

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 1<sup>st</sup> August, 2024

### Afternoon Sitting

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

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

### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, do we have quorum? Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

Order, hon. Senators. We now have quorum, so we proceed with today's business. Clerk, proceed to call the first Order.

The Chairperson, Standing Committee on Health.

Sen. (Dr.) Lelegwe Ltumbesi, proceed.

### PAPERS LAID

#### JOINT REPORT ON APPROVAL OF DR. PATRICK AMOTH FOR APPOINTMENT AS DIRECTOR-GENERAL FOR HEALTH

**Sen. (Dr.) Lelegwe Ltumbesi:** Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, 1<sup>st</sup> August, 2024-

Joint Report of the Standing Committee on Health of the Senate and the Departmental Committee on Health of the National Assembly on the approval of Dr. Patrick Omwanda Amoth, EBS, for appointment as the Director General for Health.

I beg to lay.

Thank you.

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*(Sen. (Dr.) Lelegwe Ltumbesi laid the document on the Table)*

**The Speaker** (Hon. Kingi): The Chairperson, Standing Committee on Energy, proceed.

REPORT ON THE LOCAL CONTENT BILL  
(SENATE BILLS NO.50 OF 2023)

**Sen. Wamatinga:** Thank you, Mr. Speaker, Sir. I beg to lay the following paper on the Table of the Senate, today, 1<sup>st</sup> August, 2024-

The Report on the Standing Committee on Energy on the Local Content Bill, Senate Bills No.50 of 2023.

I beg to lay.

*(Sen. Wamatinga laid the document on the Table)*

**The Speaker** (Hon. Kingi): Let us go to the next Order.

**NOTICES OF MOTIONS**

**Hon. Speaker:** The Chairperson, Standing Committee on Health, proceed.

ADOPTION OF JOINT REPORT ON APPROVAL OF DR. PATRICK  
AMOTH FOR APPOINTMENT AS DIRECTOR GENERAL FOR HEALTH

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, on behalf of the Chairperson, Standing Committee on Health, I beg to give notice of the following Motion-

THAT, the Senate adopts the Joint Report of the Standing Committee on Health of the Senate and the Departmental Committee on Health of the National Assembly on the approval of a nominee for appointment as Director General for Health, laid on the Table of the Senate, on Thursday, 1<sup>st</sup> August, 2024, and further that, pursuant to Section 16 (2) of the Health Act (Cap. 241) and Section 8 (2) of the Public Appointments (Parliamentary Approval) Act, approves the nomination of Dr. Patrick Omwanda Amoth, EBS, for appointment as the Director General for Health.

**The Speaker** (Hon. Kingi): Let us move on to the next Order.

Statement pursuant to Standing Order No. 53(1).

Sen. Osotsi, proceed.

**QUESTIONS AND STATEMENTS**

**STATEMENTS**

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No.53(1).

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Sen. Osotsi, proceed.

STATE OF VOCATIONAL TRAINING  
CENTRES IN VIHIGA COUNTY

**Sen. Ogola:** Thank you, Mr. Speaker, Sir. This is a request for a Statement by Sen. Osotsi on the state of vocational training centres---

**The Speaker** (Hon. Kingi): Sen. Beatrice, you need to indicate whether you have the authority to hold his brief first, then you can proceed because it is not your Statement.

**Sen. Ogola:** Thank you, Mr. Speaker, Sir. I have been requested by Sen. Osotsi to read out his Statement.

**The Speaker** (Hon. Kingi): Proceed.

**Sen. Ogola:** Thank you, once more, Mr. Speaker, Sir. This is a request for a Statement by Sen. Osotsi on the state of vocational training centres in Vihiga County.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Education regarding the state of Vocational Training Centres in Vihiga County.

In the Statement, the Committee should-

(1) Provide a breakdown of the County Government of Vihiga annual budgetary allocation *vis-a-vis* actual expenditure for the education sector for the Financial Years 2019/2020, 2020/2021, 2020/2022, 2022/2023, and 2023/2024, indicating the specific allocation and expenditure for Early Childhood Development Education (ECDE), county bursaries, Governor's Scholarship Fund, and Vocational Training Centres (VTCs);

(2) Report on the current state of vocational training centres and other related institutions in Vihiga County, providing a schedule of the capitation funds as well as training materials and equipment received by the respective institutions in their aforementioned financial years;

(3) Provide a monthly breakdown of the salaries paid to employees of the VTCs and other related institutions in each Financial Year from 2019/2020 to 2023/2024. Indicating the status of remittance of statutory deductions to the relevant institutions and explaining any accumulation of salary arrears;

(4) Provide a breakdown of all liabilities owned by the VTCs and other related institutions to supply us; and,

(5) Outline any steps taken by the County Government of Vihiga to ensure improved funding and management of VTCs for guaranteed quality and competency-based education and training.

Sen. Geoffrey Osotsi.

Mr. Speaker, Sir, there is a second Statement.

**The Speaker** (Hon. Kingi): Proceed.

STATUS OF PAYMENT OF STIPEND TO  
COMMUNITY HEALTH PROMOTERS

**Sen. Ogola:** Mr. Speaker, Sir, this is a request for a Statement by Sen. Osotsi on the status of payment of stipend to Community Health Promoters (CHPs).

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the status of payment of stipends to the CHPs.

In the Statement, the Committee should-

(1) Provide signed agreements between the national Government and County Governments as per Article 187(2)(a) of the Constitution in relation to counterpart funding of the Community Health Promoter Stipend Payment Plan.

(2) Give a breakdown of the payment of stipends to the CHPs in all the 47 counties from the commencement of the program to date, indicating monthly payments and outstanding balances on a monthly basis and highlight the counterpart share.

(3) Explain the delay in payment of stipends in some counties despite the Senate's approval of the County Government's Additional Allocation Act and the cash disbursement schedules.

(4) Outline specific actions county governments have put in place to ensure timely payment of stipends to all the CHPs as envisaged by the national Government.

Sen. Geoffrey Osotsi, Senator for Vihiga County.

Thank you.

**The Speaker** (Hon. Kingi): The next Statement is by Sen. Wakoli. If he is not here, the Statement is dropped.

PENDING BILLS OWED TO CONTRACTORS  
BY BUNGOMA COUNTY GOVERNMENT

*(Statement dropped)*

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

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 6<sup>TH</sup> AUGUST, 2024

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, on behalf of the Senate Majority Leader, pursuant to Standing Order No.57(1), I hereby present the business of the Senate for the week commencing Tuesday, 6<sup>th</sup> August, 2024.

During the sitting of the Senate held on Tuesday, 30<sup>th</sup> July, 2024, the Senate passed five Bills at the Second Reading stage. The Bills will be scheduled for the Committee of the Whole in the coming week. I take this opportunity to applaud hon. Senators for remaining in the Chamber during the voting process.

The status of the legislative business before the Senate is as follows: There are 48 Bills pending conclusion in the Senate, out of which 36 are at the Second Reading stage,

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while 12 are at the Committee of the Whole stage. We also have 19 Motions pending conclusion, 20 Petitions are due for reporting by the respective standing committees and 385 Statements are pending before the respective standing committees.

In accordance with the calendar of the Third Session, the Senate is scheduled to proceed on recess from 9<sup>th</sup> August, 2024, and resume regular sittings on 3<sup>rd</sup> September, 2024. As Senators look forward to the upcoming recess, it is important to recognize that the pending business before the Senate is still high. I implore Senators to prioritise plenary sittings in the coming week in order to ensure progress is made on the business of the Senate.

The Senate Business Committee (SBC) will meet on Tuesday, 6<sup>th</sup> August, 2024, to consider the business for the week. The tentative business for Tuesday will include business not concluded from today's Order Paper, the business indicated in the Notice Paper attached to the Order Paper as well as the following Bills at the Committee of the Whole stage-

- (1) The Gambling Control Bill (National Assembly Bills No.70 of 2023).
- (2) The Tea (Amendment) Bill (Senate Bills No.1 of 2023).
- (3) The Maternal, Newborn and Child Health Bill (Senate Bills No.17 of 2023).
- (4) The Meteorology Bill (Senate Bills No.45 of 2023).
- (5) The Nuts and Oil 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).
- (8) The Houses of Parliament (Bicameral Relations) Bill (National Assembly Bills No.44 of 2023).
- (9) The Public Finance Management (Amendment) Bill (Senate Bills No.40 of 2023).
- (10) The Street Vendors (Protection of Livelihood) Bill (Senate Bills No.38 of 2023).
- (11) The Fire and Rescue Services Professionals Bill (Senate Bills No.55 of 2023).

Mr. Speaker, Sir, the tentative business for Wednesday, 7<sup>th</sup> August, 2024, morning sitting, will include business not concluded in the Order Paper for 6<sup>th</sup> August, 2024, and the following Motions-

- (1) Report of the Select Committee on Public Accounts on its consideration of the report of the Auditor-General on the financial statements of Taraka Nithi, Homa Bay, Kakamega, Kirinyaga, Makueni, Meru, Bomet, Muranga, Nandi, Nyamira, Nyeri, Siaya, Vihiga, Wajir and Samburu county executives for Financial Year (FY) 2019/2020.
- (2) Report of the Select Committee on County Public Investments and Special Funds on its consideration of the audit report of various water services companies for FYs 2018/2019, 2019/2020, and 2020/2021.
- (3) Report of the 147<sup>th</sup> Assemblies of the Inter-Parliamentary Union (IPU) and related meetings held in Luanda, Angola from 23<sup>rd</sup> to 27<sup>th</sup> of October, 2023.

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(4) Report of the 9<sup>th</sup> Inter-Parliamentary Union (IPU) Global Conference of Young Parliamentarians held in Hanoi, Vietnam, from 15<sup>th</sup> to 17<sup>th</sup> September, 2023.

(5) Report of the Kenya Delegation to the Extraordinary Session of the 6<sup>th</sup> Parliament of the Pan-African Parliament (PAP) held at the Gallagher Convention Centre, Midrand, South Africa, from 20<sup>th</sup> to 27<sup>th</sup> March, 2024.

(6) Report of the Kenya Delegation to the 148<sup>th</sup> Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland, from 23<sup>rd</sup> to 27<sup>th</sup> March, 2024.

(7) Report of the 14<sup>th</sup> Ordinary Session of the Plenary Assembly and the related meetings of the Forum of Parliamentarians of the International Conference of the Great Lakes Region (ICGLR), held in Livingstone, Zambia, from 15<sup>th</sup> to 19<sup>th</sup> April, 2024.

(8) Establishment of a Monthly Car-Free Day and County Car-Free Zones.

(9) Addressing the Challenges of Power Purchase Agreement Renewals and Electricity Supply in Kenya.

(10) The Stoppage of Funds to Isiolo County due to the Failure by the Governor to Honour the Senate Summonses.

Mr. Speaker, Sir, the business for Wednesday, 7<sup>th</sup> August, 2024, afternoon sitting, will include the business not concluded in the Order Paper for Tuesday 6<sup>th</sup> August, 2024, and the following Bills-

(a) Bills at the Second Reading stage.

(1) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No.46 of 2023).

(2) The Wildlife (Conservation and Management) Bill (Senate Bills No.49 of 2023).

(3) The Cooperatives Societies (Amendment) Bill (Senate Bills No.53 of 2023).

(4) The Early Childhood Education (Amendment) Bill (Senate Bills No.54 of 2023).

(5) The Senate the County Government Election Laws (Amendment) Bill (Senate Bills No.2 of 2024).

(4) The Provision of Sanitary Towels Bill (Senate Bills No.7 of 2024).

(5) The County Wards Equitable Development Bill (Senate Bills No.20 of 2024).

(6) The Political Parties (Amendment) (No.2) Bill (Senate Bills No.26 of 2024).

(7) The Election Offences (Amendment) (No.2) Bill (Senate Bills No.28 of 2024).

(8) The Elections (Amendment) (No.2) Bill (Senate Bills No.29 of 2024).

(9) The National Disaster Management Bill (National Assembly Bills No.24 of 2023).

(b) Motion, namely, Development of a Policy and Law for Social Risk Management in Infrastructure Development Projects in Kenya.

The projected business for Thursday, 8<sup>th</sup> August, 2024, will be business not concluded in the Order Paper for Tuesday and Wednesday, and any other business scheduled by the SBC.

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

*(Sen. (Dr.) Lelegwe Ltumbesi laid the*

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*document on the Table)*

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, what is your intervention?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I rise to seek your clarification on a matter of procedure.

Mr. Speaker, Sir, under Article 96(1) of the Constitution, I, Dr. Boni Khalwale, represents the County of Kakamega and I serve to protect the interests of the County of Kakamega and the County Government of Kakamega.

Mr. Speaker, Sir, why is it that on a matter of procedure, has the Office of the Clerk refused to allow two questions that are supposed to allow me to discharge that function under Article 96 (1)? I have a question that has been lying there for over 21 days in respect of misuse of money expended by the Governor on foreign trips.

Secondly, a question on how the Governor is applying county funds, on a project that is funded by the United Nations Children's Fund (UNICEF). He has decided to erect that project as his and, in fact, he is calling it the Gov. Fernandes Barasa *Mama Watoto* Fund. Could you clarify?

**The Speaker** (Hon. Kingi): Sen. Boni, there is nothing to clarify.

*(Laughter)*

The matter will be handled administratively. You may come to see me in my office, maybe after the rise of the House or Tuesday morning, so that we can handle it administratively and get to know exactly where these Statements are stuck.

Thank you.

Next Order.

## **BILLS**

### *First Reading*

#### THE PUBLIC FUNDRAISING APPEALS BILL (SENATE BILLS NO.36 OF 2024)

*(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Senate Committee)*

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

### *Second Reading*

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

*(Division)*

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**The Speaker** (Hon. Kingi): Hon. Senators, this is a constitutional amendment, which requires the presence of 45 Senators. We shall, therefore, proceed to defer it until such a time that we have that number.

*(Bill deferred)*

Next Order.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir.

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, this is a very important order. Probably, with due respect, you need to convene a *kamkunji*, so that we prevail upon ourselves, that before this business starts, we must have the 45 Members.

Mr. Speaker, Sir, having served you as your Whip for the last two years, it is not easy to get 45 Members into the House, unless we precede it with a *kamkunji*.

**The Speaker** (Hon. Kingi): Thank you, Sen. Boni. As you sit, in front of you is written ‘the Majority Whip.’

*(Laughter)*

Please, discharge your duty so that we have the necessary numbers.

Next Order.

Clerk, do we have the requisite numbers pursuant to Standing Order No.42, which is 15 Senators.

*(The Clerk-at-the table consulted with the Speaker)*

We do? Thank you.

Hon. Senators, I will proceed to put the question on the Motion.

## MOTION

### ADOPTION OF REPORT ON DESTRUCTION OF SIANY WETLAND IN NYAMIRA COUNTY

THAT, the Senate adopts the Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate by residents of Siany area, Nyamira County, regarding destruction of 41 hectares of Siany Wetland – LR No. North Mugirango/Magwagwa II/403 laid on the Table of the Senate on Tuesday, 23<sup>rd</sup> July, 2024.

*(Sen. (Dr.) Lelegwe Ltumbesi on 31.7.2024 – Morning Sitting)*

*(Resumption of debate interrupted on 31.7. 2024 – Morning Sitting)*

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*(Question put and agreed to)*

Next Order.

## **BILL**

*Second Reading*

THE LOCAL CONTENT BILL (SENATE BILLS NO.50 OF 2023)

*(Sen. Wamatinga on 26.3.2024)*

*(Resumption of debate interrupted on 25.7.2024)*

**The Speaker** (Hon. Kingi): Hon. Senators, before I allow debate on this Order, allow me to make the following Communication.

*(Interruption of debate on Bill)*

## **MESSAGE FROM HIS EXCELLENCY THE PRESIDENT**

NOMINATION OF MR. DOUGLAS KANJA KIROCHO FOR APPOINTMENT  
TO THE POSITION OF INSPECTOR GENERAL OF POLICE

**The Speaker** (Hon. Kingi): Hon. Senators, before I allow debate on this Order, allow me to make the following Communication.

Sen. Eddie, acquaint yourself with the Standing Orders. You have come of age now. We are almost two years into this Senate.

Hon. Senators, pursuant to the provisions of Standing Order No.47, I wish to convey the following Message from His Excellency the President, regarding Parliamentary approval of the Nominee for the appointment as the Inspector General of the National Police Service.

The Message, delivered *via* transmitter letter by the Chief of Staff and Head of Public Service, Reference EOP/CAB26/4A, Volume 476, dated 30<sup>th</sup> July, 2024, was received in my office today, Thursday, 1<sup>st</sup> August, 2024. Pursuant to the said Standing Order, I now report the Message -

It is most graciously notified, that His Excellency, Hon. William Samoei Ruto, PhD, CGH, the President and Commander-in-Chief of the Kenya Defence Forces, has in exercise of the constitutional prerogative vested in the Head of State and Government, and pursuant to Article 245 (2)(a) of the Constitution, nominated Mr. Douglas Kanja Kirocho for appointment as the Inspector General of the National Police Service.

In that regard, this transmitter for Parliamentary approval is made accordance with the procedure set out in Section 3 and 5 of the Public Appointments, Parliamentary

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Approval Act, Cap 7 of the Laws of Kenya. To aid the august House in its consideration and approval processes, kindly be pleased to receive the Certificate of Presidential Nomination No.5 of 2024, together with the nominees' curriculum vitae and testimonials.

As we set our sights on continuing the transformation of the National Police Service, the House is urged to prioritize the consideration of the nominee.

Hon. Senators, Article 245(2) (a), provides that the Inspector General is appointed by the President with approval of Parliament. Further, Section 12 (2) and 7 of the National Police Service Act No.11A of 2011 provides as follows-

The President shall, within 14 days after vacancy occurs in the office of the Inspector General, nominate a person for appointment as an Inspector General and submit the name of the nominee to Parliament. Parliament shall within 14 days when it first meets after receiving the names of the nominees -

- (a) consider the suitability of the nominee;
- (b) either approve or reject the nominee for appointment, and;
- (c) the Speaker of the National Assembly shall notify the President of the decision of Parliament.

Hon. Senators, as agreed and executed during the previous approvals for the position of the Inspector General of Police, and in order for Parliament to effectively conduct the vetting process, the following procedure shall apply-

That, the vetting of the nominee for appointment as Inspector General of Police shall be conducted jointly by the committees of the two Houses mandated to deal with matters of national security. The vetting process will, therefore, be conducted by the Standing Committee on National Security, Defence and Foreign Relations of the Senate and Departmental Committee on Administration and Internal Affairs of the National Assembly.

That, the chairpersons of the two Committees will co-chair the joint sittings, and the secretariat will comprise officers of the two Houses.

That, the quorum of the joint sittings will be the respective quorums of each of the committees as stipulated by the respective Standing Orders.

That, as contemplated under Rule 9 (c) of the Joint Rules, unless a decision is reached by consensus, any vote to be taken in the Joint Sitting of the Committees shall be by separate Houses. This will ensure that the numerical difference of the individual Members representing the Houses in the Joint Sittings has no effect on the decisions of the Joint Sittings of the Committees.

That, the Committees shall, having conducted the vetting hearings, submit a joint report to the respective Houses in the manner contemplated by Paragraph 7 of Joint Rule 9.

Hon. Senators, Section 8 (1) of the Public Appointments Parliamentary Approval Act, 2011, provides as follows-

“Unless otherwise provided in any law, a Committee shall consider nomination and table its report in the relevant House for debate and decision within 28 days from the date on which the notification of nomination was given in accordance with Section 5.”

Section 9 of the Act further provides as follows-

“If after the expiry of the period of consideration specified in Section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.”

In this regard, therefore, the period on the matter that is now before Parliament, starts running upon the Speaker of the National Assembly committing the name of the nominee to the Departmental Committee on Administration and Internal Affairs.

Hon. Senators, Standing Order No.77 (1) of the Senate Standing Orders provide as follows-

“That upon receipt of notification nomination for appointment of public office required to be approved by the Senate under the Constitution or any other legislation, the nomination shall stand committed to the relevant standing committee for consideration.”

This Message, therefore, together with the nominee’s curriculum vitae and testimonials, stand committed to the Standing Committee on National Security, Defence and Foreign Relations of the Senate, for vetting jointly with the Departmental Committee on Administration and Internal Affairs of the National Assembly, in accordance with the provisions of the National Police Act, Public Appointments (Parliamentary Approval) Act and the Standing Orders of the Houses of Parliament.

Kindly be guided accordingly.

*(The Message was referred to the Standing Committee on National Security, Defence and Foreign Relations)*

I have a further Message.

Hon. Senators, you may walk in.

*(Several Senators walked into the Chamber)*

## MESSAGE FROM THE NATIONAL ASSEMBLY

### DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILLS NO.12 OF 2023)

**The Speaker** (Hon. Kingi): Hon. Senators, I wish to report to the Senate that I have, pursuant to Standing Order No.46(3), received the following Message from the Speaker of the National Assembly regarding the decision of the National Assembly on the Senate amendments to the Conflict of Interest Bill (National Assembly Bill No.12 of 2023). The Message, dated Wednesday 31<sup>st</sup> July, 2024, was received in the office of the Clerk of the Senate on the same date.

Pursuant to Standing Order No.46 (4), I now report the Message-

Pursuant to the provisions of Standing Order No.41 (1) and 148 (b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

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“WHEREAS on Wednesday 30<sup>th</sup> November, 2023, the National Assembly passed the Conflict of Interest Bill (National Assembly Bill No.12 of 2023), and thereafter referred the Bill to the Senate for consideration in accordance with the provisions of Article 110 (4) of the Constitution;

AND WHEREAS on Thursday 16<sup>th</sup> May, 2024, the Senate conceded and passed the Bill with amendments and referred it back to the National Assembly for reconsideration in accordance with the provisions of Article 112 (1) (b) of the Constitution;

FURTHER, WHEREAS on Wednesday 21<sup>st</sup> July 2024, the National Assembly conceded and rejected the Senate amendments to the Bill, thereby committing it to a Mediation Committee in accordance with the provisions of Article 112 (2) (b) of the Constitution;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Orders No.41 (1) and 148 (b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate, and seek the appointment of nine Senators to a Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution.

Hon. Senators, consequent to the said decision, the Speaker of the National Assembly appointed the following members of the National Assembly to the Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution.

1. Hon. George Murugara, CBS, MP
2. Hon. Mwangi Mutuse, OGW, MP
3. Hon. Silvanus Osoro, CBS, MP
4. Hon. John Makali, MP,
5. Hon. Edward Muriu, MP,
6. Hon. Naisula Lesuuda MP,
7. Hon. Bisau Kakai, MP,
8. Hon. Ken Chonga, MP and
9. Hon. Peter Masara, MP.

Hon. Senators, pursuant to the provisions of Standing Order No.166 (2) of the Senate, and in consultation with the Senate Majority Leader and the Senate Minority Leader, I will at an appropriate time appoint Senators to the Mediation Committee.

I thank you.

**Sen. Sifuna:** On a point of clarification, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): You may proceed.

**Sen. Sifuna:** Mr. Speaker, Sir, we have had a conversation at the Senate Business Committee (SBC) regarding access to parliamentary proceedings by the media. Pursuant to Article 118 of the Constitution, I also know that our business is supposed to be done with access to the public. However, I have noted that in the past three weeks, this Senate Chamber has been very lonely. I have not seen any members of the public in the gallery. I am a bit concerned whether there is any justifiable reason why we no longer receive delegations of members of the public to the proceedings of the Senate.

I thank you.

**The Speaker** (Hon. Kingi): The Public and the Speaker's Gallery are available to members of the public wishing to come and follow through debate and proceedings during Plenary. However, as the Chair or Senator, you do not have powers to force members of public to attend. As and when they wish to come, our doors are wide open. The Senate will never shut its doors to the public.

*(Applause)*

*(Resumption of Debate on Bill)*

We are now on the Local Content Bill (Senate Bill No.50 of 2023).

Sen. Cherarkey, proceed. Hon. Senators, if you have nothing to say on this Order, please, do not queue on my dashboard. I would wish to call upon the Mover to reply, but as long as I have Members on my dashboard, I am unable to do that.

Now that there is no Senator wishing to contribute on this particular Bill, I will call upon the Mover to reply.

**Sen. Wamatinga:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to reply. I will start by thanking all the Members who contributed to this Bill for their insightful input.

Pursuant to Standing Order No.63, I request that we defer the putting of the question on this Bill to a later date. This is an important Bill, which is addressing the extractive industry, specifically, the gas and oil industry. There are a few considerations I would like to go through with the Committee and that is why I request the question be put at a later date.

Mr. Speaker, Sir, I beg to reply.

**The Speaker** (Hon. Kingi): Sen. Wamatinga, I thought you would go beyond that. Maybe, you are not getting me because I thought you would put a request, but let me do it on your behalf.

We do not seem to have the necessary delegations for purposes of going to Division and, therefore, I will defer this particular business and move to the next.

*(Putting of Question on the Bill deferred)*

Next Order.

*Second Reading*

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

*(Sen. Cheruiyot on 18.4.2024)*

*(Resumption of debate interrupted on 31.7.2024 – Afternoon Sitting)*

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

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. The issue of land would not be complete without my input because where I come from, a man is defined by the land they own and women. If you are a real man, then in the context of the African culture, where we come from, especially the pastoralists, you are not important. I do not know about the other regions.

My law lecturer, Prof. Tom Ojienda, the Senator for Kisumu, wrote a book called *Land Laws and Conveyancing: Principles and Practice*. He used to teach me conveyancing in the university. In his opening remarks on this Book, he says that land is an emotive issue and it defines many issues in the African set-up.

Land laws are many. They are like a catalogue. There is the Land Registration Act, the Land Act and the Registration of Titles Act and some of them have been amended. The whole issue was given with the onset of the Constitution, of the land and environment at Chapter Five, which defined land into three classifications; community land, public land and the private land which some of us own.

Mr. Speaker, Sir, there has been a problem in this country since 1963. Land continues to be a source of conflict here in Kenya. When you go to the Niger Delta in Nigeria and some parts of the Coastal region, the South Rift and the North Rift, land historical injustices are still there. The conflicts we sometimes see in Kerio Valley, Chemolingot and many parts of the country has been of land. I, therefore, think that anything that will be done to alleviate the conflict of land in the Republic of Kenya is welcome.

The disease that has been rampant in this country from 1963 is what we call land *grabiosis*. Affinity to grabbing of public land is a very serious issue in this country. From 1963, how do you explain that one family in this Republic owns over 500,000 acres; the size of Western Kenya?

We know that land reforms in this country have made many strides. In the previous regime, one of the tokenism that the political patronage would use is to give land. If the powers that be passed and saw any beautiful land, *wanasema katia mimi hiyo*.

Mr. Speaker, Sir, how do we explain today that we still have absentee landlords in the Coast, yet there are many Kenyans who are squatters? There are also many Kenyans in the Affordable Housing the President is pushing. Imagine, we do not have land. We have *buroti maguta maguta*, especially in high-end areas like Ruiru, Nairobi and in Murang'a, where we have a high population density.

I saw you, Mr. Speaker, Sir, with the President during the Coastal tour and you were smiling widely. He gave directions on the absentee landlords, that they must be held accountable and must pay. Who are these absentee landlords we see at the Coast? These are land-grabbers and yet, genuine people – the Giriamas and Digos of this world - do not have land; they are squatting. These people are in Italy, Europe and other countries and the Kwale Senator should be noting this with a red pen. They are just relaxing somewhere, enjoying sauna and other things in Santorin, while our people continue to squat. I agree with the Presidential directive that the absentee landlords must be held accountable. I also agree with the proposal by the Senate Majority Leader that we need to amend the Land Act because the most abused is the public land.

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Mr. Speaker, Sir, did you hear that story where someone has the title deed of the Kenyatta International Convention Centre (KICC) grounds. I will not be surprised if the Parliament buildings are squatting on private land. How do we know? If the invaders wanted to take over Parliament, they would have been taking over private property, until we see the title deed that belongs to Parliament.

The KICC issue has never been resolved. I wish the Chairperson of the Committee on Lands, Environment and Natural Resources, and it is good the Senate Majority Leader is here, to tell us the fate of the title deed of the KICC and the Common Market of Eastern and Southern Africa (COMESA) grounds. We need to know where the title is.

We had an issue in Nyamira yesterday, where we were discussing the issue of titling of some of their wetlands and the riparian lands we are discussing. We must, therefore, take the issue of public land seriously. I know it has been a source of tribal clashes.

When you read the Ndung'u Report, no one wants to implement this report. I do not want to talk about the Kroll Report during Kibaki's Government. No one dares to touch the Ndung'u Report and that is where the problem of Kenyan land issues is. There was the Truth, Justice and Reconciliation Commission (TJRC) report by the late Amb. Bethuel Kiplagat.

We should look at the TJRC Report and the Ndung'u Report if we want to address the issue of land historical injustices and the challenges facing land, including absentee landlords in the Coastal Region. Whenever you fly over the Nandi Hills sub-county and over-fly Kericho and Bomet, when you see the beauty of those tea plantations, they are blood and sweat.

Mr. Speaker, Sir, my community where I come from has never benefitted from that land. The Lipton Tea that is taken to London today is stained with blood. This is because the land with the tea bushes is blood-owned and grabbed by post and pre-colonialists. I will not fear to contradict myself.

Today, what value do you give to our people in the South Rift and North Rift, especially in Nandi who are living like gorillas and chimpanzees because the fertile and most critical part of the land is being tilled by companies that are not even in Kenya? Their owners have never stepped in Kenya. When you are in London, Heathrow in Europe and Germany, you take very nice tea and say, this is Kenyan tea. However, behind it, there are deaths, anguish, land historical injustices and blood that was---

Can you believe that most of the land in Kericho, for example, was given as wedding and love gifts to the British who voted during the precolonial and the First World War? This was done and yet our fathers and mothers sacrificed to fight for the independence of this country. When you read the Gulag Report, and the Mau Mau uprising, the most salient and emotive issue was land.

Our fathers, mothers and grandmothers went to fight in the forests because of land; I know Gen Z are fighting on the streets. It is sad that 60 years down the line, there are Kenyans who are still suffering because somebody somewhere who owns a tea estate like Lipton, among others in Nandi, Kericho, and Bomet, up to today has not gotten justice; while Kenyans who live in the northern Coastal part of Mombasa, have absentee

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landlords. Probably, the issue of Shakahola happened because there was an absentee landlord and the land was not being used.

Similarly, in Lamu where my brother Sen. Githuku comes from, the conflict is about ownership of land among other factors. On registration of public land, as we talk today, I think close to half or less than half of primary schools and public institutions do not have a title deed in their name.

When you look under Article 60 of the Constitution of Kenya on principles of land equity, *vis-a-vis* the amendment, we must create equitable access to land and security of land rights.

I know all of us own land. I was telling somebody jokingly that if you want to ensure your land is safe, you charge. In layman's language because not all of us are legal minds and do not enjoy the legal prowess that I possess, it means that you take a loan to ensure your land cannot be grabbed.

If you look at the Cherunya Case in the Land and Environment Court in Eldoret in the 1970s, for purposes of this discussion, the Government took Cherunya's land and did not use it for the intended purpose of public use. It was reverted to private use. Therefore, the transmission and change of usage of land should be looked at most of the time.

Regarding the productive management of land resources and elimination of gender discrimination, I am happy because this is critical, especially in succession. I have seen many Kenyans ask, if I have five sisters and four brothers, why is it that nowadays sisters are also allocated land in succession?

In the community where I come from, when you are married, you belong to that family. However, with the changes in the law, you can be married to another family, but when the succession of family land happens, you include the daughters. I think that was a critical decision that the Kericho High Court made. However, in the interest of the principle of issues of succession, including tradition, religious and personal law, when you are married, you are supposed to belong to the husband. This should also include the chattels, the property, and the land. Why would you want to still come and claim in your father's house when the bride price has been paid? That is the conversation---

**Sen. Orwoba:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Senator for Nandi, would you wish to be informed by Sen. Orwoba?

**Sen. Cherarkey:** Yes, she can.

**The Speaker** (Hon. Kingi): You may proceed, Sen. Orwoba.

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir. I just wanted to inform Sen. Cherarkey that he needs to read widely in the African context and all the tribes. In some places, even when you are married, you still belong to the family.

On the issue of getting married, there are many women who do not end up being married. So what happens to them? I just want to inform him, as he gives his submissions, to avoid the line of trying to disenfranchise women by virtue of being married or not. Then, we might even support this Bill.

**The Speaker** (Hon. Kingi): Sen. Orwoba, that is a point of order actually? I do not see any information there that is useful.

Proceed to conclude, Sen. Cherarkey.

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**Sen. Cherarkey:** Mr. Speaker, Sir, the information from my sister was insufficient. However, I agree with different tribes and cultures. It is only in Nandi and Kisii that you have a woman-to-woman marriage. It is not Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ). It was a decision of the High Court in Kisese versus Kisese and Kivuitu versus Kivuitu cases.

Under the law in Kisii and Nandi culture, when a woman grows old and cannot bear children, she is allowed to get a fertile young girl and “hire” a man to ensure that there is procreation for the succession. I know Sen. (Dr.) Khalwale will not agree with me because I am told that if he becomes the Governor of Kakamega, he will add four new wives.

Issuing title deeds to public institutions is critical. I have told you and the House should know that more than half of public primary schools do not have title deeds. So, I agree. If the Parliament of Kenya applies for a title deed, let it be issued under hand and seal. The registrar of the National Lands Commission (NLC) should register public land. Community land also should be issued with title deeds.

The NLC under the principal Act Section 12 that we are amending has been given power to manage land on behalf of national Government and county governments.

The NLC should ensure that apart from being given more powers, every Kenyan has a title deed because we still have land historical injustices. Where I come from---

*(Sen. Tabitha Keroche consulted loudly)*

**The Speaker** (Hon. Kingi): The Senator for Nakuru County, Sen. Tabitha Keroche, you are out of order.

**Sen. Cherarkey:** The Senator of Nakuru should take “*mlima*” politics to the Members’ Lounge. That is where those issues are handled. I want to challenge the NLC. For example, in the Chepkumia Exchange Programme in Nandi County, my people have never gotten a title deed because of issues of degazettment. We also have the issue of the Koibem Exchange Programme in Chepkumia Ward and Kiptuiya Ward, Cherondo area in Tinderet Sub-County, Nandi County, Kilifi, among many parts in this country where people have not been given title deeds.

My appeal to the NLC is that, even as we give you powers to issue title deeds in this Republic, title deeds should be a right for every Kenyan. We normally allocate the budget to the NLC. We, therefore, want the NLC to issue title deeds to every Kenyan because it is a source of security. In my opening remarks, I said that from where I come from, if you do not have land, you are not man enough. There are other yardsticks that can be used to measure how manly you are, but when you do not own land, it becomes a very serious issue.

In Clause No.15, I have seen the issue of the Affordable Housing Programme. I am happy because it will be easy for counties to release land for affordable housing. In Kapsabet Town, we are working very closely with the national Government, the President’s Income and Loan Affordable Housing Programme and other programmes across the country.

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I have seen the same in Mombasa County and even in Parklands area. This will facilitate the affordable housing programme. These are very critical amendments to the Land Act. I hope, in future, we shall consolidate the land laws. It does not make sense to have a catalogue of land laws. Is there a possibility of collapsing them with the guidance of Chapter Five of the Constitution on Land and Environment?

Mr. Speaker, Sir, the Land Registration Act and the Registration of Titles Acts will become a challenge going into the future. In conclusion, the Mover of the amendment - the Senate Majority Leader is doing it with a lot of zeal and passion to ensure the National Assembly Bills are moved faster in this House. He should convince the National Assembly Majority Leader to do the same, so that it does not become a graveyard for the Senate Bills. I can see his counterpart in the National Assembly nowadays is calm and is more objective unlike before.

With those many remarks, I support.

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

**Sen. Chimera:** Thank you, Mr. Speaker, Sir, for this opportunity to contribute to the Land (Amendment) Bill. May the record reflect that I rise in support of this Bill.

This Bill is a fairly straightforward in so far as securing any proprietary interest in public land as concerned. For those of us who come from the Coastal counties, such as the Senators of Mombasa, Kwale, Lamu, Taita-Taveta County, Tana River and the likes know what it really means to be landless.

The question of land ownership is a very thorny issue to many Kenyans, more so, for those of us who come from the coastal counties. The people of Kichaka Mkwaju in Lunga Lunga Constituency, Tiwi in Matuga Constituency, Kanana, Nikavu, Nzoani, Shimoni areas, and Gasi in Msambeni are currently are staring at a possible eviction because of being landless. It is just a question of unscrupulous absentee landlords who have come to the county and purported to have owned certain huge parcels of land and that acquisition process is not clear in law.

I appreciate what the County is doing. They have stepped up efforts in making sure that these land issues are well addressed in court and through many other government agencies, including the Ethics and Anti-Corruption Commission (EACC).

I am happy to report that we have been able, as a county, to recover about 39 acres from Chale Island that was illegally allocated to unscrupulous land grabbers. I now hope that the community from Chale will be settled.

Mr. Speaker, Sir, for avoidance of doubt and just to speak ahead of time, I will be proposing amendments to the Land Act in person on the question on foreign ownership of land. Article 65 of our supreme law, specifically forbids foreigners from owning land, yet, as a government, we speak about foreign investment. There can never be any investment without land being the pot of gold in so far as investing at the Coast is concerned.

Mr. Speaker, Sir, the law, and this is also in Article 65(b) of the Constitution, provides that foreigners can only own land under the leasehold tenure of ownership. Not so many Kenyans own land as leasehold. There are very limited certificates of leases out there such that any foreigner who wishes to invest in land in the country is either forced to purchase land that is freehold, and as such, it becomes an illegality.

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I will be moving an amendment to the Land Act to provide for a thorough conversion process that is within the law, is limited and has a timeframe. This is so that those people at the counties who are tasked with the duty and singular role of making sure land records are reflected can be given at least or rather maximum time of 90 days to convert land from freehold to leasehold.

For those of us who practice conveyancing, this will be a window to making sure that foreigners can own land within the confines of the law. At the point a foreigner is entering into a contract with a local who owns land that is freehold and up to the point of completion - those of us who do conveyancing would understand what I mean by completion.

We want to make it law that within 90 days, those fellows at the public works office, together with those at the county government in charge of the survey works, are compelled by law to fast-track and heighten the process of conversion, so that when you are lodging your documents for transfer, they include a certificate of lease, and when you give a chance to a foreigner to own land, they do so in form of a lease.

This will go a long way in making sure that our young men and women have many opportunities in terms of jobs that come along with foreign investment. We should not end up stifling investors who wish to own land in Kenya in the name of Article 65 of the Constitution by forbidding them to own land.

The question of protecting public land is very weighty. I am happy that this Bill specifically speaks to that question and that for the first time, all public land will be registered in law and the registrar has the full authority of the law to make an entry in his land records.

As Sen. Cherarkey has stated ably, this will mean that our schools, mosques, community projects and engagement centers can own land. Even as we seek to support them in their projects, we know that truly they are not squatters.

It is a shame that most of us, myself, including Sen. Boy, who I wish was here, are actually squatters in our land. We have bought this land, we were born there and have buried our loved ones in this land, but we have nothing that shows ownership. I wish this conversation had been taken a step further.

I am happy that you were present when the President came to the Coast just last week and gave an undertaking that there is need for the Government to invest in settling the people from the Coast. I look forward toward making sure the Ministry--- I listened to the Cabinet Secretary nominee today when she was being vetted on her suitability as the Cabinet Secretary for Lands and Physical Planning. She spoke very well and ably, on the land system, the tenure, and the digitization of land records---

*(Sen. Chimeras phone rang)*

**The Speaker** (Hon. Kingi): Just a minute, Sen. Chimera. Whose phone is that?

*(Laughter)*

**Sen. Chimera:** My apologies, Mr. Speaker, Sir.

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**The Speaker** (Hon. Kingi): Proceed.

**Sen. Chimera:** Mr. Speaker, Sir, I did not know how best to look at it.

In conclusion, the Cabinet Secretary nominee, Hon. Alice Wahome, spoke so well about the need to digitize land records. That is the only cure we have in combating the war on fraud in matters land. She also said there is no budget. The Government has not set aside any money to digitize our land records.

Mr. Speaker, Sir, it is 2024. It is a shame that we still have a manual system on land records. I urge the Ministry to find it within its means to see how best it can get the necessary funding to digitize our records, so that Kenyans can have faith in our land record system.

Mr. Speaker, Sir, with those many remarks, I beg to support.

Thank you.

**The Speaker** (Hon. Kingi): Before I call the next Speaker, allow me to make this Communication.

*(Interruption of debate on Bill)*

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM MARANDA HIGH SCHOOL

I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from Maranda High School in Siaya County. The delegation comprises five teachers and 61 students who are in the Senate for a one-day academic exposition.

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

I call upon the Senate Majority Whip to extend a warm welcome in under one minute.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. Very briefly, may I warmly welcome the young Kenyans to this House and remind them that on the 25<sup>th</sup> of last month, some of the members of their generation who are in college, so much wanted to come to this House that they literally broke in.

They do not have to and you do not have to. You can always come the way you have done, be given a walk around with proper guidance, so that you learn the rich history of this House.

Since they are students, I would like them to know that this is the Chamber, in which the first Prime Minister of Kenya, who became the first President of Kenya, Jomo Kenyatta, stood and spoke to the nation when this Republic got independence.

You are most welcome, young people.

**The Speaker** (Hon. Kingi): From the Minority Side, Sen. Beatrice Akinyi, you may say a word of welcome.

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**Sen. Ogola:** Thank you, Mr. Speaker, Sir. It is an exciting moment to have Maranda Boys in the Senate. Maranda Boys is an outstanding school not only in the Nyanza Region, but also, in the Republic. Their results have shown it all. Some of the notable outstanding personalities in this country that went to Maranda Boys are not limited to the Right Hon. Prime Minister Raila Amolo Odinga. We are proud to be associated with Maranda Boys and encourage you to maintain your standards as has been in the recent past.

The Senate is an honourable House that takes care and protects the interests of counties. As you go back to Maranda, be assured of our support. We remain very proud of you as a school and as young people in this Republic.

Thank you.

**The Speaker** (Hon. Kingi): I am informed that Sen. Betty Montet has a special attachment to that school. You may also proceed to extend your word of welcome.

**Sen. Betty Montet:** Thank you, Mr. Speaker, Sir. Yes, indeed, may I join you and the other Senators who are welcoming students from Maranda High School. I am proud to be associated with this school. My husband, who turned out to be a competent presidential pilot in this country, went to this school. You are very much welcome.

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu, you may proceed to contribute to the Bill, not welcoming the students.

*(Resumption of debate on Bill)*

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir. Although, it is also important for you to remember that I chair the Standing Committee on Education in the Senate and sometimes when students come, it is important that you allow the Chair to welcome students to this honourable House. However, that is not why I rose. Thank you for giving me this opportunity. I rose to support this amendment Bill.

Just like those that have spoken before me have said, land is a very important resource and asset in this country. It is also a very valuable asset from where I come from. We are known for long-protected legal battles surrounding ownership of land. That is why I felt that it is important for me to also say a word or two.

We have been having very many problems. In my capacity as the Chairperson of the Standing Committee on Education, allow me to repeat what my colleagues have said; that most public learning institutions do not have title deeds to the land on which they sit. This has caused many problems, especially, when it comes to registration of the said institutions. This Bill is very explicit in requiring the Commission to register all land owned by public institutions. This Bill deserves the support from all of us.

The second thing that makes me feel that we need to support this Bill is that it will curb corruption on matters land. All of us will remember that there was a very serious case of somebody, without mentioning names, who had been accused of having illegally acquired land that belonged to Drive-In Primary School a few years ago. I may not have the details and facts of the case, but I suspect that this came because there was no title deed to that land owned by the school. So, when we register all parcels of land owned by

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public institutions, we will be able to curb corruption because land grabbers will not get an opening to grab land that is set aside for public use.

Mr. Speaker, Sir, we also need to look at the ease of obtaining a title deed. We should not just require the Commission to register land, but also lessen the requirements that they put across in order for land to be registered. I say this because, as you know, I am elected to represent Murang'a County. Recently, Del Monte Company was able to cede about 1,400 acres of land to Murang'a County Government. However, this land has not yet been registered in the name of the county because of the many requirements that are made before land is registered. Therefore, we need to propose that there should be ease in registration of land. In this particular land in Murang's County, there is a parcel of land that we want to cede to the national Government in order for it to construct an economic zone. We also need land to be developed by the various development programmes the county has and also think about a particular association called Kandara Residents Association that claims that their forefathers were kicked out of some parcels of this land in order for the owners of Del Monte to start farming. The Commission needs to fast track the registration and issuance of title deeds accordingly.

Mr. Speaker, Sir, there are very many residential estates coming up today in various parts of the country such as the Tatu City and Thika Greens. I know that it is a requirement that when an estate is coming up, they set aside some land for public use such as public schools, churches, a mosque or a shopping center. When land is not registered as public land at the right time, as all of us know, it may be sold to individuals. Therefore, Clause 3(15) of this Bill is important. The Bill provides that all land set aside by persons of a land buying company for a public purpose, consequent, upon a proposed development, must be registered.

We will not be having cases where land that was initially set aside for public use, then land buying companies and other operators sell it to private developers who may not know that the land belonged or was set aside for public use. That will help to avoid corruption and see to it that all land that is supposed to be for public use goes to exactly that particular use.

We also have community land in various parts of this country. They are mostly not registered, which leads to grabbing. I believe that under this particular amendment Bill, we will also have community land registered as land belonging to the community. Those who are very smart in land grabbing will not have any unregistered land leading to corruption and grabbing. Private land should also be registered.

We recently had a case somewhere in Embakasi about the Kirima land. That land was sold to unsuspecting developers. They bought plots and developed residential and commercial buildings, only for the Ministry of Lands, Public Works, Housing and Urban Development to rule much later that the land belonged to the Kirima family, thereby occasioning losses and stress to people who had settled on that land for a long time. Therefore, all parcels of land should be registered. The National Land Commission (NLC) should be put on notice that failure to register any land in this country, whether private, community or public, is opening up land for corruption and other things that are not religious.

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We also know that there are many churches, especially in this city, that have problems with the land they occupy, which they do not have titles for. The NLC should see to it that all these cases are sorted out in order for everyone to own land in the right way. Should anybody be squatting on any land, the NLC should do the necessary registration and sort out the mess.

Mr. Speaker, Sir, with those many remarks, I support this amendment Bill. Thank you very much.

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

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

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

**Sen. Ogola:** Mr. Deputy Speaker, Sir, as I rise to support the Land (Amendment) Bill. From the outset, I would like to say that titles are a right of our people. Just like all of us have an identification card or a passport, everybody that owns some land should have a title for it.

Mr. Deputy Speaker, Sir, coming to this amendment Bill, as a country, we must be cognizant of the fact that as we go urban in this country, planning must go hand in hand with the growth of urbanisation. As urban centres grow as a result of people moving to urban centres, those pieces of land on where urban centres are need to be registered by being issued with titles. If we do not plan for our urban centres, as the saying goes; failing to plan is planning to fail. We end up with urban centres with many residential areas and commercial buildings coming up in our towns yet they are not planned for.

Many Kenyans supported devolution because with the coming of county governments, which are planning units of our space, they knew that counties would embark on planning activities that would ensure that our urban centres grow in an orderly way.

In some of our urban centres, there is even no access to places such as estates where our people stay. Due to urban growth, access roads are getting thinner and thinner, if not inadequate. I am talking about urbanisation because it is closely related to the titles we are talking about. Urban spaces grow on land.

I have said having titles is a right. Not all of us can allocate land or issue titles. There is an issuing authority and that is the Registrar of Titles. That is an office within the Ministry. If the Ministry is the one that allocates land, how then in this country do we end up with double, triple or so many allocations of titles for one piece of land? That is a real source of conflict with our people.

Mr. Deputy Speaker, Sir, as I support this amendment Bill. Public land, as given by our people, must be compensated. The issue of compensation of some of the land referred to as public is still an issue in this country. If only we are sincere with ourselves and went back to our counties, there are market centres and small towns dotted all over where our people have never been compensated, yet they are marked as public land and are used for public purposes.

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I have an example of a market in my ward called Kodumba. In that market, the County Government of Homa Bay collects cess on a daily basis. The painful truth is that that market still stands on private land. It means that the county government is not just. It was, initially, held by the Southern Nyanza County Council before Homa Bay County Government took over.

The pain is that people that hold the freehold title of Kodumba Market are still alive. They have sought for justice and looked for compensation, but the county government goes on to collect cess and it is assumed that it is public land. That is why I support this Bill. All land that is presumed public must have been compensated for. That is a historical injustice.

Secondly, I have a painful story of one senior teacher we lost in Ndhiwa Town called Mwalimu Ogotu Aroka. We lost him because he could not see his land being used as part of the town without his family being compensated adequately. He went from court to court. The sad story is that we later lost him out of the distress that was caused by the long journey of court cases.

Mr. Deputy Speaker, Sir, land was given by our people. Some of it was compulsorily acquired, bought and some of it the Government or the county councils committed to pay. However, in some of these areas, you cannot even trace the records of compensation and people keep on asking for their compensation. A third example is the Sindo Grounds that was proposed as a sub-county headquarters some time back. It is land that is over 500 acres. Compensation is still an issue.

The other issue I would like to bring up is that public land is set aside for particular usage; that while at adjudication, the Adjudication Department was setting aside public land and it could not have been just set for any use. There is land set aside for schools, hospitals and water boreholes.

The painful scenario we have in our communities is that some of the parcels of land set aside for public use were grabbed by some other people for their personal use. This is why I support this Amendment. Once land is registered, then ownership is definite and we will be cutting down the aspects of land grabbing.

The other painful bit about issues of land in this country is that adjudication is not completed for large chunk of land areas. The other day, we were in Senate Mashinani in Turkana. As the Committee on Lands, Environment and Natural Resources, it was very painful that a half of that county is still land that is not adjudicated. I think that is an injustice to the people of Turkana.

In setting up the National Land Commission (NLC) in 2010, it was spelt out that adjudication would be completed in 10 years. Sometimes, I think it is intentional that there are people who do not want adjudication to be completed because they do not want all land in this country to be registered. Once land is registered, it will have title deeds and so it will stop the abuse of the freehold lands.

Mr. Deputy Speaker, Sir, we should ensure that the adjudication process is completed in this country. Also in my own county, it is amazing that the whole of Mfangano Island remains adjudicated. Therefore, such an incomplete adjudication process is what leads to conflict amongst members of the community because they are

living on land that has no boundaries. Hence, if you end up with malicious people, there are always claims and counterclaims of particular parcels of land.

I support this registration and I come back to the aspect of physical planning. When you go around our urban centres and particularly residential areas, I keep on wondering what the planning units are doing to our people. You go to residential areas and all you see are houses without necessary public utilities.

The Physical Planning Act talks about a percentage of open space that should be availed to people who live there. How then does the county government end up approving plans of residential areas without the adequate playing grounds? Do we even stop to worry about how our children as they grow up in the residential areas, spend their free time? It is the main reason why most children spend three quarters of their time watching television. I am not saying watching television is wrong, but as children grow up, they must acquire social skills.

As a country, we must ensure that our children in residential areas have open spaces where they can play. Some of the anti-social characteristics that our children are having is because they have no space to play. Children grow up confined to houses and fixed spaces. We are creating health problems in children. Sen. (Dr.) Khalwale would accept that, children need to move and interact with their peers.

In the traditional estates we have even in the city, we had open spaces where children would play football, netball and all the games we have. Nonetheless, all of a sudden, we are seeing residential places where the only space that is available other than the house is a parking space. You will find when you are going to visit friends and as you enter the houses, children are all lined up and squeezed on some small space by the gate. Other than that space, cars are parked or blocking the entrance of the gates and all the entrances.

Mr. Deputy Speaker, Sir, if planning was done well in this country, it must take note that there are public facilities that must be provided. The reason I relate to the Land (Amendment) Bill that we have here is that planning is done on land and space. Whenever people are constructing houses, it is a requirement that you must get a copy of your title. All these must be aspects of land that should concern us, as Kenyans.

I also need to talk about the issue of digitization of titles. It is amazing that in the last so many years, the Ministry of Lands, Public Works, Housing and Urban Development keeps on talking about the achievement only in some two or three counties. Their reports are only showing Nairobi, Murang'a and Kiambu.

These three counties cannot be the only counties that the Ministry of Lands, Public Works, Housing, and Urban Development keeps on referring to when they are talking about the digitization of titles. I believe that the non-completion of the digitization of titles is by design. There are people in this country who continue to benefit from the manual handling of title deeds. Why should Kenyans have their titles rotting in some registry?

I want to challenge this House to pilot registries in this country. Let us visit Ruaraka, the Survey Department of Kenya, and you will see the miserable situation in which our titles are in dusty rooms and those are the prime properties or documents that Kenyans have.

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Mr. Deputy Speaker, Sir, I want to end my support for this Amendment by saying that as a country, we should also embark on public education about succession. There are thousands of widows in this country. When you engage with them, their spouses passed on years ago and they do not know the process that they should follow as they go over the succession issues. We all know that succession is a judicial issue, but our people do not know.

Most of them feel that succession is a Ministry of Lands, Public Works, Housing and Urban Development. The Government has a lot of structures that can be used to educate our people on how to initiate succession issues so that widows that are remaining with their children across the country can get the title deeds having gone through the succession process.

Mr. Deputy Speaker, Sir, I support this amendment. Land title deeds are a right of all Kenyans. All institutions should also have title deeds so that we reduce the conflicts that non-titled areas continue to have. As I end my contribution, the Government needs to up its game on completing adjudication in this country so that Kenyans can have title deeds.

I support the Bill.

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

**Sen. Orwoba:** Thank you, Mr. Deputy Speaker, Sir. As I rise to support and probably belabour the points that have been submitted by my colleagues, I also take this opportunity to ask very pertinent questions on the Floor of the House and the sponsor of the Bill. It is imperative that our public institutions are mapped out and have title deeds. We are talking about schools, universities and all these public entities, including spaces such as Parliament. I have many Bills and every time I sit with the Directorate of Legal Services and the drafters of those Bills, I am always advised to legislate for future and looking at a wider perspective of whatever you are trying to resolve.

Mr. Deputy Speaker, Sir, as we push for all the title deeds for all these spaces, including schools and all these institutions, I want to reference the clause that says, "Pursuant to Section 58 and paragraph 7 of the Third Schedule to the Physical and Land Use Planning Act, 2019, the registrar shall register land set aside by persons or a land buying company for a public purpose consequent upon proposed development."

Clause 14 also talks about a public body or an institution getting their title deed and that it is going to be mandated by the registrar. My question is, once these title deeds have been issued, do these institutions and entities then operate in the commercial space as any other institution? Does that mean that if a school gets their title deed, are they free to use their title deed, for instance, to acquire a loan or acquire an asset or whatever we use title deeds for? I want to understand because the amendment that has been tabled does not give us clarity on what these title deeds are going to be used for.

We are in the era of the affordable housing project. What happens to this kind of venture such as affordable housing project? Where is the title deed going to be domiciled? Who is going to own the title deed of that unit in the affordable housing project? Does that mean that if I am a beneficiary of the affordable housing project, do I also get a share of the title deed and I can use it for whatever purpose, including to secure loans, do business with it or asset financing?

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I also want to understand what happens in the case of private and public partnerships. The Kenya Kwanza Government is pushing to have more investors come to the country. We are even telling investors that if they are willing to come and pump in a certain amount of money and employ up to a thousand people, the Government is going to offer them land for a period of time. In that case, who then holds the title deed? Is it going to be a joint venture? Will the registrar give a title that is going to--- I do not know, because these kind of parameters are not discussed in this Bill.

I also want to highlight that while we only think of one side of it, which is our schools and public institutions should get title deeds, let us also look at the county governments and their assets. Once a county government is issued with a title deed that they own a piece of land, who becomes the custodian? If it is the governor, we want to know who is going to use that title deed to trade with it. What are the parameters around that? I hate to be the devil's advocate, but we have seen so many cases, particularly in religious institutions, where we have had many fights between the leaders and the boards of those institutions on ownership of the property of those institutions.

My question to the sponsor of this Bill and the House is: Are we going to accompany this Bill with regulations, so that we define the parameters of the people who are going to now be the custodians of the title deeds that we are pushing to put out there? I foresee a situation in the near future, where you have a school, which is a public institution saying that the school requires an extra dormitory or a school bus, and they decide to go for asset financing using the title deed. If that happens, in the event that they are unable to pay that financing, are we also saying that we are opening the doors for public institutions to be taken over by private entities or by individuals who will be assisting through asset financing? We know that there are many microfinances who will see this as an opportunity to acquire assets or public land.

On the issue of affordable housing, we already have a very grey area. We do not understand how the title deed is moving from a public land and going to individuals who are going to buy those several homes that are being built by the Affordable Housing Project. Until we ask these very pertinent questions and are able to give an explanation on the parameters and a guideline of operations, it is very important that a clause is included. That any public entity or institution that is going to be the custodian of the land is not allowed to use it for any form of asset financing. This is because, once we have passed this Bill, in 15 years, so many schools would have been lost to microfinances through asset financing because they were unable to pay. We would have lost the Affordable Housing Project to many financial experts who see an opportunity to jump in and utilise that opportunity for other purposes that the Bill is not addressing.

Mr Deputy Speaker, Sir, as I make my submissions, I would like to pose the question to the sponsor of the Bill and perhaps, this House, to think carefully if we want to amend this Bill in the absence of regulations or inclusion of the parameters of the custodians of the title deeds.

I thank you.

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

Sen. Mandago, proceed.

**Sen. Mandago:** Thank you very much, Mr. Deputy Speaker, Sir. I rise to support the Land (Amendment) Bill (National Assembly Bills No.40 of 2022) to ensure that all public land and utilities are titled. As I support the amendments on the Lands Act to ensure public utilities are entitled, there is need to also look at the Cities and Urbans Act and the role of the Director of Physical Planning.

We have seen situations where residential estates are well designed and public amenities are well catered for. Public utilities like markets, children playgrounds, schools, churches, bus stops and even greening areas. Unfortunately, with the powers vested on the Director of Physical Planning, both in the county and nation governments, they can re-plan the same earlier planned facility. Most of the time, the re-planning is to privatize the public utilities that had already been set aside in the first planning.

Mr. Deputy Speaker, Sir, even as we do the amendments in this Land Act to ensure that public land and utilities are titled, we should be weary of the Cities and Urbans Act and the roles of the directors of physical planning. Right now, it is a requirement that if there is any subdivision of land in the urban areas, at least, four percent of that land should be reserved for public use and amenities.

What we are seeing now, especially in Nairobi and its metropolitan area are estates being developed by co-operative societies where land is subdivided to the last plot without providing for public utilities, while it is going to carry a huge population. That leaves a bill for either the county or the national Government to foot in the future, because the population that will reside there will begin asking for social amenities. Residents will begin asking county governments for health facilities, schools, nursery schools and police stations. They will also want county governments to budget for acquisition of land. I therefore propose, even as we look at this Land (Amendment) Bill, that land surrendered for public use and any subdivision in this country, both in urban and rural areas, caters for public amenities as required in law.

Mr. Deputy Speaker, Sir, the issue of titling public utilities should not be just an amendment to ensure that it is done, but it should make sure that on subdivision, before title deeds are issued to members of the public, Government or public utilities are given priority on issuance of title deeds.

Marginalized communities in this country, especially in the northern part of Kenya and in counties like Turkana, Marsabit and parts of Narok and Kajiado, land is still communal. The NLC together with the Ministry of Lands, Public Works, Housing and Urban Development should move with speed to support county governments in that region to make sure there is adjudication. If it is a community ranch, let there be a title deed for that community ranch, regardless of the thousands of acres that are there.

With the discovery of many minerals in this country, some elites will soon have title deeds of various parts of this country, only for the resident community and locals to discover that the land they call ancestral and community land belongs to others who have used their privileged position to access vital information in order to dispossess residents of that area.

Mr. Deputy Speaker, Sir, I support these amendments because they will create sanity in terms of public land and also ensure that the public land set aside for social

amenities will be safeguarded for the benefit of this generation and the generations to come.

I therefore, beg to support.

**The Deputy Speaker** (Sen. Kathuri): The Deputy Majority Leader, what happened to your card because you are next?

**Sen. Tabitha Keroche:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. Like the way Sen. Gloria has asked many questions, I rise to ask many questions. Once beaten, twice shy.

I have seen elected leaders, especially from county governments like our governors, whose target is only to grab any public land that is available. I am sorry to say that some of these governors are suffering from the *grabiosis* disease. They only look for any land that is known public.

In Nakuru, we have suffered a lot. We have land that has a legit lease and is registered to a public institution. The County Government jumped in and said that this land belonged to the public, but this person given this title is doing this kind of business on this land and as a governor, I feel I need to change it and do something I think is better for the county government and yet, that person has a lease. It is a 50-year lease with a legitimate title.

Mr. Deputy Speaker, Sir, I wonder, with this Land (Amendment) Bill, will we not be giving a greenlight to county chief executive officers to be grabbing any land they feel they can grab or sell at their own expense? Mine is to ask these many questions, looking and exploring at this Bill even further, in order to see whether, it is for the benefit for the people of Kenya or it is going to put people into more problems where they will have land grabbed at the expense of the people of the counties.

I will give an example because I am sure you have all seen a case we have had for the War Memorial Hospital. It has a legitimate title and a 50-year lease. This issue of this title has been ruled on by courts and the county government has been given eight court orders to re-open that hospital. However, according to them, they have refused to re-open the hospital because they feel the land should be taken back to them.

Here, we now have to compare and ensure that anyone given a lease or has applied for one, including private institutions are guaranteed, that they can work and do business they started in that land given to them, until the lease ends. I know that constitutionally, it is clear that even if that lease ends, the first person to be given priority to re-apply is the same person that was given that land.

Therefore, Senators, we need to keep looking at this. As I have said, once beaten, twice shy. For people who have not gone through what the people of Nakuru have gone through, they may be jumping into this Bill thinking it will help them and then they suffer the way we have suffered.

Land grabbing is the biggest disease I have seen this in county governments. The moment a county CEO gets into that seat, all what they look for is to see which unoccupied land belongs to the public. They grab, sell and even misuse it and pretend that they are taking over that land for public use. Later on, you realize it is not for public use, but it is for personal use and gain. We need to condemn that and look at this Bill and be very sure that it will be for the benefit of the people of Kenya. However, we cannot

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allow the impunity that we have seen in Nakuru, where somebody has a title given by the Registrar of the National Lands Commission and then the county government feels that title should be snatched and taken back to the county government. I have never seen such impunity and I will ensure that I read through this Bill carefully because I would never want anybody else to suffer the way the people of Nakuru County have suffered.

I have seen somebody who had up put the best of the best hospitals, when it comes to Nakuru County; the ones they refer to as the Aga Khan or the Nairobi Hospital of their area and then all of a sudden, the county government came in and forcibly took over that hospital. Many losses were incurred. People lost their lives and there was loss of property. The investor was left in the dark. He could not understand why this had happened and yet he has a title. This title is legit. The courts have proved it is legit. It is a genuine title. Then the hospital was closed, people are suffering, they cannot get access to that hospital. The land was to be utilized by the people of Nakuru, but the county government instead locked the area and put goons to protect and ensure that nobody can access that land.

I will go through this Bill very carefully and will support it when I am sure that my people of Nakuru are well protected by this Bill. I would never want to see what I have seen.

The other day I was somewhere within the public land again and I am sure people---

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

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

**Sen. Kinyua:** Mr. Deputy Speaker, Sir, I was listening to my Deputy Majority Leader. She is saying that she will read the amendment and yet she is already talking about it. She is saying that she will read it, then she will support it, but she is already speaking to it. So, she is confusing me.

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

**Sen. Kinyua:** I wanted a clarification. At what time will she support or not after reading and she is already speaking on it?

**The Deputy Speaker** (Sen. Kathuri): Sen. Kinyua, you know you are a senior Member of this House and such points of orders are just distracting.

So proceed, Sen. Tabitha.

**Sen. Tabitha Keroche:** Thank you, Mr. Deputy Speaker, Sir, for making Sen. Kinyua understand that counties are different. Laikipia County has ranches. I saw those bulls that are from your county. You are lucky. However, we are talking of how we have suffered. So we need to be very careful that any Bill that comes to this House, we should approve it knowing that it will protect our people.

You saw me the other day, I was at a slaughterhouse. When you come to Naivasha, I know you all love Naivasha, to come to visit, holiday, whatever it is, for even the meetings that we normally have as Senators. The meat that you eat comes from one slaughterhouse and then the county government wants to change this. We want to ensure that we build a stadium instead of the slaughterhouse.

Have you built another alternative slaughterhouse, so that these people can come out knowing that their operations will not be affected because that slaughterhouse

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supports more than 10,000 families? Then all of a sudden because you are the head of the county, you feel you can change the use of that facility from a slaughterhouse to a stadium.

I think that is what we need to check in this Bill and see, if it ensures that such impunity will not happen when you approve this Bill. From there, you look at who has donated that slaughterhouse. That slaughterhouse was donated in 1980 by the Danish Government.

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

**The Deputy Speaker** (Sen. Kathuri): Sen. Tabitha, Sen. Ogola wants to inform you. Do you want to be informed by the said Senator?

**Sen. Tabitha Keroche:** Let me finish then she can inform me because this is a burning issue. Something that was donated---

**The Deputy Speaker** (Sen. Kathuri): You either want to be informed or not.

**Sen. Tabitha Keroche:** No, I do not want to be informed. I listened to you Sen. Beatrice and I know that you were talking of decongestion of your towns and all that. Nakuru is not congested. We are good.

The problem is that we have these institutions that are already in place, but the county government, after being in office for two years, they think they can change those institutions. An example is the slaughterhouse that I was talking about. When you are passing by, just get in and see. It was donated by the Danish Government in 1980. It is a slaughterhouse of international standards. Even if you enter there, you will not think you are in a slaughterhouse.

Despite this, the county government has the audacity to say, they want to change this into a stadium. That is why now I am so skeptical and I am saying that I must read this Bill to ensure that it gets rid of impunity for good and forever.

This impunity should not happen again that once someone becomes the Governor of Nakuru County, he or she can wake up one morning and say: "I want to change this because I am the CEO of the county." That is what I am trying to say that we need to control.

That land where the slaughterhouse stands has 54 acres. All what the slaughterhouse are asking for is 15 acres. You can use 40 acres to build the stadium or whatever you want to build. How can you wake up one morning and say that you want to change people? You are the head of the county because people elected you and put you in that office.

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

**Sen. Tabitha Keroche:** You want to inform me? Okay, let me be informed by Beatrice. I can see she is burning with information.

**The Deputy Speaker** (Sen. Kathuri): But why are you giving yourself that permission? Sen. Tabitha, you are not the one to give her the opportunity to inform you. You are doing my work.

Do you want to be informed?

**Sen. Tabitha Keroche:** Not really. Let me finish.

Today, I was very excited because I knew the Committee on Lands, Environment and Natural Resources led by Sen. Methu had invited the Cabinet Secretary. I know the

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CS is not in at the moment, but I just pray that Hon. Alice Wahome is confirmed, so that I can see her on the other side and raise with her the complaints that I am talking about. Today, this issue was in the list of the Questions that she was to answer. I was ready to come here early in the morning to wait for the CS or whoever was coming; to ask them those questions.

I wanted to ask whether it is normal to have somebody who has a legit title deed, a lease of 50 years and then a county governor can go there and forcefully evict those investors with a lot of impunity. They incurred many losses, many lives were lost and then she immediately shut down that institution, which is the War Memorial Hospital.

The other one that we are talking about is the farm. The other one is corporate land at Pipeline. So I really wanted to face the CS, so that I can get these questions answered. I may not be a lawyer, but I know with the little knowledge I have, even if we are not lawyers, we are not so stupid. We have seen Sen. Omtatah not being a lawyer, but practicing to be a lawyer. So even us, having gone through what we have experienced, we have built our careers. We also know about legal matters that you cannot misuse power and treat people with such impunity and then assume that everything is normal.

Today, I was very excited. If the CS was here, I am sure that maybe I could have gotten the answers to what I am talking about now and I could be happy going home to my people of Nakuru. I would have told them: What you see is not how it is supposed to be and the CS has said that it is misuse of power and impunity and she is going to give directions on how the things that we have seen happening in Nakuru will not happen again. So that is why I have said let me relook at the Bill. I know I have gone through it, but I still need to go through it again.

I think that we are going to give more powers to the county government. They can take this land and do whatever they want with it. I am an investor, so I can invest in this by applying for a public land. I might be given 50 years lease but after two or three years of putting up a manufacturing plant, I am informed that I need to move out. We should condemn such impunity and misuse of power as highly as possible. If such things continue, then our investors will have no confidence in this country.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Korir proceed.

**Sen. Korir:** Thank you, Mr. Deputy Speaker, Sir. Allow me to support the amendment Bill that is before us. A number of colleagues have touched on a number of issues pertaining this Land (Amendment) Bill. The issue of land is very emotive, cross-cutting and affects the entire country. If it is going to be addressed, it will cure a number of problems that we have been facing.

A number of institutions have been fighting for their ownership. This has created many problems even within the county governments to an extent that projects that have been proposed by the Government are facing implementation challenges because of the ownership of land. This issue needs to be addressed because it is a collective responsibility. The issues facing a number of Kenyans came up because of the challenges that we have in our offices.

Most of the issues are being caused by our land registrars. They are the ones who are giving out these documents, especially the title deeds. Once you are given a title

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deed, it gives you the opportunity to own a particular piece of land. However, we are facing a number of challenges such as land grabbing and misappropriation. These are some of the issues that we need to address, so that we can cure this problem once and for all.

I do not want to belabor much. I support this Bill and hope the relevant Cabinet Secretary, if given room, will address these issues and cure the mess that we have been witnessing across the country. We have a number of people who have been removed from their rightful share even though they have title deeds. They have moved to the roads because of land grabbing and wrong documentation.

I support this amendment Bill.

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

**Sen. Seki:** Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to also add my voice to this matter of the Land (Amendment) Bill (National Assembly Bills No.40 of 2022). Land issues are very emotive. More importantly when it comes to my County of Kajiado, you know very well that every space that is now available around this great City of Nairobi, is in Kajiado County.

The amendments to public land have come at the right time. However, I think that we need to do more. This Bill has brought very important amendments. We want to go deeper and look at issues that this Bill intends to sort.

On the issue of the ownership of public land, public land means land meant for public institutions such as schools, hospitals and so forth. We have a number of public land that the community has reserved for public utility. However, the Government is also subdividing them for different use without considering the intentions of those who reserved that land for public use.

In the case of Kajiado County, we have land like the livestock management and dairy production, which has now has been subdivided into private land. We also have the veterinary land. There is also some land next to Ngong area, which the Government has subdivided without public participation.

If we give out this land for public or private use, do the land registration and get at title deed, will its original use be reserved for that purpose? The Bill needs to highlight this and bring amendments on the public use of that public land.

Mr. Deputy Speaker, Sir, I will also touch on the issue that has been well covered by my colleague, Senator, about the physical planning. I will highlight one area in the Physical and Land Use Planning Act that states if private land is subdivided, then public utilities will be provided. In the case of our county, you will find private institutions, private people, Savings and Credit Cooperative (SACCO) buying 1,000, 100 or 50 acres and subdividing it. This subdivision ought to have public utilities within it. That public land is no more. Sometimes, people in offices within the counties, National Lands Commission (NLC), or the land registry take this land, which is reserved for public utilities. That is why you find that 100, 50 or 20 acres are subdivided but there is no public utility land. The Physical and Land Use Planning Act stipulates that there must be a public utility within that area. This Bill will try to correct such anomalies.

I will also look at the community land where we need to do registration because at times, adjudication is done and public utilities are given. This is the time county

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governments should come in to make sure that when community land is subdivided into private land, there is private registration of public utilities, so that they are registered under the name of the community or under the county governments.

Mr. Deputy Speaker, Sir, on that point, I will bring up the issue of the Intergovernmental Relations Technical Committee (IGRTC), which needs to fast-track the transfer of assets to the devolved departments of counties. This is because we will have many issues when we begin registering these public utilities since we do not know who to register this land to. Is it county government or national Government land? This is why we need to request the IGRTC to fast-track the handing over of assets to county governments for the devolved functions. I say this because when you go to the Department of Livestock and Agriculture in most of the counties, we have land that is yet to be defined as county or national Government land. These are things that need clearance from institutions, so that when such an important Bill comes, we can define this public land without any problems.

Mr. Deputy Speaker, Sir, I support these amendments with a lot of reservations. We need to look at issues of land carefully.

Otherwise, thank you very much.

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

**Sen. Okiya Omtatah:** Mr. Deputy Speaker, Sir, thank you for the opportunity to contribute to this amendment Bill. I have looked at it and I stand to support it with amendments.

To begin with, the Amendment Bill seeks to expand Sections 2 and 12 of the Land Act. In Section 2, it introduces a new definition of the registrar which I think is proper. In Section 12, it seeks to introduce new subsections which are, 13 to 16, a, b, and c.

If you look at the tenor of the amendments and the memorandum of objects, it is basically filling a lacuna that could be used by people deliberately through action or by omission to allow for improper action to take place. So, basically, this Bill requires that wherever public land has been allocated to a public entity, it must then immediately be registered.

In Busia County, the county that elected me, there was a problem with the Malaba Market. Malaba Market was purchased by the County Council, which is now a county property and it was never registered. After some time, the initial owner or the successor to the title of the initial owner, through some dubious court process, purported to have gained back ownership, took over the market and is now the one charging people. So, if that land had been registered, such omissions would not have happened.

When you come down to the suggestions, it is really good that they have suggested that when land is surrendered or allocated to a public utility, it must be registered. That secures that land properly. The only thing that I find needs to be added to this Bill is; what happens to those officials who fail to register land under their watch. I do not see any punitive measures here being taken to enforce this provision. These people can easily sit back while they have an obligation because there are no consequences.

Therefore, there are loopholes whereby you get land being allocated to a public utility and then everything goes quiet. Then quietly, you will find that the title deed has

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been issued to a private developer and when you try to recover the land, it is a whole impossible task.

Thus, I think we needed to have some timelines within which the registration is to be made. Having the word “shall” is okay, however, there has to be a timeline. Within what timeline should a public official responsible register the land that has been allocated to a public utility?

I propose that they should register that land within six months. Failure to do so or failure to demonstrate why it was not possible to do so should result in some punitive measures. The officer responsible should be punished in one way or the other, so that this law can have an enforcement mechanism. Otherwise, we still have not cured the problem because we are leaving it open-ended. There is an obligation, yes, but what is the timeline? What are the consequences of failure to carry out this mandatory requirement?

I urge that when the Senate considers this Bill, we should introduce a mechanism for enforcing these requirements in terms of making them time-bound and instituting sanctions for those who fail to comply with the requirements.

Mr. Deputy Speaker, Sir, I support this Bill with amendments.

Thank you for the opportunity.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Sen. Mundigi Alexander, proceed.

**Sen. Munyi Mundigi:** Asante, Bw. Naibu Spika. Naunga mkono Mswada huu wa kuangalia mambo ya mashamba ambayo itasaidia mwananchi. Mswada huu hauhusu shule peke yake, unahusu makanisa na hata wananchi kwa sababu katika Kenya, mambo ya mashamba yameleta shida haswa kwa majimbo yetu kama vile Gatuzi la Embu, ambako mimi ninatoka.

Naomba, wakati tutapata Waziri mgeni wa mashamba, mambo haya yaangaliwe ili mwananchi aweze kufurahia. Kwa mfano, katika Gatuzi la Embu, kuna shamba moja ambalo liko na mgawanyiko mkubwa kati ya kaunti na *University*. *University* inasema kwamba shamba ni lao na kaunti pia inasema shamba ni lao. Kaunti pia inasema kwamba hilo shamba liko na kazi kubwa kwa wale watu ambao wako na mbegu za kuzalisha ng’ombe ambao wanaweza kutoa maziwa mengi. Watu wa *Ethics and Anti-Corruption Commission* (EACC) wametembelea hilo shamba, lakini hadi wa leo, haijajulikana kama shamba ni la *university* au la Kaunti ya Embu.

Kwa hivyo, kama Seneta wa Embu Kaunti, kuna shida katika Embu Kaunti kama kaunti zingine. Hiyo mambo haihusu shule za msingi na sekondari pekee, yanahusu wananchi wengine.

Ningeomba Serikali iweke maanani ili mambo yote iweze kuisha. Tunajuwa kuwa wananchi wengi sana wangependa kupewa cheti cha kumiliki mashamba ili waweze kukopa na pia kujenga nyumba za kukodi ili tuinue uchumi wetu wa Kaunti ya Embu.

Bwana Naibu wa Spika, itawasaidia pia vijana wetu kuhamasisha familia zao kupata njia ya kufanya kazi kama ukulima au biashara zingine. Kuna wazazi wengine ambao wakipata haki ya kumiliki mashamba, wanaweza kuyauza kidogo au kufanya kazi zingine kama kutengeneza shamba, kujenga nyumba nzuri, kupanda miti na kulima.

Naunga mkono nikiwa Seneta wa Embu Kaunti. Tumeona kaunti nyingi. Tunaomba usajili wa mashamba uendelee vizuri. Utakuta pale Kaunti ya Embu, Manyatta Sub-County, kuna msajili anayehudumia watu wengi wanaotaka kuuza mashamba na wengine kubadilishiwa mashamba ila yule msajili anazembea na haendi kazini. Kwa mwezi, anaenda kazini siku tano. Huo mjadala uweze kuchunguza jinsi hao wasajili wa ardhi wanavyofanya kazi.

Mambo mengi ya mashamba inafaa kuchunguzwa. Pale Embu Town, wanaosaidia watu kuuza mashamba wako na barua ya kufanya kazi. Utapata mtu ameelezwa kuwa shamba anayotaka ni nzuri lakini inachukua muda kwa sababu msajili haendi kazi au wanazembea kazini. Watu wa *Ethics and Anti-Corruption Commission (EACC)* watembee Manyatta Sub-County kuchunguza kazi inavyoendelea.

Naunga mkono Serikali ichunguze kampuni ambazo ziko na mashamba makubwa. Kuna kampuni ya Serikali pale Kiamberee inayoitwa Tana and Athi River Development Authority (TARDA), ambayo inamiliki shamba ekari elfu kumi ilhali watu wengine hawana shamba. Kwenye hiyo *amendment*, tuone kama watu wasiokuwa na mashamba wanaweza kupata shamba kidogo.

Ikiwa sio hivyo, Serikali inaweza kukodesha ekari fulani kwa miaka kama mia moja ili wengine wafaidike. Kwa kuwa Serikali inataka janga la njaa liishe, watu wa Embu wajengewe mabawa ya maji Kiamberee ili watu wapande miti, walime na kuuza mazao yao ili waweze kulipia yale mashamba. Naunga mkono kwamba mambo yaendeleo vizuri. Tunafahamu kwamba Waziri atafika hivi karibuni. Tuchunguze ikiwa shida za mashamba zitaisha.

Ukielekea Embu, upande wa Mwea, Makima, Karaba na pia Igamba Ng'ombe, utakuta kuna shida. Utendaji wa kazi ya wasajili wa ardhi na watu wengine iweze kulainishwa ndiposa kila mtu apate shamba lake, ajenge vizuri na kusaidia kuinua uchumi wetu wa Kaunti ya Embu.

Nikimalizia, naomba msajili wa ardhi wa Manyatta sub-county achunguzwe anavyofanya kazi. Watu wengi wanataabika. Ikiwa kazi ni nyingi, tuweze kuongezewa msajili wa ardhi hapo Embu Town kwa sababu ni mmoja. Pia *Surveyor* hafanyi kazi inayofaa ila akifanya msajili wa ardhi anazembea kazini. Wasajili ardhi wanafaa kuwa watano.

Naunga mkono ili kaunti zingine zikiendelea vizuri, pia Kaunti yetu ya Embu iendelee vizuri.

**The Deputy Speaker** (Sen. Kathuri): Asante. Sen. (Dr.) Boni Khalwale.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill. In support of this Bill, I will speak to five very brief points.

The first one is the policy of land tenure in this country. We have to rethink it as a nation because the tenure we have today whereby father shall divide his land between his two sons and the two sons will divide amongst the 10 grandchildren of their father and so on, will lead to total collapse of our capacity to produce food.

Number two, is on the issue of titling in this country and with particular reference to public institutions, especially schools. Schools are very vulnerable in this regard. The Ministry these days expects that before a school is registered or enjoys some of the

funding, including capitation that comes from the national Government, the school is expected to have a title deed without care of the cost.

Some of the parents in the rural areas are not able to raise enough money to give to the head teacher to pursue the expensive route of acquiring a title deed. This is the time when the Government should say if it is a school requiring a title deed, they should get it for free.

Personally, I started many primary and secondary schools when I was a Member of Parliament for Ikolomani and over 10 years later, these schools are yet to get title deeds. It has opened these schools to the risk of land grabbing. In some instances, there is encroachment onto the land and in others, there is outright hiving off of land meant for schools.

Mr. Deputy Speaker, Sir, my third very brief point is on the National Land Commission (NLC). Article 60 of the Constitution of Kenya was carefully grafted to read in 67(2)(e), on the functions of the NLC to include amongst others-

“To initiate investigations on its own initiative or on a complaint into the present or historical land injustices and recommend appropriate redress”

Mr. Deputy Speaker, Sir, if the commissioners of the NLC and its secretariat will ever care to listen to what goes on in this Parliament, they should know that they have failed. They have failed on 67(2)(e) to the extent that in this country, we have a record of the following reports-

The report of the Ndung’u Land Commission, the report of the Njonjo Land Commission and the Truth, Justice and Reconciliation Commission (TJRC) report. These reports have put it in black and white what the NLC could use to initiate correction of the injustice that has been recorded in these reports. This Parliament demands that the Ndung’u Land Commission, the TJRC and the Njonjo Land Commission reports be implemented in full.

Mr. Deputy Speaker, Sir, I know it poses a challenge for those of you who are familiar with these reports. There is a clear mention of powerful politicians and some political families as being the beneficiaries of this public land. The National Land Commission (NLC) should gather courage. They are an institution under the Constitution to make sure that those recommendations are carried out.

In the Ndung’u Land Commission Report, they tabulate how forests and game reserves have been grabbed. Many instances exist, but I can just speak for purposes of elicitation to only two examples. One example is from back home in Kakamega and the other example is Naivasha.

Mr. Deputy Speaker, Sir, I know you are one of the people who enjoys the beauty of the ecosystem, especially when you go to Naivasha. The beauty of the flamingos, birds. The report is telling us clearly that the Kenyan Wildlife Service (KWS) went ahead and allocated stretches upon stretches of land, to only four beneficiaries for no reason other than they were politically correct. This has to be corrected. It must be righted.

We have cases. They are bound in Kakamega and an approved primary school in Kakamega has partly been given to Masinde Muliro University in Kakamega. There are people who are political players and business people in Kakamega who have grabbed part of this land. They should be ejected out.

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The same applies to illegal settlements in the prime Milimani area of Kakamega. We want to thank the President. He took action, and we hope that the President will not stop there, but will ensure that the demolition of houses that took place in Milimani in Kakamega should be followed up with construction of affordable houses as envisaged.

Mr. Deputy Speaker, Sir, this also applies to Amalemba area in Kakamega. The stadium land and the former Airstrip land in Kakamega has been grabbed. The current Airstrip in Kakamega was originally in the city centre, when I was a little boy. When it was moved to create a bigger runway, people just went ahead and grabbed it.

I know the Clerk-at-the-Table, Mr. Ruge, is not a stranger to these things. He is another son by another name of Kakamega. He knows how these people have grabbed, but I am glad none of his relatives is to blame for the grabbing. His relatives who are there are decent business people who have helped in the development of our town and they continue to do good business.

My final point, as I said there were only five, is on the issue of compensation. My colleagues have spoken to compensation on public land, but I want to confine my remarks on the issue of way leave. The way leave that was taken on the following roads - we were promised that our people would be paid. During the construction of Sigalagala, Malinya, Musoli, Bukura, Sabatia and Butere Road, our people signed documents confirming that they would be compensated. Personally, because I am a very law-abiding person, I have got my two portions of land in Malinya for which I signed a way for a way leave. We are glad that the former late President Mwai Kibaki gave us the tarmac road. However, the money that the former late President Kibaki left behind that we be compensated, nobody at the National Treasury wishes to compensate us.

I am using this Motion to demand that I be paid together with all the other people who gave way leave, all the way to Butere. Similarly, I would like the people who gave way leaves on the roads currently under construction for which we are very grateful, from Ikoli, Kimangeti, Malaba Town, Samitsi, Nabakholo and Chebuyusi, to be compensated.

Final but not least, I demand as the Senator of Kakamega, that the people who gave way leaves for construction of the road from Lurambi, Shikoti, Ingotse, Nambacha, Dorof and all the way to Musikoma must be compensated. It is their right, unless the intention of the national Government and the NLC was to bring a road and grab land from the people who are magnanimous enough to give way leave.

With those many remarks, I support and I thank you very much for this chance, Mr. Njuri Ncheke.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. (Dr.) Khalwale.  
Proceed, Sen. Wamatinga.

**Sen. Wamatinga:** Thank you very much, Mr. Deputy Speaker, Sir. I also would like to support The Land (Amendment) Bill.

Quite a number of things have been said by my colleagues that I do not need to repeat. However, it is time that we, as a country, looked at the matters of land as emotive as they are. We must do justice. We have a golden opportunity to effectively handle this matter that has been elusive since we attained independence.

It is not lost to us that our parents and great-grandfathers went to the forest to fight namely for two things; land and freedom. Conversely, as sad as it may sound, those

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who went into the forest to fight for land came out only to find that the white colonialists had left the country and the black colonialists took over their land.

In this Land (Amendment) Bill, we have an opportunity to handle this matter and particularly at this moment when the Gen Zs of this country have told us that we have to look at matters of transparency, accountability, and most importantly, address the historical injustices that have been meted to the Kenyan population, innocently believing that they are protecting their own people.

It hurts and makes somebody sad to know that a few individuals own all the prime tracts of land. It is not lost on us that land has become the medium of corruption. Most of the ill-gotten monies and bribes are stashed away. The money is laundered through land transactions.

Therefore, as we look at this Amendment, it gives us an opportunity, especially when doing conveyancing, to ask ourselves, where was the money gotten from and how has the transaction been concluded? It is imperative, that we, as legislators, come up with a uniform approach that will ensure that there is a fairness, transparency and accountability in land transactions.

As has been said by my colleague here, the Senator for Kakamega, it is indeed very sad that we have three reports that were meant to address some of these injustices, but they lie somewhere collecting dust, as there has been lack of political goodwill to make sure that they are implemented.

At this time, when we are facing our sons and daughters in the name of Gen Zs who are calling for accountability and for us to be more transparent, it is the opportune time to ensure that all these reports are implemented to the comma. If we fail to do this or implement these three reports, the oppressed will continue to be oppressed.

We have seen whenever a mega project is being implemented; some of the major cost goes into the compensation. There is a talk of the High Grand Falls Dam that is to be constructed in Tharaka Nithi.

I tell this House that more than half of the cost is going to compensation. The Thwake Dam in Kitui County has more than half of the cost going into compensation. It may surprise this House that money does not benefit the indigenous people, but those who are able to buy land speculatively and lie low for five years. They wait when the projects are being initiated, and then they reap big money.

The Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Corridor Project that was meant to construct a corridor all the way from Lamu has been stopped and made almost impossible because of the huge amounts of money required to do compensation. A closer look at the beneficiaries will show that very few local people are benefiting. There are Kenyans who have more, surprisingly most of them in the political class who have continued to exploit Kenyans in the name of profiteering.

This can be addressed only if we make a policy that whenever there is compensation, non-locals should not be compensated. This is because they have no emotional attachment to the land. They buy it speculatively, hoping that they will be able to collude with the National Land Commission (NLC) to make big money. It is an opportunity for us, following the spirit that is in the country, to advance and enhance

accountability and governance to ensure that these three Land reports are implemented in the fullest.

Mr. Deputy Speaker, Sir, I come from Nyeri County. If you travel along the road on your way to Nanyuki, you will find towns called Naromoru and Chaka confined within a very small piece of land, whereas hundreds of acres were illegally acquired by powerful individuals and they remain in their hands, while the people of Naromoru and Chaka Town continue to suffer. Not even a switch system can be constructed because all the land belongs to a few individuals.

It is my humble submission to all Kenyans that we must start looking at things differently. We know how most of these big tycoons acquired the land. Unfortunately, these are people who are politically connected. After we got money, which was meant for Africanization after the fall of the colonial Government, we know that most of these people got money that Kenyans paid for and acquired this large fraction of land.

Kenyans are now suffering because they have no place to expand their towns. There must be a policy that is quite purposeful in addressing this issue. It is the high time we came up with a unified physical land policies that ensure that some people are not disadvantaged because they were born at the wrong time, in the wrong families and they did not have the right political connections.

As I stand here, I am a sad father because I have two Generation Z in the house. We are able to address some of the issues they are raising if only we have political goodwill. It is quite unfortunate that one single family owns almost a third of Kenya. Ask how they got the land.

If you look at the way most of land transactions are conducted, they leave many glaring questions as to how the money was acquired. If we do a forensic audit of how money was acquired, you will see most of these transactions are not above board.

I also take this opportunity in supporting this Bill to say it is an eye-opener that leads to the question of what must be done. It is not a question if it should be done, but what must be done and when it will be done. If it is not now, it must be done now. This is because we have created unfair ground for competition among the business people. There are some people you are not able to compete with because land is one of the most lucrative collateral in the bank, and if you are born in the wrong family, then you own no piece of land. It is quite unfortunate.

Mr. Deputy Speaker, Sir, indeed, we must also ask the question what happens to leased land once it expires? As the Senator for Nyeri County, I was sad when I came to learn that a certain piece of land whose leasehold has expired was divided among a few beneficiaries and sold. This must come to a stop. It is high time we call out the NLC and the Ethics and Anti-Corruption Commission (EACC). They must take up such matters. How does land move ownership from Government to private, and then it is subdivided?

We must also come up with policy on subdivision of land. You know there is what has been spoken about here, the *Maguta Maguta* plots, where plots of 50 by 80 are subdivided in a large tract of land, which does not even leave space for physical and social amenities. If we do not address that issue today, we will continue having slums and poor urban planning. We must be deliberate, intentional, purposeful, and most importantly, controlled.

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Kenya is a signatory to the Sustainable Development Goals (SDGs). Some of them look at the issue of having urban places that are controlled with a clean environment, access to water and sanitary facilities. However, that cannot happen unless we are deliberate and have a unified approach in all the towns across the country.

I sit in the Standing Committee on Land, Environment and Natural Resources. We get very many petitioners who have been pursuing matters since 1970. Some of the people who come to the Committee are 70, 80 or 90 years old. They tell us horrid stories of how they have tried to pursue justice, but they are not able to access it because we have a National Lands Commission and the political class that is unwilling to help. Unfortunately, some of them are even pushed further by the religious groups. We shall also be proposing some changes in this amendment. It is high time that we now look at a unified approach that will ensure transparency, accountability and fairness, especially to the people who are indigenous, whose lands have been taken by absentee landlords.

At this juncture, I take this opportunity to thank His Excellency the President, because he is brave and bold enough to address the issue of absentee landlords. In the Coast and some areas in the in the Rift Valley, we have huge tracts of land that are owned by the colonialists, not because they bought it from anybody, but took it away from the natives then. It is high time we start looking at those historical injustices. Let us address them as Kenyans. It is important that we do not shy away from biting the bullet and returning them to the locals and who own them.

As we talk about the uniformity of land rates, it is also very important that we call out the land registrars in this country. They must be transparent. I thank the Cabinet Secretary who has today been able to go through the vetting process. She has attempted to introduce a new way of transacting all the land, so that you would know what is moving from one person to the next.

As I conclude, we have looked at the way the locals are benefiting in the Local Content Bill, which we have just concluded. It is imperative that we have deliberate laws that ensure that the locals do not only benefit from the minerals in their place, but also take part actively, so that there is also technology transfer. I support the Land (Amendment) Bill (National Assembly Bills No.40 of 2022). It gives us a golden opportunity to address the things that have become erosive since the 1960s. It is our time to address them. In the new spirit of the Generation Z, we must be seen to be moving in the right direction.

That means biting the bullet, implementing the three land reports and ensuring that all the historical injustices that are in this country have been addressed conclusively. This includes looking at the religious groups that have grabbed land from the local communities and have taken advantage of them to enrich themselves with the land, with the promise that they do not need earthly belongings, because in heaven they shall have them.

Mr. Deputy Speaker, Sir, it is the high time we stood up as Kenyans and say, enough is enough. We must look at these matters, so that as we shape the future of this country that we will leave to the Generation Z and Alpha, we leave them a country that is equally and fairly divided. We can only do the right thing by ensuring that we put the right legal framework and legislative infrastructure in place.

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I support.

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

Sen. Abass, proceed.

**Sen. Abass:** Thank you, Mr. Deputy Speaker, Sir. I beg to support the amendments in the Land Bill. Land is an emotive issue and is held with a lot of trust and dedication. Land subdivision should be based on utility. You should not divide land in small bits where there is no value. We need to divide land based on utility.

When you go to other countries, there is land for farming and there is land for municipalities and settlements. However, in this country, everyone wants to get land. This land is then subdivided into many small units and the country is becoming a consumer country. Food security in this country is very wanting and, therefore, there is a lot to learn here.

There is enough land for all of us, but there is a lot of greed in acquiring land. Land should be used so that in future, we are able to invest in or resell it at a better price. However, many Kenyans are still landless. Since the start of devolution, the range land or community land is now being subdivided.

A lot of interest has developed because people have made money in the counties and people are trying to invest money on that land. That land is being fenced and all the graze land now excluded. The animals have been taken to the peripheries and most people are now having problems and constantly conflicting.

Mr. Deputy Speaker, Sir, some of these people get money, they become contractors, avoid taxation and the Kenya Revenue Authority (KRA) and they then decide to invest in livestock. They buy a chunk of land and fence it and yet, it used to be a common grazing land.

We have many squatters in this country and land has been taken by a few individuals, especially in the highlands. There is land that has been leased for the last 999 years and most of the beneficiaries are not there today. Most of them died and those who inherited them are not there, they have grown old. We therefore need to look into matters of land lease, especially the 999 years and 99 years leases.

Nine hundred and ninety-nine is unimaginable time for most of us to live. It is time we introduced the land tenure system and the land lease or freeholds, so that other Kenyans can benefit. The other land that remains idle and is owned by the people outside the country should be re-distributed and given back to the people.

Mr. Deputy Speaker, Sir, food security in this country is now becoming a problem and most Kenyans are importing food from outside. We are unable to produce sufficient food for ourselves. We want the land owned by individuals who keep it for future sale to be given to the people who have the energy to do farming can get that land to farm.

Even the Gen Zs who are unemployed and the Kenyans who went to schools like universities, some of them did two degrees and others have two masters and are not employed, if they got land to till, they would produce food and become self-employed.

In most parts of the country, land adjudication offices are very corrupt and there is a lot of confusion there. It is time for this country to digitize all the land ownership and land information, so that people can get access to their land numbers and acreages, so that we avoid stealing of land from the public, especially communities who do not know what

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land means to them. Some do not even have any land registration. Half of this country is not registered.

Mr. Deputy Speaker, Sir, what we need to do is the land offices in respective areas should digitize their land registrations, so that all community land is registered. Whenever there is any project coming up, like the Standard Gauge Railway (SGR), a lot of land is taken away by the government and those communities are not involved in any participation.

In future, any development where land is involved, the public must be allowed to participate, so that they give consent to avoid any future conflict or complains from the public who will be losing their land. If they must lose their land, they must be compensated on time so that they do not lose their livelihoods which might leave them in the wilderness. Since the time SGR was being built, some people have never been compensated fully. They lost their land; they do not have a place to stay. They have been unable to buy land. Land compensation should be done to them.

We also need to harmonize because we have many institutions like the NLC, the lands offices and the county governments as well. We need to have a kind of harmonization so that everyone will know where their land is or where they can get land. This is so that no one can run away with land, sell it or keep it land that is not theirs.

Mr. Deputy Speaker, Sir, the NLC, the lands offices and the Ministry of Lands should harmonize on matters land so that ownership is known. Then we will be able to say that this area is meant for a certain utility. If today you go to Wajir, you can get land for building schools. That land has been fenced by individuals. Big chunks of land that could have been used for utilities like hospitals, schools and community has been taken away by certain people.

With those remarks, I will support the Bill. I thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Agnes Kavindu.

**Sen. Kavindu Muthama:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity to support this Bill with amendments. This Bill is very timely because many people are having issues with land. I am talking about title deeds of schools, churches and markets. Many of the schools and markets have no title deeds. For them to get title deeds is a big issue because as many of us have said, schools and markets have no money or funds to follow and chase title deeds.

I bring to the knowledge of this House that I have a market in Machakos County called Mutituni. This land belonged to Mutuma's family and it was taken by the then County Council, before we got devolution. This family has never been compensated for this land to date and yet, this market was built on their land. The County Council used to collect land rates and rent from the market traders and even right now, Machakos County Government still does.

Even as we support this Bill because it is good for the people, people should be compensated and schools and markets be given their title deeds. There are lot of land issues and when we talk of the Ndung'u Land Commission, Njonjo Land Commission and the other land commissions, we know they suggested what needed to be implemented. This has not been done to date.

There is a place called Katelembu where the people of the Katelembu Cooperative Society have many land issues. You will find one piece of land has been sold to two or three people and majority of them have title deeds. You wonder where they got them from and yet majority of indigenous people of that farm have not been allocated their land.

Some were born there during the colonial period when this land belonged to *Mzungu*. Their fathers worked there and bought shares from the society. They gave birth to children and today those children - most of whom are 80 or 90 years old - are being called squatters on their own land. These are the injustices we are talking about.

Mr. Deputy Speaker, Sir, can your children or mine be called squatters in their land just because they have no title deed? This is why you are seeing a lot of Gen Z on the streets demanding equity and implementation of the Constitution in this country.

There are other places like Syokimau and Katelembu among others where public land meant for public utility has been grabbed by private developers and sold to people. Many of us have talked about where these mega dams are being built and how people are compensated. Katelembu Farm in Machakos is one of those where the Miwongoni Dam is supposed to be done. The people who are living where that dam is have been evicted and called squatters because that piece of land has been sold to *mabwenyenye amba* *wako na pesa*. Now, I wonder where these will go to. I have chipped in to fight for them because they are my people.

I do not see how someone can be told that he will only be compensated for the house that he has built on the piece of land, but that the land does not belong to him. This was not the case until the issue of the dam came up.

I call upon the National Land Commission (NLC) and Ethics and Anticorruption Commission (EACC) to move to the ground and do justice to the poor. Those indigenous people are poor, and cannot get justice. Even when they go to court, people go and corrupt the cases. I call upon the NLC to move to the ground and do their work properly.

I support this amendment Bill with a lot of amendments so that it suits the people.

Thank you, for the opportunity.

**The Deputy Speaker** (Sen. Kathuri): Sen. Kavindu, when you say you are supporting this Bill with amendments, do you intend to file amendments at the Third Reading, Committee of the Whole or that you assume they have now been captured?

**Sen. Kavindu Muthama:** Mr. Deputy Speaker, Sir, I think we should be given some opportunity to do some input or they capture what we have said from the HANSARD.

**The Deputy Speaker** (Sen. Kathuri): You will have that opportunity when the time comes.

**Sen. Kavindu Muthama:** Thank you, Mr. Deputy Speaker, Sir. We will give our input.

**Sen. Omogeni:** Yes, thank you, Mr. Deputy Speaker, Sir, for allowing me to also make my contribution in support of the Land (Amendment) Bill (National Assembly Bills No.40 of 2022).

A title deed is a very important document. When I was in law class, I was told that the best way to prove ownership of land is by being in possession of that piece of paper that we call a title deed, which is valued by very many Kenyans.

When the late President Moi toured Narok District - and I think he had a meeting in Suswa - he was confronted by a group of members from the Maasai community who did not want to hear anything other than a pronouncement from President Moi that the land adjudication process was going to be finalized in Narok and that the Maasai, like any other Kenyans, were going to have possession of that piece of paper called a title deed. That is how valuable that title deed is.

I stand to support this Bill because I know how useful the passage of this amendment Bill would be. Many of our good public schools, especially those that are owned by the Catholic Church, own the schools by name, but many of them, especially from where I come from in Nyamira, the title deeds do not belong to those institutions. The same applies to the Seventh Day Adventist (SDA), Pentecostal churches and others. So, the passage of this Bill will allow those institutions to get this very valuable document we call a title deed.

The Bill says in Clause 12(16) (a) that-

“In case of an incorporated public entity, the certificate of title shall be issued in the name of that entity.”

Even if we have a situation where schools exist, but are not incorporated or limited liability companies, they will benefit from the issuance of this title deed. I am surprised that even a number of the buildings that we own as Parliament, a number of our title deeds are registered in the name of the National Treasury as a trustee for Parliament. I hope we can cash in on this amendment of Clause 12(16) (b).

The moment it comes in, we should get our titles as the Parliamentary Service Commission (PSC) because, under Section 127, the PSC is a legal entity. We should support it, even if it is for the benefit of our institution called Parliament. The moment this law is enacted, we do not need to now leave our title deeds in the custody of the Cabinet Secretary of the National Treasury. We should get these titles. We can also have our end-of-the-year audit reports reflecting what fixed immovable property we own as an institution and even for our county governments.

If you read many of the audit reports that we get from the Auditor- General, he is not able to verify the ownership of a number of projects that are being undertaken by counties.

I read an audit report from the County Government of Nyamira and the Auditor-General questioned whether it was prudent use of public resources to build offices for Members of the County Assembly (MCAs) on a piece of land where there is no support of a title deed document to prove that the land is owned by the county government.

Mr. Deputy Speaker, Sir, I hope that the moment this law is enacted, we can have title deeds issued to all the pieces of land where the offices have been constructed in our 20 wards in Nyamira County, so that we have a good reflection of the assets that are owned by not only the Nyamira county Government but by other counties.

Secondly, we hope that the National Land Commission (NLC) will also fastrack the issue of compensating Kenyans who have given away their land for purposes of

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constructing public utility facilities. We are privileged to have a new road in Nyamira County that runs from Chebilat through the Ikonge market all the way to Chabera.

The surprising thing is that every time I am at home, residents of the three wards—Mawawa, Okera, and Kiabonyoru complain that to date the chairman of NLC has not given them compensation. They surrendered their title deeds and we now have a beautiful road, but compensation has not happened.

Mr. Deputy Speaker, Sir, some of the problems arise in areas where there has been succession and the families do not have title deeds in the name of the beneficiaries. The idea of ensuring that everybody who benefits from a piece of land gets a title deed becomes useful when you want to get compensation from the government when it is acquiring land for public service utility.

I also want to bring to the attention of the NLC that many Kenyans are suffering. Even if you are a Member of Parliament (MP) and you apply to charge your title and you have not done conversion--- There is something they are calling conversion. They want to make every transaction appear under the National Electronic Licensing System (NELS).

Mr. Deputy Speaker, Sir, if you want to do any transaction, mortgage your land, get a loan from the Parliamentary Service Commission (PSC) or from a commercial bank, it is troublesome to do a conversion from the current title to the new titles. I always wonder whether as a country we are ever sensitive to the people who come from our rural areas.

If you tell a Maasai from Kajiado County that they should do a conversion of their titles, they might wonder because they know that the title they have been keeping in their wardrobe or cupboard is the evidence that the land is theirs. How do you tell these persons who have not handled a smartphone nor have computers in their homes that in order to sell their land, they must go and do conversion? At times we are very insensitive to the people we represent.

In London, the level of literacy is at another level. Everybody has a smartphone and access to a computer. You then want to import that to Kenya and state that everybody should be under that system. I know there are many Kenyans who are suffering because they have not been able to do that conversion.

As a lawyer, I have met many Kenyans who cry when they go to court, and are informed that they cannot make their filings because they need to do an e-filing. I am sure there are many members of the *Nchuri Ncheke* who will not be able to do an e-filing. All they know is that they are supposed to prepare their papers and go the land registry at Meru High Court. That is the same thing in Nyamira County. When they go to court, they know they have prepared their court papers and they should file them. Believe me, in many registries, if not all, Kenyans are being turned away. They are being told to go and do E-filing.

What makes it even worse is during a court hearing, they are also told to log in. Surely speaking, somebody from my village Girigiri, Nyabasi Ward in Nyamira County has no smartphone or laptop in their homes. You are telling them to travel all the way to Nyamira to look for a cyber cafe and log in. It is good to embrace technology, however,

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we should do it gradually. Let those who are able do it. When we attain a population that has smartphones and access to laptops, then we can embrace that.

I will talk about the importance of giving land for public utility any time somebody is doing a big project. There is no way you can allow somebody to come in, do a big housing project of more than 2,000 people like the projects I see some good friends from China are doing on Mombasa Road, and they do not want to surrender part of that land for public utility.

Even if you travel to these developed countries such as Australia, they restrict the radius within which your child will be admitted to school. For example, before your child is admitted to a certain school when you live within Umoja, there must be evidence showing that you live within that area.

I like what is being proposed here. That we amend Section 55(7) so that when somebody is surrendering land for public utility, there is a title deed issued. If you remember, the scandal that we had around Ruaraka was because somebody surrendered land for use by a school without a title deed. Several years down the line, he made a claim saying that was his land. He had a strong case because there was no title deed that was issued in the name of that school.

Even if it was not for anything, I will support this Bill because of what is being proposed in Clause 12(15). That, the moment you set aside land for public utility, you issue a title deed to that institution. This is so that tomorrow, the owner does not turn back and say that they never surrendered their land because the title is still in their name. Those are strong points because the only way you can evidence that you have given away land is by issuing a title deed. Where we have big projects, let us have land being set aside for ECDE, schools, a commercial center and even a public field where our children can play football.

I was in Hong Kong many years ago, 2007, and at the center of the city, equivalent to KICC, they have set aside land where in the evening, senior citizens aged 70 and above can walk while their grandchildren play football and volleyball. That is how it should be. This is a very progressive proposal, which I support. The issue of title deeds is so critical.

The Government of Netherlands gave Nyamira a grant to do a dam which would have benefited more than 6,000 families with piped water at Bunyunyu in Kitutu Masaba. However, that project has not taken off because many of the families do not have title deeds. This is land that belongs to your grandfather who left it to your father who left it to you and you do not have a title deed. So, the Government wants to come and compensate you, but they say unless you show them a copy of your title deed, there is no way they are going to pay you. Issuing of title deeds as proposed in this amendment Bill is very useful.

I would also like this Bill to do something about the draconian thing called the Land Control Board (LCB). If our new Constitution gives me the legal right to own a title deed, why should it be that any time I want to sell my land, I should go and seek the consent of the LCB?

Have you ever come across any Kenyan who has ever been denied consent by the LCB? There is nobody. What is happening is that every time anybody applies for the

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LCB consent, they are charged money. That board is illegally taxing Kenyans. If we made an impromptu visit tomorrow to Ngong where the Senator comes from, you will find people being forced to pay money.

It used to be Kshs5,000. I am told that nowadays you pay up to Kshs20,000 and no receipt is given. That is being replicated everywhere including Meru. I am speaking on behalf of many Kenyans who are suffering in the hands of the LCB. It serves no purpose other than being an avenue for a few people to enrich themselves. I will be seeking to ride on these amendments to introduce an amendment to do away with the LCB consent. If I own a piece of land, the Constitution gives me a right to sell it if it is mine. I do not need to be questioned by some elders why I want to sell my land. On top of that, you also take money from me without a receipt. That money is not taxed by the Government. Imagine if 100 people applied to sell land at the Ngong Land Sub-Registry and each of them pays between Kshs20,000 to Kshs30,000. How much is that per day? That is money that just goes to people's pockets.

I will be riding on these proposed amendments to bring an amendment to do away with the LCB consent, which is a prerequisite before one sells agricultural land. It is a draconian thing that was brought to us by colonialists and has not served any purpose. It is high time we did away with it.

With those remarks, Mr. Deputy Speaker, Sir, I support the Land (Amendment) Bill, which is before the House. I thank you.

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

**Sen. Tobiko:** Mr. Deputy Speaker, Sir, I am grateful for this opportunity. I rise to support the Land (Amendment) Bill, 2024. These proposed amendments will bring sanity in a very confused field.

In Kenya today, if there is an area that is full of confusion and has brought frustration and pain to Kenyans, it is issues to do with land. When I say issues to do with land, they involve both public and private land. For a long time, we have seen public land getting into private hands. We have also seen governments hiving off pieces of land from critical areas like forests into private hands. That is done without public participation or any consultations with the communities creating confusion in Kenya.

Mr. Deputy Speaker, Sir, land issues are very emotive. We have seen families and communities fighting. We have seen people being killed because of land issues. Therefore, any law that brings harmony, order and sanctity into the handling of land is a welcomed law.

Across the country, I have no idea what can clean up the mess of previous regimes and corrupt Government officials, because in every part of the country, there are land issues going on. This is in communal land, public land and even private land.

Mr. Deputy Speaker, Sir, it is good to speak of areas that you know. I know on the Floor of this House we have passed the County Boundaries Bill, which we hope will come to redefine and correct any boundaries between counties that have anomalies and that may have not followed historical administrative borders.

Mr. Deputy Speaker, Sir, in Kajiado, we have a whole 74,000 acres, at a place called Oloirien, in between Makueni County and Kajiado County. This land historically belongs to Kajiado. It is in the Rift Valley but some *kangaroo* court in this country, went

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to give it a different name, calling it Mikululo. Today, Makueni is laying claim to that land yet the original titles show that this land belongs to Kajiado.

We have our people and families who originally belong there and today, those Kenyans have been made landless. The areas for our livestock that were dispersal areas between the livestock and the wildlife are gone. The community has been fighting to get back this land. We have land that belongs to the community, which was held in trust by churches. It is in a place which is not very far from here, at a place called Kisaju. Kisaju Farm is a land that belongs to the Kapitiyei community. The church was given the land to hold in trust for the community. Of course, believing that the church cannot swindle the community, but today, this land is going into private hands.

The church is claiming ownership yet it is known that this land was set aside by the community before even the group ranches were created, in order to have projects that will benefit the community. Today those projects have been overtaken by the kind of lifestyles. This land should revert back to the community, but there are a whole lot of complex court cases.

The county is also claiming for the land yet the county should in any case, if the county holds land, it should be in trust of the community. The trustees have become a nightmare to the communities because they now want to claim ownership of this land. The individuals put as trustees could be the church, the county or some group of individuals. We have big issues. We have a Vet Farm in Kadiado County, which is today being divided. The Government is claiming a part of that land for public utilities.

It would rather go to public institutions, instead of going to individual hands. The original community that owned this land does not have any claim now. The land is being taken away from them. It is better used for collective gain of the entire community of Kajiado so that it benefits us. When we have institutions, they will work for the benefit of all of us.

We have another huge piece of land, almost 5,000 acres at Sheep and Goat, just behind the Nairobi National Park, as you go towards the Athi River where we have the East African Portland Cement Company. I grew up there. I was taking care of my father's livestock when I was in primary school. I knew this as our community land for the longest of time. However, when I came into this House and the National Assembly, we were told that it is Government land. My father and other community members were told to move out of a place we have known to be home for all these years.

This land was part of Embakasi Group Ranch. The members of that group ranch are known. How that land has not reverted back to the community is a puzzle. This also has a court case going on. People have claimed and others have paid some fee to some groups of people. However, the land belongs to the community and should revert to the rightful owners.

We have a land around Emali. A Government institution called Tana and Athi River Development Authority (TARDA) claims this land, but it belongs to the community of Poka. If there is a community that land has been taken away from them, from colonial times to the very current times, is the Maasai community. We have continued to lose land and remain voiceless.

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We have been oppressed by Governments that have come in and gone. Every time we elect a Government, we hope that they will be the saviour of our community. As the late hon. Mzee Ole Ntimama, had mentioned at the National Assembly, that the Maasai community has lost over a million acres of land, including in Nairobi. We have never tried to claim back the land that is in this city. The only thing this community has been claiming and wants to be listened to, is to be given reparations and compensations. Where is justice and truth in Kenya? The Ndungu Land Commission came and any other commissions, but we have continued losing land.

The other day, we were attending some meeting in Nairobi of a small team that is trying to see whether it is right to return back Amboseli National Park to Kajiado County.

Mr. Deputy Speaker, Sir, there was this lady in Uganda who went to fight in the bushes and sometimes, I feel like becoming a guerilla. I feel so pained and at times I feel we should have such.

This is because you see your community losing daily. You will find someone coming and telling us that they are conservationists or they are KWS. In some of these Kenyan communities, there is no wildlife in their areas. There is no wildlife in Kiambu today. If they see a hippo coming out of a dam, they will get out with *pangas* and slashers to finish it and taste its meat.

In some other places like our neighbouring counties, there are no antelopes and birds and they want to come and dictate to a community that has conserved wildlife throughout. They want to dictate to us on what do with Amboseli and the wildlife there, even the wildlife that is in our farms. Even today, the wildlife feeds from our private farms.

Mr. Deputy Speaker, Sir, who should come and tell us whether Amboseli should really go back to Kajiado County? It is a shame because even when civility, honesty and justice is required, some communities do not seem to get it. It is like we belong to another Kenya and yet, Kenya got independence in 1963. That is the rest of Kenya because, there is a part of Kenya that is yet to be liberated. Not from the *mzungu* but from fellow black people.

You bring us other Kenyans to dictate to us whether Kajiado County should get back Amboseli. It was this week; I am not speaking from the blues. I attended a meeting at Serena and we were told that they had gone to do public participation in Isiolo, Meru and Kiambu. Public participation to ask the rest of Kenya about Amboseli, as if a fly from Amboseli has ever settled in Kiambu!

Mr. Deputy Speaker, Sir, why should you go ask Isiolo people whether Kajiado should get back Amboseli? They have their own game reserves, national parks and animals. Let the Kajiado people be consulted about Amboseli.

Things are not done in this country, where either Kenya belongs to all of us or belongs to no one, where we all have rights or we all do not have. I was annoyed when I sat in that meeting and saw Kenyans. I could see this person was from Machakos, the other one from Meru and another one from Kiambu where they no longer have birds in the air because they have killed all of them, coming to dictate to us about Amboseli.

Amboseli should go back to Kajiado County and rightfully so. The President has made public pronouncements about Amboseli going back to Kajiado, but just in case it

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does not and I speak this from this House, those animals will have been set against the people and the people against the animals and wildlife will be history in Kajiado County after that.

It is either Amboseli comes to the Kajiado people or there will be no wildlife to pride about in Kajiado. We will ask you to carry all the elephants, lions, hyenas and all animals and leave the land to our people. It is either we get it right or it gets completely messed up.

Mr. Deputy Speaker, Sir, we cannot continue being told that Amboseli is a national park. They should also get a part of Kiambu or Meru that will also become a national park, although I know Meru has a national park and it has a few animals.

**The Deputy Speaker** (Sen. Kathuri): Sen. Tobiko, our time is over. When we resume debate on this Bill, you will have three minutes to conclude.

**Sen. Tobiko:** Thank you, Mr. Deputy Speaker, Sir.

### ADJOURNMENT

**The Deputy Speaker** (Sen. Kathuri): It is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday, 6<sup>th</sup> August, 2024 at 2.30 p.m.

The House rose at 6.30 p.m.