

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 10th July, 2024

Morning Sitting

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.m.*

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Temporary Speaker (Sen. Veronica Maina): Clerk, could you confirm if we have the quorum? We have no quorum. Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Clerk, could you please, confirm if we now have quorum?

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

Serjeant-at-Arms, please ring the Quorum Bell for a further five minutes.

(The Quorum Bell was rung)

Clerk, I have been made to understand that there is a committee sitting when the session is supposed to be commencing. That should not happen. It is a violation when the Senate is in session. Committees should not be sitting unless they have special permission.

Could you please, recall the Standing Committee on Finance and Budget Members to come to the House and be part of the proceedings this morning?

Clerk, can you confirm the quorum?

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

Hon. Senators, we now have a quorum and, therefore, the session can commence.
Clerk, call out Order No.1

QUESTIONS AND STATEMENTS

QUESTIONS

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now Question Time. We have several Cabinet Secretaries who are scheduled to appear this morning, the first one being the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs. I am made to understand that he is around and ready to take the Floor.

I am just giving it one minute for him to walk into the Chambers.

*(The Prime Cabinet Secretary and Cabinet Secretary for Foreign
and Diaspora Affairs (Hon. (Dr.) Musalia Mudavadi) was
ushered into the Chamber)*

Hon. Senators, the Prime Cabinet Secretary is now in the House.

The Prime Cabinet Secretary, Your Excellency (Dr.) Musalia Mudavadi, we take this opportunity to welcome you to the House.

The Senators had sent a few questions for you to answer. You have Question Nos. 037 and 040, which emanated from Sen. (Dr.) Boni Khalwale and Sen. (Prof.) Tom Ojienda. I believe you have done the responses because the Senate has been waiting to engage with you.

I now invite Sen. (Dr.) Boni Khalwale to ask his Question.

Question No.037

STATUS OF KENYANS WORKING IN GULF STATES

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker.

(a) Could the Cabinet Secretary disclose the number and identities of all Kenyans currently working in the Gulf States?

(b) How many Kenyans have lost their lives while working in the Gulf States from the year 2022 to date?

(c) What support does the Government provide to families of Kenyans who die while overseas and could the Cabinet Secretary explain any actions being taken by the Government to facilitate the repatriation of the body of Ms. Mildred Busolo Lianza, (deceased), from Saudi Arabia to Malinya Village in Kakamega County?

I thank you.

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The Temporary Speaker (Sen. Veronica Maina): Prime Cabinet Secretary, it is your chance to answer those questions.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker. I do not know whether I am audible.

The Temporary Speaker (Sen. Veronica Maina): Yes, you are.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): You are not too audible; I do not know why the volume is quite low. Technical team, could you improve that? I can hear him well, but I am not sure whether the Senators at the back can hear him.

You may proceed.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker.

On the first question---

The Temporary Speaker (Sen. Veronica Maina): Technical team, you need to sort out the system. There is noise coming to the Chamber from your corner.

Proceed, Hon. Cabinet Secretary.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker.

I wish to state that there are thousands of Kenyans in the Gulf countries who are employed in various sectors.

The Temporary Speaker (Sen. Veronica Maina): Hold a bit, Hon. Cabinet Secretary. Take your seat.

Technical team, we have a problem. We do not know where that microphone noise is coming from, but it is disrupting the proceedings. Can you clear the sound system?

You may proceed, Hon. Cabinet Secretary.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker.

I was saying that there are thousands of Kenyans in the Gulf countries, and I will tabulate the data available. We have in total over 400,000 Kenyans in the Gulf States tabulated as follows; Saudi Arabia, there are 310,266 Kenyans. In Qatar, 66,025; United Arab Emirates (UAE), 23,000; Bahrain, 8,000; Oman, 5,392; Kuwait, 3,515; Iran, 200 and Iraq; 150. The total record we have as of to date is 416,548.

I wish to further state as follows: Kenyans in these territories exhibit high movement between various Gulf States. The numbers given, therefore, constitute periodic statistics derived from our missions in these countries further corroborated through official sources of the host governments.

It should be noted that not all Kenyans register with our missions abroad despite being sensitized on the importance of such registrations. Hence, sometimes it is difficult to have very precise data. Under the circumstances, it is not easy at this stage to be able to say that we can avail all the identities of these 416,000 individuals in the Gulf states.

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Madam Temporary Speaker, the second question was how many Kenyans have lost their lives working in the Gulf states from 2002 to date?

The records that we have show that the total number of Kenyans who have lost their lives in the Gulf region is 316. The breakdown is as follows: Saudi Arabia, 166; Qatar, 58; UAE, 51; Iraq, 25; Bahrain, 10; Kuwait, six; Oman, nil and Iran, nil. The total is 316.

On aspect (c) of the Question, the issue is what support the Government provides to families of Kenyans who die overseas and if I could provide details on Mildred.

(1) Madam Temporary Speaker, upon receiving a report on the death of a Kenyan abroad, the first step that our missions do is to notify the family on the demise of their loved one. The Ministry does this by liaising with the employer, the foreign recruitment agent - if they are foreign based - and the local recruitment agent based in Kenya to establish information about the deceased and next of kin.

(2) The Ministry has a robust counseling department that offers psychological support to family members, including managing of the information, assessment, counseling, preparation for travel for a family representative or family member and coordination with family members to receive the body of the deceased.

(3) The Ministry establishes the migration status of the deceased where possible, coordinates with the employer, the government agencies, diaspora groupings, other stakeholders and the family, while ensuring that the body of the deceased is well preserved ahead of repatriation back home.

(4) The Ministry follows up on the benefits and entitlements of the deceased person from their place of work in accordance with the applicable laws of the host country.

(5) The Mission facilitates obtaining of a post-mortem report to establish the cause of death and provide necessary documentation to facilitate the repatriation of the body back home. This includes issuing a no-objection certification for the body to be transported to Kenya.

(6) The Ministry facilitates administrative procedures, including police investigations, if any, and the settlement of hospital and medical bills as appropriate.

(7) The Ministry also coordinates with the deceased's family at the arrival port and date and facilitates receiving of the body. Where the deceased is not employed or out of immigration status, the embassy liaises with the Ministry to inform the family to enable them to make necessary arrangements, including sending a representative or family member to facilitate the repatriation of the body back home.

Madam Temporary Speaker, there are limited resources available in terms of Government support and facilitation for actual payment of bills of the deceased as well as repatriation of mortal remains. However, in extreme cases and on a case-by-case basis, the Ministry has invoked such support for extremely needy cases. For instance, in the case of Albania, there was medical evacuation. There was the death of an athlete in Mexico and a student in Finland where the Ministry had to bear the costs. In many other cases, the Ministry works and mobilizes the diaspora through associations to raise the necessary funds to facilitate repatriation.

Madam Temporary Speaker, the final aspect that I wish to respond to is with regard to Madam Mildred Busolo Lianza. She was reported to have died on 5th February,

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2024 in Saudi Arabia. The mission established that at the time of the death, the deceased was employed on a valid contract.

The mission, also through the recruitment agencies, established the contacts of the deceased's family and obtained a post-mortem report to establish the cause of death and preparation of the body for repatriation home.

The repatriation of the body took long since the post-mortem report indicated that the cause of death was suicide and investigations were ongoing which affirmed the same. For this reason, the employer who otherwise is supposed to assist with the cost of repatriation declined to take responsibility for repatriating the body, citing that the death was not a natural occurrence.

The Ministry through the embassy escalated the matter to the labor authorities of Saudi Arabia to compel the employer to resolve the matter as required by the employment contract. I, therefore, wish to report that the employer, eventually after the pressure, took up the matter and the body of Ms. Mildred Busolo Lianza was repatriated to Kenya on Thursday, 9th May, 2024.

I submit.

The Temporary Speaker (Sen. Veronica Maina): Thank you Cabinet Secretary. Sen. (Dr.) Khalwale, you now have an opportunity to clarify any issues that you have by asking two questions. You could ask one now and another later or you could ask both right away to the Cabinet Secretary.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I want to ask two questions. One now, then give colleagues an opportunity to raise their issues. Then the second one at the end.

It is the policy of the Government, at least going by the pronouncements of the President on many occasions, that we try and assist as many youths as possible to get employment opportunities outside the country. Is it not shocking that despite that policy, the Prime Cabinet Secretary is not able to tell the country the identities of the Kenyans working outside the country and that a whopping 316 of them have died while out of the country. It shows that this answer will not only bolster the employers who in one way or the other contribute to the death of these people, but will also discourage parents from---

(The Temporary Speaker (Sen. Veronica Maina) spoke off record)

Yes, Madam Temporary Speaker, I know where you are going.

The Temporary Speaker (Sen. Veronica Maina): Senator, you do not know where I am going because I have not indicated. I want you to phrase your question. What you are giving now are views or debating the matter. You must phrase a clear, concise, and precise question.

Sen. (Dr.) Khalwale: Yes, Madam Temporary Speaker. On a complex issue like this of death, I believe Senators are allowed to build the question. I was building the question, but let me leave it there. I will not build it any further.

The Temporary Speaker (Sen. Veronica Maina): We have three Cabinet Secretaries today coming to answer many questions on various matters of national

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importance. I would beg that you make it precise, short, and clear, so that the Prime Cabinet Secretary can respond.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. What was I building to is that: Could the Prime Cabinet Secretary be compelled to table the list of all Kenyans working in these Gulf States, so that the parents and relatives can be reassured that the Government is on top of things as far as their lives are concerned?

The Temporary Speaker (Sen. Veronica Maina): Prime Cabinet Secretary, please respond.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, I wish to state that we can avail that information based on the records that we have within the embassies because we are talking of - to be precise - 416,058 individuals. We can work on having this brought to the Senate.

I can only appeal on one issue that as we give the identities, you will need to guide us on whether we will be breaching some aspects of the data identity issues by tabling all the 416,058. That is the only question, but we are prepared to give this list.

The Temporary Speaker (Sen. Veronica Maina): Tabling of that data will be subject to the Data Protection Act. So, the data may be tabled, but subject to compliance with the existing laws within those parameters so that the individuals are equally protected as that evidence is being given. It will then be subject to release for examination by the Senator who is requesting for it and not for public display without the consent of individuals who are working in the Gulf.

Hon. Senators, you now have an opportunity to ask questions, but make sure you are not building the way Sen. Boni Khalwale was building, to save on time so that we can accommodate many more.

Sen. Nderitu Kinyua?

Sen. Kinyua: Thank you, Madam Temporary Speaker. The question that I wanted to ask is the same question that Sen. Boni asked. We need a specificity. At least I am happy that it tabulated the numbers. I wanted him to specify what our 416,058 people are doing, in terms of professionals. Are they teachers, doctors or house helps?

Again, when you travel outside, when you meet with our people, most of the people that we talk to do not seem that they are facilitated by our Embassy. Most of them complain that they are humiliated in our embassies.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Prime Cabinet Secretary?

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, the workers are varied. They range from highly skilled professionals to those who are engaged in the service sector, and some are labourers. So, it is very broad. However, as we said, subject to the guidance that Madam Temporary Speaker has given, we will provide a background on this.

The second aspect is that we have our missions trained to give all the assistance that we can give. I can assure Kenyans that if, indeed, there are any incidents of what

might be seen as a lack of courtesy, they are very limited. Most of the mission staff in our embassies have been very courteous to the Kenyan citizens abroad.

The Temporary Speaker (Sen. Veronica Maina) Thank you.

Senator Osotsi.

Sen. Osotsi: Thank you, Madam Temporary Speaker. Allow me to thank the Prime Cabinet Secretary, who is also from my county, and a friend, for appearing before the Senate.

I represent a county that has a major problem with what we are discussing now. Every year we have more than 12 cases, which are reported to me. On various occasions, I have brought questions and even engaged the Ministry of Foreign and Diaspora Affairs on the same. So what I would request the Prime Cabinet Secretary is if it is possible to give a breakdown of these figures per county, so that we can understand the extent of the problem.

Number two; in the process of dealing with this problem that is common in my county, there are occasions where we are told that some of these people travel to those countries through unregistered cartels of some recruitment agencies, which are not licensed by the Government. Therefore, there is every possibility that those who die and were taken there by these recruitment agencies, possibly the Government does not have their data. What is the Ministry doing about this? The issue of unregistered and scrupulous recruitment agencies who take advantage of the plight of these girls and boys to recruit them through illegal means, and then these people end up dying or harmed in those countries, what is the Government doing about this?

Thank you.

The Temporary Speaker (Sen. Veronica Maina): The Prime Cabinet Secretary, respond to that.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): I wish to state that there were some challenges in the past, and we are trying to resolve them because we did not have proper and accurate data. However, I can assure the House and the nation that through the Department of Diaspora, and working with the Immigration Department, we are now establishing more accurate data on the Kenyans who are travelling to various countries, including the Gulf States.

On the websites of the State Department for Diaspora, we have indicated the licensed recruitment agencies, because in the past we have had cases where the Senator is right that unscrupulous people have taken advantage and landed our Kenyan people in very difficult situations.

We are trying to streamline this, and in between let me also just notify the Senate that we are also improving on our negotiation on what you would call the labour or employment agreements with various countries. We are making them much better, and much more refined, so that the safeguards can be provided for our Kenyans.

A classic example now is Germany, where we are just about to agree on a labour framework or employment framework, and we are refining even those that relate to the Gulf and other states. Equally, I mention to the House here, that the points they are raising are valid and important because one of the things we intend to do is to be able to

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have a Sessional Paper that will be brought to Parliament. Some of these issues we would like to draw from the knowledge and experience of Parliament, so that we can improve how we engage with foreign countries on some of these issues. However, we are taking steps to change the situation.

The Temporary Speaker (Sen. Veronica Maina): Okay, thank you.

Senator George Mungai Mbugua.

Sen. Mbugua: Thank you, Madam Temporary Speaker. I want the Prime Cabinet Secretary to tell this House how far the operationalisation of the Migrant Welfare Fund has reached.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): The Prime Cabinet Secretary?

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, that is work in progress, because the Labor Migration Bill is supposed to be debated and cleared by Parliament. So that is work in progress, and then we shall be able to establish how the Fund shall operate.

The Temporary Speaker (Sen. Veronica Maina): Sen Beatrice Akinyi Ogola.

Sen. Ogola: Thank you, Madam Temporary Speaker. I thank the Prime Cabinet Secretary for finding time to come to answer our questions, and probably to guide fellow Cabinet Secretaries that the questions we ask here are on behalf of the Kenyans that they are appointed to lead.

My question to the Prime Cabinet Secretary is, why does it take the Embassy sometimes a long time to respond to the distress calls of Kenyans, especially in the Gulf? Taking into consideration that the Government is capable of tracing the details of Kenyans as they exit and as they enter those countries at the immigration points.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): The Prime Cabinet Secretary?

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, as I said, it is not as easy as it may appear sometimes. Our missions are making every effort particularly in the Gulf because sometimes our Kenyans do not even communicate once they have landed and gone to where they are going. We sometimes get to know only when they are in a state of distress.

Therefore, these are some of the things we are hoping to overcome as we establish better data and communication networks. I want to assure the hon. Member that we will not tire. We want to do the best we can to support our citizens wherever they are.

Sen. Dullo: Madam Temporary Speaker, let me welcome the Prime Cabinet Secretary to this House. Part of the issues I wanted to raise have been raised by Sen. Osotsi and the Cabinet Secretary has tried to assist.

My problem is with the agencies because most of them are not genuine, and they are also not giving proper information. I think as a Ministry you need to regulate them properly.

Secondly, can the credible agencies be cascaded to the county level, so that those who are at the county level can identify the agencies that are credible because that

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particular area provides employment to our people? It should be cascaded to the county level so that they can know which agencies are credible where Kenyans can get employment through them.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Hon. Prime Cabinet Secretary.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, first of all the agencies that are registered are available on the National Employment Authority (NEA) website. This information is also shared with the National Government Administration Officers (NGAO). This is how we cascade it through the county commissioners all the way down, so that this information is available at the district and county offices as well.

One that thing that remains is that through this NEA, there are regulations, and we are trying to weed out all the entities that do not fit the bill and that are not fit for purpose. This is an ongoing process, and we are also ready to receive any further ideas on how we can tighten the noose around the bad elements from this House and other Kenyans.

Sen. Tabitha Mutinda: Thank you, Madam Temporary Speaker. Let me start by appreciating the Prime Cabinet Secretary for the good job that we have been doing as far as digital literacy is concerned through the International Certificate of Digital Literacy (ICDL). I take this opportunity to appreciate you.

Additionally, I want to inform you that I am the sponsor of the Labour Migration Management Bill that you have mentioned. It is my Bill and we can work together to sort these issues. I have two questions; what memorandum of understanding do you have currently in your office with the Gulf countries where our people are working and are there any rescue centres in these particular regions?

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Hon. Prime Cabinet Secretary.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you Madam Temporary Speaker. There are 19 MoUs that are being negotiated on as we speak. We are quite advanced with Qatar, United Arab Emirates and Saudi Arabia where we have a few rescue centres. We have a rescue center in Saudi Arabia.

We are looking for resources and this is a conversation we had with the Committee on Finance and Budget of Parliament to be able to obtain resources, so that we can put up more rescue centres. That is one of the biggest challenges that we face. Once we have sufficient resources, we shall roll out a few rescue centres.

Sen. Omogeni: Thank you, Madam Temporary Speaker. I also want to thank the Prime Cabinet Secretary for appearing before the Senate to respond to the questions posed to the Ministry.

I want to ride on the questions that were asked by Sen. (Dr.) Khalwale and ask a supplementary question. I want to make a disclosure that I did raise this matter before the Prime Cabinet Secretary, so he is aware. I thank him for accepting to receive me when I

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went to raise this question on the case of Joshua Mankone Amenity who is held up in Somaliland.

Could the Prime Cabinet Secretary give us an update on whether there has been any progress to secure the freedom of this Kenyan held in Somaliland?

Secondly, just a clarification on the response by the Cabinet Secretary. He says that Kenyans are attracted to work in the Gulf States because those countries provide high economic prospects for Kenyans. Could the Cabinet Secretary kindly give us a breakdown on the earnings of Kenyans who work in the construction industry, agricultural industry and the domestic workers? How much do they earn in those countries?

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Hon. Prime Cabinet Secretary, can you respond to that?

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker. I must state that on the issue of their level of earnings that is data that would require a little more time to obtain. We might not get the precise amount, but we might try to get the salary range or brackets and then we can also avail that.

On the issue of Mr. Joshua Mankone Amenity, I wish to state that, indeed, it is true that the hon. Senator did see me in the office with our other senior citizens like the former Chief Justice David Maraga, the parents of Mr. Amenity, and his wife. I wish to state that after the conversation we had, I did call the representatives of Somaliland and we held talks regarding the unfair treatment and incarceration of Mr. Amenity. They then said that they would be going back to their headquarters and come back with an updated position. Unfortunately, to this date they have not come back with a comprehensive response as to why they continue to hold this gentleman.

I would also like to let the Members know that I am referring to Somaliland and not the federal government of the Republic of Somalia. We have not talked of pursuing the agenda. I continue to push it personally so that we can have a response and hopefully facilitate the release of Mr. Joshua Amenity because the circumstances under which he is being held, from where we sit, are clearly unreasonable.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Prime Cabinet Secretary. The Senate Majority Leader, Sen. Aaron Cheruiyot, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I have one question to the Prime Cabinet Secretary. I also appreciate the precise answers he is giving to the issues being raised by Senators which is commendable.

I see the Prime Cabinet Secretary is accompanied by among others, the Permanent Secretary (PS) for Diaspora Affairs. My question is with regard to the 19th bilateral labour agreements that he alluded to earlier on because I have also heard the President speak about them on public fora on many occasions.

Do we have a timeline on when we are likely to conclude on them and what is the likely impact on the job opportunities numbers and the cadres of scale? This is because there is misinformation out there by cynics who imagine that the bilateral labour

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agreements are only for menial jobs, but not professional working opportunities for educated Kenyans. Therefore, if we can have a timeline, we would appreciate that because we have had this conversation for a while. Can he give a commitment before this House that by such-and-such a time, we will have concluded on these agreements? I know it is a cross-cutting issue between his Ministry and the Ministry of Labour and Social Protection, but that is where his cap of the Prime Cabinet Secretary comes in handy as his duties overlap as well.

The Temporary Speaker (Sen. Veronica Maina): The Prime Cabinet Secretary, proceed.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker. I wish to state that the 19 agreements are a work in progress and they are at various stages because they are bilateral. You end up negotiating with different countries.

For instance, in Germany, we are likely to conclude by September. Some time back, the German Parliament passed a Bill affirming this policy where they will be able to take migrants and Kenya was trying to secure a slot in order to have 200,000 slots in different areas so as to work in Germany.

I wish to state that these negotiations are not just about what you would call labourers. We have a skills' policy that is being worked on, so that we can have doctors, technicians, teachers and other professions who are qualified and skilled in different areas for them to benefit from this arrangement. In the case of the United Arab Emirates (UAE), we have more or less concluded ACEPA - a Comprehensive Economic Partnership Agreement. Part of the issues that we are alluding to are now embedded in that agreement.

Therefore, there are agreements, but I would like to assure Members that each country has its own issues, and we try to navigate on a bilateral basis with individual countries. We are making good progress and we will try to accelerate where possible.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Onyonka Richard.

Sen. Onyonka: Thank you, Madam Temporary Speaker. I am happy to see the Prime Cabinet Secretary even though his view may be a bit blocked, but I hope he is seeing me from where he is.

First, I am happy that the Prime Cabinet Secretary is dealing with this issue. I have previously worked in the same position he is working at now. The one thing that has shocked me is that nothing happened to the issues we were talking about 10 years ago. I would like the Prime Cabinet Secretary to tell me that out of all the bilateral labour agreements that he has signed with the various counties, if he has proactively engaged to make it possible that when our people go to get these jobs, they will be assisted in settling in and any other thing that needs to be done. This is because he has said that these agreements are going to be fruitful.

Secondly, is the Prime Cabinet Secretary aware of the labour contracting agreements in our country and the reason why our people keep suffering out there as they work in those countries is because most of those agreements are hidden? This is because no one knows what is written in those agreements and no one understands what the terms

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and conditions are. I, therefore, hope that when the Minister signs those agreements, he will enable the Committee on Labour and Social Welfare of the Senate to interrogate that agreement and make sure that we understand what is in it, what we have gained and if any, what the terms and conditions are.

Madam Temporary Speaker, the last issue is a continuum of the last question. I do not know whether the Prime Cabinet Secretary is aware of what is in the social media. Somebody posted that they are currently in Iowa, in the United States of America (USA) and all of the 400 Kenyans working in Iowa come from one Kenyan community.

The question I would like to ask is whether the Prime Cabinet Secretary is aware that his Government is recruiting individuals according to their tribe and shipping them to whichever country they are going to work and whether he is trying to solve that problem, given the fact that Kenyans are expecting equity and fairness when these opportunities and also given the fact that us, Senators, represent county governments.

Can the Prime Cabinet Secretary promise this House that when those positions come out and are going to be distributed to Kenyans, especially those ones targeting certain areas, that all our 47 counties are going to be included and will get their small share of the cake of whatever the Government is baking?

The Temporary Speaker (Sen. Veronica Maina): The Prime Cabinet Secretary.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker. I first want to state that one of the things my Ministry and the Government is pursuing is an open government policy. This means that we do not intend to hide any information and we will be sharing information with Kenyans because they are entitled to it.

Therefore, when we conclude any MoUs, they shall not be hidden. They shall be made available to the relevant committees of Parliament. One of the things we are planning to bring before Parliament is a sessional paper to have Members deliberate and guide appropriately on Kenya's foreign and diaspora policy. This is because all along, this has been confined to the Executive. For the first time, we want a comprehensive discussion on Kenya's foreign policy and some of these issues will be tacked in that document and it will benefit immensely from the wisdom of Parliament.

The second thing I emphasize on is that these recruitments have been largely private sector driven but not government driven. However, the Government will not entertain an ethnic-driven arrangement when getting people opportunities outside the country. Some issues are historical, and we all know them.

Madam Temporary Speaker, my brother, Sen. Onyonka is well-versed in this, and he knows that if you went to Minnesota today and because for historical purposes, you are likely a certain inclination of Kenyans. This is because there those who broke the ground in that area, and they tend to invite more and more to come.

If you went to Los Angeles and Atlanta, you will also find a similar pattern. Some aspects were there because the pioneering Kenyans who went there earlier laid the ground for a number of other Kenyans to join them. It is not a deliberate policy of Government to pursue that. However, thank you for highlighting that so that as we reflect on these opportunities, we remain national in outlook. Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Prime Cabinet Secretary. Sen. Lomenen, proceed.

Sen. Lomenen: Thank you, Madam Temporary Speaker. Is the Prime Cabinet Secretary aware of the Ethiopian military, which has infiltrated a place called Anona in Sololo Sub-County in Marsabit?

The Temporary Speaker (Sen. Veronica Maina): Sen. Lomenen, there is a cardinal principle that when asking questions, they must be an offshoot of the primary question that brought the Cabinet Secretary here. Is your Supplementary Question in line with that policy?

Sen. Lomenen: Yes.

The Temporary Speaker (Sen. Veronica Maina): How?

Sen. Lomenen: It is about infiltration of Ethiopian military in Sololo Sub-county in Marsabit.

The Temporary Speaker (Sen. Veronica Maina): I guide you to phrase that Question, give it to the Secretariat and give an opportunity to the Prime Cabinet Secretary to come and substantively respond to such a crucial and important Question.

It does not emanate from the data he is dealing with on Kenyans working in the Gulf. Consult Sen. (Dr.) Khalwale, he will give you the primary question that was asked.

Thank you.

Sen. Lomenen: Okay, thank you.

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

Sen. Faki: Asante Bi. Spika wa muda kwa kunipa fursa hii. Kwanza nampongeza Waziri kwa taarifa aliyotoa. Niko na swali moja ambalo limegawanyika pande mbili. Je, Serikali inajua kwamba kuna Mkenya anayeitwa Stephen Bertrand Munyakho, Passport No.A353019, ambaye kwa sasa yuko Saudi Arabia na anatajiwa kuuwawa kupitia hukumu ya kifo mnamo tarehe 26 mwezi huu wa saba.

Ni jambo gani Serikali ya Kenya inafanya kuhakikisha kwamba maisha ya Mkenya huyo, aliyeshtakiwa kwa makosa ya kuua bila kukusudia yameokolewa na arudi Kenya ajiunge na familia yake pamoja na wakenya wengine?

Swali la pili ni kuhusu Mkenya mwingine anayeitwa Nickson Daudi Mwangi ambaye alihukumiwa kwa makosa ambayo mahakama haikumpata na hatia ila kwa sasa amewachiliwa lakini yuko katika jela Mjini Riyadh, Saudi Arabia.

Anatarajiwa kurudishwa nyumbani kwa sababu ya kumaliza kesi hiyo.

Mwisho---

The Temporary Speaker (Sen. Veronica Maina): You should only ask a maximum of two Questions.

Sen. Faki: Bi. Spika wa muda, Swali langu linalingana na hayo mengine.

The Temporary Speaker (Sen. Veronica Maina): Sen. Faki, let him respond to those two. I have five more Senators here and we need to move to the next Question.

Sen. Faki: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Prime Cabinet Secretary, please respond to that.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you, Madam Temporary Speaker.

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Yes, we are aware of the case of Stephen Bertrand Muniyako, who was incarcerated on a case of manslaughter in Riyadh. A few weeks ago, I wrote officially to the Foreign Minister of Saudi Arabia, intervening that this individual should not be executed.

That execution was deferred; it did not take place. I also had the opportunity to meet the mother of Stephen Bertrand Muniyako and we had a conversation. The challenge is that there is a proposal that is being mooted by the family of the person who died, that they be compensated to the tune of Kshs150 million. The family has raised about Kshs10 million, and they continue to try and raise more money. This is what they call blood money, some financial settlement for that.

It would be remiss of me not to notify the nation and Parliament that there is no budgetary provision for the Government to settle this kind of situation, whether in Saudi or any other country. However, the Ministry and the Government is doing what it can to see if this matter can be resolved differently, and if the family that lost their individual can perhaps climb down from the high level of Kshs150 million, so that this case can be resolved. It is work in progress, it is a conversation that is ongoing.

The second one, which you talked about, we are yet to obtain information. I will not be able to respond immediately to that specific one. We will need a little more time to get more details on that one.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Prime Cabinet Secretary. Yes, you can get more time to supply that answer because it is specific.

Sen. Kavindu-Muthama, proceed.

Sen. Kavindu-Muthama: Thank you, Madam Temporary Speaker for giving me this opportunity. Let me first start by congratulating the Prime Cabinet Secretary for making time to appear before the Senate from his very busy schedule. Mine is just a concern about our girls who go to Saudi Arabia to work. I have interacted with many of them who have managed to come back after much suffering. They say that their passports are taken away by the bosses who they go to work for and kept there.

The agreement that many of them have with the agents is that they are going to work in a particular home. However, once they arrive there, they are allocated to work in different homes, like three or four. Some tell me that they work even in six homes so; they hardly have time to rest.

There are also mistreatments like having no food. Once they escape and go to the rescue centres or police station, they find that they cannot be allowed to travel back home because they have no funds to travel back home, and no travelling document because the document is kept by their bosses. What is the Ministry doing about such issues to make sure that our people are safe and secure? Why can the agents who are not registered be arrested because majority of them are known?

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Prime Cabinet Secretary, you will answer this question. I request the three Senators who wanted to ask questions to consolidate their questions with the next question. You can still ask him in the next level because he has three other Questions to tackle. Hon. Prime Cabinet Secretary, you can answer this as the last Question on this segment of questions.

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The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, the National Employment Authority (NEA) has eliminated 700 rogue agencies from the register so far, who are associated with not handling the labour issues professionally.

Another thing that I would like to say is that when Kenyans get challenges, the embassy has always been available to provide emergency travel documents to assist them, so that they can travel back to Kenya and move away from hostile environments. We will continue to doing so. The Saudi Arabia Centre is perhaps the most active in issuing emergency travel documents or certificates for Kenyans in case their passports and other documents are held.

The final point, which is the unfortunate side of this, is that sometimes there are a few bad cases that tend to cloud the actual picture. However, in reality, 90 per cent of the workers, particularly ladies, go back to the same venues after coming back to Kenya for a short break.

We are not downplaying the mistreatment, but we are trying to reign in, so that it comes to an end. These are the areas that we want to refine as we negotiate our bilateral agreements.

The Temporary Speaker (Sen. Veronica Maina): There is one more question from Sen. (Dr.) Khalwale before we close this section of questions. Kindly, make it short and precise.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the governments of India, Philippines and Indonesia have labour and social protection bilateral agreements with the Gulf States. As a result, their workers are better paid than Kenyans doing similar work.

Could the Prime Cabinet Secretary undertake to table in this House, in the shortest time possible, such bilateral agreement, so as to protect our young people who are being paid Kshs30,000 as housemaids when those from other countries that I have talked about get three times as much?

The Temporary Speaker (Sen. Veronica Maina): Proceed, Prime Cabinet Secretary?

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, I would like to state two issues. Firstly, we will not hesitate whatsoever once the bilateral agreements have been signed. As I said, we want to pursue a policy of open government. We will be ready to share the details with Parliament. We shall not have a challenge on that score.

The second aspect, which is important and I take it as input from the hon. Senator, is that our negotiating skills, together with those of recruitment agencies and others, should be stepped up, so that we have fairly more reasonable and comparative agreements being negotiated. We should not negotiate ourselves short when we are doing so for Kenyans. I take that positively.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. That brings us to the end of this Question. I now call upon the Senator for Kisumu County, Sen. (Prof.) Tom Ojienda Odhiambo, SC, to ask his Question.

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*Question No.040*GOVERNMENT OBLIGATIONS TO KENYANS WHO FACE ARREST,
DETENTION AND DEPORTATION IN THE DIASPORA

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, I beg to ask Question No.040 to the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

(a) Could the Cabinet Secretary outline the obligations of the Government to Kenyans in the diaspora who face arrest, detention and deportation and highlight any diplomatic agreements entered into with other countries on the applicable protocols?

(b) What protocols has the Government of Kenya established for re-admitting deportees into the country and could the Cabinet Secretary provide a list of Kenyans deported back to the country since 2010, stating reasons for each case where a deportee was refused admission?

(c) How does the Ministry of Foreign and Diaspora Affairs handle complaints and reports of human rights violations against Kenyans in the diaspora before, in the course of, and after detention and deportation? Further, could the Cabinet Secretary disclose the number of Kenyans who have died in detention, and also provide details of all court cases initiated by Kenyans regarding such violations?

(d) What measures has the Government put in place to safeguard dependants and property left behind by deportees and could the Cabinet Secretary also explain the initiatives taken by the Government to facilitate the reintegration process for the deportees?

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Prime Cabinet Secretary.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Madam Temporary Speaker, on the first aspect, I would like to inform the House that consular offices at our missions abroad normally visit Kenyans in distress in the host countries such as those in hospitals, detention centres or prisons. They offer assistance that includes issuance of emergency travel documents to Kenyans in the diaspora who may be in distress and want to voluntarily return.

This is in line with the 1963 Vienna Convention on Consular Relations that provides for general functions of a consulate, which includes protecting the interests of its nationals, both individuals and bodies corporate within the limits permitted by international law.

The consular functions listed in Article 5 include issuing passports and travel documents to nationals of the sending state and assistance in succession matters. Further, Article 36 of the Convention confers the following rights to a consular officer-

(a) The right to receive information regarding the arrest of nationals of sending states.

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(b) The right to communicate with the arrested person and vice versa and that of the arrested national to communicate with officials of the sending states. In this case, our mission staff.

(c) The right to visit the national of the sending state, if in custody or detention, to arrange for legal representation.

(d) The right to respect the wish of the arrested national, including not to take any action expressly or on behalf of the national.

However, these rights can only be exercised in conformity with the laws and regulations of the receiving state. I also wish to state that the Kenya Citizenship and Immigration Act of 2011, Cap 170 of the Laws of Kenya, provides for issuance of emergency travel documents for Kenyans facing deportation and sets out conditions when someone can be denied entry.

Madam Temporary Speaker, I would like to point out that so far, Kenya has entered into an agreement with South Africa regarding the return of nationals refused entry and illegal entrance, which was signed on 23rd November, 2022. Under this agreement, it is the responsibility of each country to verify the nationality of the deportees and, where necessary, grant them necessary travel documents. The agreement is, however, subject to the respective domestic laws and international instruments, including the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

With regard to protocols re-admitting deportees, the Citizenship and Immigration Act sets out the criteria or protocol for admission of such persons into the country. This includes the issuance of travel documents, verification of identity, confirmation of citizenship and right of entry and residence, among others. To this end, immigration officers along the points of entry and exit usually confirm that the person being returned is a Kenyan national before admitting him or her into the country.

With regard to the second part of the Question requesting that I provide a list of Kenyans deported back to the country since 2010, stating reasons for each case where deportees were refused, I would like to state as follows:

The State Department of Immigration and Citizen Services has informed that the following number of Kenyans were returned on various grounds since 2022. We were not able to get information dating back to 2010, hence, we will present what we got. Hopefully, we will get the rest later.

Madam Temporary Speaker, in 2022, there were 186 deportees; in 2023, there were 378; and in 2024, there are 166, so a total of 730 deportees are on record since 2022 to date.

We wish to state that we will need guidance because as much as they are deportees, they have their rights. So, to what extent can we disclose the reasons of each individual without breaching certain rights of these particular individuals? Maybe with the guidance of the Chair, that is another area that one can seek guidance on, but we have given the data of those who were deported.

The third aspect is how the Ministry of Foreign Affairs handles complaints and reports of human rights. In this regard, I wish to state that Kenya recognizes the sovereign right of any nation over their territory and in managing their internal affairs,

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including admission and stay of persons in their territories. It is the duty of every Kenyan, therefore, to obey the laws of the receiving country.

The protection of human rights is governed by the International Human Rights Laws, which include the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, and the International Convention against Torture and Inhuman, Cruel or Degrading Punishment, among others.

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

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

The exercise of powers over nationals of another state should be within the confines of international law. When the Ministry receives sufficient reason to believe that the rights of a Kenyan national could have been violated, the following are some of the measures we take-

(1) A consular officer undertakes a visit to the affected person to provide a report on the circumstances surrounding the matter.

(2) The Ministry may also consider dispatching a diplomatic note to the concerned State's mission, requesting to be furnished with information regarding the circumstances surrounding such violations;

(3) Where the evidence is overwhelming and no response is received from the host States, the Ministry may issue a demerit where the highest-ranking diplomatic representative, an ambassador or high commissioner or Charge D' Affairs is summoned by the Ministry of Foreign and Diaspora Affairs, and issued with a protest note requesting action;

(4) Similar action is undertaken through the Kenyan mission in the capital of the country in question where our ambassador or high commissioner or Charge D' Affairs presents the displeasure of the Kenyan Government on the scene and delivers a protest note;

(5) The Ministry may also consider dispatching a special envoy or other high-ranking official from the capital to appeal or intervene with a host state.

Mr. Temporary Speaker, Sir, let me also point out that we are yet to get accurate data on the Kenyans who have died in detention. That figure at this point is not available, but we will be ready to avail it once we have the accurate figures.

Finally, there is the issue of the responses to safeguard the dependence of property left behind by the deportees. I wish to state as follows-

The Ministry so far has no safeguards in place with regard to the dependents and property left behind by the deportees since such property is governed by the laws of the host country. However, there are other channels available for pursuit of such as a follow-up with authorities through diplomatic channels if such a matter is brought to the Ministry's attention.

Equally, where necessary, our missions abroad may pursue the matter through the umbrella diaspora association for knowledge of such cases and what steps could have

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been taken within the confines of the laws of the host country. Unfortunately, for some Kenyans, and in the advent of information and data protection, those who are arrested or in conflict with the laws, sometimes request prison authorities not to notify the embassy or any family members.

Lastly, this is binding to the mission since it is in line with Article 36 of the Vienna Convention, which requires consular services to refrain from taking action on behalf of the person in prison or detention or custody if such person expressly opposes such actions. The deportees once verified to be Kenyan citizens are released back into the country unconditionally.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Prime Cabinet Secretary.

Sen. (Prof.) Ojienda, please, ask one supplementary question if you have because we do not have time. We are running out of time.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Temporary Speaker Sir. I thought there was Gen Zs sabotage, but it is a Wednesday.

I am satisfied with the responses by the Prime Cabinet Secretary and as a student of International Law and Diplomacy, I will reach out to the Cabinet Secretary to clarify some of the data that he has alluded to. I am satisfied and I have no follow-up questions.

Thank you.

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, we are running out of time and with your indulgence, I will have to cut this Session short because the other two Cabinet Secretaries are already here. They have arrived. So, I will only allow two supplementary questions; one from Sen. Gataya Mo Fire and the other from Sen. Issa Juma Boy. Please, be very brief and ask one question.

Sen. Gataya Mo Fire, please go straight to your question.

Sen. Gataya Mo Fire: Thank you, Mr. Temporary Speaker, Sir. I want to revisit the concerns of my senior, Sen. (Dr.) Khalwale, on the issue of not having clear data of Kenyans abroad. I mean, it should not arise because our immigration department that clears people to travel at the airport should have the data.

Hon. Prime Cabinet Secretary, do you collaborate with the sister Ministry, State Department of Immigration, so that you can share that data?

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

Sen. Issa Juma Boy, please proceed.

Sen. Boy: Asante Bw. Spika wa Muda. Swali langu ni, ningependa kurudia tena kuhusu wafanyikazi ambao wanafanya kazi Uarabuni, Saudia. Mimi nikiwa Seneta wa Jimbo la Kwale, kuna shida kubwa sana katika Kaunti yangu. Baada ya miezi miwili au mitatu, utapata maiti kati ya wafanyikazi ambao wanafanya kazi kule Saudia ikiletwa Kwale. Miezi miwili iliyopita kuna mwanamke mmoja kwa jina---

The Temporary Speaker (Sen. Abdul Haji): Sen. Boy, nilitoa agizo kwamba uende moja kwa moja kwa swali lako. Uliza swali; hadithi nyingi hatutaki.

Sen. Boy: Bw. Spika wa Muda, wakati mwingine mtoto mdogo anapotaka kuzungumza, huanza kidogo kidogo ndiposa aongee.

The Temporary Speaker (Sen. Abdul Haji): Tafadhali, uliza swali lako.

Sen. Boy: Kuna dada yetu kwa jina Zuhura Swale Mwabege ambaye alikuwa akifanya kazi Saudia. Aliuawa mwaka jana mwezi wa Disemba. Dada huyu kwao ni Magaoni, Sub-County ya Msambweni. Aliuwawa na mpaka sasa hivi, familia yake haijapata sababu ya kuuwawa kwake

Mimi ninakemea sana Embassy yetu ya kule. Sio kwa ubaya lakini tunataka Embassy yetu ya Saudia iamke ifanye kazi. Watu hawa ambao wanafanya kazi kule wanakufa wakiletwa hapa na hakuna sababu tunapewa mtu kuwa amekufa kwa nini ilhali Embassy yetu iko kule kuwakilisha watu wetu.

Faida ya kuwa na Embassy kule ni nini? Mpaka sisi viongozi tupige kelele, tupige simu na tuulize ndipo maiti ziletwe. Mimi ninakemea sana Embassy yetu. Na iwapo ninasema uongo, Maseneta wenzangu watasema ukweli. Ni kweli au sio kweli? Wanakufa na hutupati sababu ya kufa kwao.

Sasa hivi, ni mwezi wa nne tangu huyo mama afariki. Mpaka leo, familia yake haijajua sababu yake kuuliwa. Maiti ililetwa mwezi wa tatu na tukazika nyumbani.

Na sio huyo mmoja pekee, wengi sana wamekufa na sio katika Kwale Kaunti pekee, ni karibu Kenya nzima. Wanakufa huko Saudia na *Embassy* haipeani sababu ya kifo hicho. Wao ni kimya tu. Tunasema, *Embassy* iamke na ifanye kazi. Mtu akifa, walete maiti na watuambie amekufa kwa sababu gani.

Asante sana, Mheshimiwa Waziri.

The Temporary Speaker (Sen. Abdul Haji): Asante, Senator. Cabinet Secretary, if you could, please, respond to the two questions briefly.

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi): Thank you. We are not perfect and so are the embassies. However, I believe I can obtain information around Zuhura Swale and share it with the family so that this matter can be put to rest.

I also state that as we get the post-mortem reports of some of the people who pass away in these countries, not all of them are usually about murder. Some are normal aspects such as cardiac arrest, while some are afflicted by terminal diseases like cancer. They are hit and end up dying in that place. So, we can get a raft of this. Of course, where it is suspected to be foul play, we always insist on investigations and also post-mortem reports to establish the nature.

In Saudi Arabia, we have now pushed to have a consulate in Jeddah because not all cases can be handled from Riyadh. So, in my view, our consulate in Jeddah will also help us in being efficient in Saudi Arabia.

On the issue of the data, I wish to reiterate that we made a commitment that we are available subject to guidance from the Speaker, because there are issues of data protection that we want to safeguard. Kenyans are entitled to their privacy even if they are travelling. It would be unfair for me to just table names and say so-and-so, the son of Mudavadi, has travelled; making it public without recognising that they are entitled to their privacy. So, we need to be careful as to how we release this information.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Prime Cabinet Secretary, for attending today's Session. Thank you for the answers that you have given.

At this point, we are going to give you leave. Just to mention, we should continue with these types of interaction because the issues that are brought up to the Senate are

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usually from the public and they demand for these answers. So, we hope that we will have more interactions with you in the future.

Thank you and we wish you all the best in your duties, Sir.

(The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs (Hon. Musalia Mudavadi) was ushered out of the Chamber)

(The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuya) was ushered into the Chamber)

Hon. Senators, with us is the Cabinet Secretary for Environment, Climate Change and Forestry. Welcome, Cabinet Secretary. It is very nice to see you again here.

We will go straight to the questions because of time. Question Number 057, Sen. (Prof.) Tom Ojienda, proceed.

Question No.057

CLIMATE CHANGE INITIATIVES AT THE
NATIONAL AND COUNTY LEVEL

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Temporary Speaker, Sir. I beg to ask the Cabinet Secretary for Environment, Climate Change and Forestry the following Question No.057

(a) Could the Cabinet Secretary elaborate on the climate change initiatives put in place both nationally and in each county considering the diverse topography and unique environmental and climate change needs of each county?

(b) What expertise was engaged and what criteria was applied in developing the national climate change initiatives and tailoring them to the specific needs of each county?

(c) Could the Cabinet Secretary explain the measures put in place to enhance the capacity of each county government to implement the climate change initiatives in their respective counties, including the technical expertise of county governments to address environmental and climate change concerns, as well as the allocation of budgetary resources to each county within the designated timelines for the initiatives?

(d) Could the Cabinet Secretary provide progress reports on the implementation of the climate change initiatives in each county?

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Cabinet Secretary, welcome.

The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuya): Thank you, Mr. Temporary Speaker, Sir, for this invitation and for the questions raised by the Hon. Senator for Kisumu County.

Indeed, on matters of climate change and environment, there is a very intricate link between the functions of the national Government and those of county

governments. The role of the Senate thus becomes very crucial in terms of overseeing the implementation of climate action.

In terms of background, climate change remains a major threat to our nation's economic, social and environmental well-being. The major challenge remains to be how we will overcome the current low levels of climate resilience and the adaptive capacity that continue to threaten the ability of our local communities and key sectors of the economy to withstand the climate shocks that we find ourselves in.

The Ministry is the Government lead on all issues of climate change and has, through the Climate Change Act of 2016, established the requisite governance structures to guide climate change action in the country. I will be expounding on this a little later.

Mr. Temporary Speaker, Sir, Kenya is a signatory to the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. We have been very keen to adhere to this important multilateral process by tapping into the available opportunities for us to be able to influence the global climate change discourse through active engagement.

Mr. Temporary Speaker, Sir, the Kenya Kwanza Administration has been very intentional in profiling the country's climate action and it is because the vagaries of the climate change debacle are borderless. What Kenya does or does not do affects the global community and vice versa. That is the reason we have been very deliberate in our climate diplomacy. As a result, Kenya is currently the chair of the African Group of Negotiators, which gives the country an opportunity to shape the discussions on climate change in the continent. Thereafter, influence the same discourse at the global level through the conferences of parties that happen every year.

His Excellency the President is also the coordinator of the Committee of African Heads of States and Governments on climate change. After the hosting of the Inaugural Africa Climate Summit last year in September, Kenya is currently the host of the Africa Climate Change Secretariat. This is intended to enhance our resource mobilization capacities linking the country with technologies across the globe and climate financing challenges that we face that require global networking.

The specific question by the Senator of Kisumu County is focused on the initiatives we have put in place both at national and county levels, taking into account the climate change needs of every county. Notwithstanding the fact that the core mandate of the Ministry is to provide policy and regulatory environment for adequate implementation of climate action in the country, the Ministry has been engaged vigorously in resource mobilization to address the climate change issues.

I will focus on an example of a programme called the Financing Locally-Led Climate Action (FLLOCA), which is a USD295 million programme that is focused on building climate change resilience at the local level. The programme is targeting 45 counties with exclusion of Nairobi and Mombasa and I will explain why. This programme is funded by the World Bank, the governments of Denmark, Germany, Sweden and the Kingdom of the Netherlands.

Another programme is the Strengthening Forest Management for Improved Biodiversity Conservation and Climate Resilience in the South Rangelands of Kenya, a project funded by the Global Environment Fund and a list of others. I am just

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highlighting that in response to the Senator's question, we have been involved in fundraising efforts and we have a list of projects that have come through. Any fundraising that we do lands in counties to address the climate change challenges.

The Ministry, through the Development Partner Group (DPG) under the office of the Deputy President, has been championing the alignment of all development partner projects and programmes to the Government manifesto. It has also ensured focus on tangible projects on the ground for us to realize maximum impact.

Regarding climate change initiatives that we have put in place, we have a robust legislative and institutional architecture to address climate change and its impacts at both levels of Government.

At the national level, some of the climate change policies and laws are listed in my presentation ranging from the Constitution, the Climate Change Response Strategy of 2010 and the National Climate Change Action Plan, which is very important.

The National Climate Change Action Plan had one running between 2023 and 2027, 2018 to 2022. We recently came up with the 2023 to 2027 Strategy. This is per the Climate Change Act. It is an iterative planning tool for mainstreaming climate actions across all sectors of the economy at both levels of Government. It is also an implementing tool for the nationally determined contributions which are our national commitments under the United Nations Framework Convention on Climate Change (UNFCCC) to reduce emissions and enhance resilience building. We also have the National Adaptation Plan that runs from 2015 to 2030 and the Climate Change Act, which I have spoken to.

To delve a bit into the Climate Change Act, which is the parent Act on climate matters in the country, it provides for and supports mainstreaming of climate change actions into development, planning, decision-making and implementation. It also sets out the principles for climate change planning and implementation.

I wish to highlight some recent amendments that we made last year to the Climate Change Act. This was intended to provide for regulation of carbon markets and policy direction prescribing carbon reduction to reduce emissions as per our international and local obligations.

Kenya has the largest carbon market portfolio in East Africa, but the truth of the matter is that it has very minimal tangible impact to the citizens of Kenya. The import of the amendments to the Climate Change Act was intended to ensure high integrity carbon markets and a very clear mechanism of benefit sharing between the communities, project proponents and both national and county governments.

In terms of the progress around the carbon markets space, the week before 18th June, we moved to designate the National Environment Management Authority (NEMA) as the designated national authority charged with the responsibility of authorizing and approving participation in the carbon projects under the Paris Agreement.

The reason I delve on this is that proper implementation of the carbon markets framework in this country has far-reaching impacts on the improvement of the livelihoods of the communities and in ensuring we have sufficient coping mechanisms against climate action.

We have also listed the National Climate Change Framework Policy of 2018, the Climate Change Finance Policy of 2018 and the National Biodiversity Strategy and Action Plan, 2019 as some of the legislative frameworks that set the stage for climate action in the country.

Mr. Temporary Speaker, Sir, it is important to note that the mandate of the Ministry is providing operational coordination on climate change, technical backstopping, requisite climate change policy and legal environment.

In this regard, the core mandate of the Ministry is to offer coordination of various sectors. We have some sectors identified as the Intergovernmental Panel on Climate Change and those are the energy and agriculture sectors, water, forestry, industry, and transportation, all geared towards the mitigation action against climate change and our co-mandate therefore is to do the coordination of all these entities.

Mr. Temporary Speaker, Sir, we have made progress on enabling actions and I have already mentioned some of them. Through the implementation of the two iterations of the National Climate Change Action Plan, there has been implementation of mitigation and adaptation initiatives across all sectors, some of which include the focus on increasing our tree cover. This is with a recognition of the importance of prioritising mitigation actions that have adaptation and sustainable development core benefits,, and adoption of clean cooking, especially at the local level, to reduce over-reliance by our populations on biomass for domestic cooking and energy needs.

I will be stating that the forestry sector is listed as the topmost cause of greenhouse gas emissions in the country. That is the focus on the restoration of our degraded landscapes as well as focusing on alternatives to biomass energy to detract attention from the rudimentary focus on firewood for energy needs. Therefore, we are focusing on picking up on technologies across the globe that will give us sustainable options.

The adoption of e-mobility, which is key to reducing emissions from burning fossil fuels and the Government through the line ministry, the Ministry of Transport is in the process of finalising an e-mobility policy in this regard. I am glad I saw a Motion moved by a Member of this House calling for an increased focus on e-mobility options and non-motorized transportation in the country, which is the way to go.

The other focus is the increased percentage of electricity generation mix to reduce emissions from the energy sector. Our mix currently stands at 92 per cent and with the multi-agency coordination through my Ministry, the focus is to push this mix to 100 per cent by 2030.

Implementation of the national climate-smart agriculture is another core focus under the Ministry of Agriculture, Livestock and Fisheries for purposes of adaptation. I have mentioned the Climate Change Act, the provision for the carbon market regulatory framework and the National Climate Change Resource Center, which we have recently operationalised. This is a model information and knowledge management centre domiciled at our Meteorology Department. It is a national repository for climate change information and data, which comes very handy at this time.

The long-term low emissions development strategy, which we prepared and launched, last year in 2023, guides the country on the attainment of a low emission

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climate resilient development pathway in the long-term. The Ministry, through the support of development partners, including the Green Climate Fund, GCF and FLOCA, among others, facilitated the establishment and capacity building of climate change units across the counties and state departments in the country in line with the Climate Change Act of 2016.

The Ministry has also established climate change environment governance structures at the county level. These are county climate change committees under the respective County Climate Change Acts and County Environmental Committees under the Environmental Management and Coordination Act.

To sum up my response to the first question, we have a law that came into effect in 2016, but little has gone into actualisation or implementation, and that has been the focus of the Ministry in the past few months.

The second question focuses on what expertise we have engaged, as well as what criteria we have applied in developing the national climate change initiatives and tailoring them to the specific needs of each county. We are mandated to coordinate environmental and climate actions within the country and have developed several national climate change initiatives, including policies, plans and programmes as required by law. We have also come up with an elaborate and inclusive process for the drafting and validation of national initiatives.

I will state again that for the Ministry and other key agencies at the national level and the county governments, we are linked at the hip when it comes to climate action implementation. Therefore, the focus, as the question has been tailored to make sure that all the initiatives, the national climate change action plans and the strategies are very inclusive at their development stage.

Allow me just to give us a snapshot of the process that we undertook with the development of the National Climate Change Action Plan of 2023 to 2027. Again, to demonstrate the expertise we engaged and the criteria applied to ensure that these policies and strategies are tailored to meet the specific needs of counties.

In the development of the National Climate Change Action Plan, we started with a nomination process of a multi-disciplinary and multi-institutional team. This multi-disciplinary and multi-institutional approach was used to enable adequate scope and depth of input across all sectors. We undertook a mapping of the technical skills and experiences required to identify experts from line ministries, departments and agencies, counties, private sector and civil society, and marginalised groups.

We work very closely with the Council of Governors (CoG) in this regard. The development of the Terms of References (ToRs) for the steering committee to develop, in terms of technical working groups, to collect, analyze and synthesize relevant data and information and lead consultants to lead the various thematic teams and develop the action plan. We embarked on the nomination of a steering committee, members and technical experts from the technical working groups by ministries, departments, CoGs, the private sector and all those players.

Several working sessions of each technical working group were held to come up with a zero draft of the plan. We engaged in a very robust stakeholder engagement at various levels, at the county technical teams, national experts, special interest groups, a

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public validation process where the technical working group incorporated stakeholder input; and all these processes led to the successful launch of the National Climate Change Action Plan 2023-2027 during the Africa Climate Summit last year. That just gives a snapshot of the critical need for the Ministry to work with a cross-sector of stakeholders as we develop our plans.

Question No.57, focuses on me to explain the measures put in place to enhance the capacity of each county government to implement the climate change initiatives in their respective counties. This includes the technical expertise of the county governments to address environmental and climate change concerns, as well as the allocation of budgetary resources to each county within the designated timelines for these initiatives.

Mr. Temporary Speaker, Sir, regarding the measures put in place to enhance capacity for each county--- Noting that capacity building is a continuous and progressive process, we have carried out capacity building of the County Executive Committee Members (CECM), County Officers, Directors and County Climate Change Units in all the 47 counties on various climate relevant issues. We have done this through our Climate Change Directorate within the Ministry.

We have also provided technical back stopping to counties on the development of County Climate Change Acts. I am proud to say that at this point, all the counties are compliant in terms of coming up with their Climate Change Acts. What the Ministry did was to develop a prototype that was then used by each county to come up with their climate change legislation.

The development of county climate change action plans then followed, climate change policies and participatory climate risk assessments. At the same time, the National Environment Management Authority (NEMA) undertook the development of county and environment action plans mainstreamed into the County Integrated Development Plans (CIDPs).

The CIDPs are the core of the county development plans and with these county environment action plans, which were deliberately weaved around the CIDPs, then we are in step or speaking in the same tone with the counties.

Mr. Temporary Speaker, Sir, we have also provided an innovative programmatic support to counties. The Ministry in collaboration with the National Treasury and the Council of Governors (CoG) developed the Financing Locally-Led Climate Action Program (FLLoCA) to provide mechanisms to finance community climate action initiatives for enhanced climate resilience.

The programme as I have said is funded through the World Bank and a conglomeration of other partners. The design is a unique Kenyan innovation design to showcase how global climate finance flows can be efficiently and effectively channeled to address grassroots climate response needs.

I know it is of interest to the Senators to have some bit of detail on the FLLoCA Programme. Under the FLLoCA programmes, County Climate Resilience Investment Grant in 2023/2024 Financial Year, counties received a total of Kshs10,507,827 from the FLLoCA donors. Out of this, Kshs7.3 billion was from the FLLoCA donors and Kshs3.1 billion was from the development fund of counties.

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The Temporary Speaker (Sen. Abdul Haji): Hon. Cabinet Secretary, I am sorry for interrupting you. Could you please summarize the remaining answers because of time? We do not want to keep you here for too long as we already have the responses. Instead of going word for word, just summarize because there are many supplementary questions.

The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuya): I am well guided, Mr. Temporary Speaker, Sir. I am happy if the Senators have the copies of my statement because this programme is very important for purposes of collaboration between the Senate and the national Government through my Ministry, to ensure that we attain maximum impact of the intended objective of this programme, which is to fund climate action at the local level.

Mr. Temporary Speaker, Sir, I have an annexure there which outlines how money has gone to each county. This is a very unique programme, which is based on results and one of the conditions for the counties was that, they had to put in 1.5 per cent of their development budget to match that from the development partners. Nairobi and Mombasa counties are excluded from this programme for reasons that these two counties are big time beneficiaries of other World Bank supported programmes.

As I conclude on this part of the FLLoCA funding, my request to Senators is to engage in the oversight role as they do their best to ensure the funds are utilized prudently for the benefit of vulnerable communities. The uniqueness of this programme is that it is designed to run from the ward level.

Question No.57 part (d), the Question focuses on progress reports on the implementation of the of the climate change initiatives in each county. The Climate Change Act in Sections 15 and 19 outlines duties of public entities and county governments with regards to climate action and part of which is that counties are required to integrate and mainstream climate change actions in their CIDPs. They are supposed to enact legislations and report through county assemblies on the progress of implementation of climate actions. They are to designate a CECM to coordinate climate change affairs as well as establish a climate change unit that is well staffed and resourced.

As we speak, until 2022, only five counties of Wajir, Isiolo, Makueni and Kitui had complied with the requirements of the Act, but through the collaboration with the National Treasury and the CoG, we have now supported all the counties. I am happy to say that we have full compliance. This is true of the national level Ministries, Departments and Agencies (MDAs) where we have climate change units established across the board as per the requirement of the law.

Regarding progress reports on implementation of climate initiatives in each county, the counties are making significant progress in this regard notwithstanding the many challenges on policy and legislative measures.

We have 45 counties that have already developed specific laws like I had stated. We have 45 counties, which have set up County Climate Change Funds and have put in 1.5 per cent of their development budget in this regard. We have the mainstreaming of climate change into CIDPS by 45 counties and the rest is outlined in the Statement.

On institutional measures, we have climate change units in every county, as we speak. These are initiatives that have happened slightly in less than two years because our focus has been on operationalizing the law in this regard.

Mr. Temporary Speaker, Sir, in the Financial Year 2023/2024, we have seen significant prioritization of climate action at the county level in terms of resource allocation which is very encouraging.

In conclusion, on the question raised by the Senator for Kisumu County, although much is already happening with the climate change crisis being manifested ever so harshly across the globe with the cyclic events of drought, flooding and this pendulum effect, which is happening across the country, it is crucial that Parliament prioritizes adequate allocation of resources to both levels of Government to address climate change issues in order for us to build the necessary adaptive capacity for our communities.

Therefore, this calls for aggressive resource mobilization, which I undertake for my Ministry. Again, as I said, any funding that we mobilize at the national level lands in a county. I beg to stop there.

The Temporary Speaker (Sen. Abdul Haji): Thank you very much, hon. Cabinet Secretary. Senator, you have a supplementary question?

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

The question that I asked was specifically intended to get the Ministry to highlight the contributions that come from the FLLoCA Fund. I note that Kisumu County got a total of Kshs273,335,666 and that is commendable. If we lose oversight of these funds, either through the County Public Accounts Committee (CPAC) or the County Public Investments and Special Funds Committee (CPIC), then these funds will go into waste and we will never know where they end up.

Mr. Temporary Speaker, Sir, one supplementary question. Could the Cabinet Secretary tell us if counties have earned any funds from carbon financing? If there is any supplementary list she has, we could see it or she can give it at a later date, so that we know how to oversight our counties.

The Temporary Speaker (Sen. Abdul Haji): The Cabinet Secretary?

The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuya): Thank you, Mr. Temporary Speaker, Sir, for the supplementary question from the Senator of Kisumu County.

I highlighted that Kenya is touted as the highest trader in carbon credits in the region. Most of these transactions have been voluntary between private project proponents and communities at various levels and in different sectors. There is a separation between the voluntary carbon projects, which are private and then we have the regulated carbon trading programmes.

These have not been in the radar of the Government. That is the reason we have focused on reviewing the law and putting in place a carbon market framework. One of the core components of this framework is a national registry that will process each and every single carbon market project in the country from different sectors. So, we have one national registry where operationalization is already underway after the gazettelement of

the designated national authority. This registry will be fed by sectors specific registries; from the energy, agriculture and other sectors.

I would like to assure this House and Kenyans that we engaged in a rigorous public participation process so as to ensure that this space which is shrouded in a lot of mystery will come to the fore with the full implementation of the law. I wish to invite Members of this House to pay keen attention to the legislation as it is because we already have a lot of interest expressed at different levels, including a government-to-government arrangement around carbon trading plans.

Mr. Temporary Speaker, Sir, however, there are many other small projects going on in the country. The Ministry is ready to net all these, put them under the national registry and then we can ensure clear benefit sharing and transparency on how these funds from the carbon markets are going to turn around the lives of Kenyans.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Madam Cabinet Secretary. Sen. (Prof.) Tom Ojienda, I hope you are satisfied with that answer.

Sen. (Prof.) Tom Odhiambo Ojienda SC: Mr. Temporary Speaker, Sir, I am super satisfied.

The Temporary Speaker (Sen. Abdul Haji): Okay. We will take other supplementary questions. I will start with Sen. Esther Okenyuri. I hope your question is relevant to the main Question that was asked by the Senator for Kisumu and please, go straight to your question.

Sen. Okenyuri: Thank you, Mr. Temporary Speaker, Sir. I am one of the people who does not need to be reminded on being relevant to the primary question. I want to find out from the Cabinet Secretary the progress of the Kshs15 billion tree-planting exercise and the status of the public forest cover in this country.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Thank you for being brief. We will take another question from this side.

Proceed, Sen. Okong'o Omogeni.

Sen. Omogeni: Thank you, Mr. Temporary Speaker. I also want to thank the Cabinet Secretary for finding time to appear before the Senate to make clarifications on some of the issues.

I have a supplementary question on the usage of Financing Locally-Led Climate Action (FLLOCCA) money, which is used to finance locally-led climate action. The Cabinet Secretary has mentioned to us that the Government through her Ministry has put in place governance structures to ensure that this money is utilized and used for its intended purposes. I interpret that to mean that you will assist the Senate to ensure that that money does not find its way into the pockets of those tasked with implementation.

I want to disclose that my County of Nyamira is one of the recipients of this money. We received Kshs55 million. My question touches on governance, accountability and the proper utilization of the FLLOCCA money. We had a project initiated called Raitigo Water Supply during the Financial Year 2015/2016. The county budgeted Kshs17,310,915. The project was done and money was paid to the contractor. I have details of the contractor who did the work. The Office of the Auditor General raised issues on that project having been used to syphon money from the county and there was

no value for money because the project was not completed or launched for the benefit of the people who reside in the Raitigo area.

Mr. Temporary Speaker, Sir, in response to that audit query, the Governor responded that he wanted to use money from the Climate Change Resilience Investment Fund to complete the project. How will the Cabinet Secretary ensure that the money we are sending to counties is not used as an avenue for governors to steal money that is meant for good purpose, like the climate change?

I do not understand how money that has been set aside for a project through county funds and has been paid out to a contractor and then, someone uses donor funds to repeat the same project. Can she address us on how she is following up on governance, proper usage and utilization of money and also use the example I have given for Nyamira? If she wants the response from the Governor, I have it and I can table it on the Floor. That can assist her so that we ensure that this money does not go to the pockets of a few individuals.

Someone was saying that some governors usually set aside a certain percentage. For example, if you send Kshs55 million to Nyamira, some say that Kshs20 million should go to their pockets and the Kshs35 million can do something. We really want this money to be used for the benefit of the people of the counties where we reside.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. The Cabinet Secretary can respond to those two questions and then we take the other questions.

The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuyu): Thank you, Mr. Temporary Speaker, Sir. I will start by responding to Sen. Okenyuri on the status of our Kshs15 billion programme as well as the forest cover of the country.

We have a constitutional mandate to ensure that at least a 10 percent tree cover and not forest cover for the country. I am happy to report that the baseline that we have as we implement the Kshs15 billion is 12.3 percent. This is from the latest assessment of our forest and tree cover done in 2021. I mentioned that the forestry sector is the highest emitter for the country and if we are to deal with the climate change crisis, including the flooding and cyclic droughts - and I would like us to be on the same page - this programme of re-forestation is very critical. This is in terms of emissions reduction and dealing with the mitigation aspects of climate action.

The progress of the Ksh15 billion tree growing programme is good. We have a very high and encouraging reception from Kenyans across the board towards this initiative. As we stand, the national Government, through the Executive, has taken a frontline approach to do adoption of sites for restoration across the country. This is intended to give this the necessary push for each of us to join this initiative, from individual Kenyans to the private sector and the county governments. This will make sure that we enhance our tree cover from the current 12.23 per cent to 30 per cent in the year 2032.

As a requirement of the law, we are required to do periodic assessments of forest cover after every two years. I can assure the country that going by the actions and the receptiveness of this programme across the board, we are going to see very significant enhancement of our forest cover across the country.

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The last thing I will mention is that we are encouraging Kenyans to focus. If we had been focusing on very well-structured tree growing programmes in the country, we would be very far in terms of our forest cover. However, over the years, we have been planting trees and not paying much attention to their nurturing and protection to maturity. That is why we have been deliberate in telling Kenyans we are engaging in tree growing, and not tree planting. If tree planting really counted, then we would not be planting trees anymore in this country. Therefore, even when there is no rain, the focus should be on how to protect the seedlings that we have been planting over the years.

Mr. Temporary Speaker, Sir, moving to the Question by Sen. Omogeni on the usage of Financing Locally Led Climate Action (FLLoCA) funding. Once again, I applaud the Questions put forward by the Senator for Kisumu about FLLoCA. It is a very critical Fund. Our intention as a Ministry and even in our discussions with the development partners, this is a model. It has not been tried anywhere before. Kenya is the first one to model this devolved level climate action plan that is supposed to impact on lives from the grassroots level. We have had legislators and executive members from other jurisdictions coming to benchmark with the FLLoCA. I urge this House to guard the FLLoCA funding against our hearts. The development partners are willing and ready to scale up, but only if we record success.

Going to the supplementary question raised by Sen. Omogeni on the governance structure, again, it is a very easy to monitor programme. It is fashioned against programme for performance, a design by the World Bank team, has clear steps and conditions that counties must meet in order to get the next level of funding. It is in my interest, and I am sure for the Senators, that all our counties succeed in this.

One of the requirements of the P4R system is that counties must come up with special purpose accounts. If they do not come up with special purpose accounts, it becomes an audit query, and they cannot be eligible for more funding. Those are things that you need to look out as Senators in your oversight role.

We have climate change planning committees at the county level, and we have ward climate change committees at the ward level. At the ministerial level, my Ministry is one of the implementing agencies together with the Council of Governors (CoG) and the National Treasury. We are part of the project implementation unit. It has clear guidelines on the parameters that the counties have to meet in order to get further support.

Concerning the questions raised by the Auditor-General on the Raitigo Water Project, I do not have the facts of that case. However, it is again my plea that we spotlight the FLLoCA programme to make sure that it is working and the money will not be misused because it will prevent us from getting more support from the development partners.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Cabinet Secretary. I direct Sen. Omogeni to table the query by the Auditor-General so that it can be furnished to the Ministry, and they will be able to look into it.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I wish to table a letter dated 15th May, 2024, signed by His Excellency Governor Amos Kimomi Nyaribo. I direct the Cabinet Secretary to look at page 34 of that document on the Project Raitigo Water

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Supply initiated in the Financial Year 2015/2016. The second column will show you the money that was budgeted and paid, which is Kshs17,301,915. The fourth column has a response from the Governor where he says that he is going to use money from Climate Change Resilience Investment Programme grant funds to complete that project. Therefore, it will be double-budgeted at the county level. There is money set aside and paid to a contractor, and again he is saying in the Financial Year 2024/2025, he is going to take money from the donor funds to put it in the same project.

Mr. Speaker, Sir, I table the document.

(Sen. Omogeni laid the document on the Table)

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. We will take the next two supplementary questions from Sen. Mbugua and Sen. Munyi Mundingi.

Give him the microphone, please.

Sen. Mbugua: Thank you, Mr. Temporary Speaker, Sir. Under the Forest Conservation and Management Act, community forest associations are granted permission to participate in forest conservation, including harvesting and grazing. Recently, the Ministry made a pronouncement that they are banning grazing of animals in the forest. It was not clear whether it is all forests. Could the Cabinet Secretary tell the country and this House the correct position so that we can know what is happening in our counties?

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

Sen. Munyi Mundingi, proceed.

Sen. Munyi Mundingi: Asante, Bw. Spika wa Muda. Namshukuru Bi. Waziri kwa ile kazi anayofanya ya kubadilisha nchi yetu ya Kenya. Vijana wengi wa Kaunti ya Embu wanapanda miti. Je, watafaidika namna gani na mambo ya carbon credit? Walipanda miti wakati ule mwingine na wakati mlikuwa mnanunua miti, miti yao haikununuliwa. Tuko na ward 20 kule mashinani na subcounty nne na kilio chao ni miti yao haikununuliwa. Vijana wetu watafaidika vipi ili waweze kujisaidia kimaisha wakiendelea kutafuta kazi zingine zinazofaa? Tunajua pia hii inafaa.

Pili, nashukuru kwa sababu Kaunti ya Embu ilipatiwa Ksh90 milioni. Nilisikia malalamishi mengi yakitolewa na Gavana kuwa pesa zinaonekana kama nyingi lakini shida ni kwamba pesa nyingi zimetengwa katika kufunza watu mambo mengi. Bi. Waziri, tunaonelea heri mambo ya mafunzo yatengewe pesa kidogo na hizo nyingine ziende kwa kupanda miti.

Asante, Bw. Spika wa Muda.

The Temporary Speaker (Sen. Abdul Haji): Asante sana, Seneta. Cabinet Secretary, you can respond to those two questions.

The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuiya): Thank you, Mr. Temporary Speaker, Sir. To sum up the question by Sen. Omogeni, please focus on the special purpose account of the FLLoCA to make sure we have a thread of how the money is being used, and then we can do a proper oversight. I will definitely look at the letter that you have cited and table it before the House.

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Sen. Mbugua asked a question about the Forest Conservation and Management Act. Within the law, we have participatory forest management processes. Without the support and partnership of communities, we cannot succeed with our tree planting or forest management. The intended purpose for participatory forest management procedures is to have the forest adjacent communities at the core of forest management.

On the issue of grazing, under the Forest Conservation and Management Act, we have formation of Community Forest Associations (CFAs), which are legal entities. Under the CFAs, there are laid out frameworks for collaboration between forest associations and the Kenya Forest Service (KFS) officers to actualise participatory forest management action plans, in the sense that we have certain user rights within the forest. Grazing is one of them. However, they are practiced within certain parameters and regulations. For example, we cannot have freelance grazing in our forests because what then happens to the restoration efforts that we are engaging in? If we plant trees, then cows and goats eat the seedlings, we will be doing a zero-sum game.

The effect of participatory forest management plans is to make sure we have zoning of our protected areas. We have designated spaces where grazing can happen and areas where it cannot. That requires regulation, co-operation and close collaboration between the communities and the KFS through forest management agreements.

Mr. Temporary Speaker, Sir, on the statement that the Senator mentioned that we made as a Ministry, I am coming back to tell the country that we have user rights within our forests, but they are merged with responsibilities of conservation. My statement was very clear. I did a written statement, which was circulated across the country. Basically what I am saying is that we have a law and a way of engaging the KFS and the communities. All we need is to enforce that in a collaborative fashion.

I am not afraid to say that the problem is that there has not been any enforcement. It has been free for all. When we call for enforcement, there is a bit of discomfort. Rest assured, hon. Senators and the entire House, that we are not phasing out user rights. We are just saying that they have to be measured against the responsibilities for conservation and the law is clear about that. I promise that we are going to carry out public participation across the country, so that we do not have misconception of what the Ministry is doing around this. Communities are our key partners.

Mr. Temporary Speaker, Sir, coming to the question by the Senator of Embu on the issue of carbon credits, I have spelt it out. I would like the Senator to look at the law as it is right now. The community benefits sharing framework within our new carbon markets law is very clear in terms of what the communities should get against various classification of projects. Some of them are land-based, non-land based, community land and private land.

Mr. Temporary Speaker, Sir, I take cognizance of the issue raised by the Senator to the effect that young people are planting trees. Some of them have developed nurseries across the country because of our 15 billion tree strategy. We had a good plan to set up a Green Army across the country, which was going to focus on these young people. We intended to source seedlings for the tree planting initiative and use them in protection and maintenance of the same. However, because of the fiscal situation we are in, we are yet to implement that.

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Mr. Temporary Speaker, Sir, with the current tree planting activities happening at the Executive level, where Cabinet Secretaries are allocated various ecosystems across the country, we are very clear that we do not only mobilize around the local communities in whatever site a Cabinet Secretary is allocated, in terms of sourcing of seedlings from our young people and women, but also engage them in the contractual activities that come with it.

Finally, the Senator of Embu County has also raised a very pertinent issue with regard to our development partner funding. The sad truth is that we have billions of monies that come from our development partners, but most of it goes to intangibles; training after training and seminars. However, as I said, to attract the attention of the Senators to the Financing Locally-Led Climate Action (FLLoCA) funding, we are very keen and I have been making trips across the country, meeting governors, just encouraging them that we come up with visible and tangible models of what the FLLoCA programme is doing. Only then shall we succeed. If we are saying we are doing a water project, then we see an end-to-end plan on how FLLoCA started this and finished. That is the only thing that will convince our development partners to scale up this programme.

We are also encouraging our governors, because of our need to restore our ecosystems, not to spread too thin. For this initial rollout of FLoCCA, just focus on one or two ecosystems. If it is a water project, yes, pick a wetland, fence it and plant trees around that wetland, and let us see water flowing out of the FLLoCA money because it is a lot of money, if well utilized.

So, once again, as an implementing Ministry, we are keen on making sure that these development funds go towards tangible, visible projects. The monitoring aspect of FLLoCA is one that I have fairly invested in, and with the support of this House, we can make sure that we will have replicable models that will help us in our environmental conservation.

The Temporary Speaker (Sen. Abdul Haji): Thank you very much, Cabinet Secretary.

We shall proceed to the next Question. I see that Sen. (Dr.) James Murango is not here, so I will direct that, that Question is dropped.

Question No.072

MITIGATION OF POLLUTION OF RIVERS IN KIRINYAGA
COUNTY BY EFFLUENT FROM EMBU COUNTY

(Question dropped)

Hon. Senators, it is very unfortunate that as Senators, we put a Question in place, the Cabinet Secretary prepares the response, sends a written response, attends the Senate to respond to that Question, and then the Senator is not present. It is very unfortunate. I apologise to the Cabinet Secretary for that, but I have to drop this Question. We also have the provision on our Standing Orders that you can nominate somebody to ask on your behalf if you are not available.

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So, Hon. Cabinet Secretary, my apologies for that, but I thank you for your thorough answers to the questions that were asked today. I would want to also encourage you not to lose heart on this one case where the Senator was not here to ask the question. We need this kind of interactions because the issues that are raised here by the Senators are brought to us by the public and they find this opportunity for them to get the answers they have asked.

So, thank you very much for attending. I wish you all the best in your duties and the work that you have at the Ministry. Thank you very much and we will give you leave.

(The Cabinet Secretary for Environment, Climate Change and Forestry (Hon. Soipan Tuya) was ushered out of the Chamber)

(The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen) was ushered out of the Chamber)

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, we have the Cabinet Secretary for Roads and Transport.

Cabinet Secretary, welcome back to the Senate and thank you very much for appearing.

We will go straight to the questions because of time. Question No.045 by Sen. (Dr.) Oburu Oginga will be asked by Sen. Ogola.

Sen. Ogola, please proceed and ask the question on behalf of Sen. (Dr.) Oburu.

Question No.045

DELAY IN COMPLETION OF VARIOUS
ROAD PROJECTS IN SIAYA COUNTY

Sen. Ogola: Thank you, Mr. Temporary Speaker, Sir. I ask Question No.045 by the Senator for Siaya County, Sen. (Dr.) Oburu Oginga, MGH, MP. The Question is-

(a) Could the Cabinet Secretary explain the delay in the completion of the Wang Arot-Kamito Road (C842) construction project in Siaya County, which was launched in 2016 and provide a timeline for completion of the project? The expected completion period was supposed to be 2016 to 2021.

(b) What are the reasons for the delay in the resumption of construction of Awelo-Liunda Road (C843) in the county and could the Cabinet Secretary provide a timeline for the resumption and completion of the works?

(c) Could the Cabinet Secretary also provide a status update on the upgrading to bitumen standard and performance-based maintenance on Got Nanga - Bar Ober Road (C948), and indicate the projected date of completion?

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Cabinet Secretary, you can respond to the question.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Thank you, Mr. Temporary Speaker, Sir, for the opportunity to come and respond to the questions. Again, let me repeat that it is my greatest pleasure to come back to this august House.

Since all the questions relate to pending roads, allow me, by way of introduction, just to say something in two minutes. One is that the situation has not changed in so far as development of our roads in the country is concerned from the time I was here.

Let me repeat that it is important for the nation to understand that when we came into office in October, 2022, and from when this Government was elected in August, 2022, I inherited a road portfolio on these roads that have been mentioned for development, of about Kshs150 billion pending bills. This amount was in regards to roads that have been pending for even up to 10 years. The last time I was here, I gave examples of some of the roads that have been pending for many years. They include the Tharaka Nithi-Chiakariga and Marimanti Road that we went to launch in 2014.

The people of Kenya will appreciate that the Kshs150 billion required a one-off payment. So, from the time we came to office, we should then have commenced an accumulation of that amount moving forward. Unfortunately, in the first year, we were given a budget of about Kshs53 billion. Of that Kshs53 billion, about Kshs34 billion was disbursed and we paid the contractors in the year 2022/2023. When we paid some of these contractors because it is distributed--- As you know, Parliament budgets for road by road. We distributed a little amount of money across the roads and some of the contractors were able to go on site.

In this Financial Year 2023/2024 that has just ended, the budget provision was initially at Kshs73 billion. Then supplementary budgets came in, cutting the amount up to Kshs51 billion. By the end of that Financial Year, on the 30th June, 2024, which is a few weeks ago, the Ministry had only received Kshs25 billion, half of the disbursements of the budget allocation. What does that mean? For the two years that I have been in office, in terms of budget allocation and disbursement, the actual money that came to the Ministry to chase the road portfolio of Kshs150 billion then was about Kshs50 billion. Of course, the contractor incurred another pending bill when the Kshs50 billion was paid. That moved it again to Kshs165 billion.

As we sit here, we have a pending bill of Kshs165 billion for all the road contracts across the country. That explains why most of the answers that I will read, as supplied to this House, are majorly that we will complete when funding is provided. We have gone to a new Financial Year with another budget of another Kshs50 billion to chase another Kshs165 billion. Therefore, we are not sure there will be a disbursement that is commensurate with the resources we want by the end of this FY.

Unless there is a drastic decision from the National Treasury and Parliament through the budget for a one-time-off payment of Kshs165 billion to the contractors, we will be lying to the nation. I will continue being that Cabinet Secretary accused of lying to say that we will complete these roads in time in the absence of a drastic change in the budgeting process. The situation has been made worse by the misfortune of the failure of the Finance Bill. That means we will stagnate because it becomes a challenge for the Government to look for other resources to plug in the Kshs349 billion.

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Mr. Temporary Speaker, Sir, I will read the answers a bit faster because most of the answers to the questions relate to the nonexistence of budgetary allocation for the roads to be done. This is important for the state of the nation, the Ministry and our roads.

The reason this Government has been accused of miscommunication is that for the last two years, we have behaved like an African father who does not tell his children the exact state of his pocket. This is in the hope that in the fullness of time, you will get something and satisfy your children. Unfortunately, the impatience of your children can easily eat you because you have been trying to hide the truth of what it is.

I have decided that we lay it bare, so that the people of Kenya know the state of their infrastructure, their accounts and budgets. This is so that they will know whether they will be ready to make sacrifices in other sectors to complete the roads. The last statement on this issue is that this is a systemic historic problem.

Some of you sitting here were in the National Assembly during the Jubilee administration, which I am glad to have been part of it. You kept on increasing the number of roads and approving the budget for roads without a clear plan of how these roads will be completed before starting a new one. That is why when this administration came to office, we made it clear to the country that we were not going to start new projects until we complete the projects that were in place. This disease would have been carried forward continuously year after year, and we would be living a lie. That is why we must confront the reality on the ground.

Mr. Temporary Speaker, Sir, I will now go straight to respond to Question No.45. The delay in the completion of Wang Arot-Kamito Road and Maseno-Kombewa-Kalandini Road (D245) and Maseno Town Roads (RWC119) projects were caused by the contractor's withdrawal from the site due to the severe financial distress from the accumulation of the pending bills.

The current pending bill for this project is Kshs203,476,681.90 and the allocated budget for the last financial year, which has just ended, has been exhausted with a payment of only Kshs56,370,000. The budget for the project for this coming financial year is Kshs70 million. You can see that the budget for this financial year is Kshs70 million still chasing the balance of the Kshs203 million, which is the pending bill. Meanwhile, the Ministry is engaging the contractor to prioritise maintenance work to ensure motorability at affected sections ahead of the full resumption of the works.

Mr. Temporary Speaker, Sir, the delay in the completion of Bondo-Wiawi-Kibanga-Liunda Beach Road, which is C-843 road project, is due to the contractor's withdrawal from the site citing delays in payment of interim payment certificates for the certified works. The Ministry, through the Kenya Rural Roads Authority (KeRRA) has engaged the contractor to resume works following partial payment on the previously owed amounts.

The contractor has committed to mobilize and resume operations to ensure the project's completion as modalities are put in place to clear the outstanding amount of Kshs33,777,596.69. In the last financial year, the contractor was paid Kshs61,171,999 out of the allocated Kshs70,800,000. The Ministry aims to clear the balance in the next tranche of disbursement from the National Treasury.

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The upgrading to bitumen standards and performance-based maintenance of the Gotnanga-Jera-Ba-Ober-D-1853 road project is currently at 20 per cent progress, with 2.35 kilometres of tarmac completed out of the contracted 12 kilometres. The project's delay was previously caused by inadequate budgetary allocation, leading to payment delays and the contractor's withdrawal from the site. The contractor has since resumed full operations following the payment of all the pending bills in November 2023. The project is anticipated to be completed in this Financial Year 2024/2025, subject to the appraisal of the contractor's application for an extension of time.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you very much, Cabinet Secretary.

We will go straight to the next Question, No.50, by Sen. Omogeni Erick.

Question No.050

ROAD SAFETY FEATURES AND STATUS OF CONSTRUCTION
OF SELECTED ROADS IN NYAMIRA COUNTY

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir. I rise to ask Question No.050.

(1) Why are there no essential road safety features, including proper markings, signage, rumble strips and speed bumps, on the Metamayua- Mechel-Jebigombe-Nyansiongo road?

(2) Could the Cabinet Secretary also explain the inordinate delay in completing the construction of the Nyageta Bridge along the Metamayua-Mosovit-Kebirigo road, which was commissioned 10 years ago?

(3) Could the CS explain what steps has the Ministry taken to ensure the timely resolution of the aforementioned concerns by the people of the great County of Nyamira?

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Cabinet Secretary?

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Thank you, Mr. Temporary Speaker, Sir. I beg to respond as follows-

Outstanding works remain on the project for the upgrading to bitumen standards and performance-based routine maintenance of the Kijiauri-Nyansiongo-Raitigo-Metamaywa Road. The contractor, China Far East Construction Group Limited, withdrew from the site due to severe financial distress from the significant amount owed by him, amounting to Kshs856,981,424. I am cognizant of the fact that the outstanding works are critical for the safe usage of the road and constitute the installation of tertiary road features such as road furniture, speed bumps, road markings and signage.

It is noteworthy that during road construction the sequence of activities such that the works start with the earthworks followed by pavement works and the tertiary features are attended to last. Unfortunately, the contractor in this case withdrew before carrying out the tertiary works as a result of the aforementioned financial distress.

This has become also a problem for us at the road safety site. The questions Kenya is asking, and then again using this answer, it is across the country. All the roads which are pending are partially done. The sequencing of how to construct these roads requires that you finish first before you start road furniture and markings. The people of Kenya are suffering because there are no bumps and markings in the areas that they are asking. This has been occasioned by the contractor not being on site, therefore, the work has not been finished. It is double jeopardy when it comes to the question of you not having the road completed and not having the safety on the road because of the markings.

Mr. Temporary Speaker, Sir, the Metamaywa-Mosobeti-Kebirigo Road B5 was constructed through the stage construction approach and the Nyageita Bridge was not part of the project's scope due to funding limitations at the time.

The Ministry acknowledges that the bridge requires extension to accommodate increased traffic volumes, following the completion of the road projects. As an interim measure to improve safety, guardrails were installed on the bridge along with the construction of rumble strips and speed bumps at the approaches to calm traffic accessing the bridge.

Number three, regarding the Kijauri-Nyansiongo-Raitigo- Metemaywa Road, the contractor is under instructions to carry out the necessary works as detailed in the substantial completion inspection report. This will be subjected to final completion inspection before the contractor is discharged from the project. However, the contractor has not attended to the outstanding works to date and has since withdrawn from the site due to the aforementioned financial distress.

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

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

The Ministry is pursuing funding options in consultation with the National Treasury to find viable financial solutions to pay a significant portion of the outstanding payment for this and other similar stalled projects to facilitate the completion of outstanding works.

I thank you, Mr. Temporary Speaker.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Hon. Cabinet Secretary for that response.

Sen. Omogeni, I believe you have got a supplementary question to that. I, therefore, grant you the opportunity to proceed.

Sen. Omogeni: Thank you, Hon. Cabinet Secretary for your response. However, you note that in your response you have said, “the outstanding works are critical for the safe usage of that particular road.”

Hon. Cabinet Secretary, I want to bring to your attention that already we have lost close to 10 people along that stretch of that road. This is a matter that is very critical if we are to attain the safe usage of that road by the residents of Nyamira.

Are there any urgent measures you can put in place to ensure that these remaining works are done during this financial year, going by the Government policy of completing

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projects that are already ongoing before we deal with the new ones, noting that there is no one single bus stop along that road or bumps anywhere in the whole of that stretch?

Secondly, on the issue of the Nyageita Bridge, you note that is a high-volume road. The bridge I am mentioning is really a makeshift. It is the road that we use to transport our tea, which is a key economic activity in the County of Nyamira. Can I get an assurance from the Cabinet Secretary that can be done within this Financial Year? That has been pending for more than 10 years. The road was launched and commissioned, but that bridge is a big hindrance to the transportation of tea.

I thank you.

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

Proceed, Hon. Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Thank you, Mr. Temporary Speaker, Sir. At least I did an earlier introduction about the general status of the funding across the country. The thing I would suggest is that maybe we can plan for safety activities just within the available budget. We will see if we can take care of bumps and the markings, even if it is just signage to say 'approach slowly.'

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

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

Mr. Temporary Speaker, Sir, the reason you cannot put the markings is perhaps unless they have finished to the required standards. If you put the marking, you will have to remove again and do it. Based on the experience of this problem across the country, I have been asking the engineers whether we can reverse the decision on how roads are completed. We can do this in such a way that every milestone is complete-complete. That means if you have 10 kilometers and a milestone is one kilometer at a given period, you do the one kilometer up to the markings. Therefore, that is from a policy perspective where we think that we should do that considering that we have a long way to go, so as to complete the remaining kilometers of roads, based on the budgetary allocation. We will look at that widely, but in the meantime, we will try to do some signage and bumps.

Mr. Temporary Speaker, Sir, on the part of the bridge, there is something we are trying to do. The reason maintenance money is becoming difficult to get or apportioning money from the Road Maintenance Levy Fund (RMLF) is because we have reached our limit. At the moment, our road network has increased by 61,000 kilometers from 2016. The value of the RMLF that we have now has depreciated because the power of the Shilling in 2016 is not the same power of the Shilling today and yet, we still collect Kshs18 per litre.

We had a good public participation about increasing the RMLF by Kshs7, so that we raise some money to do this maintenance, and this is another problem across the country. There are roads like the one for Isebania to Kisii whose period for construction by the contractor to construct and maintain is now over and it needs to be handed over to KenHA. There are also other roads that were constructed by our development partners.

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However, the people of Kenya have told us that, yes, we want the roads and, yes, you can get the money, but not at transferring up the cost of the pump by Kshs7. The cost of living is up because fuel creates a problem across the sector. We will sit because we completed the public participation last Monday and then we will go and sit together with the State Department for Petroleum to see if there is a way some other levies can be foregone or do something else. This is so that we concentrate first on raising money for the roads.

Mr. Temporary Speaker, Sir, as we do so, we will also see how to support the Senator's bridge. If we succeed in this endeavor, which I hope we can do in two months or so, we will have a little bit of additional resources and we can save such bridges because of the danger and problems they are causing the country.

I would like to thank Senior Counsel and friend, Sen. Omogeni, because he has been harassing me on the same issue in my office. It means that this is something that means a lot to him and his constituents.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Cabinet Secretary. We will take one supplementary question.

Sen. John Kinyua, is it in regard to this Question? You can go ahead.

Sen. Kinyua: Asante, Bw. Spika wa Muda, kwa kunipa fursa hii. Nashukuru Bw. Waziri kwa kuja na kuweka maneno paruwanya kulingana na vile Wizara yake iko, kulingana na mambo ya barabara. Swali langu ni kwamba nimesikia Bw. Waziri akisema ya kwamba alikisia atapata Kshs165 bilioni, lakini akapata Kshs50 bilioni.

Kuna zile barabara ambazo zinatengenezwa. Bw. Waziri anachagua vipi barababa itakayotengenezwa na ni ile ambayo haitatengenezwa? Ni maswala gani anaangalia? Ile ilianziwa kitambo ama ile ambayo ina shughuli fulani au ni nini anachoaangazia? Hii ni kwa sababu, nimesikia akisema ya kwamba, Seneta wa Nyamira amekuwa akienda kwake ofisini. Mimi pia, nimeenda kwake ofisini na pia najua Maseneta wengi wamekuwa wakienda ofisini kwake.

Pesa ambazo Bw. Waziri ako nazo anasema hazitoshi. Sijui ni mbinu gani anatumia akisema atatengeneza barabara moja katika sehemu ya Laikipia na ile ingine atatengeneza sehemu ya Nyeri. Ni yule ambaye ataenda kwa ofisi ya Bw. Waziri mara nyingi au ni yule atapiga simu mara nyingi ama ni yule Seneta aliye rafiki ya Bw. Waziri?

Sijui niseme namna gani lakini ningetaka Bw. Waziri atueleeze na ninashukuru kwa sababu ameweka mambo paruwanya, vile Wakenya wangetaka ili wajue ya kwamba unatumia zile pesa unazo vipi.

The Temporary Speaker (Sen. Abdul Haji): Asante, Bw. Seneta.

Bw. Waziri.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen). Bw. Spika, ningependa kwanza kusema ya kwamba katika bajeti ya barabara, uwezo hauko kwa mikono ya Wizara peke yake ila bajeti inapitishwa na Bunge la Taifa.

Wakati tunapitisha hiyo bajeti, inakuja kama iko na pesa zote za barabara, ni barabara gani na itapewa pesa ngapi. Kwa lugha ya Kiingereza, inaitwa *itemized budget*.

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Wakati bajeti inapitishwa kama ile *schedule* iliyopitishwa majuzi inayoonyesha pesa zinavyotumika, tayari imetenga pesa za kila barabara. Ukiangalia zile barabara nilizozisoma hapo awali, nilionyesha wazi kila barabara na kiasi chake kwa bajeti. Wakati hiyo *schedule* itatoka *National Treasury* mda wowote kutoka sasa, kila mkenya ataweza kuangalia ni pesa ngapi imetengwa kwa barabara ya kaunti fulani.

Swali la kwanza la Sen. Kinyua lina maana sana lakini pia ni la kisiasa. *It is a political decision. It is a policy-political decision.* Pole kwa kuchanganya lugha. Hii ni kwa sababu, saa hii nikisema ya kwamba, kwa sababu tumepewa fedha asilimia 58 ya zile fedha tunazohitaji kumaliza barabara, niamue kumalizia barabara za Elgeyo-Marakwet mwaka huu, ndio mwaka ujao tuende kwa Kaunti ya Nyeri halafu tufuatie na Kaunti ya Garissa, hapo kutakuwa na mvutano mkubwa sana katika Taifa. Ndiposa unaona katika Bajeti, kila mtu anapewa kidogo kidogo kwa sababu ile *milestone* ifaywe kwa kila *stage* ya barabara.

Mr. Temporary Speaker, Sir, allow me to repeat this in English. Many Kenyans are saying, why you not take the little money? Last financial year, we got 25 billion out of a budget of Kshs51 billion, out of a need of a pending bill of Kshs165 billion. The people of Kenya are asking me to take the Kshs25 billion, finish the Road from Waiyaki to Rironi, complete the interchanges and pay the contractor. That decision is not tenable politically for so many leaders. When Parliament is doing the budget, they want to make sure that the contractors in every part of the country are taking steps.

The second and most difficult problem is that, if you do not make an attempt to continue paying their contractors, you are worsening the interests. Some contractors will leave the site completely. They will take legal action against the Ministry and the agency. Therefore, to make them go back to the site will become difficult. Therefore, for the two years, I have become a negotiator of some sort. Thanks to my political and legal training. I have had to call a contractor and plead with them to go to site because we are paying them 20 per cent of their required amount. We will try our best to make a case. We are still doing so and we believe that perhaps before the end of this year, we will have made a step to solve this problem.

Mr. Temporary Speaker, Sir, I know it is not within my purview, but I request your indulgence to allow me to answer all the Questions asked in the book, and then all supplementary questions can come once. This is because all the questions are almost the same; on roads. It may be useful to combine those that are similar.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Very well, Cabinet Secretary. However, before we proceed to the next Question, Sen. Ogola, accept my apologies. We did not give you an opportunity to ask a supplementary question on Question No.045. Do you have a Supplementary Question?

Sen. Ogola: Thank you, Mr. Temporary Speaker, Sir, for making that consideration. My supplementary question on the questions that the hon. Sen. (Dr.) Oburu had asked were on the timelines. However, the Cabinet Secretary has mentioned some timelines on the two questions.

My other concern is that the Cabinet Secretary has talked about the inadequacies with our finances, which we all know. What happens with the massive problems we have

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on our roads after the massive floods that just ended? That is a general question and not specific to Siaya County. It points to the inadequate finances you were talking about, and yet all over the country we have broken roads after the floods.

Thank you.

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

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Mr. Temporary Speaker, Sir, I will be brief so that I save time.

This question is important, but it also touches on the other question on Road Maintenance Levy Fund (RMLF). Restoration of roads affected by floods is actually maintenance. I had already explained that we are unable to do so because the RMLF is running low or short of resources. In my earlier response to Sen. Omogeni, I stated that if we make a case and succeed to get some enhanced resources, we will deal with mitigation of floods that affect our roads.

The assessment we did after the floods, including the *El Niño* and the ones that occurred early this year, is that we need Kshs37 billion to restore the roads back to how they were. This is a big challenge for the Ministry. However, that will be mitigated a little bit if we get something from an enhanced RMLF.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Cabinet Secretary.

Let us go to the next by Sen. (Prof.) Tom Ojienda Odhiambo, SC. That is Question No.058

Question No.058

STAFF WELFARE AND RETRENCHMENT
AT KENYA AIRWAYS

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Temporary Speaker, Sir, Question No.058 addressed to the Cabinet Secretary for Roads and Transport is on Kenya Airways (KQ).

(a) What is the extent of the Government's involvement in the operational matters of Kenya Airways, specifically regarding protection and welfare of staff?

(b) Could the Cabinet Secretary provide details of Kenya Airways staff who have lost their employment as a result of redundancies and retrenchments since 2010 and explain what necessitated the workforce reductions?

(c) Was the procedure followed during the exercise lawful, and could the Cabinet Secretary indicate whether all benefits due to the affected staff were paid?

(d) How many retrenchment cases by the organisation have been found to be against the law, and could the Cabinet Secretary state the number of retrenched staff re-employed by Kenya Airways, if any, and what informed the decision?

(e) What impact has court pronouncements through judgements had on job redundancies and retrenchment policy, practices and the attendant send-off package at Kenya Airways?

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The Temporary Speaker (Sen. Abdul Haji): Hon. Cabinet Secretary, because of time, I will use the Standing Orders to extend this sitting for a further 15 minutes, so that we conclude Question No.058.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Mr. Temporary Speaker, Sir, unfortunately, I may not meet the expectations of the Senior Counsel and hon. Senator because the Government of Kenya holds a significant stake in KQ. That is approximately 48.9 per cent of the shares.

The Government of Kenya is represented on the Board of KQ through the National Treasury and the Ministry of Roads and Transport. However, operational matters, including those related to protection and welfare of staff, are primarily the responsibility of the KQ itself. These operational issues are typically addressed and managed by the management and leadership of KQ.

The KQ is not really a parastatal *per se* where we have proper access to all the information. I do not want to commit myself to answers that they will write to me. The Ministry suggests that we invite KQ as an organisation to take responsibility. That can be done preferably by a committee, so that these issues are dealt with comprehensively.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Cabinet Secretary.

Sen. (Prof.) Tom Ojienda Odhiambo, SC, proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Temporary Speaker, Sir, as the Cabinet Secretary has indicated, obviously his response is unsatisfactory. In view of his response on the need to interrogate the leadership of KQ, the question of shareholding arises.

Mr. Temporary Speaker, Sir, I note that the Government has 48 per cent shareholding, but there is the other question of the public interest that also arises under this obligation. I will reach out to the Cabinet Secretary and share with him some precedents on this question, and I will make sure he comes back to answer the question because he cannot run away from the problem of Kenya Airways.

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

Hon. Senator, since we have extended the sitting for 15 minutes, Sen. Faki, we are not taking any supplementary questions at the moment. We will take supplementary questions at the end and that is what we have agreed.

We are going to the next question.

(Sen. Osotsi spoke off the record)

Sorry?

What is your point of order, Sen. Osotsi?

Sen. Osotsi: Mr. Temporary Speaker, Sir, we have so many questions to ask and the time is very limited. I am seeing a situation where the Cabinet Secretary is taking too much time trying to explain, and yet he has a written response. To save on time, he can focus on the written response and then we can create time for supplementary questions.

The Temporary Speaker (Sen. Abdul Haji): Sen. Osotsi, the Cabinet Secretary has not spent a lot of time on the written response; he has actually been very brief. Anyway, because of time, let us go to the next Question, which is actually raised by you.

Could you proceed to ask Question No.59, so that we can proceed?

Question No.059

CRITERIA FOR ALLOCATION OF FUNDS BY KERRA AND
MEASURES TO PREVENT MISAPPROPRIATION

Sen. Osotsi: Thank you, Mr. Temporary Speaker, Sir, and thank you, Cabinet Secretary, for appearing to answer my Question. I rise to ask Question No.59, and it reads-

(a) Could the Cabinet Secretary provide the criteria used by Kenya Rural Roads Authority (KeRRA) in the allocation of funds to counties for the period April to June, 2024, and explain why only four counties including Vihiga and Garissa where you come from were left out in the allocation?

(b) What measures have been put in place by the Ministry to ensure that KeRRA funds are not misappropriated through skewed procurement and political interference in the awarding of road construction contracts? Mr. Temporary Speaker, Sir, this touched on the 10 per cent and 22 per cent.

(c) What steps is the Ministry taking to eliminate duplicity in awarding contracts, for the construction and maintenance of rural roads, and to avert the misappropriation of the funds?

The Temporary Speaker (Sen. Abdul Haji): Hon. Cabinet Secretary, please, proceed to respond.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Mr. Temporary Speaker, Sir, I beg to respond as follows-

The allocation of funds to counties is defined by the provisions of the Kenya Roads Act, 2007, where 22 per cent of the Roads Maintenance Levy Fund (RMLF) is allocated for the maintenance of constituency roads and the 10 per cent for the maintenance of link roads between constituencies.

These allocations are shared equally across all the 290 constituencies in the 47 counties, with variations only resounding from the number of constituencies per county. Consequently, the funds disbursed to counties in the period in question constituted a second tranche of the 10 per cent of RMLF allocation shared equally, as outlined above. Vihiga County received Kshs20 million in this tranche being Kshs44 million per constituency. Enclosed are the details of the locations to each county for 10 per cent RMLF as Appendix one, and 22 per cent RMLF as Appendix two.

The allocation for maintenance under the development budget is mainly guided by Parliament in the allocation of public participation initiatives and other pressing emergencies that Parliament may consider necessary. The Ministry may allocate development funds for maintenance based on critical areas to be addressed, such as mitigation against flood damage and other emergency interventions.

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Due to the limited budget ceiling available to the State Department of Roads, KeRRA is unable to allocate funds to all critical areas. Allocated funds should be enough to address the particular challenge and realize value for money as a thin spread of funds would result in ineffective allocation with little to show from the spread.

The procurement of road works in KeRRA adheres to the Public Procurement and Asset Disposals Act (PPDA), 2015 as amended in 2022, including the Public Procurement and Asset Disposal (PPDA) Regulations of 2020. Key controls in line with the Public Procurement and Disposal Act, 2015 include open tendering for the road works, restricted tendering through a pre-qualified list, publishing all tenders on the authority's website and the Public Procurement Information Portal (PPIP), strict adherence to awarding at least 30 per cent of the contracts to special groups, in line with Access to Government Procurement Opportunities (AGPO).

Three, to prevent duplicity in road works, the Ministry undertakes several measures, which include-

(a) Sharing annual road works programme with all relevant agencies including county governments;

(b) Ensuring adequate consultation with county governments when roads under their purview are prioritized by the Constituents Roads Committee for maintenance works and entering into Memorandum of Understanding (MoU) as applicable;

(c) Notifying the public through various platforms, including media channels and public votes about ongoing projects, scope of works and contractor detail and other salient information;

(d) Conducting internal audit and rigorous quality control measures, including material testing to ensure that there is value for money; and,

(e) Collaborating with statutory and regulatory entities responsible for oversight and monitoring of road works, including technical auditors, parliamentary Committees and the office of Auditor-General (OAG) to ensure prudent utilization of public resources.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Osotsi, your supplementary question?

Sen. Osotsi: Thank you, Cabinet Secretary, for your answer. However, looking at the first part of the question, which talks about the allocation of funds to the counties between April and June, 2024, the Cabinet Secretary is a bit general on this matter. I thought that he would bring a list of all the counties and what was allocated.

This is because the list I have indicates that money for the maintenance of roads, which is outside the Road Maintenance Levy Fund (RMLF) was allocated within that period. Four counties, which include Vihiga County and your County, Mr. Temporary Speaker, Sir, were left out. So, this is the list I would wish the Cabinet Secretary to make reference to; not the RMLF, which as we know, is at 22 per cent while the 10 per cent is for maintenance of roads that link constituencies. I refer him to that listing of funds which were given to the counties between April and June, that indicates that my county got nil.

Number two, the answers to question two and three is the best case scenario. However, we know that the 22 per cent and the 10 per cent of the Kenya Rural Roads Authority (KeRRA) funds, which are under the management of Members of Parliament (MPs) are misappropriated. That is a fact and it is something that we discussed the whole of last week and this week. So, as much as the answer there looks very good, *vitu kwa* ground are different.

Mr. Temporary Speaker, Sir, number three is the issue of duplicity in road maintenance and construction. This is a serious problem that the county, the MP and in some places, even the Member of County Assembly (MCA) and KeRRA also put money on the same road. You, therefore, end up having a situation where public money is misused. According to me, the answer given by the Cabinet Secretary is not adequate. He needs to go on the ground to get the real facts about this problem, which we all know, as Senators, that it is happening in our counties.

The answers given by the Cabinet Secretary are very inadequate. I expected that, having been a Senator in this House, he would respond very well to questions two and three because these are challenges we go through.

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

Cabinet Secretary, proceed.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Mr. Temporary Speaker, Sir, first of all, the truth is that every constituency gets the same amount of money from the Kenya Rural Roads Authority (KeRRA). They are the same. For the last Financial Year, it was Kshs62 million for every constituency in the Republic. The Kenya Roads Act 2007, Section Six, makes it mandatory to be shared equally across the country. So, Vihiga gets its fair share of its constituency.

How it is advertised is different for every constituency at different times, depending on the constituency roads committees, meetings and so forth. Under the answer I gave, you would have picked a period where there was an advert going out for that county among others across the country in relation to that figure. Cumulatively, when you finish the financial year depending on how the planning was done for every constituency, it will eventually lead to Kshs 62 million.

Mr. Temporary Speaker, Sir, the last time I was in this House before I left, which I hope is still the case was that it is not right to impute an improper motive to the other Chamber, for the committee and good working relationship with the two Chambers of Parliament, it is important not to generalize a debate about the National Assembly and the Senate. As I throw my eyes around the House, I see three former Members of the National Assembly who managed constituencies and worked with the constituency roads committee.

Hon. Lomenen, Hon. Tobiko, Hon. Kisang and Hon. Abass all have a good history of how the KeRRA works with constituencies. As we progress, more people are coming from the National Assembly to work here, as some people leave here to find themselves in the National Assembly. I know a number of those we worked together with. Then others will become governors. I suspect that this Hon. Member is one of the suspects.

(Applause)

Mr. Speaker, Sir, this kind of arrangement requires us to find our way. When I first came to this Chamber, I had problems with The National Government Constituencies Development Fund (NG-CDF) and other money going to constituencies. As I progressed towards the second term, I asked myself if it was better to go to my constituency, say Marakwet East, where I come from, to fight with the Constituency Roads Committee people that I know and the MP or to centralize all resources to Nairobi and fight here with so many other people.

I told myself that even for resources that remain with the national Government using the method where the money goes to the constituencies, it is easier to deal with characters on the ground and hold them to account than to keep the money at the headquarters here and shroud it with a lot of mystery. I then worked very well with the Hon. Members, including Senator Kisang here. We made sure that the NG-CDF funds schools in a way that mitigates this issue of marginalization across the country.

Mr. Temporary Speaker, Sir, I agree with Sen. Otsotsi that the problem of duplication is real. However, it is not general, but specific to certain areas. It is a problem we are grappling with, even with the Ministry. We have made sure that we sign Memorandum of Understandings (MoUs) with counties that requested KeRRA to maintain the roads.

We have also expedited the process of graduating the roads through Kenya Roads Board, handing it over from counties to the national Government and gazetting it. So, if we find counties still maintaining a road that is already gazetted at the national level, it becomes easy for the Auditor-General to point out this issue of double allocation.

Accountability is not up to date in this area of allocation of devolved roads money, especially in marginalized counties and it is something we are working on at the Ministry. It is good to acknowledge as it is, but it is not general that I would say even Vihiga is a victim. In the case where there is actual evidence that this is happening in a certain place, Sen. Otsotsi can give me the information, even if it is not publicly, but privately. I do not like to fight with the MP. I do not know the MP, the committees and what is happening there. We will hold the regional director of the agency KeRRA into account. The responsibility is with the regional director and that is the person I will hold into account that the money is allocated to where they have told us it is allocated.

I thank you, Mr. Temporary Speaker Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you very much, Cabinet Secretary.

The next question is No.61 by Sen. (Prof) Tom Ojienda.

*Question No.061*MAPPING AND RECONSTRUCTION OF TRANSPORT
INFRASTRUCTURE AFFECTED BY FLOODS

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Question No.61 to the Cabinet Secretary, Roads and Transport is in five parts.

(1) Is the Ministry currently undertaking real-time mapping of all roads, bridges and other transport infrastructure affected by the April-May, 2024 unprecedented rains and floods, and if so, could the Cabinet Secretary for Roads and Transport provide a list of all affected transport infrastructure across the country?

(2) What flood mitigation measures are required to bring each affected infrastructure to a state where it can withstand the rains and floods, especially in Lamu, currently being witnessed in the country, and what are the budgetary implications of such improvement?

(3) Could the Cabinet Secretary outline the obligations of the national Government *vis-à-vis* those of the county governments regarding the reconstruction of each transport infrastructure affected by floods?

(4) What long-term measures are being implemented to address the poor drainage system throughout the major cities and towns, bearing in mind Narok, ensuring that such occurrences do not repeat in the future, and what are the budgetary implications of these actions?

(5) What steps are being taken to compensate victims of vast transport infrastructure engineering that resulted in changes in the path and course of various rivers, hence the flooding of some houses, homes, and human settlements that naturally were not in the path of those rivers, taking into account Nairobi River?

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Cabinet Secretary?

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Mr. Temporary Speaker, Sir, I confirm that the Ministry, through its road agencies is actively undertaking real-time monitoring and mapping of infrastructure affected by the unusually heavy rains during the period of April, May 2024, as well as the *El Nino* rains of October to December, 2023. This initiative aims to facilitate timely repair and reconstruction efforts. The detailed report on the observed damage to our transport infrastructure is presented herewith. The required mitigation measures vary depending on the structure and type of road pavement.

Road structures such as bridges and culverts are designed to handle abnormal flows of a specific return period without incurring damage. To carry out the necessary reinstatement works, comprehensive hydrological and hydraulic studies are conducted to inform the redesign of the structures.

Subsequently, the required works include the reinstatement of structures, enhancement of drainage systems, protection of works, rebuilding of embankments and redesign of road pavement and alignments. The proposed budget to facilitate these activities is annexed herewith.

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According to the Fourth Schedule of the Constitution, the national Government is responsible for the construction and operation of national trunk roads and set standards for the construction and maintenance of roads by both national and county governments. The county government is responsible for the construction and operation of county roads.

From this, it is evident that the national Government ensures that national trunk roads meet the required standards for safety, durability and resilience against natural disasters such as floods. In setting standards for counties, the national Government provides technical expertise, guidance on materials, construction methods, and maintenance practices to be followed by county governments. The county government, on the other hand, ensures accessibility and maintains roads to be passable and safe for all users. Both levels of government must collaborate in assessing and planning the reconstruction and infrastructure affected by floods and instituting flood mitigation measures.

Number four, the Ministry is currently reviewing its road design manuals to incorporate flood mitigation design principles, ensuring more resilient infrastructure capable of withstanding climate change challenges. The securing of waterways is ongoing to support this very important initiative.

The Temporary Speaker (Sen. Abdul Haji): Hon. Cabinet Secretary, thank you for appearing. Just as a point of information, the Senate Business Committee (SBC) has indicated that the remaining questions shall be referred to next week. I hope we will have you again. That is how much we like you, Hon. Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Hon. Kipchumba Murkomen): Thank you.

The Temporary Speaker (Sen. Abdul Haji): We will have you appear in this House again next week.

ADJOURNMENT

Hon. Senators, it is now 1.15 p.m. Having concluded the business for which I extended the hours of sitting, pursuant to Standing Order No.34 (2A), the Senate stands adjourned until today, Wednesday 10th July, 2024, at 2.30 p.m.

The Senate rose at 1.15 p.m.