

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 18th July, 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?
You may proceed to call the First Order.
The Senate Majority Leader.

PAPERS LAID

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I was happy to see Sen. Wambua is in good health.

I beg to lay the following Papers on the Table of the Senate, today, 18th July, 2024.

VARIOUS REPORTS AND BILLS FROM EALA

Report of the Fifth Parliamentary Dialogue and General Assembly Meeting of the East African Legislative Assembly held in Nairobi, Kenya from 15th to 17th October, 2023.

Report of the Committee on General Purpose of the East African Legislative Assembly on the Assessment of the Implementation of the East African Community (EAC) Budget for the Financial Year 2023/2024.

The East African Community Appropriation Bill, 2024.

The East African Community Supplementary Appropriation Bill, 2024.

Report of the Committee on General Purpose of the East African Legislative Assembly on the Supplementary Budget request and the East African Community (EAC) Supplementary Appropriation Bill, 2024.

Report of the Committee on General Purpose of the East African Legislative Assembly on the East African Community Budget Estimates for Revenue and Expenditure for the Financial Year 2024/2025.

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Report of the Committee on Agriculture, Tourism and Natural Resources of the East African Legislative Assembly on the on-spot assessment of the implementation of projects and plans by the Lake Victoria Basin Commission and Lake Victoria Fisheries Organisation.

Report of the Committee on Regional Affairs and Conflict Resolution of the East African Legislative Assembly on the Oversight Activity to assess the processes, regulations and challenges of conducting national general election.

Resolution of the East African Legislative Assembly paying tribute to the late Hon. (Dr.) Shogo Richard Mlozi.

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF MURANG'A SMALL TRADERS EMPOWERMENT PROGRAMME

Report of the Auditor General on Financial Statement of the County Government of Murang'a Small Traders Empowerment Programme Fund for the year ended 30th June, 2021.

Report of the Auditor General on Financial Statement of the County Government of Murang'a Small Traders Empowerment Programme Fund for the year ended 30th June, 2022.

Report of the Auditor General on Financial Statement of the County Government of Murang'a Small Traders Empowerment Programme Fund for the year ended 30th June, 2023.

Mr. Speaker, Sir, I beg to lay.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order.

Statements pursuant to Standing Order No.53(1), hon. Sen. (Prof.) Tom Ojienda.

QUESTIONS AND STATEMENTS

STATEMENTS

LEVEL OF DISASTER PREPAREDNESS IN KISUMU COUNTY

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, I rise under Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations concerning the level of disaster preparedness in Kisumu County.

Kisumu County has been severely affected by recurring floods, impacting over 5,000 residents in the most recent incident. The County Government should prioritise disaster preparedness in its plans to safeguard the lives and property of its residents.

In the Statement, the Committee should-

(1) Provide an overview of disaster preparedness in Kisumu County, including plans, policies and resources, verifying whether at least 2 per cent of the budget is allocated to County Emergency Funds as per the Public Finance Management Act, and explain the utilisation of such funds for the financial years 2017/2018 up to 2023/2024.

(2) Assess the existence and effectiveness of an early warning system for floods and landslides in Kisumu County, stating whether flood mitigation measures such as drainage systems, flood barriers and dike construction have been implemented in flood-prone areas, providing a breakdown of costs incurred.

(3) Describe how the County Government coordinates with the National Government, Non-Governmental Organisations (NGO) and Community-Based Organisations (CBO) to enhance disaster preparedness and response efforts.

(4) Evaluate the technical capacity and availability of trained personnel, equipment and emergency shelters for flood-related incidents and clarify whether there are measures in place to address the needs of vulnerable populations such as the elderly, children, Persons with Disabilities (PWDs) during disasters, and state measures integrated into the County Development Plan (CDP) to reduce risk and build resilience, particularly in flood-prone areas, stating how often disaster preparedness and response plans are reviewed and updated to reflect changes due to climate change.

Mr. Speaker, Sir, let me read my second Statement.

CAUSE OF VIOLENCE TO TRADERS AT KIBUYE MARKET, KISUMU COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the cause of violence that erupted in Kibuye Market in Kisumu County.

On the morning of 1st July, 2024, it was reported that an armed group attacked two men managing a market toilet in Kibuye Market. This incident is seen as part of a broader struggle for control over market management and toilet operations, which generate significant daily revenue. The violence resulted in fatalities, injuries, significant disruption of market activities and local operations.

In the Statement, the Committee should-

(1) Provide a detailed account of the events that led to the chaos at Kibuye Market on 1st July, 2024, stating any pre-existing tension or issues, and also indicate the number of fatalities and injuries that arose from the clashes.

(2) Provide details on the current status of investigations into the violence and confirm whether any individuals or groups have been identified and apprehended as initiators of the violence.

(3) State the immediate actions and measures taken by the County Government and security forces in response to the violence at Kibuye Market, and any long-term measures in place to ensure the safety of traders and customers at Kibuye Market.

Mr. Speaker, Sir, let me move to my third Statement. I have four statements. I am a serious Senator.

REGULATORY AND MANAGEMENT FRAMEWORK FOR
MASTER OPERATORS IN KISUMU COUNTY

Mr. Speaker, Sir, I rise under Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the regulatory and management framework for Master Operators (MOs) in Kisumu County.

The Kisumu Water and Sewage Company (KIWASCO) has through a delegated management model, contracted small-scale semi-autonomous water providers, referred to as Master Operators (MOs) to provide water and sanitation services to low-income areas in Kisumu City at a fair price. However, there have been numerous concerns by residents regarding the water billing by KIWASCO as well as the MOs within this model.

In the Statement, the Committee should-

(1) Explain the criteria for appointment of MOs, outlining the requisite qualifications as well as their roles and responsibilities.

(2) Provide a schedule of all contracted MOs, including the respective areas they serve, and disclose how the MOs calculate water bills because it is unclear, outlining any specific guidelines and regulations put in place by the County Government or KIWASCO to ensure the bills are affordable and accurate and that the billing process is transparent.

(3) Explain how KIWASCO and MOs address grievances by customers relating to their water bills.

(4) Report on the protocols established by the County Government of Kisumu to hold grievances by residents related to the billing prices at KIWASCO and MOs, providing a status update on the processing of all filed grievances since the beginning of the contract.

Thank you, Mr. Speaker, Sir.

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

ANOMALIES IN PAYROLL SYSTEM AND SALARY
DELAYS IN SAMBURU COUNTY EXECUTIVE

Sen. (Dr.) Lelegwe Ltumbesi: Thank you, Mr. Speaker, Sir. I rise pursuant Standing Order No.53 (1) to seek a statement from the Standing Committee on Finance and Budget regarding anomalies in the payroll for the staff both contracted and those on permanent and pensionable terms serving in the County Executive of Samburu.

In the Statement, the Committee should-

(1) Provide detailed information to ascertain how money is authorised by the Controller of Budget (CoB) from the County Revenue Fund (CRF) amounting to approximately Kshs176,253,831 for purposes of June 2024 salaries were utilised by the County Executive given that no staff in Samburu County Executive has been paid for the month of June 2024.

(2) Provide reasons for the non-payment of June 2024 salaries for the permanent and pensionable staff despite the approval and release of salaries by the CoB pursuant to Article 228 (5) of the Constitution mandating the CoB to authorise all withdrawals from the CRF.

(3) Explain how the County Executive plans to address the salary arrears in the current financial year 2024/2025, detailing the itemised expenditures that depleted the salary allocation for June 2024 thus resulting in this situation.

(4) Ascertain the status of salary and salary-related requisitions in respect of the fiscal year 2023/2024 for the County Executive and whether the required format and procedures, including recommendations of the CoB are adhered to or not, and whether the Exchequer release in respect of salaries and salary-related items are utilised for the purposes for which they are requisitioned.

(5) Give the rationale behind the payment of lump sum statutory deductions in the June Exchequer releases for previous months, including statutory deductions for June 2024 despite the non-payment of actual salaries for the month of June 2024.

(6) Provide a detailed statement disclosing monthly statutory deductions and status of remittances for the fiscal year 2023/2024 and reasons for non-compliance, if any.

(7) State the steps measures taken by the County Government to mitigate against risks of legal suits and penalties arising from non-remittance of statutory deductions, including pension and employee obligations such as insurance covers, loan deductions, among others, withheld, but not remitted on timely basis to the relevant institutions.

(8) Outline plans for addressing non-compliance on timely remittance of statutory deductions such as Pay As You Earn (PAYE), National Social Security Fund (NSSF), National Health Insurance Fund (NHIF), Housing Levy and pension-related deductions, explaining how the County Executive intends to pay obtaining penalties arising from these delays.

(9) Provide a detailed wage breakdown for the month of May 2024 in respect of all casual and contracted staff, that are in the Integrated Payroll and Personnel Database (IPPD) amounting to Kshs25,756,746, stating respective beneficiary details and also submit details amount paid per month to casuals and contracted staff in the fiscal year 2023/2024 as well as the budget estimates for the same in the current fiscal year 2024/2025.

I thank you.

The Speaker (Hon. Kingi): Sen. Wafula, proceed.

PAYMENT OF STIPEND TO COMMUNITY HEALTH PROMOTERS IN BUNGOMA COUNTY

Sen. Wafula: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Health on the status of monthly stipend payment to Community Health Promoters (CHPs) in Bungoma County from January 2024 to date.

In the Statement, the Committee should-

(1) Provide a list of all CHPs in Bungoma County disclosing their contact information as well as their areas of deployment.

(2) State the total earnings paid to the CHPs, so far, and indicate the arrears owed to them by the County Government of Bungoma and the national Government, respectively.

(3) Specify the pay points of CHPs along with details on whether there was public participation involving the County Government and the promoters in the selection of these payment points.

(4) Clarify whether there is an existing contract between the county government and CHPs and inform if the stipend they are currently receiving is in accordance with this contract.

(5) Outline the measures implemented by both the county and national Governments to address current delays and ensure timely payment in future.

I thank you.

The Speaker (Hon. Kingi): Sen. Mwaruma had two statements. Those two statements are dropped.

STATUS OF WORLD BANK PROJECT FOR UPGRADE OF WATER SUPPLY
AND SEWERAGE SYSTEMS IN TAITA TAVETA COUNTY

(Statement dropped)

CHANGE OF USE OF LAND HELD BY
M/S VOI POINT LIMITED

(Statement dropped)

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.57(1), the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 23RD JULY, 2024

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.57(1) to present the business of the Senate for the week commencing Tuesday 23rd July, 2024. The status of legislative business before the Senate is as follows:-

We have 49 Bills that are pending conclusion in the Senate, of which 42 are at the Second Reading stage while seven are at the Committee of the Whole. It is important to remind colleagues that the reason we have these seven Bills at the Committee of the Whole is because we have not been able to raise the requisite delegations to transact them. Therefore, I want to request the Senate Whips to work and ensure that we have enough delegations next week to conclude those businesses.

There are 20 Motions which are pending conclusion. We have 21 Petitions that are due for reporting by the respective standing committees and 374 statements that are pending before the respective standing committees. As indicated at Order Nos.9 to 13 in today's Order Paper, we have pending business at the Division stage. I request hon. Senators to remain in the Chamber for the voting process.

Mr. Speaker, Sir, the Senate Business Committee (SBC) will meet on Tuesday, 23rd July 2024 to consider the business for the week. The tentative business for Tuesday will

include business not concluded from today's Order Paper as well as the business indicated in the notice attached to the Order Paper.

The tentative business for Wednesday 24th July 2024, morning sitting, will include business not concluded on Tuesday, and they are as follows: The report of the Commonwealth Parliamentary Conference held in Accra, Ghana, the Report of the 147th Assembly of Inter Parliamentary Union (IPU), Report on Kenya delegation to extraordinary session of the Pan-African Parliament (PAP), together with the Report of the Kenyan delegation, and other various reports.

The business for Wednesday will include business not concluded on Tuesday and the following morning. These are the Bills that I was referring to, that are the Committee of the Whole stage:

- (1) The Tea (Amendment) Bill (Senate Bill No.1 of 2023).
- (2) The Gambling Control Bill, (National Assembly Bills No.70 of 2023).
- (3) The Maternal, New Born and Child Health Bill (Senate Bills No.17 of 2023).
- (4) The Meteorology Bill (Senate Bills No.45 of 2023).
- (5) The Nuts and Oils Crops Development Bill (Senate Bills No.47 of 2023).
- (6) The Cancer Prevention and Control (Amendment) (No.2) Bill (National Assembly Bills No.45 of 2022).
- (7) The National Construction Authority (Amendment) Bill (National Assembly Bills No.59 of 2022).

The following Bills are at the Second Reading stage:

- (1) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No.46 of 2023).
- (2) The Local Content Bill (Senate Bills No.50 of 2023).
- (3) The Cooperative Societies (Amendment) Bill.
- (4) The Early Childhood Education (Amendment) Bill (Senate Bills No.54 of 2023).
- (5) The Fire and Rescue Services Professionals Bill (Senate Bills No.55 of 2023).

There are Motions as well that need consideration:

One, Report of the Select Committee on the County Public Accounts (PAC) on its consideration of the report of the Auditor General on the financial statements of Tharaka Nithi, Homa Bay, Kakamega, Kirinyaga, Makueni, Meru, Bomet, Murang'a, Nandi, Nyamira, Nyeri, Siaya, Vihiga, Wajir and Samburu County Executives for the Financial Year 2019/2020.

Mr. Speaker, Sir, it is important for colleagues to note that these are important reports from the PAC on the various operations of our county governments that the Committee has considered. Therefore, we need to debate and conclude. Some of these reports date as far back as 2019/2020. We need to conclude on those matters.

Mr. Speaker, Sir, there is also the Report of the Select Committee on the County Public Investments and Special Funds (PIC) on its consideration of the audit reports for the various water service companies for the financial years 2018/2019, 2019/2020 and 2020/2021, which is addressing the challenges of power, purchase agreements, renewals and electricity supply in Kenya.

Mr. Speaker, Sir, there is also a very interesting Motion on the stoppage of funds to Isiolo County Government due to failure by the Governor to honour Senate summons.

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I am not sure how many other times we have done this before, but it is a unique Motion. Therefore, it will be instructive to follow what happens.

There is also an important Motion on the development of a policy and law for social risk management in infrastructure development projects in Kenya. When many of us travel abroad, we can tell a construction site from as far as a kilometre away, depending on how well it is done by providing paths for people to pass and other measures. That is what this Motion speaks to; social risk management in construction sites.

Mr. Speaker, Sir, sometimes when you are driving on our roads in this town, you might hit a manhole left open by people doing construction. This damages your car and nobody is held responsible. As a House of Parliament that supervises the various government agencies, this is something that we need to speak on. We need to conclude on this Motion and even elevate it beyond, so that we hold the state agencies that provide this mechanism for citizens responsible and give them the opportunity to live in a safe country.

The projected business for Thursday 25th July, 2024 will be business not concluded on the Order Papers for Tuesday and Wednesday, and any other business scheduled.

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

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): The Chairperson Standing Committee on Finance and Budget.

REPORT ON CONSIDERATION OF THE COUNTY ALLOCATION
OF REVENUE BILL (SENATE BILLS NO. 25 OF 2024)

Sen. Ali Roba: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 56(1) (a) of the Standing Orders of the Senate to give a Statement concerning the consideration of the Committee of the Reservation of the President on the County Allocation of Revenue Bill (Senate Bills No.25 of 2024).

Mr. Speaker, Sir, as you may be aware, the County Allocation of Revenue Bill (Senate Bill No.25 of 2024) was introduced in Parliament, pursuant to Article 218(1)(b) of the Constitution, which requires that at least two months before the end of the financial year, there shall be introduced in Parliament a County Allocation of Revenue Bill, which shall divide among the counties the revenue allocated to the county level of government on the basis determined following the resolution enforced under Article 217.

In this respect, the County Allocation of Revenue Bill (Senate Bill No.25 of 2024) was passed by the Senate and the National Assembly on 11th June, 2024 and 25th June, 2024, respectively.

Mr. Speaker, Sir, the Bill was transmitted to the President on 28th June, 2024. The Bill that has been passed by the Parliament and transmitted for assent, divided among the 47 counties a total equitable share of Kshs400,116,788,147. The Bill was passed upon the enactment of Division of Revenue Act (DoRA) No.5 of 2024, which divided nationally-raised revenue between the national Government and the county governments as follows; Kshs2,540,153,902,710 for the national Government and Kshs400,116,788,147 for the county government.

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By a letter dated 10th July, 2024 and received in the Senate on the 11th July, 2024, the President, in exercise of the power under Article 115(1)(b), declined to assent to the Bill and referred it back to Parliament, recommending that the Bill be amended by deleting the First Schedule and substituting with a new schedule.

The New Schedule as proposed in the Memorandum by the President contained the allocation to the 47 counties a total of equitable share of Kshs380 billion. Therefore, the President recommended that the County Allocation of Revenue Bill be amended to reflect a different sum of equitable share to counties from that which is contained in the Division of Revenue Act No.5 of 2024.

Mr. Speaker, Sir, during the consideration of the Memorandum, the Committee noted that the President indicated that the recommendations were informed by the failure to enact the Finance Bill, 2024, which necessitated the reorganization and rationalization of the Government fiscal arrangement for the Financial Year 2024/2025. This includes the County Allocation of Revenue Bill to accommodate the anticipated revenue reduction that would have been collected by the Finance Bill, 2024, had it been enacted.

The budget process in this country is premised upon the two crucial instruments under Article 218 of the Constitution of Kenya, 2010. This process begins with the vertical allocation of nationally raised revenue between the two levels of government.

This step is facilitated by the passage of Division of Revenue Bill, which is described by Article 218(1) (a) of the Constitution as a Bill, which divides revenue raised by the national Government between the national and county levels of government.

The second and consequential step in this process is the horizontal allocation of revenue among the 47 counties. This is facilitated by the introduction and enactment of the County Allocation of Revenue Bill, which under Article 218 (1) (b) of the Constitution of Kenya, divides among the counties the revenues allocated to the county level of government on the basis determined in accordance with the resolutions enforced under Article 217 - the revenue sharing formula as approved by this House.

Mr. Speaker, Sir, the Division of Revenue Act and County Allocation of Revenue Bill are, therefore, inextricably linked. The latter precedes the former. The County Allocation of Revenue Bill gives further effect to the provisions of the Division of Revenue Act, in which the determination of the sum to be allocated to counties is determined.

Mr. Speaker, Sir, any recommendation to amend or otherwise vary the First Schedule of the County Allocation of Revenue Bill must be preceded by an amendment to the Division of Revenue Act, and if no such amendment has been made to the Act, then the question of amending the County Allocation of Revenue Bill is mute. These two Bills are not mutually exclusive, but one forms the basis of the other.

At the time of the receipt of the Memorandum containing the reservations of the President on the County Allocation of Revenue Bill 2024, the Division of Revenue Act No.5 2024 was already in force and remains in force. The DORA 2024 provides for the county government share of nationally raised revenue of Kshs400.1 billion.

The First Schedule of the County Allocation of Revenue Bill 2024 has been passed by the Parliament and forwarded to the President for assent, provides for each county government share of Kshs400.1 billion, arrived at by applying the Third Basis of Revenue Sharing to the County Equitable Shares contained in Division of Revenue Act, 2024.

Mr. Speaker, Sir, the Committee observed that the constitutional non-compliant procedure in regards to this matter would be the reconsideration of the division of nationally raised revenue between the two levels of government for Financial Year 2024/2025 by Parliament.

I wish to confirm that on Wednesday, 17th July, 2024, the National Treasury submitted the draft Division of Revenue Amendment Bill. The submission of this draft Bill triggers the correct procedure for the reconsideration of the equitable share due to both levels of government.

The Committee reiterates that the processing of the reservation of the President on County Additional Allocation of Revenue Bill, 2024 can only be done after the decision by Parliament on the proposed amendment to the Division of Revenue Act No.5 of 2024. Thus an alteration to the approved County Allocation of Revenue Bill, (Senate Bills No.25 of 2024), can only be undertaken upon enactment of the Division of Revenue (Amendment) Bill, 2024.

I thank you, Mr. Speaker.

The Speaker (Hon. Kingi): Next Order.

MOTIONS

THE CURRENT STATE OF THE NATION

RECOGNIZING the State of the nation at this moment; the ongoing protests following the passing of the Finance Bill (National Assembly Bills No.30 of 2024) on 25th June, 2024 by the National Assembly; the loss of lives, maiming and loss of property that has been occasioned following these protests;

COGNIZANT THAT pursuant to Article 115(1)(b) of the Constitution His Excellency the President of the Republic of Kenya declined to assent to the Bill and referred it back to the National Assembly with recommendations to delete all Clauses of the Bill;

ACKNOWLEDGING THAT the conversation on the Finance Bill has triggered the broader important public conversation on the question of the high cost of living juxtaposed against the wasteful expenditure in all public institutions including Parliament;

FURTHER ACKNOWLEDGING the issues raised by the youth and other members of the public to do with corruption, impunity, incompetence within state and public appointments, opulent lifestyles of public officers, unemployment and high cost of living amongst other issues bedevilling the economy;

NOW THEREFORE, the Senate—

(1) Calls upon-

(a) the National Assembly to expeditiously consider the presidential memorandum pursuant to Article 115(2)(a);

(b) all Government ministries, departments and agencies, and constitutional commissions, including Parliament, to put in place austerity measures in undertaking their respective functions;

(c) the Ethics and Anti-Corruption Commission (EACC) and other Government multi sector agencies in the governance, justice, law and order sector to upscale and make concerted efforts to fight corruption;

(d) the National Police Service to cease abductions, unlawful arrests, extra judicial killings and exercise restraint in dealing with peaceful and unarmed demonstrators;

(e) release of all persons arrested for planning and participating in peaceful demonstrations relating to the enactment of the Finance Bill;

(f) the Government to waive hospital bills for persons who have been injured and defray funeral expenses for those who lost their lives, during the demonstrations;

(g) the Judiciary to prioritize and expedite all court cases relating to the enactment of the Finance Bill and the resultant demonstrations.

(2) Considers all the challenges facing the country and makes necessary recommendations to address them.

(Sen. Cheruiyot on 3.7.2024)

(Resumption of debate interrupted on 10.7.2024)

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I plead that we defer this Motion like we had requested.

(Sen. (Prof.) Tom Odhiambo Ojienda consulted the Speaker)

Mr. Speaker, Sir, I was waiting for Prof. Anyang'-Nyong'o's friend---

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

(Sen. Cheruiyot consulted the Speaker)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, you understand the unique nature in which we have dealt with this Motion; that there are few Members who have not spoken to it and we have been granting them an opportunity as leadership still consults on the final recommendations. I suspect that there may be Members in the House who are willing and have not had an opportunity to speak, save for Sen. Kinyua, who will move the amendments.

If there are any such Members, then I humbly request that you allow them to contribute, then we still suspend the Motion until we conclude now as a leadership and move the final recommendations.

Mr. Speaker, Sir, that is my request to you.

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Ojienda.

Sen. (Prof.) Tom Ojienda Odhiambo, SC: Thank you, Mr. Speaker. I take this opportunity to contribute to the Motion on the State of the Nation. Coming after the contributions by the Senate Majority Leader, the Senate Minority Leader and several

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Senators from this side of the House, I wish to reiterate that this is a time when His Excellency President William Ruto, the President of the Republic of Kenya, must stand up and be counted to make Kenya what it is. We need to do those things that will define this nation as a nation that belongs to all the people of this country. To define this country as a nation that is not just made up of two communities, but a nation that reflects the face of every community in this country.

Mr. Speaker, Sir, it is a time for inclusivity; a time to ensure that all those in the peripheries of this nation who feel that they have been left out of the governance structure of this nation are brought into the framework that will steer this nation going forth.

It is a time that those groups either the Gen Z or other groups, however they define themselves, must be brought into governance and we are here to support the President.

I have a history and I am on record as one of those MPs who have supported and stood with the Government. That is what I intend to continue doing, but with a tinker.

I am happy that the leader of my party, the Rt. Hon. Raila Amolo Odinga has seen the need to work with Government, with a view to stabilizing this Government because this Government serves every citizen of this country.

When my good friend, the Senator for Migori, Sen. Eddie spoke to me three days ago on the possibility of my party, the ODM, moving in the direction of Government, I told him that that is the right thing to do.

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

Sen. (Prof.) Tom Ojienda Odhiambo, SC: I know he knows that, that is the right thing. I believe that my party---

The Speaker (Hon. Kingi): Order, Sen. (Prof.) Ojienda! Just have your seat.

Before this Motion was processed, the leadership sat and agreed to basic House rules. One of those rules was that there shall be no points of order raised on any Senator who is on their feet contributing to this Motion. Again, I caution the Senators not to abuse that particular House rule, that you be factual.

Remember, we have not suspended the Standing Orders of this House. So, you have to take responsibility for whatever you say. You have to be factual. You must also be able to substantiate whatever you say. So, if you are unable to substantiate, do not go there. Do not abuse the fact that no points of order shall be raised.

So, Sen. Tom Ojienda, if indeed what you are saying is factual, you may proceed. If it is not, just withdraw it and proceed to make your comments.

Sen. (Prof.) Tom Ojienda Odhiambo, SC: Mr. Speaker, Sir, I will proceed and since Sen. Eddie will have a chance to speak, I will drop it, so that I move in a more structured manner.

The Speaker (Hon. Kingi): Very well.

Sen. (Prof.) Tom Ojienda Odhiambo, SC: Mr. Speaker, Sir, it is not in doubt that our party leader, the Rt. Hon. Raila Odinga has seen the greater interest of this country as overriding momentary party interests.

I thank him because this is a time to focus and bring our people together. It is a time to quell the near violence that we have seen in this country and bring all levels of government together. This is because what we witnessed on the day that the youth broke

into Parliament, is something that has never been witnessed in the history of this country. We do not want to get to that low again.

Mr. Speaker, Sir, on that fateful day, not only was Parliament attacked, but the Supreme Court and the County Government of Nairobi - the bastion representing devolved power - were also attacked.

This country must pull together and to do that, there must be a beginning. Political parties must ignore momentary political interests and sacrifice them for the bigger interest of this nation.

Today, I rise as one of those last Senators to be counted on this question. I stand for transformation and change. I want to see a country that is united, progressive and that speaks in one voice. I want to see a country that knows peace and not conflict.

I pray that we shall remember that when we were at our lowest, political parties came together and built a front that ended the near conflict, the near doom and the near low that this country faced.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): With that, we will defer the Motion.

(Motion deferred)

Clerk, call the next Order.

ADOPTION OF REPORT ON CONSIDERATION OF THE SOCIAL HEALTH INSURANCE
(GENERAL) REGULATION, 2024 AND THE SOCIAL HEALTH
INSURANCE (TRIBUNAL PROCEDURE) RULES, 2024

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Social Health Insurance (General) Regulations, 2024 and the Social Health Insurance (Tribunal Procedure) Rules, 2024, laid on the Table of the Senate on Tuesday, 2nd July, 2024; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul:

- (i) the Social Health Insurance (General) Regulations, 2024 (Legal Notice No. 49 of 2024); and
- (ii) the Social Health Insurance (Tribunal Procedure) Rules, 2024, (Legal Notice No. 48 of 2024).

(Motion deferred)

Next Order.

BILLS*Second Reading*

THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL
(NATIONAL ASSEMBLY BILLS NO.44 OF 2023)

(Bill deferred)

Second Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL (SENATE BILLS NO.40 OF 2023)

(Bill deferred)

Next Order.

Second Reading

THE STREET VENDORS (PROTECTION OF LIVELIHOOD)
BILL (SENATE BILLS NO.41 OF 2023)

(Bill deferred)

Next Order.

Second Reading

THE LAW OF SUCCESSION (AMENDMENT) BILL
(SENATE BILLS NO.20 OF 2023)

(Bill deferred)

Next Order.

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.52 OF 2023)

(Sen. Chimera on 30.5.2024)

(Resumption of debate interrupted on 30.5.2024)

Hon. Senators, this Bill is up for debate.

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

I am not having any name on my dashboard and the Mover is not present to reply. So, we will defer that Order.

(Bill deferred)

Next Order.

Second Reading

THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES
(CONTROL) (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2024)

Sen. Kathuri.
That Order is deferred.

(Bill deferred)

Next Order.

Second Reading

THE LAND (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.40 OF 2022)

The Speaker (Hon. Kingi): The Senate Majority Leader, proceed.
That Order is deferred.

(Bill deferred)

Next Order.

Second Reading

THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL
(SENATE BILLS NO.3 OF 2024)

The Speaker (Hon. Kingi): Sen. Ledama Olekina.
That Order is deferred.

(Bill deferred)

Next Order.

Second Reading

THE COUNTY CIVIC EDUCATION BILL
(SENATE BILLS NO.4 OF 2024)

The Speaker (Hon. Kingi): Sen. Okenyuri.
That Order is deferred.

(Bill deferred)

Next Order.

Second Reading

THE COUNTY STATISTICS BILL (SENATE
BILLS NO.5 OF 2024)

The Speaker (Hon. Kingi): Sen. Ali Roba.
That Order is deferred.

(Bill deferred)

Next Order.

Second Reading

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(SENATE BILLS NO.10 OF 2024)

The Speaker (Hon. Kingi): The Senate Majority Leader.
That Order is deferred.

(Bill deferred)

Next Order.

Second Reading

THE INTERGOVERNMENTAL RELATIONS (AMENDMENT)
BILL (SENATE BILLS NO. 12 OF 2024)

The Speaker (Hon. Kingi): The Senate Majority Leader.
That Order is deferred.

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(Bill deferred)

Next Order.

Second Reading

THE COUNTY ASSEMBLIES PENSIONS SCHEME BILL
(SENATE BILLS NO.14 OF 2024)

The Speaker (Hon. Kingi): The Senate Majority Leader.
That Order is deferred.

(Bill deferred)

Next Order.

MOTION

ADOPTION OF REPORT ON STATUS OF PROJECTS FUNDED BY THE
CONDITIONAL GRANT FOR CONSTRUCTION OF COUNTY HEADQUARTERS

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the status of implementation of projects funded by the Conditional Grant for the construction of County Headquarters, laid on the Table of the Senate on Thursday, 28th March, 2024.

(Sen. Ali Roba on 28.03.2024)

(Resumption of debate interrupted on 22.5.2024)

The Speaker (Hon. Kingi): Hon. Senators, that Motion is now on the Floor for debate.

Proceed, Sen. Mungatana.

Sen. Mungatana EGH: Mr. Speaker, Sir, I do not know whether the Motion was moved.

The Speaker (Hon. Kingi): It was moved and seconded.

Sen. Mungatana EGH: Thank you, Mr. Speaker, Sir. First of all, I congratulate the hon. Sen. Ali Roba who moved this Motion.

If the House will remember, the Report carries facts that there were five county headquarters that had not been constructed. In 2015, the Senate established an *ad hoc* committee that made a decision to assist these county headquarters to be constructed. It was a conditional grant.

One of those was Tana River County; that, every financial year, Kshs117 million was to be given to these five counties. This would form 70 per cent of the construction

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costs of the counties. The counties were meant to give the 30 per cent contribution, so that they would have their own headquarters. The other four counties were Tharaka-Nithi, Lamu, Isiolo and Nyandarua.

Mr. Speaker, Sir, I want to focus on the fact that Tana River County has not built its own county headquarters since devolution started up to date. This is despite the promise by the national Government to give the 70 per cent contribution.

The Chairman of Committee on Finance and Budget, Sen. Roba, invited the five Senators from these five counties to attend the meetings, so that we could resolve the issues. At the end of these meetings, there were commitments that were made by the national Government and the governors of the county governments agreed that they would finish their part.

Mr. Speaker, Sir, up to now, the five county headquarters have not been constructed. I acknowledge here that the national Government, through the Principal Secretary for Lands, Public Works, Housing and Urban Development, and the Principal Secretary for Treasury and Economic Planning have played their part. They have even written agreements to transfer the full responsibility of construction to the county governments. The issue about who is in charge of the actual construction of the projects has been finalized.

I want to take this opportunity to thank the Senate Committee on Finance and Budget because of the leadership it has shown in this matter. You would visit other counties and see the beautiful county headquarters. Some counties have beautiful executive offices of their governors where important discussions are done. Potential donors, partners and economic investors in the counties go there and have confidence that they are dealing with the right people. However, when you come to our county, it has not been possible, since devolution started, to also enjoy the facilities of a county headquarters.

Mr. Speaker, Sir, I am grateful to the Senate Committee on Finance and Budget for the work they have done and the leadership they have shown. They called all the five governors, the National Treasury and the Public Accounts Committee together to a table to agree on what needs to be done to solve the issues of county headquarters once and for all. I am grateful that we, as the Senate, have been able to offer leadership through the Committee on Finance and Budget.

My prayer is that the implementers, who are the county governors, will now take it from where we left it and construct this building. That the monies that were promised by National Treasury would be released in good time. This is so that the five counties that do not have executive offices for their county governors can enjoy the facilities of good county governments.

Mr. Speaker, Sir, I urge the contractors who by now, I believe, must have received their monies to finish the work on time. We have waited for a long time since devolution and Tana River County deserves to have a good county headquarter. Isiolo, Lamu as well as Nyandarua counties deserve to have good county headquarters, where the work of the governors and the county executive can be executed.

Apart from that, I take this opportunity also to discuss the question of the mandates of committees within this House. The mandates that committees exercise in this House have been challenged by the recent developments among the youth. The recent demonstrations that took place in the country raised the issue of financial management.

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This Report by our very able Chairperson, Sen. Roba, states that the mandate of the Standing Committee on Finance and Budget is extracted from Article 124(1) of the Constitution, which provides for the establishment of committees. The Committee is supposed to examine policy issues, scrutinise county governments' expenditures, examine legislation proposals and produce a report.

Again, that report says that the Senate Committee on Finance and Budget is established under the Public Finance Management (PFM) Act 2016, Public Finance Act 2012 and the Standing Order No.228 of the Senate Standing Orders. One of the things that this Finance and Budget Committee is supposed to do is to scrutinise how the funds are utilised in the various county governments.

It is not just the Finance and Budget Committee. We have also the County Public Investments and Special Funds Committee (CPISF) chaired by Sen. Osotsi and the County Public Accounts Committee (CPAC) chaired by Sen. M. Kajwang'.

We have been making very serious recommendations that come from the reports of the OAG. There is a lot that committees in this Senate have been doing in reporting misuse and mismanagement of funds that are allocated under the Equitable Share and also those raised from own source revenue from county governments.

There is the mechanism in the Senate and the National Assembly in overlooking of the national Government. Governors come, give explanations on audit queries, and then they go away. The fact that young people went to the streets and raised questions about the mechanism means that it has been brought into question.

Our Chairman of the CPAC of the Senate declares a whole county is a crime scene and needs investigation, but then we leave it there. Our people have been seeing these things on television. They have seen governors unable to explain themselves, yet the mechanism that we have does not force governors to take plea for misdeeds within their counties.

When you visit CPAC, you will see that there are members from the Auditor General's office and a representative from the Ethics and Anti-Corruption Commission (EACC), but no action is taken. Governors come and ask for time. I have attended a session for Tana River County, where the Chairperson said that if it were in another jurisdiction, the county team would be staying in the cells waiting for police action.

In our jurisdiction, in our system of oversight, the governors come, several times, explain themselves and are given more time. The Auditor General now is even a very frustrated person. Our young people are asking what the consequences of mismanaging these funds are. This is a question that we need to look at as Senate.

This mandate of Article 124(1) of the Constitution is not effective because if these managers of our resources in the counties are coming and going and no consequences are visited upon them, it means the committee system in Kenya is not working. We need to relook at this committee system to see if it is an oversight of the county governors and if there are any consequences of misuse of county government funds.

If you look at the OAG report, you will see that some county governments have over 300 accounts. My county has 34 accounts. Other counties have been mentioned with 200 accounts, 100 accounts and more than that against the rules of the PFM Act, and yet, no consequences. You write to the relevant authorities, no consequences. This country, through the demonstrations that have taken place, is asking for a new culture.

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Either way, we should give directions because corruption is not going to be solved by the President, but by all the Arms of Government playing their roles. If the committees of this House are giving direction that this is a crime scene, this governor needs to be arrested and charged. You have EACC sitting there, you have representation from the OAG, but nothing happens.

We need to take the opportunity as the President took the opportunity to start wiping off. He dealt with his Cabinet. We need also to have a retrospect. Are these committee systems working? Do we need to also change our laws?

Do we need to make our teeth bite? What else can we do because, even in our committees, some governors refuse to come and nothing happens to them? We just put the normal fine of Kshs500,000, they come and pay, apologise and they go away. We say that this money has been mismanaged, they come, explain and go away. Therefore, the committee system must be made to work.

It is time, just like the Executive has taken action, to create a more accountable system. Even us, in this House, we can take the opportunity because the public is asking for answers. When systems fail, the public goes out because there is no leadership. They see even Members of Parliament (MPs) having audit queries there is nothing happens to them.

Our people are also asking; apart from the Executive taking action from these demonstrations conducted by our youth, we also need to look introspectively into the committee systems.

What do we need to do to strengthen them, so that people who manage public funds can face consequences when things are not being handled as per the expectations of the public?

Mr. Speaker, Sir, with those remarks, I beg to support this Report and thank Members of the Committee on Finance and Budget for the work they have done.

I thank you.

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

Sen. Methu: Mr. Speaker, Sir, I also rise to support this Report by the Committee on Finance and Budget on the status of implementation of projects that were funded by conditional grants for construction of county headquarters.

One of the counties that was a beneficiary of these conditional grants was my County of Nyandarua. The reason this was mooted in this House was to address the inequities in five counties that have been mentioned here. These are Lamu, Isiolo, Tana River, Nyandarua and Tharaka-Nithi. After hiving off, either their old district headquarters were taken to other places or they never enjoyed having headquarters of former provinces.

One good example was Nyandarua County whose old district headquarters was in Nyahururu. In the new dispensation of the counties, Nyahururu became part of Laikipia. We were forced to have a new county headquarters, that is, Ol Kalou, which did not have Government facilities. However, just as it has been correctly noted by the Committee on Finance and Budget, this brilliant idea that was mooted in 2017 has taken inordinately long to have it implemented or come to fruition.

In the case of Nyandarua, the contract for the establishment of the county headquarters was signed in March 2020. Close to five years later, not much has been achieved. As at now, only 55 per cent of the county headquarters has been done.

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That project was to be undertaken jointly by both county and the national Government. We were invited by the Committee twice. The meeting included Governors and Senators from Nyandarua, Tharaka-Nithi, Lamu, Isiolo and Tana River. During the meeting, there are two things that came out clearly and that is part of the recommendations of the committee.

It is fair that I also report to the best of my knowledge, especially for the case of Nyandarua in terms of the overall responsibilities of project management, including supervision, monitoring and payment of contractors. That is a secondary matter, but there was a request by Governors of the mentioned counties when they appeared before the committee.

They requested that those projects be transferred to the counties because of two things. First, most of those projects had variations that were over 25 per cent that is acceptable in law. The initial cost of the county headquarters for Nyandarua was supposed to be about Kshs427 million, but after the first certificate was raised, the figure was about Kshs322 million. Thereafter, a new contractor quoted about Kshs450 million. Consequently, the contract sum was almost twice the amount that was initially supposed to build the county headquarters.

At this point, we must also speak about standardization. Even though the cost of construction in different places is different, sometimes it becomes alarming why, for example, a county headquarters or governor's residence in Mandera should cost Kshs252 million, while a governor's residence in Kericho costs Kshs60 million. A governor is just a governor. The kind of facilities that, for example, the Governor of Kilifi, Mombasa of Nairobi requires are the same that the Governor of Isiolo needs.

There is a recommendation that I do not support; that the intergovernmental arrangements framework for the implementation of the projects should be revised to ensure expeditious completion of the projects. This idea first came to the Senate in 2017, but we are now seven years into the implementation of the projects. Only 55 per cent of the project has been done. It means people are not getting as much utilities as they should from the county headquarters.

I like to conceptualize it this way. In the case of Nyandarua, the County Assembly of Nyandarua was conceived after the county headquarters. The County Assembly is now complete and has been in use for the past three years or so. The County Assembly Office Block was conceptualized after the county headquarters.

The County Assembly Office Block, which is a big building in Ol Kalou, is complete but the county headquarters is still not complete. The Land Registry in Ol Kalou was launched way after the county headquarters but as it is now, the Land Registry in Ol Kalou is complete but the county headquarters is not.

I am happy to inform you that we now have a High Court in Ol Kalou with a magistrate. The Judiciary Building was started way after the county headquarters, but the building is complete and in use, but the county headquarters is yet to be completed. Completion of these county headquarters must be expeditious.

Now that these projects have been handed over to the county governments, especially in the case of Nyandarua--- I saw the Governor with the Principal Secretary for the National Treasury and the team midwifing the handover from the national Government to the county government. That matter should now be a thing of the past.

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Out of the monies that we were supposed to get from the national Government in the 2022/2023 budget, which was Kshs1.8 billion, about Kshs800 million was released. I am not certain how much was absorbed in the 2023/2024 budget. If there is money still remaining at the national Government, it is high time we ensured that we send it to the counties.

In that regard, it is the reason I feel that even as we deal with matters that we are speaking about, such as cutting our budgets and taking austerity measures, if there are monies that we as a House must try and protect, it is money that is supposed to go to devolution.

Even though the Finance Bill did not see light of the day, it does not mean that we cannot collect as much as we collected last year. The minimum that we can get is what we got last year. We cannot get less than what we got last year in terms of the monies that will be sent to the counties.

If anything, even revenues have expanded. The revenues we are collecting this year are not the same as what we collected last year. If our revenues and the budget of the national Government are expanding, we must also expand the budget of the counties.

We were being told that the national Government has a big burden, which I agree with because we need to absorb Junior Secondary School (JSS) teachers and take care of our doctors. However, even as we absorb JSS teachers, there is the plight of Early Childhood Development and Education (ECDE) teachers in our counties who are earning a meagre Kshs8,000.

If we do not send enough money to help governors to ensure that they have ECDE teachers on good contracts, so that they enjoy the fruits of their labour, we will have done a disservice to our counties. I know that will be a substantive Motion that we will deliberate on regarding money that we are supposed to send to the counties. I feel that even in the budgets of the county governments---

There was a share that was supposed to be contributed by county governments, even as we cry about money that we want to push from the national budget. Concerning monies that are supposed to be appropriated by county governments, there should not be an issue on expending. They should be able to have budgeted in this budget of 2024/2025, so that we remain with the bit that remains with the national Government.

Mr. Speaker, Sir, on issues of project management including supervision, counties had this habit of saying that the department of Public Works is the one that does supervision and monitoring and also certifies certificates, so that contractors can be paid. Therefore, they will not use this as a reason for the inordinate delays in the payment of contractors and in the certification of the work done. We agree that this role be now transferred to the county government, so that they can supervise and monitor as well as honour the certificates that are raised.

The Intergovernmental Relations Technical Committee (IGRTC) should now step up, so that they can try to the umpire between the national Government and county governments, especially on the projects that are co-financed by the national Government. In most of our counties, it was part of the dreams and the manifesto of this administration to ensure that we have County Aggregation and Industrial Park (CAIP) in every county.

Mr. Speaker, Sir, the financing of these Parks was supposed to be 50-50 percent. The national Government was to give Kshs250 million and the counties, Kshs250 million

as well. If you ask Senators here, in most of the counties where these projects have been launched, you will find that either, counties do not have the money, they have not put the money or the national Government has not put in the money.

There is a second programme from the national Government that has been very successful on the Community Health Promoters (CHPs), and we all know that we dealt with this Bill when we were in Turkana. However, as the Senators who are here will confirm, the only stipend CHPs have received are the monies from the national Government because the county governments have not put enough money or they have not been able to match what has been brought by the national Government.

Mr. Speaker, Sir, it is high time that the IGRTC, the Council of Governors (CoG) and all the bodies that are between the national Government and the county governments, including this Senate to try and pronounce themselves. This is because, if the money is there in the national Government for CHPs, why should we not follow the matching money from the county governments?

I do not intend to say more than that money, but I feel that if we are not able to complete these county headquarters in this Financial Year 2024/2025, we shall have done a disservice to our people. Our people will not have gotten the utility that we want them to get. It is not fair in some of the counties where county governors continue to hire offices to operate from.

I know in the case of Nyandarua, there are still offices that are still hired out. We must be able to finish these county headquarters, so that the governors can get places to work from and so that our counties can move forward.

I support.

The Speaker (Hon. Kingi): Sen. Mo Fire.

Sen. Gatya Mo Fire: Thank you, Mr. Speaker, Sir. I am one of the counties affected by this Motion and I sincerely thank the Chairman of the Committee on Finance and Budget, my brother, Sen. Ali Roba, for bringing this important Motion before this House.

Tharaka-Nithi County has for many years suffered some historical injustices. It was hived from the defunct Meru County Council and for the last 60 years, we were putting structures in Meru County. We built the County Council headquarters, put in place all the structures in Meru County but unfortunately in 1992, Tharaka-Nithi was hived from Meru County and it became a district.

After the new Constitution, Tharaka-Nithi among many other counties like Mwingi, attained the status of a county. When we became a county, people through the public participation, sat down and agreed that for effective representation and devolution, we should have a place called Kathwana as the County headquarters. Kathwana was a market and it is still a market. This is because to many, Kathwana is the headquarters of Tharaka-Nithi County where people are served equally without having to travel far in order to realize the essence of devolution.

Mr. Speaker, Sir, it is important for this House to note that for the last 12 years, since the inception of devolution, Kathwana has remained a ghost headquarters and with no meaningful structures in place. We have a county assembly, which sits in makeshift *mabati* structures. Last time, I remember I took the Committee on Devolution and Intergovernmental Relations to Kathwana, and I was terribly ashamed.

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I have captured a number of debaters who have argued about the conditional grant that was given for county headquarters. However, this money has faced a lot of challenges. I do not know why and for what reasons this money has to go through the Public Works departments, creating a lot of bureaucratic processes and hiccups here and there. I do not know for what reasons this money cannot be channeled direct to the relevant counties. If they can be trusted with billions of money, which they get as shareable revenue, I do not know why that money is not given to governors directly.

Mr. Speaker, Sir, it is important that we, as a House, should expedite this process so that counties like Nyandarua, Lamu, Tharaka-Nithi, Isiolo and Tana River where my brother originates from can realize the essence and the importance of devolution. It is unfortunate that up to today, the entire County administration in Tharaka Nithi County is stationed at Chuka. This disadvantages a number of constituents, especially those from Tharaka, parts of Maara and Igamba Ng'ombe. This is something that has brought a lot of issues, especially political temperatures.

However, I am happy to report that up to now, the Tharaka-Nithi County headquarters is almost at 82 percent complete, but it cannot be occupied because it is just a shell. There is nothing people can see.

Therefore, Mr. Speaker, Sir, I am happy with the Chairperson of the Committee on Finance and Budget because this Motion is going to capture a lot of sentiments and feelings by the people. However, as Sen. Methu has mentioned, it is important that we expedite this matter and finalize this process this Financial Year 2024/2025, so that the importance of devolution will be felt and people get to enjoy the services they require in their respective counties.

It is shameful that 12 years down the line, we do not have structures in place in terms of county headquarters in those counties. That is one of way of saying that the entities that are concerned do not have any value for devolution. This is because, the essence of county headquarters is for people to get services.

Mr. Speaker, Sir, in this respect, I hope that through this Committee and the House, we are going to expedite the process, so that by the 2024/2025 Financial Year, we are going to have these counties put in place and structures complete, so that people can enjoy the essence of devolution.

I thank you and I support, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. Time truly moves. When the new Constitution was promulgated in 2010, one of the most exciting provisions was Article 10 that provided for national values. It specifically speaks to the values of human dignity, equity, social justice, inclusivity, equality, non-discrimination and protection of the marginalised.

That is the Constitution of Kenya. It is that letter, accompanied with the spirit that we wanted a new constitution that will see the whole country moving together at almost the same pace, so that nobody is left behind marginalised, and feels discriminated and dehumanised.

It is sad that eight years later after sitting in this House, nothing that we can call closure has taken place at this time. The former Cabinet Secretary for Interior and National Administration, Hon. (Prof.) Kithure Kindiki, spoke very emotionally on this Motion. I

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remember very well I was seated there. This was a matter that we debated in this House in 2015. We succeeded and the national Government agreed that this process takes place. I appeal to this House to support this, so that the discrimination and marginalisation vested on the counties of Lamu, Isiolo, Tana River, and Tharaka-Nithi and Nyandarua Counties be something of the past.

The case of Tharaka-Nithi County is a sorry state. These were people who were living very well under the defunct local authority of Meru. When they saw the new Constitution, they thought they had been living under John the Baptist, and now the Holy Spirit had arrived. The Holy Spirit has now arrived in the rest of the country, but in Tharaka-Nithi, they would not be blamed if they have changed course from Christianity to something else. It is a pity that if you go to a place like Tana River County, the Governor operates from some house. I do not know whether it is Sen. Mungatana's house or someone else. It cannot be right.

Mr. Speaker, Sir, my third contribution to this is what the vision was. The vision is not what is going on now. If you go to a place like Mandera County, where the Chairman of this Committee was governor for 10 years, because he was proactive and visionary, he has built a very good county headquarters. If you go to other counties like Kakamega, they have built something that looks like a county headquarters, but not a county headquarters.

The original spirit was that we standardise what a model county headquarters, county assembly and governor's residence would be. However, because we did not do that, we have opened the floodgates for some unscrupulous governors to sink hundreds of millions of shillings into structures that we are not too clear whether they would have met the original specification of what we wanted for county headquarters.

I remember, at the time we were in this House after we promulgated the new Constitution, architectural designs of the county headquarters for the executive and speakers of county assemblies were tabled on this Floor. We have lost it there, and because we cannot keep on bemoaning, let us go ahead and allow these counties to conclude their projects.

Mr. Speaker, Sir, if we have failed on this intergovernmental initiative, then I am very worried about the Kshs500 million that we have committed for the County Aggregation Industrial Parks (CAIP). The first big one was this one that has taken a whopping eight to nine years. If we are not too careful, again 10 years from now, we will be bemoaning in this House that we started a project, which has become a white elephant.

Mr. Speaker, Sir, I conclude by speaking to the case of Kakamega County. It is not only the third most populous county in Kenya, but also the second largest county in Kenya. It is a pity that 12 years after the devolution, there is no county assembly in Kakamega. I had an opportunity of taking my colleagues to Kakamega, led by the Chairman, Sen. Ali Roba. Sen. Ali Roba, knowing the good work he did in Mandera County, was ashamed to walk in the county headquarters of Kakamega.

I call upon the current Governor and Speaker to pull up their socks, so that a new modern county assembly is constructed in Kakamega. What is more, I urge the Governor of Kakamega County to desist from the temptation of the corruption that goes around renting county offices. The County Government of Kakamega pays rent in excess of Kshs71 million, and yet, already at the former Mudiri Estate in Kakamega, people have been evacuated. The Governor said that his first project would be construction of the county

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headquarters. It is now two years. We are starting to wonder whether the Governor will exit in 2027 when he has constructed or not.

I urge him that this should be a priority, so that the people of Kakamega do not keep on losing millions of shillings in paying for rent to offices of private people who have no interest in devolution, who are sitting there hoping that the Governor fails in construction, so that they continue collecting money.

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

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

Madam Temporary Speaker, the matter is so crucial to the people of Kakamega that when the Generation Z came out into the streets of Kakamega, they went straight to those private offices and stoned them flat and burned county vehicles that were parked outside those rented premises. They did not want to have them there. The youth were saying that money is being wasted, and the headquarters should be constructed.

With those many remarks, I end my contribution by paying my condolences to the family of Ms. Caroline Shiramba who was shot during the Generation Z demonstrations in Kakamega. It is pathetic that the officer who shot Ms. Shiramba in broad daylight was attached to the Governor of Kakamega County. We know his identity and face. We ask the Governor to surrender this security officer to the nearest police station, so that the people of Ikolomani who buried Shiramba over the weekend can see an element of justice.

I thank you.

(Sen. Methu spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Senate Majority Leader proceed.

Sen. Methu, you should not distract Sen. Cheruiyot.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, when this Motion first came to this House, the people of Nyandarua County had sent a very serious man here; Eng. Muriuki Karue. I do not want to say more about the choices they have made since then.

Madam Temporary Speaker, I rise to support this very important Motion. One of the very insightful decisions that the Senate has made over the years in the course of our duty as representatives to county governments and their interests, is to bequeath the people of Isiolo, Lamu, Nyandarua, Tana River and Tharaka-Nithi, with county headquarters. It was a wise decision by this House that was made after a very deep-heated debate.

I was a member of the Standing Committee on Finance and Budget at that time and it was extremely difficult to convince the 47 delegations of this House to set aside some funds from the shareable revenue to county governments for five counties only. I remember that afternoon very well, the same way Sen. (Dr.) Khalwale has just spoken.

Many speakers argued and insisted that it was a dangerous precedent that we were setting, because how would we then justify to the people we represent in this House, that

besides setting aside funds for our own use as a people, we had also agreed to set out Kshs600 million plus to five counties to build their county headquarters.

I am glad that wisdom prevailed that afternoon and since then, these counties have gone on to put up headquarters. It is unfortunate though that years later, we are here back with a report and we are yet to reap the fruits of that particular decision. Unknown to many, this decision was quite Solomonic. This was the first Conditional Grant. It is after this decision that subsequently, the Senate introduced the concept of Conditional Grants that we have since had on many other projects.

Madam Temporary Speaker, I, therefore, move to the first point of this particular debate. It is good because Sen. Ali Roba, the Chairperson of this Committee is in the House and is listening. I wish that we could get similar county-specific reports of projects that have been carried out under subsequent Conditional Grants. Eight years down the line, we are here discussing county headquarters and the fact that billions of monies have been used to build them, yet the people of these five counties have never enjoyed those services.

Madam Temporary Speaker, we need to make a firm decision on whether this concept, as we thought of at that particular time, works or does not work. Unfortunately, we have poured out billions of taxpayers' money, yet the citizens from these counties up to today cannot enjoy the services from those particular resources. How many more funds such as Conditional Grants, health, Financing Locally-Led Climate Action (FLLoCA) and many others will we continue to pass in this House?

Madam Temporary Speaker, ultimately, the public resources are not any different from our resources. It is your wish as an individual that every time you put out money to do a particular project, you enjoy services from it, whether it is building a house, setting up a business or buying an asset. You want to enjoy that which you have paid for. It is unfortunate that as we sit here today, we are discussing an investment that the citizens of these five counties have not enjoyed eight years down the line. It is their money. They are taxpayers and Kenyan citizens. However, the same repeat stories are all over on Conditional Grants.

Therefore, I demand from Sen. Ali Roba and the Committee he leads that we have a special audit of funds under Conditional Grant as well, so that we make a firm decision and agree whether it is sustainable to keep it in that particular model, or we leave all funds to specific counties. They can sit down by whatever means and determine how you want to use those particular funds.

Madam Temporary Speaker, I am sure that if the people of these five counties had been left to their own devices and decided on how to fund these particular counties, perhaps their county headquarters or within their budget cycles - because these are almost eight financial years - the five-county governments, would have completed the headquarters. However, because they knew they were waiting for a Conditional Grant that is passed in every financial year budget - even this year in the County Allocation of Revenue Act (CARA) that we passed, there is an allocation of Kshs400 million that would have completed this.

That is part of what is contributing to public wastage. Unfortunately, it is something that we picked up from the national Government. Kenyan citizens have paid billions of shillings for buildings all over this town. As we speak today, one of the biggest

charges to the Exchequer, by the various State Departments and Ministries, just like these county governments, is the hiring of offices.

All these new buildings that you see coming up all over Upper Hill, are not occupied by the private sector. Ninety per cent of floors are taken by different State Departments, yet they are empty buildings that the Government has built. On Bunyala Road, there is a building that has been an eyesore for close to 20 years, as long as I can remember being an adult in this City. I think it is by the Kenya Industrial Research and Development Institute (KIRDI). It is a very big building. Twenty or 30 years of building that particular building can house thousands of government employees and save on funds.

These are funds that are now causing us to lose lives and destabilize our country because of the scarcity of resources on account of the wastage of public funds. This is one example. There are so many others that will be struggling. Therefore, it is my sincere hope that beyond the call of this report to note the various stages, I hope that we can make other far-reaching decisions. I wish the Committee was moving us to complete a special audit on this building to know how much is left, to put a byline and state that for the sake of stopping the wastage of public resources, in the next allocation we shall grant this county X amount of money to complete this building and we forget about it.

Madam Temporary Speaker, what we have done here; pointing out the challenges that exist, is barely scratching the surface. It is my hope that even as we interact and write the kind of reports, in as much as what the committee has done is commendable, I wish they had gone for the kill so that we solve this problem once and for all.

Secondly and most importantly, we should look at the other Conditional Grants that we have. These are funds that we devolve and send to the various counties. I challenge colleague Senators who are here this afternoon; go to your county and check the various conditional funds that we send, whether it is the FFLoCA funds or Kenya Urban Support Programme (KUSP). How many of these specific special funds that we send to counties have completed well-done projects that you can be proud of?

Many of these funds end up being wasted, especially because auditing of these specific funds, is under a different purview, separate from the annual audit reports that we receive. I challenge colleague Senators that the next time you visit your County Assemblies, demand from the Members of the County Assembly (MCA) to carry out special audits on these particular funds.

Present a report before the citizens of the county on how much of the various Conditional Grants have been received and what projects have been done to completion. It is one thing to commence a project, but it is another thing altogether for citizens to derive value from that project once it is completed.

The challenge that we have with this country and what we are being challenged about is the fact that the minute people have procured a project and secured the 10 per cent that comes from it, or whatever cut the procuring officers receive from that particular project, nobody has an interest after that to see what happens with that particular project. They quickly move on to the next project. That is the report that we are reading this afternoon about these particular programmes.

Madam Temporary Speaker, perhaps even the motivation in some of these county governments is because people know that a governor who has since retired signed up the contractor. So, they are asking, what is the motivation anyway? Why would I engage this

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particular person? It is unfortunate. We need to make a decision as a country, suspending the introduction of new projects until first, you complete. Many times, we speak about this and people do not appreciate or understand that there is little difference in terms of deriving value out of public projects from what you do privately.

If today, of the resources that you administer at a personal level, you have projects littered all over parts of the country where you have interest, and none of is complete, are you a prudent administrator of your own resources? I thought common wisdom dictates that you first complete one project or the other; enjoy the benefits from that particular project before commencing any other. That is what sensible people do.

We are being challenged, as a country, to raise the heights of accountability. This opportunity has come out of the challenges that we are facing through as a nation right now. We will be fools who have learned nothing out of this crisis, if we do not point out and agree actually to the wisdom that is being called upon for us to rise up and demand that we must put to better use any funds collected from citizens.

The same things that you cannot do with your own resources, do not accept to do it with public funds. We must raise the standards of accountability for people to declare publicly. Let it be known that despite the fact that they have no specific interest on a project because maybe a different administration, a different governor or a different procuring officer procured it, you see to it that it is complete so that citizens can enjoy the use of that particular project.

Therefore, I appreciate the work that the Standing Committee on Budget and Finance has done, but I want to believe that we can do better, specifically to stall projects in our county.

Many billions of shillings have been lost, and in fact, maybe this is something that, just as a final point, I wish to challenge our colleague Senators to do. This is the 13th year, or rather the 12th year of devolution in our county governments. Just do a sum total of all the projects from 2013, when devolution came into light in this country that are stalled in our various counties, and how much has gone into that particular project up to date, and do a sum total.

You will be shocked that in each of our counties, there are billions, if not hundreds of millions of money that you can list, and a decision needs to be made. A special audit needs to be carried out by our county assemblies, and a decision made. What do you do? Are you going to leave those resources to go to waste and ruin, as if you do not care or we make a decision.

Do whatever needs to be done, complete. If it does not make sense, then let it be known and closed in the books that this project has been declared that it can never take off, so that we know who entered into those contracts, what their intentions were, and what will be done to them. This is a challenge that we must give ourselves as Senators, on stalled projects in our counties, so that it becomes a lesson. Anybody who procures in the future, any works or services that it shall be to the benefit of the country.

Counties replicate what we have learned from the national Government yet, the reason why in 2010, many Kenyans voted in support of this Constitution was because of the tenets of devolution. Where they believe that they could not see proper management of resources at the national Government and said if we brought it closer, then there would be better scrutiny. I hope we can still live by that particular dream, so that we ensure that our

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county governments work because that is one of the gifts that we have given ourselves over the many progressive things that we have done as a country in the last 60 years, and we cannot afford it to go to waste.

Therefore, I believe that even as we do the resolution on the reflection Motion that is before this House, there must be a line about what each of us is supposed to do in our specific counties. There is need for a special audit, separate from the things that are being done here at the national level, so that we complete on those projects and ensure that citizens get value for money.

With those many remarks, Madam Temporary Speaker, I beg to support and appreciate the industry of this Committee.

I thank you.

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

Proceed, Sen. Kisang’.

Sen. Kisang’: Thank you, Madam Temporary Speaker. I rise to support this Motion. It was a good idea to support the five counties, to put up headquarters, even though more counties should have been supported, which includes Elgeyo-Marakwet County. Elgeyo-Marakwet County headquarters is housed in a makeshift, prefabricated building as the county headquarters. If you go to Iten, our county headquarters, you would not know where the governor is or where the county assembly is.

The original idea of using public works and the national Government to implement the projects was wrong. This was not the right framework to have---

The Temporary Speaker (Sen. Veronica Maina): Hold it up, Sen. Kisang’.

What is your point of order, Sen. Mandago?

Sen. Mandago: On a point of order, Madam Temporary Speaker. I am just a bit wondering, Sen. Kisang’ is speaking from the Minority side. I do not know if there are changes, and I am not aware. It is good to be informed.

The Temporary Speaker (Sen. Veronica Maina): There are many dialogues taking place right now, so let him speak from whichever side.

Proceed, Sen. Kisang’.

Sen. Kisang’: Madam Temporary Speaker, Sen. Mandago has just come from a trip out of the country and he is not aware of realignment. He does not know that we have an engagement of forming broad-based government, and as part of that broad-based government, I saw that there was no one on this other side of the aisle.

Madam Temporary Speaker, the original framework of using public works and the National Treasury to do the implementation of the project was wrong. If the conditional grants were given directly to the counties, and then, be given enough budgets to complete, this issue of 10, 12 years, project stalling would not have been there.

It is terrible. It is appalling that after 10 years, none of all the five county headquarters have been completed, and within the same time, the governors of these particular counties where the money were channeled, have put up their own buildings bigger than the county headquarters.

This is something that we need to relook at, and as we support the report, we would urge the Standing Committee on Finance and Budget to sit down and see if we can allocate

resources to these particular counties to complete, once and for all. Otherwise, this thing will go on forever.

As the Senate Majority Leader had said earlier, Kenya Industrial Research and Development Institute (KIRDI) has put up a huge building, and it has been ongoing for the last almost 15 years. The Kenya National Examination Council put up a building in South C for close to 35 or 40 years, and even up to date, they have moved to the place, but it is not complete.

Therefore, we need to relook at this closely as Senators, so that we bite the bullet, propose to allocate resources, and we give them timeframes. In fact, if you read the Report, some of the counties changed the locations where the county headquarters was supposed to be put up. What happened? When you are doing the tender documents, there should have been a design, and when you are doing the design, there is a location that the design was done. Why do you change the scope of the project along the way?

As you change the scope along the way, the cost of the project will escalate, the contractors will leave site, come back later on and claim idle equipment on site. That is why if we do not make the right decision, this county headquarters will continue being incomplete for a long time.

I remember when we were in Turkana County last year for the Senate Mashinani; the county headquarters for Turkana had also stalled. I know they use their own resources to put up the county headquarters, but it is not benefiting.

The reason resources are allocated is so that people in the counties can access services easily because they know where the governors and the county executives are. Now, we are wasting a lot of resources across these five counties by hiring offices instead of benefiting from the resources that were allocated.

Madam Temporary Speaker, it is also good to know that when you use public works to do the design and implementation, the cost of the projects is actually more than double because of corruption. They are very inefficient. In fact, the counties are struggling especially when it comes to monitoring and implementation.

The public works officers are on salaries and yet they ask for allowances to go and visit the sites. This is an area where we need to build capacity for our county governments, so that they do not have to rely on public works officers from the national Government.

As I had said earlier, we also need to relook at other counties such as Elgeyo-Marakwet County. I know when Sen. Mandago was Governor of Uasin Gishu, he did a lot of good work. He put up six sub-county headquarters across all the six constituencies in Uasin Ngishu. In Elgeyo-Marakwet, we have done nothing because we do not have enough resources.

I will be asking the Finance and Budget Committee to relook at other counties such as the Elgeyo-Marakwet County, which are getting less than Kshs5 billion, so that we can also benefit from these conditional grants and put up county assemblies and county headquarters, so that we can look like other Kenyans.

In fact, when I appeared in the Committee sometimes back, I said that it will be unfair if after 20 years, some counties such as Elgeyo-Marakwet will look like Kenya while others will look like Singapore when we were at the same level in 1972. This is unfair and discrimination. It is something that we need to relook at, so that others are not favoured.

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Madam Temporary Speaker, another important thing is for the Committee to see how we can take up the matter, if the counties in conjunction with the public works are not able to complete these particular projects. Who can take it up and complete these projects because, we will be putting in resources that are not enough to complete and then next year, there will be variations by the contractors.

The contractors are going to claim money for inflation and idle equipment just like NEC3 and Hilti Corporation swallowed a lot of resources for close to over 30 years. We want to thank the Committee for doing a good job. Let us also listen to our counties, especially, the last 10 or 11 vulnerable counties. When I checked, Tharaka-Nithi is one of the counties that was talking about different sites. There was a fight about Chuka being the headquarters.

Madam Temporary Speaker, as a former or incoming Secretary General of the United Democratic Alliance (UDA), I think you understand the fight that was there then. I do not want to say much for now.

Sen. Mandago, if you want to speak early, you better shift to this side.

Thank you, Madam Temporary Speaker, I support the Report.

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

Sen. Mandago---

(Sen. Mandago and Sen. Cheruiyot consulted loudly)

Hon. Senators, can you consult in low tones? I am calling Sen. Mandago to attention and he is not even getting it.

Sen. Mandago, under Standing Order No.255, the only seats reserved exclusively for use by specific leaders are the seat of the Deputy Speaker, Senate Majority Leader, Senate Minority Leader and Senators with disabilities. The rest of the seats in the Chamber are used by any other Senator. That is just for future reference and guidance.

Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Madam Temporary Speaker. I rise to support this Report.

Although we are speaking on this Report after everything has been done, it is important to recognise the work done by the Senate. When the Governors came to the Senate to seek support for these county headquarters to be completed, it is important also to note that the Senate played a critical role and ensured that, at least, these funds have been released under conditional grants.

This is one of the successes that we should be talking about because a lot of people out there sometimes do not recognise the work that the Senators do. It is imperative to know that the Standing Committee of Finance and Budget led by the able Chair, Captain Sen. Ali Roba, was able to bring all these players together; the National Treasury, the intergovernmental agencies and the Council of Governors (CoG).

They ensured that the money which was supposed to have been released to county governments by the Treasury has been released and these projects do not continue stalling. One of my biggest pet peeves is that every time we pass budgets and allocate funds, those funds are never released. So by the time a project is being done, the cost of doing that

project has already changed. For example, something that you had budgeted to build with about Kshs1.8 billion ends up costing about Kshs3 billion just because of dilly-dallying.

It is imperative to note the success of the Senate in ensuring that there is an alternative arrangement to complete these projects. I hope that we can let this cut across all projects, which are co-funded by the county governments and the national Government.

I am sure if you traverse this country of Kenya, albeit the challenges that we are dealing with at the moment, which are normal - in any democracy it is not strange for people to have divergent opinions - you will find projects particularly being done by this current administration. You will find industrial parks and stimulus programme markets that they say they are setting up. You will also find that those projects are co-sponsored by the county government and the national Government. However, all those projects will always end up stalling.

One of my biggest concerns is that a project is designed and the cost is calculated. We then agree that the national Government is going to give about Kshs1.2 billion, for instance, but they do not give that money. The county government then proceeds and budgets for that money and then, if the certificates are issued and the contractors are paid, they will only complete the project to the level of payment. It is important that in future, what this Committee did can be done on all projects, which are co-funded by both the national Government and the county government.

When I go to Narok there is a market called Ntulele Market, which over the last three or four months I have noted that there is a big fence that has been put up by the national Government. Its ownership is actually clear, seeking credit by saying that it is a stimulus project by the national Government. However, it has stalled. They went there, put up the fence and that is about it.

Again, when you go to Narok, you will find an industrial park, which the national Government came and said that they will put up. They then built a fence up to this level with three or four courses and then abandoned it and took off.

When are we going to have that discipline to say that we are starting a project and complete it? We do not want to waste time, where the county governments now come together and ask the Senate to help them finish those projects, and then we have to devise a system to put it in conditional grants.

It is imperative to note the success of this project, learn something from it and ensure that we apply to other projects, which have continued stalling.

We have a project in Kakamega County where the county government was building a hospital. They started building that hospital as a big Level V hospital, but it is now a huge white elephant project that can never be completed. It now gets to a point where they say they want to hand it over to the national Government to do it.

Why should we be doing that? Where is this money that is kept aside somewhere by the national Government to handle all the failed projects? Why should we not prioritize? Currently, we are talking about bringing fiscal discipline into this country and ensure that we better services for Kenyans.

Sen. Mandago, the fight out there is not that the Gen Zs wants to be President, Senators or Cabinet Secretaries. What they are saying is that they want services to be provided for them. They want roads built for them. There is no point of us saying that we have billions of shillings, yet we cannot finish even a single project. This is a wake-up call.

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Although we are commending on a project that has already taken off, the train has already left the station and these people have already agreed. My hope is that if those headquarters in those five counties are not completed, when we discuss this here under conditional grants, we can allocate more funds. What the county governments and the Senate Committee on Finance and Budget has done should be commended.

I commend the Chair for taking the initiative. Next time because I sit with the Chair and also the Vice-chair of the Senate Business Committee (SBC), we can try speed up this report. We should not come in and talk about projects that have already been completed.

As I wrap up, we need to try to make sense and have things work in this country. You know this country is greater than all of us. We are like a passing cloud; all of us will come, die and be forgotten.

It is about time that we rethink everything; all the policies and how we do things. We should have the future at a glance. In everything we do, we should ask ourselves whether we want to leave this country a better place than we found it or line our pockets and only worry about yourself. It is imperative that we think about the Sustainable Development Goals (SDGs), particularly SDG No.16, which talks about accountability, and it is very current.

All these things are happening today because people are concerned about equality, accessibility of services and good laws. Let us draft laws that will assist this country stand strong. We have a big challenge, but at the moment, I call upon every Kenyan to think of solutions and not always lament. It is good to lament, but if you lament and give a solution, it will eventually end up helping us.

As we grapple with a new Kenya, I hope that all of us can give reason a chance. That we cannot only talk about the top, but also go down and deal with the issues of counties. There is a lot of misappropriation of funds in counties. It is about time that we realign our own existing resources and build our own economies.

You know we have good perfect examples. Look at a country like Burkina Faso. The major industry in Burkina Faso is simply peanuts production; *njugu karanga*. The current leadership of that country is really changing things. You know opulence sometimes does not really help build an economy. So, since we have been given an opportunity to serve at this time, let us remember that Kenya will always stand. Kenya will always be there.

Whatever we do, we do it to better the services. I hope that the Chair of the Committee on Finance and Budget can now look at all these other projects; the industrial parks which are co-shared by the national Government and the county governments.

In Narok, we had one where Kenya Corporative Creameries (KCC) was given land to build a plant. Apart from the time when they came there to do the handover, nothing has ever been done. We are now going into another financial year.

Madam Temporary Speaker, it is also imperative that the Chair of the Committee on Finance and Budget looks at budgets of each and every county government to see whether they are carried forward or that those projects are completed.

In conclusion, we had a Motion that we passed in this House. Even though we do not have an Implementation Committee, I hope that as elected Senators, we can go through and see if the Controller of Budget, National Treasury and the county governments received and implemented the resolution of this House in terms of pending bills.

The Chair of the Committee on Finance and Budget can take over the payment of pending bills. This is because even though it was a Motion brought by a private Member, it was resolved by the entire Senate. The Chair can go through and say this was a resolution of the Senate, we want to know whether you have paid all the pending bills that are supposed to be paid. If pending bills are paid, we will not find a situation where National Treasury will not release the money to complete the projects.

I thank you and I support.

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

Sen. Tabitha Mutinda, I believe this Motion was moved by the Chair or are you the one who moved it?

Sen. Tabitha, can you confirm whether you moved this Motion? It was Sen. Tabitha who moved it on behalf of the Chair.

So, Sen. Peris proceed.

Sen. Tobiko: Madam Temporary Speaker, thank you for this opportunity to contribute to this debate. Let me support the Report by the Committee on Finance and Budget on the status of implementation of projects that have been funded by the conditional grant for the construction of county headquarters.

Basically, what this Report is telling us is that close to Kshs2 billion was allocated over the years on these projects of county headquarters for around five counties. However, we have nothing to show for it because they have not been completed. It is a very sad state of affairs. That is the counties of Lamu, Nyandarua, Isiolo, Tana River and Tharaka-Nithi.

Madam Temporary Speaker, at this moment in our country, when you tell Kenyans that close to Kshs2 billion was used to construct some white elephants that have not been put into use, the anger and outrage is just fueled. This is a very sad situation and it is justified. You now get justification for the anger that is out there for public resources that we cannot show what good use they were put to.

I began by saying we had a chance as the Standing Committee on Devolution and Intergovernmental Relations to visit Tharaka-Nithi. It is a sorry state of affairs there. The County Assembly Headquarters has not even started, apart from digging the foundation.

The building for the County Executive is also not completed. So, the County Assembly is in some *mabati* structure. They operate under trees as their lounge. It is a very sad affair, shameful and unfortunate. However, the issues that we came across when we visited Tharaka-Nithi were audit queries. The EACC is handling the case. Once the case is with EACC, then there is a back-and-forth communication, accusations and counter-accusations. Therefore, the project has then not taken off to date.

That brings me to another issue. If we were to do an assessment and take stock of the projects that have audit queries, they are many. The EACC has their files and is handling them. The Commission has completed some, but has not given a go-ahead to counties for completion across the country. Therefore, this House may need to take stock. The EACC cannot also become an impediment to the transformation that we want across the country. They can do their investigations, but we cannot have open-ended investigations. They must be concluded. There must be a way to salvage the projects, so that they are then completed and put to good use.

In Kajiado County, I saw a library and a dormitory in a school called OIKejuado High School that has pending been for a long time. There are several other projects that

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have not been completed because they have audit queries or the EACC is handling the matter. The EACC cannot operate in perpetuity. It is there to investigate, get reports and court cases going on, but they do not.

The EACC has also turned out as another monster in the country. It is not possible that we have problems in every institution. This institution creates problems in other institutions and we get into a vicious cycle of non-compliance and non-completion. Consequently, public resources continue to be wasted.

I would, therefore, urge this House that we take stock of the many projects that are pending in our counties because the EACC has stalled the projects because of open-ended queries.

The Senate Majority Leader has spoken, and it is true about the waste of public resources in this country. This is one of the issues that the young demonstrators have mentioned over and over. However, I will tell you something else that is annoying Kenyans. I hope this will go to the ears of all the decision-makers in this country including this House, the National Assembly and the Presidency. We must all listen because it is one thing that is becoming a time-bomb in this country. I know I have said it on the Floor of this House on several occasions. I will continue saying it because even if it will not help in anything, at least, I will have satisfied myself that I said it.

The inequalities in this country are a time bomb. It makes me sad every day to imagine that a Kenyan can have qualifications, but may never get to see into a certain office just because of the ethnic tag.

I remember one time we left the National Assembly as a caucus of those of us from Maa counties. We went to lobby and make a case for a person who was the then Deputy Governor of the Central Bank of Kenya (CBK). We believed he had all the qualifications and the international markets were rating him well. There was no reason he would not have risen to be the Governor of the CBK. He could not be allowed because he comes from a minority community. So, minorities will continue to be marginalized. It is annoying. No wonder, the young generation that is calling itself tribeless will send all of us packing

Whenever I use the roads going to our home, it saddens me. I can see my neighbour, the good Senator for Machakos, Sen. Agnes, smiling. She knows this is a story I say every day. It is annoying that we have no roads, but we are the closest to Nairobi. From my home, I take like three hours to reach Nairobi, yet it is a place that will be 20 or 30 minutes' drive if our roads were good.

The other day we had a Cabinet Secretary in the Senate to answer questions. Unfortunately, he did not get a chance to respond to my questions before the dissolution of the Cabinet. I went to beg him, and I told him, right now, we are even begging just for murrum. If you cannot do murrum, we are even begging for just grading because we do not have roads. This is happening across the county. It is not confined to Kajiado County. I know those counties in the north that have problems of insecurity. One of the major contributors to insecurity is the lack of necessary infrastructure, yet in some other counties, there are tarmac roads.

Everybody will leave Nairobi in the evening, go home and come back tomorrow morning. They will have taken care of their cows, chicken and seen their old parents. They then come back to Nairobi, do their job and go back home in the luxury and comfort of their vehicles and good roads.

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Are we all Kenyans? Will we remain this way and for how long? No wonder the anger and frustration. It might look odd and, therefore, I do not want to say it. Sometimes we feel like joining them because of the frustration and feeling like you are being treated as a lesser Kenyan or you are less deserving. It is like being children of a lesser god because we must beg.

The sad part is that when some of us go back to our communities, we are told, “*Si nyinyi ndio Serikali*”. I do not know how to answer that. *Sisi ndio Serikali*, but some of the fruits are too high for us to reach and bring them down. We cannot do a road, connect them to power or construct a hospital. There is nothing we can do.

Madam Temporary Speaker, besides the fact that some projects receive money and do not get completed--- For the case of Tharaka-Nithi, we were told it is the Ministry that is doing the project and not the county government.

The Ministry has engineers and other experts. It is a Ministry that gets money from the Exchequer. Why are these projects not completed? Sometimes we blame counties when we should not. Sometimes it is just good for us to know where the buck stops. Who is this that is not moving when they should? Who is this not doing what they should?

Let us all listen. We should open our eyes and ears to what these young Kenyans are saying. They do not know who is a Maasai, Kikuyu, Kalenjin, Luo, Kamba and so on. They do not know who is a Christian or a Muslim. What they know is that they are Kenyans who should be enjoying services from a Government they elected. If they do not, they will smoke all of us out of this town.

Today, I posted something on a family page. The kind of responses I received from my own child, I was like; wait, it is not me. I was being told that we should fix the National Health Insurance Fund (NHIF) and public hospitals and employ the interns. I was like; I wish I could because I am not the one who does that.

There are many things we are being told even in our houses. I am sure, Madam Temporary Speaker, that you are being told the same. I know we are all going through it. We have children in our houses and they are telling us that.

I told them that I just need a few more years in active public life, then I dash out to go and take care of my cows and leave Nairobi for them. Before that time comes, now that we are here, let us fix the situation.

I thank you, Madam Temporary Speaker, for the opportunity.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Faki.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia Ripoti ya Kamati ya Fedha na Bajeti kuhusu miradi ya kujenga makao makuu ya kaunti za Lamu, Tana River, Tharaka-Nithi, Isiolo na Nyandarua.

Miradi hii ilianzishwa katika awamu ya kwanza ya serikali za kaunti. Sasa hivi tuko katika awamu ya tatu lakini miradi hiyo haijakamilika. Hiyo inamaanisha kwamba muda mrefu umepita na rasilimali nyingi zimepotea kwa sababu ya kuchelewesha ukamilishaji wa miradi hiyo.

Ripoti hii ni ya kuungwa mkono kwa sababu inanuia kusimamisha utepetevu ambao umekuwa ukiendelea na kuchangia kutokamilishwa kwa miradi hiyo. Ikumbukwe kwamba Serikali ilikuwa imejitolea kulipa asilimia 70 ya miradi hiyo na kaunti husika zilipe asilimia 30.

Ukisoma Ripoti hii, utapata kuwa Serikali ndio imechelewesha ukamilishaji wa miradi hiyo. Sababu ni kwamba wakati serikali za kaunti zilikuwa zinatoa michango yao wa asilimia 30, Serikali ya Kitaifa ilikuwa inashindwa kupeleka pesa hizo kwa wakati, hivyo basi kusababisha ucheleweshaji wa miradi hiyo.

Katika sehemu nyingine, Gavana wa Tana River alikataa kuhudhuria vikao kadha vya Kamati ya Fedha na Bajeti ambavyo vilikuwa vimeitishwa ili kusuluhisha swala hili. Nakumbuka tulikuwa na kikao kimoja katika Hoteli ya Jacaranda ambapo Naibu wa Gavana ndiye aliyekuja.

Alipoulizwa amekuja kwa mkutano gani, alisema kuwa alikuwa amesikia kuna mkutano na kwa hivyo akaja kuhudhuria. Mbali na kwamba kulikuwa na utepetevu katika Serikali ya Kitaifa, baadhi ya kaunti zetu pia zilikuwa na utepetevu kwa sababu hawakuwa tayari kuendeleza miradi hiyo bila mchango wa Serikali ya Kitaifa.

Kamati imependekea kwamba kaunti hizo zichukue miradi hiyo na kuhakikisha imekamilika kwa kutumia pesa ambazo Serikali ya Kitaifa ilikuwa imetenga. Pesa hizo ambazo zilikuwa zimetengwa kwa ajili ya miradi hiyo zipelekwe huko kwa haraka ili isicheleweshwe tena. Nawaomba Maseneta wote tuunge mkono mapendekezo haya kwa sababu yatasaidia kuhakikisha kwamba miradi hiyo ambayo imekuwa kwa zaidi ya miaka kumi imekamilika.

Kuna kaunti ambazo zilianza kujenga makao makuu baadaye na zikakamilisha wakati hizi kaunti tano bado zinasubiri ukamilishaji wa miradi hiyo. Iwapo miradi hiyo itakamilika, kaunti hizo zitaweza kuhudumia watu wao kwa njia nzuri zaidi kuliko wanavyofanya sasa.

Kwa mfano, wakati wa Seneti iliyopita, tulikwenda katika Kaunti ya Isiolo. Tulikutana na maafisa wakuu wa kaunti hiyo katika *canteen* ya polisi pale Isiolo. Hakukuwa na mahali pengine ambapo wangeweza kukutana na Maseneta na kujadili matatizo katika kaunti hiyo.

Hali hiyo ni ile inayojulikana kwa Kiingereza kama *wake up call*. Kaunti zetu zinafaa kujisimamia. Kuna maswala mengine ambayo hawawezi kuyaacha kwa muda huo wote kama vile makao makuu ya kaunti hizo.

Kwa mfano, kule kwetu Mombasa, kuna mradi wa Mombasa Municipal Stadium. Ni karibu miaka mitano lakini mradi huo haujakamilika kwa sababu fedha ambazo zilitengwa hazikupatikana. Kwa miaka miwili sasa, serikali mpya ya kaunti haijatenga pesa za kutosha kuhakikisha kwamba mradi ule unakamilishwa.

Juzi nilikuwa nasoma ripoti ya Mkaguzi Mkuu ya Mwaka 2022/2023. Ripoti hiyo inaonyesha kwamba Ksh600 milioni za Kaunti ya Mombasa hazikuwa zimetumika kufikia tarehe thelathini mwezi wa sita mwaka uliokwisha. Hatujui zitabakia ngapi katika ripoti ya mwaka huu. Kama Ksh600 milioni ambazo hazikutumika mwaka jana zingepolekwa katika mradi wa Mombasa Municipal Stadium, mradi huo ungekuwa umesonga mbele sana.

Serikali za kaunti haziwajibiki kukamilisha miradi ambayo ilianzishwa na magavana waliotangulia. Hiyo haifanyiki kule Mombasa pekee bali kaunti zote. Kwa mfano, mwaka jana, tulizuru mradi mmoja wa ECDE sehemu za Chaani katika Kaunti ya Mombasa. Gavana aliahidi kwamba atakamilisha mradi ule kabla ya mwaka kukamilika. Mwaka ulikamilika juzi tarehe 30 Mwezi wa Sita, ilhali mradi huo bado haujakamilika.

Kwa hivyo, zipo cheche chini kwa chini ambapo magavana wanya wakichaguliwa, hawana nia au mvuto wa kukamilisha miradi ambayo ilianzwa na serikali zilizotangulia.

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Hili ni jambo ambalo halifai kuendelea kwa sababu, miradi ile imefanywa kuinua maisha ya wananchi na kuendeleza wananchi. Miradi ile ikikamilika, watu wataajiriwa kazi katika miradi ile.

Bi Spika wa Muda, iwapo ile miradi haitakamilika, pesa zitakuwa zinapelekwa kila mwaka, ilhali wananchi hawapati faida ya miradi ile, ile tunaita kwa lugha ya Kiingereza, *value for money*. Pesa zimetumika kwa njia ya kisawasawa na mradi unaonekana. Hii haiwezi kupatikana ikiwa wale magavana walio ofisini sasa hawatakamilisha miradi ambayo ilianzishwa na magavana waliotangulia.

Kwa kumalizia, ningependa kuipongeza Kamati hii kwa kutoa mapendekezo ambayo yakitekelezwa, kaunti zile tano zitapata makao makuu kwa haraka iwezekanavyo. Asante, Bi Spika wa Muda, kwa kunipa fursa hii.

The Temporary Speaker (Sen. Abass): Sen. Abass Sheikh Mohammed

Sen. Abass: Thank you, Madam Temporary Speaker, and I stand to support the Report.

From the onset of devolution, there were good intentions from both the national Government and county governments. However, a lot of money has been spent that was allocated to these five counties, but eight years down the line, those structures are not complete, and yet, a lot of money has been spent.

If you look at Lamu, it is about 65 per cent complete. Tana River is about 55 per cent, Tharaka-Nithi, 60 per cent and Nyandarua is equally 55 per cent complete. The Committee on Devolution and Intergovernmental Relations, of which I chair, has noted this with concern. We visited Tharaka-Nithi and it is unbelievable that the county does not have offices. They did a very big building such that, even if they are given all the money, they will not be able to complete it with the money allocated for that.

Madam Temporary Speaker, I have found that most of the assemblies in different counties are still housed in the big halls of defunct county councils. Equally, most of our assemblies are poorly structured and there were no plans to build assemblies. I will have to request the Committee on Finance and Budget to look into this.

One other thing that has not been done are residences for the governors, deputy governors and speakers. Some have not been constructed and I believe there is no money. This is because there are no additional funds for the construction of those residences. That is a sorry situation with housing because some of these places do not have good houses to accommodate those senior officers. I, therefore, request this to be looked into by this House.

Madam Temporary Speaker, one other challenge we have is that when government changes, like when the first governors changed and new governors came in, they tended to change their priority as well. You will see many unfinished projects. New governors come in with their own priorities. That is an illegality of the highest order.

We need to know that this is government money and all projects that have been started, whether done by the first governor or the second one, should be completed. This is one thing we need to compel the incumbent governors on; that they should not start new projects when previous ones have not been completed.

When we went for the Senate Mashinani in Turkana, I was surprised to see many stalled projects that had been done by the previous government. When the Committee

summoned the incumbent Governor, we learnt that there were almost 400 stalled projects. This was a deliberate move.

Madam Temporary Speaker, one other thing is that the one for Tharaka-Nithi has an audit issue. The Ethics and Anti-Corruption Commission (EACC) has stopped the project because during the initial planning, the contractor over-estimated the project and when they started, the EACC stopped its construction. However, when we inquired from the EACC, they denied it and the County Government denied it as well. Therefore, we need to investigate more on what is going on in Tharaka-Nithi because the County Assembly sits in makeshift structures.

As the years proceed, the building that was costing about Kshs100 million then, today, costs about Kshs1 billion because of implications such as increase in costs. The other big challenge is the availability of suitable sites. Like in Lamu County, they want to build an office in Faza Island and another in the mainland. The price also changes.

There is also the availability of funds because counties are supposed to contribute 30 per cent and then they change their priorities. Therefore, when the national Government gives out money, the funds from counties are always missing. We, therefore, need to enforce that for counties to get shareable revenue, they should also contribute their 30 per cent.

Madam Temporary Speaker, Elgeyo-Marakwet County had good offices, but now they have said that those offices are not enough and have changed their priorities. We need to relook at some of these issues. The other big challenge is inadequate funds given to county governments because money given to them is not enough and then they change their priorities. Then they start to build new infrastructures like Level 4 and Level 5 hospitals because the public is demanding for more services, especially in hospitals and national schools.

One other thing I will say is that there is delay by the national Government to release funds and as a result, money is not released on time, or sometimes that money is not budgeted for and then all kinds of variations come in. As we move, priorities of the counties change. County assemblies chambers do not get built and governors official residences are not built. It is not only the headquarters but many other facilities have not been done. Therefore, all the unbundled functions and facilities are not available.

The national Government unbundled functions. When functions are not bundled, money is not sent on time and things like libraries are not catered for. Some places do not have libraries and the money was released. This is an oversight by the Intergovernmental Relations Technical Committee (IGRTC). We need to send the IGRTC before the functions are unbundled and also look into that and ensure that costing is done.

Madam Temporary Speaker, most of the times, the costing is not usually done, but they are part of the unbundled functions. By the time counties receive those functions, there are no offices or houses for the officers who have been transferred from the national Government and these are the many challenges during this time of devolution.

Therefore, the Senate has to redo and re-evaluate all the functions that have been unbundled and moved to the counties. If there is any function that is going to be unbundled, we must also have the costings of those functions.

With those few remarks, I support the Report.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Abass. Sen. Kavindu Muthama, proceed.

Sen. Kavindu Muthama: Thank you, Madam Temporary Speaker, for giving me this opportunity. I first congratulate the Standing Committee on Finance and Budget for the Report they have given on the five counties that were not able to complete their project, especially with conditional grant money.

I understand this project was supposed to be funded 70 per cent by the national Government and 30 per cent by the counties. If the national Government did not give all the 70 per cent of the monies that they were supposed to give, definitely, the counties could not have completed the projects with the 30 per cent that they were supposed to contribute.

I urge the national Government to release the monies they were supposed to give to the counties so that they can complete those projects, as we accuse the Ethics and Anti-Corruption Commission (EACC) for not taking action on the people they are saying were overcharging on the projects. If it was discovered and proven that they were overcharging, then I do not see why they have not taken them to court to answer those questions.

Madam Temporary Speaker, it is not only these five counties, but across the country. In Machakos County, I have three dams that were supposed to be funded by the national Government, but have stalled for so many years. When they inquire about the funds, they found out that the funds were there, but diverted to other projects. This diverting of monies meant for certain projects by the national Government and county governments is stalling a lot of projects in the counties.

I ask that the Standing Committee on Finance and Budget and the Controller of Budget (CoB) to be involved in this diversion of monies. This is because when the counties are giving out the projects, they use money they have received from the CoB. If this money is diverted to other projects, those projects will stall. We have so many projects that have stalled across the country. I request the Senate to stand together and demand counties to complete all the stalled projects from the former governors to date, because that is taxpayers' money lying idle and not being used by the taxpayers since the projects were meant to be completed and used by them, are not completed.

Secondly, there must be equality, like the Senator for Kajiado County has said. There is no equality in giving out these big projects across the country from the national Government. We also demand that there should be equality and inclusivity in giving out of jobs in the national Government and county governments, so that we do not have the problems of lack of jobs that we are having with the Generation Z.

Thank you, Madam Temporary Speaker. I support.

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

Sen. Mandago, proceed.

Sen. Mandago: Thank you, Madam Temporary Speaker, for this opportunity. I rise to support the Report by the Standing Committee on Finance and Budget.

In this Report, we are looking at the challenges the counties have gone through in completing those projects, most of which arise because of delay in disbursement of the conditional grants to counties. I thank this Senate for passing the Conditional Allocation Bill, which is now an Act of Parliament, which will make it easy for follow-up of funds to be released.

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During the period under review, there were a lot of challenges in getting the National Treasury to disburse the funds that were allocated and meant for counties. The National Treasury as currently structured, still behaves and lives in a manner to suggest they work and belong to the national Government, but at will and pleasure, serve the counties in their spare time. That is not what was envisaged in the Constitution. If you look at Article 225 of our Constitution, we still need to revisit that Article as Parliament and relook into the Public Finance and Management Act in order to make the National Treasury a national treasury, and not a national Government Treasury.

Having said that, I am afraid that the State Department for Public Works, which was tied with the responsibilities of design, supervision and management of the projects, have also contributed to the failures of completion of those projects. If you look at the Bill of Quantities (BQ) generated by the State Department for Public Works compared to the actuals in the market, you would find that they are always inflated.

Madam Temporary Speaker, you will recall when the Government decided to embrace Technical and Vocational Education and Training (TVET) in this country. In that process, they decided that they are going to build a technical training institute (TTI) in every constituency in this country. When the State Department for Public Works was asked to design a model TTI that would be built in all the constituencies, their costs came close to almost Kshs150 to Kshs200 million. When Rift Valley Technical Training Institute was asked to do the same design and produce the BQ through the principal, Dr. Tarno, you would be surprised that those TTIs were constructed at a cost of Kshs50 million. Therefore, as we address the issues of disbursement, we must also address the issues of costing of those projects.

The issue of stalled projects in counties will not be accounted for by only the lack of disbursement from the National Treasury. Sometimes, it is also caused by the same county governments, particularly when there is transition. You will find that the new administration will begin new projects. However, it must be understood that all the functions county governments undertake are clearly spelled out in the Fourth Schedule of the Constitution. Therefore, there is no county administration that will do or initiate projects outside the functions that have been devolved. What we are seeing is duplication. You will find a Level 5 facility that was being developed in a county at 70 per cent complete during the exchange of administration, and the new administration decides they are going to build another Level 4 or Level 5 facility elsewhere, abandoning a Level 5 facility that was 70 per cent complete.

I urge this House that it is probably time we review the County Governments Act to provide for a law or amendments, to make sure that during transition, there is a complete assessment of the status of projects in every county and a report submitted to the Senate. The first budget of the new administration should be compared with the report that has been passed by Parliament to ensure that there are no stalled projects.

New administrations have also been hiding under a cover and very popular term of pending bills. I get surprised that in my own county, when I find the Governor telling members of the public that there was a pending bill of about Kshs700 million or what. My colleague Chairs were in my county for a conference last time. When we visited the Governor for a courtesy call, he also alluded the same.

I intend to bring a statement to this House so that the Standing Committee of Finance and Budget can investigate the alleged pending bills in the Uasin Gishu County Government.

Madam Temporary Speaker, as far as I am concerned, because I was the previous Governor of that County, there were no pending bills, except for a Kshs45 million bill to the County Pension Fund (CPF), which accrued from accrual deficits that they were unable to supply documents to support payment during my tenure.

Therefore, other than the late disbursement from the national Government, we must also be aware of the change of administration and the abandoning of projects for political reasons. As I finalise, from experience, I would like to state that conditional allocations have done well, in that when funds are precisely set for a specific function and are followed up during execution, there is a tendency to achieve better results. We have seen that with the conditional allocations and grants from the World Bank under the Kenya Urban Support Program (KUSP).

Madam Temporary Speaker, those funds did quite a tremendous job in most of our urban areas. Today, the tarmac roads you see in most county and sub-county headquarters are courtesy of those funds that are conditional. I urge this House that even as we work very hard as a Senate to increase funding to counties, we may also consider sending money to specific functions through conditional allocation.

Therefore, I support that the national Government disburses the remainder of the funds and counties, regardless of whether the cost of those projects will go beyond the 30 per cent that they had envisaged, put in their own resources to complete those projects, so that the citizens of those counties can benefit.

I support.

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

Sen. Omogeni.

Sen. Omogeni: Madam Temporary Speaker, I also rise to support the Report that has been tabled by the Standing Committee on Finance and Budget. I want to thank our Chairman, Captain Senator-Governor Ali Roba, who has distinguished himself as a very diligent Senator on issues of finance. The performance of Sen. Ali Roba gives credit to those of us who support governors who want to transition from being heads of County Executive and come to assist us in oversight and legislation. We gain a lot from the experience that they have from counties where they were executive heads.

I have also seen this as I serve in the Standing Committee on Health, and on many occasions where we have had county visits with Sen. Mandago. Having had the benefit of a Chair who was not a former Governor in the last Senate, I have seen the valuable experience that becomes very useful for us, Senators, when we visit counties. I urge governors who are retiring and still think are energetic or feel they have something to offer the country, not to shy away but offer themselves through vying for positions in the Senate and coming here to make a contribution.

I think Sen. Ali Roba and Sen. Mandago will agree that they have found it very interesting. We may not have the money that governors have, but we also make a contribution that tends to improve what happens in our counties. This happens all over. I saw a Bill that was proposing that we bar governors from running for senatorial or National Assembly positions. I do not support it. Let us compete. If you have experience as a

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Senator for two terms and the people of Tana River County, where Sen. Mungatana, MGH comes from, want him to take the experience he has gained as a legislator to the governorship, why not?

Why should we stop Sen. Mungatana, MGH, from transitioning to be the Governor of Tana River County? The same applies to me. If the time comes and the people of Nyamira County tell me they want me to transition from Senator to Governor, we should not stop anybody. Let the people decide.

Madam Temporary Speaker, let me come back to the Report. It is unfortunate that implementation of projects spearheaded by a government can stall. That is a big indictment on us as a country. If you travel to many jurisdictions, projects initiated and implemented by governments never stall. If a government lacks money, then it means the country is bankrupt. In many civilized jurisdictions, if a government begins the construction of a road or a bridge, the presumption is that the government has money to complete the project.

It is a real shame, when I look at this Report, some of these projects were launched way back in 2015. Imagine, next year will mark 10 years. The sad part is that we have sunk money into a project and we have a report that says some of them have been abandoned. It is a big indictment on our country. This money comes from taxpayers. Some of them are struggling. They get taxed knowing that the Government will put into good use the money that has gone into Kenya Revenue Authority (KRA). It is not a very good statement of our performance. I hope the recommendations that have been put forth by the Committee will make us realize that.

Our joy, as Senators, is to see this process that was mid-wifed by the Senate because those Motions came here, they were passed by the House and money was sent to counties. Our joy should be that as we go to those counties such as Isiolo or Tharaka-Nithi, we see the projects being launched. We feel proud as Senators.

Madam Temporary Speaker, it is a shame if you look at the reasons for the stalled projects. If you read Page 19, the Cabinet Secretary said that some of the challenges that were faced included issues dealing with supervision, lack of good management of the projects and bureaucracies arising from the project implementation model. This should never happen because when you are designing a project, you must input how to supervise it, so that you can complete it within the projected contract period.

How can our counties be telling us that 12 years into devolution, they have inadequate capacity at counties to supervise projects? Those are not excuses that we can take as a Senate. Even the excuse of lack of funds from the national Government should not be convincing. Madam Temporary Speaker, I can give you an example. Our county headquarters in Nyamira are still being housed by the County Commissioner. The county headquarters that was launched by our late Governor, Mzee John Nyagarama, has not been completed to date.

This idea of a governor who takes over from an outgoing governor, not wanting to complete projects that were commenced or initiated by his predecessor, is something that should not happen in government. We have something we used to call perpetual succession in government.

There is perpetual succession in government. When you come on board and find a project that was initiated by your predecessor, you continue with it. Even this Financial Year, in my County of Nyamira, the allocation is a paltry Kshs30 million to complete the

county headquarters. This means that the current Governor is not giving that project priority because the previous Governor, the late John Nyagarama, initiated it. At times, this leaves room for speculation. I have no evidence at all, but when you put your ears on the ground, people will tell you the commission was given to the other administration, so I need to commence my own projects, so that I get something.

Already, we are breaking ground for an industrial park. We, as a county, want to pump Kshs250 million to the industrial park, while our county headquarters remains unfinished for over 10 years; it does not make economic sense. If I were the governor in office, I would have prioritised completing the county headquarters and then, may be another governor who succeeds me can initiate another project and allocate more money there.

Our stadium, the Manga Stadium, again remains incomplete. It is like a stalled project and all these boil into the issue of a governor who takes over saying, "I will not complete projects that were initiated by a previous administration." It is not a good thing.

I have seen roads in my county that were launched by our retired President Uhuru Kenyatta. I have not seen President William Ruto saying that because those roads were launched by former President, he will not continue those projects.

We took over at the Parliamentary Service Commission (PSC) and found the Bunge Tower project, which was launched when Hon. Kenneth Marende was the Speaker and those days. Sen. Mungatana was in the National Assembly, the retired Speaker, hon. Muturi, continued for his two tenures as the Chairman of the PSC. We came in and gave it priority. We completed it and Members are now occupying it.

Therefore, I plead with the Chairperson of the Standing Committee on Finance and Budget to impress upon our governors to give priority to projects where substantial money has been spent. All they need is just to put a substantial budget to finalise the project and life continues.

Madam Temporary Speaker, if you go to Machakos County, you will see what Governor Mutua left. He did a beautiful County Headquarters. When you go Machakos County, you feel proud; you see the fruits of devolution. That is how devolution should be working. You just see it and you say, yes, this is the County Headquarters of Machakos.

In fact, he went further and even did some sub-county headquarters. If you go to Matuu, you will find that Governor Mutua did another Sub-County Headquarters for the County Government of Machakos. Why can Isiolo, Nyandarua and Tharaka-Nithi not do something and complete their county headquarters? Why can Nyamira County, after 12 years of devolution, not have a county headquarters?

When the Gen Zs demonstrated on Tuesday, they went to that building, occupied it and they were demanding that they wanted that building to be completed. What a shame to us, as leaders. What a shame to our colleagues who are governors. How can Gen Zs be demonstrating, demanding that projects should be completed and launched, so that they can be proud members of those counties?

We need to call out our governors and urge them to put aside this issue of "you must get something or your hands must be greased before you finish a project." That is not what should inspire leadership. Leadership is transformative, if you do a county headquarters for Nyandarua, Isiolo or Tana River County, that is posterity. Future

generations will remember that Senator So-and-so is the one who left behind this beautiful county headquarters.

We remember the late President Mwai Kibaki for the Thika Super Highway. We will remember President Uhuru Kenyatta for the Express Way. Maybe President William Ruto will also do something that we will remember him for. You, as a governor, what do you want to be remembered for?

My Governor in Nyamira County, what do you want to be remembered for? That Gen Zs came to demonstrate against you? No. You should be remembered that you took over; four years into your administration, you did something. If there is no Manga Stadium and there is no county headquarters, what will the people of Nyamira County remember you for?

Madam Temporary Speaker, I commend the Chairperson and encourage him to have further discussion with the Inter-Governmental Relations Technical Committee (IGRTC) to give priority to the governors of these five respective counties to prioritise these projects, complete them and as a good way of appreciating our Chairman, they complete these projects while he is still the Senator. I know the people of Mandera may give him a second term but it will be a good thing if they can finalise these projects during his first tenure as the Chairperson of the Standing Committee on Finance and Budget and the he can invite us to go open these projects.

This marking scheme does not reflect very well on us as a country. We have so many grants that go to our counties. Like us, we are receiving about Kshs150 million to support agriculture. However, if the report we have is that counties do not have capacity to implement projects, how will our donors be encouraged to give us money?

I plead with our friends, the chief executives in counties, to style up, transform our counties, complete our hospitals and do our roads. I do not think that we came up with counties, so that we can have murram roads. I also want to walk to my County of Nyamira and tell my people that my governor, whom I have worked so hard to ensure that he gets money from Nairobi, has done even five kilometres of tarmac. We do not want to go to counties and all that we can see is murram roads.

What we are seeing in this county headquarters issue is replicated in water projects. I was looking through the audit report for Nyamira County. You find beautiful projects identified. You will be told that the county government will do 20 boreholes, one in each ward but when the auditor is doing an assessment, he says that there was no proper use of money. That there was no value for money for the people of Nyamira County because the boreholes were sunk, but no electricity was connected, no solar, no piping to homes and he returns a verdict and says that there was no value for money for the people of Nyamira County.

He says that a borehole called Nyandoche Iberi in Nyansiongo Ward was drilled, but nothing happened. It is a ghost project. You go to another project in the same sub-county and find the same report; Kshs17 million spent, no connection of pipes to homes, and therefore, no value for money to the people of Nyamira County.

Madam Temporary Speaker, if you drill a borehole, connect pipes to homes, tell the people that I have supplied you with water so, support me to sustain the project by paying for the water that you are consuming. That is the only way that devolution will have meaning to our people.

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Those governors who are engaging in taking kickbacks; who do not want to complete projects started by their predecessors, for instance, projects started by Captain, Sen. Ali Roba, it is a shame. The Gen Zs have shown us that they can knock on our doors. They have demonstrated that they want to set the bar very high for governors. These people want results. They want results and so, the governors should style up; stop putting kickbacks as a priority, complete projects for our people, so that we can transform this country.

With those remark, Madam Temporary Speaker, I support.

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

Sen. Ali Roba, the Mover of the Motion, please, reply.

Sen. Ali Roba: Madam Temporary Speaker, I beg to reply. I want to take this opportunity to thank all our colleagues such as Sen. Mungatana, who actually was more diligent than his own Governor in following up these issues as we were trying to get this request tidied up.

The request came to us from the Council of Governors (CoG). This in itself is a milestone achievement for the Senate. The CoG made a request that these five counties are affected on average for about eight years of implementing building county headquarters. This happened because they relied on being sponsored by the national Government while other county governments opted to finance the construction of the county headquarters themselves.

Since they were depending on funds inflow from the national Government, the resultant impact of that was that the projects have ended up stalling. The request then was if the Senate could help them in engaging the critical stakeholders such as the National Treasury, the Ministry of Public Works - who are supervising the projects - as well as the Inter-Governmental Relations Technical Committee to smoothly find a way these projects can be handed over to them.

The money that was promised by the national Government in form of supplement for construction of county headquarters should be transferred to them by way of conditional grants. Then, if there are gaps, since a lot of time has lapsed and, definitely, there is bound to be some variation, these county governments take full responsibility to bridge the gaps that are going to come up.

They also need to take full responsibility for the accountability of whatever monies that are going to be transferred to them by way of conditional grants.

We managed to engage these stakeholders very successfully. I want to thank the immediate former Cabinet Secretary for Finance and Economic Planning, Prof. Ndung'u, who was extremely receptive to the idea. The engagement took a little bit of time, but eventually, we managed to have consensus with all the stakeholders.

We managed to get that project transfer successfully to the five county governments, which are, Tharaka-Nithi, Isiolo, Tana River, Lamu and Nyandarua.

Madam Temporary Speaker, as at the time of the handing over, initially, the county governments were promised Kshs1.815 billion for these projects. However, the national Government only managed to release Kshs837 million to these counties, leaving a balance of Kshs977 million unreleased.

Now, during the process of engagement, we managed to convince the National Treasury to include Kshs454 million in the two subsequent County Additional Allocation

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Bills of Financial Year 2023/2024, which is an Act of Parliament now and it has already been included.

In the current County Additional Allocation Bill that we are processing for the Financial Year 2024/2025, we also managed to push further and have Kshs445 million included. This leaves a balance of about Kshs78 million only from what the national Government has promised; this has not been factored in.

Before the Cabinet was dissolved, we were engaging the Cabinet Secretary and he had already agreed that it should be included in the current County Additional Allocation Bill to conclude the part of the contribution from the national Government.

Now, I would like to take this opportunity to urge the five governors to expeditiously open a special purpose account to facilitate the funds flow under the conditional grants to be sent to them.

Regarding these projects, they need to take the bull by the horn. I know based on experience for a project that was started eight years ago, the cost of completing it now will definitely be more than the cost at the time of tendering.

They should not use that as an excuse. They need to top up what is required. This is because, other than the five counties that were lucky or unlucky to have been sponsored by the national Government for construction of county headquarters, the remaining 42 managed to build their own county headquarters using the shareable revenue they were receiving and their own source revenue. This means that they also need to be obligated to make sure these projects are completed and the public can benefit from them.

Madam Temporary Speaker, I know this agenda has remained on the Order Paper for a long time. However, I wish to report that during that process, the handover has taken shape already and the governors have taken full responsibility for the project. We hope and pray that in about 12 months' time, all those projects will come to a conclusion, particularly in terms of structures.

I beg to reply.

However, pursuant to Standing Order No. 66(3), I request the putting of the question be deferred to a later date.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Yes, the putting of the question is deferred to a later date. I hope the Committee will do a follow up report upon the completion of the projects, so that they can report to the House.

(Putting of the question on the Motion deferred)

Next Order.

ADOPTION OF REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL
STATEMENTS OF VARIOUS COUNTY ASSEMBLIES

THAT, the Senate adopts the Report of the Select Committee on County Public Accounts on its consideration of the Report of the Auditor General on the financial statements of West Pokot County Assembly for the financial year 2018/2019 and Reports of the Auditor General on the financial statements of Isiolo,

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Kiambu, Kitui, Marsabit, Narok, Nyamira, Trans Nzoia, West Pokot and Murang'a County Assemblies for the financial year 2019/2020 laid on the table of the Senate on Thursday, 7th March, 2024.

The Temporary Speaker (Sen. Veronica Maina): The Chairperson of this Committee, Sen. Kajwang' is not here, therefore, the Order is deferred.

(Motion deferred)

Sen. Mungatana, MGH: On a point of order, Mr. Speaker, Sir. The Chairperson of this is Sen. Osotsi---

The Temporary Speaker (Sen. Veronica Maina): I am not a Mr. Speaker.

Sen. Mungatana, MGH: Madam Temporary Speaker, the Chairperson of the Special Accounts Committee is Sen. Osotsi. Then, from our iPad, it appears that this Motion had been moved and seconded. So, it is due for debate, unless I am reading different information. So, we would like to make our contributions.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, this Motion was moved by Sen. Kajwang' and he had not finished moving the Motion. He had a balance of about 15 minutes before he could conclude moving the Motion, so it is premature.

The Order is, therefore, deferred.

Next Order.

ESTABLISHMENT OF NATIONAL TEACHING AND REFERRAL HOSPITALS IN KENYA

AWARE THAT Article 43 (1) (a) of the Constitution of Kenya provides that every person has the right to the highest attainable standard of health, including reproductive health care;

NOTING THAT in Kenya, we have five National Teaching and Referral hospitals with Kenyatta University Research and Teaching Hospital in Kiambu County and Moi Teaching and Referral Hospital in Eldoret, Uasin Gishu County being the only ones outside Nairobi County;

CONCERNED THAT the bed capacity, medical equipment and human capital in these National Teaching and Referral hospitals are not sufficient to absorb all the patients seeking specialized treatment;

FURTHER CONCERNED THAT many Kenyans with critical health conditions travel long distances in order to access specialized services in Moi Teaching and Referral Hospital in Eldoret or Nairobi where the other four National Teaching and Referral hospitals are located, leading to high cost of travel, augmented disease and in some cases deaths along the way;

NOW THEREFORE the Senate urges;

(1) The Ministry of Health to;

- (i) Establish National Teaching and Referral hospitals in the Coast, Eastern, North Eastern, Nyanza and Western regions; and

- (ii) Fully equip the National Teaching and Referral Hospitals with modern medical equipment, medical supplies and personnel;
- (2) The County Governments to allocate more funds to their respective health dockets to adequately facilitate their County Level 5 and Level 6 hospitals in order to enhance provision of critical health services to reduce the demand for such services from the National Teaching and Referral Hospitals.

Sen. Mwaruma is not in the House, so the Motion is deferred.

(Motion deferred)

Next Order.

COUNTY GOVERNMENTS TO SET ASIDE LAND
FOR THE PLANTING OF INDIGENOUS TREES

THAT, AWARE of the crucial role played by indigenous trees in purification of air and combating of climate change, protection against floods and water pollution, in the field of medicine, nutrition and timber production, among other roles;

APPRECIATING that the National Government, through the National Landscape and Ecosystem Restoration Programme, plans to increase the national forest cover to 30 per cent by planting fifteen (15) billion trees and, in furtherance of the Programme, gazetted 13th November, 2023 as a Public Holiday to allow Kenyans to plant trees;

CONCERNED that the Government is yet to establish elaborate measures for the growing and protecting of indigenous trees and to involve such crucial players as the County Governments, hence impeding the sustainability of the programme;

NOW, THEREFORE, the Senate urges the 47 county Governments to set aside land and resources to be used in the planting and protection of indigenous trees, in support of the initiatives by the National Government.

Sen. Richard Onyonka is not in the House to move the Motion. This Order is deferred.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Tuesday, 23rd July, 2024, at 2.30 p.m.

The Senate rose at 5.59 p.m.

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