



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fifth Session

Wednesday, 5th August, 2026 at 2.30 p.m.

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 5th August, 2026

*The House met at the Senate Chamber,
Parliament Buildings, at 2.33 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)

Hon. Senators, kindly take your seats. Clerk, you may proceed to call the first Order.

The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries, proceed.

PAPERS LAID

REPORT ON STAKEHOLDER FORUM ON THE CHALLENGES FACING THE SUGAR SECTOR

Sen. Wafula: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Wednesday, 5th August, 2026-

Report of the Standing Committee on Agriculture, Livestock and Fisheries on Stakeholder Forum on the challenges facing the sugar sector held at Mabanga Agricultural Training College in Bungoma County on 26th May, 2026.

Thank you, Mr. Speaker, Sir.

(Sen. Wafula laid the document on the Table)

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights.

REPORT ON CONSIDERATION OF THE CONSTITUTION OF KENYA
(AMENDMENT) BILL (SENATE BILLS NO.7 OF 2026)

Sen. Maanzo: Thank you. Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Wednesday, 5th August 2026-

Report of the Standing Committee on Justice, Legal Affairs and Human Rights (JLAHR) on its consideration of the Constitution of Kenya (Amendment) Bill (Senate Bills No.7 of 2026), on behalf of the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights.

Thank you, Mr. Speaker, Sir.

(Sen. Maanzo laid the document on the Table)

The Speaker (Hon. Kingi): Next Order.

The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries, proceed

NOTICES OF MOTIONS

ADOPTION OF REPORT ON STAKEHOLDER FORUM
ON CHALLENGES FACING THE SUGAR SECTOR

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 Agriculture, Livestock and Fisheries on the Stakeholder Forum on the challenges facing the sugar sector held at Mabanga Agricultural Training College in Bungoma County on 26th May, 2026, laid on the Table of the Senate, on Wednesday, 5th August, 2026.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Catherine Mumma.

IMPROVING ACCESS TO CLEAN WATER AND SANITATION
SERVICES IN INFORMAL SETTLEMENTS

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

THAT, AWARE THAT Article 43(1)(d) of the Constitution guarantees every person the right to clean and safe water in adequate quantities and to reasonable standards of sanitation;

COGNIZANT THAT, under the Fourth Schedule to the Constitution, county governments are responsible for county water and sanitation services, while the national Government is responsible for water resources management, policy and regulation, and that the Water Act, 2016 and the National Water Policy provide the framework for universal, equitable and sustainable access to water and sanitation services, thereby requiring effective intergovernmental coordination to ensure equitable access to such services;

CONCERNED THAT, despite the existing constitutional, legal and policy framework, many residents of informal settlements in Nairobi City County continue to experience inadequate, unreliable, unsafe and unaffordable access to water and sanitation services due to inadequate infrastructure, weak implementation and insufficient investment in water supply and sanitation infrastructure and service delivery;

APPRECIATING THAT, expanding water and sanitation infrastructure, strengthening public-private-community partnerships and promoting community participation can significantly improve access to affordable, safe and sustainable water and sanitation services within informal settlements;

NOW THEREFORE, THE SENATE resolves that the Nairobi City County Government, through the Nairobi City Water and Sewerage Company, in collaboration with the Ministry of Water, Sanitation and Irrigation, the Athi Water Works Development Agency, the Water Resources Authority and other relevant agencies-

1. Develops and implements a County Water and Sanitation Improvement Plan with clear targets, timelines and financing for expanding water and sewerage services to informal settlements.

2. Strengthens water supply infrastructure, sewerage networks and sanitation facilities, while promoting appropriate low-cost and innovative service delivery models.

3. Establishes transparent regulatory and consumer protection measures to curb illegal water connections, exploitation through informal water vending, inflated tariffs and unsafe water supply practices.

4. Deploys, in collaboration with the Water Resources Authority, adequate financial, technical and institutional resources to restore and protect urban rivers and water catchment areas within Nairobi City County through strengthened enforcement against pollution, rehabilitation of riparian ecosystems and sustained investment in water resource protection, so as to ensure a reliable and sustainable supply of clean and safe water to residents of Nairobi City County.

Mr. Speaker, Sir, shall I proceed with the next?

The Speaker (Hon. Kingi): What are you holding?

Sen. Mumma: I am sorry---

The Speaker (Hon. Kingi): Is it a Notice?

Sen. Mumma: No, it is not. Sorry, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Then you will wait till we call the Order.

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statement pursuant to Standing Order 52(1). The Senator for Nandi County, proceed.

OUTSTANDING PERFORMANCE OF TEAM KENYA AT THE 2026 COMMONWEALTH GAMES IN GLASGOW

Sen Cherarkey: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.52(1) to make a statement on a matter of national concern, namely the outstanding performance of Team Kenya at the 2026 Commonwealth Games held in Glasgow, Scotland.

Kenya once again demonstrated its sporting excellence on the international stage, with Team Kenya securing 12 medals comprising three gold, four silver and five bronze medals. The performance was headlined by exceptional displays in athletics, where Kenyan athletes reaffirmed the country's place among the world's leading sporting nations.

Edmund Serem delivered one of the most remarkable performances of the games by winning gold in the men's 3,000m steeplechase. His victory was made even more significant by an extraordinary all-Kenyan podium, with Simon Kiprop Koech taking silver and Leonard Kipkemoi Bett securing bronze. The achievement gave Kenya a historic clean sweep of all three medals in the event and demonstrated the remarkable depth of talent that continues to exist in Kenyan athletics. Mathew Kipchumba Kipsang added another gold medal for Kenya in the men's 5,000m, further affirming the country's enduring strength in middle and long-distance running.

In the women's 3,000m steeplechase, Faith Cherotich, a newcomer, further underlined Kenya's dominance by winning gold and setting a new Commonwealth Games record. Her performance was a powerful demonstration of both individual excellence and the continuing strength of Kenya's tradition in both men's and women's steeplechase.

The achievements extended beyond the gold medals. Stephen Ndangiri Kihu won silver in the men's 10,000m race walk, while Diana Wanza secured silver in the women's 10,000m. Lilian Odira, I think, comes from Migori where Sen. Eddy comes from, took silver in the women's 800m. Wyclife Kinyamal added a bronze medal in the men's 800m, while Timothy Cheruiyot secured bronze in the men's one mile race.

Irene Chepkemboi also claimed bronze in the women's javelin, demonstrating Kenya's ability to compete successfully beyond its traditional distance running events. This is the first female women's javelin that has been won by the country. Joshua Amunga Mboya's bronze medal in the men's 60 kilos weightlifting event was also equally significant. His achievement broadened Kenya's medal contribution beyond athletics and

demonstrated the potential for Kenyan athletes to excel in other sporting disciplines when given the requisite opportunity, preparation, and support.

Mr. Speaker, Sir, these achievements are a source of immense national pride. The historic clean sweep in the men's triple chase, Faith Cherotich's record-breaking victory, the gold medal performance of Matthew Kipsang, and the strong showcasing across a range of other events reflecting the discipline, resilience, talent and determination of Kenyan athletes. These are not merely individual accomplishments, they are national triumphs that have brought honour to our flag and demonstrated the extraordinary potential of our young people.

It is therefore imperative that the success of Team Kenya be met more than with an applause. Our athletes deserve appropriate recognition and reward for their achievements as well as sustained investment in their welfare, training, coaching, medical support and preparation for international competition. The government must ensure the athletes who bring honour to Kenya are supported throughout their careers and their contribution in awards and other things should not be taxed by the Kenya Revenue Authority (KRA), so that they can add to our national identity is properly acknowledged.

Mr. Speaker, Sir, finally, the performance of Team Kenya in Glasgow, Scotland, should also inspire a new investment in sports infrastructure and talent development across the country. I applaud the President for the ongoing stadia being done across the country, including Raila Odinga Talanta Stadium here in Nairobi. We must also strengthen talent identification at the grassroots, improve sporting facilities, invest in qualified coaches and create clear pathways through which young athletes can progress from local competition to the international stage.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Kingi): Let us move to request for statement pursuant to Standing Order No.53(1). Senator Betty Montet, proceed.

IMPACT OF INDUSTRIAL AIR EMISSIONS FROM CEMENT AND STEEL MANUFACTURING COMPANIES

Sen. Betty Montet: Thank you, Mr. Speaker, Sir. I have a request for statement on the impact of industrial air emissions from cement and steel manufacturing companies in the country.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on a matter of nationwide concern regarding the impact of industrial air emissions from cement and steel manufacturing companies in the country.

Mr. Speaker, Sir, cement and steel production in Kenya plays a significant role in economic development through job creation, revenue generation, regional trade and support for government initiatives such as affordable housing. However, these industries also present environmental and public health concerns particularly through air pollution, reduced feasibility, respiratory illness, and ecosystem degradation in areas hosting such facilities. These facilities include Machakos, Kajiado and coastal counties. This raises questions regarding compliance with environmental laws, emission standards and

licensing conditions, as well as the effectiveness of the National Environment Management Authority (NEMA) monitoring and enforcement mechanisms.

In the statement, the committee should address the following-

(1) The real-time monitoring mechanisms employed by the National Environment Management Authority (NEMA) on continuous and unlawful dust emissions from the manufacturing plants beyond scheduled annual audits.

(2) The measures by the Cabinet Secretary for Environment, Climate Change and Forestry to address public concerns regarding night time emissions and excessive particulate pollution from cement and steel industries.

(3) The coordination mechanisms between the Ministry of Environment, Climate Change and Forestry and the Ministry of Health in conducting health assessments and studies for communities living adjacent to cement and steel plants.

(4) The measures adopted to ensure that environmental and social impact assessments for new or expanding cement and steel plants adequately incorporate community participation concerns and consent during project approval processes.

Senator Betty Montet, Nominated Senator.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Senator for Nairobi City County, Sen. Edwin Sifuna.

PLIGHT OF SUGARCANE FARMERS
IN NZOIA SUGAR COMPANY

Sen. Sifuna: Mr. Speaker, Sir, I have a request for a statement on the plight of farmers in Nzoia and other sugar companies countrywide. I just want to issue a caveat that I requested for this statement before the report from the Committee on Agriculture on the stakeholder engagement at Mabanga. I do not understand why, I have already been removed from the County Public Accounts Committee (CPAC) but I have not been added to the WhatsApp for the Committee on Agriculture, Livestock and Fisheries. Why is it more efficient to remove people than to add people to WhatsApp groups? I do not understand.

(Sen. Cherarkey spoke off the record)

The Speaker (Hon. Kingi): Order, Senator for Nandi. The Honourable Member is simply seeking to be added to his new role. You may proceed, Honourable Senator.

Sen. Sifuna: Thank you, Mr. Speaker, Sir, for that protection.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on a matter of countrywide concern regarding the plight of sugarcane farmers at Nzoia Sugar Company in Bungoma County and across other sugar companies nationwide.

Mr. Speaker, Sir, sugarcane farmers continue to face historical arrears, delayed payments, corruption in access to harvesting permits and poor welfare support. These persistent challenges, particularly at the Nzoia Sugar Company, where farmers and residents who are major stakeholders in the well-being of the facility, have been forced to

resort to regular protests due to despondency, eroded livelihoods and undermined confidence in the sustainability of the factory. Such is the plight of the contracted cane farmers across the sugar sector countrywide.

In this statement, the committee should address the following-

(1) When perennial arrears and delayed payments of sugarcane farmers will be cleared and the measures in place to guarantee timely future disbursements.

(2) How regulatory oversight will ensure leaseholders remain responsive to community, farmer and employee needs, including fair labour practices and adequate remuneration.

(3) The steps being taken to eliminate corruption in the issuance of cane harvesting permits and ensure equitable access for contracted farmers and.

(4) How the welfare of local communities who donated land for the factories and estates will be safeguarded, ensuring they benefit from improved milling, jobs and sustainable development.

Mr. Speaker, Sir, with your kind permission, I would want to take the next statement.

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

VOTING RIGHTS OF SECURITY OFFICERS

Sen. Sifuna: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a statement from the Standing Committee on Justice, Legal Affairs and Human Rights on a matter of nationwide concern regarding the voting rights of serving police and other security officers.

Mr. Speaker, Sir, Article 38 of the Constitution of Kenya 2010 guarantees every citizen the right to make political choices, including the right to vote by secret ballot in a free, fair and regular election. However, during elections, thousands of police officers and other security personnel are deployed away from their registered polling stations to provide security services, effectively denying them the opportunity to exercise this fundamental constitutional right. With advancements in electoral technology and the existing mechanisms that facilitate voting by Kenyans in the diaspora, it is imperative that appropriate arrangements be explored to ensure that serving security officers deployed outside their registered polling stations are not disenfranchised solely by virtue of their official duties.

In the statement, the committee should address the following-

(1) The legal policy and administrative measures being undertaken by the state law office in collaboration with the IEBC and other relevant agencies to ensure that the police and other security officers deployed away from their registered polling stations are able to exercise their constitutional right to vote.

(2) The measures to guarantee the security officers exercising their right to vote freely, fairly and by secret ballot without intimidation, coercion or undue influence from the chain of command or any other person.

(3) Whether the security officers required to travel to their registered polling stations to vote will be provided with adequate logistical and administrative support,

including transport and sufficient time off duty to enhance voter participation without compromising election security.

Thank you, Honourable Speaker.

STATUS OF PENDING COUNTY DEVELOPMENT PROJECTS

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Orders No.53(1) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on a matter of national concern regarding the status of pending county development projects initiated before September, 2022.

While devolution was intended to ensure the prudent use of resources and the community in service delivery, the frequent abandonment and inherited projects during leadership transitions undermine this goal. The prioritisation of the new leadership over existing ones has resulted in a waste of billions in taxpayer funds, leaving citizens with incomplete and underutilised infrastructure.

In the statement, the committee should address the following-

(1) The current status of all stalled or abandoned projects initiated before September, 2022 including specific reasons for the abandonment.

(2) The budgetary provisions and projected completion schedules for these pending projects within 2026/2027 Financial Year and subsequent financial years.

(3) The regulatory frameworks and monitoring mechanisms in place to ensure continuity and prioritisation of inherited projects and prevent waste during leadership transitions.

The Speaker (Hon. Kingi): Sen. Catherine Mumma.

REGULATORY FAILURES TO SAFEGUARD RIVER YALA FROM ENVIRONMENTAL AND ECOLOGICAL RISKS

Sen. Mumma: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Orders No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on a matter of national concern regarding the regulatory failures by the Ministry of Mining and the National Environment Management Authority (NEMA) to safeguard River Yala from the environmental and ecological risks posed by illegal gold mining activities.

Mechanised dredging of River Yala by foreigners undertaking alluvial mining was a major issue raised by residents of Isulu-Bushiangala during a public hearing conducted by the Standing Committee on Land, Environment and Natural Resources on 29th June, 2026 at Bushiangala Secondary School in Ikolomani Constituency, Kakamega County. During the meeting, the Principal Secretary for Mining, Mr. Kimutai, asserted that the Ministry of Mining, Blue Economy and Maritime Affairs has taken steps to halt the mining operations.

The ongoing gold mining activities in River Yala by foreign nationals has exposed regulatory failures by the relevant authorities, particularly the Ministry and NEMA. Communities in Ikolomani along River Yala continue to face contamination of

water that serves as their source of livelihood as well as the destruction of riverbanks and adjoining farms. Left unchecked, the mining activities pose grave risks to River Yala and the Yala swamp wetlands, including toxic contamination, siltation, biodiversity loss and downstream threats to Lake Victoria.

In the statement, the committee should address the following-

(1) The circumstances surrounding the facilitation of foreign-led alluvial gold mining operations along the Yala River-

(a) Whether the mining entities are operating pursuant to all the approval and licensing requirements of the Ministry of Mining, Blue Economy and Maritime Affairs and NEMA, and where the mining entities have the requisite approvals and licences, when the applications were submitted to the Ministry and the names of the proprietors of the mining ventures.

(b) When public participation was conducted in respect of those mining activities.

(c) Who issued the licences authorising the mining activities, when they were issued and the duration for which they were issued.

(d) The conditions attached to the licensing of the alluvial gold mining and the dredging of River Yala.

(e) Whether all relevant approval and licensing documentation can be availed to the Senate.

(2) Whether the relevant laws and processes were followed during the establishment of the alluvial gold mining operations and in particular-

(a) Whether the dredging machinery was lawfully imported into the country.

(b) Where the machinery was lawfully imported from.

(c) Who authorised its importation, when the authorisation was granted and the circumstances under which it was granted.

(d) Whether all relevant importation and clearance documentation can be availed to the Senate.

(3) How long the alluvial gold mining activities have been operational in River Yala and the quantity of gold mined during the period.

(4) The amount of revenue, license fees, levies and royalties paid to the Government from the alluvial gold mining activities in River Yala.

(5) The action taken against foreign nationals and companies involved where the alluvial gold mining operations were unlawful.

(6) Mercury use controls being implemented to address toxic contamination measures, to address the situation and threats to the Yala swamp wetlands and Lake Victoria fisheries, including harm to the health of persons in the affected communities.

(7) The disciplinary or legal action taken or proposed to be taken against officials found to have facilitated illegal licensing or failed to enforce environmental regulations along River Yala.

The Speaker (Hon. Kingi): Senator Chimera.

STATUS OF MGALANI BUSHO AND KILIBASI
WATER PROJECTS IN KWALE COUNTY

Sen. Chimera: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Orders No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on a matter of countywide concern regarding the implementation and operational status of the Mgalani-Busho-Kilibasi Water Project in Mackinnon Road Ward in Kwale County.

The County Government of Kwale implemented the above water project during the 2024/2025 Financial Year at an estimated cost of Kshs96 million, to improve access to portable water. Despite this investment, residents of Mgalani, Busho, Kilibasi, Kaseve and neighboring villages continue to experience acute water shortages, while several water kiosks constructed under the project remain non-operational.

In the statement, the committee should address the following issues-

(1) The implementation status of the water projects stating the approved scope of works, total project cost, procurement process undertaken, the contractor engaged, amount paid and whether the project has been completed and commissioned.

(2) Whether the pipeline was upgraded from three-inch to six-inch pipes in accordance with the approved designs, the bills of quantities and technical specifications, including the findings of the inspections, quality assurance, tests and technical audits conducted.

(3) The reasons residents of Mgalani, Busho, Kilibasi, Kaseve and neighboring villages continue to experience inadequate water supply, including the number and operational status of water kiosks constructed under the project and the timelines for making them fully operational.

(4) The measures to address concerns regarding the procurement and budgetary implementation of the project, including the findings of audits taken and action taken against any officers or contractors found responsible for any irregularities.

(5) The immediate and long-term measures to provide residents of Mackinnon Road Ward sustainable, reliable and equitable access to clean and safe water.

The Speaker (Hon. Kingi): Hon. Senators, before I allow comments on the Statements that have been sought, allow me to make these Communications.

(Interruption of Statements)

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM NYALI COMPREHENSIVE
SCHOOL IN MOMBASA COUNTY

Hon. Senators, I would like to acknowledge the presence of a visiting delegation of five teachers and 52 students from Nyali Comprehensive School in Mombasa County

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.*

who are seated in the public gallery. The delegation is visiting the Senate for an academic exposition.

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

VISITING DELEGATION FROM KABIANGA COMPREHENSIVE
SCHOOL IN KERICHO COUNTY

I would also like to acknowledge the presence of a visiting delegation of eight teachers and 116 students from Kabianga Comprehensive School in Kericho County who are seated in the public gallery. The delegation is visiting the Senate for an academic exposition. On behalf of the Senate and on my own behalf, I extend a warm welcome to the delegation and wish them a fruitful visit.

VISITING DELEGATIONS FROM STAREHE BOYS' CENTRE AND SCHOOL,
LORETO CONVENT VALLEY ROAD AND ALLIANCE HIGH SCHOOL

Further, I wish to acknowledge the presence in the Speaker's Gallery this afternoon of students from Starehe Boys' Centre and School, Loreto Convent Valley Road and Alliance High School, who are undertaking a one-week service in the Senate under the School Voluntary Service Scheme (VSS). The VSS aims to provide students with an opportunity to gain firsthand knowledge and work experience of how Parliament functions, including the legislative process and deeper understanding of governance.

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

(Applause)

I will request Hon. Maanzo to extend a word of welcome to the delegations on VSS. I will also request Hon. Mwinyihaji Faki, the Senator for Mombasa, to extend a word of welcome to the delegation from Mombasa and the Senator for Nandi to extend a word of welcome to the delegation from Kericho County in that order, each speaking for less than a minute.

Sen. Maanzo: Mr. Speaker, Sir, I would like to welcome the delegation from Starehe Boys' Centre and School. On behalf of Sen. Mungatana and the Speaker who went to Alliance High School, I wish all the students well. When they are here for voluntary service, they learn and interact with Members. I had an opportunity to meet them before they came to the Senate. We encourage them because we will be meeting them quite regularly, so that they can learn.

Mr. Speaker, Sir, I wish them well. I know they are hardworking and therefore they will pass their examinations. I hope that one day, all of them who are seated there, will sit in this House as Senators.

I thank you.

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

Sen. Faki: Mr. Speaker, Sir, I join you in welcoming the delegation from Nyali Comprehensive School which is one of the best schools in Mombasa County. There have been some problems in the recent past but they are no longer there. Now they are back to their academic prowess.

Mr. Speaker, Sir, allow me to donate the remaining 30 seconds to Sen. Asige because she is an alumnae of the school.

The Speaker (Hon. Kingi): Proceed, Sen. Asige Crystal.

Sen. Crystal Asige: Thank you so much, Mr. Speaker, Sir, and my head of delegation, Sen. Faki, for the opportunity to also welcome the delegation from Nyali Comprehensive School. Indeed, I am an alumna of the school.

I went to that school when it was still being called Mombasa Parents Club. My father, senior counsel Japheth Asige, was the Chairperson of the Board between 1988 to 1989. His name is somewhere on the walls of the school. Greetings from myself and on behalf of my father as well. I wish you a pleasant visit to the Senate.

Mr. Speaker, Sir, I was there several years supporting them with their sports days and activities with regards to technology and Gender Based Violence (GBV). I hope that they recognise me. If they were not part of the groups that I met last year and throughout this year, I pray that I will get another opportunity to meet this group as well.

In the meantime, welcome to the Senate. I hope you will learn a lot from us. If interested to be here, maybe some of you will also follow the footsteps of myself and Sen. Faki of Mombasa County.

I thank you.

The Speaker (Hon. Kingi): Senator for Nandi, you have the Floor.

Sen. Cherarkey: Mr. Speaker, Sir, on behalf of their Senator who is also the Senate Majority Leader, Sen. Aaron Cheruiyot Kipkirui, I extend a warm welcome to the delegation from Kabianga Comprehensive School in Kericho which is my neighbouring rural county. I want to assure them that what we have is a country of equal opportunities if you work hard, smart and be God-fearing.

We wish you all the best. May the Lord continue to bless you. Be disciplined and focused and you will get a chance to serve in this country.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): I am told there is an alumnus of Kabianga High School. Sen. Omogeni, you may take the Floor.

Sen. Omogeni: Mr. Speaker, Sir, indeed I confirm that I am an alumnus of Kabianga High School. That is where I was for my A-level which was Form Five and Form Six.

Mr. Speaker, Sir, I extend a hearty welcome to the students from Kabianga High School in Kericho County. I enjoyed one of the best environments in Kabianga High School as a student. Now I am here as a Senator. I hope the students from Kericho will continue making the name of Kabianga to continue shining.

Mr. Speaker, Sir, I wish them well during their visit to the Senate. I urge them to continue working hard because they are our future leaders.

I thank you.

The Speaker (Hon. Kingi): Loreto Convent Valley Road and Starehe Boys' Centre and School are found in Nairobi City County. Therefore, I request the Senator for Nairobi City County to extend his welcome to them.

Sen. Sifuna: Mr. Speaker, Sir, over the past four years, we have received quite a number of delegations from Nairobi and they insist that they be welcomed to the Senate by their Senator, so that even if Sen. Maanzo went to Starehe Boys' Centre and School, he still remains a rural Senator.

These two schools need no introduction because they are centres of excellence. I take this opportunity to welcome the students. I was asking myself a question. In your communication, you always say they are here to also follow our legislative business. I do not know if the clerks make available, for instance, the Order Paper, in order for them to follow where we are in the proceedings of the day, so that they know that when you call out Questions and Statements, that is where people ask questions. I hope that in the future, the Senate will make it a more interactive process, so that students or visitors can have a wholesome experience here.

Mr. Speaker, Sir, I welcome them. Even though Alliance is in the neighbouring Kiambu County, I want to extend that invitation to them as well, although I did not go to Alliance.

I thank you.

(Sen. Cherarkey spoke off record)

The Speaker (Hon. Kingi): Order, Senator for Nandi. Did you go to Alliance?

(Loud consultations)

Order, hon. Senators. Could we settle that debate? You went to good schools, Hon. Senators. Therefore, let us leave it there.

We will move to comments on Statements. I will allow comments for not more than 15 minutes. If you get an opportunity to speak, kindly do so in less than three minutes.

(Resumption of Statements)

Let us start with Hon. Muthama Kavindu.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for this opportunity to comment on the statements, starting with the one by Sen. Betty Montet about industrial emissions from cement and steel manufacturing companies in our country.

There are emissions and pollution caused by cement and steel manufacturing companies in Athi River which is in Mavoko Sub-County in Machakos County. There are many people who are now sick. I urge the committee that will deal with this statement to put the National Environment Management Authority (NEMA) to task and ask them why companies are not following the law regarding pollution and emissions.

We have so many people who are sick, yet these companies are busy making money while our people have no money. When they go to the hospital, they struggle to know what to do. Many of them have died of illnesses caused by pollution from the cement and steel industries. Therefore, I support this statement and urge the committee to work closely with NEMA and the Ministry of Health, so that they can put everything in order. Our people deserve to live peacefully and in good health in this country.

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Boni Khalwale.

Sen. (Dr.) Khalwale: Thank you for the opportunity, Mr. Speaker, Sir.

The issue raised by Sen. Catherine Mumma regarding a dredging machine that is undertaking gold mining in River Yala, also known as River Lukose, in the Ikolomani and Shinyalu area, is very serious.

Mr. Speaker, Sir, for a long time, I have refrained from making a public pronouncement on this dredging machine because I am aware of the insecurity it may cause to those foreigners, the moment I state that I do not want them. I want to tell the Principal Secretary for Interior and National Administration, Dr. Raymond Omollo, to instruct assistant chiefs and chiefs to stop protecting those foreigners. At the end of seven days from today, those foreigners will not be allowed to remain in that river. Not by the State, but by us, because the law states that those foreigners cannot be admitted.

The Speaker (Hon. Kingi): Sen. Boni?

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

The Speaker (Hon. Kingi): I have keenly followed you. You are one of the seasoned Senators in this Chamber. You have said that in seven days those foreigners will not be there, not because of the State, not because of government, but because of you. Where do you draw that authority from?

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. In response, allow me to draw your attention to the Constitution of Kenya, Articles 60 and 61. Allow me to read, so that I am not misunderstood by those who believe that I will be twisting us.

The Constitution states in Article 61-

“All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals.”

The area I am speaking about is alienated land. It belongs to individuals. If the State cannot protect our property, we will not sit back and watch as thieves walk away with our property.

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

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

I would like to comment on the statement---

(Sen. (Dr.) Khalwale spoke off record)

Sen. (Dr.) Khalwale: ---even If the Speaker wants to defend the government that does not want---

(Hon. Senators held loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. Sen. Boni, you are out of order. Kindly withdraw your last statement that is attributable to the Chair.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I retract that statement on condition that you allow me to conclude on the issue of this dredging machine.

The Speaker (Hon. Kingi): Retract the statement first and do not give the Chair conditions.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, without any conditions, I am retracting. I beg that you allow me to address the Ministry of Interior and National Administration on what we are going through.

The Speaker (Hon. Kingi): Okay, take your seat.

Proceed, Sen. Maanzo.

(Sen. (Dr.) Khalwale spoke off record)

Sen. Boni, I give you the caution of the day. Proceed with decorum, I will ask you to leave the Chamber. You have no leave to speak.

(Loud consultations)

Sen. Joyce, kindly--- Senator for Nandi, I will have you removed if you do not desist from that conduct.

Sen. Boni, just take your seat, please. Proceed, Sen. Maanzo.

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I would like to comment on the statement requested by Sen. Sifuna regarding the voting rights of police officers. This matter falls within the mandate of my Committee on Justice, Legal Affairs and Human Rights Committee (JLAHRC). We are currently handling the election amendments that have already been presented to this committee by the Independent Electoral and Boundaries Commission (IEBC). I believe the IEBC will be appearing before us very soon.

It is very important that police officers who participate in elections or who serve as election officers providing security during an election are considered. These officers do not vote. Remember that an election is decided on 50 per cent plus one. If you do not win by that one vote, simply because the right of a police officer who would have voted was not exercised, or that of a polling clerk who did not vote--- On the same note, polling clerks are drawn from already registered voters. Therefore, we have thousands of people, close to 10,000 to 20,000 people, who do not exercise their right to vote. Therefore---

I think my time was not properly allocated, Mr. Speaker, Sir. I am being told I have two minutes.

The Speaker (Hon. Kingi): Conclude.

Sen. Maanzo: It is important that every Kenyan who is registered to vote is accorded an opportunity to vote. I believe there must be a system to deploy police officers to work in the areas where they are registered as voters. I think that would work

much better. We hope this will be included in the amendments you are going to make, to ensure that every Kenyan who wants to vote is not left out.

Thank you.

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

Sen. Munyi Mundigi: Bw. Spika, asante kwa kunipa nafasi hii ili niweze kuchangia kauli ya Seneta Chimera, Seneta wa Kaunti ya Kwale, kuhusu masuala ya maji.

Masuala ya maji na unyunyuzaji yameleta shida kubwa kwa sababu Wizara husika imezembea kazi. Tumeona kila kona watu wanalalamika kuhusu uhaba wa maji na kilimo. Kaunti nyingi zina shida ya maji ya kunywa na maji ya kilimo. Kauli yake inahusu Kaunti ya Embu. Kuna miradi kadhaa kama vile mradi wa maji wa Iriari, mradi wa Kanyuambora, mradi wa Kamburu hadi Kiritiri na Kithimu.

Bw. Spika, watu wameumia. Huu ni mwaka wa tatu tangu miradi ya unyunyuzaji maji uanze. Baadhi ya wanakandarasi wamelipwa pesa lakini wamezembea. Wengine wametoroka kabisa. Kumekuwa na shida kufuatilia. Kwa hivyo, ninaomba Wizara ya Maji, Usafi wa Mazingira na Unyunyuzaji irekebishe hali hii.

Ikiwa kauli yake itachunguzwa, ningeomba pia kaunti zingine zichunguzwe ili tujue ni pesa ngapi zimetumiwa katika hizo kaunti na ni kwa nini watu wamezembea kazi. Kaunti nyingi zilikuwa na matarajio makubwa kuhusu kilimo. Lakini sasa hivi, maji ya kunywa, maji ya shule, hospitali na nyumbani hayapatikani. Kwa hivyo, ninaomba kamati iangalie maneno haya kwa njia inayofaa. Pia, tumwalike Waziri wa Maji, Usafi wa Mazingira na Unyunyuzaji ili tutafute suluhisho ili nchi yetu iendelee kwa sababu kona zote za nchi kuna mambo ya kilimo.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, because of my intervention while you were speaking, you lost two minutes. I will allow you to take those two minutes to conclude your thoughts.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. On behalf of the people of Ikolomani, I truly thank this House through you. This is a very serious matter.

As we speak, two class eight children have left school because they have been raped and gotten pregnant by these Chinese men. They are preying on the poverty of our people. The security in some of our homes is now threatened because the Chinese are eating our dogs.

(Laughter)

It is not a laughing matter.

(Sen. Cherarkey consulted loudly)

Protect me from the Member from Nandi. Kakamega is not an extension of Nandi County.

The Speaker (Hon. Kingi): Senator for Nandi, may the good Senator be heard in silence, please?

You may proceed, Senator.

Sen. (Dr.) Khalwale: Thank you for that protection. The Senator for Nandi, better realise that if he is looking for somebody to argue with in my family, he can do so with my daughter and son who are qualified lawyers than him.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, your time is running.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I therefore request the local security organs, assistant chief and chief to---

(Sen. Cherarkey consulted loudly)

Protect me, Mr. Speaker, Sir.

I therefore request the local security organs, assistant chief and chief, to recognise that the little money they are given by these people---

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

Please, pause the time for Sen. (Dr.) Khalwale.

Sen. Cherarkey: Mr. Speaker, Sir, I rise under Standing Order No.101 on contents of speech. Did you hear the distinguished Senator for Kakamega imputing that his children are better qualified than me, yet he is not a member of the Law Society of the Kenya (LSK)? Where does he get the facts?

Sen. (Dr.) Khalwale has gotten used to insulting and intimidating everybody. I am a dry Kalenjin man. I will not be intimidated by somebody consuming colourless liquid.

The Speaker (Hon. Kingi): Hon. Senators, let us maintain decorum as we debate. Let that matter be settled. Conclude your thoughts.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir, I therefore, speak to my cousins, who are chiefs and assistant chiefs, and plead with them to keep away from these foreigners because you never know.

Since many of our children have been killed in these clashes, they might come out. In the process, it looks like because of the defence Sen. Mumma and I are giving them, we are actually inciting them. We are just telling the State that we have nowhere to raise the issue. It is serious.

One of the children who was shot is a total orphan who came and lived in my hands from standard six to form four. I educated him and took him to Shamberere Technical Training Institute (TTI). He became an electrician and he was killed by the police.

Sen. Omogeni: Mr. Speaker, Sir, I want to comment on---

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators.

Sen. Omogeni: I want to comment on the statement by the Senator for Nairobi City, Sen. Sifuna, on early voting. Article 83(3) of our Constitution obligates the Independent, Electoral and Boundaries Commission (IEBC) to put in place administrative arrangements to allow eligible voters to vote and not lose the chance of voting.

This problem is not confined to only police officers. We have people who may conceive and their due date is on 2nd Tuesday, August, 2027. What do you do? We should put in place arrangements to allow people who may be seriously sick in hospitals and the 80-year olds, like my own mother, to vote. We have many jurisdictions we can borrow from.

Chairperson, Committee on Justice, Legal Affairs and Human Rights (JLAC), I was invited to observe elections on behalf of the Commonwealth in Bahamas in 2021. People above 65 years old are allowed to vote early. If you go to Australia, people who live eight kilometres away to the nearest polling station are allowed to vote early. People who are sick in hospital, as long as they notify the electoral body, are allowed to vote. This thing does not need to be in the Constitution. All that we need from IEBC is to put in place administrative arrangements to allow early voting.

In the United States of America (USA), many states allow early voting. There is nowhere the American Constitution has been decreed that the country will allow early voting. So, I think successive IEBC commissions have been sleeping on the job. We want to challenge our good friend, Senator for Bomet, Sen. Wakili Sigei, to get it right this time. Have a comprehensive list of people who should be allowed to vote early; the police, the army, the sick and the elderly. There are people we do not want to see queuing with us on election day. Do you want to queue with a person who is 90 plus years on an election day when we have more than 1,000 or 500 people on the line? So, this matter is urgent. Let us get it right.

No Kenyan should be denied the right to vote. So, I hope our Chairperson of the Justice, Legal Affairs and Human Rights Committee, and Members will crack this out, this time around, so that we give every Kenyan an opportunity to vote on the second Tuesday of August next year.

Sen. Abass: Thank you, Mr. Speaker, Sir. I also want to contribute to the statement by Mheshimiwa Mumma on the pollution of River Yala. My colleague, friend and neighbour is bitterly complaining. It is not only River Yala that is getting polluted. In every part of this country, there is a lot of deforestation taking place, which is polluting rivers. The riverbanks are also not protected.

I have a background in environment and natural resources. In the past, we used to have limited required standards to protect rivers. That is for about 30 metres, trees are not supposed to be cut. However, these days, I see farmers ploughing up to the river, which causes a lot of erosion and rivers are getting polluted.

As things are moving now, this country is going to face a water shortage if we do not stop this kind of business. Of late, we have been informed that foreigners have invaded our forests and they are logging trees in large numbers. These are people who want to come for business but at the end of the day, it is only Kenyans who will have no water. Therefore, it is time for this House to rise up and save this country.

I request the Committee on Land, Environment and Natural Resources to take action immediately and intervene in these matters. As it is, river catchments must be protected. Most of the big rivers like Tana and Yala are now flowing towards the lower part and people are not getting water. If you go to the other world, you see clean rivers

flowing in the middle of cities. Unfortunately, in this country, every river that passes through Nairobi and any other part of the country has been polluted.

With those few remarks, I beg that this House must rise up and save the rivers of this country.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir. I want to support the statement by Sen. Sifuna. It is a very serious statement. The idea of the President that we should lease our sugarcane milling companies was a very good idea and it was intended to bolster production and increase efficiency. However, we have seen a serious element of agreement overreach by the leases to the extent that farmers are not getting their proper payments. We also have the aging out of the workers who used to work in these milling companies, including in Sony Sugar, where I come from.

I know for a fact that when the leasing agreements were drawn, there was a serious element of ensuring that immovable assets were the backbone of the agreements, but not the movable assets. There is now an overreach in these agreements. We have seen an element where the leases end up taking the movable assets, auctioning them, sell them and take advantage of the debts that we have. They have auctioned the nuclear estates in the back door.

If this continues in the next 30 years or whichever time of lease, we will end up having the leases taking over these companies. It is a very serious matter. I request the Chairperson of the Committee on Agriculture, Livestock and Fisheries, to look into it globally. He should not just focus on Nzoia Sugar Factory. They should look at how the agreements are drawn, then give us a report that is comprehensive with regards to how those agreements overreach.

I encourage Sen. Sifuna that we could deal with this statement further by having a question to the relevant Ministry. That Ministry can then help us with proper data on how each of those agreements are being implemented.

I also want to add my voice to the statement that Sen. Cherarkey brought about following our team that went to Glasgow. Our team has always done well and they did better in Glasgow. We always take glory and praise the teams that represent us very well outside the country but when they come back, their conditions, support system, infrastructure---

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, that statement was made pursuant to Standing Order No. 52(1). Your time is gone.

Sen. Murgor: Thank you very much, Mr. Speaker, Sir. I rise to support the statement by Sen. Mumma about the erosion of River Yala. As said by a Member before, erosion does not only happen in River Yala, but it happens in many rivers in this country, and especially where there is illegal mining. People divert rivers that benefit people living on the lower side of a river thus making it impossible for those people to get water to use.

My county, West Pokot, has mushrooming places with gold, so there is a lot of illegal mining going on and a lot of diversion of flowing rivers or water to areas that are routinely known to be along the river. Apart from illegality which denies the people royalties and everybody their dues, it also makes it impossible for the county to get its dues, including the licensing body that licenses the mining exercise.

There is a lot of destruction of land because these people do not consult the National Environment Management Authority (NEMA) or environmental assessors to assess what is going on in the area. There is a lot of drilling and they leave a lot of holes across such a land. Therefore, it is important that the Ministry of Mining, Blue Economy and Maritime Affairs takes charge. Thank you very much.

Sen. Wambua: I thank you, Mr. Speaker, Sir. I want to make comments on statements made by Sen. Mumma and Sen. Betty Montet on the issue of pollution of rivers.

If you look at the statements that have come to this House for the last one month in relation to the inability of NEMA to get their act right, you will realise that there is a big problem. Remember we pushed for a commitment from the Committee on Land, Environment and Natural Resources to bring the Director General of NEMA to a Committee of the Whole House for us to have conversations. I can assure you that every Senator seated here, has seen serious pollution happening at their homes, in their rivers or their environment.

Mr. Speaker, Sir, you should use the authority of your Chair now that the Chairperson of the Committee on Land, Environment and Natural Resources seems to be taking his time, to direct that the Director General of NEMA appears before this House. We will use that chance to address issues of environmental degradation under the watch of the NEMA. Better still, we can have the Chairperson of the Liaison Committee direct him to come to this House. That is all I wanted to say.

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir. I want to support the statement sought by Sen. Mumma. Indeed, over the last 63 years, we have seen mining of our precious minerals and with it has been a very destructive and massive degradation of our environment. As a House, we have an obligation, political and moral. We must take it upon ourselves to come up with a framework that will ensure that the future generation will find a piece of the cake that this country was endowed with naturally.

That can only happen if we sit down and come up with a deliberate framework that will ensure that the exploitation of the minerals by the current generation will not deprive future generations the opportunity to enjoy the same kind of environment that we are enjoying today. Gold mining, sand mining and even stone mining are an eyesore if you walk across the country. When you move around, you will see pits that have been left by mining companies. Other than the destruction, there is nothing to show.

I wish that we had set aside a sovereign fund 63 years ago. That fund would have collected some dividends for the future generation for them to enjoy the fruits of the natural resources that this country has. It is the obligation of us all, as leaders, specifically the Senators, to protect devolution and land which is a devolved function. We have to ensure that the laws that are in place are rightfully enforced, not only by the foreign companies but also the local companies.

Mining is one of the resources that we have that is not renewable. Every piece of mine that is extracted from the core of the earth leaves a gaping hole. It is only fair that we set up a framework and a sovereign fund that will ensure what is taken away can be seen in another form. Some of the most advanced countries have set up sovereign funds used to ensure that as much as future generations may not enjoy the resources, they will

have funds to compensate them for the degraded environment. Therefore, I thank Sen. Catherine Mumma for this statement and ask the Committee on Land, Environment and Natural Resources that as they are doing this, the laws are in place---

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

Sen. Mwaruma: Asante, Bw. Spika, kwa kunipa fursa hii ili nichangie kauli iliyoletwa na Sen. Chimera Raphael kuhusu miradi ya maji katika maeneo ya Mgalani, Kilibasi na Mackinnon Road. Haki ya maji iko katika Ibara 43 ya Katiba. Ni vizuri tushinikize Serikali ya Kitaifa ili itekeleze mradi wa Mzima 2 na Mwache Dam ambao utapelekea watu wa Mackinnon Road, Kilibasi na Makamini maji.

Hayo ni maeneo ninayoyaelewa vizuri maana yamepakana na Taita Taveta. Kabla ya 1961, maeneo ya Mackinnon Road na Kilibasi yalikuwa Taita Taveta ambayo ilinyooka hadi karibu na Taru. Kwa hivyo, namshukuru Mheshimiwa Chimera kwa kuleta hii kauli; ni haki ya hawa watu kupata maji.

Kihistoria, haya maeneo yalikuwa Taita Taveta. Kwa hivyo, ni vizuri tufuatilie ule Mswada ulioletwa na Mheshimiwa Kajwang' kuhusu mipaka ya kaunti. Hii ni mara ya nne sheria inapita na inatoa njia za kurekebisha mipaka iliyoko. Mwaka wa 1961, aliyekuwa Mkuu wa Wilaya ya Taita Taveta aliandikia Mkuu wa Wilaya ya Kwale akitaka achukue maeneo ya Mackinnon Road. Mpaka leo, shule kama vile Mbele Primary inatoa walimu Taita Taveta na imejengwa na pesa za Constituency Development Fund (CDF) za Voi. Kwa hivyo, kama kuna njia ya kufuatilia Mswada huu wa Seneta Kajwang' unaopelekea kurekebisha mipaka, ufuatiliwe kwenye Bunge la Kitaifa ili upite na kuhakikisha ile dhuluma ya kihistoria ya kuchukua maeneo ya Mackinnon Road na Kilibasi yalikuwa Taita Taveta, irekebishwe.

La pili ni kuwa, tuliambiwa na Waziri kwamba Mwache Dam iko karibu kukamilika. Kufikia Septemba mwaka huu, itakuwa imeanza kujazwa maji na kwa miezi 16, itakuwa imejaa tayari. Itapeana maji katika kaunti za Kwale na Mombasa, na yale maji yanayotoka Mzima Springs, yatapunguzwa---

The Speaker (Hon. Kingi): Senator for Nandi County, proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. My comment is on the statement brought by the Senator for Nairobi City County on the voting rights of police officers. Under Article 38, everybody has a political right to register as a voter and vote. The Independent Electoral and Boundaries Commission (IEBC) must put in place necessary mechanisms, even for people who work in the security service. We appreciate that they provide essential services, but it is the duty of the IEBC to ensure that no voter is disenfranchised. All police officers and people who provide essential services in the security sector should be allowed to vote for the candidate of their choice. With the 50 per cent plus one requirement, you need each and every vote. Even in Uganda, the army officers participate, get elected and sit in Parliament. I am afraid that cannot apply in Kenya, where you have the military sitting in Parliament, because it will be scary.

I am also aware there is an elections amendment Bill that has been proposed seeking to delete Section 39 of Elections Act, 2011. There is intention to ban the live streaming of results. When that Bill comes, I think it will disenfranchise and undermine Article 38 on political rights. I have read the Bill and the proposed amendment; we should allow the live streaming of election results from polling stations.

The law is very clear that results declared at the polling station are final. As we debated in the last session and passed a raft of amendments, the issue of live streaming should be allowed.

When that Bill comes, I advise the Senate Minority and Majority leaders to abandon that route. We do not need to undermine the political election freedoms that we have in the country.

Finally, on the issue of River Yala; I was told there is a market in Western called Lubao, where they sell dogs. If the Chinese have started eating dogs, they should just go to Lubao and buy those dogs. We have so many dogs in Nandi which we can take to Lubao.

My point is that we should protect our environment and ensure that any person dredging River Yala must---We need to relook at the role of the National Environment Management Authority (NEMA), who issue them licenses. Who allowed them to do the dredging of the river? It is undermining the environment when we are in the era of climate change, which is becoming a problem.

River Yala must be protected by the Ministry of Mining, Blue Economy and Maritime Affairs, whose Cabinet Secretary is Hassan Joho. I expected him to appear today, but unfortunately, he did not make it. He should appear and share with the country what is really happening with the dredging in River Yala. I hope Cabinet Secretary Joho can stop it before he appears before this House.

I yield back the microphone, and I thank you.

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

Sen. Ogola: Mr. Speaker, Sir, I thank you for giving me the opportunity to comment on the statement by Sen. Mo Fire, amongst other very outstanding statements that have been brought by colleague Senators.

The statement by Sen. Mo Fire talks about the status of projects in counties from 2022. The committee should back-date and give attention to some of the projects that date back to even the first five years of devolution. Devolution was meant to empower our people, not disempower them. There are business people in counties who have closed shop because they have not been paid for the last 10 years. This must be treated as a sign of inhumanity.

In this Senate, we have talked about the issue of pending bills. I do not know the reasons why governors pay their bills on a preference list rather than the ageing list discussed here. Business people in counties must be empowered and there must also be equity.

On health, the situation in some counties is getting very bad to the extent that county governments are giving credence to forces that have been saying that health should be brought back to the national Government. As a Senate, we sit here to empower counties, but what they do in some of these sectors is clawing back on the gains that we have made.

Last night, I had a patient at the Kenyatta National Hospital. I was at the hospital up to around 4.00 a.m.; I am telling the doubting Thomases that the Social Health Authority (SHA) is working and I can give evidence.

(Applause)

There was a very desperate patient near me who had been brought in from Homa Bay County. I saw their relief when SHA paid their bills. People who claim SHA is not working should go to hospitals and visit patients. Let us discuss what is not working but, overall, SHA is working and I can give a list of patients that I saw.

On the statement by Sen. Mumma, the issue of mining is becoming---

Sen. Wafula: Asante, Mheshimiwa Spika, kwa nafasi hii ili nichangie kauli ambazo Maseneta wenzangu wameleta.

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

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

Ya kwanza ni hoja ya wale wachimba madini katika eneo la Magharibi mwa Kenya. Ningependa Serikali iweze kunukuu mwelekeo wa Rais wa Marekani Donald Trump, pale ambapo ameweka fedha nyingi ambazo wanatozwa wawekezaji kama hawa ghushi ambao wanakuja kupora mali asili ya Wakenya.

Ninaomba Maseneta wenzangu walio katika Kamati hii ya Ardhi, Mazingira na Maliasili tubuni mswada kwa sababu kama hao watu hawana vibali vya kuchimba madini na kufanya mambo haya katika mito na maziwa yetu, lazima wakamatwe. Isiwe kwamba wanatoka nchi tajiri na sisi ijapokuwa tunajikakamua kuinua uchumi wetu, sasa wanakuja tu kuvuna kile ambacho hawajapanda.

Ninaunga na Sen. Khalwale na Maseneta wengine kwamba haki lazima itendeke kwa Wakenya na kwamba tukinyamaza, watatuhukumu. Katika hoja nyingine, ninaunga mkono Sen. Ogola ambaye amesema kwamba sekta ya afya ni lazima tukae ange na tuwe makini sana. Baadhi ya zahanati ambazo zimo katika gatu zetu, zinayumbayumba. Kule kwangu zahanati ya Kabula, Ubalozi wa Ujapani ulitoa pesa nyingi lakini kwa sababu pesa ni tamu na wengi wangependa kuchovya asali, waliweza kupatikana na mradi huo ukasitishwa. Tutaenda kutembelea ubalozi huu ili waliokuwa na mate mengi wafurushwe na mradi uendele.

Hospitali zingine ambazo lazima niseme ni Nangili na Mchi kule Bungoma. Ni lazima ugatuzi utetewe. Kesho ni kuwakaribisha Wakenya watazame moja kwa moja kutoka hapa majengo ya Seneti tutakapokuwa tunatoa msimamo na mwelekeo wa uchapakazi wa magatuzi yetu. Magavana wakubali matokeo na pale kuna makosa warekebishe, na wasiporekebisha, tutapambana na wao.

Sen. Mumma: Thank you, honourable Deputy Speaker for the opportunity to comment. Because of the time, I would want to comment on the statement by the Senator of Nairobi City County, Sen. Sifuna, on the right of police officers to vote. Even as the Committee on Justice, Legal Affairs and Human Rights looks at this statement, I would request that they expand this mandate to look at ways in which many citizens are not facilitated to vote.

Article 38(3) makes it clear that every citizen has a right to be registered as a voter and to cast their vote during elections. Police officers and other essential workers

usually do not get to vote. It is because the IEBC has not been innovative enough to come up with a way in which every citizen right can be exercised as per Article 38(3).

We are requesting that the IEBC thinks out of the box. This voting can be electronic wherever they are. It can be early voting, but we must allow every citizen, including those providing essential services and want to cast their votes to be able to vote. There are other ways in which voting is curtailed through non-issuance of identification cards for persons who are eligible, but for one reason or another, sometimes including political reasons, the ID issuance is curtailed. I ask the Registrar of Persons to facilitate every citizen who eligible to vote to get an ID.

Another way of curtailing access to voting is failure to facilitate voter registration. I would like the Committee to find out from IEBC whether they are doing equitable or equal facilitation of voter registration kits in all regions. Are they making it easier for some regions than others? That has been a political practice in this country that needs to stop. We need to register every person who eligible.

When the Constitution was being made, one of the things I regret we did not put in place was to make voting compulsory. I was one of those who felt that we needed to make it compulsory and come with a system that makes one automatically able to get an ID and to be able to vote when the time comes---

(Sen. Mumma's microphone went off)

The Deputy Speaker (Sen. Kathuri): Sen. Mumma, you were on the high seas. I give you one more minute to conclude your thoughts.

Sen. Mumma: Thank you, Mr. Deputy Speaker, Sir. My point was that the IEBC should recognise that it is an independent constitutional commission that must facilitate the delivery on the right to vote and must work on all issues, including calling out those who curtail the vote through goonism.

Goonism is another strategy that people use to ensure they scare away people from voting. The IEBC and Kenya National Commission on Human Rights (KNCHR) need to pronounce themselves on this issue. I ask that the Committee on Justice, Human Rights and Legal Affairs, engages with all these institutions, so that we can hear their voice and see that every citizen who want to vote being facilitate to do so.

I thank you, Mr. Deputy Speaker, Sir, for the extra time.

Sen. Faki: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. First of all, there are issues relating to pollution of our rivers and water resources.

As a Committee, we have taken up the issue. We were waiting for the budget cycle to be opened up, so that we can move and visit some of these places. In fact, we have arranged to visit Athi River in the next two weeks, on 17th. Of course, we shall also visit other places, such as Wajir, but it will also depend on the budget that is allocated to our Committee.

Our Committee has a lot of activities. We are in charge of the land, administration, natural resources, water, climate change and environment and waste disposal. There are almost 10 items that are supposed to be handled by our Committee, yet we receive the same budget as the Committee on National Cohesion, Equal

Opportunities and Regional Integration, the Committee on Agriculture, Livestock and Fisheries, and the Committee on Delegated Legislation, of which I am a member. We are a bit handicapped because of the activities we are supposed to do. However, it is the responsibility of this Committee to deal with all issues that have been highlighted by Members.

Just the other month, we were in Kakamega in Bushiangala, where Sen. Mumma had presented a petition. I made a statement in this House on the cartel-like behaviour that is being perpetrated by airline companies in a sense that air ticket fare is always changed. For instance, this weekend travelling from Nairobi to Mombasa, one pays a minimum of Kshs20,000, yet the Committee on Roads, Transport and Housing that was tasked to consider the statement has not done anything about the statement for the last almost eight months.

I do not know how we are going to tame this because it is against the Competition Act, Cap. 504. There are guidelines that the Competition Act is supposed to give to these airline companies, so that they do not exploit members. For instance, how do you charge between Mombasa and Nairobi? If you go to *Skyward Airlines*, they are charging you Kshs20,000. If you go to *Jambo Jet*, which came in as a budget airline, it is now charging even more than *Kenya Airways*. This is not fair.

Mr. Deputy Speaker, Sir, I would want you to implore the committee to call the Competition Authority---

The Deputy Speaker (Sen. Kathuri): Now that you are around, Sen. Catherine Mumma, you might think maybe I am doing some favours to the lady.

(Sen. Faki spoke off record)

Okay, one minute.

Sen. Faki: Mr. Deputy Speaker, Sir, we need the Committee on Roads, Transport and Housing to summon the Competition Authority of Kenya, the airline companies, and the Kenya Civil Aviation Authority (KCAA), so that we can address these issues once and for all. We cannot be exploited. Every time the school closes, the air tickets go up. Every time you have a small holiday or people want to go on holiday, tickets go up. As Kenyans, we are being exploited.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Joyce Korir, you may proceed.

Sen. Korir: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this chance also to speak on a number of statements that have been raised by the honourable colleagues. I will start with the statement that was raised by Sen. Betty Montet on the issue of air pollution in Athi River.

As much as we are embracing private investors in this country, it is the duty of the Government to make sure that the citizens are protected. By saying so, I know that for an investor to establish any factory, there are a number of requirements that are supposed to be observed for them to start their business. Sometimes we may only be pointing our fingers at the National Environment Management Authority (NEMA), leaving aside the county government and the relevant Ministry, yet this is a collective responsibility.

I want to thank the Committee for prioritising a visit to the site in two weeks. It would be prudent for the Committee to also call upon all the stakeholders, so that at the end of the day, they should be able to tell the number of licenses that have been given, what they contained, because at the end of the day, every document that has been given to them has some measures that they are supposed to follow.

These are some of the things that they need to critically check, so that at the end of the day, the government makes sure that we are not biased into allowing them to run their business. At the end of the day, they give our youth job opportunities, but we also have to look at the health of our people.

It is not only in Athi River. There is also the dredging that is happening in River Yala, which has been raised by Sen. (Dr.) Khalwale. There are a number of issues that have been raised. I want to say that we support the hon. colleagues because at the end of the day, they come from those particular regions. It is prudent for the hon. Members and Sen. Mumma, who brought the statement before the Floor of this House, to get us the facts on a number of issues that have happened or mistakes that have been happening around these areas; be it the people who have lost their lives or the children who have been raped, because that is the allegation that was raised. All those issues are making the hon. Members feel that these people are infringing on the rights of Kenyans.

Mr. Deputy Speaker, Sir, I do not want to say much. There is also the statement that was raised by Sen. Sifuna, the Senator for Nairobi City County, on allowing police officers to vote. I believe it is a right for everyone to vote. So, it is now upon the committee and the relevant authority to look at the measures of putting---

The Deputy Speaker (Sen. Kathuri): Commissioner, I will give you one more minute. Today, I have three minutes, so take one minute.

Sen. Korir: Thank you, Mr. Deputy Speaker, Sir, for giving me the additional one minute.

I just want to say that it is the duty of the Independent, Electoral and Boundaries Commission (IEBC) and the committee of this House, to look at it and expand to an extent that they give room to anybody who is not voting and even those who are outside the country, so that at the end of the day, we can have a collective document that is going to address all these issues that are affecting Kenyans.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. (Prof.) Margaret Kamar, Deputy Speaker *Emeritus*.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to comment on one statement, the statement from Sen. Mumma on mining.

Mining is a regulated activity in this country. We have the Mining and Minerals Act that regulates how we do mining. When the committee sits to address the issues which have been articulated very well by Sen. Mumma, I would like to suggest further that they need to actually highlight activities that have not been captured by the law itself.

I am saying this because when she refers to mining along the riverbanks, it is not part of what is being regulated. It is not even expected. In fact, mining in rivers was a thing they used to call the 'Karaya mining', which was done by artisanal miners. It is

what was done by villagers around the river, but it was not really an approved activity when it comes to mining.

I am asking the Committee on Land, Environment and Natural Resources and I am glad that their Member or Chairperson has articulated very well the shortcomings that they are having even when they are dealing with these issues. It is very important that they go deeper. Let us look at the weaknesses of the regulations that we have today. Let us look at the weaknesses in terms of the machinery. Sen. Mumma has raised the issue of machinery; was it approved? Was it not approved, but what does our law say as of now? Does the law allow any machine to be used or is it illegal? If it is not, then we need to bring that under the regulation. We need to go back to the law and amend it.

So, my request for the committee is that as they look at the very issues that have been raised by the member, they go further and deeper, so that if there is a need to amend the law that we have, the Mining Act, we amend it to make sure that we capture everything.

Artisanal miners have a right just by being neighbours to where the mining is taking place. We know that most of the mining companies have used and dumped them. They have even pushed them out of where they would be earning their own income. Let them look at that and see what can be done.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): See, professors can manage their time, not like my other colleagues here.

Last but not least on statements, Sen. Mutinda Tabitha, you may proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. I would like to put my views on two statements, very quickly, one by Senator Catherine Mumma with regard to the issue of River Yala.

She has directed this statement to the Committee on Land, Environment and Natural Resources and focused on the issues of NEMA. However, I would wish that, as much as the committee would be undertaking to look into these issues, we should take a step back from the Ministry of Mining, Blue Economy and Maritime Affairs. It is the same ministry that gives licences for these investors to undertake the mining procedures and all that.

As much as the other stakeholders like NEMA are involved in certification, this matter should not just end at NEMA. It should go further to what kind of investors these are who do not care about our local or our natural reserves, like River Yala, among many others. This is a matter that should go beyond NEMA and the Cabinet Secretary should be able to bring to light this kind of investor because they must have been given the terms and conditions to adhere to, to avoid issues and negligence of our natural resources.

Very quickly, Mr. Deputy Speaker, Sir, is on the statement by Sen. Sifuna, my Senator for Nairobi City County, regarding the right of voting for our police officers.

Police officers in this country are Kenyans. They have a right to vote as per the Constitution of Kenya, 2010. Article 43 of the Constitution gives them the right to dignified living, health and related entitlements. It is fair for every Kenyan, whether in the country or abroad, to exercise their voting rights.

Police officers play a critical role during elections. It will be fair, through the Committee on Justice, Legal Affairs and Human Rights, for the Inspector-General of the National Police Service (NPS) to explain how officers deployed to different locations will exercise their vote.

Three months before elections, officers are usually deployed. They should be given an opportunity to vote in the regions where they are posted. This will allow them to vote first and continue providing security and ensure the process is fair. They are Kenyans. Ignoring this fact would not be---

The Deputy Speaker (Sen. Kathuri): Sen. Moses Kajwang', you have a Petition to present to the Senate.

Proceed.

PETITION

UNREGULATED ESTABLISHMENT OF COMMERCIAL FISH CAGES IN LAKE VICTORIA

Sen. M. Kajwang': Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No.236(2)(a), I rise to present the following Petition on the unregulated establishment of commercial fish cages in Mbita, Mfangano Island, Rusinga Island, Sindo, Gingo and Ngodhe Island in Lake Victoria.

We, the undersigned citizens of Kenya and investors in the tourism and hospitality sector, particularly in beach hotels, resorts and ecotourism within Mbita and Rusinga Township, Homa Bay County, draw the attention of the Senate to the following-

(1) THAT while we recognise and appreciate the potential of aquaculture as an economic driver in Kenya, the current trend of placing unregulated industrial cages within the Lake Victoria for fish farming directly affects the ecosystem of the lake.

(2) THAT the negative effects of the cages extend to affecting the potential of local tourism, public health, noting that the cages have been placed in the immediate proximity of hotels and resorts within the lakefront.

(3) THAT affected residents, investors, fishermen and transporters have suffered the extremely challenging conditions characterised by-

(a) Contamination of water, which compromises the quality and standards as a result of organic waste generated from the cages, thus violating Article 42 of the Constitution of Kenya;

(b) Infringement of the riparian access rights, thus blocking legitimate recreational water use;

(c) Increasing the number of boat accidents in the lake, especially in the nights, thus affecting lake transportation;

(d) Interference with the fish breeding grounds, leading to dwindling stocks of free-range tilapia and Nile perch, which has largely affected small-scale fishermen's major source of income;

(e) Destruction of recreational water tourism, completely blocking safe areas for boat rides, swimming, sports fishing, jet skiing, cruises and lakeside dining for tourists;

(f) Severe visual and aesthetic pollution and water odour, for example, cages erected in bays like Ngodhe permanently contaminate the water given limited circulation of currents for natural water purification; and

(g) Prevalence of waterborne diseases in the lake region, considering that the residents use the same lake for water for domestic use.

(4) THAT taking into account that if the controls and regulative measures are not put in place, these will undermine the efforts of the national Government through the Ministry of Tourism and Wildlife and the Tourism Board of Kenya in promoting the western tourism circuit, particularly Lake Victoria.

(5) THAT the placement of cages in the lake has violated Articles 19 and 42 of the Constitution on public participation and stakeholder involvement in such important decisions that directly affect livelihoods and the right to a clean environment, respectively.

(6) THAT the petitioners have made the best efforts to have the matter addressed by the relevant authorities, including the State Department of Fisheries and Blue Economy, the County Department of Fisheries and Livestock and the Association of Cage Farmers, all of which have failed to give a satisfactory response.

(7) THAT none of the issues raised in the Petition are pending before any court of law, constitutional or legal body.

WHEREFORE, your humble petitioners pray that the Senate investigates the matter with a view to-

(1) Examining the current approval process and regulatory requirements governing the setting up of commercial fish cages in Lake Victoria;

(2) Determining the level of compliance by the relevant regulatory bodies with the applicable legal and regulatory framework relating to licensing, environmental impact, community social responsibility, designation of exclusive industrial aquaculture zones, public participation and stakeholder engagement, particularly the involvement of beach management units and other co-users.

(3) Assessing the effects of unregulated fish cage farming with a view to recommending the removal or relocation of all fish cages currently anchored in front of licensed beachfront hotels, resorts, public water transport routes and public beaches where such installations have obstructed public water transport, access to recreational services and public beaches;

(4) Reviewing the existing zoning framework and recommending the strengthening or amendment of the legislative or regulatory framework governing aquaculture activities in Lake Victoria;

(5) Establishing the reasons for the failure by farms operating fish ponds and fish cages within the aforementioned areas to install water treatment plants, develop and implement appropriate waste management frameworks, seize the continuous discharge of untreated pond wastewater and disposal of dead fish into Lake Victoria; and

(6) The Senate to make recommendations that it deems fit in regard to the petition.

Mr. Deputy Speaker, Sir, this Petition has been signed by Magdalene Munyao, Joseph Ongoro Osunga, Bernard Mbeo, Michael Ochieng, Brian Odinga, Samuel Okudo,

Evelyn Achilla, Ouma Stephen, Okeyo Suleman, Felix Otieno and submitted by the Senator for Homa Bay County, the Hon. Moses Otieno Kajwang’.

Pursuant to Standing Order No.236(4), I lay the Petition on the Table of the Senate.

Thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, pursuant to Standing Order No.238(1), I commit the Petition to the Standing Committee on Agriculture, Livestock and Fisheries. In terms of Standing Order No.238(2)(a), the Committee is required, in not more than 60 calendar days from the time of reading the prayer, to table its report in the Senate for consideration.

Thank you.

(The Petition was committed to the Standing Committee on Agriculture, Livestock and Fisheries)

Hon. Senators, I want to re-organise the order of business this afternoon. Orders No.8, 9 and 10 are Divisions. I defer those Orders.

I also defer Orders No.11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21.

MOTION

ADOPTION OF REPORT ON CONFERMENT OF CITY STATUS TO THIKA MUNICIPALITY IN KIAMBU COUNTY

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the conferment of City status to Thika Municipality, laid on the Table of the Senate on Wednesday, 15th July, 2026 and, that pursuant to section 8 (6) of the Urban Areas and Cities Act, approves the conferment of City status to Thika Municipality.

(Motion deferred)

MOTION

ADOPTION OF REPORTS OF THE COMMITTEE ON DELEGATED LEGISLATION ON TRAFFIC RULES AND NTSA REGULATIONS

THAT, the Senate adopts the Reports of the Select Committee on Delegated Legislation on its consideration of the –

(i) The Traffic (School Transport) Rules, 2026 (Legal Notice No. 11 of 2026;

(ii) The Traffic (Motor Vehicle Inspection) Rules, 2026 (Legal Notice No. 13 of 2026); and

(iii) The National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations, 2026 (Legal Notice No. 14 of 2026);

laid on the Table of the Senate on Wednesday, 10th June, 2026; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul the Traffic (School Transport) Rules, 2026 (Legal Notice No. 11 of 2026; the Traffic (Motor Vehicle Inspection) Rules, 2026 (Legal Notice No. 13 of 2026); and the National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations, 2026 (Legal Notice No. 14 of 2026).

(Motion deferred)

BILL

Second Reading

THE STREET NAMING AND PROPERTY ADDRESSING
SYSTEM BILL (SENATE BILLS NO. 43 OF 2024)

(Bill deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 3 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE ELECTRONIC EQUIPMENT DISPOSAL RECYCLING AND
REUSE BILL (SENATE BILLS NO. 5 OF 2025)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE CULTURE BILL (NATIONAL ASSEMBLY

BILLS NO. 12 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COMMUNITY HEALTH PROMOTERS BILL
(NATIONAL ASSEMBLY BILL NO. 53 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE REFERENDUM BILL
(SENATE BILLS NO. 3 OF 2026)

(Committee of the Whole deferred)

BILL

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) BILL
(SENATE BILLS NO. 39 OF 2024)

(Bill deferred)

BILL

Second Reading

THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT)
BILL (SENATE BILLS NO.13 OF 2023)

(Bill deferred)

BILL

Second Reading

THE PUBLIC SERVICE INTERNSHIP BILL
(NATIONAL ASSEMBLY BILLS NO. 63 OF 2022)

(Bill deferred)

BILL*Second Reading*

THE ARTIFICIAL INTELLIGENCE BILL
(SENATE BILLS NO. 4 OF 2026)

(Bill deferred)

BILL*Second Reading*

THE CROPS (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILLS NO. 8 OF 2023)

(Bill deferred)

The Deputy Speaker (Sen. Kathuri): Clerk, we will go to Order No.22.
The Chairperson, Standing Committee on Devolution and Intergovernmental Relations, Sen. Abass, proceed.

MOTION

ADOPTION OF REPORT ON COOPERATION AGREEMENT
BETWEEN THE NATIONAL GOVERNMENT AND
NAIROBI CITY COUNTY GOVERNMENT

Sen. Abass: Thank you, Mr. Deputy Speaker. I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the Cooperation Agreement between the national Government and the Nairobi City County Government laid on the Table of the Senate on Wednesday, 15th July, 2026.

The Deputy Speaker (Sen. Kathuri): Chairperson, approach the Table first, then proceed.

(The Deputy Speaker (Sen. Kathuri) consulted with Sen. Abass)

Sen. Abass: Mr. Deputy Speaker, Sir, I beg to move the following Motion-
THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the Cooperation Agreement

between the national Government and the Nairobi City County Government laid on the Table of the Senate on Wednesday, 15th July, 2026.

The Committee on Devolution and Intergovernmental Relations executed the agreement between the national Government acting through the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs and the Nairobi City Government on 17th February, 2026 at the Senate House in Nairobi.

The agreement was made pursuant to Section 8 of the Urban Areas and Cities Act, which established a framework for collaboration between the two levels of government on reviews, collection, solid waste management, county roads, street lighting, markets, housing, infrastructure, water and sanitation within Nairobi City. It is supported by two tiers of governance structures comprising the Steering Committee and Implementation Committee. Consequently, the Committee resolved to invite the Governor of Nairobi City and the Prime Cabinet Secretary to debate on the agreement and report back to the House.

The Committee had time to interrogate the two parties involved and while interrogating, we found that this agreement was made between the two parties, that is, the national Government and the county government, that is, Nairobi City. In addition, it was in this course that the committee learnt that for the first time, there was the existence of a series of white papers developed by the national Government and a programme referred to as the 'Nairobi Rising Programme.'

The Prime Cabinet Secretary informed the committee that these white papers were intended to operationalise the agreement. He enlisted them before the committee, but did not submit them for the committee's review.

He then explained in summary the content of each of these papers as follows-

(1) White Paper No.1 deals with water and sanitation, and focuses on addressing the key aspects of water challenges in Nairobi. Having known that Nairobi is facing a lot of challenges on water issues, I think it is the right time for the government to intervene, as this is a city that houses even foreign diplomats.

(2) White Paper No.2 deals with safe streets, which focuses on upgrading roads, bridges and installations with up to 50,000 streetlights within the city. As you have seen, Nairobi actually has a lot of challenges in lighting. Most parts of the city are actually experiencing darkness. Of late, insecurity has risen and therefore one of the issues to be addressed in this agreement was the lighting of the city, where up to 50,000 streetlights were supposed to be put in the city.

(3) White Paper No.3 deals with the markets and urban economy, which focuses on the formation of informal trade and the development of market infrastructure.

(4) White Paper No.4 is on legal issues, finance, governance and communication. This provides legal access for anchoring the cooperation agreement.

(5) White Paper No.5 is on environmental and green development. This talks to the issues of the Nairobi River, regeneration and waste-to-energy opportunities, which include the infrastructure required for the affordable housing positions of Nairobi as a city that can benefit from green finances.

(6) White Paper No.6 focuses on flood resilience, which provides an integrated approach to urban water management, the development of a flood master plan and urban planning reforms.

Hon. Speaker, as you are hearing now, this country will be experiencing *El Nino* and this is actually a very good approach that will help the city.

(7) White Paper No.7 deals with urban security, which provides for the establishment of the Nairobi Metropolitan Service Framework. The proposal establishes a dedicated, water-structured community-embedded metropolitan police formation within the Nairobi Police Service (NPC). This will establish a dedicated police service without having to amend the National Police Service Act. However, we observed that Nairobi City, Machakos, Kiambu and a section of Kajiado towns are within the metropolis and so, the Metropolitan Police Service (MPS) will help in giving more forecasts to improve the security within the large metropolis. Then, this particular matter will shortly improve the security within the areas mentioned.

Hon. Deputy Speaker, during consideration of this agreement, the committee has experienced two constitutional petitions filed before the High Court of Kenya in Nairobi challenging the agreement. These are Constitutional Petition No.E104 of 2026 by *Christine Kadoni and Another vs Council of Governors and Office of Auditor General and 12 others*, in which the Senate is sued as the sixth respondent and Constitutional Petition No.E111 of 2026 *Katiba Institute vs Governor of Nairobi City County and four others*, in which the Senate is enjoined as the second interested party.

Both petitions challenged the constitutionality of the agreement on grounds, including violations of the functional integrity of Nairobi City County, failure to conduct meaningful public participation before the execution of options of county assembly approval, failure to involve the Senate and violation of the constitutional framework for public finance.

As a result of this, the committee acknowledged that the Constitution contemplates and encourages cooperation between the two levels of government. Article 6(2) establishes the national Government and county governments as distinct and interdependent and requires that they conduct their mutual relations based on consultation and cooperation. Article 189 gives practical expression to this principle.

Honourable Deputy Speaker, the committee further recognised that Section 6(5) of the Urban Areas and Cities Act imposes a mandatory obligation, waiting for 14 years for the two levels of government to enter into such an agreement in respect of the capital city. It is commendable that this obligation has now been acted upon. The committee acknowledges the legitimate policy rationale for structured collaboration, given the unique status of the capital city that hosts over 150 diplomatic missions, international organisations and other institutions of national and international importance. However, having examined the agreement against the constitutional and statutory framework, the applicable comparative practice and the submissions of the Governor and the Prime Cabinet Secretary, the committee makes the following recommendations, as set out in detail under chapter four of the report-

(1) That the cooperation agreement between the national Government and the Nairobi City County Government be temporarily suspended, pending the resolution by

the parties on the issues arising from the committee's observation and analysis of the agreement.

(2) That the national Government and the Nairobi City County Government submit a report to the Senate within 60 days of the tabling of the report, indicating the progress made towards resolving the issues noted in recommendation one.

Honourable Deputy Speaker, the Committee arrived at the above recommendations after establishing the following findings-

(1) On the constitutional framework, the governance structure established under the agreement, vest policy level oversight in a steering committee dominated by national Government representatives, while the Governor chairs only the implementation committee. This leaves it unclear whether the arrangement in substance remains one of cooperation under Article 189 or has taken on the characteristics of transfer of functions under Article 187, without the safeguards that would ordinarily attain such transfer.

(2) On financing, the agreement is silent on the source and mechanism of financing for this implementation. The figure of Kshs80 billion, cited as a cost of implementation, appears nowhere in the text of the agreement. Its only source is an oral submission by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs. The committee further established that an allocation of Kshs270 million had already been made in the Financial Year 2026/2027 budget estimates for the improvement of Nairobi roads through the Kenya Urban Roads Authority (KURA), counter functions for direct expenditures by national Government agencies rather than other conditional allocations for the county government. It is not an additional allocation.

(3) On public participation, the exercise conducted on the agreement took place after its execution and after it had already come into force.

(4) On legislative oversight, the agreement does not provide any reporting to the Nairobi City County Assembly or to the Senate, notwithstanding the commitment of substantial public resources that the implementation of the agreement can be used to function.

(5) On the implementation, White Paper No.7, under the Nairobi Rising Programme, proposing the establishment of a Nairobi Metropolitan Police Formation, was presented to the committee as part of the framework for implementing the agreement yet neither the Nairobi Rising Programme nor the White Paper No.7 is not referenced anywhere in the text of the agreement itself.

Mr. Deputy Speaker, Sir, this means that a proposal to establish a Nairobi Police Formation, a new formation of police covering not only Nairobi, but also parts of Machakos, Kiambu, Kajiado counties, is being implemented in the name of an agreement that says nothing about it, because it is not inclusive. The other counties have not been involved in the agreement, but still it has been extended to those counties.

Hon. Deputy Speaker, it is on the basis of these five findings that, taken together, the committee arrived at its recommendation that this agreement be temporarily suspended rather than allowed to proceed in its current form, pending the resolution of the issues identified.

Hon. Deputy Speaker, the committee wishes to explain. It is necessary at this point that none of the five findings have outlined to go to the desirability of cooperation

between the national Government and the Nairobi City County. They go to the manner in which this particular agreement was executed. These are not defects that require the committee to reject the agreement outright, nor are they defects the committee can responsibly overlook by proving that the agreement as it stands. They are the defects capable of being cured.

It is for these reasons that the committee has recommended suspension and not rejection, to allow the parties an opportunity to correct these issues and return with an agreement that this House and the people of Nairobi can have confidence in fulfilling.

Hon. Deputy Speaker, may I take this opportunity to commend the members of the committee. I also wish to thank the Office of the Speaker and the Clerk. Lastly, I thank the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs and the Governor for giving us the audience and hearing to the committee and for their participation.

Hon. Deputy Speaker, it is now my pleasant duty and pursuant to Standing Order No.228(4)(a) to present the report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the cooperation agreement between the national Government and the Nairobi City County Government.

Hon. Deputy Speaker, with these many remarks, I wish to move this Motion and request the House to adopt the report of the Standing Committee on Devolution and Intergovernmental Relations on the Cooperation Agreement between the national Government and the Nairobi City Government.

I beg to move and ask the Majority Whip to second.

Thank you.

The Deputy Speaker (Sen. Kathuri): Majority Whip, Sen. Wakoli, proceed.

Sen. Wafula: Asante, Mheshimiwa Naibu Spika, kwa kunipa nafasi hii. Lugha inaendelea kua na msamiati wa 'spika wa wengi.' Bila shaka lililopangwa na Mungu litatimia siku moja.

Kuhusiana na ripoti hii ya Kamati ya Ugatuzi na Mahusiano kati ya Serikali za Kaunti na Serikali Kuu kwa jambo la mstakabali wa makubaliano kati ya Serikali Kuu na Serikali ya Kaunti ya Jiji la Nairobi, ninaunga mkono kikamilifu yale ambayo kamati imeibua. Hii ni ishara tosha kwamba Kamati hii ya Ugatuzi na Mahusiano kati ya Serikali za Kaunti na Serikali Kuu inaelewa majukumu ya Serikali ya Kaunti; ya kwamba yote ambayo yameelezwa kwa kina ni kuhakikisha kwamba ugatuzi na mamlaka yake yanalindwa kwa udi na uvumba, ili wakaazi wa jiji la Nairobi waweze kufurahia.

Vile vile, ametaja kwa kifupi kwamba wanakamati walijitolea mhanga kulipa jambo hili umakinifu wa kutosha. Pia, aliwataja watumishi wa Serikali ambao walitenga vile vile muda wao kukutana na wao na kuhakikisha kwamba mambo yanawekwa kinaga ubaga. Sina mengi ya kusema lakini kwa sababu mambo haya yamo katika kumbu kumbu za Bunge na jalada ya maelekezo ya Kamati chini ya mwenyekiti, ninaunga mkono.

Mheshimiwa Naibu Spika, ninashukuru.

Asante.

(Question proposed)

I now open the Floor for debate. I start with Sen. Cherarkey Samson.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I thank the Committee on Devolution and Intergovernmental Relations for the speedy tabling of this report. On this matter, the committee has been effective and efficient, but I will make a few comments.

I understand where the committee is in terms of whether this was under Article 189 on the cooperation between the national Government and county governments or whether there was transfer of functions under Article 187. I have read the committee's report and we all know that Nairobi is struggling with many challenges. You and I know that because by default, we are residents of Nairobi City County. The learners should understand that despite us coming from different counties, most of us work and live in Nairobi because the Senate or Parliament precincts is where our work is.

We cannot operate on the monkey principle; hear nothing, see nothing and say nothing about Nairobi City County. Nairobi City County is struggling. The County Government and the Governor had proposed in 2022 that *itawork* but it looks like *haiwork*. Whenever you drive around - and I understand where the national Government is coming from - whether on official matters or during official or non-official hours, you will see how dirty the city is. The garbage is all over. In most of our estates, the street lighting does not work. The roads are in poor condition even within the city; dilapidated and poor conditions.

Mr. Deputy Speaker, Sir, the soft underbelly of Nairobi City County is usually exposed especially when there are floods in this city. There were projections that we might have *El Nino* rains in this country. We saw during the unexpected flash floods in the city, we lost Kenyans and continue to condole and empathise with their families because of the poor drainage network in this country.

I have seen the tired argument by Nairobi City County and the Governor that Nairobi is built on a swamp. That argument is a fallacious argument that should only be told to the birds. If you read the book called *A Man of the people*, and I know Sen. Omogeni and Sen. M. Kajwang' might have read it, there is Chief Nanga and Odile. The setup of that story is that everything was right. Chief Nanga said everything was right and he commended the President that he was the controller of the moon and the sun although, Chief Nanga and Odili were arguing there were many challenges. This is also equated to Nairobi. I also agree that Nairobi has challenges, even in revenue collection, but we are lucky that even the distinguished Senator for Homa Bay, a ranking member, are missing the target even in their own-source revenue. The CRA projected that Nairobi should be collecting Kshs63 billion, but they are only collecting Kshs13 billion because of the many leakages.

Mr. Deputy Speaker, Sir, there is the street lighting, the roads and the garbage collection. The seat of the Government is in this city. There is the seat of the Presidency and the three arms of the Government, which you lead; the Legislature arm of government. There is the Judiciary and the Executive led by His Excellency the President.

If we have the Vision 2060, where President William Ruto is taking us to Singapore via Caanan, we must ensure we change the face of Nairobi City County. This was the vision of Baba Raila Amolo Odinga. May his soul rest in peace. I also know we

are almost celebrating his anniversary. We want when people come to visit the Raila Odinga Talanta Stadium on Ngong Road, they should be proud of it. That is the vision that the President is talking about for 2060. If we want to achieve Vision 2060 as envisaged by the President because he is thinking about future generations and the prosperity of this country unlike the disunited opposition who are thinking about the next election and yet, they do not have an agenda, then we must ensure Nairobi is brought to order because it is the face of Kenya.

Mr. Deputy Speaker, Sir, when you land at the Jomo Kenyatta International Airport (JKIA) - and I am happy that there will be construction of a new airport costing Kshs200 billion plus - after travelling to Dubai International Airport, where they are building a new one - it is like you are landing on a kiosk somewhere in Africa. Even when you travel to other airports like in Hartsfield-Jackson in Atlanta, Amsterdam, which is a bit old, or Heathrow, among other international airports--- As we transform JKIA, we must also transform the roads. This is the face of Kenya and Africa. Most people equate Kenya to Africa. Nairobi must be in the conversation of Vision 2060 on how we can transform Nairobi to be a good city.

As a protector of devolution, if I say this, many people will find discomfort because in the promulgation of this Constitution, Nairobi City County should not have been a county. It should have been a metropolitan service being run by the national Government. We also have international offices like the United Nations Headquarters in Gigiri. This is a very strategic county or a city that should not be allowed to be run by individuals who do not have a vision of where Nairobi should be.

Mr. Deputy Speaker, Sir, on the issue of traffic gridlock, we must agree that there are challenges in Nairobi City County. I agree with the committee reports as the President had proposed. Reading of Article 189, there is collaboration that is provided by the Constitution, 2010. On Sections six and nine of the Urban Areas and Cities Act, the law allows that there should be cooperation in the running of an urban city. The traffic management in this city is becoming a problem, especially with the construction of roads here in Valley Road and Bunyala Road. That is still a big challenge and even across the city, be it in estates and many others.

What Article 189 provided was the collaboration and the commitment of His Excellency the President, of Kshs80 billion to assist in the running of Nairobi City. This was not in vain. I know the committee has proposed the suspension of the implementation of that collaboration. There are many grey areas that the committee has pointed out, like who will oversight and I agree with them.

The Prime Cabinet Secretary should also recommend that Kshs80 billion should be given as a conditional allocation to Nairobi City County for two reasons. Firstly, to allow under Article 229 the proper audit by the Office of the Auditor-General (OAG) and, secondly, to allow proper oversight because we only deal with two terms.

Mr. Deputy Speaker, Sir, we want to ensure that, firstly, the Auditor General can look at the audit because they can audit that money that belongs to the public when it is given as a conditional allocation and it will be passed by the Senate or Parliament. The second thing is to allow the Nairobi City County Assembly to do oversight on the use of

that money and even the Senate through the County Public Accounts Committee. That is the whole essence, so that we have sight of the money being allocated.

With the Kshs80 billion being allocated by the national Government, does the Constitution under Article 96 allow the National Assembly to do oversight on the Kshs80 billion given to the county? It will not be neat and I agree with the committee that based on those arguments, the implementation of this collaboration framework, not to undermine it, object or block it, but to give a chance to the parties to give us a legal framework.

If today the President and the Prime Cabinet Secretary, and I say this with tremendous respect, brought an amendment to the County Governments Additional Allocations Act, we will use 1:59 of Eliud Kipchoge to pass that. This is because we know Nairobi has so many problems that the current county governor and the government cannot fix. The President has tried to intervene. I agree that we suspend it, so that we have clarity on how these matters shall be done.

I wish the Senator for Nairobi City County was here, so that we also get his perspective on the oversight aspect. It appears he is busy campaigning for a higher position. Therefore, he might not be keen on Nairobi matters. However, since Sen. M. Kajwang' is here, I know he will give us a different perspective.

Mr. Deputy Speaker, Sir, the third point I want to make is on the issue of security in the city. We saw people walking into a saloon, attacking women and stealing their *chama* money. You could see they were men. I am not saying men are thugs or robbers but they should be ashamed. How do you rob a woman? Women are supposed *kupigwa na lesa*. Men are supposed to be providers. How do you go and take *chama* money that women sit to divide? They had Kshs50,000 only but you go and threaten them and take the money! That shows there is laxity in the security sector.

I have read the National Police Service Act and Article 245 of the Constitution. Therefore, I disagree with the committee on this because the Inspector General of Police has power to form police units.

Mr. Deputy Speaker, Sir, we saw how village elders were accompanied by assistant chiefs and chiefs. Are you aware that your area assistant chief has been given the National Government Administration Police Unit (NGAPU)? They will work with chiefs and assistant chiefs to fight illicit brews such as *chang'aa*, insecurity which is under the Nyumba Kumi Initiative and arrest people who sleep with other people's wives. We have domestic adulterers. The NGAPU was created and will be assigned to chiefs. The Anti-Stock Theft Unit (ASTU) was also formed. We also have the Diplomatic Police Unit (DPU). Therefore, formation of the Nairobi Metropolitan Police Unit (NMPU) will assist in management of security in this city.

Nowadays you cannot make a phone call. We have professional robbers who use motorbikes. When I boarded a *matatu* here in town, we were told to close the windows because somebody would snatch our phones.

There is something that happened in Roysambu. Those people are daring because they snatched a phone from a traffic police officer and that is interesting. How daring are these robbers because how do you steal from a police officer? It is like throwing a stone to a police station.

Nowadays you are advised not to hold your phone while walking because robbers on motorbikes are taking advantage. The underground tunnel that connects to the Green Park Terminus has been turned into a den of thieves and criminals. I am talking about that tunnel near the Expressway interchange and Uhuru Park. We need to have the NMPU that will deal with insecurity in Nairobi City County because we welcome both local and international tourists in this city.

Mr. Deputy Speaker, Sir, you and I have been referred to as rural Senators. When our people come to see us in our offices, they need protection. Therefore, under the National Police Service Act and Article 245 of the Constitution, the Inspector General of Police has a right to do that. I respectfully disagree with the committee. They should have allowed that we have it in place.

The fourth point is on public participation, which was done. I hope the committee will go further because Article 10 of the Constitution provides for public participation as one of the ingredients. I remember the case of the Kiambu matter in 2013 where it was stated that there must be a proof. I agree with the committee that public participation should have been done, so that we get their thoughts and ensure they are protected.

Finally, Mr. Deputy Speaker, Sir, is on the issue that has been raised regarding adoption of this report within 60 days. I hope that the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, the Governor of Nairobi City County, the Senator for Nairobi City County, the County Assembly of Nairobi City County and the Senate will be involved in ensuring collaboration. That is under Article 189 of the Constitution.

I want to disabuse media reporting. I do not know whether we are abusing Articles 34 and 35 of the Constitution on the right to access information and media freedom. I do not know why the media like misreporting. We need to be careful about that.

The delegation from Homa Bay should take note of this. There is a lot of misinformation, disinformation and fake news. This was based on Article 189 of the Constitution on cooperation between the national and county governments and not Article 187 on transfer of functions. There was never a transfer deed between Nairobi City County Government and the Government of the Republic of Kenya. That should come out strongly.

I appeal to the Committee on Devolution and Intergovernmental Relations to be on the lookout, so that when this issue is brought again, they should give us a greenlight as the Senate and assure us that particular standards have been followed before the cooperation. Let us ensure that the Senate, Nairobi City County Assembly, Nairobi City County Executive and the Senator for Nairobi City County, participates, so that we ensure collaboration for betterment and enhancement of service delivery to the people of Nairobi.

We want a clean city, good roads, water and proper sewerage and sanitation in Nairobi. We should ensure that Nairobi works for the betterment of this country. It is in the interest of all of us to ensure that.

Mr. Deputy Speaker, Sir, I beg to support up to the extent that the committee will convince us further why they have suspended this collaboration. I appeal to the Prime

Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, if they can rectify what the Committee on Devolution and Intergovernmental Relations has proposed in the next five or 10 days, the Senate will not have a problem but to support because we want Kshs80 billion to be given to enhance functionality of Nairobi City.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to support the report of the Committee on Devolution and Intergovernmental Relations.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. Next is Sen. M. Kajwang’.

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, I rise to support the recommendation of the Committee on Devolution and Intergovernmental Relations. When you look at functions of the Senate, one of the most important committees in this House is the Committee on Devolution and Intergovernmental Relations. In fact, it has a mandate over everything that every other committee does. It is the committee that is supposed to confirm and report back to the House whether devolution is working as envisaged in the Constitution.

I have had the privilege of chairing that committee. Therefore, I take it seriously when the committee brings a recommendation of this nature. It is not a light recommendation politically, but we are not here just for the politics; we are here for the nation called Kenya. We are here to do things that are required under the Constitution.

Mr. Deputy Speaker, Sir, everybody knows and acknowledges that Nairobi needs help. Nairobi has a serious structural problem. I have said it before on the Floor of this House and still hold that view that if I were the Governor of Nairobi City, my chances of success would be very slim, looking at the structural challenges and financial gaps that Nairobi City currently has.

For us to give Nairobi help, we need to do it within the parameters of the Constitution and relevant statutes. The Committee on Devolution and Intergovernmental Relations has noted that it is important for there to be cooperation between the national Government and county government as required under Article 187. Indeed, the Constitution even allows transfer of functions as provided for--- Transfer is Article 187 and cooperation is Article 189 of the Constitution.

This Senate has been called upon in the past to consider these matters. In the previous Parliament, there was a Memorandum of Agreement between the national Government and Nairobi City County Government, pursuant to Article 187 of the Constitution, to transfer various functions from Nairobi City County to the national Government. That particular matter generated a lot of heat.

I recall the then immediate former Deputy Speaker, who is now the Deputy President of the Republic of Kenya, standing on the Floor of this House and urging Senators to ensure that they do the right thing and observe the rule of law. Eventually, the matter went to court. The courts ruled that public participation in such a transfer was mandatory, approval by the County Assembly was mandatory and approval by the Senate was also mandatory. Unfortunately, the transfer of functions went on as if the decisions of the court were a mere suggestion. At that point, I was chairing the Devolution and Intergovernmental Relations Committee. The challenge was, therefore, thrown back to the Senate to come up with clear guidelines on the transfer of functions for future cases.

As a committee, we drafted amendments to the Intergovernmental Relations Act. Those amendments came to the House but a bit late. I recall when I brought the amendments to the House, Sen. Okong'o Omogeni, SC, even proposed further amendments. However, it was too close to election time and therefore, we were not able to provide clear, prescriptive guidelines to the county and national Government to observe before transferring functions to the national Government or vice versa.

Mr. Deputy Speaker, as we speak, there is a lot of breach of the principles of the Constitution under Article 187. Functions such as housing have been transferred through the back door from county governments to the national Government without any intergovernmental agreement. Yesterday, in a meeting of the Committee on Energy, we asked the Kenya Electricity Transmission Company (KETRACO) why they have taken a loan to solarise boreholes across the country, a function which county governments are competent to perform. We also asked them why the Government signed a Kshs20 billion loan for KETRACO to build mini-grids across counties, yet that is also a function that county governments can perform.

Mr. Deputy Speaker, Sir, we have seen counties ceding their stadia to the national Government for construction based on political agreements made at political party rallies, without any intergovernmental agreement. We have even seen hospitals being handed over to the national Government. This House must stand up for the counties because it is our duty to defend and protect the interests of counties and their governments.

I keep saying that at times, the interests of a governor are inversely proportional to the interest of the government that he or she leads. Even if it is in the interest of a governor to have the national Government build a hospital, a stadium, a market or affordable housing, there must be an intergovernmental agreement binding the two parties.

The Committee on Devolution and Intergovernmental Relations tells us that this agreement should be frozen because it lacked public participation. Public participation was conducted after execution. That is a mockery of all the provisions of the law that put the people first. It is a mockery of the very first Article and the Preamble of our Constitution that says, "We, the People." "We, the People" cannot be an afterthought. It cannot come after executive decisions have been made. On that basis and on that conviction, I agree with Sen. Abbas that if public participation was done after the fact, then this is an illegality that should be suspended or terminated until it is done properly.

Secondly, the committee asked a question which it did not answer on whether this matter was considered under Article 187 as a transfer or under Article 189 as cooperation. Even if it was a cooperation under Article 189, if you look at other jurisdictions, and the committee has given us examples of South Africa and Australia, even a cooperation agreement ought to have been considered by the County Assembly of Nairobi City before execution. Sen. Abbas has given us two clear examples; what happens in South Africa with similar structures and what happens in Australia with fairly similar devolved structures.

Yes, you can cooperate. You can come up with draft deeds and draft memorandums, subject them to public participation, and take them to the local council, which in this case is the Nairobi City County Assembly. If the Nairobi City County Assembly was not

involved in this matter, I agree with the committee that this particular agreement should have been stopped. If this were a transfer under Article 187, then the Senate ought to have been involved. Therefore, once we answer the question whether we are dealing with Article 189 or Article 187, this particular matter should be postponed.

In any case, we have not seen evidence that since this cooperation agreement was executed, anything tangible has been delivered that would be jeopardised by a suspension to ensure that the right things are done. The Committee on Devolution and Intergovernmental Relations has also told us that the governance arrangements under this agreement favour the national Government. You have a steering committee, chaired by someone from the national Government. The Prime Cabinet Secretary chairs the steering committee. In that steering committee, even though the governor sits there with the County Attorney and two other persons nominated by the governor, the Prime Cabinet Secretary is accompanied by almost five Cabinet Secretaries and the Attorney-General. The balance of power favours the national Government.

In the Implementation Committee, which is chaired by the Governor, there are seven Principal Secretaries from the national Government, a representative from the Office of the President, and the Solicitor-General. The governor is only accompanied by the County Solicitor and County Executive Committee Members. That in itself looks like we are not just cooperating, we are doing a transfer. Due to that abnormal governance structure, I agree with the Committee that we should suspend this agreement.

Finally, the Committee has indicated that the funding and financing arrangements for this cooperation or whatever hybrid it is, have not been made clear. If you look at the functions the two levels say they are going to cooperate on, it is 80 per cent of the functions of the county government; garbage collection, solid waste management, county roads, markets, water and sanitation, street lighting and housing infrastructure. The only significant functions left to the county are health, early childhood education, and perhaps licensing of casinos, dogs and abattoirs. Everything else has gone to the national Government.

Mr. Deputy Speaker, if that is going to happen, and if you are going to call it cooperation and not a transfer, then funding needs to be clear. For funding to be clear, it needs to be processed through the Division of Revenue, which this House has the constitutional mandate to decide. It also needs to be processed through the County Allocation of Revenue, which only the Senate has the authority to process. If, in processing the Division of Revenue Act (DoRA) and the County Allocation of Revenue Act (CARA) we did not see any different allocation to Nairobi, and we did not see any special provision, because in some of these areas, the national Government is supposed to cooperate and contribute revenue, then it cannot be said that there is clarity on funding. For that reason, this agreement ought to be suspended.

Let me finalise by being a bit nostalgic. I hope from the Clerk's table that my audio is okay.

With nostalgia, I am the Senator representing the people of Homa Bay. There has been a habit of people who are representatives here in Nairobi calling us "village Senators" and "rural leaders," yet some of us grew up in this city. Some of them found us here in this city. I came to this city in Class Three. I went to primary school in this city, I

went to high school in this city, worked in this city, and I live in this city. I lived in this city back in the 1980s when things were working in Nairobi City. You could bet on a bus. You knew that if you are going to Otiende, Kenya Bus Service (KBS) No.34 would pick you from Lang'ata all the way to the airport. You knew the time to pick it and it rarely delayed for more than five minutes. In fact, it was plus or minus three or four minutes.

We also had the Nyayo Bus Service (NBS) that came later in the 1990s. What kind of thinking did we have in the 1980s and 1990s that we cannot apply today? We are saying that the late President Daniel Arap Moi was a terrible President. However, what kind of thinking was there in the days and years of his rule that we cannot replicate or improve today when we have PhD holders in the highest offices in the Republic of Kenya?

Mr. Deputy Speaker, Sir, there was a time if you were a middle class in Nairobi, you would go to Kanjo schools. Indeed, I went to a Kanjo school. I went to Rabai Road Primary School right in the middle of Jericho Market. It was safe and if you had the brains, effort and industry, you would be assured of progressing to a fairly good high school all the way to university. Nursery and secondary schools used to work. They used to be run by the Nairobi City Council (NCC). Today, we have reduced the responsibility on education to only Early Childhood Development Education (ECDE). We have ceded primary, secondary and tertiary schools to the national Government and things are still not working.

There was a time when garbage used to be collected in this city. There was a time when we did not have all this traffic menace in this city. Traffic lights and security worked. City council houses were decent. Today, city council houses are being demolished to pave way for affordable housing. The land belongs to the county and the houses belong to the people of Kenya through the national Government. At the end of the day, you are not sure whose balance sheet that asset is going to sit in.

There were years when we could go to parks. Uhuru Park in the 1980s and 1990s was a favourite spot for Lyons Maid ice cream. Those guys used to ride a tricycle with a jingle. Jeevanjee Gardens and City Park were places you could go to. Many people, perhaps even Sen. (Prof.) Ojienda, may have done a few dates in some of those parks. This is because they were decent, clean, safe and impressionable. If you took someone to City Park, it was like taking them to Hyde Park in London. How is it that we were able to do this under the brutal regime of President Daniel Arap Moi and we cannot do it under the democratic regimes that we have had since the repeal of Section 2A of the Constitution?

It is my view that Nairobi of the past is gone. However, we could pick some elements from the past and fix Nairobi for the future. It is our responsibility as a leadership that is in place at this point in time, to ensure that we bequeath our children a Nairobi which is as good as that which was given to us by our forefathers.

As legislators, there are a few things we must do. If you are going to talk about a new Vision, 2060 for Kenya, Nairobi must be at the centre of it. This is because it generates a disproportionate higher percentage of Gross Domestic Product (GDP) compared to the other counties. So, if you go with the 20/80 rule and fix the problems in Nairobi, you are generally fixing the problems of Kenya. Indeed, President Ruto said as

much when he walked over to the County Assembly of Nairobi. For the first time, a sitting President was able to address Members of the County Assembly (MCAs). I think that was very admirable and commendable. However, it does not take away the illegalities that were committed in coming up with this agreement.

In my view, the Nairobi of the future must focus on transport infrastructure that is efficient. Other congested cities like London, Cairo *et cetera*, have come up with solutions that we can replicate. There is the bus rapid transit, light rail and even underground that I heard the governor talk about. However, that is such a heavy investment that cannot be processed through the Kshs400 billion that we share amongst counties. That is why I agree that Nairobi requires help. In fact, we must change the structure of Nairobi, so that it is not run from one governor's office or one county assembly. We must decentralise and devolve functions and services in Nairobi further.

Yamoussoukro is the capital city of Ivory Coast. We once visited there and met the person who runs that capital city. He is called Minister Governor. He sits in the national cabinet but he still governs Yamoussoukro. This is because they know the kind of budget resources you need to run a capital city. You must not just have a cooperation or a transfer as captured in this Constitution but a completely different arrangement where the city is looked at as a capital territory.

In Nigeria, in the federal capital territory of Abuja, Nelson Nweke, a former governor, is a minister who sits in the cabinet. In fact, we should pick and promote the most successful governor of the other 46 counties to run Nairobi. It should not be based on the tribal census which our politics is all about. We end up electing charlatans and then within two or three years, we impeach them.

Nairobi must have cities within the city. Greater London has two cities, the City of London and the City of Westminster. That ensures focused attention on development. Even if we were smaller in population and cannot have another city within a city, we need to have municipalities within the city. Governor Sakaja called them boroughs, modelled on the British arrangement but those are his own things. They are not captured in law. In our laws, we have cities, municipalities and towns. We must come up with a Nairobi City Act, which then allows us to have the capital city being part of the national Government in a way.

As far as financing is concerned, have a capital city which can decentralise further to municipalities and each municipality or town can have its own councils. This is so that we say that it is public participation only when things are done at City Hall or the county assembly headquarters.

I think we need an entire session to discuss how we should reorganise our Constitution to ensure that Nairobi is a city that it is. I support the committee because it is saying that the right thing should be done. Do public participation, get the approval of the assembly and the Senate if it is required, have clarity in budgets and a governance framework that makes sense. If we do that, then we shall approve. However, focusing on the Nairobi of the future, as things stand, even if Sen. (Prof.) Ojienda was the Governor of Nairobi, he will still fail.

In Washington, the Americans figured it out. Their capital city is managed differently. The Nigerians figured it out and their capital is managed differently. The

Tanzanians figured it out and Dodoma is managed separately. The Ugandans figured it out and in Kampala, even though they have a Lord Mayor, they got an executive running the city. That is the direction we should go, not these backdoor approaches. We need a comprehensive rethink and reset of Nairobi as a capital of the Republic of Kenya.

I support.

Sen. Ogola: Mr. Deputy Speaker, Sir, I have sat down here and got the wisdom from the leader of my delegation. I rise to disagree with the recommendation of the Committee on Devolution and Intergovernmental Relations. We can make it work and we must make it work for the following reasons.

I want to support the initial cooperation agreement between Nairobi City County and the national Government for these reasons. Hon. Speaker, Sir, let us reflect as a country on the trends of urbanisation globally. The predictions state, and we can rightly prove, that by 2050, we will have over 65 per cent of our populations moving to the urban centers. Look at the stature of Nairobi as a city. The United Nations is moving here and that should not be the only reason why we should improve our facilities. We need to reflect on the experiences we have had in this city in the last few months or years.

That brings me to the point that we must move away from the entitlements we are bringing in our arguments. The roles specified here are county government roles. If you are sick and you go to the hospital, you will not wait for a particular doctor to treat you. That doctor might come three days later. What is important is that you need treatment to solve your problem.

The spirit of cooperation, consultation and collaboration is enshrined in our Constitution. We must move away from the generalities that we have county functions and national Government functions. I know that we do not have county citizens neither do we have national citizens. What should be important to us is that our citizens are able to get services that they require. We are here talking about Kshs8 billion. I would have loved this to be done like yesterday.

We all saw what happened in this city during the rains. There was flooding. Is that the city that we want? In fact, if this arrangement can work, I would push that it be done in all our cities in this country. Consultation and collaboration is enshrined in our Constitution. Nobody knows this better than the Committee on Devolution and Intergovernmental Relations. If consultation and collaboration between the two levels of government can enhance services in this city, then I plead with this House that we must make it work.

Having reflected on the growth of urbanisation, we must see the kind of mess we are grappling with in this city and other municipalities. It reflects to the slow growth of urban facilities and utilities that is commensurate with the growing population that we have in the city. When driving to Parliament or in the city, you will see the number of pedestrians. We are encouraging a walking nation, which is healthy, but where are these people supposed to walk? The pedestrians compete with motorists and *boda bodas*. Is that a situation that we like? This could be the cause of some of the accidents.

We want to see a beautiful city that is built to the standards of today. As we encourage our people to walk, there should be walking paths. The *boda bodas* and the vehicles should move easily on those roads. That can only be done if such facilities are

put in place. We should leave that responsibility to counties. Then the question is: Why have they not done it? Why has Nairobi City County not done it in the last 10 years that we have had devolution?

We have a responsible government in Nairobi City County that has accepted the challenge they have. They have agreed to sit with the national Government to give Kenyans what they are lacking. The planning of this city and other cities is running behind schedule. The urban facilities have not been upgraded in the last many years yet populations continue to increase.

The floods that we have are a reflection of the non-upgrading of the storm water facilities that will be consistent with the growth that we have. What stops us from allowing the national Government which has realised that it can do something for us to meet certain expectations by 2050? I am talking about issues of public transport. My leader of delegation has reflected on the time when he was young and the systems were working but those systems were not upgraded in consistence to the growth of population. We must ensure that public transport works in this city for the betterment of everybody that lives here.

I have talked about the storm water drainage. It is not news to us that we have drainage that has not been upgraded for many years. The county government is now saying that they have not been able to upgrade the drainage and they are requesting that they work with the national Government. I have talked about the riding lanes and pedestrian lanes.

The other issue is street lights in this city. When you drive around at night, you will note that there are dark lanes which leads to insecurity. Other than the roads, we are talking about street lighting and road infrastructure that includes installations like Closed-Circuit Televisions (CCTVs). In the past years, we have seen how CCTVs have facilitated the unravelling of criminal occurrences. Are we saying that we should live the way we did 20 years ago? Are we saying that if Nairobi City cannot do it, then the citizens who live in Nairobi City County should not benefit from this initiative? I have talked about access roads.

I will now address the issue of health facilities. Urbanisation comes with challenging health issues. We need to see a considerable progressive growth of access to health facilities that would serve the growing population. This morning, I told this House that I was at the Kenyatta National Hospital to receive a patient who was transferred from Homa Bay County last night. I stayed there up to around 4.00 a.m. I appreciated the services that were offered by the medics in Kenyatta National Hospital. I saw the personnel handle hundreds of patients. I believe some of them were not referral cases. The essence of a referral institution is that it should only deal with referral issues in the absence of commiserate health centres that have been built over the years to take care of curative and preventative services around the estates.

The health centres we see in the estates are the same health centres that have been there for years. As populations grow, we are not receiving commiserate growth of health services which leads everybody to go and seek medical services at the Kenyatta National Hospital (KNH). That really also works against the number of personnel and services available. All I am trying to say is that even health has components of urban issues.

There is the housing issue. Why are we comfortable with the Government doing affordable housing while housing is a devolved function? We are applauding the Government because it is going to solve an urban problem not only in this city, but also elsewhere. We cannot have our cake and eat it at the same time.

I do not want to leave out the issue of security which is key in urban issues.

There are issues of beautification of the city to serve our aesthetic values. When you walk around cities, there are key urban facilities that are lacking such as playgrounds. As a mother, I know that it is so important that wherever there are residences, there needs to be a playing ground. When you drive around in most of these estates, children are reduced to playing on the roads. They have to compete with motorists as they play their games because our urban planners have not put in place playing fields; a requirement in urban planning.

What kind of children are we raising? We are raising children who are limited in their social skills. They do not have the opportunity to play freely and grow up in their social networks as we did. All of us can reflect that estates in the yesteryears when *kina* Prof. Ojienda were growing up in this city, had football pitches; that is lacking in this city. Are we here sitting as a House saying that our children do not need those kinds of facilities?

Mr. Deputy Speaker, Sir, there is the issue of garbage collection. You do know the challenges that municipalities and cities continue to have with the collection of garbage, which is an environmental threat. As a generation that is moving to the next century with whatever challenges, including public participation that has been mentioned, we can never say that we are suspending the implementation of such collaboration when consultation and collaboration is a key component of the new Constitution that we are also defending here.

Let us not suspend or freeze this collaboration. Let us keep to the spirit of the collaboration agreement because all we need is the citizens in this city getting the right services. All the other difficulties that have been cited can be sorted out through collaboration and further consultation.

I have heard a number of Members say here on the Floor of the House that since these are county functions, we should allocate the city -8 billion. How do we give them Kshs8 billion when a number of them are not able to account for even the billions that they have? Let us allow the services that will be offered by this agreement be done as soon as yesterday. I support the initial agreement through the cooperation of the County Government of Nairobi City and the national Government.

In conclusion, as we move to Vision 2030, we should be seeing ahead as a progressive nation. People who fail to plan, plan to fail. The spirit of collaboration and consultation is enshrined in the Constitution and as a House, we must move with the spirit that is enshrined in the Constitution. I disagree with that recommendation.

The Deputy Speaker (Sen. Kathuri): Sen. Okong'o Omogeni, proceed.

Sen. Omogeni: I rise to fully support the report by the Committee on Devolution and Intergovernmental Relations. However, I will go further and propose that this House should amend the Motion to totally cancel that cooperation agreement between the national Government and the County Government of Nairobi City.

First, having listened to the Chairperson, Sen. Abbas, he has raised a number of constitutional issues. As a lawyer, I am convinced that this cooperation agreement is not aligned with the constitutional text in our Constitution on devolution. You know that most transformative aspects of our Constitution 2010 were to create the 47 devolved units and we transferred services and resources to the 47 devolved units.

Our people expect that the chief executives, the people we call governors, will step in and provide services to our people. When you are talking about roads, sanitation and provision of water, those are all devolved functions. If you take those functions from Sen. Sakaja, what will he sell to the people of Nairobi to win a second term? What you are telling us is that he has surrendered the most important functions to the national Government.

While reading the Report, I am shocked that the governor appeared before the committee and seemed to agree with a process that is clear and constitutional. If you read through the report, the Prime Cabinet Secretary appeared before the committee and had no shame in saying that the officials of the National Treasury would be sharing reports on the services that would be given through this Cooperation Agreement. I want to be very categorical that if we respect the letter and the spirit of the Constitution, especially Article 6(2), let us accept what it decrees, that counties are distinct and independent, though there is interdependence with the national Government.

I have a second issue that is even more painful to me. In terms of revenue, Nairobi has the highest own-source revenue. I sit in the County Public Accounts Committee (CPAC). Since he assumed office, the governor of Nairobi City County has been merciless in hitting us with increased taxes and increased property rates although we do not get the services. Where I live, the City County of Nairobi has never collected garbage from my house or repaired the roads within our estate yet, we are paying these rates. What are we paying the rates for?

On the street lights, we have to contribute as members of the court where I live to pay the bills from Kenya Power Company. Where do our rates go? Before you rush to the national Government to ask for Kshs8 billion, could you account for the money that we give you? You saw how merciless he was and I hope God will forgive him for evicting old, retired senior citizens from some of the properties that were owned by the defunct City Council of Nairobi. Some people, it is rumored, died from stress because of those evictions.

Let us first understand if Nairobi is collecting Kshs15.4billion as own-source revenue, and then we add another Kshs21.4billion, that is close to Kshs40billion. That is enough money to run services and make the City of Nairobi the green city in the sun, the way we used to be told when we were young.

The second question I am asking is: Imagine the people of Meru do not have enough funds to offer some of these services. I know for a fact that my cousins in Meru do not have adequate sewer connectivity. If you go to Nyamira, you find it is worse. We do not have any sewer system in Nyamira County. What makes the people of Nairobi City County think that they are the only ones who deserve to have this sewer connection services, not other counties?

Let us learn from other counties. How I wish that the President of the Republic of Kenya, Hon. William Ruto, had even brought a paper to us to discuss this idea because the practice in many countries is that the states that are rich donate money to the weaker states, the way the devolved system works in the 16 states of Germany which they call Bundesländer. The state that is wealthier such as Nairobi which has Kshs40 billion should give us Kshs5 billion to share among the 12 weaker one where Nyamira will be part of the beneficiaries so that we align giving services to our people with Article 27 which says that no Kenyan should be discriminated.

If Nairobi City County wants to give the people who reside here piped water, we also require piped water in Nyamira. If we must provide tarmacked roads in Nairobi City County, the same thing should happen to the people who reside in the County of Nyamira. Imagine if they have Kshs40 billion, then we give them another Kshs80 billion, where is fairness? I wish to remind all Senators that under Article 96, our major role that unites all of us is to protect all the 47 counties and not to protect one.

We had a big fight here when we were dealing with second revenue sharing formula but we all united to protect not one but all the 47 counties. Let the national Government bring that money here and we will come up with a formula on how to share it. We will give Nairobi City County the least because it already has enough money.

I can give you examples from many jurisdictions. In Canada where we have provinces, there is a policy in place on physical equalization, so that if money is given to provinces and disadvantages certain provinces, the Government goes back and says, “we must put in place an affirmative action plan to support those provinces that have received smaller allocation and where their own source revenue is also inadequate.

You know what happens to the cantons in Switzerland. The policy by the government there is that each canton must provide similar services. Not to tell us that Nairobi City County is the only one that deserves street lights, sewer connection and piped water. No. Let us borrow that spirit of Switzerland where the spirit of the Government is that all the cantons must operate on equal basis.

If there is tarmac connection in one canton more than the other, the Government policy in the following financial year is to support that canton that is disadvantaged so that it also gets enough road connection. That is what we should be doing. To tell us after we have argued and argued on money that was to be available for counties to share, we were there, is not money. Where has this Kshs80 billion come from? Let us ask that question.

I have read the submissions of the Cabinet Secretary. He was saying that this money will be contributed by the National Treasury. How can you deny counties that are so deserving money and then come back and say, “we have this money but it will be given to Nairobi City County alone?” If we agree with this approach by the national Government, then we will be opening a pandoras box. It means that some counties will lag behind for many years. That should never be the Government policy.

If we want to make our counties attractive for investment, let those attractions be there in all counties. Kiambu deserves more resources, I know. They also want more investors to go there. Why can we not give this Kshs80 billion - Kshs5 billion is given to

Kiambu County and Kshs5 billion to Murang'a? Why only Nairobi? We should then give Nyamira Kshs9 billion and Kshs6 billion to Kisii because we are lagging behind.

Let that money come here for sharing out among the 47 counties. We cannot sit here and say that we are approving Kshs80 billion available to one Governor called Sakaja only. That is very unfair; something we cannot support.

Thirdly, even if we were to give this money to Nairobi City County, there would also be serious constitutional issues on how this money is being appropriated. We know that Article 221 gives the National Assembly the sole mandate on appropriation. They discuss and we are lucky that the person sitting in the Chair is a very experienced parliamentarian. You have served a cool 10 years in the National Assembly.

Mr. Deputy Speaker, Sir, you know how these things are done. Even if it is money for development, that must be passed by the National Assembly. Even if it is recurrent expenditure, it must still go through the National Assembly. How then can we have an agreement signed then we are told that Kshs80 billion will be given to the County Government of Nairobi City and then the Prime Cabinet Secretary appears before the Committee on Devolution and Intergovernmental Relations of the Senate and says that we are going to have an arrangement for the National Treasury to avail this money? That can never be. It seems that this agreement wants to bypass very critical constitutional institutions. One of them is Parliament. We should not endorse a corporation agreement that is clearly unconstitutional.

Mr. Deputy Speaker, Sir, the other constitutional issue I want to raise is: What is the role of the County Assembly of Nairobi City in terms of providing oversight? Clause 7(5) of the Cooperation Agreement means that the power of the County Assembly of Nairobi has been taken over by an entity that has been created through this Cooperation Agreement. That is like telling us that you can come with an agreement that can take away the oversight power of the Senate. That can never happen.

These things, under the Planning and Execution Committee, are taking away county functions. How can you create a Planning and Execution Committee that will come to plan urban roads and sanitation issues? That is taking away functions reserved in the Constitution for the County Government of Nairobi.

The fourth point is that we have totally ignored the very important role of public participation. The courts have ruled many times on many occasions that public participation ought to be meaningful and not cosmetic. Meaning that before you put ink and paper to a document like this, you must have an engagement with the people who will be affected by this cooperation agreement.

What I have seen from the agreement is that ink and pen were put into the agreement, a ceremony was held in State House, after which, I think, just to meet that standard of public participation, as required by our Constitution, some forums were called up just to rubber-stamp the entire thing. That is not the way it should be. Public participation should precede this process. Before an agreement is signed, involve the people and consider their views.

As I get towards the conclusion, we still have a big challenge in the provision of health services. Before Governor Sakaja moves to create metropolitan police, I wish he could make a trip to many countries, because many countries are closing their police

stations. You go to countries like Switzerland; they open police stations three days a week. You go to Singapore, where I am told there is a dream to take people to this country; they are not creating metropolitan police stations. They are talking about providing free health care services to their people.

Mr. Deputy Speaker, Sir, we have talked day after day about the dysfunctionality of the Social Health Authority (SHA). I can even carry the Bible, and my pastors from Nyamira will bear me witness that we have one of our pastors who saw the Cabinet Secretary for Health give an undertaking that if you go to India for treatment, the SHA will meet your medical expenses. He travelled all the way to India and went to Apollo Hospital. When he reached there, he was told that they could not accept the card called SHA. This is because there are so many pending bills that have not been paid to several hospitals in India.

When we say that we want a conversation around how SHA is operating, we are not doing politics. This is something that is affecting a man of God, a pastor from Nyamira. Now we are all trying to raise funds to pay for that pastor in India. He has already incurred a bill of Kshs1.2 million.

When the Cabinet Secretary for Health comes here, I will table those documents. If any of us here gets into a medical emergency, the medical card will step in and rescue you. What about the *mama mboga* down there? What about this pastor? So, when you go before their church and tell them that SHA is working, they will tell you no, because they know one of their own has been subjected to this pain that Kenyans go through. After all, SHA is not working.

So, let us have an honest conversation. When something is not working, let us accept that it is not working, that there is a problem. So, I support this report by the Committee on Devolution and Intergovernmental Relations with a rider that we should move a step further and nullify, not suspend. We should totally nullify this cooperation agreement, so that we send them back to the factory setting; they comply with the Constitution, abide by all the constitutional requirements around public participation and then we demand that that money, Kshs8 billion, comes before this House so that we share it among the 47 counties.

I hope the Chairperson for the Committee on Devolution and Intergovernmental Relations, the Senator for Wajir County, will agree with me that giving Kshs8 billion to one county is not just and a very unfair decision by this Senate. I fully support and I hope even the Senator for Kisumu, despite him being in Broad-Based Government, will agree that Kisumu needs this money. This one is not about us defending our counties; it is not about Broad-Based. So, I hope the Senator for Kisumu, who wants to be governor, will stand up and fight for Kisumu County to receive more resources.

I support, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Karungo Thang'wa, you may proceed.

Sen. Thang'wa: Thank you very much, Mr. Deputy Speaker, Sir. I love your new format of allowing the Senators to speak, those who have been in the House for a longer time during the session. So, thank you for that.

Mr. Deputy Speaker, Sir, I rise to support this report by the Committee on Devolution and Intergovernmental Relations, which I am a Member. I rise to support it

because from the outset, it is good for Members to understand that we are not fighting any cooperation between the national Government and the county government or any county. We are not even fighting any transfer of functions by any county government to the national Government. What we are talking about is the modality, the process or the legality of the process.

I see Sen. Ogola is stepping out. Maybe if she could listen to me for a minute, because from her contribution, she said everything that I believe in when it comes to giving resources to the counties. We are not talking about providing these resources to the counties. We are talking about the processes and modality. So, we cannot say that because this money is coming to the county government, we are fighting the County Government of Nairobi City. No. We are not fighting the County Government of Nairobi City.

Just like having a child or having children is a good thing, you cannot have a child with an underage person. That would be against the law. You cannot even have a child with another man's wife. That would be against the morals, the culture and everything. You are not following society's rules and regulations. What I am trying to say is, if you have to have it, have it according to the law or have it according to the norms.

This is an agreement between the County Government of Nairobi City and the national Government. I want to take you to Article 6 of the Constitution of Kenya, 2010. I will read it.

Article 6 of the Constitution on Devolution and Access to Service.

6(2) says-

“The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.”

Mr. Deputy Speaker, Sir, the Constitution, in the first Articles, says that both the national Government and the county governments can work together through consultation or cooperation. It continues through Article 189 and Article 187, saying that for you to have cooperation, you use Article 189. For you to have a transfer of function, you use Article 187. However, when you read the Cooperation Agreement between Nairobi City County Government and the national Government, it is actually Article 187 on the transfer of functions going through the back door of Article 189. It is not cooperation, but a transfer of functions.

A famous story is told of a camel that asked the owner of a tent to put its head inside because it was raining. After a few minutes, the whole neck was inside. Then the whole body. The camel went away with the tent leaving the owner with nothing. This is what the national Government is trying to do. First, the head inside Nairobi City County Government, then the neck and before the governor knows, the national Government has taken over county functions.

The Committee on Devolution and Intergovernmental Relations, of which I am a Member, is asking this House to nullify the Cooperation Agreement. This is because it is undermining devolution. The work of the Senate pursuant to Article 96 of the Constitution of Kenya, 2010, is to protect the interests of county governments. Were we informed about this cooperation? No. The Senate, mandated to represent the public, was

not consulted yet they claim there was public participation. We are more public than any other institution because we represent the public.

Devolution is undermined by this Cooperation Agreement. The national Government is dominating the running of functions under this agreement. The county has no decision-making power. The county assembly was not involved. Even after the agreement, the County Assembly of Nairobi City has no say. That is why we call for nullification. Counties have the County Integrated Development Plans (CIDPs). These are blueprints for development and planning. In the middle of a government term, when the CIDP has already been passed by the county assembly, someone introduces something else not in the CIDP. That is weak legislative oversight.

This agreement and the committee mandated to execute it do not report to the county assembly. They can only report to the National Assembly because it is a national government function. Even the Senate cannot question it. We are not against money going to counties but the process must follow the law. We want the Kshs80 billion to go to Nairobi. We also want the same for Kiambu or any other county. However, if we take this money through the back door, we will be creating another Nairobi Metropolitan Services (NMS).

The NMS left pending bills of hundreds of billions shillings. When you ask the county to pay, they tell you to go to the national Government. Are we creating another NMS? Are we creating another huge pending bill or this is another way of siphoning money from the national Government, then re-routed at the county level, fueling corruption? If it is cooperation, it should go through Article 189 of the Constitution, not Article 187. This agreement is a transfer of functions.

Mr. Deputy Speaker, Sir, another point is that there is no clear financing arrangement. They are saying Kshs80 billion will come. How is this money coming to the county? Will they go to the main county account? Will the county assembly appropriate or put it in the budget?

Therefore, we should not try to help the County of Nairobi City by breaking the law. If you want to help the County of Nairobi City, let us do it by following the law. You cannot help a driver in this manner; a passenger goes and picks the steering wheel when the driver is already seated and say, I am helping the driver steer this vehicle. No, if you are helping--- Let me give you this example. You do not strengthen a donkey by carrying it on your back. You strengthen it by helping it carry the load on its back. What the national Government is trying to do is to carry the whole of the County of Nairobi on their back. They are alleging that they are helping it. That is why I support this report by the Committee on Devolution and Intergovernmental Relations that will nullify this cooperation. They start afresh. If they follow the law, we have no problem. We can pass it as soon as yesterday.

As I conclude, this agreement is open-ended. It has no expiry date. Remember, we might have a governor who understands you do not have to take people to Singapore because we are already in Nairobi and we know our problems. This is because we trust even those who are taking us to Singapore. The other day they said they are taking us to Vietnam. So, maybe another day, they will tell us Myanmar or wherever. Therefore, we should work with the people who understand our problem. We should work with the

people who understand the problems in Nairobi. The problems in Nairobi are water, sewerage, roads and flooding. If we have a governor who understands that, and he is given an opportunity to lead, we will have no problem supporting this agreement.

Now, I ask this as I sit down.

(Sen. Chimera consulted loudly)

Protect me, Mr. Deputy Speaker, Sir, from Sen. Chimera. He is in the House. Say hello to the people of Kwale when you go home.

Mr. Deputy Speaker, what if you have another governor who will come in after the current governor and he understands devolution more than the current governor does? If we leave this agreement open-ended, it will have no exit clause. So, does that mean a governor can agree with another President of whom I am not sure of his or her return? Then they will always be tied by this cooperation forever and ever. It is a cooperation that is against the law.

I am a member of the Committee on Devolution and Intergovernmental Relations. I see my Chairperson, Sen. Abbas, is in the House. We are not fighting Sakaja. We are not fighting the President. We are not fighting the agreement. All we are saying is; can you do it within the law? Period! As I say, it is good to have children, but having a child with an underage is against the law but children are good. Therefore, you cannot say that you do not look at the product. Look at the process.

Mr. Deputy Speaker, Sir, I ask the House to support this Motion, so that we help Nairobi City County.

Thank you very much.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Deputy Speaker, Sir. Let me speak from the desk of the whip. I may be a whip one day before the end of this term and become governor. Things change in the Senate.

Mr. Deputy Speaker, Sir, I rise to support this report with modification. The so-called cooperation agreement was signed between the national Government, represented by the Prime Cabinet Secretary and the Cabinet Secretary for Foreign and Diaspora Affairs, the Hon. Musalia Mudavadi, the Attorney General, Mrs. Dorcas Agik Oduor and the Governor of Nairobi, His Excellency Sakaja Arthur Johnson on 17th February, 2026.

The highlights are clear. The intention of this agreement was to ensure that in the so-called Cooperation Agreement underlined by Article 189(2) of the Constitution and Section 6(5) of the Urban Areas and Cities Act, Cap. 275 underpin a legal framework that would ensure a cooperation agreement that would see the City of Nairobi get funding to the tune of Kshs80 billion during the lifetime of the agreement. Two problems abound and that informs some of the recommendations to which the Hon. Senator for Kiambu, Sen. Thang'wa, has spoken to together with. Hon. Kajwang' and the Chair.

The problem that is presented or I dare say the conundrum the two levels of government find themselves in is whether this is a transfer of functions or a cooperation. A transfer of functions would underline some of the functions of the county government set out under Schedule 4 that would then be transferred to the national Government, to be performed for the benefit of the county government, realising that the City of Nairobi is

at a level where it needs not just oversight but proper facilities that are befitting and that would put it to the status of equivalent cities like Vienna and New York.

Mr. Deputy Speaker, Sir, I am happy that Sen. Kajwang' of Homa Bay has referred to Senegal and to Yamoussoukro where there is a fantastic mosque, I believe the biggest in Africa and perhaps in the world, built by the then-President Houphouët-Boigny. He has also referred to the federal capital treasury of Abuja governed in a particular manner to deliver to the people of Nigeria, recognising that Abuja hosts many international functions. He has also referred to London and to the functions that are undertaken, how the City of London is managed through the Westminster City and the City of London and the existing boroughs within the cities, and how we could transform the management of Nairobi City in a manner that would reflect not just devolution but a delivery of service.

I have the advantage because I have lived in all these cities. I have lived in London as you know and have lived and travelled to Abuja. I have been in Abdijan, Yamoussoukro and Vienna as well and I understand the framework of this. Considering my comparative depth, I am able to contribute to the report in a manner that is reflective of deep knowledge, not just of the law because I am a Senior Counsel.

Mr. Deputy Speaker, Sir, it is clear that what is reflected in the agreement is a transfer. One, because of the timeframe set. There is no timeframe that is set in this cooperation agreement. The objects of devolution under Article 189 and the Fourth Schedule was that the 47 county governments had functions assigned to them with a prescribed framework that will ensure that the 47 county governments generate their own-source revenue before getting monies transferred from the National Treasury or the national Government.

This report recognises that there is need to frame this agreement as transfer of certain functions given that Kshs50 billion, for instance, that is targeted for improvement of sewer services falls within a particular department such as environment and other functions that are performed by the county. I think that is one of the issues that will be tinkered with by the proposed amendment that the Chair and others like Sen. M. Kajwang' have spoken to.

Mr. Deputy Speaker, Sir, this agreement is a reflection of the failing systems in our city. It also points to the need that this city, in the framework of governance set out in the Constitution, ought to be managed differently from others such as Kisumu and Mombasa. Of course, Sen. M. Kajwang' is from a small village town called Homa Bay and also Sen. Betty because they have not grown to the levels of Kisumu and other more serious cities. I would invite reframing of the agreement as recommended by the committee, so that it reflects the true nature of what is intended.

Nairobi City County requires a serious framework that will deal with security and slum upgrading. We must commend the Affordable Housing Programme (AHP) that has improved and changed the lives of many Nairobians who previously lived in slums.

That is not to say that those who believe it can be done better have no point. However, we must commend the President for the novel implementation framework of the AHP that has not only changed the face of Nairobi but also many cities in this

country. Even when the naysayers say that we should not allow the President a second term, it is factual that he has performed for the people of this country.

This is a framework that adds money to the people of Nairobi City, and should be welcome. It is a framework that will ensure development of facilities, roads, water, sanitation and energy, so that we have sufficient lights and lighting for dark spots in Nairobi which are a security threat. We need lights for bridges that are done in places like Dandora and others.

Mr. Deputy Speaker, Sir, as you have heard, some of us grew up in Nairobi and Kisumu. Therefore, we understand the city very well, unlike people like Sen. Chimera who grew up in Kwale. This framework should have received the approval of all levels of the county government including County Executive Committee Members (CECMs) and the County Assembly.

The direction that earlier speakers have referred to that monies that inform the Kshs80 billion intended---

The Deputy Speaker (Sen. Kathuri): Order, Sen. (Prof.) Ojienda, our time is up. Sen. (Prof.) Ojienda, you will have a balance of nine minutes to conclude your thoughts on this.

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 6th August, 2026, at 2.30 p.m.

The Senate rose at 6.30 p.m.