



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fourth Session

Tuesday, 11th November, 2025 at 2.30 p.m.

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 11th November, 2025

*The House met at the Senate Chamber,
Parliament Buildings at 2.34 p.m.*

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

We now have quorum. Clerk, you may proceed to call the first Order.

PAPERS LAID

THE 21ST BIENNIAL REPORT ON STATUS OF ALCOHOL AND DRUG ABUSE CONTROL IN KENYA

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Tuesday, 11th November, 2025-
The 21st biannual report on the status of alcohol and drug abuse control in Kenya.
I beg to lay.

(Sen. Cheruiyot laid the document on the Table)

Sen. Wafula: Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate today, Tuesday, 11th November, 2025-

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

REPORT OF COMMITTEE ON HEALTH ON OVERSIGHT AND NETWORKING
ENGAGEMENTS IN LAIKIPIA AND MERU COUNTIES

Report of the Standing Committee on Health on the County Oversight and Networking Engagements in Laikipia and Meru Counties.

REPORT OF COMMITTEE ON HEALTH ON OVERSIGHT
AND NETWORKING ENGAGEMENT IN KILIFI COUNTY

Report of the Standing Committee on Health on the County Oversight and Networking Engagement in Kilifi County.

Thank you, Mr. Speaker, Sir.

(Sen. Wafula laid the documents on the Table)

Sen. Ali Roba: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, 11th November 2025-

REPORT ON THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATION
BILL (NATIONAL ASSEMBLY BILL NO.2 OF 2025)

Report of the Standing Committee on Finance and Budget on the County Governments Additional Allocation Bill, (National Assembly Bill No.2 of 2025).

REPORT ON THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS)
BILL (NATIONAL ASSEMBLY BILL NO.11 OF 2023)

Report of the Standing Committee on Finance and Budget on the County Governments Revenue Raising Process Bill, (National Assembly Bill No.11 of 2023).

REPORT ON THE PUBLIC AUDIT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 4 OF 2024)

Report of the Standing Committee on Finance and Budget on the Public Audit (Amendment) Bill, (National Assembly Bill No. 4 of 2024).

I beg to lay.

(Sen. Ali Roba laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order.

NOTICES OF MOTION**ADOPTION OF REPORT OF COMMITTEE ON HEALTH ON
OVERSIGHT NETWORKING ENGAGEMENTS
IN LAIKIPIA AND MERU COUNTIES**

Sen. Wafula: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Health on the County Oversight Networking Engagements in Laikipia and Meru Counties laid on the Table of the Senate on Tuesday, 11th November, 2025.

The Speaker (Hon. Kingi): Proceed, Chairperson, Standing Committee on Health.

**ADOPTION OF REPORT OF COMMITTEE ON HEALTH ON
OVERSIGHT NETWORKING ENGAGEMENT IN KILIFI COUNTY**

Sen. Wafula: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Health on the County Oversight and Networking Engagement in Kilifi County laid on the Table of the Senate on Tuesday, 11th November, 2025.

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS**STATEMENT**

Statements pursuant to Standing Order No.53(1).
Proceed, Senator for Nandi County, Hon. Samson Cherarkey.

**STATUS OF MEDICAL INFRASTRUCTURE AND CHALLENGES
FACED BY MEDICAL PERSONNEL IN NANDI COUNTY**

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. This is the first time you have pronounced my name well like my kinsmen.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health on a matter of countywide concern regarding the status of medical infrastructure and challenges faced by medical personnel in Nandi County.

Mr. Speaker, Sir, Nandi County health sector continues to face critical gaps across all seven sub-counties. This include stalled infrastructure projects, under-equipped facilities, acute staffing shortages, particularly in rural areas and underutilisation of newly-constructed health centres in all the six sub-counties that is Emgwen, Chesumei, Aldai, Nandi Hills and Tinderet, among others.

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

The inconsistent rollout of digital health systems and limited community engagement have further exacerbated disparities in access and eroded public confidence in the county's ability to deliver timely, equitable and quality health care starting from Kapsabet County Referral Hospital. Urgent and coordinated intervention is required to address these shortcomings and restore trust in the health system.

In the Statement, the Committee should address the following-

(1) The progress made in observing the Universal Health Coverage (UHC) for contract workers in the county, their transition into permanent and pensionable terms, including the framework guiding their transition and the timelines involved.

(2) The performance of hospital revenue collection systems across all health facilities in Nandi County, the factors contributing to low revenue generation and the reforms proposed to enhance financial sustainability and service delivery.

(3) The adequacy of staffing levels in health facilities, particularly in newly constructed centers and rural areas such as in Aldai, Kapsengere and Kobujoi and Tinderet in Maraba, among other areas within the sub-counties, in the county's structure, strategy for recruitment, retention and incentivisation of medical personnel.

(4) The implementation status of key health infrastructure projects, including Kapsabet County Referral hospital upgrade, the Mother and Child hospital complex in Kapsabet County and the Kapsengere multistorey hospital with reference to initial budgets, timelines and actual progress.

(5) The availability and functionality of medical equipment in upgraded and new facilities, including plans to operationalise diagnostic units and surgical theaters that remain idle due to equipment gaps or lack of trained personnel.

I thank you.

I must have spoken in Nandi the whole weekend.

The Speaker (Hon. Kingi): The Senator for Turkana County, Sen. James Lomenen.

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

Hon. Senators, we will allow comments for not more than 15 minutes from the statement sought by the Senator for Nandi.

We will start with Sen. Osotsi.

Sen. Osotsi: Thank you, Mr. Speaker, Sir.

I want to support the statement by the Senator for Nandi on the issue of medical equipment and generally, medical infrastructure in our hospitals. When we discuss one county hospital, the scenario is replicated in almost every county hospital, where the issue of managing equipment remains a major concern.

Mr. Speaker, Sir, even in my own county, in Vihiga Referral Hospital, there have been cases of equipment malfunction, some of which have even gone on for six months and patients are suffering. You will find that the Computed Tomography (CT) scan, for example, is not working, forcing the patients to be referred to private hospitals to do basic things like CT scan.

This statement is very timely. I wish the Committee on Health could also look at the other hospitals in all 47 counties, so that they can bring a consolidated report for consideration by this House. You know, we previously had the Managed Equipment Service (MES) arrangement, but we now have something else called the National Equipment Service (NES). It is slightly better than the MES, but the cost of services seems to be higher than before. So, that means it is taking away good revenue that counties should be getting.

Mr. Speaker, Sir, there is only one thing that I must appreciate as it led to improvement in our hospitals; the Facility Improvement Financing (FIF), which this House passed. It requires that the revenues generated by the hospitals be retained for use in those hospitals. This is a system that in the long run will ensure we have efficiency and proper financial management in our hospitals.

With those few remarks, I support the statement by the Senator of Nandi, who is my neighbor. He is very good in bringing good statements, but sometimes my friend makes statements that are not in line with the---

The Speaker (Hon. Kingi): Sen. Osotsi, you are done. Kindly take your seat.

Hon. Senators, you have a maximum of three minutes when you take to the Floor.

Proceed, Sen. Wakoli.

Sen. Wafula: Sir, thank you for this opportunity.

(Sen. Cherarkey consulted loudly)

My friend, Sen. Cherarkey, calm your lips, so that I can spew some wisdom.

Mr. Speaker, Sir, it is very disturbing. I concur with the statement of my good Senator, Cherarkey, that the status of infrastructure, equipment and human resources in our various health facilities is wanting and in a downward trend. We have visited various county referral facilities in the country; Isiolo, Marsabit, Makueni, Kitui, Garissa, Laikipia *et cetera*. The latest was yesterday, in Kiambu.

Mr. Speaker, Sir, it is perturbing to visit facilities that by their names are huge, but their services are pathetic and inhumane. We visited the morgue in Kiambu. However, it did not have refrigerators to keep bodies safe. People were lumped there as garbage. The situation was not humane. I was talking to my friends and telling them that Kenyans are suffering, toiling and moiling. In hospitals, they are being exposed to serious medication pain and in death, they are dumped as if no one cares.

Mr. Speaker, Sir, this House and Senators, wherever we come from, must step up and stand for our people. The state of medical incinerators in virtually all the facilities is wanting. Some facilities dump medical remains in open air where children can reach them. When you look at their data, you find they have taken over three months before disposing the things. The scenario is even worse in many other parts of the country. I call upon this House and my Committee, led by Sen. Mandago to act.

This week, we will be touring the great counties of Bungoma and Kakamega. We will call a spade a spade. We will call out these grey areas. Time is up for the national Government to support counties; as it does, it must also call the counties to order. Governors are associating themselves with projects by the national Government, while

disowning their own facilities. They are hiding their own facilities and taking credit or *Bonga* points of His Excellency the President.

We are supposed to stand firm and defend our people. In some pharmacies, medicines have expired. You can even find expired drugs in operating theaters and ambulances. People are working in those facilities without equipment and safety gears. Why are we exposing our people to such dangers yet always crying that the Social Health Authority (SHA) is not remitting? If SHA is remitting, then they are not accountable for the monies being paid by SHA. We must hold these governors to account, as well as the Cabinet Secretaries and chief officers in those line ministries. Some of them believe that governors will be hanged as they go scot-free in the counties.

Thank you.

The Speaker (Hon. Kingi): The Clerk-at-the-Table, the maximum time for a Senator to take to the Floor is three minutes.

Proceed, Sen. Eddy Oketch.

Sen. Oketch Gicheru: Mr. Speaker, Sir, thank you for giving me this opportunity. I will quickly make a few comments on this statement with the former good Senator of Nandi now becoming not a very---

(An hon. Member spoke off record)

Are you paid by Sen. Cherarkey?

On a more serious note, this statement looks at various issues that we have focused on in this House. We have passed various pieces of legislation that could actually equip our hospitals. I do not think the issue raised here on the healthcare systems in Nandi is dissimilar to other counties. I spent this weekend in Migori County and I visited the people of Nyamuga in East Kamagambo in Rongo.

There is a very simple matter, like what we passed in Turkana, regarding the Community Health Promoters (CHPs). Do you know that the CHPs are not getting their money? They are not being paid at all. The national Government's contribution is not getting to them. The county governments are even more notorious. It is not paying these people and yet, they are working diligently day and night to complement and supplement some of the services provided by these health centers and even dispensaries. We have pieces of legislation that should guide these issues, which are not being followed. I hope that this Committee will look into it. I would like to see the CHPs of Migori County and in extension, those in other counties outside Migori, being paid.

Mr. Speaker, Sir, in this House, when you were not here, I was thrown out for talking vehemently on the issue of UHC coverage in our country. Why is it that it is becoming consistently a problem that these people cannot be confirmed into permanent and pensionable yet, some resources are diffused to other places? These people have been---

(Sen. Maanzo stood up in his place)

The Speaker (Hon. Kingi): Senator for Makueni, Sen. Maanzo, take your seat and be orderly.

Majority Leader, you may proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, I would like to address a few points regarding the health facilities in our county. Sen. Cherarkey has asked us to introspect on the issue, not necessarily Nandi County alone. I would like to remind the House that we need to take time to understand the laws that we passed. The four health laws that we passed in Turkana are supposed to resolve this mess. One is the facility improvement fee. If you take time to listen and speak with medical superintendents of all the county-level hospitals, they will be able to draw out a picture for you as part of the bigger challenge that our health facilities face. However, majority of Kenyans will seek treatment and because of the economic situation that we find ourselves in as a country, they will be unable to pay.

A big percentage of that has been sorted, with many Kenyans now registered under SHA. The only problem you will remember, which I raised last week or two weeks ago, when we had the Cabinet Secretary for Health, is that up to now, I have asked for this information, and I do not know why it is being hidden like bhang.

I hope our Members of the Committee on Health can help us appreciate the compensation that is going to specific counties and to health facilities. This will ensure that as I sit here, I can talk to my people, advise them and tell them to ignore the rhetoric that you sometimes hear from politicians.

Counties that have a higher number of registered residents who are seeking health services from public health institutions are benefiting more than those that do not have workable health facilities. However, how will I know that if the information is not made readily available to me as a legislator?

I want to plead with the Members of the Committee on Health. Though the Cabinet Secretary promised this House that would be part of the reports that he shall be filing with this House in compliance with Regulation 42 of the health laws, could we have it as a special report to this House, so that I know how much has been paid as compensation in lieu of service to the various health facilities in my county? That is the first answer to this problem that Sen. Cherarkey is talking about.

When health facilities are compensated and the resources are properly managed - remember we have now ring-fenced those resources - they cannot be appropriated to do anything else. They can only be used to improve the operational standards of our health facilities.

It is my hope and prayer that before we break for the long recess, the Committee on Health will table this report in this House. I do not see the chair or the vice-chair, but I believe maybe there are Members of that Committee here. If they could help us get that particular report, then we could make head out or tail out of this situation.

I thank you.

Sen. Onyonka: Mr. Speaker, Sir, I want to first of all thank you for giving me this opportunity. With a lot of humility, I would like to say that I congratulate my friend and young brother Sen. Allan, the Senator of Trans Nzoia County.

I was unable to attend your wedding because I was out of the country, but I do have a present for you and your madam from Kisii County. I would like to congratulate you for joining the club of those who might end up in heaven.

Mr. Speaker, Sir, I would like to say that I belong to the Committee on Health. I was in Kiambu County yesterday and we have visited several counties like my colleagues have said. The situation is not helpless. I was actually surprised by what we saw when we visited Kiambu County. We noted the challenges that the referral hospital is facing whereby the kitchen does not even have equipment and machinery for cooking the food and the ceilings are collapsing. I was shocked that patients in Kiambu Hospital have never eaten meat. Patients are never given an egg or sugar. It was really a very painful scenario. Even though that was the case, there was also very good information from Kiambu County Health Services because they have done 24 Level 3 and Level 4 hospitals which are all brand new. We visited those facilities and they were quite impressive.

The governor has officers, some of them who have worked very well for the county. However, some of them have been a problem. Some of them have gone and opened their own personal hospitals in Ruiru and Thika. Some of the medicines are found there.

I want to mention to this House because we really do not have time to go into all this. I have a very special request to make to my colleagues. We need to get out of this building and go to the counties. In every single place we have visited, we have seen changes. When we went to Machakos, the employees who had not been paid their salaries for one year, others one and a half years, were paid after in about two days.

The governors gave us access. We visited many of the facilities that had a problem and what we are saying is that, the reality, as a Senator, now is that when we visit these facilities, action is taken. So, I would like the Committee on Agriculture, Livestock and Fisheries, the Committee on Health and the Committee on Education to get out of this place where we are---

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

Sen. Kinyua: Asante Bw. Spika kwa kunipa fursa hii. Kwanza kabisa kuanzia mwanzo ningependa kusema ya kwamba afya ni muhimu sana katika maisha ya binadamu yeyote. Kwa hivyo, kamati inayohusika, taarifa hii iliyoletwa na Sen. Cherarkey ni ya muhimu sana na inapaswa kuangaziwa kabisa.

Ukiangalia ushuru unaopatikana utaona hauendi katika hospitali zetu. Mara kwa mara, unapata gavana anaambiwa kuhusu barabara au maji, wananchi wanaposikizana katika mabaraza. Unapata hela zote zinepelekwa katika mambo ya barabara na mambo yale mengine lakini afya inaawachwa.

Bw. Spika, ukingalia hata vifaa vinavyotumika katika hospitali zetu, ni vifaa ambavyo ni vya zamani sana, ijapokuwa tukikaa katika Seneti hii, katika ugawi wa hela, tunaendelea kupunguza hela katika kaunti zetu.

Ukitembelea zahanati utaona ziko katika hali mbaya. Nakumbuka muhula uliopita, kuna vifaa ambavyo vilipelekwa katika hospitali zetu. Lakini ukienda katika hospitali hizo unapata vifaa vyenyewe vinahitaji umeme. Vifaa hivyo haviwezi kutumia umeme kwa sababu haupo katika hospitali zetu. Hata maji hakuna. Kwa hivyo, unapata watu wanaendelea kupata matatizo. Sio huko Nandi tu. Hili jambo linaadhiiri Kenya

mzima, kila sehemu. Unapata hospitali dawa hakuna. Ukiulizia mambo ya dawa unaambiwa ya kwamba shida sio gatuji, shida ni Kenya Medical Supplies Agency (KEMSA).

Hili jambo linapaswa liangaziwe na kamati inayohusika. Nimesikia mwezangu hapa akisema yeye ni mwanakamati wa kamati husika. Kwa hivyo wanapaswa kufanya jambo hili ili hali iweze kuimarika.

Ingawa tunaongea hapa na kuendelea kugawa hela, unapata pale katika gatuji zetu haya mambo hayachukuliwi ambavyo inavyofaa. Ukitembelea hospitali kama ile ya Nyahururu, utapata haina dawa na madaktari ambao wanapaswa kufanya kazi pale hawajalipwa kwa miezi. Kwa hivyo, unapata wanasusia kufanya ile kazi na wananchi wanaendelea kuumia.

Hii taarifa iliyoletwa na Sen. Cherarkey itakapofikia kamati husika, wanapaswa waishughulikie ili waweze kuleta ripoti hapa, ambayo tutaweza kuifuatilia kikamilifu na tusiwe tu Seneti la kuongea. Vile Bajeti ya kitaifa isiwe bajeti kubwa kushinda bajeti ya wale ambao wako katika gatuji zetu ambao asilimia 70 inabaki katika---

The Speaker (Hon. Kingi): Proceed, Minority Leader.

The Senate Minority Leader (Sen. Madzayo): Asante Bw. Spika. Kwanza nataka kumpongeza Seneta wa Nandi kwa kuleta taarifa hii hapa ndani ya Bunge la Seneti.

Tunaona kwamba kuna upotevu wa nidhamu ndani ya Serikali hususan kwa upande unaohusika na hospitali. Afya ya binadamu ni kitu muhimu sana kuliko kitu chochote. Hata tukifanya vipi, ni lazima tutambue ya kwamba binadamu bila kuwa na afya nzuri hawezi kuwa binadamu mkamilifu.

Mimi kama mwanakamati wa Kamati ya Afya, niliweza kupata nafasi ya kuenda katika hospitali ya Kiambu. Maajabu niliyoyaona pale, yalikua kitu cha ajabu sana. Utapata akina mama wanasema kwamba wanajua ku *multi task* lakini pale walikua wamelemewa. Utaona ya kwamba mama ana mtoto mgongoni, mtoto ni mchanga, amemshikilia na yeye mwenyewe ni mgonjwa.

Kuhusu daktari, tulienda pale mapema na tulipo uliza maswali tuliambiwa ya kwamba hao akina mama walikuja hapo hospitali saa moja asubuhi lakini kufikia saa tano walikuwa bado hawajapata matibabu ya aina yoyote kulingana na ule ugonjwa waliokuja nao. Upotevu kama huu wa nidhamu tunasema ukome kwa sababu ni jambo la aibu. Karne ya sasa, mtu anaenda hospitali na hamuoni daktari ingawa alienda mapema iwezekanavyo.

Jambo la pili, Bw. Spika, sio Nandi peke yake ambapo kuna shida hii. Ukiangalia vyumba ama kule watu hulala, utaona kwamba watu wanaishi kwa shida katika nchi yetu ya Kenya. Mtu anaweza kuteseka akiwa anaishi lakini heshima inapewa kwa maiti. Hiyo ndiyo sababu, hata mtu akiwa mdogo sana namna gani, ni lazima utaheshimu ile maiti.

Utapata ya kwamba katika hospitali ya Kiambu, kuna mrundo wa binadamu. Mimi sijaona kitu kama hicho. Mrundo wa binadamu umewekwa unapandana juu. Huyu amekufia hapa na amewekwa hapa. Mama pia amekufa na amebandikwa juu ya maiti nyingine. Mtoto pia anawekwa hapo juu. Unaweza ona kama si kweli lakini ukweli wa mambo ni kwamba, sijaona kitendo kama hicho kikitendeka hospitali yeyote isipokua hospital ya Kiambu.

The Speaker (Hon. Kingi): What is your point of order, the Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): My apologies to the Senate Minority Leader. I did not intend to interrupt him.

Mr. Speaker, Sir, I am struggling, just like any member of the public would following the proceedings of this House this afternoon. It is said that a Committee of this House visited Kiambu Hospital, but the things being said are completely contradictory. I listened to Sen. Onyonka paint a rosy picture of health facilities in Kiambu, but now the Senate Minority Leader is saying the opposite. A citizen following the proceedings the Senate this afternoon is struggling to understand what exactly is happening.

The Speaker (Hon. Kingi): Senate Majority Leader, that is not a point of order. You have to understand that the Minority Leader is also a member of that Committee. He is, therefore, talking from a point of knowledge. He is basically an eyewitness.

(Sen. Cheruiyot spoke off record)

No, that is not a point of order. I will give you a second bite to this. Proceed to state the Standing Order that has been breached by Sen. Madzayo and then state your case showing that Sen. Madzayo is disorderly.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, statement of facts on Standing Order No.105. That is the struggle I am having. It may not be necessarily about him because I am not discussing him. I am wondering what the true representation of the facts is as per that Committee.

After listening to all the Members, what is factual? I am not understanding whether Members of that Committee agree that there is a dire situation in Kiambu or things are okay, unless, I did not understand what the two Members are trying to canvass.

(Several Senators spoke off record)

The Speaker (Hon. Kingi): Order, hon. Senators. I believe the Senate Minority Leader is contributing to this Statement in his capacity as the Senator for Kilifi. If, indeed, the Committee of Health went to Kiambu, we await their report and the Senator for Kilifi is quite in order to state what he saw in Kiambu even if it contradicts the report.

Proceed, Senator for Kilifi.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika, kwa kumalizia, ni jambo la aibu lisilo la heshima kwa mwili wa binadamu kuwekwa hivyo. Ni lazima uwekwe kwa amani na uheshimiwe.

Kwa hivyo, tunaomba katika zahanati zetu zote, katika nchi yetu ya Kenya, watu wanapokufa, miili yao ni lazima iwekwe kwa hali ya heshima. Yale tulioyaona ni ya maajabu.

(Loud consultations)

Can I be heard in silence, Mr. Speaker, Sir?

(Several Senators consulted loudly)

The Speaker (Hon. Kingi): Order, hon. Senators, May the Minority Leader be heard silence.

Proceed to conclude.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Yale mambo tuliona kule yalikuwa ya kusitikitisha na ni lazima hatua ichukuliwe na Kamati na *recommendation* ifanywe ili mabadiliko yapatikane ndani ya ile hospitali ya Kiambu.

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

Sen. Omogeni: Mr. Speaker, Sir, I thank Sen. Cherarkey for bringing this matter to the attention of the House. I will be riding on this Statement that when the Committee does this inquiry, it should extend it to other counties.

I have listened to Sen. Cherarkey. I will give my personal experience. No, this is not about the state of our health facilities as a country. When you are talking about the adequacy of staffing levels, most of our counties do not have oncologists; doctors that can attend to cancer patients. If you go to Nyamira, you will find we do not have an oncologist.

We are talking about diagnostic equipment. In my County of Nyamira, we do not have MRI machines to attend to cancer patients. As I speak this afternoon, I am mourning my uncle who has passed on due to cancer. We went to Nyamira Hospital and the best that the doctors could recommend is for him to go to Nairobi to seek expert treatment.

When some of us come to this House and say that SHA is not working, it is because of the personal experiences we have gone through. We incurred a bill at Nairobi Hospital of Kshs1.34 million and the only portion that SHA paid was Kshs218,000. So, how can we tell Kenyans that SHA is working? Let us be serious. Let us be serious.

(Applause)

Most of us when we get sick, we go and flash our medical cards in the hospital because we have all those benefits. However, the poorest in this country do not get any assistance from this thing you call SHA. So let us call a spade a spade because we are leading comfortable lives because we have this good medical cover. That should not---

The Speaker (Hon. Kingi): What is the point of order, Senator for Nandi?

Sen. Cherarkey: Mr. Speaker, Sir, I am standing under Standing Order No.105 on responsibility for statement of fact. Sen. Okongo Omogeni, my senior and a Commissioner in the Parliamentary Service Commission (PSC), does not know that insurance operates on packages. Is it in order to use this Floor to mislead the people of Nyamira and Kenyans that SHA should pay the entire bill and yet, it is common knowledge?

(Sen. Sifuna spoke off record)

No, we do not work with promises.

The Speaker (Hon. Kingi): Order, Senator for Nairobi. You do not have the Floor. Whether it was promised or not, at the appropriate time, you will have the Floor, but for now you do not have the Floor.

Proceed.

Sen. Cherarkey: Mr. Speaker, Sir, protect me from this heckler.

(Laughter)

The Speaker (Hon. Kingi): Senator for Nandi, withdraw the word 'heckler'. Withdraw it immediately.

Sen. Cherarkey: Mr. Speaker, Sir, I withdraw the word 'heckler' and replace it with the word 'heckling'.

I was speaking on responsibility for statement of fact under Standing Order No.105. Can the Senator for Nyamira and the Commissioner of PSC, because we use that insurance, confirm that the medical package of insurance does not pay in entirety?

For example, the dental one we have is Kshs75,000. So, if you go and replace it with braces of gold worth Kshs200,000, will PSC pay? Can he withdraw, substantiate or apologise to Kenyans for using this forum to mislead and contravening Standing Order No.105?

The Speaker (Hon. Kingi): Sen. Omogeni, following the point of order, do you appreciate the benefits that come with SHA, so that from there, you may appreciate whether, indeed, it covered what the law allows SHA to cover and pay or whether it does not cover the entire cost and yet the law demands that SHA pays everything?

Sen. Omogeni: Mr. Speaker, Sir, I am at a loss on the point of order that has been raised by Sen. Cherarkey. I have stated a fact before this House, that a patient has incurred a bill of Kshs1.34 million and SHA has only paid Kshs218,000. What I am saying---

(Sen. Cherarkey spoke off record)

The Speaker (Hon. Kingi): Order, Senator for Nandi County. Can you allow the Senator for Nyamira County to conclude?

Proceed.

(Sen. Cherarkey spoke off record)

Sen. Omogeni: Mr. Speaker, Sir, I do not know whether---

The Speaker (Hon. Kingi): Order, Senator for Nandi County. Sen. Omogeni, let me just make it clear.

Sen. Omogeni: Mr. Speaker, Sir, can I know whether the Senator for Nandi County rejoices when Kenyans die? This is a serious matter. Have you been appointed to harvest souls of Kenyans? I am talking about a serious matter on the health of Kenyans.

The Speaker (Hon. Kingi): Order, Hon. Senator. Sen. Omogeni, kindly take your seat.

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

The Speaker (Hon. Kingi): Senator for Nairobi City County, you will have your opportunity to speak.

(Sen. Oketch Gicheru stood up in his place)

Sen. Eddy, take your seat, please.

Now, hon. Senators, we need not degenerate to this kind of chaotic exchanges. The point of order that has been raised by the Senator for Nandi County is that according to him, you are misleading the House for stating the wrong facts. That is why he raised it under Standing Order No.105.

According to him, SHA does not pay the entire amount. Just like any other insurance, it pays a certain percentage, which it did not pay as per the law. Therefore, your assertion that PAA is not working---

(Laughter)

Sorry, PAA is a political party. Order, Hon. Senators. For those continuing to laugh, you may be thrown out.

Hon. Senators, the Senator for Nandi County is saying that you are misleading the House and the public by stating that SHA ought to have paid for the entire amount. Yes, under the law, SHA is supposed to pay a percentage, in which case, it paid. Therefore, SHA is working. That is his point of order.

Sen. Omogeni: Mr. Speaker, Sir, we are divided here. The point I have made before this House is very simple; SHA is meant to meet the medical needs of Kenyans. When I go to a hospital with a SHA card, I expect my medical expenses to be covered. If I go to a hospital and only 10 per cent of Kshs1.34 million bill is paid, you cannot claim that SHA is working. You cannot pay 10 per cent of my bill and then cheat us that SHA is working. That is the point I am making.

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

Sen. Omogeni: Can the Senator for Nairobi City County inform me?

The Speaker (Hon. Kingi): Yes, Senator for Nairobi City County, you may proceed to inform the Senator for Nyamira.

(Loud consultations)

Order, Hon. Senators. Let us hear the Senator for Nairobi City County.

Sen. Sifuna: Mr. Speaker, Sir, I wish to inform the Senator for Nyamira County that I do not feel misled. The initial promise on why we moved from the National Health Insurance Fund (NHIF) where people paid almost the same amount regardless of income, to a graduated payment system, was made by none other than the Head of State himself.

I remember his words that harambees for raising hospital bills would become a thing of the past. This is because the new medical scheme would cover healthcare for all. There was no rider. At that time, nobody told us it would apply to only 10 per cent or a

portion. That is the justification for my contribution increasing from less than Kshs1,000 to Kshs33,000. He told us that those able to pay more should do so, so that harambees would end. Are Kenyans still holding harambees to fund medical care? Yes, they are. Therefore, SHA is not working.

Thank you.

The Speaker (Hon. Kingi): Now, hon. Senators, to guide the House, while sitting in Turkana County, we went through a set of laws that gave birth to SHA. Therefore, the mathematics of SHA is no longer based on a promise made somewhere; it is based in law. In that particular law, which this House participated in passing, did you provide that when someone checks into a hospital, becomes ill or undergoes a procedure and the bill amounts, for example, to Kshs1 million, the entire amount would be covered by SHA? Under the law you passed, was it a percentage of the total amount? I want to be referred to the law, not to a promise made somewhere.

Sen. Sifuna: Mr. Speaker, Sir, if you remember and the HANSARD can bear me witness, I am one of those who opposed this particular legislation. There is something in law called; “obtaining by false promises and pretences.” Even as recently as two weeks ago, the President was telling Kenyans that if you go to a hospital and are asked for money, you should report that person to the nearest police station. On what law was he basing that promise? He must understand that when you speak from the Office of the President, that is not a mere position. In fact, the law states that you are not allowed to give misleading information under the Public Officer Ethics Act, 2003.

The question we must ask is, the promise that was made and the perception created out there, whose problem is that? Personally, I voted against that law and brought amendments to this Floor, including to cap the limits of the contribution. However, we were told to increase our contributions, so that those without income could receive free medical care. That is how it was sold. If that has changed, let us be informed. I know what I voted against on this Floor. I know the amendments I brought. Some of these hecklers are the ones who voted for this law and are now telling us that SHA is working, while people are dying in the states.

(Loud consultations)

The Speaker (Hon. Kingi): Order, Hon. Senators. Now, Senator for Nairobi City County, kindly withdraw the word, “Heckler”. A few minutes ago, the Senator for Nandi County referred to you as a heckler and I refused that term to remain on the HANSARD. Kindly proceed to withdraw.

Sen. Sifuna: Mr. Speaker, Sir, they say, “What is good for the goose is good for the gander”. I will withdraw, “heckler” and replace with “heckling”.

(Laughter)

The Speaker (Hon. Kingi): Very well. Hon. Senators, we have procedures in this House. The Senator for Nairobi City County rose to inform the Senator---

(Sen. Cheruiyot spoke off record)

There is a procedure. If you have more information and would like to inform Sen. Omogeni, ask for permission to do so and I will allow. Otherwise, I cannot just open this debate.

(Sen. Omogeni stood up in his place)

Sen. Omogeni, please take a seat. Hon. Senators, it will help us, the House and the country, if we take time to look into the laws we passed. If we can look at those laws---

(Loud consultations)

Order, Hon. Senators. Let us take time to look at the law. It will save us from the kind of exchanges that I have seen.

Sen. Omogeni, you may proceed.

Sen. Omogeni: Mr. Speaker, Sir, if you go to the HANSARD---

The Senate Majority Leader (Sen. Cheruiyot): On a point of information, Mr. Speaker, Sir.

Sen. Omogeni: How can I be informed by---

The Speaker (Hon. Kingi): Sen. Omogeni, there are three Senators wishing to inform you. One is Sen. Okiya Omtatah. The other is the Senator for Nandi County. The third is the Senate Majority Leader. Would you wish to get this information?

Sen. Omogeni: Mr. Speaker, Sir, I can never accept to be informed by Sen. Cherarkey, but Sen. Omtatah, yes.

The Speaker (Hon. Kingi): You may proceed, Senator.

Sen. Okiya Omtatah: Mr. Speaker, Sir, I am reading Section 2 of the Act. Let me read it to him.

The Social Health Insurance Act – I am reading Part 2 and I read the definition of universal health care. They say-

“Universal health coverage means that all individuals and communities receive the health services they need, including the full spectrum of essential quality health services from health promotion to prevention, treatment, rehabilitation, palliative care, without suffering financial hardship.”

That is the law.

(Applause)

The Speaker (Hon. Kingi): Conclude your remarks.

Sen. Omogeni: Mr. Speaker, Sir, I am happy that Sen. Omtatah has read that section of the law. I did not just come here to heckle. As I speak this afternoon, I have an uncle, Joash Abuga Omogeni, who passed on at Nairobi Hospital and we have been forced to pay Kshs1.1 million.

The Speaker (Hon. Kingi): Clerk, did you exclude the time the points of order were raised?

(The Clerk-at-the-Table gestured at the Speaker)

Your time is up on the board. I give you 30 seconds to conclude.

Sen. Omogeni: Mr. Speaker, Sir, why we raise these matters before the House, is because we want the Hon. Senators, leaders who have been elected to represent Kenyans, to know what is happening out there and to be truthful. It is not a laughing matter---

(Sen. Cherarkey consulted loudly)

Can you allow me to conclude?

The Speaker (Hon. Kingi): Order, Senator for Nandi. Senator, please conclude.

Sen. Omogeni: Sen. Cheruiyot, wait for people to die in Kericho and celebrate.

(Loud consultations)

The Speaker (Hon. Kingi): Order, Hon. Senators, kindly allow the Senator for Nyamira to conclude his remarks.

(Loud consultations)

Sen. Omogeni: No, you can go and celebrate when they die in Kericho. For us, we are here to defend the lives of the people of Nyamira and other counties---

The Speaker (Hon. Kingi): Conclude, Hon. Omogeni.

Sen. Omogeni: Mr. Speaker, Sir, I do not have the microphone.

(Sen. Omogeni's microphone was switched on)

I make a very special appeal on this statement. That the Committee on Health must make a serious enquiry on the functionality of SHA and tell Kenyans the truth. If SHA is not functioning, let us be honest, let us be truthful. Let us not play politics with the health of Kenyans. That is why we were elected as leaders to speak for the poor.

I support.

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

Sen. Seki: Thank you, Hon. Speaker. I also support the statement from Sen. Cherarkey on the issues of challenges of medical infrastructure and personnel in Nandi County. This problem of health has been a very big issue to Kenyans. It is true that as we debate, it is good that we come into a reality that this has been a big problem.

Every weekend; Saturdays, Sundays and weekdays, we have harambees across the country, in all the wards, sub-counties and constituencies that we represent. It is true that SHA has a big challenge. Without making a lot of politics in it, it is a reality. This is because I remember that we said that we will have a free medical healthcare. It is true

that there is no help that SHA is giving to the common mwananchi. I also have a grandmother, whom I usually try to pay SHA for, just for outpatient only. There are no services for out-patient under SHA yet in NHIF, there were outpatient services. However, in SHA there is no outpatient. I do not know what kind of healthcare we have in SHA if we do not have outpatient; leave alone other services.

For instance, you will find a patient with a Kshs1.5 million bill yet SHA pays Kshs100,000 or even Kshs80,000. What kind of scheme is this; that you cannot even have a half payment of the bill from it? It is true that we need to review this without putting a lot of politics in it and making arguments. It is true; if that is the law that says that we only pay one per cent of every medical bill, then that is wrong. We need to rectify that. However, I am very sure it is just a way of getting money from the common mwananchi yet we are not giving services to the mwananchi.

Hon. Speaker, Sir, I submit.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this statement by Sen. Cherarkey. It is true that the infrastructure in most of the counties is wanting and even the machines that are used like MRI, CT scan, ultrasound and X-rays are in bad shape. You go to hospitals and you find that there is no machine which is working. Our citizens are suffering because they pay for SHA, so that they can be treated in those hospitals, but they are always being referred to go and take these examinations from other hospitals.

In addition, even the UHC workers are suffering. I remember that the President, while in Mombasa, gave an order that they should be employed permanently by the counties. I believe there was an allocation from the National Assembly for them to be employed. I wonder why they are still being paid as casual workers and not permanent and pensionable ones.

I request the Committee on Health to continue visiting counties. I thank them so much. Last week, they visited Machakos and casual employees who had not been paid were paid immediately. However, we have others who have been not paid. They are from Matuu Level 4 Hospital and Kangundo. I request that every committee now moves to the counties. We have a lot of work to do there through the committees, so that we can support devolution and make it work.

I support this statement. Thank you, Mr. Speaker, Sir.

Sen. Mandago: Thank you very much, Hon. Speaker. I have read the statement by Sen. Cherarkey. Indeed, there are some concerns that need to be addressed.

Allow me to just speak on the matter of SHA. First, I would like to inform my colleagues that it is good to be candid and honest. We have made visits to several counties. Yesterday, we were in Kiambu County with my Members and it is true that SHA is working; only and only if, you are registered and paid up. I want to remind my colleagues that the people at the lower cadres of the population who are not able to pay, were supposed to be onboarded as indigents. County governments working in liaison with the national Government should have ensured that people at the lower cadres of the population who are unable to pay are enlisted as indigents.

When we went to Kiambu, we found over 30 teenage mothers who had been discharged from hospital, but had not left because they had not paid. Some of them were

underage and, therefore, did not have identification (ID) cards. For that matter, they had not been assisted to get special numbers from SHA. If SHA has gone to the extent of making sure that even for a mother without an ID, a special number can be allocated to them to enable them get services. That means those responsible are going out of their way to make sure it is accessible.

We talked to the Governor and asked officers in the Health Department and social workers in Kiambu if they had evaluated those mothers to establish if they fell under the indigents category. We established that the County Government of Kiambu had budgeted for Kshs120 million to onboard indigents. That is how yesterday those mothers were registered and paid for by SHA before eventually being discharged by the time we left Kiambu County.

Therefore, I urge my colleagues. Let us ask the people we represent to register with SHA. We all passed this law here and said that we must register and pay some amount.

When I heard the Senator for Kajiado saying that SHA is not offering outpatient services, I was wondering whether he was sitting in this House when we were passing that law. First and foremost, SHA does not offer services; it is the hospitals. Every leader of the delegation in this Senate should go back to their county and ask their governor why Level 1 or Level 2 facilities are not working yet there are reimbursements by SHA.

You will be surprised that a County like Mombasa took Kshs5 million from Facility Improvement Fund (FIF), that was reimbursed, and went for an agriculture seminar---

The Speaker (Hon. Kingi): You have one more minute.

(Sen. Cherarkey spoke off record)

Order, Senator for Nandi.

Sen. Mandago: Mr. Speaker, Sir, when funds go to those facilities, it is our responsibility, as Senators of those counties, to make sure that they are being utilised---

Sen. Kavindu Muthama: On a point of information, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Mandago, would you wish to be informed by the Senator for Machakos?

Sen. Mandago: Mr. Speaker, Sir, we solved our problem with the Senator for Machakos. Therefore, she should hold her horses, so that I finish my submission.

Finally, Mr. Speaker, Sir, let me say this about the issue of---

(Sen. Kavindu Muthama spoke off record)

The Speaker (Hon. Kingi): Senator for Machakos, the Chair will not allow that. Proceed, Sen. Mandago.

Sen. Mandago: I hope my time was frozen when I was being interrupted.

Mr. Speaker, Sir, I also wanted to say this on the issue of Community Health Promoters (CHPs). Let us not find it fashionable to bash the President left, right and centre on matters whose decisions have been made and funds have been provided.

Every elected Senator in this Senate should go back to their county and ask their governor why they have been given money, but they do not want to convert CHPs to permanent and pensionable terms. Why are they recruiting additional workers in the counties yet they do not want to absorb CHPs, but they still go around blaming the national Government?

Funds have been provided. Governors should simply---

The Speaker (Hon. Kingi): Conclude, Sen. Mandago.

Sen. Mandago: Mr. Speaker, Sir, they must convert those workers to permanent and pensionable terms because they have the money. They should stop posturing around because these are Kenyans who helped this country at the most critical time. Probably some of us could not be alive.

Finally, Mr. Speaker, Sir, on the issue of reimbursement of SHA, we agree that there are a few delays here and there. However, we must also let the people know that there is a problem in the counties in terms of submitting the claims and attaching the necessary documents for those claims to be paid. Even when SHA returns to them, they need to act on them on time.

The other thing happening in the counties is accumulation of bills before they are submitted. The SHA system works in a way that it first submits then the bill is paid out. That is what counties should do. Everybody must do their part of the process in order for healthcare to be affordable and accessible in this country.

The Speaker (Hon. Kingi): Before the next Order is read out, I have this communication to make.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM BUSY BEE JUNIOR
SECONDARY SCHOOL, MOMBASA COUNTY

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and learners from Busy Bee Junior Secondary School in Mombasa County. The delegation consists of three teachers and 28 learners.

In our usual tradition of receiving and welcoming guests to Parliament, I extend a warm welcome to the delegation, and on behalf of the Senate and my own behalf, wish them a fruitful visit.

(Applause)

I had seen the Senator for Mombasa County. Since he is not here, I will allow Sen. Crystal Asige, under one minute, to extend a word of welcome.

Sen. Crystal Asige: Thank you so much, Mr. Speaker, Sir, for giving me the opportunity to greet and welcome the delegation from Busy Bee School to the Senate. I have an affinity towards the school because the owner of the school, Madam Christine, is my aunt and she does a fantastic job. In fact, the teachers may remember that I used to be

a music teacher at Busy Bee School when I was a little bit younger. That was after I was out of the university.

I would like to welcome the teachers and learners. This is the Senate. My name is Sen. Crystal Asige, a Nominated Senator from Mombasa County. On behalf of myself, the County Senator, Mohammed Faki and all other Members of the Senate, I wish you a fruitful visit.

I will be very happy to have the Senate Majority Leader go with me outside to greet you just after this, so that we show you the traditions that are always upheld; whether you are in primary or secondary school. Busy Bee students will absolutely be in the Senate, just like I have done ahead of them.

Welcome to the Senate. See you in a minute together with Aaron Cheruiyot, the Senate Majority Leader.

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

MOTION

RESOLUTION OF THE SENATE ON TABLING OF STATUTORY INSTRUMENTS AND PAPERS DURING RECESS

Sen. Mumma: Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate resolves that during the long recesses of the Fourth Session of the 13th Parliament, where any Statutory Instrument or Paper is transmitted for tabling in the Senate, and the Speaker determines that the Statutory Instrument or Paper is of priority. The Speaker shall forthwith refer the Statutory Instrument or Paper to the relevant Committee for consideration and the Statutory Instrument or Paper shall be deemed to have been tabled before the Senate and the Speaker shall report the Statutory Instrument or Paper to the Senate and cause the Statutory Instrument to be tabled in the Senate in accordance with the provisions of Section 11 of the Statutory Instruments Act (No.3 of 2023) and the Paper to be tabled before the Senate, at its next Sitting.

Mr. Speaker, Sir, I am moving this Motion on behalf of the Rules and Procedures Committee. The context of this is that as we are aware, Section 48(1) of the Public Audit Act (Cap 412B) states that-

“Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on the accounts specified in Article 229 of the Constitution.”

Notably, Article 229(8) of the Constitution envisages consideration of audit reports to be finalised by the Senate within three months of receiving them. That is by 30th March in the year. The effect of this provision for our committees; the County Public Accounts Committee and (CPAC) and the County Public Investments and Special Funds Committee (CPIC) is that before 30th March of each year, they ought to have considered and tabled the respective Office of the Auditor General's (OAG) reports in the Senate, so that on or before the date, the Senate will have adopted these reports.

Mr. Speaker, Sir, the effect of this provision is that papers or reports received when the Senate is on recess cannot be transmitted to the relevant committees to be processed in time as is expected by the constitutional provision. This matter was discussed in the Liaison Committee, which submitted a proposal for the amendment of the Standing Orders to have a provision that would facilitate the effect of the Motion that I have just moved.

The Rules and Procedures Committee has suggested that the amendment be held until the end of this Session. However, we utilise the Motion that I have just submitted because it facilitates exactly what the proposed amendment is to have. Therefore, it is in this context that I am tabling this Motion, and I ask Sen. Cherarkey to second it.

Thank you.

Sen. Cherarkey: Mr. Speaker, Sir, as I second, I ask for your protection, so that I second ably.

This is just a straightforward matter. I thank the Committee---

(Sen. Oketch Gicheru spoke off record)

Mr. Speaker, Sir, can you protect me? He is making threatening gestures towards me. Can you threaten a dry Kalenjin man?

The Speaker (Hon. Kingi): Sen. Eddy, may the Senator for Nandi County be heard in total silence?

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. You cannot threaten a dry Kalenjin man.

This is a straightforward matter in these rules and procedures, and those of us who sit in CPAC and CPIC are grateful to the Committee. You will remember the Civil Case 232 of 2017 on Alcoholic Beverages Association of Kenya ruling under Article 229 of the Constitution of Kenya on consideration of reports by the OAG and the Public Audit Act Sections 47 and 48. The timelines for consideration of reports tabled in Parliament are crystal clear.

The abstract of this Motion is very simple. As you are aware, this Session that we are talking about might come to an end early, God willing. We might be on recess during this Session. However, Kenyans should understand that politicians are never on recess because when we are not in Plenary, we are on the ground and it will be hard during that time. The House, therefore, only has the option of convincing the Senate Majority Leader and 15 Senators to reconvene for the reports to be tabled.

Mr. Speaker, Sir, you are aware that the OAG reports will come to Parliament on 31st December, 2025. The courts say that those reports should be considered within three months. That means that by 30th March, 2026, the audit reports of the OAG should and must have been considered and adopted by the House.

After that matter came out, you remember, under the guidance of your Secretariat and support from your office, the CPAC and CPIC had to take written responses from most entities, both the county assemblies and county executives.

However, we found it unfair because Article 229 says that Parliament should consider. So what is the path of consideration? We must sit and listen to the management response.

(Sen. Consolata Wakwabubi walked across the Dispatch Box)

Mr. Speaker, Sir, am I supposed to say I have a point of order? A Senator has just passed here.

The Speaker (Hon. Kingi): You are out of order for breaching Standing Order No.117. You are not supposed to come between the Chair and the Senator speaking. I will give you a caution for the day; I will not ask you to leave. You may go to---

(The Senate Majority Leader (Sen. Cheruiyot) spoke off record)

Mr. Speaker, Sir, my apologies, but can you apologise for writing the wrong?

Whatever I am saying is simple; we must consider these reports by the 30th. The upshot of what Sen. Mumma has moved is that when the reports are brought to Parliament, you will have the power to mark those reports to the Committees of CPAC and CPIC. This is not solely for CPAC and CPIC; there could also be a matter of urgency in the country that needs you to just mark it in your office.

Mr. Speaker, Sir, colleagues should understand that it not only applies to CPAC and CPIC, but also other committees where you can sit and mark to individual committees. For example, and God forbid, if there is an emergency that the Committee on Health should sit, you can just mark it within the long recess that we might have in December and January.

I am happy that the Chairperson of CPIC, the Deputy Party Leader of the Orange Democratic Movement (ODM), Sen. Osotsi, is in the House. It is very important for the CPAC and CPIC because it will allow the committees sufficient time, such that by early January, 2026, they can reconvene.

Mr. Speaker, Sir, I think after the New Year and Christmas Holiday, you will have the power to mark to committees that will think that they must consider a report before coming to the House.

This is more of a Procedural Motion that should be supported by the House; I do not think there is much to it. As I second, I request the House that we consider this Motion, so that our committees can be efficient.

Finally, the recommendations that we make as a Committee are very crucial. I have heard colleagues here talking about accountability in the Health sector. I want to inform Kenyans that there are so many recommendations that we make as a House.

Let me speak to generic directions. We have seen the Council of Governors (CoG)--- I know you sat through the Society for Clerks-at-the-Table (SOCATT); the County Assemblies Forum (CAF) and another one called the Association of Members of County Assemblies (AMCA), yet all of them are not anchored in law.

Let me give this House another example. We resolved that we should pay ex-councillors Kshs12,000. The resolution was passed by the Senate and the National Assembly. When we took it to the Cabinet Secretary for National Treasury and Economic

Planning, Hon. Mbadi, and asked him to pay councillors, he asked us a simple question; where is the legal bargain?

Therefore, the recommendations that we made as CPAC was that there is no Kshs5 million to be remitted to CoG, SOCATT, CAF and AMCA without the legal framework. We have made a generic recommendation that is illegal.

On many occasions, we have made referrals to EACC. Kenyans should understand that committees of Parliament only make recommendations to entities, more so, the EACC and state officers, such as Cabinet Secretaries, unless we amend the Constitution. Let me use Nandi County because that is where I come from. I remember, for example, when the issue of cement and Early Childhood Development Education (ECDE) arose, the CPAC sat and made recommendations that the EACC---

The Speaker (Hon. Kingi): Senator for Nandi, relevance. Do you know the contents of the Motion you are seconding?

Sen. Cherarkey: I know; I am just localising the matter, so that Members can understand. You have to appreciate when the argument was heated, there was a lot of misleading information in the House. I am just finishing by saying, Kenyans should understand what we are discussing. We are saying committees should get ample time to make appropriate recommendations.

Mr. Speaker, Sir, under your guidance and Solomonic wisdom, Parliament only makes recommendations. I am aware that the County Public Investments and Special Funds Committee (CPIC) directed that on the issue of non-revenue water, all meters must be digitised, for example, in Nandi County.

Those are recommendations, so that Kenyans understand the work of Parliament. I know you are aware. The Senator of Migori County was telling us, when he was in some villages, people would ask him, you are telling us that money has been stolen, so what? We cannot arrest, we cannot prosecute, we only recommend and that is why we want to give the power to these committees.

With those many comments, I beg to second and ask colleagues, let us fast-track, let us pass and get back to work. They say we can chew as we scale the stairs. I am happy my teacher is looking at me lovingly this afternoon. Make sure you will give the next governor the certificate.

(Sen. Cheruiyot and Sen. Madzayo stood up in their places)

The Speaker (Hon. Kingi): The Majority and Minority leaders, kindly take your seats. I will now propose the question.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, this is rather procedural. Although the Floor is open for debate, with your concurrence, I will proceed to put the question. We need to establish the quorum.

Hon. Senators, I will now move to put the question.

(Question put and agreed to)

Next Order.

MOTION

ADOPTION OF REPORT ON IMPLEMENTATION OF THE SENATE RESOLUTION ON THE CURRENT STATE OF THE NATION

THAT, the Senate adopts the Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on implementation of the Senate Resolution on the Current State of the Nation made on Wednesday, 24th July, 2024, laid on the Table of the Senate on Tuesday, 3rd June, 2025.

(Sen. Chute on 5.11.2025)

(Resumption of debate interrupted on 6.11.2025)

The Speaker (Hon. Kingi): Clerk, do we have the requisite quorum?
Hon. Senators, I will proceed to put the question.

(Question put and agreed to)

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

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

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

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, I am going to rearrange the Order Paper. We are going to defer Order Nos.10, 11, 12 and 13, which were supposed to be division. We do not have the numbers. We are going to further defer Order Nos.14, 15, 16, 17, 18, 19 - Committee of the Whole - and go to Order No.20.

BILL

Second Reading

THE OFFICE OF THE COUNTY ATTORNEY (AMENDMENT) BILL (SENATE BILLS NO.47 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE SEEDS AND PLANT VARIETIES (AMENDMENT)
BILL (SENATE BILLS NO.4 OF 2025)

(Bill deferred)

BILL*Second Reading*

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

(Bill deferred)

BILL*Second Reading*

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

(Bill deferred)

COMMITTEE OF THE WHOLE

THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY
GOVERNMENTS ADDITIONAL ALLOCATIONS (NO. 2) BILL (SENATE
BILLS NO.8 OF 2025)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LABOUR MIGRATION AND MANAGEMENT
(NO. 2) BILL (SENATE BILLS NO.42 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE TOBACCO CONTROL (AMENDMENT) BILL
(SENATE BILLS NO.35 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILLS NO.40 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE TECHNOPOLIS BILL (NATIONAL
ASSEMBLY BILL NO.6 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COOPERATIVES BILL (NATIONAL
ASSEMBLY BILLS NO.7 OF 2024)

(Committee of the Whole deferred)

MOTION

INSTALLATION OF CCTV CAMERAS IN ALL POLICE STATIONS,
CELLS AND POLICE REPORTING DESKS

AWARE THAT Article 51 provides that a person who is detained, held in custody or imprisoned under the law, retains all the rights and fundamental freedoms in the Bill of Rights, except to the extent that any particular right or a fundamental freedom is clearly incompatible with the fact that the person is detained, held in custody or imprisoned;

FURTHER AWARE THAT the National taskforce on improvement of the terms and conditions of service and other reforms for members of the National Police Service and Kenya Prison Service recommended adequate Government funding for the National Police Service to modernize its facilities, equipment and gear, and enhance its logistical and technological capabilities for National Police

Service officers in order to enable the Service discharge its mandate efficiently and effectively;

COGNIZANT THAT the Bill of Rights provides for protection of human rights, prevention of abuse and upholding of the rule of law within detention facilities and police stations;

CONCERNED THAT there has been increasing reports of human rights violations, abuse, unexplained injuries, and deaths in custody, as well as security breaches and escapes from police cells across the country;

FURTHER CONCERNED THAT despite the recommendations by the Justice Maraga task force, little or no efforts have been made to ensure modernization of police cells by installation of Closed-Circuit Television (CCTV) cameras and police reporting desks thereby affecting public trust and accountability on what happens to persons in police custody;

NOW THEREFORE, the Senate resolves that the National Government, through the Ministry of Interior and National Administration:

1. installs functional and tamper-proof CCTV cameras in all police stations, cells and police reporting desks across the country;
2. ensures that all CCTV systems are monitored in real-time and that footage is securely stored and made accessible during investigations, judicial processes; and
3. provides the necessary resources, technical support, and training to law enforcement officers for the effective operation and maintenance of CCTV systems and continuous digitization of Occurrence Book platforms.

(Sen. Nyamu on 6.11.2025)

(Resumption of debate interrupted on 6.11.2025)

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, you were on the Floor of the House before the interruption. Desk, give him five minutes.

(Loud consultations)

Sen. Cherarkey: Mr. Temporary Speaker, Sir, why is the House excited and I am yet to begin? I was continuing to second before we adjourned the House last time.

The intent of this Motion is to ensure all police stations have CCTV cameras. This proposal is not anti-police. In fact, we want to ensure police are transparent and accountable. The reason prosecution and the Independent Policing Oversight Authority (IPOA) are able to prosecute the case of the late Albert Ojwang is because we were able to get CCTV footage of Central Police Station.

You remember that the Independent Medical Legal Unit (IMLU) gave a report to the effect that more than 20 Kenyans have died in police cells. The police cells should be a safe place for all Kenyans. I say so as one of the famous remandees, as most of the time I have been arrested and slept in a number of police stations in this City and across the

country, including Bungoma. When you visit, you will hear that Sen. Cherarkey was there.

I can tell you, apart from CCTV cameras in our police stations, we must ensure also police cells are transformed even by painting. When you visit police stations, you see a deplorable working place. We must digitise because our police officers also need a good working environment.

In Parliament we have a good working environment. Another proposal is to put body cameras for the police officers. The police should welcome this proposal, because it will be easy for them to account whenever they arrest. I know there are people who when police go to arrest them, they insult and want to attack the police. It is good for police to have body cameras.

As I speak, the Nandi County Security Team and some police officers are evicting people in Kimwani area, Tinderet Sub-County, burning and demolishing houses. This is due to land grabbing in Kimwani area, in Tinderet Sub-County. It would have been easy for the Independent Policing Oversight Authority (IPOA) to account if those police officers had worn body cameras when doing demolitions or even whenever they arrest.

Mr. Speaker, Sir, we need to have dashboard cameras for police vehicles, so that it is easy to track the police. We have had cases where there are allegations that somebody is arrested and taken around the City, without being taken to any police station. If we had dash cameras, it would be possible to account.

A number of police officers either carry dead bodies, exhibits or even liquor. For that case, we need those cameras. Whenever people are arrested in *Chang'aa*, dens, the exhibits are taken. We need CCTV cameras in police stations, because I am told some of the people allegedly, including some police officers, also drink the *Chang'aa*. By the time the matter goes to court, the exhibit has been used.

There was a case in Uasin Gishu where cattle were taken to a police station in Naiberi and the police officers ended up slaughtering the exhibit, which could have been used in successfully prosecuting the matter. The CCTV camera would have protected people such as the late Albert Ojwang, Simon Warui and also the exhibit, until it is taken to the court of law.

This Motion, colleagues, is essentially to ensure accountability and transparency. We want to protect the police and the suspects. We want to make the police station the safest place. We do not want people to get worried when Kenyans are arrested. We want that CCTV footage.

My law lecturer, Prof. Tom Ojienda, is in the House. He will tell you that under the Evidence Act, part of admissibility principles is to include CCTV footage, which is certified by the examiner.

My time is spent and I want to listen to the wisdom or lack of it from colleagues.
I second.

(Question proposed)

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, we are now open for debate. I call upon Sen. Wambua Enoch.

(Sen. Oketch Gicheru spoke off record)

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. I wonder what is out of order. If Sen. Eddy wants to speak before me, he can. I have no problem picking my number and joining the queue.

Mr. Temporary Speaker, Sir, because you have given me the opportunity, first of all, I thank Sen. Karen Nyamu for bringing this very important Motion.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, there is a point of order.

Sen. Omtatah, what is your point of order?

Sen. Okiya Omtatah: Mr. Temporary Speaker, Sir, my point of order is about the content of the Motion. It is pegged on the Justice Maraga Report, which the High Court declared null and void. I do not know if the House is in order debating this Motion.

I see a lot of references to the Maraga Report on the National Police Service reforms. I am aware that sometime in April this year, the High Court, Justice Mugambi, declared that report unconstitutional, null and void. I do not know if it is in order for this House to be using it as a reference material.

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I refer you to the position of Speaker *Emeritus*, Hon. Justin Biden Muturi, in the last session. We ruled, and I think Sen. Wambua was here, that no arm of Government can injunct the other. That is very clear. There is the principle of separation of powers that what the Judiciary, Executive and Parliament is doing are interdependent.

In that principle, the fact that a court decision has been made, does not bind us or injunct us from performing our duty. If you allow what Sen. Omtatah is raising, this Parliament will be injuncted from morning to evening, and we will not do our job.

Standing Order No.101 and Standing Order No.103 on matters of *sub judice* or secret, the procedure of the Standing Orders is very clear. I request Sen. Omtatah, since he is going for the top job to be a bit---Obviously, what you are running for needs some calm.

Standing Order Nos.103, 105 and 101 are on contents of speech and principles of separation of power. In a nutshell, what we are discussing, as a House, is within our work, to make laws. The work of the Judiciary is to interpret. So, let us listen to the wisdom of the incoming governor of Kitui County. We can leave matters of litigation to Sen. Okiya Omtatah and then we proceed. We make a resolution as a House as an independent Arm of Government, based on the principle of separation of powers. It is as simple as that.

I yield, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Sen. Cherarkey and Sen. Okiya Omtatah.

I wish Sen. (Prof.) Ojienda, SC, was paying attention to this point of order, which was raised by Sen. Okiya Omtatah. He would have given his line of thought. However, Sen. Okiya Omtatah, what I would probably rule is that during your submission, when you are contributing to this Motion, you can raise that matter and make your point to the Senators and probably the Mover of this Motion might be convinced to amend the Motion.

So, I would probably ask you to reserve your thoughts at this point in time and make your submissions during the time you will be debating.

Sen. Enock Wambua, you can proceed.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. On the point of order that you have ruled on, my view is that this Motion does not seek to debate the report. What is before us is not the report of the Maraga team, but the Mover of the Motion has just made reference to a recommendation by that team. The matter that we are discussing is a matter of great national importance. Be it as it may, Sen. Okiya Omtatah will have to decide what to do when his time comes, if that time comes.

Mr. Temporary Speaker, Sir, I stand here to support the Motion for the reason that police cells and police stations are actually ideally supposed to be the safest spaces for the Kenyan citizenry and that whatever happens there, it is important that it is put on record. If there is a breach of the law within the precincts of police stations and police cells, that information should be captured and stored.

In fact, I was going to request the Mover of the Motion to try and make an amendment and prescribe the uptime for the CCTV cameras, so that you do not just say that they are installed and they are functional, because they could be installed and they function one hour a day and the rest of the time they are not functional.

You prescribe the uptime that maybe 95 percent of the time they should, as a minimum, be functioning, so that the incidents that have happened in police cells, including the killing of young Ojwang, today, perhaps if those CCTV cameras were working, we would be having a different conversation as a country.

I will request that the Secunder of the Motion, Sen. Cherarkey, pay key attention to the things that I am going to be saying next. He said that he wanted to listen to wisdom, and here is wisdom. The installation of CCTV cameras aids in promoting the pursuit of justice and accountability. I have heard Sen. Cherarkey say that he needs those cameras to be installed, so that we may know the people who are messing up with the justice system in this country.

The day before yesterday, I heard Sen. Cherarkey speak from the other side of his mouth about the pursuit of justice for Kenyan people, especially the civil society groups. I heard Sen. Cherarkey inciting the President of the Republic of Uganda and the President of the Republic of Tanzania, telling them that when Kenyan civil society crosses over to pursue justice in the region---

Sen. Cherarkey: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, there is a point of order.

What is your point of order, Sen. Cherarkey?

Sen. Wambua: Mr. Temporary Speaker, Sir, what is out of order?

Sen. Cherarkey: I will deal with these howlers shortly.

Mr. Temporary Speaker, Sir, under Standing Order No.101---

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, before you proceed, withdraw the word “howlers” from the records of this House.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, can I say I will disapprove my critics shortly?

The Temporary Speaker (Sen. Abdul Haji): Yes, but withdraw the word “howlers.”

Sen. Cherarkey: Of course, Mr. Temporary Speaker, Sir, to howl is just to raise--
- Let me withdraw so that we have a civil dispute.

The Temporary Speaker (Sen. Abdul Haji): Then proceed.

Sen. Cherarkey: Mr. Temporary Speaker, under Standing Order No.101 and Article 123 of the Constitution of Kenya, 2010, the creation of what we call Standing Orders and their establishment. These Standing Orders are a creation of the Constitution.

Allow me to read Standing Order No.101(4). It says-

“No Senator shall impute improper motive to any other Senator or to a Member of the National Assembly except upon a specific substantive Motion of which at least three days’ notice has been given, calling in question the conduct of that Senator or Member of the Assembly.”

Is it in order for the Deputy Minority Leader, and a close ally of Hon. (Dr.) Stephen Kalonzo Musyoka, to impute improper motive without a substantive Motion?

Mr. Temporary Speaker, Sir, he should withdraw and apologise, unless there is a substantive Motion. The day a substantive Motion against Sen. Cherarkey will come here, I will defend myself, both on air and sight, and everything that I have. Is it in order? Can he withdraw and apologise?

Please, you cannot threaten a dry Kalenjin.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, you may proceed.

Sen. Wambua: Sen. Cherarkey, relax. Relax, Sen. Cherarkey. We listened to you when you were talking. We were calm.

Mr. Temporary Speaker, Sir, two things. One, I have not even landed. I have not even said anything. I just mentioned--- The same Standing Orders prohibit Sen. Cherarkey and I from anticipating debate. I have not said anything. What is he complaining about? Why are you scared? What is he scared of?

Secondly, I have not brought into dispute the character of the Senator for Nandi County. I have just made reference to statements that he made that are in the public domain; statements that are being reacted to by his own church. It has nothing to do with me.

Mr. Temporary Speaker, Sir, can he just allow me to land?

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, Sen. Enock Wambua has stated on the Floor of the House that he had not completed his statement. Can we allow him to go through the same train of thought, to complete his statements about you, then we will know what action to take against him?

Proceed, Sen. Wambua.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. Sen. Cherarkey is my gym-mate. We go to the gym together and he tells me all the time that I am a warrior. I am wondering why he is troubled. I have not been saying anything. The warriors in this House must act and behave like warriors and face the consequences of their decisions and their utterances head-on.

Mr. Temporary Speaker, Sir, I subscribe to the Christian faith and that is not in dispute. So, it pricks my conscience when I see pastors, preachers and bishops raise concerns over statements made by a Member of this House. We, therefore, must ask ourselves why we are unleashing terror on people who are pursuing justice for our friends, our brothers and sisters across the borders. We have to do that if we are defenders of the rights of the people of Kenya and if we want our police cells to be safe spaces installed with Closed-Circuit Television (CCTV). That is what I am saying.

Last night, I asked myself, “what shall the Speaker do now that a Member of his House, the august House, has called upon presidents of neighbouring countries to oppress people that we are supposed to be representing in his House? How is the Speaker supposed to deal with that Member of the House?” Mr. Temporary Speaker, Sir, what are you going to do with that Member of the House? When that news came out, they never talked about the Senator of Nandi County.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, you are continuously challenging the Speaker to take action on an individual he does not know about. Can you mention the individual for the Speaker to know what actions to take?

Sen. Wambua: Mr. Temporary Speaker, Sir, I heard bishops of the Kenya Assemblies of God make reference to the Senator for Nandi County. They said that the pulpit is desecrated, hence the Senator for Nandi County should not have used the pulpit to say the things that he said. Those are not my words; they are the words of the bishops of the Kenya Assemblies of God.

As leaders of this country, we must walk the talk if we are serious about protecting the rights of the people that we represent and we must do it at home and abroad. We must do that if we are serious about pursuing justice for the Kenyan people. Justice must be pursued both for the people that speak the language that we speak and the people that speak a different language. It must also be pursued for people who take the same position that we take and those who take different positions.

Mr. Temporary Speaker, Sir, may be, at an appropriate time, this House may want to do exactly what Sen. Cherarkey is challenging us to do, which is to bring a substantive Motion and discuss the character of our colleague. I say that because this House, in its entirety, has been put into shame.

With those few remarks and kind words to my brother and my colleague, Sen. Cherarkey, I support the Motion. I ask that we all adhere to the principle of separation of power. Nobody should tell us that we cannot discuss this matter because reference has been made to the Maraga Committee. I support.

Sen. Sifuna: Mr. Temporary Speaker, Sir, I heard the Seconder of this Motion, the Hon. Senator for Nandi County, Sen. Cherarkey, speak about the death of Albert Ojwang in the cells at Central Police Station. From what he said, it is as if he is not aware

that there were CCTV cameras installed in that particular police station when that death happened.

The Independent Policing Oversight Authority (IPOA) told us that somebody was bold enough to disable or mess with the footage that would have captured the moment at which we lost our brother, Albert Ojwang. That is why the context of the behaviour of police officers and public officers is extremely critical.

We, as Kenyans, were in a certain frame of mind when we passed this Constitution. If you want to know the frame of mind of Kenyans when they passed this Constitution, you have to go to the preamble of the Constitution. I like to teach, so kindly allow me to explain what the context of the Constitution was when we were passing it. If you look at the preamble, Kenyan people committed to nurturing and protecting the well-being of the individual, the family, communities and the nation. Those of us who went to proper law schools know that it is not a fluke when names or words are not used in a certain order. There is a reason why it starts with the individual, the family, communities and the nation.

Mr. Temporary Speaker, Sir, we have another basic principle which explains the frame of mind that Kenyans were in when we were giving ourselves this Constitution. This Constitution is said to be a very progressive document, but it required a very specific kind of government to ensure that it is implemented. That government is specified under the preamble, which states that it has to be a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. Once again, when phrases are used one after the other, it is important for one to pay attention to the order in which they are used.

In that preamble, we started with human rights and that was deliberate - this country has a history of police brutality, abductions, detention without trial, torture and kidnappings. It is for that reason that we went ahead and provided that there are four specific rights that cannot under any circumstances be derogated from. Those rights are enumerated at Article 25 which is the only Article that talks about fundamental rights and freedoms that may not be limited. So, the circumstances do not matter. One cannot just derogate from these rights.

Article 25 states-

“Despite any other provision in this Constitution, the following rights and fundamental freedoms shall not be limited--

- (a) freedom from torture and cruel, inhuman or degrading treatment or punishment;
- (b) freedom from slavery or servitude
- (c) the right to a fair trial; and
- (d) the right to an order of habeas corpus.”

I will say this for the farmers in the House like Sen. Methu. The right to an order of *habeas corpus* is an order for the production of somebody who is in the custody of police officers.

Mr. Temporary Speaker, Sir, the culture of impunity that we have created in this country is what gives a police officer at Central Police Station confidence. We have been told that police stations are the safest places yet a police man is confident to switch off a

police camera or the CCTV and commit murder in the cells. The culture that gives such people confidence is what we are trying to address as a country.

It shocked me, to levels that I cannot even imagine, that a Member of this House who is a lawyer for that matter and somebody who claims to be a legal mind, would forget these fundamental provisions of the Constitution. He has forgotten them and is supporting a situation where Kenyans are being subjected to abduction, torture and cruel dehumanising punishment.

There was a serious case of what happened to activists who went to stand with our brothers in Tanzania. They went to stand with my good friend, the Chairperson of Chadema Party, Tundu Lissu, who has been facing treason charges. They also went to stand with my brother John Heche, who was arrested at the border of Tanzania and Kenya when he was coming to mourn *Baba* who has been his friend for many years. When some of our colleagues here, including respected people, tried to go there to stand in solidarity with these great members of the democracy movement, they were subjected to some of the most inhuman things that you will ever have to countenance and go through.

I hear people call themselves, on the Floor of this House, Kalenjin warriors. I would want to know why a Kalenjin warrior would wish any of the punishment and mistreatment we heard from Boniface Mwangi on any human being. It disgusts us. One of the most disgusting things for me, as Sen. Sifuna and the Secretary General (SG) of the Orange Democratic Movement (ODM), is that some of these characters have been running around wearing ODM colours, calling themselves founder members of the ODM Party. They say, “Birds of a feather flock together.” Those are not our colours. Those are not our people. Those are not our values. The ODM Party is known for justice. We are the manufacturers and birthers of this Constitution. There is no way we will associate with characters who run around saying people should be subjected to inhuman and degrading treatment. So---

The Temporary Speaker (Sen. Abdul Haji): Sen. Sifuna, there is a point of order. What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I rise under Standing Order No.101(1). I have heard Sen. Sifuna mention a number of names and judicial conducts like Tundu Lissu and Heche, who come from Tanzania. It is on record, yet the Senate Standing Orders 101(1) says-

“Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any other conduct of the Head of State or Government or the representative in Kenya of any friendly country or the conduct of the holder of an office whose removal from such office is dependent upon a decision of the Senate shall be referred to adversely, except upon a specific substantive Motion of which at least three days' notice has been given.”

Is it in order for Sen. Sifuna to refer to such matters? We are aware that Tundu Lissu is undergoing a judicial process in Tanzania. It is on record. Is it in order for him to refer to such matters from a friendly neighbouring country without a substantive Motion, which we do not have a problem with. If he brings it, it would be in order. Can he

withdraw and confine himself within Standing Order No.120 of the Senate Standing Orders?

(Loud consultations)

Sen. Cherarkey: You should listen.

Sen. Sifuna: Mr. Temporary Speaker, Sir, I wish Sen. Cherarkey listens to people making submissions on the Floor, and if he cannot, at least exercise his ability to read even that Standing Order that he has read.

Mr. Temporary Speaker, Sir, although I know the names of the judicial officers who are involved in the cases in Tanzania, and those who are responsible for torture and abduction of Tanzanians and Kenyans in Tanzania, I have not mentioned them. I am speaking about my friends. If you do not have any friends across the border or anywhere away from Nandi County, that is your problem. I have not mentioned anybody in that authority. Therefore, allow me to continue with the point that I was making, uninterrupted.

We need to create a country that resembles that which we wanted when we passed this Constitution. The point that I was making is that as the SG of the ODM Party, wearing that colour is not what makes you a good person. That colour represents something. We know what we stand for. When somebody sees ODM, they know what it means. So, if you don a cap and you are the ones denying people the right of *habeas corpus*--- Our founder party leader, the late Raila Amolo Odinga, was a subject of detention for nine years without trial. His family suffered. His kids and wife missed him. They were tortured emotionally. So, when you wear that colour, you should know what it represents. You do not just put it on and say, "I am a founder Member" and start shouting "Two-term". That is not who we are.

Mr. Temporary Speaker, Sir, the Constitution of ODM is moulded so closely to the Constitution of this country because we are a rights' party. So, we want a country where human rights and dignity are respected. The reports that have been referenced here, including reports from the Independent Medico Legal Unit (IMLU), tell us that almost 20 young people have died in police custody, prison cells or remand facilities between January and now. That is not a statistic that we have made up. It is a serious issue.

Almost 60 people have died because of extrajudicial killings. These proposals are good, because we have even seen, in the streets sometimes, when young people are trying to capture the police breaking the law, they, who are trying to record what is going on, are subjected to violence. So, let it be that we get this footage from our equipment that has been installed by the taxpayer. However, if we do not develop a culture of respect for the rule of law as set in the preamble of the Constitution, there is nothing we are doing.

So, Mr. Temporary Speaker, Sir, we must have a conversation. We have spoken here during the Motion on the State of the Nation about reviewing of police and their Standard Operating Procedures (SOPs).

I will not tire to remind the country that I am the author of the Memorandum of Understanding (MoU) signed between Raila Odinga and President Ruto. Since I am a

Senator, I made sure that I incorporated the resolutions of this House during the debate on the State of the Nation in that MoU. I heard someone running around, who was not even in the room when the MoU was and has not read it. I can confirm because I know him; he is my friend. We will tell you when it has been implemented because it is not something to hide. It is like this debate we were having in the afternoon.

Whether Social Health Authority (SHA) is working or not, it is not something somebody will tell you. You will hear from the people on the ground, when you go to Garissa, and you will say, yes, *mambo ya harambee hapa imeisha*. When that MoU is implemented, nobody will need to shout from the rooftop about its implementation. We will see compensation of the victims of police brutality. They will tell you the money is in their accounts. They will tell you that the Standard Operating Procedures of the police were brought to this House, have been amended, and now we have a people-friendly police force or service. They will tell you that devolution is working. Those are the things that we incorporated in that MoU.

We urge Kenyans not to fall into this trap of encouraging a claw back of all the gains that we have had. The things that are happening in our neighbouring countries used to happen here. You remember the fight we had about the Constitution or reconstitution of the Independent Electoral and Boundaries Commission (IEBC). If you hear the stories from our neighbours, they are still in the era where the President just determines who is running the election. When we hear those things, we are taken back to 1992, over 30 years ago. When you hear somebody say, you can arrest these people, and uses words like “*finya wao*”, you sound like a Kenya African National Union (KANU) youth winger from 1991. You are giving me nightmares.

I remember the advent of multiparty, we were told, if you flash the two-finger salute, they will cut one, so that it remains the one that was representing KANU. That is the same language we are hearing from people in this House, and they call themselves founder members of ODM. *Shindwe kabisa!*

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Consolata Nabwire, please, proceed.

Sen. Consolata Wakwabubi: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. My name is Consolata Nabwire Wakwabubi.

I would like to contribute to this Motion about installing Closed-Circuit Television (CCTV) cameras in police stations, police cells and desks. This is a very essential tool, to enhance safety and also deter criminal activities, as well as supporting evidence-based investigations. In the recent past, the installation of CCTVs, even in our homes, was deemed to be a luxury. However, it is no longer a luxury.

To enhance safety and security in some of our public institutions, there is need for us to enhance and embrace surveillance infrastructure. For this case in point, I would like to be particular to the police stations, police cells, police desks and even at a later point, I would like to request the Mover to put something else regarding the high-risk areas that can also be used to enhance community policing as a safety measure.

These CCTVs are for protection of both the law enforcement officers, as well as the public. This is because, sometimes, some evidence is hidden, or deleted and therefore,

we are not able to get ample evidence to move or interrogate a case. There are so many things that happen in the police cells. For example, we have custodial deaths and alleged brutality. We even have Gender Based Violence (GBV) cases that are meted upon some of the victims in the police cells, police stations and even at the police desks.

So, it would be ideal for us to advocate for this CCTV coverage, even in rural areas that are close to police stations or police cells. It is also important for us to note that there is need to have clear maintenance or monitoring frameworks towards these CCTVs. Let us have a clear framework spelling out who are to monitor the cameras and how data is stored. Let us also have the timelines for maintaining and repairing faulty equipment of some of these CCTV cameras.

So, let us also have strong data protection guidelines to safeguard any data that we have. I want to stop there and conclude by saying that I support the Motion.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Osotsi: Thank you, Mr. Temporary Speaker, Sir. I want to start by congratulating the owner of this Motion, Sen. Nyamu. I think this is a very progressive Motion to have been brought by a specially elected Member in the name of Sen. Nyamu.

Mr. Temporary Speaker, Sir, you are aware that the Government, through the Cabinet Secretary for Interior and National Administration, Hon. Kipchumba Murkomen, made a public statement that they would like all police stations to have CCTV cameras for purposes of monitoring what happens in those police stations.

This debate around having CCTV cameras in all our police stations was ignited by the torture that has been happening in our police stations with particular focus on Mr. Ojwang, who is alleged to have been victimised and tortured in the police cells.

This is going to be a very important Motion if passed by this House, to ensure that we completely eliminate what we call custodial torture - the torturing of prisoners in police cells and police stations. I want to support the Motion, but just echo my colleagues who have raised concerns about the matter of torture in this country and even externally.

The issue of torture of Kenyans in Tanzania and Uganda is not something that we can laugh about, especially if we are leaders in this country. It is not an issue that we can celebrate and play politics with. Therefore, last weekend, we were very disappointed that one of us, who happens to be my friend and who brings very good Motions to this House, was celebrating torture by encouraging the Ugandan President, who we know how he came to power, and encouraging Tanzanian President, who has even been accused by other leaders in Africa---

Sen. Cherarkey: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: This Standing Orders is a creation of the Constitution; Article 123. I want to appeal that colleagues should read and internalize it.

Standing Order No.101(1) talks about conduct. When you hear my brother, Sen. Osotsi, who I hope will be the Governor of Vihiga, alluding to how President Museveni rose to power and on how President Samia Suluhu is running Tanzania, then that is discussing the conduct of the President of a friendly nation, which contravenes our

Standing Orders. You cannot call out someone for a wrong and then you commit another wrong.

Mr. Temporary Speaker, Sir, can he submit within three days to your office a substantive Motion to discuss the conduct of President Museveni or President Samia Suluhu or withdraw and apologise to the House for contravening our Standing Orders, specifically, Standing Order No.101(1)? It is sad that the person making that statement is the Deputy Party Leader of ODM.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Sifuna?

Sen. Sifuna: Mr. Temporary Speaker, Sir, pursuant to Standing Order No.121, it is actually disorderly conduct for people to stand up all the time during debate to raise false points of order. Please, encourage Sen. Cherarkey to read the whole provision he is referring to. It talks about mentioning someone adversely.

Adversely means in bad light. I wish I spoke his local dialect, so that I translate for him. The Senator for Vihiga has not mentioned anyone adversely. He has just said, “if you consider the manner in which they rose to power.” What is adverse with that, and they have not mentioned anybody's name. Can Sen. Cherarkey allow debate to flow, instead of raising these frivolous points of order?

One final request, as a colloquium of Speakers, we must determine how it is possible that there is only one person who knows when people are out of order; that the entire afternoon, it is just Sifuna saying “point of order,” and being granted. Maybe, there should be a limit to the number of times that you can rise on points of order. You are not the only Senator in this House, we are 67 of us. How is it that only one person can see when people are out of order?

The Temporary Speaker (Sen. Abdul Haji): Sen. Osotsi, having listened to the points of order, for the first time, Sen. Sifuna, I would want to disagree with you because Sen. Osotsi did mention the Heads of States. He said or imputed in the manner in which they were sworn into office. Sen. Osotsi, I ask that you withdraw that and proceed to make your submissions.

Sen. Osotsi: Mr. Temporary Speaker, Sir, just a correction. I never said in the manner in which he was sworn into office.

The Temporary Speaker (Sen. Abdul Haji): In the manner in which they came into power.

Sen. Osotsi: In my words I said, “if you consider the manner in which he came to power.” If you consider. There is nothing adverse about this. It is a fact that President Museveni came to power through a military takeover. It is a fact.

The Temporary Speaker (Sen. Abdul Haji): What about the President of Tanzania?

Sen. Osotsi: I never said more about the Tanzanian President.

The Temporary Speaker (Sen. Abdul Haji): You mentioned the Head of Tanzania. In the same sentence that you made reference to Uganda, you made reference to Tanzania as well.

Senate Majority Leader, what is your point of order?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, Sen. Osotsi is making his case worse because that is not the only way you get to power in Uganda. He needs to know that subsequently, after that event which he refers to in 1986, the year I was born, the President of Uganda has gone ahead to win seven other elections. How can one out of eight instances where you become President, the first incident becomes your only reference point? To the best of my knowledge, I feel that Sen. Osotsi may not initially have made an adverse comment, but as he continues to perpetuate his point, he is now treading towards that adverse mentioning.

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Eddy?

(Sen. Oketch Gicheru spoke off record)

Give him the microphone.

The Senate Majority Leader (Sen. Cheruiyot): Use the microphone next to you. Sen. Sifuna's microphone is working.

Sen. Oketch Gicheru: Acha niende kwa Dispatch Box.

The Senate Majority Leader (Sen. Cheruiyot): Basi useme kitu cha maana kwa Dispatch Box.

(Sen. Oketch Gicheru walked to the Dispatch Box)

Sen. Oketch Gicheru: Mr. Speaker, Sir, I still insist that Sen. Cherarkey is rising on frivolous points of order.

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

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I am on a point of order. This again is frivolous. If you look at the Standing Order under which Sen. Osotsi is being accused, Standing Order No.101, it does not prohibit the mentioning of any name. It prohibits imputing improper motive or mentioning a name adversely. Mentioning a name is not wrong.

If you consider what the Senate Majority Leader said, he was reflecting on the circumstances, which is what Sen. Osotsi invited us to reflect. If you consider the English word 'consider', then you may end up mentioning a name. I do not see the problem with that.

I believe you should rule Sen. Cherarkey out of order, not Sen. Osotsi. This is because he has not mentioned any names adversely. He is applying the English word 'if', a theory we use in mathematics classes. He has not implied any improper motive on these individuals. In any case, the Senate Majority Leader would be out of order for considering those circumstances.

I thank you.

Sen. Cherarkey: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, we need---

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Sen. Sifuna, there is no limitation on how many times you may raise a point of order. So, allow the Senator his right.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, if my memory serves me right, you have made a ruling on the matter I raised under Standing Order No.101. It appears we are now discussing your ruling, which is unheard of. Would it be in order for me to invite you to invoke Standing Order No.122 on gross disorderly conduct?

It states that a Senator commits an act of gross disorderly conduct if they defy a ruling or direction of the Speaker or the Chairperson of a Committee. Would it be in order, given that the Senator for Vihiga County has refused to follow your ruling, to invite that he be thrown out of the Chamber for the remainder of the sitting?

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, there is no need to guide the Speaker or the Chair. I am following closely. Sen. Osotsi has not refused. He is not out of order or disorderly; he was just explaining his submission.

Sen. Osotsi, please withdraw and then conclude your submission.

Sen. Osotsi: Mr. Temporary Speaker, Sir, I really wanted to have a flowing contribution, but I am being disrupted every now and then. However, I would want to make Sen. Cherarkey happy. I know where he is speaking from and where he wants us to go. Therefore, for his sake, I will withdraw.

Nonetheless, the truth remains that Kenyans have been tortured in Tanzania and Uganda. That is a fact. Even the person he is trying to protect publicly stated that Kenyans were tortured in Uganda. So, I will withdraw that point to make him happy, so that I may proceed with my debate.

The issue of custodial torture must be dealt with and one way of doing so is installing CCTV cameras in public spaces within the police station. However, this must be exercised with some caution. I support what one Member said that this must be weighed against the data protection rights and principles. We do not wish to create a scenario in which the rights of prisoners or police officers working there are infringed.

In some jurisdictions, they put CCTV in police stations, but they do not put them in some private places, in the police station. For example, I know that in the United Kingdom, they do not put CCTV in places such as bathrooms and custodial places where prisoners sleep. Therefore, this Motion should be amended, so that it complies with the data protection principles and guidelines, and of course, our data protection law.

We have also heard that some of these CCTVs have been interfered with. You heard the case of Ojwang, where it was alleged that CCTV footage and images have been interfered with. So, even as we talk about having CCTV in police stations, we need also to insist that the law in processing this information must be complied with, particularly the law on Computer Misuse and Cybercrime Act, which is very clear that if you infringe on data or manipulate data, then it becomes a criminal offence. That will be important in this case to protect data that is being captured by those CCTVs.

The other bit, if I go back to the Data Protection Act, is that police stations must now be designated as data controllers and processors for purposes of ensuring that the data they capture is compliant with the Data Protection Act, particularly Section 8, which says that data processors and controllers must promote self-regulation among themselves. I do not know how the police stations will be able to do this, given the conditions of our police stations and the conduct of some police officers.

I am proposing that this Motion be amended, so that we incorporate aspects of relevant law, that is the Data Protection Act and the Computer Misuse and Cybercrimes Act. This is a good Motion, but maybe we need to consider converting it into a legislation, so that it is very clear on what offences can be enforced on people who violate this installation of CCTV.

Still on the installation of CCTV, the crime rate in Nairobi has gone up, yet a few years back, we had a very big project in this City to put CCTVs all over. The project was being undertaken by the Kenyan Government and Safaricom. At some point, this House, particularly the Committee on National Security and Foreign Relations should consider this matter and tell this House what exactly happened, that the country spent billions of money, and the system is not working. What happened? These are some of the things that will be a major factor even as we think about having CCTVs in all police stations. We are talking about 1,209 police stations. This is a huge amount of data which requires investment in the ICT infrastructure; having servers, good connectivity, a routine and continuous maintenance of this infrastructure and management of this infrastructure. So, this is not a small project. This is a huge project, and I hope this project is not going to be like the Safaricom-Kenyan Government CCTV project for Nairobi.

I support and encourage that moving forward, such important debates---

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Proceed, Sen. Eddy Oketch.

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I will make very quick comments that are direct.

What we see happening in our police cells is disheartening and dehumanising. Most importantly is the dignity of the justice system that starts with police cells or people under police custody. The mantra is that anybody who gets to police cells, if they have not been taken to court, are innocent until proven guilty. We have seen people who end up enduring dehumanising acts in the hands of the police before being taken to court. Sometimes we have brutal killings in the hands of the police, but sometimes, they are mishandled by other inmates in those police cells.

This is one of the Motions I would say is straightforward, timely and something that is needed. In fact, we are behind schedule if you compare with some advanced countries that have made strides in terms of how generally police institutions are handled. We need this urgently.

Mr. Temporary Speaker, Sir, I wanted to put this in the context of what I would call human progress and humanity discourse. That is what our Constitution refers to as human rights. There is no freedom when freedom is limited to a country like Kenya and you have these wonderful laws that we are putting in place. We are thinking about revamping our police cells, accountability by our police systems and responsibility by

those who handle people who find themselves in police cells or any authority. When any of us imagines that this can only happen in Kenya, but when you are without Kenya, you should not enjoy those rights---

I have seen people argue today in the context of the comments that were made by a Member of this House regarding what is happening in the region. Sometimes it is easy to say that what does not concern us is what affects our neighbours next door.

Mr. Temporary Speaker, Sir, I want to tell you that I am willing to table a report. I know of Kenyans who have suffered in the hands of police in our neighbouring countries. I also know of Kenyans who have been killed and maimed in the hands of police institutions in the region. When you talk about the concept of a sub-regional or regional cooperation that we think about the East African region, it is not a laughing matter like what a Member of this House said, that what is happening in Uganda and Tanzania or generally in the region does not concern us.

The truth is that before 1977, this region had desired to have an integrated system that allows for fulfilment of human dignity. That dignity was not only limited to economic merit of individuals. If you read about the cooperation that established the Treaty that collapsed in 1977, it desired to look at economic, political and social merits of our people in the region. Therefore, it is in bad faith for a Member of this House to go out there and say that if there is torture of members of the civil societies or otherwise who have been caught in Tanzania or Uganda, then that torture is okay because we are not *sub judice* to any issues that are happening in those regions. It is very disheartening.

Mr. Temporary Speaker, Sir, if you remember, the collapse of the East African Community (EAC) in 1977 happened because of three issues. One was lack of a strong participation of the private sector at that time. Then, there was lack of strong political will, but most importantly was the lack of strong civil society in the corporation's activities.

This is what we cited in the 1999 Treaty that revamped the treaty that we had in the EAC, a journey that started in 1905. If you look at the treaties in this region for the East African Corporation from 1905, those treaties desired to bring about an integrated system that included the justice system. At some point, we saw members of this society, including one activist who is also a leader in this country whom I am mentioning in good light, Martha Karua, desired to go the East African Court in Tanzania when we lost an election and we could not get justice at the Supreme Court.

If you read the Treaty that was established in 1999 that revised this Treaty, it allows for free movement of goods, services, capital and labour in the Community.

We are not so separate from Tanzania and Uganda such that, any injustice in Tanzania or Uganda, is injustice in Kenya and any injustice in Kenya, is injustice to the people of Uganda and Tanzania. We are not different because we have got a legal entity that guides the three countries, that is the 1999 Treaty.

Mr. Temporary Speaker, Sir, I feel disheartened when a Member of this House has the audacity of going out there praising and encouraging atrocities against citizens of this region by authorities in Tanzania and Uganda; watering it down as something that should be celebrated. It is unacceptable.

I wish Members of this House had the courage to see to it that this becomes the first time a Member of this House brings a substantive Motion on the injustice that we have just seen happening in Uganda and Tanzania.

If a Kenyan has been allowed by the 1999 Treaty to be in Tanzania to do business and then they are found in a situation whereby there is war, fights and all these atrocities we saw in the just ended elections in Tanzania and they die, should we celebrate? Must we celebrate something like that?

The mantra of injustice is always that the injustice that you face in your country - and you might think it is only happening in your country - is an injustice to other countries. Injustice anywhere is an injustice everywhere.

We do not notice until a Member of this House finds himself in Arusha where he has gone with a Committee and he is caught in the frenzy of activities that are happening in these other countries without anybody to fight for him. When you find yourself in a life and death situation, you will appreciate the essence of the treaties that we are making in this country.

Mr. Temporary Speaker, Sir, we must never accept. In fact, when we pass this kind of Motion, we must push that it becomes adopted in the region. For instance, why is the Government of Kenya paying money for Members of the East African Legislative Assembly (EALA) to be able to legislate in EALA if we are not one Community? We are paying because we are tied to the hip on legislative principles and integration manners in this region, so that some of the good things that we are doing in this country can also go to our neighbours.

I remember last year when the country was burning, we were called the name Jirani. Our children were bastardised and said to be having bad manners. This discussion was nowhere other than the Parliament of Tanzania. So, was it okay that we were being discussed in terms of character and values, in a Parliament discussion in Tanzania and we cannot discuss the same problem that we have seen in those regions that affect us when our own Member in this House has come to laud them? What the Senator of Nandi said about what is happening in Uganda and the behavior of the regime in Uganda and Tanzania is a shame and must be called as such. As a House, we should not tolerate it.

In the spirit of broad based, where one of the principals, may his soul rest in peace, Hon. Raila Amollo Odinga, fought for the freedoms that we are enjoying in this country. I doubt in Raila's heart that freedom was limited to being freedom that cannot be enjoyed within Kenya. It is freedom for humanity that must be enjoyed within and without the borders of Kenya. For all humanity in the continent, we must start being one African people; that the pain that is in Mali, South Africa or Cote d'Ivoire must affect us, as a people, because we are one African people, we are one humanity. Therefore, I condemn what my brother, Sen. Cherarkey, did pronounce over the weekend about what is happening in Uganda, and about our colleagues, our people and the citizens of this country who were detained in Uganda. Detention is something that you will never want to see.

I like this Motion because it is one step forward to making sure that this kind of dubious things that happen behind bars when people are in custody do not ever happen. The pain we felt as young people when Albert Ojwang died in a police cell is pain that

we never want to see any other young person face in this country. Therefore, it is a very important Motion. I hope that we can support it. I also hope that even our colleagues in the Lower House will support this kind of Motion to make sure that we can monitor and be able to see what is happening in real time and even post an event in a police cell, and protect the dignity of lives in our country.

I support, and hope that we, as a House, will pass this with the haste that it requires to make it a reality in our country.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Okiya Omtatah, please proceed.

Sen. Okiya Omtatah: Mr. Temporary Speaker, Sir, I thank you for the opportunity to contribute to this Motion and guided by the ruling you made, I will not refer to the decision that was made by the land judge. I am happy that the contributions have not referred to that decision. So, we take it that we are basically contributing on this Motion in terms of our understanding of the situation in this country as it stands today.

I fully agree that the Motion contributes to transparency, accountability and the possibility of other things. However, we must realise that we cannot fix a cultural problem using technology. Technology can only enhance an attitude. We have had problems even with the elections, with the Kiems kits and whatever we have had in conclusive elections. So, our attitude is what needs to be changed. Our culture is what we needs to address and technology cannot fix that.

We just heard that the cameras were turned off in the Ojwang case. There have been no consequences to that. It is not a question of cameras. I believe it is a question of attitude. What we must look at maybe is the autonomy of the police. How autonomous and independent is the police force?

Of course, I also want to point out the dangers that Sen. Osotsi has raised in terms of privacy issues. We also have got issues whereby this beautiful thing can easily become a white elephant, where we dump a lot of money into it, as happened with the police surveillance cameras, and hardly get any value out of it. I would also want to look at the work environment of the police officer. I have seen police officers walking in torn shoes, tattered or weather-beaten uniforms. I assume that person is coming from a home where things are not okay. There are police stations such as one in Mathare that is totally unfit for human habitation. I wonder what somebody wearing a body cam in such a situation will do with it.

Let us look at the holistic environment within which the police operate, and this just be one of the interventions that we put there, maybe at the tail end. Most importantly, we must change the culture.

I have been detained in police cells 29 times. All those times, the first thing you get to know is where the toilet is in the police cells, because the stench is terrible from most police cells. What do you think of the people who work in those environments? Go to Pangani Police Station here, and see the conditions under which the officers are serving. It is a major police station.

This Motion, timely as it is, needs to be expanded to address the entire question of policing in this country. We have a culture of disregarding and misusing the police; not

being professional in the way they work and not giving police the equipment and the tools to work with.

Police officers go on the beat. They are armed with a G3 rifle. If such a police officer is threatened by a suspect who he has gone maybe to arrest or to arraign, he is going to use devastating force to try and protect himself. We may need equipment like stun guns that can immobilise a hostile suspect and allow the police to arrest him safely. I personally think that we need to look at the whole question of policing in a holistic manner and also the legal framework within which the police are operating.

You know very well that in 2014, Parliament amended the Police Service Act, the National Police Service Act, to remove the requirement for the competitive recruitment of the Inspector General of Police, the Deputy Inspector General of Police and the Director of Criminal Investigations.

It also amended to remove the security of tenure that these people enjoyed. So, at the end of the day, the police are put under the command of whoever has the capacity to appoint the IG, the Deputy IGs and the DCI. From 2014, the appointment of these people has not been on merit. They have been based on a standard that has escaped the comprehension of some of us who pursue detail. It is a mysterious standard. In a situation like that, where the police are basically, the police command is working at the pleasure of the President, that police service can hardly be independent. It is not independent and can hardly be professional.

Madam Temporary Speaker, I think we need to look at the police issues in a slightly more serious manner than we do. Right now, if you go to my county, we have got an Administration Police (AP) station in Busia Town, which is right on the border. The other side of the compound opens into Uganda. How safe are those policemen?

If you go to Teso Central, which was recently carved out of Teso South, the Teso South group moved out with all the equipment, the AP Police officers who sit in Amakura in Teso Central have nothing to use and then they are expected to police. Those kinds of conditions do not create an environment where policing can be considered to be a democratic policing or the policing that is required in a democratic republic like Kenya.

Madam Temporary Speaker, it is my plea to this House that as we look at this Motion, which is a good Motion, maybe we can consider expanding it to cover the totality of the welfare of the police.

Once we have taken care of the individual who is supposed to police us, then you can expect them to keep those standards that we have placed upon them. If we violate the rights of the police to housing, fair salaries and the other rights that we seem to enjoy; the rights to education, health and working conditions; you find policemen have got no vehicles, but if they have it, then it has no fuel; they are not supplied with uniforms, they buy uniforms.

When it comes to operations, I was observing the demonstrations we had in this country recently and I noticed that the policemen had no rations. There is no water. A person is doing very serious work of protecting society, but he has to go and buy water. There is no backup. What happens to police rations? What happens to these rations that are meant for operations?

When you look at the budgets, there is a lot of money for operations, there is a lot of money for whatever. Where does that money go? Especially the lower ranks of the police, they go out, work very hard, they sleep rough, then they are sometimes paid some small allowances, which again their seniors steal.

I think we need to address the question of policing in Kenya in a more comprehensive and exhaustive manner beyond what this Motion is proposing and maybe include some of the issues that are in this Motion, so that having expanded this Motion, we can comprehensively and conclusively say that we have addressed the question of policing.

Otherwise, we shall be like people putting balm on a septic wound. These cameras might turn out to just be a decoration. If they can be turned off without consequences, as it happened in Ojwang's case, we need a legal framework whereby there are consequences for turning off a body cam or a vehicle camera, or a dash cam or something like that. We must have a framework where we can address those kinds of excesses.

So, as I support this Motion, I would request that maybe the drafter of the Motion considers expanding it beyond a presentation of a major cultural problem as one that can be fixed with technology to go and address the underlying problems that are bringing policing into disrepute in this country.

It is very disheartening to see a police officer walking in torn shoes. It is very sad. The constable on the beat is a symbol of the Republic. That is why it is a police officer who wears the crown on their head. The security officers, the military people and the police, wear the emblem on their body.

On the presidency, the emblem is placed on the wall. Even Madam Temporary Speaker, the emblem for you has been placed on the wall up there, it is not on your body. It is only a police officer, a security officer and a military officer, who wear those things, because security is a major ingredient of a Republic. If it is a pillar of the Republic, how are we treating our security people? How are we treating our security?

We have seen they are being killed in Boni Forest, but hardly do we get accountability on why people would be in a war zone, in a light-skinned vehicle, that goes over a landmine and they all die.

I have a Petition in this House where more than 400 police officers who were injured in the course of duty and were assessed and cleared for compensation have for years not been paid. What is happening? When you come to the question of promotion within the ranks and files, you will note that those who do not know anybody never get promoted. Promotions have become a preserve of relatives, friends and the connected. The force is dying and it is crying. It is this House that has the tools and the capacity to save the Kenyan Police Service, the Administration Police and the entire National Police Service.

We have also seen the incessant fights between the Inspector General of Police and the National Police Service Commission. These are among other things that are undermining policing in this country. Two court cases have been filed. What stops this House from looking into these things and make the law?

If there is a lacuna in the law, this House should fix the lacuna. We have Sen. (Prof.) Tom Ojienda, who is a seasoned professor of law. He can help us fix those kinds of lacuna for us to have the intention of the framers of the Constitution who stated that the National Police Service should oversight the human resource needs of the police. We also need to look at the question of a police union. The police in this country must be allowed to form a labour union like policemen across the world. With that, their needs will be addressed in a formal and structured manner.

The idea that the police cannot form a union that they can go to when they are in distress has contributed to the mental illness, suicide, murders, desertions and lethargy at work. Today, an average policeman in Kenya is a drunkard and some are even obese. They are supposed to be soldiers, but they are obese. There is total disorganisation in the force.

We need to bring discipline back, but we have to do it comprehensively. We have to look at the culture of policing in this country. Once we get the police properly---

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): The Senate Majority Leader, what is your point of order?

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I was really enjoying the submissions by my friend, Sen. Okiya Omtatah, and I was learning a thing or two until he uttered that the average policeman in Kenya is a drunkard. I think that is an unfair judgment on our officers.

There is an alcohol problem and even the Cabinet Secretary for Interior and National Administration has confirmed. I have occasionally seen some of them completely inebriated and unable to carry out their responsibility, but passing judgment on nearly half the members of our institution is not a fair assessment.

He probably needed to say that quite a good number of officers have an alcohol problem that needs to be addressed. However, I feel that his use of the words 'on average' is a bit too strong. I do not think that it is a statement of fact. I request him to kindly replace it with a more suitable judgment on our officers.

The Temporary Speaker (Sen. Mumma): Sen. Okiya Omtatah, unless you have scientific evidence that the average police person in Kenya is a drunkard, withdraw that statement.

Sen. Okiya Omtatah: Madam Temporary Speaker, the word average itself is not scientific though I agree with the way the Senate Majority Leader has put it. We will replace my words with what he has said. I fully agree---

The Temporary Speaker (Sen. Mumma): It is you to replace your words and not we. Do not bring us into your---

Sen. Okiya Omtatah: Madam Temporary Speaker, I request the HANSARD to adopt the--- If I try to repeat it, I will mess it up. He put it so well. He is a poet.

The Temporary Speaker (Sen. Mumma): So, are you withdrawing and adopting the words of the Senate Majority Leader?

Sen. Okiya Omtatah: Madam Temporary Speaker, I am withdrawing and adopting the words of the Senate Majority Leader.

The Temporary Speaker (Sen. Mumma): Proceed.

Sen. Okiya Omtatah: Madam Temporary Speaker, the culture around policing needs to be addressed holistically. This Motion is important, but it is trying to put lipstick on a pig as they put it.

The Temporary Speaker (Sen. Mumma): Can you give the Senator one minute to finalise his lipstick statement?

Sen. Okiya Omtatah: It does not holistically address the problem. I have heard so many good comments that have come from the Members. Therefore, I would like to ask the Mover of this Motion to look at it, to see if we can expand it to be an entry point for this House to try and address the problem of policing in the country and how we can assist them, as well as ensure that the big budgets that we allocate to the police end up doing the work that the police are supposed to do. That is what I pray, because wherever you go, they say that they have no fuel, and that they are stuck, yet we allocate a lot of money to the police.

I thank you, Madam Temporary Speaker. I support the Motion with amendments as proposed.

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

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Madam Temporary Speaker.

I wish to contribute to the Motion that has been filed before this House by Sen. Nyamu.

To start with, I wish to state that the National Police Service is created by Article 243 of the Constitution, and it defines the mode of hiring of the Inspector General (IG) of Police, the two deputy IGs, and other officers.

Madam Temporary Speaker, it cannot be gainsaid that this country reels from a deficit of police in the Service. I am aware that, perhaps, it is time, and I hope that it will resolve, that the intention to hire 10,000 police officers, in addition to those serving, would go a long way in ensuring that the police service delivers to the people of this country.

Madam Temporary Speaker, it is therefore clear that the Motion that has been brought before the House would only be useful if a comprehensive reform to the police service is undertaken as per the recommendations of the Maraga Task Force; that task force puts into place recommendations that touch on the conditions of service for the police. It deals with the issues of welfare and several areas that require improvement.

Madam Temporary Speaker, I agree, as Sen. Omtatah stated this afternoon, that this Motion is in futility if it is not implemented with the incorporation of the various reforms that the Maraga Task Force has recommended, because you cannot purport to introduce Closed-circuit television (CCTV) monitoring equipment in police stations without a framework when we know that the operation of those CCTVs depend on the very officers whose welfare ought to be addressed by the proposals in the Maraga Task Force. Therefore, that must be done first.

The second point that I wish to point is that in terms of human rights violations, and I must commend the Service - IG Kanja, the two deputies that assist him in his work have demonstrated and revamped the workings of the police force, to the extent that we

see an improvement in the manner that the police do their work. That can only be improved if we adopt every piece of recommendation in the Maraga Task Force.

Let me move on and state that the Motion also has failed to address the provisions of Sections 2, 18 and 19 of the Data Protection Act. The introduction or installations of some of those CCTV images would be a violation to private rights. So, this Motion must incorporate those provisions that preserve rights of the individuals.

We know and have addressed several issues on human rights. Human rights are universal. They are rights that are not only *erga omnes*, but also *jus cogens*. I do not need to educate the Senate Majority Leader on *jus cogens*. It means that they are so trite, they must be respected by every nation. It is irrelevant that an individual does not belong to a state. That is why Sen. Eddy was commenting on the treaty for the Establishment of the East African Community in 1999. Article 126 that enjoins countries in East Africa to cooperate towards a joint mechanism that would ensure a monetary union and finally a federation, the five stages of our union in East Africa.

Madam Temporary Speaker, that Treaty is under threat and violation when we see certain violations in the region. It cannot be gainsaid that the violation of human rights that occur in our brother or sister states must be viewed with concern because we must move towards implementing the Treaty. That is why we must see a working East African Legislative Assembly.

I understand that the Assembly is not as functional as it ought to be. That should be a concern of this House. Some of the Members of the Assembly have not received their salaries for several months because some of the counties in East Africa do not contribute their share. For avoidance of doubt, Kenya has consistently contributed her share to the EAC.

As we deal with human rights violations in the region, we must be alive to the fact that these issues touch and concern all of us. We must work towards a framework of a healthy East Africa and East African states that obey human rights.

Madam Temporary Speaker, for the Motion, I will say this; this Motion must be amended to make sense because you cannot provide protection to a hungry crowd. The police need better service and a better working environment in order to deliver to the people of this country. We need more policemen. Aside from the litigation that is going on, we need policemen to be employed so that they serve the people of this country because we are moving to a period where we need the services of the police persons.

The Temporary Speaker (Sen. Mumma): Hon. Senators, the Mover is not around to reply, so we defer the replying to the Motion.

(Reply to the Motion deferred)

Hon. Senators, pursuant to my powers under Article 45(2), I wish to direct that we move on to Order No. 23.

BILL*Second Reading*

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 4)
BILL (NATIONAL ASSEMBLY BILLS NO. 45 OF 2024)

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

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to move that the Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bills No. 45 of 2024) be now read a Second Time.

This PFM (Amendment) (No.4) (National Assembly Bills No.45 of 2024) is an interesting one. It is one of the Bills I had hoped that we would consider over time. However, as I have learnt, everyone's job ends up being no one's job. We say these things many times and we leave them, assuming that someone will think for us. I cannot remember the number of times while commenting on the Budget Policy Statement (BPS) that almost every Senator has made this request on what this amendment is all about; that the House be granted sufficient time to consider the BPS, but the 14 days we are granted are not tenable within which to listen to the public, make our decisions as Committee, compile that and bring our decisions to the House.

Madam Temporary Speaker, if possible, it would make more sense, rather than having it compiled by the Standing Committee on Finance and Budget as is tradition, to have the individual committees present their findings separately. You could have the Chairperson for the Standing Committee on Information, Communication and Technology (ICT) come and give their perspective on the proposed Bill, followed by the Chairperson Standing Committee on Health.

They could explain why the National Treasury still wishes to retain the stipend for Community Health Promoters (CHPs) instead of releasing the funds to counties, so that governors can pay. There are many issues which, if we had sufficient time to consider the Budget Policy Statement (BPS), would better equip the House to interrogate the Budget.

This Bill was published in the Kenya Gazette Supplement No.190 of 2024, last November. It has taken over a year in the National Assembly. The principal object of this Bill is to amend the Public Finance Management (PFM) Act, 2012, CAP. 412A. It includes to-

(1) Extend the time within which Parliament considers and makes recommendations on the BPS;

(2) Extend the time within which the Cabinet Secretary for Finance complies with debt management provisions;

(3) Put in place a framework for implementing accrual accounting in Government.

The extension of time within which Parliament considers and makes recommendations to the BPS from 14 to 21 days will allow Parliament sufficient time for public participation, debate and make conscientious recommendations on vital budget documents. I need not emphasise this to my colleagues. Many times, we have said that 14 days is too short.

We understand that we operate within a tight fiscal cycle of only 12 months. When we resume at the beginning of every Session, in February, it is the first business that awaits us. Within that short time, we must consider the BPS, return it to the National Treasury, which then compiles and send the proposed budget to the National Assembly. The National Assembly must then conduct public participation and other processes. Remember, next year's budget is the last before the elections and therefore carries significant interest.

Further, Clause 2 of this Bill proposes to amend Section 25(7) of the PFM Act to provide that Parliament shall not later than 21 days after the BPS is submitted, table and discuss a report containing its recommendations and passes a resolution to adopt it with or without amendments.

It also amends Section 25(9) to provide that the National Treasury to publish and publicise the BPS not later than 22 days after submission to Parliament. This extends the time for publication to 21 days. I have explained that.

Section 50 of the Act imposes obligations on the Cabinet Secretary for the National Treasury and Economic Planning regarding debt management. Under Section 52, borrowing by the national Government must not exceed 55 per cent of Gross Domestic Product (GDP) in present value terms. Section 52C, amended at the beginning of this term, came into force in 2023. The Bill now proposes a different commencement date for this provision.

Clause 3 of the Bill proposes to delete Section 52C and introduce a new section requiring the Cabinet Secretary to ensure that borrowing complies with the threshold under Section 52A. We had a long debate on this and I believe the Committee on Finance and Budget will guide us towards a more reasonable decision during the Committee of the Whole stage.

Clause 4 proposes to amend Section 194(1) to mandate the Accounting Standards Board to provide a framework for implementing accrual accounting in Government. Further, the Board shall prescribe a risk management framework.

The Bill also proposes to amend Section 194 by inserting a new subsection (6) to provide for a three-year transition period to the accrual system. Many have called for this change because it means that we shall spend based on actual revenue rather than on projected collections. The current system of hopeful projections has led us to our present situation, where nearly 70 per cent of our collections go towards debt repayment. This is a simple amendment, but with very consequential findings. I hope colleagues will find time to debate and share their thoughts about it. I will be particularly interested by the findings of the Committee on Finance and Budget on this matter so that we know whether indeed they have considered the requests that have been made here by leaders.

Madam Temporary Speaker, with those many remarks, I beg to move and request Sen. (Prof.) Tom Ojienda to second.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Madam Temporary Speaker. I second the Motion for the proposed amendments. It is clear that timelines are important. They are important to the extent that budget policy statements must be debated within a sufficient time and the proposal to amend the sections in question; section 25 and other sections, is an important section. These amendments will improve the substance

of business that this House will undertake and in the light of the proposed timelines and timeframes as per the proposals.

I second.

(Question proposed)

Sen. Okiya Omtatah: Madam Temporary Speaker, the Public Finance Management Act is one of the key pieces of legislation in this country. It operationalises Chapter 12 of the Constitution on public finance. It has many good things. It has many bad things. I think the Budget Policy Statement (BPS), which is made annually, is the broad guideline for the annual budgets. It is a very important process.

I agree with the Mover of the Motion and the Secunder that this is a very important amendment that needs to be done. We need to be given adequate time to interrogate and audit the proposals for the budget and if possible be able to ferret out cases of budgeted corruption, which may be buried in the budget, intended distortions of equitable sharing, and stuff like that.

So, the amendment is extremely important and I would urge my colleagues in this House to support that amendment, that we be given adequate time to scrutinise the budget proposals. Fourteen days are inadequate, and as the Mover said, the Majority Leader, within those 14 days we are supposed to have the committee meet and look at it, maybe, and as it is a parliamentary tradition, subject it to public participation, and then come back, subject it to debate in this House and then vote on it. That kind of restriction reduces this House to a rubberstamp, whereby we have to decide between having a bad budget or having no budget at all. That leads to a situation whereby sometimes things that are passed in this House, that when you encounter them later on, you say, how come this thing went through the House unnoticed? Therefore, it is a very, very important proposal that we bring that out.

In moving the Motion, the Hon. Majority Leader made a reference to the budget ceiling in the PFM Act. Although he mentioned it like something that is good, to me, it is unconstitutional.

When you look at Article 220 of the Constitution, especially 220(1)(b) and (c), they address the question of borrowing. They require that borrowing must be clearly indicated in the budget with proposals of how loans are going to be repaid.

When you look at the budget ceiling that says that we should borrow 55 per cent of the Gross Domestic Product (GDP), it violates that provision which requires that in every budget, Parliament must set a limit of borrowing and it must justify whether there is capacity to repay those loans or not. That is what the Constitution requires. A debt ceiling gives the Executive a blank cheque and we have seen what that has done in this country. Since we came up with the idea of debt ceiling, our borrowing has gone haywire.

Just for historical purposes, the concept of debt ceiling came in vogue in the United States of America (USA) during the First World War. In the USA, the structure was and is that the Congress has full control of the money, unlike us here who control nothing.

The other day we saw the Congress shutting down the Government for 40 days because they did not agree on how the money was going to be used. Money is controlled by the House. I think the Senators voted today. Some crossed over and the threshold of 60 was met. Therefore, there might be opening of the House in the US.

Be that as it may, they still have the debt ceiling issue. Since it was introduced during the First World War to allow the American Executive procure, then go and tell Parliament how they procured to fight during the war has remained in the USA. To date, the USA is one of the most indebted countries in the world. Their only luck is that they print the dollar. When they do that, they cause inflation outside because we also use the dollar. Therefore, that is how they are covered.

The debt ceiling resulted in the Congress losing control over borrowing by the American Government and it has led to that problem. In our circumstances, we also have other problems whereby realistically speaking, debts are paid from taxes. We do not pay our debts from the GDP.

In a country like Kenya where I think 10 or less per cent of the population owns 90 per cent of the economy, the GDP is misleading figure when it comes to the debt. When it comes to taxation, the 10 per cent that owns 90 per cent of economy only pay 30 per cent of their income or something like that to the debt. Therefore, the GDP does not reflect in the taxes. That way, we shall be borrowing a debt that we cannot finance or pay back. Therefore, we need to go back.

That amendment should be expanded to deal with an amendment to remove the debt ceiling as a guiding threshold for borrowing. We should go back to Article 220(1)(b) and (c) of the Constitution which prescribe that in every budget, we must address the question of public debt, so that we determine whether we have the capacity to pay what we have borrowed or not, and if we are borrowing, how do we intend to finance that loan?

Two, that long-term look will also give us a chance to look at Article 201(c) of the Constitution, which requires the benefits of borrowing to be spread between the current and future generations. It is also good that we need more time to look at the budget proposals so that we interrogate the Budget to determine whether it addresses that particular requirement; that the future generations must be taken care of in every budget that we make.

This is a very important amendment that I support. I plead that this House considers it favourably.

Madam Temporary Speaker, as we go along, we must also look at other aspects of the Public Finance Management (PFM) Act. In mind, I have Section 11 of the PFM Act, which establishes the National Treasury as a Ministry of the National Government. When you look at Article 251(a), it requires an Act of Parliament to establish the National Treasury.

If you look at the design of our Constitution, we have 48 governments. One of the core businesses of this House is to protect devolution. When the National Treasury becomes part of the national Government, devolution suffers. That is why you find that the counties are unable to get money on time. The law requires that they get money by the 15th of every month. We hardly see that happening in our counties because the

national Government, which has hijacked the National Treasury using Section 11, only gives counties money after it has had its fill.

You have heard even the person of His Excellency the President say that “under my Government, I have given counties money”. That statement should never be made by anybody. We need an independent National Treasury that can serve the 48 governments based on what Parliament has passed, not on what the President desires. Section 11, which purports to operationalise Article 251(1), states in a way that the National Treasury comprises the Cabinet Secretary for National Treasury, the Principal Secretary for National Treasury and the Departments.

Madam Temporary Speaker, as you know, the Cabinet Secretary and the Principal Secretary for National Treasury and Economic Planning are appointees of the President. They do not enjoy security of tenure. Basically, what we have done through Section 11 of the PFM Act is make the President the treasurer of the Republic of Kenya.

We have seen that in practical terms, parliamentarians pass a budget. We go through budget statements and motions that end up in the National Assembly, are passed and then it goes to the President, who signs it into law and it becomes an Appropriation Act. For all practical purposes, it is usually shelved. The budget that is then implemented is a budget that is not approved by Parliament.

You will see that whenever the President goes to a public function, even a funeral, Members of Parliament (MPs) from the area stand up and tell him that they need a bridge or a road, yet all those things are not in the budget they passed. The President will then stand up and grant them because we have subverted the Constitution to a point where, whereas we are required to manage this country using the budget, it has become a formality. What runs the country is what the President determines.

I read in the papers from the World Bank that right now, we got our loan of Kshs13 billion for Nyota Yetu. Nyota Yetu is nowhere in the budget. It is tying us to a big loan of Kshs13 billion, but because the President wanted it to be done, it is going to be done. You have seen a lot of loans being signed whenever the President travels. These loans are not in the budget, they have not been approved by Parliament. They get signed and they are binding the people of Kenya.

Why is all that happening? You again go to the Public Finance Management Act. What has it done? Whereas the Constitution requires only Parliament to approve borrowing and what have you, it has vested power in the Cabinet Secretary for National Treasury and Economic Planning to be able to borrow loans. So, we end up with a huge debt stock of odious debt in this country.

The Majority Leader talked of 70 per cent of the money we collect going to pay debts, which means Kshs70 out of every Kshs100 that the Kenya Revenue Authority collects goes to pay loans. The correct figure is worse than that. When I did a study on that odious debt last year, by 30th November, it was Kshs82 out of every Kshs100 that the National Treasury collects that goes to service debts. The Government is left with virtually nothing.

The other day I read in the *East African*, I have not verified it, the figure had grown to Kshs92 out of every Kshs100 that the Kenya Revenue Authority collects is going to service debt. Then we have reached a situation whereby we are borrowing

money to pay debt when it is very clear in the law that we cannot borrow money to pay debt.

The most known example was the one that happened the other day in February, 2024. We borrowed more than Kshs2 billion to pay the Eurobond debts yet the law, Article 214 of the Constitution makes debts a direct charge on the Consolidated Fund. So, you begin wondering why is it that we are spending all that money on debts which are supposed to be a direct charge of the Consolidated Fund? How come then that we are still borrowing to pay debt? You find you have got this thing called domestic borrowing. It is very clear in the Public Finance Management Act that you can only borrow domestically to sustain cash flows which must be repaid within the year, short term. Any other borrowing must be through Parliament.

You have seen infrastructure bonds being floated by the Government. They have not been debated in Parliament. You have seen treasury bonds being sold in this country, binding the country for many years. It has not been approved by Parliament.

You have got these rollovers that you see in the Statement of Actual Revenue and Exchequer issues that the National Treasury publishes every 21 days after the end of the month. When you read those statements, you find you have even a rollover that has been running from 1979. You ask yourself, what is happening with the public finance management in this country?

The law says Public Finance Management Act is a very important Act in terms of managing the economy of this country, in terms of achieving. The other day, I saw the President say something I have always been saying and I was happy he said it; that we can make Kenya a first world country right now. However, you cannot make Kenya a first world country right now unless we go that way of fiscal discipline. If we go borrowing and throwing money around, throwing good money to bad problems, we are not going to achieve that.

So, this Bill is extremely important for this country. Let us get ample time to interrogate, audit and ferret out any bad things from our budgets so that we can be able to find a budget that can run this country.

I would request the Mover to consider even amending those articles; Article 57 (b), (c) and (d), which allows money borrowed by the national Government to be banked offshore and not in the Consolidated Fund as required by the Constitution in Article 206.

We must look at Section 11 of the Public Finance Management Act and also repeal it and go and create an Act of Parliament that creates the Ministry and that creates the National Treasury not as a Ministry of the national Government, but as an independent institution governed by professionals and oversighted by Parliament. That way, the control over money is taken away from the President and vested in Parliament.

Where money sits with the Executive and the power of the purse are together, you end up with an imperial presidency or an emperor who is a distributor of goods and services. You can see our President wherever he goes, carries a bag of goodies which are not in the budget. That is what the law as of now has done.

We should come back and put the power of the purse back to the House, so that even the President cannot have money to give. If he wants to do something, he must

proposed it to Parliament through the budget. If I want something done in my area, it should not depend on my proximity to the President.

We all know that one cannot approach power while standing straight but has to bow. It must depend on my fellow MPs whom I can lobby, negotiate and put it in the budget. It can then become law and be implemented.

Madam Temporary Speaker, with those few remarks, I support the Bill with the proposed amendments.

The Temporary Speaker (Sen. Mumma): I do not see another request for speaking. The Mover may reply.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I thank Sen. Omtatah and Sen. (Prof.) Ojienda for their thoughts on this very interesting topic. This is about the future of our country.

When the public debt debate came to Parliament in 2018 or 2019, I moved on the Floor of this House to oppose it vehemently. I knew I was doing so for the sake of the future generations of this country who will bear a great burden beyond which the call of any parent of adult who is in a position of responsibility should pass over to the next generation.

Unfortunately, Parliament speaks through the votes of the majority and they had their way that day. I lived to be happy and see that day when under tremendous pressure, it was confirmed to the country the level of debt exposure this country was left in after the 10 years of the Jubilee Administration.

In fact, I heard the former President the other day say that he spent the first two-and-half years of his presidency finishing the projects of his predecessor; the late President Kibaki. Former President Uhuru should know we are in our third year and we cannot finish his problems. We are still trying to sort it which the greatest gift he gave the country when he skyrocketed public debt that we are trying to solve to date. It is unfortunate because we do not yet appear to have grasped this problem and appreciate it as a threat even to our national security.

Part of the dissatisfaction that we see with members of the public today is on account of an economy that is cash starved. How does an economy become cash starved? It is because the biggest consumer of goods and services, which is the government, does not spend because they have nothing to spend.

Everything we collect, unfortunately, never leaves the proximity of Harambee Avenue. It is collected at Times Towers, heads 50 meters to the National Treasury and off it goes to pay debts of people who have managed their resources better than us over the years. It is a problem which, if we do not address with the finality it deserves, we shall live to regret in day coming by.

We must appreciate that at the beginning of 2022, the World Bank had predicted that there were six African nations that were likely to default on their debt and come down under a debt strain. Five of those economies, unfortunately, defaulted and to date, their currency has never recovered. We have Ethiopia and Ghana. I cannot recall the other three. Kenya is the only one that survived, but we are not yet out of the woods. We should not feel proud about the situation that we find ourselves in. Despite the tight fiscal

space that we continue to work in today, the threat of default still exists. We must always bear that in mind every time we carry out our responsibilities.

Madam Temporary Speaker, it is time we have a prudent or an adult conversation in this country about how we manage our resources. Sen. Okiya Omtatah, Kshs2.4 trillion is not a small amount. Forget the debt that you are talking about that you are paying.

The other week, we asked who these people are that you are paying Kshs80 billion every month in the form of compensation to public workers. A sum of Kshs80 billion is not small money. It is actually nearly a third or a fifth of the funds that we devolve to counties, yet we spend it on less than a million people. If it is a fifth, it means it takes care of nearly a fifth of the counties in this country; nearly 10 counties that have populations of millions of people, but those resources are being consumed by less than one million citizens who live off the public wage bill.

It is something that we must confront because it is the biggest strain on our public resources over and above repayment of our debt. I like the conversation that the Cabinet Secretary began, but I have not seen him advance a decision, difficult as it may be.

I disagreed with Sen. Cherarkey when he brought a Motion the other day, saying we need to increase the stipend for interns. I asked; What is wrong with us? Have we not realised how much of a strain we are putting on the national purse by insisting that everybody who comes to demonstrate outside Parliament here must be absorbed on a permanent and pensionable basis?

In fact, that is something that we need to propose to the country and have a conversation with them on the realities of our economic situation and why it is not possible to continue employing at the rate at which we are doing. Even though there are people who retire, others either on account of age or illness, or due to natural situations like death, it still is not enough of a measure to give us the comfort to employ the numbers that I see being employed daily.

The Members of the Senate Committee on Budget and Finance must lead us, as the House, as we look at this law to think through and see whether what is being proposed to us makes sense, particularly on the issue of the debt anchor. Is it not possible?

I had asked this question earlier; if you want to have a different commencement date, no problem, but at least, fix it in law how much fiscal deficit is allowed year on year, so that it is known for a fact that if you ever try to do a budget beyond a certain fiscal deficit, then it is considered an illegal budget. That is the only way we can assure the country that we are working on a strict fiscal framework. Otherwise, if we just pass on the date and say that the commencement for this will be 2028 or 2029, it is fine, but what is the assurance that the National Treasury will comply, that our colleagues in the National Assembly will observe, yet we know what is happening?

Sen. Okiya Omtatah, I am not sure what you are proposing will work because the National Assembly has been a big player and active participant in the mess that we find ourselves in. The NG-CDF, which began with a paltry Kshs50 million to Kshs60 million hardly 10 years ago, is at over Kshs200 million today. You can see the way the appetite is increasing.

All these projects that you see being lined up in the budget, some of them beyond the proposal of the National Treasury, are because our colleagues in the National Assembly have figured how to rally their colleagues and put in a project here and another one there, without the final consideration that we do not have the resources to live large, like they are encouraging us to do.

Debt increase will not stop unless we put a stop by law. We can only do this through the means that I have proposed. If you give them additional time, you should guide, show and work out scientifically, year on year. If the fiscal deficit for last year was 4.9, then reduce it to 4.5 in the subsequent financial year then bring it down to 4.0 in the next financial year until we get to that point. Otherwise, we will get to 2028, then another amendment will probably come proposing that we try and achieve a particular target.

The unfortunate thing in all this is politics. At the end of the day, when the Head of State, Members of Parliament and we, Senators, visit our constituents, we get demands for roads and bridges. We all push back that resource basket yet development is not evenly balanced. This is the challenge that we continue to face up to this date. There are regions that have had their share, but because of the convenient politics of the day, others continue to struggle.

We were with you in Busia County and you saw the kind of traffic mess that we found ourselves in on the road from Kisumu to Busia, which is an international highway.

(Sen. Oketch Gicheru consulted loudly)

The Temporary Speaker (Sen. Mumma): Order, Sen. Oketch Gicheru. We cannot hear the speaker properly.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I was giving the road from Kisumu to Busia as an example. That road is not in good state yet we see billions of shillings being appropriated each year to sections of the country which, to the best of my knowledge, are not a priority as much as the people from that section of the country that I have mentioned. It is not that they do not deserve. It is just that the road is a priority as much as it is to the other parts of the country.

You can see it in the number of accidents. I think Sen. Okiya Omtatah was involved in an accident on that road and he survived narrowly. That road is thin and we have tankers and trailers that are moving goods to Uganda. We need prioritisation of all these things, but we cannot do that because of the influence of politics and patronage of our national resources.

Sen. Okiya Omtatah, I am not sure if we will solve this situation if we are to leave it in the hands of politicians like you and me. You can move it from the Executive to Parliament and that will make it even worse. We must learn fiscal discipline by agreeing on a framework. Look at what happened to the Americans. They shut down their Government for almost 40 days because they could not agree on prioritisation of expenditure.

We must get to a point where we can tell each other that this is the resource pool that is available when we want to live beyond our means. We have to then agree on where to spend it. After which, we should not spend nothing more, nothing less.

Anything else that we are discussing here which is different from that, to the best of my knowledge, is a waste of precious time.

I do not want to take long because we are out of time. We need to have a better conversation on this topic. Sen. Okiya Omtatah, we need to think deeply and do something in the House beyond what you are saying because not many people follow these kinds of conversations which is unfortunate. Thank you, Sen. Tom Ojienda, for your contributions.

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

I thank you.

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

(Putting of the question on the Bill deferred)

Next Order.

BILL

Second Reading

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

The Temporary Speaker (Sen. Mumma): The Order is deferred because the Mover is not here.

(Bill deferred)

Next Order.

BILL

Second Reading

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

The Temporary Speaker (Sen. Mumma): The Bill is also deferred. Next Order.

(Bill deferred)

BILL*Second Reading*

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

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 12th November, 2025 at 9.30 a.m.

The Senate rose at 6.30 p.m.