

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 15<sup>th</sup> February, 2024

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

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

#### PRAYER

**The Temporary Speaker** (Sen. Wakili Sigei): Order, hon. Members. We need to start today's sitting. I call upon the Clerk to call the Order for the day.

#### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM UMOJA  
SECONDARY SCHOOL, KIAMBU COUNTY

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from Umoja Secondary School in Kiambu County. The group comprises three teachers and 60 students who are 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.

We do not have the Senator for Kiambu County. I wish to give an opportunity to Sen. (Dr.) Khalwale, on behalf of the Senator for Kiambu County, to welcome the team from Umoja Secondary School.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir, for this privilege to welcome our children to the Senate. Children, this is the Senate.

I know back in school you have been told what Parliament is. I, therefore, use this opportunity to welcome and remind you of the great county you come from.

This county is not only represented in this Senate by the great Sen. Thang'wa, but it also has a history of producing some of the best leaders in this country. The first President of Kenya, President Jomo Kenyatta, was from Kiambu County. The fourth President of Kenya, President Uhuru Kenyatta, is from Kiambu County. However, most

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memorable to me was the first Attorney-General of Kenya from Kiambu County, Sir Charles Njonjo.

Welcome and enjoy. I am available if you want further encouragement from me. I am the Senator of Kakamega County, a doctor of medicine, a bullfighter, a footballer and an athlete. I love culture and children.

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

**Sen. Crystal Asige:** Mr. Temporary Speaker, Sir, thank you for this opportunity. I welcome the group from Umoja Secondary School in Limuru. I wanted to stand up specially to say hello to this delegation, to bring to light one of the teachers in this delegation. His name is Peter Maina. He is a visually impaired teacher and has been teaching geography and history at the secondary school for three years now.

*(Applause)*

Unfortunately, he acquired a disability at a very tender age of five years through meningitis, but still, he is part of the amazing teachers of this country who are pouring out their knowledge into the next generation. I find that extremely commendable.

Mr. Maina, from myself, a visually impaired Senator, to yourself, a visually impaired teacher, I thank you greatly for your contribution to this nation.

Mr. Temporary Speaker, I thank you for inviting this delegation to the House.

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

## PETITION

### PLIGHT OF THE LANDLESS IN MUTHANTHARA SUB-LOCATION, EMBU COUNTY

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, I hereby report to the Senate that a Petition has been submitted through the Clerk by Mr. Peter Kangwaru Nyaga, on behalf of the residents of Muthanthara Sub Location, regarding the plight of landlessness in Muthanthara in Embu County.

As you are aware, Article 119 (1) of the Constitution says that-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

Hon. Senators, the salient issues raised in the said Petition are-

(a) That the petitioners and the larger community of Muthanthara Village have been without title documents for the land they occupy since Independence;

(b) That some of the residents from Mbeere side have been forcefully evicted from the areas they occupy therefore leaving the residents of Muthanthara to live in fear of eviction;

(c) That the issues presented in this Petition have been raised with relevant bodies, including the Ministry of Lands, Housing and Urban Development, the National Land

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Commission (NLC) and the Registrar of Lands in Siakago but the issues have not been addressed;

(d) That none of the issues raised in this Petition are pending before any court of law, constitutional or any other legal body.

Consequently, the petitioners pray that the Senate-

(1) Investigates this matter with a view of ensuring that the residents of Muthanthara are issued with title deeds for the land they occupy after the demarcation process.

(2) Makes any other recommendation on the matter.

Hon. Senators, pursuant to Standing Order No.237, I shall now allow comments, observations or clarifications in relation to the Petition, for not more than 30 minutes. For those who are interested in commenting, please, limit the comments to the timeline granted.

Sen. Munyi Mundigi, please, proceed.

**Sen. Munyi Mundigi:** Bw. Spika wa Muda, mimi ni Sen. Munyi Mundigi, Seneta wa Kaunti ya Embu. Ningependa kuchangia kuhusu mambo ya mashamba. Najua mambo ya Muthanthara kidogo. Kuna sehemu inaitwa Igambang'ombe ingawa sikuwa najua mambo haya kabisa.

Ninavyojua, kuna watu wanaoishi Muthanthara. Mara nyingi huwa kuna matatizo Serikali inapotoa pesa kwa sababu watu wa Kaunti ya Tharaka-Nithi huwa wanasema huko ni kwao. Wengine wanapiga kura huko na wengine wanapiga kura upande wa Mbeere ambayo iko katika Kaunti ya Embu.

Mara nyingi huwa kuna shida kuhusu maji au jinsi *county government* inavyofanya kazi. Ni vizuri viongozi wa kaunti hizo mbili waketi chini ili kuangalia jinsi watu hao wanaweza kusaidiwa, ili waishi maisha mazuri. Wanafunzi wanafaa kwenda shuleni bila matatizo na wenyeji wapate hati za mashamba.

Kwa kuwa jambo hilo limeletwa katika Seneti, ni vyema tuliangazie kiundani ili kupata suluhu. Tunafaa kujua kama watu hao wako katika Kaunti ya Embu ama Mbeere na pia wapate *title deeds* zao kama wengine.

Kwa hivyo, naunga mkono Ardhi hali hii ili watu hao waweze kupata haki yao na tujue ukweli. Viongozi wa kaunti hizo mbili wanafaa kuketi chini na kuelewana kuhusu mambo ya mashamba. Kuna watu wamejenga nyumba za mawe. Vile vile, kuna kanisa na shule. Sehemu itakayobakia, watu wapewe kidogo kidogo ili kila mtu apate.

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

**Sen. Wambua:** Thank you, Mr. Temporary Speaker, Sir, for an opportunity to comment on this Petition. From the outset, I identify myself with the prayers of the petitioners.

Embu County is the headquarters of Eastern Region and that is where I come from. The residents of Muthanthara have a genuine and legitimate fear especially on their prayer No.3, that they have seen their neighbours being evicted and, therefore, they are afraid they could be evicted from the land they occupy today by people who claim to have title deeds for the land they have occupied since Independence.

This matter of land especially in the county that used to be the Provincial Headquarters of my region, Embu, is a matter that the NLC and the Committee on Land,

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Environment and Natural Resources of this Senate must take a lot more seriously. I say this because there are a number of settlement schemes in that region, which for the longest time have had serious issues with land ownership.

I was in Embu on Monday and visited Karaba and Mathima wards. In those two regions, we have huge populations of people from the Kamba extraction who have occupied those pieces of land since Independence. We also have the Mbeere, Embu and Kikuyus who have occupied that land. Karaba and Mathima are cosmopolitan wards in a rural setting, yet this threat of eviction has kept hanging on the necks of these people since Independence.

The Constitution of Kenya is very clear; that any Kenyan can own property and live anywhere in this country. It is unfortunate that one of the leaders, who I will not mention because the Standing Orders do not allow me to mention people, since I cannot substantiate their actions---

*(Sen. Orwoba and Sen. Munyi Mundigi consulted loudly)*

**The Temporary Speaker** (Sen. Wakili Sigei): Order, Sen. Orwoba and Sen. Munyi Mundigi.

**Sen. Wambua:** There is an elected leader from Embu County who was threatening an entourage lead by His Excellency Dr. Steven Kalonzo Musyoka on Monday, that we should not visit Karaba and Mathima, and if we visit, we should not mention anything to do with land. These matters are serious.

Today, I stand on the Floor of the Senate and reassure the people of Karaba and Mathima that they are occupying that land by right. They are not there as squatters or invited guests. They are there by right as Kenyans. Therefore, they should continue occupying land they have occupied since Independence. They should establish permanent buildings on that land. The Government of Kenya has a responsibility and a duty of care to issue those people with title deeds.

You would think this issue of title deeds that we keep talking about is a process from heaven. Those people in Embu County, who have a legitimate claim of land, should be issued with title deeds for them to settle and do their business.

Mr. Temporary Speaker, Sir, with those remarks, I support.

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

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, I support the petitioners who have brought this Petition on the land issue in Muthanthara Sub-Location in Mbeere North, Embu County. I would like to propose two quick solutions. I hope the Members of the Committee on Land, Environment and Natural Resources are here.

From their Petition, it appears there is already fear of evictions. I request the Committee on Land, Environment and Natural Resources to order that the status quo be maintained until adjudication of the said area is finalised and discussed.

Secondly, the necessary adjudication process should commence forthwith, to ensure people show ownership and possession of the said land. They should be given title deeds. Title deeds are basic documents that should be given to any right and deserving Kenyan. In this country, there is a disease known as “*grabiosis*”. If they are evicted, we

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will not know who will be allowed into those areas that are occupied by the said individuals from Mbeere North, Embu County.

On the issue of boundaries, I hope and believe that the County Boundary Bill will be processed forthwith to ensure that whenever there are disputes concerning boundaries, they should be resolved at any given chance. Therefore, I support this Petition and the prayers that have been prayed by the people of Muthanthara Sub-location. It is within their right.

I hope in the next 14 days, through your indulgence, even though we know there is a timeline for the Petition, you should order the said Committee to report back with progress. We saw people being evicted, losing their land, being robbed of their dignity and losing their houses. I know the issue of land does not only concern Embu. Even in Nandi County, we have similar issues, though we are trying to work on them with the government.

I encourage the people of Embu County to work with the Government of the day and the Ministry of Lands to ensure they access these documents. Where I come from there is the Koiben Title Deed Exchange Programme. We share a boundary with my brother, Sen. Osotsi, among other areas in Nandi County. We are working closely to ensure that we go into the future.

Finally, it is wrong for any Kenyan to be denied to visit any part of this country. The allegations that have been made by the Senate Deputy Minority Leader are not statements that we should encourage. Every leader in this country should be allowed to visit anywhere in this country.

Mr. Temporary Speaker, Sir, did you notice how the Senate Deputy Majority Leader sounds agitated? I do not know if the Rt. Hon. Raila Odinga has decided to take the African Union (AU) Chairmanship. Maybe the paradise is not safe or no longer enjoyable. However, we wish him and Hon. Kalonzo all the best.

I thank you and submit.

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

**Sen. Onyonka:** Asante Bw. Spika wa Muda. Kila wakati Sen. Cherarkey anapozungumza siasa anamkumbuka Mzee Raila Odinga. Sijui kama akiwa kitandani na bibiye pia Mzee Raila huingia pale kati kati kumsumbua na kuharibu hewa yake.

Kwa kinaga ubaga, swala la ardhi ni jambo ambalo limeletwa katika Bunge hili la Seneti. Zamani nilifikiri kuwa maswala haya huyasumbua wakaaji wa Pwani, watu wa eneo la Bonde la Ufa au wakaazi wa Kaunti ya Nairobi City. Shida tunayo nchini kwetu ni kuhusu swala hili la ardhi. Lazima kama Bunge la Seneti tujipange na tuhakikishe tunatumia kamati husika na kuhakikisha suluhisho la kudumu limetafutwa ili tumalize shida hizi za ardhi nchini.

Bw. Spika wa Muda, ugumu umeingia haswa baada kwa Mheshimiwa Rais William Ruto alipoleta ratiba ya kujengwa kwa nyumba katika maeneo wakilishi ndani ya kaunti zote nchini.

Eneo la Trans Nzoia ni mojawapo ya maeneo yaliyo kwenye Bonde la Ufa. Juzi kulikuwa na matangazo kuwa Rais alielekeza waliyo na shamba zilizokuwa za serikali zamani na zilizokuwa zimesimamiwa na Idara ya Jela zirudishwe ili zithibitiwe na Serikali.

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Katika Kaunti ya Kiambu, hususan eneo la Thika, kuna shida inayohusu shamba la Del Monte. Hadi sasa hakuna jawabu. Tukirudi katika Bonde la Ufa, Sen. Cherarkey na wenzetu wamefanya kazi nzuri sana. Wakaazi wa Kaunti ya Kericho pamoja na kampuni za ukuuzaji chai wanazungumzia swala la ardhi.

Bw. Spika wa Muda unatoka eneo hili na nimeona ukiyashughulikia mambo haya. Nawasihi waliyo na fursa ya kuongea na Rais pamoja na Mawaziri wanao kushughulikia na mambo ya ardhi, watupe ruhusa ya kuangalia maswala ya ardhi na migogoro ambayo imetokea ili kama viongozi, Rais wa nchi yetu na wahusika wote tujaribu kupata suluhisho kwa heshima, haki na kisheria.

Hili ndilo jambo ambalo ningetaka kuuliza ndugu zangu ambao wako hapa. Ingewezekana, Seneti ingejaribu kutatua mizozo ya ardhi katika nchi hii. Tuichukue kamati na tujihusishe ili tutafute suluhisho.

Ukiona vile Wakenya wanafurushwa kutoka makaazi yao, wanaambiwa *court order* imefurushwa, au askari wamepewa chai na hawawezi kwenda kuhakikisha kuwa ile *court order* ya kuwazuia kubomoa nyumba imetekelezwa. Haya mambo yote yatafanya wananchi na wageni ambao wangependa kuleta hela zao ili wakuze rasilimali ya nchi yetu wadidimie kama hatutapata suluhisho kuhusu mambo haya. Kwa kingereza tunasema *the Land question in Kenya must be sorted out for us to continue moving effectively as a country*.

Tuwe nchi ambayo ina heshima, inafuata sheria na ambayo inampa mwekezaji nafasi ya kuweka mali yake, ajue kuwa wanaweka pesa mahali ambapo sheria inafuatiliwa na hamna shida ya ardhi.

Bw. Spika wa Muda, tunapojadili na kuyaangalia haya maswala, Bw. Spika wa Muda umesafiri na kutazama nchi ya Rwanda. Wakenya ndio walitengeneza mikakati hiyo. Ukiwa kule unaweza pata nambari ya shamba, anaye ishi pale, wakati nyumba ilijengwa na pia pesa gani za kiserikali- *taxes*- ambazo zimelipwa. Pia unaweza kujua kama mwenyewe anataka kuiuza shamba hilo. Utapata habari yote pale.

Nani anayetengeneza habari hiyo yote? Ni Wakenya. Lakini ukisema kuwa kama Wakenya tuketi na tujaribu kupata suluhisho kuhusu maswala haya yote, haiwezekani. Kwa sasa, unapata shamba moja lina hati miliki za ardhi 12. Unapata mama mjane ambaye anafukuzwa katika shamba lake. Unapata Chifu pia hawezi kumsaidia.

Hili jambo la kusuluhisha shida za shamba nchini lazima liangaziwe. Kamati husika inafaa kujaribu iwezekanavyo ili tuketi Pamoja. Wengi wetu ni wazee na tunafahamu mambo haya. Tutafute suluhisho ili Wakenya wajue kuwa sheria inalinda mali na rasilimali yao.

Asante.

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

**Sen. (Dr.) Murango:** Asante Bw. Spika wa Muda. Kwanza nataka kusimama na maombi ya wakaazi wa Muthanthara kuhusu maeneo yanayohusu hati miliki ya ardhi.

Nimetoka Kaunti ya Kirinyaga, eneo la Mwea. Mwaka 2020, nilimzika nyanya yangu akiwa na miaka 118. Sikuwa nafaa kufanya hivyo kimila, lakini alifaa kuzikwa na kijana wake wa kiume wa kwanza. Kutoka enzi za ukoloni, wakaaji wa Mwea

hawajapata hati miliki ya mashamba yao na wanalazimishwa kuzika watu wote katika makaburi ambayo yamejaa na hayawezi panuliwa kwa sasa.

Miaka ambayo imepita, watu wamezaana; watoto na vijana ni wengi. Wanaomiliki mashamba hawawezi kuyagawa mashamba yale kwa watoto wao kama urithi, kwa sababu hawana hati miliki. South Ngariama na Mwea Irrigation Scheme katika Kaunti ya Kirinyaga kuna shida ya mashamba kukosa hati miliki.

Ili jamii iimarike kiuchumi lazima tuhakikishe kwamba wale ambao wanalia wapewe hati miliki wapatiwe, kwani zitawasaidia kiuchumi. Ukiwa na hati miliki unaweza pata mkopo kutoka kwenye benki.

Shida ya ukosaji wa hati miliki katika eneo la South Ngariama linashughulikiwa na Waziri. Ila shamba likikaa kwa muda bila hati miliki ina madhara yake.

Tutashikana kama viongozi na kuhakikisha kwamba waliokuwa kwenye shamba lile wanaangaliwa. Nitalinganisha jambo hili la Muthanthara na tukio la mpaka uliokuwa unawekwa kati ya Tharaka-Nithi na Embu. Watu kwenye mpaka ule ni Waembu, mipaka ikiwekwa walivukishwa wakawa upande wa Tharaka-Nithi. Bado wanajihusisha na Waembu na wanavuka mpaka kupiga kura ila mashamba yako kwenye Kaunti ya Tharaka-Nithi.

Hili jambo limekawia kwa muda mrefu bila kusuluhishwa. Wakati mwingine linaleta maafa. Mmeona maafa Kirinyaga. Si lazima mtu apewe shamba kulingana na kule wametoka. Wale ambao wamemiliki lile shamba kwa muda mrefu, wapewe hati miliki ili kuhakikisha kuna usawa kwa Wakenya wote.

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

**Sen. Faki:** Asante, Bw. Spika wa Muda kwa kunipa fursa hii kuchangia Ardhi hali ambayo imeletwa na wakaaji wa Embu kudai ardhi ambayo wamemiliki kwa muda wote huo.

Ni masikitiko kwamba miaka karibu 61 ya uhuru bado tunalilia ardhi ambazo ni zetu na ni za jadi. Sioni sababu gani Serikali ipigania kujenga manyumba kwa wakaaji ambao hata ardhi hawana. Utapata kwamba Kaunti ya Embu inapigana kujengea watu wake nyumba lakini kwa sasa hakuna ardhi za wakaaji. Watu wanakaa katika ardhi yao ila ni *squatters*.

Ningependekeza kwamba kabla Kamati iangalie swala hili, wapewe nafasi ya kuwaita the *National Land Commission (NLC)*, *Land Registrar* wa Embu na *land adjudication officer* waeleze ni kwa sababu gani wale watu hawawezi kuruhusiwa kukaa pale mpaka wakati *adjudication process* itakamilika, ili wale ambao wameleta maombi yao kwenye Bunge hili wasiweze kufurushwa.

Tumeona watu wanafurushwa sehemu tofauti kutoka makaazi yao. Hili jambo limekuwa la kawaida. Mapema katikati ya mwezi uliokwisha wakaazi wa Changamwe *National Housing* walifurushwa asubuhi bila ya *court order* ama stakabadhi yoyote ya kisheria ya kuwataka waondoke mahali pale.

Ni haki ya kila Mkenya kupata nyumba ama makao ya kudumu. Hii haki imebadilishwa na Serikali ambayo inavunja makao ya wananchi katika sehemu tofauti. Hili ni swala nyeti na lazima Kamati ya Ardhi, Mazingira na Maliasili ilivalie njuga kwa haraka ili wale wakaazi wa Embu wapate makao ya kudumu katika ardhi ambazo wamekaa kutoka jadi.

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**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Korir, you have the Floor.

**Sen. Korir:** Thank you, Mr. Temporary Speaker, Sir. Allow me to welcome the hon. Members to the Third Session. They are energised and ready to work. I appreciate them for the work they have been doing during the recess.

I support the citizens of Embu County on the land they request to be issued with the titled deed. The land issue is emotive. It is affecting citizens across the country. It has been giving us conflict within the communities. This is an issue that needs to be addressed at the grassroots level.

If this issue is handled correctly, we will remove this menace that has been here year in, year out. It is shameful to see 'hustlers' who have struggled for more than 20 years put up houses and are brought down by the Government, yet it is the Government that issues title deeds.

These issues do not start with the citizens, but the Government. It is high time that the relevant Cabinet Secretary streamlines problems, so that they are handled correctly and these people get their documents.

I also know that certain public institutions run without a title deed. It is high time that the committees of this House up their game in terms of oversight, to ensure that the issues of these institutions' documents are put straight and given back to the members of the public.

I support the petitions, and we should up our game as leaders.

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

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to contribute to this Petition.

A petition under Article 119 of the Constitution is one way we connect with the people. A Kenyan presenting a Petition directly to the Senate of the Republic of Kenya demonstrates the kind of faith Kenyans have in this House. When we get a Petition from diligent Kenyans like Mr. Peter Kang'waru Nyaga and his 24 colleagues, we should take it seriously. It demonstrates that these Kenyans have faith that once they Petition this House, we will do something. Once they listen to Sen. Munyi Mundigi speaking passionately for them, they expect answers from this House. It borders on the collective shame that Kenyans can petition this House, complaining that they have never been issued with titles 60 years after Independence.

If you read the Petition, you will find that these Kenyans have knocked on all Government offices; this is their last point of call. If we do not solve this problem, they have nowhere to go. Why should we be issuing titles to Kenyans in piecemeal? Why should Kenyans in Kakamega County have title deeds, but those in Embu do not?

Mr. Temporary Speaker, Sir, this is a Petition where we should summon the top level of Government officers, beginning with the Cabinet Secretary for Lands, Public Works, Housing and Urban Development.

They should tell us why these poor Kenyans have been denied a right in the Constitution since we have a very progressive Constitution as a country; the 2010 Constitution that recognizes the land rights of Kenyans.

In fact, the Constitution says that Kenyans should have security to land rights. It means people in Embu do not have any security to land rights. They cannot go to any

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bank, borrow money to educate their children or present security to borrow money to do business. It is a shame.

Therefore, I hope the Committee that is going to inquire into this matter, should take it seriously. In fact, we should summon even the Kenya National Human Rights Commission (KNHRC), to come and tell us what they have done to ensure that the land rights of these Kenyans are respected.

Honestly, what we should be discussing as a nation, 60 years after Independence, is how Kenyans can make good use of their title deeds. We should not be having a discussion that there are Kenyans who have been left behind and have never had a title deed, 60 years after Independence.

Mr. Temporary Speaker, Sir, I plead with the Committee that is going to be tasked with this matter, to go into the highest level of inquiry, to ensure that this problem of these 25 Kenyans is solved.

Consequently, this is to ensure that Mr. Peter Nyaga can one day rise up and say, "I approached the Senate of the Republic of Kenya, and my issue on failure to get title deeds, was resolved." If we do not do that, we will not build the confidence of Kenyans in this House.

I support.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, everyone else in the House may give a contribution to this Petition. The time allocated to this is 30 minutes from when we started.

Therefore, we are not within the 30 minutes timeline, and that was the last Member to contribute. The Committee has been tasked with this will deal with that issue. So, allow us to progress to the next stage.

Hon. Senators, Pursuant to Standing Order No. 238 (1), the Petition is hereby committed to the Standing Committee on Land, Environment and Natural Resources for its consideration.

*(The Petition was committed to the Standing Committee  
on Land, Environment and Natural Resources)*

In terms of Standing Order No.238 (2), the Committee is required in not more than 60 calendar days from the time of reading the prayer, to respond to the Petitioner, by way of a report addressed to the Petitioner and laid on the Table of the Senate.

I thank you.

Clerk, Next Order.

## PAPERS LAID

**Sen. (Dr.) Khalwale:** Thank you. Mr. Temporary Speaker, Sir. I beg to lay the following Papers on the Table of this Senate, today, Thursday, 15<sup>th</sup> February, 2024. These are –

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ANNUAL REPORTS OF VARIOUS  
GOVERNMENT ENTITIES

Annual Corporate Report for the Office of the Auditor-General for 2022/2023.

Annual Report of the Judicial Service Commission (JSC) for financial year 2022/2023.

Bi-Annual Report of the Commission on Administrative Justice (CAJ) for the period January - June, 2023.

REPORTS OF THE AUDITOR-GENERAL  
ON VARIOUS ENTITIES

Report of the Auditor-General for Water Companies for Financial Year 2021/2022.

Summary Report of the Auditor-General for Water Companies for Financial Year 2021/2022.

Annual Report and Audited Financial Statements of the Teachers Service Commission (TSC) for Financial Year 2022/2023.

Report of the Auditor-General on Financial Statement of Thika Level 5 Hospital for the year ended 30th June, 2022.

Report of the Auditor-General on Financial Statement of Machakos Bursary Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Disability Fund for the year ended 30th June, 2023.

Mr. Temporary Speaker, Sir, with those many statements, I thank you and I lay the Papers.

*(Sen. (Dr.) Khalwale laid the documents on the Table)*

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

REPORT OF SENATE DELEGATION TO 66<sup>TH</sup> COMMONWEALTH  
PARLIAMENTARY CONFERENCE HELD IN ACCRA

**Sen. (Prof.) Kamar:** Mr. Temporary Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today 15<sup>th</sup> February, 2024-

Report of the 66th Commonwealth Parliamentary Conference held in Accra, Ghana from 30<sup>th</sup> September to 6<sup>th</sup> October, 2023.

*(Sen. (Prof.) Kamar laid the document on the Table)*

## NOTICES OF MOTIONS

NOTING OF REPORT OF SENATE DELEGATION TO 66<sup>TH</sup> COMMONWEALTH  
PARLIAMENTARY CONFERENCE HELD IN ACCRA

**Sen. (Prof.) Kamar:** Thank you, Mr. Temporary Speaker, Sir. I beg to give notice of the following Motion-

THAT, the Senate notes the Report of the 66th Commonwealth Parliamentary Conference held in Accra, Ghana from 30<sup>th</sup> September to 6<sup>th</sup> October, 2023.

**The Temporary Speaker** (Sen. Wakili Sigei): Next Order. Sorry, there is a Notice of Motion from the Chairperson of the Standing Committee on Energy.

Sen. Kisang, on behalf of the Chairperson, you may also proceed to give the notice.

ADOPTION OF REPORT ON INQUIRY INTO THE  
HIGH COST OF ELECTRICITY IN THE COUNTRY

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

THAT, the Senate adopts the report of the Standing Committee on Energy on the inquiry into the high cost of electricity in the Country laid on the Table of the Senate on Wednesday, 27<sup>th</sup> September, 2023.

I thank you.

*(Sen. Cherarkey stood up in his place)*

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

NOTICE OF MOTION OF ADJOURNMENT  
UNDER STANDING ORDER NO. 37

## UNTIMELY DEMISE OF MARATHONER KELVIN KIPTUM

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.37, that the Senate to adjourn to discuss a definite matter of urgent national importance, namely, the untimely death of the current Marathon World record holder, Mr. Kevin Kiptum through a tragic road accident along Kaptagat-Eldoret Road.

I request Members to stand and support.

*(Several Senators stood up in their places)*

**The Temporary Speaker** (Sen. Wakili Sigei): Members, I ascertain that it has attracted massive support and the threshold has been met. I therefore, nominate 5.30 p.m.

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to discuss the said Motion when the Senate will adjourn to deal with that particular Motion.

Next Order.

## QUESTIONS AND STATEMENTS

### STATEMENTS

#### REGISTRATION OF TEACHERS WITH DISABILITY WITHOUT CONSENT BY KUSNET

**Sen. Crystal Asige:** Thank you, Mr. Temporary Speaker, Sir. I rise, pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the registration, without consent, of teachers with disabilities by the Kenya Union of Special Needs Education Teachers (KUSNET). In the Statement, the Committee should -

(1) Provide a list of all teachers with disabilities currently employed by the Teachers Service Commission (TSC), specifying their trade union affiliation and providing duly executed registration and consent forms where a teacher is a member of a union.

(2) Clarify whether the teachers have freedom to join trade unions of their choice as is their constitutional right and, if so, explain why some of them have, without their consent, been registered as members of the KUSNET and have continually been deducted monthly union dues.

(3) Ascertain that the entire membership of KUSNET is verifiably genuine and conforms to the union's registration guidelines.

(4) Outline remedial measures being taken to address the matter as well as refund all deductions made so far with respect to the improper registration of teachers with disabilities to this union.

Thank you, Mr. Temporary Speaker, Sir.

I have another Statement.

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

#### IMPLEMENTATION OF DISABILITY GUIDE ALLOWANCE BY TSC

**Sen. Crystal Asige:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education on the concerns raised by teachers with disabilities with regards to the Disability Guide Allowance. In this Statement, the Committee should-

(1) Clarify the most recent Disability Guide Allowance scales and figures published by the Salaries and Remuneration Commission (SRC) whose purpose is to assist people with disabilities employ personal aides or sighted guides in order to support them in their employment duties.

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(2) Confirm the disability Guide allowance renewal process, if any, and how often this renewal is required, if renewal is required.

(3) Elucidate to the Senate the reasons behind the Teachers Service Commission subjecting teachers with disabilities who are eligible to the Disability Guide Allowance, a long renewal process with significantly delayed approvals, thereby placing our already vulnerable educators with disabilities needing the support of personal aides to perform their duties to more challenging environments.

(4) Provide comprehensive details on the compensation for interns with disabilities contracted by Teachers Service Commission (TSC), including whether they receive the Disability Guide Allowance. If this allowance is not provided, offer an explanation as to why this has not been considered understanding, of course, the essential role that personal aides and sighted guides play in their functions to support interns with disabilities in the TSC.

I thank you.

*(Interruption of Statements)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM GIAKI  
GIRLS SECONDARY SCHOOL

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, in the public gallery we have 47 students accompanied by four teachers from Giaki Girls Secondary School in Meru County, who are undertaking an educational visit in the Senate.

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)*

I will request the Senator for Nairobi City County, Sen. Sifuna, to welcome this visiting delegation on behalf of the Senator for Meru County.

**Sen. Sifuna:** Thank you, Mr. Temporary Speaker, Sir. You caught me unawares there, but I will take this opportunity on behalf of my colleague, the Senator for Meru County, who is also our Deputy Speaker, to welcome all of you to the Senate.

I hope that you have a fruitful visit. Get to visit both Chambers of Parliament and sit in on a few contributions from the Members of the Senate today and see what you can pick up and learn from those contributions.

As the Senator of Nairobi City County, I want to welcome you to the City as well. Enjoy your stay in this place and learn as much as you can in your time in the visit to the Senate.

Thank you very much, Mr. Temporary Speaker, Sir.

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

*(Resumption of Statements)*

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. I wish you could allow me to read the three Statements together.

#### STATUS OF ISIOLO COUNTY GOVERNMENT PROJECTS

**Sen. Dullo:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transport and Housing on the status of projects being undertaken by the County Government of Isiolo. In the Statement, the Committee should-

(1) Provide a list of all the county projects, including their respective locations and status of completion, as well as breakdown of budgetary allocation for projects and expenditure for the financial year 2022/2023 and 2023/2024.

(2) Provide the timelines for completion of each project, stating any delays encountered and outlining any mitigation plans put in place.

(3) Provide the details of any new projects planned for implementation by the county government in the near future.'

#### RECRUITMENT AND EMPLOYMENT IN ISIOLO COUNTY GOVERNMENT

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding recruitment and employment at the County Government of Isiolo. In the Statement, the Committee should -

(1) Provide a copy of the human resource policies and procedures manuals, including relevant policies that guide recruitment and employment by the County Government of Isiolo.

(2) Provide a list of personnel currently employed by the County Executive and Assembly, specifying their terms of engagement, whether permanent and pensionable, fixed term, contract or casual.

(3) Furnish the Senate with the payroll for both the executive and the county assembly, clearly indicating the salary and allowances entitled to each employee.

#### PENDING BILLS IN ISIOLO COUNTY GOVERNMENT

I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Finance and Budget regarding pending bills in Isiolo County Government. In the Statement, the Committee should-

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(1) Provide comprehensive breakdown of the total pending bills for Isiolo County Government from the financial year 2013/2014 to the financial year 2022/2023 categorized by each spending line.

(2) Provide reasons for the accumulated pending bills stating the duration for which each bill has remained unresolved.

(3) Present an exclusive account of the payments made towards settling of pending bills since the establishment of Isiolo County Government.

(4) Elucidate on the existing strategies implemented by the county government aimed at addressing the pending bills and preventing the accumulation of pending bills in the future.

I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Sifuna has a Statement as well.

Proceed.

#### FREQUENT FIRE DISASTERS IN NAIROBI CITY COUNTY

**Sen. Sifuna:** I 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 regarding the frequent incidents of fire in the City County of Nairobi. In the Statement, the Committee should-

(1) State whether the fire outbreaks that occurred in Jua Kali area along Landhis Road on 30<sup>th</sup> January, 2024 and in Kijiji area in Lang'ata on 11<sup>th</sup> February, 2024 were acts of arson, and if so, explain the steps taken to bring to book the culprits.

(2) Explain the disaster response mechanisms in place in Nairobi City County, stating factors that contribute to the slow or no response at all to fire disasters, such as the ones I have mentioned in (1) above.

(3) Establish the culpability of both national Government and county government officers whose negligence has occasioned losses to citizens through such preventable disasters.

(4) State measures put in place to protect the residents of Nairobi from such fire disasters, as well as compensate them for any domestic and commercial losses resulting therefrom.

Thank you, Mr. Temporary Speaker, Sir.

#### BUSINESS FOR THE WEEK COMMENCING TUESDAY, 20<sup>TH</sup> FEBRUARY, 2024

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, we are deferring the Statement pursuant to Standing Order No. 57(1). It was supposedly to have been given by the Senate Majority Leader on the business of the House for the week commencing 20<sup>th</sup> February, 2024 to the next session.

*(Statement deferred)*

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Clerk, call the next Order.

*(The Clerk-at-the-Table consulted with the Chair)*

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, we are going to rearrange the order of business for today. We will leave out order Nos. 8, 9, 10, 11, 12, 13, 14, 15, 16 and proceed with Order No. 17.

Clerk, proceed to call that order.

### **MOTION**

APPROVAL OF THE DRAFT SENATE CALENDAR FOR THE  
THIRD SESSION OF THE THIRTEENTH PARLIAMENT

*(Motion deferred)*

### **BILL**

*Second Reading*

THE TEA (AMENDMENT) BILL  
(SENATE BILLS NO.1 OF 2023)

*(Bill deferred)*

### **COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

### **COMMITTEE OF THE WHOLE**

THE COUNTY LICENSING (UNIFORM PROCEDURE)  
BILL (SENATE BILLS NO.9 OF 2022)

*(Committee of the Whole deferred)*

### **COMMITTEE OF THE WHOLE**

THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES  
BILL (SENATE BILLS NO.12 OF 2022)

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*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE MUNG BEANS BILL  
(SENATE BILLS NO.13 OF 2022)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE START-UP BILL (SENATE BILLS NO.14 OF 2022)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE PERSONS WITH DISABILITIES BILL  
(SENATE BILLS NO.7 OF 2023)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE KENYAN SIGN LANGUAGE BILL  
(SENATE BILLS NO.9 OF 2023)

*(Committee of the Whole deferred)*

**BILL**

*Second Reading*

THE WATER (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 33 OF 2023)

*(Sen. Cheruiyot on 30.11.2023)*

*(Resumption of debate interrupted on 14.02.2024 - Morning Sitting)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Mumma, I believe you were on the Floor and you had a balance of 17 minutes to speak to the Bill.  
You may proceed.

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**Sen. Mumma:** Thank you, Mr. Temporary Speaker, Sir, for the opportunity to contribute to the conversation on the Water (Amendment) Bill, 2023.

In my first three minutes, I had raised the need for this House to stay true to its mandate in Article 96; being the protection of devolution. I also urged our colleagues on the Majority side to help us ensure that laws that are coming from the National Assembly and hurried through this House, still meet the obligation under Article 96.

I reiterate that this Amendment Bill is one of those Bills that offends the Constitution when it comes to devolution. Since we have students in the Gallery, Members should know that the water function is a devolved function.

In the Fourth Schedule that assigns functions to the two levels of Government; the national Government Section 22 (c) is assigned the role of-

“Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular;

(c) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams;”

Mr. Temporary Speaker, Sir, the role of the national Government in addition to this is developing national policy, standards and regulation of matters relating to water.

On the other hand, the county government is assigned the water service provision. It includes county public works and services, including, storm water management systems in built up areas and water and sanitation services.

When you read through this Amendment Bill, the proposal herein is to take the function of providing water services and assign it to two types of national Government corporations.

The Water Act, 2016, established a number of bodies, including the Water Resources Authority, the National Water Harvesting Storage Authority, the Water Works Development Agency among other national Government bodies, with specific roles that they are supposed to carry out.

In this Bill, it is being proposed that functions that belong to county water companies be given to the National Water Harvesting Storage Authority whose functions are limited to developing infrastructure for managing water resources during emergency and drought seasons. This authority, which is the former National Water Pipeline Authority, has through the backdoor tried to usurp functions that are provided to the water companies. Basically what we are being told from the first clause to the end is, we are re-organizing amendments to ensure that this authority is assigned functions that belong to a county government.

Mr. Temporary Speaker, Sir, I call on this House to ensure that we do not pass this law. This is because if we pass it, it will offend the Constitution and it will also be stopped by the courts.

As a House in this Third Session, I am calling upon us to rise up and be the House that does what Article 96 calls upon us to do.

They have suggested a number of changes in the definition. For instance, in Clause 2, they are proposing to introduce new language that brings in a contracting authority at the national Government. This is State department agency or corporation intends to have its functions undertaken by a private party.

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Mr. Temporary Speaker, Sir, when this Bill was introduced in this House, we were told that it was trying to bring in a Public Private Partnership (PPP) that would enable faster delivery of services.

There exists a PPP law in this country that is skewed towards helping the national Government and it can be used. Nothing stops that PPP law from being used to get a private actor to build a dam in this country, for instance. Therefore, this addition and suggesting that this is supposed to bring in the PPP does not help.

The PPP Act excluded county governments. It did not properly provide for county governments. The Water Act in Section 96 provides ways in which the county governments and entities can enter into a PPP. Therefore, county water companies are enabled to enter into PPPs under the Water Act. However, the amendments being proposed in this law are clawing back on the powers given to counties.

Mr. Temporary Speaker, Sir, Clause 3 is amending Section 32 by proposing new clauses that suggest that the water companies or agencies may enter into bulk purchase agreements with an investor.

The purchasing and selling of water services is a county function. You can clearly see that Clause 3 is trying to enable authorities that should not be entering into the selling and purchasing of water to do so. This is a function that belongs to the county companies in Section 77.

I urge all of you to read the Constitution, the Water Act and this Amendment Bill. You will see the mischief that I am talking about. It is about removing functions that belong to water companies under counties, diluting that power in Section 77 and beefing up the functions of the National Water Harvesting and Storage Authority (NWHSA) in Section 32 and water agencies to give them powers to do what the water companies are supposed to be doing in Section 77. All of you know that we have about nine water agencies that belong to the national Government.

Mr. Temporary Speaker, Sir, Article 189 of the Constitution provides for intergovernmental relations. The Water Act contemplated this and provided for opportunities in which the national Government can cooperate with county governments and how county governments can cooperate with each other.

This kind of cooperation meant that the national Government may develop waterworks of a national nature. This might be taking care of water resources that take care of more than one county, or one that is intended to provide services to a national entity.

For instance, we may want to develop a dam with the sole purpose of providing water to the Kenya Defence Forces (KDF). Since the national Government has the technical know-how and has the function of giving technical support to counties, this Act allows the national Government to develop public waterworks and momentarily provide services as they transition them to either county governments or joint committees or authorities by counties as contemplated in Article 189(2) of the Constitution.

It is under Article 189(2) that regional blocs have been put in place. This House should encourage intergovernmental cooperation and collaboration between counties to develop services within their regions instead of reversing those services and taking them

back to the national Government. In my view, the manner in which this Bill has been provided reverses devolution.

We need to ask ourselves as we look at this law. Firstly, it is not as urgent as we were being told. We were told this law must pass quickly because it is delaying the Government's plan to deliver on development. I cannot see anything here urgent. The urgent thing is to try and revive the former National Water Conservation and Pipeline Corporation (NWCPC) as it was and give it resources and functions that belong to it.

I urge all of us to look at this seriously and see how we can streamline this sector. We have nine national regional water companies. Each county also has its own water service provider. Under another Ministry, we also have regional development authorities with water functions. I call upon Members of this House to take this matter seriously.

There is a time I suggested that we should form a Committee on Water because we do not have one. Water is part of the environment and land, but we are not looking seriously at this function. I suggest that this House considers setting up a Committee on Water to streamline what is happening.

Mr. Temporary Speaker, Sir, I would also like the team to look at the Abdikadir Report that recommended the rationalization of functions of State corporations. What we are being told here is to reverse devolution and create more parastatals, which we should be winding up. I would like us to be that brave House that will stay true to the Constitution of Kenya and devolved governance system and do what is right.

Finally, I call upon our secretariat because I know they are a brilliant team. Even if a law originates from the National Assembly, they should do a proper analysis of the laws against the Constitution and share with every Member, so that as we contribute we are able to do justice to what our mandate is as the Senate.

Mr. Temporary Speaker, Sir, I oppose this Bill.

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, This Water (Amendment) Bill (National Assembly Bills No.33 of 2023) is interesting. I will make a few remarks on it so that other Members can also have a chance.

We prioritise Bills from the National Assembly. I hope that in future, the National Assembly will also prioritise our Bills. Most of the time we give priority to Bills from the National Assembly. We will convince our brothers and sisters in the "Lower" House to prioritise our Bills, especially on enriching, widening and developing devolution in this country.

Mr. Temporary Speaker, Sir, I would like to pass my deepest empathies and sympathies to the people of Baringo County. In the past one or two months, we have lost more than 20 people because of insecurity and banditry.

One of the unique cases was that of the blind headteacher who got shot. The loss of that teacher's life explains the extent of insecurity in Baringo. He was shot in 1978 when he was still young and lost his sight. Unfortunately, again the bullets of bandits killed the same teacher.

Our hearts go out to the great people of Baringo. Runaway insecurity should be addressed forthwith, so that people enjoy security. A few moments ago, the Senator for Nyamira spoke about enjoyment of rights. I hope the people of Baringo will enjoy security as their right.

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My third point is that there is nothing unusual about this Bill because I have studied it carefully. It seeks to ensure that each and every Kenyan gets access to water. I remember we had an issue with the Murang'a Water Tunnel that was supposed to supply water for domestic and industrial use in this city.

One of the biggest challenges in Nairobi City County and other major towns in this country is access to clean and safe water. Almost 80 per cent of diseases are water-borne diseases, which are as a result of consumption of dirty water.

Mr. Temporary Speaker, Sir, a law that seeks to ensure that Kenyans access clean and safe water should be encouraged. From my reading, this Bill seeks to bring back PPPs. The Government is not in the business of doing business.

The definition under Clause 2 gives contracting authority to both national and county governments. Nowadays, we have the County Public Investments and Special Funds Committee (CPISFC), which investigates water companies and non-revenue companies; how those companies are run and the waterworks.

We need to be more careful. We know that most water companies in the counties are managed properly. Most of them are run down, yet they collect a lot of revenue which we call non-revenue water. There are usually many challenges with our water companies, especially at the county level.

One of the best-ranked companies in the country is Eldoret Water and Sanitation (ELDOWAS) Company. However, when you look at Nairobi City Water and Sewerage Company (Nairobi Water), Tanathi Water Works Development Agency (TAWWDA), Lake Victoria North Water Works Development Agency (LVNWWDA), Lake Victoria South Water Works Development Agency (LVSWWDA) and many other companies and water works just waste a lot of our money.

I can see the immediate former Uasin Gishu Governor is excited that I have mentioned ELDOWAS. He might have an input in the proper running of that water company.

Mr. Temporary Speaker, Sir, what we need to do as a country is to stop these waterworks being so many for nothing. LVNWWDA are just employment bureaus. The assets they own are disastrous. They are only gobbling our resources. Even their assets are most of the ongoing concerns in this country. For example, part of my county Nandi is in the LVNWWDA region, but we are yet to see substantive fruits. When you go to their offices in Kakamega County, which encompasses several counties, it is sad, but you can only speak one local language. They can do an Annual General Meeting (AGM) or management meeting in one language.

We have seen North Rift Valley Water Works Development Agency (NRVWWDA), (LVNWWDA) and all these including TAWWDA have continued to become bastions of corruption.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Osotsi, you know what to do for the Speaker to catch your eye. It is not about raising your hand. You have been in this House long enough to know how to raise a point of order. What is your point of order?

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, is it in order for my neighbour Sen. Cherarkey to claim that LVNWWDA holds meetings in a particular language when he

knows that the Chairperson is not even a Luhya, but Teso? Is he in order to mislead this House that meetings at LVNWWDA are done in a particular language?

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Osotsi, if I heard Sen. Cherarkey well, he stated that there is a possibility and they may. However, Sen. Cherarkey, could you substantiate that is exactly what you said?

**Sen. Cherarkey:** Mr. Speaker, Sir, I may not be an expert in linguistics, but all Luhya languages are similar unless there is a difference of dialect. I did not mention any particular tribe. He has confirmed that he is Teso. Teso and Luhya languages are almost similar, but with different dialects.

Ironically, part of LVNWWDA is in Nandi. The Human Resource (HR) is from Nandi, but when you go to the people who work there, you do not see the face of where the waterworks covers. That is my concern. I wish we could even see the face of Kenya even if not of LVNWWDA.

I have also seen that there is North Rift Valley Water Works Development Agency that was established. My point is that most of these waterworks are a bastion of corruption because they get billions of shillings to do some of those projects. For example, in Nandi County, we are expecting to get Keben Water Dam that will supply millions of litres of water to Kapsabet Town, parts of both Nandi Hills and Emgwen constituencies or sub-counties. We are looking at the Kipkaren Dam that will supply part of Kapsabet Constituency, Mosop and Chesumei sub-counties. All these are managed by waterworks. It does not make sense to have so many waterworks if we can synchronise them so that it becomes easy.

The issue of PPP is welcome. It is well-defined. I do not know why many people say it is eroding devolution. It does not undermine devolution. When you say contracting authority, it will have given power to the national Government which we know has its waterworks that run. By privatising, it means that the county government has been allowed to do its own contracting authority.

Mr. Temporary Speaker, Sir, on the issue of water service providers, it is either the county or specific waterworks that can ensure that water service providers are given the authority to supply water. We see water vendors are common, especially in Nairobi. If you do not see them, then there is something wrong because it is part of Nairobian right.

Some other towns still have that privilege. If you go to Mombasa City, it is a fact that Mzima Springs has not been able to give sufficient water to Mombasa City. The same applies to Kisumu and many other towns. Eldoret is doing better. You saw there was Sondu Dam that was supposed to be completed.

Several towns do not have water sustainability. Sometimes we do not know the quality of regulation of those water vendors or water service providers who ensure that we have clean and safe water. What are the mechanisms that have been put?

What I am providing on the water service provider is to have partnerships between the county government and the national Government. It can become an intergovernmental shared function because everybody needs to access water.

*(Loud Consultations)*

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Mr. Temporary Speaker, Sir, I request that you protect me from Sen. Mumma. There is also the provision that the national public water shall not be transferable to a county government.

This is an open explanation because if you were to discuss about Tanathi today, it covers a number of counties. Same to Lake Victoria North, Central Water Works, Lake Victoria South and even Coast Water Works. It covers a number of counties. Therefore, you cannot transfer to individual counties. It is a basic explanation.

I agree with the initial proposal that we must find a way of synchronising and ensuring that State corporations are limited. We should not be creating state corporations that take a lot of revenue. Remember we have to pay for most of these state corporations when they are under losses.

I am surprised that most Kenyan leaders, including some of us have double speak. When the President was proposing that we offset some of the State corporations that were in red, most of us were opposed. Several people here who are proposing privatisation now are the same ones who objected to that proposal. The Kenyatta International Convention Centre (KICC) and a number of corporations were to be sold. This is because most of them are gobbling public resources.

When you come to KICC where our offices are, the cockroaches are sharing office space, washrooms and many other rooms with some of us. If you privatise, we might get better services. Even replacing a bulb in some of our offices may take a whole financial year.

I am happy the Cabinet Memo came out yesterday that no one is selling, but leasing sugar companies like Muhoroni, Nzoia, Chemelil among other sugar companies and part of Chemase, Tinderet and Mosop sub-counties. It is about leasing to turn around to profitability for the betterment of Kenyans. It is not for any other body.

Another issue is in Section 72(7). It says-

“Evaluate and approve water and sewerage tariffs. Bulk water tariffs and approved the imposition of such tariffs in line with consumer protection standards---”

Mr. Temporary Speaker, Sir, we also need as a country to ensure that the water tariffs or prices of water is not be too expensive again.

While we push for access of safe and clean water to each and every Kenyan, we must in a way also ensure that they are protected. That is why I was raising a question with vendors and water service providers. I know that they get licensed, but what is public health department doing about it? How do we ensure that the water that is being sold by water vendors or in our taps is safe for human and animal consumption? Even for industrial use, when most of the companies and industries discharge used water through industrial processes is the recycling of that water sufficient and clean enough and safe for Kenyans to use.

Sadly to say Consumer Protection Unit (CPU) and Competition Authority of Kenya (CAK) are sleeping on the job. I saw the issue of powdered milk the other day in Eastleigh. I remember there was one company before Kenya Kwanza (KK) took over and liberalised the market. It had been given all rights to make powder milk. However, I was disappointed because why would the police and other agencies forcefully open doors,

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take some of the products yet we have CAK, CPU, Kenya Bureau of Standards (KBS) and Kenya Revenue Authority (KRA)?

When you discuss with many businessmen, especially in Eastleigh, most of those powder milk were cleared at the Port of Mombasa. Why would you come and look for a small trader somewhere in Tala or somewhere in Machakos and come in commando style yet there are agencies that you should have called upon including CAK, CPU and Federation of Consumer? There are processes that we must do to protect our people.

We are assuming that we are reactionary. We do not know how many people have consumed that powder by the time that swoop is being done. So, we must agree that they should be safe for the consumer even including water. Let the price of water be within the range that is affordable.

I know my time is far spent and colleagues want to say how the contracting authority should be.

Finally, I will say something on the water tribunal. This is obvious. When there are disputes of licensing and water provision, water tribunal will arbitrate. This is straightforward matter. I want to urge my colleagues who are resisting these amendments to consider them positively because there is nothing mischievous that is in this law. It is in black and white. It does not undermine devolution, but seeks to enrich it.

I am happy that my Chairperson is back in the House. I had seen in one of his social media handles---

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

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Cherarkey, Sen. Kavindu Muthama wants to inform you. Do you want to be informed?

**Sen. Cherarkey:** No, I can get information at the lounge while having tea with her so that I conclude.

*(Sen. Kavindu Muthama spoke off record)*

Mr. Temporary Speaker, Sir, you know that I have a right to decline the information. I do not know why she is worked up. I will listen to her in private. She better advise me in private.

As I was saying, it is good to see my Chairperson back. I saw him endorsing his party leader to run for the African Union (AU) Chairmanship in the coming elections. I can see that he is very happy.

With all intents, I assure that this amendment is for the betterment of devolution. It does not in any way undermine devolution. We want to enrich all the laws. There is a catalogue of laws that are very critical in development.

Coincidentally you, Mr. Temporary Speaker, Sir, and Senior Counsel have defended me before in trenches for fight for justice in this country. I want to urge my colleagues to support this Bill. There is nothing sinister about this Bill. Let us finish debating it today, call for a Division and allow every Kenyan to access clean and safe water in their taps, through water vendors or good service.

With those very many remarks, I support this Bill.

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*(Interruption of debate on Bill)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KENYATTA UNIVERSITY  
HOMA BAY STUDENTS ASSOCIATION

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, I have another Communication from the Chair on visiting students from Kenyatta University Homa Bay Students Association.

**Sen. Orwoba:** They have gone

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, I would like to acknowledge the presence, in the public gallery, of visiting students from Kenyatta University Homa Bay Students Association. The group comprises 17 students who are 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 on my own behalf, I wish them a fruitful visit.

I thank them in absentia.

*(Applause)*

Sen. Omogeni, you may proceed.

*(Resumption of debate on Bill)*

**Sen. Omogeni:** Mr. Temporary Speaker, I thank you for according me an opportunity to also make my contribution to the amendments that are on the Floor of the House; The Water Amendment Bill (Senate Bills No. of 2023)

*(Sen. (Dr. Murango and Sen. Orwoba consulted loudly)*

**The Temporary Speaker** (Sen. Wakili Sigei): Order, Hon. Senators! Sen. (Dr.) Murango and Sen. Miraj consult in silence.

**Sen. Omogeni:** Sen. (Dr) Murango is confusing Sen. Orwoba on the Floor of the House.

As Senators, our main mandate under Article 96 of the Constitution is to defend devolution. That is why the people of the Republic of Kenya created a Bicameral House so that Senators principally are supposed to be defenders of devolution. So, every time we consider a Bill as Senators, our first concern is whether that Bill is clawing back on devolution or it is strengthening devolution.

Secondly, we are supposed to ensure that we do not support a law that takes away the devolved function. If we start from the basics, the responsibility of water services, provision of water is a function of our devolved units. That is in the Constitution. If we

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want to transfer that function to the national Government, we begin by amending the Constitution. If we do not, we will be enacting a law that is clearly unconstitutional.

We should take our work seriously. Legislation is not a joke. In other jurisdictions, differences between two Houses; the House of Representatives and the Senate can lead to dissolution of the entire House. It has happened seven times in Australia. Therefore, we should not shy off as Senators from telling off our colleagues from the other House that the amendments that they are trying to push through are unconstitutional.

Let us not joke with issues of water. Water has caused war even in this part of the world, including, in Kenya. The conflicts we have in Eastern is triggered by fight for water. If you go to the Far East, the conflict between Israel and its neighbours relates to water of River Jordan. We have had the Nile Treaty Agreement I think for over 70 years since 1959. The nine neighbouring countries that enjoy the water of the Nile Basin have respected that Nile Basin Treaty. If not followed, it can trigger war, not just between Egypt and Sudan, but even among the other nine countries along the Nile Basin.

Mr. Temporary Speaker, Sir, any time we get a Bill like this that wants to deny counties their constitutional mandate, we should proceed cautiously and also have a moment of self-reflection. I wish Sen. Cherarkey was here.

It should not be our business that every time we sit as Parliamentarians, we pass bad laws, and then we throw up our hands and say, "courts will deal with it." Courts will get tired. It will also become a collective shame to the nation.

We should be candid. If a law is unconstitutional, let us be bold and say so. Period. So that we win the respect of Kenyans. It cannot be that we were elected 67 of us and we have no brains to think.

Sen. (Dr.) Khalwale is a very senior Senator. He has done about five terms as an elected Member of Parliament. So, he should be able to enact laws that conform to the Constitution of the Republic of Kenya.

Reading the proposed amendments, clearly, as a lawyer, I can see that they are unconstitutional because we want to transfer functions that are reserved for county governments to the national Government.

We are supposed to be a country that is strengthening devolution, not clawing back. If we cannot protect counties, then what will be our business as Senators? It seems we have no business.

When the current regime took power, we got a memorandum from the Head of State written to us. He said in black and white, that he expects Members of Parliament both in the National Assembly and the Senate to discharge their functions independently. So, you have no cause for fear.

We must discharge our functions independently in accordance with the Constitution because we swore to protect it. So, if you transfer all these issues dealing with bulk waterworks to those regional bodies what will the counties be doing?

Several issues should be of concern to us other than fighting as to who should do what. The Constitution of Kenya 2010 is very clear that we are one country with one national Government and 47 county Governments. So, we should cooperate and not have

these fights of we want to have more power than the other level of government. That should not be.

Mr. Temporary Speaker, Sir, I want to be on record that on behalf of the people of Nyamira County, I will be opposing. I stand here to oppose this proposed amendment, especially where it is clawing back on functions that have been reserved by the Constitution of Kenya 2010 for county governments.

Even reading the creation of a tribunal as proposed in this Bill, there is no participation of our county governments. We are giving that power to the Judicial Service Commission (JSC) to appoint advocates and engineers, without any involvement of our county governments. That is not the way to go.

At times I sit back and wonder. If we do not want devolution, why can we not be bold, come up with a referendum, do away with the devolution, and then transfer every service and function to the national Government? We know governors have issues. However, if we take away all these functions from them, what will be the functions of governors? Is it just to send money to them; they get salaries and big vehicles?

When I go to Nyamira County, I want to ask my governor questions about the provision of water to my people. If I go to my ward where I was born and bred where Mzee Gekara sweet-talked Mama Nyamukami to get married to, I want those people to know that their Senator is fighting for them to get piped water and lead better lives than my mother, Nyamukami, who used to draw water from the river.

I do not want to pose those questions to the President in the State House, but to my governor. If we allow this amendment, we will be giving them a lame excuse. They will be saying water is not their function.

When I was doing oversight over Christmas, I visited several areas where our governor has drilled boreholes, but which are not able to supply water to the citizens. Sen. (Dr.) Khalwale, if you travel with me to Nyangena, Riakemai and Enchoro in Bosamaro Ward, the governor has drilled boreholes, but he has not connected water to the citizens. Those are the issues that should be occupying our minds here not to tell them that we want these services to be taken away from them. No.

Mr. Temporary Speaker, Sir, I want to urge my colleagues from the other side to look at this law very objectively and we discharge our functions as men and women who have taken oath to defend devolution. That is what we should be doing. Whether you come from the County of Baringo, Tana River, or Kakamega County, your people need water. That is the basic.

Mr. Temporary Speaker, Sir, in terms of what we should be discussing, other countries have made great strides in storing water. When I was Chairperson of the Law Society Kenya (LSK), I attended the International Bar Association Meeting in Madrid in 2008.

As part of the tour, the legal body of Spain took us to a site where water is stored and they told us that is a national security-protected area. This is because they value issues of water storage as a serious matter of national security. You must have water stored for your people.

Here in Kenya, we had El Nino a few months ago. Did we store any water? None. We did not store water. That is what the Government should be concerned about now.

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You go to Israel, they recycle water. The water that you use in a toilet in Tel Aviv is recycled. That is what we should be doing so that we move as a country. We know that Kenya is a water-scarce country. We do not have enough water as a country. Let us store more water; let us have technology that can assist us recycle water and then we build the capacity of our counties to supply water to our people and connect sewers.

In Nyamira Town and the entire Nyamira County, we do not have a sewer connection. Those are the concerns I have for my people of Nyamira County. I want that capacity to be enhanced for my Governor, my Chief Executive Member (CECM), and my Chief Officers, so that we can feel proud as a people that we have connected sewer and clean water to our people.

Mr. Temporary Speaker, Sir, if you talk to a tourist coming to Kenya from Britain or Netherlands, they will tell that in their countries, they drink tap water. They open the taps and drink the water. Can you advise your son or daughter to drink tap water in Kenya? You cannot.

That has been a function of the national Government. We know want our counties to compete amongst themselves so that tomorrow we can say, we have Governor Khalwale of Kakamega who has managed to supply the people of *Ingoo* with clean tap water. Nyamira and Kisumu counties can then benchmark. That is the kind of progress we should be making.

I conclude by urging my colleague Senators to reject this Bill. The mischief is very clear. It is to claw back on devolution. It is to transfer functions that are reserved for county governments to the national Government contrary to the clear provisions of the Constitution; which is unconstitutional. On that basis alone, we should not allow this Bill to see the light of day.

With those many remarks, I oppose this Bill.

**The Temporary Chairperson** (Sen. Wakili Sigei): Proceed, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. For purposes of record, debate and being understood very well, I am contributing to this Bill on two limbs. First, I am defending the Lake Victoria North Water Board and how it affects Kakamega County.

Secondly, I urge colleagues to realize that there is no law in this country for the opposition or the party in Government. Having said those two things, I have two confessions to make. First, when we were in Turkana County legislating on the health laws we all remember how protracted debate was. I clearly told plenary that I was seeing the danger of those Bills, upon being signed into law, being challenged in court.

When I went to State House when the President was signing these Bills into law, I met the National Assembly Leader of Majority, Hon. Ichungwa. He told me that he had seen me speaking in Turkana County and he was asking himself if that was the Chief Whip of the Government or the opposition.

I looked at the young legislator and I knew with time he would understand that there are no laws for the opposition or the party in Government. Therefore, I urge colleagues, so that again you do not find yourself with egg on the face, please do not pass this Bill in the current format because it is will be challenged in court and we will lose. That is it. It is written in English and we all understand.

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The second confession I want to make is that we have come a very long way with Sen. Omogeni. We have agreed on everything. The first time I came in contact with him was over 20 years ago when he was the Chairman of the Law Society of Kenya (LSK). At that time, Sen. Omogeni presided over a function where the LSK were awarding me accolades for the work that I was doing in the National Assembly.

That standard has remained and will continue. The only time we disagreed with Sen. Omogeni was yesterday when he shocked me by saying that we can use Article 247 to create a parallel police force for Parliament. Up to now, I do not understand. I am still looking for him when he is free to educate me on that.

Having said that, why do I oppose this Bill? It is in English. Look at Section 119, the creation of the tribunal. Where do the county governments come in? It is nowhere. They are creating a tribunal in this law where county governments not only fail to be mentioned, but even by implication you do not see how the prime movers of water which is fully devolved will participate in this very critical tribunal. There is room for us to change this.

If you change this it does not mean you are unpatriotic or against the Government. It means you are doing good legislation. That is what it means. Upon moving this Motion, we are told that one reason we are amending the Water Act is because the powers and functions of the Water Storage Authority are facing proposed amendment.

The principle of law-making is that you change a law because you want to cure something. When we want to amend the powers and functions of the Water Storage Authority what are we curing, unless it is mischief?

Further, Section 69 which is proposed for amendment is for handover of completed works. What is there in the current law that makes it difficult for county governments to receive completed works that is forcing us to amend Section 69? There is nothing.

Mr. Temporary Speaker, Sir, Section 72 is proposed for amendment. They want to amend the powers and functions of the regulatory board. What offense has the current regulatory board with its function in the current format visited the supply, storage and development of water in this country? Nothing.

Section 75 in this amendment is due for proposed amendments and it is about the register of licensed water services providers. We have to reflect in retrospect on these things. Kenya is for all of us. Every time I speak in Kakamega County, I look at a huge crowd of humanity. I see that 70 per cent of the people I am addressing are younger than me. So, how can I lie to them? How would I lie them? That is tantamount to you as a mother - Sen. Ogola - lying to your own children. It is not possible.

Let us retrospect. It is not a question of counting numbers here. Let us say that this is bad and improve it. Life will go on and we shall all be happy. Even the Judges who are your friends behind the tent, sit with us in the clubs and ask "What is wrong with you guys? How come you passed this legislation?" We want to speak to this and strongly say that we can do a better job.

Finally, Section 100 is undergoing proposed amendment. Section 100 is about supply of bulk water. The supply of bulk water is so characteristic of the area the bulk water is being taken to that you do not need any level of education to know that the

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supply of bulk water in Machakos is unique. Supply of bulk water to arid and semi-arid areas is unique compared to places like Kericho, Meru, Kakamega and Kisii counties where there is plenty of rain. Supply of bulk water to us is different from the arid areas. You do not talk about water pans in Kakamega, Kisii, and Meru counties. Nonetheless, this is their principal concern. This is all the more reason why management should be left to counties because they are the custodians.

*(Sen. Orwoba spoke off record)*

I am waiting for the change of Chair for me to continue.

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

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

Madam Temporary Speaker, welcome to the Chair.

**The Temporary Speaker** (Sen. Mumma): Thank you. Sen. (Dr.) Khalwale, do you wish to be informed?

**Sen. (Dr.) Khalwale:** Yes, Madam Temporary Speaker. Information from young people could be life-saving. Let her inform me.

**Sen. Orwoba:** Thank you, Sen. (Dr.) Khalwale. With all due respect, I know that you are my senior, but sometimes you can learn from us, young people.

As much as you have said that matters of supply/demand and the interest of the economy should be left to the county governments alone, it is misleading because the national Government also creates policies that grow our economy.

I would like to challenge anyone on the Floor of the House to google the Dollar rate. From the dollar selling at 160 against the shilling, we are at Kshs140. This is because of policies that originated from the national Government.

**The Temporary Speaker** (Sen. Mumma): Order, Sen. Orwoba. Can you inform Sen. (Dr.) Khalwale on what he spoke on? This is not an opportunity for you to make a statement.

**Sen. Orwoba:** Madam Temporary Speaker, I am informing him because he said that the matters of supply/demand and growth of the economy should be left to county governments. The same cannot be ignored when national policies influence the economy of county governments. I am doing this by highlighting the exchange rate. It is because of a policy from the national Government that the dollar is now trading at Kshs140 heading to Kshs120. This is the Kenya Kwanza Government policy.

**The Temporary Speaker** (Sen. Mumma): Thank you.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, I told you that a young person will always tell you something futuristic. We are all happy that the Dollar exchange rate is coming down. However, Sen. Orwoba, without production in the county, you cannot influence the economy positively to attract dollars into the country. Dollars do not just come; you must export or sell something outside Kenya.

Thank you for the information, and do not take offense.

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If we make our counties efficient, the production will be higher and the exchange rate of the dollar will drop below Kshs117 which we found when we took over the Government. This is the bigger picture and we are heading there.

In conclusion, let us reflect on why devolution. It was intended to take services, amongst other things, close to the people. If you remove the service of water and take it back to the national Government, as this Bill is trying to attempt or make it difficult to access affordable healthcare, as I warned in Turkana County that day, you are saying that devolution is unnecessary. Taking charge of water and access to affordable healthcare renders devolution meaningless.

Sen. Orwoba, you are a young lady of means. In fact, the nature of your background is that what I am telling you might be nothing new. I invite you to go to Belgium, the most successful case of devolution in the world. You will find that the Government of Wanne lends money to the Federal Government.

Devolution has become successful that own source revenue in Wanne is more than the federal Government's. When dealing with a rich county like Kakamega, Nairobi and mineral-rich counties like Taita-Taveta, empowering them sufficiently unlocks those economies. Kakamega, Taita-Taveta, Nairobi, and Mombasa counties would loan money to the national Government.

That is where we want devolution to take this country. We want devolution to be successful so that the jobs that are available in the water sector that this Bill intends to kill should not be sought in Nairobi.

People who have trained in education at our universities and come from Bungoma should have access to jobs in the counties. They will be forced to go to Nairobi when you centralize the water sector. They should be able to do those jobs from Bungoma.

*(Applause)*

We must make devolution work even if we do not want to be governors of the future. We must make devolution successful even when we know we have no intention of settling in our home counties. We want devolution to be successful so that any service you wish can come on the spot.

I went through an embarrassing situation whereby I had lost my boy, who I had taken care of for over 10 years. We had to wait for two weeks for the national Government to come to Kakamega. If devolution is entirely successful, then you would not be waiting for a specialist to go to Kakamega. We would have to sort out the issues the following day. If that is not patriotism, what is it? Who told you that patriotism means supporting a political party?

*(Applause)*

*(Sen. Omogeni spoke off record)*

Patriotism is about supporting and advancing the national agenda. The national agenda shall never change. Political parties can change.

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

**The Temporary Speaker** (Sen. Mumma): Sen. Orwoba, what is your point of order?

**Sen. Orwoba:** Madam Temporary Speaker, we are debating the Water (Amendment) Bill (National Assembly Bills No. 33 of 2023). I do not think that it is in order that Sen. (Dr.) Khalwale---

**The Temporary Speaker** (Sen. Mumma): Under what Standing Order have you raised your point of order?

**Sen. Orwoba:** I do not think it is in order that he is digressing.

**The Temporary Speaker** (Sen. Mumma): Please, cite the Standing Order.

Sen. (Dr.) Khalwale, proceed.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker, for protecting me. Sen. Orwoba, I beg you---

*(Loud consultations)*

**The Temporary Speaker** (Sen. Mumma): Order, hon. Senators.

**Sen. (Dr.) Khalwale:** Sen. Orwoba, when you are elected, either the special way or through the elections, you become a significant person in Nairobi whose words attract attention.

The biggest threat was spoken to by the greatest Sen. William Fulbright in the history of the Congress of the United States. Go and read about his contribution. He said that once we get elected, we get something called the arrogance of power.

*(Applause)*

**Sen. (Dr.) Khalwale:** Once you have the arrogance of power, you forget---

*(Sen. Orwoba spoke off record)*

Sen. Orwoba, once one has the arrogance of power, you forget the woman in Kisii who queued for six hours to vote for you as Senator, even when they have never seen and will never see you.

Let us raise the game. Let us make good laws that will make Kenya successful.

I oppose this Bill.

*(Applause)*

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. M. Kajwang'.

*(Loud consultations)*

Order, hon. Senators. Could the Senator be heard in silence, please?

**Sen. M. Kajwang':** Madam Temporary Speaker, just like the famous inciter of bulls, Sen. (Dr.) Khalwale, has said, I also rise to oppose these amendments.

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Our job here, as a Senate, is to defend and protect devolution. The net effect of these amendments is to dilute devolution and transfer functions and powers that have been assigned to county governments to the national Government institutions.

I have gone through this Amendment Bill and have got a clear conscience in opposing it. I have further received instructions from the caucus of County Executive Committee Members (CECMs) in charge of water in Kenya. They have said that they held their meetings and decided that for this Bill, they are going to lobby their respective Senators, so that we defeat it on the Floor of this House.

Madam Temporary Speaker, this caucus brings together CECMs from all the 47 counties. Irrespective of how they voted or who their political hero is, they have all in unison said that this Bill is going to take away the little powers and space that county governments and county Water Service Providers (WSPs) have.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Mumma): Order, Madam Commissioner. Sen. Miraj, could you consult in low tones, please?

**Sen. M. Kajwang'**: Madam Temporary Speaker, the caucus members include CECM in charge of water from Bomet and he has asked us to oppose this Bill. The CECM in charge of water from Mombasa, where Sen. Miraj allegedly comes from, has asked us to oppose it. That includes the one for Kisii where Sen. Orwoba allegedly comes from. They have also asked us to oppose it.

*(Applause)*

*(Sen. Orwoba spoke off record)*

**The Temporary Speaker** (Sen. Mumma): Order, Sen. Orwoba. Continue, Sen. M. Kajwang'.

**Sen. M. Kajwang'**: Madam Temporary Speaker, I think I would have benefited from the report of the Standing Committee on this particular amendment.

**Sen. Orwoba**: On a point of order, Madam Temporary Speaker. I am rising on a statement of fact. I do not allegedly come from Kisii County. I come from Kisii County. You must apologize and withdraw. What are you trying to tell the electorate out there? Apologize and withdraw!

**The Temporary Speaker** (Sen. Mumma): Sen. Orwoba, "allegedly" means he does not know.

**Sen. M. Kajwang'**: Madam Temporary Speaker, I have no idea where she comes from. So, there is nothing for me to apologize over. If someone went to a good school, the word "alleged"---

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. M. Kajwang'.

**Sen. M. Kajwang'**: The word "alleged" is self-explanatory.

Madam Temporary Speaker, allow me to go to the content of this Amendment Bill.

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*(Sen. Orwoba spoke off record)*

**The Temporary Speaker** (Sen. Mumma): Order, Sen. Orwoba.

**Sen. Orwoba:** Withdraw the statement!

**Sen. M. Kajwang’:** I have nothing to withdraw because I do not know where you come from.

**The Temporary Speaker** (Sen. Mumma): Sen. Orwoba, I will not ask you again.

**Sen. M. Kajwang’:** Madam Temporary Speaker, we are dealing with an important matter that we are not going to allow ourselves to be diverted by certain sideshows that have become customary in this House.

The objective of this Bill has been touted as to provide for PPP arrangements and connected purposes. If you look at Clause 3 of this Amendment Bill, it confers additional powers to the NWHSA; a national Government entity. When it provides additional powers to that entity, it means taking it away from another level of Government, which in this case is the county government.

If you look at Clause 4 of this Amendment Bill, it confers additional functions to the WWDAs at the expense of WSPs, which are entities owned by county governments.

*(Sen. Orwoba consulted with the Temporary Speaker)*

Madam Temporary Speaker, no sane Senator can stand here and say there is nothing wrong with this amendment that seeks to weaken WSPs, which are county corporations, by allocating those powers to WWDAs, which are controlled by a Cabinet Secretary sitting in Nairobi.

If you go further, Clause 5 of these amendments talks about licensing of WWDAs---

*(Sen. Orwoba consulted with the Clerks-at-the-Table)*

**Sen. Sifuna:** On a point of order, Madam Temporary Speaker. I rise, pursuant to Standing Order No.121(1)(a) and (c) regarding where a Senator unnecessarily interrupts proceedings or consults in a disruptive manner.

I am sitting right behind Sen. M. Kajwang’, but I am unable to follow debate because of the disruptions that Sen. Orwoba is causing. Is she unwilling to continue listening to her colleagues? We listened to her and she also opposed this Bill. We also stamped our feet for her. She should have the courtesy to also listen to other Senators when they are contributing.

Madam Temporary Speaker, in order for us to also share in the wisdom of Sen. M. Kajwang’ that is flowing in the same manner that the wisdom from Kakamega was flowing--- Some of us are taking notes. If she is disinterested in this debate, let her leave the Chamber.

I thank you.

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**The Temporary Speaker** (Sen. Mumma): Sen. Orwoba, I wish to caution you under Standing Order No.121(2)(a), that if you cause any further disruption on the proceedings, I shall ask you to exit the Chamber for the remainder of the day. Let us all comply.

**Sen. M. Kajwang’**: Thank you, Madam Temporary Speaker.

I was going clause by clause to demonstrate that this is an illegality. We are trying to rewrite the Fourth Schedule of the Constitution through this mischievous amendment.

Clause 7 confers additional functions to the WASREB, another entity controlled by the national Government. Clause 10 of these amendments, talks about supply of bulk water in counties and introduces WWDAs, previously, a preserve and domain of the WSPs that are controlled by county governments.

The Council of Governors (CoG) made their submissions, which I have had an opportunity to look at. Why do we want to bring WWDAs to do the last mile instead of facilitating WSPs to do that because that is their constitutional duty? They have argued that because of the economies of scale that the WWDAs have, they are going to run WSPs out of business.

If you look at the Constitution and how it is structured, we have failed this nation as a House. Since the advent of devolution, there are two sectors where we have not pushed for full transfer of functions. One is road sector and the other one is water sector.

*(Sen. (Dr.) Murango consulted with the Temporary Speaker)*

Madam Temporary Speaker, I do recall when the Committee on Agriculture, Livestock and Fisheries, chaired by the very distinguished Sen. (Dr.) Murango, who has approached the Chair, held a meeting to plan on its objectives and strategies for that particular session.

The Cabinet Secretary for Water, Sanitation and Irrigation, Hon. Alice Wahome, appeared before the Committee on Agriculture, Livestock and Fisheries in Mombasa. She came along with the mandarins in the water sector. We put it to them that they have been the obstacle, hindrance or stumbling block to reforms in the water sector because they want to continue controlling big budgets in Nairobi.

What is the business of national Government officials going to counties to drill boreholes, instead of providing that money to governors to do that? Some of them are using it for political *bonga* points or political persuasion. They come to launch a borehole, then they tell you that you need to support the Government of the day, because they are the ones who drill that borehole. At what point do you tell that the taxes that sunk that borehole came from one side of the country and not from all Kenyans?

Madam Temporary Speaker, as a House, we must prioritise the pieces of legislation that have been stuck in the past constitutional dispensation. I am very happy that the Standing Committee on Devolution and Intergovernmental Relations, in a report to this House, has already highlighted the Acts of Parliament that need to be amended.

I hope that the Standing Committee on Devolution and Intergovernmental Relations, which you ably sit in, has identified the Water Act as one of those pieces of

legislation that are still stuck in the past, that still confers too much advantage, monetary advantage and patronage to the national Government.

If we want to ensure that we raise water coverage in our counties, which is at a very low point, and I usually tell people in my county that it is not okay to be bathing in the lake.

*(Several Senators consulted loudly)*

**The Temporary Speaker** (Sen. Mumma): Order! Sen. Montet Betty, Sen. Miraj and Sen. Korir, please.

**Sen. M. Kajwang'**: Madam Temporary Speaker, I tell my people it is not okay to be bathing in the lake or rivers. It is not okay to be washing utensils and washing clothes in lakes and rivers. In fact, even cattle should not be drinking from lakes and rivers because they end up getting all sorts of infections, and in many cases, we have conflicts with crocodiles and hippopotamuses and all sorts of animals.

An organised Government and a civilized society should ensure that water is provided to the nearest point where citizens need it. The nearest point, most of the time is a tap in someone's house. That is what civilization looks like.

We cannot glorify poverty and call it culture; that, when you see my people bathing in Lake Victoria, you come and you find it is like a nudist colony because people are used to bathing that way. It cannot be normal. It cannot be okay. The Government should provide water to the last mile, to the door of that woman and pastoralist, so that his cattle can have water for their sustenance. For us to do this, we must strengthen Water Service Providers (WSPs). We should not weaken them the way this amendment is trying to weaken them.

We must also explore ways through which WSPs that are too small to make sense, can merge with neighbouring water service providers. Again, one piece of legislation that we have been slow in enacting is a legal framework to anchor in law the regional economic blocs, because I believe that some WSPs could coalesce around regional economic blocs so that they can become bigger and take advantage of those economies of scale, and they will be able to shed off some of those management issues that keep cropping up whenever they appear before the County Public Investments and Special Funds Committee.

Finally, Nairobi Water and Sewerage Company was at some point in our lifetime an exemplary organisation, which was a subject of case studies. When I was doing my Masters in public policy, one of the case studies that I had to memorise was the case study on Nairobi Water and Sewage Company and how they reduced non-revenue water. I wonder what happened. The same Nairobi Water and Sewage Company today is barely solvent and has become an employment bureau for cronies of those people who are in power.

Water service provision is possible to be delivered to the quality standards that the Constitution envisages. The problem is over politicisation, and that we want to dominate and we want to control resources.

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I want to dissuade the sponsor of this Bill, and I want to encourage my colleagues in this House that this Bill kills devolution and takes power from counties to the national Government. If our job under Article 96 is to defend and protect the interests of counties and their governments, then this is a Bill that we must unanimously shoot down.

Madam Temporary Speaker, I reject, and I shall oppose this amendment Bill.

*(Applause)*

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, I wish to request us to interrupt the debate momentarily and go back to Order No.5. We have a few important Papers to be tabled by the Majority Whip.

*(Interruption of debate on Bill)*

Proceed, Majority Whip.

### PAPERS LAID

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. I beg to lay the following Papers on the Table of this Senate today, Tuesday, 15<sup>th</sup> February, 2024-

#### BUDGET POLICY STATEMENT FOR FY2023/2024

The 2024 Budget Policy Statement.

#### MEDIUM TERM REVENUE STRATEGY FOR FY2024/2025 TO 2026/2027

The 2024 Medium Term Revenue Strategy for Financial Year 2024/2025 to 2026/2027.

#### DRAFT DIVISION OF REVENUE BILL, 2024

The Draft Division of Revenue Bill, 2024.

#### DRAFT COUNTY ALLOCATION REVENUE BILL, 2024

The Draft County Allocation Revenue Bill 2024

#### DRAFT COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL, 2024

The Draft County Governments Additional Allocations Bill, 2024.

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## MEDIUM-TERM DEBT MANAGEMENT STRATEGY, 2024

The Medium-Term Debt Management Strategy, 2024.

I thank you and I lay.

*(Sen. Dr. Khalwale laid the documents on the Table)*

**COMMUNICATION FROM THE CHAIR**

## CONSIDERATION OF THE BUDGET POLICY STATEMENT, 2024

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, I have a Communication on the consideration of the Budget Policy Statement, 2024 by the Senate. As you may have noted, the Senate Majority Whip has tabled the following documents-

- (1) The Budget Policy Statement for the financial year 2024 2025.
- (2) The Medium-Term Revenue Strategy for the financial year 2024/2025 to 2026/2027.
- (3) The Medium-Term Debt Management Strategy, 2024.
- (4) The Draft Division of Revenue Bill, 2024.
- (5) The Draft County Allocation of Revenue Bill, 2024.
- (6) The Draft County Government's Additional Allocations Bill, 2024.

Section 25 of the Public Finance Management Act, 2012, and Standing Order No.186 of the Senate requires the National Treasury to prepare and submit the Budget Policy Statement to Parliament by the 15<sup>th</sup> February each year.

Hon. Senators, the Budget Policy Statement is an important financial instrument as it sets out the broad strategic priorities and policy goals that will guide the national Government and county governments in preparing their budgets, both for the following financial year and over the medium term.

It contains, among other things-

- (1) An assessment of the current state of the economy.
- (2) The financial outlook over the medium term, including macroeconomics forecasts, the financial outlook for Government revenues expenditures, and borrowing for the next financial year and over the medium-term.
- (3) The proposed expenditure limits for the national Government, including those of Parliament and the Judiciary, and indicative transfers to county governments.
- (4) The fiscal responsibility principles and financial objectives over the medium term, including limits of total annual debt.
- (5) The proposed Division of Revenue, including proposed additional allocations, if any.

This Budget Policy Statement details the criteria used to allocate or apportion the available public resources among the two levels of Government, and the various programmes and projects.

Hon. Senators, Section 25 (7) of the Public Finance Management Act, 2012 provides as follows, and I quote-

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“Parliament shall not later than 14 days after the Budget Policy Statement is submitted to Parliament, table and discuss a report containing its recommendations, and pass a resolution to adopt it with or without amendments”.

Further, Standing Order No.186 (4) states that, and I quote-

“Upon being laid before the Senate, the Budget Policy Statement shall be committed to each Standing Committee to consider and submit its recommendations to the Standing Committee on Finance and Budget within seven days”.

Pursuant to Standing Order No.186 (5), the Standing Committee on Finance and Budget shall, within 12 days following the tabling of the Budget Policy Statement, consider the Budget Policy Statement and the recommendations received under paragraph (iv), and table the report for consideration in accordance with Section 25 (7) of the Public Finance Management Act, 2012.

Appreciating the importance of the Budget Policy Statement (BPS) and the above timelines, I direct that the BPS be considered by all Standing Committees, each concentrating on its mandate, highlighting any policy and financial recommendations thereof. These recommendations must be forwarded to the Standing Committee on Finance and Budget on or before Thursday, 22<sup>nd</sup> February, 2024.

In order to assist the Standing Committee to unpack the contents of the BPS, the Standing Committee on Finance and Budget has organised a breakfast meeting for all Senators on Tuesday, 20<sup>th</sup> February, 2024 at 7.30 a.m. at a venue to be communicated.

The Standing Committee on Finance and Budget will be required to consider the recommendations from the other Standing Committees as well as consult the institutions referred to under Standing Order No. 186 (6) in finalising its report on the BPS.

The Standing Committee will be required to table its reports on or before Wednesday 28<sup>th</sup>, February, 2024 for the Senate to consider and decide on the Report by Thursday, 29<sup>th</sup> February, 2024.

Hon. Senators, in a nutshell, it means that any proposal that Senators have regarding the BPS, Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocation Bill, 2024 and the financing structure thereof, among other recommendations, should be canvassed and forwarded to the Cabinet Secretary for the National Treasury and Economic Planning for consideration when finalising the budget for the relevant financial year.

This is a requirement pursuant to Section 25(8) of the Public Finance Management (PFM) Act and Standing Order No. 186(9) of the Senate.

In conclusion, I urge all to prioritise the scrutiny of the BPS, considering consideration of our most important function, which is, safeguarding devolution.

I thank you.

Hon. Senators, there is one more statement by the Senate Majority Leader under Order No.57.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 20<sup>TH</sup> FEBRUARY, 2024

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. I rise to make a statement on behalf of the Senate Majority Leader on the business of the Senate for the week commencing Tuesday, 20<sup>th</sup> February, 2024 pursuant to Standing Order No.57(1).

Before I proceed with the Statement, allow me to take this opportunity to welcome hon. Senators back from the long recess. I trust that you have had time to rest and an opportunity to reconnect with your constituents, family and friends.

So far, a total of 66 Senate Bills have been published. Out of this, five Bills have been enacted into law while eight have been concluded and referred to the National Assembly for consideration but are yet to be concluded.

Forty-four Bills are pending conclusion at the various Senate stages. Out of which, nine are National Assembly Bills while 35 are Senate Bills. Of these 44 Bills, 33 are at the Second Reading stage and 11 are at the Committee of the Whole. A further nine Senate Bills are undergoing concurrence pursuant to Article 110 of the Constitution and five Bills have been denied concurrence. Two Bills were negatived at the Second Reading stage and two Bills were withdrawn by their respective Movers.

Madam Temporary Speaker, a total of 45 Petitions have been presented to the Senate and subsequently, referred to various Standing Committees for consideration. Of these, 24 have been considered by the respective Standing Committees while 21 are pending conclusion.

With respect to Statements, a total of 547 have been sought under Standing Order No.53(1) and committed the relevant Standing Committees. Out of these, 293 are pending conclusion by the respective committees.

With regard to Motions, a total of two have been filled by Senators and will be scheduled in coming days.

Madam Temporary Speaker, this may be a point worth noting. The Parliamentary Service Commission should reflect on the volume of work in the hands of Committees. There are 547 statements being processed. The Senate is really at work.

At the meeting held on Tuesday, 13<sup>th</sup> February, the Senate Business committee (SBC) approved the first set of questions to appear in the Order Paper for Wednesday, 21<sup>st</sup> February, 2024 during the morning sitting. The summary of the questions and Cabinet Secretaries to appear on that day are as follows-

Members note that; Question One is by Sen. (Prof) Tom Ojienda Odhiambo SC, MP, to the Cabinet Secretary for Interior and National Administration on the intercommunal clashes that occurred in Sondu Town during the demonstrations in June and July, 2023.

Question No.2 is by Sen. Mwenda Gataya Mo Fire, MP, to the Cabinet Secretary for Interior and National Administration on the non-operationalisation of Chiakariga Sub-county in Tharaka-Nithi County

Question No.3 is by Sen. (Prof) Tom Ojienda Odhiambo SC, MP, to the Cabinet Secretary for Agriculture and Livestock Development on the theft of cane at weigh bridges while in transit to sugar factories.

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Question No.4 is by Sen. (Prof) Tom Ojienda Odhiambo SC, MP, to the Cabinet Secretary for Agriculture and Livestock Development on the appointment and dismissal of directors and managing directors, chief executive officers in state owned sugar companies in Kenya.

Question No.5 is by Sen. James Murango, MP, to the Cabinet Secretary for Water, Sanitation and Irrigation on the water projects budgeted for by the National Government, in Kirinyaga County, in the Financial Year 2023/2024.

Madam Temporary Speaker, as Senators will recall, during the morning sitting of the Senate on Wednesday, 14<sup>th</sup> February 2024, the Report of the National Dialogue Committee was tabled and a Notice of Motion for adoption was given. This Motion will be coming up for debate in the coming week.

Additionally, today, the Senate will receive the Budget Policy Statement, the Draft Division of Revenue Bill, the Draft County Allocation of Revenue Bill and the County Governments Additional Allocation Bill. The Senate Business Committee will schedule these financial instruments for consideration upon tabling of the reports by the Standing Committee on Finance and Budget.

From the aforesaid, the Senate begins the Third Session with an already full plate. I must therefore say that as we commence this Session, we cannot overlook the fact that the Second Session was marred by recurring issue of lack of quorum and insufficient numbers for voting on legislative business, which largely impeded our progress in the consideration and passage of legislative business.

Madam Temporary Speaker, the Third Session presents us with a good opportunity to advance the legislative business before the Senate. For this Session, I urge all of us to be present and engaged in the Chamber for debates and voting process. I also implore all committees to expeditiously consider business before them and table reports in a timely manner pursuant to the respective Standing Orders.

Finally, on Tuesday, 20<sup>th</sup> February 2024, the SBC will consider and approve the business for next week.

I do thank you and hereby lay this Statement on the Table on behalf of the Senate Majority Leader.

*(Sen. (Dr.) Khalwale laid the document on the Table)*

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, I wish to invoke my powers under Standing Orders No.45(2) on the sequence of proceedings and suspend the debate on the Water (Amendment) Bill to the next sitting where Sen. (Dr.) Murango will be the first person to speak.

Let us move to address Order No.8. The Senate Majority Whip proceed.

**MOTION****APPROVAL OF DRAFT SENATE CALENDAR FOR  
THIRD SESSION OF THE THIRTEENTH PARLIAMENT**

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. I rise to move Motion No.8, being the consideration of the Draft Senate Calendar for the Third Session of the 13<sup>th</sup> Parliament.

THAT, pursuant to Standing Order No. 32(1), the Senate approves the Calendar (Regular Sessions) for the Third Session of the 13<sup>th</sup> Parliament (February to December, 2024), laid on the Table of the Senate on Wednesday, 14<sup>th</sup> February, 2024.

Madam Temporary Speaker, we are just notifying this for general information, pursuant to Standing Order No.32 of the Senate Standing Orders. This being a procedural Motion, the dates are on your Order Paper and are contained in a Schedule which shows that this Third Session started on the 13<sup>th</sup> February, 2024 and will continue as Part I to 28<sup>th</sup> March, 2024.

Thereafter, we will go on a brief recess before we embark to Part II that will run between 16<sup>th</sup> April to 30<sup>th</sup> May, 2024. We will then go for recess to come back and restart the Part III of the Third Session on 25<sup>th</sup> June, 2024. It will end on 8<sup>th</sup> August, 2024 and we will break again for recess.

Coming from that, we will embark to Part IV of the Third Session, which will start on 30<sup>th</sup> September, 2024 to 17<sup>th</sup> October, 2024. Again, we will have a brief break. Upon resuming, we will embark on the last and final Part V of this Third Session, which will last from 5<sup>th</sup> November, 2024 to 5<sup>th</sup> December, 2024.

I beg to move and request Sen. Osotsi, the distinguished Senator from Vihiga, to second this Motion.

**Sen. Osotsi:** Thank you, Madam Temporary Speaker. As you are aware, this Motion is very important for this House because we cannot effectively transact our business without having a clear calendar as to how we are going to meet, the times and the dates. That is important.

Before the Constitution of Kenya 2010 was promulgated, Parliament did not have powers to decide on its calendar but this is one of the best things that have happened. As a result of the Constitution of Kenya of 2010, we are able to discuss and agree on our calendar.

I do not want to belabour on this matter, but I second this Motion and ask all our colleagues to approve it so that we are sure of the dates when we go for recess and when in session.

**The Temporary Speaker (Sen. Mumma):** Have you seconded? Sen. Osotsi, please second the Motion.

**Sen. Osotsi:** Madam Temporary Speaker, I already said it but for the record time, I second.

*(Question proposed)*

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**The Temporary Speaker** (Sen. Mumma): Sen. Mungatana.

**Sen. Mungatana, MGH:** Madam Temporary Speaker, I thank you---

**The Temporary Speaker** (Sen. Mumma): Just a moment Senator. The people who had logged in and do not wish to speak on this should log out so that we know who wants to speak on this.

Proceed, Sen. Mungatana.

**Sen. Mungatana, MGH:** I thank you, Madam Temporary Speaker, for giving me the opportunity to say a brief word on this Motion. This may seem to be a very minute or procedural Motion but it is a constitutional Motion. It celebrates the victories that were recorded from the Constitution of Kenya 2010.

We must celebrate for the record and remind the nation of where we came from. In those days, Parliament was under the total shackles of the Executive. Every time the Head of the Executive and President felt like Parliament was becoming too hot, he would exercise the prerogative of dissolution of Parliament. We used to be sent home when things were not working for the President.

Madam Temporary Speaker, we must remind the young generation that is coming up that we have cause to celebrate for us, as a Parliament and as a Senate; that we are able to set up our own timetable, decide when we come, when we go and how we proceed with the business of this House.

We must celebrate these things as in the Bible where we remind ourselves every Sunday. Those of us given to the word of God every day, have to read and remind ourselves of the victories and the history we came from, so that we continue in the path of independence of this House.

I have observed today the debate and I have followed with a lot of satisfaction what has transpired in this House. This is the spirit of Parliament, the spirit of independence and of our people in Kenya that is admired all over East Africa. This is what makes us Kenyan that other people do not understand.

Madam Temporary Speaker, I beg to support.

**The Temporary Speaker** (Sen. Mumma): Sen. Kisang’.

**Sen. Kisang:** Thank you, Madam Temporary Speaker. I also rise to support this Motion. As my colleagues have said, in the past, the then President was the one in charge of Parliament and it was a department of the Office of the President.

I remember my long-time Member of Parliament (MP), Hon. Francis Mutwol told me that they used to go to Harambee House every Thursday to collect envelopes that contained salaries and allowances for the weekend.

Madam Temporary Speaker, Sir, you can imagine that now the Parliamentary Service Commission (PSC) is independent; the legislature is independent. We are able to be paid by Parliament and we plan our own calendar. It is not like those days when Parliament just looked like a department; when, as Sen. Mungatana said, if the President was unhappy with Parliament, he would just dissolve or suspend the sittings until when he felt like reconvening it.

Madam Temporary Speaker, I am very happy about yesterday's and today's debate on water because it looks like we are now becoming a bipartisan House. We are looking and becoming the champions of devolution. In fact, tomorrow as the Committee on

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Public Investments and Special Fund Committee (CPIC), we are going to meet with the Council of Governor's Committee on Water.

I believe next week when I get an opportunity to debate on the Bill, I will have gotten what they will have told us and agreed as the Council of Governors and the committee on water.

Madam Temporary Speaker, when we were dealing with the Water Service Providers (WSPs) from the counties, there are so many challenges. Sometimes the Water Works and Water Service Regulatory Board (WASREB) apply for tariffs. This WASREB would sit on the water tariffs even for two years.

I believe that even if there are issues with the Bill, we will relook at it properly. If the sponsor of the Bill agrees to amendments that will be brought to Members, we may support them. However, if he does not, it will be an opportunity for us, as Senators, to ensure that we do not kill ourselves by fighting devolution.

I support the Motion to set up our calendar so that we know what we are supposed to do and at what time. As people say, if you do not plan, you are basically planning to fail. However, we are planning to succeed as the Senate.

**Sen. (Prof.) Tom Ojienda, SC:** Thank you, Madam Temporary Speaker. In this Third Session of Parliament, it is clear that Senate must clear pending business, which includes Bills.

This morning we were discussing Statements submitted to the Committee on National Security and Foreign Relations and most of the Statements have not been attended to. I think they were about 15 Statements pending responses from the various Cabinet Secretaries to whom the Statements were addressed.

It is important that even as the calendar for this session is tabled, that Cabinet Secretaries and other leaders to whom questions are addressed, answer those questions so that we have responses that we can deal with and that will respond to the needs of the people of our counties.

Madam Temporary Speaker, I also want to mention that there are key issues that are pending as business before this House. Those key issues touch on various sectors. My colleague, Sen. Kisang, has touched on the water sector and the various proposals or amendments that we have dealt with at the CPIC. Some of those questions or challenges involve both the national Government and the county governments and the sharing of responsibilities.

Those are key proposals that would spur the water sector into action and deliver for the people of our counties. It would also define the various roles of the water service providers. Those are important interventions that this House must make.

Yesterday, the Senator for Vihiga, Sen. Osotsi, made proposals on the Parliamentary Privileges Act on the interpretation of Article 179 and Article 225 and of the need for Cabinet Secretaries to attend the Senate and the need to enhance penalties for failure to attend Senate. Those are important amendments that must be dealt with so that this Senate rises to the occasion.

This will ensure that when the Senate summons Cabinet Secretaries and other Government officials, they attend to answer to questions that are posed in Senate. That is the only way that this Senate will serve the people of this country.

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If Cabinet Secretaries ignore summons and Senate committees keep finding the Cabinet Secretaries and governors in contempt, that will not augur well for the proceedings in this House. It is only prudent that once the penalties are enhanced to Kshs2 million, then I am sure that will get governors attending to summons from the Senate. That is important. I rest and I support the calendar tabled before this House.

Thank you.

**The Temporary Speaker** (Sen. Mumma): Where is the Mover? I just saw the Mover step out.

Pursuant to Standing Order No.84(2), I wish to make the determination that the matter does not affect counties and put the question.

*(Question put and agreed to)*

Next Order.

Hon. Members, it is just four minutes to 5.30 p.m. when we ruled that the adjournment Motion be moved. I wish to call upon the Mover to proceed.

### **MOTION OF ADJOURNMENT UNDER STANDING ORDER NO.37**

#### **UNTIMELY DEMISE OF MARATHONER KELVIN KIPTUM**

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker, for this opportunity.

I rise under Standing Order No.37 to move that we discuss an issue of a national definite importance on the untimely demise of the legend, the (GOAT) or Greatest of all Times, the late Kelvin Kiptum, who died through a tragic road accident a few days ago.

Madam Temporary Speaker, he was an important asset to this country. Even as we discuss or eulogize the death of Kelvin Kiptum, we have, unfortunately, today in the afternoon got an official statement that we have also lost the great marathoner, who used to refer himself as Sir Henry Rono, the legendary athlete from my country.

He went into the books of history of athletics in 1978 by breaking four world records within 81 days in 1978. He was also the G.O.A.T in 5000 meters, 3000 metres triple chase and 10,000 metres triple chase that he broke within 81 days in 1978. Unfortunately, he passed on today while receiving medical attention in Nairobi today.

It is a big blow to the sporting fraternity, sportsmen and women. Kelvin Kiptum was born on 2<sup>nd</sup> December, 1999 in Chepsamo Village, Chepkorio in Elgeyo-Marakwet County.

Coincidentally, his training ground was in Chepkorio when he was about 13 years old and during his primary school at Kipchawat Primary School in Keiyo North Constituency. Like many boys growing up, of course he used to run every morning and evening like some of us used to when we were young.

Kelvin came into athletics stardom when only at 18 years at the Eldoret Half Marathon. He finished first in the 21 kilometre race in Eldoret in 2018 and in France

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subsequently the following year, he also finished first in 21-kilometre marathon in France.

Madam Temporary Speaker, it has to be noted by many Kenyans that Kelvin Kiptum was self-coached. Most of the professional athletes have coaches who give them technical advice and support. However, Kelvin was self-coached until 2021 when the Rwandese coach, Gervais Hakizimana came on board. Unfortunately, they perished together on that tragic road accident. We express our condolences, empathies, and sympathies to the family.

The late Kiptum was due to race in Rotterdam Marathon on 14<sup>th</sup> April, a run that may have further cemented his first rise in that race. He was very poised and articulate in his agenda. He had chosen marathon. Kiptum's personal best was in 10,00 meters where he ran 28:27 at Stockholm in 2021. I will utilize 10 minutes so that I allow colleagues to eulogize this great athlete and legend of all times.

In road races, Kiptum ran 10 kilometres under 28:17 in Utrecht in 2019. A half marathon of 58:42 in Valencia, 2020 and of course the London Marathon of 2023 of 2:2:25, becoming the third fastest of all time. Kevin Kiptum did not stop at shuttering the world class of athletics. This happened in Chicago 2023 when he beat the greatest of all times, my neighbor, Eliud Kipchoge by running 2:00:35, a world record that was unfortunately ratified by World Athletics a week before he perished through that tragic road accident.

The famous 1:59 minutes, although it is unofficial, Eliud Kipchoge, indicated that Kelvin Kiptum was going to be one of the best marathoners. I remember his interview vividly. Kenyans have been condemning Eliud Kipchoge saying he did not congratulate Kelvin Kiptum. If you are keen, in a press conference after the event, Eliud Kipchoge indicated that he is happy that Kelvin Kiptum is becoming one of the best. As you have heard from interviews from family, he told even his father and spouse that he felt that he could run under two hours.

I want to urge the police to move with speed and conclude---

I am happy four people presented themselves yesterday to Iten Police Station and have recorded statements with relevant agencies. We want our athlete to have a heroic sendoff. I am happy to report to the House that courtesy of His Excellency the President and the Kenya Kwanza Government, the great legend of sporting fraternity Kelvin Kiptum will be given a State burial. That is important.

As we speak, I am informed from reliable sources that the Government has directed that the family home be constructed immediately. We need to borrow from President Museveni. When Uganda athletes win gold, they get a car and a house. I also saw that after Nigeria lost, Tinubu Bola, the President of Nigeria, gave players of Africa Cup of Nations (AFCON) a house and land.

We need to motivate athletes who play basketball, volleyball and football. Let us motivate our youth. I know my brother Sen. Kisang, from Elgeyo-Marakwet, we will have a discussion. Even here in Nairobi, let us look for a road or university and name this great marathoner of all times.

I want to see a sports academy named after Kelvin Kiptum, so that it inspires most of young people going into the future. We have seen some institutions that have been

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named people whom we do not know their track record like Githeri Man; a person who queued eating githeri while voting. This is somebody that has raised the Kenyan flag. The people who are seated here have never raised a flag even outside the country. Our National Anthem has been sung in honour of this young man and many others in football, volleyball and basketball. Let us respect the legacy.

I want to touch the soft underbelly of the issue of anti-doping by sportsmen and women that is trying to kill our sports in any discipline. Be it volleyball, athletics and football. I urge our sportsmen and women, let us run clean sports.

We also need to protect our sportsmen and women. Why is it that other people are given Very Important People (VIP) protection? This is our national treasure and assets. When they land in the United States of America (USA) and in other countries, they are given VIP protection. We do not know what happened, but I hope the police will put some speculation matters to rest. Is it hard for them to be given a bodyguard and a driver? Is that too much to ask?

Are you aware that we are paying Brand Kenya a lot of money? However, if you ask Brand Kenya to give us business they have secured abroad, they cannot, even for one US Dollar. However, when these athletes run, everybody says they want to visit Kenya because of wearing that T-shirt that is written 'Kenya'. Be it football, volleyball among others.

With those many remarks, I beg to move and request Sen. (Prof.) Kamar to second.

I know everyone wanted to second but they will get a chance---

I thank you.

**Sen. (Prof.) Kamar:** Thank you, Madam Temporary Speaker for the opportunity to second this Motion. As I second it, my most sincere condolences to the family of Kelvin Kiptum and the family of his coach.

It was extremely sad for some of us because Kiptum comes from my village of birth. When I saw the people mourning, I could recognize 70 per cent of them. However, I could not recognize the younger ones. It is extremely sad. It hurt everybody because this is something that was least expected.

I pass my condolences to the whole village of Chepsamo and Chepkorio; our village and to wish them God's comfort at this very difficult time.

The young man Kiptum has been well eulogized by my neighbour Sen. Cherarkey of Nandi. He has described how the young man grew. This is a man from a very humble background. We have seen very humble people grow to be somebodies because of sports especially athletics. It is very unfortunate that we have continued to lose some of them through road accidents.

I support one proposal that has come from Sen. Cherarkey. It is not very costly for this country to take care of life especially for such young ones. This is because when people grow from very humble backgrounds, it is very difficult for them to imagine that they are going to hire a driver and *askari* to take care of them. They are villagers and they still believe that they are free and can do anything on their own.

It is very unfortunate because somebody would be having Kshs2 million in an account but does not have a driver and has to drive himself everywhere. They start at 5.00

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a.m., do another course in the middle of the day, and then again in the evening. Those people get tired but they do not realise because they are young and imagine they can do a lot.

It will be one of the best things that this country can do to ensure that promising athletes are taken care of. They should be given at least a driver, if not with a bodyguard. That way, they will not have to drive themselves, so that they do not think as fast as when they are running while they are driving. All they could be thinking about is to make sure they reach where they are going.

As I support this, I urge the Ministry of Youth Affairs, Sports and Arts to pay more attention to those young people. A 24-year-old person is too young to lose. Last time we also said the same about the late Wanjiru because I was an MP at that time. He was young and had not even build himself a house, but we lost him. We need to start taking care of them. They need capacity building on how to take care of themselves and resources they get.

As a House, we need to look at sports because it is also a devolved function and see what we can do. The stadia are under the counties. The sportsmen and women are also in the counties. Let us have a way of protecting these people, so that they do not die careless deaths.

Madam Temporary Speaker, I do not want to add anything to that because I can see many colleagues, including the Senator for Elgeyo-Marakwet. Thank you for allowing me to second because of the urgency of an agenda that I have ahead of me.

Again, *pole* to the family; *pole* to the whole village' and *pole* to my neighbours. We pray that God rests Kiptum's soul in eternal peace.

*(Question proposed)*

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

**Sen. Kisang:** Madam Temporary Speaker, on behalf of myself, my family, and the great people of Elgeyo-Marakwet County, I wish to sincerely convey our condolences to the family of the late Kelvin Kiptum who died on Sunday night.

Kelvin Kiptum was still a young man of 24 years. He was born in 1999. He grew up in a very humble background in Kipsamol Village of Kaptarakwa Ward. People have said he was from Chepkorio. The village is at the boundary of Keiyo South. That was a man who struggled. We heard the father saying that he was the only child. The mother had problems when she gave birth to him and as an honourable man, he accepted just to have one child.

The father is also a great man because it is not ordinary for an African man to accept when his wife has challenges. It is normally the other way round; that a man wants his wife not to continue giving birth when it is the man who has challenges. The father was a great man.

Madam Temporary Speaker, in a short time, from 2018 until Kelvin Kiptum died, he had done very well. Initially he did not know that he was going to be a great runner. He trained as an electrician but along the way, he discovered that he had the talent and

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started practicing on his own, running without shoes. Sometimes he used to borrow shoes.

He died a legend. That is why the country needs to honour him. In fact, I will bring a Motion to this House seeking Kamariny Stadium in Elgeyo-Marakwet County to be renamed Kelvin Kiptum Stadium

*(Applause)*

Luckily, the Cabinet Secretary for Youth Affairs, Sports, and Arts has advertised for a tender for that stadium to be completed. When it is opened, it will not be Kamariny Stadium, but Kelvin Kiptum Kimariny Stadium. That will be in his honour, so that we remember the great man.

He had planned to go and run in Rotterdam in under two hours because he ran in Chicago in two hours and thirty-five seconds. He was practicing to beat that record by training every day. Even the wife complained that he was doing a lot of training but he said he had the stamina.

That particular fateful day, he left home, went on family errands, and then proceeded to Eldoret. Unfortunately, he died while going home. The lady who was with them is one of the workers in the camp and she was on off. They waited for her with the coach because she told them she had reached Eldoret late and wanted a lift back to the camp. That is why they delayed because of waiting for her.

The Ministry of Youth Affairs, Sports and Arts should give our athletes security and drivers because they are not many. We can target elite sportsmen and women who have gotten medals. The young man did not see the need of hiring a security personnel or getting a driver because he had not even gotten the money, he had won last year. Just look at his home. I hope the Ministry is going to assist.

We thank the President for accepting to do a state burial for Kelvin Kiptum. We also request the Government, through the Ministry of Youth Affairs, Sports and Arts, to ensure they put up a decent house for the parents and the young lady, and if possible, employ her, so that she can further her studies and educate her young children. We thank the manager because he agreed to create a foundation in honour of Kelvin Kiptum. That is important.

Finally, less than two months ago, we lost another athlete who was running for Uganda. That is Benjamin Kiplagat who was killed by thugs in Eldoret. That is sad. The police commander in Uasin Gishu County should beef up security, especially around the camps and where athletes live, so that we do not lose our athletes who bring us a lot of dollars. Maybe one of the reasons the shilling is strengthening is because of these athletes. Dollars are now getting into the country.

May his soul rest in eternal peace.

**The Temporary Speaker** (Sen. Muma): Sen. Oketch Gicheru, you have the Floor.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I cannot mourn Kelvin Kiptum enough, together with his coach Hakizimana, who perished in the unfortunate tragedy.

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In fact, as a House, we do have the power to change the lives of sportsmen and women in this country. I will not limit it to athletes because the way sportsmen and women have been treated in this country is not good at all. The kind of grace, honour, and glory that these sportspeople bring to this country is a big treasure and achievement that VIP treatment is an understatement.

I do not think the concept should only be about security and protection of their Bill of Rights under Chapter Four of the Constitution. We should also appreciate the fact that they lift us on the global map to the extent that they deserve a lot more benefits.

If you remember, in 1968, Kipkeino brought us a wonderful medal, taking it from a very serious American during the Summer Olympics in Mexico City. To date, apart from a million jobs that have been given to Kipkeino as a way of charity, there has not been serious protection and support to him.

The other day I watched Eliud Kipchoge running the sub-two marathon, although unofficial, the sense of pride that he brought to the world and the inspiration he brought to young people--- I am speaking as a young person seeing such a young man die compared to the feeling I had when Eluid Kipchoge ran the sub-two hours Marathon. To date, he has been left to the small wealth that he might have acquired which Kenya did not participate in giving him. It is from the competitions that he gathered his wealth.

Samuel Wanjiru has been mentioned in this House. Last year, Ms. Faith Kipyegon did a wonderful double and won gold medals to this country. The greatest honor that she gets is being invited to Jeff Koinange (JK) Live to be celebrated. However, there is nothing else in her name.

As we speak, the country cannot forget one young man called Dennis Oliech. In 2002, he single-handedly took this country as a captain to Council of East and Central African Football Association (CECAFA). He made us win. He, through his own earnings, motivated the team and took us to the Africa Cup of Nations in 2004. If you look at his life today in a country that has a President, Senators and Members of Parliament (MPs), my heart bleeds for him. He has been left out as if he has never contributed anything to this country. I come from Migori County where young people cherish sports. Sports unite us.

In the lake region, the place where you can enjoy good soccer is Migori County. Migori Youth Academy was where a young man called Abdi Aziz started from nothing. Abdi Aziz was a young man who was simply an M-Pesa attendant. He built a team that was a second league in this country. They almost qualified for the premier league. We have a young man called Ouma in that team whom nobody gives the opportunity to excel.

I appeal to us as MPs; the political class cannot continue being selfish to the extent that they enjoy 100 or 50 policemen to some extent, amazing vehicles and retirement packages yet these young people are suffering in this country trying to make life for themselves.

Look at Lupita Ny'ong'o, a wonderful young lady from the Lake region who participated in the creative industry and became the first to be recognised with serious awards when she did the 12 Years a Slave movie. All that she gets in this country is simple glory by being invited to a few interviews here and there. We need to change our mindset. As I finish in two seconds, I am going to invite my friend Sen. Cherarkey.

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Sen. Cherarkey you are a senior ranking Member of this House. I would like the two of us to sit down and come up with a serious Bill that can look at the lives of our young men and women in the sporting and creative industry so that we can give them the best for the glory they bring to this country---

**The Temporary Speaker** (Sen. Mumma): Proceed Sen. Mungatana, MGH.

**Sen. Mungatana, MGH:** Thank you, Madam Temporary Speaker. I want to join my colleagues in extending my condolences to the family of Kelvin Kiptum. A lot has been said today. I agree with all that has been said. I also want to add a few things. In March, 2010 the United Nations General Assembly passed Resolution 64 of 255, on fatalities that happen on our roads.

The target at that time was that they wanted to reduce the global fatalities by 50 percent. I am addressing road safety because this is what has taken our bright shining star away.

Madam Temporary Speaker, in this country, when you localize those figures, the National Transport and Safety Authority (NTSA) tells us that we are losing about 3,000 lives every year to fatal road accidents. The National Treasury has estimated this cost to be about Kshs300 billion, roughly five per cent of our Gross Domestic Product. In actual terms, we are losing the best of our population, the younger people.

I have said in other forums that when we are younger, we tend to think that the car must speed beyond 120 kilometer per hour. You must accelerate to know how it feels when the accelerator reaches the floorboards. We must have had an accident, especially, when we were younger.

It will cost nothing to this Government to put something in the curriculum that creates manners in road safety. It has to be inbuilt from when we were young. Children nowadays are taught that you do not just throw pieces of paper on the road. If you try to throw a plastic bottle, your children will tell you, 'Dad, you are littering.' This is the same way manners on road safety should be in built within our children as they grow.

I hope the Cabinet Secretary for Education is listening to this. The loss we suffer is because of small things like this. We forget to tell our children. They grow up, and when the hormones are raging, just when they get their first car, they get killed.

Nowadays there is a new fashion. Our children will tell you that their ambition is to get a motorbike. Every time you hear this, your heart shudders because you know how you used to ride a ramshackle at that age, safer than what is available now.

I believe there is a case for us to adjust our curriculum to increase the sensitivity around road safety. Road safety should not be defined as arresting people. NTSA has the funds. Why can they not create road champions?

On National Condom Days, you have these guys walking all over. Why can we not have national road safety champions in prominent places like Voi on us who travel down towards the coast? In places like Nakuru and Naivasha, for those who use the other road. We should have people constantly reminding us.

It is not enough to put a car that has had a traffic accident on display. This is a step forward. However, we need people to be talked to. We can move forward when we have a culture change in this country.

Finally, on lighting, this goes to the county and national Government. There are no lights on our highways, and no effort is put to put lights on those roads. When you watch the television, you will see where we lost Kevin. It was completely dark. This place is misty, as the Officer Commanding Station (OCS) on the scene told us. We need lighting, an issue that will cost little compared to what we are losing in this country. Kshs300 billion annually is not a small amount. If we can put our money where it matters, then we should be losing people who are valuable assets.

Let us not shed crocodile tears. When we lost the last Vice President, Hon. Wamalwa Kijana, the Government went out and bought a house. This was during the Mwai Kibaki era. We can do the same for Mama Kelvin Kiptum and her children. We can buy these things since the Government can afford them. The county government can support this.

Let us not leave these people the way they are, shed crocodile tears and half-mast flags, and give them nothing. This would be a shame to our country. Mr. Kelvin Kiptum will wake up and curse this country if his family and children are not taken care of by us.

Thank you.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Ogola.

**Sen. Ogola:** Madam Temporary Speaker, I thank you for the opportunity to add my voice to this unfortunate incident. I rise to mourn the young man Kiptum and the coach and to feel with the bereaved family of Kiptum.

Madam Temporary Speaker, I look at the hopeless widow of Kiptum. I saw the young lady mourn. I also so the young widow of the coach. I feel for all of them, including the community that Kiptum comes from and all Kenyans in general.

Accidents have become a real disaster in this country. The other time when this House was discussing Shakahola, I was thinking how many Kenyans lose their lives in our roads daily? Every night we see and hear of buses crashing. Some buses from Kampala crash in the middle of the night and kill over tens of people.

Madam Temporary Speaker, from the accidents we see when for example, buses crash, we only hear of the ones that are lost at that particular scene of the accident. Nonetheless, look at the massive injuries that occur and the people that are taken to hospital. A number of them lose their lives.

Furthermore, even if they survive, they can never go on with their lives. On this note, as I mourn Kiptum, I also mourn the many *boda bodas* that lose their lives in this country.

Madam Temporary Speaker, in the sub-county where I come from, that is Ndhiwa Constituency, it is an everyday happening. We have a company called Sukari Industries. It is a daily occurrence that the tractors from that Sukari industry cause accidents as pedestrians get crushed on the roads thus adding to the many accidents that we are speaking about. In Ndhiwa Constituency many *boda bodas* get crushed thus losing their lives to the tractors owned by Sukari Industry.

Madam Temporary Speaker, we had one young man that lost his life in Ndhiwa, just amongst the many that we have in that constituency called Anyona. He joins the inventory of sports people, he joins Kiptum. He lost his life as a sportsman. A young

man that was struggling in the village, training schools' netballers and volleyballers in the vicinity.

That man lost his life one evening when he was driving home his *boda boda*, because of a careless motorist who had been at a pub drinking the whole day. He then leaves the pub and drives while drunk. He left two young widows with younger children. That is the story we have as we mourn Kiptum today. However, the story of Ndhiwa will also be written in the books of history in this country, because of the Sukari Industry. We are losing so many people including the loaders and workers of that company.

Madam Temporary Speaker, accidents are incidents that this country must look into. I challenge the county government where Kiptum comes from, that as we mourn and bury Kiptum, the national and county government must be there because Kiptum was an investment to this country

The county government must come up and pronounce itself on how they are going to take care of the welfare of that young family that Kiptum leaves behind.

As I wind up, I would like to say that accidents are a disaster in this country and the country must look into it. We must not keep on losing our people, not only athletes, but even the pedestrians on the roads.

With regard to the people boarding matatus on our roads, we see the Nissans crashing on the roads every day. What is our traffic department doing other than enforcing the laws? Additionally, that department must embark on a public education for our people.

Madam Temporary Speaker, I support. I mourn Kelvin Kiptum. My condolences for the bereaved family, the community he that comes from and Kenyans at large.

Thank you.

**The Temporary Speaker** (Sen. Mumma): Sen. Thang'wa, proceed.

**Sen. Thang'wa:** Thank you very much, Madam Temporary Speaker. I also rise to give my condolences to the family of Kelvin Kiptum, especially his father, Mr. Cheruiyot, who you could see the pain when he said his only son is gone.

However, as we speak, when I hear that maybe they need drivers and security, I ask myself, in our culture when you get money and you start having all these things, the community might shun you. They say you have got money that is why you are not even talking to them, because you have a car and a driver.

I think what we really need is two things; that is sensitization and education. When somebody amasses such kind of wealth and you are known all over or you become a celebrity overnight, all you need is to be trained on how to manage that, because if you are not trained, you might behave in a way that people might think you are not doing what you are supposed to do.

Madam Temporary Speaker, people used to say that the late Samuel Wanjiru changed the way he used to walk and talk after he became famous. People noticed that he was not talking the way he used to talk earlier. This is because perhaps these athletes are not told what to do once they attain such status.

Education is very important. They even need to be taught how to manage their finances. It was said here that you will find a person who was very poor getting millions of shillings overnight. The way you treat yourself and treat others always changes.

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As I mourn Kelvin Kiptum, I believe going forward, all those people who carry our flag high, must be treated in a manner that they are given special treatment and recognition.

Madam Temporary Speaker, in the USA, all those military personnel do not queue at the airports. They even have their counter for veterans and military personnel because they do something for that country and they are recognized for that.

I believe we can do that as a country, to give our sportsmen and women recognition so that as they are trained and educated on how to live with the new fame, they will be proud to be Kenyans.

Concerning the issue of accidents, I am the Chairman of the Roads and Transportation Committee. In the last Session, we invited the National Transport and Security Authority (NTSA) boss to come and explain to us what they are doing to curb road carnage. We were not satisfied as a committee with what we heard from the Inspector General of the Police and the NTSA boss.

We are going to invite him again to appear before our Committee to come and explain what steps they have taken, because there is confusion in the police department and NTSA. NTSA says they are only doing policy while the Inspector General of the Police says we are only implementing what NTSA says. So, there is a disconnect between who is supposed to man our roads and transportation because everybody is blaming the other.

Madam Temporary Speaker, in the previous regime, there were presidential recommendations and awards that were given to some people who did not deserve such an award.

When we have these kinds of sportsmen and women who are not recognized--- You can imagine a person was given a presidential commendation for queuing while holding *githeri* the whole day while voting. Yet, we have people who have done so much for this country. They wake up very early in the morning to practice and raise our flag higher and they do not get the right recognition.

In conclusion, what are our governors doing? Sports is devolved. They should have kitties for supporting these sports men and women. Instead of getting money and handouts to give goons to follow them around, they can do something for the sports men and women of their county. This is so that when they raise the flag higher, they also raise the flag of that county.

We need to do something for these governors because I most of them do not know why they are there. That is why, I am bringing an amendment to Standing Order No. 58 to introduce Standing Order No. 59 to have governors come and stand here-just like the way we have Cabinet Secretaries-to answer some of these questions.

This is the only place they will be able to be grilled and answer questions without their goons intimidating anybody and the people at home will hear and understand---

**The Temporary Speaker** (Sen. Mumma): Sen. (Prof) Tom Odhiambo Ojienda, you may have the Floor.

**Sen. (Prof) Tom Odhiambo Ojienda, SC:** Thank you, Madam Temporary Speaker. Let me come to the Dispatch Box to commiserate with the family of the late Kelvin Kiptum, in solidarity with the Senators for Elgeyo Marakwet and Nandi counties.

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Running sub-two in the marathon for five times is no mean task. The late Kelvin Kiptum exhibited excellence both in the Valencia, Chicago and the London marathons. It is time that this country takes sports and sports men and women seriously. This is because there are certainly flaws that will be traced to the last minutes that led to the death of the late Kelvin Kiptum's life. Not just the accident but if at all, there are road safety issues. This is because the late Kelvin Kiptum died in a black spot after getting an accident in a turn, unsuccessfully and sadly, losing his life with his coach.

Madam Temporary Speaker, as the Senator for Kiambu County has said, the development of sports under the Sports Act, 2013 must include other measures that would ensure sports men and women are trained wholly. This way, they will become whole persons to not only manage their resources, but also continually understand their responsibility to themselves and the nation.

It is in this spirit that we will be bringing before this Senate the Sports Academies Bill, 2024. This Bill will not only deal with the questions on sports but also, sports men, training and the role of county governments. This is so that county governments take a responsibility to ensure that their sports men are not only taken care of, but their welfare is considered in its entirety.

This country mourns a champion who would have contributed more because, the potential of the late Kelvin Kiptum was unexploited. He was at the dawn of his career. A young man of only 24 years. It must be a lesson to those who have been left behind. Young athletes should not just be dedicated to their training like Kelvin Kiptum, but also emulate him and go further and beyond.

Madam Temporary Speaker, I pray that the County Government of Elgeyo-Marakwet gives the late Kelvin Kiptum a deserving send-off. I also urge the national Government to take up this matter seriously.

I am glad that hon. Ababu Namwamba, the Cabinet Secretary for Youth Affairs, Sports and Arts, has taken up this matter seriously. That is the way to go, including renaming the Stadium in Elgeyo-Marakwet in honour of the late Kelvin Kiptum.

Madam Temporary Speaker, I support the Adjournment Motion. When we lose heroes in this country, we must celebrate them. However, it is more important to celebrate them during their lifetime. As the Senator for Kiambu has said, development of youth and sports will eradicate some of the vices that the Senator has referred to.

It is upon each Senator or elected Member, during their free time, to allow the youth to compete in sports in order to enhance or improve sports. That way, we will remove from the streets some of the people that the Senator has referred to as goons. They are not goons but security personnel and we must respect them because they also play a role.

I thank you, Madam Temporary Speaker.

**Sen. Onyonka:** Thank you, Madam Temporary Speaker, for giving me this opportunity to vent and look at this issue. I would like to correct my leader, the Senator for Kisumu County, that goons are goons and they cannot be part of security. When you need security, you should go to the police and ask them to give you the security. If he does not have a problem with goons in his county, in my county, I am suffering from that ineptitude.

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I was in the studio with Hon. Shollei when I heard that Kelvin Kiptum had died. She was in tears. She told us that the week before, he had visited her and they discussed how he had done well and what needed to be done. According to her, there was a small tangential excitement about those discussions. They were planning to introduce a marathon when Eldoret City is launched in December. She said they were all excited about that. Unfortunately, the gentleman passed on.

I have listened carefully to what my colleagues have talked about. This is something that we keep talking about over and over. Leave alone athletes, there is a way we handle others. There is a Kenyan struggling to become a superstar; whether an actor, athlete or footballer but we usually treat them casually.

There are heroes who we were supposed to reward and encourage so that they mentor young athletes, successful footballers or artists, content creators and others. The problem we have is that even when we have Government funding for some of these programmes, it usually never gets to the people who deserve the money.

The second issue that we also deal with casually or ineptly is that once an athlete in Kenya becomes successful--- There are time brackets. That is the time from when someone does well and when they get out of running or playing which is usually not more than five years.

Remember the story of Rudisha and other great athletes. They take a short time because the training wears down the body. Why is it that we do not create a special insurance for our athletes? Why is it that when our athletes go for practice and they run, we do not even give them special insurance to help with their injuries or their challenges?

I do not even think our Republic has a single university that will give students a scholarship because they run well or a university that gives Kenyan students an opportunity so that then they can excel and make our country grow better.

I am sure you are aware that about two months ago, a Kenyan girl was number two at the Wimbledon Championship. She is called Kutonyi. I attended the Lawn Tennis Association championship; it was an international event. Nobody showed up. The Cabinet Secretary or his Principal Secretary in charge of the ministry did not show up. The Kenya Lawn Tennis Association (KLTA) is struggling because of the Competency-Based Curriculum (CBC). They are supposed to introduce tennis into the schools, but nobody listens to them.

I mean, we have all the potential to succeed and make sure our country produces the best athletes. Look at what is happening to our football. We cannot even go to the Africa Championships. There were stars that used to be there like Oliech and the gentleman who was playing for Liverpool. Once they finish playing football, they cannot even be given a simple job in the Government. Athletes would be rewarded by the Government before, because they would then continue with their lives as they try to engage in sports to encourage their young ones to work.

I would like to plead with this House and our counties. My colleague, Sen. Tom Odhiambo Ojienda, SC has said it very well. Why are the county governments not serious? I am sure, that if you check how many county governments have sports directors and whether these sports directors are given funds so that then they can encourage the youth to participate in sports, you will none.

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If it was not for County Development Fund (CDF) which I saw in the last financial year had so many activities running in Kisii County--- We had football tournaments for the Members of Parliament (MP), we had football tournaments by the women Rep. I am trying to encourage the county governments to look at sports as an investment. It can be a tourist attraction, a financial generating venture---

**The Temporary Speaker** (Sen. Mumma): Thank you, the tennis player is Angela Okutoyi.

Proceed, Sen, Murgor.

**Sen. Murgor:** Thank you very much, Madam Temporary Speaker, for giving me the opportunity to also add my voice to those of my colleagues. We are remembering a very dynamic person who came into the hands of his family in Elgeyo-Marakwet.

He was a hope to his family. His father expressed how much hope they had in him. The fact that he was the only child, crushed that family when the loss of his life came stepping at their door. He was a hope for the parents, the community and also his little children who are now orphans and hopeless.

He was also a hope to the sports fraternity in general particularly Uasin Gishu, which is the home of champions. So, many eyes were looking up to this person to mentor many into the athletic fraternity, let alone in Kenya but the whole world. He was also a hope and the future of Kipchoge who is the Marathon holder.

Kipchoge will soon retire, and Kenya was in a very good position of having a replacer of Eliud Kipchoge. As a country, our hope has been thrashed, because we do not have a replacement that we are aware of to take over from Kipchoge.

This should be an awakening situation for Kenya, as a country, to take sports very seriously. We should be investing more and have these professionals maybe train more about how to take care of themselves both financially and physically. Also, the kind of cars they drive should be safe such that they are reliable cars that can protect their lives.

As a country, we should seriously look into the safety on our roads, so that not only these professionals, but every person and other professionals in Kenya because we have lost a lot of professional people through these black spots. This is because we are not careful even to mark those dark spots and make the users aware as to what is coming ahead of them. Also awakening in that, athletes should be watchful and take care of themselves because they are out there and there is a lot out of there that they should be watchful about. We are mourning a person we looked up to and our future for athletics.

Thank you.

## ADJOURNMENT

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, having concluded debate on the Adjournment Motion and further to Standing Order No.34 (7), the Senate stands adjourned until Tuesday, 20<sup>th</sup> February, 2024 at 2:30 p.m.

The Senate rose at 6:28 p.m.

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