

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 1st April, 2025

*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)

Hon. Senators, I am informed that we do have quorum now. Clerk, you may proceed to call the first Order.

(Sen. (Dr.) Khalwale consulted loudly)

Order, Senator for Kakamega County.

COMMUNICATION FROM THE CHAIR

WELCOMING OF HON. SENATORS TO PART II OF THE FOURTH SESSION

The Speaker (Hon. Kingi): Hon. Senators, I take this opportunity to welcome you back from the recess. I hope that you had time to meet with your constituents, friends and families over the past week. I also hope that you took some time to rest and rejuvenate your spirits for the resumption of the regular sittings.

Part II of the Senate Calendar commences today and will run until the rise of the Senate on Thursday, 17th April, 2025. As I indicated in today's Order Paper and the programme of business, the legislative agenda before the Senate is heavy.

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To dispense with the business in a timely manner, it requires sacrifices to be made on the part of hon. Senators, including coming into the Plenary early, sitting through, and in some instances late, for progress to be made on the business scheduled.

Above all, it is imperative that the Movers of the business listed in the Order Paper are in the Chamber to prosecute the same.

On my part, I will, in consultation with the Senate leadership, implement measures aimed at expediting the processing of business in the Senate. These measures will include reinforcement of time limits on questions and statements as well as the allocation of time for Motions and Bills in accordance with the Standing Orders.

Furthermore, the Majority and Minority Party Whips are urged to ensure that the requisite number of delegations is achieved whenever there are divisions to be undertaken.

Hon. Senators, as I conclude, I wish to reiterate that my office remains open and accessible to all Senators for consultations and support in fulfilling your duties. I wish you fruitful deliberations in Part II of the Fourth Session.

I thank you.

Let us proceed to the next Order. The Senate Majority Leader, please, proceed.

PAPERS LAID

SUMMARY REPORT OF THE AUDITOR-GENERAL ON COUNTY GOVERNMENTS FOR FINANCIAL YEAR 2023/2024

The Senate Majority leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, 1st April, 2025.

This is the Auditor-General's Summary Report on the County Governments for Financial Year 2023/2024.

I thank you.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): The Chairperson of the Senate Standing Committee on Labour and Social Welfare, please, proceed.

REPORT ON CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS TO THE PERSONS WITH DISABILITIES BILL (SENATE BILL NO.7 OF 2023)

Sen. Murgor: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 1st April, 2025.

Report of Standing Committee on Labour and Social Welfare in consideration of National Assembly amendments to the Persons with Disabilities Bill 2023 (Senate Bill No. 7 of 2023)

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(Sen. Murgor laid the document on the Table)

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

Let us proceed to Statements pursuant to Standing Order 53(1). Hon. Sen. Alexander Mundigi, please, proceed.

QUESTIONS AND STATEMENTS

STATEMENTS

RELOCATION OF THE EMBU SEWERAGE SYSTEM BY EMBU WATER AND SANITATION COMPANY

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise pursuant to Standing Order 53(1) to ask for a statement from the Standing Committee on Land, Environment and Natural Resources regarding the relocation of Embu Sewerage Treatment Plant (ESTP) by Embu Water and Sanitation Company (EWASCO).

In the Statement, the committee should address the following-

(1) Whether EWASCO has conducted adequate and meaningful public participation in this critical exercise, ensuring that all stakeholders, including local residents, communities, leaders and relevant authorities have been duly informed and their views considered;

(2) Compensation for landowners whose properties are impacted by the project, including the criteria used to determine compensation, the timeline for disbursement and confirmation that all affected parties have received fair and timely compensation;

(3) Steps being taken to resolve any challenges arising from the relocation of the sewerage system, including disputes over land acquisition, environmental concerns and disruption to local communities;

(4) Plans by EWASCO to address unforeseen challenges that may arise during the relocation process along with potential solutions to mitigate negative impact on the community and the environment; and,

(5) Total funds allocated for the construction works, breaking down the budget for various phases of the project providing the expected commencement and completion duties and ensuring transparency by accountability.

The Speaker (Hon. Kingi): Sen. Mohammed Chute, please proceed.

PROGRESS OF AFFORDABLE HOUSING PROGRAMME AND RELATED INFRASTRUCTURE DEVELOPMENT

Sen. Chute: Thank you, Hon. Speaker, Sir. I rise pursuant to Standing Order 53(1) to seek a statement from the Standing Committee on Roads, Transportation and

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Housing regarding the progress of the affordable housing and related infrastructure development.

In the Statement, the Committee should address the following-

(1) The total number of completed affordable housing units, their total construction costs, the amount already paid to contractors, any pending payments and the selling cost of the housing units per square metre highlighting variations based on location and unit type;

(2) The role the Ministry of Public Works and National Construction Authority plays in overseeing affordable housing projects, particularly in ensuring compliance and maintaining quality standards;

(3) Number of housing units the National Housing Corporation (NHC) is currently constructing, the number handed over, the outstanding payment due to National Housing Corporation, and disclose any loans secured by the National Housing Corporation from commercial banks, including their interest rates and the payment terms;

(4) Housing levy collections, detailing the total amount raised to date, allocation of monies to the various housing projects, the number of fully paid-for houses handed over to beneficiaries, the number of land titles issued under the affordable housing programme, the total land size in acreage that was transferred, and the distribution of title deeds between individual developers and the joint ownerships; and,

(5) Whether the Government invested housing levy collected in treasury bonds, and if so, what are the applicable interest rates and investment durations.

STATUS OF DEVELOPMENT PROJECTS IN MARSABIT COUNTY

Mr. Speaker, Sir, again, I rise pursuant to Standing Order 53(1) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the recorded progress of development projects in Marsabit County.

It is commendable to see county governments prioritizing development. Statistics show that Marsabit County, in particular, stands out as having allocated 38.6 per cent of its budget in the Financial Year 2023/2024 for development, the highest among the counties. It is necessary to verify whether the recorded progress aligns with the actual situation on the ground.

In the Statement, the Committee should address the following-

(1) The key development projects undertaken in Marsabit County, including their scope and current status, while verifying whether they are physically evident on the ground;

(2) The major project listed in official records; an assessment of the reported progress and the actual impact on residents and whether the records accurately reflect the reality on the ground;

(3) The level of community involvement and the oversight in the implementation of these projects, including whether residents have been engaged in monitoring and providing feedback on their effectiveness; and,

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(4) Measures in place to enhance transparency and accountability in reporting progress on development projects and any challenges affecting implementation and recommend strategies to ensure that documented achievement aligns with actual outcomes.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Veronica Maina.

FINANCIAL CRISIS AT THE TECHNICAL
UNIVERSITY OF KENYA

Sen. Miraj: Mr. Speaker, Sir, on behalf of Sen. Veronica Maina, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Education regarding the financial crisis at the Technical University of Kenya (TUK) and plans to lay off staff and alter employment contracts.

Mr. Speaker, Sir, the planned staff reductions and restructuring raise serious concerns about the quality of education, staff welfare and the long-term sustainability of the institution.

In the Statement, the Committee should address the following-

(1) The measures being taken to ensure that staff layoffs do not compromise the quality of education, including strategies to address potential shortages of teaching personnel and safeguard student learning experiences;

(2) The financial justifications for the layoffs, including a report on the university's financial health, the specific reasons for the crisis and the basis for reducing staff to 893 by the Financial Year 2027/2028. Further, consider how the projected savings of cash, Kshs2.44 billion, will contribute to financial stability.

(3) The legal basis for altering employment terms, including contract renewals, the removal of gratuity payments and the justification of retaining specific numbers of graduate assistants and tutorial fellow, while replacing contract staff with part-time lecturers.

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. May Sen. Miraj be heard in silence, please?

Sen. Miraj: Additionally, query the financial rationale behind these changes and their projected cost savings.

(4) The strategies in place to caution affected staff members, including details of consultations with staff unions and other stakeholders, the processes of selecting employees for termination and any compensation or support mechanisms provided.

(5) The Government interventions to address the financial challenges facing public universities, particularly TUK and the long-term strategies to ensure sustainable funding for higher education institutions.

(6) Alternative revenue-generating plans the university is exploring to reduce reliance on Government funding and avoid future financial crises.

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

The Speaker (Hon. Kingi): Now, hon. Senators, pursuant to Standing Order No.45, allow me to rearrange today's Order Paper.

We will now move to Order No.8. You will notice that Order No.8 is on the County Governments Additional Allocations Bill (Senate Bills No.1 of 2025) and is coming for the Committee of the Whole.

After we are done with the Committee of the Whole, I urge you not to leave the Chamber, so that we move straight to the Third Reading and dispense with this particular Bill. We are really behind schedule on this Bill. If we can conclude the entire process today, we will have done a lot of justice to the people of this country. Therefore, I will call upon the Clerk to move to Order No.8.

Clerk, call that Order, please.

COMMITTEE OF THE WHOLE

THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL (SENATE BILLS NO.1 OF 2025)

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

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

The Temporary Speaker (Sen. Mumma): Hon. Senators, we are in the Committee of the Whole to consider the County Governments Additional Allocations Bill (Senate Bills No.1 of 2025). We will canvass through each of the clauses and the division will be at the end.

Clauses 3 and 4

The Temporary Chairperson (Sen. Mumma): I propose the question that Clauses 3 and 4 be part of the Bill.

(Question, that Clauses 3 and 4 be part of the Bill, proposed)

Division will be at the end.

Clause 5

Sen. Ali Roba: Madam Temporary Chairperson, I beg to move-/

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THAT Clause 5 of the Bill be amended—

- (a) in subclause (1) by deleting paragraph (e);
- (b) by deleting subclause (2);
- (c) by deleting subclause (4) and substituting therefor the following new subclause—
 - (4) Conditional allocations financed by proceeds of loans or grants from development partners to each county government for the financial year 2024/25 shall be as set out in Column T of the Fourth Schedule comprising—
 - (a) conditional allocations from a grant by DANIDA to finance Primary Healthcare in Devolved Context as set out in Column B;
 - (b) conditional allocations financed by proceeds from an IDA (World Bank) loan to finance the Kenya Informal Settlement Improvement Project (KISIP II) as set out in Column C;
 - (c) conditional allocations financed by proceeds from an AFD (French Development Agency) loan to finance the Kenya Informal Settlement Improvement Project (KISIP II) as set out in Column D;
 - (d) conditional allocations financed by proceeds from an IDA (World Bank) loan to finance Emergency Locust Response Project (ELRP) as set out in Column E;
 - (e) conditional allocations financed by proceeds from a KfW (German Development Bank) loan for co-financing of FLLoCA – County Climate Resilience Investment (CCRI) Grant amounting to Kenya shillings one billion, two hundred million as set out in Column F;
 - (f) conditional allocations financed by proceeds from an IDA (World Bank) loan for the FLLoCA - County Climate Resilience Investment (CCRI) Grant amounting to Kenya shillings three billion, seven hundred and twelve million as set out in Column G;
 - (g) conditional allocations financed by proceeds from an IDA (World Bank) loan for the Food Systems Resilience Project - FSRP as set out in Column H;
 - (h) conditional allocations financed by proceeds from an IDA (World Bank) loan for the National Agricultural Value Chain Development Project (NAVCDP) as set out in Column I;
 - (i) conditional allocations from an IDA (World Bank) loan to finance Water and Sanitation Development Project (WSDP) as set out in Column J;
 - (j) conditional allocations financed by proceeds from an IDA (World Bank) loan for the Kenya Devolution Support Programme (KDSP II) as set out in Column K;
 - (k) conditional allocations financed by proceeds from an IDA (World Bank) Loan for the Kenya Urban Support Project (KUSP) - Urban Institutional Grant (UIG) as set out in Column L;
 - (l) conditional allocations financed by proceeds from an IDA (World Bank) Loan for the Kenya Urban Support Project (KUSP) - Urban Development Grant (UDG) as set out in Column M;
 - (m) conditional allocations financed by proceeds from an International Fund for Agricultural Development (IFAD) loan for the Kenya Livestock Commercialization Project (KeLCoP) as set out in Column N;

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(n) conditional allocations financed by proceeds from a KfW (German Development Bank) Loan for the Drought Resilience Programme in Northern Kenya (DRPNK) as set out in Column P;

(o) conditional allocations financed by proceeds from an International Fund for Agricultural Development (IFAD) loan for the Aquaculture Business Development Programme (ABDP) as set out in Column Q;

(p) conditional allocations financed by proceeds from a grant financed by the United Nations Fund for Population Activities (UNFPA) for the tenth Country Program as set out in Column R; and

(q) conditional allocations financed by proceeds from a grant financed by the SWEDEN - Kenya Agricultural Business Development Project (KABDP) as set out in Column S; and

(d) in subclause (5) by deleting the expression “(4)(d) and (e)” appearing in the introductory clause and substituting therefor the expression “(4)(e) and (f)”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 6, 7 and 8

(Question, that Clauses 6, 7 and 8 be part of the Bill, proposed)

Hon. Senators, Division will be at the end.

First Schedule

Sen. Ali Roba: Madam Temporary Chairperson, I beg to move-
 THAT the Bill be amended by deleting the First Schedule and substituting
 therefor the following new Schedule—

FIRST SCHEDULE

(s. 5(1))

Conditional Additional Allocations to County Governments from National Government's Share of Revenue in FY 2024/25 (Kenya Shillings)							
S N	COUNTY	FY 2023/24	FY 2024/25				
		Total Condition al Additional Allocation s	Suppleme nt Construct ion of County Headquar ter	County Aggregation and Industrial Parks (CAIP) Programme	Communit y Health Promoters (CHPs) Project	Basic Salary Arrears for County Governme nt Health Workers.	Total Conditional Additional Allocations
		Column A	Column B	Column C	Column D	Column E	Column G
1	Baringo	92,926,764			63,810,000	19,263,318	83,073,318
2	Bomet	132,634,641			74,070,000	21,261,693	95,331,693
3	Bungoma	492,962,800		186,000,000	107,400,000	39,854,059	333,254,059
4	Busia	376,591,665		186,000,000	66,390,000	23,691,627	276,081,627
5	Elgeyo/Marakwet	64,400,155			37,200,000	15,685,017	52,885,017
6	Embu	363,131,838		186,000,000	60,300,000	32,801,231	279,101,231
7	Garissa	264,807,925		186,000,000	74,520,000	32,981,339	293,501,339
8	Homa Bay	415,917,803		186,000,000	88,620,000	26,419,251	301,039,251
9	Isiolo	64,333,234	115,350,161		21,630,000	12,147,883	149,128,044
10	Kajiado	41,355,485			50,070,000	43,495,118	93,565,118
11	Kakamega	294,386,469			127,500,000	44,529,977	172,029,977
12	Kericho	140,552,947			45,690,000	43,439,856	89,129,856
13	Kiambu	409,665,074		52,631,579	94,680,000	119,957,202	267,268,781

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Conditional Additional Allocations to County Governments from National Government's Share of Revenue in FY 2024/25 (Kenya Shillings)							
S N	COUNTY	FY 2023/24	FY 2024/25				
		Total Condition al Additional Allocation s	Suppleme nt Construct ion of County Headquar ter	County Aggregation and Industrial Parks (CAIP) Programme	Communit y Health Promoters (CHPs) Project	Basic Salary Arrears for County Governme nt Health Workers.	Total Conditional Additional Allocations
		Column A	Column B	Column C	Column D	Column E	Column G
14	Kilifi	138,924,099			116,100,000	58,281,743	174,381,743
15	Kirinyaga	367,510,449		186,000,000	36,660,000	19,389,816	242,049,816
16	Kisii	186,645,942		184,473,684	88,200,000	72,428,277	345,101,961
17	Kisumu	130,537,637			89,940,000	75,399,627	165,339,627
18	Kitui	179,499,580			74,100,000	43,756,694	117,856,694
19	Kwale	90,011,220		250,000,000	52,140,000	28,773,123	330,913,123
20	Laikipia	76,547,852			25,230,000	40,454,974	65,684,974
21	Lamu	62,515,370	264,732,161		14,520,000	11,301,830	290,553,991
22	Machakos	445,350,986		186,000,000	83,250,000	58,646,293	327,896,293
23	Makueni	173,836,213			113,700,000	30,568,273	144,268,273
24	Mandera	13,777,962			18,540,000	19,809,159	38,349,159
25	Marsabit	2,389,320			60,090,000	15,028,763	75,118,763
26	Meru	488,329,627		186,000,000	111,480,000	43,915,785	341,395,785
27	Migori	394,621,807		186,000,000	88,380,000	27,687,815	302,067,815
28	Mombasa	262,131,098		52,631,579	71,610,000	108,971,914	233,213,493
29	Murang'a	452,896,800		52,631,579	46,050,000	56,993,611	155,675,190
30	Nairobi	14,721,991			224,010,000	112,268,649	336,278,649

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Conditional Additional Allocations to County Governments from National Government's Share of Revenue in FY 2024/25 (Kenya Shillings)							
S N	COUNTY	FY 2023/24	FY 2024/25				
		Total Condition al Additional Allocation s	Suppleme nt Construct ion of County Headquar ter	County Aggregation and Industrial Parks (CAIP) Programme	Communit y Health Promoters (CHPs) Project	Basic Salary Arrears for County Governme nt Health Workers.	Total Conditional Additional Allocations
		Column A	Column B	Column C	Column D	Column E	Column G
31	Nakuru	484,883,209		52,631,579	99,390,000	90,404,261	242,425,840
32	Nandi	378,705,606		52,631,579	96,660,000	26,764,781	176,056,360
33	Narok	139,655,079			49,800,000	21,496,514	71,296,514
34	Nyamira	342,563,428		52,631,579	44,370,000	19,979,711	116,981,290
35	Nyandarua	242,624,039			41,610,000	16,043,981	57,653,981
36	Nyeri	156,487,648			74,250,000	55,172,326	129,422,326
37	Samburu	12,431,664			46,140,000	13,079,798	59,219,798
38	Siaya	423,929,548		52,631,579	63,810,000	22,723,820	139,165,399
39	Taita Taveta	50,418,729			41,070,000	32,591,911	73,661,911
40	Tana River	136,049,566	95,045,250		28,890,000	6,982,057	130,917,307
41	Tharaka Nithi	174,459,830	47,981,059		37,950,000	24,597,481	110,528,540
42	Trans Nzoia	366,941,692		52,631,579	67,200,000	46,626,677	166,458,256
43	Turkana	12,815,035			74,250,000	24,986,518	99,236,518
44	Uasin Gishu	379,487,557		186,000,000	61,980,000	9,600,471	257,580,471
45	Vihiga	97,662,444			43,380,000	15,044,112	58,424,112
46	Wajir	11,656,907		184,473,684	60,810,000	19,869,801	265,153,485
47	West Pokot	72,161,965			77,490,000	13,933,594	91,423,594
	GRAND TOTAL	10,116,848,690	523,108,631	2,900,000,000	3,234,930,000	1,759,101,729	8,417,140,360

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This amendment to the Schedule is to delete allocation on transfer of museums function and increase the allocation on archives from Kshs2 billion to Kshs2.9 billion.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Second Schedule

Sen. Ali Roba: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the Second Schedule.

Noting that the High Court in Issa, Elanyi Chemau Versus National Assembly Case No. HCPE423/2024 issued a conservatory order freezing funds held by the Kenya Roads Board collected as roads maintenance levy fund for FY 2024/2025 amounting to Kshs10.522 billion which was proposed to be allocated in the county government. The allocation may not be utilized due to High Court conservatory order freezing the proposed allocation to the counties in RLFM.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

The Third Schedule

(Question, that the Third Schedule be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Fourth Schedule

Sen. Ali Roba: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the Fourth Schedule and substituting therefor the following new Schedule-

FOURTH SCHEDULE

(s.5(4))

Conditional Additional Allocations from proceeds of loans or grants from Development Partners for Financial Year 2024/25 (Kenya Shillings)																				
S N	County	FY 2024/25																		
		Total Loans and Grants for FY 2023/24	DANIDA Grant to finance Primary Health Care in Kenya Informal Settlement	AFD- Kenya Informal Settlement	IDA (World Bank)- Emergency Locust Response	KfW (Germany Development Bank) loan for Co-	IDA (World Bank) - loan for the Financing of	IDA (World Bank) Loan for the Food Systems Resilience	IDA World Bank Loan for the National	IDA (World Bank) loan for the Water & Sanitation	IDA (World Bank)- Kenya Devolution Support Program-	IDA (World Bank) Credit: Kenya Urban	IDA (World Bank) Credit: Kenya Urban Support	International Fund for Agricultural Development/IFAD	KfW (German Development Bank) Loan for Drought	International Fund for Agricultural Development/IFAD	United Nations Fund For	SWEDEN - Kenya Agricultural Business	Total Loans and Grants for FY 2024/25	
		Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N	Column P	Column Q	Column R	Column S	Column T
1	Baringo	315,951,823	7,848,750			121,025,000			173,076,923.08			37,500,000	35,000,000	18,190,995	40,150,000			9,620,000	10,918,919	453,330,587
2	Bomet	416,348,367	8,482,500							151,515,152		37,500,000	35,000,000	18,278,289					10,918,919	261,694,859
3	Bungoma	725,703,372	13,698,750	297,400,170						151,515,152		37,500,000	35,000,000	100,434,139	37,950,000			7,400,000	10,918,919	691,817,130
4	Busia	494,609,948	9,262,500							151,515,152		37,500,000	35,000,000	76,464,543	33,550,000		22,585,560		10,918,919	376,796,673
5	Elgeyo/Marakwet	438,967,355	5,947,500	261,751,540	239,000,000	121,025,000			173,076,923.08			37,500,000	35,000,000	18,278,289	40,150,000				10,918,919	942,648,171
6	Embu	432,399,863	6,630,000			104,600,000				151,515,152		37,500,000	35,000,000	52,595,562			10,237,551		10,918,919	408,997,184
7	Garissa	969,813,544	10,822,500			142,500,000			173,076,923.08		450,000,000	37,500,000	105,000,000	342,462,888				9,620,000	10,918,919	1,281,901,230
8	Homa Bay	925,853,896	10,383,750	500,000,000	487,020,992					151,515,152		37,500,000	35,000,000	54,661,088			12,909,422		10,918,919	1,299,909,323
9	Isiolo	311,037,485	6,532,500			142,500,000			173,076,923.08			37,500,000	35,000,000	63,661,198				9,620,000	10,918,919	478,809,540
10	Kajiado	471,830,160	9,896,250		180,626,011					151,515,152		37,500,000	35,000,000	227,801,862			10,509,643		10,918,919	663,767,837

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Conditional Additional Allocations from proceeds of loans or grants from Development Partners for Financial Year 2024/25 (Kenya Shillings)																				
S N	Count y	FY 2024/25																		
		Total Loans and Grants for FY 2023/24	DANIDA Grant to finance Primary Health Care in Kenya Informal Settlement	AFD- Kenya Informal Settlement	IDA (World Bank)- Emergency Locust Response	KfW (Germany Development Bank) loan for Co-	IDA (World Bank) - loan for the Financing of	IDA (World Bank) Loan for the Food Systems Resilience	IDA World Bank Loan for the National	IDA (World Bank) loan for the Water & Sanitation	IDA (World Bank)- Kenya Devolution Support Program-	IDA (World Bank) Credit: Kenya Urban	IDA (World Bank Credit: Kenya Urban Support	International Fund for Agricultural Development/IFAD	KfW (German Development Bank) loan for Decent	International Fund for Agricultural Development/IFAD	United Nations Fund For	SWEDEN - Kenya Agricultural Business	Total Loans and Grants for FY 2024/25	
		Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N	Column P	Column Q	Column R	Column S	Column T
11	Kakamega	718,303,924	16,038,750		110,000,000					151,515,152		37,500,000	35,000,000	120,740,969	33,550,000		24,417,125		10,918,919	539,680,914
12	Kericho	425,238,177	8,287,500							151,515,152		37,500,000	35,000,000	43,550,249					10,918,919	286,771,819
13	Kiambu	619,767,708	14,527,500		464,543,092					151,515,152		37,500,000	35,000,000	1,331,483,863			19,395,531		10,918,919	2,064,884,057
14	Kilifi	1,933,698,769	16,087,500	417,190,432	343,080,069					151,515,152	1,700,000,000	37,500,000	35,000,000	157,132,672					10,918,919	2,868,424,743
15	Kirinyaga	321,850,768	6,532,500							151,515,152		37,500,000	35,000,000	31,719,708			13,779,259		10,918,919	286,965,537
16	Kisii	497,975,162	11,992,500							151,515,152		37,500,000	35,000,000	90,993,018			21,486,575		10,918,919	359,406,163
17	Kisumu	712,753,681	10,530,000	655,000,000	195,000,000					151,515,152		37,500,000	35,000,000	340,394,236			15,407,244		10,918,919	1,451,265,550
18	Kitui	572,895,523	13,601,250			121,025,000				151,515,152		37,500,000	35,000,000	41,801,769					10,918,919	411,362,090
19	Kwale	1,360,841,563	11,992,500		120,188,971					151,515,152	1,000,000,000	37,500,000	35,000,000	81,159,202				6,660,000	10,918,919	1,454,934,743
20	Laikipia	113,806,027	6,435,000						173,076,923.08			37,500,000	35,000,000	77,214,879					10,918,919	340,145,721
21	Lamu	226,55	3,997	28,12	282,0				173,07			37,50	35,00	20,54					10,91	591,16

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		Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N	Column P	Column Q	Column R	Column S	Column T
		4,314	,500	8,530	00,000				6,923.08			0,000	0,000	7,228					8,919	9,100
22	Machakos	497,315,830	11,943,750			104,600,000				151,515,152		37,500,000	35,000,000	90,174,566			12,262,438		10,918,919	453,914,825
23	Makueni	427,861,686	11,407,500							151,515,152		37,500,000	35,000,000	40,167,542					10,918,919	286,509,113
24	Mandera	394,543,782	15,746,250			142,500,000			173,076,923.08			37,500,000	35,000,000	142,013,441					10,918,919	556,755,533
25	Marsabit	752,548,603	10,432,500			142,500,000			173,076,923.08			37,500,000	35,000,000	29,373,188	41,250,000	462,435,270			10,918,919	942,486,800
26	Meru	632,068,340	12,382,500	193,506,111		104,600,000				151,515,152		37,500,000	35,000,000	106,048,304			23,306,984		10,918,919	674,777,970
27	Migori	476,656,818	10,432,500							151,515,152		37,500,000	35,000,000	112,844,666			13,617,785		10,918,919	371,829,021
28	Mombasa	1,344,390,789	10,871,250	860,000,000							1,000,000,000	37,500,000							10,918,919	1,919,290,169
29	Muranga	340,120,990	9,701,250							151,515,152		37,500,000	35,000,000	70,743,658					10,918,919	315,378,978
30	Nairobi	443,556,020	24,521,250	60,000,000	690,000,000							37,500,000						8,950,000	10,918,919	831,890,169
31	Nakuru	708,709,964	16,136,250	128,000,000	422,000,000					151,515,152		37,500,000	35,000,000	671,683,50	38,280,000				10,918,919	1,511,033,829

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		Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N	Column P	Column Q	Column R	Column S	Column T
				0	0					2				9						
32	Nandi	548,60 1,906	8,238 ,750	208,3 54,05 8						151,5 15,15 2		37,50 0,000	35,00 0,000	33,99 3,380					10,91 8,919	485,52 0,258
33	Narok	429,84 1,625	12,38 2,500							151,5 15,15 2		37,50 0,000	35,00 0,000	71,23 8,901				7,40 0,00 0	10,91 8,919	325,95 5,472
34	Nyamira	594,60 1,640	7,410 ,000	148,1 23,32 2						151,5 15,15 2		37,50 0,000	35,00 0,000	19,81 7,128					10,91 8,919	410,28 4,520
35	Nyandarua	442,23 9,423	7,507 ,500	288,4 62,53 3						151,5 15,15 2		37,50 0,000	35,00 0,000	36,55 6,578					10,91 8,919	567,46 0,681
36	Nyeri	476,03 6,010	8,336 ,250		360,6 03,07 6					151,5 15,15 2		37,50 0,000	35,00 0,000	64,81 9,483			19,31 5,146		10,91 8,919	688,00 8,026
37	Samburu	371,32 7,699	7,117 ,500			142,5 00,00 0			173,07 6,923. 08			37,50 0,000	35,00 0,000	25,37 5,442	41,25 0,000				10,91 8,919	472,73 8,784
38	Siaya	435,49 9,920	8,921 ,250							151,5 15,15 2		37,50 0,000	35,00 0,000	45,21 8,472	33,55 0,000		13,83 8,473		10,91 8,919	336,46 2,265
39	Taita Taveta	1,314, 783,30 4	6,532 ,500		190,6 26,01 1					151,5 15,15 2	850,00 0,000	37,50 0,000	35,00 0,000	18,27 8,289					10,91 8,919	1,300, 370,87 0
40	Tana River	345,47 9,159	9,018 ,750						173,07 6,923. 08	151,5 15,15 2		37,50 0,000	35,00 0,000	18,27 8,289					10,91 8,919	435,30 8,032
41	Tharaka Nithi	525,18 2,222	6,045 ,000	168,9 45,34 7		104,6 00,00 0				151,5 15,15 2		37,50 0,000	35,00 0,000	66,36 2,245			12,81 0,384		10,91 8,919	593,69 7,047

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Conditional Additional Allocations from proceeds of loans or grants from Development Partners for Financial Year 2024/25 (Kenya Shillings)																				
S N	County	FY 2024/25																		
		Total Loans and Grants for FY 2023/24	DANIDA Grant to finance Primary Health Care in Kenya Informal Settlement	AFD- Kenya Informal Settlement	IDA (World Bank)- Emergency Locust Response	KfW (Germany Development Bank) loan for Co-	IDA (World Bank) - loan for the Financing of	IDA (World Bank) Loan for the Food Systems Resilience	IDA World Bank Loan for the National	IDA (World Bank) loan for the Water & Sanitation	IDA (World Bank)- Kenya Devolution Support Program-	IDA (World Bank) Credit: Kenya Urban	IDA (World Bank) Credit: Kenya Urban Support	International Fund for Agricultural Development/IFAD	KfW (German Development Bank) loan for Devolut	International Fund for Agricultural Development/IFAD	United Nations Fund For	SWEDEN - Kenya Agricultural Business	Total Loans and Grants for FY 2024/25	
		Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K	Column L	Column M	Column N	Column P	Column Q	Column R	Column S	Column T
42	Trans Nzoia	797,444,171	8,872,500	621,834,073						151,515,152		37,500,000	35,000,000	131,267,528	39,050,000				10,918,919	1,035,958,171
43	Turkana	987,506,777	16,233,750			142,500,000			173,076,923.08			37,500,000	105,000,000	286,858,966		319,534,140		5,920,000	10,918,919	1,097,542,698
44	Uasin Gishu	926,935,857	9,750,000	320,000,000	670,000,000					151,515,152		37,500,000	35,000,000	385,055,948					10,918,919	1,619,740,018
45	Vihiga	392,745,156	7,166,250							151,515,152		37,500,000	35,000,000	18,278,289					10,918,919	260,378,609
46	Wajir	1,173,364,095	13,162,500		488,615,663	142,500,000			173,076,923.08		700,000,000	37,500,000	35,000,000	72,942,053					10,918,919	1,673,716,058
47	West Pokot	287,043,448	7,702,500			121,025,000			173,076,923.08			37,500,000	35,000,000	23,043,492					10,918,919	408,266,834
	GRAND TOTAL	29,072,606,661	487,500,000	5,156,696,115	5,243,303,885	1,900,000,000	1,200,000,000	3,712,000,000	2,250,000,000	5,000,000,000	5,700,000,000	1,762,500,000	1,715,000,000	5,890,000,000	378,730,000	781,969,410	245,879,120	65,190,000	513,189,193	42,001,957,723

* Both IDA (World Bank) Loan for the FLLoCA – County Climate Resilience Investment (CCRI) and KfW (Germany Development Bank) Loan for Co-Financing of FLLoCA - County Climate Resilience Investment (CCRI) Grants are to be allocated among County Governments on the basis of the Criteria in section 5(5).

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This amendment is meant to allocate counties Kshs42.001 billion instead of Kshs35.658 billion from the proceeds of loans and grants from development partners. This is informed by the increase in various additions across the projects supported by funds from development partners.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 2, the Title and Clause 1

*(Question, that Clause 2, the Title and Clause 1
be part of the Bill, proposed)*

Division will be at the end. Can the Division Bell be rung for five minutes so that we go into Division?

(Division Bell was rung)

The Temporary Chairperson (Sen. Mumma): Serjeant-at-Arms, I think the bell can be stopped.

Hon. Senators, we are now moving to Division.

Serjeant-at-Arms, please, draw the Bar and close the doors.

(The Bar was drawn and the doors closed)

Hon. Members, please, withdraw the cards and then log back again. Serjeant-at-Arms, please check any unattended cards and withdraw them.

(Voting in progress)

Hon. Members, you may proceed to vote. There are some Members that have not voted. Sen. Omtatah, please, approach the bench. Sen. Thang'wa and Sen. Abbas. Commissioner (Sen.) Korir, please. You may vote now. No, you do not need to log out, just vote, please.

DIVISION

ELECTRONIC VOTING

(Question, that Clause 5, the First Schedule and the Fourth Schedule be amended as proposed, put and the Senate proceeded to vote by county delegations)

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AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandela County; Sen. Chesang, Trans Nzoia County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Ogolla, Homa Bay County; Sen. Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Korir, Bomet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mungatana, MGH, Tana River County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Omogeni, Nyamira County; Sen. Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County and Sen. (Prof.) Tom Ojienda SC, Kisumu County.

The Temporary Chairperson (Sen. Mumma): Hon. Senators, the results of the Division are as follows:

AYES: 27

NOES: Nil

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 27 votes to Nil)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 3, 4, 5 (as amended), 6, 7, 8, The First Schedule (as amended), the Third Schedule, the Fourth Schedule (as amended), Clause 2, the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandela County; Sen. Chesang, Trans Nzoia County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Ogolla, Homa Bay County; Sen. Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Korir, Bomet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mungatana, MGH, Tana River County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Omogeni, Nyamira County; Sen. Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County and Sen. (Prof.) Tom Ojienda SC, Kisumu County.

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The Temporary Chairperson (Sen. Mumma): Hon. Senators, I will now announce the results.

AYES: 27

NOES: Nil

ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 27 votes to Nil)

DIVISION

ELECTRONIC VOTING

(Question, that The Second Schedule be deleted, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandela County; Sen. Chesang, Trans Nzoia County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang’a County; Sen. Ogolla, Homa Bay County; Sen. Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Korir, Bomet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Madzayo, Kilifi County; Sen. Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mungatana, MGH, Tana River County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Omogeni, Nyamira County; Sen. Omtatah, Busia County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado; Sen. Sifuna, Nairobi City County; Sen. Thang’wa, Kiambu County and Sen. (Prof.) Tom Ojienda SC, Kisumu County.

The Temporary Chairperson (Sen. Mumma): Hon. Senators, the results of the Division are as follows:

AYES: 27

NOES: Nil

ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 27 votes to Nil)

Sen. Ali Roba: Hon. Temporary Chairperson, I beg to move that the Committee do report to the Senate the consideration of the County Government Additional Allocations Bill (Senate Bills No. 1 of 2025) and its approval thereof with amendments.

(Question proposed)

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(Question put and agreed to)

(The House resumed)

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

CONSIDERATION OF REPORT

THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL (SENATE BILLS NO.1 OF 2025)

The Temporary Speaker (Sen. Mumma): Senate Majority Leader, please report.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the County Governments Additional Allocation Bill (Senate Bill No.1 of 2025) and its approval thereof with amendments.

Sen. Ali Roba: Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request Sen. (Dr.) Khalwale to second.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, very happily, I rise to second. I want it to remain clear that the reason we are struggling this much, this late in the financial year, is because Members of the National Assembly agreed on controlling more and more millions of shillings. That is the reason we were forced to remove the Kshs 10.5 billion for the Road Maintenance Levy (RML) so that life can go on.

Hon. Members of the National Assembly, please, style up. Even if you control the entire budget of Kenya, some of you will win and many of you will lose.

Thank you, Madam Temporary Speaker.

(Applause)

(Question proposed)

(Question put and agreed to)

Sen. Ali Roba: Madam Temporary Speaker, I beg to move that the County Governments Additional Allocation Bill (Senate Bill No.1 of 2025) be now read a Third Time.

I request Sen. Edwine Sifuna to second.

Sen. Sifuna: Madam Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Sen. Mumma): Serjeant-at-Arms, can you ring the Bell for two minutes, please?

(The Division Bell was rung)

Serjeant-at-Arms, you may stop ringing the Bell. Please, close the doors and draw the bars.

(The doors were closed and the bars drawn)

Hon. Senators, we are now taking Division on the County Government Additional Allocations Bill (Senate Bill No.1 of 2025). Hon. Senators, just give them a few seconds to sort the system.

Hon. Senators, you may now vote.

(Voting in progress)

Hon. Senators, because of the system error, I would like to ask you to vote again. Please, display the question properly.

I wish to direct that we vote by roll call. Could we have the Tellers for the ‘Ayes’ and ‘Noes’? Majority and Minority sides, please provide Tellers for the ‘Ayes’ and ‘Noes.’ We have Sen. Mundigi and Sen. Shakila. Thank you.

Clerk, please, call out the names.

(Voting in progress)

THIRD READING

THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL (SENATE BILLS NO.1 OF 2025)

DIVISION

ROLL CALL VOTING

(Question, that the County Governments Additional Allocations Bill (Senate Bill No.1 of 2025) be now read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County;

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Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kisang, Elgeyo Marakwet County; Sen. Korir, Bomet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mwaruma, Taita Taveta County; Sen. Ogola, Homa Bay County; Sen. (Prof.) Ojienda, Kisumu County; Sen. Okiya Omtatah, Busia County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County; and, Sen. Wambua, Kitui County.

Teller of the Ayes: Sen. Mundigi

Teller of the Noes: Sen. Shakila Abdalla

The Temporary Speaker (Sen. Mumma): The results of the division are as follows -

AYES: 32

NOES: Nil

ABSTENSIONS: Nil

(Question carried by 32 votes to Nil)

(The Bill was accordingly read a Third Time and passed)

The Temporary Speaker (Sen. Mumma): Hon. Senators, we will again reorganize the Order Paper to come to Order No. 9 and 10 before we resume the Order Paper as was laid out.

MOTION

ADOPTION OF REPORT ON CONSIDERATION OF THE NADCO AND MULTI-SECTORAL WORKING GROUP REPORT ON THE REALIZATION OF THE TWO-THIRDS GENDER PRINCIPLE

THAT, the Senate adopts the Joint Report of the National Assembly Departmental Committee on Justice and Legal Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Report of the National Dialogue Committee (NADCO) and the Report of the Multi-Sectoral Working Group on the realization of the Two-thirds Gender Principle, laid on the Table on Thursday, 13th February, 2025.

(Sen. Wakili Sigei on 12.3.2025)

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(Resumption of debate interrupted on 20.3.2025)

(Question put and agreed to)

MOTION

NOTING OF THE REPORT ON THE 9TH IPU CONFERENCE OF YOUNG PARLIAMENTARIANS HELD IN HANOI

THAT, the Senate notes the Report of the 9th Inter-Parliamentary Union (IPU) Global Conference of Young Parliamentarians held in Hanoi, Vietnam from 15th to 17th September, 2023 laid on the table of Senate on Tuesday, 5th March, 2024.

(Resumption of debate interrupted on Thursday, 20th March, 2025)

(Question put and agreed to)

(Resumption of debate on Statements)

We now go back to Order No.7. Proceed, Sen. (Prof.) Ojienda.

STATEMENTS

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, I rise to make two Statements. My first Statement is on the operations and impact of the Kisumu Fish Market Complex.

OPERATIONS AND IMPACT OF KISUMU FISH MARKET COMPLEX

I rise, pursuant to Standing Order No. 53(1), to seek a Statement from the Committee on Trade, Industrialization, and Tourism regarding the operations and impact of the Kisumu Fish Market Complex.

Madam Temporary Speaker, the Kisumu Fish Market Complex was established with the objective of enhancing fish trade, providing modern storage and processing facilities, and boosting the economic welfare of fishermen and traders within Kisumu County. However, since its operationalization, several concerns have been raised relating to its management, accessibility and overall effectiveness in achieving its intended goals.

In the Statement, the Committee should-

(1) State or address the current operational status of the Kisumu Fish Market Complex, including providing details on the number of traders utilizing it, its capacity, the infrastructure and services available such as cold storage processing units, sanitation and security;

(2) Provide the total cost of the project, indicating the sources of funding, budgetary allocations for development and maintenance and the socioeconomic benefits accrued, including the jobs created;

(3) Indicate the management structure of the facility, stating whether it is under the county government, national Government, or under public-private partnership and clarify the revenue sharing model in place; and,

(4) State the key challenges affecting the complex functionality and the corrective measures undertaken to ensure the facility meets its intended objectives.

PERENNIAL STRIKES BY DIGITAL TAXI DRIVERS

My Second Statement is on the perennial strikes by digital taxi drivers, Uber and Bolt.

Madam Temporary Speaker, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Committee on Roads, Transportation and Housing regarding perennial strikes by digital taxi drivers in Kenya.

Digital taxi drivers have repeatedly gone on strike over exploitative pricing models and high commission rates by digital taxi operators, which do not take into account the rising costs of operations. The drivers have protested against their exclusion from fare setting and have called for an increase in the base fare to Kshs300, which has never been affected.

In the Statement, the Committee should address the following-

(1) The level of compliance among respective digital drive operators within the 18 per cent cap on the commission to be paid to drivers from total earnings for every trip, including the mechanism in place for monitoring such compliance.

(2) Whether the Government could consider prescribing a base fare rate for digital taxi drivers, considering the failure by the digital taxi operators to adjust the rates to reflect the rising operational costs.

(3) The role of the digital taxi drivers in fare setting and the extent of their involvement in key policy decisions that affect them.

(4) Plans by the Government to reform the existing regulatory framework for the digital taxi sector to enhance fairness and transparency.

I thank you.

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ESAMI

The Temporary Speaker (Sen. Mumma): Hon. Senators, I have a Communication to make on a visiting delegation from the Eastern and Southern African Management Institute (ESAMI).

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation from ESAMI. The delegation is undertaking a one-day visit to the Senate.

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

1. Dr. Peter Kiuluku - Director General
2. Mr. Paul Ooga - Country Manager
3. Ms. Laura Wahinya - Marketing Officer

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

Sen. Omogeni: Madam Temporary Speaker, I could maybe say this before I read my Statement. I hope the Senate Majority Leader can listen to this.

We had sought money to upgrade the system. I am making this comment because of the breakdown we experienced.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, please welcome the guests before you make your Statement.

Sen. Omogeni: Madam Temporary Speaker, on my behalf and on behalf of the other Senators, I take this opportunity to extend a warm welcome to the visitors from ESAMI who are visiting the Senate.

I hope that their interaction will enrich the work that they do. The Senate appreciates visitors and we warmly welcome them.

Thank you.

Madam Temporary Speaker, I wanted to make a comment on the system because it is a matter that touches on our welfare.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, I was told you have a Statement.

Sen. Omogeni: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): That is what I want you to read. We will give opportunity for the other statements later.

(Resumption of debate on Statements)

LEADERSHIP AND OPERATIONAL CRISIS
IN NYAMIRA COUNTY ASSEMBLY

Sen. Omogeni: Thank you. Madam Speaker, Sir, I rise pursuant to Standing Order No. 53---

The Temporary Speaker (Sen. Mumma): Order, Sen. Omogeni.

Sen. Omogeni: Sorry, Madam Temporary Speaker. I was reading. What is on my Statement reads, Mr. Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Committee on Devolution and Intergovernmental Relations regarding the leadership and operational crisis currently affecting the County Assembly of Nyamira.

The County Assembly of Nyamira is split into two rival groups, each conducting parallel sittings in different venues. One is at the main County Assembly Building and the other one conducts its sitting in other several towns within the county.

Those split rival groups are led by separate individuals, each claiming to be a legitimate Speaker and clerk of the County Assembly. This state of affairs has caused confusion, has undermined the legislative integrity of the County Assembly, and will potentially jeopardize public confidence in the institution, devolution, and the oversight role of the Senate.

In this Statement, I would wish the Committee to inquire and address the following-

(1) To inquire into the officially designated and gazetted location of the County Assembly of Nyamira and whether sittings that have been held outside that location were duly approved by the County Assembly and table evidence to that effect.

(2) Inquire into the status and legal standing of any business transacted by the two rival functions, including the adoption and passage of the supplementary budget and other legislative decisions that have been made during this standoff.

(3) The Committee to inquire the process through which the two speakers and clerks were appointed and whether due process and relevant standing orders were followed before their installation.

(4) The Committee to inquire the steps taken by the relevant constitutional and intergovernmental bodies to resolve the leadership disputes with a view of restoring order in the County Assembly.

(5) The Committee to make recommendations on initiating and leading our reconciliation and mediation process to return the Assembly to institutional normalcy, safeguard the rule of law, and protect the interest of the residents of Nyamira County.

Madam Temporary Speaker, can I get a minute to comment?

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, please, sit down. I will allow a few minutes for Members to comment on the Statements that have been made.

Sen. Abass, please proceed.

Sen. Abass: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Hon. Members, we will give 30 minutes for comments.

An. Hon. Senator: How many minutes per person?

The Temporary Speaker (Sen. Mumma): Three minutes per person.

(Loud consultations)

The Temporary Speaker (Sen. Mumma): Order, Sen. Omogeni. Sen. Abbas has the Floor.

Sen. Abass: Thank you, Madam Temporary Speaker. I would like to contribute to two Statements. I would like to start with the one by Hon. Chute.

As noted by the Senator of Marsabit County, there has been a lot of developments that have taken place in the counties, according to the reports that we have. However, so many of the developments that have been started in the various counties cannot be accounted for, because most have stalled. For instance, Taita Taveta County has 146 stalled projects. Turkana County equally has so many projects. At least, every county has so many projects that have stalled. These projects have not been completed for the last 13 years. Therefore, as a Chairperson of the Senate Committee on Devolution and Intergovernmental Relations, my Committee has decided to visit each and every county to verify the existence of these stalled projects, so that we can know the truth of the matter on the ground.

I would also like to contribute to Sen. Omogeni's Statement.

Madam Temporary Speaker, it is a very unfortunate situation. After the impeachment of the incumbent Governor failed, there has been parallel Speakers in the Assemblies of Nyamira County. The Assembly has not been operating well. There have been a lot of rivalry. I do not even know how the Governor was approving his budgets. We will visit the place soon, to go and reconcile the two rivalry groups, so that at least, the County Assembly can continue executing their duties.

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Wambua, please, proceed.

Sen. Wambua: Thank you, Madam Temporary Speaker. I would like to address myself to the Statement by Sen. Omogeni on the crisis in the County Government of Nyamira.

When the Governor of Nyamira County appeared before the County Public Accounts Committee, I was present. Without fear of contradiction, I would like to say that if there has been any serious threat to devolution, it is in Nyamira County.

Madam Temporary Speaker, I listened in great disbelief the Governor admitting on record that there are actually two county assemblies in Nyamira; that there are two Speakers, two Clerks, and to make it worse, two official seals of the County Assembly of Nyamira, with each Clerk carrying their own seal.

An. Hon. Senator: How many Senators?

Sen. Wambua: There is one Senator in Nyamira County.

(Applause)

Sen. Wambua: Madam Temporary Speaker, I even asked the Governor to confirm to us whether there is a second Governor in Nyamira County, to which he confirmed that there is only one.

I would like to challenge the Senate Committee on Devolution and Intergovernmental Relations that it is not enough for the Chairperson to tell us that he will visit that county soon. Soon is not soon enough. In fact, this is one situation where that Committee should have moved their own Motion to go and save devolution in Nyamira County.

Madam Temporary Speaker, I therefore would like to ask your office to kindly direct that this Committee, this week, goes to Nyamira County and reports to this House what exactly is happening in Nyamira County. We may actually need to call the County Government of Nyamira, both the Executive and the Assembly, to come and tell us what exactly is the problem in Nyamira County. Counties have conflicts, but the dysfunction in the County of Nyamira is the greatest threat to devolution in the country.

Madam Temporary Speaker, I request you to order that something is done, not soon, but immediately.

I thank you.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, please, proceed.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I would like to comment on the issue of digital taxi operators; an issue that we have spoken about and said that at least the baseline should be Kshs300 when you are hiring or using a digital taxi operator. Looking at the operational cost, the cost of fuel and spare parts is also high, yet, most of the taxi operators who operate these digital taxi operators online are young people.

Now that the public service cannot accommodate everybody, please, let this House ensure that the compliance and operational costs should be increased so that we protect the digital taxi operators. This matter has come up several times. Uber and other digital taxi operators should have an office in Kenya, so that when we raise such issues of digital operation of taxis, we give opportunity to many young people who drive the digital taxis.

Even as we talk about baseline of KShs300, it should be noted that the fuel per litre is almost the same amount. So, if you are paying for that amount, what will you pay for the spare parts?

Madam Temporary Speaker, secondly, I was shocked, and disappointed with the Senate Committee on Devolution and Intergovernmental Relations. The Committee should have taken this matter. You cannot have two Speakers, two Maces, two seals and two Clerks. I have been following Nyamira politics, and I know the governor is a very sharp politician. After the failed impeachment, he decided to create chaos in the County

Assembly. The Senior Counsel, who is the Senator of Nyamira County, should have informed us. Perhaps he assumed that there is judicial notice of what is happening.

Anything that has been passed, and the Senior counsel knows, is illegal. Any budget approvals that the Governor has passed in Nyamira County Assembly are illegal. Therefore, the dysfunctionality of Nyamira County Assembly is not by default, but by design, by the County Executive.

Madam Temporary Speaker, the Members of County Assembly (MCAs) should know that the more they perpetuate the dysfunctionality of the County Assembly of Nyamira, they are undermining and killing devolution in the county. Therefore, the Senate Committee on Devolution and Intergovernmental Relations must come out strongly and address this issue.

I know MCAs have a challenge with the issues of salaries and welfare and the Ward Development Fund. However, we have given them financial autonomy as the MCAs. They, therefore should assist us by protecting devolution.

Madam Temporary Speaker, I hope today you will direct, under Standing Order No.1, that by Tuesday next week, the Senate Committee on Devolution and Intergovernmental Relations, under Standing Order No.56, must report the progress of what is happening in the County of Nyamira.

I support.

The Temporary Speaker (Sen. Mumma): Sen. Faki, please proceed.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia Maombi ya Kauli kutoka kwa Sen. Omogeni.

Mhe. Spika wa Muda, ni masikitiko kuwa Kaunti ya Nyamira inaongoza kwa safari ya kuregesha ugatuzi nyuma. Haiwezekani kuwepo kwa mabunge mawili ya Kaunti ya Nyamira.

Kama alivyozungumza Sen. Cherarkey, Kamati ya Devolution and Intergovernmental Relations itabidi iwaite mahasimu wote pamoja na Gavana wa Kaunti hiyo wiki hii ili watoe mwongozo kuhusu suala hili. Ni aibu kwamba Kaunti ya Nyamira imeshindwa kutatua masuala kama haya madogo. Nakumbuka mwaka wa 2018 tulikuwa na shida katika Kaunti ya Mombasa.

Kulikuwa na watu wanaandamana kila siku kulitisha Bunge la Kaunti ya Mombasa wakisema fagia Bunge! Fagia Bunge! Tulipouliza hapa, baada ya wiki moja, gavana, na spika waliletwa hapa na matatizo haya yakamalizwa siku moja. Kwa hivyo sio masuala ya kungojea.

Haya ni masuala Kamati husika inafaa kuyavalia njuga na wahakikishe ya kwamba kufikia Jumanne wiki ijayo tumepata mwafaka kuhusiana na suala hilo. Haiwezekani kaunti kupoteza wakati kwa kuwa na Mabunge mawili, Maspika wawili, Makarani wawili, Bunge moja likikaa msituni na lingine lakaa mjini. Ni aibu.

Kwa hivyo, naomba Kamati hii husika ifuatilie suala hili kwa haraka ili tupate mwelekeo kuhusu ni nani anayestahili kuendesha mambo ya Bunge la Kaunti ya Nyamira kwa watu wa Nyamira.

Asante, Bi. Spika wa Muda, kwa kunipa fursa hii.

The Temporary Speaker (Sen. Mumma): Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. It is only this afternoon that we have approved an additional Kshs410,284,520 to Nyamira County. We have passed it this afternoon. This is how serious this House is. Where is this money going? It is going to the office of the governor, and in accordance with the provisions of this Constitution, he can only spend it after appropriation by the Assembly.

The governor must tell us, because that is where the buck stops, which County Assembly will be responsible for allowing him to spend this money. The Controller of the Budget (CoB) is responsible for overseeing the implementation of budgets by county governors. She should also appear before the Committee and tell us that the budget she has been implementing has been passed by which county. It is this level of impunity that is the reason governors assumed the title of His Excellency.

I remember in 2014, I moved a draft Bill in this House saying that this position of His Excellency will make governors drunk with power. You can see the evidence. I said in that draft Bill that they will be so drunk with power that that drunkenness will also, by osmosis, affect their wives. As if I were wrong, the governors today call their wives---

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

The Temporary Speaker (Sen. Mumma): What is your point of order, Sen. Mandago?

Sen. Mandago: There is no way Sen. (Dr.) Boni Khalwale can go with that Statement while I sit here. Understanding Order No.105, can he provide evidence that, as a governor who served 10 years, I was drunk with power? There is enough evidence that I was not drunk with power; that is why I am in this House. So, he cannot say governors. Can you name the specific governors who are drunk with power, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Madam Temporary Speaker---

The Temporary Speaker (Sen. Mumma): Sen. Mandago, first, you have not been mentioned by Sen. (Dr.) Khalwale. So I think your point of order is misguided.

Proceed, Sen. Khalwale. You do not have to respond.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the Senator of Uasin Gishu should just declare his interest in this matter as far as my comment is concerned. He is not an ignorant man.

The Temporary Speaker (Sen. Mumma): Sen. (Dr.) Khalwale, I already declared the point of order irrelevant. So, proceed with your point.

Sen. (Dr.) Khalwale: Thank you. You have saved him. I was going to crush him. He is a very lucky man this afternoon. I was saying something very serious that this drunkenness with power, as I feared in 2014 in my draft Bill, has become so infectious that today, they call their wives first lady. They even have first daughters, first sons, first mothers, and first concubines.

Madam Temporary Speaker, the sad ending of this “first” something is that they are first something with a budget. You know, as the Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights (JLAHR), you sat on my Petition

when I was insisting that the Governor of Kakamega, Fernandes Barasa, should not be allowed to have a budget for his wife.

Due to bureaucracy in legislation and the way business is transacted, the first so-called lady of Kakamega is still enjoying a budget. Theft! Theft of public funds! As if I were being prophetic, probably out of that budget of the office of the first lady, two weeks ago, the Governor of Kakamega bought a bulletproof Lexus worth Kshs54 million---

The Temporary Speaker (Sen. Mumma): Give him 30 seconds to finish.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I want to thank the Chairperson of the Committee. He has already moved and called the Governor of Nyamira. They are coming next week.

I want to appeal that his appearance should not be just in the Committee. It should be the Committee of the Whole. We want to be there and pin him down. Pin him down, Madam Temporary Speaker. I saw him rudely dismiss a distinguished scholar, a Senior Counsel (SC), when he was before the Committee. These kinds of jokes--- Governors, even when you come this way, we---

The Temporary Speaker (Sen. Mumma): Your time is up, Sen. (Dr.) Khalwale. Sen. Cheruiyot, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I want to comment quickly on two issues. One is the issue of Nyamira. It is not possible to have two county assemblies, Sen. Omogeni, without the support of two offices. One is the office of the governor, and two, the office of the CoB. Those are the two most critical offices in any devolution system. The CoB must apprise this House on which request for funding to our county assemblies. Which of the two functions is she funding, and based on what? Based on that decision, then that is a legitimate county assembly.

Two, I know that the gazetted county assembly was, I think broken down into and either locked up. Perhaps you may better furnish this House with information.

Sen. Omogeni: On a point of information, Madam Temporary Speaker.

The Senate Majority Leader (Sen. Cheruiyot): Yes, I do not mind being informed, because this is a very important matter that I would wish to understand. Where do these two different factions sit, and why is it not possible to sit at the gazetted County Assembly of Nyamira?

The Temporary Speaker (Sen. Mumma): You may proceed, Sen. Omogeni.

Sen. Omogeni: Yes, I want to inform my neighbour, the good Senator of Kericho, that the official premises of the County Assembly of Nyamira have not been broken into. They are functional. One faction of the Assembly sits there. Even last week, after the appearance before the County Public Accounts Committee (CPAC), they sat there.

What is happening is a situation where the governor chooses to deal with one faction outside the official premises of the County Assembly of Nyamira. However, in terms of the status of the building, the infrastructure, everything is intact and in place.

The Senate Majority Leader (Sen. Cheruiyot): Thank you. Madam Temporary Speaker. I am now properly informed, because you know, the last time I saw, I think

there was a serious fight at the County Assembly, and I thought perhaps, maybe the official residence--- Then, if that is the case, this is a very simple matter. Why should the county assembly, the one that is properly moved and sits in the premises not consider any business from that county government?

The reason why I say that perhaps it is the Controller of Budget who is letting us down, is because there are certain statutory obligations that must be met by the county assembly before requisitions in matters such as budget are sent.

It is proper for her to check which county assembly has approved some of these budgets that come from that particular county because at the heart of this dispute, resources are never far away from it. You can stop the taps until that matter is resolved.

Even that other county assembly, how is it resourced? If people are meeting, it would be interesting to know how the purported clerk of that other House can draw from the Exchequer and meet their bills unless the Controller of Budget is not supporting the proper county assembly.

Finally, is on this issue of the Housing Levy Fund that was raised by Sen. Chute. It will be important because we all contribute to this Fund and sometimes not very easily because these are deductions out of our salary.

Kenya has 47 counties. I know this Fund is used to build houses and markets. It would be important that that statement is tabled in this House so that we can all see how much has gone to every county and the justification for the expenditure.

We cannot portend a situation where certain counties have 20 markets and others have two or three only. It is important for equity. The Senate being the House that is charged with the responsibility of ensuring that there is an equal distribution of resources in this country; that is an interesting report that we are waiting.

I thank you.

Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker. I wanted to make a comment on the financial crisis at the Technical University of Kenya. In the Coast Province, we have very few public universities. The ones that are there, including the Technical University of Kenya in Mombasa, have served all the six counties of the coast, including people from my county in Tana River. They come all the way to Mombasa to get their education.

It is very sad to hear from this Statement that this technical university is reducing its staff and cutting down on its expenditures. It is showing signs of a total financial crisis, suggesting that this is one of the few universities in the coast region that may be on the brink of collapse.

As the Senate Committee on Education investigates this matter, it should also interrogate the Cabinet Secretary. Public universities have not been equally spread across the counties.

We have seen certain counties enjoying a lot of facilities. You will find several public universities in one particular county or two, but in certain regions like in the coast region, you will find very few public universities.

The private universities that are there, are very expensive and people cannot afford them. People are not also able to pay for those fees and the requirements that are there. Then you find certain regions lacking in terms of the degree qualifications, Masters and even PhD qualifications.

We would request that as the Committee investigates this, they look into the possibility of driving the point that resources need to be spread fairly across the counties.

The Cabinet Secretary must also look at the possibility of offering deliberate support for this particular university so that it does not collapse. They should look at the possibility of making sure that it survives the ongoing crisis so that the---

The Temporary Speaker (Sen. Mumma): Sen. Madzayo, you may proceed.

The Senate Minority Leader (Sen. Madzayo): Asante, Bi. Spika wa Muda. Ninataka kuchangia hii Kauli ambayo imeletwa na ndugu yangu, Sen. Omogeni.

Hili ni jambo ya kusikitisha sana. Katika Kaunti ya Nyamira, kuna watu ambao wamesoma; kuna watu ambao wanaelewa kunaendelea namna gani.

Kwa hivi sasa, tunaona aibu tupu ambayo huyu Gavana Amos Nyaribo amelea ndani ya Kaunti ya Nyamira. Haiwezekani kuwe na County Assembly mbili ikiwa wewe ni gavana mmoja pale. Ni matusi kwa watu wa Kaunti ya Nyamira kufanyiwa namna hii.

Juzi, alituambia ya kwamba yeye hajui ni county assembly gani ambayo iko na mamlaka zaidi ya nyingine. Lakini ikifika wakati wa kutambua pale anafaa kupeleka pesa, anaanza kuangalia mahali pesa zinaweza kuenda. Haangalii ni county assembly gani ambayo inafaa kupata pesa kulingana na sheria.

Tokea mwanzo wa ugatuzi, haijafanyika hata siku moja katika Kenya hii kwamba katika kaunti moja, kuna county assemblies mbili. Je, wewe kama gavana, uko na akili kweli! Una akili kwamba unaweza kuruhusu county assemblies ziwe mbili nawe ni gavana mmoja unaketi mahali pale.

Ndiyo sababu, alipokuja hapa na akaulizwa maswali, ilipatikana ya kwamba yeye mwenyewe, katika taarifa ya masomo yake, kuna shida. Alileta makaratasi gushi, ndio akaruhusiwa kugombea kiti.

Hii tabia ya kuruhusu watu kuleta makaratasi gushi halafu wanaruhusiwa kugombea vyeo, hii ndiyo imetufanya sasa kuwa na magavana ambao wako na tabia kama hizi. Hawajui kazi yao kwa sababu hata kuenda shule ilikuwa shida.

Huu uchawi ambao unaendelea ndani ya Nyamira ukome. Huyu gavana anafaa aitwe, aje hapa; asiende kwa kamati. Aje hapa aonekane na Bunge Zima la Seneti ili tuweze kumhoji na kumwambia atuonyeshe vizuri hizo karatasi zake za kuonyesha kwamba alienda shule; atuonyeshe hapa na tuhakikishe kwamba ziko sawa. Ikiwa haziko sawa, zipelekwe katika kituo cha sheria ama kitengo ambacho kinaweza kuangalia vyeti hivyo.

Hatuwezi kuwa na mtu ambaye hawezi---

The Temporary Speaker (Sen. Mumma): Mpatie dakika moja.

The Senate Minority Leader (Sen. Madzayo): Tafadhali, nipe dakika mbili kwa sababu ninataka kumaliza.

The Temporary Speaker (Sen. Mumma): Proceed.

The Senate Minority Leader (Sen. Madzayo): Ninasema hivi; tafadhali gavana afanye heshima na watu wa Nyamira ili aweze kuleta mwelekeo vile county assembly itaendelea. Hatuwezi kukubali kuwa na Spika wawili, clerks wawili na hata kila mahali watu wawili wawili. Je, hao watu wanalipwa aje?

Ninakubaliana na Kiongozi wa Walio Wengi, Sen. Cheruiyot, akisema kwamba makosa haya yanaletwa na mtu mmoja ambaye yuko na interest hapo, ambaye anapaswa kutuambia. Huyu mtu ambaye ni Controller of Budget, ikiwezekana, pia yeye tumuite aje katika Seneti ili tumhoji.

Asante.

Sen. Murgor: Thank you very much, Madam Temporary Speaker, for giving me the opportunity. The situation in Nyamira is such a pathetic one that it beats logic, what name to give it.

It shows that the system in that county has collapsed. That is why one man is operating it the way he wants. He is technically managing the situation such that the Assembly has no powers. It is one person that has powers to operate the way he wants. Needless to say, it is a system or it is a county that is operating in an illegality because there is no way two assemblies can operate in one assembly. It is like two cooks cooking from one pot. You cannot expect to get ugali. It will not be good for human consumption.

This also signifies abuse of office. That governor has really abused that office and devolution because that is not what devolution is. That is not how it is supposed to operate and therefore he is really abusing devolution and abusing power. He should appear before all of us so that we scrutinise and push him to the wall to prove all of these questions that people are asking about his academia and also to hear from the Controller of Budget. That is probably the source of the powers that the governor is operating on.

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Beatrice Ogola.

Sen. Ogola: Thank you Madam Temporary Speaker. The Senate should just be candid enough to call out the Governor of Nyamira County, so that he can stop his tactic of divide and rule of the County Assembly of Nyamira. We all know that the clerk of the county assembly is the Chief Executive Officer (CEO) of the legislative arm of a county government. What does this governor want? To see that the county assembly which performs the primary oversight role does not function, so that he gets away with a number of things?

I call this act that is happening in Nyamira County Assembly an act of criminality. Without going into the specifics, the Senate should just be candid enough, and as I said, call out the Governor of Nyamira County to put his house in order.

Madam Temporary Speaker, the clerk runs the funds of the county assembly. That is why as the Senate, we must first track the fact that the county assemblies should have autonomy in running their finances.

Secondly, I want to comment on the statement regarding the financial crisis at the Technical University of Kenya. We remember this institution that produced one of the best technical skills that run this country. Sometimes some of us even regret the fact that

the institution was turned into a university. Maybe that is the reason that it has had a lot of management and financial problems.

The Ministry should pay keen attention on the Technical University of Kenya because up to now, this institution is leading in providing premier skills in technical skills that serve this country.

We have a number of polytechnics in our counties. A number of the lecturers that run these polytechnics and vocational training institutes in our counties were students who were churned out by the Technical University of Kenya.

I support this and thank you for granting me the opportunity.

The Temporary Speaker (Sen. Mumma): Hon. Senators, we will defer Order No. 11 and pursuant to Standing Order No.45(2). I am reorganising the Order Paper so that we move on to Order No.19.

BILL

Second Reading

THE COUNTY HALL OF FAME BILL
(SENATE BILLS NO.18 OF 2023)

(Bill deferred)

BILL

Second Reading

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

The Temporary Speaker (Sen. Mumma): Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, you know, I do not want to be accused that I have started a Senate of my own, like the Nyamira County people. So, I have to wait for you to grant me the Floor, before I can proceed.

I want to thank you for this opportunity.

Madam Temporary Speaker, I beg to move that the Statutory Instruments Amendment Bill (Senate Bills No. 10 of 2024) be now read a Second Time.

This is one of the so-called NADCO Bills that we got out of our negotiated process after the many events. I do not need to go back to the history of how we found ourselves and sat before the NADCO Panel.

The Temporary Speaker (Sen. Mumma): Sen. (Dr.) Khalwale, what is your point of order.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I hate to interrupt the Leader of the Majority. Standing Order No. 105 of this House knows our leader of majority as somebody with very good command of English. He is actually educated, trained, examined and qualified in communication.

Could he explain what he means by the so-called NADCO Report or could he be quietly communicating something to the House, so that I can whip the House to help him achieve the desired result?

The Temporary Speaker (Sen. Mumma): Senate Majority leader, first move the Bill to be read a Second Time.

The Senate Majority Leader (Sen. Cheruiyot): I have, I did actually.

The Temporary Speaker (Sen. Mumma): They do not seem to have gotten it. So, just move it.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that the Statutory Instruments Amendment Bill 2024 be now read a Second Time.

Madam Temporary Speaker, you know Senator Boni Khalwale requested that I clarify what I mean when I said that this is part of the products of the so-called NADCO process.

NADCO is National Dialogue Committee; a Motion that this House adopted and set up a committee of Sen. Khalwale and other Members from both sides the House. We sat at the Bomas of Kenya, somewhere in Gilgil and in different parts of the country and, eventually, it was signed. The Report was signed and we brought the Bills into this House.

In total, we had nine Bills. To the best of my recollection, I think this is a fourth Bill that I moved in this House. There are others that are before the National Assembly which are being concluded and they will soon be sending them this side.

I think there is one which we have completely done with; the IEBC (Amendment) Bill. That is why the IBC recruitment process is ongoing and the rest of the processes are here.

Allow me to detour just for a second before I speak to the Bill. There are many times that as Parliament, we do things at moments of crisis but then like the proverbial animal, I do not know what its English word is, but I know that in Swahili that animal is called *ngiri*.

(Sen. Faki consulted loudly)

Madam Temporary Speaker, the warthog actually.

Thank you, Sen. Faki, for reminding me. *Ngiri*. Yes, we should not be very quick to forget. Many times, after that crisis is done, we revert back to our old ways.

Madam Temporary Speaker, remember the mood the country was in just before the formation of the National Dialogue Committee (NADCO) and how we were able to progress. I am grateful because there are many laws today being processed through the

legislative system, including the Independent Electoral Boundaries Commission (IEBC) (Amendment) law, with a view to rectifying many of the issues that were brought to us by Kenyans. There is even the Constitution (Amendment) Bill.

This afternoon, we passed a Motion on the consideration of the two-thirds gender rule principle, which is one of the products. It is only that I am still struggling with how the Constitution (Amendment) Bill will fit into the architecture of a bicameral parliament given the fact that the National Assembly did their report, and the Senate Standing Committee on Justice, Legal Affairs and Human Rights also did their own report. We need to make a decision on this as a House.

The point I am trying to make is that when we retreat as a House and try to move the country with us, we should never lose sight of the reason why we brought the country together at that time. I am reminded again, Sen. (Dr.) Khalwale, that after the invasion of Parliament in June last year, we passed a very detailed Motion before this House. I keep on reminding Chairpersons of Committees that that Motion was so detailed that it assigned various roles and responsibilities to our various committees.

The Finance and Budget Committee, for example, where Sen. Boni Khalwale serves, were supposed to do something about debt. I know there is a Public Finance Management (PFM) (Amendment) Act on the debt anchor situation. I shared my thoughts with you last week. While I may not necessarily disagree with the thought of how to move it, the process through how you achieve it and guide the country to avoid a default is something that you need to guide us.

There are so many other things that we requested of the various committees. The Standing Committee on National Cohesion, Equal Opportunity and Regional Integration was tasked with capturing representation in various institutions. There are institutions that are being mentioned. It is a shame that in this day and age, there are state departments that can conduct official meetings in certain local dialects.

There are quite a number of names that keep on popping up here and there and we receive that information, that a certain Cabinet Secretary, Permanent Secretary, Director or Chief Executive Officer (CEO) has constituted certain state organs within the armpit of what is under their jurisdiction. That calls to question whether they understand the provisions of Article 10 of our Constitution on national values.

That is work that we gave to our Committee on National Cohesion, Equal Opportunity and Regional Integration. We are still awaiting their report and so many other things.

I hate to imagine that, for example, when we get to June in two months' time, people will look back and replay the clips of all the things that all the 67 Senators spoke to that Motion. Do we just speak and walk away? We must in retrospect ask ourselves whether we lost a moment, and whether as a House, there is still the possibility of rectifying that moment.

Though people may say many things about Parliament and politicians, there is a level of trust that citizens have with this House that you do not find in many other Houses

of Parliament. It is unfortunate if we continue with the trend of speaking at the spur of the moment and moving away immediately after.

I am glad that we are having a conversation about this Bill because the organ of it is how to give life to statutory instruments that have been produced by this House. The legislature is an equal arm in the theology of the existence of Government as prescribed by our Constitution. We have the Executive, the Legislature and the Judiciary.

Many times, I see decisions by the legislature being challenged so casually. I have said times without number in this House that perhaps it has come to a time where we must have a conversation, including with the Judiciary and the Judicial Service Commission (JSC). We need to agree on the threshold within which a judge hearing on a petition before them can overturn the decision of an entire House. This includes in the consideration of whatever issues that have been brought about them.

I do not imagine that it was the design of our constitutional architecture for a Bill to go through both Houses of Parliament, go through public participation, assented into law and then the following day, stakeholders who, for one reason or the other, may have certain misgivings about that Bill, move to a court of law, secure an injunction and that is the end of the story. I have seen that many times.

There are many Bills that I can quote off the top of mind, including Bills that are matters of public interest. I will cite an example of the Sugar Bill, which we tried to pass here last Session, but the House adjourned. We came back for the 13th Parliament and quickly moved the Bill, and within one and a half years, that Bill had gone through all the systems of Parliament.

As we speak, the most critical parts of that Act of Parliament cannot be implemented. Why? This is because an individual, a Kenyan, appeared before one judge, another Kenyan, and all the millions of farmers that depend on sugarcane farming cannot enjoy the proceeds of the work that has been done by the legislature.

Madam Temporary Speaker, I do not think that that was the design of our Constitution. There must be a threshold, especially on matters of public interest and things that affect the livelihood of millions of other Kenyans. This is because that is the force of law that Parliament has.

This Bill speaks to a very simple provision. Many times, we pass legislation in this House and do not affect the timelines within which certain regulations, for example, are supposed to have been gazette. That is why we are introducing New Clause 24A into the Statutory Instruments Act. This is to make sure that, one, a regulatory-making authority shall make statutory instruments within the period provided for under the enabling legislation.

Many times, we pass Bills here, and maybe Members do not take time to read to the final part of the Bill. In the transition clauses, we normally provide the period upon which certain regulations are supposed to be formulated and approved. Most of those timelines are violated and ignored because there is no sanction. People imagine that Parliament said within 90 days of the passage of this Bill, the Cabinet Secretary is

supposed to gazette these regulations, but we leave it hanging. Therefore, people do not care. They say, what will happen, anyway?

If, indeed, you took them before a court of law, there would be no sanctions against them, because the law is silent on that issue. The best the judge can do is to ask that person to be prudent. In fact, reading this Bill, much as it was a negotiated document, I am not satisfied with the sanctions that are now being imposed on public officers who do not follow the prescription of the time period within which you are supposed to gazette these regulations.

There is a proposal for a Kshs500,000 fine. I think that is a slap on the wrist of somebody who is ignoring the gathering of the people of Kenya. The unfortunate bit is that people look at Parliament as a gathering of 410 individuals. What they do not appreciate is that extracting from the provisions of our Constitution, Parliament is a gathering of all the 50 million of Kenyans through their elected representatives.

It is not possible for the entire country to agree on any simple question as a wholesome. Since we are a constitutional democracy, we have passed it in our laws and set the threshold within which once a particular threshold is passed, then it is considered to be the common position of every Kenyan that lives under the jurisdiction of the maps of our country.

In the Senate, for example, it is assumed that once 24 delegations have agreed on a particular Bill, that Bill or instrument before us is considered to have been passed by everybody, including those who for one reason or the other may not have voted in support of that particular Bill. That is how democracy works.

Our counterpart House passes their legislation through a simple majority, that once gathered as a House of Parliament, when a Motion or Bill is before them, once more than half of the people gathered in that particular House have passed whatever legislation, it is considered to be the binding law in the country.

It is my wish and hope that we can enforce and give strength to the Houses of Parliament. We are caricatured in the newspapers and people speak all manner of things against politicians as if we are aliens and not picked from the ordinary stock and pile of the average Kenyan. The people you find in this House, whether you like them or not, are the cumulative of the ordinary Kenyans.

Anything they see and they do not like from Members of Parliament (MPs) in this House, that is exactly what you will find in any gathering, as long as you put Kenyans together.

Therefore, the institution of Parliament needs to be respected. There are decisions that must take a certain level of caution before they are varied by any person including officers in the Executive. That is why we sanction those who do not pass regulations and even those who sit on benches in the courts of law.

Secondly is to provide where enabling legislation does not provide timelines within which a statutory instrument is to be made. The regulatory making authority will be required to make the statutory instrument within 12 months from the date of commencement of the enabling legislation.

Madam Temporary Speaker, if for whatever reason it happens that we passed a legislation and it was not specified the time period within which those regulations are supposed to have been made, the end period within which an officer who is supposed to make those regulations--- The time that they have, including taking them through the Parliament, is 12 months. That is now provided for in law. As it was, I have explained previously that there was nothing provided.

Thirdly, if that regulatory making authority fails to make a statutory instrument within the specified time, any person may petition Parliament, and where possible, together with a draft of a statutory instrument for consideration. That is how bold we have become. We are telling the Executive that it is not a must that they do it.

If they do not bring regulations within the time period within which they are supposed to bring before the Houses of Parliament, any Kenyan interested in that particular sector can draft regulations and bring them to this House and we will pass them. Where there is unjustified delay by the Executive and there are Kenyans interested in that particular sector who feel that you are holding them back because of the regulations, we need to pass such regulations.

Fourthly, if a person without reasonable cause, fails to make statutory instruments within the specified timelines, they commit an offence. I had spoken about this. Despite the fact that Members of the National Dialogue Committee (NADCO) agreed on a fine of Kshs500,000, I wish to urge this House to suggest a more resounding fine that will make people think twice before ignoring sanctions by Parliament. The figure of Kshs500,000 is what is provided for.

Madam Temporary Speaker, lastly, a person is liable for an offence under sub section (4) shall be liable for a fine and public funds shall not be used to pay for such a fine. Many times, when we sanction public officers, they revert to public coffers to pay those fines.

Therefore, I beg to move and request the Senate Minority Leader, whom we have co-sponsored with this particular Bill, to second.

I thank you.

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

The Senate Minority Leader (Sen. Madzayo): Asante, Bi. Spika wa Muda, kwa kunipa nafasi hii. Kwanza, naunga mkono yote ambayo ndugu yangu ambaye ni Kiongozi wa Wengi amesema kuhusu Mswada Huu. Hii ni sheria ambayo itatupa nafasi ya kufungua ukurusa mwingine ili watu wasaidike wakati kuna janga.

Hii ni mojawapo ya Miswada ambayo si ya kawaida lakini inaweza kutupatia mamlaka. Wahenga walisema kuwa fimbo ya karibu ndio huua nyoka. Hii inamaanisha kuwa kitu ulichonacho ndicho hukusaidia wakati una shida fulani.

Sisi tulikuwa katika shida kubwa na ilikuwa lazima tuelekane na shida hiyo. Kwa hivyo, ni lazima tuwe na sheria ambayo itatusaidia kutoka katika janga hilo. Ndio sababu nasema kuwa fimbo uliyonayo mkononi ndio itakusaidia kuua nyoka. Isije ikawa kama dau linalokusaidia kuvuka mto kisha baadaye unaliita gogo.

Huu ulikuwa mojawapo ya misemo iliyotumika katika NADCO. Watu walikuja pamoja na kupendekeza sheria hiyo. Tukiwa katika shida ama janga lolote la kisiasa, ni lazima watu wakae ili tupate suluhisho. Hii ni mojawapo ya sheria ambazo zilipendekezwa.

Naunga mkono Mswada huu kwa sababu unaweza kupeana uhai kwa jopo ili sheria ambayo inaweza kutumika wakati wa dharura itengenezwe. Majukumu kama hayo ni muhimu sana. Ikiwa watu wanaopatikana katika hali hiyo wanaweza kutafakari na kutoa majukumu kabla ya janga kutokea, hiyo itakuwa njia nzuri.

Sheria endelevu kama hii ambayo inapendekezwa inafaa kuwa. Ikiwa itaweza kutekelezwa, basi, kutakuwa na adhabu ikiwa mtu hatafanya hivyo. Mtu ataweza kupelekwa kortini au kuchukuliwa hatua na kutakiwa kulipa faini ya shilingi laki tano.

Bi. Spika wa Muda, kwa kumalizia, sheria hii ina umuhimu na vile vile ni nzuri kwa sababu itatusaidia wakati wowote. Kwa hivyo, naunga mkono sheria hii endelevu kwa sababu nilizotaja hapo awali.

Asante.

The Temporary Speaker (Sen. Mumma): Hon. Senators, I will now propose the question.

(Question proposed)

Sen. Cherarkey: Thank you, Madam Temporary Speaker, for this opportunity. I would also like to thank the leadership of this House. This is among the nine Bills following the NADCO Report. I would have expected that we should have dispensed off this Bill so that we allow Members to prosecute other Bills.

It is good to see you. The last time I saw you, we were condoling with the Dagoretti North MP, Hon. Beatrice Elachi. It is good that as MPs, we stand with each other especially when we have challenges.

Madam Temporary Speaker, the NADCO was a bi-partisan process. Members of the Committee that was formed by both Rt. Hon. Raila Odinga, former Prime Minister, and President William Ruto has borne fruits. One of the achievements we have made is that we now have the Broad-Based Government where we working together. One of the Bills as a result of that process is this.

I am waiting with excitement the Constitution of Kenya (Amendment) Bill. As a Member of the Speaker's Panel, you need to clear something because I have seen you being introduced in two ways. Sometimes it is said that you come from Busia but at times, it is said that you come from Kisumu.

You need to make it clear for some of us, so that in future, we know where to place you. You are also a Member of the Committee on Justice, Legal Affairs and Human Rights. How Kenya is, even as these Bills of NADCO have been processed, we must broaden and widen the Executive.

The fact that in the current Constitution we only have the President and the Deputy President will not accommodate the divergent nature of Kenya. We have

heightened campaigns, jostling and pushing for executive power because, one, the winner takes it all. Two is because there are only two positions.

Madam Temporarily Speaker, we must have an expanded Executive where we have the President, the Deputy President, Executive Prime Minister, two Deputy Prime Ministers and we have a leadership that is clear.

I do not see the need to appoint a Member of Parliament (MPs) and they resign; we go for by-election and the country incurs expenses. Let us allow MPs be appointed to the Cabinet. Let us give them sitting allowances in the Cabinet and save salaries so that we can have a country.

Madam Temporary Speaker, I hope in the nine Bills that we are intending to bring, and one of them being the Constitution (Amendment) Bill and this one being Statutory Amendment Bill. I am happy the 'youth leader'; Sen.(Dr.) Oburu Odinga, looks excited, especially when I mention the issue of expanded Executive, because we want his brother, Rt. Hon. Raila Amolo Odinga to continue serving as the Prime Minister of the Republic of Kenya, going into the future. They are doing good work with the President.

Secondly, it was Section 11 on the amendment on the Statutory Amendment 2024. When you read the parent Act; that is, the Statutory (Amendment) Act of 2013, it is very clear.

On the Committee on Delegated Legislation, I think in the last session, I do not know, whether Senator Faki is lucky, or always lucky, because in the last session, when the reorganization of committees in 2020, he became the Chair of the Committee on Delegated Legislation. He did very good work.

I would have expected him to go back, but I think he decided to deal with issues of land in the coastal region and the entire country. I remember at that time, we used to argue on the timeline of Committee on Delegated Legislation. They might have tried as a committee.

Madam Temporary Speaker, Section 2 of the Statutory Instruments Act of 2013, the definition of Regulatory Making Authority, has been given an obligation to do their job. I remember during the tenure of Sen. Faki as the Chair of the Committee on Delegated Legislation, some of the regulatory making authorities were delaying in doing their job. In fact, we had to argue on operationalization, because after we have passed a Bill, the parent ministry is given authority to do regulations. They stall the operationalization of that Act of Parliament, because they are not very keen in bringing regulations. I am happy it has been made now mandatory, that within 12 months, they must give us timeline for regulation.

Sen. Madzayo, you remember it took so long for regulations on the Data Protection Act, the Information Act of 2016, to be brought to Parliament. This was because somebody somewhere in the Ministry was sleeping on the job. I am happy they have been given within 12 months to ensure those regulations are formulated and passed, so that they do not stall our work.

Madam Temporary Speaker, out there, the Senate and National Assembly appear not to do their work, because after we pass an Act of Parliament, somebody goes to court

to challenge the implementation of the law and the regulations are not published. When we try and explain to people that the regulatory making authority has not brought us regulations, they imagine we are abdicating our duty.

I agree the punishment should be around Kshs2 million. The proposed fine of Kshs500,000 is chicken change. We must have at least Kshs2 million because we are punishing a Cabinet Secretary.

Let us assume the parents regulatory making authority should be the Ministry. If you are now punishing or fining only a Minister, Kshs500,000, you can imagine they will just laugh at you the way we were trying through Sen. Osotsi's Bill, where we are saying when somebody who fails to appear before a Committee of Parliament, we just fine them Ksh500,000.

Madam Temporary Speaker, we find governors who are smiling all the way to the committees. I have been a veteran in the County Public Accounts Committee. When we fined the former Governor Charity Ngilu Ksh500,000 shillings, she just asked us, "where can I pay. Can I pay by M-Pesa or in cash?" We guided her that it must be deposited through the Clerk of the Senate. So, we must increase the fine so that we make it painful and punishable going into the future.

Use of technology, that is amendment of Section 18 and 19 is both to publish and revoke, because whenever you want to explain something with this digital era, we must go online. The website is important.

I know Sen. Osotsi has always had a problem with people who learn technology issues. Even in ICT, we have always had a challenge. When there is revocation by the concerned clerk, either of the Senate or National Assembly, they should publish on the website through the Kenya Gazette

I am the co-convenor of Open Governance (OGP) in Parliament. One of our tenets of OGP is transparency and accountability. The only way Parliament will be accountable, colleague leaders, is by publishing what we do, so that it becomes easy to ensure accountability.

Madam Temporary Speaker, sorry, I had not seen Senator Methu. I thought he was with the President in the tour of 'Mrima'. We must ensure that there is revocation and publishing of regulations.

I agree with Section 23, because, Madam Speaker, we want to prevent busybodies. Now, they say regulations might be considered through the standing orders of the Senate or National Assembly, and as per the Act. The parent Act of that regulations must be considered.

Just to take you back, Section 5A, of the Statutory Instruments Act of 2013, talks about explanatory memo. One of the conditions of explanatory memo before you bring before Parliament is that there must be adequate public participation.

Most of our Bills that we have passed on the Floor of the House--- I remember Sen. Mungatana was mentioning Omtatah, have been felled by the stroke of the pen by the judges of court because of only one simple thing; lack of public participation.

In the explanatory memo under Section 5A of the Statutory Instruments Act of 2013, one of the grounds is public participation. They must show how consultation was done to ensure we do not open it up for challenge.

We are not saying courts should not interpret the law, or question the process of Parliament. I remember in Speaker Mate's case where a court said we cannot challenge a process, especially on impeachment, that we only challenge at the tail end.

We are not saying courts should not challenge, but we are worried when courts want to overreach their mandate to do legislation. That is why sometimes some of us ask what the role of court is. Are they keepers of particular individuals? Why is it that courts have dealt an injunction on Competency Based Curriculum (CBC) and the university funding model?

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

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

Mr. Speaker, Sir, why is it that on all matters that are pro-Government, courts are quick to issue injunctions, and we are Kenyans? Courts do not exist in isolation. We must question them. We are funding them. We gave them Ksh20 billion through appropriation the other day.

Why are the courts quick to issue injunctions on Government programmes? I have tremendous respect for the Chief Justice. She should come and tell us the reasons they are issuing temporary injunctions against the Government programmes. She can tell us that it is because of X, Y, Z. Colleagues, this is one way of preventing a lot of litigations and litigious court process. That is what interests us. We are a law making House and we have just passed the County Government Additional Allocations Bill (Senate Bills No.1 of 2025).

I am happy that Nandi County will this afternoon, under conditional grants and loans, get Kshs486 million. That is tremendous. The sad reality is that this money will never give value. I know my neighbour, Sen. Osotsi, knows there is nothing going on in Nandi County, except that it has become the headquarters of corruption. It is in Nandi County where the Governor uses Kshs48.2 million to hire vehicles. You wonder why a government should buy vehicles then go for car hire services. It does not make sense. This is how we are destroying devolution. We sat here to deliberate and ensure that our counties get enough resources.

This is one of the National Dialogue Committee (NADCO) Bills. I have not seen Sen. Omogeni and neither have I seen the other Senators who were in the NADCO. Maybe, Sen. Ogolla has some information. However, the Senate Minority Leader is here. The Senate Minority Leader who is also the Deputy Leader of the Orange Democratic Party should allow me to tell him this. We should discuss and pass a law that fights corruption.

Nandi County has got Kshs486 million today, but when you go to the ground, you do not see anything. The only thing my Governor is doing is demolitions in Kapsabet Town. He is throwing women out. Sen. (Dr.) Oburu knows Kapsabet and he should know that the market he used to talk to me about has been demolished by the Governor. In fact, Sen. Orwoba should be raising her voice against women being thrown on the streets in Kapsabet and Namgoi towns. I want to hear the voice of Sen. Orwoba on this issue, because this is femicide.

How do you define a case where one destroys the place where women sell their wares in Kapsabet and Namgoi towns? How do you define a situation where one throws them on the streets to a point where they cannot feed their children? Is Governor Sang not committing femicide? Why throw women on the streets? Mr. Speaker, Sir, this is a sad reality that we must fight.

I call upon the House leadership, under the guidance of President William Ruto and Raila Odinga, to look into how to deal with corruption in counties. *Taiifa Leo*, on Sunday, reported of counties where money is lost through payroll and one of the counties that featured in that report was Nandi County. In Nandi County, you will find that the Governor has almost 300 workers. There are people who carry his seats, microphones, mobile toilets, carpet, Bible, pens and even those who carry his concubines.

Mr. Speaker, Sir, we cannot work very hard to create demigods and gods in our counties. I want to challenge the Senate Minority Leader who is holding forte on behalf of NADCO issues. They should bring a Bill on corruption in counties. He cannot work hard over here to send money to the county just to go to some village in Magarini, Kilifi County, and find that poverty is walking around like a human being. We have water flowing less than one kilometer from Garissa Town, yet people cannot access clean and safe water. That cannot be. It cannot be that we have pools deeper than dimples in Nairobi City County.

Mr. Speaker, Sir, I support. Let us fast-track these NADCO Bills. We are solidly behind President William Ruto and Rt. Hon. Raila Odinga. We are moving into a broad-based Government and ensuring that we move this country forward.

With those many remarks, and with the smile of the Senate Minority Leader, I beg to support.

Sen. Osotsi: Thank you, Mr. Speaker, Sir, for giving me the opportunity to also make my contribution to this very important Bill, The Statutory Instruments (Amendment) Bill (Senate Bills No.10 of 2024).

Mr. Speaker, Sir, this Bill is timely and long overdue. This is because it seeks to define in law that those who make regulations have up to 12 months to enact them when an Act of Parliament is passed. Statutory instruments are very important. They are the regulations which Ministries, the Executive or even Judiciary come up with to implement the provisions of the Act of Parliament that we pass.

We know that we cannot put everything in an Act of Parliament. That is why, as a standard, we always create room for making regulations. With those regulations, the respective Government ministries or departments can come up with specific regulations

to manage various issues. In the past, we have seen problems. This is because we pass laws, but we do not see any regulations formulated or enacted to implement various provisions of that law several years down the line.

These statutory instruments have been misused in this country. This is because some of these statutory instruments have been formulated without following the law. We have seen some laws being developed, either in writing or in action, without the input of Parliament. That goes against Article 95(5) of the Constitution. That article states that no person or body, other than Parliament, has the power to make provision having the force of law in Kenya, except under authority conferred by the Constitution or legislation. We have seen ministries make regulations which are not provided for in law.

As we talk about putting a timeline under which these departments or ministries will be able to come up with the regulations, we also have to ask ourselves if there are regulations which are contravening the law. I will give you one example. All private parking areas charge parking fees without following any law. If you go to a supermarket and stay there for five minutes, they will charge you money. Where is this money going to? Where is the law that requires that private entities charge or tax people through parking fees? This is an issue that Parliament must look at.

There are many other things which are happening outside there, which are not documented in regulations and people are profiting from these things without following the law.

Mr. Speaker, Sir, we also have to appreciate the need for having regulations. As stated, it is because we cannot have everything in an Act of Parliament. We have to create space for the implementers of the Act of Parliament to also implement those Acts of Parliament by coming up with the regulations.

However, we have to express our discomfort that many of the laws that we pass are not implemented because the regulations are not formulated and enacted. I know my colleagues here have talked about various pieces of legislation which are not supported by the regulations. For example, for a long time, before the Sugar Act, was repealed initially, we had a lot of issues in the sugar industry; issues that could be resolved through regulations. However, every time you ask why this issue has not been addressed, you are told that the Ministry of Agriculture has not come up with regulations. As a result, farmers have suffered for a long time.

We have other legislations that we have passed in this House which are not supported by the relevant regulations. For example, the Computer Misuse and Cybercrime Act, which we passed this law. I know some parts of it was opposed in court, but large sections of this law have not been implemented because there are no regulations. For example, on the issue of regulations around the matter of critical systems, we do not have regulations around it. Therefore, people continue to profit from crimes around cybercrime because there are no regulations to support it.

Mr. Speaker, Sir, we still have so many aspects of the Data Protection Act which are not implemented because the regulations are not there. Even as we talk about regulations, let us also talk about how long these regulations can be in place.

We know that the Statutory Instrument Act provides for a period of 10 years. After ten years, it must come back to Parliament and seek extension of that period. This is important because laws and environment change. When the laws change, the regulations should also change. For instance, we have regulations which were enacted before the Constitution of Kenya 2010. Those regulations need to be repealed so that they align to the new Constitution of Kenya 2010. So, the 10-year period of expiry is important.

Recently, Mr. Speaker, Sir, we had about 1,700 pieces of regulations which had expired and which Parliament passed to extend their period for another 10 years. So, this expiry period in the regulation must be monitored continuously, so that we do not have a situation like what we had in 2013, where this huge number of regulations expired and they affected so many operations in the Government.

Mr. Speaker, Sir, the making of regulations should be done in a proper process in this House, as per Article 94 (6) of the Constitution, which requires that there must be a clear objective of having those regulations. There must be a clear scope and limit of authority of those regulations. In addition, the alternatives must also be specified. The effect must also be indicated.

Most of the regulations do not abide by the standards which have been set up in Article 94(6) of the Constitution. I therefore encourage the relevant Committee of Delegated Legislation that such regulations should not see the light of the day. They should be annulled because they are unconstitutional and may lead to some form of punishment to the people without approval of Parliament as per Article 94 of the Constitution.

Mr. Speaker, Sir, it is also important to know that even Gazette notices that are issued by various government institutions, including the Executive Order, are supposed to be subjected to Parliamentary scrutiny. They are supposed to be processed by delegated legislation. I do not know how many Executive Orders have come to this House to be processed. I do not think any has come.

It is important that the authority to make the law remains the preserve of Parliament. If we allow Cabinet Secretaries or even the President to make regulations through Gazette notices or Executive Orders, we will be taking away the powers of Parliament to make law as per Article 94 of the Constitution.

Mr. Speaker, Sir, even as we talk about this, the regulations must be processed through public participation. We have seen cases where regulations are gazetted without any input from the public. This is unconstitutional. Sometimes, when the Committee is not able to do it in time, these regulations are implemented and yet they have not met the minimum standards, including public participation.

This is an unconstitutional process, including compliance to Article 94(6) of the Constitution. The Committee should be alert so that such regulations do not see the light of the day, because Kenyans need to be protected from some excesses since some of these regulations may impose a huge cost on Kenyans. This way, we will be able to deal with them beforehand.

Talking about counties, because this Statutory Instrument Act also affects counties, we have realized that counties have come up with the regulation pursuant to a national legislation. They have developed a regulation pursuant to national legislation. These regulations are unconstitutional.

One example is the Public Finance Management (PFM) Act. The PFM Act clearly stipulates that the regulations will be made by the Cabinet Secretary for National Treasury and not the County Executive Committee Member (CECM) for Finance and Economic Planning. However, the counties have developed regulations, especially to manage public funds in the county, pursuant to PFM regulations.

Mr. Speaker, Sir, in my Committee, we have directed that these regulations be annulled or repealed because they are unconstitutional. The regulations made in county should be made pursuant to the county legislation and not national legislation. Every committee must be on the lookout for this problem, so that counties are directed to make regulations pursuant to the county legislation and not national legislation.

Mr. Speaker, Sir, I would like to end by saying that this amendment is timely, and it will speed up the implementation of the various Acts of Parliament that we pass in this House.

In fact, the penalty should be enhanced. Every time we put a penalty or fine, we should always put an option for a jail term. I say this because we have a lot of violations of the law. In our counties, we have a big problem because there is a clear violation of the law around accountability. People want to come to the Senate and behave as if they do not understand the law. For example, the issue of the audit process requires that counties provide information and documents to the Office of the Auditor-General (OAG) during the audit process, but most counties do not do that. The OAG generates queries, issues audit certificate for the report, but when they appear before our committees that is when, all of a sudden, you see them coming with bundles and files of documents before us.

The law is very clear. Under the Public Audit Act, failure to provide information during the audit can result in two to three penalties. One is imprisonment for three years, two, a fine of Kshs5 million, or both. It is important that we start exercising and implementing these provisions in law to deter people who do not take the audit process very seriously or who deliberately deny documents to the OAG, and then sometimes resurface with fake documents, which they present before us to say it is evidence on a particular audit matter.

I support this Bill and encourage other Members of this House to support the Bill as well.

I support.

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

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir, for allowing me to also make my comments. First, I support this Bill.

In 2013, through the Statutory Instruments Act No.23 of 2013, Hon. Amina Abdalla, then Nominated Member of Parliament (MP), brought this law before the House. Why was Parliament doing that? It was doing this because up to then, the

Government of Kenya used to depend on the 1946 British Statutory Instruments Act, which used to be the standard for how we would implement our delegated legislation.

Kenyans listening to me, the law under the Constitution makes only Parliaments or the assemblies of the people, in this case the Senate and the National Assembly, and at the county level, the county assemblies, as the only bodies that are given power to make law. However, it is not possible to make a law on all the details. That is why we, as the Senate, the National Assembly and the county assemblies, delegate these responsibilities to Ministers, so that they can sit with their technical committees and say that they need certain regulations, so that they can make the law functional.

For example, we may pass a law here that says over speeding is an offence under the Traffic Act, but then it will need the relevant Cabinet Secretary to sit with the National Transport and Safety Authority (NTSA) to say between which areas it is safe to, say, 50 kilometres per hour as the speed limit, and between which areas it is safe to drive at the speed of 120 kilometres per hour. Those kinds of details are not available before the House or the houses making law. That is why we delegate this power to the regulation-making authorities like Cabinet Secretaries and other authorities.

However, we have had serious abuse of this delegated power. For the many legislations that we have passed here, we have said in the end that this law will come into effect when the Cabinet Secretary signs this and that, or when they bring the enabling regulations and these regulations are passed. Then, you find that a very serious piece of legislation is not made actionable because the Cabinet Secretary forgets about that law.

The Senate or the National Assembly has originated the law and then it has passed through the processes, and then it has gone to the last process where the President has assented and it has become law. Then a Cabinet Secretary who is in charge of that department sees that law, refuses to put those regulations and the law becomes non-functional.

Many people and colleagues here have raised this particular issue. When we were growing up under the old Constitution, there were fundamental rights and freedoms. In those fundamental rights, the Chief Justice (CJ) of the Republic of Kenya was required to write regulations on how to approach the High Court, so that you can enforce your fundamental rights. However, CJ after CJ refused to write any regulations. It is only after we got the new Constitution and under the CJ Willy Mutunga that regulations for the enforcement of fundamental rights were enacted.

So, you can see that the fundamental rights of many Kenyans were guaranteed under the old Constitution. However, you have a situation where your fundamental rights have been guaranteed, but you do not know how to approach the high court to enforce those rights. Why? The CJ then had not gazetted the regulations under the old Constitution. This is repeated with Ministers. However, the worst case scenario is that you will find that it is the same Ministers, who, when they do not want a law to function and the law has made it clear that there must be regulations from the Minister, then, they do not make it effective. What this amendment is doing to the Statutory Instruments Act is that we are taking back that power. We are saying you are supposed to do it within a

certain period. If it is not provided, you are supposed to do it within 12 months. If it is not done, any person who is affected by that law can come and table regulations. The power that used to be with Ministers or any regulations-making authorities is now taken away.

We are saying through this National Dialogue Committee (NADCO) Bill that Kenyans are saying that when their parliamentarians, Senators, National Assembly Members or county assembly members pass laws, they expect the County Executive Committee Members (CECMs) and the Cabinet Secretaries (CSs) to make those laws functional.

I fully support what this law is intended to achieve. Maybe I should take this opportunity to tell the regulations making authorities that when they are making these regulations, again, we do not give them absolute power. The power that the people of Kenya have given us is to make laws on their behalf. There are processes that go on here. We have to advertise, take the views of Kenyans and do a lot of processes before we have the law in place.

We have to go through a lot of processes before a legislation becomes a law. We have to debate, agree, disagree and negotiate until the general will of the people is expressed in a piece of legislation. So, when you are given that regulation-making authority, you are not supposed to exercise absolute powers.

I want to say here that ministers, both at the county level and at the national level, must know that the power to make regulations is not absolute power. They must know that the power is with the county assembly, the National Assembly and the Senate. That is where the Constitution has said the power to make law belongs.

So, when you make these laws, there are two fundamental things that you must do. When you appear before the Senate Committee on Delegated Legislation, which I belong to, we expect that in exercise of those powers, you have done public participation first.

You cannot bring or propose milk regulations, any crop regulation for example, *miraa* regulations, without public participation. There must be public participation. You must demonstrate to the committees that you did public participation. Do not run to just go and gazette these regulations that are affecting people and you have not done public participation.

For example, if you are making regulations on how Public Service Vehicles should operate and you have not sat with Matatu Owners Association; you have not sat with the conductor; you have not sat with the banks that are sponsoring these people; you have not sat in brief with even police officers, traffic officers, stakeholders; and you have not consulted them--- You have not done any public participation including passengers who regularly use those vehicles. So, then you sit in your office there and make a regulation that makes absolutely no sense.

If the regulations in the Social Health Authority (SHA), for example, and the regulations in all these new laws that have been a subject of much debate in this country, had gone through the proper processes, bring the hospital owners, the private owners, the public owners, patients and professionals. I mean not just doctors alone; there are nurses,

clinical officers, and lab technicians. Bring them. There are insurance players; let people talk and agree on these regulations. You do not sit in your offices and publish regulations without doing public participation.

I am not just talking about at the national level, but even at the county level. For example, the County Executive Officers (CEO) in Tana River County, when they are passing regulations that are going to affect people in the market, even after the county assembly has passed the County Finance Bill; they must sit down with business people to agree on the charges. How much are we going to charge for mangoes? What about the fish? Why should Lamu County be charging so much less than Tana River County when we are just next to each other on the sea?

Then you sit in the office and you are only thinking about the money. You have not talked to the fishermen or the beach management units. You have not consulted with even the potential markets and then you drive all the business to the next county because you are not consulting. You sit in your offices and make regulations that do not make sense, regulations that end up killing business within the county.

It has become so expensive to transport produce out of the county into the market as opposed to neighbouring counties in Tana River County because the ministers do not sit down with stakeholders; they do not sit down with the farmers; they do not sit down with the markets; they do not sit down with the lorry transporters. Public participation has been ignored not just at the national level but even at the county level.

The County Executive Committee Members (CECMs) are assuming that because they have these powers they can do anything to the people because the law has been passed by the county assembly or it has been passed by the Senate and they want to make the regulations and then they make ridiculous regulations. Then they start playing cat and mouse games with delegated legislation committees of both Houses at the National Assembly and the Senate and even at the county levels. Sometimes, they try to manipulate, especially at the county level so that people are then robbed of the benefit of public participation.

So, as we discuss this Statutory Amendment Bill, it is good information to the Cabinet Secretaries who are listening to me and to CECMs who are sitting, maybe listening to me that you must do public participation before you carry out regulation-making decisions.

Secondly, there must be a regulation impact report. This regulation impact assessment report must accompany a report of public participation. This is why the Delegated Legislation Committees scrutinize whether you have misused those powers that were donated to you by the assembly or you have utilized those powers properly.

It is very logical if you say that from today, you are going to only allow 20 kilogrammes to be packed as maize bags as opposed to the normal 50 kilogrammes, you must know that the market is going to be affected by those regulations. You must know that the customers who are used to trading in a certain way and are used to these packages; they are they are going to be affected by those new regulations. You must surely know that the people who buy the people who sell, even those guys who carry

these sacks on their backs will be affected and the prices will be affected in the way that the business is carried out.

So, Cabinet Secretaries and CECMs, please, make sure that you also get to know what is the impact of these regulations when you are putting them out there. When we pass the law and donate power to you, we expect that you will use those powers responsibly. You should not abuse those powers to make regulations that are ridiculous, that defeat business that make the people of Kenya suffer instead of assisting them to make these laws functional.

So, these requirements that if a regulations making authority does not work or does not bring those regulations within 12 months and they are not provided for within the main Act; that anybody can now come in and bring regulations any person who is affected by those regulations, I think it is a brilliant thing.

If it has been specified that as a Cabinet Secretary or a CECM, you are supposed to make these regulations within six months but you do not make them; then you are personally liable to a fine of Kshs500,000. It is going to wake up these people.

Executive authority is not supposed to be utilised at the wishes or at the compromise of the holder of that office. Executive authority is merely given as donated power to make regulations. It does not replace the law-making process, the legislative process that the Constitution has created.

So, in a short Statement, we have decided to take this power back so that we control it and we tell those Ministers and those regulation-making bodies to make sure that they abide by the requirements of timelines.

We do not want to be making laws here that go and hang outside there and nothing happens to you, and there is no consequence.

You are being paid by the people, you are given security, you are given mileage. You are not just signing things to make the system work. I think this is a brilliant amendment to the Statutory Instruments Act. I support it and I beg colleagues to support it too.

I thank you, Mr. Speaker, Sir.

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

Sen. Faki: Asante, Mhe. Spika, kwa kunipa fursa hii ili niweze kuchangia marekebisho ya Mswada wa Sheria Endelevi yaani, Statutory Instruments (Amendment) Bill, 2024. Sheria hii inapania kuadhibu wale ambao wamepewa jukumu la kutunga sheria hizi endelevi, iwapo watakosa kuzitunga sheria hizo kwa muda ule ambao umewekwa na sheria ama muda wa miezi 12 baada ya sheria hiyo kupitishwa na Bunge, na kuwekwa sahihi na Rais, ili kutumika katika nchi yetu. Kwa sasa, kuna sheria nyingi ambazo zilipitishwa na Bunge ambazo mpaka sasa hazijaweza kutumika kikamilifu, kwa sababu sheria endelevi ambazo zilipaswa kutungwa hazijatungwa.

Utungaji wa kanuni hizi endelevi, mara nyingi huwa zinachukua muda kwa sababu ni jambo ambalo lazima zipitie zile taratibu zote za kutunga sheria ambazo Bunge linapitia wakati zinatungwa. Kwa mfano, lazima zipelekwe katika uhusishaji wa umma au *public participation* wakati sheria hizi zinatengenezwa. Vile vile, lazima iangaliwe

kwamba hazikiuki Katiba na hazikiuki ile sheria kuu ambayo imempa nafasi Waziri ama jopo linalotunga sheria hizo, kuweza kuhakikisha kwamba wametunga sheria hiyo na yale mambo ambayo yanatakikana kabla ya sheria hii kupitishwa, yote yamewekwa katika sheria. Kwa hivyo, lazima yapitiwe ndio sheria hizi ziweze kutumika.

Vile vile, sisi kama Bunge, tuna muda maalum ambao lazima tuutumie ili tuweze kupitisha sheria hiyo. Ikiwa hatukuweza kupitisha kwa muda ule, sheria ile inaweza kutumika bila kupitishwa na Bunge. Kwa hivyo, suala la kuwapa muda ama kutoa vigezo vikali ambavyo lazima Waziri afanye, na iwapo hatafanya, ataadhibiwa ni jambo ambalo linatilia nguvu uwezo wa Bunge hili kuweza kudhibiti ile fursa ambayo Waziri, ama jopo limepewa kutunga sheria ambayo ingeweza kutungwa na Bunge.

Jambo ambalo nimeona hapa, ya kwamba hii faini ambayo imetolewa ya Shilingi laki tano, ni kidogo sana kwa sababu, jukumu ambalo Waziri ama jopo lile limepewa ni kubwa. Kwa hivyo, lazima iambatane na ongezeko la faini hiyo. Kwa hivyo, lazima faini hiyo isiwe chini ya Shilingi milioni mbili.

Tukiangalia yale mambo ambayo yamezungumziwa katika sheria hii, mengine ni mazito sana. Iitakikana kutungwe, kupeleke kanuni bungeni ya kuweza kuendeleza sheria hizi. Iwapo haikuendelezwa kwa mfano, serikali imeweza kupoteza fedha ambazo zingechukua kutokana na sheria hii. Kwa hivyo, kupotea kwa nafasi hizo inafaa kuambatane na faini ya juu ambayo waziri ama yule mtu anayehusika ataweza kutozwa ili aweze kupeleka sheria katika Bunge.

Vile vile, kupeana nafasi kwa sababu sheria zinazoletwa Bungeni zinapitia mikononi mwa Waziri. Sheria ambazo zimetungwa na Bunge na wakatoa fursa kwa Waziri kutengeneza sheria endelevi ili kuendeleza Mswada wa sheria. Mara nyingi hawana hamu ya kupitisha sheria zile kwa sababu mara nyingi zitakwaza maswala fulani.

Kwa hivyo, nafasi inayotolewa hapa kwa yule ambaye ameweza kutunga sheria ile ama yule ambaye amedhamini sheria ile kuweza kuleta sheria endelevi, ni fursa nzuri kwa vile inawapa nafasi wale ambao wanaona kwamba interests zao ama mambo yao yakiendelezwa na sheria hii, ili yaweze kuendelezwa bila kupoteza wakati.

Mpaka sasa, swala la sheria endelevi zinazokwisha baada ya miaka kumi, halijaweza kuzingatiwa na mashirika mengi. Kwa mfano wiki iliyopita katika kamati ya Sheria Endelevi, maarufu, *Committee on Delegated Legislation*, tulikuwa tunjadili mapendekezo ambayo yameletwa na shirika la National Construction Authority (NCA) ambao walikuwa wanataka kubadilisha sheria ambazo kanuni endelevi ambazo zilikuwa zinatumiwa na kuleta mpya ijapokuwa zilikuwa zimekwisha mwaka wa 2023. Bado walikuwa wanataka kuzirekebisha zile ambazo zilikuwa zimeisha mwaka 2013.

Miaka kumi baadaye, swala lingine ni kuwa wakati tulipoingia katika Bunge hili, zililetwa karibu kanuni 1,743 ambazo zilikuwa zimekwisha muda wa kuhudumu wa miaka kumi. Tulikataa kuzipitisha kwa sababu, sheria zile zilikuwa zinahusu wizara tofauti. Lakini wakati notisi ilipotolewa na ofisi ya mkuu wa sheria ya kwamba aliweza kuziongezea muda. Ilikuwa ni kinyume na sheria kwa sababu kila sheria ilikuwa chini ya wizara fulani.

Kwa hivyo, ilikuwa ni wizara husika waweze kuleta marekebisho haya ili waongezewe muda ndiyo waweze kuongezea sheria hizo muda. Ukiangalia katika kaunti zetu, zile sheria za ujenzi wa nyumba, nyingi zao ni zile ambazo zilikuwa zinatumika wakati kulikuwa na manispaa na mabaraza za miji. Hawajaweza kutunga kanuni mpya za kuweza kusimamia mambo ya ujenzi. Ukiangalia, majumba mengi yamejengwa upya katika miji mikuu, hata *affordable housing* ama zinazojengwa na serikali, lazima zipitie zile sheria za nyumba za ujenzi katika kaunti zetu.

Ipo haja na ninafikiri, hili nitalizungumzia katika kamati yetu, kuangalia sheria zote za ujenzi katika kaunti zetu kama zimeweza kuambatana na sheria ambazo ziko. Je, zimeweza kuhudumu katika ule muhula wa miaka kumi ambao umewekwa na sheria ama la?

Mhe. Spika, naona sehemu nyingi katika kaunti ya Mombasa, majumba yanajengwa mapya lakini ukiangalia huduma za maji, ni zile za zamani. Ukiangalia umeme ni ule ambao ni wa zamani. Tukiangalia maswala ya maji machafu, hukuna miradi ambayo yamepangwa kufanywa ili kuchukua hizi nyumba mpya ambazo zinajengwa. Kwa hivyo, utapata kwamba nyumba nyingi zinamwaga maji machafu baharini ambako zinadhuru viumbe ambavyo viko kule. Nyumba nyingi, hazina nafasi nzuri ya kuweza kupata vijana ama watoto kucheza na sehemu nyingine za kujiburudisha. Kwa hivyo, sheria hii itasaidia pakubwa kudhibiti ile nguvu za Bunge katika kutengeneza sheria na kanuni za kuhudumu sheria hizi.

Asante sana Mhe, Spika kwa kunipa fursa hii.

The Speaker (Hon. Kingi): Sen. Beatrice Akinyi Ogola.

Sen. Ogola: I thank you, Mr. Speaker, Sir. For giving me an opportunity to support the amendment that we have before us. It is a great amendment to the Statutory Instruments (Amendment) Bill, 2024. I support this because of certain challenges that we have had with implementing authorities.

Mr. Speaker, Sir, sometimes when we discuss with the executive in our committees, issues to do with lack of regulations often come up. It is through regulations that we have these Acts of Parliament become operational. I support this from the onset because this amendment spells out timelines within which these regulations must be prepared by the executive, either at the county or national government.

I also want to support due to the fact that we do not grow when things are easy. I remember this being a result of the National Dialogue Committee (NADCO) report. It did not come easy. I remember there were serious challenges in this country at that time. I am a member of the other side of the coalition that contributed a lot to the NADCO Report.

That because of the challenge we had then as Azimio Coalition, some of which we continue to have, the two sides of the divide got the courage to sit together and form teams. One team was led by the Hon. Kalonzo Musyoka that led our team and the other from the other side of the Kenya-Kwanza Coalition.

The two principals were able to come together. They had the courage to decide that they were going to make a stop to the squabbles that we had then and were able to bring different members from their teams to sit together that resulted into the NADCO

Report that has given birth to one of the amendments that we are discussing today. This was very timely.

Dialogue is encouraged even in our families. When we have challenges in our everyday lives, we should encourage sitting down together to make decisions as worrying teams. If dialogues are given a chance, something always comes that everybody is able to celebrate. Today, we are here discussing a result of that dialogue.

It was good that the two teams came together. We continue to congratulate His Excellency the President and the former Prime Minister, Rt. Hon. Raila Amolo Odinga, for taking that courage. One of the quotes that I like to read by Ruth Gordon says that courage is like a muscle. That it is only strengthened by use. It is for that reason that we celebrate these two gentlemen that came up with the sitting that brought forward the NADCO Report.

We also celebrate the two thirds gender rule that was discussed and agreed on in the NADCO Report. We are calling on the two Houses to support it. Of course, we have discussed the two thirds gender rule in the Senate and a number of us supported it. However, political parties must do their part on it so that we can achieve the two thirds gender rule in this country.

Another thing that was discussed in the NADCO Report was the formation of the panel of the Independent Electoral and Boundaries Commission (IEBC). We have seen good prospects from that because a panel was set. In the last few days, we have seen interviews that have been carried by this panel. We saw the interviews that were conducted by this panel in getting the next Chairperson of the IEBC. We have also seen after the conclusion of the interviews of the Chairperson, we went ahead to see the interviews of the members of the Commission.

All we are asking for as Kenyans is that when we finally get the results of these interviews for the Chairperson and the members of the IEBC, we would like to see a membership of a commission that reflects the face of Kenyans. We would like to see inclusivity, gender composition and even a youth represented at the Commission. All these were products of the NADCO Report.

We also saw a concern on the cost of living in the NADCO Report. Of course, that still is a concern up to today. We would like to see a country where there is concern for the cost of living of its members.

I support this amendment before us because there are timelines that have been set. We also see a fine where a person who without a reasonable cause fails to make this instrument within the required timeline. The fine that has been mentioned here is only Kshs500,000. I suggest that this should be increased to at least Kshs2 million or more. This is because there are a number of Acts of Parliament lying in shelves without implementation. It means some of these implementers have no goodwill on these Acts.

Since I joined the Senate, I realised that the process of even getting an Act of Parliament from the start to the end is very costly and painful. When Parliament has gone to prepare an Act and it has gone to completion and even ascended to, there should be no reason it should lie in some shelf because an implementer of the Act of Parliament is not

keen on preparing the required regulations that would make it operational. Therefore, once that offence is identified, the fine for it must also be made painful.

I am also supporting that if an offence is made, this fine must never be paid from the public funds available. That once somebody commits this offence, he/she must pay from their personal proceeds. This will ensure that the executive goes ahead to prepare these regulations in time.

I also suggest that counties or ministries be assessed by how many regulations they prepare. This will ensure that this comes out very clearly even in their performance contract. As I have mentioned before, there would be no need of a Ministry or County Executive Committee Member (CECM) to have Acts that are prepared by county assemblies and have them lying without regulations so that operations of those Acts are made easy.

Mr. Speaker, Sir, I support because this has been lacking. I support all of them together with the NADCO Report, some of whose proposals are still pending.

I thank you.

Sen. Maanzo: Mr. Speaker, Sir, I am one of Members of the Committee on Delegated Legislation. This is my 13th year in that committee. One of the biggest challenges we have faced as a committee is that there are quite a number of Acts without regulations. It is impossible to implement an Act without regulations by a Cabinet Secretary in charge of a particular Ministry.

One of the biggest challenges right now are the digital health regulations. That is what has made it difficult for the Social Health Authority (SHA) and the Social Health Insurance Fund (SHIF) to work. I am happy that they have now been placed before our committee. Probably, we are going to look at them this week with the new Cabinet Secretary, Hon. Duale, to make sure there is a way to implement the digital part of the operations of the Ministry of Health. That has been a big challenge. You can imagine what would happen if there are no health regulations.

Another challenge which comes with the Statutory Instruments Act is that many Ministries seem not to understand them. Many Ministries are not aware that regulations expire after 10 years. The reason is that most regulations have charges which are likely to be increased or reduced with time. Therefore, as Sen. Faki, the Senator for Mombasa, has said, quite a number of regulations have expired.

The Government tried to amend the Statutory Instruments Act in reverse to state that statutory regulations can stay forever but we fought that. I am happy that this particular amendment has been brought. All that Ministries need to do is to seek an extension of one year to look at the regulations. They do not need to be amended. They just need to republish and bring them before Parliament.

Mr. Speaker, Sir, this is a good Bill. I agree with those who have said that the fine should be made tough. I will bring an amendment proposing to make the fine Kshs2 million. I believe I will work with Sen. Beatrice to make this tough so that Cabinet Secretaries are aware. That fine should come from the pocket of a relevant Cabinet Secretary.

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

Sen. Orwoba: Mr. Speaker, Sir, I rise to support this Amendment Bill. I do not want to belabour points that have been said by my colleagues. I would like to point out that we have so many pieces of legislation that have been passed and signed into law, but they have not been implemented. One of them happens to be provision of sanitary towels.

When there was an amendment on the Basic Education Act, the Ministry of Education was tasked to provide sanitary towels to school girls. It took at least three years before that was implemented. Even after it was implemented for a couple of years, there were no guidelines. It was as if the person in office would decide whether to implement, say they are looking for a transitional committee, or whatever.

Mr. Speaker, Sir, I just wanted to add my voice on this by saying that not only do we need to have a framework on the guidelines, timelines and who is to do what. As a Senate, it is imperative to consider having a special committee that will be in charge of ensuring that pieces of legislation that we pass in this House are implemented.

As I support this amendment, I would also like to say that having sat in the Committee on Delegated Legislation, there are so many statutory instruments that we can utilise in terms of ensuring that we institute changes in places where we have gaps in legislation. The problem is that we still do not have a way of following through. What we are trying to cure also applies to the Committee on Delegated Legislation.

Mr. Speaker, Sir, as I support, I would like to convince the Sponsor of this Bill to also consider proposing a Standing Order, where we can have an implementation committee for the Bills that we pass.

I thank you.

The Speaker (Hon. Kingi): Thank you.

Hon. Senators, now that the Mover is not in the House, pursuant to Standing Order No.97(2)(b), it is assumed that he has forfeited his right of reply, hence we move to the putting of the question, which I will have to defer owing to the number of Senators present now.

(Putting of the question on the Bill deferred)

Clerk, let us proceed to the next Order.

BILLS

Second Reading

THE COUNTY HALL OF FAME BILL (SENATE BILLS NO.18 OF 2023)

Sen. Miraj: Mr. Speaker, Sir, kindly defer the Bill to the next sitting.

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

(Bill deferred)

Let us go to the next Order.

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL (SENATE BILLS NO.46 OF 2023)

The Speaker (Hon. Kingi): Let us have Sen. Mwaruma. If he is not here, that Order is deferred.

(Bill deferred)

Let us go to the next Order.

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL (SENATE BILLS NO.49 OF 2023)

The Speaker (Hon. Kingi): Let us have Sen. Lenku Ole Seki. Since he is not present, that Order is deferred.

(Bill deferred)

Let us go to the next Order.

Second Reading

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

The Speaker (Hon. Kingi): Sen. Kathuri Murungi is not present. So, that Order is deferred.

(Bill deferred)

Let us go to the next Order.

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

The Speaker (Hon. Kingi): Sen. Ledama Olekina is not present. Therefore, that Order is deferred.

(Bill deferred)

Let us go to the next Order.

*Second Reading*THE SPORTS (AMENDMENT) BILL (SENATE
BILLS NO.33 OF 2024)

The Speaker (Hon. Kingi): Sen. Edwin Sifuna is not present. Therefore, that Order is deferred.

(Bill deferred)

Let us go to the next Order.

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

The Speaker (Hon. Kingi): Sen. Ali Ibrahim Roba is not present. Therefore, that Order is deferred.

(Bill deferred)

Let us move on to the next Order.

*Second Reading*THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL
(SENATE BILLS NO.20 OF 2024)

The Speaker (Hon. Kingi): Sen. Karungo Thang'wa is not present. Therefore, that Order is deferred.

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(Bill deferred)

That is the last Order as per today's Order Paper. Hon. Senators, kindly rise.

ADJOURNMENT

The Speaker (Hon. Kingi): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Wednesday, 2nd April, 2025, at 9.30 a.m.

The Senate rose at 6.20 p.m.