therefore, that Motion shall be prosecuted at 5.30 p.m. today.

*(Applause)*

Sen. Wambua, please, proceed.

**Sen. Wambua:** Mr. Speaker, Sir, I stand in support of the Report brought by the Senate Standing Committee on Devolution and Inter-Governmental Relations on a matter concerning a neighboring County of Kitui called Tharaka Nithi County.

I have been to Kathwana, Chogoria and Marimanti. The state of affairs in the offices responsible for public administration, both for the county government and the national Government, is a bit appalling.

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

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

Mr. Deputy Speaker, Sir, you are seated on that Chair and as the Senator for Meru County, when you say that oversight will have to be done at whatever costs, I support you 100 per cent. This is because you cannot begin to understand how a Government institution is the one that is precipitating the stoppage of the construction of a Government institutional administration.

I have had the same experience in Kitui County. The people of Kitui County will tell you that the route you want to take is the route that was taken by the Senator of Kitui County between 2017 and 2022, following leads where they take you.

How can the Ethics and Anti-Corruption Commission (EACC) be the one responsible for the situation that an entire county now finds itself in? They came to Kitui County around 2017 and took away files on procurement. They said they could not clear the contractors to be paid because there were issues with the procurement process. Three or four years down the line, we had a number of contractors that were bankrupted, whose property was sold by banks simply because the EACC is holding onto a file and saying they were still investigating.

Now, see what is happening in Tharaka Nithi County. Somebody has been awarded a project to construct the County Headquarters, the EACC comes in and says that there is a problem and so, the construction cannot continue. Ten years down the line,

now we have elected representatives of the people sitting under trees to deliberate on public issues. What a shame?

I do not want to cast aspersions on anyone but when a Senator – I am not naming any person – sits in the office of the Senate in their county, it is their responsibility to bring to the fore things that are happening in their county because all matters are local. There is nothing called a national issue. All issues are local. It is the responsibility of Senators to bring their issues to the national level for debate as the Senator of Tharaka Nithi County has done.

The shame that the people of Tharaka Nithi County are suffering today, the same shame is being felt in Meru, Kitui, Mombasa and every other county in this country where devolution is supposed to be working.

Mr. Deputy Speaker, Sir, in conclusion, even as we adopt the Report of the Committee, this Senate needs to have a serious conversation with the EACC. We need to have a serious conversation so that we know where their work begins and ends; and where development begins. They cannot always come to your county when you are doing something and take away files.

There is a speech that they are using and I have heard the Committee refer to it. Once they take the files and stop construction or any project, when you push them, they say; “We have not said that you cannot continue.” Who wants to continue putting their money on a project that the EACC has already cast aspersions on?

The investigations by the EACC on any public institution and construction of any project must be fast-tracked, so that within a month or two, they give you a verdict on whether the construction will continue or be stopped.

With those few remarks, I support the Report.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Senator for Kitui County.

Since this Report has come to this House through a certain conveyor belt, let us now hear from the horse’s mouth so that you can give Members insight on what is happening in Tharaka Nithi County.

**Sen. Gataya Mo Fire:** Thank you, Mr. Deputy Speaker, Sir. I am sure you are referring to the Senator of Tharaka Nithi County as a conveyor.

*(Laughter)*

It is true, this matter came to this House through my Statement, which I made before this House. I concur with my neighbour, Sen. Wambua, who has really prosecuted this case very intelligently.

It is very sad that 10 years down the line since the inception of devolution, Tharaka Nithi County, the so-called stronghold, is in a very sad state. I am happy, that when I brought this issue before this House, the Committee took it upon itself. I was happy to see a lot of vigour, determination, and push. The Committee, under the chairmanship of my brother, Sen. Abass from Wajir County and my sister, Sen. Tobiko,



took it upon themselves to go on a fact-finding mission to Kathwana, the *gazetted* County Headquarters for Tharaka Nithi County.

From what they saw, they had to really support me because they thought I was joking when I told them that we are living in makeshifts. It is important for this House to note that I have been in those makeshifts for 10 years as a Member of the County Assembly (MCA). Even today, the reception is under the trees.

*(Laughter)*

Mr. Deputy Speaker, Sir, that is Tharaka Nithi County. All through, we have had serious blame games. Ooh! The EACC. Ooh! The public works. That blame game has continued for the last almost 12 years now.

It has been a blame game because I remember the Senate Standing Committee on Devolution and Intergovernmental Relations invited me because I am not a Member of that Committee. The EACC and the Controller of Budget (CoB) have been attending their meetings. The blame game has been addressed by the Committee. That is why the Committee has recommended that we have a joint effort with the various stakeholders so that we can resolve that matter.

The EACC has been saying they have not stopped the construction. On the other hand, the Governor says he has not received any report from anywhere. So, that issue has continued and has subjected MCAs and the entire county to a lot of suffering. Basically, that is killing the spirit of devolution. You can imagine citizens or any other public member who wants services from Tharaka Nithi County may not get those services because there are no structures.

I thank this Committee because they have come up with very serious recommendations. It is not intelligent for the EACC to assume the role of suspending all the activities in various circumstances under the pretext of investigations. I do not understand how investigations can take 15 years, without having anybody prosecuted, taken to court or giving any recommendations.

Mr. Deputy Speaker, Sir, it is high time this House should be in charge and make sure the EACC also gets accountable and appears before this Committee.

I like what Sen. Wambua and my senior, Sen. (Dr.) Oburu, have said.

The other day, I went to Nyandarua and they have a very nice county assembly. It is a shame that I do not have the guts to take Members of the Senate to address my County Assembly of Tharaka Nithi. So, this matter should be resolved once and for all so that we unlock the stalemate and have Tharaka Nithi County Assembly constructed for the benefit of the people of Tharaka Nithi.

I thank you, Mr. Deputy Speaker, Sir. I support the adoption.

I am happy that the Committee has taken the initiative to make sure that Tharaka Nithi County gets the value of devolution.

**The Deputy Speaker** (Sen. Kathuri): Sen. Mumma, proceed.

**Sen. Mumma:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the report. I am a Member of that Committee. I led the team to Tharaka Nithi.

I thank Sen. Gataya Mo Fire for raising this issue. It is a shame that we are in the eleventh year of devolution and there is a county assembly that does not have premises because of the ping pong between institutions. At the national Government, there is the EACC and Controller of Budget. The county government raised concern by not factoring the monies to build the County Assembly of Tharaka Nithi.

It also raised another issue that the Senate needs to address. We need to amend the Intergovernmental Relations Act to give financial autonomy to county assemblies.

If the budget for building Tharaka Nithi County premises was within the Tharaka Nithi County Assembly budget, the Assembly would have been built. However, this had to be channeled through the county executive, the governor's hands were tied. He felt from the letter of EACC to Controller of Budget, he could not factor this money within the budget. As a result, the County Assembly of Tharaka Nithi was held at ransom.

Even as we get the Committee to address this issue and agree on how to move forward, we also, as the Senate, need to ensure that county assemblies get financial autonomy. County Assemblies have become puppets of governors because they are dependent on them for their financial needs.

There is the second issue of headquarters. The Tharaka Nithi headquarters is suffering because the Ministry of Public Works decided to carry out the project by itself. As a result, it has been extremely slow. A lot of money has been spent and that project is not yet over. That is what the national Government needs to give Conditional Grants to county governments to build their own headquarters. We are told that it is the same case in six other county governments that were supposed to have their headquarters built for them.

So, this is an issue that the Senate needs to look into to ensure that the funds required for the building of those headquarters, which are not yet done, are passed on as Conditional Grants and given to county assemblies so that they can fast-track them.

It is so sad that Tharaka Nithi designated its headquarters and 11 years later, the people are operating from another town because they do not have the facilities.

I support.

**The Deputy Speaker (Sen. Kathuri):** Sen. Mungatana, proceed.

**Sen. Mungatana, MGH:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to make my contribution on this matter that has been raised by my colleague and neighbour *Mheshimiwa*, Sen. Gataya Mo Fire.

Tharaka Nithi borders Tana River County on the northern side. When they cross over, they come to Tana River. We also do a lot of trade because they give us a lot of *miraa*. They bring it from that side. Many people from that side have settled in Tana River County.

It is very sad to hear the report from the Committee that they do not have a County Assembly and a county headquarters. These buildings are not there because the

EACC has put a caveat on the release of monies for these projects to continue to their completion.

There was a big complaint in the Uhuru administration that the courts are stopping developments through injunctions. The Chief Justice should do something about courts because they are issuing injunctions on Government projects and they are not moving.

It is very sad that even in the Uhuru Government, because this matter has lasted for seven years, while the President was talking and complaining about the injunctions from the courts, the EACC was injunctioning a Government project through some mysterious laws application in the guise of investigation.

This is wrong. I remember very well when President Uhuru was lamenting that the courts are delaying Government projects. He said that we had borrowed the money. He gave calculations of the money we were paying yearly as interest because the courts have given injunctions.

What about in this situation? The EACC has injunctioned two big projects of our neighbouring Tharaka Nithi County. How much have they paid in terms of loss of opportunity to develop and discuss? Their people cannot even come to sit to listen to the Hon. Members discussing matters?

The county headquarters cannot be located from Chuka to where it is supposed to be just because some people in the EACC are sitting on those files. We cannot continue like this. There is no super agency in this country.

The courts are the supreme order. If there is an issue, they should have gotten an injunction from the courts so that the people can go and argue their case. Maybe this injunction would have been vacated. Why use the law to frustrate development in Tharaka Nithi?

It is wrong for some people to imagine that because they are holding some offices, they can dictate and rule over us including the elected people. The EACC needs to ask itself whether there is something right they are doing in stopping a whole county, for seven years, from getting their county assembly offices and headquarters.

What is wrong with surcharging a person that you investigate and find culpable? What is wrong with getting the Asset Recovery Agency (ARA) to file proceedings and get that money but the project to continue? Why put a caveat on money being released for the project to be finished?

So, having understood the problem that is in Tharaka Nithi, our neighbours in Tana River County, I am surprised by this recommendation that the Committee has given. Why is the Committee again talking about a multi-agency? Sen. (Dr.) Oburu has told us this task force is going to waste more public funds.

Why could they not just go straight to the point and recommend the removal of this caveat, investigations to continue and whoever is culpable to be surcharged? Why are we setting up another multifaceted organ go to Tharaka Nithi again and yet the Senate has already determined the issue? It is wrong.

Mr. Deputy Speaker, Sir, this recommendation should be amended to hit the nail on the head. If it is the money that needs to be released, then the money should be released. We should not now set up another agency to go and again spend public money, wasting more time, when the people of Tharaka Nithi are not getting this money.

Mr. Deputy Speaker, Sir, in my concluding submissions, I recommend that there should be an amendment to this recommendation. That the recommendation should be straightforward; that the money should be released, so that the project is finalized. That for those who are culpable, the Asset Recovery Agency should come in and collect the money. Nonetheless, the people of Tharaka Nithi should have their project.

I submit.

Thank you, Mr. Deputy Speaker, Sir.

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

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Mungatana. I was also trying to update myself with the procedures of handling reports.

This is now not a report of the Committee, but a report of this House. Therefore, any Member can make amendments to it through the right channels. As you have rightly put it, if you feel that the recommendation is not watertight, you can amend it through the normal procedure. You can do so, through the Speaker's Office and Members of this Senate can consider it.

Thank you.

*(Interruption of debate on Report)*

## COMMUNICATION FROM THE CHAIR

### VISITING DELEGATION FROM THE UNIVERSITY OF ELDORET

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, visiting students and lectures from the University of Eldoret. The group comprises 100 students and two lecturers who are in the Senate for a one-day academic exposition.

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

Thank you.

Let us proceed with the debate of this Motion. Proceed, Sen. Maanzo.

Sorry, just a minute Sen. Maanzo. I am looking for Sen. Mandago, the Senator for Uasin Gishu.

**An. Hon. Senator:** Sen. Kisang is here.

**The Deputy Speaker** (Sen. Kathuri): Sen. Kisang, please welcome the visitors on behalf of the Senator for Uasin Gishu County.

**Sen. Kisang:** Thank you, Mr. Speaker, Sir. I beg to welcome the students and lecturers from the University of Eldoret. University of Eldoret was part of Moi University in those days when we had only four universities in the country.

I welcome them to the Senate to learn. I believe that when they go back, they will be different students. We encourage them to listen because majority of the Members who are in this House, in their own lives, were student leaders in the universities those days.

Mr. Deputy Speaker, Sir, the former principal of that university is also here. I believe you will also give Sen. (Prof.) Kamar an opportunity because I think she was among the first principals while I was a businessman. Majority of students rented my hostel in Sogomo, next to the University for five years.

I welcome them to the Senate. Enjoy yourselves. Greet our people when you go back. Work hard, be disciplined and you will be great people in this country.

I donate two minutes to the former principal.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Okay. Proceed, Hon. Deputy Speaker emeritus, Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker Sir, thank you very much for giving me two minutes to welcome students from the University of Eldoret. It is a university that I have associated myself with for many years, from when I was a principal in 1997 to 2002. Currently, I am a founding Chair of the Endowment Fund for these wonderful students.

I welcome the students. I wish to tell them that there is no good result without hard work. At the end of the day, hard work pays. Patience is the key. Diligence in your work will give us very productive Kenyans. Yes, you are students today, but in the near future, you are going to be professionals in this country.

This country is looking for professionals who are ready to be competitive not only within this country, but also outside the country. However, more than that, we need people who are honest, accountable and transparent in the work that they are doing.

If you see us here in the Senate, since you have come for a learning opportunity in the Senate, we also went through what you are going through. All these Senators have been through universities. Since they were able to groom themselves well, they are able to be who they are today. I wish you well.

I encourage you to groom yourselves to be anything. You can be a professor today, tomorrow a Cabinet Secretary and the next day a Speaker. The future is bright. However, it belongs to the diligent, the brilliant and those who are willing to use wisdom.

On behalf of this Senate, I join my Speaker in wishing you all the best.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. (Prof.) Kamar. There is an intervention from Sen. Mumma. Is it on this visit?

**Sen. Mumma:** Mr. Deputy Speaker, Sir, it is just to guide on the amendment to the Committee Report.

**The Deputy Speaker** (Sen. Kathuri): No, I do not think we need that guidance now. Let Members ventilate on the report and then that can be done at an appropriate time.

Proceed, Sen. Maanzo.

*(Resumption of debate on Report)*

**Sen. Maanzo:** Mr. Deputy Speaker, Sir, I thank you for giving me an opportunity to contribute to this particular matter. I am very close to Chuka, where Sen. Gataya Mo Fire comes from. He is also my friend. That is why I was almost panicked thinking that the opportunity may not be seized.

What has happened to that county is very unfair. The current Constitution promotes devolution. The Senate is here to promote devolution. I am very happy that Sen. Gataya Mo Fire brought this matter to the Senate. I believe the Senate will come up with a solution.

Mr. Deputy Speaker, Sir, the people of Tharaka Nithi chose Kathwana as their headquarters after public participation. It was now upon Government to honour the people's wishes and make sure that there is a proper road to Kathwana. I am told there is no tarmacked road.

Again, once the headquarters moves there, there are going to be schools, houses, construction and business people will move there and develop the area. That has not happened simply because of suspicion.

I would really like to plead with the Ethics and Anti-Corruption Commission (EACC), which is a very important body in this country, that every time it takes up a matter for investigation, they should put full force into it and conclude it as quickly as possible. They should give the results to either stop the project or give guidance, so that we do not stall very important projects like that one and later on abandon it. A county assembly and county headquarters are key and so serious.

I am surprised because my very good friend, Hon. (Prof.) Kindiki, who is now a Cabinet Secretary, is even at a better position, from the Government side, to assist the Government. He understands that place very well. These things took place when he was a Senator. I am sure he did his level best then, but he is now centrally in the Government. Therefore, he can really order things to move around. In fact, he should talk to his counterparts like Hon. Murkomen to make sure that there is a road to that place. Since he sits in Cabinet, he should make sure that the agenda of that place is advanced. We are now delaying a county. I believe it is the only one now going through this problem.

Makueni has very good headquarters. Makueni has a very good County Assembly. When you go there, you will almost see the replica of the Senate. They have the Speaker there, the Clerk and the whole team. We have seen them coming here for bench marking.

We want the same for the great people of Tharaka Nithi, so that they may be equal to the other parts of Kenya and feel very well represented by their Senator, Sen. Gataya Mo Fire.

Mr. Deputy Speaker, Sir, Sen. Gataya Mo Fire, they should even give you another term in the Senate. This is because you have really changed and I am sure you are going to turn this around. With the help of this Senate, we will make sure that this headquarter is achieved.

I am personally going to work hand-in-hand with you to make sure that the people of your county do not suffer the injustice they have suffered so far. So, the EACC has to release quickly the so-called caveat. It is real.

If you are being investigated as a contractor, will you put more money into that project? Additionally, a very sad thing has happened. There is no longer budget into these projects because year after year, the county government and County Assembly cannot keep on allocating budget. More so, this is a role of national Government to do the headquarters and the county assemblies.

The Ministry of Public Works has not budgeted for this. It is not even in this year's budget. So, when will the people of Tharaka Nithi, be served properly? When will justice be visited to them?

I really want to urge the current Government to rise, intervene and get things moving. The EACC cannot take 11 years. I understand they are handicapped with so many things such as finances, staff and even we have not devolved the EACC properly to the counties. If there was a branch there, then they would have moved faster and given clarification.

I am also urging EACC, not to participate in politics. Many times, EACC has tended to tilt or to bear the pressure of politics. I guess that is what happened at that particular time. They should act as independent and clear this county to proceed to establish their headquarters. If there are any problems, say it and then we will get moving with a very important function of devolution.

Tharaka Nithi is very similar to Makueni in many aspects. They are very soon going to have Grand High Falls Dam, which is proposed there just as Makueni has Thwake Dam. So, with such huge projects coming up, we really need the county government and the leadership of that county together to be able to carry out even bigger projects for their people.

Mr. Deputy Speaker, Sir, injustice has been occasioned. I believe what Sen. Mungatana, MGH, has proposed. It has also heeded by Sen. Mumma, as very important.

As we move on and progress, we should put our heads together because this is now a report of the House. Where the Committee on Devolution and Intergovernmental Relations reach, we need to advance it a little bit. That is why we are debating it. We should come up with a very solid and firm way forward, which will make sure that Sen. Gataya Mo Fire, comes out shining more than he has ever shone before.

Mr. Deputy Speaker, Sir, I believe Sen. Mungatana, MGH, immediately after my contribution, I am going to join you in redrafting this resolution. So that, we come up

with a biting one. One which can bite, chew and make sure that Tharaka Nithi, has its headquarters and county assembly in place.

This is to make the people of that county as proud as the other members of the other county assemblies and counties. It is really a very serious matter. I thank the good Senator for bringing it up.

Mr. Deputy Speaker, Sir, I thank you for giving me an opportunity to support this great idea.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Makueni Senator. The Majority Whip, Sen. (Dr.) Khalwale, kindly proceed.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker Sir. Indeed, we cannot help in agreeing with the Senator of Tana River. That this is a very good report ---

**Sen. Cherarkey:** It is the Senator of Tharaka Nithi.

**Sen. (Dr.) Khalwale:** The Senator of Tana River, Sen. Mungatana, you know you take too much milk in Nandi.

Mr. Deputy Speaker, Sir, this is a very good report by the Committee. They only failed in the recommendation. So, let us tidy it up, to make sure that we do not promote what has taken place for the last ten years.

It is Prof. E.O. Wilson, the Prof. of Entomology who said that “parasitism is a beautiful relationship between two organisms, where the predator eats the prey in units smaller than one.” So, the parasitism that takes place on the dark streets of corruption, in the smoking rooms of corruption is the reason why this matter has dragged on for the last ten years. This is because the parasite, EACC which eats on the implementors of projects, they do not want to kill the projects. They want to be eating slowly by slowly.

Mr. Deputy Speaker, Sir, with the kind of recommendations that you have given dear Chair of the Committee, you are now allowing the parasite called EACC to prey on this project. Talk of another five if not ten years.

I remember ten years ago, when we were in this House, Prof. Kithure Kindiki, fought for the conditional grant, that then gave way for the construction of these headquarters. Today, ten years later, the dream of Prof. Kindiki and other leaders of the county has not been realised. It begs for the power of this Senate.

The power of this Senate to oversight the use of units in counties has not been properly applied. If it had been applied, this problem that is today being unlocked by Sen. Gataya Mo Fire, would long have been solved.

I, therefore, support and I wonder how Members of the County Assembly (MCAs), sitting under a tree can oversight a governor who is controlling billions of shillings.

Ten years ago, Tharaka Nithi, was given Kshs2.3 billion as sharable revenue. This has increased over the years to the latest audited accounts of 2019/2020. It has more than doubled to the extent that, during the ten years, Tharaka Nithi Government has controlled in excess of Kshs25 billion of sharable revenue.

If you add on the other additional funds, this county government has controlled between Kshs35 billion and Kshs40 billion, that is meant to be oversighted under a tree.



It cannot work. In fact, I am amazed that Sen. Gataya Mo Fire, from a tree, you have grown and joined the Senate.

*(Laughter)*

This is real the story of endurance and bottom up. If this is the quality of MCAs we have in counties, then I will be the first proponent to say that before anybody comes to this Senate, should have walked the journey from being a MCA to Member of Parliament (MP), then eventually to Senator.

I am not saying that it is wrong for you to skip being an MP. However, it is good practise for you to have a session there.

Mr. Deputy Speaker, Sir, so that we do not waste too much time, I hope that the Chair will retreat. Now that the Committee is drafting the amendments, we should call for-

(a) Immediate release of funds, so that the construction can commence.

(b) That amendment should also speak to the action to be taken against the elements within EACC and the implementors because it is that cohabitation between the implementor and sections of EACC.

You will find they are officers posted to Tharaka Nithi who are perpetuating this in the name of investigating. Additionally, recommend the action to be taken against them.

I support with amendment.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Osotsi.

**Sen. Osotsi:** Thank you, Mr. Deputy Speaker, Sir. I have listened very carefully to contributions by Members. It is shocking that the Members of County Assembly (MCAs) of Tharaka Nithi County Assembly are operating in some *mabati* structure and not a proper Chamber where they are supposed to deliberate from. Clearly, this is against the spirit of devolution.

The Standing Committee on Devolution and Intergovernmental Relations did a good job in visiting Tharaka Nithi to see for themselves the real situation on the ground.

Mr. Deputy Speaker, Sir, I have read through the report and what has not come out very clearly is the politics to it. This is because, one of the issues in contention is the fight on the location of the headquarters. One side saying that they want to remain in Chuka while the other side says they want to go to Kathwana.

We have even seen it being reported in the media that there has been fights between the Governor and the Speaker of the County Assembly. The Speaker feels that the Governor is trying to quietly undermine the relocation of the headquarters to Kathwana, which is less developed compared to Chuka. That bit should have come out clearly.

As someone has said, in most cases, the EACC want to get involved in the politics of particular counties. You cannot get a proper explanation as to why EACC has taken a long period to finalise this matter. That bit must also be looked at. The other bit is the cost of this project has been growing. In fact, I read somewhere that this particular county

assembly is bigger than our National Assembly. Those are things that we, as the Senate, really need to discuss. We must look at the whole matter in totality and make the proper recommendation.

I agree with Sen. (Dr.) Khalwale that we need to look into these recommendations, tighten them and make this report a good example of resolving issues in our counties, particularly on matters to do with county headquarters.

Mr. Deputy Speaker, Sir, I know some of these counties which were created as new districts by the late President Moi, including Vihiga County, have always had a problem with the headquarters. For example, in my county, people were relocated to create room for the construction of the headquarters 35 years ago. Those people surrendered their land, they were taken to a forest somewhere.

However, up to now, they do not have title deeds. In fact, I recommend that one of the issues that the Standing Committee on Devolution and Intergovernmental Relations should look into is the issues to do with county headquarters, particularly the counties with the new districts created by the late President Moi. Vihiga, Tharaka Nithi and Kitui counties being some of them. It is important to do so.

I agree that EACC must do their work diligently within the shortest time possible. It is a high time they are also be answerable for their actions. We cannot have investigations going on forever. Some of those investigations are also motivated by corruption and politics of the day. That is why they take too long. Apart from the challenge of EACC, there are local politics, which must be addressed.

Mr. Deputy Speaker, Sir, I thank Sen. Gataya Mo Fire for taking up this challenge. The former Senator, who is now a powerful Cabinet Secretary (CS) did nothing about this problem. Sen. Gataya Mo Fire has acted very diligently. I commend him for rising from under the tree in that county assembly and becoming a Senator. That is commendable and he is the best person to resolve this problem.

I support this report, but with amendments.

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

**Sen. Osotsi:** Nimemaliza Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kathuri): Okay, Sen. Cherarkey, make your contributions as you execute your point of order.

**Sen. Cherarkey:** Thank you, Mr. Deputy Speaker, Sir for this opportunity. I start with where Sen. Osotsi, my neighbour, has cast aspersions to my brother and friend, that the powerful CS Sen. (Prof) Kindiki did nothing. Since Sen. Osotsi is new, he can benefit from ranking Members like us by being made aware that Sen. (Prof) Kindiki was one of the people who pushed for the issue of Division of Revenue.

I remember when we were discussing the Division of Revenue Formula with Sen. Olekina, Sen. Faki and other colleagues on the Floor of the House, he was very passionate about unfair formula that will disadvantage Tharaka Nithi, Kitui, Makueni and many other counties. Sen. Osotsi, it is important to consult your elders before you go on record casting aspersions.

Sen. (Prof) Kindiki, Deputy Speaker emeritus made landmark rulings that even high courts of this Republic borrowed word by word, including the famous Nairobi Metropolitan Services (NMS).

Although he was later kicked out unceremoniously with the Jubilee Party purge, he left with his head held high. His role in this House will live forever. He was the first Majority Leader in this House. He is a son of Tharaka that is respected within Tharaka Nithi and outside. I am saying all this in good faith; not to get anything from him, but for the record to be set straight.

Mr. Deputy Speaker, Sir, I know Sen. Osotsi is a seasoned parliamentarian from the 'lower' House, but with time, he will be picking up lessons and information in this 'upper' House.

I rise to support this report because I have sat in the County Public Accounts Committee (CPAC) for some time. One of our resource persons is the EACC. However, on this one I feel let down by EACC. Seven years down the line, having issued a caveat, what is EACC investigating?

Even before someone marries, the Attorney General gives a 21 days' notice. Even when you receive Christ, not the one of Mackenzie and Ezekiel, it does not take that long for people who went to *Kitubio* to receive the first Holy Communion. What is EACC investigating on this issue? I do not understand. This is the highest form of incompetence by the agency of a Government. It is unfortunate.

I sympathies and empathies with the MCAs of Tharaka Nithi. In the report, I expected the Vice Chairperson, Sen. Tobiko to issue a directive that within 21 days, the EACC should conclude the investigation and remove that caveat. We are coming at the tail end of funding county headquarters and assemblies, including governors', and speakers' residence. We are taking too long. It is unfortunate that ten or 15 years down the line, Tharaka Nithi is lagging behind, not because it is their wish, but because EACC has put a caveat.

The EACC is a creature of the Constitution and the taxpayers fund it. Therefore, they need to do their job. It is as simple as that.

I shudder at the thought that the EACC can take 7 years to investigate a matter. What happened to the litany of corruption cases in the counties? If the EACC does not have the capacity and competence, it should be disbanded, so that we form another one. It seems they are doing public relations in discharging their duties. The Committee should give us direction immediately. Sen. Mungatana and Sen. Tobiko should order for that.

I propose that we bring an amendment to this report, that the EACC gives a report within 21 days, upon its adoption by the House, so that we allow the people of Tharaka Nithi to build their county assembly.

I want to congratulate Sen. Gataya Mo fire, who is an efficient Member. He is a proof of bottom-up movement. He was a MCA and rose to become the Senator for Tharaka Nithi.

I have no doubt in his capacity. Having served with him in the CPAC, he has shown that he has a lot of knowledge. You cannot imagine that he is a first-term Senator because he is doing extremely well.

I want to challenge you, Sen. Gataya Mo Fire. You have the blessings of your colleagues on the Floor of the House. We will work together through baby steps to ensure that the great people of Tharaka Nithi get justice.

Mr. Deputy Speaker, Sir, what shocks me is that these agencies work together. One of the reports says it is awaiting subdivision and change of registration to accommodate the new user. The county government has a role to play in terms of land adjudication.

The National Land Commission (NLC) is a custodian of both public and private land. Do we need to call upon the Senate to guide agencies of the Government to work together and complement each other? We need to be serious.

The report is here and I expected it to direct that the NLC and the County Government of Tharaka Nithi, where my friend, hon. Muthomi Njuki is the Governor, work together. If you tell us they are still waiting for change of user by the Land Control Board and segregation, yet these are agencies of Government that need to work together. The County Government of Tharaka Nithi, the NLC and the County Assembly need to work together for the benefit of the people.

Another point that I wanted to make is the issue of moving the headquarters to Kathwana as opposed to Chuka Town. If we want to develop this country in an equitable manner---

Mr. Deputy Speaker, Sir, you are their neighbour because you come from Meru. I am told you are a respectable and adored member of the *Njuri Ncheke*. Of course, from your beard and the way you look---

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey, I want to confirm that I am a senior elder of the *Njuri Ncheke*.

*(Applause)*

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, even the way you sit on that seat and with your beard, you look like a man full of wisdom. Looking at the hat that you put on, in fact, you should be the Chairman of the *Njuri Ncheke* and not just a member.

*(Laughter)*

Still on the issue of headquarters, you cannot say the reason Kathwana is not the county headquarters is because there is no accommodation since all the senior public officers want to stay in five-star hotels in Kathwana.

If we want the town to grow, we must be deliberate. They are saying that the DCI and other Government agencies will require offices. We must be deliberate and ensure that the headquarters moves from Chuka to Kathwana which is gazetted.

How can we ensure that Kathwana develops as the county headquarters of Tharaka Nithi if the County Commissioner, the DCI, and other people do not want to move there, simply because there is no running water and no five-star hotels? The only way to develop this country is to allow places like Kathwana be what it has been gazetted.

I want to challenge my brother, the former Deputy Speaker and now the CS for Interior and National Administration, Hon. (Prof.) Kithure Kindiki, to facilitate the construction of other amenities, including the National Government Administration Offices. That is the only way we will develop.

I am told we have around 4 million people in this city. When it rained heavily the other day, we saw Kenyans and vehicles swimming on the lower deck of Mombasa Road because the city is clogged. There are also no spaces for children to play at. The reason all Kenyans come to Nairobi is because of services.

I want to thank the President of the Republic of Kenya, Dr. William Ruto, for saying that 5,000 services will be digitized on e-citizen platform. It does not make sense to have somebody come all the way from Marimanti, Makutano or Buuri in Meru to look for a passport at Nyayo House. We have people who come all the way from Marsabit and Mandera to look for a service that they are paying for. It is not a favour we are doing to them.

Mr. Deputy Speaker, Sir, mark my words. If devolution works a 100 per cent, there will be no congestion in Nairobi. I can tell you for free. If devolution works properly, no one will even care who becomes the President of Kenya because people will be getting services where they are. It is as simple as that.

We are developing Nairobi by building roads. We have the Expressway and everything is being brought to Nairobi. Every investor is in Nairobi. I said this yesterday on the Floor of the House. It is like we are telling the rest of the Kenyans, *enda usikie vibaya uko kwenu*. There is a song that goes that way.

I have not seen Sen. Lomenen from Turkana. Nowadays they have oil. Even his face has changed because of money from oil.

Mr. Deputy Speaker, Sir, as a member of the *Njuri Ncheke*, I know you rarely visit some of the places where some of us go to listen to those songs.

It is good that the Minority Whip and Sen. (Dr.) Oburu, one of the youthful Senators, are in the House. For devolution to work, we must protect it. We should not only protect it by giving resources; we must demand for answers and accountability.

It is good that we have visitors. There is a misnomer that the minority side has been pushing that we slash money going to the counties. I have heard our colleagues say it in birthday parties, baby showers, funerals, weddings, and even in their bedrooms, telling their wives and *clandes* that we have slashed the money, but that is not true.

The Senate Majority Leader, Sen. Cheruiyot, together with Sen. Olekina, Sen. Mwaruma, and Sen. Faki were there. The money that went to the counties in the last financial year was Kshs370 billion.

I want Kenyans to get this straight. When they say it in public rallies, we do not care because those are stories and gossip. The money that will go to the counties is Kshs385 billion that was assented to by the President. We will have an additional Kshs15 billion going to the counties.

However, the challenge we have in this country---

*(Sen. Faki spoke off record)*

Mr. Deputy Speaker, Sir, you need to call Standing Order No.121.

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey, why are you stopping your debate? You were doing so well and now you are distracted.

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, I am worried. Sen. Faki is a professional heckler. So, I was being careful.

**The Deputy Speaker** (Sen. Kathuri): You were doing well. I am looking at the time too.

**Sen. Cherarkey:** The heckling is happening in the country, but when it happens in the House, I get worried. You know he is my senior in the profession. We might talk to the Law Society of Kenya (LSK) to reconsider some of these things.

Mr. Deputy Speaker, Sir, we cannot lie for political convenience and capital, that we have slashed monies to counties. I challenge the Senate. The Chairperson of Public Investments Committee and Special Funds (PICSF) and a Member of PIC are seated in front of me. I want to see the same energy you are using to demand resources to go to the counties, demand accountability.

I know PICSF and CPAC are morticians. We only come in at the tail end. We are like morticians because we just do post-mortem reports. There is nothing much PICSF and CPAC can do. However, this report can be used to give direction on what can be done by the Standing Committee on Devolution and Intergovernmental Relations. This Committee can assist us by demanding some of these issues.

Mr. Deputy Speaker, Sir, finally on the issue of issuing commercial and industrial towns, the county government and your Government should agree on how they can award municipal towns and centres.

I challenge the great people of Kathwana and Tharaka Nithi through Sen. Gataya Mo Fire, businessmen and women in Nairobi who come from Tharaka Nithi, to go back and develop Kathwana. Charity begins at home. You start at Jerusalem.

I know of big business people who come from Tharaka Nithi. Go back and invest at home. Those are things no one will tell you. We also challenge their neighbours like you, Sen. Kathuri Murungi, the Deputy Speaker, to build something in Kathwana. That is how they can develop.

Mr. Deputy Speaker, Sir, the report says there are no houses to live in. I do not know where people live in Kathwana. I want to believe they live in houses. It is also the people of Kathwana and Tharaka Nithi to invest in Tharaka and specifically in Kathwana, so that, businesses can grow there.

We will not legislate on such. We will just implore them to go back and develop their town. Other Government agencies like the District Criminal Investigation Officer (DCIO) and the police say there are no houses to live in.

Mr. Deputy Speaker, Sir, the Gazette Notice, you have issued says the county headquarters is Kathwana. We need them; *hata kama wataenda kuweka nyumba ya nyasi pale*, they need to do it. Even the great people of Turkana and the Maasais live in manyattas. There is no problem there. You must surcharge agencies that have refused to set up their offices in Kathwana.

With those many remarks and looking at the time, I have to give my colleagues an opportunity to contribute.

As I second this Motion, I congratulate Sen. Gataya Mo Fire. I suggest that he be given a second term as a Member of the Senate on behalf of the people of Tharaka Nithi and he should also be given a position of an elder of the community.

I support and thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Senator. Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir. I will begin by thanking the distinguished Senator from Tharaka Nithi, a gentleman and a half, for bringing this Statement and moving this Senate to consider, deliberate and give a way forward on it.

One of my greatest pet peeves is when we, as the legislative Arm of Government move away from our responsibility and try to follow the advice of another Arm of Government. That is dangerous. For all the years I have been in this Parliament, I have never seen a report that quotes the President of the Republic of Kenya as a guiding principle in terms of steps or resolutions to this House.

I am perturbed because one of the things we ought to be thinking about is how we can ensure that devolution works. However, almost in the 11<sup>th</sup> year of devolution, we are still depending so much on the Executive. Devolution will not work.

I have seen a comment which I take with great exception, as a recommendation. That a Committee of the Senate says, we should pursue the recommendation given by the President to scale down. Scaling down as may be for the Tharaka Nithi Assembly is a matter that has to be decided by the people of Tharaka Nithi. If this Senate is to recommend, it will be based on the Division of Revenue, the County Allocation of Revenue Act (CARA) and how much money we give to the counties.

Mr. Deputy Speaker, Sir, I have seen another misdemeanour in saying that the EACC has powers to stop the Controller of Budget (COB) from releasing money. The Constitution is clear that in Article 225 which gives directions on how money can be stopped from being sent to a county. It is only for a very short period of time. If I am not wrong, it is 90 days.

Article 225(4) says,

“A decision to stop the transfer of funds under clause (3) may not stop the transfer of more than fifty per cent of funds due to a county government”.

Article 225(5)-

“A decision to stop the transfer of funds as contemplated in clause (3)—

(a) shall not stop the transfer of funds for more than sixty days; and---”

Mr. Deputy Speaker, Sir, when I see a report in this Senate indicating that the COB had received a caveat set by the EACC, I begin to question our understanding of the rule of law. EACC cannot stop any money from being sent to a county. The Constitution is clear. The maximum they can stop, if there are any reasons is 60 days. If we read Article 225, it is clear who can stop that money and for what period of time.

I want us to try and understand and demystify the issues on this Statement, which the House has been called to consider. Do we have the power to compel the people of Tharaka Nithi to complete their projects? I dare say, we do not. The only thing we have is the power to send money to the people of Tharaka Nithi.

The people of Tharaka Nithi in their Annual Development Plan and in their County Integrated Development Plan, planned on how they can build their county. One of the problems I am seeing here is the problem of interests. Sitting on the Floor of this House for the last six years and having been a member of the then CPAIC, I was privy to information of Tharaka Nithi’s accounts.

The Governor of Tharaka Nithi County once surrendered himself to the EACC because of corruption. He even spent one or two nights in jail.

Mr. Deputy Speaker, Sir, the issue here is corruption. How do we deal with it? The issue here is one Arm of Government being used to derail development in a county. For instance, if this matter was taken to court and injunction said that the money cannot be spent, then we would have to find out how to interpret that. According to the Public Finance Management (PFM) Act, our counties operate on cash basis of accounting and not accrual.

Tharaka Nithi County has got two towns of interests; Chuka and Kathwana. From the basic research I have done, Chuka Town has only about 20,000 people while Kathwana has 65,000. When it comes to basic logic, which town would better serve people? Is it a town that has 20,000 people or should services be moved to a town that has over 65,000 people? It is a basic thing.

The MCAs of Tharaka Nithi County should listen carefully. They have the power and they are the ones who pass the budget. Pass it and from the allocation, ensure your development is to move you from *mabati* structures to a decent assembly that shall accommodate all the 26 elected and the nominated MCAs. The people who are failing at their job here is not EACC or CoB, but the MCAs. I want to challenge them.

I thank Sen. Gataya Mo Fire for bringing this matter. I want you to invite me there to tell these people that they are the ones with the power. Let them pass their budget and build it slowly by slowly. If allocating Kshs367 million is a lot for a small county like Tharaka Nithi, then take it yearly and put it as part of the annual development plan.

When I hear that there is no DCI headquarters or the County Commissioner’s office, then we are mixing things here. Let the national and county governments handle their businesses. The first thing we need to do is to separate the two Arms of Government. Any time we want to pass certain services from the county to national



Government, let the Constitution guide us. I believe the guidance is in Articles 187 to 189.

As I support this Motion, there are a few things which are necessary, and this is one of the things we will have to remove from this Motion. Why should we set up a multi-agency committee? I remember very well there was a list of five counties which were given a grant to build headquarters. Tharaka Nithi County was not among them. Was it?

*(An Hon. Senator spoke off record)*

It was not. It behooves the people of Tharaka Nithi County to spend their own money, which is allocated to them, to build their county headquarters and grow.

Mr. Deputy Speaker, Sir, I invite this Senate to find a way to give county assemblies full autonomy. We have many problems when it comes to county governments. The governor controls the money for the county assembly. That is why county assemblies cannot do anything. If we can amend the PFM Act and have two different treasurers - one for the assembly and another for executive - let us do that so that we stop this mischief.

I dare say that some of the biggest problems are not really caused by the assemblies themselves. Some of them are caused by the executive. There are challenges and issues. I want the distinguished Senator for Tharaka Nithi County to go back and invite us on the day that he will address the Assembly. Let us go and guide them since it might be an issue of capacity. The interests of the over 65,000 people of the town gazetted as the headquarters, should be leading in the budget allocation of this County.

As I conclude, I challenge the MCAs and the Governor of Tharaka Nithi County, to prioritise a decent home where they will sit when they come up with their budget. Have small rooms based on your population, but ensure you also have all the services there so that you can grow and enjoy the fruits of devolution.

Let us stop the dependency on the national Government. Sometimes I hear people say they are sending all the money to the national Government. When we send money to the counties, we must ask for accountability. I agree. However, our role in the Senate is to defend devolution, send more money to counties and follow the money to ensure it is utilised properly.

I wish to tell the new Senators that finally, this is the year when the law has been interpreted clearly to give us all the powers. In the last ten years, governors were rushing to court saying that Senators have no power to oversight on own source revenue. That has now been cleared.

The most important thing is to take a toothpick and go through the budget of every county and ensure that the money is allocated equitably and also deals with the issues that need to be resolved.

I encourage the distinguished Senator for Tharaka Nithi County to go back there and tell these people to read the Constitution. The EACC cannot stop money from being

sent to Tharaka Nithi County. Even the CoB cannot stop it as the law is very clear. She releases money.

If we are to argue about the stoppage of money to counties; we have been dealing with issues where counties requisition for money to pay for project 'a', but end up paying for project 'b.' Those are the issues where we are trying to panel beat the law to ensure that when the requisition is for project 'a', it pays for it specifically. Those are simple administrative steps we can take.

I support and I thank the distinguished Senator for bringing this matter to our attention.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Proceed, Sen. Faki.

**Sen. Faki:** Asante, Bw. Naibu Spika kwa kunipa fursa hii ili nitoe mchango wangu kuhusu ripoti ya Kamati ya Ugatuzi na Mahusiano kati ya Serikali za Kaunti na Serikali Kuu. Ninampongeza Sen. Mo Fire maarufu Mwenda Gataya, kwa kuwasilisha suala hili mbele ya Kamati ya Bunge la Seneti.

Ni masikitiko kuwa Kaunti ya Tharaka Nithi imekaa zaidi ya miaka 10 bila pahali mwafaka ambapo Bunge la Kaunti linaweza kuketi na kujadili masala yake. Ni masikitiko makubwa. Haya yamechangiwa pakubwa na utepetevu katika tume ya kupambana na ufisadi nchini.

Badala ya kuchunguza ufisadi ili wahusika wapelekwe mahakamani, wao wenyewe wanajihusisha katika visa vya ufisadi. Kazi imekwama na hakuna njia yoyote imetolewa kushugulikia suala hili hadi sasa.

Yaliyoko Kaunti ya Tharaka Nithi ni sawa na yale yaliyokuwa katika Kaunti ya Kwale, wakati walipokuwa wanajenga Bunge la Kaunti. Mwaka wa 2019, tulizuru Kaunti ya Kwale na ikawa pia ujenzi wa makao makuu ya Bunge la Kaunti ya Kwale ulikuwa umegubikwa katika ufisadi. Kwa hakika, makatibu watatu walipoteza kazi kwa sababu ya hilo suala hilo la ufisadi.

Bw. Naibu Spika, ijapokuwa Kaunti ya Kwale ina *County Assembly*, mpaka sasa hatujaona aliyeshitakiwa kutokana na ubadilifu wa pesa za kaunti ile.

Haya ni masikitiko makubwa. Ijapokuwa tunakubali ripoti hii kwa kiwango fulani bado ina mambo mengi ambayo yanatatiza. Kwa mfano, kwenye ripoti, pesa zilizotumika mpaka sasa ni zaidi ya Kshs 217 milioni ambazo zilikuwa zimekadiriwa kutumika kujenga ujenzi huo.

Nimeona kuna pendekezo kwamba wakubaliane na pendekezo lililotolewa na mhe. Rais kwamba gharama ipunguzwe mpaka Kshs200 milioni. Ikiwa tayari zaidi ya Kshs200 milioni zimetumika, itakuwaje gharama ipunguzwe irudi chini?

Baada ya Kamati kutoa suluhisho, imependekeza kamati nyingine ichaguliwe. Baada ya kutoa suluhisho kwa matatizo yaliyoko, tunatoa nafasi ya kubuniwa kwa kamati zingine ambazo zitazidi kuchelewesha kutatuliwa kwa jambo kama hili. Mimi sikubaliani na wazo la Kamati kwamba kuchaguliwe kamati nyingine ambayo wanaita *multiagency agencies* kwa Kiingereza ili iweze kuchuguza suala hili.

Bunge la Seneti linashughulikia masuala ya ugatuzi. Hili ni suala la ugatuzi. Kwa hivyo, inafaa swala hili liamuliwe kwa ufasaha na ukamilifu.

Sen. Cherarkey, katika mazungumzo yake, amesema kwamba Serikali imetoa Kshs385 billioni katika mwaka wa 2023/2024 kwa mgao wa fedha.

Tukiangalia makadilio ambayo Serikali ilipeleka Bungeni ya mwaka wa 2023/2024, wanatarajia kukusanya zaidi ya Kshs2.571 trillioni ambazo ni ongezeko la asilimia 17.

Haiwezekani kwamba Serikali itapata ongezeko la asilimia 17 katika mapato yake, halafu itoe chini ya asilimia tano ya zile pesa ambazo itakusanya katika mwaka wa 2023/2024 wa kifedha.

Sen. Cherarkey anatupotosha mawazo kwa kusema kwamba tayari Serikali imetoa pesa nyingi tukilinganisha na pesa ambazo zitakusanywa na Serikali katika muhula huu. Pesa hizi zote zinakusanywa katika kaunti zetu. Hakuna mahali ambapo Serikali inasema kwamba hakuna kaunti. Kenya nzima imegawanywa katika kaunti 47. Kwa hivyo, pesa zile zinakusanywa katika kaunti zetu. Hazikusanywi mahali ambapo ni pa Serikali kuu pekee.

Bunge la Kaunti ya Tharaka Nithi, linahitaji mahali ambapo wanaweza kukaa na kufanya mijadala yao kama Bunge lolote lile. Wakati Bunge la Tharaka Nithi linakaa, linaheshima kama Bunge la Seneti ama Bunge lolote katika ulimwengu. Ni lazima wapate mahali ambapo watakaa na kufanya mijadala yao bila kuingiliwa kwa njia yoyote.

Bw. Naibu Spika, ninaunga mkono ripoti lakini ikarabatiwe tena. . Kwa sababu, masuala mengi ambayo yamezungumziwa katika ripoti hii, ni ya kuregesha nyuma. Tutakuwa tunarejea nyuma kufanya mijadala wakati mambo ni wazi.

Pesa ziachiliwe kwa sababu hakuna sheria inayosema kwamba tume ya EACC inaweza kuzuia pesa zisitumike katika muhula ambao zimepangiwa. Zaidi ya miaka kumi imepita bila ujenzi kutendeka. Huo ni utepetevu wa hali ya juu kwa tume ya EACC kutoa pendekezo ama kuzuia pesa zisitolewe wakati hawana maelezo yoyote kuhusu wapi wamefikisha uchunguzi wa ubadilifu wa pesa ambao ulikuwa umepangwa kutokea.

Mwisho, naipongeza Kamati. Lakini ni lazima wajitahidi wafanye kazi zaidi ili kuhakikisha kwamba ripoti hii ina manufaa kwa Kaunti ya Tharaka Nithi, Bunge la Kaunti na Sen. Gataya Mo Fire.

Asante, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kathuri): Asante sana.

Sen. Methu, nafasi ni yako.

**Sen. Methu:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this report of the Committee on Devolution and Intergovernmental Relations.

I almost fell for the invitation by Sen. Faki to speak in Swahili. However, I know I would have gotten lost midway. Allow me to stick to English.

The question raised by Senator for Tharaka Nithi, Sen. Gataya Mo Fire, regarding the relocation of Government administration services from Chuka to Kathwana Town, the headquarters of Tharaka Nithi County could not be timelier than now.

The country voted to have devolution to take resources and services closer to the people. It is a sad state of affairs that 12 years down the line, the people of Tharaka Nithi are still not closer to the services that we voted for in the Constitution, 2010.

I have had the opportunity to look at the distances that we are talking about based on what has been brought by the Senator for Tharaka Nithi. A person from a place called Kathangachini in Tharaka Nithi travels for, at least, 200 kilometres to Chuka to access services. This is a distance that is twice that of the headquarters of Nyandarua and back to Nairobi which is an injustice that must be sorted out urgently.

I congratulate the Senator for Tharaka Nithi for the intervention he is making. I do not want to be seen like I am disparaging the names of the ones that came before him. This is a major win for the people.

I represent a county whose headquarters was moved by the Constitution, in 2010. This is a common problem and must be addressed. Nyandarua County had its own headquarters in Nyahururu Town which was moved to Laikipia County. Therefore, we had to build Ol Kalou Town from scratch so that we bring services closer to the people.

As it is now, the people of Embu County can access Chuka more easily than the people of Tharaka Nithi County.

I would not want to belabour the point because my colleagues have spoken to the reasons why we need this matter sorted out and dealt with immediately.

One of the findings of the Committee is that the headquarters has not been moved to Kathwana because of lack of adequate infrastructure to accommodate all national and county Government offices.

In the case of Nyandarua and other counties, it was impossible to build a town and all the offices at a go. I am encouraged by the recommendation that we ensure there is a seamless relocation of the Government to Kathwana. The Committee, if possible, ensure Government offices without a place in the main office can have temporary workstations.

This is a major solution to this matter. If there are no permanent offices in Kathwana, let us organize and see how we can have them occupy temporary offices.

I have seen it happen in Nyandarua County and many other county headquarters that are rising from scratch. I would give an example of today, 12 years after devolution, the land registry for Nyandarua County is still in Nyahururu. We have not been able to move it to Ol Kalou.

Mr. Deputy Speaker, Sir, as the Chairman of that Committee on Lands, Environment and Natural Resources, there have been problems of poor workmanship of the new project and offices. However, those are issues that are neither here nor there. Let people go to Kathwana and operate within the available amenities and offices so that we are able to move.

**The Deputy Speaker** (Sen. Kathuri): You are stopping your time, Sen. Methu.

**Sen. Methu:** I have never seen Sen. Wafula raise a point of order. So, I was very shocked and surprised. If it were Sen. Olekina, I would not have stopped because I am used to seeing him raise a point of order. However, Sen. Wafula, I was as shocked as you are.

Mr. Deputy Speaker, Sir, I need you to protect me from the noises of Sen. Tobiko.

**The Deputy Speaker** (Sen. Kathuri): Give Sen. Methu some minutes to conclude his point.

**Sen. Methu:** You shall raise your point of order after I am through. I am persuaded by the interventions that have been made by Sen. Olekina and Sen. Faki.

Mr. Deputy Speaker, Sir, as a Senate, we are the people that are supposed to protect devolution. We need to form a multiagency to go and sort out this matter, is then to spite the people of Tharaka Nithi County. They have come to us, the people that are supposed to defend them, then we want to give that duty to some other team.

Despite the pain of having to wait for 12 years, we are now saying that they will have to report back to the Committee in 90 days. What is so hard with that Committee inviting the EACC to tell them why they have not been able to sort out this matter? What is that decision that is too difficult that the Committee cannot make that it requires a multiagency to go and make it?

I am of the opinion that the Committee on Devolution and Intergovernmental Relations should and must give definite answers to the people of Tharaka Nithi County. The people of Tharaka Nithi County do not know what problem EACC or the national Government have. All they want is services in Kathwana. In my opinion, the answers that should and must come from this Committee is they must offer some solution around having these people get offices.

Finally, on recommendation No.2 that the office of the Controller of Budget and Auditor-General shall combine---

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

**The Deputy Speaker** (Sen. Kathuri): Sen. Wafula, what is your point of order? Now we can listen to your point of order.

**Sen. Wafula:** Bw. Naibu wa Spika, ningependa kunukuu kutoka kwa Sheria na Kanuni za Bunge 110 kwamba Seneta anaweza kuhairisha jambo lolote hadi wakati mwingine. Haya ni kwa mapendekezo ya Mwenyekiti ili yale ambayo yanajadiliwa kwa sasa, yaweze kupewa muda zaidi ili mapendekezo ambayo Maseneta wameweza kutoa kwa siku ya leo yaweze kuorodheshwa ama yawekwe kama mchango katika ripoti ya Kamati ya Ugatuzi.

Hii ni kwa sababu, hatuwezi tena kuanza kusukuma gurudumu upya ilhali tuko na nafasi kama Seneti kukata kauli mara moja na kuamrisha fedha hizi ziweze kutumika mara moja katika ujenzi wa makao makuu ya Kaunti husika.

Kwa hayo, naomba kwamba tuairishe kikao hiki ili tuwape Maseneta muda kuchangia na kutia kikomo mjadala huu katika jumba la Seneti. Naomba ndugu yangu jirani aweze kung'atuka kwenye kiti na anionge mkono.

Asante, Bw. Naibu Spika.

**Sen. Thang'wa:** Mr. Deputy Speaker, Sir, I stand to second that this debate be postponed so that we can put all the input that has been raised by the Members here.

Just to add on what Hon. Members have said in this House, no one has the authority of stopping funds from being taken to counties unless you are the Senate. If you read Article 225 (3) of the Constitution, it mandates the Senate that it may authorise the CS responsible for Finance to stop the transfer of funds to a State organ or any other

public entity. So, this is the only House that is mandated to stop transfer of funds to the county.

Mr. Deputy Speaker, Sir whether EACC acted that way knowingly or unknowingly, it was wrong. That is why we need time so that that Committee can sit back, amend that report and immediately authorise the disbursement of those funds so that the people of Tharaka Nithi can have their own headquarters where it is supposed to be without any delays.

I second.

*(Applause)*

**The Deputy Speaker** (Sen. Kathuri): Now that I have no say in this, as the Chair, I propose the question.

*(Question that debate on the Motion be now adjourned, proposed)*

*(Question put and agreed to)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Methu, you have 12 minutes when this Motion resumes.

Next order.

## BILL

### *Second Reading*

#### THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO. 4 OF 2023)

**The Deputy Speaker** (Sen. Kathuri): Sen. (Prof.) Kamar, please proceed.

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker, Sir, I beg to move that the Learners with Disabilities Bill (Senate Bills No.4 of 2023) be read a second time.

This Bill was brought to this House in March, and we have gone through the whole process. The purpose of the Bill is to propose that the learners with disabilities are provided with proper education and for the conduct of education institutions offering education to learners with disabilities.

On the objects of the Bill - and I will just pick a summary because I know Members have already read - Clause 3 says-

(a) It is to provide a framework for the realization of the right to education for all learners with disabilities.

(b) It is to provide a framework for the establishment of a comprehensive education system for the provision of education to learners with disabilities.

(c) It is also to provide a framework that will ensure equal access to education for learners with disabilities.

The guiding principles arise from the Constitution itself, that every child has a right to free and compulsory basic education, pursuant to Article 53 of the Constitution.

In the guiding principles, therefore, every person shall, in performing their functions under this Act, be guided by the principles outlined in Article 53 of the Constitution, that is, the right to free and compulsory education. Then, coordinated public participation in the implementation, monitoring, and evaluation of policies and plans related to the implement implementation of special education in Kenya.

As a background, as I mentioned earlier, this Bill is aimed at providing a legal framework to ensure the actualization of the right to basic education, education for learners with various disabilities in Kenya. This is to ensure that they get those rights are the three levels of education, not just basic, but also higher education.

The Bill creates provisions of law that obligate the national Government through the Ministry of Education, and the county government to carry out that duties in bringing the education learners with disabilities to parity with able learners and to end the exclusion of learners with disabilities from the education cycle.

I will just give an overview of the Bill for the sake of Members. The Bill comprises several provisions, which include consequential amendments to existing laws that maybe affected by the implementation of this Bill upon its enactment.

Part One of the Bill, which is Clause 1 – 4, contains the citation of the Bill as usual, as well as the various definitions of terms that are being used in the Bill itself. This part also contains the objects and the guiding principles, as I have mentioned, in performing duties under the Act, once enacted.

The principles, as I mentioned earlier, are guided by the principle of Article 53, of the Constitution, as well as the principles of public participation, which provides the right of the public to participate in the development of a Bill.

Part Two, Clauses 3–5, contains the rights of learners with disabilities. When we talk of the rights as outlined in the Constitution, the right of learners enunciated in Clause 5, is the right to access to quality education, which is normally something that is denied to this class of Kenyans.

The right of access to information: When we talk of the right to access quality or equal education to everybody, we are talking about enabling somebody who is disabled to reach first where their education has been provided. This may require that there is a modification of the learning environment.

As you are aware, even in this House, we used to have problems with access to the Chamber until one day we had a Member who got into an accident in the ninth Parliament, and from there, ramps were established. So, when we are talking of access to education, we are talking of what facilitates the person to reach where the education is being provided, to begin with.

So, the right to access is very important. Then access to quality education; that the education that is being given is equal to education that is being given to any other child in the country.

The right of access to information delivered in a suitable and legible medium of instruction in the education system. What is suitable? We have different disabilities disadvantage our young learners differently. If you are not able to translate the materials to a media that can be utilised by different groups of disabilities, it becomes a challenge and a restriction to the learning of these students.

Therefore, that is a very important clause in this Bill that, access is not only accessing education. You must access it in quality, but also you must access information that is delivered in a suitable manner.

Clause 6 provides for the rights of parents and guardians of learners with disabilities. They are mandated to ensure the completion of the child's basic education and that the learner attends school regularly.

This is a very important provision, because learners have a right to education. Caregivers and parents may be overwhelmed with other duties and may not provide. Therefore, it is important for us that we provide for the rights of the parents and also the guardians, so that their roles and those of the government can be outlined properly.

Clauses 7 and 8 provide for the roles of the national Government and the county governments, respectively, as regards education for learners with disabilities.

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

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

Mr. Temporary Speaker, Sir, Clause 7, in particular, elaborates on the responsibility of the national Government as being borne by the Cabinet Secretary (CS), response responsible for matters relating to education.

These functions of the national Government, if I may mention a few, are as follows: To adopt and monitor the implementation of the policy for the provision of education to learners with disabilities.

Just as they monitor the implementation of policies regarding all others, we are also providing that in this Bill. The other one is that the national Government should take measures to create opportunities and an environment that enables the realisation of the right to special needs, education.

The national Government must put in place, according to this Bill, the necessary infrastructure for the effective and efficient delivery of education to learners with disabilities in learning institutions falling within the mandate of the national Government.

This is extremely important, because as I said earlier, even accessing the classroom has been an issue. You find that in some schools, a parent takes a child to school finds out that there is no way a child with a wheelchair can access the facility.

We expect the national Government to provide accessibility for Kenyans to classrooms in primary and secondary schools as well as in universities.

The national Government should also review the levels of access to special needs education. This is very important because sometimes, disability makes one a slow learner. Being a slow learner does not mean that person will not learn. We need to need



to decide at what level they are going to enter the different levels of education. This is one area where the national Government must provide guiding policies. The national Government must formulate programs and put in place structures for the provision of home-based, non-formal, adult continuing alternative, online, free and appropriate public education.

This is a very delicate area because some children will need home-based education. One of the clauses of this Bill, we are also saying even if a child has to receive home-based education, the Government must take responsibility for the provision of somebody to take care of the child. I happen to be a Member of the Board of Trustees of the National Fund for the Disabled. I joined it recently.

We went to Tharaka-Nithi recently to launch a dormitory that we had built for the children with disabilities to stay in school. A mother came and said she was very grateful because she spent more than 50 per cent of her time taking care of the child that had disabilities, while the other children received 50 per cent of the remaining time. She said that she could just not do anything. She was just running around the home all the time.

This Bill is making a provision that the Government must provide access to facilities for those who are in school and enable the children to interact. The principle of disability now is that of inclusivity. We must have a way of those institutions being inclusive. When we are talking of those who are home-based, there has to be a provision. Parents of children with disabilities also pay taxes so we must take care of them.

When it comes to this group of learners, it is not only the academic things that we are trying to teach. There is also physiotherapy. There is teaching them how to speak and walk. For that reason, if a child is home-based, the Government must chip in. The national Government in collaboration with the county governments and the relevant stakeholders must put in place measures to address factors that hinder the realization of the right to education for learners with disabilities.

The Constitution states that everybody has a right to education, so we must provide for that. National Government must ensure adequate funding. I know when we will be debating this, then the word funding comes to a Bill, which is in this House, we are told that it is meant to be Money Bill. We will be getting advice from seniors like Sen. (Dr.) Khalwale on whether to delete or leave it as is. However, there must be facilitation by the national Government to ensure that learners with disabilities are taken care of.

Clause 8 of the Bill elaborates on the responsibilities of the county governments and clause 8(1) states that-

‘A county government shall be responsible for the implementation and effective and efficient delivery of special needs education concerning the learning Responsibilities of county governments. The Learners with Disabilities Bill, 2023 institutions falling within their mandate under the Constitution.’

Which institutions are within the mandate of the county governments? There are two sets of institutions. There are the pre-primary schools or early childhood learning centres; that is, where the beginning of education is. We do not want these children to be

left out even in childhood. They must be in school at that stage, if not for anything; for interaction with other children so that they can interact and play because childhood is learning and play. The county governments must, therefore, take responsibility to ensure that a child with a disability is in those kinds of schools which will require a lot of changes as far as the schools are concerned to make sure that we have these children in school.

Part Three of the Bill, which contains Clauses 9 to 19, deals with the registration, and management of special needs education centres within the country. Clause 9 obligates each County Executive Member (CECM) to create a register of special needs education centers including the public education institutions that provide education for learners with disabilities.

The category of education that is offered in the said institution and the category of resources required by the educational institution. This obligation arose because you remember the question that was even raised by the co-sponsor of this Bill, Sen. Crystal Asige, that there is no data on persons with disabilities. We do not have any data even a very basic one like how many children we have with disabilities in schools, which schools and what kind of disabilities are we talking about. We must obligate the CECM to take this responsibility.

Clause 10 of the Bill regulates the creation of private special needs education institutions, which must be registered by the Basic Education Act, of 2013, so that they are in line with the other education system. I know my 20 minutes is ending.

Clause 12 explains the process of admission of learners with disability. We provided for this process of admission so that no child is left out and that all parents are--

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Prof) Kamar, I wish to remind you that you have got a whole hour to move the Bill. You are still within the one hour. Do not rush.

**Sen. (Prof) Kamar:** I misread my time for 20 minutes. Thank you so much.

Clause 12 of the Bill explains the process of admission of the learner with a disability. Clause 13 provides for the management of an education institution for learners with disabilities, which shall comprise a provision for the Board, one person, elected amongst the parents of learners with disability. We have provided for one representative of teachers, non-teaching staff and two persons with experience in matters relating to special needs education.

I have visited several schools for children with disabilities. I am also privileged to have been a Member of Parliament (MP) of Eldoret East where we had three special schools. The amazing thing is that most of these special schools did not have anybody who is an expert in the area of special education and even without parents. In some cases, you find out that the parents are not there and many excuses.

We have provided for the members of the management board. There is no doubt who must be in there. We have proposed two persons with experience in matters relating to special needs education and a social worker nominated by the County Governor and

recommended by the County Education Board, so that we have a Board that can take care of these children wholesomely.

I think I skipped Clause 10 as I thought---

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Sen. (Prof.) Kamar, we will stop you, so that you later resume moving your Bill. You will have 40 minutes remaining within your time when we resume debate on this Bill.

There is a Motion for adjournment to discuss a matter of national importance by Sen. Chute.

Thank you very much Sen. (Prof.) Kamar.

Sen. Chute, I call upon you to move the Motion.

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

#### **INTERCOMMUNAL KILLINGS AND DISPLACEMENT OF RESIDENTS IN MARSABIT COUNTY**

**Sen. Chute:** Mr. Temporary Speaker, Sir, I beg to move the Motion; that pursuant to Standing Order No.37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the intercommunal killings and displacement of residents in Marsabit County.

Mr. Temporary Speaker, Sir, Marsabit County has experienced problems after problems. In 1967 we had the *Shifita* Menace in Marsabit that contributed to a lot of problems, displacements and deaths. Around 2013, 2017 and 2022, we lost over 500 people in Marsabit County.

Mr. Temporary Speaker, Sir, as you are aware, we lost political leaders from four constituencies of Marsabit County. The leaders were Hon. (Dr.) Bonaya Godana, Hon. (Dr.) Guracha Galgalo Boru, Hon. Abdi Sasura, Hon. Titus Ngoyoni, Hon. Mirugi Kariuki, who was the Assistant Minister for Internal Security, Bishop William Waqo, General Adan, two young pilots and other senior officers. The politicians and leaders were travelling in a military aircraft to go and quell tribal tensions in Marsabit. The date was 10<sup>th</sup> April, 2006. We have lost many good people in Marsabit.

I am sad to say that on Monday, 24<sup>th</sup> April, 2023, we lost a young beautiful girl called Kabale Haro, who was on a motorbike from Marsabit heading to Badassa. She was a resident of Badassa. The rider was also seriously injured and hospitalised in Marsabit County Referral Hospital.

On Tuesday, 25<sup>th</sup> April, 2023, we lost John Leshepi, who happened to be an old man from Loiyangalani, just next to Lake Turkana, due to revenge attacks. Again, on Thursday, 27<sup>th</sup> April, 2023, we lost Lokiyam Kesike, a young boy who was working in Marsabit Town.

Again, yesterday, sadly, a white motor vehicle whose registration number is KCB 327R, with six occupants of the same family, was sprayed with bullets by unknown

assailants. The following people were unfortunately killed: Boniface Letore, a male, 67 years old; his wife Christine Letore, 39 years old; Loldikir, a male police officer from Wamba, 46 years old; Sabina Loldikir, a young person who was 10 years old; Lenepe, a male, 20 years old; and Milisiai Loldikir, 40 years old. You will notice that all of them were from the same family.

Last year, there is a time when the Government imposed a curfew in Marsabit. The curfew extended for six months. During the time of curfew, I think Marsabit was peaceful. People co-existed, went to school and did their normal businesses everywhere. After the expiry of the curfew, just a few months ago, the problem has started again.

I would like to send my sincere condolences to the aggrieved families because we have lost many people; it is not only the ones I have mentioned. Some months ago, we lost so many people from the Rendille, Gabra and Borana communities due to cattle rustling and sporadic killings.

We also have a bigger problem in Saku where Marsabit Town is found, which is the headquarters of Marsabit County. On 25<sup>th</sup> December, 2022, a lady by the name Kamiso Bere was robbed Kshs520,000 by robbers. Another day, Soso Robe lost Kshs150,000 and became paralyzed and is now bedridden. Again, Tuke Kadiro, Guyo Ume, Kesho Kidane and Juma Harmo were robbed of millions of shillings, but there is no one single recovery.

I am sad to say that there is collusion between the police officers attached to the DCI based in Marsabit and the criminals operating within Marsabit. The loot that is gotten is equally shared.

I stand before this Parliament and Kenyans today not only worried about what has happened. I am actually worried about what is going to happen because these are revenge attacks. If we want to solve this problem, first, through the national Government, we need to have a reconciliation committee and see how we can bring our people together and educate them on how they can coexist.

The other issue is Kenya Police Reservists (KPR) guns. Some people around Samburu, Mandera and Isiolo have KPR guns called Modern Precision Rifle (MPR). I suggest that the national Government initiates how we can have young people having the guns to help security officers. I also urge that multi-agency security personnel be deployed as soon as possible.

*(The red light at the timer was switched on)*

Mr. Temporary Speaker, Sir, I request for only two more minutes because this is a bit stressful, please.

Mr. Temporary Speaker, Sir, some local assistant chiefs and chiefs were killed and there was no replacement. There has been no replacement up to today. I ask the Government to, as soon as possible, recruit more chiefs and assistant chiefs. Again, multi-agency personnel should be deployed between the Gabra and Rendille communities, so that cattle rustling can be managed.

Mr. Temporary Speaker, Sir, the Marsabit-Badasa Road, should be having a patrol moving around on a daily basis.

Finally, I would want to speak to the Cabinet Secretary (CS) for Interior and Coordination of National Government, who is in Marsabit today. I do not know what is happening with the Kenya Kwanza CSs.

The CS was in Marsabit today and has not notified us, as leaders. He did not tell us he would travel to Marsabit. As you know, the CS was a Senator here. He has been in this Government for the last eight months and he is a very senior lawyer. He knows the problems that are in Marsabit, but refuses to talk to us. He does not consult us. We are very annoyed.

Lastly, I would ask Sen. Abass, the Senator for Wajir County, to second this Motion.

I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Abass, you have five minutes to second and speak to the Motion.

**Sen. Abass:** Mr. Temporary Speaker, Sir, thank you for the opportunity. First and foremost, I want to send my heartfelt condolences to the people of Marsabit and the three families that have lost their loved ones.

As you are aware, and as has been said by the Mover, Marsabit has been experiencing many years of conflict. Many lives and livelihoods have been lost. As a result of that, we have lost prominent leaders of this country, as mentioned by the Mover. However, we are not seeing any improvements.

Some of the sources of conflict are as a result of underdevelopment in these counties. You are aware that we have very long porous borders all the way from Turkana. We border Sudan, which is a country with a lot of turmoil. We have Marsabit and Samburu, which border Ethiopia, which is a country with free guns. People move to and fro with guns across the borders.

Additionally, even along my own county and up to Garissa, the borders are just too large and porous. Ammunition and guns are readily available at very cheap prices. Therefore, while we appreciate the action being taken by our security officers, I think we have moved below the bar.

We are now seeing that the military is in Turkana, West Pokot and so on. Those people have not been cleared, killed or arrested. They just relocated to other areas. They have moved to the borders of Marsabit, Samburu, Isiolo, and will go beyond up to Wajir and those places. They will just move and keep causing mayhem by stealing animals and killing people.

As we speak, the number of people who are mentioned here, are coming from one community; one of the minority communities in Marsabit. If things continue as they are, I am worried that some of the communities that are actually the minority might be wiped out. They might kill all of them.

Politics also plays a part. As a result of these conflicts, many schools have been closed, many children have not been going to school and have been displaced. Some of them have moved across the border to other countries. They have lost their livelihoods.

However, year in, year out, we are saying the same things. I do not know what we are going to do. This is a country where we have all the resources and forces like the *Askari*, Army, and police.

Unfortunately, as the Mover said, there were suspicions that there must be a hidden agenda to keep the pastoralists busy, so that they can continue killing themselves and so that underdevelopment can continue. Otherwise, I do not know what to say. It is very unfortunate.

I think this involves policy issues that are hidden from us because we cannot be talking about people being killed every day, yet we are in an independent country. We are not in a failed State.

Therefore, there must be a reason the pastoralists are always fighting. They fight because they are underdeveloped, they have no resources, there is drought and people are now hungry. Although it rained, there are floods, yet there is no intervention.

The people have no other source of income. They want to eat one another. They will go to steal animals and restock and when the drought comes, they will want to eat animals from the other communities. I think this is an endless and vicious cycle that must come to an end. It can only come to an end when we have development.

We must use the resources available to create jobs for the youth. We must be able to produce food on our own and have security officers who are non-partisan, so that at least we can control these kinds of issues.

Mr. Temporary Speaker, Sir, it is very unfortunate. Many people have been killed, disabled and many have fled from their homes. They are almost homeless. Many have lost their livelihoods, and nobody gives them attention.

It is high time that we give the people who are dying every day by being killed and their animals being raided attention. The hidden agenda that the respective Governments have had against the pastoralists and the people of Marsabit should stop. We need to see attention being given to the people of Marsabit and Northern Kenya.

We are part of this country and we need protection. Lives and property must be protected.

With those few remarks, I beg to second the Motion.

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

*(Question proposed)*

Hon. Members, under Standing Order No.37, we are allowed not to have not more than five minutes of speaking. I allowed the Mover of the Motion to have more than 10 minutes because of the emotive nature of the Motion that he was moving.

I will allow the Members who have requested to contribute to this Motion to take five minutes each, so that we are able to have all of us who have requested on my dashboard speak. It is red and it is because of the interest the Motion attracts.

I request that Members take a maximum of five minutes.

I will start with Sen. Tobiko.

**Sen. Tobiko:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to support the Adjournment Motion to discuss this very important matter of the loss of lives due to conflict in the North; Marsabit and all the other related areas.

I was listening keenly to Sen. Chute. I really felt for him, the people of Marsabit and Northern Kenya. It has become a trend and it is almost synonymous with some regions in this country, that conflict is the order of the day.

I strongly believe that it is not the desire of any human being to harm another. However, very difficult circumstances are forcing communities to rise against one another. They fight each other over pasture, scarce resources and leadership. At times, they have clan wars over leadership. You would wonder why there are parts of this country that have been left for the jungle law.

There is another Kenya where there is order, security forces, Kenyans and their property are protected and nothing can be allowed to harm them. Then there are Kenyans who have been left to harm and kill themselves and survive in the most difficult circumstances.

Mr. Temporary Speaker, Sir, five minutes are not enough. I feel very bad that this situation is happening in Marsabit and Laikipia counties, as well as many pastoralist areas.

Yesterday, the Azimio people were allowed to do *maandamano* and move around the City. Towards the last elections, the Maasai Community in Kajiado East Constituency was demonstrating against human-wildlife conflict and five young people were gunned down by the Government. There are those who are treated like animals, whom the bullet is meant for, and there are those who are protected by the law.

I urge Members from pastoralist communities that we are a huge force. We must read the signs of times and the writings on the wall, so that we communicate with each other and look for ways to solve the problems in our places.

Meanwhile, the Kenya Kwanza Government should come out differently from the previous governments. It needs to give infrastructure to these areas and harvest the current floodwaters, in order to save this community from subsequent droughts and conflicts.

Pain is what has caused some of us to join leadership, thinking we will solve situations in our communities. Sen. Chute mentioned the leaders who passed on. The wife of Titus Ngoyoni, Mary Ngoyoni; Alice Kureia, a lady from Turkana called Beatrice Askul and I started an organisation called Pastoralist Women of Kenya (PWK) to try and solve some situations. That is how I ended up in the National Assembly. To date, we are still crying because we have not been listened to. That is why I urge my President, a pastoralist, to now come out and bring order---

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

**The Temporary Speaker** (Sen. Wakili Sigei): Senator, your time is up.

Sen. Lomenen, you may have the Floor.

**Sen. Lomenen:** Mr. Temporary Speaker, Sir, thank you for this opportunity.

I share deep grief with the people of Marsabit County who have lost their loved ones recently. It is very painful. I share the same grief because it is the same situation in Turkana, Samburu, Marakwet and West Pokot counties. Most of these communities indulge in unnecessary killings.

It is abnormal for Kenyans to lose their lives almost every week, not to natural diseases, but through killings by shooting, torching their houses and burning government and commercial vehicles. Somebody just stops you on the road while you are travelling to maybe visit your family or for official duty and then greet you with a bullet. You then ask what you have done, but there is no explanation.

As we talk, this issue of Marsabit County is very critical. We should not take it casually. It is deeply indulged in political affiliations and well-known politicians are part of it.

I wish to advise the Government, the Senate Majority Leader, the Senate Majority Whip and Sen. Chute to take their time to sit with the leaders of Marsabit County and the President, so that we solve this problem of clannism.

Ours is different because it is tribal conflict. We fight every day without notice. No one informs the other that they are going to kill people from Turkana or West Pokot counties. They just do it because it is their usual business. You will be perplexed that the killers are just children, who are below 15 years. They hold guns and kill people with potential in this nation.

I support Sen. Chute. First of all, why do we have highway robbery with violence and no patrol? People are just killed and then the authorities visit the scene after the killings, record and then they keep quiet. For how long will it happen? Every time, people just---

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

**The Temporary Speaker** (Sen. Wakili Sigei): Senator, your time is up. Thank you for your contribution.

Sen. (Dr.) Khalwale, you may have the Floor

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. My condolences to the bereaved families and those who have sustained injuries. I condemn what is taking place in Marsabit County.

I wish to ask the authorities to take time and read the report of the Kennedy Kiliku's Commission on tribal clashes in 1992. This Commission went into this matter and spoke on many things, which there is room for us to work on. This is because at that time, the political inclination of tribalism in this other half – especially amongst the pastoralist – was a question of water and pasture resources.



We cannot have such a strong Report with such strong and useful recommendations and not make use of it. Whereas the media and those of us who are outside the pastoral communities keep on blindly blaming the issue of contestation over resources, we miss the modern-day challenge that is no longer water and pasture. It is bad politics.

In fact, I am surprised that our Cabinet Secretary (CS) for Interior and National Administration has gone to the North without carrying alongside with him the political players. We need to call all the politicians to come together, so that we divorce political interests from the greater interest of stability and peace.

Mr. Temporary Speaker, Sir, you are a young man. I will tell you, with respect that in 2006, I lost personal friends and colleagues who we used to sit with in this House and drink tea with. Some of them were colleague, doctors, like Dr. Guracha Galgalo.

I lost the then deputy leader of the opposition Dr. Bonaya Godana, one of the finest Kenyan politicians I have ever seen in this House; a brilliant former Minister for Foreign Affairs and a Doctor of Philosophy (PhD) holder in Law. We lost them because, at that time, the Gabra and the Borana majority in Marsabit were fighting. They went there and they lost their lives.

The things that make our people fight these days are no longer water and pasture. They are fighting because they want to push politician A out of office and politician B into office. The people who should be first to record statements are those who compete for the position of Governor of Marsabit.

Two or three years ago, I saw one of them trying to increase his majority because the Borana are too many and he comes from the Gabra, by pretending that he was upping the interests of another smaller tribe.

He even went as far as changing their name. They were referred to as the Watta. He told the people in Marsabit that we have changed them and they are now called the Wayu. In the process, people started killing each other.

In the incident of 2005, 60 people were murdered at Turbi, the infamous Turbi massacre. Majority of them were children who had nothing to do with politics or competition of resources. They were just little children of God playing and going to school and coming back home to play again. This House must stop that nonsense in Marsabit.

My final point is an appeal to the leaders from the pastoralist communities. We have our share as non-pastoralists. Why is it that these mass killings are only ---

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. (Dr.) Khalwale. Your time is up.

In the very respectful comment that the Chair is young, I remember reading the story of the late Dr. Bonaya Godana. He was a refined gentleman and politician for that matter.

Proceed, Sen. Faki.

**Sen. Faki:** Asante Bw. Spika wa Muda, kwa kunipa fursa hii kuchangia hoja ambayo imeletwa Bungeni na Sen. Chute, Seneta wa Marsabit.

Mauaji ya mbari yanayotokea kule Marsabit na sehemu zingine zinazokaliwa na jamii za wafugaji, ni jambo la kusikitisha katika karne ya ishirini nchini.

Wameshindwa kusoma masomo yaliyotokea Rwanda mwaka wa 1994. Leo ikiwa karibu miaka thelathini, tangu matokeo ya Rwanda, na bado nchini watu wanauwana kiholela kimbari kupigania uongozi.

Wengine wetu tunashangaa ilikuwaje babu zetu wakatujumuisha na watu wengine Kenya. Kwetu Pwani hakuna itikadi ama hulka ya kuua mwenzako kwa njia yeyote. Yale uliyoyasikia juzi ya Shakahola, ni wageni waliokuja kutoka sehemu zingine ndio wamepata msitu na kuanza kufanya itikadi zao mbovu.

Ni masikitiko kwamba Serikali tuliyonayo, miaka 60 ya uhuru, bado tunauwana na kupoteza maisha kiholela. Vijana na akina mama wanauliwa bila makosa yoyote waliyofanya katika maeneo yao. Ukiangalia vyema, mambo haya yanafanywa chini ya uangalizi wa Serikali.

Tulipoenda Shakahola juzi, tulipata kwamba zaidi ya watu 110 walipoteza maisha yao kwa sababu ya mafunzo ya itikadi kali ya mmoja wa wanaojiita makasisi au mapasta katika eneo lile.

Pasta yule amekwenda kortini na kutoka kama mara 50. Kuanzia mwaka wa 2018, Serikali ilikuwa inajua kwamba alikua akifundisha watoto wasiende shule na ana itikadi ya kufundisha watu wasiende hospitali wakiwa wagonjwa. Lakini Serikali ilimuangalia tu.

Masikitiko ni kwamba kama ingekua ni Muislamu aliyefanya mambo yale nina hakika angekua ameenda mbele ya Mwenyezi Mungu kufikia sasa.

Sheikh Abdi Rogo alipigwa risasi mbele ya bibi yake. Alikuwa ndani ya gari na bibi yake na mtoto, akapigwa risasi na kuuliwa. Bibi yake kutoka wakati huo mpaka sasa hajapata amani. Sheikh Makaburi Abubakar alitoka kortini Shanzu na kupigwa risasi na kuuliwa pale bila ya hatia yeyote.

Ni masikitiko kwamba watu wanauwana Marsabit, Samburu na Turkana wakati Serikali iko pale, iko macho na haifanyi chochote. Jana tumepeleka ardhilhali katika Ofisi ya Rais na tulitimuliwa na polisi kama 200. Wabunge 20 wanatimuliwa na askari 200.

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

Tulikuwa tumepeleka *Petition* kwa Serikali. Ni makosa kupeleka *Petition* kwa Serikali? Tunaona kwamba Serikali inatumia vibaya mamlaka yake. Mahali watu wanaumia na kufa, hakupelekwi usalama. Lakini hapa katikati ya mji, Wabunge 11 ama 20 wamekwenda kupeleka *Petition* kwa Ofisi ya Rais, tunaskumwa na kupigwa na *teargas* na kufukuzwa kama wahalifu.

Hii ni Serikali iliyochaguliwa kwa imani kwamba itaondoa mauwaji ya kimbari na kuleta usalama kwa mwananchi. Leo ni masikitiko kwamba ndugu yangu Sen. Chute kutoka Mandera aliyechaguliwa kwa chama cha *United Democratic Alliance* (UDA), analia kwamba watu wake wanapata shida na wanakufa wakati Serikali inasumbua viongozi wa upinzani.

*(An Hon. Senator spoke off record)*

Marsabit, samahani. Lakini Marsabit na Mandera kwote usalama ni duni. Huwezi tembea kama tunavyotembea Mombasa wakati wowote, masaa 24 bila shida yeyote. Hizi ni sehemu ambazo zilipiga kura kwa Serikali ya UDA---

*(Sen. Faki's microphone switched off)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Faki, your time is up.

*(Sen. Faki spoke off record)*

My screen is full and Members need to contribute.

Sen. Mariam Omar, kindly proceed.

**Sen. Mariam Omar:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Motion.

First, my condolences to the people of Marsabit. Article (43) (e) of the Constitution talks about right for security for the citizens.

In Northern Kenya, insecurity is the biggest problem that we have.

As a pastoralist, when there is drought, we fight, when it is raining, we fight. Devolution is supposed to bring security to our community.

Mr. Temporary Speaker, Sir, when it comes to killings in other counties if such things happen, you see on the television and radio that human rights commissions go there to support the victims affected. However, when it comes to the Northern Kenya, Marsabit, if the Senator concerned had not brought this Motion, we would not have known there is insecurity there.

It is the work of the Kenya National Commission on Human Rights (KNCHR) to investigate and see what is going on and make resolutions on what is happening in our Northern region. It is very shameful that instead of pastoralists becoming brothers and sisters, they fight each other because they share resources.

When it comes to pasture and water, we are supposed to share. The pastoralists community will need civil education in order to know they have to share their resources so that our animals, people and children become safe. Security is a necessity and if you do not have security, children cannot go to school and you do not get your basic rights.

Mr. Temporary Speaker, Sir, it is high time for our Government to step in and investigate further, so that this issue of insecurity in the pastoral area must come to an end.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Mariam Omar.

Sen. Mumma.

**Sen. Mumma:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute. I support Sen. Chute and would like to sincerely condole with

him and the people of Marsabit for the unnecessary loss of lives that were lost, not just now, but also in the past.

I wish to add what Sen. (Dr.) Khalwale said earlier that Dr. Bonaya Godana was one of the finest lawyers we had in this country, the first to get a First Class Honours in Law in this country. As we discuss this issue, I would like to remind the Senate that in the recent past we have discussed similar issues in Turkana, Baringo and other areas of pastoralists.

Mr. Temporary Speaker, Sir, we need to come up with something different than just lamenting and not doing anything about this issue. Whereas security is an issue or a function that is assigned to national Government, the Senate needs to persuade the national Government of the need to strengthen the intergovernmental relations with counties for purposes of ensuring that we tighten security matters for the benefit of residents in counties.

Even as the national Government is in charge of insecurity, the insecurity happens on the ground in counties. When it happens, it is not possible for county governments to just continue with the development agenda. One of the things that the Senate needs to do is to start conversations on how national and county governments can cooperate on security matters to ensure that issues of cattle rustling, civil attacks of communities and inter-tribal wars are stemmed.

Mr. Temporary Speaker, Sir, if you work with the county governments, they are likely to be the first recipients of information that is happening and to know the innuendo of the tussles between communities and tribes that is happening on the ground.

If they were to be involved, then issues like what happened in Shakahola might not happen because both levels are dealing with this issue. Therefore, we need to recommend, as the Senate, that the intergovernmental cooperation between the two levels of government happen in security matters, so that we can help to deal with the issues that are there.

The second issue that is as important is that it is high time we applied the Equalization Fund to the marginalized areas in order to fast-track the infrastructure necessary to put in place things like water, schools and health in order. This will settle some of the communities that play the survival game because they have been marginalized and we are not fast-tracking their development in order for them to participate in development like every other place.

Mr. Temporary Speaker, Sir, if the Senate focuses on this and this is directly under our mandate, we will contribute to this issue. Otherwise, we have had this conversation we are having today in respect of another area and we will have it tomorrow in respect of another area.

It is high time this country started valuing human life and the idea of people being killed willy-nilly by other communities or by police forces and others needs to stop. As the Senate and the legislature, we need to send the message that life is important and we need to take it seriously.

I support.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Mumma. Sen. Murgor.

**Sen. Murgor:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to also air my views along with my colleagues. While I appreciate the opportunity to share, I grieve with my brother, Sen. Chute for losing such a big number of people. He said: "It is not even known who will be next because those who have gone have gone, but it is not known which group of people will be next."

The neglect that has been there ever since colonial time and Independent Kenya now on pastoralists is terribly hitting us. It seems like it is going out of hand because there are killings every now and then.

I had gone to attend another burial of five last week in a place called Seker and many others in other places like Sigor in Chesegon area as well as along the Turkwel area where people are killed every day. The fact that the Government seems to not really feel with the people, enhances it so that the stopping point is not there.

I would say that they are operatives of the government. A whole Cabinet Secretary (CS) goes without area leaders to a chaotic place. What is he going to do? My experience from the Pokot and Turkana communities is that, unless there is dialog you cannot do anything. Bringing the two communities together to a table to talk would really help because either side would give their views and bring solutions.

Affirmative action on education will solve this menace in the long run. When people get educated, they are less likely to get attracted to this. The higher the illiteracy there is in a place the more likely they are to massacre each other. Affirmative action will bring solution to hunger and knowledge of resources such as grazing areas, water points and so on. This is something that the government can bring to solve the issue.

Sen. (Dr.) Khalwale stated that this has graduated into political scores between rival politicians. In addition, it has also graduated into land and boarder issues such that one community wants to push the other across the river or non-boarder because they want to extend their territory into other areas.

This is an issue that the Government knows of because they know the boarders between districts and counties. Therefore, they could come in and state where the end of a county is, for example, West Pokot or Samburu, so that the issue and mentality of extension does not occur.

I support. Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Senator. Proceed, Sen. Cherarkey

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I commend Sen. Chute for bringing this Adjournment Motion. Our deepest sympathies and empathies to the families that have lost their loved ones. I am told they are four and two others are hospitalized.

It looks like there is a continued negligence by security agencies in Marsabit County. The government has committed itself. We do not doubt that they are doing their best especially in troubled zones such as Marsabit County, North rift region including

Samburu and Elgeyo-Marakwet Counties even Turkana. The main issue should always be addressed.

I have seen the CS in charge of Interior and Coordination of National Government. I did not expect Sen. Chute to be on the Floor of the House. I thought he would liaise with the CS and his colleagues to ensure they are on the ground. This is a security and political issue. It is about many other factors.

Since this operation of flashing bandits is an issue across the troubled region and the operation order came from the police, some individuals have argued that it should have come from the military. What you see in Marsabit County and other regions is tribal animosity and revenge attacks. Lives and property have been lost.

They say when you drive a car the windscreen is bigger than the side mirrors because we believe that there are better things ahead. I propose that we should empower these regions. The issue of education and infrastructure should be looked at.

We have insecurity in this region because of marginalization. We are paying the price of marginalizing some regions. I believe in Marsabit County. If there were tarmac roads, the education level was good and school infrastructure was the best. If there was commitment by national Government administration officers, we would not be seeing such incidences.

I remember Sen. Chute stated that even army from across our neighboring countries were coming into our territory; shooting, killing, harassing and taxing our people then going away. This is a serious issue on infringement of the sovereignty of Kenya. I request the Committee on National Security, Defence and Foreign Relations of the Senate to proceed to Marsabit County by this Friday to assess the situation. We need to show people that they can have faith in Parliament, especially in the Senate. Can the Committee be proactive?

Earlier today, I stated that our committees should not behave like morticians. They should be proactive; visit the region and listen to the people. When we visited Laikipia County, people talked their hearts out. *Wananchi* trust us as leaders, and this is why we were elected. They will tell us more as opposed to the National Government Administration Officers (NGAO) and other security officers.

Mr. Temporary Speaker, Sir, Article 29 of the Constitution is on the freedom and security of persons. Every Kenyan has a right to security to their property and to life. Article 26 states that life is sacred unless it is deprived under the law. What is happening in Marsabit County and other regions in this country is senseless killing, lawlessness and anarchy. The earlier it is addressed, the better, as it will continue to sabotage the growth of the country in terms of the economy and unity of the country.

It is sad to note that in Marsabit County and other regions in the country, we have Internally Displaced Persons (IDPs). People have been displaced because of the senseless killings. You are not giving hope to those people. We want to hold on to the words of President William Ruto. He has assured the country that the issue of banditry and lawlessness will be dealt with.

I will bring a Bill that I hope colleagues will add their thoughts to the Anti-Stock Theft Bill, against the theft of livestock and produce that I have published in this House. The banditry and stealing of livestock are no longer about culture. People no longer steal livestock to go and pay dowry for marriage. They kill as a part of a criminal enterprise.

With those many remarks, I thank you and support this Motion.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, the House already adjourned by the Motion that was moved by Sen. Chute under Standing Order No. 37. Therefore, the House stands adjourned until tomorrow, Thursday, 4<sup>th</sup> May, 2023, at 2.30p.m.

The Senate rose at 6.28 p.m.