

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 27th October, 2024

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, confirm whether we have quorum.

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

Kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

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

Clerk, call the first Order, so that we make progress.

QUESTIONS AND STATEMENTS

STATEMENTS

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we have two Statements pursuant to Standing Order No.53 (1). One is by the Senator for Marsabit County, Sen. Mohamed Chute and the second one is by the Senator for Kisii County.

Proceed, Sen. Onyonka.

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IMPLEMENTATION OF THE COMPETENCY
BASED CURRICULUM

Sen. Onyonka: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the implementation of the Competency Based Curriculum (CBC). The CBC was introduced to equip learners with practical skills for the 21st century. However, its implementation has revealed significant challenges that have exacerbated inequalities in the education system in our country. Urban schools, well-resourced compared to rural and disadvantaged ones has made it impossible to equate learning in our country.

The CBC's focus on projects, hands-on learning over core subjects combined with the financial strains on the parents of these low-income families and most of the schools are usually under-resourced, has left many of the students unprepared for global competition and it has deepened the educational disparities within our communities.

In the Statement, the Committee should-

(1) State the measures being taken by the Ministry to address resource disparity between all our schools in affluent urban areas and those in the rural and disadvantaged areas.

(2) Re-evaluate the CBC framework and recommend measures to ensure that the new curriculum strikes a balance between competency development and the acquisition of essential practical and academic skills.

(3) Outline any existing measures in place to support parents, especially those from the low-income backgrounds who face extreme financial strain due to the increasing demands for class projects and learning materials under the CBC.

(4) Conduct a robust awareness campaign to familiarize all stakeholders, including parents, teachers and students, with the CBC requirements assessment and the necessary resources to ensure that this system is successfully implemented, so that our children can have equitable access to education.

(5) Provide clear timelines for investment in infrastructure and provide an adequate learning period and times with materials for public schools, particularly those in the under-resourced areas and from the poor areas of our communities, so that we can then ensure that all the students in our country have equal opportunity to succeed under this new educational system.

I thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, you can now change to the Supplementary Order Paper. In the list of orders, I can see that the Senator for Lamu County has two Statements and Nominated Senator Orwoba has one.

Let us defer those three Statements by the two Senators.

MAINTENANCE OF THE MKUNUMBI-KIBAONI
ROAD BY LAMU COUNTY GOVERNMENT

(Statement deferred)

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ROUTINE MAINTENANCE OF THE HINDI-KIBOKONI
ROAD IN LAMU COUNTY

(Statement deferred)

ALLEGED UNILATERAL INVESTMENTS OF FUNDS
BY THE MANAGEMENT OF THE UFAA

(Statement deferred)

I will now proceed to give two Members a chance to make maybe two-minute remarks on this Statement by Sen. Onyonka.

Proceed, Sen. Maanzo.

SUBSTANTIATION BY SEN. MAANZO ON COMPENSATION
OF FARMERS WHO RECEIVED FAKE FERTILISER

Sen. Maanzo: Mr. Deputy Speaker, Sir, with your kind permission, I had a pending matter, and I do not know whether I can address the House before clearing the matter. I had a pending matter yesterday regarding a Statement raised by Sen. Cherarkey and it would not be proper for me, being an experienced Member of this House, to address the House before that matter is cleared.

There was an issue yesterday in relation to the Cabinet Secretary of Agriculture and Livestock Development and the fake fertilizers.

The Deputy Speaker (Sen. Kathuri): Are you ready to substantiate?

Sen. Maanzo: Mr. Deputy Speaker, Sir, I was unable to meet the Principal Secretary (PS) and Cabinet Secretary for Agriculture this morning. I made an effort and the answer I got from a telephone call that I made to the CS was that he would call later. I did not collect the actual information, but as the Senator for Makueni, the information I have is that those who received the fake fertilizer in Makueni County have never been compensated.

The Deputy Speaker (Sen. Kathuri): Are you aware that you should substantiate now because this is---

Sen. Maanzo: I am aware of that fact, but I still stick to my position. They may have compensated other counties, but the people of Makueni county---

The Deputy Speaker (Sen. Kathuri): So, are you speaking about Makueni people, or you are seeking the Speaker's leniency because you have not been able to get the materials to substantiate?

Sen. Maanzo: I am seeking the Speaker's leniency to be given more time, so that I can access the PS and the Cabinet Secretary for Agriculture in order to obtain valid information.

The Deputy Speaker (Sen. Kathuri): Why are you not being direct? How long? One more day?

Sen. Maanzo: Yes, for one more day. I thank you.

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The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, proceed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I support the Statement by Sen. Onyonka. This is the correct process of querying. The CBC issue is of concern to all of us. I am happy that Sen. Onyonka's kinsman, the Cabinet Secretary for Education, Hon. Migos, has said that by January next year, 19,000 classrooms will be ready for grade nine students.

I want to advise Sen. Onyonka to be consulting him because they are kinsmen. He does not need to bring it to the Floor of the House, yet the President has given them a Cabinet Secretary for Education. They can finish it around Keroka. That was on a light touch---

The Deputy Speaker (Sen. Kathuri): Okay, continue, Deputy Minority Leader.

Sen. Wambua: Mr. Deputy Speaker, Sir, you should not allow Sen. Cherarkey to take that direction. Did you hear Sen. Cherarkey alluding---

(Sen. Cheruiyot spoke off record)

The Senate Majority Leader (Sen. Cheruiyot): He said it was on a light touch.

Sen. Wambua: There can never be a light touch in a speech as important as the one that he is making. He is alluding that since the Cabinet Secretary for Education is a Kisii, he must be speaking to Kisii's first before the Kisii's can bring matters to this House. What about those of us who have no Cabinet Secretaries that we can speak to? Who will address those national issues? CBC is not a Kisii issue; it is a national issue.

I am very sure Sen. Onyonka is not raising the matter on behalf of the people of Kisii. He is doing it for this country.

The Deputy Speaker (Sen. Kathuri): Thank you. Indeed, your statement is very much in order. The Cabinet Secretary for Education is a national leader. He is there to represent every Kenyan. Sen.

Cherarkey, you are a seasoned lawmaker in this House, but the statements you are making nowadays are very substandard. What is happening?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, you know Sen. Onyonka is my friend. He was telling me they normally fly back together with the Cabinet Secretary for Education and that most of their conversation is usually in their local dialect. It was on a light touch, but this is a serious and a substantive matter of national importance.

I agree with the issue of CBC. It is something that was born during President Uhuru's time and is being midwived by President William Ruto, and he is doing a good job of midwiving. No one likes change, but we are moving into a competent space. You know that people who underwent the 8-4-4 education system could not even make tea. They could not mix the tea leaves, milk and water. We want to build a system that gives people life skills. You need to ensure that the grade nine students in CBC are transiting. The President in the State of the Nation Address assured the nation that by January---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, just a minute. There is a point of order from Sen. Osotsi.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I was on fire.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I had raised an intervention to make a comment on Sen. Maanzo's issue.

The Deputy Speaker (Sen. Kathuri): I will give you time to make your comment.

Sen. Osotsi: Mr. Deputy Speaker, Sir, it is not very much related, but it is very substantial. You are aware that I was asked to substantiate on the matter of Moi University. I did substantiate in this House by providing all the evidence and the Speaker ruled that he was going to issue a communication. It is now getting into the third week and there is no communication on the ruling as to the evidence, which I had provided on Moi University.

Mr. Deputy Speaker, Sir, I want you to make a comment on that now that Sen. Maanzo was being pushed to substantiate under Standing Order No.105. What happened to my matter? Are we starting to deal with matters of this House administratively, or are we letting matters to be processed through this House?

The Deputy Speaker (Sen. Kathuri): The matter you are raising on the communication from the Speaker is just between where you are seated and the Speaker's office. Any time now, that communication will be brought before this House.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, you know the procedure of raising a point of order. Is it a point of order or a clarification?

Yes, just one minute. Proceed.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, the issue raised by the Senator of Vihiga County is very important. The only window left to the Chair on such a ruling is for him to come and inform the House that upon verifying the documents that were submitted, he was either convinced or not convinced that the matter had been substantiated.

The people of Kakamega are keenly following because they want to hear whether the matter has been substantiated. The moment it is, the people of Kakamega are going to court to sue the Senate for throwing out the Senator for Kakamega on that day, when the Senator for Kakamega was protecting his younger brother and the integrity of this House.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, I clearly said the communication is between the Speaker's Office and where I am seated. Any time that communication will be brought to this Floor --- I gave clear guidance on this, so let us proceed.

Sen. Cherarkey, you have one minute to conclude.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, under your guidance there should be a point of relevancy. This is not somewhere in Navakholo where you are campaigning for Kakamega matters. This is a House of national importance. Those are irrelevancies.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, can you---

Sen. Cherarkey: Mr. Deputy Speaker, Sir, this is not a bullfighting session. We are seriously canvassing. Those are mundane issues and you need to protect the integrity of this House.

(Sen. Wafula spoke off record)

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The Deputy Speaker (Sen. Kathuri): Sen. Wakoli, you are out of order. I cannot see any intervention and you know, in this House, we do not shout for points of order. You must catch my eye through the ---

(Sen. Sifuna spoke off record)

Sen. Cherarkey: I am waiting for the Deputy Speaker. Why are you harassing me?

The Deputy Speaker (Sen. Kathuri): Can you conclude?

Sen. Cherarkey: Can you focus on what I am saying? Sen. Sifuna should be patient with us. I know there are elections of the Orange Democratic Movement (ODM) - --

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, I do not think you have any other ---

Sen. Cherarkey: Mr. Deputy Speaker, Sir, can he allow us to do our business here? On the issue of the Competency Based Curriculum (CBC), I want to support Sen. Onyonka. The President assured the country that 16,000 classrooms will be ready for grade nine. As a House, we need to support the Government in the rollout of CBC. If anybody has a problem with CBC, bring a policy or a legislative intervention for the betterment of this country.

This is the only way we will ensure this country moves forward in terms of education. Let us build a skill and life-based curriculum, so that our people can get value for quality education and not quantity education.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Sifuna.

Sen. Sifuna: Mr. Deputy Speaker, Sir, every day, I continue to be a very proud Secretary General (SG) of the ODM party, and especially the contribution of Members of my party in discourse in this particular House.

(Applause)

The Statement by Sen. Onyonka, demonstrates that he understands the issues to do with CBC. It goes beyond school infrastructure and issues of the teachers or the staffing of our classrooms. This is the reason why in the morning today, I gave the President free advice. If there is anyone in this Parliament that he needs to keep close, it is the Senator of Kisii because he will guide him on some of these issues.

If you compare the Statement that has been brought by the Senator of Kisii and the President's Address, it is clear that the Senator of Kisii understands the depth of the issues that are bedevilling the CBC. The President took only two paragraphs to address the issue and he only spoke about hiring extra teachers and building classrooms. The issue, as Sen. Onyonka has framed it, goes way beyond those two issues.

You will see that he has spoken about measures in place to support parents. Here in Nairobi, many of our parents are complaining. Sometimes the children come home

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with extremely complex assignments and they also have financial implications. You have to buy materials. Parents are being asked to buy printers, and so on and so forth.

On the plight that the Senator from Nandi was talking about, I wish we could swap positions, so that the current Cabinet Secretary becomes the Senator and the Senator for Kisii becomes the Cabinet Secretary, I think the President will benefit more from the wisdom that is coming from the Senator of Kisii than from the current Cabinet Secretary.

Mr. Deputy Speaker, Sir, this is why we want to make it clear that you should avail yourself, as the Executive, of all the talent that is available for you in this country, so that you are helped. You can hear some of the pronouncements from the Senator for Nandi, they are not even helpful to the Head of State.

I said in the morning that I feel very bad because the Head of State is supposed to be benefiting from some of the wisdom that comes from this Floor. Unfortunately, you are just here to praise him and clap when you can see clearly that he did not even go into the in-depth analysis of the problem in CBC.

As I said yesterday, he framed the question, 'Are our policies in the education sector working?' He never answered the question. It is not about the classrooms or teachers. It is these issues raised here. I hope that we can invite the members of the Executive when the Committee on Education is dealing with Sen. Onyonka's Statement to also imbibe in the wisdom that is coming from Kisii and the ODM party.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Wafula.

Sen. Wafula: Mr. Deputy Speaker, Sir, when I wanted to say something, you stopped me from saying it, and someone said, I do not know how to use buttons.

I want to concur with Sen. Onyonka that as a teacher by profession, the Ministry and the curriculum being implemented have a big problem. There are big gaps based on policy implementation, the curriculum itself, the training of teachers and the funding of the programme. If we do not step into the gap now, our whole generation is going to limp in the dark.

It is important to take what Sen. Onyonka is talking about seriously. We will be judged by the product we produce at the end of the system. As a teacher, it really pains me to be churning out half-baked students. They are not critical thinkers, they think in terms of regions and have no sense of reality in them.

I want to correct my friend, Sen. Cherarkey, by saying that I am an 8-4-4 product.

(Applause)

When you look at me, I am competent enough to take care of my animals at home such as the chicken and also milk my animals. I am also able to make my own table and chairs and to spin my pullover. That tells you that all of us here who were a product of 8-4-4, are not here by fault or default. We are here by design. The system was efficient and that is why we are spewing wisdom and facts to this country. Therefore, allow us to shape the future and destiny of our children in the best way we know and devoid of shenanigans.

Sen. Cherarkey: On a point of order.

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Sen. Wafula: ---and noise making.

(Laughter)

Sen. Cherarkey: On a point of order.

Sen. Wafula: If this curriculum is going to entertain noise-making, then we would rather go back to the 8-4-4 system.

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. Wakoli.

Sen. Wafula: If the policy and I want to repeat---

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

Sen. Wafula: Mr. Deputy Speaker, Sir, these are signs of students who are present by sight and absent by ears.

The Deputy Speaker (Sen. Kathuri): Order, Sen. Cherarkey. If you want to make any point of order, you know how best to do it.

Sen. Wafula: Mr. Deputy Speaker, Sir, as a teacher, he needs to call both parents, so that we can guide these students.

Thank you.

The Deputy Speaker (Sen. Kathuri): Next Order, Clerk. We are resuming the debate on this Motion under Order No.8, which was interrupted in the morning.

Sen. Onyonka, you have eight minutes to conclude.

MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE DIVISION OF REVENUE (AMENDMENT) BILL, 2024

THAT, the Senate adopts the Report of the Mediation Committee on the Division of Revenue (Amendment) Bill (National Assembly Bills No. 38 of 2024), laid on the table of the Senate on Tuesday, 26th November, 2024 and further that pursuant to Article 113 (2) of the Constitution and Standing Order 167 (3) of the Senate, approves the mediated version of the Bill.

(Sen. Mungatana, MGH, on 27.11.2024)

*(Resumption of debate interrupted on 27.11.2024
- Morning Sitting)*

Sen. Onyonka: Thank you, Mr. Deputy Speaker, Sir. I want to thank you for giving me this opportunity, again, to continue with the debate we were having this morning. We were discussing the mediated version of the Division of Revenue Bill.

I had nearly finished my conversation, but there were about three points I wanted to raise. I wanted to plead with my colleagues in this House. This country is not poor. For all intents and purposes, if you look at the budget we have, it is a budget that can run itself.

The total amount the county governments are getting for the last 10 years from the Auditor-General and the Control Budget (CoB) reports, has been about Kshs1.6 trillion that has gone to the villages, presumably. Nonetheless, again, this is the time when the disease that we suffer from, as a people, where we consider that personal success is the driver behind the change that we need in Africa, or when we continue to think that we need to solve the problems that we have and outsiders are going to solve them for us.

Mr. Deputy Speaker, Sir, the amount of money that governors have received in the last 10 years, since the promulgation of the Constitution, is money that by now would have made Kenya a very successful, developed African country. The problem is the disease of stealing public money and the idea of getting friends to control the resources of this republic, and particularly the governors who have made it a habit of thinking that all Kenyans are stupid. That is why they coordinate and organize their friends to do contracts and make sure that we have no medicines in the hospitals. They come and fire all the technocrats that were employed by the previous regime, whether this technocrat was a good officer or not, and then they bring their friends and relatives who control the money that they are going to steal.

Mr. Deputy Speaker, Sir, you know cases of how many of our friends who actually came from very poor backgrounds, are candidates who have run for governorship. There were basically people who came from very humble backgrounds. You would think that individuals who have been exposed to this kind of life of denial and rejection, would pick this country up, put it together and make sure that we spend the resources we are supposed to, to try and change the trajectory of where this country is going to.

Mr. Deputy Speaker, Sir, what do we do? Of course, we take everything. You find our hospitals do not have medicine. The roads are done poorly. As I speak, like in my County, Kisii, it is the Chinese companies that are doing roads when the locals have nothing. Then when governors are told to pay the pending bills, they void more than 1,900 payments under the Integrated Financial Management Information System (IFMIS). How can you void government payments 1,600 times? It means you are stealing.

Mr. Deputy Speaker, Sir, the Ethics and Anti-Corruption Commission (EACC), which is the institution that is supposed to manage our bad manners and the stealing we are doing, are all compromised and they keep complaining that I am hitting at them. I hope that the incoming director will pick up his bootstraps and do something because, our country is haemorrhaging. Governors need to know we are their friends. We are willing to add them more money. Members of Parliament must understand that we do not want to take their kitties, but we are behaving badly. We are misspending state money and the

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resources which we need to help our most vulnerable people, yet we are behaving as if nothing is happening. We have the capacity, but we refuse to accept our capabilities. I hope that we will bring legislation with some of you Members who have been wonderful, so that we can close the loopholes where this money is being stolen from and through.

Mr. Deputy Speaker, Sir, I listened to the presidential speech the other day. How I wish he would have said, “we have at least 20 names of individuals that have already been arrested or we are arresting because they have stolen tons of money from our poor people.” However, we never hear that because it is not important. We only react when the Gen Zs get to the streets.

Mr. Deputy Speaker, Sir, I am not anti-government. All these people in government are my friends. We just want them to govern well. We want the governors to govern well. We want the people running football in Kenya to govern it well. We want people who are running Nairobi City County to govern it well. That is all we want.

Thank you for giving me time to speak about this matter.

The Deputy Speaker (Sen. Kathuri): On my screen, I can see some of the Senators who contributed in the morning, like Sen. Cherarkey. Did you contribute?

Sen. Mwinyi Haji Mohammed, please, proceed.

Sen. Faki: Asante Mhe. Naibu Spika kwa kunipa fursa hii, pia niongeze kauli yangu kuunga mkono Ripoti ya uwiano kuhusiana na sheria ya ugawaji wa pesa.

Mhe. Naibu Spika, hii ni mara ya pili tumeleta Ripoti ya uwiano kuhusu maswala ya sheria ya ugawaji wa pesa kati ya Serikali Kuu na Serikali za County. Hapo awali, tulileta uwiano ambapo tulikubaliana kwamba pesa ambazo zinastahili kwenda kwa county ni Shilingi 400.1 bilioni.

Ripoti pia imesema kuwa tumekubaliana kwamba Shilingi 387 bilioni, ziende katika kaunti zetu. Hii ilitoka kwa sababu Mswada wa Fedha mwaka wa---

(Sen. Kibwana spoke off record)

Bwana Naibu Spika, kuna maswala ya Lamu hapa na sijui kama yanahusiana na *Senate* ama---

(Applause)

The Deputy Speaker (Sen. Kathuri): Malizia.

Sen. Faki: Asante, Mhe. Naibu Spika. Lamu ilikuwa inachemka hapa.

Kwa hivyo, pesa zimefunguzwa tena mpaka Shilingi 387 bilioni, kwa sababu ya kuondolewa kwa mswada wa fedha wa mwaka 2024 kutokana na maandamano ya Gen Z na mambo mengine.

Mhe. Naibu Spika, la msingi ni kuwa, ni lazima kaunti zetu zijue kwamba fedha kutoka kwa serikali zinapungua. Ijapokua fedha zinaongezeka kwa kiwango, kwa mfano, mwaka huu tumeongeza Shilingi 2 bilioni, lakini tukiangalia katika maswala ya asilimia, zile pesa ambazo zilitoka katika Serikali Kuu kuja kwa kaunti mwaka 2013 mpaka sasa zinateremka chini. Hii ya sasa ni asilimia 13 ama 15 ya zile pesa ambazo zilitolewa.

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Kwa hivyo, Mhe. Naibu Spika, ipo haja ya kaunti zetu kujaribu kuingia mifukoni wakusanye pesa ambazo wanatarajiwa kukusanya. Kama ni maswala ya kuleta mifumo ya kiteknolojia ya kukusanya pesa ifanyike hivyo ili pesa zinazokusanywa kutoka kwa kaunti ziwe zinajulikana na vile vile zitumike kwa matumizi ambayo yatasaidia maendeleo katika kaunti zetu.

Haiwezekani mpaka sasa county zingine zinakusanya pesa kwa mkono. Mtu anatoka asubuhi na vitabu kumi akiregesha labda ni vitabu viwili na pesa ambazo amekusanya hazijulikani na wala hazifanyiwi hesabu na haziingii katika hesabu ya *Auditor* mwisho wa mwaka. Lazima county zetu zijitahidi ili ziweze kukusanya pesa za *own-source revenue*. Kwa mfano, *Nairobi City County*, yatarajiwa kukusanya zaidi ya Shilingi 60 bilioni, lakini mpaka sasa wako katika Shilingi 12 bilioni au 13 bilioni. *Mombasa County* wana uwezo wa kukusanya Shilingi 10 bilioni, lakini sasa tuko kwa bilioni tano, nusu ya uwezo wake. Kwa hivyo, ipo haja ya kaunti zetu, si kila mwaka wapige kelele kuwa pesa zinazokuja kutoka Serikali Kuu ni kidogo. Wanafanya nini kukusanya hizi fedha? Hizi fedha zikifika kwao zinaleta maendeleo? Hospitali hazina madaktari wa kutosha na vile vile wafanyakazi katika masoko hawako. Kwa hivyo, ni lazima county zetu pia zijitahidi. Isiwe kwamba lawama inaenda kwa Serikali Kuu kila siku. Ndio, lazima tulaumu Serikali Kuu kwa sababu wao ndio wenye mfuko mkubwa lakini kaunti zetu lazima zijitahidi.

Kwa hayo mengi, Bw. Naibu Spika, naunga mkono Ripoti hii.

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

(Loud consultations)

(Interruption of debate on Motion)

Order, Senators!

COMMUNICATION FROM THE CHAIR

VISTING DELEGATION FROM THE UNITE PARLIAMENTARY NETWORK FOR GLOBAL HEALTH AND UNITAID

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, a visiting delegation from the UNITE Parliamentary Networks, for Global Health and Unitaid. The delegation is taking a courtesy call to the Senate to discuss how UNITE can continue to collaborate with and support Kenyan legislators as global champions.

Hon. Senators, I request that each member of the delegation rises when called, so that they may be acknowledged in the Senate tradition-

- (1) Ambassador Gunnar Andreas Holm - Norwegian Ambassador to Kenya
- (2) Mr. Abdul Karim Ibrahim - Africa Regional Coordinator, UNITE Parliamentary Network for Global Health

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- (3) Mr. Cintia Olivera Dantas - Partnerships and Resource Mobilization Officer, UNITAID
- (4) Mr. Matthew Black - Country Engagement, Manager, Unitaaid.
- (5) Mr. Chikosa Ngwira - Programme Officer, UNITAID
- (6) Mr. Louis da Gama - Interim Board Member, UNITAID
- (7) Hon. Dennitah Ghat - Former Member, National Assembly, Kenya; I served with her in the 12th Parliament. *Karibu* Senate.
- (8) Hon. Sveinung Stensland - Member of Parliament, Norway
- (9) Hon. Federica Onori - Member of Parliament, Italy
- (10) Hon. Jean Francois Mbaye - Former Member of Parliament, France

This great team is accompanied by partners of UNITE Parliamentary Networks from Global Health and UNITAID who are 13 in number. We recognize your presence in the Senate.

(Applause)

Hon. Senators, on behalf of the Senate and my own behalf, I extend a warm welcome to the delegation and wish them a productive visit and fruitful discussions on the vital work of advancing global health, particularly in collaboration with the Kenyan lawmakers.

I thank you.

I invite Sen. Sifuna Edwine, in a minute or two, to welcome the visitors and then, Sen. Hamida Kibwana, who is a member of the team.

Sen. Sifuna: Thank you, Mr. Deputy Speaker, Sir. Members of this House should always allow us to provide important context. So, when I point out that the Hon. Dennitah Ghati was nominated by ODM, it is not something that should be frowned upon. This is information that should help you, and we are very proud of her work. It is not about division, but as the Secretary General (SG) of ODM, I am allowed to take pride in my membership and the work that they are doing.

(Laughter)

Mr. Deputy Speaker, Sir, on behalf of the Minority Side that sits on your right as a delegation, I want to take this opportunity to welcome all of you to this House. As you can probably tell, there are a few hecklers around and we have to contend with them, but we will do our best to express ourselves when we stand here. It is a very difficult environment.

I am being alerted to the presence of the Hon. Mark Nyamita, the Member of Parliament for Uriri, elected on ODM Party. Therefore, when I bring up these facts, it is not to despise anybody. Everyone should be proud of their political parties. If you are having wrangles in your home, do not begrudge us who are happy in our house.

I, therefore, take this opportunity to welcome you.

The Deputy Speaker (Sen. Kathuri): Sifuna, just welcome the guests and that will be enough.

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Sen. Sifuna: I take this opportunity to welcome the entire delegation to this House, and I am sure that specifically the two Members that I have mentioned, Hon. Denita and Hon. Mark Nyamita, will treat the members of the entire delegation in the fashion in which we have directed as a party when we are hosting guests.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Hamida Kibwana.

Sen. Kibwana: Thank you, Mr. Deputy Speaker, Sir. I will echo my SG and invite you to UNITE's team. I am a proud member of UNITE'S health team and I sit in the steering committee.

Mr. Deputy Speaker, Sir, just give me a second to highlight on what UNITE focuses on. The key focus areas include universal healthcare, the intersection of public health and human rights, gender equity in health, and sustainable responses of emerging health crises. UNITE are policymakers, academics, and civil society. UNITE amplifies the voice of parliamentarians to advance global health and ensures inclusive, effective governance.

One of UNITE'S meaningful steps is to strengthen partnerships across the region. Notably, the chapter initiated a collaboration with the University of Health and Allied Science in Ghana. Right now, they are in Kenya trying to collaborate and work with us to develop an academic programme and also global campaigns and public health awareness.

I wish to thank Abdul Karim Ibrahim, who is the African Regional Coordinator of UNITE Parliamentarian's Network, for bringing us together. I was appointed and was only done an interview and within one day, I was sitting on the steering committee of UNITE.

UNITE has taken me places, has initiated me to go to different countries. The other day I was appointed to go to Berlin to sit as a panellist in one in a forum I cannot clearly remember. That was during the time that we were going through impeachment, but I was unable to attend. However, I take pride and I welcome them. I also welcome the Members of Parliament from different countries. I tell them Kenya is a beautiful country and as much as they may see our debates here, they are quite healthy. At the end of the day, we remain good friends from both the opposition and the government side.

I am sure they have enjoyed and, of course, benchmarked in all the other places that they have been to like in Makeni, Kenyatta National Hospital (KNH) and the rest of the places. I now know that they are going to the National Assembly. However, I would like to tell them that Kenya is the place to be and Kenya is a country to engage with.

(Applause)

The Deputy Speaker (Sen. Kathuri): I will also give the Majority Leader a minute or so to welcome the delegation.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir, now that is a welcoming remark. You know, as a father of this House, you should know the trade of all your children. There are some for welcoming guests and there are others for other duties. Sen. Sifuna is for other duties.

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(Laughter)

I join my colleagues in welcoming this gracious team. I have listened to the resume of the work that they do, and I am particularly impressed in their pursuit of global health, particularly at this time in Kenya when we are having a conversation about the Universal Health Cover. It will be then important to listen to them on their conversations of what Kenya can do better.

This is the second month of the rollout of UHC after this House passed four signature Bills that have anchored, perhaps, the most consequential national programme to have ever been rolled out since Kenya became a republic. Like any new venture, we are experiencing challenges left, right, and centre, but there are good stories to write home about. I believe that from their visit to our various hospitals, especially KNH, there are many things they have pointed out and would wish that either the government or the people of Kenya could do better. However, more importantly, it would be good to hear from them because they sit at the global level. What are their perspectives in comparison to other jurisdictions globally, especially countries that have tried to roll out UHC? What are the lessons that have been learned and what can Kenya do to ensure that this program succeeds because it will be life-changing to ordinary citizens?

I have heard from Sen. Hamida that after this they are going to the National Assembly, but I hope that should an opportunity be granted, it will be good to listen to them, particularly our own Members who serve in the Committee on Health. I know the Chairperson of the Committee on Health is with us, so that as they provide oversight, they could benefit from that perspective of these friends of ours. I do welcome them Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you, Majority Leader. In this team, we have two Members from our sister House, and I want to recognize their presence. Hon. Mark Nyamita and Hon. Daniel Molekere, also a Member of the National Assembly, although I do not know whether he is around.

Senate Majority Leader, at 4.00 p.m., I will be receiving this delegation on behalf of the Speaker of the Senate. I welcome the Senate Standing Committee on Health, so that they can accompany me in that discussion in order to see how best we can tap from their knowledge.

The Chairperson is not here, but I saw the Vice-Chairperson. Sen. Mariam, kindly join us in Committee Room Four upstairs for that meeting at 4.00 p.m.

Now ,we go to Sen. Abass. We will resume debate on the Motion. Go ahead.

(Resumption of debate on Motion)

Sen. Abass: Thank you, Mr. Deputy Speaker, Sir. I also want to join my colleagues in supporting the report of the mediated version of the Division of Revenue Bill.

I commend the Committee on Mediation for the good work they have done. However, I have concerns. We expected more money than what we have been given. The Kshs22 billion is not enough to take care of the county's interests. At most, they will get

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at least Kshs42 million each. The counties represent the larger population in this country. Most Kenyans receive services from the counties.

What we have at the national level are policy issues. The actual work and the socioeconomic issues are taking place in the counties. The way the counties are being funded is disheartening. Every time a budget is to be made, there has to be mediation. We need to look into this issue, especially the Acts of Parliament that govern the budget-making process. This issue should be settled once and for all. I also suggest that all funds relating to counties and the appropriation of funds to counties should first come through the Senate. Only after passing in the Senate should the Bills be taken to the National Assembly to allocate the recommended monies.

This business of delaying the approval of the appropriation Bills is causing many delays. Counties are paying huge wage bills for the provision of medical services and other services like water. The more we keep delaying, the more the counties are actually incurring a lot of pending bills. They have inherited some benefits that need to be made. Some of the counties are being taken to court of late.

We also need to strictly follow the law. Counties receive less than the recommended 15 per cent. Despite the seepage in the counties, corruption is not exclusive to them. Corruption is everywhere in this country. It is in every institution.

It is high time that we institute serious measures against the corrupt people who are trying to steal money and public property. I always overhear that the counties have a lot of corruption, but the corruption emanates from high levels of Government.

As I have said many times, the best thing to do is strengthen our oversight institutions. These institutions should include the Ethics and Anti-Corruption Commission (EACC), the Senate, the Directorate of Public Prosecution (DPP), and the Directorate of Criminal Investigation (DCI). Then, we will be able to curb this business of stealing money left and right.

The Senate should also take its own responsibilities to provide proper oversight. However, when a governor is brought to the committees, and the money appropriated to the county does not add up, the Senate has no authority to prosecute. We need to review the Senate's oversight roles.

With those few remarks, I support the Bill.

The Deputy Speaker (Sen. Kathuri): Sen. Murgor, proceed.

Sen. Murgor: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to also add my voice to those of my colleagues.

This issue of division of revenue is something that is a big debate between the Houses and in the minds of many because of what they see happening on the ground. Stealing is rather very rampant and open these days in the counties. This makes devolution a questionable state in the minds of many because of the expectation that the citizens have or had on devolution, knowing that money is coming to the counties from the National Treasury. Also, the collection of revenue, in addition to the national funding, would really be something that would change a lot of situations on the ground. However, stealing or corruption that governors practise and those operatives in the counties are putting devolution in such a state that is being questioned a lot. There is a lot of empowering of personal friends and relatives through the 'cake' of the county, which

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is open and rampant. Such that even the citizens and the people in the county are losing hope. The citizens are looking at it as being the business of the governor and his people.

Then, there are also many biases in employment and placements that the county governments are practising. The citizens in these counties are losing hope because it is like this is a private company owned by the governor. Therefore, the citizens are losing hope, and their expectations are really being discouraged. As a result, they are losing a lot of faith in the governor and team in the county.

Also, when it comes to companies that work on roads, in buildings, and in many other activities in the counties, you find that the governors are paying companies that are associated with them - either relatives' companies or their own companies that they register in names that do not obviously show that they are the owners or the ones running them. Those companies become the ones that are the priority when it comes to payments. They first pay themselves. These are not a few companies. They are not one, two, or three. There are about 100 companies, or even up to 300, in some places. This drains whatever money there is for bills that are supposed to be paid and spread to other companies so that there is circulation of money among other companies. Therefore, at the end of the day, among other people who run businesses here and there. If money is spread, everybody will benefit. There will be people who will buy vegetables or sugar. At the same time, other people will pay others to work on their land and work on their settings here and there. Therefore, a county becomes one where money is spreading to everybody. That is not happening, because payments are made to those companies that are associated with the governors.

Also, they are running counties like it is their own private companies. People are just intimidated, so that the governor is not criticized. Those who are working with the governor become lords and people who are pushing authority over the people. Therefore, they just make the governing of the county become like a private company and the owners becomes become untouchable.

Revenue collection is also not up to where it is supposed to be in most of our counties, because there is a lot of stealing. If the boss is stealing, those who are collecting the revenue know that this belongs to the boss. Therefore, they will go ahead and help themselves and steal from the first stage of the collection. At the end of the day, everybody will steal it because they have seen the governor doing it. So that leaves development in a devastating situation. You talk of roads that are impassible in most places and frustrated health. The doctors and the nurses and everybody who is supposed to be working and contributing to the well-running of health facilities and health activities are just disappointed, discouraged and demoralised. That brings down the levels of services of health. Consequently, many people are losing their lives. Situations that would be helped health-wise are just running out of hand because the governors are not running the hospitals like they should so that it helps the people.

Additionally, counties are running away from the Early Childhood Education Centre (ECDE), which is devolved. It is the work of the governors but they are treating it as if it does not belong there. They are just like orphans in somebody's home whose children are there, and looking at these orphans with an unfair eye. So, ECDE personnel do not know where they belong. They do not know where they are supposed to be

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because the governors are not treating them as they should even though that is where they belong. Therefore, something really needs to happen so that the counties are made to be responsible for ECDE.

Governors also allege that they are not paid, and there is no funding. That may be true in some, but not all the months because the Cabinet Secretary for the National Treasury reported recently that funding has been released up to October. What is owed to the counties is this month of November. There should be a change. There should be movements because funding is already there or has been happening.

Activities that are supposed to be on and active should be on, but the governors are in denial. As they do that, they are busy building and buying houses and homes for their own selves and their people relatives. You find that in the towns that are near where the governors are, a lot of activities for the governor are going on. For example, the Governor of Machakos is busy in Nairobi or Mombasa. The one of Mombasa is busy somewhere, building somewhere and buying land, and yet they are telling the citizens and everybody else that there is no funding coming to them.

Our position as Senators who oversight should be strengthened. That needs funding so that we are actively doing our work of oversight. Then something should be done about officers of the Ethics and Anti-Corruption Commission (EACC) because some of the agents sent to counties are busy collecting money. These governors and their people are bribing EACC officials. They are just busy because these days they carry cash in their vehicles to give to these guys. So as they chase them around, they are just busy collecting money. Auditing reports should be strengthened and people should go to jail so that it becomes a lesson to others.

I support.

Sen. Wafula: Asante Bw. Naibu Spika kwa nafasi hii kuchangia kuhusu makubaliano kati ya Seneti na Bunge la Taifa kuhusu mgao wa fedha utakaoafiki maendeleo katika nchi ya Kenya.

Siku zilizopita, Maseneta wamekuwa wakijihusisha na mchakato wa kutia kwenye mizani utekelezaji wa kazi au maendeleo katika kaunti mbalimbali katika kamati mbalimbali.

Baadhi ya magavana waliokuja, baadhi yao walikuwa wangwana na kukubali makosa lakini wengine walikana makosa ila sisi tuliwakosoa. Fauka ya hayo, kuna wale ambao walikuwa na kiburi na vichwa butu. Walikuwa wanadhani na kusema ya kwamba hakuna chochote Seneti inawasaidia.

Nashukuru Maseneta waliosimama kidete na kusema ya kwamba fedha zinazoenda katika kaunti zetu zisipungue chini ya shilling billion mia nne. Shinikizo ama ukosefu wa pesa katika kaunti uliwalazimu magavana kukubali ya kwamba Seneti ipo na itaendelea kuwepo kutetea pesa zinazoenda katika kaunti na vilevile kuchunga maslahi ya kaunti zetu.

Linalosababisha ninyanyuke na kutoa Hoja zangu ni kwamba Kaunti ya Bungoma ni mojawapo ya kaunti ambazo zimekuwa na fedha chache. Gavana amekuwa akisema hana pesa za kutekeleza miradi ya maendeleo. Ni sawa, lakini sasa tumemaliza shida iliyokuwepo ya kukubaliana.

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Natarajia kule mashinani Bungoma, maeneo ya mazoezi ya wanariadha kule Mlima Elgon yatakamilika. Imechukua zaidi ya miaka 10 eneo hilo kujengwa na fedha ambazo Bungoma imepata kufikia sasa ambazo ni zaidi ya bilioni thelathini na sita. Seneti inapaswa kujiuliza iwapo miradi ambayo magavana wanajishughulisha nayo itakamilishwa katika awamu yao ya uongozi ama watapata kiinua mgongo na kuwaachia magavana watakaokuja shida na madeni jinsi tunavyoona.

Bw. Naibu Spika, ukiangalia sekta ya afya, kule Bungoma, hakuna dawa kwenye hospitali. Vile vile, kuna mijengo na miundombinu ambayo haijakamilika. Nyingi ya mijengo hiyo ilianzishwa na magavana waliokuweco. Kile tunadai ni kuona magavana wakikamilisha miradi ya maendeleo ambayo ipo. Hatutaki kuona magofu ya miradi katika kaunti zetu.

Vile vile, sekta ya ukulima imeathirika pakubwa na utepetevu wa baadhi ya mawaziri na magavana katika Kenya hii. Tumekubali kuwapa pesa lakini ni lazima uwajibikaji udhihirike na uonekane kadamnasi ya umma. Nakubaliana na ripoti ya Kamati ya Uwiano ambayo ilihusisha Seneti pamoja na Bunge la Taifa.

Nilileta Taarifa iliyoelekezwa kwenye Kamati ya Barabara, Uchukuzi na Makazi na sasa karibu miezi saba imepita. Juzi kule Bungoma, kuna watu waliodai kuwa--- Kuna barabara ya foleni mbili au tatu ambayo ilijengwa na baadhi ya Maseneta wanajua. Fedha zilitoka katika awamu iliyopita. Badala ya kukamilisha barabara hiyo, walianza kuipaka rangi. Naomba kamati ambazo ziko hapa zisiwe za kuimbia magavana nyimbo kama watoto wa chekechea. Lazima magavana wawajibike, kazi iliyotendeka ionekane na malipo yanayotolewa yaonekane kuwa yametolewa kwa haki.

Ninatarajia kwamba tunaposonga mbele, tutaweza kupewa nguvu na uwezo unaostahili kwa sababu hata sisi Maseneta tumekuwa kama makachero katika Benki Kuu ya Kenya ambapo kile tunacho ni Bibilia na rosari. Tuonapo wezi, tunasema kwamba iwe jinsi Mungu alivyopanga. Hafla ama maombi kama hayo hayapaswi kuwa tu ya Maseneta. Inatakikana tukiona nia ya mwizi tunapambana nayo mapema.

Naomba kwamba tunapomaliza mchakato huu, fedha ziende katika kaunti zetu nasi tuziandame ili kuhakikisha kuwa magavana wanafanya kazi, wanakandarasi kule mashinani wanapewa nafasi na watoto wetu wanapewa kazi pasipo kubaguliwa jinsi ilivyo.

Tunapoingia kwenye msimu wa Krismasi, ningependa tuone mabadiliko. Hatufai kuwa na mtamauko bali maono mazuri ambayo yatatusukuma kwa mwaka unaokuja ili mwaka huo tuwe na mapenzi na umoja katika mustakabali wa nchi ya Kenya.

Bw. Naibu Spika, naunga mkono makubaliano ya Kamati ya Uwiano. Asante sana.

The Deputy Speaker (Sen. Kathuri): Sen. Dullo Adan Fatuma, you have the Floor.

Sen. Dullo: Mr. Deputy Speaker, Sir, I stand to support this report, although with a very heavy heart. I am saying this because of what I see in my county and many others in the committees that I sit on.

We sit here every year and fight for counties to get budget allocation. I have been in this House and this is my third term. Some Senators in this House have even sacrificed their lives in the last Senate. They have been threatened by the Government and arrested

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simply because of supporting a certain position as far as the Third Generation Formula is concerned.

According to what I see in my county, it is like Kenyans do not know the role of Senators. When you carry out your oversight role, people ask what you have put on the table as far as development is concerned and why you have not given them bursaries, yet we sit in this House and fight with the national Government, the National Assembly, and the Commission on Revenue Allocation (CRA) to make sure that counties get budget allocation. The Senate needs to do a lot of sensitisation as far as our role is concerned because many people in the counties seem to not understand why they elected their Senators.

I support this Motion with a heavy heart because of the kind of practice that I see not just in my county, but also in this House. We push for money which governors refuse accountability. They do not want to be held accountable, yet when money is delayed, they are the ones who shout at the top of their voices that there is no money and, therefore, they cannot run their activities. However, when they get the money, they do not even carry out those activities.

I am really wondering why the Senate is there. We have a rogue governor in our county who has refused to appear before certain committees of the House. That governor refuses to honour summonses. He cherry-picks which committee to appear before and which he should not. He has taken two committees of the House to court to refuse accountability. One may wonder because he is the one who shouts in the county that he has not received the budget.

Mr. Deputy Speaker, Sir, apart from the Senate, we have institutions that are supposed to hold governors accountable, but they are not doing what they are required to do by law. As far as the Governor of Isiolo is concerned, we need direction from your Chair because there is no way he can appear before the Committee on National Cohesion, Equal Opportunity and Regional Integration and refuse to appear before the Committee on Health and take them to court. That is an abuse of this particular House.

He can appear before a certain committee and disparage other committees. When he appeared before the Committee on National Cohesion, Equal Opportunity and Regional Integration, he praised the committee and said it was the best committee of this House. That means that the rest are not committees that he should appear before.

If I may talk about health, most of our hospitals do not have drugs completely. There is a morgue in my county that has not been working for the past two years. When I bring a Statement to the Floor of the House, it goes to the committee, but the governor refuses to appear or honour summonses. When a warrant of arrest is issued, he rushes to court to block it. Where are Kenyans going to go when such things happen?

We must have a solution to it. We cannot just sit here and pass budgets then people refuse accountability. We must hold some of our colleagues accountable because some of them are entertaining rogue governors. When they abuse Senators, they are abusing the whole Senate and not just individuals.

Look at our roads; there are no roads. The other day in my county, people were unable to bury the dead because roads are not passable. Counties do not have qualified individuals who can supervise and monitor roads. Money is dished out to politically-

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correct individuals, but the roads are not done. In their reports, they will say that they have done “A”, “B”, “C”, or “D” roads, but when you go to the ground, those roads are not there.

What is the role of the Auditor-General and other institutions? Those are questions we need to ask ourselves. I mean this is 21st Century, but we keep on crying that this or that is not happening.

Moving to the issue of water, a lot of money is allocated, but you will find that in some areas such as where I come from, our mothers are still carrying jerrycans on their backs for 100 kilometres or using donkeys. They can stay even for two days without water, yet budgets are allocated.

Mr. Deputy Speaker, Sir, there are some who do double allocation on budget where donors have dug boreholes or provided water and nobody is holding them accountable. Most of the counties they are still on manual collection of revenue intentionally.

Governors have refused to automate their revenue collection because it is going into people's pocket. We cry that they do not have money and fight with the National Assembly every time that they should increase budget allocation. However, counties have refused to automate their revenue collection that should have supplemented the national budget allocation.

There are counties with a high wage bill. For example, the wage bill of Isiolo County is at 50 per cent right now and they keep on recruiting more people. It is very sad when a county submits a report that is doctored and tampered with before a Committee, and then the Committee praises that report. The Governor of Isiolo County recruited 42 advisors.

When he appeared before the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration, he re-designated them, backdated the dates of their appointment and dates of birth. I have a copy of that report and I can table it before this House. We have institutions that can counter check that.

There is someone who has been appointed as an advisor, but has never been to school. He is earning a salary of Kshs200,000, but has only an Identity Card (ID), yet we have graduates, master's degree holders and PHD holders who are jobless. The salary given to an individual who has retired could have employed two or three graduates in our counties. Someone has the audacity to say that they know everybody in this Government and nobody will take them anywhere. That is very sad.

We have individuals recruited in Isiolo County from as far as Mombasa running their businesses. In all the counties, you will see over 80 ghost workers and nobody is taking action. I can provide the list on the table of the Senate. The law says that the wage bill should not go above 35 per cent. Today, there is no county in this country that has a wage bill that is below or is 35 per cent.

Mr. Deputy Speaker, Sir, let me not put a lot of the challenges I face in my county and many counties that I have seen. You will also see that in the Auditor-General's Report. In some of the counties, the Auditor-General's Report does not capture development projects where millions and billions are being lost. We are losing a lot of money. The report of the Auditor-General will cover allocation to the Council of

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Governors (COG) and County Assemblies Forum (CAF), where counties are losing a lot of money.

We also have projects that have stalled, but nobody is holding those governors accountable. Some of the national government projects have also stalled. Sometimes nobody even knows what is happening with those projects. We must put our act together.

The Early Childhood Development Education (ECDE) is a responsibility of county governments. This afternoon, a teacher from Isiolo County has called and told me that their pay slip indicates that they are clerical officers, yet they are teachers. The title they are given by the county is clerical officers. That their salaries have deductions to SHIF, loans and subscription to certain institutions, but not remitted. Today, they cannot walk to any financial institutions to get any loan. Some of their properties are auctioned.

We keep on recruiting ECDE teachers to satisfy our political ambitions and the teachers do not have classes. I know there are so many schools in my county where children are still learning under trees, while a classroom can be built even with Kshs1.5 million. A county like Isiolo receives Kshs5.6 billion per year. It is very sad.

The allocation to the school feeding programme is supplemented for something else, yet these are children that cannot afford even one meal in their homes. That is the purpose of school feeding programme; to encourage such children to go to schools. Counties are supposed to establish legislations that govern certain funds, such as the Persons with Disabilities (PwDs), youth and women funds.

Most of the counties have not operationalised those funds, yet they keep on utilizing money for those purposes, and nobody is holding them accountable. For example, in the Northern Kenya, a lot of money is spent on the emergency and special programme in the name of emergency, but that money is not helping anyone. If there is a drought, they provide one or two lorries of maize meal that costs about Kshs300 million and nobody looks into it.

Mr. Deputy Speaker, Sir, we need to bring on board institutions that are supposed to hold the governors or counties accountable. It is unacceptable. It is almost 13 years after devolution and we have nothing to show for. Some of the counties were better off when under the national government. I will support the Report because of the interests of my people. However, if it were for the governors who are playing rogue and corrupt, I would not have supported.

I thank you.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM WAJIR
AND GARISSA COUNTY ASSEMBLIES

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of eight officers from the county assemblies of Wajir and Garissa. The officers are undertaking a capacity building

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programme on coaching and mentoring in leadership at the Center of Parliamentary Studies (CPST), County House Campus. On behalf of the Senate and my own behalf, I extend a warm welcome and wish them a fruitful visit.

I thank you.

Sen. Mungatana, welcome the visitors from Garissa and Wajir county assemblies in under one minute.

Sen. Mungatana, MGH: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to welcome the visitors. I particularly welcome the visitors from Garissa, who are our good neighbors on the other side of Tana River County. We also welcome the other visitors.

Mr. Deputy Speaker, Sir, I know that when they go to the Centre for Parliamentary Studies (CPST), they will learn a lot. There is a lot of capacity building in that college. We believe that for the time that they will spend here in Nairobi with us, they will go back better leaders and more equipped to serve the specific counties where they come from.

I welcome them. I thank you.

The Deputy Speaker (Sen. Kathuri): We are back to the Motion. Last but not the least, Sen. Wambua proceed.

(Resumption of debate on Motion)

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to also add my voice to the report of the Mediation Committee. I have followed very keenly the contributions that have been made by my colleagues who have taken time to peruse the report.

It is true that we are living in difficult times economically and all of us must acknowledge that. It is also true that our counties are seriously suffering. There are services that have been rendered in counties and for which there is no money to pay.

Business people in the counties are counting their losses. Employees and staff in the counties are also suffering. Some counties have actually almost ground to a halt. It is in the context of that background that we are debating this recommendation by the Mediation Committee to agree on a figure, which in the wisdom of the Committee - because we gave the Committee the mandate - is reasonable.

Mr. Deputy Speaker, Sir, allow me to say a few things before I make a declaration on my position on whether I support or do not support. As we debate this report, it should be remembered that most of our counties have actually come under the capture of sitting governors. Governors have actually become the stumbling block for success and progress in their own devolved units.

I say this because having listened carefully to what almost every Senator said, there is a common denominator when it comes to the behaviour and accountability of a majority of the governors in this country. Members should take note that, in fact, it is the business of Parliament to share revenue amongst the two levels of Government; the national Government and the county governments.

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The decision of Parliament on how that money is shared must never be influenced by the plans or aspirations of the national Government. It must be a very objective decision made by Parliament because both governments belong to this country. I want to say two things about the utilization of this money that we want to devolve to our counties, especially in the health sector.

We all agree that health is a devolved function. However, I do not know of any county - I stand to be corrected - that can stand here and say that their health sector is in good shape. I do not know of any county. At least I can speak for my county and counties in my region.

Mr. Deputy Speaker, Sir, health has become a major challenge to counties and county governments; from basic lack of infrastructure for health facilities, to drugs, equipment and personnel. I will be recommending, as the Senator of Kitui County that there will be need for a national conversation around the mess in the health sector. I say that because everybody aspires to achieve Universal Health Coverage (UHC) and it is a beautiful thing. Everybody wants us to get there. However, truth be told, if we do not fix the basics, then this talk about UHC is just empty talk. We must have the courage to ask ourselves what exactly is the problem with our health sector in all counties in this country and even at the national level. Access to affordable health care, from where I sit, is actually a basic human right. A right that must be afforded to each Kenyan in every corner of this country.

Even as we debate on the money that we are going to be devolving to our counties, it will also be important, as a Senate and individual Senators, to scrutinize the percentage of county budgets that go into healthcare. We should do this in liaison with our respective county assemblies. This is important. I was having a conversation with the governor of a neighbouring county to Kitui and the governor said something that was very profound; that if healthcare collapses in one county, then the ripple effect is felt in all the other frontline counties.

Mr. Deputy Speaker, Sir, you and I share a border. If Meru's health sector is dysfunctional, then the effects of that dysfunction will be felt in Tharaka Nithi, Kitui and Embu. Concerted efforts must be made to ensure the success of the health sector in our counties. There is no magic to it. The only way of doing this is to make sure that governors and their governments allocate sufficient resources, which will be properly used to roll out programs in the health sector.

The other matter that I want to talk about is just the general pilferage of county resources and the outright disregard to accounting procedures in most of our counties. I have heard a Senator here lamenting twice, or maybe thrice, that their governor or their government calls to be voided Integrated Financial Management Information System (IFMIS) transactions 1,600 times. I say some things can only happen in Kenya. How can you void IFMIS transactions 1,600 times and pretend that you are doing a clean job? The matter is then taken to the Ethics and Anti-Corruption Commission (EACC) and other investigating agencies and somehow a way out is found.

I come from Kitui County, where an accountant would just sign off audit reports that they have not prepared and submit them to the Office of the Auditor-General (OAG). Consequently, when mistakes and outright evidence of theft are detected, they simply say

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they did not prepare those reports. Somebody else prepared and they were asked to sign because the person who prepared was not authorized to sign.

There is a casualness in the handling of county resources. That must be stopped. Our governors must know if they do not know, that they do not own the counties in which they serve. They are just stewards of public resources. It is expected of them to be vigilant and act responsibly in the management of those resources.

Mr. Deputy Speaker, Sir, I say this, knowing pretty well that the framers of our Constitution in their concept of devolution had an intention that the issue of resources is supposed to be organized in such a way that county governments must not perpetually just rely on disbursements from the national Exchequer. They should look for revenue streams within their counties without necessarily overburdening the local communities and raise sufficient funds to be able to carry out basic functions. However, the concern that I have and I am sure it is the concern of many other Senators here, is that instead of using their own source revenue streams to enrich county revenue to carry out basic county functions, many of these governments are using own source revenue streams as avenues for self-enrichment.

I come from a rain-deficit region, an arid and semi-arid area. This is a region where we do not grow coffee, tea or any other known cash crop. I come from a region that is rich in other resources that bring revenue to our county. We have the best river sand from the region where I come from. I do not have the facts, but I would dare say that perhaps the river sand used in a big percentage of the construction that takes place in the Nairobi City County, comes from Ukambani.

The river sand does not come cheap. It is expensive. However, governors have used river sand harvesting, as a way of enriching themselves and their cronies at the expense of the communities around, which the sand is harvested and the county revenues of Kitui and the region. I want to say this, as the Bible says, "The time has come" and now as the Senator of Kitui County, I think that time has come, that we will no longer sit back and watch our resources being plundered for self-enrichment. We will not sit back and watch as our riverbeds are being turned into barren bedrocks. We shall not watch and see as people neighbouring rivers where the sand is being harvested are impoverished day in day out, as few people are just lining their pockets. This must stop.

The other is the issue of charcoal burning. When I was growing up, we used to have significantly almost sufficient forest cover in the mountains and the hills around Kitui. Today, much of that forest cover has been cut down completely. People are burning charcoal and selling to urban centres. We are precipitating the process of turning our region into a desert. The people who do this, do it purely with their interests at heart, without caring a thing about the present and future generations' ability to benefit from those resources.

As we send money to the counties, for them to be able to carry out functions under devolution, this House must also expect that the own source revenue generated by counties also becomes part of the resources that are used to enrich and better the lives of the people in those counties.

As I conclude, governors must also become a little bit more innovative. It is true and it is not right, that every so often there are delays in the disbursements of money from

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the exchequer to counties. The other truth of the matter is that eventually, this money is disbursed to counties and this money is disbursed into commercial banks. When these commercial banks receive money for counties, they use the money to for some lending.

Governors must also be more innovative and ensure that they get into agreements with commercial banks operating within their counties, so that they have standing orders that, on 26th or 27th of every month, every member of staff in the counties are paid their dues, whether the money has been credited to their account or not, because eventually that money will come. These banks do a lot of business with county monies.

Mr. Deputy Speaker, Sir, I would like to conclude by saying that, yes, the Senate would have wanted to see Kshs400 billion taken to counties, but now the available amount that the---

(Sen. Wambua's microphone went off)

The Deputy Speaker (Sen. Kathuri): Give him one minute.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): The lights were systematic in warning you on your timing.

Sen. Wambua: Mr. Deputy Speaker, Sir, the trail of thought was also doing other things in me, so let me just conclude by saying that, yes, we would have wanted to see Kshs400 billion going to counties. However, I see the Committee has agreed on Kshs387 billion, as equitable share, and an additional Kshs8 billion going into counties. So, because this is a mediated version of the Bill, and the report requests us to support that money to go to counties, with those remarks, I support.

The Deputy Speaker (Sen. Kathuri): My screen is funny. It was blank, but now it has a Member by the name of Otieno Moses, Sen. Kajwang'. The mood was for the Mover to reply. That was the mood of the House. However, please go ahead and utilise a few minutes to give your comments. This is a very important Bill for the counties.

Sen. M. Kajwang': Thank you, Mr. Deputy Speaker, Sir. The Division of Revenue Bill is the most important financial instrument that this House considers. Every Senator, if they are committed to their sense of duty, ought to have a view on the Division of Revenue Bill, because this is where we are demonstrating to the people that we represent. That the money that governors are using in the counties cannot pass to them without going through the Senate.

Mr. Deputy Speaker, Sir, some Senators in this House, like the Senator for Bungoma County, has been told that he has nothing to do with the money that goes to Bungoma County. It is at this point that we demonstrate that if the Senator does not vote yes or no, that money will not reach Bungoma County.

Even if the mood was for the Mover to reply, I hope that you can have a bit of elasticity so that each Senator is able to explain why the amount of money their county governments based their budgets on is going to go down, and why it is likely that some hospitals are not going to have drugs, some markets will not be built, roads will not be maintained, because of certain decisions that have been made here.

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It must be put on record that the first time this matter went into mediation, we were led by the Senator for the great County of Meru, who is today sitting on the Chair. We had a conversation with our brothers in the lower House. We had a very scientific approach, and we were able to convince them that the right amount of money that should go to county governments should not go below Kshs400 billion. We wanted more, but we were able to convince our brothers to settle on Kshs401 billion. It was not voodoo. It was scientific. We could account for where every single additional shilling was going into. We were able to demonstrate that there was non-discretionary expenditure, some that was not part of the county-integrated development plans of our 47 counties.

One such was the county aggregation and industrial parks, where each county was required to commit Kshs250 million, and the national Government would commit a similar amount. It was not the priority of all the counties. Of course, it is a very good idea, but even good ideas need to be prioritized.

We had the community health promoters, who had been put in place pursuant to the Primary Health Care Act, which this House passed while sitting in Turkana County. We ended up in a situation where you had more than 100,000 community health promoters, whose salary, half would be paid by the county government and the other half by the national Government. That is the most absurd arrangement I have ever seen when it comes to payment of anybody who is working for the public.

At times, the county has paid the Kshs5,000, and the national Government has not paid the matching Kshs5,000, and so an old woman who is a community health promoter is unable to service her Savings and Credit Cooperative (SACCO) loans, and take her children to school, because they are still waiting for the national Government to send their share of her salary. Even in our households, you can imagine if you had a situation where the gardener, half his salary was to be paid by the husband and half to be paid by the wife. I am sure the wife would always pay and the man would never pay. That is the situation our community health promoters are going through, whereby, the county governments are paying the Kshs5,000, but there are significant delays, and that affects delivery.

Mr. Deputy Speaker, Sir, as we speak, the Governor of Homa Bay County is at a dispensary called Nyakiao Health Center. Nyakiao Health Center happens to be in my village of birth. We visited that dispensary three days ago, and she committed to come back today, and as we speak, she is there to launch the facility. The facility has only one nurse and one other permanent employee. The rest of the services are rendered by the community health promoters.

Right now, we are enrolling people into the new universal health coverage scheme, the Social Health Insurance Fund (SHIF). One significant thing that happens when people come to these facilities is that when they are enrolling into Social Health Authority (SHA), there is a means-based testing. This is being driven and being run by our community health promoters.

How do we expect these people to be motivated and highly driven, if here at the Senate and National Assembly level, we are not granting additional or sufficient money to be able to pay for their perks? That is why I disagree with this mediated report.

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When you approach courts of law and instruments of justice, there is always one of two outcomes. If you go to court, you either win or you lose. At the end of the day, when you lose, you might have your reservations, but you leave that court feeling that justice has been served, even though you lost.

Mr. Deputy Speaker, Sir, when our mediators went into that session, I do not know how the conversations went, but in the past mediation, which you and I were part of, we were able to demonstrate why Kshs400 billion was sufficient. I do not know what other information that came in that was new that convinced them. Perhaps it is this new English that is being bandied around called 'fiscal deficit' However, the law had envisaged that where there is a fiscal deficit, that would be bridged by the national Government because the national Government has got the means and instruments to go to the markets to get additional financing to be able to cater for any deficit that there could be in public spending.

The national Government issues Treasury bills and bonds. The national Government goes for concessional and non-concessional loans. When the President is in the United States of America (USA), the Cabinet Secretary (CS), National Treasury, takes a visit to Pennsylvania Street, to the International Monetary Fund (IMF) and World Bank, and is able to negotiate on behalf of the people of Kenya for additional financing. County governments do not have that ability. That is why the constitutional principle of shielding counties from these drops in fiscal deficit was put there. I do not know why we have decided to throw that principle out of the window.

Mr. Deputy Speaker, Sir, even though today it has been proposed to give them Kshs387 billion, the basis of division is also the financial statements of the Financial Year (FY)2021/2022, if I am not wrong. Revenue should be divided on the basis of the most recent and the most realistic revenue forecasts. I am happy with the decision that was rendered by Justice Jairus Ngaah, early in October. I will be bringing this matter to the floor of the House. Justice Jairus Ngaah made a ruling recently and said that constitutional timelines must be adhered to without exception.

Justice Jairus Ngaah made reference to Article 229(4) that requires the Auditor-General to bring an audit report to Parliament within six months of the closure of a financial year. Justice Ngaah said that timeline is mandatory, it is cast in stone and the Auditor-General must bring reports to Parliament before 31st of December of every financial year. Justice Ngaah went ahead and spoke to Article 229(8) of the Constitution.

Mr. Deputy Speaker, Sir, Article 229(8) requires Parliament that upon receipt of the reports of the Auditor-General, to debate, consider and take appropriate action on that report within three months. Justice Ngaah said that timeline is clearly spelt out in the Constitution, it is mandatory and it is not a suggestion.

The consequence is that any report that is tabled before this House past 31st of December is null and void. Any report by a Committee or any debate by the Senate on a matter to do with the audit reports that occurs after the expiry of three months is null and void.

The genesis of the matter was that the County Assembly of Nairobi indicted several officers for stealing and looting the Alcoholic Drinks Fund. For almost three years, they did not prepare financial statements, and as a result, the Auditor-General was

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not able to prepare her report on time. When the Assembly eventually got to consider the report, it made recommendations that both persons be investigated and be prosecuted for causing serious financial loss to the residents of Nairobi. Those officers of the County went to court, and in court arguments were made. The eventual decision was that the County Assembly of Nairobi City acted outside the constitutional timelines, and therefore their report was null and void; and that the Auditor-General also tabled that report outside the constitutional timelines, and therefore that audit report was null and void.

Mr. Deputy Speaker, Sir, you can imagine the chaos that that decision is going to render. Even I in my Committee of Public Accounts Committee (CPAC) and Sen. Osotsi are dealing with reports outside the three-month period. The Senate Majority Leader is always tabling an audit report before this House and many of those audit reports are tabled outside the six-month period. We must now go back and ask ourselves how we are going to fulfil those timelines.

In as much as I complain, there is only one positive thing about it. The Division of Revenue in the subsequent year must then be based on the most recent financial statements or on the most recent revenue statements. We will no longer be saying that because the National Assembly only adopted the 2021 revenue statement, that is the basis. It will now have to be on the basis of the revenues as audited in the Financial Year 2023/2024.

If we use that, then automatically counties are going to get more money way above the Kshs387 billion. That is the positive thing about that ruling; that the pot is going to be bigger, it is going to be more recent, it is going to be more up-to-date and 15 per cent out of that pot will definitely exceed this amount. So, even if we are going to agree with the Mediation Committee on the Kshs387 billion and if we are going to go by Justice Ngaah's ruling, then in the next Division of Revenue, counties will be entitled to much more and there will be no stories of fiscal deficits.

Mr. Deputy Speaker, Sir, but there are practical complications in implementing that decision. What do you do with 10 years of audit reports that have been brought to this House outside time? What do you do with 10 years and hundreds of reports coming from our committees that have come here outside time? We made a resolution as a Committee, that the Senate needs to seek a review of that decision because the window for appeal has closed.

Therefore, for what Justice Ngaah declared, we must find ways and as the Chair of the Liaison Committee, you must now start asking yourself how the two committees of accountability can consider all the reports within three months especially, when you consider that the Auditor-General brings the reports on 31st December, when we are on recess, and then the three months start counting from that 31st December. We must start thinking of the practical implications of that.

Mr. Deputy Speaker, Sir, even if we are going to give the counties Kshs387 billion, which is more or less what they got in the other financial year, that has not taken into account the inflationary aspect. I will give counties hope that if we strictly adhere to Articles 229(4), (8) and the other various provisions of the Public Audit Act, we will be presenting more money to counties in the future.

We have assumed that wages in county governments should be 35 percent and above. The question is, what is the authority behind that? The International Monetary Fund (IMF) did a study that indicates that in the most efficient municipalities and urban areas and cities, the proportion that goes to wages is seven percent. I will be happy to share with Senators that report of the IMF. The global standard or the gold standard when it comes to human resource and wages is seven percent. We have institutionalized 35 percent, which is five times the gold standard and in many cases, counties are at 60 percent.

Now that counties are receiving less money because that is the reality, even if it is cent for cent with what they received last year; what they got last year is not compared to this year is not the same because of inflation and other factors. In reality, therefore, counties are getting less money.

We want to encourage county governments to stop this issue of hiring people who are eventually going to be their agents or who are going to be their political campaigners in the next elections; that county governments must finalize that process of rationalization of the workforce so that we can release more resources to go into development.

Mr. Deputy Speaker, Sir, county governments must also cut down on wastage. There is a lot of wastage in counties. As a Chair of an oversight committee, it is my view that 20 percent of what goes to counties is wasted. Some of it, wasted not in terms of theft, but wasted in terms of redundant things and activities that do not add any value to the lives of our people.

We have seen small, small things that translate into big things, like a small leak in a boat that can capsize it. The grandeur, the podiums, the entourage and the protocol around some of our governors and if you put it all together, it will translate into billions of shillings. What if we just became servant leaders and dropped the showbiz or some of those protocol things that incur unnecessary additional resources? County governments would then redirect more to much more useful processes.

We sent out our team to mediate, but I will need to be convinced that this is the best outcome that we could get. This is because my county of Homa Bay is bound to lose out on what had originally been promised. The county had already done a budget and now they have to do a supplementary budget even before the first budget has been implemented.

Mr. Deputy Speaker, Sir, I am generally against this decision of the mediation committee.

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

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

Mr. Temporary Speaker, Sir, I will need to be convinced further, and I am just giving notice that I do not agree with the spirit of this report. The Senate got the short end of the stick because we must always look out for the interests of counties and their governments. It was my view that Kshs400 billion was the irreducible minimum which county governments ought to get. However, the silver lining is that Justice Jairus Ngaah

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is a disruptor. We can blame him for giving a ruling that sounds impractical, but he has disrupted our processes. We must now make sure that within three months, the National Assembly has audited and has considered the revenue reports so that we can share with counties the most recent revenues as collected by the National Treasury and the other agencies, without hiding behind fiscal deficit.

Mr. Temporary Speaker, Sir, I disagree with this report.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator. I have Senator Osotsi, Sen. Okoiti Omtatah who are still queuing to speak to this particular Bill.

Sen. Okoiti Omtatah: Mr. Temporary Speaker, Sir, thank you for the opportunity to address the House. I stand to oppose the decision to reduce the amount of money going to the counties from Kshs400 billion. Counties are struggling. They do a lot of work. As I speak right now, a lot of devolved functions do not have the resources to be implemented or carried out. Money has remained in the national Government and yet functions have been devolved.

On that premise alone, I would not be willing to touch whatever has been allocated to the counties, especially given that even the audits that are forming the basis of the allocation are so many years behind time. So, we are not even realistic about the way we are going.

Number two, I have yet to see a formula by which the DORA can be revised. As Sen. M. Kajwang' has just observed, the reduction in the amount of money going to counties will cause a difficult situation on the ground.

Counties have passed budgets based on the allocations they were given. Now, we want counties to supplement those budgets. Even when supplementing the budgets, they have an obligation to be faithful to the law. Whereby they can only supplement the budget by not more than 10 per cent per item.

We are inviting counties to be in a situation whereby they may have to break the law. As regards the decision of Justice Ngaah, which I laud, the three months within which Parliament should approve the reports of the Auditor-General are basically cast in stone unless we amend the Constitution. It is time we try to have fidelity to the Constitution, so that things can work like clockwork. This business of saying that the Constitution is to be implemented piecemeal or haphazardly is the reason why this Constitution looks a bit difficult to implement.

If you are faithful to the Constitution and implement it 100 per cent, we would find ourselves in a situation where it has a working mechanism whereby none of its parts is abiding by the other. Even if you come to a situation where it is not properly implemented, it is like having a powerful machine – say a 2,000-monster machine. Its wheels are deflated and it cannot work. However hard the engine roars, it cannot work.

Let us implement this Constitution fully. I laud Justice Ngaah for his ruling. It is upon us to pull up our socks. We can apply for some review to institute some structural interdicts whereby the court can allow us some dispensation for some time, during which we can catch up. However, we must focus on dealing with these audits and make sure that the audits are looked at by Parliament within time so that county governments can get their rightful share of the equitable funds.

There have been arguments that our county officials; governors, speakers, clerks and members of the National Assembly are misappropriating funds. Therefore, they should not be funded. Let us not mix two things. There is no enforcement. Where do they misappropriate funds? Article 226(5) says-

“(5) If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.”

Let that Article of our Constitution be implemented. Let us not get into this argument that is essentially brown up and be specific. Which is that counties are misappropriating the money they get? Yes, they are misappropriating the money they get and the law must take its course. This is a challenge to our law enforcement, the EACC, DCI, judiciary and others.

Let them step up to the plate and make sure that rogue governors, speakers and any rogue county official are held accountable for the money that the counties lose. Also, going forward, in terms of public funds utilised by counties, accounting officers should appear before the committees of Parliament, not just the governor.

The Auditor-General should ensure that these accounting officers present their accounts by the 30th of September. By the end of September, they will have presented their accounts to the Auditor-General. Then, by the 30th of October, the County Executive Committee Member(CECM) of Finance presented their global statements to the Auditor-General.

Generally, you will find that most audit reports refer to the global report of CECM Finance and hardly refer to any reports that the various accounting officers of the various entities in the county governments delivered. We should get to a point whereby it is not only the governors that we put to task, but we should also put to task these accounting officers to explain how they utilise public funds. So, this blame game that goes on that counties are dysfunctional does not come up.

That way, maybe the hearings before the Committee on County Public Investment and Special Funds (CPICSF) and the Committee on County Public Accounts (CPAC) will trace the money to the real people who signed off the cheques other than the person who has political responsibility being the governor.

So, I would really plead that we should grill the governors and the accounting officers of the various county departments to account for how money is used. That way, we shall go deeper into the counties and demand accountability for cash from each department, not just waiting for the governor's political responsibility.

Mr. Temporary Speaker, Sir, I beg this House to reject this report so that we can go back to the position whereby we had already passed the DORA. If there should be any adjustments, they should come from the budget of the national Government and not the budget of county governments. This is because it is the national Government that is holding a lot of money that belongs to counties. For example, in agriculture, a lot of money is still held in Nairobi. They have not devolved functions. Farmers are not

benefiting from the promise of devolution that they would have had the national Government devolve the funds that go with the functions.

We are having the same with the health sector. The national Government continues to hang on to vital services or vital funds that should be providing services at the county level. So, it is really unacceptable that with the national Government already holding money belonging to counties, we again want to say that the deficit that has occurred should be shared equally between the counties or should be shared in some measure between the counties and the national Government.

I urge this House and I plead with my fellow members to reject this mediation report, so that the little the counties are getting is not messed up. In some counties that are even smaller than my own Busia, have very little allocations and then we reduce them.

Mr. Temporary Speaker, Sir, I plead with this House, my fellow Senators that we circle our wagons, close ranks, be bipartisan in approach, shoot down this report and go back to the position whereby the money that was allocated to the counties is not interfered with. The money is so little, given what the counties need to do.

I reiterate that if there are governors who are messing up with that money, it is not the reason why the money should not be given to county governments. For those of us who still have babies in our houses and have a maid and she is eating cerelac that is meant for your baby, you do not stop buying cerelac because she eats it. You deal with the maid. You fire the maid. You do not stop buying cerelac for your baby because the maid eats it. So if governors are messing up with the county funds or if county assemblies are messing up with the county funds, let law enforcement do its duty.

Let law enforcement intervene and deal with these rogues. However, the money that this House allocates for the people on the ground in our counties must remain sacrosanct. It must not be touched because that is where the rubber meets the road. The national Government has many corners where it can get money, where it can make haircuts and be able to still balance its budget. First of all, the money goes to the county governments. The way it is handled by this House, we do not have cases of budgeted corruption in the dollar. There is no budgeted corruption there.

The money is worked out meticulously. It is meticulously tied to the needs of counties almost as a way you prescribe medicine for a rare disease. So, I plead with this House that we reject this report. We must make sure that what was allocated to the counties because it was not based on the current finances of Government, it was based on some couple of years back, it is not interfered with. The national Government looks for haircuts in other sections, especially that money that gets refused to devolve. It can relook at that. The counties are doing their functions. The national Government can make cuts without crippling the operations of county governments.

With those few remarks, I ask the Senate Majority Leader to lead us in rejecting this negotiated position, so that we can fly the flag of devolution high and have some chance at realising the objectives of devolution.

With those few remarks---

Sen. M. Kajwang': On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Okoiti, are you done?

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Sen. Okiya Omtatah: There is a point of order that was raised. That is why I ceded the ground.

The Temporary Speaker (Sen. Wakili Sigei): The Speaker has not allowed Sen. Sen. M. Kajwang'. However, what is your point of order, Sen. Sen. M. Kajwang'?

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, is it in order for Sen. Omtatah to direct the Senate Majority Leader to take certain actions and make certain decisions, yet just this afternoon, he has launched his exploratory committee to be the next President of Kenya. He could just wait to be the President and then he would give county governments more money.

So, why would he want Sen. Cheruiyot to go and do the right things that will make his President popular and deny him votes? Is it in order for him to shoot himself in the foot on the Floor of the House, or is he taking Kenyans for a ride with his presidential ambitions?

The Temporary Speaker (Sen. Wakili Sigei): I am very sure you listened to Sen. Okiya Omtatah and as he was just about to close, he made reference to those few remarks, yet he had been on the floor for more than 25 minutes or so. I am sure even the extent of his directive to the Senate Majority Leader probably would also be one of those jokes that as a leader, he does it in the form of a normal manner.

Sen. Okiya Omtatah, please conclude so that other Members are allowed to speak.

Sen. Okiya Omtatah: Yes, I indeed want to be President of the Republic of Kenya. When I become one, things like this will not happen because I will have separated the National Treasury from the Ministry of Finance and it will be run professionally. We shall enter an era of balanced budgets. There will be no deficits.

With those few remarks, I oppose this report.

Thank you, Mr. Temporary Speaker, sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Omtatah.

Sen. Okiya Omtatah, Godfrey Atieno?

Sen. Okiya Omtatah: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to also comment on this very important Bill, the Division of Revenue (Amendment) Bill, 2024 and the Mediation Committee Report. Just like my two colleagues who have spoken before me, I, from the onset, declare that I will oppose this report. I am in this House because of Article 96 of the Constitution, which is to protect counties and their governments.

We will be setting a wrong precedent as a House if we pass DORA. That is one of the major constitutional powers that we have as a Senate. We pass a DORA and then it is brought back to us to adjust the figures downwards and we easily agree to that. That is not something that we should entertain as a Senate.

We are here to protect devolution and by all ways. This decision to reduce the share of revenue from Kshs400 billion that we had passed to now Kshs387 billion will be unprecedented. It will make those enemies of Senate who have been saying Senate has no space in this country to have a case for justification. I am opposed to that reduction.

I listened to the President speak the other day. In his speech, which was debated today, one fundamental thing that he said was that there has been a rise in revenue levels.

If there has been a rise in national revenues, why are we being told a different story here? We are being told that we have our revenue shortfall.

So, if there is a rise, which has been communicated to this House by the Head of the State and is in our record, why would this House go for a lower figure when there is a rise in revenues? Out of that contradiction in this report which are talking of a shortfall, but the Head of the State who is in charge of Government is talking about a rise in revenue, I will not support this report. I will reject it.

The National Assembly has not reduced their allocation to the National Government Constituencies Development Fund (NG-CDF). They have not touched it. Why is it that they are agreeing to lower the figure for counties and NG-CDF remains untouched? We will look as bad before our own people as Senators, that the Members of the National Assembly have their way on NG-CDF intact, but Senators, we do not have our way. So, what is our role as a Senate? So, again on that note, I will reject this report.

Section 5 of the Division of Revenue Act (DORA) 2024 clearly states that in case of a revenue shortfall, it shall be borne by the national Government. Similarly, in case of excess revenue collection, it shall accrue to the national Government and may be used to reduce the deficit or defray the public debt. Because of this reason, I reject this report. If the revenues have gone down, that should not be a burden of the counties. It is upon the national Government to look for ways of managing the shortfall.

The money that we sought, which took us to Kshs400 billion, was meant to deal with additional funding that was required as a result of policies that were introduced by the national Government. For example, the Housing Levy, enhanced National Social Security Fund (NSSF) contributions, and funding for Community Health Promoters (CHPs) and also the County Aggregation and Industrial Parks (CAIPs).

These have enhanced the budgetary requirements of our counties. It was because of this that the Senate thought it was wise that we peg the figure at Kshs400 billion. If we go to Kshs387 billion, it means we will not have resolved the problem of additional expenditure as a result of national Government policies. Because of that, I reject this report.

Having said that, I know there are many arguments. Every time people want to deny counties money, they say there are governance and accountability problems. We agree that there are problems, but we cannot use that as the main justification for denying our counties money. The Constitution is very clear that 15 per cent of the national revenues should go to the counties. So, we cannot use that as a basis for denying our counties money.

It is becoming very difficult to manage our counties. They may be having accountability problems, but it is becoming very difficult because, first, there is a delay in disbursing money by the National Treasury to the County Revenue Fund (CRF) accounts. Second, when the money gets to CRF accounts, there is another office in this country that called the office of the Controller of Budget (CoB).

Counties are spending millions of shillings for officers to travel from their counties just to come and submit papers seeking requisition approvals when the CoB has offices in every county. What are they doing? Why has the CoB not automated service of

that office, so that instead of officers coming to Nairobi, they can have the requisitions processed online?

The office of the CoB is a crime scene where County Executive Committee Members (CECMs) and Chief Officers (COs) for Finance carry millions of shillings to come and bribe the officers, so that their requisitions are passed. I have met so many CECMs in this town who are desperate. They stay here for days chasing their requisitions. Why can this office not be made efficient and be accountable to the people of Kenya?

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, there is a point of order from Sen. Mandago.

Sen. Osotsi: Mr. Temporary Speaker, Sir, Sen. Mandago can inform me.

Sen. Mandago: Sorry, Sen. Osotsi, I am not informing you, but rising on a point of order under Standing Order No.105 on responsibility for statement of fact.

Mr. Temporary Speaker, Sir, when the Senator for Vihiga makes sweeping statements that millions of shillings are carried to bribe officers working in the office of CoB, can he table evidence? All officers working in the office of CoB are not corrupt unless he tables evidence. If he has that evidence, he knows that there are institutions in this country mandated to act on those matters.

Mr. Temporary Speaker, Sir, Members should not use the Floor, because of the parliamentary privileges, to make sweeping statements on institutions because those who serve in those institutions have also spent a fortune in their lifetime building a career. Sen. Osotsi should provide the evidence instead of making a wholesale statement that affects a whole institution, which is also constitutional.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, let me remind you about Standing Order No.105 on responsibility for statement of fact. This is what it says—

“(1) A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.”

Based on your reference to the millions of shillings that are being taken around by CECMs and COs to bribe the officers working in the office CoB, that is the point of order that Sen. Mandago is raising. Are you able to substantiate?

Sen. Osotsi: Mr. Temporary Speaker, Sir, Sen. Mandago has been a governor and I think he needs to be honest to himself. I cannot substantiate the obvious. I have heard that from several governors who have complained about that office that nothing moves until the hands of some people are greased.

Mr. Temporary Speaker, Sir, on this one, I cannot substantiate and withdraw because that is obvious. I am saying this because my role under Article 96 of the Constitution is to protect the counties. One of the biggest challenges in this country is that office. We should either reform or remove that office from the Constitution.

The National Assembly should assist this country by making sure that devolution works. There is an attitude in the National Assembly that counties are competing in terms of development. Our colleagues in the National Assembly should appreciate the contribution of devolution to this country.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir.

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The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, allow Sen. Osotsi to conclude his remarks unless it is very critical.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, it is very critical.

The Temporary Speaker (Sen. Wakili Sigei): Proceed.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, for protection of the integrity of the House and especially the Chair, the Chair allowed the point of order by the Senator for Uasin Gishu County requesting that Sen. Osotsi substantiates his allegations.

Instead of putting the evidence that Sen. Mandago requested, he has told you that he cannot substantiate the obvious. So, we are waiting for your ruling. I was waiting for the evidence to show that Dr. Margaret Nyakang'o is corrupt.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, Sen. Osotsi has admitted that he cannot substantiate that statement.

Sen. (Dr.) Khalwale: Then he said he will not withdraw and apologise. So, help us.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, you said that you cannot substantiate the allegation that money is given to grease the hands of officers working in the office of CoB. In the absence of any substantiation, you have no option, but to withdraw that particular statement.

Sen. Osotsi: Mr. Temporary Speaker, Sir, on the basis that I cannot produce the hard evidence in this House, I will withdraw. However, I want the House to get it very clearly that there is a problem at that office and we cannot deny it. We know it exists. One day, someone doing his job will have to get the evidence and it will be produced.

Sen. M. Kajwang': On a point of information, Mr. Temporary Speaker, Sir.

Sen. Osotsi: Yes, he can inform me.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Kajwang', proceed to inform him.

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, the issue of people going to the office of CoB with envelopes has been there. However, I want to inform Sen. Osotsi that there is something called Form C and it is a real form in that workflow. At the very minimum, the County Executive Committee Member (CECM) Finance will be carrying Form C.

Sen. Osotsi, it might not be very useful for us to appear as if we are castigating a constitutional office. However, I can tell you that that Form C needs to be eliminated from that process. As long as the CECM Finance must carry Form C from Lamu to Nairobi, it then creates wrong impressions of rent-seeking. We must help the CoB to automate the process and workflows to gain visibility into the contents of accounts of county governments so that we get rid of the Form C.

Sen. Osotsi, I do not know whether sometimes you do this when you go to withdraw money from your bank account, but counties will withdraw money from their accounts. Sometimes you can be served nicely by the lady teller. She smiles nicely at you and walks up and down in a manner that entices you so that once you have withdrawn your money, you can give her a Kshs1,000 in appreciation. I hope that is not the instances you are referring to as millions exchanging hands.

Mr. Temporary Speaker, Sir, from where I sit, that Form C must be eliminated so that nobody like Sen. Murango walks around with brown envelopes to the CoB's office. The CoB as a constitutional office bearer, this House should never be seen to be casting aspersions on her conduct.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, you are informed. You may proceed.

Sen. Osotsi: Thank you for that information, Sen. Kajwang'. Indeed, he has informed me on the aspect of the CECM having to come to Nairobi with that form. It does not make sense that we have officers of the CoB in our counties and working with our counties, they see those requisitions in the counties and yet the CECMs have still to bring those documents in Nairobi for further processing. It does not make sense. Counties, for example, have stayed for almost one month waiting for their requisitions to be approved. It does not make sense at all.

Mr. Temporary Speaker, Sir, with those few remarks, I reject this report.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago Jackson, proceed.

Sen. Mandago: Thank you very much, Mr. Temporary Speaker, Sir. From the onset, I rise to support the report of the Mediation Committee on the Division of Revenue (Amendment) Bill (National Assembly Bills No.38 of 2024). As much as we have the responsibility of protecting counties and devolution as a Senate, we must also be realistic to the circumstances and happenings in the country. This House had passed and the National Assembly had agreed with us that counties can receive Kshs400 billion for the current financial year. However, the unprecedented events that happened in this country has necessitated the change.

The Finance Bill, 2024 that had been passed by Parliament had put in revenue-raising measures that would have ensured that counties would be able to receive what we had passed as a Senate. Therefore, in my view, the Mediation Committee from the Senate led by the Chairperson of the Standing Committee on Finance and Budget have done a tremendous job by making sure that the reduction was not what the National Assembly had proposed of Kshs380 billion, but reached a consensus of Kshs387 billion.

Considering the months we have to the end of the financial year and the time we have to collect revenue to fill in the gap that we had envisaged, it is only reasonable and practical that as a Senate, we consider the amount that the Mediation Committee has come up with to enable our counties to function.

I say this from experience as a governor that it is possible for you to be allocated a very high figure on the paper, but becomes impossible for that money to be disbursed. What does that do? We have another monster we have been grappling with as a Senate. The national Government and county governments too have the same monster. That is the aspect of pending bills. Most of the pending bills we have in counties and the national Government has been caused by overestimating the revenues and income we will receive.

As a Senate, we shall put suppliers of goods and services to counties in jeopardy if we will insist that counties should receive Kshs400 billion, which our national revenues may not be able to raise. We shall make counties commit suppliers and contractors to works that they will not be able to pay.

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We cannot solve a problem by creating another problem. Therefore, I persuade my colleagues, hon. Senators, that indeed, we have a mandate to protect devolution, which includes making sure that we are realistic. That the suppliers and contractors in the counties will be paid by voting in revenues that will be accessed and available.

It should not be lost on us that the same people who are against the revenue-raising measures would still want increase of share of revenue to counties. As Kenyans, we must begin having a very honest conversation, particularly on development. We have a choice as Kenyans to decide to reduce the taxes we are paying and also reduce the expectation on development, both from county and the national Government. We, therefore, have to live within the revenues that we shall be able to raise.

On the issue of release of funds, we appreciate that there has been a delay in disbursement to counties. I agree with Sen. Okiya Omtatah that the National Treasury, as currently set, behaves and acts as an agent of the national Government. In fact, as a House, we should begin considering amendments to the Public Finance Management (PFM) Act, 2012 and make the National Treasury independent and have an independent Ministry of Finance for the national government. This will ensure that the National Treasury serves the two levels of government fairly, equitably and in a manner that promotes the two levels of government growth.

As it is, when it comes to disbursement of funds, priority is being given by the National Treasury to the national Government. I say this from experience. You would find salaries for county government staff delaying while their counterparts in the national Government receive their salaries earlier than even 30th of every month. The National Treasury should realise that it serves the two levels of government and must make sure they are fair in their processes.

The other problem that comes with disbursement of funds is the issue of the Integrated Financial Management Information System (IFMIS). I do not know whether the system is old and needs to be re-engineered or we need to do away with it and get another system. The downtime of that system, especially towards the end of the financial year has always been almost 50 to 60 per cent. This makes it difficult for counties to pay their suppliers and contractors on time because of the downtime that is experienced on the IFMIS.

Mr. Temporary Speaker, Sir, the downtime of IFMIS sometimes has been used by the National Treasury actually to manage disbursement to counties. We do not want the culture that we have seen in the past in National Treasury. The funds to counties must be disbursed on time. We do not want the National Treasury, which publishes every end of year on the 30th June, amounts of money available in the County Revenue Accounts (CRA); money that was sent a day or three days before the end of the financial year and expecting counties to expend those funds within the three days.

Mr. Temporary Speaker, Sir, as a Senate, we should amend the Public Finance Management (PFM) Act to make sure that the National Treasury is independent and makes it possible for counties to access money on time.

On the issue of the office of the CoB, I want to agree with my colleague Sen. M. Kajwang', that the inefficiencies that we have in the office is a system issue and a process issue. We need to have a conversation with the CoB on automation of the processes.

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Counties should then be able to use the automated processes to requisition funds and eliminate the aspect of traveling.

Traveling is not limited to the requirement by the CoB. Sometimes counties and officers within the department of treasury in the counties use it as an opportunity to get a chance to travel. The motivation of traveling to Nairobi is very high because this is the capital city of the Republic of Kenya and the allowances are fairly good.

We are happy as Uasin Gishu County because Eldoret is now a city. Sen. Osotsi and Vihiga County can take their conferences to Eldoret as it will help boost tourism. The problem of travelling is not necessarily just limited to the issue of CoB, but we must also, as a Senate, interrogate whether the travels by counties are related. Officers could be traveling with the excuse of going to the CoB, yet they have actually no issues to transact at the CoB's office.

I support this report. I want to persuade my colleagues to support this report by the Mediation Committee, led by our Chairperson of the Committee on Finance and Budget here at the Senate, so that our counties can access funds. We appreciate that we have very little time. If counties have to achieve the targets they have set for this financial year, then the sooner we clear this to make the funds available to them, the better. However, we must also say that our counties have not been performing as expected. If we look at the devolved functions and what has been done for the first and second financial years, there is a big challenge.

In my own county in the last two financial years, there is no single Early Childhood Development Education (ECDE) classroom that has been constructed, yet funds have always been voted for construction ECDEs. We want to urge our governors to be hands-on in monitoring the implementation of their county programmes and make sure that the funds that we allocate at Senate and send counties are then utilized to offer services to the respective citizens of the counties.

I beg to support this report.

Sen. (Prof.) Kamar: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity. I support the report because we do not want to give our governors any excuses. Our governors have been giving us excuses that they do not have money and that is why they have not paid this or that. However, we know that the process of development in a county is such that you must have an annual plan. If governors truly have annual plans, they should only plan for the money that they have. We should not be having a lot of pending bills.

Pending bills have been one excuse and we do not want to be part of that excuse. I support that we get the money released, so that the governors can move on and get things going. All the same, I still think that we have not given counties enough money up to now from the inception of devolution. It is a fact that we have functions stated in the Fourth Schedule of the Constitution. These functions are different for the national and county governments.

It is extremely important that we start ensuring that money follows functions. Therefore, when we are dividing the money, we should not just do so arbitrarily, but make sure that the functions are funded according to where we are right now. In fact, if

we did that, we may not need new money. All we need to do is to shrink the Ministry of Agriculture and Livestock Development accordingly.

There are personnel who have not been devolved even when agriculture was devolved. The same thing with the Ministry of Health. The Ministry of Health was devolved dominantly, but the personnel we have in Afya House are still intact. We need to ask ourselves, what we devolved and then follow it with the money. If we did that, we may not even require new money. It may just require us to relocate the money to where the function has gone.

That is very important because for you to account for any function, you must have the right budget to cover the same function. I really insist to this House that in future, we need to sit and discuss it early, so that we make the money follow the functions. This is a House of oversight and we must make sure that we do what is required of us.

I would like to go to the other side again and thank His Excellency the President for the speech that he made on Thursday because it touches also on what we are doing in DORA. In the President's speech, he allocated money where he emphasized the development of the government. It is very important that we read through, so that we spend according to what we think we are going to fulfil.

In his speech, the President touched on university funding. I want to touch on that because I came from there before I joined politics. The current university funding model, if it is understood by all, is a very good model. The model that we have been given is a unit cost model such that the cost of doing law is different from the cost of doing medicine. It is very important that we recognize that

For many years, the universities have been given a global fund according to the number of students that they have. When that is done, it is very difficult even for the universities to attract students from outside. Most universities have shied away from attracting students from outside this nation because the fee they charge would be completely different from the fee that we have.

If you look at the East African Community (EAC) privileges, it is very clear that students in the East African Community (EAC) partner states are supposed to pay the local fees. Now, in Kenya, if you have a student paying local fees in medicine, you will have a very cheap cost for a very expensive programme. So, they will pay very little and yet the programme is very expensive. It is very important that the right costing is done for university programmes and that is exactly what this model is doing.

Once the costing has been done, then the government will give its own scholarships and grants, as well as any support that they would like in terms of scholarships to students. That is a completely different story altogether. It does not mean that if you have the right costing for a programme, you will pay the same. You will not have to pay that if the government is paying for you. That is exactly what this model is doing. What has never been done is to explain this model. It would have been very good to have public participation on the new funding model, so that it is exposed to everybody.

I sit in the Committee on Education. As the Committee of Education, we are having problems understanding exactly how the model was, until we got the Cabinet Secretary to come and explain to us. Therefore, with that model, I would like to support the President's approach. I also support so many other things that he gave in his speech.

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The other one that I want to mention is the issue of a university called Moi University. Moi University is the second university in this country. The problems and the challenges of Moi University are not being analysed properly. Moi University gave birth to 12 universities. In giving birth to 12 universities it spent its own internal resources.

Mr. Temporary Speaker, Sir, it will surprise you that the mother university called the University of Nairobi refused to mother small universities. They had one or two universities. Perhaps, Kenya Science and Technical University only because they knew of the financial implications. The Moi University Vice-Chancellors have been extremely generous. In their generosity, they even took loans for universities. In fact, we are trying to see in our committee if we can table those figures. It is important for the country to know that it has nothing to do with mismanagement. It has to do with the generosity of the Vice-Chancellors.

The Vice-Chancellors of Moi University gave birth. They started by giving birth to Maseno University, Masinde Muliro University, Kisii University, Narok University, Karatina University, Mama Ngina University and all sorts of universities. Talk of every corner of this country, including Garissa, which was the baby that they had. In all those universities they actually released money to their own investment.

It is very important that this analysis is done properly, so that Moi University is paid or refunded the money that they spend in the baby universities. As I said, in their generosity, they have brought everything to a standstill. In their generosity, members of staff are suffering today because their statutory deductions and loans are not being paid. This is as a result of the generosity of a vice-chancellor who did not do the maths that the other universities did.

If you look at the three universities that were nursed by Kenyatta University, they are doing well. Also the three universities that were nursed by Jomo Kenyatta are doing well. However, talk of one Moi University that nursed 12 universities. There is no way they would have survived. This was a time bomb, it has now arrived. It is at our doorstep now and it has to be sorted out.

Subsequently, even as we are looking at the unit costs of universities, we also need to look at the things that have made the universities not to perform the way they are supposed to perform.

Sen. M. Kajwang': On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Prof.) Kamar.

Sen. (Prof.) Kamar: A point of information from my student of Moi University, I will take.

The Temporary Speaker (Sen. Wakili Sigei): Very well. Sen. M. Kajwang' please proceed to inform Sen. (Prof.) Kamar.

Sen. M. Kajwang': Thank you, Mr. Temporary Speaker, Sir and Sen. (Prof.) Kamar as she is my teacher and my senior. I want to inform Prof. Kamar, who for the record when I was at Moi University, she was a very highly regarded administrator at Chepkoilel Campus. What I want to inform Sen. (Prof.) Kamar is that when the President came here last week, he said that the challenges at Moi University are governance problems and that the problems at Moi University are unique. They might not be similar to the problems of the University of Nairobi or the funding model as applied to the other

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institutions. This means that the problem is localized to the council. It is the University Council that has the responsibility of making certain decisions of financial administrative nature.

When I was at Moi University, I was a Secretary General (SG), so I would represent the students in the Senate and in the University Council. The council that has made the decisions that Sen. (Prof.) Kamar has referred to, which she refers to as generosity, and I thought she would refer to it as irresponsibility, still seems to be in office.

I want to inform her that university which you worked so hard for, in an era where tribalism was not a factor, the Vice-Chancellor at our time was Prof. Raphael Munavu, a man from Ukambani. We had Prof. Ole Karei, a man from Narok. We had at my own faculty Prof. Kefa Sodini, a man from Western. At the biggest school of social studies, we had Prof. Akong'a. It was never about the tribe. You did not have to be one of the boys to be an administrator or to be a dean, to be a head of a department.

Accordingly, I just want to inform Sen. (Prof.) Kamar that there seems to have been something that went wrong after you left Moi University. Instead of it becoming the bastion for intellectual discourse, it became the bastion for tribal loyalties. Also, Prof. Kamar, be informed that a great university decided to buy donkeys to replace tractors. A university that is supposed to train engineers, lawyers and people who are supposed to run this nation, makes the decision that these tractors are too expensive, let us buy donkeys.

Mr. Temporary Speaker, Sir, I want to inform Sen. (Prof.) Kamar of the things that have happened since the days when her and her team ensured that Moi University was a university of choice and before Governor Mandago became the Governor of Uasin Gishu.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Prof.) Kamar you have been informed. Kindly proceed to make your contribution.

Sen. (Prof.) Kamar: Thank you. I just want to mention that the information is a little bit confusing for my students. It is confusing because it is true that there are governance issues, not just in Moi University, but in all universities in Kenya as we are talking.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Prof.) Kamar, Sen. Mandago would like to inform you further and Sen. Wambua as well. Are you ready to be informed?

Sen. (Prof.) Kamar: It is okay they can inform me.

The Temporary Speaker (Sen. Wakili Sigei): Very well, proceed Sen. Mandago.

Sen. Mandago: Mr. Temporary Speaker, Sir, I want to inform Sen. (Prof.) Kamar that she is being misinformed by Sen. M. Kajwang'.

(Laughter)

This is to the extent that by the citation of various past vice-chancellors from Moi University, Sen. M. Kajwang' is trying to drive a certain narrative that I have said in this House I will be very firm.

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What Sen. M. Kajwang' has conveniently done is to hide the fact that since 2003, Moi University was systematically starved of funds. This is to the extent that this year, as we sit here, Moi University was allocated a paltry 5,000 students at the expense of a capacity of 14,000. Therefore, Sen. (Prof.) Kamar, my learned professor, do not be misinformed by your student who has chosen to take leave.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wambua had equally requested that he informs you.

Proceed, Sen. Wambua.

Sen. Wambua: Mr. Temporary Speaker, Sir, I would rather you just allow the professor and her students to engage on this matter and leave alone other people who are pretenders to the throne. Nonetheless, I respect Sen. Mandago. Only that he is also trying to misinform my teacher.

I want to inform my teacher, Prof. Kamar, that she should go back in memory lane and remember where we left Moi University being called the fountain of knowledge. When we went to Moi University and when she was my teacher at the Moi University, it was never an issue who the vice-chancellor of Moi University would be, where they come from or what their qualifications are, for as long as they are qualified to be vice-chancellors in that university.

Mr. Temporary Speaker, Sir, Prof. Keya was there under Prof. Karei, Prof. Munavu, Everest Tanda, and it was never an issue where these fine vice-chancellors came from. From the time that conversations around the office of the vice-chancellor at Moi University began to take a route of negative ethnicity, the atmosphere of today is a pale shadow of what it used to be.

Mr. Temporary Speaker, Sir, I submit.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Prof.) Kamar, I hope you have not been misinformed or confused by your other students.

Sen. (Prof.) Kamar: My students are even confusing it further, but I am going to help them, because I am in the Senate Standing Committee on Education. We want to make things clear, because there are things that are governance issues, which exist in any university, and we cannot deny.

Once upon a time, I was a Minister in the Ministry of Higher Education, Science and Technology. During my time, President Kibaki started 15 universities. Of the 15 universities, the one that was started is Jaramogi Odinga, the vice-chancellor was from the village. The one that was started in Kitui, where my other student comes from, also came from there. The one that was started in Karatina, the professor that became the vice-chancellor came from there.

There was something about having the confidence of the people. I do not know what it was, but always people run home for interviews. In fact, Moi University should be congratulated. It is the one that did not have somebody from the neighbourhood for a long time. I think the current vice-chancellor is the first one that came from that neighbourhood. We started from Prof. Odhiambo, then Prof. Keya. One was from South Nyanza, and the other from North Nyanza. I call it North Nyanza because it is the opposite of the lake. More universities have had that.

So, let us not see the tribe because, if somebody says I oversaw tribal installations, it actually happened at that time that people who went back home for interviews, for instance when you talk of Masinde Muliro University, the people who went home for interviews are actually from the neighbourhood. We did not mind, as long as the Chairman of the Council was from outside. These universities came to prominence. However, I love my students because they love their university. They would not be talking if they did not love Moi University. So, for that, I really appreciate their comments.

As the Senate Standing Committee on Education, we will be able to get the facts and give you the figures, so that we start to understand. However, I can tell you for a fact that Moi University became a victim of being too generous. If that generosity was part of mismanagement, it was, because that is exactly what happened. It spread all the way to Garissa. In fact, I even opposed Garissa and said, let Jomo Kenyatta, which is nearer to Garissa, go to Garissa. However, at the end of the day, who fought for this? - Members of Parliament from Garissa. They were fighting for Moi University to go to Garissa because, again, Moi University students love their institution.

So, a Member of Parliament who was a former student of Moi University staff said, "No, I do not want any other university." So, we have had these issues, and some of us, parliamentarians, have also affected the way the universities run because we are fighting for promotion. For instance, in the 15, we had five that were as a result of Members of Parliament fighting to have universities. Nothing was wrong with it because we needed universities. Our students did not have enough space. However, we need to critically look at that. I only say that Moi University was a victim because it spent too much money that was not its own. It would be nice to state that in this House, so that all of us get to understand, so that we can deal with the mismanagement issues.

Mr. Temporary Speaker, Sir, I support this Report. Let us continue to get money to go to where the functions are. Let us increase the amount of money that goes to counties because the functions have increased.

With those remarks, I support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. (Prof.) Kamar, for your contribution.

Hon. Members, there being no other Senator who is desirous of contributing to this particular Report, I call upon Sen. Mungatana, who is the Mover of the Report, to reply.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, may I take this opportunity to sincerely thank hon. Senators who made impassioned contribution to this Report. When I moved this Report, I said that this is one of the most important constitutional mandates that any Senator who is elected from his county knows he must execute.

Mr. Temporary Speaker, Sir, every one of us, with exception of those who have probably travelled on official duty, was able to put the issues that were captured in that Report. I respect the diversity of opinion that was expressed in the debate. I listened carefully to every Senator who spoke to this Report. As I reply, I am better informed now

than even when I was moving this Report. So, I truly thank hon. Members and the CoG. I believe the governors are listening. The message is clear.

Hon. Senators may have diverse opinions, but they were united in one thing - please, develop your own source of revenue, so that going forward, we will not be continually dependent on the equitable share to survive running the counties.

Two, hon. Senators have expressed a strong view that resources within the county, once we have released them from here, will be utilized properly, as intended, so that, we will not have money released by the Senate through these Bills, and then they go down there and then services are not given to the people.

Mr. Temporary Speaker, Sir, thirdly, Members may have had diverse opinions, but they agreed that time has come that money that is allocated from the budget should follow functions. The counties have been given a heavy load of functions and the national Government is not releasing the requisite funds so that our counties may develop. With all this divergent opinion, this House is a House of vision. It is a senior House, that is full of people with a lot of experience in their own professional fields, even in political leadership and administration.

Mr. Temporary Speaker, Sir, I truly believe that by the time that we will come to bring this matter to a vote, we will have reached a consensus. Perhaps, those who expressed opinion differently from the Report will be persuaded, and we hope that many of us will come to support it. For me, the reason is that we have had a drop in the expected collections, and I remember, which I mentioned, but it is good for me to underscore this point, that, during the mediation process, after the cameras were removed, we were given facts and figures by the National Treasury, so that the question now moved from the wishful to the reality. That is, what can we disburse and what is available.

Mr. Temporary Speaker, Sir, the debate here also captured that idea, that we need also to be alive to the fiscal realities that we live in the country today.

So, with those many remarks, again, I thank you. I still say thank you for the leadership we enjoyed by Sen. Ali Roba. He was our team leader and the team from the National Assembly was led by Hon. Ndindi Nyoro. I still urge Members to consider supporting this Report. We can still keep talking about the issues we have raised but, fortunately, we will not be voting today.

As I reply, I pray that between now and the time we will vote, we shall persuade each other to support this Report.

With those remarks, I beg to reply and pursuant to Standing Order No. 66(3), request that the putting of the question be deferred to a later date. I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mungatana.

(Putting of the Question on the Motion deferred)

Clerk, please, call the next Order.

MOTION

CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS
TO THE COTTON INDUSTRY DEVELOPMENT
BILL (SENATE BILLS NO. 5 OF 2023)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, I call upon the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries, Sen. (Dr.) Murango, to move the Motion.

Sen. (Dr.) Murango: Asante, Bw. Spika wa Muda. Ninaomba kwamba, Mswada kuhusu ustawishaji wa pamba, marekebisho yaliyotoka Bunga la Taifa Mswada Nambari 5 wa 23---

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Murango, please read out as reflected in the Order Paper and then contribute in the language of your comfort.

Sen. (Dr.) Murango: Thank you, Mr. Temporary Speaker, Sir.

I beg to move that the National Assembly amendments to the Cotton Industry Development Bill (Senate Bills No. 5 of 2023) be now considered.

The Temporary Speaker (Sen. Wakili Sigei): Proceed in Kiswahili, Sen. (Dr.) Murango.

Sen. (Dr.) Murango: Asante, Bw. Spika, Mswada wa pamba ambao uko mbele yetu ulimaliziwa katika Bunge la Seneti na ukaenda Bunge la Taifa ili uweze kuzingatiwa baada ya kufanya misururu ya mikutano na uhamasishaji wa umma katika sehemu tofauti na Kamati ya Ukulima, Uvuvi na Uchumi Samawati ya Seneti kuleta ripoti katika Seneti.

Ilipoenda kule, kuna marekebisho ambayo Bunge la Taifa limeomba yafanywe na ukarudishwa tena kwa Kamati ya Ukulima, Uvuvi na Uchumi Samawati. Tulikaa chini na tukavalia njuga swala hilo na tukaangalia mambo yote ambayo yanafaa kuangaliwa, na tukakubaliana kwamba, marekebisho yote yaliyotoka Bunge la Taifa yanafaa kuzingatiwa. Kwa hivyo, hakuna Seneta aliyekuja kupinga marekebisho yaliyotoka Bunge la Taifa. Hivyo ni kusema kwamba, ripoti ambayo tuliandika na kuleta hapa Bunge la Seneti, ipo na hivyo nimesema, ndivyo inasema kwa kwamba, tunakubaliana na marekebisho yaliyo kwenye ratiba ya Seneti.

Bw. Spika wa Muda, huu Mswada ni muhimu sana kwa sababu ukizingatia maeneo ya kiuchumi yanayoitwa Export Processing Zones (EPZ) ambapo viwanda vingi vinavyotengeneza nguo ambazo zinazotokana na pamba. Leo hii ni kusema, viwanda vile wananunua vitambara kutoka nchi za nje, sana sana, nchi ya Bangladesh.

Tulienda gatuji la Busia na tukawa na mkutano. Ninachukua nafasi kushukuru Seneta wa Busia, Mhe. Okiya Omtatah, kwa sababu alitupea nafasi nzuri na kukaa na kuongea na wana-Busia. Serikali imejenga kiwanda kipya cha kushugulikia pamba na kutoa nguo. Shida iliyokuweco ni kwamba, hakujakuwa na sheria muhimu ambayo inaratibu biashara ya ukuzaji wa pamba na uuzaji wa pamba inafaa kufanywa.

Tulifikikiria ni vizuri Mswada ulioletwa mbele yetu na Seneta Beth Syengo tuuzingatie tuifanye msingi katika ile biashara ya kilimo ili iwe ni kilimo biashara na sio bora kilimo. Maeneo yote nchini ukizunguka, kuanzia Nyanza, kwenda Magharibi mwa

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nchi, Bonda la Ufa, maeneo ya Kati, Ukambani na uende mpaka Lamu katika eneo la Pwani, pamba kwa sababu inastahimili ukame, inaweza kukuzwa katika sehemu nyingi.

Ni kitega uchumi kizuri na kama tutawekesha na kuhakikisha kwamba kuna mtaji wa kukuza pamba, pembejeo zinapatikana na mbegu zinaitwa za BT, ambazo kilo moja ni zaidi ya Shilingi 7,000 lakini ni pamba nzuri sana ikipewa wakulima. Tulionelea ikiwa wakulima watapewa nafasi na pembejeo, watanufaika pakubwa na pamba.

Bw. Spika wa Muda, pamba ni mmea ambao una maana sana kwa sababu, ukitoa ile pembe kwa kimombo inaitwa *lint*, itatengeneza nguo. Ukitoa mbegu ya ndani na kuifinya, itatoka mafuta. Hayo mafuta kwa kimombo yanaitwa *biodiesel* na hata kuna mafuta ya kupikia. Ile inabaki, *cotton seed cake* inakuwa ni kiungo muhimu katika kutengeneza vyakula ambavyo vinalisha wanyama, kwa wengi ambao ni wakulima wa ng'ombe na mbuzi wa mazima, nguruwe na hata kuku.

Hivyo ni kusema kwamba, pamba ni mmea ambao kila kitu kinachotolewa kwa pamba kinatumika vilivyo na inaweza kuwa kitegauchumi kikubwa kama tunaweza kushughulikia pamba na kuhakikisha viwanda vinatosha. Jambo lilikuwa kubwa tulipokuwa tukizunguka ni kwamba, viwanda vingi vya pamba au *ginneries* vimevunjika na vingine vililizwa. Vingine pia, wakiritimba walikuja wakavamia mashamba na wakayachukua kwa njia ya ulaghai.

Mfano mzuri ni kiwanda cha pamba kilichokuwa mahali kunaitwa Ngurubani katika gatuzi la Kirinyaga. Utapata mashine hazipo, ziliibiwa na kiwanja hakiko, kilienda. Lakini, kama Kamati, tuna mpango kwamba, Mswada huu utakapopita kwa sababu hii ndio safari ya mwisho ili uweze kupita, tutazunguka tukiangalia hivi viwanda. Pia, tutahusisha Wizara ya Ardhi kuhakikisha kwamba, yale mashamba yalikuwa ya serikali ambapo, pamba ilikuwa inaenda pale kushugulikiwa na kusaidia mkulima, yamerudishwa ili tihakikishe kwamba, mashine zimerudishwa na wakulima Kenya nzima wafaidike.

Bw. Spika wa Muda, ukiangalia maongezi au, unapotoka hapa na uende sehemu kame kama Kitui, Makueni, Busia au Homa Bay, mahali Seneta Kajwang' ametoka, swali unaloulizwa na wale wananchi ni kwamba, tunasikia watu wakitaja majani chai, kahawa na miwa, lakini, chetu ni kipi katika hizi gatuzi kwa sababu, sisi ni walipa kodi ambao tunafaa kushikiliwa na kupewa mitaji na kusamehewa mikopo ili sisi pia tusikie ni kama Wakenya? Kwa hivyo, pamba tunayoongelea siku ya leo ni mojawapo ya mmea ambao unaweza kustawisha na kusawazisha Wakenya wengi katika Kenya hii ili kila Mkenya asikie ni Mkenya na hajatengwa. Lamu inakuza pamba. Ukienda Kilifi utapata wanakuza pamba.

Mimi ni Mwenyekiti wa Kamati hii. Kwa kudura zake Mwenyezi Mungu, tutahakikisha kwamba Mswada unaowasilishwa kila sehemu nchini, kutakuwa na kitegauchumi.

(Sen. (Dr.) Murango's phone rung)

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Murango, the Chair previously ruled that cellphones must be kept on silent mode whenever you are in the House. Take note of that.

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Sen. (Dr.) Murango: Samahani, Bw. Spika wa Muda. Nitahakikisha nitafuatilia maagizo hayo. Nilikuwa namalizia kwa kusema ya kwamba, mmea wa pamba ni mojawapo ya mimea ambayo inasawasisha jamii nyingi nchini. Wakati kuna watu ambao wanasamehewa mikopo, kuna watu wanaopewa mitaji, iwe kwamba kila Mkenya ana mmea unaompatia pesa za kujikimu.

Ukiangalia takwimu ya mahali ambapo pamba inapandwa, pamba ni mmea unaoweza kustahimili ukame. Sehemu nyingi nchini zinaweza kukuzwa pamba. Pia, katika Kamati ya Kilimo, Mifugo na Uvuvi kuna miswada ambayo tutawasilisha kuhusu jamii za wafugaji ili kuhakikisha kwamba wananufaika na kilimo biashara.

Mswada huu utakapotiwa sahihi na Rais wa Jamuhuri ya Kenya utakuwa ni Mswada wa tatu ambao umepitia katika Kamati ya Kilimo Mifugo na Uvuvi katika Bunge la Seneti. Tumehusika vilivyo kuhakikisha imepita. Mswada wa miwa umepita. Aliyekuwa mdhamini mwenza katika Mswada huu ni Sen. Wafula ambaye ni wa Kamati ya Kilimo, Mifugo na Uvuvi.

Kuna Mswada wa kahawa ambao utasomwa kwa mara ya tatu katika Bunge hii. Pia kuna Mswada ambao umeletwa na Sen. Beth Syengo ambaye ni wa Kamati ya ukulima Mifugo na Uvuvi ambao tunamalizia. Kwa jumla, tuko na Miswada 15 ambayo imewasilishwa na Kamati ya Kilimo, Mifugo na Uvuvi.

Nitakuwa kalili wa akili kama sitasema kuwa kuna Mswada mmoja ambao ulituuma sana kama Kamati. Huu ni Mswada ambao ulikuwa unahusu ndengu ambao ulikuwa umeletwa na Sen. Wambua. Ndengu ni kama pamba inakuzwa kila mahali. Alipochukua nafasi kuongea na Wabunge wa Bunge la Kitaifa kujua kwa nini Mswada ulififia na ukafa kwa njia ambayo haikueleweka, wengi waliokuwa wanaongea, walikuwa wanaongea kwa hali ya kutojua.

Ungemsikia Mbunge akisema kuwa kuna Mswada wa ndengu ambapo mtu atalipishwa shilingi 1 milioni. Athari ya kufanya siasa na Miswada ambayo inapita katika Bunge la Kitaifa na Bunge la Seneti ni moja. Tulipokaa kwa sababu ya Mswada wa miwa hakukuwa na siasa duni. Mswada huu Rais alipiga sahihi. Mswada wa kahawa haujakuwa na siasa. Hivi karibuni utatiwa kidole kwa sababu unasomwa kwa mara ya tatu.

Mswada wa pamba haujatiwa siasa. Wale wakulima wa ndengu wamepoteza nafasi muhimu sana. Hivi sasa, Serikali inapambana kuhakikisha kwamba kuna lishe bora na usalama wa chakula nchini. Tuna changamoto kama Seneti kwani lazima tuhakikishe kwamba wananchi wanafahamu kazi yetu kwa kueleza waziwazi. Kuna watu wanatumia Miswada inayokuja kwenye Bunge la Kitaifa kupigana kisiasa. Wanafikiria kuwa Mbunge akipitisha Mswada atapata umaarufu.

Wanasahau ya kwamba wanaopitisha Miswada ni Wakenya. Kwa mfano, nimetoka eneo la Kirinyaga. Sisi hatukuzi miwa. Mswada huu ulipokuja kwenye Kamati, nilikumbuka kuwa wakulima wa miwa wamekuwa katika lindi la umaskini kwa miaka ambayo hatuwezi kuhesabu. Tulipoona nyuso za wazee huko Chemilil ambao wamelima miwa na bado ni maskini, na kusikia kilio cha wakulima wa miwa ambao watoto wao hawasomi, wale afya zao zimedhoofika na bado ni wakulima na wameendelea kulima. Ukiwa na utu na ukiwa kiongozi lazima ulivalie njuga jambo lile kuhakikisha kwamba watu wale wamepata haki yao.

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Wakati Rais alisema kuwa Mswada wa Sukari uko hapa uzingatiwe, tulichoma mafuta usiku kucha na mchana kutwa. Mimi kama Mwenyekiti mwenza Mheshimiwa Emanuel Wangwe tukakaa chini na kuhakikisha kuwa tumemaliza kushughulikia Mswada huo. Tunapoongea, kuna matumaini katika wakulima wa miwa, kahawa na majani chai. Kwani kama Seneta wa Bomet umeleta Mswada kujaribu kulainisha mambo ya kilimo cha chai. Matumaini ya wakulima wa ndengu yako wapi? Matumaini ya wakulima wa pamba yako wapi? Kutakuwa na matumaini kama tutakuja na kuhakikisha kwamba Mswada kama hii inapita bila siasa ambazo hazina maana.

Nikimalizia, Waswahili husema wavuvi wa pweza hukutana mwambani. Sisi kama Maseneta tukutane hapa ili mwamba wetu, tuunge mkono Mswada huu na marekembisho yote ili wakulima wa pamba wapate nafasi ya kuendelea na wakulima wao na waweze kufaidika.

Asante sana, Bw. Spika wa Muda.

The Temporary Speaker (Sen. Wakili Sigei): You need to call someone to second.

Sen. (Dr.) Murango: Samahani, Bw. Spika wa Muda. Nitamuita Seneta wa Kitui, Sen. Wambua, kuunga mkono Mswada huu.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wambua, as you Second the Bill, proceed to make your contribution because I have noticed that you have made a request.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. I take this opportunity to second the Bill and the Cotton Industry Development Bill report.

I must begin by thanking the promoter of the Bill, Sen. Beth Syengo, and the Committee of the Senate on Agriculture, Livestock and Fisheries for making bold steps to process the Bill to this point. I also want to thank our partner Committee in the National Assembly for proposing certain amendments that, as you have heard our Chair say, I sit in the Committee on Agriculture, Livestock and Fisheries of the Senate. The Committee has gone through the provisions of the amendments proposed by the National Assembly. We have agreed with them.

Cotton in this country, at some point, used to be a major source of foreign exchange. Many Kenyan farmers earned a lot of money from this crop. Besides the money they earned as foreign exchange, this country also benefited from the cotton industry because apart from the farmers that were growing the crop, we used to have a lot of ginneries that were processing the cotton into yarn. We also used to have vibrant textile companies like Rivatex and Kisumu Cotton Mills (KICOMI). When we were growing up, we used to have cotton fields in Kitui, and the story of second-hand clothes, popularly known as mitumba, was not popular when we were growing up in the late 1970s and early 1980s. This is because cotton growing was very vibrant and people would easily buy newly manufactured clothes in the country because the raw material for that would be cotton.

The failure by successive governments to properly regulate the industry led to the collapse of commercial cotton farming as we used to know it. I know and appreciate that there are still regions that are supported to grow cotton and they are sustaining quite a number of ginneries and garment processing factories.

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Not very long ago, we committed the outgoing ambassador of the United States of America in Kenya, Meg Whitman, that the United States Government would continue to promote the revival of cotton farming in this country, so that this nation and farmers from Kenya and business people from Kenya can also continue to benefit from the provisions of the African Growth Opportunities Act (AGOA).

The sorry state of affairs, as we stand today, is that we have cotton or garment companies in this country that are forced to import cotton and cotton products from as far as China and other African countries to process and manufacture clothes yet we have areas in this country that are very conducive for cotton growing. It is my prayer and my wish that this Bill will pass and be assented into law by the President, so that then the benefits of cotton farming in the regions where cotton is grown, farmers may now begin to realise those benefits.

As the Senator of Kitui, I confirm to this House that cotton farming is a very lucrative and rewarding farming activity in Kitui and the region if it can be properly supported. We still have some ginneries that have stalled and do not operate. Most of them use outdated technology, so they are not even functional. However, the climatic conditions from Kitui and the region are supportive of cotton growing. For the information of the House, Kitui Machakos and Makueni are no longer Lower Eastern Region. They are Mount Kenya South Region. So that region is very suitable for cotton farming.

There is a matter that the Senator for Kirinyaga, my Chairman in the Standing Committee on Agriculture, Livestock and Fisheries, has touched on. I want him to hear this, but Sen. Maanzo would not allow him to hear. We are here to represent our counties; the wishes and aspirations of people from our counties who are Kenyans and who have a right to representation and proper support from the Government of the day, irrespective of their relationship with that Government.

I thank my Chairman, Sen. (Dr) Murango, because so far, as he said, this is the third Bill that we have successfully processed. We expect that very soon, it will be assented into law by the President, and the benefits contained therein then will trickle down to the farmers. However, we, as a Committee, are also worried a lot. I bring this to the attention of the Speaker so that he can also give proper direction on this matter. I sponsored the Mung bean Bill. All the Senators in the House during the time for debate on that Bill supported and voted for it. The proposed amendments, which the Committee considered, the Secretariat helped the Committee to process what we believed was a very good Bill to help *ndengu* farmers across the country.

When the matter went to the National Assembly, first of all, it was there for the longest time. When it finally came up, we heard strange things. The Bill intended to make sure that farmers obtain licenses to grow *ndengu* or mung beans.

I want to stand on the Floor of this House today as I support the Cotton Bill, to say that if there is any *Ndengu* Bill, that proposes the licensing of farmers to grow the crop, then that is not the Bill we processed in the Committee and the Bill the Senate passed. That must be another Bill from another place because that provision is not there in that Bill.

It was shut down at the National Assembly on that basis. However, what is even more worrying is that naturally if a Bill is rejected in one House after having been passed in the other House, the natural consequence of that is to take that Bill through mediation. That is the natural consequence. I have not heard of any communication about any mediation on that Bill, and the matter has just died there. The *ndengu* farmers in this country deserve better. They are Kenyans. They want and deserve to be supported just as the tea, sugar cane, coffee and even livestock farmers. Let us remove partisan politics from the legislation because that will not help anyone.

Mr. Temporary Speaker, Sir, I expected that at the convenience of this House, and perhaps when we resume, a mediation team would be constituted to look at the Mung Bill and see if there is any clause that talks about licensing of farmers. That would be the first clause to be removed from that Bill, but I can assure you that there is no such clause in that Bill.

Mr. Temporary Speaker, Sir, with those many remarks, and in recognition of the fact that we need to also transact some other business in the House, I second the amendments.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Wambua. Hon. Senators, I will proceed to propose the question.

(Question proposed)

I can see that we have Members who are willing to contribute to this Motion. I will start with Sen. Mungatana Danson.

Sen. Mungatana, MGH: Thank you, Mr. Temporary Speaker, Sir, for allowing me to make my contribution on this matter.

When we were growing up in Tana River, there was Hola Cotton Ginnery, which used to be a great source of employment for many people. People would wake up in the morning and head to the ginnery and there would be others coming out from night duty.

There was a lot of flow of money within Hola Town, which is the headquarters of Tana River County. Many buyers would also visit Tana River County. There were a lot of activities. Lorries would come to ferry people to work and collect the product. Money used to flow in a predictable way. The town was bustling with economic vibrancy. People would come from far-off towns in Kenya to settle and do business in Hola Town. Unfortunately, Hola Cotton Ginnery died a sad death.

When I heard that the Chairperson of the Committee on Agriculture, Livestock and Fisheries will move this Motion, I called him aside and asked because he had been mentioning various counties where cotton used to be produced and that cotton growing and production needs to be revived. I wanted to know whether he would mention Tana River and he promised that he would come in that direction.

I am mentioning this because in some of our counties like Tana River, businesses that are going to spur economic growth, as they used to many years ago when we were growing up, are agri-based. Those businesses that were doing some form of manufacturing from products from farming were the ones that were giving the greatest source of employment to the people of Tana River County.

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The ginnery closed down, but we were told somebody had purchased the infrastructure. We expected that there would be injection of capital and a fresh start, or perhaps, new machinery would be brought, but that was just a dream because nothing has happened since that time.

After being elected a Senator, we have been following up the matter. We have been promised again by the national Government that they will revive the cotton ginnery. They are saying that there is a great demand for cotton that it will be necessary as a matter of demand-supply economics that they support the growth of the industry in Tana River County but that promise has not been implemented.

I want to join those who have said many times that we wish well those who are doing coffee and tea farming because they get Government support. However, those of us who have been doing cotton farming in Hola through irrigation have not gotten any Government support since the closure of the ginneries. There has been no attempt at all to revive that industry, despite promises being made by the Government.

We are happy that today we are passing a law that says that there will be deliberate efforts to support the growth of cotton industry in Kenya. Since cotton grows in areas that have rainfall deficiency, such as Tana River and other areas that have been mentioned before, we pray that the Government will put money because we are going to pass this law.

As we debate here, I know many people will support it. I urge all the other colleagues who are not seated, but listening to this debate from outside that this is one crop that if we give it proper infrastructural support, like we give to coffee, pyrethrum, sugarcane, and tea, many farmers from areas that were previously thought to be marginalised will start making good money and live the dream that Kenya promises.

So, Mr. Temporary Speaker, Sir, I stand here to support this Motion. I support the amendments that have been brought. This is a promise to the people of Tana River and other areas in this country that have the capacity and potential to grow the crop that it is going to help our people. There is hope that, in fact, this industry is going to start growing again.

When we heard that Rivatex East Africa Limited had started working again and that they have cotton deficiency, the joy and celebration of the promise by the national Government that there would be revival of the industry back home in Tana River County was great. However, Rivatex East Africa Limited has been operating and they have been importing cotton. Always importation tends to kill local industries and drain our reserves.

Before I sit down, I would like to make a final plea. As we support this law, we urge that in the proposed supplementary estimates by the national Government that some money be put towards supporting farmers in this area. If we support our farmers there, this is where the rubber meets the road. This is where our people will start benefiting from good and wise leadership.

Other crops like sugarcane have now seen the light. There is hope for them because they had been forgotten based on how that sector was being managed in this country. We passed that law and now farmers can look forward to a brighter future. Now that we are on cotton, we are praying that farmers in this country, including those from Tana River County, will look forward to better earnings.

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With those many remarks, Mr. Temporary Speaker, Sir, I beg to support this Motion.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mungatana.

Hon. Members, to facilitate conclusion of this particular Motion, I will exercise the provision of Standing Order No.34(2A), to extend the sitting for another 10 minutes. I will allow Sen. M. Kajwang' five minutes to contribute, then the Mover to reply before we defer putting of the question to a later date.

Sen. M. Kajwang', kindly, proceed. We will see how far you would have gone after five minutes. We can still extend as long as we are within the 15 minutes that we are allowed by the Standing Orders.

Sen. M. Kajwang': Thank you, Mr. Temporary Speaker, Sir, for your generosity. I come from a cotton growing zone. I am a member of the Seventh-day Adventist Church and the history of the Seventh-day Adventist Church is synonymous with the history of cotton growing in my region. When a pioneer Adventist pastor called Pastor Carscallen introduced the Adventist Church, he also introduced modern schools and modern medicine. It does not mean we did not have medicine. He, however, brought in the modern pharmaceuticals. He also introduced cotton as a cash crop.

Over the years, the Rachuonyo region and the area around Kendu Bay was founded on the wealth and the riches of cotton. Today, Kendu Bay is a shell. It is a pale shadow of itself because the cotton industry collapsed in the 1980s as a result of the structural adjustment programmes. As you drive around Nyanza, Western and even Ukambani, there are centres that are called store pamba, meaning that is where the warehouse, the aggregation centre for cotton was located. Those store pambas are all over on the main highways from Homa Bay to Kisumu. It tells you how valuable that industry was back in the days.

Mr. Temporary Speaker, Sir, the production of cotton is not where it should be. It has averaged at about 25,000 metric tons over the years, but is now about 7,000 tons versus a potential of 200,000 tons. There are many factors. There was liberalisation, the structural adjustment programmes (SAPS) and also the issue of *mitumba*, which then led to inflows of second-hand clothes that competed with the locally produced fabric and textile.

There is also the issue of the quality of seed. There has been debate on whether Bollgard Cotton (BT) should be allowed and the jury is still out there. I do not know whether we are making the right decision. The right decision must be adoption of seed and technology that is pest-resistant.

Growing up, cotton growing was a very labor-intensive activity. There are certain factors of production that may have changed and shifted our comparative advantage as a country. Land is not as big as it was back then. Families are not as big as they were back then. Polygamy thrived because when you were a polygamous man with a huge cotton farm, you had an entire army that would go out to the field to work on the cotton farms and harvest the farm. Indeed, you will notice that one of the things that fueled slavery in the United States of America (USA) and other countries was cotton production because it was extremely labor-intensive.

We need to innovate to ensure that this board that has been proposed in this Bill drives innovation and the adoption of technology. After the repeal of the statutes that abolished slavery in the USA, they still continued growing cotton. However, they decided to turn to technology to replace the slaves and forced labor. Therefore, I support the establishment of the Cotton Board. We, however, need to be very clear and tell the country what our strategy and thought process is with regards to agriculture.

This country has evolved our strategies and thoughts around agriculture. When the late President, His Excellency Mwai Kibaki took over, (Prof.) Peter Anyang' Nyong'o and his team came up with the strategy for the revitalization of agriculture that led to the consolidation of the various agricultural boards into one super agency called the Agriculture Food and Fisheries Authority (AFFA).

Over the years, we have been in a process of unbundling that AFFA because we now have a Fisheries Authority, a Tea Authority, a Dairy Board and we now have a Livestock Authority in the cards. We are now talking of a Cotton Authority and a Sugar Board. Therefore, we need to be very clear and deliberate when it comes to policy and industrial strategy because it is the thought process that takes advantage of a nation's comparative advantage so as to elevate it in the global market. Our comparative advantage lies around agriculture because of the favorable weather. It also lies around logistics because of our location. Those are the things that we must exploit.

Right now, with the election of Donald Trump as the President of the USA, we are not sure of the future of the African Growth and Opportunity Act (AGOA) arrangement. We know that most of the companies in Athi River and the Export Processing Zones (EPZs) thrive on the AGOA arrangement.

Mr. Temporary Speaker, Sir, I know this is outside this Bill, but those of us in the Committee on Agriculture, Livestock and Fisheries, we now need to bring in the Executive, so that they pronounce themselves on the country's direction and strategic thinking when it comes to that sector. From the days of Prof. Anyang'-Nyong'o, when we had the strategy for revitalizing agriculture, there have been changes. Along the way, in 2010, we decided to devolve agriculture. That was a very significant policy direction for the agricultural sector.

The agriculture policy was published in 2016. I am not sure whether that policy has been adopted by the Cabinet. If a nation whose economy is based on agriculture, which provides the highest number of employment opportunities, does not have a sessional paper or a policy statement that has been adopted by the Cabinet, it means that we are flying on autopilot. These are things that we will push the Government and the Executive to put in place.

Mr. Temporary Speaker, Sir, within my remaining one or two minutes, let us ensure that even as we provide the role of county governments in this legislation, that county governments then do not become a hindrance. Let them be facilitators. Sometimes county governments can be a problem by introducing additional tariffs, additional cess and registration requirements. I have seen somewhere in the Report that even where the county government has the responsibility of registering cotton farmers, there will be no cost to it. However, let us also think about the distribution of seed and input to those farmers. It should never be a centralized approach. Perhaps, we need to

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take the approach that the Kenya Tea Development Agency (KTDA) has taken, where distribution of fertilizer to tea farmers is not done by a central bureaucracy but is done through the tea factories. That should apply here, so that we do not have situations of those Linturi fertilizers finding their way in cotton farms and therefore compromising the output of our cotton farmers.

I support this. There are many things I would have said about this, but ultimately as a country, we need to find those things that we are good at and invest in them. Cotton would be one of those things. Coffee and tea are already those things. Let us take advantage of the things that we are good at and project ourselves as a leader in those areas.

If the Independence fathers were able to make cotton a valuable product, if entire economies, like in Western and Ukambani, and even parts of Tana River County would enable parents to take their children to school on the basis of cotton earnings 30 or 40 years ago; what about today when you have better technology, better varieties, better breeds and a bigger population that can provide a market for our cotton?

Mr. Temporary Speaker, Sir, this should not be seen as another process of import substitution, but in our minds, we must prepare ourselves that we will still need to compete with the best when it comes to the cotton, textiles and apparel sector. Vietnam, Lesotho and even Botswana are countries that have made this a comparative advantage. We must be ready to compete with them. Let us not cheat our farmers that we will shield them from the vagaries of globalization. They must fight, they must find their space within the global markets, because producing cotton is one thing, connecting the farmer to markets is another. We must encourage them to grow cotton in Kendu Bay, Kitui and Busia counties, but connect them to global markets the way the African Growth and Opportunity Act (AGOA) opportunity has presented itself to us. We should ask ourselves that if AGOA was to collapse, what are we going to do with Athi River? Can we find alternative markets?

I believe we can find alternative markets, but we must fix our labour practices. Countries that have succeeded in the apparel sector also have tried to regulate the cost of labour. In Kenya, we are very litigious and we will always be talking of a certain minimum wage, but we are also putting in a lot of payroll taxes that then make the Kenyan worker more expensive. Some of these big corporations are happier to go to Bangladesh, to Pakistan and those other economies.

Mr. Temporary Speaker, Sir, I support and I look forward to the enactment of this law and also to the day when the cotton farmers of Homa Bay and Nyanza are going to start having money in their bank accounts.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. M. Kajwang'. I now call upon Sen. (Dr.) Murango to reply.

Sen. (Dr.) Murango: Asante, Bw. Spika wa Muda. Naomba unipe dakika tatu ili nishukuru wale Maseneta ambao wameunga mabadiliko ambayo yameletwa katika Mswada huu wa pamba.

Pili, ni kuwa pamba ni mmea muhimu sana kwa sababu inakuwa malighafi ya chakula cha wanyama na mafuta. Sen. M. Kajwang' ambaye pia ni mmoja wa walio

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katika Kamati ya Kilimo, Mifugo na Uvuvi tulipata kuzuru Kaunti ya Kitui na kupata ya kwamba mafuta yanayotolewa katika mbegu za pamba yanatumika kutengeneza nguvu za umeme ya kutumia kwa generator zao na pia yanatumika kwenye gari zao. Sen. M. Kajwang' ndiye mwenyekiti wa Kamati inayohusika na mabadiliko ya tabia nchini. Kwa hivyo, hilo ni jambo nzuri sana tukiweza kuipata. Pamba sio nguo pekee ila ni malighafi ya vitu vingine vingi.

Bw. Spika wa Muda, kwa mujibu wa Kanuni za Kudumu za Seneti No.66(3), naomba swali la Mswada huu liahirishwe hadi siku nyingi. Asante.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator for your reply. Pursuant to the provisions of Standing Orders No.66(3), the putting of the Question on the Motion is deferred to the next sitting of the House.

(Putting of the Question on the Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members you may now rise. Hon. Senators, it is now 6.41 p.m., and having concluded the business for which I extended the hours of sitting pursuant to Standing Order No.34(2)(A), the Senate stands adjourned until tomorrow, Thursday, 28th November, 2024, at 2.30 p.m.

The Senate rose at 6.41 p.m.