

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 23<sup>rd</sup> November, 2023

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

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

#### PRAYER

##### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Temporary Speaker** (Sen. Wakili Sigei): Clerk, kindly confirm whether we have quorum?

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

I am informed that we have quorum. Therefore, we shall begin the Order of the day. Clerk, kindly call the Order.

#### COMMUNICATION FROM THE CHAIR

##### VISITING DELEGATION FROM THE KENYA INSTITUTE OF MANAGEMENT

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, I wish to acknowledge the presence in the Public Gallery this afternoon, a visiting delegation of members of staff and students from the Kenya Institute of Management (KIM). The delegation is in the Senate for a one-day academic exposition.

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

When called upon, rise to be acknowledged-

1. Mr. Meshack Kwantai
2. Mr. Eric Munyefu
3. Ms. Priscilla Makena
4. Ms. Elizabeth Ndamburi
5. Mr. Clavin Maitha
6. Dr. Boston Yofes Gekonde

7. Ms. Maurine Ndunge Chalo
8. Ms. Anyango Mercy Agutu
9. Ms. Susan Nyambura Rukunga
10. Ms. Osinde Stacy Montari
11. Mr. Samuel Sipai Kabwali
12. Mr. Gedion Colian Kibetwan
13. Ms. Mauline Anyango Ochieng
14. Ms. Nesta Wambui Muriuki
15. Ms. Mercy Anyango Odila

I request Sen. (Dr.) Khalwale, the Senate Majority Whip, to welcome the delegation in under one minute.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir, for the privilege. I join you in welcoming our visitors. I notice all of them are young people. I do not know how the lecturers became young and the students are also young. These things do happen.

Congratulations for being in your course of study. Welcome to the Senate. The Senate is a unique place as you have heard. Some of the people you normally see on television are the ones here. The one on my far right, for example, is called Sen. Osotsi, the Senator of Vihiga County and Chairman of the Committee on County Public Investments and Special Funds.

Interact with us. Through us, you will know the leadership of this country and stand a chance of replacing us when our time is up.

Welcome!

**The Temporary Speaker** (Sen. Wakili Sigei): Clerk, call the next Order.

### PAPERS LAID

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, we have a number of Papers today. I call upon the Chairperson or any Member of the Committee on Agriculture, Livestock and Fisheries to lay the Papers.

#### REPORT ON THE COFFEE BILL (SENATE BILLS NO.10 OF 2023)

**Sen. Wamatinga:** Thank you, Mr. Temporary Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, Thursday, 23<sup>rd</sup> November, 2023:

Report of the Standing Committee on Agriculture, Livestock and Fisheries on its consideration of the Coffee Bill (Senate Bills No. 10 of 2023).

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

**The Temporary Speaker** (Sen. Wakili Sigei): Vice Chairperson, Committee on Justice, Legal Affairs and Human Rights, Sen. Chimera, proceed.

REPORT ON THE PARLIAMENTARY POWERS AND PRIVILEGES  
(AMENDMENT) BILL (SENATE BILLS NO.37 OF 2023)

**Sen. Chimera:** Thank you, Mr. Temporary Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, Thursday, 23<sup>rd</sup> November, 2023:

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No. 37 of 2023).

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

**The Temporary Speaker** (Sen. Wakili Sigei): Next is the Chairperson, Committee on County Public Investments and Special Funds, Sen. Osotsi.

REPORTS OF CPIC ON CONSIDERATION OF AUDIT  
REPORTS FOR VARIOUS WATER SERVICE PROVIDERS  
FOR FYS 2019, 2020, 2021

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Thursday, 23<sup>rd</sup> November, 2023:

Report of the Select Committee on County Public Investments and Special Funds on its consideration of the Audit Reports of the following Water Service Providers for the year ended 30<sup>th</sup> June, 2019:

- (1) Amatsi Water Services Company Limited, Vihiga County.
- (2) Bomet Water Company Limited, Bomet County.
- (3) Gusii Water and Sanitation Company Limited, Kisii/Nyamira Counties.
- (4) Kisumu Water and Sanitation Company Limited, Kisumu County.
- (5) Kwale Water and Sewerage Company Limited, Kwale County.
- (6) Nyeri Water and Sanitation Company Limited, Nyeri County.

Mr. Temporary Speaker, Sir, I beg to lay the second set of Papers on the Table of the Senate, today, Thursday, 23<sup>rd</sup> November, 2023:

Report of the Select Committee on County Public Investments and Special Funds on its consideration of the Audit Reports of the following Water Service Providers for the year ended 30<sup>th</sup> June, 2020-

- (1) Amatsi Water Services Company Limited, Vihiga County.
- (2) Bomet Water Company Limited, Bomet County.
- (3) Gusii Water and Sanitation Company Limited, Kisii/Nyamira counties.
- (4) Kisumu Water and Sanitation Company Limited, Kisumu County.
- (5) Kwale Water and Sewerage Company Limited, Kwale County.
- (6) Nyeri Water and Sanitation Company Limited, Nyeri County.

Lastly, Mr. Temporary Speaker, Sir, I beg to lay on the Table of the Senate, today, Thursday, 23<sup>rd</sup> November, 2023:

Report of the Select Committee on County Public Investments and Special Funds on its consideration of the audit reports of the following Water Service providers for the year ended 30<sup>th</sup> June, 2021:

- (1) Amatsi Water Services Company Limited, Vihiga County.

- (2) Bomet Water Company Limited, Bomet County.
- (3) Gusii Water and Sanitation Company Limited, Kisii/Nyamira Counties.
- (4) Kisumu Water and Sanitation Company Limited, Kisumu County.
- (5) Kwale Water and Sewerage Company Limited, Kwale County.
- (6) Nyeri Water and Sanitation Company Limited, Nyeri County.
- (7) Wajir Water and Sewerage Company Limited, Wajir County.

*(Sen. Osotsi laid the documents on the Table)*

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, that takes us to an opportunity under Standing Order No.238(2), for Hon. Senators to comment cumulatively on the Papers which have been laid this afternoon. I will allow a maximum of 30 minutes for your comments on all the Papers laid.

Sen. Wafula, proceed.

**Sen. Wafula:** Bw. Spika wa Muda, asante kwa nafasi hii---

*(Clerk-at-the-Table consulted the Temporary Speaker)*

Bw. Spika ana mamlaka ya kuamua kile anataka.

**The Temporary Speaker** (Sen. Wakili Sigei): Very well. Sen. Wafula, that is noted. These Papers are yet to be ripe for comments.

Clerk, call the next Order.

## NOTICE OF MOTION

### ADOPTION OF CPIC REPORTS ON CONSIDERATION OF AUDIT REPORTS FOR VARIOUS WATER SERVICE PROVIDERS FOR FYS 2019, 2020, 2021

**Sen. Osotsi:** Mr, Temporary Speaker, Sir, I beg to give Notice of the following Motion-

THAT, the Senate adopts the Reports of the Select Committee on County Public Investments and Special Funds on its consideration of the Audit Reports for the years ended, 30th June, 2019, 30<sup>th</sup> June, 2020 and 30<sup>th</sup> June, 2021 of the following Water Service Providers-

- (1) Amatsi Water Services Company Limited - Vihiga County;
- (2) Bomet Water Company Limited - Bomet County;
- (3) Gusii Water and Sanitation Company Limited - Kisii/Nyamira Counties;
- (4) Kisumu Water and Sanitation Company Limited - Kisumu County;
- (5) Kwale Water and Sewerage Company Limited - Kwale County;
- (6) Nyeri Water and Sanitation Company Limited - Nyeri County and
- (7) Wajir Water and Sewerage Company Limited;

laid on the Table of the Senate on Thursday, 23<sup>rd</sup> November, 2023.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Clerk, call the next Order.

**QUESTIONS AND STATEMENTS****STATEMENTS**

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, these are Statements pursuant to Standing Order No.52(1). I call upon Sen. Crystal Asige to make her Statement.

COMMEMORATION OF THE WORLD DAY OF  
REMEMBRANCE FOR ROAD TRAFFIC VICTIMS

**Sen. Crystal Asige:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement of topical concern; commemorating the World Day of Remembrance for road traffic victims observed on the third Sunday of November annually.

This poignant occasion marks a solemn acknowledgement of the toll that road crashes exert on humanity. Insights gathered from the United Nations Global Road Safety Week held in May this year, vividly illustrate the staggering reality of 1.35 million lives lost annually due to road crashes. This is a haunting statistic, especially considering that the majority of these tragic losses affect individuals who are between five and 29 years old.

Here in Kenya, a report by the Ministry of Roads and Transport indicates that over the past six years, 20,907 precious lives have been lost due to road crashes. An additional 3,760 were lost as of 15<sup>th</sup> October, 2023, with the highest number of crashes being attribute to motorcycle users at 1,213 deaths.

Sadly, the National Transport and Safety Authority (NTSA) reports that 80 per cent of road crashes are caused by human error. This is a sobering and devastating reality that must be combatted head on.

However, it is not accurate to imply that the Kenyan driver behaviour is solely to blame for majority of crashes. For example, this week at the roundabout of Dennis Pritt Road just as you are about to descend to Oloitoktok Road, had traffic lights showing green and red at the same time. Of course, we expect that intersection to have cases of human error. It was the free for all.

The saying goes for blind spots, poor signage on roads, dangerous unmarked road works, roads without pavements and so on. If we had complete street design and safety by designers adhered to in the country, we would see a tremendous reduction in road crashes rather than heavily blaming motorists and their behaviour. The solution is in road design, construction and maintenance.

I want to see the Cabinet Secretary for Roads and Transport, Hon. Kipchumba Murkomen, through both Houses of Parliament, put pressure on NTSA, Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURA), Kenya Rural Roads Authority (KeRRA) and Kenya Roads Board (KRB) to stop cutting corners when building roads infrastructure.

The United Nations (UN) notes that the burden of road traffic fatalities weighs disproportionately on vulnerable road users such as pedestrians, cyclists and motorcyclists. This is particularly those residing in developing countries like our own.

Despite concerted efforts to meet the 2013 UN Sustainable Development Goals (SDGs) of reducing road traffic deaths by 50 per cent, progress remains far from adequate.

Alarming, the trend in Kenya has been increasing rather than decreasing from 2,919 deaths in 2017 to 4,619 in 2022. It is of note that in 2022 alone, we had over 21,000 road accidents. As transport practitioners on the ground, we know these numbers to be far higher.

It is no wonder Kenyans from different walks of life, on Sunday, 19<sup>th</sup> November, 2023, gathered along the Nairobi-Naivasha Highway to mark the occasion, led by the NTSA. Indeed, there is a glaring need for all stakeholders to get on board and put in place measures to help motorists and pedestrians alike.

Mr. Temporary Speaker, Sir, a responsive legal system must also include well thought policy and legislative frameworks, encompassing road design and comprehensive road safety education for drivers and pedestrians. Safety by design plays a pivotal role in promoting road safety, serving as a fundamental factor in preventing accidents and minimising their severity.

Additionally, the consideration of Non-Motorized Transport (NMT) infrastructure that accommodates various road users including road users including pedestrians and cyclists, is crucial. Properly designed sidewalks, bicycle lanes and designated crossings enhance their safety reducing the risk of crashes.

Furthermore, incorporation of road design elements that accommodate different weather conditions, visibility challenges and diverse driving abilities, contributes to overall safety on the roads by mitigating potential hazards.

Teaching drivers, proactive techniques such as defensive driving enables them to anticipate and respond to potential road hazards and can significantly reduce accidents.

Furthermore, raising awareness about sharing the road with individuals with disabilities is imperative for both drivers and pedestrians. The driving school curriculum must emphasise the importance of being mindful of Persons with Disabilities (PWDs) on the road whether visual, hearing or mobility related to help cultivate inclusivity and understanding on the road.

Mr. Temporary Speaker, Sir, in June this year, our nation bore witness to a harrowing tragedy marked as one of the deadliest crashes in our history. A horrific road collision at Londiani claimed lives of 55 Kenyans. We cannot idly stand by as these preventable crashes unfold.

This is why I am compelled to action, sponsoring amendments to road related legislation including the National Construction Authority (Amendment) Bill; the Traffic (Amendment) Bill; the National Transport and Safety Authority (Amendment) Bill; and, the Kenya Roads (Amendment) Bill.

I implore the support of this House in passing these Bills when they come to the Floor, as it is crucial to fortify our roads and ensure the safety of our fellow citizens in Kenya.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Chute, please proceed.

#### THE STATUS OF COMPLETION OF BUNGE TOWER

**Sen. Chute:** My Statement today is on the status of completion of Bunge Tower.

*(Applause)*

Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the status of completion of the project for the construction of Bunge Tower.

In the Statement, the Committee should:

(1) Provide a status update on the completion of the Bunge Tower construction project disclosing the outstanding scope of work.

(2) Clarify the procedures employed in the tendering process, including information on received bids, the awarded contractor and the bid amount.

(3) Explain any disparities between the initially agreed-upon project timeline and actual commencement and completion dates, outlining any measures implemented to guarantee the project's timely completion and prevent further delays.

Thank you.

#### CONVERSION OF SCHOLARSHIPS GRANTS TO LOANS BY HELB

Mr. Temporary Speaker, Sir, my second Statement. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education on the conversion of grant scholarships to loans funded by the Ford Foundation by the Higher Education Loans Board.

In the Statement, the Committee should:

(1) Confirm whether the Ford Foundation's funding successfully achieved its objective of awarding scholarships to 40 women in Marsabit County pursuing a Bachelor's in Education.

(2) State whether the Higher Education Loans Board (HELB) implemented the funding model by the Ford Foundation in the administration of the scholarship programme.

(3) Provide an explanation for HELB's decision to convert the originally designated scholarships into loans, outlining the factors that influenced this shift.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Lemaletian, please proceed.

#### PREVALENCE OF THROAT CANCER IN SAMBURU COUNTY

**Sen. Lemaletian:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the prevalence of throat cancer in Samburu County.

In the Statement, the Committee should:

(1) Present a comprehensive report on the current prevalence of throat cancer in Samburu County, encompassing statistics on the number of cases, demographics of affected individuals and any discernible trends over the preceding five years.

(2) Undertake a comprehensive study on the environmental, lifestyle or genetic factors that may have contributed to the unusually high rates of throat cancer in the county, particularly in Yamu Village, Maralal Town.

(3) Provide details on the scope and effectiveness of any ongoing public health campaigns or initiatives in the county aimed at raising awareness about throat cancer, its symptoms and preventive measures.

(4) Indicate the budgetary allocation and personnel deployed by the Government to enhance healthcare infrastructure and services related to cancer diagnosis and treatment in Samburu County.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Shakila Abdalla. Please proceed.

CUSTOMS REGULATIONS AND TAXATION OF TRAVELLERS  
RETURNING TO KENYA VIA JKIA

**Sen. Shakila Abdalla:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget concerning customs regulations and taxation clearance procedures for travellers returning to Kenya through the Jomo Kenyatta International Airport (JKIA).

In the Statement, the Committee should:

(1) State the criteria used by custom officials in determining the declaration process for taxable items for passengers returning to Kenya through JKIA.

(2) Provide the average turnaround time for clearance of by customs officials upon arrival, clarifying reports indicating that there has been significant delays in passengers' clearance at customs section, elucidating steps the Kenya Revenue Authority (KRA) is implementing to expedite and streamline these processes.

(3) State the criteria used in the review of the monetary threshold for personal items brought into the country by travellers to US\$500 as announced on 10<sup>th</sup> November 2023 by the KRA, stating when the reviewed threshold will be implemented.

(4) Shed light on circulating reports of harassment by KRA staff during the clearance process, stating measures being enacted to safeguard passengers from such experiences and ensure a respectful and efficient process.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Dr.) Lelegwe, please proceed to read your Statement.

STATE OF KISIMA AIRSTRIP IN SAMBURU COUNTY

**Sen. (Dr.) Lelegwe:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the deplorable state of Kisima Airstrip in Samburu County.

In the Statement, the Committee should:

(1) Explain the maintenance protocols in place at the Kisima Airstrip which is in a deplorable state as a result of a long period of neglect, indicating when infrastructure improvements at the airstrip will be undertaken by the Kenya Airports Authority (KAA).

(2) Outline any plans of the Government to ensure that the airstrip is operational and to the standards stipulated by the Kenya Civil Aviation Authority (KCAA).

**The Temporary Speaker** (Sen. Wakili Sigei): Next is Sen. Cherarkey.



HARASSMENT AND BRUTALITY ON PETER KIPLIMO AND  
IRENE CHEMUTAI BY POLICE AT CHEPTULU POLICE STATION

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the harassment and brutality by police officers on business persons Peter Kiplimo and Irene Chemutai at Cheptulu police station in Hamisi Constituency, Vihiga County.

In the Statement, the Committee should:

(1) State the circumstances surrounding the brutality by police officers on Peter Kiplimo who had gone to the police station to inquire on an irregular arrest of his kin.

(2) Explain the reasons for the arrest of businesswoman, Ms. Irene Chemutai and the use of unmarked car during the arrest by the police as well as non-arraignment in court within the stipulated times.

(3) State the actions taken against the police officers who tortured and robbed the duo after arresting them for undisclosed offences.

(4) Finally, appraise the Senate on the investigation of this matter and the arrest of the police officers who engaged in the harassment and brutality, if at all, including the refund of money and items stolen by the police during the arrest.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, lastly, we go to Statements pursuant to Standing Order No. 53 (1).

Sen. Omogeni, please proceed.

ACUTE SHORTAGE OF ANTI-TUBERCULOSIS  
DRUGS COUNTRYWIDE

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Health on the acute shortage of anti-tuberculosis drugs countrywide.

In the Statement, the Committee should:

(1) Provide detailed information on the current status of anti-tuberculosis drug shortage in the country, outlining the specific medications facing deficits and their impact on county health services.

(2) Elucidate on the primary causes contributing to the current scarcity, stating measures put in place by the Government to address the issue.

(3) Disclose any relevant information on the existing financial arrangements between the Government of Kenya and its development partners, particularly United States Agency for International Development (USAID) and Global Fund on the supply of anti-tuberculosis drugs and other essential medical commodities.

(4) Outline the remedial and preventive measures implemented by the Government to tackle the crisis, clarifying whether they constitute stop-gap measures or permanent solutions.

(5) Spell-out initiatives, if any, undertaken by the Government to consider reliance on external donors for anti-tuberculosis drugs and other essential medical commodities.

(6) Determine measures or interventions the Government ought to implement to prevent similar occurrences in the future, addressing not only issues related to anti-tuberculosis treatment, but also essential medical commodities such as antimalarial and ARV treatment.

Mr. Temporary Speaker, Sir, just one point. This is a matter that is extremely serious to us as Kenyans. Tuberculosis drugs have been missing from our hospitals for the last six months.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Omogeni, I believe you desire to comment. Once we are done with Statements, I will give you an opportunity for general comments on all the Statements, which have been read this afternoon.

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Lastly, Statements pursuant to Standing Order No.57 (1).

The Senate Majority Leader, please proceed.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 28<sup>TH</sup> NOVEMBER, 2023

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, pursuant to Standing Order No. 57 (1), I thank you for giving me this opportunity to present the business for the Senate for the week commencing Tuesday, 28<sup>th</sup> November, 2023.

The Senate has considered 13 Bills. Out of which, five have been enacted into law and eight are pending conclusion in the National Assembly. Thirty one Senate Bills are pending conclusion in the National Assembly and four National Assembly Bills are pending conclusion in the Senate. A total of 29 Bills are at the Second Reading stage while six are at the Committee of the Whole stage.

There was a request that I made, and unfortunately, I do not see the Chief Whip of the Minority side, but the Chief Whip of the Majority side is just walking in. There is important pending legislation that is at the Second and Third Reading stages. I enumerated the Bills last week. It is my sincere request to our Chief Whips if they could dedicate the last two weeks of this session to concluding on those particular Bills.

Perhaps not many of you have had the opportunity to present the budget of Parliament before the National Assembly Budget and Finance Committee. I have done it a couple of times. Part of the measures of output that we present as a House to the people of Kenya is to justify why we are here and why we need the resources that they send unto us. Key among them is the Bills that we are transacting. It is rather law.

In fact, next week, Sen. Sifuna and Sen. (Dr.) Khalwale, I will table before the Senate Business Committee (SBC) of the House a comparison of where the previous two Senates were at this juncture; the number of Bills and Motions they had passed so that we do a comparison. I believe we can do better because we have now learnt the trade and many of us know how these things need to be done.

My humble request to the House this afternoon is that next week, let us dedicate to conclusion of those Bills. We begin with these six that are Third Reading and the 29 that are at the Second Reading. If we can conclude on those Bills before we break for recess on 7<sup>th</sup> December, it would be good. There are a total of nine Motions that are

pending conclusion and 12 Petitions that have matured for reporting by the respective committees.

In addition to this, 267 Statements are pending conclusion by the Standing Committees. I urge the Standing Committees to hasten the consideration of this business pending their respective committees and table the reports thereon pursuant to the Standing Orders.

As is the standard parliamentary procedure, for any Motion that would not be concluded by the end of the session, the sponsors will have to refile them afresh during the next session should they wish to prosecute the same. For this reason, I urge all Movers of the Motions to avail themselves in the Chamber whenever their business is listed in the Order Paper to prosecute the same during the remainder of the session.

With the same breath, as the current session of Parliament is nearing its end, I cannot over emphasize the urgent need for all hon. Senators to prioritise their presence in the Chamber in order to conclude on the pending business before the Senate. I appeal to the party Whips to ensure that we have the requisite number of delegations achieved for division to be undertaken.

Mr. Temporary Speaker, Sir, as is the customary practice as we near towards the break of the session, people are trying to rush. However, the humble request we are making is that in the next two weeks, let us have all our delegations so that we conclude on this business and Members can organise and do all they need to do for their constituents.

With that Statement, I thank you and hereby lay the document on the table.

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

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, the Statement hour is still available. We have consumed 25 minutes thereabouts. I know a number of Members would like to ventilate and comment on the Statements, which have already been tabled. For housekeeping, we have got probably 35 minutes to comment. I will allow Members to ventilate within the 30 minutes available. Let us minimise comments to a maximum of three minutes.

From my dashboard, there are quite a number of you who are desirous of commenting. We need to agree. Is three minutes reasonable enough for comments on these particular Statements? Silence means concurrence. Three minutes each Member so that we ventilate on these issues.

Sen. Maanzo, you are the first in the queue. Proceed to comment on any of the Statements.

**Sen. Maanzo:** Mr. Temporary Speaker, Sir, I would like to comment on Sen. Cherarkey's Statement. I am very surprised that there is police brutality in his region yet it is a Kenya Kwanza region. I thought police brutality only happens at Azimio regions.

*(Laughter)*

I am surprised it is cutting across the country.

When there were demonstrations, hon. Senators and Members of National Assembly were going to present a Petition at the Office of the President and were

teargassed. Eventually, our security was withdrawn as part of intimidation by Kenya Kwanza Government.

During the *maandamano* at Emali town in Makueni County, there was a young university student who was shot. A young man who had no idea of what was happening. He was just coming from fetching water with donkeys, and some bullets hit him. Those issues have never been addressed.

Through this Statement, it is high time we called the police department to order that there be a way of operation in accordance with the Constitution that no Kenyan should go through any police brutality, but be given a due process in the event you are suspected to have committed an offence. One should be treated in a humane manner and presumed innocent until they are proven guilty.

The issue of police brutality should really stop in this country. The Inspector-General should issue a general statement to his departments and the police stations that police brutality should be a thing of the past. We have a Constitution and due process should be followed for every Kenyan. If they have committed an offense, either they apologize or they are prosecuted for it.

Mr. Temporary Speaker, Si, to hear that in this day and age, somebody who goes to inquire about what has happened to their child and ends up being brutalized; it is most unfortunate. I know that the police have now become a police service and are supposed to serve people and not cause brutality.

In conclusion, denying legislators security is also a case of serious police brutality. I think each case should be handled according to its merit. It is a way of intimidation of legislators and exposing them to danger yet we have no Independent Electoral Boundaries Commission (IEBC) to conduct any election should a Member of the National Assembly or Senator be assassinated during this time due to police brutality and lack of police protection.

I support the Statement by Sen. Cherarkey. It is high time the police took care of Kenyans.

I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. Kisang.

**Sen. Kisang:** Thank you, Mr. Temporary Speaker, Sir. I rise to make comments on the reports tabled by the Chair of County Public Investments and Special Funds Committee (CPICSF).

We want to thank Senate, in its own wisdom, when the 11<sup>th</sup> Parliament came up with the CPICSF Committee. This is because in the last two Senates, the 11<sup>th</sup> Parliament and the 12<sup>th</sup> Parliament, CPAIC focused mainly on the executive audited accounts. The special funds and water companies were left out for long without Senators going through the reports.

In the last few months, we have gone through the water companies' special funds. It is good to report that basically we are done with the water companies. That is why the Chair was able to table the reports for three financial years for about seven water companies in six counties.

I believe before we break for recess, we should be able to adopt the others so that they can be tabled, debated and the House resolves.

In the past, we have been able to assist the governors because some of the chief executive officers and the boards of the water companies behaved as if they were

independent from the county not knowing that the governors are the CEOs and they are the ones in charge of these water companies.

At least we were able to help some of the counties to even dissolve boards, re-advertise and employ board of directors for the water companies and run them professionally because in the past they were not run professionally.

We want to bring to the attention of the House to the issue of the water works agencies. We have regional bodies that are in charge of water and these are national water bodies. We have challenges because they take loans on behalf of the water service providers. Therefore, when they take loans, the servicing of the loans is passed to the water service providers. Sometimes they do not even know how the loans were taken. Even the property like motor vehicles, land and equipment that were bought and are being paid for by the water service providers are retained by the regional water bodies.

Mr. Temporary Speaker, Sir, these are things that we need to look at. We need to ensure that the House resolves these issues, so that motor vehicles that were bought under the projects be passed on to the water service providers.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senator, your time is up. Proceed, Sen. Osotsi.

**Sen. Osotsi:** Thank you, Mr. Speaker Temporary, Sir, for this opportunity. Let me comment on the Statement by Sen. Cherarkey regarding the police brutality on two people that is Peter Kiplimo and Irene Chemtai.

This police station called Cheptulu Police Station is situated in Vihiga County and these particular two individuals come from Nandi County. However, this police station is one of those police stations whose officers have over stayed in one station. I wonder what the Ministry of Interior and National Administration is doing about this.

We met the Cabinet Secretary for Interior and National Administration as the leadership of Vihiga County led by the Governor and demanded that something has to be done about insecurity in this area.

Mr. Temporary Speaker, Sir, you remember that I brought a Statement in this House regarding the level of insecurity in this Cheptulu area where one of the good hotels called Magnum Hotel owned by a lady has been invaded two times to the extent that the lady just decided to stop the business.

All this is happening and yet the police station is a few metres away. The police officers in this station must be transferred. I want the Committee that will deal this matter to do a thorough investigation on this matter so that the culprits are not just sacked, but they also face the law because they even stole from these poor Kenyans.

This is not a laughing matter; it is a very serious matter. Sen. Cherarkey has discussed with me about this matter. I know that police station and the police officers who are there. One year ago, we had people who were being shot in their homes using guns. Where were these guns coming from if it was not the police officers using that?

I also want to comment on the reports that I have tabled today on behalf of the CPICSF Committee on water companies. I want to encourage Members to read those reports because this is the very first audited reports that are being tabled in this House on matters to do with water service providers. We have other sets of reports that we are going to table in the next few days. However, I want to say as the Chair of CPICSF that the issues noted in those reports---

*(Sen. Osotsi's microphone went off)*

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. Thang'wa.

**Sen. Thang'wa:** Thank you very much, Mr. Temporary Speaker, Sir. I want to comment on the issues that will be brought to my Committee. Remember I am the Chairman for the Committee on Roads, Transportation and Housing.

As we have been doing as a Committee, we will scrutinize the issue of Bunge Tower. If we need to invite the Permanent Secretary (PS) before the Committee, we are going to do so. This is because we want to know whether what was supposed to be done was done.

On the other issue of the Kisima Airstrip, today we had the KAA and we did not have time to listen to them. It is not that we were not available, but we had to chase them away because of the report they brought before us.

This is a Committee that is working really hard to make sure that our people are served. However, I would want to ask the Members of this House; KAA complained that they do not have a budget. They had a budget of about Kshs763 million, but it has been cut to Kshs300 million.

The Budget Committee or the Members here should push the National Assembly to make sure that they give the KAA enough funds to do what they are supposed to do. As you remember the other day, we saw the roofs leaking at JKIA and Kisumu Airport.

Mr. Temporary Speaker, Sir, I stand to say that all those Statements that you are going to refer to this Committee, we are going to look into them deeply and report back to this House.

I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you. Proceed, Sen. Oketch Gicheru.

**Sen. Oketch Gicheru:** Mr. Temporary Speaker, Sir, I wish to very quickly comment about the Statement by Sen. Cherarkey and also put some thoughts on the Statement by the Chair of my CPICSF Committee, Sen. Osotsi.

Mr. Temporary Speaker, Sir, to start with; what happened in the police station that Sen. Cherarkey has cited should not have taken place. Our country should do away with police brutality, manipulation, extortion and mistreatment. What dismays me is the fact that Sen. Cherarkey did not stand strongly for people who have been brutalized by police from the beginning of this year.

In April, we witnessed the highest level of police brutality yet Sen. Cherarkey stood very strongly to support. My leaders in this House are facing a different kind of brutality. Sen. Sifuna, my leader, does not have security because Sen. Cherarkey believes in police brutality. Sen. Olekina does not also have security---

**The Temporary Speaker** (Sen. Wakili Sigei): What is your point of order, Sen. Cherarkey.

Order Sen. Oketch Gicheru!

**Sen. Cherarkey:** On a point of order, Mr. Temporary Speaker, Sir, I rise under Standing Order No.98 and No.105. Today, I look like an altar boy. The Senator should be responsible for statement of facts. The allusion that I support police brutality is wrong. I was the Chairperson of the Senate Standing Committee on Justice and Legal Affairs (JLAC) in the last Parliament and I tabled a report on enforcement of

disappearances and extra-judicial killings. I have never supported police brutality. Can Sen. Oketch Gicheru table evidence?

Secondly, for the record of the House and the country, I am not the Cabinet Secretary of Interior and National Administration. I am not the one who allocates security to Sen. Sifuna or to anyone else unless they have abrogated their powers to me. If so, then *wanione nyuma ya tent*. Let us---

*(Laughter)*

**The Temporary Speaker** (Sen. Wakili Sigei): Order, Sen. Cherarkey.

Sen. Oketch Gicheru, kindly, take responsibility for the utterances that you make especially those that may impute negative connotation to colleague Senators.

**Sen. Oketch Gicheru:** Mr. Temporary Speaker, Sir, if you give me time perhaps next week---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Oketch Gicheru, you only have three minutes. You have already used two minutes.

**Sen. Oketch Gicheru:** Mr. Temporary Speaker, Sir, I have not used three minutes. My time was taken. If you give me time, I will produce the HANSARD to show that when the Members of the Minority Side were suffering, being brutalized, and chased by the police on the streets, Sen. Cherarkey was on the Floor of the House celebrating and talking the hardest about my suffering under the hands of the police. He should be the last person to bring here any issue on police brutality. However, that aside, the issue of police brutality must be dealt with, once and for all.

Lastly, I would like to comment on the issue of water that was tabled by the Senator for Vihiga County. He has tabled a very good audit report. We have spent time, as a Committee, considering audit reports on water companies in our counties. It is important for this House to stand very strongly behind those audit reports and make sure we take the issue of provision of water from the water agencies and hand them over to counties. The counties should take full control of water provision and water services in our economy.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Oketch Gicheru, your time is up.

Proceed, Sen. Mandago.

**Sen. Mandago:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Statement by Sen. Omogeni on the shortage of Tuberculosis (TB) drugs in the country. The Senate Standing Committee on Health has had the opportunity to visit various counties such as Bomet County which is represented by you, Mr. Temporary Speaker. We visited Longisa Sub-County Hospital and Bomet Referral Hospital. We also had opportunity to visit Nyamira Level 4 and Level 5 facilities together with the Kisii Referral Hospital and a number of Level 4 facilities.

Mr. Temporary Speaker, Sir, to our surprise in the course of our inspection, we came across patients who had been diagnosed with TB but lacked the necessary drugs. In some cases, the cartridges for testing TB were not available. The Standing Committee on Health had the opportunity to interview the family of Baby Yassin; whose fingers were amputated at Kirinyaga Referral Hospital.

Mr. Temporary Speaker, Sir, that child was taken to the Kirinyaga Level Hospital and diagnosed with Pneumonia only for the baby to be diagnosed with TB in a private facility. This is a very serious matter of national interest. I seek your direction so that the Ministry of Health (MoH), Kenya Medical Supplies Agency (KEMSA), can be summoned within a short notice because this is exposing the country to a very dangerous and dreaded disease that can spread easily and is difficult to contain thereafter.

I support this Statement that the MOH and KEMSA should provide explicit and clear information on the procurement of TB drugs and the issue of sustainability of supply. The Ministry should also make it clear whether counties can be allowed to procure these drugs from the other suppliers whenever there are shortages. This is not a matter that should be left to the Ministry to debate on their own. This House needs to pursue this matter because TB is a global disease that is supposed to be eradicated even here in Kenya. Without testing and providing the necessary drugs to manage TB, we risk its spread in a time that will make it difficult for this nation to proceed.

Mr. Temporary Speaker, Sir, I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. Beth Syengo

**Sen. Beth Syengo:** Thank you, Mr. Temporary Speaker, Sir. I support the Statement by Sen. Cherarkey, my friend and the Senator for Nandi County. It is true that police brutality is a real problem in this nation. A few months ago, I was sent out of this House. The police were on my neck. I ran as far as Kitui South yet they still followed me there. I had to switch off my phones and change locations because of police brutality.

Wasps sent away the police officers, who wanted to arrest me. Were it not for the harsh environment in Kambaland, my case would have been serious.

*(Laughter)*

The police officers came and camped outside the church where I was conducting a meeting. Wasps landed on them and the first to be stung was an Officer Commanding the Station (OCS).

Mr. Temporary Speaker, Sir, when the same police officers harassed the leadership and the Members of the Minority Side on the streets, Sen. Cherarkey celebrated. He did not know that a time would come where he would also speak on the same. It is my suggestion and opinion that even as we make laws and contribute on Motions and Statements, we should think about what is affecting us today because it might affect you tomorrow.

I remember a renowned leader in this nation, once said that, 'The Government eats its own people.' It seems that even the leadership and people in Kenya *kwisha---* pardon me Kenya Kwanza Government, are also suffering from what they thought was meant for the Azimio la Umoja One Kenya Alliance.

Mr. Temporary Speaker, Sir, moving forward, we need clear policies and legislations to curb and control police brutality. It is unfortunate that they are our people; sons, fathers, and brothers. However, we need them to be called to order so that we may have disciplined forces and police officers in this nation.

I thank you

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. Chimera.



**Sen. Chimera:** Thank you, Mr. Temporary Speaker, Sir. I rise to comment on the Statement sought by my good friend, Sen. Cherarkey, the great warrior from Nandi County. He is my brother-in-law. It appears as if the question of police brutality is a stench that is assuming a sense of normalcy. On 15<sup>th</sup> September, 2023, a young man from Taru Kwale County by the name of Nyae Ngala Chamtu lost his life at the hands of brutal General Service Unit (GSU) officers in Taru. The Independent Police Oversight Authority (IPOA) never bothered to issue a statement.

For how long will we lose innocent Kenyan lives at the hands of police brutality? It is time as a leadership that we walked the talk on seriously addressing the issue of police brutality. I agree with Members that it is time we have a regulation or legal framework addressing this issue otherwise, many Kenyans will continue to suffer and lose their lives at the hands of these police officers.

I urge the Committee that will be tasked with the role and honorable duty of getting to the root cause of this to thoroughly investigate these incidents. I know it is not happening in Nandi County alone. It is by sheer luck that the Senator for Nandi has brought this issue before this House. We have many cases happening in counties like Kwale and Mombasa that are not reported. It is time these police officers faced the full force of the law so that it acts as a deterrent measure. Police officers should know that it is wrong to continue maiming and killing innocent Kenyans.

I support the Statement. Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Prof.) Tom Odhiambo Ojienda, proceed.

**Sen. (Prof.) Tom Odhiambo Ojienda, SC:** Thank you, Mr. Temporary Speaker, Sir. I will contribute from the dispatch box on the statements that have been presented this afternoon. I will start with the statement on water companies. This afternoon, the Chairperson of the Committee on Public Investments and Special Funds has tabled reports for Amatsi Water Services Company Limited, Bomet Water Company Limited, Gusii Water and Sanitation Company Limited, Kisumu Water and Sanitation Company Limited, Kwale Water and Sewerage Company Limited and Nyeri Water and Sanitation Company Limited from Nyeri County.

I am the Vice Chairperson of this Committee and it is important to note that we have proposed several reforms to the management of water companies. It is time that this Senate after looking at the reports, changed the structure of the management of administration of water as a resource to facilitate counties take a firmer control. It is because of the framework of the law under the Water Act 2016 – which seems not to have transitioned completely – that we have water companies that have not yet transitioned. Assets are still owned and controlled by the water boards. You have debt secured by the boards previously existing which is a framework that has not empowered counties. Counties are operating from an unclear footing.

This Senate will need to rise to the occasion and deal with these water companies so that counties take firmer control. Secondly, it is time that counties are empowered to take charge of these companies for the benefit of the people. As a result, counties can remove some of the bottlenecks in the provision of water as a service to our people. I rise to support the report fully.

Lastly, is on police brutality. It is time to adopt the ‘Maraga Report’ on some of the reforms so that we deal with the questions raised. We cannot blame the police solely

for some of the questions or ills we see. The plight of the police needs to be addressed by this country. Police play a central role in providing security to this country.

In as much as we criticize the police for some of the excesses, the plight of the police needs to be addressed. We need to make their living conditions not only better but also address the remuneration of the police officers at least at the levels that have been proposed by the task force.

*(Sen. (Prof.) Tom Ojienda's microphone was switched off)*

**The Temporary Speaker** (Sen. Wakili Sigei): The Senate Majority Leader, Sen. Cheruiyot, you have the Floor.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir. I wish to comment on two Statements. First, is the Statement by Sen. Chute on 'Bunge Towers'. When I left the Commission, we had done everything that was needed for Members to occupy that House. The only thing remaining was the procurement of furniture. It has been one-and-a-half years after the present Parliamentary Service Commission (PSC) came to office. I do not seem to see any serious movement in the building.

It would be of interest to know that the term of a Member of Parliament is important. Some Members believed they would get an office in that building when they came here in 2017. Unfortunately, this did not happen. Many of them used to challenge me in the corridors of Parliament, to allow them to occupy the building. This might be the only thing they would show their children that one time they were Members of Parliament.

The Kenyatta International Conference Centre (KICC) is a host for everyone. Unless you serve in leadership to have an office here in Parliament Buildings, the rest of the buildings are difficult to occupy. The Continental House does not have the offices that you want to show. Members sit together with the secretary, the bodyguard and the rest of the secretariat, in one room. It is not conducive to how Members are conducting their duties.

I urge the Committee that will be charged with that responsibility to take the current PSC to task and have firm timelines. I have seen their budget has grown tremendously. We need to pass a resolution of the House banning all travel for Members of PSC until the day they will allow Members to serve in that building, then we can allow them to travel.

Lastly, I would wish that my good friend, Sen. Sifuna, could take time to explain to his colleagues from his Minority Side the provisions of Article 249. The command of the Police Service is independent. There is no Government Side or the Minority Side who can direct the police on what to do. This is a basic constitutional doctrine. I am troubled when I see my friend, Sen. Oketch Gicheru and Sen. Beth Syengo, suggest what the Majority Side should do. Police brutality has been with us. You are ridiculing Sen. Cherarkey who was the biggest victim in the last term and this used to be celebrated here. Every Friday afternoon, I used to tell him, that instead of going to Nandi County, he should go to Kisumu Police Station, where he would end up anyway.

We need to confront police brutality with concerted efforts, without the little doses of politics that water down the efforts.

I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Sifuna, proceed.

**Sen. Sifuna:** Thank you, Mr. Temporary Speaker, Sir. I believe that all of us are born with the ability to tell right from wrong. The Statement from Sen. Cherarkey allows me to say that I have absolute faith in every Member of this House. It will take time, but you will come to see the light that what is right is right and what is wrong is wrong. It does not matter who is the victim of police brutality. It is wrong because Kenyans envisaged a service, moving away from a force. What has happened in the past – we do not begrudge anyone on the Majority Side, we understand why you have to do it all the time.

When you see the police bludgeoning us in the streets, we understand why you need to celebrate. The good thing is that in the fullness of time, I can see the light shining on the Majority Side. Sen. Mungatana was the first to see the light. Sen. (Dr.) Khalwale is very reasonable these days. I can see now my brother, Sen. Cherarkey, soon needs to go to Karen. The problem we have is although the Constitution expresses the police as having independent command; we see pronouncements from senior members of the executive to suggest otherwise. For instance, when we were protesting the Cabinet Secretary for Interior and National Administration was the one assigning timelines. He would say, by 5.00 a.m., the police will be there to deal with Sifuna and his crooks. That is what he used to do.

When people like Hon. Gachagua say that they will crush these people, we question the independence of the police. When the Inspector General (IG) of police repeats and echoes the things that are coming from the Executive, then that line between the police and the Executive becomes blurred.

*(Applause)*

We will condemn every single incident where police abuse their power. By the way, I am not in the habit of laughing at people who used to laugh at me. I will be at ease the day we all join the Minority in saying that we must have a country that works for everyone and respects the rule of law irrespective of who you are.

A person being bludgeoned in Nandi by police should have the same rights as the person being bludgeoned in Nyalenda. We then should all come out and condemn it and say, this is not the service we wanted.

Mr. Speaker, Sir, lastly, is on the Statement by Sen. Crystal Asige. As a Member of the Committee on Roads, Transportation and Housing, we had a meeting with the National Transport and Safety Authority (NTSA) and the traffic police command. They assured us that Kenyans can rest easy this Christmas Season.

In my other life, they call me the minister for enjoyment. *Waziri wa Sherehe* in Kiswahili. We do not want this harassment we see on the roads especially during the festive seasons. We were looking at the data that they presented to us---

*(The amber light went off)*

Just one more minute, please.

As I was saying, we looked at the data that was presented to us and it does support some of the efforts we see on what causes road accidents---

*(Sen. Sifuna's microphone went off)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Sifuna, your time is up. Lastly, let us have Sen. Veronica Maina as we close this chapter.

**Sen. Veronica Maina:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I rise to support the Statement by Sen. Chute on the completion of Bunge Towers. If there is an institution that should set an example of accountability, it should be Parliament.

Bunge Towers is a very small project in the Republic of Kenya; small within the context of the whole Republic because budgets are made and passed in Parliament to affect the 47 counties. It does not look good at all that Bunge Towers has not been completed after very many years.

Mr. Temporary Speaker, Sir, I hope that even as this Statement is being committed to the Committee for a response, the people responsible for this project will see the need not to find another statement before this House or the National Assembly checking on the completion of Bunge Towers. If it is too difficult, we can help them. I have been involved in projects.

We should not have this eyesore of not completing a project within the set timelines. If Parliament says a project should take 24 months, it should not take 24 months and two weeks. It should take exactly 24 months so that we can set the best practice for counties in terms of accountability.

Mr. Temporary Speaker, Sir, I believe there are people who have slept on their job and they need to be called out. There is no good reason why this has not been completed.

I would also like to comment on another Statement that has been brought before this House regarding the scholarships awarded to 40 women in Marsabit County to pursue a bachelor degree in Education. It is also not correct that such an issue, involving scholarships that are awarded by the FORD Foundation, have to be converted into another fund or factor. We need to have the physical discipline as a nation.

If a fund is committed by a development partner towards fulfilling a certain objective such as to educate 40 women in Marsabit County, the only thing we should expect to see is the 40 women graduating. I hope whatever explanation is going to come back to the Floor of this House---

*(Sen. Veronica Maina's microphone went off)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Veronica Maina, your time is up.

Hon. Members, we have run out time for the Statement period. I note there are still a good number of Members who would have wished to contribute but we must progress to the next Order. In the circumstance, we will close at that.

The Statement by Sen. Chute regarding the Bunge Tower is committed to the Standing Committee on Roads, Transportation and Housing. The other Statement by Sen. Chute is committed to Standing Committee on Education.

The Statement by Sen. Lemaltian is committed to the Committee on Health. The Statement by Sen. Shakila Abdalla is committed to the Standing Committee on Finance and Budget.

The Statement by Sen. (Dr.) Lelegwe is committed to the Committee on Roads, Transportation and Housing. The Statement by Sen. Cherarkey is committed to the Standing Committee on National Security, Defence and Foreign Relations. Lastly, the Statement by Sen. Omogeni is committed to the Committee on Health.

Hon. Members, that brings us to the end of Statements.

Clerk, you may call the next Order.

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

## COMMUNICATION FROM THE CHAIR

### VISITING DELEGATION FROM ELGON VIEW VTC, MIGORI COUNTY

**The Temporary Speaker** (Sen. Wakili Sigei): The presence in the Public Gallery this afternoon of a visiting delegation of one lecturer and 16 students from Elgon View Vocational and Training College, Migori Campus in Migori County. The delegation is in the Senate for a one-day academic exposition.

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

I thank you.

The Senator for Migori County has just walked into the Chamber. I will give him a chance to welcome the visiting delegation from the great County of Migori in under one minute.

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. I was looking forward to this moment because I was with the youngsters as they were being screened into the premises of Parliament. It is a privilege to welcome them to this House. This is the House where we debate many laws that affect you and mostly how our counties are run, how they get resources and how they can be better.

I hope you will learn from the Members of Parliament (MPs) here as well as outside the premises. There are a lot of things to learn from here.

Most importantly, this is where the values of the nation are natured. This is where we get some of the leaders that you see talking on televisions, such as my leader, Sen. Sifuna. I will ask him to greet you in a very good tradition of Parliament. I am very happy that today, majority of the Members are in the House. They should also greet you in the very good tradition of the House.

Most importantly, we welcome you to learn about our debates and the issues that we are sharing. When you go home, please, pass our regards as a House and mine particularly.

I welcome you to the Senate of Kenya.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you very much, Sen. Oketch Gicheru.

Clerk, call the next Order.

## MOTION

### ADOPTION OF REPORT ON THE APPLICATION FOR THE CONFERMENT OF CITY STATUS TO THE MUNICIPALITY OF ELDORET

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the application for conferment of city status to the Municipality of Eldoret laid on the Table of the Senate on Wednesday, September 20, 2023 and pursuant to Section 8(6) of the Urban Areas and Cities Act, 2011 the Senate approves the conferment of City status to the Municipality of Eldoret.

*(Sen. Onyonka on 5.10.2023)*

*(Resumption of Debate interrupted 19.10.2023)*

*(Division)*

*(Motion deferred)*

Next Order

## BILLS

*Second Reading*

### THE EQUALIZATION FUND APPROPRIATION BILL (SENATE BILLS NO.30 OF 2023)

*(Bill deferred)*

*Second Reading*

### THE CARE AND PROTECTION OF CHILD PARENTS BILL (SENATE BILLS NO.29 OF 2023)

*(Bill deferred)*

*Second Reading*THE COFFEE BILL (SENATE BILLS  
NO.10 OF 2023)*(Bill deferred)**Second Reading*THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT  
BILL(SENATE BILLS NO. 12 OF 2023)*(Sen. Cherarkey on 31.10.2023)Z**(Resumption of debate interrupted on 21.11.2023)*

**The Temporary Speaker** (Sen. Wakili Sigei): This is your Bill, Sen. Cherarkey, so, please, proceed to reply because the debate on this Bill has concluded.

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir. From the onset, I thank you and your office, and many Senators who have contributed to the Prevention of Livestock and Produce Theft Bill 2023. I am grateful to your office for the facilitation and the Senate Business Committee (SBC) for scheduling my Bill.

Before I reply, I would like to make a few comments. Allow me to recognize several colleague Senators, who were able to speak to this Bill and also appreciate and put them on record.

I want to thank Sen. Tobiko, who was the Secunder of the Bill, Sen. Dullo, Sen. Cheptumo, Sen. Chute, Sen. Wambua, Sen. Chimera, Sen. Abbas, Sen. Sifuna, Sen. Thang'wa, Sen. Lemaletian, Sen. Joe Nyutu, Sen. (Dr.) Oburu, Sen. Omar, Sen. Okenyuri, Sen. Maanza, Sen. Seki, Sen. Okiya Omtatah, Sen. Ogolla, Sen. Mungatana, and Sen. Oketch Gicheru.

The people of Migori, I thank you for your Senator, who was among the Senators who supported my Bill. He is doing a commendable job. I also join him in welcoming you to the Senate and hope that you will learn.

Mr. Temporary Speaker, Sir, the issue of cattle rustling and banditry, including the livestock and produce continues in this country and has become not only a security issue, but it is also affecting the economy of our people.

For several years, we have lost so many of our people because of cattle rustling. Somebody said on the Floor of this House that it is even dangerous to own some of this livestock. This is because the more you have livestock, the more attractive to attackers you become, especially in some parts of this country.

Initially, the issue of livestock theft used to be a source of pride because people used to go attack and bring the cattle to use for bride price. We must, as a country, have an honest conversation.

I thank President William Ruto because when he was in Samburu, he said that this is the administration that will fight and vanquish livestock theft, banditry and cattle rustling in this country.

I have heard the concerns of Senators. To some communities, livestock is a source of pride, identity and culture. However, it is now becoming very serious even to that.

I know there were reservations on this Bill. However, I inform Members that I was acting under the Fourth Schedule of our Constitution. You and I know that Agriculture is fully devolved. We have centred the role of county governments in this because Agriculture is devolved. We ask the County Executive Committee Members (CECMs) that they will be in charge of registration.

I have heard in this Bill that we should allow, and at the Committee of the Whole, we might bring up the issue of not prescribing fees. It should be the burden of county governments, so that they are the ones registering and branding animals.

I have even heard from the Senator of Samburu County that there is a process of branding, where you use hot iron, which is cruelty to animal. I will be proposing in branding to use modern technology to identify these cows.

I agree that registration of one or two goats or other livestock should be done by region, the way we have done county number plates, so that it becomes easy.

Second, is the issue of compensation for the animals. In the last three years, we had a devastating drought. We need also to compensate owners. We must have animal or livestock insurance coverage. One interesting thing about animals is that it is not like having money in the bank. If you have 100 cows in some part of this country, bandits will strike, and you become poor. You cannot even afford a square meal. So, we should look at the compensation.

Secondly is on slaughterhouses. Unawares, we could be funding bandits and cattle rustling because of the meat we consume at Bunge restaurants, or that which is slaughtered in Burma, or here in the Dagoreti slaughterhouses. It could be a source that is fuelling cattle banditry and cattle rustling across the country, or even livestock produce theft.

That is why we are proposing that we arrest them even in City Market butcheries, Burma and across slaughterhouses, including my small slaughterhouse in Bosoria, Kapsabet, Nandi Hills, and other major towns in Nandi.

The people who own slaughterhouses and abattoirs must keep records of those animals, so that we do not, unknowingly, fund cattle rustling because the end of the value chain of a criminal enterprise is the city. On the issue of hides and skins, they must keep carcasses for registration.

Finally, on the aspect of mixed farming. I agree that we will need to fine-tune that. Where I come from, you heard the Senator saying some of the people have been forced to share rooms with animals because of insecurity. I do not want to say it, but I know counties where you have to sleep even with your cows, where you are sleeping on the other side and the cow on the other side.

Even the chicken; I am told that where I come from, they are called *Kipsikaa*. They come and disappear with people's chicken. You have heard Sen. (Dr.) Oburu says that he lost over 2,000 chicken. So, this Bill is not targeting only areas that are prone to cattle rustling and banditry. We are also protecting even the people who do mixed farming.

In the year 2022, 279 Kenyans were killed because of offences that were related to cattle rustling and banditry, which is sad. We are losing Kenyans because of cattle



banditry. There is no difference with road accidents because now we have lost about 20,000 Kenyans for a number of years.

I agree that the issue of culture and religion must be re-looked at, especially during branding. Another aspect that came out strongly is the issue of genetics and genes in terms of the breeding of our animals.

I am aware that there is a particular breed that thrives where I come from, the region of Kericho, Nandi and Northern Kenya. Northern Kenya has a unique breed that is resistant. I agree that we need to manage our genetics, so that we get quality.

I am aware, and there is a conversation on milk. The price of milk has not been very good, but I want to thank the Cabinet Secretary for Agriculture. When he appeared on Monday, he said that they were going to look at the pricing. As we speak, the price is Kshs32 per litre, depending on which area it is. However, as farmers, we look forward to at least having Kshs50 per litre.

Another aspect that came out is on sensitization of the people about the sad side effects of cattle rustling and banditry that has affected many families. In 2022 alone we lost 279 Kenyans. This was the number released by the Kenya National Bureau of Statistics.

It was a light moment when one of the colleagues in this House said that we need to relook at the dowry negotiations because when you want to go and get married in some cultures, you must pay cows. The proposal from the Members, which is not captured - I hope it is a culture - is that our parents and our community should review the issue of dowry negotiations. This is because, even nowadays, getting a spouse is not easy. One cannot be fighting to get a wife and cows at the same time.

I know a number of ladies who are on a hunting spree. I am told there is a pastor who is supposed to come around and pray for people to get husbands. So, what is making people not get husbands? It is not God; it is because of our bride price negotiations. We need to review that. I know that Sen. Nyamu understands this very well.

The third point is on the issue of 'others,' which includes the collapsing of other Bills. I know the Senate Majority Leader would want to move something on this later. Despite the existence of the Prevention of Livestock and Produce Theft Bill, on the issue of the Penal Code, we are collapsing into this Bill. What I am saying in simple terms is; I know this Parliament has tried to address the issue of livestock theft. We are collapsing all the Bills into one.

Even the stealing of maize. I know in Mt. Kenya, although I am not isolating that region, Prof. Kithure Kindiki was forced to form a Police Unit to fight coffee theft. I do not know whether that coffee theft has reached Kericho; Sen. Cheruiyot will tell us. We are also forming an Anti-maize theft, Anti-Stock Theft Unit (ASTU). We also now have an Anti-Coffee Theft Unit that Prof. Kithure Kindiki was forced to--- So, it is not only about cows. We are also talking about the theft of any produce, including chicken, sheep and cows. At the end of the day, these are produce we are--- So, what I am telling this House is that I agree that there is a Penal Code, Prevention of Livestock and Produce Theft Bill. We are collapsing all these into one law, so that it becomes easy to implement.

At least, you have practiced for some time in the legal realm. You will understand that sometimes one section of the law says this and when you open another section, it says something else. That is how I was let off the hook under the National Cohesion and

Integration (NCIC) Act. The Constitution and the NCIC were saying the opposite. When I went to court, it was invalidated because of the constitutional interpretations.

That is why I can stand here. Were it not for the inconsistencies of the law, I would be serving my sixth or seventh month at Kamiti, as it has been said by Sen. Cheruiyot. I am not a supporter of police brutality. I should be the one crying the loudest. You represented me in court. I was arrested a number of times; there is no police station that I have not slept in.

It is good that Senators, including Sen. Veronica Maina, are here. All of us have the potential to be in police stations. If you visit Kisumu Police Station, on the wall you will see that 'Sen. Cherarkey was here.' The same applies to Bungoma Police Station, Upper Hill Station, and Gigiri Police Station, at the corridor all the way to the main cell.

Therefore, it is not the intention of the law to convict every Kenyan. I know the police are doing a police operation order to restore sanity in Elgeyo-Marakwet, Baringo, Moyale, and Marsabit Counties among other areas.

The fourth point is on the issue of admissibility. Let me collapse it into two. We need the Maraga Report. You heard what the Deputy President, Hon. Gachagua, said yesterday. I was with him in the same meeting. There will be at least a 40 per cent increment in the salaries and emoluments of the police.

What we need to do is to ensure that our police are well remunerated. We do not have this. Our police will get good salaries. When I was arrested and taken to Bungoma Police Station, I could not imagine it was the workplace of somebody. The toilets are not functioning. The last coat of paint was put in 1952 during the state of emergency. The desk, the Occurrence Book (OB) and even the police housing--- I thank the President on the issue of affordable housing. I know he is very keen to include the police to ensure they get housing, so that they can have privacy. There are people here whose spouses work as policemen.

In my local police station, you will get in a room where they are using bed sheets to separate the policemen. Where will they get privacy when they want to do what God gave them in the book Genesis, the business of baby-making? These are some issues that we need to reform in the police.

The fifth point is on security roads. We need to ensure the roads in Baringo and Elgeyo-Marakwet--- I know Cabinet Secretary Prof. Kindiki had opened those roads, so that when police are chasing people up to Baragoi, the roads are accessible. I, therefore, emphasise on security roads. The advantage of having security roads is restricted tender. It does not become tedious. You just need to gazette and ensure the contractor is on site.

Finally, as I conclude, I thank everyone who has contributed to this. I assure the country that the Senate is seized of the matter. I am aware that there is a small discomfort - I do not want to say major - from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives and the Ministry of Interior and National Administration about this Bill. Why are they uncomfortable now? It is one-and-a-half years since this Session began. Why would they become uncomfortable with this Bill? It means that they have been sleeping on the job. The business of this House is to legislate. That is what we are doing. We are making the law. So, if they have any proposal to this Bill, let them come and give amendments to the Committee.

I am not saying that this is the best. Let them bring those amendments, so that we can look at them. That is how we can progress as a country. The Government and the

President are committed to fighting banditry and cattle rustling. What we are doing as Parliament and Senate is to give the President and Ministry of Interior and National Administration ammunition to ensure anybody who steals cows or any other product we are talking about through robbery with violence is convicted for life.

I conclude with the words of Ritchie Spice in the song called Gideon Boots. I am an ardent supporter of Reggae, although I do not consume the other thing that makes them high

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

Sen. Khalwale is asking how we know. You know what you have been feeding your bulls on in Ikolomani. So, you can tell when--- Sometimes I see Sen. (Dr.) Khalwale, especially over the weekends, and I always doubt that he is not spiced with something. That is why he says he always shoots. When we meet with him on Monday, he is a good church boy, but over the weekend---

In the words of Ritchie Spice, as I conclude in replying, the title of the song is Gideon Boots, one of the verses says; -

“Calling on the leaders of the world today,  
Give a light to the poorer class,  
I say, got to let the people know, right from wrong,  
They are depending on you to lead the way,  
People just be wise,  
Believe in yourself,  
The future generation depends on you,  
Show them a little love in your hearts  
And let the people know that there is more to life.”

This is the encouragement. More fire! There is a message in the songs of reggae. With those very many remarks, I beg to reply and request that pursuant to Standing Order No.66 (3), you defer putting the question to a later date.

I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Cherarkey, your request to defer putting of the question is accepted, and it will be put in the next sitting of the House.

*(Putting of the Question on the Bill deferred)*

Clerk, you may call the next Order.

## **BILL**

### *Second Reading*

#### THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILLS No.21 of 2023)

*(Sen. (Dr.) Khalwale on 22.11.2023)*

*(Resumption of debate interrupted on 22.11.2023 – Afternoon Sitting)*

*(Question proposed)*

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, before I call upon Senators to contribute, I have received Communication with regard to a visiting delegation of students from Zetech University, Ruiru Campus in Kiambu County.

*(Interruption of debate on Bill)*

### COMMUNICATION FROM THE CHAIR

VISITING STUDENTS FROM ZETECH UNIVERSITY,  
RUIRU CAMPUS, KIAMBU COUNTY

Hon. Senators, I would like to acknowledge the presence of a visiting delegation, in the public gallery this afternoon, of students from Zetech University, Ruiru Campus, in Kiambu County.

The delegation is in the Senate for a one-day academic exposition. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

Hon. Members, I will allow the Senate Majority Leader to welcome the visiting delegation from Zetech University campus before he picks up to contribute to this particular Bill.

Kindly proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, it is my understanding that I will welcome the students from Zetech and then proceed to contribute to the Bill. Did I get you right?

**The Temporary Speaker** (Sen. Wakili Sigei): I will allow you to welcome them, then we will pick it up thereafter.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir. I thought you had already proposed the question. No problem.

Mr. Temporary Speaker, Sir, I want to join you in welcoming the students from Zetech University, a university that continues to distinguish itself as an institution of higher learning and excellence, especially in the field of Information Technology (IT).

A university or a college, a tertiary institution is a place of the foundation of our dreams. It is my utmost hope that these students of Zetech University will make --- *(technical hitch)* to the university, so that they can achieve the fullest of their potential, especially those who are in this institution to study IT. I challenge them to read the story of Jan Koum, the gentleman who founded the popular messaging platform, *WhatsApp*, before he eventually sold it to *Facebook*.

He is a Ukrainian national, though he is now adopted as an American citizen. He is a student who came out of a difficult or troubled past, but was motivated and inspired, especially in his formative years, his days in college, and the places where he worked at. It is similar to the journey of some of these students.

May you work hard to excel to the point that when eventually you sign on a big deal out of the works of your sweat, you will go back to Zetech and sign it from there. It is famously known that when Jan was signing off *WhatsApp* to be bought by *Facebook*, he went and appended his signature on the window of the university block where he began his dream. That is the importance of a university, a college or a tertiary institution. That is your place of foundation.

The long and short of what I want to say to the students of Zetech is, put in the hard work, work extremely hard, never take no for an answer and go out and conquer the world.

With those very many remarks, I welcome them to the Senate.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you very much, Sen. Cheruiyot. I will now call upon Hon. Members to contribute to this particular Bill.

I will start with Sen. Veronica Maina.

*(Resumption of debate on Bill)*

**Sen. Veronica Maina:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to discuss the Bill that has been proposed in this House on food and feed safety control coordination. Food Safety for animal and human nutrition is a public health issue and a concern the world over. It is a sensitive issue because it goes to the country's social stability and growth and, therefore, ought to be prioritised.

In many jurisdictions, food safety is never taken for granted. Indeed, there are very sophisticated laboratories that are set in other jurisdictions, especially in the West, to ensure that any food that is given to the masses or to the public or that is allowed to be consumed or allowed to be traded is safe for consumption and is healthy for the population and even for the animals.

There have been several incidences in the recent past, especially in schools, where food poisoning has posed serious health risks, which have led to very devastating consequences. I remember with a lot of emotion the incidents that happened at the Sacred Heart, Mukumu Girls High School in Kakamega County early this year. Our Hon. Sen. (Dr.) Khalwale was at a very big loss on how to deal with the students who passed on. I remember him passionately contributing to that issue on the Floor of this House. Over 500 students were hospitalised having consumed food or water that may have been compromised in terms of safety.

Mr. Temporary Speaker, Sir, the Food and Feed Safety Control Coordination Bill that has been introduced to this House is a very good foundation and an enactment of legislation that is going to sustain and ensure food safety. The quality of the food that is being consumed in Kenya, just like in many other countries, would have socioeconomic ramifications when it comes to even the productivity of the citizens or the productivity of the resources that are within our nation.

Mr. Temporary Speaker, Sir, if you will recall on several incidences, there have been questions raised on the quality of food that is being consumed or sold on the

shelves. I do not want to quote certain names that have been quoted in mainstream media, questioning the quality of some of the products that are being sold in Kenya. Some of those products have been banned from being sold in other countries.

As I rise to support this legislation, my take is, it is important to ensure that there are standards that are set and observed. With the body that is set to check on these standards, Kenyans will be assured that the food or water that is being consumed by humans or even animal feeds fed to the animals is safe for consumption.

What is fed to animals eventually ends up in humans because those cattle are for human consumption. So, it becomes important for people to understand what is being fed to the livestock.

In the proposal to ensure that there is a guarantee of safety, this legislation must ensure that citizens are engaged in civic education and participate in understanding what is contained in what is being eaten.

We know that the safety of that food has a direct correlation to the health of the population, and we know some of the lifestyle diseases have been caused by some of the food that is being consumed. Doctors have been at it. It is just that the doctors are not as loud as the politicians, but they have really tried to explain to the politicians and to many other people who would care to listen on why the quality of the food is going directly to impact the kind of lifestyle diseases that we may be experiencing in Kenya.

Mr. Temporary Speaker, Sir, as I rise to support the Bill that is before this House, my submission is that this is good legislation. It comes too late in the day, but thank God we finally have it. We can now test the food against the legislation and say that this is the legal standard that helps us to ensure that even as we actualise Article 43 of the Constitution to the citizens in Kenya, we are also ensuring that the safety of that food does not compromise on the dignity of human life.

We would also note that even at a farming level, the farmers would need to understand that the Bill must take care of the fact that civic education needs to be done to farmers, so that they understand the inputs that would compromise and affect food safety.

Mr. Temporary Speaker, Sir, if you look at what is happening in the horticulture field, many counties in Kenya are already engaged in the production of horticultural products. However, when exporting these products, they are subjected to certain standards in different jurisdictions such that if certain inputs have been utilized in this country, then those products cannot be exported especially if the farm inputs that are used in the process of growing that food have not been approved by the destination countries that are targeted.

That is why you will find that a product like avocado, which comes from our farms sometimes gets banned in some of the markets abroad because it has either been mishandled or the way that product has been generated or farmed is not approved because of the inputs, packing or the handling.

Therefore, this legislation is going to put standards that will ensure that our food is safe for human consumption and for selling in the international market. It will ultimately make the reality of the plan that has been brought forth by the Kenya Kwanza Government realizable by the citizens in Kenya because it is one thing to put a pillar in a plan or a manifesto for a nation and it is another thing how that plan is implemented.

Mr. Temporary Speaker, Sir, this is good legislation that will affirm the pillar on agriculture and will ensure that the hard work that is being engaged by many farmers in

Kenya will not be go to waste, both locally and internationally and that the food that is produced in Kenya will continue being rated highly.

Mr. Temporary Speaker, Sir, it is always such a joy to watch how our tea is rated in the international market. As we all know, our tea is the one that is being used by different countries to blend the tea that does not meet the good standard. It is good to see that the standard that is being maintained in tea farming is affirmed, supported and has the protection of a legislation.

I rise to support that it is time for us to enact this legislation on the Food and Feed Safety Control Coordination Bill. I congratulate the promoter of this Bill and say that I support it and it should be enacted.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Veronica Maina. The Senate Majority Leader, Sen. Cheruiyot, please proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir, for the chance to contribute to this important Bill; The Food and Feed Safety Control Coordination Bill of 2023. The fact that the Bill is called Coordination Bill, tells you that there is a need that arose to coordinate certain organs and instruments of Government and that is why they found the need to bring together this particular Bill.

In fact, many Members will soon realize that this is not a very elaborate or long Bill. Despite the fact that it appears long and lengthy, in the greater part of the Bill are subsequent amendments or consequential amendments, thanks to what the Bill is trying to achieve.

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

*[The Temporary Speaker (Sen. Veronica Maina) in the Chair]*

I appreciate the work that was done by the Senate Majority Whip in moving the Bill and guiding the House on the importance of this particular Bill.

Mr. Temporary Speaker, it is important to control what Kenyans eat because, sorry I had not realized of the change.

**The Temporary Speaker** (Sen. Veronica Maina): You must always note the gender of the Speaker as it transitions.

**The Senate Majority Leader** (Sen. Cheruiyot): I have just realized that. As you know, I am a big supporter of the gender movement in this country, and my credentials are not in question. It is just that I had not noticed that there had been a change.

Mr. Temporary Speaker, this particular Act of a Bill of Parliament that is before us for consideration speaks to the need for us as a country---

**The Temporary Speaker** (Sen. Veronica Maina): Once again, not Mr. Speaker.

**The Senate Majority Leader** (Sen. Cheruiyot): Madam Temporary Speaker, I keep forgetting, but I will I will get it right along the way. Thank you for reminding me. If I make the same mistake, remind me once more until I get it right.

This Bill addresses an important need in our society; the need to ensure that whatever Kenyans are eating is actually certified and passes the test of what good food should encompass.

Many times, Kenyans ask us, why is it that in the past many people would live to be 80, 90, 100 years yet nowadays, to get people to live past the good age of 80 years is something extremely difficult. There are diseases that are coming up so frequently and being reported, cancer being just one of them.

People are beginning to question is it something to do with our feeding habits? Therefore, such an important Bill that sets into place the exercise of coordinating all these food and feed safety authorities, because the Bill speaks to an authority or a body called competent authority and it is defined in the prerequisite pages of the Bill, what a competent authority is.

That, a competent authority means the public institutions responsible for official controls set out in the First Schedule or such other public entity as the Cabinet Secretary, may, by order of gazette, determine.

In the closing parts of the Bill, such institutions, that at least presently exist, like the Dairy Board and Fertilizer, are extremely important public institutions, which in the absence of a body or an office that coordinates all the activities. It is easy for a lot of the things to fall through the cracks, and nobody to actually keenly check and see what is it that is being done by these agencies that is not in sync with what the Government or what an administration is supposed to do.

In fact, I have problems with this Bill in its architecture, though I agree largely with the fact that there is need for an overall coordinating body for all these competent authorities that look into the safety of what Kenyans are eating.

It is my strong suggestion and perhaps after we have set up this office, we would wish to compare with other jurisdictions. By watching and practice, I know that in other jurisdictions, these institutions, together with those of drugs, because you cannot separate actually, because it is what human beings consume.

That is why you will find that I do not know which particular jurisdiction I can cite off the top of my mind, but I know that Food and Drug Authority, for example, in the USA, they are all coordinated under one roof so that you have various departments that handle, as opposed to this silo mentality that I continue to see.

In fact, this Bill solves part of the problem, but it still further creates a problem that I see with Government of Kenya and how it is organized. This silo mentality of ensuring that you only have one institution looking out for a particular aspect.

You could argue either way because others have presented an argument that, what if you have structural failure in that particular institution to the sense that the person leading it, and you have rested the authority of that particular institution in one hand, let us say, in the person of the Director-General.

This then brings challenges because all their inefficiencies and incompetences are shared across all these other institutions as opposed to you having maybe the people in charge of the drugs, if there are institutional weaknesses or incompetence in the person of leading that institution, at least it does not affect the food.

However, I still contend and hold the view that the benefits of having all of them housed under one roof far outweighs what would be the advantages of having them separated. I will be pursuing these thoughts later with the responsible and competent authorities, so that we can find a way of bringing together all these institutions that take care of what we eat in terms of food and medicine in this country so that there is better coordination.



I can confidently say before the House that this is a step in the right direction. You will notice that Section 4 of the Act speaks of providing for a competent authority and every person who is coordinating food business and feeding business.

This Act speaks to those who are involved in this trade and industry. This bill states what needs to be done in that sector and how the office of food safety will be devolved and provide the necessary provisions to ensure that what Kenyans are eating is tested, safe and sound.

For example, part of the institutions that has been cited as being a competent authority is the fertilizer control authority. That is something we have spoken about severally. In the last Parliament, one of our colleagues in the National Assembly tried to push us to discuss the issues surrounding the use of Roundup. That is something that has been discussed in many parliaments around the world and its effects. Unfortunately, there are no studies of what that drug has done here in Africa.

It is a very common drug in our villages. Sen. (Dr) Khalwale, if you just walk to any agro vet in Malinya and ask for Roundup, chances are that you will get it, yet, in other jurisdictions that product, there have been challenges and questions on the approval that have gone to have it used. When we eventually put together one coordinating body for all these institutions, we shall answer these questions.

We want to put our best scientists to guide us and tell us whether it is on the food or the drug part. We need to know whether what we are eating is safe for consumption. Let them have a debate in that in that institution. Let them challenge each other, and even deny certain certifications. Let us eventually have just one license when we achieve it. We should know that if you have food and drug safety certification, you have gone through all the checks as a product and you can be on shelves and Kenyans can buy.

I like Clause 7(1) of the Bill, which states that-

“There shall be a Food Safety Controller who shall be appointed by the President, with the approval of Parliament”.

That is a step in the right direction. I appreciate when certain Bills come in this format.

Madam Temporary Speaker, the drafters of our Constitution made an omission in its architecture. You find certain offices need to be approved by the National Assembly, and in other places by Parliament. Up to date, the only Presidential appointees that this House approves are those that are provided in the Constitution that need to be approved by Parliament.

You find that there is legislation that still comes to this House with the same provision. I like the fact that this provision has pointed out clearly that the approval for the person who will serve as Food and Safety Controller will be by Parliament. The said lady or gentleman will be presented to both Houses, who will look into their competencies, hold them accountable and either approve or deny them approval based on the competence that they present before our various Committees. That is a step in the right direction. That is what was envisioned in the spirit of the 2010 Constitution.

Clause 8 (1) of the Bill lists the qualifications of this particular person that –

“A person shall qualify to be appointed as the Controller if that person -  
Qualifications of the Controller.

(a) Holds a Master’s degree in a discipline related to food safety or feed safety”.

That is very important so that we do not fill the position with cronies who do not understand what this is all about.

I like the fact that Clause 8(2) of the Bill also provided that -

“The Controller may be appointed for a term of three years and shall be eligible for reappointment for a final term of three years”.

We need to standardize the public service. I have seen a bad habit mostly with our colleagues in the National Assembly. In the last Parliament, due to certain considerations, there are certain Chief Executive Officers (CEOs) who served five years and others serve for three years in the Public Service.

All studies have pointed us as a Country and we have come to the realization that if you are a CEO and within three years you are unable to effect the change that is desired in an institution, then we should give the Board the permission to either renew or terminate your contract. If you are competent, they should give you further three years. By the time you finish six years in an institution, you have done all you could do in that office. This is not a private affair. This is about public office. That is why I like the proposal in this Bill.

Colleagues, I move that in this term Parliament, let us standardize appointments into public offices. Let us keep it at a maximum of six years. Break it at year three. If you are competent, we renew. If you do not get it, we send you home and give the opportunity to other Kenyans to serve. Public Service continues to suffer with fellows who stick in offices and sometimes we are doomed for five years. In most cases, once such CEOs have been appointed, we cannot do anything about it. Therefore, I like this provision.

I also like Clause 13 where it is envisioned that-

“The Controller shall be paid such remuneration or allowances as the Salaries and Remuneration Commission may determine. Remuneration of the Controller”.

I appreciate that. We need to set a culture. It is my vision and hope that we shall make all the necessary statutory changes so that by the end of this term SRC sets the salaries of all Public and State Officers in this Country. There are still certain institutions where you find public officers who earn from taxpayer's money earn double the salary of the President of this Country. You wonder what it is that they are doing. What is so special about those offices that they are holding? It is because we set the institution including the Constitutional Commissions where we have given them the powers to even set the salaries of CEOs.

I like the spirit in this Bill where we are granting this authority to the Salaries and Remuneration Commission (SRC). It is my hope that we shall make the necessary adjustments so that the SRC makes a determination, does a study and sets public, salary for anybody who earns from taxpayer's money at a certain level. We have appreciated that the reason we find ourselves in the economic quagmire that we are in presently in is because of unregulated borrowing and wanton Government spending. Expenditure on the public side is uncontrolled, unmeasured, and unchecked. That is why we are in this particular situation.

Our operations and maintenance are at a whopping Kshs600 billion per annum. You wonder what is it that the Government needs that it consumes a cool Kshs50 billion every month to run; it is because of such things. We expect the SRC and other constitutional commissions to help us resolve this.

I have challenges with Clause 15 (1) of the Bill. It states that –

“The Controller or a member of staff of the Office of the Controller, or a person acting on the directions of the Controller, shall not be personally liable to any action, claim or demand whatsoever for any matter or thing done in the performance of the functions of the office of the Controller and in good faith”.

It speaks to personal liability for action taken. I accompanied the President early this week when he went to address the European Union (EU) Parliament. He had bilateral meetings with certain Heads of State while there. I do not want to mention which ones in particular because some of these things are sensitive. On our way, I saw him prepare, as it is his norm when we were on the plane. He was reading his notes when he mentioned something and it struck my curiosity.

There is a county government in this country that entered into a dispute with an investor from one of the European countries and they kicked him out of a business that he had built over the years. The gentleman has gone to court and was awarded Kshs500 million that the Government of Kenya needs to compensate him.

It is one of the issues that keeps on coming up when the President has bilateral as his resident country because he is a European. Every time the President meets those people on bilateral relations issues between the two countries, he is told that there is a small matter of our citizens who came to your Country and we spoilt his business. They go ahead to mention that fortunately our judicial system is up to date and that he has an award of Kshs.500 million. They request the President to go on and pay.

The question on my mind is, if we continue to put such provisions as provided in Clause 15(1) of this Bill where public servants know that they can make whatever decision it does not matter because they do not bear personal culpability for their decisions, are we not exposing ourselves?

We need to bring to this Parliament how much the Government continues to pay up to date on decisions that are made by public officers on account of this Clause that later on the Government is made to pay. Many of those decisions I can boldly say are made on account of political considerations. We have an example of 2017 on the sugar consignment.

When those decisions were made, because certain calls were made to the Kenya Bureau of Standards (KEBS), those officers stood their ground. Today all those traders who supposedly quote and quote; ‘had brought sugar that is unfit for human consumption’ have been awarded tender to supply sugar because afterwards when they were presented in courts and told to present documentation, the traders showed that the public officers acted in ways other than what is expected of them. The Government of Kenya continues to pay billions of shillings on account of wrong decisions made by public officers, simply because a call has come from a higher office.

Madam Temporary Speaker, if we continue covering public officers as it has been provided in Section 15 of this particular Bill, I am afraid we shall bankrupt this country. When public officers come to the realisation that one can be held personally liable for certain decisions, that is when they will appreciate and decide to do the right thing.

I believe if you do the right thing, even if you are later found to be wrong, the court is able to see and decide. Perhaps, you can even leave it to the court to make the determination on whether to charge the public officer directly or the institution for which they were in charge of.

We must move away from this notion that there is something called Government of Kenya, which has money somewhere. The Government of Kenya is you and I and all these people that we represent. They are the ones who pay taxes and run this institution.

Therefore, during the Third Reading or the Committee of the Whole, I need to be convinced whether we need to keep this Section 15 or redraft it. After we redraft, even those who draft legislation at the State Law Office will know that Parliament is sending a message.

Madam Temporary Speaker, there are many things that I wish to speak about but time is far much spent.

Lastly, Section 21 sets up something that is akin to the office of the *Ombudsman*, which is a controller. The controller shall conduct verification audit to ascertain whether systems have been established and investigate the powers of this competent authority and to determine these so-called competent authorities.

These authorities are listed in the concluding parts of the Bill. They are Pest Control Products Board, Kenya Plant Inspectorate; Kenya Dairy Board; Fertilizer and Animal Food Stuff; National Biosafety; Kenya Bureau of Standards (KEBS) and so on.

It is our sincere hope that these bodies can actually serve like the Ombudsman of these institutions; and ensure that any time any institution is not living up to the spirit and the letter of the Act that set them up, they report back to this House. Then, we will either disband that particular institution or at least find ways of putting them in check.

I like the provisions of this particular Bill especially on food and safety co-ordination in our counties because it is important also. This is addressed in Section 16.

I had said I have concluded but I will be amiss if I fail to speak about the correlation between this Bill and our county governments. Of course, the functions of our county governments in relation to this Bill, are enumerated in Section 16 on issues of licensing, capacity building, public awareness and preparation of food and safety reports.

It is my hope and assumption that this body will coordinate and liaise with our various county governments, so that they provide the necessary training. They provide for them the standard and updated knowledge, so that our counties are also up to speed in terms of testing. We should not just be happy if food and safety investigation is just being undertaken in our big cities; and leave out our relatives, friends and constituents in the villages.

Madam Temporary Speaker, I believe you know that in certain parts of this country, there are no meat inspectors. This is a very important person that is normally not known in our villages. People just slaughter bulls and cows and go on to consume the meat without the necessary certification. Alternatively, they call certain old men who are said to have good eyes for checking the meat. There is a way that they check and tell if the meat is fit for human consumption.

We must identify the hotspots of such cultural practice and help our counties to move from such habits. We need to bring them up to date with the practice of science and what is expected of them.

With those very many remarks, I appreciate those who have spoken to this Bill. I hope you all support it, of course, with submission on what needs to be improved.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senate Majority Leader.

Proceed, Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker, for this opportunity. I rise to support the Food and Feed Safety Co-ordination Bill (Nation Assembly Bills No.21 of 2023).

The word 'food' has been defined and I am happy about that.

Mr. Speaker, Sir--- Sorry, Madam Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): If you address me as Mr. Speaker again, there is a likelihood action will be taken against you for not recognising obvious gender disparity.

**Sen. Cherarkey:** No, Madam Temporary Speaker. I am always a champion of gender sensitivity. It is just a slip of the tongue. I withdraw and apologise as directed. Of course, I request for your grace in case I transgress.

The source of many diseases is always mishandling of food. We have talked about food and I strongly agree with your earlier submissions. Mishandling of food is the cause for food poisoning. All of us have had food poisoning on different occasions.

Therefore, when there are strategies to put in place food hygiene, this is to ensure that the food we consume assists us to grow in good health. They say a healthy nation is a wealthy nation. When you have a population that is unhealthy, you do not have wealth because you will spend a lot of resources. In families where people are sick, they spend a lot on medication and end up becoming poor in some cases.

Consequently, that is why through the wisdom of President William Ruto we passed a Bill here. In the Bill, we created Critical Disease Bill or Fund, so that people who suffer from terminal illness like cancer and other diseases can be catered for.

Madam Temporary Speaker, I can confirm to you that all of us from today to Monday, may either receive invitations of harambees. About 80 per cent will be about medical bills. It is eating into the budget of many families.

Apart from food, another dangerous item in the budget is food and medication. I say so because what we consume is who we are. Therefore, when we get a Bill that wants to establish the Board of food safety authority, establish a controller and give clear guidance, as the Senate, we should be the champions.

I am happy with the definition of 'food' that –

“A processed, semi processed or raw substance which is consumed by human beings and it includes drinking water and substance which has been used in production, manufacture, preparation for treatment of food but does not include a cosmetic, tobacco or substance used as drugs.”

Therefore, funny things that people smoke are not defined in this Bill as food. I am saying this because of two things. First, this December, there will be so many ceremonies. Even as we talk, they are so many. Every weekend there are ceremonies of people getting married or being initiated.

Madam Temporary Speaker, we were with you in Murang'a County the other day at a traditional wedding ceremony. Congratulations to our colleagues, *Mhe*. Erick wa Mumbi, the MP for Mathira Constituency. He married his lovely wife, Hon. Betty Maina Esau, your Woman Representative in Murang'a County. Thank you for hosting us at Kangari. Ladies, you were looking lovely and the food was very good. Sen. Nyamu was on the dance floor and we learnt *Mugithi* dance.

Madam Temporary Speaker, essentially, there will be so many foods around this Christmas season up to early January. However, that food could be the source of your

serious illness. We must ensure that the food we consume is well protected. Farmers are now harvesting.

We saw Cabinet Secretary, Hon. Linturi Mithika, in the North Rift region of Ziwa, Eldoret and Mosoriot donating maize dryers. This is because there are heavy rains that look like *EL Nino*, which might affect the storage and drying of maize. We want to thank the Government for providing maize dryers so that our food does not get aflatoxins, which can be poisonous. Kenyans might consume it and get cancer related diseases.

Food safety is a critical component. In Nyandarua County, we also need cool storage plants so that when they harvest potatoes, they can store it there. Kitui County and other areas that produce mung beans, lentils and coffee also need proper storage.

I am happy that the main issue is post-harvest and we need to manage it. It is sad that after these rains, Kenyans will die of hunger. We have a lot of rains now and we should be collecting the water in water pans and dams.

I am happy that the President has given priority to the construction of dams, including Keben Dam in Nandi Hills sub county, Karimenu, Thwake, Itare, Bosto Dam in Bomet County and the functional Chemususu Dam.

Madam Temporary Speaker, there is one in your county that is supposed to provide water for Nairobi City County. There are many other dams. We need to produce food and manage the post-harvest operations. That is where my concern is. That is why we need milk-cooling plants so that when we get excess milk, we can process it into powder milk.

We need proper storage. We passed the Warehouse Receipt System Bill. The Government has told maize farmers to dry their maize at National Cereals and Produce Board (NCPB). They can also hire the warehouse so that the food is properly stored. This includes rice from Mwea, beans, cassava and other produce.

In the *Anthills of the Savannah*, a book by the famous Chinua Achebe, in one of the scenes where he was cycling a bicycle, he said he was eating the hills like yams. Food has formed conversations. That is why its safety is important. Therefore, I urge county governments to manage post-harvest.

I agree with the review and continuation of the office of the food safety controller. We have it established even in the United States of America (USA) and other areas. This recruitment shall be done by the Public Service Commission (PSC), vetted by Parliament and appointed by the President. I am happy that for the first time we are seeing Parliament.

Under Article 93 of the Constitution, Parliament means Senate and the National Assembly. For the first time the Bill expressly talks about Parliament. You will be shocked that we are talking about National Assembly as if the issue of food and agriculture is not devolved. This is a shared function although it is devolved.

Clause 5 is on the guiding principles. I hope they will have proper coordination with the Kenya Bureau of Standards (KEBS). We saw the story of sugar that had mercury. We all remember the drama that ensued. We want to ensure everything we consume meets the standards that are there. Public health and food safety regulations must also be coordinated. This is a multiagency and multifaceted approached.

Madam Temporary Speaker, we have started doing mixed farming. When I drove through Murang'a County over the weekend going for a *ruracio* ceremony, I saw many avocados. The sad reality is that when you try to export them through JKIA, you are

told they have not met the European Union (EU) standards for export and yet our farmers have sacrificed a lot. How do we ensure we comply in order to export avocados and real honey?

Can you believe that sometimes when you want to export avocados, you are told they do not meet the standards? I saw how committed our people are in avocado production. However, when they bring them to the market, they are told they do not meet EU standards. The only way to cure such instances is having a proper food and safety controller so that we can be given guidelines on exportation.

It is in the Government's interest to improve on the balance of trade by exporting more and importing less in order to avoid the dollar crises we have at the moment.

Madam Temporary Speaker, I thank Sen. Crystal Asige. She is one of the people who commented on my Bill. I had forgotten this in my earlier submission.

Clause 16 talks of the functions of the county government. We hope that county governments will support safety measures.

In my other life, I was a butcher. I used to sell meat and milk in Mosoriot at Kingsway Butchery near the stage as you go to Eldoret. The meat inspectors used to come to inspect and stamp it. We need to make sure these people are clean. The person who came to stamp the meat was looking dirtier than everything that was being approved. We need county governments to be keen. I want to alert the entire country.

I know Sen. Mungatana has received the biggest version of floods in areas of Tana River County and the Northern parts of Kenya. This brings a likelihood of a breakout of water borne diseases. Food might also get contaminated. County governments have the unique role because they are the people in the *mashinani* and they can inspect it.

I am happy that Sen. Olekina who is a friend of a friend has just walked in. He is one of the milk dealers. I was loyal client of Sen. Olekina for some time. He used to supply me with milk until he decided to disappear. The milk was good and he used to package and deliver it properly. I am happy that he was one of the milk manufacturers in this country.

Clause 19 states that-

“The Controller, in consultation with the competent authority shall advise where an overlap occurs in performance of their functions under their respective legislation”

The *El-Nino* floods is an issue. Some of us know about County Allocation of Revenue Act and about the budgets. I saw your Governor yesterday delivering the state of the county address in Murang'a County. We need to agree as a country that in every budget a Governor does, there is a disaster and emergency fund.

In fact, as a Senate, and my senior Sen. (Dr.) Khalwale, we told them to enact the law that covers emergency and disaster fund. Even in their budget line, there are funds for emergency. Why are governors not using that? It was until the other day when the Deputy President spoke about it. They came guns blazing because they want to steal the way they did the COVID-19 funds.

They want to use that as an excuse. Let them tell us, in their own budgets, where they have allocated the disaster and emergency funds. What have they done about it?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey, you cannot use a generalized term across the counties to indicate that governors want to steal money the way they stole the COVID-19 funds. Can you withdraw the reference to term

‘stealing’ unless there is evidence that they stole? That is the only time you can use it across the board for all the counties or governors. Short of that, withdraw the reference to the word ‘steal’.

**Sen. Cherarkey:** Madam Temporary Speaker, I stand guided. In the special audit report of the Auditor General about COVID-19 funds, some counties misused and abused the funds. I will replace the word ‘steal’ with the words ‘abuse or misuse of the funds.’

The counties must spend their own emergency funds before blaming the national Government. Why are counties in Northern Kenya able to buy food and yet Kakamega County is unable to support families that have been affected by floods? My area has also been affected by floods.

In 2020, the national Government gave counties emergency funds for the pandemic. The national Government will have to allocate counties funds because of the floods. Counties affected by floods should make special supplementary budgets to cover the damage caused.

Let us use the advantage of the rain. There will be a bumper harvest because of the ongoing rains.

There are only two or three minutes remaining.

On the issue of fertilizer, the Ministry of Agriculture and Livestock Development needs to advise us on what we should be consumed. We are told that one of the causes of cancer is consuming meat that has drugs used to treat the animal. As a country, we need to move to organic fertilizer so that we avoid some diseases.

Some of the pesticides we use were banned in the USA because they cause cancer. We need to ban some of the pesticides and acaricides that contaminate our food. This is partly why we cannot export our products to the EU. The type of pesticides and acaricides we use are not suitable for consumption.

The President has added Kshs8.2 billion to the fertilizer subsidy programme. He has also signed the supplementary budget that was passed by the National Assembly. As the Government provides subsidised fertilizer to all farmers across the country, let them ensure that the fertilizers issued to farmers are organic to protect our people. We need meat control regulations in order to have a proper way of handling meat.

I beg to support this Bill. As we go into the festive season, I advise Kenyans to be careful about how they handle food. Let us wash our hands and maintain hygiene. We do not want our people getting sick because of consuming contaminated food. Public health officials should be on high alert as festivities and other ceremonies increase. We should put measures in post-harvest management across the country. We need to process this Bill fast so that it can be assented to and become a law.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. This is an important Bill and I will demonstrate why. In most cases, we discuss Bills, but do not demystify the importance of the Bills. Sometimes we develop legislation with a lobbying interest behind it; people who have seen an avenue to make money.

Most of our legislations have an element of money making. This is the first Bill that I have gone through and seen that the controller who is being appointed by the President, is not funded through levies. I do hope that we can continue developing



legislation in that frame of thought. The way this office will be funded is something that has encouraged me to comment on this Bill.

One of my biggest pet peeves is when you see legislation that forms boards that are given powers to set up regulations. When they do, they propose levies to fund the board. I wanted to begin there before I get into the merits and demerits of this Bill.

Today, Kenyans are bleeding. Every piece of legislation has an element of fees; there is the KEBS and all these other authorities. This is the first Bill that will be funded directly by the Exchequer, which is progressive.

This Bill has introduced an element that most Bills are forgetting. Yesterday, I raised concerns about a Bill that gives so much power to the national Government and takes it away from the county government, yet agriculture is devolved. This Bill gives county governments a clear role in ensuring the safety of food and feeds in this country.

I was going through the Bill and looking at the mandatory elements that it should have. One is the risk analysis. Are we sure of the food we are eating in this country and the feeds we are feeding our animals? What goes in goes out. You end up consuming whatever you feed the animals. I am speaking about this with experience.

If you traverse this beautiful country called Kenya, you will find dairy farmers who import animal feeds from our neighbouring countries of Uganda and Tanzania. If we are not careful to use the right toxin binders, we will find levels of aflatoxin that are above 600 in the sample of the milk produced. They are not good for human consumption. It is important to be clear in terms of regulatory standards.

If a company is producing or processing food, they have to abide by certain regulatory standards. They have to be clear from the county level and not from some office in Westlands or Industrial Area where they are paid a fee and informed of the standards. This must be inculcated in the culture of production.

When it comes to the issue of aflatoxins, what levels are good and how can you control this? Anything below 100 would be perfect. Although the standards in this country are below 500, we should focus on our feeds to make sure we have looked at what we are feeding our cows, ensure we have standards that county government officials can traverse their regions, see the production, and have standards to measure. Before the food leaves the area, it should abide by the set standards.

Without this piece of legislation, we do not have this kind of proposal. We see trucks carrying milk, but we have not found out the level of antibiotics and hydrogen peroxide in the milk. Is there any frothing and has it passed or not? These are basic and important things.

Most unscrupulous farmers are guilty of this. They feed a cow and it produces five litres of milk. When they are going to sell that milk, they think that it is too little and they add another two litres of water. It is ridiculous.

Madam Temporary Speaker, this Bill gives county governments a role to play. However, the role must demystify what they need to do instead of just saying that -

“at the end of the year, a report is produced on conducting a verification audit and its determination by the competent authority.”

Now, the competent authority is clearly defined as a-

“public institution responsible for official control set out in the first schedule.”

Instead of saying that, at the end of the year, they will produce a report to show the safety standard, they need to ensure safety before any food leaves a particular area.

This is why I keep on reiterating that the moment we organise ourselves as cooperatives to produce food; it is the moment we start consuming food that is fit for human consumption.

Madam Temporary Speaker, the Object of this Bill is to protect human life and health. It is quite clear and I like it. If you are protecting human life and health, should we then not empower county governments?

I am happy that this Bill has raised this. I hope that we can now follow by allocating more money to counties. This is so that county governments can start civic education from the onset. Educating the public on the importance of not adding water to milk and, not to feed the cows anything without following the set standards.

Today, most of our farmers do not know where that grass has come from. They just say this is grass and they feed the cows. They do not even know whether that grass has passed all tests. They do not even know whether there are any standards. This is especially so for the zero grazed animals.

You know, nature intended for cows to roam around and collect food so that they can chose for themselves what to eat. Now, if you cage them all together and you provide them with food, then it is imperative that we control what leaves that area to go and feed the rest of the public.

The previous Senator talked about the issue of veterinary officers certifying meat. Since the county governments have been given a role in this Bill, which is to implement and enforce food safety measures, they must carry out very basic tests such as the total fat content.

They should do that in a region with milk aggregators. Before anybody goes out to buy that milk from there, they ensure the total fat content. In fact, the important one is to see whether the levels of aflatoxins are within the standard set for human consumption.

If proper standard levels are not maintained, it can affect cows. We feed them with a lot of soya. Sometimes, it is not even soya. Most farmers in this country feed their cows with soya imported from Uganda and has not been well processed. They only put it into a big pot and a fire is lit to remove the oils. Then, we give the meal to the cows. We have to have these standards. That is why I am reiterating on the importance of these standards.

I know we are very careful with most Bills that are introduced into this House when it comes to whether it is a money Bill or not. It is imperative that all county governments allocate a lot of resources and train many food safety individuals who can go out there and measure what we are feeding the cows with, so that we live in a good environment.

Madam Temporary Speaker, the rate of cancer in this county is sky rocketing. You ask yourself why. It is because people are feeding on cancerous substances. You just get something and feed the cow. Afterwards, we consume meat from it.

There is a place called Empuruputia in Narok County, Narok South. We have so many challenges in that place. In fact, it is in the Loita Hills, a very beautiful place. However, there is no good water for human consumption. Where the people fetch water is sort of like hole where wild animals come in to drink water and pee in. One of the many common diseases in that area is cancer which is very dangerous.

The role the county governments is given in this Bill is critical. I urge the Cabinet Secretary when developing regulations on implementation of this Bill to enhance the critical role of county governments as envisaged in this Bill.

Madam Temporary Speaker, it is also important to ensure there is a traceability element in our animal feeds and food to ensure accountability. I keep saying we are 47 counties. We can benefit from each other. We do not need this World Bank and International Monetary Fund (IMF). We can trade among ourselves. For example, what can Kirinyaga County provide us in Narok? What can Narok County provide to other counties? We can work together and trade amongst each other.

If I go to Kirinyaga County and buy animal feeds, I come and feed my cows and they get sick, I can trace it. It is important to enhance the traceability element in this Bill. I hope that when developing regulations, we will be very clear in terms of the traceability. Risk assessment, regulatory standards, inspections, monitoring and traceability are very important.

We have talked about the issue of exporting our products. We should not only be concerned EU standards where we are talking about exporting products outside the country, but we should also be concerned about me exporting my products from Narok to Machakos County. The standards must be the same.

*[The Temporary Speaker (Sen. Veronica Maina) left the Chair]*

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

Let me reiterate on something, which I have seen in this Bill. It is important for us to educate the public as to why we are supporting this Bill. The Bill provides for a provision where the county government can conduct capacity building on food safety and standards. That is very critical.

We have raised issues of fertilizers. What fertilizers are we using? In the last Parliament, there was someone who said that organic fertilizer is bad, yet they were trying to create business for their own ventures.

Madam Temporary Speaker, as I conclude, there are very many consequential amendments in this Bill. I have looked at the issue of certain amendments and the different clauses, which will be deleted in the Public Health Act. For example, they are deleting the term “food” in the Public Health Act and coming up with a new definition. “Controller” means food safety.

These are some of the regular ones but they are very important to note so that we can ensure that even as we talk about, the Fertilizers and Animal Foodstuffs Bill, where we are coming up with a new definition, and when you look at the new definition, the issue is just this ‘controller’. controller; controller; controller.

Madam Temporary Speaker, my focus is, and this is where I want to emphasise as I end; we must build the capacity of not only farmers but also county governments to ensure food safety. That is why we are in this Parliament. We are in this Parliament to pass laws that not only build certain businesses but Bills that protect human life and ensure that Kenyans are healthy.

You will be saddened if I tell you that in most parts of this country, people just eat whatever they can because life has become very expensive. When you go to our borders

like Kenya, Uganda and Tanzania, sometimes people just eat whatever they can get, if it is cheaper there, they will just consume it.

We must add one other element in this Bill that ensures that whatever we are importing does not only look at the issues of certificate of conformity or origin, we also look at it within our standards. That will call for us to look at our treaties and common commercial zones like the East African Community (EAC), so that we see whether our standards will match.

With those few remarks, Madam Temporary Speaker, I support and wish that the county governments can be enhanced in terms of finances to support this issue of food safety.

**The Temporary Speaker** (Sen. Mumma): Sen. Mungatana, you have the Floor.

**Sen. Mungatana, MGH:** Bi. Spika wa Muda, ningependa kuchukua nafasi hii kutoa asante kwa kunipa nafasi hii ili kutoa maoni yangu kuhusu Mswada huu wa *Safety* wa chakula ama usafi wa chakula. Ninajiunga na wenzangu kusema ya kwamba hii ni sheria muhimu sana.

Sitakuwa mrefu lakini nitaongea tu kwa ufupi. Mimi ni mmoja wa wale ambao wanawakilisha Kenya kwa COMESA Competition Commission na muhula wangu utaiisha mwaka ujao. Kuna wakati tulienda Malawi ambako ndiko *headquarters* ya COMESA Competition Commission. Barabarani tukitoka airport, nikaona kitu kingine cha maajabu sana kwa sababu sikuwa nimeona kitu kama hicho.

Niliona panya. Panya alikuwa amekatwa vizuri, amekoka vizuri na pale *stage*, vijana walikuwa wamekuja na panya na wanajaribu kutuuzia. Nikawauliza wale wenzangu, je, hawa watu wa Malawi wanakula panya? Wakanijibu, “sisi tunakula panya.”

Nikawaambia kuwa kule kwetu hiyo sio kawaida, hawauzwi. Wakaniambia kuwa “*it is very nice*; ni nzuri sana, hebu ijaribu”. Basi tukashusha vioo, tukaitisha panya, tukalipa Kwacha, na tukaila. Ilikuwa nzuri sana.

Niliporudi nyumbani baada ya kazi nikawaambia watoto wangu ya kwamba, mimi nilienda Malawi na nikala panya, walisema, “Usitushike! Usitushike kwanza.” Hawaamini kwamba hicho chakula ni sawa na walifikiri nimewaitea maradhi.

(*Laughter*)

Lakini angalia historia nyingine ambayo niliambiwa. Mama mkwe wangu alisafiri akaenda Amerika na kama kawaida kwa sababu kuna marafiki kule, akabeba unga wa sima. Wakamwambia kuwa, “ukifika pale, jaribu upitishie unga wa sima utuletee”. Hiyo ndiyo zawadi ambayo tunataka utuletee kutoka Kenya.”

Basi, mama mkwe akabeba akaenda nayo. Alipofika mahali pa kuingilia *immigration*, walimwuliza, “umebeba nini” akasema “Nimebeba vitu vya kawaida.” Wakamwuliza lakini hiyo ni nini.” Akasema kuwa ni unga tu; kwani kuna shida gani? Wakamwambia, “Hatukubali unga.” Akawaambia lakini huu ni unga wa Jogoo wakasema unga wa Jogoo haukubaliki hapa. Na hakuweza kuingia nayo. Standards zao kule ni tofauti kidogo na *standards* za kule Malawi.

Bi. Spika wa Muda, nitatoa mfano mwingine tena. Kakangu ni mtu wa kusoma sana. Ni profesa wa Economics na anafanya kazi Afrika Kusini. Miaka ile alipokuwa mdogo na alipokuwa antafuta usomi, alienda Germany kufanya shahada yake ya tatu.

Alikuwa hajui Kijerumani. Kwa hivyo aliingia dukani, akanunua chakula, nyama na vinginevyo akaenda kupika kama kawaida ya watu wote pale. Basi akatuandikia barua. Miaka hiyo ilikuwa hakukuwa na *SMS*, *WhatsApp* ama simu za rununu. Miaka ile tuliyoishi sisi unajua; ulikuwa unaandika barua na kisha unangojea majibu.

Akaandika barua na akatuambia kuwa, “Aa! Maisha huku mazuri sana, nyama ni bei rahisi sana.” Tukamwambia kuwa ni vizuri na ikakaa kama mwezi mzima hivi. Baadaye, akaandika barua ya pili, akasema, “Ee! Familia, ile nyama niliyokuwa ninanunua kwa kama wiki mbili, nilikuwa sijasoma vizuri, lakini ilikuwa ni pande ya wanyama wa nyumbani (pets), nami nilikuwa ninanunua ile nyama kwa sababu ilikuwa ya bei rahisi.

Hata hivyo, ndugu yangu hakuwa mgonjwa. Alipojua Kijerumani vizuri, alianza kununua nyama mahali pa sawasawa. Hakuwa mgonjwa kwa sababu ya zile standards ambazo wanaweka upande ule wa nchi zilizoendelea.

Hapa Kenya, mimi ni mmoja wa wale watu ambao wanapenda kula njugu na sipendi zile njugu za *supermarket*; ninapenda njugu hizi ambazo tunazipata barabarani. Mhe. (Dkt.) Khalwale anajua wakati wa *campaign*, ukiwa barabarani, unakula ile ambayo inapatikana. Ukienda na uone kitu chochote, unakula. Tunashukuru Mungu kwa sababu mpaka saa hii, sijawahi kupata ugonjwa baada ya kutafuna njugu, ama chaluka cha barabarani.

Wakati umefika sasa kwa sisi Wakenya nasi tuingie katika jumuiya ya nchi ambazo zimeendelea, ambazo zinatoa standards za chakula ambacho sisi tunakula ili yule ambaye anauza njugu barabarani, yule ambaye anaoka mikate pale barabarani; yule anapika chakula pale nje, tukila chakula chake awe ni mtu ambaye amepimwa na chakula chake kimekubalika.

Hii sheria inasema kwamba kutakuwa msimamizi ambaye atasimamia mambo haya ya usafi na standards za chakula. Kwa hivyo, ninaunga mkono Mswada huu kwa sababu utasaidia Wakenya wengi sana.

Wakati tulipokuwa na COVID-19, wengi wetu tuliingia katika mazoea ya kuosha mikono yetu. Kila tulipokuwa tunaosha mikono ama ukipita mahali ambapo kuna hizi dawa za kudisinfekt mikono, unaosha mikono yako.

Bi. Spika wa Muda, ukweli ni kwamba mambo ya kukohoa na mafua wakati huo yalipungua kwa sababu ya usafi ambao watu walifanya ni mazoea. Tukiingiza *standard* za usafi katika vyakula ambavyo vinapikwa kila mahali, watu watazoea. *Standards* zetu zitakuwa juu. Hata tukiwa tunapika nini na watu wako barabarani ama kwa hoteli, watakuwa na ile imani ya kwamba katika hii nchi ya Kenya, mambo ya vyakula vyao vinasimamiwa sawasawa na sheria.

Kuna vipengele ambavyo viko katika sheria hii ambayo ingekuwa vizuri waviangalie zaidi. Hii ni kwa sababu vinaweza kuleta mushki kati ya serikali gatuzi na ofisi hii ambayo tunaunda kupitia kwa hii sheria. Kwa sasa, vyakula vyote ukitaka kufanya biashara ya hoteli au kufungua kibanda, wanataka uende kwa *county government*.

Mpaka sasa, ukweli ni kwamba watu wetu lazima wapate leseni kutoka kwa serikali gatuzi. Kama hapa Kaunti ya Nairobi, ukitaka kufungua hoteli, lazima uende pale na wanakupatia *conditions*. Wanakuambia watu wako wakiwa wanapika au kupakua chakula lazima wavae zile kofia, wasiweke makucha marefu na mambo kama hayo.

Ikiwa tunaweka ukaguzi wa vyakula katika sheria hii, ni lazima tuangalie hiki kipengele cha 16 ambacho kimezungumzia kuhusu kazi za serikali g Tunataka iwe sawa na vile mambo yako saa hii. Kwa ufupi, tusiweke sheria ambayo itagongana na mipangilio ambayo tayari iko. Serikali gatuza kama iko na mipangilio yake, ingekuwa vyema hasa wakati wa *public participation* ya hii sheria, waite serikali gatuza na *Council of Governors* watoe maoni yao kwa urefu kuhusu hiki kipengele cha 16.

Sisi Maseneta ambao kazi yetu haswa kaika Katiba ni kusimamia na kusaidia serikali gatuza, hatutaki tutengeze sheria ambayo iwe tena inaiumiza. Hii sheria inasema ni lazima watengeze ripoti za *safety* za kaunti; *food and feed safety*. Hawasemi ni kwa muda gani; mwaka ama mwezi? Wanasema ni lazima wazitengeze. Hawaelezei ni *standards* gani ambazo hizi ripoti za usafi wa vyakula wa sehemu gatuza wala ni nini haswa hii sheria inataka. Ukiandika tu laini moja ambayo haijielezi, unaleta shida kwa serikali gatuza.

Hiki Kipengele cha 16 ni lazima wajieleze vizuri. Wakisema watasimamia, wafanye *evaluation of a multiannual* na hawaelezei hii *plan* wanataka iandikwe nini au kama kuna *regulations* ambazo zitawekwa na hawaelezei kwa undani zaidi vile mambo yatafanywa na serikali za kaunti, hiki Kipengele cha 16 kitaleta mushkin katikati ya serikali gatuza na Serikali Kuu ya Kenya haswa kwa ofisi ya msimamizi wa usafi wa vyakula hapa Kenya.

Ningependa sana wakati ambapo hii sheria inaenda kuangaliwa kwa undani, wakati wa *public participation*, hii sheria iwekwe chini na watu wa kutoka sehemu gatuza wapewe nafasi waongee zaidi na watoe mawazo yao.

Pia, ninaomba ile kamati ambayo itashughulikia hii sheria kutoka kwa Seneti, Seneti tumekuwa na mazoea ya kwamba wakati wanaita watu kufanya *public participation*, wanaenda kwa vikundi ambavyo vimejulikana; *county government*, *Council of Governors*, *Law Society of Kenya* na makanisa. Hao ndio wanawaita stakeholders.

Ninaomba wakati hii Kamati inakaa, waite hawa watu wadogo ambao wanafanya hizi kazi wawasikize ili wasiweke masharti ambayo yatagandamiza wafanyikazi na wafanyibiashara; yule mama anayepika pale vibandani, wale vijana ambao wanapata vyakula vyao kwa kuuza korosho, njugu au mahindi ya kuchoma barabarani tungependa maoni yao pia yazingatiwe. Sio wakubwa peke yao ama Kamati iandae mikutano katika hoteli kwa *organizations* kubwakubwa. Chukueni watu wa kawaida muwasikize maoni yao ili tusije tukapitisha sheria ambayo itamgandamiza mwananchi wa kawaida.

Naomba sana wakati wa *public participation*, hili jambo lifanyike. Waite watu wa kawaida ambao sisi tunawajua. Watu kutoka nyumbani wengi wanahustle hapa Kaunti ya Nairobi na tunawajua. Tukiambiwa tuwalete, tutawaleta ili nao watoe maoni yao.

Jambo lingine kuhusu hii sheria ni haizungumzii chakula cha binadamu pekee; inazungumzia chakula cha wanyama ambao sisi tunawala kama kuku, mbuzi na kadhalika. Hivi vyakula vya wanyama haviwekwi katika *standard* yoyote. Sisi tunaambiwa ukienda *supermarket*, utasema hii ni chakula ya paka au mbwa na unanunua. Lakini hakuna *competent authority* ambayo inafanya sisi tuwe na imani ya kwamba vyakula hivi ambavyo tunapatia wanyama wetu, haswa wale wanyama ambao wanatuletea pesa kama kuku, mbuzi na ng'ombe, viko katika *standards* ambazo zinatakikana.

Kitu kimoja tu ambacho ningependa kuongezea kwa hii sheria ni kuwaomba wale wameileta hii sheria watengeneze mahali ambapo kutakuwa kukifanyika *research*. Hakuna kipengele chochote ambacho kinahusika na utafiti. Hakuna mahali ambapo hii ofisi ambayo tunaitengeza ya usafi wa vyakula imezungumzia kuhusu utafiti. Tunataka tuwe na kipengele ambacho kitaongea kuhusu utafiti na utafiti huu usaidie katika kutengeneza *standards* ambazo zitawasaidia Wakenya. Ikiwa tunakula chakula barabarani, kwa mikahawa au hotelini, ziwe zinafika pahali pazuri.

Pia, kuwe na *standard* ambayo tunajua kama mtu anakula hapa, kibali chake kinaonyesha kwamba huyu mtu chakula chake kimepitishwa na usiwe na wasiwasi unapokula. Tukiona hii sheria imepita, tutafurahi kwa sababu itakuwa inaleta Kenya kwa kiwango cha nchi ambazo zimeendelea kwa usafi wa vyakula ambavyo vinaleta afya nchini na kwa wananchi wao.

Kwa hayo mengi, naomba kuunga mkono sheria hii ambayo tunayounda. Naomba wenzangu wanaonisikiza pia waiunge mkono na wakati wa kuupitisha sheria hili.

Asante, Bi Spika wa Muda.

**The Temporary Speaker** (Sen. Mumma): There is no other request for speaking. I now call the Mover to reply.

**Sen. (Dr.) Khalwale:** Asante sana, Bi. Spika wa Muda, kwa hii nafasi. Ningependa kutumia hii fursa kuwaambia wale wote ambao wamechangia hii Mswada huu asante sana. Maoni na maono yenu tumeyasikia. Kwa hakika, wakati tutakapofika awamu ya tatu ya kutunga hii sheria, haya maoni yenyu yatachangia.

Mwisho kabisa, ningependa kuwahakikishia wananchi kwa jumla kwamba wakati hii Mswada huu utakuja mbele yenyu katika ile awamu ya public participation, mchukue fursa kuhakikisha kwamba vile maoni yenyu tumeyasikia na kuyapata. Kwa hayo machache, nasema asante na naomba kujibu.

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

**Sen. (Dr.) Khalwale:** Bi Spika wa Muda, kwa sababu ambazo zinaeleweka, ningependa kusimama kwa Hoja ya Kudumu No.66(3) kuomba kwamba uamuzi kuhusu huu Mswada uahirishwe hadi ile siku utapendelea kuamua.

Asante sana, Bi Spika wa Muda.

**The Temporary Speaker** (Sen. Mumma): It is so postponed to the next sitting.

*(Putting of the Question on the Bill deferred)*

Next Order.

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

Hon. Senators, allow me to reorganise the sequence of the Order Paper. I wish to call on Order No.21.

**MOTION****ADOPTION OF REPORT ON THE PROLIFERATION  
OF RELIGIOUS ORGANISATIONS**

**Sen. Mungatana MGH:** Madam Temporary Speaker, I beg to move pursuant to the provisions of Standing Order No 223 -

THAT, the Senate adopts the Report of the Ad-Hoc Committee to investigate the proliferation of religious organisations and circumstances leading to more than 95 deaths in Shakahola, Kilifi County, laid on the Table of the Senate on Thursday, 19th October, 2023.

Hon. Members will recall that in a Senate sitting held on Thursday 27<sup>th</sup> April, 2023, a Motion to establish an Ad Hoc Committee to investigate the proliferation of religious organizations and the circumstances leading to the deaths of more than 95 people was passed pursuant to Standing Order No.199 of the Senate Standing Orders.

Madam Temporary Speaker, you remember on that day that it was on the suggestion of the ever-hardworking, Sen. (Dr.) Khalwale, that this House was persuaded that we should in fact form an Ad Hoc Committee to handle that issue. The Ad Hoc Committee was formed. It had various mandates: -

1. To investigate the circumstances leading to the death of the followers of Good News International Ministries led by one Paul Makenzie Nthenge in Shakahola Village, Kilifi County.

2. To investigate the role played by one Paul Makenzie of the Good News International Ministry, his pastoral team and the Kilifi County security committee in aiding and abetting the deaths of the followers of the Good News International Ministry in Shakahola, Kilifi County.

3. To establish through the office of the registrar of societies the numbers and activities of religious groups in the country including the registration and compliance status.

4. To audit the legal and registration framework for religious organizations in the country.

5. Develop a legislative proposal on regulation of religious activities in the country.

6. Make any other recommendation that will prevent religious organization from extreme indoctrination of their followers including radicalization, spiritual and financial exploitation.

Madam Temporary Speaker, the membership of the Committee was made up as follows:

Sen. Mungatana  
Sen. Shakila Muhammed  
Sen. Mohamed Faki Mwinyihaji  
Sen. Abdul Haji  
Sen. William Cheptumo  
Sen. Richard Onyonka  
Sen. Veronica Maina  
Sen. Hamida Kibwana



Sen. Tabitha Mutinda  
Sen. Eddie Oketch  
Sen. David Wakoli Wafula

Madam Temporary Speaker, I really want to take a minute or so to pay tribute to the hard work of these Senators. My vice-chairperson, Sen. Shakila Mohammed, was ever present. We had brilliant contributions from Senators such as Sen. Eddie Oketch who is one of those young Senators that has distinguished himself when it comes to work. I pay tribute to the work that he put in here. It gives me hope that maybe even as we grow older, the country will still be in good hands as we leave the stage at some point.

I want to acknowledge the work put in by Sen. Cheptumo who was always there and who really put in a lot of work in this Committee. I acknowledge every other Member including Sen. Veronica Maina, a very hard-working lady. I really appreciate fellow Senators; without them it would not have been possible to come up with a report such as this that really gave direction on what we should do with religious organizations.

Madam Temporary Speaker, the Senate gave us 90 days to complete our investigation and table the Report on 26<sup>th</sup> July. However, the Committee sought an extension through a Motion that was adopted by the House on 1<sup>st</sup> of August, 2023. The Committee was granted an extension of 30 days to conclude its work and report on 5<sup>th</sup> of September, 2023. Due to the evolving nature of events, on the 3<sup>rd</sup> of October, the House granted the Committee another 14 days from 5<sup>th</sup> of October to conclude its work. We then went on to table the final report on 14<sup>th</sup> October, 2023.

Madam Temporary Speaker, in our conduct of investigations, we adopted a work plan on 3<sup>rd</sup> May, 2023, and prepared a framework for stakeholder investigations and engagement of the public hearings. Pursuant to our mandate under Article 118 of the Constitution, we invited various stakeholders and members of the public to submit their views to this Committee.

The Committee also went on fact-finding visits to Kilifi, Vihiga and Kisumu counties. During these visits, the Committee received first-hand information from survivors of the tragedy, the families of these victims, county security committees, religious groups and civil society groups. In total, the Committee received both oral and written submissions from more than 208 stakeholders and members of the public.

Madam Temporary Speaker, I take this opportunity to thank members of the public who gathered the courage to meet us and give us the necessary information that led us to have a good report that we have tabled here.

We visited Shakahola Forest and interacted with the agencies that were involved in the exhumation and investigation processes. We also visited the compound of Mr. Paul Mackenzie that was located in the middle of Shakahola Forest, where he coordinated his heinous activities. At the end of the report, we have attached pictures that will show some of the things that we saw in Shakahola.

Madam Temporary Speaker, these are the challenges that we experienced. The Committee covered highly sensitive matters, and some of them, we were told, could have been prejudicial to any future prosecution against Mr. Paul Mackenzie and other persons. The Committee was alive to the fact that investigations and intelligence gathering on the circumstances surrounding the deaths in Shakahola were still ongoing, and placing sensitive information in the public domain was likely to negatively affect the prosecution of witnesses or suspects implicated in this case.

The Committee resolved to omit certain individuals from its interrogation, and specific evidence that was received in camera sessions and documents were classified as confidential. A summary of the key issues raised in the evidence is however contained in the body of this report. Although we did not name particular people because we had an agreement with some of the investigating and prosecutorial agencies, we agreed that they give us the information; we take it in camera for our use, but in a way that will not prejudice the cases that they intended to prosecute.

Madam Temporary Speaker, we have been faithful to that. The body of the Report contains this information in a way that will not prejudice any other proceedings.

Madam Temporary Speaker, the sensitivities of this matter aside, the Committee also encountered a few challenges in the execution of its mandate. First, given the complexity and the evolving nature of the investigation, the initial time limit of 90 days to fulfil its mandate was not enough. So, we had the problem of time and also resource allocation. Many times, we wanted funds to do this or that, but we would not secure the funding.

We intended to go to Uganda, where 1,000 were killed in a church. They had been promised heaven and they had sold their possessions. We also intended to go to Nigeria to see how they manage their situation. Nigeria has outlawed performing live miracles on television. We wanted to hear the experiences in Kigali, where the administration there decided that all churches must register afresh. They gave certain conditions under which they would get the continuation of their registration.

Therefore, resource constraints made it very difficult for us to get first-hand information on some of these places. We intended to go to the United States of America (USA) or France, which have a lot of experience with these cults. So, we went for desk research to support the findings of these reports, instead of visiting the places that would have given us first-hand information.

More gravely, despite extending invitations and issuing summons, the Committee was unable to procure attendance of key witnesses. These include the former Kilifi County Security Committee members, who were transferred following the discovery of the tragedy in Shakahola Forest. The Committee felt very strongly that we needed to talk to those people. We felt that it was not in keeping with what we would want. When this tragedy became public, the Cabinet Secretary in charge, Hon. (Prof.) Kithure Kindiki, immediately announced the transfer of all the security committee members. So, when we went to meet them, we found a new team that could not give first-hand information. It was the feeling of the Committee that we meet the immediate original security committee office holders in Kilifi County, before they were transferred.

We wanted to interrogate people like Mr. Joseph Kemboi. He was the Senior Superintendent of Police and the Sub County Police Commander of Malindi. We did not get him. The second one is Mr. Charles Kamau Wanguhu. He was the Assistant Superintendent of Police (ASP) and Senior County Criminal Investigation Officer in Malindi. We did not get him.

We wanted to interview Mr. Solomon Odera, the Superintendent of Police and Sub County Police Commander. We did not get him. We wanted to talk to Mr. Aragamso Guracha, Superintendent of Police, Critical Infrastructure Protection Unit in Malindi. We did not get him. We wanted to talk to Mr. Augusto Okuna, the Officer Commanding

Station (OCS) at Malindi Station. We did not get him. We wanted to speak to Hassan Hamara, the OCS of Lango Baya. Again, we did not get him.

We wanted to speak to Calvin Malowa Otieno, who is the Directorate of Criminal Investigation (DCI), Malindi, but we did not get him. We wanted Daniel Muthusi Muleli, the County Criminal Investigation Officer (CCIO); Jecinta Wesonga, who is the County Police Commander (CPC), Paul Maweu, Critical Infrastructure Protection Unit (CIPU) and Joseph Yator, the police officer attached to DCI, who had been moved. It was the feeling of the Committee that these 11 people be brought. They were invited *via* letters through the Cabinet Secretary of Interior and National Administration.

In the invitation letter dated 30<sup>th</sup> June, 2023, the Committee requested the Cabinet Secretary for Interior and National Administration to facilitate the attendance of these transferred officers before the Committee on the 7<sup>th</sup> July, to shed light on certain matters. This includes formal complaints that had been registered against Paul Mackenzie's activities, actions taken to mitigate the radical activities of Good News International Ministries, and an explanation of reasons for the delay in acting of intelligence received on the radical activities of Good News International Ministries.

On 7<sup>th</sup> July, when the Committee was expecting to meet the transferred officers, the Cabinet Secretary for Interior and National Administration, Prof. Kithure Kindiki, appeared before the Committee. He informed the Committee that some of these transferred officers were witnesses and some were suspects on the ongoing investigations into the Shakahola tragedy.

As such, to avoid jeopardizing the ongoing investigations, the Cabinet Secretary for Interior and National Administration sought to speak on behalf of the transferred officer, a request that the Committee initially accepted.

Therefore, when he came, he said "we have a problem because these people may be witnesses, so, allow me to speak on their behalf." We accepted this in the first meeting. However, the Committee continued with the investigations because apart from meeting the Cabinet Secretary, we met many other people.

Over time, as the information kept on coming, some gaps were being created. We felt very strongly that what the Cabinet Secretary had presented was not enough. There was some information that the real officers, who are on the ground--- We wanted these officers to come and fill the gaps that were still gaping.

Accordingly, the Committee on 6<sup>th</sup> October, resolved to issue summons to the transferred officers to appear before the Committee on 13<sup>th</sup> October. On 7<sup>th</sup> October, the process server travelled to Malindi Sub-county with the intention of obtaining information on the whereabouts of the transferred officers.

The process server reported to the Committee that he was unable to obtain the details of the transferred officers. As such, the Committee's efforts to obtain the whereabouts of the transferred officers were not successful. We did not get a chance because the process server, in his sworn affidavit and a return of service to us, explained the difficulties that he was undergoing.

Despite extending the invitations again on 6<sup>th</sup> July, 10<sup>th</sup> July, 18<sup>th</sup> July, 2023 and issuing the summonses on 6<sup>th</sup> October, the Chief Government Pathologist, Dr. Johansen Oduor, failed to appear before the Committee. Dr. Oduor's appearance before the Committee was important for us. We felt that as a Chief Government Pathologist, he

played a role in identifying the cause of death of the bodies that had been exhumed in the Shakahola Forest.

Additionally, we also felt that he was the person who was in charge of the Deoxyribonucleic Acid (DNA) matching process. So, it was important for him to appear in person. Since, he did not appear at that time, the Committee resolved to issue a fine of Kshs500,000 to be paid by Dr. Johansen Oduor personally. We also ordered Kshs2,000 to be paid by Dr. Johansen Oduor personally. We also ordered the Inspector General (IG) of police to arrest Dr. Oduor and present him before the Committee on the 17<sup>th</sup> October, 2023.

That notwithstanding, Dr. Oduor was not presented before the Committee by the IG as we had wished. Therefore, this Report does not have the report from Dr. Oduor that we wanted to receive from him.

The Committee, however, then received an email dated 17<sup>th</sup> October, 2023 from Dr. Oduor. He informed the Committee that he was at all times willing to appear before the Committee, but was requested by the Cabinet Secretary for Health, Hon. Nakumicha, not to appear on the basis that investigations were on going.

Additionally, Dr. Oduor told the Committee that he was informed that the Cabinet Secretary for Interior and National Administration, Hon. (Prof.) Kithure Kindiki, would appear before the Committee in his place.

He explained his absence before the Committee and pleaded that the Committee vacate the resolution to impose a fine upon him. The Committee deliberated on this matter and resolved to reprimand Dr. Oduor for failing to appear before the Committee. It should be noted by all persons that summons before a parliamentary committee is a serious matter. Any persons summoned to appear before a Parliamentary committee should appear, any reservations notwithstanding.

However, we felt very strongly that Dr. Oduor was in a difficult place. Was he to obey the Cabinet Secretary or come before the Committee? We saw the problem he had and that he is a longstanding doctor who has served this country diligently. He explained himself that it was other factors rather than his willingness to obey the summons from the Senate that prevented him from coming. He was always ready to present himself.

Madam Temporary Speaker, we then vacated the decision to fine Kshs500,000 against this hardworking civil servant. We also faced another challenge of not interviewing Mr. Paul Mackenzie himself. We issued summons on 7<sup>th</sup> October, 2023 for him to appear on 13<sup>th</sup> October to answer to, and among other things, his beliefs and ideology and how he run the Good News International Ministry. We wanted him to tell us about the circumstances that led to the death of the followers of his Ministry at the time.

We wanted him to tell us about his association with an entity known as a “Voice in The Desert” from Australia. We also wanted the effect of the ideology or thinking that the “Voice in the Desert” Ministry in Australia had on him.

We wanted to know the sources of funding for the Good News International Ministry. However, the first time, the process server was obstructed by the officer in charge at Shimo La Tewa from effecting the summons on the basis that the summons could only be effected through approval of the Director General (DG) of Prisons.

We stated that, that was an unknown process in law. On 13<sup>th</sup> October we resolved to issue a second summon for Paul Mackenzie to be presented before the Committee on the 17<sup>th</sup> October. We also said that the second summons should be accompanied by a

warning letter to the officer in charge of Shimo La Tewa prison, informing him of the consequences of obstructing service of summons, pursuant to Section 27(3)(a) and 27(4) of the Parliamentary Powers and Privileges Act, 2017.

After we gave this notice, the officer in charge of Shimo la Tewa prison decided to comply with the summons of the Senate. The summons was served to Mr. Paul Mackenzie. If you are a Government officer and have been served with the summons, the consequences of failing to answer the Senate summons and make the appearance will be personal to you and not your boss. The summons is not addressed to your boss, but to you.

If you are served and do not appear, you will suffer the consequences of the law. It is better to appear before the Committee and say what you know or state that you have been told not to say something. It is better to come and say that there are things you cannot say because of the nature of the information you have. You can request to be heard in private, and the Committees of this House will be willing to understand.

We received two letters on the date when Mr. Paul Mackenzie was supposed to appear before the Committee. One letter was from the retired Brigadier John Warioba, Commissioner General of the Kenya Prisons. The other one was from Mr. Wycliffe Makasembo, the lawyer on record for Mr. Paul Mackenzie. Mr. Makasembo requested one month to prepare his client to appear before the Committee.

Brigadier Warioba, on the other hand, wrote a letter to tell us that he feels that Mr. Paul Mackenzie is a high-risk prisoner, who requires proper security arrangements before he is transported to Nairobi. He asked that he be given more time. Unfortunately, the time given by this House to the Committee had lapsed. We should have examined Mr. Paul Mackenzie's evidence.

Madam Temporary Speaker, I have elaborated in detail on the Committee's efforts to procure the attendance of crucial witnesses and how the efforts were obstructed at every turn by Prof. Kindiki Kithure, the Cabinet Secretary for Interior and National Administration, and Hon. Susan Nakhumicha the Cabinet Secretary for Health. They are public officers who ought to have facilitated the Committee's execution of its mandate. If anything, the Committee could have received the evidence in camera if it was an issue.

The Committee received evidence from the National Intelligence Service (NIS) in camera. We also received the Director of Criminal Investigation (DCI) and the Office of the Directorate of Public Prosecutions (ODPP). We received this evidence in camera. We do not understand why the two Cabinet Secretaries were not willing to facilitate the Committee to execute their duty.

We condemn the actions of the two Cabinet Secretaries and ask them to realize that our work is for the people and the benefit of Kenyans. Kenyans should know why we did not investigate some of those witnesses.

During a meeting with the DCI on 13<sup>th</sup> October, he invited the Committee to visit the National Forensic Laboratory at the DCI Headquarters. Some Members went to see the laboratory. Despite being a modern state-of-the-art laboratory, it faces numerous challenges. For example, there are 12 laboratories that are within the big laboratory itself. Out of the 12 laboratories, only eight are functional at the Directorate of Criminal Investigation (DCI). This is because some of the machines are outdated and the service contracts have expired.

Madam Temporary Speaker, of the eight that are functional, some of them lack the reagents to do the work that they are supposed to do. They also lack funding for procurement. Although there are very many technical and highly trained staff in the DCI, you will find that even when they collect the samples to bring to the headquarters for testing and the normal collection of evidence, they do not have the specialised motor vehicle to carry those samples from Shakahola all the way.

You will find that the departments of Chemistry and Biology are not functional. These departments are supposed to be the main departments that would have helped in Deoxyribonucleic Acid (DNA) identification. Therefore, people have been asking why it is taking so long to get these things done. It is because, although they are collecting the samples from down there, when they come to Nairobi, and the departments of Chemistry and biology are not functional, they have to go and queue at the Government Chemists like all the other departments to get their samples. It takes a lot longer than they wanted.

The Committee observed that the National Forensic Laboratory at the DCI Headquarters requires additional funding of Kshs340 million to upgrade the biology forensic laboratory and another Kshs117 million to upgrade the Chemistry forensic lab. The Committee further noted that there was need to pursue sustainable funding mechanisms and financial autonomy of the National Forensic Laboratory, for instance, through revenue-raising initiatives such as capacity building for the region. The South African Science laboratory serves as a benchmark for the region where Kenya could greatly benefit.

When you look at the reasons there was a delay in getting these samples processed, it is because we were having technical issues at the National Forensic Lab. This forensic lab falls under the Cabinet Secretary for Interior and National Administration. It is not funded properly, and therefore, it will take a longer time to conclude the work they are supposed to do with Shakahola. It is important that the Cabinet Secretary prioritises the funding of this place.

Madam Temporary Speaker, the inadequacies in the lab at the National Forensic Lab is a weak link in the pursuit of justice for the Shakahola victims.

We also noticed that there were failures by the Judiciary. It was not lost on us that Paul Mackenzie had so many cases pending before the court. With every new case filed, Paul Mackenzie was given very lenient bail terms, which in the Committee's view, were not commensurate to the crimes that he was being accused of. The Judiciary ought to explore a way to strengthen bail and bond policy guidelines, to provide for more stringent bail terms for offenders who may have pending cases in court.

**The Temporary Speaker** (Sen. Mumma): Sen. Mungatana, you will have a balance of 25 minutes to finish moving the Motion.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday, 28<sup>th</sup> November, 2023, at 2.30 p.m.

The Senate rose at 6.30 p.m.