

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday 20th March, 2024

Morning Sitting

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.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 with the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): Order, hon. Senators. I am informed that we have Quorum. Clerk, you may proceed to call the first Order.

QUESTIONS AND STATEMENTS

QUESTIONS

The Speaker (Hon. Kingi): Hon. Senators, today, we are expecting two Cabinet Secretaries; that is the Cabinet Secretary for Roads and Transport and the Cabinet Secretary for Education.

Clerk, could you confirm that the Cabinet Secretary in charge of Roads and Transport is present? If he is, we are going to start with him.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

*(The Cabinet Secretary for Roads and Transport
(Hon. Murkomen) was ushered into the Chamber)*

The Speaker (Hon. Kingi): Hon. Senators, the Questions that have been addressed to the Cabinet Secretary for Roads and Transport are eight. There is Question No. 10 by the Senator for Kisumu, Questions No. 11, 12 and 13 by the Senator for Nandi, Question No. 14 and 15 by the Senator for Kitui, Question No. 16 by the Senator for Meru County and Question No. 31 by the Senator for Bungoma County. We will start with Question No. 14, then move to Question No. 15 before we come back to Question No. 10 to 13.

Hon. Cabinet Secretary, welcome to the Senate. You have been in this House before and you know the rules and procedures. Just to do some housekeeping, kindly be direct and concise so that we do not waste time because we have a number of questions to address.

The rules are that the hon. Senator posing this Question will later have an opportunity to ask two supplementary questions, if he so wishes and the hon. Senators also under our Standing Orders will have the opportunity to ask a supplementary question.

Hon. Senators, a supplementary question is a question that is related to the primary question. If you pose a question that is not related to the primary question, then you put the Cabinet Secretary in a position where he may not be able to give you a satisfactory answer. That is why most of the times they say they need time to find out.

Kindly, let your supplementary questions flow from the primary question. Hon. Cabinet Secretary, with that, I will allow the Senator for Kitui County, hon. Enoch Wambua, to proceed to ask Question No. 14 and thereafter, Question No. 15. You may proceed, Senator.

Question No.014

COMPENSATION TO RESIDENTS AFFECTED BY CONSTRUCTION OF
KIBWEZI-ATHI-MUTOMO-KITUI-MIGWANI ROAD

Sen. Wambua: I thank you, Mr. Speaker, Sir. I beg to ask the Cabinet Secretary for Roads and Transport the following Question.

(a) What is the status of compensation to residents whose parcels of land were acquired for the construction of the Kibwezi-Athi-Mutomo-Kitui-Migwani Road?

(b) Could the Cabinet Secretary indicate the outstanding balance of compensation, and state when it will be paid out?

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may proceed to respond.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Speaker, Sir. First of all, I thank you for according me this opportunity to

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

respond to questions from the Senators. As I have said before in my previous appearances, it is always my greatest pleasure to come back to the Senate and perform my constitutional responsibility to be accountable to the people of Kenya, through this important august House.

I beg to respond as follows-

(a) A compensation schedule for the project's affected persons amounting to Kshs694,899,812 was initially submitted to the Kenya National Highways Authority (KeNHA) *vide* a letter from the National Land Commission (NLC) dated 18th February, 2019. However, this schedule was noted to have errors including double compensation and over-valuation of structures. The National Land Commission (NLC) addressed the issues and re-submitted a revised schedule that covers the entire project through the letter dated 2nd March, 2021, amounting to Kshs1,924,766,370.

A tabulation of transfer of funds to NLC is shown in the Schedule. That Schedule is attached. I am sure the hon. Senator has it. I will not read the entire Schedule, but it has a tabulation. As shown in the table above---

I cannot see where Sen. Wambua is seated but I hope that he will note because he has the Schedule.

(Sen. Wambua waved from his seat)

Thank you.

(b) It is difficult to read the Schedule openly, so I will refer to what that Schedule means.

Mr. Speaker, Sir, as shown in the table above, the outstanding amount is Kshs1,598,468,659. I will also add that KeNHA has been faced with financial challenges due to inadequate budget allocations. However, the Agency has since dispersed a total of Kshs326,307,801 to NLC for compensation to some of the project's affected persons.

Further, the compensation process has commenced for the extension to Mbondoni direction. The employer's representative assistance team have conducted land searches for the affected parcels and the Agency is in the process of validating the search which will be sent to the NLC for further gazettelement of intention to acquire.

Mr. Speaker, Sir, in summary, that is the answer. Just to note that Sen. Wambua has raised this question in the committees. He is a Member of the Committee, and he is very passionate about it. Unfortunately, and just to reiterate what the answer says, we have a massive problem of budget allocation, not just for this Kibwezi Road, but across the country.

We have a pending bill of Kshs150 billion, and it is earning interest. It is growing everyday yet the budgetary allocation for this exercise, this financial year is only Kshs46 billion.

We struggled to distribute it between pending roads and compensation for projects affected persons and that challenge requires a serious national conversation before we go to the next budget circle. Otherwise, many people are suffering, not just in

Kibwezi but even along the road between James Gichuru to Rironi and many others across the country.

I thank you.

The Speaker (Hon. Kingi): Hon. Wambua, you have the opportunity to ask two supplementary questions. You can ask both of them or you may ask one and be the last to ask a supplementary question after your colleagues have asked their supplementary questions.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I am well guided. I will ask my two supplementary questions at a go.

I thank the Cabinet Secretary for his response. I believe he is just being honest on this one. This is because he has mentioned that I have been on this matter for the longest time. In this Senate, there is no matter that has engaged the Committee on Roads, Transportation and Housing in terms of questions and statements and the matter of compensation for persons affected by the project between Kibwezi and Migwani.

Mr. Speaker, Sir, in the Cabinet Secretary's response, the total compensation amount is Kshs1.9 billion. From 2019 to date, 2024, only Kshs326 million has been paid out. For those who do maths, I do not know what that percentage is. A whopping Kshs1.5 billion has not been paid.

Mr. Cabinet Secretary, you know you and I have engaged on this matter before in your past life, at the same time that this road was started with two other roads whose compensation figures were Kshs5 billion plus. The amounts in the Western bypass and the Eldoret bypass are almost completely paid as compensation.

Mr. Speaker, Sir, with due respect, it is good for the people of Kitui to know whether this matter is ever going to be dealt with conclusively or not. The answer given by the Cabinet Secretary that there are no funds available in the Kenya National Highways Authority (KeNHA) is a difficult response to take.

As a representative of my people, it reminds me of the Nyayo Era when the President himself then said that the answer to any question from the sections that did not support his Government would be that there was no money.

The Speaker (Hon. Kingi): Sen. Wambua, you are giving a speech. What is the question?

Sen. Wambua: Mr. Speaker, Sir, it is very difficult to just ask a direct question on a matter like this. Allow me to pave my way to the Question. I beg you.

The Speaker (Hon. Kingi): Then do it quickly.

Sen. Wambua: Thank you.

An. Hon. Senator: On a point of order.

Sen. Wambua: How can there be a point of order on a Question?

The Speaker (Hon. Kingi): Proceed to ask your question, Sen. Wambua.

Sen. Wambua: Mr. Speaker, Sir, the question to the CS is: Where does that leave us in relation to Article 40(3)(b) that if the Government is going to acquire any land for public interest, then the compensation should be prompt and made in full?

These people have been deprived of their land from 2019. They have not been cultivating on that land but they are being told there is no money. When will this money be available and when will these people be compensated?

The second question is related to the first one. Cabinet Secretary, hon. Murkomen, belongs to the same church; the African Inland Church (AIC). Some of the persons affected by the project are church properties and I make reference to AIC Kyuluni, which is on the road. Their land has been taken, and their neighbours have been compensated.

This compensation is taking place but depending on who knows who in the Ministry. Their neighbours among other people approach the National Lands Commission (NLC) and get some money. The church has no capacity to approach any Ministry official to be compensated so as to construct a sanctuary.

Mr. Speaker, Sir, is the Cabinet Secretary aware of these dealings within the Ministry that it depends on who knows who for the compensation to take place so that we nip it in the bud and that compensation as we agreed as leaders should begin from kilometre zero going towards Migwani?

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, give us an indication when these people will be compensated. Secondly, must you know somebody in your Ministry for you to be compensated? Be very brief.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Speaker, Sir. I see the questions are many, so I will just go to the point. The first thing is that the question of land compensation is not only affecting Kibwezi Road. We need to know as I said earlier that James Gichuru-Rironi Road, Kenol-Sagana, Eldoret Bypass and even Western Bypass are affected.

Many roads across the country are affected. I have just mentioned a few. Even the road going to Suam in Kitale is affected. We have people asking for compensation yet we have done all these roads.

First, let us appreciate the people who have accepted development, including the residents of Kibwezi. Remember this is a massive road of about 80 kilometres. I remember this road because we were with Sen. Wambua when he first brought up the Question. So, this is a historical issue for Sen. Wambua.

Remember that only part of the land for most of the landowners has been taken by the road. The value for the remaining part of the land has increased maybe 100 times. Even as they wait for their compensation, they are already benefiting from the development that we have done. You must thank the residents but also appreciate the benefits that comes with it.

Two, besides representing the people affected by the project, Sen. Wambua represents the people of Kitui who have received immense development by construction of the 80 kilometres road by KeNHA. That is massive in terms of the benefit of the bigger majority of the people in area business *et cetera*. It should not look like only the negatives are amplified.

As fellow AIC member, as Sen. Wambua has said, I am not aware of any person being paid for knowing somebody at the NLC. In any case, where would the NLC get that money if we do not give them in the roads sector?

They have to receive an allocation from KeNHA before paying somebody. If they are paying other people without us giving them money, we then must thank NLC and ask them where they are getting this money.

It will be unimaginable to think that NLC would get money from any other source other than the one being transmitted from KeNHA. We own up to the position that we have only given Kshs300 million and we still owe people Kshs1.5 billion. We will pay these monies as soon as the budget is allocated by the National Assembly.

Mr. Speaker, Sir, we hoped that we were going to get the necessary budget allocation by the end of this year but you know public debt and many other challenges have delayed allocation to the infrastructure sector.

For us to clear pending bills in the next financial year, we need Kshs150 billion. If we are given that, we will come to zero before progressing to construct the remaining balance of the roads in the country. You can see how serious that challenge is.

Sen. Wambua, I am glad you know that it did not happen when we came to office but as early as 2019 and has been an historical problem across the country.

The Speaker (Hon. Kingi): Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Thank you, Bw. Spika. Yangu ni kumuliza Waziri kulingana na Serikali ya Kenya Kwanza kuhusu mambo ya Kaunti. Kutoka Nairobi hadi Makutano ni kilomita 100, ni *highway* na tunasafiri kwa kilomita 40. Kutoka Makutano, Mwea, Embu, Tharaka-Nithi hadi Meru ni masaa matatu.

The Speaker (Hon. Kingi): Sen. Mundigi, nimetoa kauli mwanzoni kwamba, Swali ambalo Maseneta watauliza ni lazima liwe na uhusiano na lile ambalo liliulizwa mwanzo na Seneta Wambua. Kwa hivyo, usiulize swali ambalo halina uhusiano na lile ambalo limeulizwa mwanzo. Endelea.

Sen. Munyi Mundigi: Lakini Bw. Spika, swali langu linahusu barabara na vile tunaweza kusaidia.

(Laughter)

The Speaker (Hon. Kingi): Seneta, ni sawa kuwa linahusiana na barabara---

(Loud consultations)

Ngoja nikueleze. Pengine nifafanue ili uelewe. Kweli Waziri aliye mbele ya Seneti hivi leo ni Waziri wa Barabara, Uchukuzi na Makao. Haimaanishi kuwa utauliza swali lolote lile linalogusia barabara. Utauliza swali ambalo lina uhusiano na lile Swali la mwanzo ambalo limeulizwa na Mhe. Sen. Enock. Kwa sababu ukichagua barabara yoyote ama swala lolote ambalo linaguzia barabara, hilo swali litakuwa tofauti kabisa na lile swali ambalo limeulizwa na Sen. Wambua.

Endelea, Sen. Munyi Mundigi

Sen. Munyi Mundigi: Bw. Spika, nakuomba ruhusa tukimaliza maswali yote - kwa sababu Waziri yuko hapa na mara nyingi tumekuwa tukimhitaji na anakosa kuja

ijapokuwa ni mchapa kazi - utaniruhusu dakika ya mwisho nimuulize swali hilo la kutoka Embu.

The Speaker (Hon. Kingi): Endelea. Ikiwa pengine Waziri ana ufahamu na hayo mambo atakujibu. Ikiwa hawezi kukujibu kwa sasa, atakwambia.

Endelea.

Sen. Munyi Mundigi: Asante, Bw. Spika. Najua Waziri akili yake iko timamu kabisa---

The Speaker (Hon. Kingi): Uliza swali, Sen. Munyi Mundigi

Sen. Munyi Mundigi: Swali langu, Bwana Waziri, ni hili: Hizi kaunti tatu za Embu, Tharaka-Nithi na Meru, tuko Mt. Kenya East na tunateseka sana. Kutoka hapa kwenda Makutano, ni kilomita 100 na tunaenda kwa dakika 40. Lakini kutoka Makutano kwenda Mwea, Embu, Tharaka-Nithi na Meru tunaenda kwa masaa matatu.

Tunakuuliza kama kuna mipango ya kupanua barabara hiyo ipanuliwe ili hata sisi watu wa Mt. Kenya East tuweze kusherehekea matunda ya Serikali ya Kenya Kwanza kwa hiki kipindi cha miaka mitano. Kwa miezi na miaka inayokuja, tunataka Embu County iwe city kwa sababu ndio tunategemea upande wa Mt. Kenya region.

Asante, Bw. Waziri, na ujue hilo swali umeulizwa na Deputy Party Leader wa Democratic Party of Kenya (DP).

(Laughter)

The Speaker (Hon. Kingi): Waziri, jibu tafadhali.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Asante sana, Bw. Spika. Ningependa kusema kwamba hilo swali la Sen. Munyi Mundigi ni swali la maana sana. Tuko na nia ya kupanua barabara zetu zote kutoka Mombasa mpaka Malaba, kutoka hapa Museum Hill mpaka Moyale na pia kutoka Makutano kama vile Mhe. Mundigi amesema, mpaka ifike Meru, ipite Timau ikutane na ile barabara ya kuelekea Isiolo. Pia, tuna mipango ya kupanua barabara ya kutoka Isebania iende mpaka kwa mpaka wetu na ndugu zetu kutoka Sudan Kusini.

Hilo swali ni la maana, lakini hivi punde, nitarudi na Mswada wa kuhusiana na mambo ya *tolling* ambayo ni lazima tuifanye kama taifa kama tutaweza kupanua barabara hizo. Kwa hivi sasa, tunajadiliana na wanakandarasi ambao watatusaidia kujenga barabara ya Rironi mpaka Mau Summit. Tutakapomaliza haya tutapitisha, kupitia Bunge hili, sheria ya *tolling* ili tuhakikishe kwamba barabara zetu kuu zinaweza kutupatia fedha za kutosha kujenga barabara zingine. Pia, tunataka ijengwe na wafadhili na baadaye tutaweza kuchukua zile hela ambazo zinatoka tolling kuendeleza mambo ya kujenga barabara zingine nyingi katika sehemu zingine za Kenya.

Asante sana. Sen. Munyi Mundigi, hilo swali ni la maana.

The Speaker (Hon. Kingi): Hon. Senators, since the hon. Cabinet Secretary has eight questions to respond to, and I can see the trend we have taken in the first question; we may spend a lot of time just prosecuting the first Question. If you agree with me, allow the Cabinet Secretary to respond to the eight Questions, and then from there we can have supplementary questions.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Wambua, proceed to ask Question No. 15. After that, I will allow the Senator for Nandi to ask the questions and then we move Senator for Kisumu and Senator for Meru and lastly, Senator for Bungoma. Thereafter we proceed to supplementary questions.

Question No.015

STATE OF ITHOOKWE AIRSTRIP IN KITUI COUNTY

Sen. Wambua: Thank you, Mr. Speaker, Sir. I beg to ask the Cabinet Secretary for Roads and Transport the following Question.

(a) What is the current state of the Ithookwe Airstrip in Kitui County and are there any plans to upgrade it to commercial status?

(b) Could the Cabinet Secretary provide an update on the construction progress of the Tseikuru and Mutomo Airstrips in Kitui County?

Now that you have given guidance on supplementary questions, I will not be asking my supplementary questions. I will be leaving my friend and my colleague, Sen. Maanzo, to take up the answers for me. I have to exit the Chamber briefly.

I thank you.

The Speaker (Hon. Kingi): Cabinet Secretary?

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Thank you, Mr. Speaker, Sir. Ithookwe Kitui Airstrip is a code 2C Aerodrome, capable of handling aircraft with a passengers' capacity of 37 and has a runway with a tarmac surface with dimensions of 930 meters long and 18 meters wide. It is located about two kilometres out of Kitui Town.

The pavement has deteriorated with potholes in sections of the runway and apron. There are also overgrown shrubs and bushes within the runway strip and some low spots on sections of the runway that are causing ponding whenever there is a downpour.

The indicative rehabilitation works include extending the runway from 930 meters to 1200 metres elevating it to code 3C, thus increasing its capacity to handle larger aircraft of up to 56 passengers, expanding the width of the runway from 18 meters to 30 meters to conform with the runway code requirements, rehabilitate pavements by repairing potholes and hatch valve concrete overlay pavement markings, drainage works and other associated works.

As of now, the government has no plans in place to upgrade the facility to commercial status but shall be seeking the indulgence of the National Assembly in the allocation of funds for possible consideration of upgrading it.

Mr. Speaker, Sir, on the Tseikuru Airstrip, the tender document was issued on 17th August 2021 through an advertisement in My Government, the Kenya Airports Authority website and the Public-Private Investment Program (PPIP) portal. The advert closed on 2nd February, 2022.

A notification of intention to enter into a contract was issued on 13th July 2022 and the contractor signed and returned the acceptance of the offer on 20th July 2022.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Before the contract could be signed, it was noted that there were outstanding land matters that are yet to be resolved and therefore the contract could not be executed to enable the commencement of the works.

Following a joint boundary verification and establishment of beacons that was undertaken by the Kenya Airports Authority, the National Land Commission, the District Surveyor, and the County Government of Kitui, it was established that parts of the runway, runway 06 to 24 are within the road reserve Class C road from Tseikuru Town to Usweni, as shown in the attached site layout drawing.

Additional parcels of approximately 50 acres are required for the relocation of the access road and overhead Kenya Power Company power lines. The additional land parcels will also ensure that there is adequate provision for aprons, taxiways, passenger terminal buildings and office blocks.

Due to the outstanding land matters, therefore, the contract cannot be signed until additional funding is availed to enable the purchase of additional parcels of approximately 50 acres and compensation of the project-affected persons.

Mutomo Airstrip is a Code 2C aerodrome with a gravel runway service measuring 890 meters long and 20 meters wide. It is located along the Kitui-Kibwezi Road with geographical coordinates indicated below. Currently, there is no ongoing construction works for the allocation of funds in the Financial Year 2023/2024 or 2024/2025 as per the budget provisions.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Question No.16.

Sen. Kathuri?

Question No.016

PENDING BILLS OWED TO CONTRACTORS BY
KURA AND KENHA

Sen. Kathuri: Thank you, Mr. Speaker, Sir. I rise to ask the Cabinet Secretary for Roads and Transport the following Question.

(a) Could the Cabinet Secretary provide a schedule of pending bills currently owed by the Kenya Urban Roads Authority (KURA) and the Kenya National Highways Authority (KeNHA) to contractors engaged in road construction projects across the country, clearly indicating the proportion that constitutes accumulated interest and penalties from delayed payments?

(b) What occasioned the delay in settling bills due for payment by the two Government entities, resulting in the accumulation of avoidable interest and penalties that overshoot the costs of the respective projects to untenable levels?

(c) What measures has the Government put in place to ensure the timely settlement of bills as they fall due? Could the Cabinet Secretary provide a timeline for the settlement of the existing pending bills?

(d) Could the Cabinet Secretary also explain mechanisms the Government has put in place to improve the quality of procurement and project management processes to mitigate against irregular award of tenders, inflation of project costs, and certification as complete, of projects that have not attained the requisite standards?

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may respond.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, with your indulgence, because I see the road questions are fairly similar, whether it is in Meru County or Nandi County, in terms of, this road has not been done this; let me just make a very brief statement on the status of the roads in just three minutes.

First, I noticed that five of the eight questions touch on road infrastructure and that reflects the importance that the distinguished Members of this House assign to this sector, which is a key enabler in so far as development is concerned.

Given the high level of interest in the performance of this sector, which also has been witnessed faster and during 28 consultative meetings between the Ministry, the National Assembly, and the Senators from different counties, including Speakers of County Assemblies, let me give you a global overview of the status of the roads.

My Ministry wishes to bring to the attention of this Senate two subjects. The first concerns road construction. Regarding road construction, the development vote that the national Government exchequer made available to support road projects in this financial year was Kshs63 billion.

While this allocation is a significant amount, the Ministry will diligently ensure that the money is used very well. Notably, the pending bill on various projects as at 31st December, 2023 is Kshs162.4 billion.

It may seem that with the budget allocation of 38 per cent of the pending bills before taking into account the certified value of new works to be undertaken in the course of the year, the projects are significantly under-resourced at the moment.

The consequence of the road projects funding gap will have been well noted by Members of this House, who in their role as representatives of the people should be duly informed of the status of the road projects in their respective regions.

Most projects funded under the development vote are progressing much slower than they ought to be. If we continue at this rate, we will complete those roads in 15 years. That is serious.

As mentioned earlier, most projects have significant payment arrears that have built up since 2019/2020 Financial Year or earlier, hence, even when partial payments are made, construction does not resume immediately.

In the last one-and-a-half years, global and macro-economic constraints did not allow sufficient fiscal headroom for the project funding gap to be addressed adequately. However, with the economic situation now stabilising and showing signs of a positive outlook, the Ministry is working closely with the National Treasury to ensure that the Government efforts to complete ongoing projects are expedited.

You have heard the President making publicly his intention, including in meeting that we were together in Bomet, that the next financial year we should provide a budget allocation of over Kshs100 billion so that then we can quickly complete the pending bills.

The second issue is road maintenance. The enabling legislations governing the resource of road maintenance such as the Road Maintenance Levy Fund Act, Kenya Roads Board Act and the Kenya Roads Act were enacted in 1993 and 2007 and served well their respective roles over the years.

However, in the time since these pieces of legislation came into force, the Government has strongly prioritised upgrading to bitumen standards of rural roads that are largely under the purview of Kenya Rural Roads Authority. These roads reach deep into the countryside and provide the equivalent of last-mile connectivity for the road transport system.

The challenge is that the resources for maintaining paved rural roads are not adequately provided for in the current allocation of road maintenance funds. It is an understatement to say not adequately provided for. They are not provided for. While the Kenya Rural Roads Authority (KeRRA) receives 32 per cent of the Road Maintenance Levy Fund, little of this is prioritised for purpose of maintaining paved roads.

While making this observation, allow me to note that my Ministry continues to appreciate the good work done on unpaved roads with the guidance of the Constituency Roads Committee, a participatory and responsive mechanism that ensures local pain points and bottlenecks receive adequate attention.

The effect of the lack of designated funding for the maintenance of paved roads is that recently constructed rural roads, particularly about 5,100 kilometres under KeRRA lack the resources for maintaining them. Consequently, there is a real risk that in the absence of proper maintenance, the newly built roads will progressively deteriorate and some have already deteriorated and ultimately no longer serve their intended purpose.

I am sure Members of this House, given the excellent information they have about road conditions in their areas, can provide some of the rural paved roads that need maintenance. There is a Rombo Road in Kajiado, there is a road in Laikipia; there is a road from Kuresoi to Silibwet; there is a road that we were with the Senate Majority Leader in his county from Chepseon to Maili Nne and many other places across the country.

All these roads were done under low volume seal. Since the budget was not provided for maintenance, all those roads are deteriorating and no attention is given because the entire allocation to KeRRA is concentrating on the murrum roads in the rural areas, and the structure that we have at the moment, all that allocation is going to those type of roads.

Mr. Speaker, Sir, the situation with the road maintenance that we have at the moment is further complicated by the fact that the Fuel Levy has remained at Kshs18 per litre since 2016, a time when litre of a petrol cost was Kshs100.

In the year 2024, the fuel levy is still at Kshs18 per litre, whereas a litre of petrol costs about Kshs200. The steady decline in the purchasing power of the fuel levy collection means that there is a growing backlog of maintenance activities that ought to

have been done but were instead postponed and deferred. Specifically, the projected resources needed for the road maintenance levy fund for 2024/2025 Financial Year is Kshs110 billion while the anticipated collection for that same year is Kshs69 billion, a shortfall of about Kshs40 billion.

This funding shortfall risks reversing the trend of ever-improving road pavement conditions that citizens are now accustomed to and take for granted. This problem is cross-cutting and affects both the roads in KeNHA, KURA, KeRRA and roads maintained by the Kenya Wildlife Services. We anticipate that in due course, the Government will bring a proposed legislation to address the road maintenance challenges.

I am working on a Cabinet Memo to think of how else we are going to do what we need to do, including what in my response to the Deputy Party Leader of the Democratic Party (DP), that tolling and increase of Road Maintenance Levy Fund (RMLF, we have even proposed that RMLF should increase to Kshs25 shillings per litre by the year 2025 if we are going to bridge the gap that is in place. I will be coming back to this House on the same.

So, specifically to this Question now, and briefly because I have given the global figure, the total pending bill for KeNHA as of 31st January 2024 is Kshs87,090,907,106 and the proportion of the interest on delayed payment is Kshs4,000,803,584, whereas the KURA, the total pending bill is Kshs15,548,928,533 and the interest of delayed payment is Kshs18,306,207.

The respective pending bills for both Kenya National Highways Authority (KeNHA) and Kenya Urban Roads Authority (KURA) are attached the response. I do not know why the Deputy Speaker did not ask about Kenya Rural Roads Authority (KeRRA).

I should have also included, in my statement, the global figure for you to appreciate that Kshs87 billion plus Kshs18 billion. The difference is about Kshs60 billion is on the KeRRA roads.

The delay in settling the pending bills was caused by the budget cuts during the supplementary budget processing and delayed receipt of exchequer funding. The Ministry is in constant liaison with the National Treasury to ensure that adequate consideration is given to project funding during budget preparation process.

The Ministry also seeks the indulgence of this House, which is the enacting authority for legislation, to support programmes that relate to alternative mechanisms for raising funds. I am amending that section specifically because this is not the National Assembly.

Article 227 of the Constitution provides for the procurement and asset disposal system that is fair, equitable, transparent, competitive and cost effective. The public procurement has previously undergone serious reforms and currently, Article 227 is being operationalized by the Public Procurement and Asset Disposal Act, 2015 and Public Procurement Asset Disposal Regulations, 2020.

All procurement across the road agencies in KeNHA, KeRRA and KURA are done in strict adherence and compliance with provisions of the Act and its tender regulation. The Act provides a roadmap on the procurement process from planning and

budgeting up to the inspection and acceptance of contracted goods, services and works, use of standard bidding documents and adherence to the set evaluation criteria has been paramount---

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, just a minute. What is your intervention Sen. Kathuri?

Sen. Kathuri: Mr. Speaker, Sir, I want to save the Cabinet Secretary, my friend, Hon. Murkomen, some minutes. I am satisfied with the explanation on Part (d). However, I shall make a comment on the other part. I am okay with it.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, Sir, I am happy not to reread the statement again because it was submitted to Parliament earlier. I am glad that the Deputy Speaker, in his wisdom, and as part of your support system in the House has saved me time.

I thank you.

The Speaker (Hon. Kingi): Thank you.
Senator for Nandi County, proceed.

Question No.011

PERFORMANCE METRICS OF KENYA AIRWAYS

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I will start with Question No. 011.

I beg to ask the Cabinet Secretary for Roads and Transport the following Question.

(a) Could the Cabinet Secretary provide an overview of the performance metrics of Kenya Airways (KQ), particularly the gross and operational profit or loss for the half-year ended June 2023, explaining how the profits or loss compare against other key industry players?

(b) Could the Cabinet Secretary provide a comprehensive account of all financial support, including Government bailouts and loans from the Export-Import Bank of the United States of America (USA), extended to KQ over the last 10 years, highlighting the respective amounts received and the purposes for which the support was extended?

(c) Which foreign consultancy firms have been engaged by KQ in the last 10 years to revitalize the airline? Could the Cabinet Secretary indicate the respective amounts paid to each, as well as provide an overview of the recommendations made by the firms?

(d) What was the rationale behind the decision of KQ to ground the Boeing 787-8 Dreamliner registered as 5YKZJ, the Boeing 737-7U8 registered as 5YKQH and Boeing 737-7U8 registered as 5Y-KQG, and could the Cabinet Secretary also explain why the option of converting these aircraft into cargo planes was not pursued and identify the authority that approved the removal of parts from these aircrafts?

I thank you.

The Speaker (Hon. Kingi): Proceed, Cabinet Secretary to respond.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, Sir, by way of introduction, I hope this is the last time I will answer the question about KQ because it is our intention to return it to a private company so that the Government of Kenya does not continue subsidizing it. Therefore, the public will not have a stake and we shall not come to answer questions about private companies in Parliament.

Our effort in the Kenya Kwanza Manifesto is to make sure that we offload all the shares that the Government owns in KQ so that we return it to a profitable private company that will not require the subsidies that we have had to provide. If we convert the debts that they owe the Government of Kenya to equity, it increases their shareholding. Hopefully, our manifesto objectives of getting a strategic investor will make it the last time we discuss KQ.

Mr. Speaker, Sir, as captured in the table below, I am sure the hon. Senator has the response which was submitted in good time. The Ministry through KQ reported an operating profit in the first half of the Financial Year 2023; a milestone it had not reached in the previous six years. The Airline has made a 120 percent significant improvement reporting an operating profit of Kshs998 million compared to the same period in the previous year where there was a reported loss of Kshs5 billion. Table No. 1.0 explains further.

The growth was fueled by the 56 per cent increase in group revenue reaching an impressive Kshs75 billion. Additionally, our passenger numbers surged to 2.3 million, an impressive 43 per cent growth from 1.6 million. Our earnings before interest tax, depreciation, amortization and rent costs witnessed a commendable upswing of seven points.

Our gross profit improved by an impressive 131 per cent resulting in these commendable outcomes. We acknowledge that our legacy debt brought down the impressive operating results primary to the huge forex losses because of the depreciation of the Kenya Shilling against the United States (US) Dollar. These forex losses were primarily due to the re-evaluation of the US Dollar denomination loans and liabilities.

This finance charges in total amount of Kshs22 billion therefore heavily impacted on our overall results. The airline industry is highly competitive and therefore profit margins in the industry are thin.

According to the International Airport Transport Association (IATA), the average net profit margin for the global airline industry is typically less than five per cent.

An overview of airline profitability compared to other industries is captured below-

Vulnerability to external factors. Airlines are highly vulnerable to external factors that can impact the profitability including fluctuations in fuel prices, currency devaluation, supply chain challenges and geopolitical events.

Capital intensity: Airlines require significant capital investment in aircraft maintenance and infrastructure which can limit their profitability. This is unlike other businesses that do not have the same level of capital intensity.

Cynicality: The airline industry can be cynical and can be sensitive to economic cycles. During economic downturns, demand for air travel may decline affecting airline profitability.

Regulation: Airlines are subject to extensive regulations including safety and security requirements, which can add operational costs.

Competition: The airline industry is highly competitive with many players operating in the market. Competition can lead to price wars and reduced profit margins.

Operational challenges: Airlines face operational challenges including maintenance, scheduling and workforce management, which can impact costs and profitability.

Pricing strategy: Airlines often use dynamic pricing strategy that can affect their profit margins. Prices for air tickets can vary widely based on factors like demand, time of booking and seat class.

In summary, while airlines provide essential transportation services, their profit margins are typically lower compared to many other industries. Their profitability is subject to a range of external factors and competitive pressures.

Additionally, IATA indicates that the global airline industry is expected to return to profitability in 2024. However, financial performance across regions remains diverse.

The industry's finances are improving in all regions after COVID-19-related deaths, although not all regions are expected to deliver a profit this year.

Africa remains a difficult market to operate an airline, with the economic infrastructure and connectivity challenges impacting the industry's performance. Despite the challenges, there is still robust demand for air travel in the region, which underpins the continued move towards a return to overall industry profitability.

Kenya Airways' (KQ's) current performance for 2024 projections is predicated on this forecast. KQ targets to return to profitability in this financial as depicted in the table.

The table shows the loans acquired by KQ. I am sure hon. Senators can read about loans from the Government of Kenya. You can see what we have been giving KQ, including Kshs10 billion we gave as soon as the Government came to office.

I wish to inform the House that KQ was not the only recipient of Government assistance specifically to cope with the negative impact of COVID-19. Various governments in and outside Africa have provided direct support to airlines. They include Senegal, USD128 million relief package for its tourism and air transport sector. Seychelles waived all landing and parking fees from April to December 2020. Cote d'Ivoire waved tourism tax for transit passengers. In addition, other governments that provided physical support to their travel and tourism sectors include Egypt, Ghana, Zambia, and Cameroon. We have given the list.

Technically, it is worth noting that KQ has no loan facility from the Export-Import Bank of the United States of America. The US Exim Bank is a guarantor of USD841.6 million to procure six 787-8 aircraft, one 777-300ER range aircraft, and one Genx engine. This is 90 per cent of the total facility of USD924 million provided by Citibank N.A. and JP Morgan Chase Bank N.A.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The table there gives a detailed overview of the firms contracted to provide services. We have McKinsey on operational support in Project Safari---

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, kindly pause there. What is your intervention, Senator for Nandi?

Sen. Cherarkey: Mr. Speaker, Sir, since I have the answer and I have gone through it, I would like to assist the House to move fast.

(Sen. Faki spoke off record)

If Members want to hear---

The Speaker (Hon. Kingi): The response has been circulated to hon. Senators.

Sen. Cherarkey: Mr. Speaker, Sir, that is why I wanted to assist the House to move fast. Would it be in order for me to ask my two supplementary questions so that we make progress?

The Speaker (Hon. Kingi): You will proceed to ask Question No.012, and Question No.013.

Sen. Cherarkey: Mr. Speaker, Sir, do I proceed to ask the four supplementary questions?

The Speaker (Hon. Kingi): Yes.

Sen. Cherarkey: Mr. Speaker, Sir, since you have given guidance, allow me to---

The Cabinet Secretary for Roads, Transport and Public Works (Hon. Murkomen): Mr. Speaker, Sir, it is important for me to state the firms contracted for the HANSARD. I do not need to read what they do. McKinsey was contracted in 2015.

The Speaker (Hon. Kingi): If you can paraphrase---

The Cabinet Secretary for Roads, Transport and Public Works (Hon. Murkomen): Mr. Speaker, Sir, I do not need to paraphrase. I will just read the names.

The Speaker (Hon. Kingi): Great, proceed.

The Cabinet Secretary for Roads, Transport and Public Works (Hon. Murkomen): Mr. Speaker, Sir, the firms contracted are three. For 2015 to 2016, it was McKinsey. For 2016, it was PJT Partners and 2020 was Seabury. This is all I wanted to say.

There is an important answer that the public will be happy to note. This is related to the grounded airline.

The Speaker (Hon. Kingi): Sen. Sifuna, what is your intervention? Certainly, it cannot be a point of order.

Sen. Sifuna: Mr. Speaker, Sir, the Cabinet Secretary insisted on giving us the names of the contractors. My document states McKinsey but he said Makenzie. I do not know if they are the same.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, clarify that.

The Cabinet Secretary for Roads, Transport and Public Works (Hon. Murkomen): Mr. Speaker, Sir, allow me to refer to the document. It is McKinsey. There is another firm called Makenzie.

There has been a public debate about a plane that we donated. It is important to read the response for the record. Kenya Airways has not grounded any aircraft. Aircraft 5Y-KZJ, a B787-8 Dreamliner, took some time to undergo heavy maintenance because many critical components or parts were unavailable in the aircraft market. These shortages are well-publicized in the industry.

Aircrafts 5Y-KQG and 5Y-KQH were two Boeing B737-700 aircraft in the KQ fleet under an operating lease arrangement. Upon the end of the lease, the lessors (owners of the aircraft) decommissioned the aircraft.

It is important for those who may be new to the industry. Some planes run by airlines are not necessarily owned by the airlines under which they operate leases. Upon the end of the lease, the lessors decommissioned the aircraft and salvaged valuable components from the two aircraft. They removed what they thought was important and transferred what remained of the aircraft to KQ at zero cost.

The authority to remove parts was probably vested in the lessors, who were the owners of the aircraft. The two aircraft, having been decommissioned and stripped by the owners for parts, had, therefore, only one viable use. That is as mock-ups in training. 5Y-KQG was thus transferred to the Kenya Airways Training School (Pride Centre) for use in cabin crew emergency training, practical aviation security training, and in-flight service training.

As part of its Corporate Social Responsibility training, KQ donated 5Y-KQH on an as-is-where-is basis to Mangu High School for their training. Mangu is the only public high school with a well-developed flying school and club, and it provides a pool of skillsets that feed into the KQ workforce. The KQ board of directors procedurally approved all these. The estimated value of these two decommissioned aircraft is nothing more than their scrap value.

I was invited to participate in the donation as a chief guest. The students were extremely excited. This was nothing except for scrap value.

If you go to Kitengela, you will find somebody running a restaurant called 034, with an old plane being the restaurant. It does not mean it is a plane that should be flying cargo. It is important to clarify this to the public because a Member of Parliament (MP) stated that we donated a plane that would generate billions of dollars.

The Speaker (Hon. Kingi): Senator for Nandi, proceed to ask Question No.012.

Sen. Cherarkey: Mr. Speaker, Sir, do I proceed with my supplementary questions?

The Speaker (Hon. Kingi): No. Proceed to ask Question No.012.

Question No. 012

EXPANSION OF KERENGA AIRSTRIP

Sen. Cherarkey: Mr. Speaker, Sir, I beg to ask the Cabinet Secretary for Roads and Transport the following Question.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(a) When will the ongoing project for expansion of Kerenga Airstrip in Kericho County be completed?

(b) What is the total budgetary allocation for the project, and could the Cabinet Secretary provide a detailed breakdown of the expenditure incurred so far?

(c) Could the Cabinet Secretary provide a detailed assessment of the quality of works for the project, stating what the Government is doing to hold accountable the contractor and any other individual responsible for any identified lapses?

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may proceed to respond to Question No.012.

The Cabinet Secretary for Roads, Transport and Public Works (Hon. Murkomen): Mr. Speaker, Sir, this requires straightforward answers. I will just read the answers.

(a) The request to refurbish Kerenga Airstrip emanated from the National Celebrations Committee (NCC) during their visit to Kericho on 15th June, 2023, to assess the facility's status in the county in readiness for the *Mashujaa* Day following the Presidential directive to hold the celebrations in Kericho.

Refurbishment of the airstrip involved upgrading the runway to murrum standards and contraction of an open steel frame shield to facilitate movement of guests during the celebrations. The works were successfully completed on 18th October, 2023.

Mr. Speaker, Sir, the project total cost to date is Kshs55.4 million. A sum of Kshs45.4 million is for the clearing, striping and grading for runway as well as related drainage works, including the construction of an Aircraft holding 100 metres by 50 metres apron and Kshs10 million for the building of an open steel frame shield. No lapses were experienced during the execution of this project. The work was completed in compliance with the bill of quantities, specifications and the drawings.

The project managers successive approvals were done up until the completion of the works. The Ministry is negotiating with the landowners to sell land to Kenya Airports Authority for development of the airstrip. Though the Ministry has challenges with the land ownership of the moment, the project will be completed once the land is acquired.

The Cabinet Secretary has also had consultations with the leaders of Kericho on this very important matter. Just for emphasis, this Karenga Airstrip Land is owned by Ekaterra; the owners of the tea estate. Therefore, even when we developed it, it was in the understanding that we will have to engage them to complete the works.

We worked with the Kenya Defence Forces (KDF) who are the contracted entity. They were the contractors to construct the runway to murrum standard. As you saw, it was useful for celebrations.

Going forward, we intend to acquire at least 50 to if possible 100 hectares of that land, so that we do a proper airport that will enable our agricultural farmers there and people travelling to Kericho and its environs to land in that place and take off from that Kericho Airport.

I thank the leaders of Kericho led by the Senate Majority Leader here, for their support and understanding and for the work we are doing together quietly to acquire the land.

The problem with such infrastructure is that when you come to the Parliament or public and announce that we are looking for land, usually the prices shoot up. It is inflated. The good news is that we are discussing this with an already established investor. Therefore, we have made it clear to the investor that land acquisition will be fairly on concessional terms, considering that they are also leaseholders from the Government of Kericho County.

I thank you.

The Speaker (Hon. Kingi): Senator for Nandi, proceed to ask Question No. 013.

Question No.013

CONSTRUCTION AND UPGRADE OF ALL NATIONAL
GOVERNMENT ROAD PROJECTS IN NANDI COUNTY

Sen. Cherarkey: Mr. Speaker, Sir, Question No. 013 is as follows -

(a) Could the Cabinet Secretary provide a status update on all projects for the construction and upgrade of roads undertaken by the National Government in Nandi County since 2013, explaining any discrepancies between the contractual and actual dates of completion?

(b) What are the reasons for the delay in resumption of construction of Kaiboi-Chepterwai Kapkatembu, Chemuswo-Chomisia-Danger, Timboroa- Maraba- Kopere, Mugundoi-Nandi Hills, Nandi Hills-Himaki, Lessos- Kesses-Chetiret and Chepterit-Tulon-Moi University roads in Nandi County, which have stalled, and could he also outline steps taken by the Government to expedite the resumption and completion of these projects?

I thank you.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may proceed to respond.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Speaker, Sir.

I am glad that I am responding to this question having given a global picture of the roads in the country. Already I had shared with you the situation in the country, thanks to the question from the Deputy Speaker. Therefore, I will just go straight to the answer.

I wish to state that 183 kilometres of roads have been upgraded to bitumen standards, with two major bridges constructed to completion in Nandi County since 2013 undertaken by Kenya Rural Roads Authority (KERRA). The details of the project are detailed in the annex.

Concerning discrepancy between the contractual and actual dates of completion, I wish to state that the Ministry has faced financial challenges in the funding as earlier indicated due to inadequate allocation and disbursement from the National Treasury over the years.

This has culminated in the accumulation of significant pending bills from certified works. Contractors have consequently been reluctant to complete the works in the affected projects, citing non-payment of their dues.

The Government through the National Treasury is working on a mechanism to facilitate significant reduction of clearing of pending bills in the near future. This will result in the full resumption of completion of affected projects countrywide.

The roads under the jurisdiction of Kenya National Highways Authority (KeNHA) in Nandi County have been managed through performance-based maintenance contracts and routine maintenance contracts depending on the planned intervention and available resources.

The agency is currently managing 10 ongoing maintenance contracts in the country. Nine of the maintenance projects are administered by the Western Region Office situated in Kakamega. Additionally, one project is administered in the North Rift Regional Office, that is the routine maintenance of sport improvement of JN A8 Eldoret Kapsabet Road, which is commenced on 8th March, 2024.

Consequently, it is scheduled to end on 4th September, 2024 with a contract sum of Kshs38,219,314. The road is 40 kilometres long, but only 22 kilometres of it is in Nandi County, for instance, from the Mlango to Chebarbar.

Lastly, the roads done under the jurisdiction of the Kenya Urban Roads Authority (KURA) are as indicated in the table. We are upgrading to bitumen standards the Kamogo Baraton University Road, performance based routine maintenance of Kapsabet Municipality in Nandi, which are one, two, three and four in Kapsabet and then routine maintenance of package of five roads in Kapsabet Road again, five and six. Additionally, upgrading of the Mosoriot Township 5.3 kilometres road.

What are the reasons for delay in the resumption of the other roads? For the Kaiboi-Chepterwai Kapkatembu, Chemoswo-Chomisia-Danger, Timboroa-Maraba-Kopere Road. When I came to office this is one of the eight roads that we discussed with the agency and terminated their contract for non-performance. Since they had been awarded earlier in 2016 and nothing had happened for the entire period.

Mr. Speaker, Sir, those roads are in Nandi, Meru, Baringo, Elgeyo Marakwet, Kisii, Homa Bay and Makueni counties. They are eight roads and I have the termination. I can share with the House.

Mr. Speaker, Sir, the project of Kaiboi-Chepterwai, Kapkatembu, Timboroa and all these roads commenced in February, 2017 and was to be completed in February 2021. The contract has since been mutually terminated due to contractual challenges. To enable timely delivery, the works were split into two lots. They were repackaged and retendered.

The contracts were awarded on 14th March, 2024 and are expected to be signed within the next 28 days as per the law upon submission of the requisite securities by the contractors. The contractors will be then mobilized and commence works with immediate effect.

On the Chemoswo-Chomisia-Danger, Nandi Hills-Himaki, Lessos- Kesses-Chetiret and Chepterit-Tulon-Moi University roads in Nandi County, these are parts of the ongoing roads which have faced challenges of completion.

The project was originally scheduled for completion in August 2022, a long time ago, but this has since been revised to August, 2025 due to inadequate budgetary allocation that have led to the contractor being unable to complete the projects due to cash flow challenges.

Mr. Speaker, Sir, just for the comfort of the other Senators who might not have asked a similar question, this is what I told you earlier. That in the entire country, about Kshs60 billion is spent in KERRA roads from Mombasa to Malaba, Lokichogio to Loitokitok. All of them suffer this kind of consequences.

That is why I had to read the global statement so that even those who will ask follow-up questions appreciate that the circumstances under which we are operating is very poor budgetary allocation.

Mr. Speaker, Sir, the Mugundoi-Nandi Hills Road was proposed for upgrading to bitumen standards though we have been maintaining the road to achieve motorability utilising the 22 per cent of the Fuel Levy Funds.

I acknowledge that completion of the Timboroa-Meteitei-Songhor-Kopere Road has faced significant delays due to contractual challenges caused by inadequate budget allocation. The contractor achieved 47 kilometres of tarmac but was unable to complete the total contract at 94 kilometres of roads despite numerous interventions.

Consequently, the Ministry, in consultation with the Office of the Attorney-General mutually terminated the contract on 28th August, 2023. This paved way for the re-tendering of the remainder of the works advertised on 27th October, 2023.

To enable timely delivery, the works were split into two lots, repackaged and re-tendered. The contracts were awarded on 14th March, 2024 and are expected to be signed in 28 days, as I said earlier. The contractor will be required to mobilise and commence immediately.

The Speaker (Hon. Kingi): Senator of Kisumu County, proceed to ask Question 010.

Question No. 010

ROAD ACCIDENTS INVOLVING SUGAR CANE
TRACTORS IN KISUMU COUNTY

Sen. (Prof.) Tom Odhiambo Ojienda, SC: I thank you, Mr. Speaker, Sir. I go straight to ask Question No.010. The Question is addressed to the Cabinet Secretary for Roads and Transport.

(a) Could the Cabinet Secretary for Roads and Transport provide comprehensive data and records on road accidents involving tractors transporting sugar cane from farms to factories in sugar cane growing areas in Kisumu County since 2017.

(b) How many of these accidents are attributable to un-roadworthy tractors and competence of tractor drivers?

(c) What is the Government doing to strengthen and streamline regular monitoring and enforcement of licensing of truck drivers as well as the inspection of tractors?

(d) What measures are in place to ensure proper maintenance of roads in sugar cane growing areas? Could he state plans to compensate persons affected by road accidents involving these tractors?

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may proceed to respond.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Speaker, Sir. The total number of farm tractors presented for post-accident inspection are as tabulated below-

Month	2019	2020	2021	2022	2023	2024
January		1		1	1	
February	2		1			1
March						
April					1	
May	2		1		1	
June	2		4			
July	1				1	
August				1		
September			1			
October		3				
November		2				
December		3	2	1		
Total	7	9	9	3	4	1
Defective	2	2	3	1	1	

For the period of 2019 to 2024, the total number of defective tractors were nine. The Ministry, through its implementing agency- National Transport Safety Authority (NTSA), conducts Road Safety Sensitization forum quarterly with cane processing factories operating within the Kisumu County and its environment.

These factories include-

- (1) Kibos Sugar and Allied Company Limited in Kisali.
- (2) West Kenya Sugar Company Limited - Kabras.
- (3) Chemelil Sugar Company Limited.
- (4) Muhoroni Sugar Company Limited.
- (5) Butali Sugar Mills Limited.

Following a meeting of the Kisumu County Transport and Safety Committee held on 5th July, 2023, it was noted that most accidents involving cane trucks were due to the following reasons.

(1) Poor visibility of cane truck drivers on the road as most trucks lack chevron and proper lighting equipment.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(2) Failure to observe operating hours. No sugar cane trucks shall be allowed on the road before 6 a.m. and after 6 p.m.

(3) Most drivers freewheel, especially when approaching a flyover to gain momentum to move uphill, resulting in accidents. For example, the Kasagam Flyover where several sugar cane trucks have rolled over due to freewheeling.

These facilities have been designed to be navigated at a certain speed. For example, the maximum speed of the Kasagam Flyover is 40km/h. Thus, a driver going at any speed above the limit is at risk of causing accidents.

(4) There is need for drivers to undergo road safety training and defensive driving skills.

(5) Frequent breakdowns and delays in attending to stalled trucks on highways.

In order to address the issue raised above safety matters, the Ministry has scheduled sensitisation activities on sugar transporters and farmers beginning this month on-

(1) Proper and secure cane loading on tractor trailers to minimise obstruction, ensure visibility and prevent spillage of on carriageways.

(2) Setting and enforcing operating hours for cane collection points from 6 a.m. to 6 p.m.

Additionally, the NTSA conducts free inspection clinics for farm tractors to cane collection points. This is done to ensure tractors are properly mounted retroreflective chevrons.

Furthermore, NTSA conducts joint operation with traffic police to ensure compliance.

Mr. Speaker, Sir, KeNHA has designated the roads in sugar cane growing areas under Performance Based Contracts and Routine Maintenance Contracts, whose specifications include, but are not limited to the following.

(1) Clearing any debris on the carriageway.

(2) Drop offs from sugar cane trucks.

(3) Sealing of emerging potholes on the carriageway.

(4) De-silting road drainage systems on the obstruction.

(5) Road marking to enhance road safety.

(6) Axle load control to kerb overloading.

(7) Pavement strengthening on a need-be basis to accommodate sugarcane traffic loading.

Roads in western Kenya region include: Kakamega-Kiboswa, Kakamega-Webuye, Webuye-Kitale, Ekeru-Mayoni-Bwekas and Ebuyangu-Ekeru.

Roads in Nyanza region include: Awasi-Nandi Hills, Muhoroni-Fort Tenan, Awasi-Katito, Awendo-Mariwa-Kilgoris, Rongo-Homa Bay, Ranen Chamgiwadu-Kenyanya, Rodi Kopany-Ndhiwa, Katito-Kendu Bay, Kendu Bay-Homa Bay and Mamboleo-Kiboswa.

Additionally, the Ministry through KeNHA has conducted stakeholder's engagement with sugarcane transporters and interested stakeholders and sensitised them on:

(1) Adherence to acceptable rear, top and side of vehicle distance limits when carrying sugarcane as per the Traffic Act guidelines. This is aimed at minimising accidents caused by reduced visibility to other motorists due to improper packaging of sugarcane.

(2) Effects of overloading on the carriageway.

(3) Procedure of obtaining permits from NTSA under special case of cane transportation.

(4) Need for proper packaging for sugarcane on trucks to minimise drop-offs and littering on the carriageway to minimise maintenance costs.

Mr. Speaker, Sir, this statement is coming at a time when we have unfortunately lost a number of people yesterday and the day before on road accidents, including students of Kenyatta University. This also includes the accident that happened in Olenguruone-Silibwet road and the other one that happened in Muhoroni.

Road accidents are becoming a threat to our national health system. In fact, we were speaking with Hon. Nakhumicha, the Cabinet Secretary for Health, about the impact of such accidents on our health facilities.

Mr. Speaker, Sir, let me use this moment because I have this opportunity through this House to condole with the families that were affected. I want to assure the public that the directive that President Uhuru Kenyatta vacated in 2018, that made it impossible for us in the transport sector and the NTSA particularly to be on the road to do enforcement is now revisited.

Together with Hon. (Prof.) Kithure Kindiki in Interior and National Administration, we will bring back the collaborative effort that required some of the traffic police officers to be seconded to NTSA for proper enforcement.

Mr. Speaker, Sir, we were left to what you saw me reading here, on sensitisation and setting the standards. However, even though the Act permits enforcement on the ground, Government decision was made to leave that enforcement only to the traffic police. I believe the new direction will help us to deal with this menace.

Finally, I want to emphasise that even this tractor menace, including driving on the roads, the statistics show that most of the accidents are as a result of driver's behaviour.

Mr. Speaker, Sir, last year, when I announced that the drivers will be retested and that you will not get a driving license unless you are tested, there was hue and cry and many people said that we were oppressing drivers. However, everybody goes through retesting. Every year, lawyers and doctors go through training.

Drivers who are carrying human life should be retested so that we know those who are competent. We should also test their alcohol content and drug abuse possibilities. These are things that we should support as people of Kenya.

The last thing is that, as individuals and citizens, citizen responsibility is extremely important. The matatu that got an accident on the Olenguruone-Silibwet Road had 24 people, which is 10 people extra. It was also carrying four bags of maize. By the time the 15, 16, 17 or the 18 person was boarding that matatu, they knew that it was overloaded.

As citizens, we cannot act that we are ignorant of the fact that you sit in an already overloaded car where the driver is drunk or over speeding. We also need to take responsibility ourselves as passengers, and more importantly, those who are sitting behind the wheel.

I thank you.

The Speaker (Hon. Kingi): Senator for Bungoma, you may proceed to ask Question No. 031.

Question No.031

REHABILITATION AND EXPANSION OF THE
LWAKHAKHA-CHWELE-KIMILILI-KAMUKUYWA ROAD

Sen. Wafula: Thank you, Mr. Speaker, Sir, my Question is as follows:

(a) Could the Cabinet Secretary provide a timeline for the rehabilitation and expansion of the Lwakhakha-Chwele-Kimilili-Kamukuywa Road to accommodate the increasing traffic, including heavy trucks plying the route?

(b) Could the Cabinet Secretary indicate the progress made in acquiring land for the expansion of the said road, stating the due diligence followed and the timelines for compensation of residents whose land will be acquired for the project?

Thank you.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, you may proceed to respond.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Speaker, Sir.

The Ministry, through the KeRRA, upgraded to bitumen standards a section of the Lwakhakha-Chwele-Kimilili-Kamukuywa road, namely the Lwakhakha-Korosiondet-Tulienge-Sirisia-Namwela-Chwele road (C815) as part of the Low Volume Seal Roads (LVSR) Programme.

If the Senator was to go even further in his Question, he will notice that the Road is wearing out. It is one of the LVSR I was talking about, the Low Volume Seal Roads.

The 30-kilometre section, which is under the KeRRA was completed in 2019 providing access to the Lwakhakha border point, thereby offering an alternative route to Uganda. The completion of the road consequently attracted heavy cross-border traffic, which accelerated its deterioration and raises the need for redesigning and upgrading of the road to commensurate standards that can accommodate the resultant traffic.

The proposal for the expansion of the road and its reconstruction, which is projected to include land acquisition due to the narrow existing 25-meter corridor will be forwarded to the National Treasury and presented to Parliament for budgetary consideration alongside other economically significant projects countrywide.

The section traversing Kamukuywa-Kimilili-Chwele (Namwela) is currently under rehabilitation works under the KeNHA through a hybrid performance-based contract. The scope for the rehabilitation works include:

- (I) Road shoulder reinstatement through benching and gravelling.

(II) Reconstruction of base layer and Asphalt Concrete Overlay to selected failed sections.

(III) Drainage works, including construction of additional access culverts, lining of side drains and installation of gabions.

(IV) Surface dressing to improve on riding surface attrition and seal the carriageway.

(V) Road marking and installation/replacement of damaged/vandalised traffic signs.

To date, the road shoulders have been reinstated and the carriageway is free of potholes.

The Agency is aware of the increased traffic along the route and that it necessitates pavement structure upgrade and expansion works which shall be executed upon availability of funds.

The land acquisition process for the Kamukuywa-Kimilili section and Kimilili-Chwele was completed in 1974 by increasing the road reserve to 60 meters and 40 metres, respectively.

Some market centres have a road reserve of 25 metres as specified in Gazette No. Vol LXXVI No. 46 of September 27, 1974.

The Ministry is currently not undertaking any land acquisition at the Lwakhakha-Korosiondet-Tulienge-Sirisia-Namwela-Chwele Road (C815) section. This is because as part of the LVSR programme strategy, roads were deliberately constructed within the existing corridor to eliminate the need for land acquisition, which would require compensation and thus inflate the overall project costs.

Mr. Speaker, Sir, just to emphasize this, this is an alternative international route. When we are done with the ongoing process, we want to transfer this Road to KeNHA because it has moved to a highway. This is so that it can be constructed to highway standards, but also with a proper alternative border post on the Lwakhakha-Chwele Road.

The leaders of Bungoma; from the Governor, the Senator to the Members of Parliaments have been very particular about it. I promise them that in the next financial year; first, we will make sure that the transfer would have been done from KeRRA to KeNHA. From there, we will find resources under KeNHA and ensure that we put a weighbridge in that section and also improve it to KeNHA standards.

I thank you.

The Speaker (Hon. Kingi): Sen. Kathuri, do you have any supplementary question?

Sen. Kathuri: Mr. Speaker, Sir, my question is on the national pending bills across the two institutions.

My concern is the interest that is accruing, especially with KeNHA. As the Cabinet Secretary has put it, this is Kshs87 billion pending bills and the interest in Kshs4 billion.

My other concern is that, we have so many dilapidated roads. If we are paying this interest, then this is the money which should be used to maintain such roads as the Cabinet Secretary has put it.

Mr. Speaker, Sir, the issue is delayed funding from the Exchequer. Since we are planning as a country and a Government, why is there a delay in Exchequer release because most of these roads are funded through the Exchequer? Since the Cabinet Secretary says that he needs almost Kshs160 billion to clear all the pending bills, if he does not get it in the next one year, does it mean that we are again going to pay Kshs6 billion interest?

The second one was about the maintainance of roads. My issue is that we have invested a lot on these roads. Once we fail to maintain them, we are losing that investment.

For example, where I come from, we have a very busy road called Chogoria-Marimba-Meru Road. This road was built by the European Union (EU) to support the tea factories across that belt. However, it is never maintained. Once it rains, there is a lot of soil which piles on that particular road, and I have addressed it.

Some of us have been around for some time and we have no vested interest on what happens when we make our request. Even though that we have no money for doing new roads and these other things, when some of us write to the Ministry requesting for support, even though we are not in the National Assembly, since we are representing people, when we make interventions through the Ministry for particular roads---

Mr. Speaker, Sir, you saw me walking on potholes in Meru County, along the Meru-Nairobi Highway because the road maintainance was poor.

Some of us write to the Ministry requesting specific interventions and I request the Ministry today, on record, to be listening to us. We are the *Njuri Ncheke* elders. Once I ask the Cabinet Secretary or a Principal Secretary something, they must know that the issue is coming from the Kingdom of Meru.

The Speaker (Hon. Kingi): What is your question, Sen. Kathuri?

Sen. Kathuri: Mr. Speaker, Sir, the Cabinet Secretary should try and maintain the national highways. He should know that any intervention that is put across does not come from me, but from the great people of Meru.

The Speaker (Hon. Kingi): Unfortunately, the Hon. Senator is done. Cabinet Secretary, proceed if you picked any question from that long speech.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, Sir, I share the same concerns with the hon. Senator and Deputy Speaker. If there is any interest, then for his record, it is Kshs6 billion in the KeRRA), Kshs4 billion in the KeNHA and Kshs19 million in the KURA. That is interest only.

There is something else to be added – claims. We cannot define them at the moment because a contractor will claim that machines are on site and they need more mobilisation money to go there or that the fuel prices have changed as well.

Mr. Speaker, Sir, protracted pending bills like the ones we have from 2016/2017 to now is causing us problems. Two things, firstly, it is because you have an equal legislative mandate on roads as the National Assembly. We need to provide a cap similar to one in *duplum rule*; that even if you are going to ask for interest, it should not be more than twice the cost of the road.

I wish I brought this example here of one contractor who by going to court, we had paid eight-point-something billion over a bill of Kshs9 billion. The balance was about Kshs300 million, but he was awarded by the court, another extra Kshs 3 billion. I then ask myself when a judge is sitting there and awarding an extra Kshs3 billion, where does that judge think the money will come from and how are we going to build the roads?

Mr. Speaker, Sir, there must be legislative guidance and it is incumbent upon the Ministry to provide this. Secondly, we should be adhering to the procurement law because that is where the problem is. Parliament provides the budget in the beginning and then the agency is told to procure based on that budget and towards the end of the year, through the supplementary budget, the budget is reduced.

Mr. Speaker, Sir, we started this year with a development budget at Kshs63 billion, but we are now ending at Kshs46 billion. There is still a cap of twenty-something billion shillings. For the last eight years, we have been providing Kshs5 billion when the agencies are asking for Kshs100 billion. We provide Kshs100 billion at the beginning of the financial year and then we create a gap.

That is the question everyone should ask themselves. How come despite the procurement law, we have this level of pending bills and yet our procurement law says that we should not procure what we do not have? This is the challenge we have. As we continue, the biggest challenge in this Government is to deal with the nearly Kshs700 billion of pending bills in the road sector.

Mr. Speaker, Sir, I do not know which formula we will use to sort it out in the next four years. However, I promise, and the promise of the Government is to find ways of reducing it significantly so that people can get at least 3,000 kilometres of the roads completed.

On the other issue of maintenance, the same situation applies. I will come back with a policy position on how to increase resources for maintenance and discuss it with you. For example, on the Chwele Road, Lwakhakha Road and the ones in Laikipia and all other roads, all under low volume 'C', we are negotiating with the National Assembly, so that the Constituency Roads Committee can vacate the 10 per cent that is for KeRRA to come back to maintain those roads, to start with.

Mr. Speaker, Sir, even if that will not be enough, at least, we will salvage the worst roads in the country. If we do not do so, we will build from zero. Some of the contracts were given in 2017 and now those contractors have pending bills and have not completed those roads. The parts they started with are finished, but the other parts are not. That is a real problem.

This was my position as a Senator and as the Senate Majority Leader in this House and it remains my position as a Cabinet Secretary. There is no Senator who does not have a mandate over oversight of any function in the national Government in his role of representation of the people of his county. The Senator should not sound like he is apologetic for raising road issues in his county. He is not and that is why I am here. If he did not have the mandate, I would not be here.

The point is that the questions raised by Senators or Members of the National Assembly are treated equally when it comes to responding to the status of the roads. In

my office, that does not matter. That is why Sen. Kathuri was in my office to ascertain the status of roads in Meru. They all came as leaders of the county and we looked at them. Even a governor raising a question about a road will not be ignored, despite the fact that they do not sit in any House of Parliament.

I thank you.

The Speaker (Hon. Kingi): Senator for Nandi.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I shall take the omnibus of my three questions and will be brief and precise with the eye of a military marksman.

The first one is to Question No.11 on the performance the Kenya Airways (KQ) and donation. That answer is not satisfactory to me. Therefore, my two supplementary questions are:

Can the Cabinet Secretary provide performance acceptance deferred defects that should show performance acceptable technical logs with the dates and pass logs and leases of the said aircraft and ownership?

The second one is that on the consultants, he has strategically omitted the presence of two consultants. One is the Steer Group and the second one is the famous, Polish Five. So, he should provide that.

On supplementary question on Kerenga Airstrip, can he confirm if it is only graded and planes tend to be stuck? Does it mean that it will never be built to bitumen standards?

Finally, the supplementary on Question No. 13, when is he doing re-classification, re-designing and expansion of the Eldoret-Mosoriot- Kapsabet-Chavakali-Shamakhoho-Awasi Road?

The second one is, when is he doing physical visits to assess the deplorable road conditions that I have mentioned above and direct maintenance of these roads before rains begin. Mark you, the Cabinet Secretary has made more visits to Nandi to attend funerals and other social functions, but he has not found it necessary to visit these roads physically and verify.

I thank you.

The Speaker (Hon. Kingi): Hon. Cabinet Secretary, keep it brief.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, Sir, first of all, the hon. Senator said that he is not satisfied with the answer on the performance of airplanes. If he is not satisfied, I will ask Kenya Airways (KQ) to provide the contacts of the lessors and the owners of the planes so that they engage with the Senator for satisfaction.

KQ does not own those planes anymore and it never owned them. They were leased from KQ. The answer, therefore, as to the unsatisfactory response of the Cabinet Secretary on privately owned planes is not in the best interest of the country.

The best interest of the country is to ask things that are owned by the agency, and I will treat it as such.

There are other two groups that the Senator referred to, but I can only remember Steer Group and another.

(Sen. Cherarkey spoke off record)

Mr. Speaker, Sir, on “Polish” 5, I am glad that the Senator is appraised of that matter. Therefore, I do not need to provide any other supplementary answer because he already has two companies. He is more aware than I am on that issue.

(Laughter)

On the third issue ---

(Loud consultations)

The Speaker (Hon. Kingi): Proceed, Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, Sir, on the third issue of Kerenga Airstrip, the Senator asked the same question that I already answered.

I answered that we are in the process of acquiring the land first, so that the Kerenga Airstrip can be built to levels required of an airstrip in our Republic. None other than His Excellency the President, together with our brothers in the Ministry of Lands, Public Works, Housing and Urban Development is helping us to speak to Ekaterra Tea Company, to negotiate the land.

I want to go on record to thank the Senator of Kericho. The reason the Senate Majority Leader is not asking this question is because he is in the middle of this discussion and is helping facilitate the discussion to get the land from the Ekaterra Tea Company. I appreciate the Senators who are proactive. This is because the Senate Majority Leader would have chosen to come here with a question. Instead, he came to my office and we are working together to acquire the land.

Mr. Speaker, Sir, on the issue of the reclassification of Eldoret-Nandi Road, the design is ongoing in terms of widening Eldoret-Nandi Road. Eldoret to Kapsabet is a bit congested, particularly as you exit Eldoret from both sides. Design is going on from all angles of the Eldoret Town to see if we can do all the roads. There is also a bigger and wider programme that I explained earlier from Rironi to Mau Summit. That will also facilitate expanding the roads on this highway.

Mr. Speaker, Sir, I want to commiserate with Sen. Cherarkey for losing so many people in his county and, sadly, people who are known to me, which forced me to go for the funerals. I commiserate with him, his family and the family of the people who lost their lives. I hope that God will protect as many of my friends as possible so that I do not need to go to funerals in Nandi.

I thank you.

The Speaker (Hon. Kingi): Proceed, Senator for Kisumu.

Sen. Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, I have a supplementary question to the Cabinet Secretary. This will focus on an area he touched on the role of National Transport and Safety Authority (NTSA) in the registration of motor vehicles

because, in his response, he talks about a role that NTSA plays. I want him to clarify to Kenyans the functioning of the e-Citizen platform.

Mr. Speaker, Sir, in the last few months, there have been complaints in the public regarding the transfer of motor vehicles and logbooks. I am sure he will have this occasion to explain to Kenyans whether there is something wrong with the system and when that problem will be fixed.

The Cabinet Secretary visiting NTSA last year and addressed specific concerns---

The Speaker (Hon. Kingi): Hon. Senator, just ask your question and let the Cabinet Secretary answer.

Sen. Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, can he tell the public what measures he has taken to ensure that the e-citizen platform that touches on the function of NTSA, operates without a hitch so that Kenyans are able to transact easily through this platform and their transactions are complete?

Mr. Speaker, Sir, this is important and just as I close of---

The Speaker (Hon. Kingi): It is okay. The Cabinet Secretary has heard your question. Allow him to respond.

Sen. Tom Odhiambo Ojienda, SC: Okay, thank you.

The Speaker (Hon. Kingi): Proceed, Hon. Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Speaker, Sir, we have been undertaking a process of data migration from the platform that we used to operate to the e-citizen platform.

This has necessitated these delays. It is true I owned up to the public also that there are delays because of the movement to the e-citizen. We were also building a new platform for reasons that I will share in the future once security-related processes that are ongoing are complete.

I now assure the people of Kenya that the system is up and running. It may experience some hitches because we are still in the process of maintenance and seeing how it performs. However, we will make sure that we have put in place officers who are on standby to make sure that if the system fluctuates, we respond immediately.

It is also true that there are many Kenyans who have not collected their logbooks, the driving licenses and the number plates. To a number of them who may not be aware, is that we have built in Short Message Service (SMS) system that reminds the citizens that their application is complete and their document is ready. So, I hope the people of Kenya will take advantage of the same to come pick their documents.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Lelegwe Ltumbesi.

Sen. (Dr.) Lelegwe Ltumbesi: Thank you. Mr. Speaker, Sir. I would like to ask one supplementary question, a follow up question to Question 013 and 015 as asked by Sen. Kathuri Murungi and Sen. Cherarkey.

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

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

In light of the recent tragic events along the Maralal-Baragoi South Horr Road, which has claimed several lives, including the life of Hon. Paul Leshimpiro, Member of County Assembly (MCA) for Angata Nanyukie ward. Currently, there is a banditry attack on the same, Maralal-Baragoi Road and a teacher, one Mr. Lekupe is injured and now being rushed to Maralal County Referral hospital for medical attention.

Mr. Deputy Speaker, Sir, on this regard, I would like to inquire about the status of the upgrading of Maralal-Baragoi South Horr Road to bitumen standards stating when the upgrading process will commence, confirmation of the budgetary allocation and measures taken to ensure that the safety of road users in the interim, given the increased risk of banditry in the area due to the status of this road.

The Deputy Speaker (Sen. Kathuri): Thank you. Proceed, Hon. Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Deputy Speaker, Sir, I sympathize with my friend, Sen. (Dr.) Lelegwe on this situation.

We were with him in another function where the Governor also spoke about it emotionally. The road from Maralal to Baragoi is 100 kilometres which is not easy to tarmac in such areas. However, it is scientifically proven that when the roads are paved, it improves security issues. That is the truth in the northern part of the country, particularly in Turkana.

We have a plan to make sure that we improve this road of Maralal-Baragoi. We have a road from Churo Amaya through Tangulbei up to Laikipia where Senator John comes from. The road from Baringo to Turkana through Loruk to Lokichar.

Mr. Deputy Speaker, Sir, as part of a way to deal with security problems in the country, I have told KeNHA to work on designs on all these key security roads that help us deal with banditry in Kerio Valley. Our hope is that because of the budgetary constraints, we want to work with some of our development partners whom I have mentioned to see if they can do what we are doing together in the North Eastern part of the country in the Kerio Valley region as one way of opening the road.

In the interim, the leadership of the Senator, Hon. Letipila, the Governor among others have all approached me and said that, perhaps, we need a short-term measure in terms of maintenance of the road.

I will be visiting the area this Friday. We will be going with Sen. (Dr.) Lelegwe and other elected leaders in the place to see the status. We are working in the office to get emergency resources to make sure that we maintain that place.

We will also be working with the Cabinet Secretary for Interior and National Administration, Hon. (Prof.) Kindiki, to see how security will be provided to the contractors, so that they quickly improve the road to make it a bit motorable and safe for people to drive a bit faster to evade bandits.

Mr. Deputy Speaker, Sir, we should not miss the fact that the real problem is banditry. The road network is one of the ways of dealing with effects of banditry and the Government is doing everything possible.

The Cabinet Secretary for Interior and National Administration has been there many times to deal with the question of banditry. As a leader from Kerio Valley, I am concerned. We are working together to see how my Ministry can contribute in combating this disease of banditry.

I commiserate with my friend, Sen. (Dr.) Lelegwe for the loss of his friend, a former Member of County Assembly (MCA). *Pole* to the people of Samburu and the Kerio Valley region at large. As the Government promised, we will deal with banditry with finality.

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

We had Question No.15 which was asked by the Senator for Kitui County. He asked the Senator for Makueni County to hold brief for him. Could you ask his supplementary question? Just one.

Sen. Maanzo: Mr. Deputy Speaker, Sir, Question Nos.14 and 15 were by the Senator for Kitui. Let me be clear---

The Deputy Speaker (Sen. Kathuri): Just handle Question No.15.

Sen. Maanzo: Mr. Deputy Speaker, it is about Tseikuru, Mutomo and Ithookwe airstrips. Those three airstrips are useful in cases of medical emergency evacuations.

I heard the answer the Cabinet Secretary gave. Could he indicate whether there are any plans of at least doing earth fill, so that they can be used for emergency purposes while we await the major plan he has said on that particular one?

Regarding Question No.14 that had been asked, I understand that this was a country to country dealing. Is it possible to have a Public Private Partnership (PPP) so that the residents from Kibwezi to Tseikuru can be compensated for the land which was taken away from them since the Constitution stipulates that people should be compensated before the works begin?

The Deputy Speaker (Sen. Kathuri): Proceed, Cabinet Secretary?

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Deputy Speaker, I agree with Sen. Maanzo on the prompt and adequate compensation. As I said earlier, we should not have been in this situation if we had recast our budgetary approach. However, we are there because of how we manage our budgetary process.

I promise you that should the resources herein announced earlier, which is about Kshs100 billion, be given to the road sector, I believe we will compensate those people who have stayed for long.

For the Tseikuru Airstrip, I agree and I have consulted the Managing Director (MD) who is sitting next to me. We should do repairs to a good gravel standard for the time being as we work on these contractual issues that we are dealing with. I promise we will do that.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Olekina.

(Sen. Orwoba consulted loudly)

Sen. Gloria, why do you always like to be disorderly in this House?

I was saying that we will also have the Cabinet Secretary for Education who is coming before the Senate to answer questions. It is only a quarter to noon. Kindly indulge me to just get two Senators from this end and two from this side then we close this business.

(Applause)

Sen. Olekina: Bw. Naibu wa Spika, naweza kuendelea?

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

Sen. Olekina: Bw. Naibu wa Spika, asante kwa kunipa nafasi hii kumuuliza Mhe. Murkomen swali. Seneti ni Bunge linalohifadhi kumbukumbu na rekodi za kila jambo tunalofanya hapa.

Nikimnukuu, wakati Mhe. Murkomen alipokuja hapa, alisema kwamba *contractor* wa barabara ya kutoka Ngong hadi Suswa atakwenda kule kwa muda wa wiki mawili. Sasa miezi saba imepita tangu Mhe. Murkomen alipokuwa hapa.

Katika kumbukumbu za Seneti, tuliambiwa kuwa *contractor* atakwenda kule kwa muda wa wiki mbili. Barabara hiyo imebakisha kilomita sita pekee kukamilika. Kuna sehemu ndogo tu ya kuweka daraja na mahali ambapo mawe yanatakikana kuondolewa ili tupate njia mbadala ambayo watu wanaosafiri kwenda Narok, Migori na Kisumu wanaweza kutumia.

Namwomba---

The Deputy Speaker (Sen. Kathuri): Seneta, hebu uliza swali lako moja kwa moja.

Sen. Olekina: Naomba Mhe. Murkomen akumbuke kwamba kuna kumbukumb katika Seneti. Anafaa kutueleza lini barabara ya Ngong kwenda Suswa itamalizika.

The Deputy Speaker (Sen. Kathuri): Samahani, Sen. Olekina. Kuna Hoja ya Nidhamu kutoka kwa Seneta wa Garissa.

Sen. Olekina: Wewe unajua Kiswahili?

Sen Abdul Haji: Bw. Naibu wa Spika, umesikia mwenzangu akiuliza kama najua Kiswahili. Je, anamaanisha mimi si Mkenya?

Bw. Naibu wa Spika, nimemsikia akiongea hapa. Ningependa atufafanulie maana ya wiki mawili.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, eleza maana ya wiki mawili.

Sen. Olekina: Bw. Naibu wa Spika, Sen. Abdul Haji ni mfugaji kama mimi. Kwangu mimi, Kiswahili kilikuja na meli. *What do you call a train?*

An hon. Senator: Reli.

Sen. Olekina: Bw. Naibu wa Spika, sitaki kupoteza muda wa kuuliza swali langu kwa kuwa ni nyeti.

The Deputy Speaker (Sen. Kathuri): Sasa uliza swali lako moja kwa moja

Sen. Olekina: Asante, Bw. Naibu wa Spika, kwa kunilinda. Mhe. Murkomen alipokuja hapa alitueleza kwamba mkandarasi atakwenda kule kwa muda wa wiki mbili. Je, huu ni ungwana? Hadi sasa miezi saba imepita. Barabara hiyo ni kilomita sita pekee. Shida ni nini?

The Deputy Speaker (Sen. Kathuri): Waziri, jibu swali hilo.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Bw. Naibu wa Spika, ni kweli kwamba nilisema kwa muda wa wiki mbili, mwanakandarasi huyo atakuwa amerejea kuendelea na kazi kwenye barabara kutoka Ngong kuelekea Suswa.

Kutokana na sababu ambazo nimeeleza hapo awali – inahusiana na mambo ya fedha, hasa bajeti – hatukuweza kumrudisha mwanakandarasi yule kwa sababu licha ya kuwa hatukuwa tumemlipa Kshs600 million, alihitaji zaidi ya pesa iliyowekwa kwa bajeti. Ilitubidi tuendelee na mazungumzo.

Tuna imani kwamba hivi karibuni, mwanakandarasi huyo atarejea barabarani. Nachunga ulimi wangu kwa sababu sitaki kurudia kusema wiki mbili, licha ya kuwa alikuwa amekubali kurudi kwa muda wa wiki mbili.

Lakini tulipata shida baada ya muda wa kandarasi kwisha na sasa tumefanya mkataba na *contractor* na atarudi barabarani.

Bw. Naibu Spika, ningependa kutumia nafasi hii kumpongeza Sen. Olekina kwa sababu amesimama kidete kwa masuala ya barabara hii.

Sen. Oketch Gicheru: On a point of order, Mr. Speaker Sir.

The Deputy Speaker (Sen. Kathuri): No. No. No. The Hon. Cabinet Secretary cannot be out of order. It is only Hon. Members who can be out of order.

(Laughter)

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Sen. Olekina, yeye amekwama kwenye masuala ya barabara hii tangu tuwe mashinani naye na tukiwa hapa kwenye Bunge. Ninampongeza kwa sababu anaendelea kusukuma masuala ya hiyo barabara lakini ninamwomba atupe muda mchahe tutafute hela ndiposa tuweze kumrudisha yule *contractor*.

Sio yeye peke yake. Seneta wa Kaunti ya Kisii, Seneta wa Nyamira na viongozi kutoka sehemu hiyo kama vile Bomet, wamekuwa wakinisukuma kuhakikisha ya kwamba barabara hiyo imefunguliwa kwa sababu ile njia ya Maai Mahiu inawaletea shida kubwa sana.

Asante.

The Deputy Speaker (Sen. Kathuri): Sen. Mbugua Mungai, you have the Floor.

Sen. Mbugua: Thank you, Mr. Deputy Speaker, Sir. I would like the Cabinet Secretary to tell this House what became of the Road Maintenance Levy which used to go to the counties and what happens to the pending bills that were awarded for the contracts at the Road Maintenance Levy by the counties yet the contractors have never been paid because the programme was suspended or something.

The Deputy Speaker (Sen. Kathuri): Before the Cabinet Secretary answers that, what is your point of order, Sen. Kinyua?

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir. On your decision of two Senators from this side and two Senators from that side; I am not challenging your decision, but it is obvious that we are the majority. We should be given three Senators and two Senators from the other side.

(Applause)

The Deputy Speaker (Sen. Kathuri): Hon. cabinet Secretary, proceed and answer.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Mr. Deputy Speaker, Sir, it is not possible that any county incurred money under the Road Maintenance Levy beyond a given financial year.

Road Maintenance Levy is only capped for that financial year. So, for the year that the county was given, that is the year they spent. The problem is that because it is not for construction, it is for maintenance. Maintenance is based on annual allocation. So, it is not possible that there is a county that did the same.

It would only have been possible if it was development money.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Oketch Gicheru, and you have exactly two minutes.

Sen. Oketch Gicheru: Thank you, Mr. Deputy Speaker, Sir. My question is very direct to the question that was asked to the Cabinet Secretary on what measures are in place to ensure maintenance of roads in sugar cane growing regions are well maintained, and whether there are any plans to compensate all people affected during those road accidents.

Hon. Cabinet Secretary, I know that you did indicate when---

The Deputy Speaker (Sen. Kathuri): One question, please.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I was referring to the question; my question is only one. The Cabinet Secretary had talked about the fact that there is not much money to be able to maintain these roads.

I just want him to put a case for prioritization, to tell this House so that there is a priority in terms of those roads, particularly the road in Migori town coming to Kisii, because that road, in particular, has no proper signage, or proper markings.

Last year it led to two serious accidents in town involving not only the sugar cane trucks, but also other trucks that rammed into the people in town because of lack of demarcations on bumps as well as proper signages on that particular road. The Migori-Kisii road is a major concern – and whether the people who were involved in the accident are going to be compensated.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, you can respond.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Deputy Speaker, Sir. On the maintenance, I had addressed that issue on the sugar cane growing areas, a very important sector.

When we come up with that policy that I said earlier of increasing the allocation - can you imagine that only the Kshs60 billion is meant for all the roads KeNHA, KURA, KeRA - we will then be able to upscale our activities in terms of maintenance of the roads.

Meanwhile, what is available now, we are using them, but also because the county collects cess from the sugar factories and farmers, it is important to put them under pressure to make sure that the other roads are maintained within the county.

Sen. Eddy is passionate about this issue and he has discussed it with me in several locations. What we need to do is to upscale also the civic education-related issues; training and awareness for the tractor owners and the company owners. If the companies took responsibility for safety measures, not leave it to NTSA or the Ministry - safety is important. Let me give you an example. After the Sachangwan accident, most of the oil marketing companies took responsibility, including, establishing vehicular telematics in their offices, and they can monitor their trucks from Mombasa to the border. You have seen, there is a major reduction in road accidents involving oil tankers.

There are also some companies, for example, Bamburi Cement, that has very clear vehicle telematics. Their lorries are rarely involved in accidents because they monitor them. I wish the sugar companies and the sugar growing companies and cooperatives would be able to put also safety as a very important factor in terms of a measure of what they do.

Unfortunately, we do not have a compensation mechanism for road accidents in the country except for the claims through insurance.

The Deputy Speaker (Sen. Kathuri): I can see Sen. Lemaletian, you are on intervention. Do you have a point of order?

Sen. Lemaletian: No, Mr. Deputy Speaker, Sir, it is not a point of order, but a point of information.

The Deputy Speaker (Sen. Kathuri): Who are you informing?

Sen. Lemaletian: Mr. Deputy Speaker, Sir, the Hon. Cabinet Secretary, please.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Okay, proceed and inform him.

Sen. Lemaletian: Mr. Deputy Speaker, Sir, first of all, I would like to appreciate the Hon. Cabinet Secretary for listening to us and responding on the issue of Maralal-Baragoi Road. If you remember correctly, I spoke about the issue to you before even you were sworn in. I told you that the best thing you can do for Samburu is to give us at least two roads, if not one.

The last time we had the meeting on the very dire insecurity issue in Samburu with the Cabinet Secretary for Interior and National Administration, Hon. Kindiki. I was the one who raised the issue and requested for a road and for the two of you to work in partnership as a matter of dire agency.

I am very sure there are a lot of issues across the country like you have spoken about on roads---

The Deputy Speaker (Sen. Kathuri): What is the information that you want to pass?

Sen. Lemaletian: Mr. Deputy Speaker, Sir, I just want the Cabinet Secretary to at least treat our case and situation as a matter of urgency, because it involves the loss of lives in Samburu County. That is the same reason that led me, a leader from the opposition, to go and seek the President recently in Nosim, in Kilgoris, for the same road to be tarmacked.

For me as a pastoralist to swallow my pride and beg the President for a road, I implore the Cabinet Secretary as a fellow pastoralist to treat that matter with the urgency and seriousness it deserves.

The Deputy Speaker (Sen. Kathuri): Sen. Lemaletian, it is only that you are representing a very critical constituent of the youth. So, I just give you time to empower you and other youth. Otherwise, I could have disconnected you.

Sen. Lemaletian: I thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, it is just for you to note that, but you just respond in 30 seconds.

The Cabinet Secretary for Roads and Transport (Hon. Murkomen): Thank you, Mr. Speaker, Sir. It is true what Sen. Lemaletian is saying. She spoke to me about this road. It is also true that even before the funeral, we met somewhere and she spoke to me about the same road.

It is also true that she spoke to the President. It is not true that she has to be in Government for her to represent the people of Samburu County or Kenya.

Mr. Deputy Speaker, Sir, the position I hold is apolitical and the responsibility of the state and Government is to serve all Kenyans regardless of their political affiliations. I do not wish the Senator to be apologetic when she is raising issues affecting Samburu County.

However, I also want to challenge the Senator because she is not representing Samburu County, but all the youth of the republic in this Chamber. A pain in any part of the country should be a pain in the entire nation.

The Deputy Speaker (Sen. Kathuri): Thank you, Cabinet Secretary. Hon. Senators, in the next one hour we shall listen to the Cabinet Secretary for Education. Therefore, I kindly request that whoever has any other Question, the Cabinet Secretary is available. Proceed with the normal Questions procedure, and the Cabinet Secretary will be back to answer the supplementary questions.

Kindly, for the respect of the other Cabinet Secretary who has been here since morning, Hon. Murkomen, thank you for appearing before the Senate. Continue appearing many times more. My screen is full because many Senators have a lot of questions, especially on matters road.

I thank you. *Kwaheri.*

(Applause)

(The Cabinet Secretary for Roads and Transport)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(Hon. Murkomen) was ushered out of the Chamber)

The Deputy Speaker (Sen. Kathuri): Kindly usher in the next Cabinet Secretary. Hon. Senators, the Senate is still in session. Tell them to usher in the Cabinet Secretary for Education.

Serjeant-At-Arms?

*(The Cabinet Secretary for Education (Hon. Machogu)
was ushered into the Chamber)*

The Deputy Speaker (Sen. Kathuri): Order, hon. Senators. We have the Cabinet Secretary for Education appearing before the Senate to answer several Questions from different Senators. I welcome you to the Senate, Cabinet Secretary, Hon. Machogu.

We have a few Questions and I want to start with the Senator for Nairobi City County. Let me give some guidance. I will request all the Questions to be asked at the same time, then we shall give a few Senators time for interventions.

Kindly proceed.

Question No.027

LAND DISPUTE INVOLVING VISA
OSHWAL PRIMARY SCHOOL

Sen. Sifuna: Most appreciated, Mr. Deputy Speaker, Sir. This is the Question to the Cabinet Secretary for Education.

(a) Could the Cabinet Secretary confirm that Visa Oshwal Primary School in Westlands Constituency, standing on land registered as LR 209/5996, was categorized by the Ministry of Education as a Public School in 1997?

(b) Could the Cabinet Secretary provide the history of ownership of the said land and explain what the Government is doing to settle the land ownership tussle between the school and the private developer, laying claim to the land?

(c) Finally, let the Cabinet Secretary tell us what is the fate of the 2,500 learners of the Visa Oshwal Primary School, in light of the impending eviction by the private developer.

The Deputy Speaker (Sen. Kathuri): There are other two Questions from Senator for Kirinyaga County, Sen. (Dr.) Murango. Sen. Orwoba had approached the Chair and informed me that she had been requested to ask the Questions on behalf of the Senator.

Proceed to ask the two Questions simultaneously.

Question No.006

STAFFING LEVELS AT KIRINYAGA UNIVERSITY

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

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

(a) Could the Cabinet Secretary indicate the staffing levels at Kirinyaga University, indicating the number of academic, administrative and support staff?

(b) What proportion of each cadre of staff in the university is from the local community, and could the Cabinet Secretary clarify whether there is a policy in place requiring universities to employ a fixed quota of staff from the local community?

(c) What measures has the Government put in place to ensure that institutions of higher learning involve the local community in their operations?

Question No.024

ESTABLISHMENT OF NATIONAL
POLYTECHNICS/TTIS IN COUNTIES

(a) Are there plans by the Government to establish a National Polytechnic or Technical Training Institute (TTI) in Kirinyaga County, and if so, could the Cabinet Secretary clarify whether budgetary allocation for the same will be made in the financial year 2024/ 2025?

(b) What initiative has the Government taken to establish at least one National Polytechnic or TTI in all the 47 counties?

The Deputy Speaker (Sen. Kathuri): The other Questions are from Sen. Oketch Gicheru. I do not see him around, the same case for the Senators of Kakamega County and Tharaka-Nithi County. I do not see these three Senators around or have any instructions from them.

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

The Deputy Speaker (Sen. Kathuri): Let the Cabinet Secretary respond to the Questions by Sen. Sifuna and Sen. (Dr) Murango. I am informed that Sen. (Dr.) Murango wrote a letter to indicate that he would not be around. Sen. Oketch Gicheru will hopefully come back and ask his Question.

The Cabinet Secretary for Education (Hon. Machogu): Thank you, Mr. Deputy Speaker, Sir and hon. Members for according me this opportunity to respond to the number of Questions raised by the Senate. I will start with the Question from the Senator of Nairobi City County, which is about this particular school.

The Visa Oshwal Primary School was registered as a public school by the Ministry of Education vide Registration Certificate Number PE/572/97 dated 12th August, 1997. The school was re-registered to align the status with the County Education Board on 6th December, 2016. Copies of the Registration Certificates have been provided herewith. In 2023, the School was approved to host a Junior School. Currently, the school has a total enrolment of 2,535 learners comprising 1,273 boys and 1,262 girls.

There are 91 learners in Early Childhood Development (ECDE); 2,347 learners in Primary School and 742 learners in Junior School. There are 45 teachers employed by the

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Teachers Service Commission and 45 staff employed by the Board of Management and the Nairobi City County Government. The school serves about 1,800 parents and guardians.

The land on which the school stands, that is, LR 209/5996, was granted by the Government of Kenya to the Visa Oshwal Community Nairobi Registered Trustees in 1954. The land was granted for a 99-year lease, effective 1954. The conditions of the grant included that the land shall be used for the construction of a school and that the lease shall terminate if the school ceases to operate as such.

The school initially ran as an all-Asian school before learners from other races were admitted in the years after Independence, starting in 1969. All along, the school was run with teachers employed by the Teachers Service Commission on the understanding that this is a public school. It also received monetary support under the Free Primary School Programme. The school buildings, on the other hand, were put up by the Trustees.

The question of whether the school is public or private has been the subject of various court cases. We have had protracted court cases for several years. The total number of these cases is five, which I am sure the hon. Senator from Nairobi is aware of.

These cases are-

(a) Nairobi High Court Civil Case No. 1474 of 2005, where the Visa Oshwal Community Nairobi Registered Trustees sued the then Nairobi City Council. The Trustees moved to court alleging that they have owned the land on which Visa Oshwal Primary School operated since 1954 was built using the community's resources. They claimed that the City Council of Nairobi had taken over the school and converted it into a public school without lawful authority. They thus sought vacant possession of the property. The court ruled in their favour, as per the attached judgement. However, the status quo remained.

The second case was-

(b) Nairobi High Court Constitutional Petition No.262 of 2013: Shree Visa Oshwal Community Nairobi Registered Trustees versus the Attorney-General, the Commissioner of Lands and the Cabinet Secretary in charge of Education.

In a letter dated 4th January, 2013, the Commissioner of Lands wrote to the Trustees giving them six months' notice to surrender the subject land. The Trustees filed a case against the Commissioner of Lands alleging that the Commissioner's notice violated their constitutional right to property and fair administrative action.

On 28th March, 2014, the court dismissed the case as per the attached judgement. The court found that the school had been built on public school since registration, having received teachers from the Teachers Service Commission and funding under the Free Primary Education Programme. A copy of the judgement is provided herewith.

Following that, there was another case-

(c) Nairobi Court of Appeal Civil Appeal No.126 of 2014 Visa Oshwal Community Nairobi Registered Trustees versus the Attorney-General, the Commissioner of Lands, and the Cabinet Secretary in Charge of Education.

This was an appeal by the Trustees against the judgement of 28th March, 2014. The Court of Appeal rendered its decision on 22nd February, 2019, and found in favor of

the Trustees. The court affirmed their rights over the land and held that there was no basis for the Commissioner of Lands to require the Trustees to surrender the land. The Court of Appeal reasoned that the conditions in the grant did not categorize the school that was to be constructed, whether it was for public or private use.

The matter was taken to the Supreme Court under Application No.20 (E043) of 2020. The board of management, Visa Oshwal Primary School versus Shree Visa Oshwal Community Nairobi Registered Trustees, Attorney General, Commissioner of Lands, Cabinet Secretary Ministry of Education.

The School's board of management applied for leave from the Supreme Court to appeal against the decision of 22nd February, 2019, by the Court of Appeal. In its Ruling issued on 17th February, 2022, the Supreme Court found that the fate of a public school is a matter of public interest and that the board of management should be allowed to ventilate the matter in a proper forum. The Supreme Court directed the School's board of management to institute its claim at the Environment and Land Court.

Consequently, the Board of Management filed the case Nairobi ELC No. E176 of 2022: The Board of Management, Visa Oshwal Primary School versus Shree Visa Oshwal Community Nairobi Registered Trustees, Ministry of Education, the National Land Commission, and the Attorney General.

The case seeks a declaration by the court that Visa Oshwal Primary School is a public primary school and that the land on which it sits is public land for the public purpose of operating a school. The Ministry of Education, in conjunction with the Attorney-General, filed an Affidavit in support of the school's case. In the meantime, the school applied for conservatory orders to injunct the Trustees from interfering with the management of the school. This application was dismissed by the court on 24th November, 2022. The original application is still pending in court.

The Ministry is working with the Attorney-General and the board of management to safeguard and maintain the position that the school is a public school, occupying land that was set aside for a public purpose.

The position of the Ministry is clear that we will continue to fight this matter in court until the true position is maintained, that the land is for public use and that this is a public school. The 2,500 students are still studying in this school. It has not reached a point where we can say that there are any such eviction orders, which can take effect and we are still maintaining that and fighting the matter in court.

I so submit.

The Deputy Speaker (Sen. Kathuri): Proceed with the other Questions. Give answers to the other Questions from Kirinyaga County.

The Cabinet Secretary for Education (Hon. Machogu): Thank you very much, Mr. Speaker, Sir.

The Kirinyaga issue is that Kirinyaga University is a public university that was---

The Deputy Speaker (Sen. Kathuri): If possible, you can just summarise the responses.

The Cabinet Secretary for Education (Hon. Machogu): Thank you very much, Mr. Deputy Speaker, Sir. That is better.

Kirinyaga University is a chartered public university since 2016 and the total number of staff at this particular university is 284. Out of these 284 staff, 69 are from the local community, that is, Kirinyaga County, whereas 215 are from other counties across the country.

The total number of support staff is 48. Out of this, 30 are from the local community, that is, Kirinyaga County, which represents 62.5 per cent. The total number of clerical and administrative staff is 116, and out of this, 27 are from the local community, that is, Kirinyaga County. That represents 23.27 per cent.

The total number of academic staff is 120, and out of this, 12 are from the local community, which again translates to 10 per cent. I have shown a schedule which is indicating clearly on this particular distribution.

In the second part of the question, I would like to state that the University Act is very clear that the responsibility of employing any staff of a university is given to the University Council.

Of course, we are aware that the Constitution of Kenya in Article 232, provides that values and principles of public service. Particularly when it comes to matters of recruitment, we must take into consideration the following factors -

- (a) Fair competition and merit based on appointment and promotion.
- (b) It must be representative of Kenya's diverse communities as well as afford adequate and equal opportunities for appointment, training and advancement at all levels.

Again, when you come to Section 7 of the National Cohesion and Integration Act, it reinforces this provision of the Constitution, which clearly states that we must seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one-third of its staff from the same ethnic community.

Therefore, the university being a State Corporation, bound by all these public sector laws on recruitment and employment of staff, we are also ensuring that we comply as much as possible as far as this is concerned.

There is no policy apart from the laws that I have stated that says employment must be of a fixed quota from the local community. However, generally, the lower cadre, which is from Grade Two to Grade Eight, which comprises the support staff and junior administrative staff, normally originate from the locality of the university.

Consequently, this is not only for Kirinyaga University, but all over other public universities. You can see that the lower cadre staff of Kirinyaga University are 6.5 per cent, who originate from the local community, which is Kirinyaga County.

The impact on the local community is another set of Question One. I would like to state that the local community is very important in the context that it is within that particular community that the university operates.

Of course, it is that particular community that has to create a conducive environment for the university and in particular the security and safety of the students, even as they go out of campus once in a while, as we also rely on the local community. Therefore, their support is very critical. It is also very clear that if universities provide

employment opportunities in the lower cadre that I have said, it is the local community that can benefit.

Additionally, even when there are casual employment opportunities, the members of the local community, particularly when we have any construction sites within universities, which as you are aware, have been quite a number and even for the university's funds, we engage casual employees from the local community.

Also, the universities impact very positively on the local communities because they offer business opportunities such as accommodation hostels for the university students and staff. Also, the normal supplies to the university are done by the communities.

From a policy standpoint, we always encourage universities to engage in research and community outreach, such that the findings of any research done can be of impact to the surrounding local community.

For instance, if you go to the University of Dedan Kimathi, you can see the kind of engagements they have done in matters of coffee growing and the great impact that it has had on the surrounding communities.

I think we have covered all the areas in that particular Question. I would like to go to the other section, also on Kirinyaga.

Mr. Deputy Speaker, Sir, the other one is about what the national Government is doing to establish a national Polytechnic in Kirinyaga.

As we are all aware, in 2016 the Government came up with a policy of establishing at least one national polytechnic in every county. This was focusing on the constitutional principles of equity, regional balance and devolution of services. Alongside this, there was also a sub-policy of establishing at least one Technical and Vocational Education and Training (TVET) Institution in each constituency in all our 290 constituencies.

As of now, with effect from 2016, immediately there were parameters and there was a clear criterion given which TVET institution will qualify to be in a national polytechnic status. Among the criteria that we followed was that the acreage must be a minimum of 50 hectares and they must have a title for that and accreditation from the Technical and Vocational Education and Training Authority (TVETA) for the programmes that they offer, which must be approved. Additionally, it must also be situated in high potential area where there is demand for TVET courses. Of course, once we establish a national polytechnic, there must be a request from the local stakeholders for the establishment of a national polytechnic.

In the case of Kirinyaga, we have three Technical Training Institutions (TTIs). One is Kirinyaga Central TTI, which is in Kirinyaga Central Constituency, where we have only 93 trainees. The next one we have is in Mwea Constituency, the Mwea TTI, which has 232 trainees. The third one is in Ndia TTI, and it has only 594 trainees. The one which is undergoing construction is the Gichugu TTI, which is 80 per cent complete.

Mr. Deputy Speaker, Sir, out of these four, we have not as yet received any such application for the settlement, so that we can undertake the necessary process that TVET undertakes for it to be known whether it qualifies for a national polytechnic or it does not.

Last year, apart from the eight that were started way back in 2016, we established 13 more national polytechnics. So, in total, we now have 24 national polytechnics in 22 counties. There are 25 counties that are yet to apply for national polytechnics.

As far as Technical Training Institutes (TTIs) are concerned, we have 237 TTIs in our 237 constituencies. We have 52 to go. In this particular Financial Year, we got funds to construct 15. After this Financial Year, we will remain with the 37. Progressively, as we get funds, we want to build one in each and every constituency.

I submit, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Okay. Let us get the other Question from Sen. Oketch Gicheru.

Question No. 034

INFRASTRUCTURAL PREPAREDNESS FOR CBC

Sen. Oketch Gicheru: Thank you, Mr. Deputy Speaker, Sir. Good afternoon, hon. Cabinet Secretary. It is my pleasure to have you here. My Question is an assessment of what is going on with the Competency Based Curriculum (CBC).

I will start with asking the Cabinet Secretary the following-

(a) What progress has the Government made in putting up necessary infrastructure, including classrooms, libraries and laboratories in readiness for the enrolment of the first cohort of the CBC class to join Grade Nine? Could the Cabinet Secretary confirm whether the progress aligns with the originally set timelines that we all know as a country?

(b) How is the Government actively promoting awareness of the CBC Curriculum? Could the Cabinet Secretary, in that clarification, help us understand whether the Government undertakes consultations on curriculum review with other key stakeholders? Of interest for us would be parent, teachers and publishers.

(c) Could the Cabinet Secretary provide an update on the implementation of the recommendations of the Presidential Working Party on education reform?

This is because that particular taskforce had some very interesting timelines that we do not know whether it will be achieved before our children join Grade Nine.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, proceed.

The Cabinet Secretary for Education (Hon. Machogu): Thank you, Mr. Deputy Speaker, Sir, and hon. Members. As you are aware, Sen. Oketch Gicheru, junior schools across the country currently have an enrolment of 2,279,052 learners in Grade Seven and Grade Eight.

Of course, as we know, in the old system of 8-4-4, we had classrooms in Standard Seven and Standard Eight, which as of now, they have transitioned to Senior School, which is our secondary school. So, as far as the Grade Seven and Grade Eight are concerned, we do not have a problem of classrooms.

The Ministry has also done a needs assessment and determined that we have a shortage of 15,021 classrooms for those who will be transitioning into Grade Nine next

year. We have tabulated the number of classrooms we require countrywide as per county. I have attached the table there for Members to confirm.

The Government has also taken proactive steps to ensure that the infrastructure requirement for the year 2025 is in place. For that particular purpose, the Government has allocated a conditional grant of Kshs3.39 billion to the National Government Constituencies Development Fund (NG-CDF), which is being distributed across constituencies.

That is, of course, taking into consideration the needs assessment that we have done, covering the entire country.

We have agreed that the NG-CDF is also supposed to match these funding from their allocation, such that once we do one classroom using these funds, they will also do one classroom. Out of this, we expect to do 6,000 integrated resource centres for our junior schools.

Additionally, we have engaged the World Bank and have an allocation of Kshs9 billion, money which we will also use to construct another 9,000 classrooms. In total, that will make 15,000.

We are working hard this particular year in order to make sure that the necessary infrastructural development in our schools is done in readiness for admission of Grade Nine pupils, which will be domiciled in the existing primary schools. I want to emphasize on that point. Grade Nine will be in the existing primary schools. They will go to Senior Schools after Grade Nine.

On promoting awareness, we have taken a lot of steps to promote awareness on the CBC through an inclusive and participatory process. One such process was undertaken way back in 2019. We know that we are undertaking a first implementation of the CBC since 2017.

They will have two years in pre-primary, six years in primary, three years in junior school, three years in senior school and three years in university. That is the kind of structure we have.

The implementation of this particular structure was based on Sessional Paper No.1 of 2019, which was a post framework for reforming education and training for sustainable development in Kenya. The same Sessional Paper was presented in the last Parliament, where it was debated and approved. It is on the basis of that approved Policy Paper that we have that particular structure in place.

We have also employed various other methods to create awareness. They include public forums, press releases, circulars and official statements to convey information on key issues on CBC, such as the domiciling of junior schools.

We also had various public forums on the guidelines for implementation of the junior schools, including the rationalisation of the learning areas. We reduced the learning areas as recommended by Kenya Institute of Curriculum Development (KICD) in almost each and every level.

The other State Agencies which are involved in ---

The Deputy Speaker (Hon. Kathuri): Hon. Cabinet Secretary, sorry for interrupting you, but I think Sen. Eddie seems to be satisfied with your response.

Please, summarise so that I can give a few Senators some two or three minutes to ask supplementary questions.

Sen. Eddie, since you have the response, if you are satisfied with the response by the Cabinet Secretary, then we can save some minutes for the other Senators. Are you satisfied?

(Sen. Oketch Gicheru spoke off record)

You are satisfied.

Hon. Cabinet Secretary, the Senator is happy with your response. I want to save you some time, so that I can give a few Senators a chance to ask supplementary questions.

I will start with your Senator for Kisii County.

Sen. Onyonka: Mr. Deputy Speaker, Sir, for me, this is the first time that I am in this House when the Cabinet Secretary, who comes from my county, is answering questions. I am happy to see him.

Mr. Deputy Speaker, Sir, I want to ask the Cabinet Secretary that all the Technical and Vocational Education and Training (TVET) institutes, which are under his Ministry, seem to be having problems because most of them are managed and run by the county governments, yet there is supposed to be an interface between the Ministry and what the county governments are doing.

The question I am bringing to the fore is that secondary schools and universities are given bursaries. The problem is that the students who go to the TVETs are supposed to be given bursaries, but we do not have those lists.

I, as the Senator for Kisii County, do not know whether I should expect the county government to pay their bursaries or whether it is the Ministry that is supposed to do that.

Mr. Deputy Speaker, Sir, the second one---

The Deputy Speaker (Sen. Kathuri): You only have one supplementary question.

Sen. Onyonka: Just one more, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Mo Fire has a Question and it had skipped my mind.

Sen. Onyonka: Just one more and it will not take 20 seconds.

The Deputy Speaker (Sen. Kathuri): Please.

Sen. Onyonka: Mr. Deputy Speaker, Sir, regarding the way the Cabinet Secretary has given conditional grants to the National Government Constituencies Development Fund (NG-CDF), and this is money that goes to the CDF construction projects in primary and secondary schools, is he also considering the possibility to avail funds for the TVETs under the county governments, so that they can get conditional grants?

This is because, some of these TVETs do not even have furniture or equipment, so that they can be useful pertaining to their relationship with the Kenya Kwanza Government's policy and agenda of introducing industrial parks. I believe that the

children from the TVETs are the ones who should be recruited to go work in those industrial parks because the two are related.

I thank you.

The Deputy Speaker (Sen. Kathuri): Before you answer, Sen. Mo Fire Mwenda Gataya.

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir. I am seeking to know from the Cabinet Secretary when the Government will distribute Kshs9 million allocated to Kamutuandu Primary School in Gatunga Ward, in Tharaka-Nithi County for infrastructural development, being the balance of Kshs10 million, which was allocated to the school in the Financial Year 2019/2020.

At the same time, could the Cabinet Secretary explain the reason for the delay of the disbursement of the Kshs9 million to the school? It has taken a lot of time.

The Deputy Speaker (Sen. Kathuri): Answer the two questions.

The Cabinet Secretary for Education (Hon. Machogu): Thank you, Mr. Deputy Speaker, Sir. I will start with the question from the hon. Senator from my County, Kisii.

We have two categories. One is the Technical Training Institutes (TTIs) under the National Government and which the Government's policy is to ensure that we establish one in each and every constituency. Up to now, we have 238 established. We have 52 to go and in this Financial Year, we have the budgetary allocation to do 15 of them. Therefore, we will remain with 37.

Out of this, it is the Government that will provide funds. Like for each of the 15, we have been provided with Kshs52 million and the constituencies are also supposed to give Kshs10 million, such that the total cost of each and every one of them will be Kshs62 million and not more than that.

Mr. Deputy Speaker, Sir, for the students going to these particular colleges, the Government gives capitation, based on the enrolment numbers. We also give capitation to the students joining these TTI colleges. The students also enjoy getting loans from the Higher Education Loans Board (HELB) and special grants, which the Government gives.

Vocational Training Centres (VTC) is the preserve and responsibility of our county governments. This is clearly spelt out in the Fourth Schedule of our Constitution, which separates functions of the National Government from county governments.

As you are aware, before 2021, the national Government used to give conditional grants to the counties for purposes of these VTCs to cater for equipment. However, following arguments and I think consideration between the National Government and county governments, the county governments requested for conversion of this conditional grant of Kshs2 billion to an equalization fund. Unfortunately, since that time, the money is given out by the national Government as equalization fund and it is not used purposely and strictly for VTCs. Some of them are in a pathetic situation.

We are in a discussion as Ministry of Education with the county government through the Committee of Education on what we can do to have these VTCs serve the purpose for which they were intended. If we do not get it right here, the kind of skilled people with the kind of competence we require at that particular level will be quite a challenge. Therefore, we are aware of the problem with the VTCs.

We do not extend any capitation from national Government to this one because it is the county governments that are supposed to be responsible. So, there is that problem that we will hopefully be able to sort out in the near future.

On the question from the Senator of Tharaka-Nithi about the primary school, I am aware and sorry that this was brought to my notice. We do not have it in the schedule of those that were pending because we would have done something. I see it has been pending since Financial Year 2019/2020.

It is only in the Financial Year (FY)2020/2021 that an allocation of Kshs1 million was made to this primary school. Therefore, there is a balance of Kshs9 million. What I have now to give to the entire country, which I must ensure is spread to all schools in all the 47 counties in Kenya, is only Kshs102 million.

You can see that resources have been limited. Progressively, we will be allocating depending on what we have. This year, I have allocated Kshs2 million to that school. My good friend from Tharaka-Nithi, if you pass through my office next week, you will be able to get confirmation that the money has been deposited in the school account.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Deputy Speaker, Sir. I beg that you allow me to ask the Chairperson of the Committee on Education to place two Questions to the CS.

The Deputy Speaker (Sen. Kathuri): Proceed.

Sen. Joe Nyutu: Thank you, Mr. Deputy Speaker. The first question relates to what Sen. Eddie has asked. This is about preparations on the admission to Grade 9, which the CS has handled very well.

My question to the Cabinet Secretary is, what arrangements are there even as we gear towards 2026 when we are going to admit the first lot in the Senior Secondary School, which is Grade 10? I am asking this specifically in order for the Cabinet Secretary to let the House know because we know that there are going to be three pathways in secondary schools, as we know them today.

There will be STEM, arts and sports and languages and business. So, the clarification that I am seeking is, will we have specific schools offering specific pathways or all schools in Grade 10 will offer all the three pathways? That is my first question.

Number two, and which concerns me as Chairperson of the Standing Committee on Education, because people keep calling us, is from an appearance by the Permanent Secretary for Basic Education at the National Assembly, where he said that the Government or the Ministry is being forced to reduce capitation to secondary school students, which has stood above Kshs22,000. The PS reported that because of the growing numbers of students in secondary schools, the Ministry has been forced to reduce this to Kshs17, 000 for every student.

My question is because we know that the allocation to the Ministry of Education was highest this year, that is, the budgetary allocation. Are there no internal mechanisms of seeing to it that we allocate more to capitation from whatever has been allocated, so that students continue receiving the Kshs22,000, if not more?

Thank you.

The Deputy Speaker (Sen. Kathuri): Let us get another question from Sen. (Dr) Oburu.

Sen. (Dr) Oburu: Thank you, Mr. Deputy Speaker, Sir. I do not admire the Cabinet Secretary in the position in which he is, because it is a very hot seat.

The Deputy Speaker (Sen. Kathuri): Go straight to the more sensitive because of time.

Sen. (Dr.) Oburu: I have two questions. On the Question of Visa Oshwal question brought by Hon. Sifuna, it appears the Ministry has been losing successive cases to the Visa Oshwal community, one after another. Now, they have even gone to the Supreme Court and the Supreme Court referred them to some environmental courts, but they have lost again.

Why should you put 2,000 students in jeopardy? Why should the Ministry not consider it? If you cannot defeat them, join them. Why can you not consider it? That trustee is not individual or private, it is for that community called Oshwal.

Why do you not negotiate with them, so that the school is managed by the public, by the Ministry, in perpetuity, and they continue to be there calling themselves trustees and the students are not jeopardized? Why do you not consider that option because we know schools where that happens?

If you allow me, just another question altogether, on the one of Technical Training Colleges.

The Deputy Speaker (Sen. Kathuri): Pose the direct question.

Sen. (Dr) Oburu: Yes, it is direct, Mr. Deputy Speaker, Sir. What kind of representation do you have? Why do you keep on losing cases? I have a TTC in my constituency of Bondo, where it was so clear that I am the one who paid for the land, 10 acres for that TTC, but they lost the case. What kind of representation do you have legally for yourself?

Why do you keep on losing such cases and how many faculties are supposed to be in a TTC or a Technical Training Institute (TTI)? In a TTI, how many faculties are you supposed to have because that one we have, we are supposed to have five, and we only have building and civil engineering?

The others which were supposed to be there include mechanical, electrical, fibre, and none of them is there. How many are supposed to be there in a TTI?

The Deputy Speaker (Sen. Kathuri): Sen. Chute, you have the Floor.

Sen. Chute: Thank you, Mr. Deputy Speaker, Sir. Mine will be a quick one.

Article 439(1) (f) of the Constitution says:

“Every person has the right to education.”

In Marsabit County, North Horr Constituency, there is a problem amongst the Muslim community and the board of North Horr schools about wearing the hijab. Is the Cabinet Secretary aware of the problem that has occurred in North Horr? If yes, how is he going to solve that problem?

The Deputy Speaker (Sen. Kathuri): Next is Sen. Miraj.

Sen. Miraj: Thank you, Mr. Deputy Speaker, Sir. Could the Cabinet Secretary provide the current status of the Recognition of the Prior Learning (RPL) programme that is supposed to identify, assess and certify skills that were learned in the informal sector?

The Deputy Speaker (Sen. Kathuri): Sen. Lemaletian, please, proceed.

Sen. Lemaletian: Thank you, Mr. Deputy Speaker, Sir. I also want to ask if the Cabinet Secretary can tell the House if he is aware that several schools have been closed in Samburu County due to insecurity and if any emergency funds have been set aside by his Ministry to ensure that the schools in Samburu and other parts of the country, where insecurity has led to closure of schools and displacement of students resume operation.

Lastly, since the Cabinet Secretary for Roads and Transport is visiting Samburu County on the 22nd, I would also like to know if he has put in his plans, a day to visit these affected areas in Samburu County, to ascertain the level of displacement of schools due to insecurity because about five schools and several ECDEs centres have closed as we speak.

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, you have the Floor. That is the last one so that the Cabinet Secretary can answer.

Sen. Olekina: Asante, Bw. Naibu Spika. Ningependa kupata majibu kutoka kwa Mhe. Waziri wa Elimu kuhusiana na Katiba ya Kenya, Makala ya 189 inayozungumzia juu ya ushirikiano kati ya serikali gatuzi na Serikali ya kitaifa, imeeleza vile ambavyo serikali hizi zinaweza kushirikiana.

Ratiba 4, Sehemu ya 16 pia imegawa majukumu za Serikali Kuu na serikali gatuzi. Ningependa kuelewa kutoka kwa Waziri, imekuwaje shule za sekondari na pia shule za msingi kwa sasa zinajengwa na serikali gatuzi.

Imekuwaje kuwa madarasa za ECDE ama yale madarasa ya kiwango cha chini hazijengwi kabisa na serikali gatuzi na Serikali Kuu haisumbuliwi na jambo hilo. Ninataka kujua kama kuna ushirikiano kati ya Serikali Kuu na serikali gatuzi.

The Deputy Speaker (Sen. Kathuri): Thank you. Because of the time and interest this issue has generated, and the Cabinet Secretary has a few minutes to answer the questions that you have asked, I exercise Standing Order No.34(2)(a) to extend this Sitting for another 15 minutes. By 1.15 pm, we should adjourn this session.

So, Sen. Lomenen, you may proceed and briefly ask your question.

Sen. Lomenen: Thank you, Mr. Deputy Speaker, Sir. I would like to ask the Cabinet Secretary whether the schools that were destroyed and affected by the bandits in Turkana County have been constructed.

The Deputy Speaker (Sen. Kathuri): So, Cabinet Secretary, you have various questions and you can just sum up your response to all of them.

The Cabinet Secretary for Education (Hon. Machogu): Thank you, Mr. Deputy Speaker, Sir. The first Question is from the Senator for Murang'a, who is my Chair of the Standing Committee on Education.

I would like to assure the House that all the necessary preparations for senior school will commence with effect from 2026 and are in top gear. First, we have been able to look to at the aspect of infrastructural development. According to our assessment, it will be three years and the number of classrooms and laboratories in the existing

secondary schools is quite adequate. So, they will accommodate all our needs as far as infrastructural development is concerned.

Mr. Deputy Speaker, Sir, you can also confirm that this since 2022, this administration has put in place good arrangements for teacher recruitment. Up to now, we have recruited 56,750 teachers right from primary, junior, all the way to senior school.

In order for us to prepare these teachers to be properly equipped in matters of junior and senior school, we have undertaken lecturing in areas of pedagogy. We have also worked on the curriculum not only for primary and junior schools, but the Kenya Institute of Curriculum Development (KICD) and have made the necessary preparations, such that when we come to 2026, we can have the curriculum in place.

As rightly said, we shall have three pathways. One is Science Technology Engineering and Mathematics (STEM), the other one is Social Sciences-commonly known as humanities, and the other one is Performing Arts, Music and Athletics.

This will be just like the years we went to school. After Form Four, we had Form Five and Form Six. If you were good in sciences or wanted to take a line in sciences, you were free to do so. We want to nurture talent. Not all of us can be talented in sciences or humanities. Some of us are good in athletics and performing arts and we want to develop and nurture talent, which has been identified.

We are coming up with a plan. We have come up with a Sessional paper, which will be discussed in Parliament plus the many amendments we have come up with emanating from the recommendations made by the presidential working party. It will have specific answers. There might be areas where we shall have pure STEM and in others a rolling mixture of schools undertaking humanities and pure sciences. However, I do not want to preempt that particular debate because I know the Sessional Paper 1 will be discussed in Parliament and we will agree on which way to go.

Concerning capitation, I think there was a Question from the Hon. Senator for Kakamega County. In that particular Question, I have indicated specifically where we are as far as matters capitation are concerned. I also want to confirm that, of course, the Government is committed to this. These are issues that are enshrined in the Constitution. We cannot run away from Article 53(1) (b). In the basic primary and secondary, we shall continue giving capitation.

Of course, the amounts supposed to be given in primary is Ksh1,420 per learner. In Junior School, we are supposed to give Kshs15,040 per learner per year and in Senior School, we are supposed to give Kshs22,240.

However, for the past six years, because of the reduced allocations--- From FY 2017/2018 the amount given was not exactly Kshs22,000, but Kshs21,000. Progressively as years have moved on, last Financial Year the amount we gave was Kshs17,000 per learner.

We are having discussions with the National Treasury on this. The Cabinet has directed accordingly because the allocation to education is based on numbers of students at whatever level. It is based on this that we get an allocation.

We are putting up a good case. Once the National Treasury and Parliament allocate adequate resources, we will restore the figures as given in 2018 at Kshs22,000

for senior schools. That way, our schools will not experience the kind of challenges we are undergoing now. Moving forward, we hope that things will be better than they have been before.

The other question was by Sen. (Dr.) Oburu on losing cases. Out of five cases we have had in court, we won two and lost three. When you go to a court of law, sometimes you win and sometimes you do not. We are putting up a serious fight and we are hopeful. When the Ministry is taken to court, we prepare the necessary documents and it is the Attorney-General who represents us. We will not let it go.

The other question was engagement with local communities where schools are situated. Before the Government said that parents should not give any amount of money, public schools used to be free, but some individuals would charge money. The problem came about when we stopped that.

We directed that public schools should not charge parents any money. That is when fights started where they wanted to get control of schools. They wanted to operate like private schools.

Faculties in Technical Training Institutes (TTIs) vary from one to another. However, we are encouraging all our TTIs, particularly those offering technical courses like building, civil engineering, electrical engineering, automotive, and mechatronics, and other business courses like design and fashion, hospitality, and other agricultural courses.

As I have said, it varies from one TTI to another. Nonetheless, we encourage faculties in the TTIs to have a minimum of five programmes. That is why in the last financial year, the Government employed 1,300 trainers. This year, we are in the process of hiring another 2,000 trainers, so that our TTIs are well-equipped as far as teaching and other equipment are concerned. We are also in the process of acquiring 71 pieces of equipment for 71 TTIs, such that they are equipped for all the required programmes.

We lost the case against Bondo Technical Training Institute and we have taken note of it. We will take it from there.

On Marsabit County, the Hon. Senator knows that ever since my appointment, I have been in Marsabit three times. We have been able to engage with the local leaders very seriously on matters education and we have been able to agree on the way to go.

Additionally, I was the chief guest in Marsabit during the Education Day attended by the local Members of Parliament (MPs) and Governor. We agreed on what to do on matters education, so that we can improve the quality and performance of education and we will be able to collaborate in order for us to be able to do that.

On Samburu County, I am aware there have been those cases particularly in Baringo and Turkana and because of that, you are aware that we gave funds to Turkana schools. I can confirm this, Hon. Senator.

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

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

Sen. Chute: Mr. Deputy Speaker, Sir, a quick one. My question was on the issue of *hijab* wearing in North Horr. There is a problem and that is what I asked.

The Cabinet Secretary for Education (Hon. Machogu): I will answer that, hon. Senator.

On the Samburu matter, although I am required to know the specific names of schools which have been closed down because of banditry and in collaboration with my colleague in Internal Security and National Administration, we should work on that.

Therefore, where we have been able to remedy the situation, like the areas in Baringo and Turkana, we have taken steps of reopening those schools. Therefore, we can engage so that you tell me the specific schools and see what mitigating factors we can undertake in collaboration with the other agencies in Government, and in particular, the Ministry of Internal Security and National Administration, so that we have the schools reopened as soon as possible.

Mr. Deputy Speaker, Sir, on recognition for prior learning, I am happy to report to this House that this is a policy which has been lying somewhere, but we have been able to take it up.

We engaged in public participation and also took it to Cabinet. It was approved and I am rolling out that policy. The Deputy President of the Republic of Kenya will be the chief guest on Friday, and it will give an opportunity to many of our young people. Since there are so many people who are qualified and have the skills and competencies of making anything. However, they do not have the certification. Therefore, we are also on that and we should start giving that with effect from Friday when we are rolling out that particular policy.

I am aware about Marsabit; I have had a meeting because they are schools, which were established by the Catholic Church. There has not been any problem for many years. All those schools have been there for almost 20 years, if not more; and the Senator knows there was no problem.

We had an isolated instance last year in one school and there was a recurrence of the same this particular year. We have directed the local community and the Priest of Catholic ---

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, you should be concluding.

The Cabinet Secretary for Education (Hon. Machogu): We have directed the local community to engage and I hope they should be able to get an amicable solution in this.

Finally, to my friend and neighbour from Narok, yes, we are two distinct levels of Governments, but we complement each other. That is why I said, particularly on matters of Early Childhood Education (ECD), we issue policy on matters where the county thinks that we can come in and support an educational institution such as a primary or a secondary school.

Therefore, we cannot say no, but as you know, it is mainly the MPs who are able to support us, as far as infrastructure is concerned. So, we really collaborate and assist each other.

The Deputy Speaker (Sen. Kathuri): Perhaps in 10 seconds, you can comment on Turkana.

The Cabinet Secretary for Education (Hon. Machogu): As I said, for the Turkana Schools, we have been able to rebuild five schools. We gave Kshs100 million to Turkana and the MP is aware. I personally went to Turkana and some of those schools have been reopened, but ---

The Deputy Speaker (Sen. Kathuri): Sen. Lomenen and Sen. Lemaletian, you will confirm with the Cabinet Secretary at his office.

Hon. Cabinet Secretary, thank you for getting time to come to the Senate to answer the Questions raised. I want to release you, so that we can conclude our business. Thank you so much, indeed.

*(The Cabinet Secretary for Education (Hon. Machogu)
was ushered out of the Chamber)*

The Questions which were directed to the National Treasury, the Ministry of Lands, Public Works, Housing and Urban Development and the Ministry of Interior and National Administration will be rescheduled maybe to next week.

Question No. 001

INTER-COMMUNAL CLASHES IN SONDU TOWN

(Question deferred)

Question No.002

CONSTRUCTION OF OFFICES FOR ADMINISTRATIVE
OFFICERS IN CHIAKARIGA SUB-COUNTY

(Question deferred)

Question No.008

ISSUANCE OF TITLE DEEDS TO PUBLIC
SCHOOLS IN KIRINYAGA COUNTY

(Question deferred)

Question No.017

VALUE OF GOVERNMENT LAND DESIGNATED FOR
AFFORDABLE HOUSING PROJECT

(Question deferred)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Question No.018

OWNERSHIP OF TOM MBOYA SOCIAL HALL
LAND IN MAKADARA CONSTITUENCY

(Question deferred)

Question No.021

FAILURE OF E-CITIZEN TO REFLECT PAYMENTS

(Question deferred)

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri: Hon. Senators, having concluded the business for which we extended the Siting, pursuant to Standing Order No.34 (2A), the Senate stands adjourned until today, Wednesday, 28th March, 2024, at 2.30 p.m.

The Senate rose at 1.16 p.m.