

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 16th April, 2024

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

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

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

Kindly proceed to call the first Order.

COMMUNICATION FROM THE CHAIR

WELCOME TO HON. SENATORS TO PART
II OF THE THIRD SESSION

The Speaker (Hon. Kingi): Hon. Senators, I take this opportunity to welcome hon. Senators back from recess, which coincided with the observance of the Easter holiday for the Christians and Ramadhan for the Muslims. I hope you had time to meet with your constituents, friends, and families over the past two weeks. I also hope that you took some time to rest and rejuvenate your spirits for the resumption of regular sittings.

Part II of the Senate Calendar commences today and will run until the rise of the Senate on Thursday, 30th May, 2024. In the coming days, we expect the Standing Committee on Finance and Budget to table its report on the Division of Revenue Bill. The passage of the Division of Revenue Bill will be followed by the introduction of the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill and the respective Cash Disbursements Schedules. These are crucial financial instruments for the effective functioning of county governments. I urge the Standing Committee on Finance and Budget to

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expeditiously conclude on the Division of Revenue Bill, as its conclusion will pave the way for the subsequent financial instruments.

As hon. Senators are aware, the legislative business before the Senate is heavy. The Speaker in consultation with the Senate leadership will be---

(Sen. Tobiko and Sen. Cheruiyot consulted loudly)

Sen. Tobiko and Majority Leader, may the Chair be heard in silence.

As hon. Senators are aware, the legislative business before the Senate is heavy. The Speaker in consultation with the Senate leadership will be keen to implement measures aimed at expediting the processing of the legislative agenda of the Senate. These measures will include enforcement of time limits on Petitions, Questions and Statements, as well as the time allocation for Motions and Bills, pursuant to the Standing Orders. In this respect and to facilitate expeditious consideration of business, respective movers must be in the Chamber whenever their business is scheduled in the Order Paper.

At its meeting held today, 16th April, 2024, the Senate Business Committee approved a Schedule for Statements, pursuant to Standing Order No.56 (1) (b) to be issued by committee chairpersons. We look forward to hearing about the work that committees are undertaking, the impact that this work is making, their plans for the next few months and a report on the status of implementation of resolutions of the Senate.

Concerning the facilitation of Members of Parliament, the Parliamentary Service Commission has expedited the completion of the Parliamentary Tower (*Bunge Tower*) to bridge the deficit in office accommodation for all Members of Parliament. The Commission has begun the process of allocation and subsequent occupation of the offices.

In this respect, the Office of the Clerk will shortly issue a circular communicating the allocation of offices to all Senators. The allocation of offices, as is the practice, is based on the Order of Precedence, as set out in Standing Order No.3 (2) of the Senate Standing Orders. The allocation also takes into account the leadership offices of the Senate. The Serjeant-at-Arms will liaise with Senators to coordinate the movement into the allocated offices. Senators are requested to cooperate to make the transition as smooth and seamless as possible.

Hon. Senators, as I conclude, I wish to reiterate that my office remains open and accessible to all Senators for consultations and support in the fulfilment of your duties.

I wish you fruitful deliberations in the Second Part of the Third Session.

I thank you, hon. Senators.

(Applause)

Next Order.

MESSAGE FROM THE NATIONAL ASSEMBLY**PASSAGE OF THE STATUTORY INSTRUMENTS (AMENDMENT) BILL,
NATIONAL ASSEMBLY BILLS NO.3 OF 2024**

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46 (3) and (5), I received the following Message while the Senate was on recess from the Speaker of the National Assembly, regarding the passage by the National Assembly of The Statutory Instruments (Amendment) Bill (National Assembly Bills No.3 of 2024)-

The Message, which is dated Tuesday 4th April, 2024, was received on Friday 5th April, 2024 in the Office of the Clerk of the Senate.

Pursuant to the provisions of Standing Order No.41 (1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly;

“WHEREAS, the Statutory Instruments (Amendment) Bill (National Assembly Bills No.3 of 2024) was published via Kenya Gazette Supplement No.27, on 1st February, 2024, as a Bill seeking to amend the provisions of the Statutory Instruments Act, 2013, to enable the Committee on Delegated Legislation to require the regulation making authority to submit to Parliament a copy of any regulation that ceases to have effect by operation of law, and;

to further obligate Parliament to notify the general public in two newspapers of nationwide circulation that a Statutory Instrument, which ceases to have effect by operation of law is a nullity;

AND WHEREAS, on Thursday 21st, March, 2024, the National Assembly considered the Statutory Instruments Act (Amendment) Bill (National Assembly Bills No.3 of 2024) and passed it with amendments in the form attached here to;

FURTHER NOTING THAT, the National Assembly referred the Statutory Instruments (Amendment) Bill, (National Assembly Bills No.2 of 2023) to the Senate for consideration on 6th December, 2023, the processing of the Statutory Instruments (Amendment) Bill (National Assembly Bills No.3 of 2024) be undertaken alongside the earlier Bill, with a view to harmonizing the two Bills;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders No.41 (1) and 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration.”

Hon. Senators, the Message was received with request from the Leader of the Majority Party of the National Assembly, who is the sponsor of the Bill, that the Senate Majority Leader co-sponsors and introduces the Bill in the Senate.

Standing Order No.163 (2) states that before a Bill originating from the National Assembly is read a First Time in the Senate, the Speaker shall notify the Senate whenever a message is received from the Speaker of the National Assembly, naming the Senator or Senators who have been nominated by the sponsor of the Bill to co-sponsor the Bills in the Senate.

Now, hon. Senators, in this regard, therefore, I direct that the Statutory Instruments (Amendment) Bill (National Assembly Bills No.3 of 2024) be read a First Time as listed in today's Order Paper.

I thank you.

Before we move to the next Order, I have a Communication to make. Hon. Senators, kindly hasten to take your seats.

(Several Senators walked into the Chamber)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE PARLIAMENT OF UGANDA

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a visiting delegation from the Parliament of Uganda. The delegation comprises Members and parliamentary officers of the Committee on Rules, Privileges and Discipline, who are on a benchmarking visit with the counterpart Committee in the Senate.

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

1. Hon. Rev. Fr. Charles Onen, MP - Leader of the Delegation
2. Hon. Margaret Aleper Achilla, MP
3. Hon. Alex Ndeezi, MP
4. Hon. Atkins Katusabe, MP
5. Hon. Nalule Aisha Kabanda, MP
6. Hon. Gabriel Okumu, MP
7. Hon. Catherine Akumu Mavenjina, MP
8. Mr. Elisha Bafirawala
9. Mr. Alfred Agany Smart
10. Ms. Agatha Akankunda

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

(Applause)

I will call upon the Majority Leader, in under one minute, to extend words of welcome and thereafter, the youthful Senator, Sen. (Dr.) Oburu Odinga, also to extend a word of welcome in that order.

Proceed, the Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. On behalf of my colleague Senators, I welcome our good friends and neighbours from their country of Uganda, our largest trading partner as a country. They are our important neighbours that we have enjoyed a good neighbourly relationship for the last many years.

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Mr. Speaker, Sir, it is my sincere hope that we shall continue to build on this relationship, strengthen it and make it better even for the greater realization of the objectives of both nations. I hope that our colleague Members of Parliament from Uganda will find time to interact with many Senators that are here.

Mr. Speaker, Sir, the unfortunate thing is that unless you are a sportsperson, there is no other formula for interacting with our colleagues Members of Parliament from the other East African countries. Therefore, I know people such as Sen. Maanzo who play no known sport either in the day or night are likely never to have met any other non-Kenyan Member of Parliament (MP) from East Africa. Therefore, he should take the advantage and greet the colleagues from Uganda on our behalf.

I thank you.

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir, for this opportunity. I want to take this opportunity to welcome the delegation from the Parliament of our great neighbour Uganda.

Uganda is indeed a very close neighbour to Kenya because it is the greatest trading partner of Kenya. If Kenya was to send ambassadors and high commissioners out of this country, Uganda should get the senior-most high commissioner because I think it has the highest volume of trade with our country Kenya.

I come from the neighbouring County of Siaya. We have a very cordial relationship with Uganda. Whenever there are any small skirmishes at the border, they are resolved through the administrative process very amicably.

I have been to the Parliament of Uganda and seen how vibrant the debates there are. I am very happy that the delegation chose the Senate to come and see how vibrant our Senate also works.

Thank you very much and you are all welcome to Kenya.

The Speaker (Hon. Kingi): Next Order.

PAPERS LAID

The Speaker (Hon. Kingi): Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Tuesday, 16th April, 2024-

THE NATIONAL POLICE SERVICE REPORT FOR 2023

The National Police Service Report for 2023.

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL
STATEMENTS OF VARIOUS ENTITIES

Report of the Auditor-General on financial statements of the County Executive of Elgeyo-Marakwet for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Assembly of Elgeyo-Marakwet for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Elgeyo Marakwet County Assembly Catering Services Revolving Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Elgeyo-Marakwet County Assembly Car and Mortgage Revolving Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements on Receiver of Revenue – Elgeyo-Marakwet County Government for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of County Revenue Fund – Elgeyo-Marakwet County Government for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Elgeyo-Marakwet Alcoholic Drinks Control Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Elgeyo-Marakwet County Education Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Executive of Isiolo for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Assembly of Isiolo for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Executive of Laikipia for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Assembly of Laikipia the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Assembly of Laikipia Car Loan and Mortgage Staff Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County State and Public Officers Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of County Revenue Fund – Laikipia County Government for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Receiver of Revenue – Laikipia County Government for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County Revenue Board for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County Enterprise Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County Emergency Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County Development Authority for the year ended 30th June, 2023.

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Report of the Auditor-General on financial statements of the County Assembly of Laikipia Car Loan and Mortgage Members Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County Co-operative Development Revolving Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Laikipia County Education Bursary Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Executive of Samburu for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of the County Assembly of Samburu for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Samburu County Executive Staff Mortgage Members Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Samburu County Persons Living with Disability Fund the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Samburu County Youth and Women Enterprise Development Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Samburu County Bursary Fund for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Receiver of Revenue – Samburu County Government for the year ended 30th June, 2023.

Report of the Auditor-General on financial statements of Samburu County Community Conservancies Fund for the year ended 30th June, 2023.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order, Clerk.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements Pursuant to Standing Order No.53(1). Proceed, Senator for Kisumu County, Sen. (Prof.) Tom Ojienda.

STATUS OF HEALTHCARE SERVICES IN KISUMU COUNTY

Sen. (Prof.) Tom Odiambo Ojienda, SC: Thank you, Mr. Speaker. I rise under Standing Order No.53 (1) to seek a Statement from the Standing Committee on Health concerning the status of healthcare service provision in all sub-counties in Kisumu County.

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Mr. Speaker, Sir, concerns have been raised about the lack of adequate supplies to healthcare facilities and stalled healthcare-related projects in Kisumu County, with some experiencing inordinate delays, which has a ripple effect on the provision of healthcare in Kisumu County.

In order to encourage the prudent use of county resources, the County Executive must be held to account in its implementation of projects. It is in this regard that I am seeking this Statement.

In the Statement, the Committee should-

(1) Examine the state of health facilities in Kisumu County and submit a report on the completion status of all health-related projects for the financial years 2017-2024, disclosing the budget expended on each project so far and the budget for completion and equipping of projects in Nyando, Muhoroni, Nyakach, Kisumu East, Kisumu West, Kisumu Central and Seme sub-counties.

(2) State the safety measures in place for the health workers in the said sub-county health facilities, disclosing whether there is protective gear for workers serving in health hazard units and the ratio of protective gear to the workers assigned to the units.

(3) Provide details on the Marwa Insurance Scheme, including its coverage areas, current enrolment figures and the beneficiary demographics and inform on its funding sources and the financial propriety and assess its sustainability and effectiveness, considering the national transition to the Social Health Insurance Fund (SHIF).

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Hon. Senator for Uasin Gishu County, Sen. Mandago

MISSING CHILDREN IN LANGAS ESTATE,
UASIN GISHU COUNTY

This Statement is dropped.

(Statement dropped)

Let us move to Statements pursuant to Standing Order 56(1) (b).

Proceed, Chairperson of Standing Committee on Agriculture, Livestock and Fisheries.

ACTIVITIES OF THE COMMITTEE ON
AGRICULTURE, LIVESTOCK AND FISHERIES

That Statement is dropped.

(Statement dropped)

The Speaker (Hon. Kingi): Proceed, Chairperson of the Standing Committee on Intergovernmental Relations.

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ACTIVITIES OF THE COMMITTEE ON DEVOLUTION
AND INTERGOVERNMENTAL RELATIONS

Sen. Abass: Mr. Speaker, Sir, I rise pursuant to Standing Order No.56 (1) (b) to make a Statement on the activities of the Standing Committee on Devolution and Intergovernmental Relations for the period commencing January to March, 2024.

During the reporting period, the Committee has carried out various activities pertaining to its mandate. As a snapshot, the Committee has transacted the following legislative business-

(a) The Committee considered the following two Bills, which it concluded and tabled the respective reports in the House on Thursday, 29th February, 2024 –

(1) The County Governments (Amendment) Bill, 2023 (Senate Bills No.25 of 2023).

(2) The County Assembly Services (Amendment) Bill 2023 (Senate Bills No.34 of 2023).

(b) The Committee has processed 10 Statements, which were sought from the Committee. Of the ten Statements, the Committee has considered and concluded two leaving eight statements pending before it.

(c) The Committee held a consultative retreat with the Principal Secretary of the State Department for Devolution and the Intergovernmental Relations Technical Committee, which deliberated on matters relating to Devolution and Intergovernmental Relations, including the status of transfer of devolved functions and the valuation & verification of assets and liabilities belonging to the counties.

I am pleased to report that the two offices have robustly carried out the exercises and are at the final stages of completion.

(d) In a remarkable display of prowess, the Committee visited Trans Nzoia County and successfully mediated a long-standing dispute between the County Governor and his Deputy, bringing harmony to their previously strained working relationship, which had threatened to hamper the smooth running of the county affairs.

It was a wonderful job done. The Deputy Governor has not been working with the Governor for the last one and a half years. However, they are now working together. This is a big achievement for the Committee.

The Committee is currently considering matters concerning the alleged discrimination in the implementation of development projects in various wards in Meru County. The Committee has invited the County Government of Meru to submit various documents to the Committee that will provide the relevant information on the implementation of projects within the County.

Additionally, the Committee shall conduct a project inspection and public participation in the various wards of the counties, where the aforementioned allegations were made.

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Mr. Speaker Sir, the situation in Meru is still fluid. We have a lot of communication from various Members of the Assembly that they have been denied development by the County Government. We are obliged to visit Meru County, so that we can verify all these things.

The Committee in future plans to-

(a) Conduct a county visit to Meru to meet with the County Governor, Deputy Governor, and the Members of the County Assembly in an effort to foster a harmonious working relationship between the stakeholders to ensure the smooth running of county affairs.

(b) Retreat with deputy governors of all 47 counties to deliberate on matters affecting the effective performance of their official duties in the Counties.

(c) Look into the performance of counties on implementation of the Budget with a view to oversight the utilisation of the resources meant for Devolution.

(d) Conduct a post-legislative scrutiny of the Urban Areas and Cities Act of 2011, with the objective of proposing amendments to the framework of the management and governance of cities and urban areas.

(e) Look into the process of the dissolution of a County Government with a view to making proposals on the enhanced role of the Senate in the process.

(f) Look into the current laws on the impeachment of a County Governor, including the proposed Impeachment Procedure Bill.

Lastly, I wish to appreciate your office, the Office of the Clerk and the Senate leadership for the steadfast support that they have accorded this Committee.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Chairperson of the Standing Committee on Education.

ACTIVITIES OF THE COMMITTEE ON EDUCATION

Sen. Joe Nyutu: Mr. Speaker, Sir, I rise pursuant to Standing Order No.56 (1) (b) to make a Statement relating to the activities of the Standing Committee on Education for the first quarter of the Third Session, covering the period between 15th February, 2024 to 15th April, 2024.

The Standing Committee on Education is established under Standing Order No.228 (3) of the Senate Standing Orders and is mandated to consider all matters related to education and training.

During the period under review, the Committee held 17 sittings, during which it considered 17 Statements, two public petitions, one Bill, conducted two inquiries and undertook two county oversight visits. During the same period, the Committee hosted one foreign delegation from the Republic of Uganda and held meetings with two counterpart committees from the county assemblies of Kajiado and Taita-Taveta.

Mr. Speaker, Sir, during the period under review, the Early Childhood Education (Amendment) Bill (Senate Bills No.54 of 2023), which seeks to provide for the improved remuneration and better welfare of teachers serving in early childhood centers in the counties, was committed to the Committee for consideration.

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Pursuant to the provisions of Article 118 and Standing Order No.145 (5) of the Senate Standing Orders, the Committee invited interested members of the public to submit their representations on the Bill and further held an engagement with the Council of Governors (CoG), in order to acquaint itself with the implementation status of the Early Childhood Development Education (ECDE) policies in the counties and the challenges facing implementation of the said policies. The Committee has reviewed all the submissions from the stakeholders and consequently prepared its report on the Bill, which is currently undergoing processing for tabling.

Mr. Speaker Sir, during the period under review, the Committee considered the following two petitions-

(a) Petition concerning the discrimination by Teachers' Service Commission (TSC) on payment of hardship allowances and enhanced house allowance to some teachers in Kilifi County; and,

(b) Petition concerning the discrimination in the payment of hardship allowance to teachers in Taita-Taveta County.

The issues raised in the two petitions are on inclusion and classification of some parts of Kilifi and Taita-Taveta counties as hardship areas and payment of attendant hardship allowances to the teachers in those areas. Petitioners in both petitions state that they qualify to be paid hardship allowances as per Legal Notice No.534 of 1997 and the Collective Bargaining Agreement (CBA) between TSC and the Teachers' Union.

During consideration of this petition, the Committee sought information and reports from the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management and the Chief Executive Officer of the TSC. The preliminary findings by the Committee indicate that there are discrepancies in the designation of hardship areas within various sectors of the public service.

The Committee was, however, informed that the Ministry of Public Service and Gender established an Inter-Agency Technical Committee in March 2019 to examine the current policies on hardship allowances and streamline payment. The Committee is, therefore, scheduled to meet the Cabinet Secretary for Public Service, Performance and Delivery Management on Thursday, 25th April, 2024 to seek supplementary information on the issues raised in the petitions and, thereafter, prepare its report.

Mr. Speaker, Sir, the Committee regrets delays in conclusion of these petitions, which has been occasioned by the unavailability of sufficient information and reports and frequent requests for postponement of meetings by the Cabinet Secretary for Public Service, Performance and Delivery Management.

During the period under review, 15 Statements were sought from the Committee in addition to 12 Statements that were not concluded in the Second Session.

In its consideration, the Committee sought reports and responses from the Ministry of Education, TSC, County Government Departments and other relevant state agencies. The Committee has since considered and concluded a total of 17

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Statements. A comprehensive status of the Statements sought from the Committee is annexed to this Report.

During consideration of these Statements, the Committee identified common thematic areas and invited the Cabinet Secretary for Education, the Chief Executive Officer of the TSC and the Chairperson of the CoG, to deliberate on the issues raised by Members. The reports and responses received from these agencies have since been shared with the Members and supplementary issues and matters requiring clarification have been referred back to the relevant agencies for additional responses.

Mr. Speaker, Sir, on Thursday, 28th March, 2024, the Committee held a meeting with the Cabinet Secretary for Education, to address concerns raised in the release of capitation funds to learning institutions, the infrastructural development and the congestion of learning institutions in the country.

During the Second Part of the Third Session, the Committee is scheduled to continue engagements and follow-up on the implementation status of the policies on the new University Funding Model and the Competence Based Curriculum (CBC).

The Committee is also scheduled to follow up on the Government commitment towards expeditious release of the Capitation Fund to learning institutions, payment of pending bills by the universities and the implementation of a Medical Insurance Cover to learners following termination of the *EduAfy*.

The Committee is also scheduled to hold meetings with the Council of Governors (CoG) to deliberate on the plight of ECDE Teachers and the status of infrastructural projects undertaken by county governments in the education sector.

Mr. Speaker Sir, the Committee has initiated two inquiries-

(a) an inquiry into the implementation status of ECDE policies in the counties and the plight of ECDE teachers and caregivers; and,

(b) an inquiry into the infrastructural development and the congestion of learning institutions in the country.

During the period under review, the Committee conducted two county oversight visits. The Committee conducted an oversight visit to Taita-Taveta County to meet with the petitioners on the petition concerning the discrimination of payment of hardship allowance to teachers in Taita-Taveta County and meet with the Governor to deliberate on the issues raised in the Statement sought on the management of Taita-Taveta County Revolving Education Fund.

The Committee further conducted an oversight visit to Kajiado County to acquaint itself with the implementation status of the ECDE and Technical and Vocational Education and Training (TVET) policies in the county. During the First Part of this Session, the Committee hosted members of the Education Policy Review Commission (EPRC) of the Republic of Uganda, who were in the country for a fact-finding mission.

The Committee was informed that the Education Policy Review Commission was established to investigate issues affecting the Education and Sports Sector in Uganda and generate recommendations and draft a White Paper that is a Macro Policy framework for Education and Sports services.

Mr. Speaker Sir, in the period under review, the Committee has also had its share of challenges during the processing of the pending legislative business. These include

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incomplete and unsatisfactory responses from the Ministries and Government agencies, frequent requests for postponement of the Committee meetings by different stakeholders invited to provide information and quorum hitches.

As I conclude, I wish to thank the Members of the Committee for their diligence and contributions during Committee activities.

I also wish to thank your office and the Office of the Clerk of the Senate for the continuous support accorded to the Committee in its work in executing its mandate.

I thank you.

THE 8TH INTERNATIONAL PARLIAMENTARIANS
CONFERENCE ON ICPD

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement on a matter of general topical concern, namely, the 8th International Parliamentarians Conference on the Implementation of the Programme of Action of the International Conference on Population and Development (ICPD) that was held in Oslo, Norway from 10th April to 12th April, 2024.

Mr. Speaker, Sir, parliamentarians from the across the globe attended the conference which was held as the world commemorated the 30th anniversary of the adoption of the ICPD programme of actions. Discussion centered around the challenges encountered and opportunities presented in championing sexual and reproductive health and rights.

Parliamentarians who attended the conference acknowledged the progress made in advancing sexual and reproductive health and rights despite the setbacks encountered due to societal challenges, the Covid-19 pandemic and other global crisis. Emphasis was placed on the critical role of parliamentarians in championing and effecting change towards universal access to sexual and reproductive health services, particularly for marginalized groups like women, girls and those affected by crisis, as well as the elimination of gender-based violence and harmful practices.

Mr. Speaker, Sir, the parliamentarians also emphasized the need to universally uphold human rights, expressing concern over the global backlash against agendas of sexual and reproductive health and rights. The matter of disproportionate impact of the climate crisis on vulnerable populations, particularly women and girls was also discussed.

The parliamentarians pledged that moving forward, they would work towards people-centred policies, data-driven solutions and harness digital technology to strengthen health systems and ensure universal access to sexual and reproductive health services.

The parliamentarians also committed to advocating for increased funding for sexual and reproductive health and rights programmes and international

development assistance in line with the Sustainable Development Goals (SDGs), aiming to shape a resilient and inclusive post 2030 agenda.

Mr. Speaker, Sir, in conclusion, the conference re-affirmed parliamentarians' commitment to advancing sexual and reproductive health and rights, gender equality and sustainable developments globally, recognizing the interconnectedness of these goals in shaping a resilient and equitable future for all.

I thank you.

The Speaker (Hon. Kingi): Sen. Cherarkey.

OUTSTANDING PERFORMANCE OF KENYAN
ATHLETES AT THE BOSTON MARATHON

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52 (1) to make a Statement of general topical concern and national importance, namely, the outstanding performance of our athletes at the Boston Marathon, held on Monday, 15th April, 2024, which was yesterday.

Once again, our athletes have brought immense pride to our country by giving us their outstanding performance at the Boston Marathon. Our female athletes dominated the event, securing all top positions on the podium, while their male counterparts also demonstrated exceptional prowess. Our athletes displayed extraordinary resilience to emerge victorious in the fierce competition marathon.

Mr. Speaker, Sir, in the women's marathon, Helen Obiri led the podium sweep by clocking two hours, 22 minutes and 37 seconds. I would have expected applause from all the women here.

(Applause)

She was followed closely by Sharon Lokedi in under two hours, 22 minutes and 45 seconds and our very own, almost 45 years old, mother and model, Edna Kiplagat, who secured third position, with a time of 2 hours, 23 minutes and 21 seconds.

In the men's marathon, Evans Chebet, a two-time defending champion, claimed the third place with a time of two hours, seven minutes and 22 seconds. The race was won by Ethiopia's Sisay Lemma, with a time of two hours, six minutes and 17 seconds.

Mr. Speaker, Sir, Kelvin Kiptum, and may his soul rest in peace, would have won this marathon under two hours. John Korir and Albert Korir, both representing Kenya, achieved the fourth and fifth position respectively.

On behalf of this House, I extend our warmest congratulations. In conclusion, I continue to urge this esteemed House to accord our athletes, both men and women, a chance to address the Senate. I believe the Senate Majority Leader and Senate Minority Leader have made their voices on this.

Such an opportunity would demonstrate our appreciation for their remarkable achievements in the international stage by always flying our flag high and will also motivate them to continue bringing honour to our nation.

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Mr. Speaker, Sir, furthermore, I call upon the Ministry of Youth Affairs Sports and the Arts, Athletics Kenya (AK) and the National Olympics Committee of Kenya (NOCK) in collaboration with the Beijing's Sports Competition, an international sports exchange centre, to provide a comprehensive update on the investigations concerning an incident during the Beijing Half Marathon.

This incident involved our athletes, ushering a Chinese marathoner to win a race. People were making comments that maybe Kenyans had started to pay loans by allowing them to win. This among other issues such as doping, fixing athletics and sports have tarnished our nation's repute internationally and undermined the principles of fair play and transparency in sportsmanship and it kills the spirit of competition.

Mr. Speaker, Sir, I urge our athletes, sportsmen and women that they should either win or lose. What we saw in the Beijing's Half Marathon is very unfortunate. The three were supposed to win, but they wanted a Chinese to win the race, and retreated. We must have a comprehensive report on the same.

Mr. Speaker, Sir, through you, I request the Committee on Labour and Social Welfare, led by my brother, Sen. (Rev.) Julius Murgor, the Senator for West Pokot, to look into this issue and update the House. I also plead with the Anti-Doping Agency of Kenya to intensify its efforts to root out unscrupulous agents and coaches, who engage in doping and match fixing, therefore, jeopardizing the careers of our sportsmen and women, and the reputation of our Kenyan sports.

I wish to congratulate and call upon Athletics Kenya (AK), Kenya Football Federation (KFF) and other sports federations in this country to hold elections as directed by the courts and ensure regular elections to allow efficiency in running this. That is important.

I also wish to congratulate our athletes for their exceptional performance at the Boston Marathon and other major marathons and competitions. I wish them well as they prepare to represent our nation in the upcoming Olympics in Paris, France. I assure them of our unwavering commitment and support and advocating for their welfare as they win us more golds.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Kingi): Sen. Chute? The Statement is dropped.

ALLEGED DUMPING OF NUCLEAR WASTE IN
NORTH-EASTERN REGION OF KENYA

(Statement dropped)

Sen. Mundigi? That Statement is dropped.

STATUS OF TEACHERS EMPLOYED BY TSC
ON FIXED TERM CONTRACTS

(Statement dropped)

Sen. Syengo? That Statement is dropped.

STATUS OF CONSTRUCTION OF ENZIU
RIVER BRIDGE

(Statement dropped)

Sen. Ledama Olekina? That Statement is dropped.

STATUS OF SENATORS' STATUTORY
DEDUCTIONS AND REMITTANCES

(Statement dropped)

Next Order, Clerk.

*(The Speaker (Hon. Kingi) consulted with the
Clerk-at-the-Table)*

Hon. Senators, I will allow 15 minutes for intervention on the Statements that have been made.

We will start with hon. Sen. Wambua.

Sen. Wambua: Mr. Speaker, Sir, I thank you. I will make two observations on the Statement read by the Chairman for the Committee on Education. The first comment is on the issue of the Teachers Service Commission (TSC) and the payment of hardship allowance to teachers in Kilifi and Taita-Taveta Counties.

I draw the attention of the Committee to the fact that this problem is more widespread than just in Kilifi and Taita-Taveta.

(Sen. Cherarkey spoke off record)

Mr. Speaker, Sir, please, restrain Sen. Cherarkey. He is distracting the Chair.

I believe that many Senators seated in this Chamber today have the same problem with TSC. I know for a fact that there is a big problem with TSC in Laikipia on the discrimination, on which teachers should earn hardship allowance and which should not. I have a big problem in Kitui County. I know the same can be said by many Senators here.

Mr. Speaker, Sir, the Committee should find time and reason to interrogate the synergy, if it does exist, between Government Ministries, State departments and

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independent constitutional commissions. I say this because this House has passed resolutions on 33 counties that have wards that have been declared as

I will give an example of Kitui County. In Kitui County, we have 17 wards that have been declared as marginalized by the Commission on Revenue Allocation (CRA) and the House has passed that declaration. It should follow automatically that teachers in those 17 wards that are marginalized should benefit from hardship allowances. However, in those wards, there are teachers who are not benefiting from hardship allowance.

Sen. Kinyua: On a point of order, Mr. Speaker, Sir. I concur with what Sen. Wambua is saying. The only thing I want to ask for purposes of clarity---

The Speaker (Hon. Kingi): What is your point of order? Start by quoting the Standing Order.

Sen. Kinyua: I am raising on Standing Order No.105. Is he talking about wards or sub-locations? The CRA was very clear that it is locations and not wards.

The Speaker (Hon. Kingi): Is that a point of information?
Proceed, Sen. Wambua.

Sen. Wambua: I will proceed, Mr. Speaker, Sir. My good friend, those sub-locations are found in wards. I am sure the Chair understands what I am talking about.

That synergy needs to be established, so that one arm of Government does not confer a benefit to employees in their department while another Arms of Government strip employees of benefits from the same region.

The second issue on that Statement is on Early Childhood Development Education (ECDE) scheme of service. That is a matter that this House must pronounce itself on loudly.

A resolution was passed in this House to have a standard scheme of service rolled out by all the counties, so that we do not have a county paying ECDE teachers Kshs10,000 a month through M-pesa and another one pays Kshs50,000 through payroll. The scheme of service for ECDE teachers is not something that should be implemented at the whim of a sitting governor. What will happen if we do not have that synergy and clarity?

Mr. Speaker, Sir, there is a reason ECDE is a devolved function. It is so that children have a strong base on the right to education from childhood. If we do not have a scheme of service for ECDE teachers running across all the counties, there will be serious discrimination and the purpose of devolving ECDE will be beaten. We must find a way of ensuring the ECDE scheme of service is rolled out uniformly across the counties.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir, for giving me the opportunity to comment on the Statement by Sen. Cherarkey.

Before I left my house, I was watching television. There is a section that brings trending news on what Kenyans have been saying. The focus was on what

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happened during that marathon. Of all the countries, a Chinese beat Kenyans. It did not make any sense to me. How on earth does that happen?

When I listened to the conversation, it emerged that Kenyans made serious observations, including the fact that in the past there was match-fixing. A new trend is now emerging, that is, race-fixing. The country's integrity was being discussed online. I agree with what Sen. Cherarkey has said that investigations must be carried out.

I want to use the Floor of this House to say that Kenya has obtained a special space in Africa. Where I sit in the Pan-African Parliament, every time people expect us to be athletic, when they look at me, I am a disappointment because I do not look as tall and athletic as I should. They have an image of how a Kenyan should be.

We have obtained a special place in the continent and world because of how we have projected athletics in Kenya and the medals we have won. We are jeopardizing the good name of Kenya. Some of the reasons that were being given is that the Chinese was their friend and so, they were letting him to pass.

We have discussed here and said that when they come home, they will be given tax-free incentives. We are going to honour them. Why on earth would someone sell the good name of our country? These are the Judas Iscariots who sold the Lord Jesus Christ for pieces of silver. They are selling this country for pieces of silver and that is serious.

We want investigations to be done in support of this Statement. The investigations should not just be carried out casually. There should be a serious investigation by the Athletics Kenya (AK). They should involve state agencies that are competent in that area, so that we take the blame where it belongs.

The people involved in this scam must be punished. We cannot sacrifice the name of our country because some people want to get a few pieces of silver.

Mr. Speaker, Sir, I support.

The Speaker (Hon. Kingi): Proceed, Sen. Mumma.

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to speak. Allow me to contribute to the Statement by Sen. Gloria Orwoba.

Hon. Milly Odhiambo and I attended the International Conference on Population and Development (ICPD) that was held in Oslo, courtesy of the Eastern and Southern Africa Parliamentary Caucus, which is a caucus of Members of Parliament (MPs) who have an interest in addressing matters relating to sexual reproductive health issues.

In addition to what Sen. Gloria has provided or presented to the House, I wish to indicate that I will share a declaration that was made on the last day of this Conference. One thing I would want to highlight in this matter is an issue we discussed as parliamentarians from Eastern and Southern Africa.

We discussed prostate cancer as one of the sexual reproductive issues that are becoming problematic in our region. I would like to bring to the attention of all our Members that matters relating to sexual reproductive health affect families and development in this country. Both male and female MPs should take greater interest in this issue.

If you read the Kenyan Demographic and Health Survey (KDHS), you will find very disturbing statistics. They include very high teenage pregnancies; girls dropping out of school and young men having fertility problems because they are not able to access

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proper sexual reproductive health services, including the most important, which is comprehensive sex education that can avert a number of things that are

I raise this to ask that the matter of sexual reproductive health be treated as very crucial to this country and not treated as an issue for women and an issue that should be relegated to the back of any discussion. I am calling on all of us; I will table the declaration that we had beyond that declaration. Let us take an interest in matters relating to sexual reproductive health in Kenya and see how we can help our young men, young women and particularly adolescent girls who are becoming casualties because we are not putting in place the necessary policies and laws to support them.

I support, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Aaron, Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, sir. I join my colleagues who are expressing their views on various Statements that have been shared. I am particularly curious about the Statement by Sen. Samson Cherarkey. I join him in congratulating our athletes who did extremely well in keeping up with our tradition as a powerhouse in athletics.

[The Speaker (Hon) Kingi left the Chair]

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

I know that the Members of Parliament from Uganda are still in the House, Madam Temporary Speaker. Uganda has been threatening to take this mantle from us. However, we are one people. Therefore, it is not a big concern to us. However, I congratulate Madam Helen Obiri for a stellar performance in Boston. She won the title alongside Edna Kiplagat and the lady who finished second whose name skips my mind.

An hon. Member: Sharon

The Senate Majority Leader (Sen. Cheruiyot): Yes, Sharon. I am also concerned just like Sen. Mungatana about that incident in China. However, as a sportsman, I know that anything is possible in sports. Therefore, I do not agree with his sentiments about how a Chinese can beat Kenyans.

If Aston Villa can beat Arsenal, immediately after Liverpool has lost, when they are supposed to be gunning for the title, then even a Chinese can beat a Kenyan. Nothing is impossible in sports. Therefore, Sen. Mungatana, many odd things happen in sports many times.

Therefore, it is not necessarily the case that those Kenyans who were defeated by the Chinese might have been compromised. It would however be important, just for the record, that the race organisers update the world. Everybody is concerned whether this was genuine. It appeared to me from the final sprints of that particular race as if these were the pacesetters. However, it is for the race organisers to let us, as a country and the world of sports, know what happened.

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Finally, Madam Temporary Speaker, is to agree with Sen. Cherarkey. We need elections in Athletics Kenya as soon as yesterday as the courts directed. Kenya is preparing to participate in the 2024 Paris Olympics. There is a lot of confusion. I wish that the Cabinet Secretary for Youth Affairs, Sports and the Arts, Hon. Ababu, could come out a bit more clearly with a roadmap. Have a meeting with all these stakeholders, together with the athletes, and the officials. Sit down and agree on the way forward. Sports cannot be relegated to be just another industry that is performing dismally as we watch.

I know we have a similar problem that is looming in our football. There are supposed to be Football Kenya Federations (FKF) elections. The courts have denied FKF from holding an Annual General Meeting (AGM) because there are disagreements among the membership.

We tell Cabinet Secretary Ababu Namwamba to take the lead in resolving the issues around athletics and sports. These are extremely important industries that provide employment opportunities to many of our young people who can ply their trade by either playing football or running in the various Capitals of the world.

Therefore, it is my humble request to the Cabinet Secretary to be more vocal, be it at the centre of this conversation and update the country, so that we are settled and we know that there is a plan. Our athletes and sportsmen in football, rugby and athletics, will not waste their talents due to wrangles in the various unions,

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Hon. Majority Leader. The time for comments on Statements has lapsed. However, I will add in just maybe two or three minutes.

Sen. Osotsi?

Sen. Osotsi: Thank you, Madam Temporary Speaker, for the opportunity. Allow me to speak on the two Statements. One, the Statement by the Chairperson of the Committee on Education, and two, the Statement by the Chairperson of the Committee on Devolution and Intergovernmental Relations.

I echo the sentiments made by the Senator for Kitui, Sen. Wambua, on Early Childhood Development Education (ECDE). If there is one thing that I would encourage the Standing Committee on Education to handle, is the issue of ECDE. Sen. Wambua has rightly put it that this House passed a resolution to have a uniform ECDE scheme of service. However, that is not implemented. Different counties have different schemes of service.

As we are speaking now, in my county, the ECDE teachers have been on strike for close to two months. The issue is in court. Nothing seems to be happening. It looks like the Governor and his Executive are unable to resolve this problem. The Senate has to stamp its authority and insist that we need to have a uniform scheme of service for the ECDE teachers and resolve issues around ECDE teachers in our counties.

The second issue is on devolution. I am so impressed that the Standing Committee of Devolution and Intergovernmental Relations went to Trans Nzoia and resolved the challenge between the Governor of Trans Nzoia and the Deputy Governor.

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The same spirit must be escalated to all other counties, which are facing similar challenges. There are many.

Therefore, the Standing Committee on Devolution and Intergovernmental Relations is like the front end of the Senate. It is a Committee that handles crosscutting issues for all other committees. When we hear that they are addressing current issues that is the pride of this Senate. However, we have other issues, which this Committee can help this House. We were so shocked that a Member of this House was attacked by goons hired by a Governor in the process of doing his job, that is, Senator Okiya Omtatah of Busia.

Those are things that we do not want to hear. I encourage Sen. Abass, who is the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations, to pick up on such issues. This House exists to protect devolution under Article 96 of the Constitution. If we have a scenario where we are either attacked or stopped from doing our job using politics, goons or scaring us, then we have a problem with devolution in this country. Therefore, I encourage the Standing Committee on Devolution and Intergovernmental Relations to do more than they are doing.

Mr. Speaker, as we are speaking, most of our counties have not received their disbursements for January, February and March. This late disbursement of money to our counties also brings other issues, including corruption. Therefore, we encourage the Committee on Devolution and Intergovernmental Relations to work closely with the Committee on Finance and Budget to find a permanent remedy to this problem. We do not want to be told that employees in counties have not been paid or governors have had to go to the banks to get very expensive loans to pay salaries. Those are things that derail devolution in this country. I encourage the Committee to look at real issues affecting devolution in this country and address them.

Mr. Speaker, there is also a statement by Sen. Ojienda on health. This one area requires a lot of focus by this House.

The Temporary Speaker (Sen. Veronica Maina): You have continuously referred to me as Mr. Speaker. Please, note the change of the Chair.

Sen. Osotsi: Madam Temporary Speaker, the Speaker, Hon. Kingi, was there and so, that is still in our mind. Even the Senate Majority Leader also did the same thing. I am sorry for that.

Madam Temporary Speaker, regarding the health issues in this country, we have done so well as a Senate on matters of agriculture and fake fertilizer. I thank the Standing Committee for Agriculture for coming out very strongly in dealing with that problem. However, the Senate is nowhere on matters of doctors' strike, and yet, Health is a devolved function.

I encourage the Standing Committee on Health, led by Sen. Mandago, to wake up and take the lead on the matter of the doctors' strike in this country. Where is the Senate? At least we are seeing the National Assembly, but Health is largely devolved.

I encourage my Co-chair, Sen. Mandago, and the Committee Members, including Sen. Hamida Kibwana, who is seated next to me; a very strong Member of the Standing Committee on Health, to take the lead and help in resolving the current problem of the doctors' strike.

Madam Temporary Speaker, I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you Sen. Osotsi.

Sen. Cherarkey, you may proceed.

Sen. Cherarkey: Thank you, Madam Temporary Speaker, for this opportunity. It is good to see you safe and sound. Yesterday, I saw what was happening in Murang'a County and I was worried about you. I hope the office will provide the necessary and add more security to you. However, I am happy it was your home in Kigumo. Many people saw the fracas more than what you contributed for those women, which is more than Kshs5 million. We congratulate you for organizing that function. I just want to appeal to you to bring peace to Murang'a County.

Murang'a is one of our best and most loyal counties to the Kenya Kwanza Administration, and so, we are keen on what happens. However, in the future, invite some of us who are tacticians when it comes to such issues, and we will ensure that you are well protected. Thank you for doing a good job alongside other leaders, and I know you know where the fire is at the moment.

Madam Temporary Speaker, I just want to make a few comments. One is on the Report by the Chairperson who coincidentally happens to be your Senator, Sen. Joe Nyutu.

I did not hear something about the teacher's promotions by the Teachers Service Commission (TSC). We know there was hue and cry where the promotions appeared skewed and disfavoured most of the teachers. Interviews and promotions were done. However, the teachers feel that it was insufficiency in terms of taking in of their interests. So, ask the Committee to be as active just the way the Standing Committee on Agriculture has been proactive on the issue of fertilizer. I am happy courtesy of your office, that I was able to host them on Tuesday last week.

We also need the Standing Committee on Education to be proactive, to tell the country how many teachers were promoted, the criteria and basis and what their demography is across the entire nation.

Under Article 10 of the Constitution 2010 on National Values and Principles of Good Governance, we must see regional balance and general balance in terms of promotion to ensure it becomes career progression. When you are working for a particular profession and there is no career progress, it is unfair.

So, I call upon and ask the TSC also to be transparent and fair. I am happy that I am seeing several Members of the Standing Committee on Education, led by the Chairperson. Let us let TSC be honest about who they promoted, the criteria they used and what did.

The second one is on Early Childhood Development Education (ECDE). I remember in the last Session, and a number of us are lucky to be here, we had dispensed of the issue of the ECDE. We want a standardized scheme of service. For example, ECDE teachers in Nandi County are preparing to go on strike because there has been no

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harmonization in terms of schemes of service, and you know, ECDE teachers play a unique role.

These are the people when your child just starts to walk, they do not only teach our children learning, but they also teach them manners. They also assist them in using toilet facilities, how to be clean and how to tuck in. You can imagine one county is paying Kshs10,000, another is paying Kshs20,000. We must have a harmonized ECDE scheme of service, so that as a country, we can be proud of our ECDE teachers.

I agree with the Standing Committee on Education, but they are taking too long. I want to ask them to fast-track and give us the status of ECDE status implementation in terms of what is going on across the country.

In conclusion, if the Standing Committee on Education feels that we need national legislation, as the Senate, National Assembly and Parliament, we are ready to do a national legislation that will bring a standardized schemes of service. However, we are not trying to encroach on the role that we have in terms of ECDE being devolved.

I heard my brother, my neighbour, Sen. Godfrey Osotsi, and I want him to advise his colleagues of his coalition because they have been blaming the national Government for the doctors' strike. I am happy with what he said about health being devolved. He should be saying it on Sundays and in funeral services, so that we are fair in this country.

(Applause)

I can facilitate and organize for him to do a press conference after this at the Media Centre and tell the nation that health is devolved, and doctors must be told.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, would you like to be informed by your colleague, Sen. Osotsi?

Sen. Cherarkey: No, Madam Temporary Speaker. He will misinform and mislead me in equal measure.

I saw the Minority Leader in the National Assembly blaming the President and the national Government, yet the coalition members are Senators here. They should be informing the likes of Hon. Opiyo Wandai and the rest of the brigade on the Minority side in the National Assembly that health is devolved.

Where is the voice of governors? Why is it that when we are doing division of revenue for health, governors are very comfortable? They complain and shout the loudest, but when it comes to the strike of health workers, you do not hear them.

I am disappointed with the Standing Committee on Health. I am very happy that my very good friend, Sen. Hamida Kibwana, is here. I thank her alongside Sen. Onyonka and many Members who attended our breakfast meeting on Open Governance in the morning at the Sarova Stanley. They should have

taken the initiative and even addressed us, as the Senate, that this is a devolved function.

I did my pupillage and with a lot of respect to my pupil master, Madam Serah Karuga, I was never paid even a penny. Intern doctors who are not yet qualified doctors, are paid Kshs70,000, yet a senior lawyer in this country and the Secretary-General (SG) *Emeritus* of the ruling party, are never paid as a pupil.

There is a saying that, “all animals are equal, but some are more equal than the others.” So, if we have to pay intern doctors Kshs70,000 or Kshs200,000, we must also pay other professionals; engineers, doctors, even clergy, who are still training, so that we are fair in this country.

In conclusion, the issue of the doctors is a devolved function. What the President is doing is offering a service; just being a gentleman. However, the people should address the issue of doctors in the Council of Governors (CoG). Why are they cowering and hiding now, yet when it comes to sharing, they will speak? That is why some people are proposing that health be reversed to the national Government.

With those very many remarks, I thank you and support those comments that I have made.

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

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

Sen. Osotsi: Madam Temporary Speaker, I rise on Standing Order No.105, on Statement of Fact.

The Temporary Speaker (Sen. Veronica Maina): If it is on Sen. Cherarkey, he has already retired his arguments and resumed his seat.

Sen. Osotsi: Madam Temporary Speaker, I have already placed my request---

The Temporary Speaker (Sen. Veronica Maina): It is overtaken by time; you take him up at another opportunity because he has already resumed his seat. You will have another chance, maybe when he goes up again.

Sen. Osotsi: Can I inform him, Madam Temporary Speaker?

The Temporary Speaker (Sen. Veronica Maina): No, he does not want to be informed. He must be on the Floor.

Sen. Gloria Orwoba will be the last person to speak on this. For a very few minutes, Senator, you may proceed, so that we move on to the next Order.

Sen Orwoba: Thank you, Madam Temporary Speaker, for considering giving me this opportunity. I want to support Sen. Cherarkey’s Statement on the performance of our athletes.

First of all, I was very impressed, and I think this is a clear indication that when we are pushing for affirmative action, you can see some of the results, even in the field of athletics.

Some people might not really understand why we celebrate Hellen Obiris's win. The time she used for the marathon was two hours, 22 minutes and 37 seconds. I wonder how long Sen. Cherarkey would take to run that marathon, so that we put it in perspective. Together with Sharon Lokedi and Edna Kiplagat, they did an excellent job. I congratulate them.

Madam Temporary Speaker, there is a very important message in Sen. Cherarkey's Statement in terms of calling on Athletics Kenya (AK) to investigate and make sure that we do not have unscrupulous agents in the industry. I thank Sen. Mungatana for clarifying what we witnessed. We call that match-fixing. There is absolutely no way based on what I saw with my own eyes that those Chinese athletes beat Kenyans. There is no way. That was outright match-fixing.

We know that the economic times are hard for both the Chinese and Kenyans, but we should not allow this kind of corruption into the field of athletics. We know that in match-fixing, someone is sat down, instructed to agree to not win and they are paid some money. Investigations need to be conducted. If this continues, our athletes are going to ensure that they win the first match; show their prowess and then use the backdoor to negotiate with the Chinese on how they are going to allow them to win a marathon.

Madam Temporary Speaker, if the Cabinet Secretary for Youth Affairs, Sports and the Arts, Hon. Ababu Namwamba, is listening, the call is very clear. There is some shoddy business going on behind the scenes and he needs to act on it before it is devolved down to our training centers at the grassroots at the county level.

We are not known to be discriminative and the Chinese are very industrious. We could be here talking about it, yet there could be a whole operation going on in Nandi County where Sen. Cherarkey comes from.

Congratulations to the ladies. Again, the issue of unscrupulous agents has to be dealt with. Match-fixing needs to be talked about and dealt with from the top.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Senators. That is the end of the Statement and debates on the Statements Hour. I will now re-organise the Order Paper and ask the Clerk to call Order No.17.

BILL

Second Reading

THE NATIONAL RATING BILL (NATIONAL ASSEMBLY BILLS NO.55 OF 2022)

The Temporary Speaker (Sen. Veronica Maina): Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to Move -

THAT the National Rating Bill (National Assembly Bills No. 55 of 2022) be now read a Second Time.

Madam Temporary Speaker, this is a very important piece of legislation. Amongst the many we have considered as a House, this one particularly, apart

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from the annual Division of Revenue Bill, where we send funds after the horizontal division between the national and county governments, it seeks to add more to the pots of the counties, so that they can deliver services to the people of Kenya.

The National Rating Bill was published in the Kenya Gazette Supplement No.185 of 2022 and passed by the National Assembly on 11th October, 2023. Thereafter, the Bill was referred to the Senate for consideration. The principal object of this Bill is basically to provide a legislative framework for the position of property taxes on land and buildings by county governments pursuant to Article 209(3) (a) of the Constitution.

Madam Temporary Speaker, there are many times that this House has discussed, yet I have not seen some Senators raising this issue. In some counties, the Governor post big billboards stating that they have given the people free penalty waivers, free land rates and such, trying to do what you would consider populist politics without knowing that they are denying revenue to develop our counties. It is because of the absence of national legislation that guides how this process is done, that counties are unable to build and back up their revenue sources. This is an opportunity for the county governments to think through.

It provides a buoyant source of revenue for county governments. The revenue is necessary to enable each county government to perform its functions as assigned by the county governments. Sen. Mungatana, and other Hon. Senators, I do not know of a county government that meets its Own Source Revenue targets.

If, as a House, we do not take deliberate space and time to ensure we guide our county governments by providing national legislation, which will guide how this exercise will be done across the country--- We have tried it in the three terms of devolution from 2013 to 2017, 2017 to 2022 and presently. If we leave it to the talents or lack of the same, of our various county governments to find ways of raising Own Source Revenue, then we know what the results are.

We know that there are very few county governments that have grown their Own Source Revenue since the inception of devolution by an equation similar to what economic growth is. Many of them to the utter dismay of colleague Senators and members of the public have their Own Source Revenue sources dipping despite the fact that people continue to pay taxes and land rates.

Therefore, as a House we must begin to move in this direction as is provided in this Bill of providing a universal practice that applies across all the 47 counties. Do not leave it to your county governments alone. That is a responsibility we must take up as a Senate with all the zeal and seriousness. In fact, after we are done with this one, it is my sincere hope that as a House we reflect on what the standards are for collecting other forms of taxes on Own Source Revenue.

Is there a way to standardise and ensure that there is legislation such as the Bill that is presently before the Standing Committee on Finance and Budget over a unified system of collecting these revenues especially electronically?

Madam Temporary Speaker, you can recall that at the inception of this administration, the President stuck to his guns and led the government in insisting that all government services must be paid via the E-Citizen platform, there was all manner of hue and cry. However, somehow many of those noises have since disappeared. Maybe

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people have since learnt that it is impossible to bully such an administration that is determined to do the right thing, though not popular at times, but the right thing in long-run.

We must also begin that conversation and ensure that all the taxes being levied and paid for by our people in the county governments are accounted for. It should become impossible for people to pilfer electronically paid resources because there is a trace and the taxes are paid using a system that is accountable and from reputable firms, not just having systems that have something that is colloquially referred to by Governors as a “T” junction. It means that from the source where the citizen is paying to the bank account, there is a “T” somewhere facilitating a leakage, giving the Governor of the County a chance to leak something small out of it.

We need reputable firms and that is why we provide it in legislation, so that we can provide the standards. Which companies can provide and is it possible to have one system that applies across the counties and is controlled by the county governments? There is a very lazy argument that is being peddled, stating that if we have a system applied across the 47 counties, it is a clawback on devolution.

What is the problem? What citizens want is to pay their taxes and see them being used prudently in their counties.

Nobody is saying that you propose a system where those resources will come to the National Government kitty. We want it to be traceable, verifiable and a means through which citizens know that, for example, if a poor old lady selling Esaga in Keumbu market, where Sen. Omogeni comes from, pays Kshs20 as the market rate for the day, then that Kshs20 goes to the coffers of the Nyamira County Government and it translates as service for her. This is so that we do not just collect taxes from ordinary citizens and because a good amount of it has been pilfered, then there is no commensurate service for the same. How many centers do you know where people from the county government collect taxes, but if you go to that town you cannot find a toilet or sanitation facilities, yet the county governments continue to collect taxes on that market?

This is why as the Senate, we must take the lead in this conversation. If we leave this to the imagination of our county governments, then we will be abandoning our responsibility as the House, which is charged with the responsibility of passing legislation that enhances and entrenches devolution. This is one such legislation.

Article 209(5) of our Constitution confers on us, as Parliament, the powers to regulate the exercise of fiscal responsibility by county governments. This is what I was speaking about a few minutes ago. It is important to understand that counties are charged with numerous functions and responsibilities in the Fourth Schedule of our Constitution. The imposition of property taxes on lands and buildings by county governments will be essential for generating local revenue to fund critical public services; infrastructure and community development initiatives.

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Above that, it also provides a fair and equitable means of taxation, ensuring that property owners contribute to financing essential services proportionate to the value of their properties.

Many strong institutions that have got the financial muscle are able to negotiate and collude with land officers in various counties to pay taxes less than what is due to them. Taxation must be fair. You must be taxed an amount that is commensurate to the value of what you are holding and the benefit that you get from a county government.

If you are charging a *boda boda* operator or a *mama mboga* in a market Kshs20 or Kshs50 to operate, then within the same market somebody who has a wholesale store or a supermarket is being charged Kshs500 as a license for the entire financial year, then it brings to the fore the conversation about equity. Is it fair? Is it just?

This provides the opportunity for us, as a country, to have this conversation and say that taxation by our various forms and arms of county government is fair and can be traced. We have challenges, those of us who come from counties that have multinationals operating within the area. Those of us that come from the tea growing areas, the land rates that they pay are valuations of as late as 1994 when I was a six-year old boy. I have come to the Senate right now and they are still paying that amount because of the absence of such a law.

That is why this is very personal to some of us and we need to pass this legislation very quickly, so that there is a standardized format, determined and passed nationally here at the national Government, so that counties are left to implement and collect the resources. This should not be left to negotiations. In the tea subsector, when we go to meetings with them, they say that they have agreed with a certain county government, but did not agree with another. We do not want these backend agreements. We want agreements that can be verified, scrutinized and can easily be traced back.

Parts 7 to 20 of the Bill - as I move towards a conclusion - contain the provision of the duty to levy rates by county government and the principles they need to adhere to in accordance to the Public Finance Management Act (PFM). It defines who the owner is and the mandate and requirements for ensuring that the rates are paid. It even provides for forms of rating, the notice of rating, ratings track, the notice of rate payments and remissions, discounts, waivers and enforcement of payment of rates. This is the engine of this legislation. It is providing for all that I have described earlier.

Clauses 21 to 25 of the Bill provide for the appointment and powers of valuers, which includes the criteria for one to be appointed as a valuer and give responsibilities to these valuers, so that the Chief Government Valuer concerning standardization, harmonization, preparation and implementation of the valuation of roles across various counties.

I have spent significant time explaining and giving context to why we need to have this standardized across all the counties. It should not be different from Kisumu, Kericho, Mombasa, and all these other places. The Chief Government Valuer sets in consultation with county governments, so that the valuation role is standardized.

In my county, Sen. Mumma, you see, admire and take pictures of all the land as you drive towards Kericho Town. The valuation role that is being used was last updated in 1994. This is why we are providing for the standardization of the exercise, so that we

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know the frequency of updating the master valuation role with our various county governments. Within what time should it be updated, so that the same can be are property owners in Kisumu who, on one file, you find the valuation for the owner, reads the value of 1990 and the next one, since they purchased it recently, they have a more recent value of 2023. Is that fair? It is not fair. This is why we are proposing to have this standardized.

Clauses 26 to 36 of the Bill contain provisions on the valuation rating. This part provides the general basis of valuation, declaration of ratable areas, methods to be used for valuation, preparation and contents of valuation roles, supplementary valuation, and alteration. Publication of role, objections thereof, and exceptions are provided for in part. The uncontested draft valuation role and the draft supplementary role are also provided for in Clause 35 of the Bill.

Clauses 37 to 53 contain the provisions of the national rating tribunal. This part seeks to establish a tribunal with part-time members. The jurisdiction of the tribunal is specified under Clause 39. The part also provides for the conduct of proceedings, the quorum, declaration of disclosure of interest, powers of the tribunal, remuneration, penalty or failure to comply with the tribunal's lawful order and appeal mechanisms from the tribunal. This is the setting up of the tribunal that will listen to these disputes.

However, I am a bit concerned by the issues of tribunals. It is good that Senior Counsel Sen. Omogeni and many other lawyers are here. The reason we set up tribunals in our law is because it is expected that they will be the first court of reporting when there is a dispute. However, there is an emerging practice where Judges, either in the High Court or magistrates, are listening to matters that have not originally been dealt with at the tribunal level, for example, a sports dispute.

Political parties also complain that there are many instances where you find a Judge making a determination over a matter that has not been discussed at a particular tribunal. Environmental tribunals exist. You will find petitioners rushing to the High Court and the Judge makes pronouncements on this issue. Then why do we set up tribunals?

The reason why we set up these tribunals is that it is believed that these little courts have got the known expertise on that particular field, better than any other individual outside that particular jurisdiction. They can dispense, listen to the issues that are being canvassed and make proper determination.

Therefore, this is an area of serious concern. I hope that the Chief Justice, together with those that serve in the Judicial Service Commission (JSC), will consider and properly issue guidelines to the members of judiciary on the various tribunals.

This is so that the particular tribunal that we are setting up does not suffer the fate like many of these tribunals that we have in the country that are often bypassed. This is normally done by the petitioners who head to High Court and immediately get attention on their matters without first going through the set procedure.

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Part 5 of the Bill basically establishes the National Rating Tribunal that will hear and handle all those disputes. Part 6 of the Bill are just miscellaneous provisions and notices of repeal of CAP 266 and 267, which is a guiding law even as we speak today on these matters of rating. I do not know how old this particular law is. It must be extremely old.

Finally, Clauses 56 and 57 of the Bill contain the proposed regulations and savings and transition of any written national and county laws relating to valuation. Just to preserve, if there have been counties that have been diligent to set up their own national rating or county specific valuation roles, this Bill actually proposes to save such and does not delete them.

Therefore, with those very many remarks, I want to urge my colleague Senators to debate this Bill and make critical additions and proposals on how to better it. This is for the betterment of our county governments. It is to cure a real challenge that all our 47 county governments continue to struggle with.

Madam Temporary Speaker, with those many remarks, I beg to move and request the Senator for Tana River County, Sen. Mungatana, to second.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Majority Leader. Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker. I take this opportunity to thank the Senate Majority Leader, who is the Mover of this Bill, for being very eloquent in his usual style. He has explained this Bill very well. I know that the Senators who are listening will agree with me that we are here to discuss about Own Source Revenue (OSR) for the counties where we come from. OSR has become a real big challenge because many counties, including my county, have not really had a law such as this that will allow proper access to funds from property taxes. This also applies to developed counties like Nairobi, Mombasa, Kisumu and Uasin-Gishu.

Madam Temporary Speaker, when you look at their collection through the rating process, it has a lot of challenges. This is because the legal framework for collection and standardization does not exist. Nonetheless, property rating is one of the most fundamental and reliable ways of making good the targets of OSR.

When we had the debate on the Finance Act, one of my relatives who lives in the US called and asked me what the big fuss was about. As I was trying to explain, he told me that in their State where they live in the United States (US), they depend on property taxes to finance all their activities. They are really focused on rating and that is what helps them to finance activities within their own State.

Therefore, they could not relate why we were having a big fight about the Finance Bill in this place. This brings to fore the question of rating and OSR for our counties.

In our County, we are third lowest when it comes to the collection of OSR. Despite the fact that we have a very large land mass in Tana River County, we have not been able to benefit from rating that land.

Madam Temporary Speaker, we depend on what we collect from auctions from goats, cows and camels, which is a very little revenue. They also go to the market to collect money, which is little revenue.

The county governments also become very rough sometimes. Even before they pass their own Finance Act, they go to bar and shop owners within the trading centres and they tell them that the collection rates on various things has increased. For instance, what they were doing in our headquarters in Hola.

They tell the traders and the business people that they have increased the rates even before the Finance Act came into effect. If you do not pay, they are accompanied by the *Kanjo*, and they put a padlock on your business premise. This practise shows the desperation and problems of raising OSR in my County of Tana River.

The answer to these problems is to increase the base upon which we can raise OSR. This Rating Act that standardizes how we shall collect charges from properties across the entire 47 counties is going to be of great help to a county such Tana River.

I support this Bill very much because we do not need to increase the taxes, charges or levies that is upon the businessman who is selling in his kiosk, bar or little supermarket.

Tana River County will benefit from this Bill if we pass it into law, in that, the huge land mass is going to be rateable. Those huge investors who we welcome to our county will have a predictable rate at which they will be paying their levies every year when it is due for payment.

We have huge irrigation schemes in Tana River County. Do they pay to the county government anything? No! We have huge programmes and private investors who are supposed to bring investment. We welcome them, but they are also supposed to contribute to the county government.

Madam Temporary Speaker, they are not paying the county government because the legal framework does not exist. Today, when we pass this Rating Bill, we shall create a larger base, not just for Tana River, but the rest of the counties in this nation. We will now be able to collect the levies that are due in an organized manner and they will increase the base.

We know that there is a very serious problem of leakage of what county governments collect. Additionally, even the little that they are collecting, like what the Majority Leader has said, there is something called the T-Junction.

Madam Temporary Speaker, they collect the charges from the traders, but instead of that money coming directly to the County Revenue Fund (CRF) account, there is a T-Junction created there where illegal charges are made. The juice is supped in little amounts, so people become very wealthy.

You cannot explain how they became wealthy because they do not have a business or factory, they are not trading or even registered anywhere, yet you see them having a lot of money to splash around because they steal from the T-junction.

Madam Temporary Speaker, even as we discuss the National Rating Bill (National Assembly Bills No.55 of 2022), we must empower counties within the same Act. We should be creative enough to create a mechanism within that legal

framework that will force money that will be collected through rating to go directly to the County Revenue Fund (CRF) accounts.

We have technology in this time and age that we live in. We should not leave it to County Revenue officers to go to properties of people or those large investors in Tana River or any other county, to collect cash by writing papers and giving one type of paper saying it is the correct one. It could be the fake one and so money that is paid does not reach the CRF accounts.

When we used to have county council, more money was being collected. Now that we have county governments, less money is being collected. I believe that Senators here will apply their minds, so that we create a system that will enable funds to go directly to the CRF account. We should create a system using technology that will make sure that money goes directly where it is supposed to be.

The hope in this law is to create a legal framework that will ensure counties like ours, where we have huge pieces of land, attract investors. Some of them are Government and private bodies. In a predictable manner, they will know the amount and the law.

They will not need to talk to anyone because they will be paying electronically when it is due. They will not need favours from governors, County Executive Committee Members (CECMs) in charge of Finance or County Revenue officers.

They will be dealing directly with CRF accounts, so that when the time comes, they know how to pay. The creation within this framework must have within it an aspect of technology when it comes to collection. We should not just leave it a bit hanging there.

Otherwise, this law is a good law for our counties. From my perspective, where we come from, especially because we have massive land and little population and people who have come to invest there, but they are not paying rates, this National Rating Act will enable county governments to collect enough. This is so that charges that they impose using the Finance Act on the local *wananchi* in the small towns can be reduced to a small contribution, so that big investors can benefit our counties.

Madam Temporary Speaker, my other point in seconding this Bill is that when we are here looking for ways and means to make our counties function effectively, we have saboteurs within county governments' systems. Some are elected while others are appointed leaders whose sole purpose is to milk monies that get into their hands.

I am disappointed because our Tana River was listed by the Auditor-General, Nancy Gathungu, as one of the counties that have adverse opinion in the financial statements for the year ending 30th June, 2023.

When you see a county such as ours committing Kshs450 million to pay legal fees, yet their own source revenue is so little, there is no accountability in those fees. There is no documentation according to the Auditor-General, yet people are just still walking around.

The Auditor-General said Kshs22 million was paid for roads, but when they went there, they did not see them. Therefore, there was no value for money that went to Tana River County. Contractors and county government officers who participated in that crime are still walking free. They are known, yet nothing is happening to them.

There is Kshs100 million that was unaccounted for in the year ending June 2023 for local travel because documentation is missing. People's justifications for those travels

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are missing. When we have a new mechanism for extending own source revenue into our counties, what is it we will have in this Act that will make sure those pilferers will not walk straight?

There was once an ambassador in Kenya from the United States of America (USA) who said they steal and vomit on our shoes. It is that kind of ugliness that we see documented in some of our counties.

The other day, the same Government reports said 33 accounts are being operated in Tana River County but they cannot be explained, yet people are just walking, driving nice cars and having nice houses.

As a Senate, we need to start taking serious actions against some of these officers in the counties. Even as we pass this National Rating Bill and make efforts to increase the ability for counties to collect revenue, it will be failure on our part if we do not put mechanisms that are deterrent for those who will think that this is another revenue stream we have created for them to collect funds in the counties.

Madam Temporary Speaker, as I second this Bill, I pray that we will put in our thoughts, not just in creating a technology system that will protect the funds, but also ensure deterrent punishments that will make those people who are involved in criminal activities not to imagine that the Senate has passed for them another eating line. We should have in this law a serious deterrent punishment for those who will find it another opportunity to dip their hands in the counties' funds.

Madam Temporary Speaker, with all those many remarks, I beg to second this Bill. I pray that Senators who are listening to me and those who will have an opportunity to read this Bill shall bring necessary amendments to make it better. Those who have better ideas will better this law, but we must make sure that we pass it as soon as possible.

I thank you.

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

(Question proposed)

It is now time to engage in a debate on this Bill. I invite Sen. Omogeni to commence.

Sen. Omogeni: Thank you, Madam Temporary Speaker, for giving me an opportunity to also make my input to this Bill. First, I want to go on record in principle supporting this Bill.

We need to give comfort to Kenyans that we are not introducing new taxation measures; we are just putting in place a mechanism to ensure that there is equity and fairness in collection of land rates from Kenyans.

Madam Temporary Speaker, I join my two colleagues who this afternoon have kind of written the book of lamentations because of the corruption, wastage and stealing of public money that is happening in our counties. I am no exemption. As Sen. Mungatana has put it, unless we are putting in place

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mechanism to ensure that this money collected will not form another stream for governors to steal, governors will start celebrating as soon as this money hits their accounts.

I am speaking, having the honors of coming from a county that has been rated by Ethics and Anti-Corruption Commission (EACC) as the one leading in corruption in the county. It is so shameful that a county that has produced distinguished Kenyans, including retired Chief Justice of the Republic and the Controller of Budget, has that distinction of being rated as the leading county in corruption.

Madam Temporary Speaker, unless we put in place mechanisms that will ensure that this money is used for the benefit of the locals, Sen. Cheruiyot, this will just be another way of creating an efficient way of making easy money available to governors. I pray that the Committee that will retreat to go further into the details, will look at the mechanism of ensuring that once this money is collected from hard working Kenyans, it comes back to benefit them.

Just the other day, the County Government of Nyamira increased the daily rates for *mama mboga* from Kshs30 to Kshs50. It was also a tussle to increase the *boda boda* rates from Kshs10 to Kshs20 per day. These are Kenyans who are hustling and make almost USD2 a day to fend for their families. Then, you find that somebody has the audacity and courage to again steal from such class of Kenyans.

In fact, just to add on to what Sen. Cheruiyot was saying, you collect money, but do not provide even the basic services. In Keroka, our second largest town in Nyamira, we have been without toilets in our market for the last two years. A tender that was given four years ago to build toilets has not been completed to date.

We also have the distinction as being among the six counties whose audited accounts have moved from being qualified to adverse. You know, one of the factors contributing is just impunity.

Some of the queries the Auditor General (AG) is raising include there is circular from Salaries and Remuneration Commission (SRC) that has given a guideline that a governor should not buy an official car that is more than 3000cc. However, my Governor has defied the AG for the last two financial years and has continued to drive a V8 of 4600CC. It is just sheer impunity. It is like saying, “*utado?*” Now, we have moved to a level where the AG is saying that they will mark this as a county that needs to move from qualified to adverse.

On bursaries, money that is supposed to assist needy children and orphans; the AG is saying, you cannot withdraw money and then purport to say you are moving around schools giving Kshs3,000, instead of transferring that money direct to schools.

We had a sitting last week with the Committee chaired by Sen. Osotsi and in some instances, money is sent to a school with no names. One *mzee* was even crying that the name of his child appears as having benefited, but that child never benefited. Those are the kind of criminal acts that we have at our counties.

The tragedy is this; EACC can issue a report telling us that Nyamira is the leading county in corruption, but there is not even a single case of anybody from that county facing corruption charges in any court of law. There has not been any seizure of assets. If

this money was stolen to buy properties in Karen; people are putting up maisonettes with lifts in their houses and no action has been taken.

You know, EACC is chaired by my good friend, Bishop Oginde, a man I hold in high esteem and real respect. How are you going to build confidence in our governors if you rate a county as being the leading in corruption, and yet, you are taking no action to apprehend the suspects or those who are engaged in corruption? These are the people who, this afternoon, we are going to pass the National Rating Bill and place this money under their control.

I can see there is a good effort in this Bill to ensure that we discourage manual collection of these rates. We are saying, they take the money to the bank or pay the money electronically. However, there is another clause that says a CECM can gazette another method of collection. That is where you will create those T-junctions we are talking about. This afternoon, I speak and appeal to my President that unless we tackle corruption at our counties and make corruption extremely painful, our people will continue suffering.

Before the Committee of Sen. Osotsi, there was a situation where, Kshs110 million was sent to the County Government of Nyamira to build 300 bed capacity emergency Covid-19 response hospital. We were horrified when the Governor appeared and said that they decided to divert this money to other purposes. This is contrary to the Public Finance Management (PFM) Act.

Madam Temporary Speaker, we were horrified that for mortgages in Nyamira, a cabinet sits and decides to dish out money. There is no security at all, no charge is registered and no format of how to recover this money, yet, this is public money. It is like a cabinet sits and says, today, they are giving a governor Kshs20 million and after three weeks, he comes and says that he wants a top-up. You are even given minutes saying that they have given the Governor a top-up of Kshs3 million. We should not allow this.

As Senators, we must retreat and find a way of dealing with the corruption we are seeing in our counties. We cannot place our trust in Members of County Assemblies (MCAs). When we asked the Public Accounts Committee of Nyamira County whether they have ever done any report of how money is spent in Nyamira, they said that they have never tabled any report. So, they were just seeing these things when they appeared before the Sen. Osotsi-led Committee in the Senate.

There is a big gap on how we can protect the public resources. The Bill is very good. I like the approach on public participation that, for once, we are recognising that the people who reside in counties may not be fluent in either English or Kiswahili.

We are saying that there will be serious campaigns in our local FM stations and radio shows to ensure that before you make a decision on what you will be charging people who own properties in our urban centres, they have an input. That is very progressive.

However, the elephant in the room is how to protect these resources. I must also commend the drafters of this Bill. Initially, I was worried that we may

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be entering that territory where we want to tax farmers such as our tea farmers and the people who own freehold land.

However, I am happy that this Bill has a clause that specifically excludes any rating from farmers who have freehold land. That is commendable of the Senate Majority Leader.

Madam Temporary Speaker, we do not want to overburden *mkulima*. The farmer is already suffering and the returns from agricultural produce are not competitive. This is a good statement of comfort to our farmers, that the people we are targeting are the ones engaged in businesses. These are people who are making some income and benefiting from services being offered by counties, but who should in return pay these rates, so that they can be used to improve the services that they get from our counties.

On the tribunal, I have no problem with the Judicial Service Commission (JSC) recruiting the members, but I am worried that the number we have put at 18 is quite big. I have never seen a tribunal that has a membership of 18.

We should consider reducing the number of members of this tribunal and ask some key professional bodies such as the Law Society of Kenya (LSK) and the Institute of Certified Public Accountants of Kenya (ICPAK) to send nominees. They can be given slots where they pick their representatives to sit in that tribunal.

Madam Temporary Speaker, as I gear towards conclusion, I do not know whether there is wisdom in having Kenya Revenue Authority (KRA) as a collecting agency for our counties.

Just two years ago, hon. Gladys Wanga took the mantle of leadership in Homa Bay County. The County was collecting less than Kshs300,000 in revenue, but in this Financial Year, the Governor has demonstrated that with good leadership, own-source revenue can grow and make a huge meaning in the economy of the County.

As we speak today, their collection is over Kshs700 million and that is just within two years. You can see what leadership means to our people. In Nyamira, we are still collecting the same money we used to collect five years before we lost our inaugural Governor, the late hon. Nyangarama.

This tells us that the T-junction that Sen. Cheruiyot and Sen. Mungatana spoke about works well in Nyamira. It means that almost 60 per cent of the rates we collect from those poor business people, poor *mama mbogas* and poor *boda bodas* goes to the pockets of some leaders from Nyamira County.

Those are the people are busy putting up massive buildings in the City of Nairobi and not even in our County. You will not trace them to any businesses; they are not professionals in any field, but their profession is to steal from poor Kenyans.

The appeal I make this afternoon is that it pains me when I see our Members of County Assemblies (MCAs) not appreciating that they should not be the ones encouraging our governors to steal from the poor people that we represent.

How I pray that we can find a way that can make the Ethics and the Anti-Corruption Commission (EACC) to wake up and do something that will deter future governors from stealing.

Madam Temporary Speaker, criminal law is about deterrence. Unless you take action, unless people go to court, are tried and jailed, those criminal acts will continue

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being repeated. I appeal to Bishop (Dr.) Oginde, the head of EACC, to focus on these counties that have been named as being the most corrupt and do something.

Senators can speak here, summon governors and make recommendations, but unless EACC takes action, we will be lamenting day after day.

I support.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. I hope EACC is watching the proceedings, with specific reference to the T-junction concept by the Senate Majority Leader and the Senators who have contributed.

Let us have Sen. Orwoba Magoma Gloria.

Sen. Orwoba: Thank you, Madam Temporary Speaker. I go on record supporting this Bill by the Senate Majority Leader on the national rating. I have spoken before on the own-source revenue issue.

We have several counties that are receiving a lot of funds and they are unable to account for the funds but in the same spirit, they are not producing much in own-source revenue.

As a matter of fact, the statistics are very damning, and I am glad that Sen. Mungatana acknowledges that Tana River is one of the counties that receives a lot of funds in the supplementary budget and the Equalization Fund, yet, for many years, they have been unable to account to what these funds are doing on development and the return on investment.

I was happy when I went through this Bill on national rating on how to streamline and give legal framework on revenue collection of levies and properties in counties. This is because we have seen in the news and over the years, all these whistle-blowers in the counties saying that there is a lot of corruption. This corruption is now geared and targeted at the own-source revenue, which comes from land rates and fees.

Madam Temporary Speaker, for instance, if you look at Nairobi County – and excuse me for using this example – Nairobi is one of the counties that brings in a large amount of own-source revenue. However, if you question how that revenue is being used and the extreme measures taken to ensure that certain rates – some of them that are completely crazy in amounts – you will be unable to get any answers to the questions that you ask.

The idea of establishing a tribunal in the National Rating Bill to even oversight at what is happening at the county level and streamlining that space is about time.

I wish the Senate Majority Leader was here. This because I am requesting that they go even further, that above ensuring that this tribunal is used to settle the disputes on levies and payment of properties, we should be looking at how we are channelling at this own-source revenue coming from the land rates. Sometimes, you go to counties and there is no infrastructure.

Look at Nairobi: when it rains, we practically swim on the roads. You ask yourself, being one of the counties that is collecting a lot of money from property rates and levies, why that money is not channelled into ensuring that our infrastructure such as the drainages on our roads are maintained.

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Madam Temporary Speaker, one of the proposals that I have is that above and beyond giving a legal framework of how we are going to deal with the imposition of property taxes, there should be an element of dictating on how that money is spent to some extent. It does not make any sense that a county as big as Nairobi is earning so much on property taxes, but when we have basic weather changes, it is those same properties that are being hit the highest.

You are collecting so much from the markets. I was so surprised. If you go to Dagoreti North, the markets there have been taken over by cartels. The rates that are being imposed in Dagoretti North and in the markets there in Kawangware are crazy. When it rains, those are the markets that are hit by floods, whose sewer is blocked, who close shops because it rained the day before.

There has to be some level of responsibility. We can legislate this by saying that a percentage of the money that is collected from these property taxes should be pumped back into the same infrastructure. This is in the sense that even the people who are paying these levies and taxes are motivated.

Madam Temporary Speaker, I do not know how to hammer this enough because I have said this before. I am always reading the statistics and trying to highlight that we need to get to a point, as a country, where we do live within our means.

That means that if we are earning from this own source revenue from various taxes, including the property taxes that we are now trying to streamline, we also have to demand, as Senate, that the counties that report the lowest own source revenue should tell us why, after 20 years or so, they cannot channel these marginalised funds that we are giving into infrastructural projects or something that can now pump back money into the own source revenue.

I say this because we have counties such as Wajir, Tana River, Mandera, West Pokot and Marsabit that receive the highest funds in terms of allocation, yet they are bringing in the lowest in terms of own-source revenue. No one wants to address that, but it comes down to the question of, is it that there are no businesses there? Is it that there are no buildings or no form of economic activity?

As much as we are trying to streamline the property taxes, we also have to ask ourselves, is it that in Tana River where the own source revenue is only coming to Kshs59 million, which is like a drop in the ocean, we do not have any economic activities after all these years of pumping in money for infrastructure, getting supplementary budgets and all the oversight? What is the problem?

We could be legislating here and trying to impose this new law for property taxes, but might not even be able to affect some of these counties. I do not understand if they do not have properties there or they are trying to have an economic activity.

We will keep running away from the issue of own source revenue versus monies that are being given from the national budget, but at one point whether we legislate property taxes and all these issues or even deal with corruption, if we cannot understand why certain counties are unable to move from where they were 15 years ago and years after devolution and sending---

The Temporary Speaker (Sen. Veronica Maina): Sen. Gloria, would you wish to be informed by Sen. Mungatana?

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Sen. Orwoba: Madam Temporary Speaker, I am in a very good mood, so I will allow for Sen. Mungatana to inform me.

Sen. Mungatana, MGH: Madam Temporary Speaker, I admire the revitalised Sen. Gloria and her contributions on this Floor since we began. I just wanted to inform her that indeed the economic activities in places like Tana River are dominated by investors in those large parcels of land. However, the county government hardly collects anything in the little investments like the *shambas* and the houses.

The reason we are saying this Rating Bill is very good is that if we can streamline the collections from all those big investors, the massive irrigation *et cetera* and it comes to the county government, then even what they are charging the bar owners or the market owners will come down. That is the information I wanted to give my colleague.

Indeed, the level of economic activity is low. We do not have factories or industries, but there are huge investors and we are collecting nothing from them. They just use the land, make the money and maybe pay Government taxes. So, the own source revenue is very little.

If this National Rating Bill is supported by the Senate and passed, we hope that it will increase the base and we will benefit from those huge areas that we are covering.

Of course, she makes a good point about the pilferages. We have bad mismanagement and there is no excuse for that.

I thank you, Madam Temporary Speaker.

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

Sen. Gloria, you can resume.

Sen. Orwoba: Thank you, Sen. Mungatana for that piece of information. It is good to know because I have been looking at the figures of Tana River and it just never made sense. That is why I am also saying that I support this Bill, especially on the establishment of the National Rating Tribunal.

In a situation like of Tana River, if at all this Bill passes and comes with regulations, this tribunal should be able to say these are some of the measures we are going to put in certain specific areas. We understand that Tana River, for instance, heavily relies on property taxes as its own source revenue.

So, how do we customise our regulations to Tana River to the benefit of the people of Tana River? In essence, what I am saying is that if that is what you are saying, that tribunal would not be able to say that Tana River property taxes are the same as Nairobi for instance.

My point here is what this Bill will do. First of all, it is a conversation starter in terms of we just pay taxes, but what is the expectation for those taxes? What is the return on investment on those taxes? In that same spirit, if a county government, this is where I would propose my amendments, is collecting such high property taxes with whatever justifications, particularly for instance in cities like Nairobi, then you also have to be able to justify your expenditure with relevance to the same properties that are earning you own source revenue.

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Madam Temporary Speaker, I keep leaning back to Nairobi because it is one of the counties that I believe--- I do not want to sound political--- its potential is not being exploited. What is happening is because there is a baseline that this is the expected revenue that Nairobi County gives any way. Since time immemorial and devolution, there has not been any need to interrogate how that revenue is coming in.

If an audit were to be done in Nairobi City County on how the own source revenue is being generated from Nairobi County, we would come back to the conversation on property taxes, on the levies that are put on commercial properties, on land and things like that. In the end, the people who are hit by the calamities that sometimes we face in Nairobi City County are the same owners of these properties.

There has to be some idea of how we can legislate around a percentage of those property taxes being pumped back into the infrastructure of those localities and the properties around there.

I support this Bill. I think people who have had conversations with me would agree that I have played a very critical role of pushing the conversation of own-source revenue against relying on the national budget, the supplementary budgets, the marginalized funds and things like that. As for the counties which are at the bottom of the list of the own-source revenue, that is, counties like Wajir, Tana River, Mandera, West Pokot and Marsabit, I think it is high time that we started asking them the very difficult question of why are they still not able to raise your economic activities? What is not happening?

Devolution has been here. We have channeled funds down to the county and the grassroots. We have added supplementary budgets and marginalized funds. A county like Marsabit is receiving a lot of that money, yet, we still talk about low income on the own-source revenue. Why? So where is the money going? What is happening?

Madam Temporary Speaker, as I support this Bill, I would like to echo the sentiments of Sen. Omogeni that corruption is one thing that we must deal with. We may legislate the property taxes and deal with the issue of the T-junctions, but if do not talk about what we are going to do with the issue of governors who have decided to just loot the coffers of the county government, then we will not be improving the lives of Kenyans in the grassroots.

With those few remarks, I beg to support the Bill.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Gloria.

I will give Sen. Catherine Mumma a chance to contribute. Sen. Catherine, are you going to exhaust your 15 minutes?

Sen. Mumma: I know I am supposed to relieve you. I will be very quick.

Madam Temporary Speaker, thank you for this opportunity to contribute to this Bill, The National Rating Bill (National Assembly Bills No.55 of 2022).

First, I would like to commend the drafters of the Bill because for the first time I am seeing a Bill that is attempting to at least align with devolved governance. So, this is one of the Bills that I hope we can learn from in terms of speaking to a function that belongs to a county and trying to address an issue that affects those counties without taking away that role.

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This Bill provides for how we can have intergovernmental cooperation around an issue. You can see clearly that it is about how the counties can collect the rates. It has gone to extensive lengths to try and provide on how counties can levy the rates on land and property and how to go about this. One of the things that is hoped to be strengthened is the systems for county governments in terms of the rate collection systems.

Whereas there are those who think this is going to streamline it, I am hoping that as we do the regulations, we can find that formula that will keep rates collections to the counties but ensure that there is transparency and accountability. The digital system that is supposed to be put in place, I hope, can be done in a manner that will ensure that transparency and accountability are achieved.

As the law currently is, it generally speaks about electronic payments. However, I would hope to find that in practice we can find a way in which we can find a formula that can ensure transparency and accountability.

Nearly every county has a digitalized collection of its own resource. However, we have counties that have pilferage. So, let us also know that even with digitalized systems, there is pilferage. Both at the county and national county level, we need to find financial systems that can help to ensure transparency and accountability of public funds.

I will then move on to a few things that I think the Movers of the Bill need to look at and they are crucial for me. The definition of Chief Government Valuer does not properly align with the roles that they have been given. Here it simply says that the Chief Government Valuer means the advisor to national and county governments. However, when you go and find the role, it is hardly around advice.

So, I would suggest that the drafters neaten that, so that what the Chief Advisor is supposed to do is aligned with what is in the text and the definition captures this accurately. I am also wondering about the tasks given to the Chief Government Valuer because it seems to be an institution, but there is no space in the law that has actually put that institution.

So, he or she will be the one to keep the rating roles. Have they put any infrastructure to support that office to do the functions they have given? I have not seen it done in this law. It is something they need to look at.

When it comes to Clause 4(2) of the Bill, it talks about guiding principles. It states as follows-

- “(2) Without prejudice to the generality of subsection (1),
- (a) County government shall ensure fair and equal treatment to all rateable owners.
 - (b) Ensure that the burden of property rating is shared fairly amongst the ratepayers.
 - (c) Take cognizance of the needs of the county and promote the imposition of rates to boost social and economic development in the respective county.”

I would hope that they can recognize that the revenues of counties include an equitable share of the national revenue. So, this Clause needs to recognize this and say-

“Shall take cognizance of the needs of the county government beyond what can be met by the equitable share of the national revenue”

This is because the Constitution requires that monies that will be delivering services are also from the equitable share of national revenue plus own-source. However, if we are requiring counties to think about all the needs of the counties, then we are in a subtle way saying that now own-source revenue is the one to carry out all of this. We will be contradicting the Constitution. So, for clarity and the avoidance of doubt, I suggest that those words be included in this.

In the same Clause, when you read 4(2) (e), it says-

“(e) Determine the criteria to be applied that property rating is fair, objective, reasonable and just by—

(i) Applying different forms of rating for different categories of ratable properties.

(ii) Identifying exemptions for certain uses of ratable properties from payment of rates.

(iii) Specifying circumstances applicable when considering interest on defaulters, discount, remission and waiver; and

(iv) Increasing rates taxes bases.”

When you come to four, it says by increasing rates tax bases. That means we are giving permission to counties to only increase rates. We must contemplate decreasing rates. So, I suggest the removal of this Clause because it is just about increasing rates and tax basis for the counties. I suggest we must not bring this sickness of taxation to become entrenched in law at the county level.

As I finalize, I also want to bring the Senate's attention to clause 27, which says-

“All areas within a county government shall be a ratable area for purposes of this Act. “

Madam Temporary Speaker, that means the widow in the far-flung rural areas with a broken house who can hardly find money to buy her food, is now being told she will start paying taxes.

Currently, rates are payable in respect to urban areas and municipalities. As areas start to grow and become municipalities and urban areas, it is good to put rates there. However, the bulk parts of the rural areas in this country are completely neglected.

For us to start levying these rates against people in rural areas is objectionable. I suggest that Clause 27 be removed. Otherwise, every Kenyan prepare to pay rates.

I urge the county governments not to be driven to this trick of fighting with Kenyans over unnecessary taxes. Let us pay rates in respect to urban and peri-urban coming areas. Let us stop this appetite of getting money even where there is no money. So, I suggest that Clause 27 be removed from this Bill.

Madam Temporary Speaker, I will not speak to the other issues. I will share a few of them with the Senate Majority Leader.

I know I have crossed. I need to come and relieve you.

I urge that Clause 27 be expunged from this Bill.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Mumma.

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Sen. Cherarkey, you may proceed.

Sen. Cherarkey: Madam Temporary Speaker, from the onset, I support the National Rating Bill (National Assembly Bills No.55 of 2022).

I know there is a lot of growth in the country, especially in terms of development, acquisition and valuation of properties, even in waivers, and many others. In most cases, there is always the aspect where we do a valuation roll.

As the Vice-Chairperson of the Senate County Public Accounts Committee (CPAC), we normally request for the valuation roll because it forms the basis own source revenue; valuation, assets and liabilities register.

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

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

We normally see county governments using a lot of money to do all manner of things, such as putting up banners and advertising on media saying they are waiving land rates, land fees and many other charges. However, it is important to have discipline and order in the legal framework.

Last week, I was meeting my sugarcane farmers and, as we all know, there is a Sugar Bill that is under consideration at the moment. There must be order in every sector. You cannot just wake up one day and say you want to do waivers, yet you intend to waive it on behalf of your friends or specific interests. So, there must be a certain threshold.

The biggest defaulter in paying land rates in this country is the Government. In Nairobi City County, for example, Gov. Sakaja will tell you that most of the pending bills are for Government agencies. That is the sad reality that we owe billions of shillings and it hampers the own resource revenue.

Where I come from in Nandi County, own source revenue is a sad story. We do not want to open it because it looks more like an eulogy or some sort of defence of total misnomer in terms of collection of it.

Unlike in Makueni County, in Nandi, we have tea. We also have cess from Sugarcane, which forms one of the basis. We were with farmers at Aldai-Maraba of Chemilil-Chemase Ward, near Kisumu, 17 kilometres near Miwani, Kipkorok and Samoget at Maraba Primary School grounds.

One of the issues that cropped up was the state of cess that is being collected from sugarcane and tea farmers. It affects the own source revenue of individual counties.

I heard the Senator of Nyamira County highlighting a county that has seen significance change in terms of leadership. It is where Senator Beatrice Ogolla comes from. In my county is that you collect cess, but the roads are not passable. For example, Chemelil-Maraba road is in a deplorable condition.

I was also with sugarcane farmers at Chepterwai in Mosop Sub-County and they were complaining about cess. So, this issue of rating and waivers forms part of own source revenue. The sugarcane farmers come from the same region.

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For example, in northern Nandi, they wanted to be part of Hon. Oparanya's recommendation on sugar, to be part of Kakamega, the northern Nandi, and part of Bungoma and Trans-Nzoia.

On the southern part of Nandi, they want to be part of the central region of Nandi, Kericho, and Kisumu. Interestingly, we are discussing how to generate own source revenue, not only in rating. However, we are 18 kilometres to the next factory in South Nandi and another factory in Kakamega County. For example, we have Butali Sugar Factory or Kabras Sugar Factory. On the other side, it is Kibos, Muhoroni, Miwani, and Chemilil.

So, they were arguing and the Standing Committee on Agriculture, Livestock and Fisheries will resolve that as a House. I want to assure farmers because our work is to protect their interests. They want to see value when they pay sugarcane and tea cess

We are lucky as Nandi County because we have cess. If you go to Makueni County, I do not know whether the county collects cess from mung beans farmers. I do not know whether fish attracts some cess for counties around the lake region, but I highly doubt that. You and I come from that region. There is cess, but we must see the value in terms of maintenance of roads.

In valuation and powers of valuers, we need to organize. This is because valuers are very important. However, we do not want them to inflate the issue of valuation so that it becomes easy.

On the issue of discounts, when governors do waivers, they must be specific on how much discount they are giving out. When you buy something, you are given a 10 per cent discount. However, they give 100 per cent waivers, but give a discount of 50 per cent. So, how will they enhance and generate own source revenue base?

Madam Temporary Speaker, allow me to say three things in quick succession so that we can finish on this Bill and move forward. Clause 7 states that-

“A County government may levy rates on land and buildings in accordance with the provisions of this Act and any county legislation.”

This has been provided under the provision of the Constitution on power to do taxation by county government. There is nothing new here because we levy rates on land or buildings. However, they should not become unpredictable because it will affect the ease of doing business.

If you are paying a land rate, for example, at Kshs1000 per acre, counties are free and they might amend in the next financial year because of the appetite to raise own source revenue. They might decide to do Kshs10,000 which will chase away the investors.

Madam Temporary Speaker, at least, you are more exposed than a number of us. In some countries, the rich do not pay taxes. I know many people are uncomfortable. The reason they do not pay taxes is to let them do investments, hire more people, and then they go for your Pay as you Earn (PAYE). That is how they recoup.

I know people like Senior Counsel, Sen. Dan Maanzo, might not agree with me, but when you travel to serious established economies, the rich do not pay taxes. They are encouraged and given incentives to invest more.

If you allow a factory to be established, for example, in Chemilil-Chemase Ward in my County of Nandi, and you are doing around Kshs1 billion, it can hire up to 2,000 engineers, labourers and loaders. So, the value that will come will be much more than the tax that you pay.

So, I think we need to look at Clause 7. I know that the Senate Majority Leader is following and listening.

We should not allow counties to do more because we have seen what they do when we pass the Finance Bill. We have the Finance Act, which also affects counties. At the moment, we are trying to enhance accountability.

There is a proposal to reduce the time period of doing financial statements by county governments and other entities to be within one month, as opposed to three months as provided by the Public Finance Management (PFM) Act. This includes even amending it in accordance with the International Public Sector Accounting Standards (IPSAS), which should be changed from cash to accrual basis.

On the issue of payments of rates, as a Member of the CPAC, we need to be careful in terms of payments because counties take advantage. Can you believe that one county had almost 100 commercial bank accounts? Some of them even deposited money from the World Bank given as conditional grants.

Under the PFM Act, it is clear that you must create a special purpose account. However, you will find counties opening 17 or 20 commercial bank accounts without following the PFM Act. That is happening. Allow me to use Nandi because it is my county. In the last financial year, we received money from the Kenya Urban Support Programme (KUSP).

We received millions of shillings. The CECM for Finance, in consultation with the Governor, decided to open a fixed deposit account, so that they earn interest. That is violating the requirement to open special purpose accounts. We need to tell counties how they should go about payment of rates.

The issue of pay bill is another elephant in the room. We must be careful about automation of revenue systems, use of M-pesa and cash payments. I remember there was a certain county, but I cannot recall which financial year it was. The county offices were about 100 metres to the bank, but they used to lose Kshs96,000 when going to deposit money in the bank.

I agree with Members that we must be careful. We do not need to introduce other taxes and levies. We must agree on how to pay them. We must also agree that the designated revenue receiver for a county has to transmit money to the county treasury. It is important so that this process is not abused. We should also figure out remissions or remedies when you pay more or less.

The second and final point is on discount. It needs to be fair and we should do due diligent. Discounts are only given based on assessment. You do not just give people discount without looking at their history, credit worthiness and business performance. It does not make sense to give out for the sake of it.

Madam Temporary Speaker, I heard one of my colleagues talking about corruption and waivers. Sometimes people are given waivers because they want to

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sell property after agreeing with county officials on how to do so. I also agree largely on the issue of valuation together with many others.

So that I allow my colleagues a chance to also contribute, let me say this in conclusion. I agree that this is an important Bill. We seek to bring order and sanity in terms of valuation and rating.

I remember my colleague here, who is also a Commissioner, stated something about corruption. Many people have accused me of not liking the Ethics and Anti-Corruption Commission (EACC). It is not that I do not like them, but I like saying the truth. The EACC said there is a lot of corruption in counties. I have seen them conducting a conference on the wage bill.

Madam Temporary Speaker, I am surprised that the Office of the Speaker was not invited and Parliament is never part of the conversation, yet we are the ones who made regulations that the wage bill should not go beyond 35 per cent as per the PFM Act. I have not seen the input of Parliament, yet we are the ones who pass the necessary legislation and legislative intervention in terms of the wage bill.

We have a crisis in the counties. Even when you go to Makueni or Homa Bay counties, you will find different crises in terms of the wage bill. We have staff that transitioned from the defunct municipal authorities including “rat catchers”. Yes, we are aware that some of the counties have “rat catchers” Sen. Maanzo will inform you that you cannot fire them because they are permanent and pensionable. If you do so, they will be reinstated by the Employment and Labour Relations Court. Their business is to ‘catch’ rats and they earn salaries. It is very unfortunate.

Up to now, Garissa County is still paying salary to 11 retirees thus losing millions of shillings. In Kisii County, for example, there is an old man beyond 60 years who is still earning a salary. We are all aware that the circular from the National Treasury and the Public Service Commission states that if you are beyond 60 years, unless you are a judge, have an exception or a Person with Disability (PWD), you should not be salaried.

Even as we talk about the wage bill conference, I would have expected Parliament to give its experience so that we see how to curb it. I am aware that the national Government is spending a whopping Kshs1.1 trillion in terms of wages and salaries in the country.

Even as they conduct that conference, I do not know where they will take the resolutions to. I thought Parliament should be there, so that we transit those resolutions to policy and legislative interventions on how we should assist counties. There are defunct municipal council employees who are now employed by governors. When somebody wins an office, they usually come with their brigade.

Sen. Ogola used to work in a county. I am told that in Bungoma County there is a time a former governor hired people to only carry his chair around and they were being paid. Therefore, as Parliament, we should participate in the wage bill conference and tell policymakers and governors to stop misuse and abuse of resources.

Madam Temporary Speaker, I want to congratulate you. I did not know you were that courageous when you joined yours truly to condemn the harassment of Sen. Okiya Omtatah. Governors have a lot of money to enable them even hire personal militia. When you question something, there is heckling and harassment.

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There is no proper guidance in terms of the wage bill. In fact, governors have private militias to harass anybody who oppose them. They also have hired radio callers to call in vernacular radio stations to insult people. Others are what we call online armies for governors who insult people on social media and they are being paid. Those are the ghost workers who are almost in all the counties. In fact, Nandi County is leading in terms of ghost workers.

Out of Kshs4 billion that goes to Nandi County, more than Kshs1 billion is paid to ghost workers. Their work is to insult those who contravene or question the governor. It is good that some of us are mature and have PhDs in handling such. I empathize and sympathize with other elected people.

People like Sen. Maanzo have been enjoying because they have been commandeering with my former colleague and Member of the Committee on Justice, Legal Affairs and Human Rights, now Gov. Mutula Kilonzo Jnr.

Madam Temporary Speaker, I was shocked when I went to your county. Somebody was stoking and questioning something valid about a road. However, somebody stood up, took the microphone away and even wanted to beat that person. It is because we have not done well in terms of putting a leash on governors. Just because they have a lot of money, they hire people who do not have any business in terms of the county's growth.

This Bill is welcome. I agree with you that when it comes to amendments, we need to tighten, so that it does not form a platform for abuse.

With those many remarks, I beg to support this Bill with amendments.

I thank you.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Ogola.

Sen. Ogola: Madam Temporary Speaker, from the onset, I would like to support this Bill. It is a Bill that should have come like yesterday because it spells out the role of valuation.

As Sen. Cherarkey has indicated, I used to work for Homa Bay County Government. Precisely, I worked as the CECM for Land.

Valuation has been a big challenge to counties since the onset of devolution. While I was working in the counties in 2013, only one government valuer handled Kisii, Nyamira, Migori and Homa Bay counties. This was replicated in all other counties to the extent that when counties wanted to do anything that involved valuation, you had to book the valuer. Remember, he had a schedule set out in all four counties. Each county kept on waiting. It ended up that this valuer was like a god figure in the county because he served at whim. He would come for a few minutes. I am happy this is being provided for in the National Ratings Bill we discussed.

I support the idea that a Chief Government Valuer will have a restricted mandate. There needs to be a set of standards and guidelines that should be harmonised across the counties. We have the 47 county governments and the national Government.

All counties must do the same in terms of standards and guidelines for valuation. There is a need for a chief government valuer, but this does not mean

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he will perform county functions. I am happy that the Bill gives the counties the power to employ valuers in the counties dealing with valuation activities and harmonise with the Chief Valuer.

Madam Temporary Speaker, my initial fear was that the Chief Government Valuer would be like a prefect or supervisor. However, we should restrict his functions to guidelines and standards. He is to oversee that the standards and policies are undertaken in all the counties. This will set orders across the counties.

During the local authorities' era and the counties at the onset, you will be surprised that in urban centres, big establishments and properties, having big activities, would pay less taxes than the common market woman who take their tomatoes, vegetables, onions, and bananas in some trough. This is how it used to be. The market women and men would pay a cess of Kshs100.

If you work on the total, Kshs100 for a month meant that the poor woman selling one trough of bananas was paying Kshs3,000 to the county in terms of cess. If you multiplied that by 12 months, the cess totaled less than Kshs36,000. However, you had one property owner in a town paying Kshs10,000 in a year. It meant that the counties taxed the ordinary market women more than prominent establishments.

This is why I am supporting this Bill, that after valuation, the property and landowners would be paying rates that are commensurate to what they have. Nonetheless, why do they pay taxes? They pay taxes so that they are given proper services that they need in the urban centres.

As our people will be paying taxes, we want to see that the counties are able to give them access in the town centres and that our urban centres have water and firefighting equipment. We would like to see that as these taxes are collected, markets are developed commensurate to the taxes being collected.

We want to see that in the urban centres, both solid and water waste is managed. As Sen. Orwoba was saying, we want to see that the storm water management is put in place, so that our towns do not flood. We want to see proper physical planning of our urban centres and the required facilities put in place such as the market lights.

Madam Temporary Speaker, it is unfortunate that in some counties the cess and taxes are collected from markets that have not even been compensated. Besides, those markets are still sitting on freehold lands. That somebody owns some land, a market is growing and the counties are collecting taxes.

I have one such in my county called Kodumba Market that is still owned by an individual. This is a poor family that has made endless trips to get compensation, yet the Government of the day is collecting cess and taxes from that market. The county governments must also compensate those landowners even as they collect taxes.

I also want to touch on the issue of own source revenue. Sometimes I think most of the counties just bring up this issue by quoting the figures of own source revenue, just to balance their budget. It is so exciting to state that County A used to collect B, but now they collect so much. Nonetheless, it stops just at the figures. Are these increases reflected in the outcomes for our people? Do we see such increases getting invested back to our people? Therefore, that brings me to the issue of pending bills of the counties. We

would be happy as a Senate that as the own source revenue is increasing, we would also see that the counties are paying their pending bills.

There is always a tired excuse that counties give, and it is very easy. I have often heard it with the Nairobi City County, that the pending bills we have were bills that were accrued from the defunct authorities. To me, that is a big lie because even then, when the counties came in, we were seeing the pending bills increasing without being paid. I am keen on the issue of the pending bills is because it should be a first charge on budgets. However, we do not see them being paid. We also talk about the aging system, where you should be able to pay what was earlier committed in counties. However, we see the pending bills increasing.

I have said here that I was a County Executive Committee Member (CECM) of lands and housing. When the counties came into being, it was so pathetic. There were houses that had been built by the defunct local authorities and were inherited by the Homa Bay County Government. We saw people living in two to three-bedroom houses paying as little as Kshs800 shillings when the market value of such houses in that town was over Kshs20,000. This was because no valuation had been done from the 1970s. There was no basis for increasing the collections from those houses.

Madam Temporary Speaker, I support the National Rating Bill (National Assembly Bills No.55 of 2022). I support the fact that valuation is now being standardised and harmonised. There are set guidelines that are going to be used by the Chief Government Valuer to oversee how valuation will go about in all the counties.

We call upon the counties to be as consultative as possible because that is also indicated in the Bill. I am happy that this will be a participatory process. As the counties collect, we would like to see services being given back to the people from the collections that they make.

I support.

The Temporary Speaker (Sen. Mumma): Thank you very much.

Sen. Maanzo, proceed.

Sen. Maanzo: Thank you, Madam Temporary Speaker, for giving me an opportunity to contribute on this very important Bill. Unfortunately, the titling of the Bill is the National Rating Bill (National Assembly Bills No.55 of 2022). Therefore, it has been prepared and most probably public participation done by the National Assembly as if it is for national purposes.

Clause 55 seeks to repeal Cap 266 and 267. Cap 267 was a Local Authorities Act, which dealt with the old authorities and Cap 266 had something to do with the ratings. I agree that years have moved and we are now in devolution time. We should now deal with devolution.

As a Senate, one of the things that should happen in this Bill is to subject it again to public participation at the counties, so that the counties have their say. The National Assembly and the Senate are making a law for the counties. I

believe there was no sufficient public participation during the National Assembly proceedings.

Madam Temporary Speaker, it should be a culture that when a law is being made for the counties and it comes to the Senate from the National Assembly, then we should do public participation, so that we can make proper amendments to this particular law, so that it gives meaning to the law itself.

When you look at where delegated legislation is going to originate, it says the Cabinet Secretary may make regulations generally for the better carrying out or effect of the provisions of this Act. It does not say which Cabinet Secretary. So, who is the decision-maker on this? Is it the Cabinet Secretary for Land, Environment and Natural Resources or the Cabinet Secretary in charge of Devolution and Intergovernmental Relations? Most probably, it means the Cabinet Secretary for Land, Environment and Natural Resources, but that needs to be clarified further.

We have seen quite a lot of times, almost every governor putting up a very big banner. I have seen that from the Governor of Nairobi City County and Kiambu County. Then they run many advertisements in the radio and television stations that they are going to exempt leasing taxes for a number of months and then they extend from December to January, then March.

I believe these counties are losing revenue. This advertisement is going to who? Is it to the national Government institutions that have failed to pay land rates for such a long time? What happens to stadia, which occupy land in the counties and they pay land rates? Which is the Ministry in charge of this now that sports is devolved? Then, automatically, it means that the county government has something to do with that.

Madam Temporary Speaker, while you were contributing, you had drawn our attention to Section 27 of this Bill, which is even worse. This particular section makes nonsense of the whole of this Bill. It subjects Kenyans to the over taxation which we see going on in the country currently.

When you make laws loosely - that is why I am saying, proper public participation is important. You have a subtitle that says, "Declaration of Ratable Areas." Then, you go ahead to say, all areas within a county government shall be ratable areas for purposes of this Act. First of all, it is a national Act because also, the national Government makes ratings at the national level. Then now, you have such a law being enacted for the counties, meaning it will be effected everywhere.

It means every single agricultural land can be rated and there will be taxes from it. It means houses, towns and markets can be rated. Just as Sen. Cherarkey had said, you can rate and then overdo it. You can actually tax the rich less than the poor. You heard the contribution of Sen. Ogola that, in fact, the *mama mboga* selling vegetables and paying some monies every day in the market ends up paying more money than somebody who owns buildings worth billions of shillings in a market or a town.

You need to balance so that there is no discrimination. The moment this rating becomes discriminative, then it becomes unconstitutional. Whether you beat up Sen. Omtatah or kill him, somebody will still go to court and say that this Act is unconstitutional. It does not matter whether Sen. Omtatah is alive or dead, his spirit lives in very many Kenyans. He works for very many Kenyans for the benefit of the nation.

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Therefore, if we are making an unconstitutional law, which ends up being discriminatory, then we are making a law that the courts will easily find to be unconstitutional, even when there are moving *suo motto* without being moved by Sen. Omtatah, any other Senator or any other Kenyan. Therefore, we have to make a law, which is within the Constitution.

When you come to the tribunal, there are many other laws which compare as tribunals. The Cooperatives Act and the Sacco Regulations Act have tribunals where a magistrate sits and the magistrate is aided by experts in that area.

Here, you have a tribunal, which is unconstitutional with a membership of 18 people. Even the best practices of the world has a maximum of 9 members. Even the Independent Electoral and Boundaries Commission (IEBC) has a maximum. So, a membership of seven members for a tribunal will make sense.

As a Senate, we need to rise to the occasion and agree to amend this Act thoroughly, first of all, for the benefit of devolution, and secondly, for the benefit of the country. When you raise this money, some counties have tried, they have come up with pay bill numbers. Counties such as Machakos and Makueni have done that. Every other payment to the county is made through a pay bill number. You can then collect monies and manage them in a better way.

Madam Temporary Speaker, many times when you send people to the market to collect cash from traders, how truthful are they? Even when you use receipts, some of them will even print extra receipts, raise money and go home with it. In the evening, they surrender little to the county. The process of banking that money in cash takes a very honest person.

When it comes to corruption, the nature of human beings has become worse than Satan. If you want to check corruption, beginning from the national Government to the county governments, the EACC has a bigger job to do. It should be strengthened enough, not guided from a corner and not malicious. This is because most of its prosecutions go for over 10 years and its investigations or by the Directorate of Criminal Investigations (DCI) acquit people on a no-case-to-answer, under Section 210, before they are even put on defence. The whole trial against a governor, former governor or a Government official ends up being a charade or a political witch-hunt.

Madam Temporary Speaker, we have to draw the lines and EACC has to be very independent. The prosecuting bodies, as required by the Constitution, have to be independent so that you do not end up with a sham prosecution and waste Government resources. At least, there must be a station of EACC in every county where members of public can write anonymous letters and give evidence on who is corrupt for further investigations.

We need to deal with corruption in the counties because some of it is done without the knowledge of the governors. Due to perpetual successions, you will find a governor inheriting pending bills that are corruptly made, unconstitutional, and were for activities not meant for the county. You have a former governor abandoning pending bills of illegal activities to an incoming governor on the basis

of perpetual succession. The new governor bears responsibility of the former governor and it then becomes very complicated.

Madam Temporary Speaker, when this matter is brought to us, we refer it to investigative agencies, and you end up tainting the name of a new governor, who means well and you leave the old governor who has stolen and looted to go scot-free.

We must relook at the whole idea of pending bills and raising a lot of money. When we raise these monies, this Bill does not come up with proper measures of dealing with own source revenue. If it is properly done, own resource revenue is a lot. It can sustain counties in an immense manner and can complete some of the activities in counties for the benefit of the people.

Madam Temporary Speaker, when these monies are raised, we have weak mechanisms as to how we have rated because we have put all the money together in an account. You hear of counties with 100 bank accounts. What are they for? A county government needs not more than three bank accounts based on what it does. It is a better way of managing and accountability.

If you have 22, 10 or 12 County Executive Committee Members (CECMs), why should the county have 100 bank accounts? This Bill is meant for raising money for the counties. When you raise money, there must be a proper way of the money getting accounted for.

If you weaken county assemblies, they will not be strong enough to check the governor properly. You know, when all the processes have been completed, it is the Senate that deals with auditors' reports, where audit queries and certain things have not been done well. There is a lot of money being lost in counties even without the knowledge of governors because of lack of proper legal mechanisms.

We have now been presented with a very weak Bill from the National Assembly, proposed by the Executive, without clarity on which Cabinet Secretary will squarely deal with and can make regulations that will make effect. It means we are failing as Parliament before we even end up with a system for the counties.

Counties' money-collecting measures should be effective, so that CECMs and people who collect monies are accountable. That will ensure that the right people are levied properly, without leaving out the bourgeoisie in the counties who own properties, but pay very little yet people in the markets and those who walk around doing the so-called *reja reja* business are paying more.

Small industrialists in the counties that grind maize to produce flour spend little time. In terms of value addition, they are paying more than somebody who collects commercial rent every month. This Bill is important, but the Senate has got a lot to do during the Third Reading.

The Senate Majority Leader performs an important role in this House. He is now required to co-sponsor this Bill with the Leader of Majority in the National Assembly, whom I have a lot of respect for. Having been to Alliance Boys, in Parliament for three terms and dealt with issues of finance, he is fairly experienced.

It is good that we have proper records of comparison of what happened in the National Assembly. Is there need of having done proper public participation on this? I

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strongly propose that we send this Bill again for public participation. Otherwise, we will be making an illegal law as a House.

Whether Sen. Omtatah is beaten up or not, this is a matter we must go back to court to deal with, including any other Act we have passed without redoing public participation as a Senate, especially when it originates and co-sponsored by the two Majority Leaders.

When our own Senate Majority Leader co-sponsors, he must have a voice and direction in co-sponsoring a Bill of Parliament. He should not just rush it to the Senate to get a rubberstamp and forward it to the Executive for signature, when we know well that on the face of it, it is a defective law, especially Clause 27.

Madam Temporary Speaker, I can only support this Bill with amendments. As it is, it is a bad law for the country. We have been in business of passing bad laws that originate from the National Assembly. This should be the last one. We should put down our foot, make the necessary amendments, call for mediation and make sure we have a law that is best for the counties and Kenyans.

I thank you.

The Temporary Speaker (Sen. Mumma): I now call upon the Mover to reply.

The Senate Leader of Majority (Sen. Cheruiyot): Madam Temporary Speaker, I thank colleagues who have taken time to speak to this extremely important Bill. I take their comments in good order. I only take exception to the comments by Sen. Danson Manzo. He is among the senior most legislators in the House, having been in the corridors of Parliament for the past 12 years.

I listened to him espouse on the benefits of the Bill and what needs to be done or changed. He then concluded by a colloquial remark that has become commonplace in this House by saying this is a bad law.

Now, what I do not understand is this: When a Bill is at Second Reading, Dan Maanzo, and the elements to it that you agree with and elements that you think need to be made better, how does it become bad law?

I thought as a senior legislator, you need to guide the House. You are a senior leader in the House because you have been around for long. As such, to your colleagues who look up to you, draft the necessary amendments once we get into the next stage of the Bill.

There is a reason Bills go through the First and Second Readings and, then the Committee of the Whole. It is so that you align it to the things. I have said this many times. Unfortunately, I am saying it in the evening when the House is almost empty. If a Bill is so flawed that it is completely against the rules of a country and Constitution, you can declare it a bad law at a Second Reading. We were protesting the other day what the National Assembly did in rejecting a Senate Bill at Second Reading. I spoke at length about the abuse of legislative procedure.

Sen. Maanzo, I believe you can do better by guiding many of your colleagues to appreciate how to align a law. For example, if you are clear in your

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mind that certain things need to be aligned, well and good. However, listening to the comments of many people who spoke here, including the Seconder to colleagues across the aisle, they agree that there is a need to provide this legislative framework for uniformity of rates that are paid, and the process of how to go about it. The rest are details. How you want to align it to the Constitution or how you think maybe this is an overreach for one reason or the other, those are things that we could always agree or disagree on, because it is about process.

Madam Temporary Speaker, I take comfort in the fact that many of our colleagues have said there is need for this law to provide a standardised platform that applies across all 47 counties. This will enable us to even boost own source revenue in our various counties and ensure that there is taxation equity.

You just do not tax those at the bottom of the pyramid who have no opportunity to go to the offices of the governor and negotiate for their favourable rates as the big landowners do. I gave the examples of multinationals. Sen. Cherarkey, you were not there at that time, but now you know. Multinationals, for example, in Nandi County, may perhaps pay a land value of early 90s, while we are in 2024. This is the law that will guide and standardise for all.

Madam Temporary Speaker, this is an important piece of legislation that entrenches devolution. One of the challenges that devolution suffers is underfunding. We cannot continue like that. We have all argued before the House here and said that there will be no day now and in the future, that we will say counties or national government are now fully funded. That is why there is something called budgeting. Budgeting is political all over the world because you share finite resources. You say give priority here and there.

We must begin to nurture our counties to have the culture of raising own source revenue fairly and in a manner that does not put much burden on the ordinary citizens. We must do it in a way that helps them to meet some of their objectives without over-relying on the share of the nationalised raised revenue.

There is revenue that can be raised locally. That is why we are even pushing and arguing for the Natural Resources (Benefits Sharing) Bill (Senate Bills No.6 of 2022), so that many of our counties, including Makueni, where Sen. Maanzo comes from, that have a lot of natural resources, can benefit from those resources.

We need to expedite such laws because we are trying to foster devolution by ensuring that counties are at least near self-sustaining on account of revenue that is raised locally, even as we divide whatever is shared nationally. Therefore, I thank you, colleagues, for your comments and the time that you have taken to contribute to this Bill.

With those many remarks, Madam Temporary Speaker, I beg to reply. Further to that, in accordance with Standing Order No.66 (3), I beg to request that you defer the putting of the question until a later date.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Thank you. It is so deferred.

(Putting of the Question on the Bill deferred)

Hon. Senators, we will now reorganize the Order of Business again. We now move to Order No.11.

BILL

Second Reading

THE MATERNAL, NEWBORN, AND CHILD HEALTH BILL (SENATE BILLS NO.17 OF 2023)

Sen. Ogola: Thank you, Madam Temporary Speaker. I beg to move-
THAT the Maternal, Newborn, and Child Health Bill, (Senate Bills 17 of 2023) be read a Second Time.

I am happy that I am moving it amidst the background that there is a challenging situation in this sector when medics are on strike.

From the onset, I would like to state that medics are very important in the implementation of this Bill. Therefore, as a country and a House, we must take note of the challenge that the medics face.

Earlier, I heard Sen. Cherarkey say that it is only the Council of Governors (CoG) that should take the major blame or role in solving the medics' challenge. However, the buck stops with the President because he is the Head of State. So, he must look into the problem that the doctors have.

Each one of us that has interacted with doctors knows the many years that they take as they undertake their studies. This is an area of profession where there is a lot of precision and passion. For what it takes one to become a doctor or nurse and the services they give to our people, as a country, we must look at their welfare. If you look at what the doctors are asking for, I do not think that it is too much.

The Bill proposes to enhance the status of maternal healthcare to the required international standards. This Bill seeks to create a framework for the well-being of pregnant mothers, new-borns and children up to 12 years.

I will start by giving a brief background. The 2022 Demographic Health Survey states that there is a percentage of women aged 15 to 19 years. Those are purely adolescents who have ever been pregnant.

If you go down to the statistics, in Samburu County, it is 50 per cent; 36 per cent West Pokot, 29 per cent in Marsabit; Narok, 28 per cent; Meru, 24 per cent; in Homa Bay, my county, it is 23 per cent; Migori, 23 per cent; in Kajiado, 22 per cent; Siaya, 21 per cent and Baringo, 25 per cent. The lowest is only in Nyeri and Nyandarua counties at 5 per cent.

What does that percentage indicate to us? It only indicates that as a country, we must take issues of maternal health very seriously. Let me go ahead to give some background.

On the 9th or 12th October, 2023, Dr. Anne Beatrice Kihara took over as the President of the Federation of Gynaecology and Obstetrics (FIGO). FIGO is

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the International Federation of Gynecology and Obstetrics. This was celebrated in Paris at the 24th FIGO World Congress held at the Paris Convention Centre in France.

I bring this background because it is so crucial to us as a nation. Dr. Ann Beatrice Kihara is the first black president ever from Sub-Saharan Africa. Dr. Ann Kihara is a Kenyan, a mother, a specialist gynecologist, a senior lecturer at the University of Nairobi (UoN) and a fierce advocate of women's health.

What I bring to this outstanding day is the declaration that Dr. Ann Beatrice Kihara made when she was crowned the President of FIGO, and I quote:-

“Universally the measures of a country's state of health is predicated by its maternal mortality ratio.”

Madam Temporary Speaker, that just builds to the fact that as a country, we must step up services that we give to pregnant mothers, newborn babies and children that I shall be spelling out here to be specific, children up to the age of 12. As a background, I also bring commentary from another gynecologist doctor, Dr. Nelly Bosire. She has a very outstanding commentary that she made about maternal health. I quote.

“We cannot quite celebrate our great technological advances in healthcare when at such a basic level, mothers continue to die while trying to secure the continuity of our future generations.”

Madam Temporary Speaker, how else would we get future generations in this country and the universe, if it is not at childbirth? It is also worth noting something else that happens every other day in our counties. In Homa Bay County, at the beginning of this year, we lost Mrs. Opiyo Milton who died at Ungako Dispensary in Ndhiwa Constituency. This is a young woman who walked majestically and having attended her clinic sessions, expected to walk out of the hospital with a young baby; a bundle of joy. However, in 30 minutes or so, this young woman who walked to Ungako health centre had passed on.

On the same note, this year, we lost two students, Ms. Caroline Orowe and another young student from a remote village in my constituency known as Ligotho. This happened in Ndhiwa Hospital.

Madam Temporary Speaker, it is reflective of what Dr. Nelly Bosire had indicated. We cannot celebrate the technologies, while each minute we are losing young women at childbirth. That it is a story that all of us would tell. We can count the number of young women that we lose during childbirth.

In her commentary, Dr. Nelly Bosire continued to state:

“Worse is that we cannot assure that every baby born stands a fighting chance celebrating their first month of life.”

That is so outstanding to all of us, as Kenyans. From a professional standpoint, a gynecologist obstetrician, states that it is worse and not every baby born stands a fighting chance of living beyond one month.

Madam Temporary Speaker, what else do we need to do other than to strengthen services for pregnant mothers, newborn babies and children because they are the continuity of our future generation?

Dr. Nelly Bosire ended by saying that we must be intentional about reducing preventable maternal deaths. As we celebrate, increase antenatal visits. When we look at

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our records, we can pick from the health centres, dispensaries and referral hospitals figures that show an increase in antenatal visit attendance. Dr. Bosire says that as we celebrate the increased antenatal visit attendance and skilled birth attendance delivery indices, these exciting indices have not translated to reduced maternal deaths.

As a country, even when we talk about records showing an increase in women visiting antenatal clinics; even when we have records that show that there are skilled birth attendants who are attending to our pregnant mothers, it is sad to notice that this increase in records has not translated to reduced maternal death.

This Bill is specifically about strengthening the services that we give to these three components so that, at the end of it, as a country, we reduce maternal deaths and give services that are to the international standards.

An economist asked that if we have invested as a country in bringing our mothers to hospitals and dispensaries, why are they still dying? If the hospitals are there and we have invested in bringing mothers to hospitals and dispensaries, why are they still dying? It is time to work on the quality of our service provision.

There are critical questions we must ask ourselves. Is the service we are providing meeting the bare minimum quality standard? Are our facilities ready to ensure the highest attainable standards of care?

There are concerns that our health system must address. One is the quality of service delivered to our mothers. Secondly, we must address the shortfalls in health system financing. Is the right model in place for delivering maternal care? Another concern we must address is the inadequate workforce available for patient care, both in numbers and scales.

In my active maternal life, I was once admitted to the Homa Bay District Hospital Ward Two, if I remember precisely. I spent almost seven days in the ward. As I was there as a patient, I thanked God I had a very committed doctor - the district gynecologist at that time - the late Dr. Ojwang' Ayoma; May the lord rest his soul in peace. That was a man who had a passion for his work.

As I was lying in the hospital bed, sometimes in the night, young women - this was a maternal ward - kept on coming there with different problems. There were cases of aborted pregnancies in the night to struggling mothers who had been brought from over 50 kilometres away and had been driven on rough roads. As soon as they came, they were either losing their babies or some losing their lives.

While I was there, there were only a few nurses that would be available. Sometimes, there were only two nurses on a night shift serving over 50 mothers, who sometimes came at the same time. Some of the mothers would come crying. Some would lose their lives and their babies.

That is why I am asking whether we have addressed the issue of inadequate workforce available for patient care. I am very specific both in numbers and skills.

The reason I appreciate the Lord for Dr. Ayoma is because he came to the hospital for all the calls that came, to attend to women, whether he was on duty or

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not. Additionally, I saw the few personnel struggle with the women. Therefore, the Maternal, New Born and Child Health Bill is here to address the issue of numbers and skills of medical workforce that we have in this country.

Another concern that must be addressed is the inadequacies on medical products, vaccines and technologies that are required to save lives. We must also address the non-responsive health information systems.

As I finish with giving my background, Dr. Bosire says that we cannot expect different results, yet we continue to do things in the same old manner. She concludes by saying that it is about unlearning what has not worked and relearning how to do things differently. This is the background upon which I present the Maternal, New Born and Child Health Bill, 2023.

This is a Bill for an Act of Parliament to provide for a coordinated system for the provision of quality maternal, newborn, and child health services; to provide for response to maternal and child morbidity and mortality in the country; to provide for a health care system that facilitates the attainment of health rights for mother, child, and for connected purposes.

Madam Temporary Speaker, Clause (1) is basically the citing of the title that is the Maternal, New Born and Child Health Bill, 2023. Clause (2) is on interpretations of terms that are used and Clause (3), on the objects of this Bill.

The objects of this Bill is to provide for a framework for the delivery of comprehensive quality health services that meets the needs of the mothers, the newborn and the children. When we talk about the mothers in the Bill, it is very specific that mothers are grouped into two. We have pregnant mothers. What are the services that these pregnant mothers are entitled to by the two levels of governments that we have in this country?

Madam Temporary Speaker, before that, the Bill spells out the services that mothers are entitled to before they get pregnant. Next, it will spell out the services that the newborn babies are entitled to. When they are born, there are specific services that they are entitled to until they are 12 years.

We must be intentional and do it by design. Even as children are born, there are specific services that they are given up to when they attain those years because we must care about their growth.

Madam Temporary Speaker, the objects include establishing a coordinated and structured system for provision of quality maternal, newborn and child healthcare services. We are here talking about quality. Our mothers are not only entitled to services, but they must also be quality services. As I said, this is the only reason that gives us continuity of generations as a community.

The objects seek to provide a framework that is responsive to causes of maternal, newborn and child morbidity and mortality. We are not only going to talk about services, but we must also be reflective on the causes of mortality and morbidity.

This Bill takes care of that. It will ensure that maternal, newborn and child healthcare intervention services and supplies are available and accessible to the public. There is the issue of access that is spelled out. The objects also establish programmes to

expand and improve availability and accessibility of maternal, newborn and child healthcare services.

If you reflect on the background information, specifically on the percentages that I gave from the many counties, then it means that the percentage has reflected. For example, in Samburu County, 50 per cent of ages 17 to 19 being pregnant. It means that all these people must access certain services. These services must be deliberately made available and accessible to all women, wherever they are, and whatever time they need them every day.

The objects will also promote linkages among existing programmes to expand and improve the availability and access to comprehensive community maternal, newborn and child healthcare services. It will promote the provision of proper care and assistance to mothers, newborn children and children with special needs.

I will also talk about special needs. We have children with special needs. Which kind of services are they giving? Are we just giving obvious services that we give to all children? When we talk about pregnant women, there is a category of women with special needs. This includes women who have mental and psychological problems and women who are marginalised. Are they able to access maternal services from our health institutions and by our professional medics?

The objects also seek to promote innovative, comprehensive and integrated approaches to the delivery of maternal, newborn and child healthcare services. The services that are captured in this Bill are not only limited to curative. We are also talking about promotive, curative and preventative. All that must be provided for in this Bill by health institutions and professionals.

The Bill has principles for service delivery. What are the principles of delivering the services? One is universality of access and equity in delivery of healthcare services and the recognition that in offering these services, there are people with special needs. This Bill is going to spell out how that category is captured.

On the principle for service delivery, this Bill talks about availability and access to services. It not only talks about access, but also timely and reliable information necessary to make an informed decision regarding one's health and treatment.

I will be demonstrating that there must be timeliness---

The Temporary Speaker (Sen. Mumma): Sen. Ogola, you have 35 minutes left. You will continue when the Bill appears next on the Order Paper.

ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 17th April, 2024, at 9.30 a.m.

The Senate rose at 6.30 p.m.

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