

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 8th May, 2025

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?
Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Hon. Senators, we now have quorum, kindly take your seats. Clerk, proceed to call the First Order, please.

MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE SOCIAL PROTECTION BILL (NATIONAL ASSEMBLY BILLS NO.12 OF 2025)

The Speaker (Hon. Kingi): I wish to report to the Senate that pursuant to Standing Order No.46(3), I received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Social Protection Bill (National Assembly Bills No.12 of 2025).

The Message, dated Wednesday 30th April, 2025, was received in the office of the Clerk of the Senate on Tuesday 6th May, 2025. Pursuant to Standing Order No.46(4), I now report the Message.

Pursuant to the provisions of Standing Order No.41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

WHEREAS the Social Protection Bill (National Assembly Bills No.12 of 2025), was published *vide* the Kenya Gazette Supplement No.43 of 20th March, 2025 as a Bill to provide a framework for the administration of non-contributory social protection interventions and to establish the National Board of Social Protection,

AND WHEREAS the National Assembly considered the said Bill and passed it with amendments on Wednesday, 30th April, 2025 in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Orders No.41 and 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration.

Hon. Senators, pursuant to Standing Order No.163, which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading, in accordance with Standing Order No.144, I direct that the Social Protection Bill (National Assembly Bills No.12 of 2025), be listed in the Order Paper for Tuesday 13th May, 2025 for First Reading.

I thank you.

Next Order.

PETITIONS

DISCRIMINATION, INTERFERENCE AND VIOLATION OF CLINICAL OFFICERS' PRACTICE RIGHTS BY THE MINISTRY OF HEALTH, COG AND SHA

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. This is a Petition to the Senate by the Kenya Union of Clinical Officers (KUCO) concerning discrimination, interference and violation of clinical officers' practice rights by the Ministry of Health (MoH), the Council of Governors (CoG) and the Social Health Authority (SHA).

I rise pursuant to Standing Order No.232(1)(b), to present a Petition that has been submitted by the KUCO, who are citizens of the Republic of Kenya.

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

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation”.

Mr. Speaker, Sir, the salient issues raised in the Petition are-

(1) That the KUCO is a duly registered trade union mandated to present and champion the interests of all clinical officers in Kenya. Further, the Clinical Officers Council (COC) is a statutory body established under the Clinical Officers Act No.20 of 2017 to regulate the training, registration, licensing and practice of clinical officers and their facilities.

(2) That clinical officers are highly trained health professionals providing essential services across all levels of care in both public and private sectors with over 30,000 registered practitioners and more than 1,000 facilities previously contracted under National Health Insurance Fund (NHIF).

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(3) That the MoH, the CoG and the SHA are engaging in acts of discrimination, administrative interference and violation of clinical officers' practising rights, including;

(i) Excluding KUCO and clinical officers from key policy discussions and labour negotiations to the treatment of other health sector unions;

(ii) Denying empanelment and contracting of clinical officer office-run facilities under SHA, despite their legal accreditation, thereby limiting access to care for thousands of Kenyans and undermining the objectives of social health insurance;

(iii) Coercing clinical officers to seek double licensure from the Kenya Medical Practitioners and Dentists Council (KMPDC) for their facilities contrary to the law, resulting in extortion and regularized corruption; and,

(iv) Removing specialised clinical officer pre-authorisation rights, disrupting service delivery and causing patients to serve at delays and increase out-of-pocket costs.

(4) That the Universal Health Coverage (UHC) staff and clinical officer interns face unfair and discriminatory terms of service, including delaying postings and inadequate remuneration, in violation of principles of fair labour practices and right to equal pay for equal work.

(5) That the county governments have failed to adopt and implement the approved career guidelines for clinical officers, which are important for transparent recruitment, promotion and career progression, thereby undermining motivation, retention and professional standards in the public service sector.

(6) That following a strike lasting 99 days under the county governments and 121 days under the MoH, the union and employers; MoH and county governments entered into a Return to Work Agreement (RTWA), as directed by the Employment and Labour Relations Court. However, despite the union's efforts to follow up and expedite the implementation of this agreement, employers, especially county governments, have remained adamant and have not fulfilled the applications under the RTWA

(7) That the petitioners have made the best efforts to have matters addressed by relevant authorities, including MoH, all of which have failed to give a satisfactory response.

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

Consequently, the petitioners pray that the Senate intervenes on this matter with a view to making recommendations that-

(i) The SHA Board ends the discrimination and exclusion of clinical officers by empaneling all clinical officers registered by the Clinical Officers' Council and restating pre-authorisation rights to clinical officers as resolved by the MoH and the CoG, in order to alleviate the severing on out-of-pocket costs to Kenyans.

(ii) The RTWA between the union and employers - MoH and the 47 county governments - is fully implemented.

(iii) The MoH promptly posts all clinical officers due for internship and harmonizes their payments in accordance with the reference of the Public Service Commission Secular; and,

(iv) The contracts under Universal Health Coverage Staff immediately be converted to permanent and pensionable terms (P&P), in compliance with the relevant provisions of the law.

I thank you, Mr. Speaker, Sir.

(Sen. Nyamu consulted loudly)

The Speaker (Hon. Kingi): Sen. Karen Nyamu, you have become notorious in defying the Standing Orders and that should be your last warning.

Hon. Senators, pursuant to Standing Order No.238(1), I commit the petition to the Standing Committee on Labour and Social Welfare. In terms of Standing Order No.238(2)(a), the Committee is required in not more than 60 calendar days from the time of reading this prayer, which is today, to table its report in the Senate for consideration. The Senate shall thereafter consider and adopt the report of the committee.

I thank you.

*(The Petition was committed to the Committee
on Labour and Social Welfare)*

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

STATUS OF IMPLEMENTATION OF THE SENATE RESOLUTION ON PROMOTION OF MENTAL HEALTH FACILITIES FOR MOTHERS

Sen. Kibwana: Thank you, Mr. Speaker, Sir. My first Statement is regarding the implementation of the Senate resolution on the promotion of mental health facilities for mothers.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health on a matter of national concern regarding the status of implementation of the Senate resolution on the promotion of mental health facilities for mothers.

World Mental Health Day is commemorated annually on 7th May and seeks to raise awareness of mental health challenges that occur during the perinatal period, defined as time from pregnancy through to two years after childbirth. During this critical period, many women and indeed families, face serious mental health conditions such as perinatal and postpartum depression, psychological distress following still birth and anxiety disorders.

The studies show that one in five women and one in 10 men experience depression or anxiety during the perinatal period, posing a serious threat to parenting,

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

bonding and family well-being, yet, due to stigma and systematic gaps in our health systems, these issues then go undiagnosed and untreated.

In the Statement, the Committee should address the following-

(1) Apprise the Senate on the status of implementation of the Senate resolution on the Motion, promotion of the mental health facilities for mothers who have just given birth and are experiencing mental health issues, which was adopted by the House on 10th November, 2022.

(2) Plans and activities being undertaken by the Ministry of Health and county governments to commemorate World Maternal Mental Health Day and promote public awareness around perinatal mental health.

(3) Highlight availability and accessibility of maternal mental health services at public health facilities, including the presence of trained professionals, counselling infrastructure and referral systems.

(4) Steps being taken to combat stigma and increase community education around perinatal mental health, including support for both mothers and fathers.

Thank you, Mr. Speaker, Sir.

INCONSISTENT QUALITY OF AIRLINE SERVICES ON AFRICAN FLIGHT ROUTES BY INTERNATIONAL CARRIERS

I have one more Statement on quality of airline services on African flight routes by international carriers.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing on a matter of international concern regarding the inconsistent quality of in-flight service and passenger experience by certain international airlines, operating flights to and from African destinations, including Kenya.

I recently had the opportunity to travel on multiple international carriers, including Egypt Air and Turkish Airlines, flying from Nairobi to various destinations across Europe and the Americas. I observed concerning disparity in service quality both in business and economy class and on the African legs of these flights compared to the standards maintained on the Europe and North America segments of the same airlines.

Specifically, the African segments exhibited lower standards in areas such as cabin cleanliness, meal quality, in-flight entertainment, staff responsiveness and overall attention to passenger comfort and dignity. These discrepancies are increasingly being reported by other African travellers and raise critical concerns about discriminatory service practices, double standards and the possible undermining of consumer rights for African passengers.

Mr. Speaker, Sir, this situation is not only unjust to African travellers, many of who pay premium fares for international flights, but also damages Kenya's standing as a regional aviation hub and tourist destination. The principle of non-discrimination in service provision must apply uniformly, regardless of the flight origin or destination.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Kenyan and African passengers deserve equitable, dignified and high-quality service when they board international flights, regardless of which continent they are departing from or flying to. I urge the Committee to treat this matter with the seriousness it deserves and ensure this House is duly informed on the way forward.

In the Statement the Committee should address the following-

(1) Measures the Kenya Civil Aviation Authority (KCAA) and other relevant agencies have put in place to address this service disparity by international airlines operating flights to and from Kenya.

(2) Guidelines or agreements in place to ensure uniform service standards and passenger experience by international carriers regardless of route geography and whether there are collaborations with the African or regional bodies to advocate for fair treatment of African passengers on international flights.

(3) Remedial measures that could be pursued to engage airlines like Egypt Air, Turkish Airlines, among others, on concerns of inconsistent and potentially discriminatory service on African routes.

(4) Kenya's consumer protection mechanisms in aviation to address complaints of poor or unequal service by international airlines.

Thank you.

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

That Statement is dropped.

GOVERNMENT DECISION TO LEASE PUBLIC
SUGAR COMPANIES

(Statement dropped)

Statement pursuant to Standing Order No.56(1)(B). The Chairperson, Standing Committee on Information, Communication, and Technology.

That Statement is deferred to next week.

ACTIVITIES OF THE COMMITTEE ON INFORMATION,
COMMUNICATION AND TECHNOLOGY

(Statement deferred)

The Chairperson Standing Committee on Justice, Legal Affairs and Human Rights.

That Statement is also deferred.

ACTIVITIES OF THE COMMITTEE ON JUSTICE,
LEGAL AFFAIRS AND HUMAN RIGHTS

(Statement deferred)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The Chairperson Standing Committee on Labor and Social Welfare.

ACTIVITIES OF THE COMMITTEE ON
LABOUR AND SOCIAL WELFARE

Sen. Murgor: Thank you, Speaker Sir, for giving me this opportunity to read this Statement relating to the activities of the Standing Committee on Labor and Social Welfare for the period between 11th February, 2025 to 30th April, 2025, pursuant to Standing Order No.56(1)(b) of the Senate Standing Orders.

Mr. Speaker, Sir, during the period under review, the Committee held a total of 23 sittings, during which it considered 72 Statements, two Bills and four Petitions.

Following the reconstitution of committees and recognizing the expansive nature of its mandate, the Committee conducted a Work Planning and Induction Retreat, to effectively integrate newly appointed Members and to ensure continuity in its operations.

Additionally, the Committee conducted extensive stakeholder engagements with the ministries and agencies under its oversight, particularly during consideration of the 2025 Budget Policy Statement (BPS). Attached to this Statement is a schedule of legislative business currently before the Committee (*Appendix 1*).

Mr. Speaker, Sir, during the period under review, the Committee received 15 Statements addressing concerns on labour rights violations, mismanagement and delays in pension and statutory benefits, poor public sector human resource practices and inadequate enforcement of social protection laws. The Committee engaged the relevant stakeholders to provide detailed responses, which were circulated to the respective Senators for their consideration.

During the period under review, a Petition was submitted concerning the failure of Kenya Breweries Limited (KBL), Kaplan & Stratton Advocates and Harrison Kinyanjui Advocates to pay compensation awarded to the Petitioners. The Committee reviewed the Petition relating to the enforcement of the judgment in HCCC No.279 of 2003. Following the review, the Committee convened sittings with the relevant law firms and the Advocates Complaints Commission (ACC).

To ensure accountability, the Committee recommended that the Advocates Complaints Commission undertakes several critical actions, including requesting compensation disbursement records from Kenya Breweries Limited, convening hearings with the involved law firms, assessing compliance with legal, ethical and fiduciary standards and examining the High Court records to address any discrepancies or unresolved matters. The Committee emphasized the urgency of the matter and requested an interim progress report within 14 days to ensure timely and effective resolution.

The Committee remains seized of Petitions carried over from the previous sessions, namely, the multi-payment of annuity between Maziwa Sacco and former employees of the Kenya Cooperative Creameries (KCC) Ltd, the winding up and liquidation of the Technical University of Kenya (TUK), Staff Retirement Benefits Scheme and petition concerning persons with invisible disabilities. We will table reports on the same after completion.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Mr. Speaker, Sir, the Committee is currently undertaking three inquiries as follows-

- (a) the welfare of Kenyan Migrant Workers;
- (b) the payment of one-off honorarium to former Councilors; and,
- (c) an inquiry into the fate of candidates shortlisted under the Diaspora Jobs Programme administered by the Ministry of Labour and Social Protection. The Committee has scheduled meetings with the concerned institutions.

Mr. Speaker, Sir, the inquiry on the fate of candidates shortlisted under the Diaspora Jobs Programme administered by the Ministry of Labour and Social Protection raises grave concerns of unethical recruitment practices impacting Kenyan citizens both domestically and abroad.

The Committee has prioritized gathering firsthand accounts to fully understand the matter. Accordingly, the Committee convened meetings with some affected job seekers and will further engage the implicated recruitment agencies, the National Employment Authority (NEA) and the Ministry of Labour and Social Protection. Through these engagements, the Committee will make recommendations aimed at rectifying challenges and preventing recurrence in future.

Mr. Speaker, Sir, for the next quarter, the Committee will prioritize the following areas within its mandate-

(1) Protection of workers' rights and enforcement of fair labour practices, including addressing labour exploitation, migrant worker welfare, and unethical recruitment practices under the Diaspora Jobs Programme.

(2) Management and resolution of pension schemes, payment of terminal dues and unremitted statutory deductions for employees of state corporations, county governments and other affected institutions.

(3) Strengthening of public sector human resource management, including staff recruitment, promotion and measures to eliminate ghost workers and ensure transparency and meritocracy.

(4) Oversight of social administration of welfare initiatives such as the Inua Jamii Programme and the protection of vulnerable populations.

(5) Enhancement of sports development policies, with a focus on promoting alternative sports and improving sports talent management at the county and national levels.

Mr. Speaker, Sir, I wish to thank your office and the Office of the Clerk of the Senate for the continuous support accorded to the Committee in executing its mandate. I also wish to thank the Members of the Committee for their diligence, dedication and valuable contributions to the activities of the Committee.

I submit.

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.57(1).
Proceed, the Senate Majority Leader.

BUSINESS OF THE SENATE FOR THE WEEK
COMMENCING TUESDAY, 13TH MAY, 2025

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, before I proceed with this Statement, let me take this opportunity to welcome hon. Senators back from the short recess. I hope they took time to rest, spend time with their families and friends, reconnect with their constituents and rejuvenate themselves for Part III of the Fourth Session. I hope they noted the order of those activities. How they are scripted was quite intentional.

Mr. Speaker, Sir, while some progress was made in Part II of the Session, which saw the Senate pass seven Bills, we still have a long way to go in processing legislative business. The current status of business pending before the Senate includes—

(a) Fifty-two Bills, of which 40 are at the Second Reading Stage and 12 are at the Committee of the Whole stage;

(b) Twenty-three Motions are pending conclusion;

(c) Twenty-six petitions are pending conclusion, out of which 17 are due for reporting by respective Standing Committees; and,

(d) Four hundred and fifty-seven statements pursuant to Standing Order No.53(1) are under consideration by Standing Committees.

From the above business, it is evident that a considerable amount of business remains before us. As we approach the halfway point in the Session, I urge hon. Senators to be present in the Chamber to transact business as scheduled in the Order Paper. Additionally, I implore Standing Committees to expedite their consideration of pending business and table their reports pursuant to the Standing Orders.

Mr. Speaker, Sir, on Tuesday, 13th May, 2025, the Senate Business Committee (SBC) will meet to consider the business for the week. The tentative business for that day will include business not concluded from today's Order Paper as well as the business indicated in the Notice Paper.

The tentative business for the Morning Sitting on Wednesday, 14th May, 2025, will include the Schedule of Questions to Cabinet Secretaries as approved by the SBC, as well as Motions.

The Questions scheduled include -

(a) Question No.057 to the Cabinet Secretary for Labour and Social Welfare by Sen. George Mbugua, MP;

(b) Question No.065 to the Cabinet Secretary for Co-operatives and Micro, Small and Medium Enterprises (MSMEs) Development by Sen. Joyce Korir, CBS, MP;

(c) Question No.078 to the Cabinet Secretary for Co-operatives and Micro, Small and Medium Enterprises (MSMEs) Development by Sen. Karen Nyamu, MP;

(d) Question No.022 to the Cabinet Secretary for Health by Sen. (Prof.) Tom Ojienda, SC, MP;

(e) Question No.030 to the Cabinet Secretary for Health by Sen. (Prof.) Tom Ojienda, SC, MP;

(f) Question No.032 to the Cabinet Secretary for Health by Sen. Edwine Sifuna, MP; and,

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(g) Question No.023 to the Cabinet Secretary Health by Sen. Daniel Maanzo, EBS, MP.

The tentative business for the Afternoon Sitting on Wednesday, 14th May, 2025, will include business not concluded from the Order Paper for Tuesday, 13th May, 2025 and the following-

a. Bills at the Second Reading stage-

(i) The County Governments (State Officers Removal from Office) Procedure Bill (Senate Bills No. 34 of 2024);

(ii) The County Governments (Amendment) Bill (Senate Bills No. 39 of 2024);

(iii) The Labour Migration and Management (No. 2) Bill (Senate Bills No. 42 of 2024); and,

(iv) The Street Naming and Property Addressing System Bill (Senate Bills No. 43 of 2024).

b. Committee of the Whole –

(i) The Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023);

(ii) The Local Content Bill (Senate Bills No. 50 of 2023);

(iii) The Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 41 of 2023);

(iv) The Co-Operative Societies (Amendment) Bill (Senate Bills No. 53 of 2023);

(v) The Public Fundraising Appeals Bill (Senate Bills No. 36 of 2024);

(vi) The Heritage and Museums Bill (Senate Bills No. 8 of 2023);

(vii) The Environment Laws (Amendment) Bill (Senate Bills No. 23 of 2024);

(viii) The County Library Services Bill (Senate Bills No. 40 of 2024); and,

(ix) The Statutory Instruments (Amendment) Bill (Senate Bills No. 10 of 2024).

The projected business for Thursday, 15th May, 2025 will include business not concluded from Wednesday's Order Paper and any other business scheduled by the Senate Business Committee.

I thank you, Mr. Speaker, Sir, and do hereby lay this Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Now, hon. Senators, at this juncture, allow me to rearrange today's Order Paper for the convenience of the House. We will move to Order No.9. Once we are concluded on that particular Order, we will come back to take comments on the statements that have been sought.

Next Order.

MOTION

ADOPTION OF REPORT ON THE FOURTH BASIS FOR ALLOCATING SHARE OF NATIONAL REVENUE AMONG COUNTIES

Sen. Ali Roba: Thank you, Mr. Speaker, Sir. I beg to move-

THAT the Senate adopts the report of the Standing Committee on Finance and Budget on the Fourth Basis for Allocating the Share of National Revenue

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

among Counties, laid on the table of this Senate on Thursday, 17th April 2025, and that pursuant to Article 217 (1) of the Constitution of Kenya approves the Fourth Basis for Allocating the Share of National Revenue among Counties from financial year 2025-2026 to financial year 2029-2030 as follows-

County allocation, which is equals to (baseline allocation ratio * 387.425 billion) plus (0.45 of population index, 0 plus 0.35 equal share index, plus 0.12 poverty index, plus 0.08 geographical land size, that is, times any additional county equal share above the baseline.

Where-

- (i) Baseline =Ksh.387.425 billion being the equitable share for the Financial Year 2024/2025;
- (ii) Baseline Allocation Ratio = The allocation factor derived from each County's allocation for the Financial Year 2024/2025;
- (iii) The Population Index is based on the 2019 Kenya Population and Housing Census (KPHC);
- (iv) The Poverty Index is based on the 2022 Kenya Poverty Report by the Kenya National Bureau of Statistics (KNBS);
- (v) Geographical Size is capped at 10%.

Mr. Speaker, Sir, Article 217(1) of the Constitution of Kenya provides that-

“Once every five years, the Senate shall, by resolution, determine the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government.”

Further, Article 216(1) of the Constitution provides that principal function of the Commission on Revenue Allocation (CRA), which is to make recommendations concerning the basis of sharing nationally raised revenue between the national and county Governments.

Owing to this provision, CRA forwards recommendations to Parliament for consideration and approval. Pursuant to provisions of the Constitution of Kenya, CRA submitted the recommendation on the fourth basis to the Senate, and the same was laid on the table of the Senate on 12th February, 2025. Thereafter, it was committed to the Standing Committee on Finance and Budget. Pursuant to Article 118(1)b and 217(2) of the Constitution of Kenya, the Committee is required to facilitate public participation, consult with the Cabinet Secretary responsible for National Treasury and Planning, Council of Governors, and other stakeholders and professional bodies.

Mr. Speaker, Sir, Section 8.1(a) of the Public Finance Management Act requires that the Committee, upon collecting and considering the views of the public, presents to the Senate a proposal for the basis of allocating revenue among counties. I would like to give a brief background.

The first basis of revenue sharing was approved by the Tenth Parliament, then the Senate was not in place in November, 2012, and was used to share revenue between the financial years 2013 and 2014 to 2016 and 2017.

The second basis of revenue sharing was approved by Parliament---

Sen. Osotsi: Mr. Speaker, Sir, on a point of order.

The Speaker (Hon. Kingi): What is your point of order, Sen. Osotsi?

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Osotsi: Mr. Speaker, Sir, I did not want to interfere with my good friend, the Chairperson of the Committee on Finance and Budget. I am concerned because the Report that he is presenting is very important to us, Members, since it is only done once after five years.

I am struggling to get a copy of that report. It is not in the iPad. I would request that it be provided to us, so that we are able to interrogate the issues. These are very important issues. Can we have the report provided to us?

The Speaker (Hon. Kingi): I think the Chairperson of the Committee on Finance and Budget is not out of order. I will take it as an intervention. I have since directed the Secretariat to upload it in your iPads. I think it was an oversight, but certainly not on the part of the Chairperson. So, give it three minutes. Some hard copies are also being run, so that you have the advantage. For those who are not tech-savvy, they can have hard copies.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the issue raised by the Senator of Vihiga is very important. The reason you have seen me disorderly is because some of my colleagues who know that I sit in this Committee are trying to find out what it is that we have brought in the House.

Going by the history of decision-making on this Formula, this is not the way to go. It would be more useful to this House that the industry of the Committee on Finance and Budget can be distributed to Members, they interact with it, then debate be done thereafter.

(Applause)

Otherwise, we run the risk that the Chairperson will talk and be seconded. Members who will come as he is talking will then start opposing and so on. This is one piece of legislation where we should take our time. It is going to bind us up to the year 2031. I am requesting that you allow this document to be properly understood by our colleagues.

The Speaker (Hon. Kingi): Yes, Senator of Nairobi City County.

Sen. Sifuna: Mr. Speaker, Sir, many of us in this House are not in the habit of interacting with things we have not read, unlike some people in other quarters that I do not want to mention. You find that someone has not read something, but they are an expert in it.

Mr. Speaker, Sir, we could resume the regular business because you had rearranged the Order Paper. We can then have the documents uploaded and provided in hard copy. With due respect to the Chairperson of the Committee on Budget and Finance, we can resume that debate later. I am sure he understands the importance of this matter.

Mr. Speaker, Sir, I wanted clarification from you on whether this matter is time-bound. If so, I would want to understand the timelines that we are working with. Is there a possibility that we can spend a good amount of time on this formula in order for us to make an informed decision?

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Cherarkey: Mr. Speaker, Sir, I strongly associate with the sentiments of my colleagues, but I am very industrious, hence I have read the report and internalized it. I have the report and it has markers. I am ready to debate.

Sen. Cheruiyot, Sen. (Dr.) Lelegwe and a number of us who have been in this House through God's grace know that the issue of revenue formula almost divided the country in the last session. We found it challenging to convince the nation on why we should adopt that basis. The Chairperson of the Committee on Budget and Finance together with you were governors then, and you will remember that we had a push and pull.

My proposal, as you give us guidance on the timelines is that for the convenience of our colleagues who have not gone through the document, we be given time to go through it. I note that we have signed something to do with *kamukunji*. In that *kamukunji*, the Members can be taken through the report by Dr. Masinde of the Parliamentary Budget Office (PBO) for them to understand it.

I remember there was a lot of protracted fight in this House when some counties lost. That almost divided us. We had people who were saying, "one man, one vote, one shilling" and the others were saying "one man, one shilling, one kilometer." We do not want to reduce this debate to that level.

I wish we defer this matter, go and build consensus, then come back to debate and pass the Motion. We do not need to push to the extreme. Sen. Kisang' and the Senator for Lamu are from small counties that have been facing challenges of skewed resource allocation and I know that they would want to know how this is done.

Mr. Speaker, Sir, let us give a time out for us to go and sit together. I know that people like Sen. Eddy who are supporters of Arsenal are still recovering from their loss to PSG football club that happened yesterday. They are still recovering and mourning. They should, therefore, be given time to recover before they look at the serious matters. You can guide the House on that issue.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. Some of us are first-timers and I like referring to myself as an amateur in politics. I am learning hence I consider myself an intern of this House.

I was looking forward to being sensitized on this matter. Most Kenyans do not even know that there is a revision of this formula after every five years. We sit here as representatives of Kenyans and I find it very curious that we have not been furnished with the documentation. It might be an oversight, but it can also look like some things are happening and we are being led to a certain direction.

For the sake of newcomers like myself who pride in being interns, let us have a *kamukunji* for us to be sensitized on what is happening. We can then deliberate in the *kamukunji* before we debate this matter. That will be very helpful to us. They keep saying we are nominated, but we would like to learn about the revenue formula and the revision. When we come back to this House next time, which we are, we can then stand up and speak as ranking members.

I am requesting that we have a *kamukunji* outside the Chamber. After that, we can come and deliberate on the matter. Thank you.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I walked in when Sen. Cherarkey was making a passionate appeal for time out on this Motion by Sen. Ali Roba. The truth is that this is perhaps one of the most important engagements of the Senate in its five years. This is because it will determine the monies that will be shared among counties for the next five years.

In fact, I implore the Speaker and the Chairperson of the Committee to consider a retreat that can even be within Nairobi. It should be a real retreat. A *kamukunji* would take two or three hours and that will not be enough. We need to discuss this matter and only come here when we have already built consensus. We will only come here to process the business and come up with a way forward for everyone.

One of the most disturbing things about a formula for sharing revenue is that it may get to a point that one county, unfortunately, may have to not gain as much as other counties. We actually need to walk that journey with every Senator for them to know why they are getting less than what the others are getting. A retreat will be important to build consensus on this matter.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, let us make progress in this particular matter. I agree that this is an extremely weighty matter. We should, therefore, put every effort to ensure that we avoid the ugly scenes witnessed during the passage of the formula that is now under implementation.

I have consulted with the Chairperson of the Committee on Budget and Finance and we have agreed that this Motion will be moved on the 22nd May, 2025. That gives us roughly two weeks. Within those two weeks, we do not need a *kamukunji* or a retreat. You should read the document and consult amongst yourselves. If you find difficulties amongst yourselves and you need the Speaker and the secretariat to bring you together for purposes of hammering a certain consensus, then we will be available. This Motion will be moved on 22nd May, 2025. The documents will be made available today, both in soft and in hard copy.

(Motion deferred)

Hon. Senators, we shall now resume the normal flow of today's business. I will call Sen. Okiya Omtatah, whose Statement had been dropped because he was not in the House when it was called out. However, he has explained his absence to the satisfaction of the Chair. I will now allow him to proceed with his Statement. Thereafter, we will move to comments.

(Resumption of Statements)

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

GOVERNMENT DECISION TO LEASE
PUBLIC SUGAR COMPANIES

Sen. Okiya Omtatah: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the Government's decision to lease public sugar companies for approximately 30 years. This is to effectively privatizing ownership rather than retaining them under public control with the appointment of competent professional management.

In the Statement, the Committee should address the following-

(1) The rationale behind leasing sugar companies instead of strengthening public ownership through the appointment of capable management and whether this approach is in the best social-economic interest of the local communities.

(2) How the long-term leasing aligns with principles of public accountability, including whether adequate public participation and stakeholder consultation were undertaken prior to the decision.

(3) The impact of leasing out the sugar companies on farmers, employees and local economies, and the safeguards in place to protect public assets and ensure continued service delivery and economic empowerment in sugar-growing regions.

I thank you.

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

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. TERESA SECONDARY
SCHOOL, MURANG'A COUNTY

The Speaker (Hon. Kingi): I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from St. Teresa Secondary School in Murang'a County. The delegation comprises three teachers and 64 students who are in the Senate for a one-day academic exposition.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit. I do not see---

(Sen. Orwoba spoke off the record)

Sen. Orwoba, you are out of order.

I will allow the Majority Whip to welcome the delegation, in under one minute.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. It would be nice for the young people from Murang'a to know that Murang'a County has a special history with Parliament. The children should know that it is from Murang'a, where we had the first

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

doctor to sit in Parliament of Kenya, Dr. Gikonyo Kiano. It would also be nice for them to be proud of the fact that the real leader who brought an end to the dictatorship of a certain president in the country was from Murang'a, a man by the name of Kenneth Njindo Matiba.

Lastly, it would be nice for them to know that Murang'a has produced the best business people, who took over from the white business community in Nairobi. They established the first black business community in this City. Welcome, young people.

I thank you, Mr. Speaker, Sir.

(Applause)

(Resumption of Statements)

The Speaker (Hon. Kingi): We will now move to comments on the Statement sought. Hon. Senators, if you get a chance to speak, please keep it under three minutes, as my board is fairly full. This will allow as many of you as possible to have an opportunity to speak.

The Senator for Mombasa County, proceed.

Sen. Faki: Asante Mhe. Spika kwa kunipa fursa hii kuchangia maombi ya Taarifa yaliyoletwa Bungeni na Sen. Hamida. Ni kweli kwamba baadhi ya mashirika ya ndege yanayohudumu katika nchi yetu, hususan Turkish Airlines na mengineyo, huduma za viwango vya juu wanazotoa yanaacha maswali mengi kuulizwa kuliko majibu.

Nilibahatika kusafiri kwa ndege ya Turkish Airlines kuenda Istanbul hivi majuzi. Huduma za *Business Class* kwa ndege ile ni tofauti za zile zinazotolewa kwa kiwango hicho hicho kwa ndege zinazosafiri kutoka Istanbul kuenda maeneo mengine kama Europe, America na Asia.

Haiwezekani ndege ile ile itoe huduma tofauti kwa watu wanaokuja Africa na wale wanaoenda sehemu ingine. Sijui shirika linalohibititi huduma hizi katika nchi yetu ya Kenya linafanya nini ili kuhakikisha huduma zinazotolewa zinafikia viwango vinavyotakikana.

Tunaomba Kamati iharakishe kuchunguza suala hili kwa sababu Wakenya wengi wanapata shida. Inaonekana kuna ubaguzi wa rangi katika huduma wanazotoa maeneo ya Africa na maeneo mengine wanayohudumu.

Mhe. Spika, naunga mkono maombi ya Taarifa ya Sen. Hamida Kibwana. Asante.

The Speaker (Hon. Kingi): The Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, this request was for comments in the earlier discussion. I do not have a comment on the Statements.

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

Sen. Sifuna: Hon. Speaker, let me just comment on the Statement that has been read by the Senator for Busia County. This is a matter of grave national concern. Yesterday, there was a statement issued by the Governor for Kisumu County, the Hon. (Prof.) Peter Anyang'-Nyong'o, who is the strategic reserve of ideology for the Orange Democratic Movement (ODM) party. Whenever we want to find our North Star, he is the person we go to and he gives us direction.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

He raised concern about plans to privatise mills in his area as well. As you know, the public mills, including Nzoia, Chemilil and Muhoroni, are all listed as part of this leasing plan. I was at home for a burial last week, and the people of Bungoma, who are largely sugarcane farmers, were very clear that they will insist on the promise that was made by the Head of State when he was campaigning. That when it comes to Nzoia Sugar, the Government will invest in upgrading the machinery to improve efficiency, but they will not be leasing this sugar plant out or sell it to any third party.

Prof. Anyang'-Nyong'o cited a few reasons as to why he was objecting the leasing of Chemilil and Muhoroni Sugar mills. Number one, that there was ongoing litigation. He felt that there was not effective public participation, and this process is being rushed. That it has been undertaken in an opaque nature. In fact, he listed the companies; that Chemilil Sugar Company is supposed to be leased to Kibos Sugar Company and Muhoroni Sugar Company is supposed to be leased to a company called West Valley Sugar. There are rumours that this company is associated with a Member of this House. I hope that when he contributes, he will declare that interest, as we passed a Bill in this House on conflict of interest.

Hon. Speaker, because this is a matter of grave national concern, we want to be clear as leaders in this country that we do not necessarily oppose everything that is proposed. However, it is a constitutional imperative to carry the people along, so that they understand they are the biggest stakeholders.

Number two, if you are leasing out the sugar mills, and the person is not interested in reviving the mills, but is only after the land owned by that particular sugar plant, there is going to be a problem. Nzoia Sugar has the biggest nucleus and the people of Bungoma will not allow that land to be taken because they consider it their land. It is only held in trust for them.

Hon. Khalwale, the last time we had a plan to privatise these sugar mills, we came together as leaders and agreed that there would be no privatisation without involvement of the local community. Please, all we are calling for is to follow the constitutional imperative and Article 10 to involve our people to allow---

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

Sen. Cherarkey: Mr. Speaker, Sir, let me pick from where Sen. Sifuna left. I would like to say this. Nandi is also part of the conversation we are having about privatization and leasing of sugar mills such as Chemelil Sugar Company Limited, West Kenya Sugar Factory and also those in Kericho. What we are calling for is accountability, public participation and dispensation of court processes that are already in place.

It will be nice to engage. I am willing to sit there the way we did with the Oparanya Report on sugarcane reforms that gave birth to the Sugar Act. We are willing to sit and have that conversation for the betterment of farmers in Kenya.

I request the Government not to be in a hurry because there will be a lot of legal hurdles that might affect this process. I know the Government gave sugarcane farmers some bonus. However, we need to have a conversation to make sure that process is concluded.

Secondly, on the report by the Committee on Labour and Social Welfare, we passed a one-off honorarium for former councilors. The Chairperson of the Committee on

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Labour and Social Welfare has not given us a headway on what will happen to the one-off honorarium that was supposed to be given to former councilors, yet they served this nation at a time when they were being given tokens of appreciation. It would have been nice for the Committee on Labour and Social Welfare to give us a way forward.

On the issue of labour mobility and creation of opportunities, we have had flying accusations from one place to another. I would like the Committee on Labour and Social Welfare to give us the status, so that we do not only hear the story from one side by the Cabinet Secretary for Labour and Social Protection.

We need to be told the numbers and how our young people are getting access to opportunities sourced by the Government, so that we stop accusations where some Members of this House engage in unnecessary altercation with Members of the Executive. Let us be given the status about labour mobility, so that it becomes easy. We need to know the number of Kenyans in diaspora. That includes those in Dubai and other places.

Finally, Mr. Speaker, Sir, on the issue of Talanta Sports City Stadium and a number of stadiums across the country, the Committee on Labour and Social Welfare should give us status and tell us how the stadiums are being taken care of. Talanta Sports City Stadium and Moi International Sports Centre Kasarani are taking shape. The Committee on Labour and Social Welfare should give us the status so that it becomes easy.

Mr. Speaker, Sir, I support all the statements that have been presented today.

I thank you.

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

Sen. Osotsi: Mr. Speaker, Sir, allow me to also weigh in on the Statement by Sen. Omtatah regarding leasing of sugar companies and privatization.

This is a weighty matter, particularly for people from western region where I come from. People are concerned about the plan to lease Nzoia Sugar Company particularly. We did not have adequate stakeholder engagement and also public participation. The process was done opaquely. Even if the Government has good intentions on doing something, can they involve the people and leaders of that region, instead of just waking up and saying they want to lease Nzoia Sugar Company?

This Statement is an eye-opener. I want to urge the committee where it will be directed, to handle it with speed, so that our people get justice because the speed at which the whole process is being undertaken is sending a lot of negative signals to our people.

On the second issue of privatization, I am among the people who believe that privatization is not the solution to the problem we are having in the sugar industry. Mumias Sugar Company was doing well before privatization. When we used to have a management agency called Booker Tate, they were doing so well. The problems started increasing upon privatization of Mumias Sugar Company, where the management could not listen to anyone. We had the former Managing Director (MD) who was also a governor somewhere. I do not want to mention the name. He used to come here and even refused to talk to committees because the company was privatized. That is how the company started going down.

The solution is not in privatization of sugar companies. It is in the Government looking for a strategic manager. I wonder why the Government keeps interfering with the sugar industry.

Sen. (Dr.) Boni Khalwale is here. In Mumias, Sarrai has made that company to work. When things are working, we want to destroy them. That guy is working well. He has made smoke to be seen and some former workers are back to work. Now you want to take part of the company to another person---

(Sen. Osotsi's microphone went off)

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

Sen. (Dr.) Murango: Bw. Spika, nami ningependa kuongezea maoni yangu kuhusu Taarifa iliyoletwa na Sen. Omtatah. Vile vile katika gazeti hilo, Kiwanda cha Mchele cha Mwea kimeorodheshwa kama mojawapo ya viwanda ambavyo vinafaa kubinafsishwa.

Babu yangu ni mmoja wa wale waliopeana mashamba na vile vile kuchangia katika kujengwa kwa kiwanda hicho. Kwa hivyo, Serikali inapoamua kukiuzua, ni vyema tujue ni kwa jinsi gani wale waliopeana mashamba kwa hiari watafaidika. Nikikupa shamba ufanyie kitu fulani, ikiwa huna haja nalo tena, unafaa kunirudishia mimi niliyekupa kwa sababu sikuuza.

Jambo la pili ni kuwa kuna mchango uliofanyika ili kuhakikisha kuwa kiwanda hicho kinaendelea. Wengi wa watu hao huzikwa makaburini. Sisi kama Wakikuyu kutoka Kirinyaga tunashika mashamba yetu. Tulipeana mashamba na sasa watu wanakaa vijijini ambako hawana hata mahali pa kuzikwa.

Ni vyema kwa watu hao waliokuwa na roho nzuri kuhusishwa kwa jambo kama hili. Waliobaki kama sisi tunafaa kuitwa kwa sababu kuna wengine waliotutangulia kwenda ahera. Tunafaa kupeana maoni yetu kwa sababu wale waliobaki hawataki uwanja huo uuzwe.

Jambo la tatu ni kuwa kuna viwanda ambavyo vimejengwa kule Sagana. Tunaambiwa kuwa tunafaa kwenda huko kutafuta huduma kwa sababu shamba lililoko Mji wa Ngurubani linapakana na maghala ya Halmashauri ya Nafaka, mahali ambapo wakulima wanaenda kuchukua mbolea ya ruzuku. Pahali hapo panaposemekana kuwa katikati ni Zaidi ya kilomita 30. Ni kama kutoa jikoni karibu na sebule na kuipeleka karibu na bafu. Inafaa kuwa mahali ambapo unaweza kutembea.

Sisi tungetaka huduma zinazopelekwa katika kiwanda hicho zibaki pale pale. Kama wakulima wataamua kwamba kiwanda hicho kipeanwe, basi wanafaa kuhusiswa kikamilifu ili waamue kama kitatolewa au la.

Asante sana Bw. Spika.

The Speaker (Hon. Kingi): Sen. Eddy, you have the Floor.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I have two quick comments. The first one is on the Statement that was sought by Sen. Hamida. I do not know what we can do to make sure that resolutions of this House through any Motion are respected. This is a serious issue that Sen. Hamida has brought here and we canvassed it in this House.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

As Members of the County Public Investments and Special Funds Committee (CPIC), last weekend, we visited a hospital in Kwale, which I do not want to mention here. There were instances where a mother could have lost a child, but they are put in the same room with other mothers who have their children. That is so traumatizing even for us who sometimes witness such kind of things.

We resolved in this House that there should be money for mental health services for mothers in maternity facilities in different counties. Those resolutions of the Senate were to be implemented six months after we passed them. What happens when they are not implemented and how do we follow up on that?

Last year, the Senate Majority Leader brought a Motion in this House about the Gen Z movement of 25th June. Some of the things we see the population being agitated about in this country are issues we canvassed in this House and came up with resolutions to be followed up by relevant authorities. However, up to date, they have not been followed through.

So, in my opinion, it is less the Committee on Health to follow up on it, but more of us as a House. Are we taken seriously if our resolutions are passed, sent to relevant authorities and they are not taken seriously? This is an issue that we must take seriously, as a House, and find a solution to it. If we pass resolutions in the Senate and they are never taken seriously or implemented, then we are not a serious House in the eyes of those authorities. We must show that we are a serious House.

Lastly, Mr. Speaker, Sir, I would like to comment on the Statement by Sen. Okiya Omtatah. This is an important Statement because the sugarcane industry has become a poverty industry for most of our communities. I also come from a sugarcane growing region---

(Sen. Oketch Gicheru's microphone was switched off)

The Speaker (Hon. Kingi): Sen. (Dr.) Boni, please proceed.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the issue raised by the Senator for Busia County is going to affect the lives and livelihoods of eight million Kenyans who depend on the sugar sector directly.

On the issue raised about public participation, I would like the Government to know that the only public participation that took place over Nzoia Sugar Company was consulting the Governor of Bungoma County and the Speaker of the National Assembly. Consulting those two leaders does not amount to public participation over Nzoia Sugar Company. I refuse. I speak today for 1.8 million people of Bungoma County who depend on Nzoia Sugar Company.

Mr. Speaker, Sir, these two leaders have accepted the factory to be leased to a guy called Rai, who took over Webuye Pan Paper Company. The company has been run down and the timber industry has collapsed. The same Rai who upon seeing the success in Mumias due to his brother Sarri has gone there to try and take a section of that factory because he has the capacity to bribe people in Government. We refuse again and again.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The decision of leasing Nzoia Sugar Company should be rethought. Our people must participate. Our people have elected us and we have the capacity to understand issues.

Mr. Speaker, Sir, finally, the issue raised by the Senate Standing Committee on Labour and Social Welfare on stadia. I celebrate Ababu Namwamba. He is the father of the Talanta City Stadium, whose completion is making progress. Please, the new Cabinet Secretary for Sports should make sure that the blueprint of Ababu that included development of Bukhungu Stadium in Kakamega County must be seen through because it is an open secret that if you want football to succeed, you only go to three corners in this country - Coast, Nyanza, and the Abaluhya Football Club, the home of soccer.

Thank you.

The Speaker (Hon. Kingi): Sen. Mumma, please proceed.

(Loud consultations)

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to comment on the statements. I will begin with the statement by Sen. Hamida.

Monday was the World Midwives' Day and yesterday was the World Mental Health Day for Mothers. I would like to commend her for raising these issues over and over again. Mental health for mothers who have delivered is a crucial issue because most of the mothers include adolescent mothers who are vulnerable, and do not have resources to seek help on mental health on their own.

I would like to request that the resolutions made in this House should not be taken as empty talk. It is something that we receive comments and petitions on from those who are affected. We have seen it when we go to the field and would like the Government to take this issue seriously, especially now that the Social Health Authority (SHA) formulation is in infancy and is coming up when we must provide the care for these mothers.

Mr. Speaker, Sir, I would also like to make comments on the Statement by Sen. Omtatah. I come from the sugar belt. In my opinion, the small-scale farmer in western Kenya, that is, Nyanza, the western part of Rift Valley and western Kenya, are tired of the ping-pong around the laws and the policies relating to sugarcane milling and farming.

Mr. Speaker, Sir, I wish the small-scale farmers would be listening to me. I wish for the day when we can elect a day when we will burn all the sugarcane, burn it to the ground, so that we can get back to the drawing board to discuss how the sugar industry in Kenya can be structured in a manner that is going to be useful to the farmers. The manner in which it is currently structured is destructive, and not useful to small-scale farmers.

I support the Statement by Governor Prof. Anyang' -Nyong'o, that, we need to go back to the drawing board to ensure that we are able to follow the correct procedures to ensure that the most vulnerable, especially the small-scale farmer, is catered for when we are designing these programmes, including the poisoning that is happening by the sugar--

-

(Sen. Mumma's microphone was switched off)

Disclaimer: The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.

The Speaker (Hon. Kingi): Sen. Gloria, please proceed.

Sen. Orwoba: Mr. Speaker, Sir, I would like to comment on this issue of privatization of parastatals and state agencies. You can look at this issue on both sides, when people say that Government property belongs to Government and should stay at Government. However, if it is not helping the people then there is no point. Just here across Parliament we have the Kenyatta International Convention Centre (KICC).

If the KICC is supposed to operate at its best profitable days, we are supposed to be having conferences in and out. However, we have to be honest with ourselves, the culture that we have in these parastatals and state agencies is that, because it is a Government facility we do not need to push sales and do this and that. So, just having a state agency belonging to Government and saying that we are proud because it is Government, it stays with Government, yet it does not really benefit the people, what are we doing?

All these issues of privatization have only been brought about because these state agencies are not performing the way they are supposed to. So, the conversation that we should have, is not whether this belongs to the people, or someone gave land to the Government. It is okay for them be compensated, so that we can make sure that the state agencies are there to benefit the people of that community.

Mr. Speaker, Sir, it pains me that every time we debate, we want to localize the issue. While politics is local, economics is about profits. So, if a state agency or an institution is not bringing any profits to the people of that community, then we must have the hard conversation; that we need to do something. If that means that we need to privatize it, let us talk about the parameters of how we are going to privatize the agency. While it is okay for us to come here, fight and say “do not do this, do not sell this,” let us have an honest conversation on how those state agencies are going to be profitable and benefiting the people of that community.

Thank you.

The Speaker (Hon. Kingi): Next Order.

MOTION

CONSOLIDATION OF BURSARY FUNDS FOR EQUITABLE ACCESS TO EDUCATION

THAT AWARE THAT, Pursuant to Article 53 of the Constitution, every child in Kenya is entitled to free and compulsory basic education, and the Basic Education Act provides that basic education should be guided by principles such as equitable access to all youth and equal access to education or institutions;

FURTHER AWARE THAT, many students in secondary schools and higher education institutions come from financially disadvantaged backgrounds making it difficult for them to afford school fees and access education opportunities;

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

NOTING THAT, over the years, various interventions have been made, including the issuance of bursaries through the National Government Constituencies Development Fund (NG-CDF), National Government Affirmative Action Fund (NGAAF), the Ministry of Education and county governments through various county bursary funds;

CONCERNED THAT, despite these efforts, school fees remain unaffordable for many parents and the allocation of bursaries has been plagued by nepotism, favouritism and political manipulation, lack of transparency and accountability;

FURTHER CONCERNED THAT public learning institutions are primarily funded by the Government through the Ministry of Education, and in the Financial Year 2024/2025, approximately Kshs656 billion was allocated to the education sector, making it difficult to ascertain the specific funds granted to each student and that the lack of transparency in the disbursement of bursaries from various agencies makes it difficult to determine the total amount allocated in a financial year, thus hindering efforts to ensure equitable access to education for financially disadvantaged students;

NOW THEREFORE, the Senate urges the Ministry of Education to-

(1) Audit the funds allocated to bursaries by both the national Government and county governments;

(2) Consolidate the funds distributed by various Government entities and agencies, with the aim of directing these funds directly to schools as supplementary capitation to facilitate the achievement of free secondary education; and,

(3) Calculate the cost of education per learner and make this information public for primary, secondary and tertiary institutions, including a detailed breakdown of the annual financial requirements for each student across the country.

(Sen. Thang'wa, 7.5.2025)

(Resumption of debate interrupted on 7.5.2025)

The Speaker (Hon. Kingi): Hon. Senators, take your seats. I need to propose the question.

Hon. Senators, this Motion had been moved and seconded. Now I need to propose the question. There is a difference between proposing and putting the question. So, I will propose the question.

(Question proposed)

The Floor is open for debate.

Senator for Nandi County, you may proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I want to thank Sen. Karungo Thang'wa, the miracle Senator from Kiambu County, for this proposal. I am aware there is ongoing public participation by Members of the National Assembly on the importance

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

of entrenching the NGAAF and the Senate Oversight Fund. The bait that public participation is being used is that if NG-CDF or NGAAF is entrenched, then bursaries will be available.

I agree with the prayers that we need to consolidate these bursaries and make education free for all. Bursaries have been reduced to tokenism. If you support an MCA, governor, a Member of the National Assembly or a Woman Representative, you are given a bursary. Why is it that despite an amount of Kshs656 billion being allocated to education, we still have many children who cannot access education in this country? Those are the hard questions that we must ask ourselves.

That is why it is important that we consolidate all bursaries, direct all national Government administration officials to ensure a 100 per cent transition rate for children in primary and secondary schools; now that the Competency Based Curriculum (CBC) has been changed to Competency Based Education (CBE), so that everybody can access education in this country. This issue of bursary has been reduced and weaponized as a campaign political tool which Members of the National Assembly, NGAAF and governors are using.

Mr. Speaker, Sir, I do not know whether during your era and that of Sen. Ali Roba, whether it was possible to use bursary as one of the key development achievements. While I agree human development capital is very critical, it should not be the only yardstick that the members of the Council of Governors (CoG), the Members of the National Assembly and the NGAAF use. In my own opinion, I am surprised there is public participation to entrench it. This is making education costly. We must agree that the planners--- Every day, every function I go to in Nandi County, I must meet one or two parents or a number who want support for education in terms of payment of school fees. Where did we go wrong?

The silver bullet in all this is to consolidate the entire bursary fund, make education free and compulsory for all Kenyans, so that it becomes easy. That is why I saw some people saying the Senate needs oversight. Then we might end up being paid a representation fund, a legislation fund, and an oversight fund.

I want to challenge the Members of the National Assembly because I have seen a commentary by one of the legal minds. I was sitting with one of the senior legal minds today during the power lunch break. The questions that Kenyans are asking: Why would you want to oversight yourself? "*Mganga hajigangi.*" Allow the indulgence so that I can drive the point home. Even in my local language and sorry for mixing both languages, it is "*Kinyozi hajinyoi.*"; "A barber cannot shave his own head."

So, I am challenging the Members of the National Assembly that if you want to manage funds, run for these two offices. You either run for President or run for governor. Why do you want to have your cake and eat it? As a Senate, there is no day we have said-- We say we want the Senate Oversight Fund. In my own opinion, that fund should be given to the counties or the President, and then we do our work as oversight. For the first time, I am in support of Baba Raila Amolo Odinga because the work of Members of the National Assembly and the Senate is to legislate, oversight, represent and budget making.

Mr. Speaker, Sir, I do not know, but you need to check whether Sen. Eddy has both shoes on because the last time there were people without shoes in Migori County.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Let us be honest. If you want to manage funds, if you want to do development, then run for offices that have such funds. Why trouble Kenyans with the constitutional amendment? This is not the right time to amend the Constitution as a country.

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

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

Madam Temporary Speaker, we must be careful in this country about what we wish for. If we want a hybrid or pre-presidential system, why would we want to give bursaries as politicians? Just to allow political patronage? To enslave our children? To fight and ensure our children are given? You will hear someone in the small towns and villages saying: “I did not get a bursary because I did not vote for Mheshimiwa”. We must be honest that we must consolidate this issue of bursaries.

I wish and I pray at the end of this debate on this consolidation, that the Committee on Education led by Sen. Betty Montet and Members who are in this House will come up with an amendment to the Basic Education Act or the education laws that we have in this country and consolidate all the bursaries, bring quantification.

I am happy the miracle Senator is here - I do not know whether he is still a miracle or not - so we can consolidate all the bursaries and account for Kshs656 billion. The political formation he is in nowadays is no longer miraculous.

Under Article 53 of the Constitution of Kenya, we must ensure that these young people enjoy the right to education. A number of these young people even at the Kenya Medical Training Colleges (KMTCs) also need bursary. How do we do it? Let us make education free and compulsory from preschool all the way to the university and colleges, so that we stop having the Higher Education Loans Board (HELB). We ought to collapse HELB, so that we do not bring discrimination as envisaged in the Constitution of Kenya. Students in public universities are given higher education loans, which is taxpayers’ money, including all Kenyans. Yet, children in private universities are not. It casts aspersions and a shadow of discrimination in our society.

Madam Temporary Speaker, the issue of capitation is prayer number three. We need to also be told because as we talk, the Kenya Secondary School Heads Association (KESSHA) has been complaining of delayed capitation that is being given to either primary or secondary schools across the country. I find it untidy that after every opening of schools, you hear KESSHA, the Kenya Primary School Heads Association, Kenya National Union of Teachers (KNUT) and Kenya Union of Post Primary Teachers (KUPPET) complaining that capitation is yet to be released.

The other day was removal of hardship allowances in some areas. That was the worst. Hardship allowances should be the motivating factor for all public servants and also the teachers in our country, especially if you work in places such as Mandera. We have had opportunity of going there, where at the airstrip has virtually no landing place. There is no electricity, but only three dysfunctional generators. I am told it is being switched on and off like---

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

We must agree that hardship allowance to civil servants and teachers is very critical. For example, in Nandi, I have like four or five wards, including Terik, Chepteruai, Kapchorwa, Soba Songo and large parts of Tinderet. Due to the terrain and challenges that are unique to those regions, they should at least be given what we call hardship allowances.

There are other areas such as Kilifi where the poverty index is very high. Also in Kerio Valley where insecurity is rampant. I know Professor Kamari is well-versed with. All these places, they need a motivating factor called hardship allowance. I do not think there was lack of wisdom with the formulators of the Public Service Commission (PSC) that we should have hardship allowances.

In conclusion, Madam Temporary Speaker, so that I can give colleagues opportunity to canvass and deliberate on this matter, my clarion call to the Government, lawmakers, including *nyumba kumi* elders and all of us is that we consolidate bursaries. I am happy the Mukasa and the Kokwet elders, and the village elders will now be given a token of appreciation, courtesy of President William Ruto's Government.

I was telling some people over the weekend when we were burying former senior assistant Birgen chief in Egwen in Mugunya, that if you had married a village elder and you did not have hope, there is hope now because that village elder will have salary. So if you had left your husband because he was a village elder, you should be motivated to go back. My village is in Kapkeben, somewhere in Mosoriat. My local assistant chief is called Joshua Chirchir. We should now ask the elders and Assistant Chiefs why children are not going to school yet, education is free and compulsory.

We should then ensure money is provided to the school. I am happy this is the conversation we are having in this country. Let us not use politicians to give tokens in terms of bursary. We will create a big divide. Education will be expensive, unaffordable and inaccessible yet, under Articles 53 and 55 of the Constitution of Kenya, it envisages good quality education, affordable, accessible and valuable. We want to see more doctors, lawyers and other professionals such as Dr. Bony Khalwale.

Sen. Thang'wa, the mover of the Motion, should direct that there should be a special audit on the bursary that is being given. My governor is notorious. He has changed Nandi from being source of champions to source of corruption, where they write cheques that bounce and some to places that do not exist. They exist up there.

Madam Temporary Speaker, let us do a special audit and be told how many people use this money. I think the mover of the Motion you should amend---

You should stop listening to Sen. Orwoba. I know she is still excited about what happened in Kisii. You should ask hon. Moses Wetangula. The people you see in rallies and voters are two different things.

The Temporary Speaker (Sen. Veronica Maina): Sen. Chimera, what is your point of order?

Sen. Chimera: Madam Temporary Speaker, I rise under Standing Order No.105. You know I also come from the great county of Nandi.

Is Sen. Cherarkey, in order to allege that the Governor of Nandi has been issuing bouncing cheques to students from that county, without any reasons to substantiate in this House?

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, that is a serious allegation. You need to substantiate. If you are not able to do that you withdraw and apologize.

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, maintain your peace. I have called Sen. Cherarkey to take the Floor. You will get your chance.

Sen. Cherarkey: Madam Temporary Speaker, I appreciate that is a very serious point. In our culture, it is unheard of where somebody you have given your daughter to marry questions you. That is beside the point.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, you are out of order. There was no marriage introduced in the point of order.

Sen. Cherarkey: I am willing to be given time to substantiate next week. I advise him that if he continues questioning people who gave him their daughter, we might under customary law, which the Constitution of Kenya recognizes, fine him a number of cows.

The Temporary Speaker (Sen. Veronica Maina): I have barred you.

Sen. Cherarkey: Sen. Cheruiyot, should be whispering such a traditional obligation.

The Temporary Speaker (Sen. Veronica Maina): Are you listening to the chair? You are barred from discussing his marital status because it was not part of the point of order. We are not quite sure whether Sen. Chimera is married from the Nandi County. So, refrain from referring to that marital status.

Sen. Cherarkey: It was just on a lighter touch.

The Temporary Speaker (Sen. Veronica Maina): You will substantiate by Tuesday, next week.

Sen. Cherarkey: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Orwoba:

Sen. Orwoba: Madam Temporary Speaker, I stand under Standing Order No.101(4), Contents of Speech which reads-

“No senator shall impute improper motive to any other senator or to the member of the National Assembly.”

I have heard Sen. Cherarkey mention me in what did not look like a good motive. He was talking about that I was just excited because I do not know I went to which rally. I would like him to clarify what he meant and if at all that was relevant to this debate.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, do you want to substantiate that bit?

Sen. Cherarkey: Madam Temporary Speaker, in the words of Jean-Marie Seroney and Martin Shikuku how, can I substantiate the obvious? It is a statement of fact. He spoke in Kisii. You and I are in the same WhatsApp group. I send you the video, Madam Temporary Speaker in order for you to see that she was in that meeting.

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, it appears to be a point of public notice. So, I will allow Sen. Cherarkey to proceed with his debate.

Sen. Cherarkey, your time is up. You have decided to detour in the course of your serious debate. Resume your seat.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(Sen. Cherarkey spoke off record)

That is bribing the Speaker, which is not acceptable.

Can we hear from Sen. Kavindu Muthama.

Sen. Kavindu Muthama: Thank you, Madam Temporary Speaker, for giving me this opportunity.

Asante kwa kunipa hii fursa niweze kuchangia Hoja hii ya bursary. Kuna mambo mengi ambayo yanahusika na bursary. Ukienda kwa nyumba za waheshimiwa kule mashinani, utapata watu wakiwa huko walingoja kupewa bursaries. Hali hiyo pia hukua katika nyumba ya Members of County Assemblies (MCAs) na governors.

Hoja hii ni nzuri lakini tukitaka kuondoa bursaries, lazima tuanze na ofisi za juu kisha tutoe bursaries kwa maofisi za governors na Members of Parliament. Baadaye, hiyo pesa iwekwe pamoja na kupewa Ministry of Education ndiposa elimu iwe bure kuanzia shule ya chekechea hadi university. Hata pesa inayotumika kupeleka wanafunzi kusoma nje ya nchi pia ipewe Ministry of Education ndiposa elimu iwe bure nchini. Hii itawezesha kila mtoto, hata yule maskini, kusoma bila kusumbuliwa.

Sisi kama maseneta tunasumbuliwa sana na mambo ya bursary ilhali hatupati hizo pesa. Wananchi hutupigia simu kuitisha karo ya shule. Hiyo pesa ya bursary ikiwekwa kwenye kikapu kimoja na masomo iwe bure, shule zitaendelea na watoto wote watasoma. Hatutakuwa tukifanyia watoto harambee kwa sababu hawajapewa bursary.

Naomba yule mtoa Hoja hii aone vile ataongeza kile ambacho nimesema juu yake Hoja hii. Hiyo ikifanyika, watoto wote watasoma.

Sen. Munyi Mundigi: Asante sana, Bi. Spika wa muda. Ninaunga mkono Mswada ambao uko mbele yetu. Kuna mambo mengi katika Hoja hii ambayo yanafa kuangaliwa.

Tumekuwa tukipitisha pesa ziende kwa national Government na kaunti zetu lakini mipango huwa haifuatiliwi vizuri. Hoja hii inahusu mambo ya elimu lakini lazima iangaliwe kwa njia inayofaa. Kenya ni nchi ya demokrasia na mambo mengi lazima yarudishwe kwa wananchi ili waweze kuamua kile ambacho wanataka.

Tumepitisha sheria nyingi ambazo zinaleta shida kwa wananchi, county governments, National Treasury na kona zote za hii nchi. Hili jambo lazima liangaliwe na njia inayofaa ndiposa tuhakikishe ya kwamba elimu itakuwa free kutoka kule chini hadi university. Ikiwa hivyo, mimi nitaiunga Hoja hii mkono. Lakini lazima tufanye public participation kabla tuamue kwa sababu wananchi lazima waseme vile wanavyotaka kuongozwa.

Tumeona pesa ikienda kwa NG-CDF na Wabunge wanazitumia kupeana bursary. Kaunti, national Government na MCAs pia wanapeana bursaries ilhali pesa hiyo haitoshi. Inawezekana pia hiyo pesa haifanyi kazi vile inafaa. Tunaweza kuwa tunalaumu viongozi bila kuangalia pahali ambapo pesa inapotea. Inaweza kuwa ya kwamba National Treasury iko na shida. Tukitaka Hoja hii isaidie Mkenya, lazima tufanye audit inavyofaa. Hii pesa ikienda kwa Ministry of Education, mtoto yeyote asiitishwe pesa.

Tumeona Ministry of Education wakipewa pesa ilhali kumekuwa na malalamishi. Kumekuwa na vita vingi katika primary na secondary schools. Shule zingine huwa

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

zinafungwa mapema ama watoto hawapewi chakula ilhali mwalimu mkuu hawezi rudisha watoto nyumbani kwa sababu ya karo. Audit nchini Kenya haifanywi vile inafaa. Hiyo inafaa iangaliwe. Kaunti zingine zina shida kwa sababu ya jua kali na ukosefu wa maji. Mfano mzuri ni Mbeere North na Mbeere South katika Kaunti ya Embu. Hizi ni sehemu kavu.

Walimu huwa hawana maji ya kuoga, stima na hata hakuna hospitali. Hao walimu husafiri kama kilomita 30 ilhali inasemekana ya kwamba hawatapata hardship allowance. Ninaomba ya kwamba hiyo ikome ndiposa hardship allowance iendele katika kaunti kama Embu. Wakitoa hiyo allowance, itakua vigumu mwalimu awezekusaidia mtoto asome kutoka nursery, primary mpaka aende secondary school. Walimu ambao wako Embu ya juu hawapati ile pesa na wanaumia. Uzuri ni kwamba hao wako na maji na barabara ya lami sio kama walimu ambao wanafundisha Mbeere North na Mbeere South. Hii shida haipatikani Embu County peke yake. Ninaomba hiyo mambo ya hela iangaliwe.

Naomba watu ambao wanaleta Hoja katika Parliament wahakikishe ya kwamba imefanyiwa upelelezi ndiposa isilete mgawanyiko nchini Kenya. Sisi sote tunajua ya kwamba nchi yetu ambayo inaongozwa na Mhe. Rais Ruto inapenda amani na tunataka muungano ndiposa kaunti zote 47 ziendele mbele.

Mambo ya pesa lazima irejeshwe kwa wananchi ili wasema katika public participation vile wanataka wapewe pesa. Tunaweza sema pesa ipelekwe kwa ministry kisha hiyo ministry ikose kufanya kazi. Naunga mkono free education. Ni lazima masomo shule zote iwe free nchini.

Huwa tunasema ya kwamba kaunti zipewe pesa na National Treasury inakataa kupeana pesa. Walimu wanateseka wanapo retire kwa sababu wanapata ya kwamba hakuna pesa. Lazima mambo ya elimu iangaliwe kikamilifu kabla tuiptishe Hoja hii.

Kwa hivyo, mimi siungi mkono Hoja hii.

The Temporary Speaker (Sen. Veronica Maina): Sen. Mundigi, unataka kupinga ama kukubaliana na Hoja hii.

Sen. Munyi Mundigi: Bi. Spika wa Muda, ninaunga mkono Hoja hii kabisa.

The Temporary Speaker (Sen. Veronica Maina): Asante, Sen. Mundigi.

Sen. Okoiti Andrew Omtatah, proceed.

Sen. Okiya Omtatah: Madam Temporary Speaker, thank you for the opportunity to address this august House on this very important Motion. The question of bursaries in Kenya is a serious one. It requires sober attention because it is founded on the constitutional provision that basic education is a right. The state is a duty bearer and must ensure that people go to school.

The state has allocated funds and it is not a small amount. However, the problem is that the money is too fragmented. Bursaries are highly fragmented. Some are distributed through the Ministry, others through various cadres of politicians and some even through the Jomo Kenyatta Foundation (JKF).

The basic concept of a bursary is that it is given to needy students, it is not the same as a scholarship. The distinction between a bursary and a scholarship must be made clear. I have seen allocations where people claim to be financing bright children. A scholarship is awarded based on academic excellence, as a grant. A bursary, on the other hand, is given based on economic need.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

There has been a misconception in our counties, where you will often find that Members of Parliament (MPs) sometimes award bursaries based on academic performance, assuming that a high-performing student automatically qualifies. No, a bursary is granted based on the principle that education is a right, and some individuals are unable to access it.

As the duty bearer, the state must step in to ensure this right is realized for all. However, due to the fragmentation of bursary distribution and its personalization through politicians handing them out, major problems arise. First and foremost, bursaries tend to be allocated in an opaque manner, making it unclear how much money has been allocated. There is no system of accounting or auditing for it.

Number two, the amounts given are very small and cannot bring about any meaningful change. Since politicians are focused on numbers, they may even set up a tent and invite millions of people to receive a pittance in exchange for support. This is of course, followed by the big media event. I, therefore, fully support the Motion by stating that any funds aimed at supporting needy children should be consolidated and placed in the hands of the Ministry of Education. These funds should be administered based on need and objectively realized.

Furthermore, I would like to comment on two funds; the NG-CDF and the NGAAF. These funds have largely been used as a means of distributing bursary funds to needy cases and the grassroots. However, these funds are fraud schemes designed by the National Assembly Members to steal from the public.

I say they are fraud schemes because they are unconstitutional. If you look at our Constitution, Article 206 clearly states that-

“There is established the Consolidated Fund into which shall be paid all money raised or received by or on behalf of the national government, except money that—

(a) is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose; or

(b) may, under an Act of Parliament, be retained by the State organ that received it for the purpose of defraying the expenses of the State organ.”

There is no provision in the Constitution for creating these fraudulent funds like NG-CDF and NGAAF. I say that because they end up being funded from the consolidated fund.

The architecture of the Constitution is that if you set up a fund, you must show where the money will come from outside the consolidated fund. For example, take the fund we are currently debating, a fund like the the Social Health Insurance Fund (SHIF). It clearly states that the money will come from premiums. So, despite all the issues we are contesting, that particular aspect of SHIF conforms with the Constitution because it is being funded through premiums.

When you get to NG-CDF, they are taking money from the consolidated fund. However, you cannot use the consolidated fund to finance another fund. They should show us where money will come from. It cannot be sourced from the consolidated fund. There are only two legal ways to do that. Therefore, you will find that both NGAAF and

the NG-CDF have been used in an unconstitutional manner to divert money from the consolidated fund. This constitutes a fraudulent scheme to steal public funds.

Further, you will find that there is an ongoing push to entrench these funds into the Constitution. However, this cannot be done without a referendum, as it would alter the structure of the Government of Kenya. It would allow legislators to control funds and execute functions. That alters the Constitution of Kenya as it is structured. The National Assembly is pushing this initiative in a way that suggests they believe a referendum is unnecessary. However, they must go to a referendum, if they want to entrench any funds in the Constitution.

As for the Senate Oversight Fund, I do not believe Senators have been consulted. At least, I am not aware of any consultation in this House where it was agreed that the Senate Oversight Fund should be entrenched in the Constitution. All Senators want is facilitation to carry out oversight work; they do not need to create a fund for that. We do not need money to go into a separate fund. First of all, where will the money come from? What kind of tax will finance it? What kind of levy? Are we going to introduce an oversight levy to fund the oversight function? We are not.

It is my prayer that the National Assembly allows the Constitution of Kenya to operate as intended. They are creators of the Constitution. They cannot purport to put themselves above the Constitution and disobey court orders. The courts have issued rulings declaring this particular fund unconstitutional. Therefore, there is no basis for them to claim that public participation can override a court decision. Such a change can only be made through a referendum that would change the structure of the Constitution, particularly concerning the doctrine of separation of powers.

I also want to raise the issue of governors distributing bursary funds. The functions of governors are focused on Early Childhood Development (ECD) and Technical and Vocational Education and Training (TVET). When they start issuing bursary funds for primary schools, secondary schools, colleges and universities, they have absolutely no legal basis for doing so.

I want to congratulate the Controller of Budget (CoB) for clearly clarifying what the law states. If you visit counties across the country, you will find that most ECD and TVET centres in a horrible state. However, because it is more attractive to be seen issuing bursary cheques as a publicity stunt, governors and Members of County Assemblies (MCAs) are actively engaging in it. What we want is for all these fragmented bursaries to be abolished and the money be given to the national Government and education be taxpayer-funded. That should be done from the Early Childhood Development and Education (ECDE) up to the first degree in the university.

Countries that are much poorer than us are doing that; they are funding education. Even people in our neighbouring Tanzania do not pay through the nose to get an education. The same applies to our neighbours in Uganda. Kenya being a bigger economy, we should fund the education of our children. This is because the human resource in a country like Kenya, which is largely a service industry, becomes critical. We must ensure that we get engineers, doctors, accountants, lawyers, teachers and all those professions that we need to develop this country.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Most of the time, we have heard people saying that at independence, Kenya and some Asian tigers were at par. Some say that Kenya was even better. However, if you look at the development trajectory, you will find that those people invested heavily in education. Disciplines like engineering were heavily funded. You can see what they are doing today. They are using skills to colonise the world. The Chinese are colonizing us here using skills. They are building amazing things because they embraced and funded education of their children.

In Kenya, somebody who wants to become a doctor has to pay through the nose and dragged through the marks to get a grade. We cannot develop this country unless we focus seriously on the youth and their right to education. That right must be taxpayer-funded. We are not at a point where you can enjoy the luxury of saying that education should be accessed by those who can pay. No! We must have education for all, so that irrespective of where somebody is born in this country, they can have an opportunity to be tapped and develop.

As I continue supporting this Motion, I urge that we consider the possibility of introducing taxpayer-funded education. The Motion could be expanded to state that going forward, the policy of the Republic of Kenya on education should be taxpayer-funded education from ECDE up to the first degree. I am saying this because there is a reason the Constitution wants people to pay. For example, under Article 48 on access to justice, it talks of people paying fees, but they should be affordable.

When you look at the right of the youth to access education, no fee is expected to be paid by the consumer of the right. The right holder is supposed to present themselves at an institution of learning and get taxpayer-funded education. They should not go queueing and begging politicians to be given a pittance in the name of accessing any form of education.

I fully support this Motion and pray that this House adopts it with the necessary amendments to entrench the requirement that education be taxpayer-funded. If you cannot make it to the first degree, at least let it be taxpayer-funded up to secondary level.

When it is taxpayer-funded, it should cover everything and not just tuition. It should cover even school uniform and books. We should return the system whereby school books and equipment are clearly branded to avoid theft and misappropriation.

I urge this House to support this Motion to ensure that we get away from the idea of even having bursaries because in a country like ours where people are poor--- If you look at your messages as a MP, you will find that the biggest demand is people asking for support towards education. Let us give people taxpayer-funded education and do it through the national Government which is charged with the primary, secondary and tertiary education. Let us do it through the line Ministries and not through NG-CDF and NGAAF.

The other thing is that we have got a budget-making process. Articles 220 and 221 of the Constitution guide us on how we make budgets. There is no procedure for having two parallel budgets. When an MP makes a budget under NG-CDF, where is that budget approved? The budget is supposed to be tabled in Parliament and approved---

The Temporary Speaker (Sen. Veronica Maina): Sen. Okiya Omtatah, your time is up.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Proceed, Sen. Boni Khalwale.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I rise to strongly support this important Motion. I wish to appeal to the distinguished Senator for Kiambu that after all that narration, when it comes to conclusion where you now make resolutions, I beseech that you drop Resolution Nos. one, two and three, and replace them with the words “so as to make education free.” That has been tasted.

Senator, when you were still a young man, in 2002, the country elected Mwai Kibaki as President and Wamalwa Kijana as his deputy. For 10 years, the children of the Republic of Kenya enjoyed free primary school education. It is doable.

Madam Temporary Speaker, in view of the provisions of Articles 21 and 43 of the Constitution, Article 43(1)(f) states that every person has a right to education. Article 21 states that Parliament shall make legislative policy and other measures to make sure that any right given Article 43 is realised progressively.

I, therefore, appeal to the Mover of the Motion, that let us realise free education by progressing, starting from primary then secondary school and eventually university. There is no greater calling.

Sen. Wakili Sigei: On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Would you wish to be informed by Sen. Wakili Sigei?

Sen. (Dr.) Khalwale: Yes, especially given that he is a young lawyer. If he were an old lawyer, I would have had reservations. Young lawyers in this country are fantastic because they are corruption-free. That is why like listening to them.

The Temporary Speaker (Sen. Veronica Maina): Let him take the Floor.

Sen. Wakili Sigei: Thank you very much, Madam Temporary Speaker, and thank you, Sen. Boni, for accepting that I inform you.

You have made reference to Article 43 of the Constitution and said that it provides for the right to education. I am sure you meant Article 53 of the Constitution. So that the record is right, make specific reference to Article 53 and not 43 because that must have been an error.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I so guided.

This is a very serious matter. I am forever indebted to this distinguished Senator for Kiambu. You have drawn the attention of the country. Bursaries and their administration are expensive, wasteful and a conduit for mega corruption. By the time the money leaves the National Treasury to go to the NG-CDF, the fund that the Women Members of Parliament (MPs) control, or to the Department of Education where the Office of the President controls some of it, there is an administration cost. Over and above that, because Kenyans are starting to become inherently corrupt, the people involved exercise their own little piece of corruption.

Madam Temporary Speaker, I, therefore propose that this administrative cost that occasions wastage in hundreds of millions, the corruption that occasions loss of million of shillings meant for bursary, be eliminated by simply leaving all this money at the Ministry of Education for the Ministry to offer free education.

Madam Temporary Speaker, we can start with an experiment of adding to what President Kibaki had already proven. That you can make education in primary schools

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

free. Then we add on by making it also free in secondary schools. If it stabilises, the next Government after that of President William Ruto, be it after 2027 or 2032, will be able to roll out free tertiary education.

Madam Temporary Speaker, we as the representatives of our parents and defenders of our counties, would like to insist that Kenyan parents are ready to feed their children and buy them uniform. However, the other appendages of education must be borne by the Government. By the way, let the people at the National Treasury know that the money that they give out is not their money. It is public money that normally ends in the consolidated fund after realisation from tax collection.

Madam Temporary Speaker, it saddens me that despite the governor, MP, Member of County Assembly (MCA), Women Representative and the Office of the President having money for bursary, every Friday when I go to Malinya, the first thing I meet is little children coming to my home because they know when they come home, I share the little I have to afford them Kshs1,000, Kshs2,000 from my salary, so that they can enjoy education the way my children enjoy education.

I thank God that he has given me an opportunity to sit in this job and equally thank the Government for paying me a salary that allows me to respond to these children. However, when I do so, I know I am wasting time because the population of Kakamega County is 2.5 million people. So, when I reach out to a handful of children, I am wasting time. I should use my time better by insisting on this floor that education in the Republic of Kenya must be made free.

How can we allow ourselves to underperform relative to a small country like Burkina Faso? The young President in Burkina Faso, Ibrahim Traoré, is rolling out free education in his country. Traoré is supposed to be learning from Kenya and not the other way around. We owe it to our people. We are their leaders. We draw our allowances and salaries from their taxes and, therefore, we should not be deterred. Our objective is that, every Kenyan child must access education. Let the country know that the counties with the highest levels of literacy, for instance, Kiambu, Kakamega, Nakuru, Machakos, Nairobi City, Murang'a, Kirinyaga, Nyeri counties, are the counties with the lowest rates of poverty. So, educating children is a proven method of fighting poverty.

Madam Temporary Speaker, I celebrate this Motion because the late Gaylord Avedi once told me--- Gaylord Avedi is a former Permanent Secretary and Principal of Kakamega High School, where I went to school. He told us that education will equalize you. He used to tell us that it is the social equalizer. He used to tell me this and I can tell you for sure that it was great music because in a school of 800 children, I was the only one who was walking in school without shoes. However, he would tell me that I will be equal to my colleagues. Indeed, I have become equal to them. I do not want any child to fail to realize their potential because of being denied education.

Madam Temporary Speaker, I would like to end this conversation by sending an appeal to my governor. That the advisor on youth affairs, Mr. Emmanuel Makokha, and the County Executive Committee Member (CECM) in charge of Education, Mr. Mophat Mandela, move around social functions in their area of birth in a section of Kakamega County and read out the amount of bursary rolled out to schools in those areas.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

When you come to other areas far removed from where they come from, this kind of announcement is not made. For instance, Nasianda, Nangili, Lugari, Malaba, Malinya, Manyala, and Shitsitswi secondary schools are not getting. This impartial distribution of bursaries must come to an end in Kakamega County, even as we fight to make education free in this country.

Madam Temporary Speaker, today in this House, you saw that the Motion to agree on the module and formula of sharing resources across the 47 counties is so sensitive that it has had to be stood down for us to build consensus. We cannot be taking it so seriously as to take money to governors, then they start treating that money as their own.

Madam Temporary Speaker, I wish that because the Constitution as advised by the young lawyer, I thought it was Article 43, but you told me it is 53.

(Sen. Karen Nyamu spoke off record)

Sen. (Dr.) Khalwale: Pardon? Do you want to inform me?

The Temporary Speaker (Sen. Veronica Maina): Sen. Karen Nyamu, when you want to inform, you know the button to press for intervention.

You can proceed and inform.

Sen. Nyamu: Thank you, Madam Temporary Speaker. I would like to inform the Senator for Kakamega County, Sen. Boni Khalwale that, indeed both articles make reference to free education being a right to every child.

Sen. (Dr.) Khalwale: Which Article is that?

Sen. Nyamu: Both Articles 43 and 53.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I have never understood the profession of law, although my daughter and son are lawyers. Can you see the young lawyer, Sen. Nyamu, is unable to agree with the young lawyer, Sigei? Sigei is telling me it is Article 53, but I said it is Article 43. However, he is telling me it is Article 53. I told the Senate on the record that it is Article 43.

Sen. Wakili Sigei, you might be a lawyer, but you did not play a role in writing the Constitution. We are the ones who wrote it. We put the provision of the right to education in Article 43 not Article 53.

(Loud Consultations)

Madam Temporary Speaker, did you hear somebody who sells *waru*---

Can you give me a minute so that I conclude? A *waru* seller is challenging a son of a chang'aa brewer. So, I do not know who---

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, if you had not attempted to attack lawyers, I would have given you one minute. However, proceed and take the one minute.

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Senator for Kiambu, this is very important. Members of the National Assembly, stop being myopic. You are free, go and hang on NG-CDF, I do not mind. However, free bursary from your hands, let education be free.

I support this Motion with amendments.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. (Dr.) Khalwale. The debate on who is right between Sen. Wakili Sigei and Sen. Karen Nyamu will be continued, but maybe at the lounge. There is a possibility that both of them could as well be right.

Sen. (Prof.) Margaret Jepkoech Kamar, you may proceed.

Sen. (Prof.) Kamar: Thank you, Madam Temporary Speaker, for the opportunity to support this wonderful Motion. I want to congratulate Sen. Karungo Thang'wa for giving us this piece of Motion.

As I thank him, we realize that we have not unpacked the Constitution of Kenya. The Constitution is the masterpiece of the law in this country and we need to unpack it slowly by slowly. Today, Sen. Thang'wa has dealt with Article 53(1)(b). We still have other things such as, rights of the children, that have not been touched. When we talk of the right to basic nutrition, shelter and healthcare, how do we monitor and measure it?

I am saying this because all these are related and are tied. If we can free parents from paying school fees in primary schools, that is when parents can give their children good nutrition. Right now, we are attacking the limited resources that the parents have to pay school fees. While we are doing that, we should be aware that as a country, we have obligations that are internationally binding in nature and we should ensure that we comply with them.

I just want to read one that came from UNESCO, where I used to attend. In 1999, I attended as a representative of Moi University, when discussions on free education were being done. Kenya is a signatory to these international conventions. The right to primary education at that time was free of charge. It was established by an international instrument, notably the UNESCO Convention Against Discrimination in Education, Articles 13 and 14. With that establishment, Kenya signed. It was discussed in 1999 and it was signed in the year 2000. Then what happened in Kenya? In the year 2003, Kenya became one of the five countries in sub-Saharan Africa to attempt to give free education. So, in 2003, free and compulsory primary education was introduced. The Senator for Kakamega County has stated how it started. Kenya was celebrated alongside Malawi, Uganda and Tanzania in 2004, because they had made a huge step forward, and as I said, unless we implement that, the other rights of the children will be watered down. On (c), (d) and (e), only parents who are free from paying school fees can give their children balanced food, because they have to prioritise.

When children come home and cry that they are at home when their friends are in school, it will force their parents to pay school fees and feed them less. That is why when we look at this Motion, let us look at it in light of the other Motions and let us unpack this Constitution properly.

I support this Motion because it is what we should have continued to pursue. The conventions as established and signed by Kenya still talk of the right to free primary education. In fact, in 2001, in UNESCO, it was very clear that we were going towards

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

2015, when no child should be at home. The aim was to make sure that by 2015, every child can access education. In fact, there was access also, because you can be talking of free education that cannot be accessed. In our country, we know that we have different geographic situations. Some people have a school that is 20 kilometres away. So, access is supposed to be also looked at, because you cannot get free and compulsory unless it can be accessed.

I would like the Senator to include access in what he is demanding in this Motion. This is because once this Motion is done, we will take it up in the Committee on Education and make demands from the Cabinet Secretary, to come and explain how we can deal with this.

I like the way the Senator has gone ahead to propose to us the resolutions that we are going to give. One of the resolutions is to audit the funds that are allocated to bursaries. As the Senate Standing Committee on Education, we have been auditing the education sector by governors. We have done only nine out of the 47 governors.

As we discuss this, something surprised us, that a governor can have only two vocational training centres and release Kshs700 million for bursaries. We asked this question. This thing is not even devolved, how come governors do not have any agreement between themselves and the national Government to enable them to do this activity that is not devolved?

We have been demanding, as a Committee, that our sector be addressed in terms of what is in the Fourth Schedule. We told the governors that they should stick to the Schedule, they say, it is political right to give bursaries, and we asked, "Why is it politically right?" If you want to give bursaries, look for a way of getting a job where the bursaries are being given, as one of the Senators mentioned earlier.

We need to know the cost because our position as a Committee to our governors is that there is nothing wrong with giving bursaries, but please, have an intergovernmental agreement, so that functions are followed by resources. We said, this is new money. If you want to give bursaries, you need new money from the national Government because this is not your function.

If you tell us at the county level, it is the governor who can identify the needs more, the national Government will agree with you. We agree with you because we know those who are needy are closer to the MCAs and they are closer to the governor than anybody else. However, why do we not do a neat thing and establish a relationship?

We said, CoG, you have the Summit with the President every year. What do you tell him when you go to the Summit if this is not an agenda? That is where I agree that if there is need, if they must give that, it must be consolidated, but the best thing is the answer that Sen. Thang'wa has given us. The reality on the ground is that children are at the mercy of parents who have disagreed with chiefs and MPs. We are being told that not everybody gets bursary. We got this from the same governors. We asked them, "Members of Parliament are doing this job and blaming you for following them all over." They told us MPs are a bit discriminative or that chiefs are not identifying every needy learner. Why should we allow a child to be at the mercy of a chief or disagreements between a parent and a Member of Parliament? The positions they are giving us is that

those who did not vote for some people are not getting that money. This is what this Motion will free.

Let us free our children from being under the mercy of anybody. That is why I like the resolutions this House is going to pass through this Motion. We really need to look at what the money is supposed to do. More than anything how can we free it, so that we do not discuss basic education?

Madam Temporary Speaker, we know that in the Kenyan law we are talking about basic education. Basic education is from primary school to secondary school. We must stick to what we said in the Constitution. If we believed in that it is possible to have free basic education, why do we want to shy away from it now? Free primary education, that one we signed to it through international conventions, but when it came to our Constitution, we said we want free education up to Form Four. We must bite the bullet. Let us go for it. Let us reduce expenditure in all other sectors, but let this bring equality. Just as Hon. Mandela said, education becomes the equalizer. So we do not want to discriminate at the point of developing the brains of our children; at the point of developing professionals. Let us make it free.

As I support, consolidation is not, in fact, just it. We need to know how much money the national Government has been spending. Members of Parliament through the National Government Constituencies Development Fund (NG-CDF) talk about these bursaries as the only thing that has been given out to families equitably. Through this Motion, we should make sure that everybody gets it without being pre-qualified by a chief, Member of County Assembly or Member of Parliament. It is a pity that the Members of Parliament are using this. For the last two days that is what we have been saying. We are not against NG-CDF. Money must go to the ground, but they should not be involved in it.

We need to have committees that can deal with NG-CDF who are independent. Otherwise our Members of Parliament are not realizing that this 85 percent money that is in the national Government has no oversight arm. This is because they have completely lost it and they are going after the 15 percent which is in NG-CDF. They need to rethink the approach that they are having. Yes, NG-CDF, let us have money go to the constituency, but that money should not be run by the MCA, if I may add to that.

Madam Temporary Speaker, I support this and congratulate Sen. Thang'wa for bringing a Motion that will enable us to unlock one of the clauses in the Constitution that was supposed to have been a priority after promulgation of the Constitution of Kenya 2010.

I support.

Sen. Nyamu: Thank you, Madam Temporary Speaker. Article 53(1) of the Constitution of Kenya guarantees free and compulsory education to every child born in this country. We cannot make education compulsory and free, then on the other hand peddle bursary forms in a cartel-like style.

By virtue of my connections in this Nairobi, I am able to call all the 17 Members of Parliament from all the sub-counties in Nairobi and get allocated bursary funds, so that I can share them among my supporters. This has been happening over time. The only condition they give is that the ID reads that they vote in that constituency. As a country,

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

we cannot say that education is a great equalizer yet. What we have done is made bursaries the great un-equalizer. This is because the most vulnerable of society, who do not have connections, who are in the direst need, end up missing out on bursaries. If you do not have any political connections, if you do not have a phone number of any politician or members of his team, then you can forget accessing bursaries in this country.

I also happen to run and be a patron of Karen Nyamu Foundation and often channel funds to sponsor secondary education through our Foundation. As much as I do the identification, quite openly, and on my Facebook page, I usually look for the neediest child with the highest marks in Kenya Certificate of Primary Education (KCPE). After we are able to sponsor, say, 50 students who performed well in their KCPE in all their four years of secondary school education, after you are done with this exercise, instead of feeling satisfied, and like you have done something, the students who missed out on this opportunity linger in your mind, and you wonder what will happen to them. Will somebody come through for them? We have cases in this Nairobi of students who end up deferring their secondary education. They go up to Form Two and are unable to fund their education due to poverty. They drop out and when they get some assistance, they go back again after a year.

Madam Temporary Speaker, this is not something that we should be condoning as a society. This Motion is one of the reasons we exist as a House. The Motion is very progressive. It is going to ensure that we create a level playing field in the country, and to give every child a chance at education. While we are at it, as a House, we need to come up with radical changes in our system of education.

It is one thing to fund education and another to churn out students who are not ready for the job market. Our schools are churning out students who are being prepared to be job seekers. We need to inculcate an entrepreneurial culture right from the basic education, so that by the time they get to the Technical Industrial Vocation Education and Training (TVET) even the attitude has changed.

Right now, it is even embarrassing to go to TVETs because they are considered institutions for those who unable to get the mainstream or traditional courses. I congratulate Sen. Karungo wa Thang'wa for being such a young progressive leader, always with his mind at the right place.

I support.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker, for this opportunity to contribute to this Motion. This is the most straightforward Motion that I have seen in this House. It shows that despite the challenges that the sponsor of this Motion has had in terms of political wellness, he still has some cadence to deal with the setbacks of politics and focus on legislation that can move the country forward. This is a forward-thinking Motion that the Senator of Kiambu County has pushed in this House. It actually repurposes him from the challenges of politics that have been wavy for him in the last few months. This is welcome and I appreciate it.

What Sen. Thang'wa is proposing is not just an idea that could enable us have free secondary education, but it is an idea that, if well executed, can ensure that the country gets free primary education, free secondary education and free university education. This can happen if our leaders are bold enough to stop the greed of managing

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

resources for purposes of benefiting from it other than it benefitting the people. If they do that, we can actually have free secondary education and free university education.

Why am I saying this, Madam Temporary Speaker? I was in this House when Sen. Thang'wa started this conversation. He did some math on the different bursaries that we have in this country I hope he will not forget that math when he stands to respond. He started from the MPs who are spending a number of billions of shillings to give out bursaries. Despite the fact that secondary school, primary school as well as university education are not devolved as per our Constitution, we have seen governors giving bursaries. They should not be spending the budget meant for devolved functions into national functions.

We have seen governors spending not less than Kshs400 million a year on bursaries. This happens even in smaller counties like Lamu that Senators are always fighting for in order for them to get monies. Some counties have now gone ahead to spend to a tune of a billion in this monster called bursary. I understand the sense of access to education and how this could help, but if you take a wave and dissect how this bursary is manifesting in our communities, you will realize that there is a lot of wastage and leakages of those monies structurally. The wastage between Members of National Assembly and governors when delivering bursary means that what ends up reaching the schools cannot keep the children at school.

The current capitation that is needed for secondary education is about Kshs65 to Kshs70 billion. That Kshs70 billion assumes that it is a day school which it is financed at about Kshs22,000 per student every year. If you do the math with about four million students, you will realize that the amount of money that is just between the governors and Members of the National Assembly is more than the capitation needed for secondary school education.

When Sen. Thang'wa was presenting this idea of consolidation of bursaries brought to the enlightenment of this House bursary funds that are being managed in the Office of the Deputy President and the Office of the President. These bursaries then end up being a tokenism system. The sense of it then stops being access to education but glorification of the political class administering that bursary.

I say that because you can go to the defective nature of these bursary allocations in different factors. If you track those leakages, you will see the leakages that I am talking about that can save us money to make the entire education problem in this country free. The education system in this country can be free from kindergarten to the university level.

I will start with the first one, the inadequate funding of students. Picture this, you are invited to go to Agoro Sare Secondary School or Makueni Girls, as a young person in this country. You are then told that the school fees is Kshs60,000 and your Member of Parliament gives you Kshs5,000 as a bursary, which you have to apply through a committee that has been put together. After that, your parents have to queue for that Kshs5,000. There are times when they have to follow the Member of Parliament to give them that Kshs5,000 yet that student needs Kshs60,000 to go to school.

How is this adequate funding for this student to acquire education? It defeats logic. It defeats logic when a student who is to raise Kshs60,000 or Kshs100,000 is given

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Kshs5,000. Most of the governor's scholarship only give Kshs5,000 to Kshs10,000. The only one that is different is that of Mandera County where they have what they call education financing for all the children. The students then have to go to the MP to get Kshs5,000, then go to the governor to get Kshs5,000, which is then supposed to fund their education which is in the tune of Kshs60,000 plus. If this was defrayed from governors and from MPs, the government would finance the entire Kshs60,000 or Kshs40,000. The essence of a bursary fund in financing education is not feasible because it is not giving the young people enough money to go to school. The Kshs5,000 that they give cannot finance people's schooling not even those who are in a day school.

Secondly, there is political interference by those who are offering them; governors and MPs. Bursary by its nature has become a political funding mechanism. It is funded to people who have voted for particular politicians. It is not needs-based and it is not merit-based. This means that most needy people in our communities or the most merited for this kind of financing do not get to be financed.

My third point is the issue of corruption in bursaries. I do not want to point out particular areas, but we can give data in a number of constituencies if this Motion gets concurrence of the National Assembly. You will find a Member of Parliament who wants to vie for governorship and has a bursary kitty choosing to allocate bursary to students who are not from his or her own constituency. They do that for political financing, then use that when campaigning in constituencies that are not their own. We also have situations where those Members of Parliament collude with teachers from other places and pay bursary for ghost students then get kickbacks from those monies. This is a leakage area that ensures that the money does not get to the right students.

Another issue is untimely disbursements of these bursaries. If you consolidate these bursaries into one national kitty that is supposed to finance education system, all schools will receive those monies directly when capitation is done and that is why I like this Motion. The problem with the current structure of bursaries is that it is dependent on the mood, routine, schedule and the likeliness of the MP to give that bursary to the extent that you will find that a student who has been given a bursary today---

(Sen. Oketch Gicheru's microphone went off)

Madam Temporary Speaker, I seek your indulgence, was the debate limited?

The Temporary Speaker (Sen. Veronica Maina): Sen. Eddy, you know the procedures in this House. When your time is up, the light turns red immediately and the microphone goes off.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker. The untimely disbursement of funds does not guarantee that schools and children receive the money when they need it. Schools that rely on these funds must address critical needs such as food and supplies. When funds are delayed, it not only inconveniences our children, but also disrupts the operations of schools.

Another key issue is that consolidated education funding makes it easier to align incentives with student performance. A Government can easily articulate its expectations for the students. We have seen this approach work successfully in countries like Morocco

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

and Botswana, where education funding has been consolidated, allowing governments to set clear expectations for students.

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

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

Madam Temporary Speaker, MPs and governors cannot clearly articulate their expectations for excellence when awarding bursaries to students. As a result, these funds do not function as an investment in education. Money is distributed largely for political reasons, handed out as if it were Panadol for students. As a result, it degrades families, especially women and sometimes men, who are forced to line up and collect bursary funds from MPs yet, there is no alignment between these funds and student performance. There is no system to track how students are progressing, whether they are performing well or have dropped out due to an inability to pay the remaining balance. Therefore, there are no expectations at all on the return on investment by giving out these bursaries.

Lastly, treating bursaries as tokenism or as mere gifts from a political class that has been mandated to lead by the people is deeply degrading and undermines the fundamental right to education. Currently, bursaries are handed out in a manner that suggests an MP or a governor has done a personal favour to you. Sometimes, due to the lack of proper criteria, some individuals are unfairly segregated based on wealth disparities. If a family is profiled as having more wealth than another, its children may be denied bursaries simply on that basis.

The core problem with this is, regardless of whether a child comes from a wealthy family, a moderately well-off family or a destitute family, they must have the right to access education. Therefore, bursaries must move beyond tokenism and instead be recognized as a basic right to education, enshrined in our Constitution. Every single child should be able to exercise that right. Regardless of whether a child comes from a well-off family or a poor family, they must have access to educational funding.

This is an important Motion. I hope the National Assembly Members have the courage to support the consolidation of bursaries as it has been presented in this House. As we deliberate on this issue, I hope that they will recognize the sense of consolidating these funds and to back the Senate's efforts to ensure that education is made free. If bursaries exist to facilitate access to education, then there is nothing wrong in making sure that indeed, we guarantee free education for all by consolidating these funds.

Madam Temporary Speaker, with that, I thank the Senator for Kiambu County for this thoughtful Motion. I fully support the consolidation of bursary funds into a single framework that will pave the way for free education within our borders.

I thank you.

The Temporary Speaker (Sen. Mumma): Sen. Chimera, proceed.

Sen. Chimera: Thank you, Madam Temporary Speaker, for this opportunity to contribute to this amazing and wonderful Motion by the good Senator from Kiambu County, Sen. Karungo Thang'wa, also known as Wamunyororo Express.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(Applause)

Let me begin by appreciating and thanking the good Senator for his thoughtful effort in crafting this Motion. May it go on record that sometime last year in October, I stood before this House to second the same Motion. In doing so, certain leaders from different areas, notably the Governor for Bomet County and the Senator for Bomet County, who is here and may wish to expound further when he gets a chance, took great offense at the contents of the Motion, the mover's amendments, and my own sentiments in seconding it.

I want to go on record that no single Senator in this House would be foolish enough to oppose the current bursary system as it exists. This is because it still affords our children the opportunity to access basic education. Let it go on record that I, Sen. Raphael Chimera Mwinzagu from Kwale County, am not calling for the absolute scrapping of bursaries as they are. Rather, we are engaging in a discourse, a conversation on steps and measures to ensure that Article 43, 53, and 55 of the Constitution hold true meaning for our children.

Ultimately, there must be free basic education for all. I ask that you underline the words, "free" and "all". The current bursary system, as it stands, does not guarantee free education for all students. Thousands of students apply for bursaries, but only hundreds qualify, leaving many others without support. What happens to those students who do not receive bursaries?

Secondly, we must have a conversations as leaders and politicians to try and de-link politics from the future of Kenya's young children. It is wrong for a politician to use a bursary programme as a sole political tool for campaigning.

I was shocked the other day when certain leaders, whom I will not mention because they are not present to defend themselves, went around funerals and public *barazas*, castigating some of us for advocating for the scrapping of the bursary program. I was even more shocked when some claimed that Sen. Chimera grew up in privilege, never knew hardship, his father was a rich man and did not understand why our people depend on bursaries. That is not the point. I have struggled. I come from a normal Kenyan family. My father was a low-ranking civil servant in Kwale County. He struggled to put us through school. I am a beneficiary of the National Government Constituencies Development Fund (NG-CDF) from Lunga Lunga Constituency, Matuga Constituency and Kinango Constituency.

Madam Temporary Speaker, you will notice I benefited from three different NG-CDFs. This was only possible because my father had access to sitting Members of Parliament (MPs) by virtue of his work. That does not make him a rich man in the society. I wonder what happens to the young child in Kwale County whose father has no connections, not even to the village elder. That tells you that such a child will ordinarily be unable to benefit from this programme.

Madam Temporary Speaker, this programme speaks to inadequate funding to our students. It can be said that the good Senator is seeking to consolidate bursaries because I grew up with bursaries. Of course I benefited from bursaries.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Two weeks ago, I joined the MP for Msambweni in a beautiful ceremony when he was issuing cheques worth about Kshs14 million to students drawn from Msambweni Constituency. I have done the same with the area MP for Lungalunga Constituency. I have done the same with the area MP for Matuga and also the Woman Representative, hon. Fatuma Masito, under NGAAF. I have done the same with the MP for Kinango Constituency.

We are not fighting our colleagues who are running bursary programmes, but let us be truthful and honest in the way we do our politics. Let us sanitise our politics. You should not go round saying that Senator so-and-so is on record calling for absolute abolition of bursaries.

Let me remind people about what we have committed as bursaries especially by county governments. I come from Kwale and we have a robust bursary initiative run by the County Government. It used to be Kshs400 million, but now it has increased to Kshs500 million per year. That is money set aside for our students. Every ward in Kwale has about Kshs25 million for bursary under the Elimu Initiative. It is a beautiful initiative because at least, I can confidently say here that the people of Kwale have improved on literacy levels. For far too long, we have been marginalised.

About 20 years back, getting someone to join university was a celebration in my village. Even as late as 2009 when I joined the University of Nairobi (UoN), that is Parklands School of Law, my entire Mtumwa, Shimba Hills, Majimboni and Tawia villages celebrated.

When I got to campus in Nairobi, I met friends the likes of Karanja Kamotho, Michael Ng'ang'a Njoroge, Sammy Gathogo, and Daniel Ngugi and to them it was just normal. I mean coming from Kikuyu land and joining university was a normal thing to them. However, for me, it was a true hallmark of an achievement because very few people from the Coast would have a chance to join university to pursue a degree in law, engineering, and all that. That speaks to the issue of marginalisation. Even as we seek to consolidate bursaries into one unitary scheme, we must be alive to the fact that we might still end up marginalising certain regions.

When you look at the funding around it, if you look at each of the 290 constituencies setting aside say Kshs60 million, that gives you around Kshs17.4 or Kshs18 billion thereabouts. If you assume that every county has set aside Kshs0.5 billion for its bursary programmes, that is about Kshs25 billion.

If you look at the capitation nationally, it is roughly Kshs8 billion every year that would afford and make sure that every student, devoid of political connections, colour, religion, whether they know someone, and devoid of being asked to kneel down before an MP or a governor, is able to access education. They can go to school for free without having to queue outside an MP's office or without having to beg a governor.

I call upon these leaders because sometimes I see colleague leaders going round saying that so-and-so did not vote for them, therefore they cannot talk about issuing bursaries to them and that they will issue bursaries to areas where they are popular or they got more votes. It is wrong to play with the lives and the future of our young people because of politics. We need to sanitise our politics.

Sen. Thang'wa, I thank you because this conversation starts from here. Today, we are having a Motion. Hopefully, this Motion will beget a legal framework in form of a Bill. Hopefully that Bill will become law and an Act of Parliament. That Act of Parliament will ultimately need to be implemented. The implementation is speaking towards making sure that we have free universal education for our students. I thank Sen. Thang'wa for seeing us through that journey.

Right now as we debate, some of us might be misquoted. They will say that I am back at it again and that I am pushing for scrapping of bursaries. That is not true because I understand we receive funds from the Exchequer as sharable revenue. It is the people of Kwale, Bomet, Nandi and other areas, through public participation, that have set aside these funds to be used on bursary programmes.

There is an interesting petition. Since I am a lawyer, I do not wish to go into details of that matter. That is Petition No.E012 of 2024. The petitioner is Laban Omusundi. Madam Temporary Speaker, you know him because we have interacted with him many times in the Committee on Justice, Legal Affairs and Human Rights. That is a petition against the State Law Office, the Controller of Budget (CoB) and many others. It is shocking that our governors have not seen the need to join in this petition. Even as they are saying that Senators are fighting them on bursaries, I am shocked that they were not interested in participating in that particular petition in Nakuru, so that they ventilate and put their arguments towards justifying why we need that scholarship programme as it is for now.

I also want to thank the National Assembly, through a committee led by Hon. Junet Mohamed. They formed an *ad hoc* committee of 17 Members to try and see whether they can streamline and consolidate education funding into one centralized unitary scheme known as the National Basic Education Fund, so that we work towards attaining steps of making sure that every Kenyan has a right to education as provided in Articles 43, 53 and 55.

Madam Temporary Speaker, with those many remarks, since I know this is a topical Motion and all of my colleagues would wish to air their views on, let it go on record that I am not opposed to bursaries as they are, but I am happy to participate in a conversation that will in future guarantee free education to our children not only in Kwale but Kenya in general.

I thank you, Madam Temporary Speaker. Sen. Thang'wa, many congratulations on this Motion.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Gloria.

Sen. Orwoba: Madam Temporary Speaker, before I give my submissions, I want to start by asking myself; what does the word "bursary" mean? They will give you an explanation there but bursary is a monetary award. If you check further the exact meaning of "award", it is a token of recognition or a prize.

Here we are as a Government. We have the Constitution and laws that tell us that under the Constitution, the right to education is guaranteed. This is guaranteed under the Basic Education Act, which states that every child has a right to free and compulsory basic education. Here we are as legislators giving awards, prizes or tokens.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Even just by the definition of it, someone will tell you that it is illegal because a bursary is an award or prize. A prize is something that you are given after you have done something so that you are celebrated. For example, when you win, you are given an award. It can also be a token for recognition. For example, I can be told that I did something or spoke well and, therefore, they give me a token for recognition. What is this token of recognition that we are giving our children when under the Basic Education Act, it is provided that every child has the right to free and compulsory basic education?

Madam Temporary Speaker, it is on this basis that I want to discuss this Motion, which I support. Sen. Thang'wa, congratulations for being courageous enough to bring an unpopular Motion because when those legislators who are holding these 'awards' hear us discussing it, they get very upset because you are essentially taking away their campaign resources. I do not want to call it bursary because it is an award. That is the truth of the matter. You are taking away their campaign resources and what they use to go and convince the people at the grassroots that they are working so hard as their leaders, and hence they are giving them awards to go to school. yet under the Constitution, it is your right to go to school, to have that free compulsory education. Why would a leader then come and say, "I am recognizing you and I am giving you this token yet, we have it clearly stipulated in our Constitution?"

Madam Temporary Speaker, it is on this basis that I support this Motion because, first, how did we get to a point where we are giving awards? How did we get here? Who generated this thing called bursary, where did it start from? How did we get, from a point where we had our children even getting free milk in school, to a point where now we are giving awards, we have bursary? We are saying that we are helping you so that you can be able to go and sit in a classroom and get basic education, which is your right. That is what we should be discussing. Where did the rain start beating us?

Madam Temporary Speaker, as much as I celebrate and support devolution, and as much as I am actually in this House courtesy of devolution because this is the Upper House that is there to protect devolution, I would like to also say there are some funny things that came with this devolution. One of them is bursaries and the culture of bursaries because you have bursaries under the Women Representatives, Members of Parliament, Governors--- Everyone who has some level of devolved authority has somehow managed to convince the Exchequer or the people that we need bursaries, so that we can go and give children awards and tokens instead of ensuring that they have their rights to the access of free compulsory education.

Madam Temporary Speaker, I also would like to highlight the fact that, obviously, based on the budgets that we have seen, as a country, we need to be honest to each other. We are unable to facilitate complete free education from nursery school all the way to university. It is time, as a country, we ask ourselves, if we are overly ambitious that we want to facilitate free education from nursery to primary to high school to university. It might not work. Perhaps, that is overly ambitious. However, is it possible then to have a conversation to say, can we at least have completely free primary education? When I talk about free, it is not where you are told it is free, however, you have to pay Kshs20 for ABCD, or however, the Board of Management together with the Parents Teachers

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Association have decided to come together, therefore you have to pay motivation to have the teachers to come in class for two or three extra hours.

Madam Temporary Speaker, let us have an honest conversation that should generate from this Upper House, where we really want to push for equity, but we are also alive to the fact that as it stands, perhaps, we cannot finance the full education all the way to university, but then let us talk about consolidating all these funds and ensuring that at the bare minimum, primary school education is completely free.

Madam Temporary Speaker, someone might be saying why primary school, why not primary school and high school? We are moving to a place where it is no longer about the certificates that you churn out. It is no longer about the theory. It is actually about the skills that you have.

Madam Temporary Speaker, in developed countries, particularly in Europe, where I have had the experience of living, once you have that basic skills set, that basic education of primary school and you have an idea of what you want to be in future, or at least you have some level of drive that puts you to a certain industry, if they see this person is a musician, there is no point of me taking you through a whole other education system just to say that you finished your high school and now you have this certificate and then you go back to harness your creative skills.

Madam Temporary Speaker, in developed countries, they give you the basic education and then it is encouraged for you to pick up a skill that can translate to some form of monetary work. That is why I am saying, my argument would be, once we consolidate these bursaries, if we are unable to give a platform where we can have completely free education, both in primary and high school, we should have an honest conversation with ourselves and say, let us focus on the primary, and ensure that in primary school, all the basic education levels are met, all the children are taken care of equally. It does not matter from which region or which county, whether it is a provincial school or a ward school. Let us just make sure that it is completely free for all primary schools.

Madam Temporary Speaker, I do not want to belabour the point where my colleagues have talked about how this bursary, which is essentially a token, an award, has been politicized. It is obvious, the moment you have a resource given to a leader who is in politics, the one thing they will do, which they know how to do best, because they are there to represent their people, is to represent their people. That is why you hear in some constituencies, someone will tell you that the Member of Parliament will only give bursaries to the clan where they belong. That is literally the least expectation from the people.

So, my thinking is, first of all, the whole idea of bursary is illegal. As I have said, the definition of bursary is that it is a monetary award. Why are you awarding children when our Constitution says that they have a right to free and compulsory education? If we are being honest with each other, just by its definition, we have to all agree that, in fact, we have been engaging in illegalities. We have been breaking the law because, in one way or another, we are stifling and making sure that these children and homes are unable to meet the financial expectation to get to the institutions of learning so that we can come and award them and say that we are the saviors.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Madam Temporary Speaker, I support this Motion because its basis is to end what I call the help *mafia* thinking. The help *mafia* is the person that ensures that you remain poor and struggling, so that they can come and help you. It has become a whole industry. I call them the *mafia*, the industry of help. The moment we understand that bursary is endorsing the help *mafia*, then we are going to say this is something that we do not support. It is an illegality because it goes against the Constitution where every child has a right to free and compulsory education and we will deal with this thing as legislators by ensuring that we are not legislating an illegality.

So, congratulations, Sen. Thang'wa, for bringing this Motion. I do support it and look forward to a period of time where, not only are we going to have absolutely free education, but we are also going to have certain programmes like *maziwa ya Nyayo*, because that is where we need to go back to, where everybody could access education for free.

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Olekina, please proceed.

Sen. Olekina: Thank you Madam Temporary Speaker. I would like to seek your indulgence with my vocals today.

Let me begin by saying that I oppose this Motion. I oppose it because it takes us back into the 20th Century, where we defined the rich and the poor based on their ability to afford education. In the 21st Century, we need to be thinking about how to make education absolutely free for our children. I long for the days when the former President, now late, President Mwai Kibaki, abolished all tuition fees and all school fees in schools, thus increasing enrolment in schools and helping this country advance to a middle-income economy.

Madam Temporary Speaker, bursaries are defined as a way of sort of like increasing the gap between the rich and the poor because we, politicians, will only be able to reward our friends and our cronies. I have looked keenly at the recommendations and what the Senator for Kiambu County is seeking us to do is to add the Ministry of Education to carry out the following functions.

One, is to audit the funds allocated to bursaries by both the national Government and county governments. First of all, I think that is completely misguided. The Auditor-General is the only one who has the capacity to audit how much money is allocated to bursaries in county governments and the the national Government because the Auditor-General is the only one with the mandate to audit county government funds. We are having a big problem with the Controller of Budget (CoB) seeking to be given permission to be able to see how money flows in the counties; to be able to have an eye on the accounts of the county governments.

If the CoB is not being given that ability to be able to scrutinize and see, who tells you that the Ministry of Education, which is a monster and national Government entity, will be given the permission by the county governments to audit that? I think that is completely misguided.

The second one, which is to consolidate the funds distributed by various Government entities and agencies, with the aim of directing these funds directly to

schools as supplementary capitation to facilitate the achievement of free secondary education. That is also completely misguided.

If an agency is able to allocate money to students to get education, it will be very difficult for that agency to transfer that information to the Ministry of Education, so that the Ministry of Education can now take that money and consolidate it to be able to fund students.

The only thing which I think the distinguished Senator really saw it fit, and I support that, is where the Ministry of Education can be able to calculate the cost of education per learner and make this information public for primary, secondary, and tertiary institutions. Currently, if you try to do an average, it costs about a maximum of Kshs20,000 per year for a child to be able to get their primary education. It costs between Kshs40,000 to Kshs100,000 in a public secondary school for a child to be able to get their secondary education, and anywhere between Kshs100,000 to Kshs600,000 per year for a child to be able to get higher education in this country.

What we need to narrow our thinking on is how to solve the problem of education in this country. We need to borrow the script from the late President on how he abolished school fees and tuition from our schools to ensure that our children get free basic education. That is what we need to be asking ourselves.

We need to carry out a comparative analysis, look at other countries; look at the United States as an example. I know some people would say that it is a developed country. No, it is not. It is not only developed, but other African countries are beginning to say that we must prioritize basic education. We are currently allocating Kshs656 billion to education in this country. If we were to say that there is no point in having this money in the NG-CDF, there is no point in having this money elsewhere, we need to now ask ourselves how our system of education works.

I want to challenge the Department of Education, even the Committee of Education, for them to look at how we can have a policy shift. The Ministry of Education must now decide that it is time for us to start district schools.

I know when you look at the Constitution, the county governments are only tasked, they are mandated by the Fourth Schedule to invest in ECDE and polytechnics. Primary school is a mandate of the national Government. So, what we need to do, first of all, is to look at the Constitution. Can we change that?

If my brother is trying to borrow from Article 189 of the Constitution of Kenya, 2010 on roles that are carried out by one level of government to another level of government, then I think the best thing to do is to go a notch higher and say, let us look at this task for basic education. Can we redefine basic education? Can we say basic education is ECDE and primary education? Then we move that mandate to the county governments and create district schools. When we create district schools, let us fund them. Let us give them money. Let us give them national Government money and also county government money. That is the only way we are going to be able to achieve free primary education in this country.

If we keep on lying to ourselves that we can be able to consolidate funds, NG-CDF, if right now we are having a big debate countrywide on the importance of NG-CDF, who tells you that a politician from the National Assembly, who is the one who is

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

passing the budget, will pass a budget that does not have NG-CDF? You know, there are things that we should waste our time discussing, and there are things that we should just give up and say, it is time for us to now click the reboot button and look at our policy direction when it comes to education. Are we able to change? My argument is very simple. We are not going to be able to consolidate these bursaries. A Motion in this House will not be able to be implemented because you will be fighting left, right, and centre.

The only way for us to be able to get a solution to narrowing the gap between the rich and the poor, between those who have and those who do not have, when it comes to the issue of education, is for us to go back to the Constitution and change the system of education that we have in this country. How we fund education in this country, is very crucial.

There was a time when, in the then Committee of Public Accounts (CPAC) where we were questioning county governments. Why are they building secondary schools? Why are they building primary schools yet it is a mandate of the national Government? A governor will come and tell you, then, if the national Government does not want to build, what am I going to do? The national Government did not want to build back then because it was who you knew who was in the Government.

So, the only way that we can guarantee free primary education and ensure that every child in this country gets access to education, whether you know Sen. Olekina or the distinguished Senator from Murang'a County, is when we decide to scrap all these bursaries. Let us do away with the bursaries. Let us make it free education. That is the argument that I want to have.

I do not subscribe to the school of thought that thinks that if we consolidate these bursaries, we will be able to make sure that a child in Mosiro or Kirinyaga gets education. That child in Kirinyaga will only be able to pay for their school fees or go to primary school and afford to have that Kshs 20,000 if that child knows Sen. Olekina or the Senator from Murang'a County.

Madam Temporary Speaker, I completely oppose this Motion. It is time for us to be realistic and to see what can help this country. The only thing that can help this country is if we make sure that all the policies take us to a point where there is free and compulsory education. Yesterday, we were with the President in Narok. The President said that it is the responsibility of every chief and assistant chief to make sure that a child who is of the age of going to school is taken to school. If that child is not taken to school, the chief or assistant chief will be the one to answer why that child is not in school. I want us to go a notch higher. How do we ensure that that child who is not in school, because the parents cannot afford to take that child to school, that child is allowed to go to school?

Today, we are talking about the Social Health Authority (SHA). We have created a system in SHA whereby we will be able to access. If you can pay to get medical, you have to pay. If you have very little money, you pay Kshs200; if you have a little bit more money, you pay Kshs500. Some of us here pay maybe Kshs1,700 or something like that because we can be able to afford it. Can we come up with something similar to that to

make sure that all those children in primary school, particularly in those counties where they still need affirmative action, are catered for?

Today, Madam Speaker, if you go to Narok South, you will be shocked. There are places where children are still learning in mud-thatched houses. We need to first of all, remove those classrooms, create a good environment and build those schools and employ more teachers. After that, we send the learners there, allocate more money to the Ministry of Education or to county governments and ensure if it is Early Childhood Development Education (ECDE) or primary school, it is 100 percent free.

This issue of bursaries continues to create or widen the gap between the rich and the poor; those who have versus those who do not; those who are well-connected versus those just ordinary Kenyans who it is only them and their God.

Madam Temporary Speaker, I completely oppose this Motion. I hope that Sen. Thang'wa can be able to advance his third request, whereby he engages the Commission on Revenue Allocation (CRA) and other research institutes to see how much it costs to educate one child. That is a discussion I am willing to engage in. If, for example, it costs Kshs20,000, how do we ensure that if we have four million children that need to be educated, we allocate enough money for them to be educated in each and every financial year? I believe that is a conversation that will help this country.

I oppose.

The Temporary Speaker (Sen. Muma): Hon. Senators, I wish to use my powers under Standing Order No.34 (2A) to extend today's sitting by 15 more minutes to enable us to finalize this business.

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker, for that extension of time, so that the rest of our colleagues who are here can get an opportunity to speak to this very important Motion.

When Sen. Olekina forewarned the House that he lost his voice and he was excusing his vocals. I would have wished that you would have extended the courtesy by letting us know that for the last two days you have been hosting the President of the Republic of Kenya in your great county of Narok.

Among so many other things, you have told Kenyans that such visits were not political, but project supervision, implementation and commissioning. By extension, I followed the sessions that you had. You are a great host because you showed the people of Kenya the kind of projects that Kenya Kwanzaa Government has done for not only the people of Narok but for the rest of the country. That included the urge that you made that we need to unite Kenya as one country because we need to be one and therefore it can only be an opportunity to extend a number of projects. There were roads which were launched, including the leather tannery that will serve many people, including those from the neighbouring county of Bomet. There were also the title deeds which were issued to our brothers and sisters in Mau and in Kilgoris.

You had in your last two days a great session. It is not in vain that your voice and your vocals definitely had to succumb. You have also been able to debate this Motion. Beside that appreciation, Sen. Olekina, I, however, tend to disagree a little bit with you in this Motion.

On my part, I join a number of my other colleagues in supporting this Motion. It is one of those issues that this House, through the Committee on Education and even the Audit Committee, has picked a number of issues with regards to the utilization and the award of Bursary Fund, by those who are currently administering it.

The Bursary Fund, which is a lot of money, is currently being administered by several agents. These include the county governments, Members of Parliament of the 210 constituencies, women Members of the county, that is the National Government Affirmative Action Fund (NGAAF) and at the national level by the Ministry of Education.

I congratulate my brother, Sen. Thang'wa, for this Motion because it gives us an opportunity to speak to the challenges of the bursaries. It shows us that despite the intention of the bursary fund, it has never achieved its aim because of what we have talked about. The bursary fund has been politicized to the extent that if you are not a friend to the person administering that particular bursary at the county level, then you might never get it. If you are not related in any way to a Member of County Assembly or a supporter of an MP, governor, or MCA, then you risk not getting the bursary even if you deserve to be a beneficiary of that fund. That politicization is what this Motion speaks to. It states that consolidation of bursary funds will ensure that the rightful children benefit from this fund. They will not have to sing to the tune of a certain political class to get the bursary.

I will conclude my remarks because of time, but I need to say that this a very good Motion. We need to support it because it is only the best way to ensure that the rightful people benefit from the bursary. It will also help avoid politicization of the funds. A few weeks ago, the Governor for Bomet County, Governor Barchok, paraded school-going children in a very misguided way. This was due to appreciation or non-appreciation of the fact that the Senate does not oppose issuance of bursaries and support of children who are in need of Government support.

It is unfortunate that there is inability to appreciate a clear way of administering this Fund. Those who have benefited from these funds must be known. They should get us the list of the people and institutions that have benefited even if they are Tertiary and Vocational Education Training centres.

Sen. Methu: Thank you, Madam Temporary Speaker. I will try to condense my thoughts. I have spoken to the Mover and he has added me two of his moving minutes. I will, therefore, use seven minutes.

The Temporary Speaker (Sen. Mumma): Order, Sen. Methu. Speak within what we agreed.

Sen. Methu: It is okay, Madam Temporary Speaker. I will condense my thoughts and will be very quick. First, I am extremely proud to be associated with Sen. Thang'wa and we are from the same political formation. Moving this Motion is an extremely bold move. I stand here to support this Motion.

One of the things that gives equality between the haves and the have-nots is education. The Constitution of the Republic of Kenya that was passed in 2010 is clear and explicit. Article 43(1)(f), Article 53(1)(b) and Article (55)(a) all speak to the question

of access. They state that every child has a right to access education. Article 53(1)(b) speaks to the right to access to basic education.

The definition of basic education, according to the Basic Education Act, is education in primary school and education in secondary school. So, it is timely that we speak about this question. Unfortunately, when we speak about this, some people say that we are against bursaries yet none of us is against bursaries. What we want is access to education for all Kenyans

I will speak about two critical things. A child from Mandera has the same rights as a child from Nyandarua. A child from Bomet has the same rights as a child from Migori. So, if a child from Mandera is getting Kshs20,000 for bursaries, then a child from Migori should also get that amount of money but that is not possible when we use the current formation as it is. This is because MPs and governors have bursaries.

It is important to note that some constituencies have fewer learners than other constituencies yet the disbursement via NG-CDF, is almost the same. The 75 per cent of the money disbursed by NG-CDF is the same for all constituencies. Imagine, one constituency has 16,000 learners and the other one has 2,000 learners and 40 per cent of all the monies given for NG-CDF are for bursaries. That is the first inequality.

I support the third recommendation that has been made by Sen. Thang'wa. If we try to amalgamate all these funds, why can we not first determine how much one child requires to access free education? There is no justification for spending Kshs11.6 billion in NG-CDF money and another Kshs14 billion allocated by governors, and we do not know the cost of ensuring a child receives free education. We are not opposed to bursaries. However, if we were to compare free education to bursaries, free education is what will ultimately provide the equality we are looking for.

Finally, bursaries are being used as political tools. There is tokenism; if you are my supporter, I give you bursaries. What about the children of poor parents who cannot access their Members of Parliament (MP)? What about the children who require certification from their chief, yet their father does not agree with the chief? Why do we place our children at the mercy of others just so they can access education?

It is on this basis that I fully support this Motion. We must determine the exact cost of educating per child. The late President Mwai Kibaki was bold enough to grant us free primary education. President William Ruto promised free secondary education. It is now his time to fulfill that promise and extend it to secondary and tertiary education because education is a right. I did not write this Constitution, nor did I include Articles 43, 53 and 55, which clearly state that every child is entitled to free basic education. It must be---

(Sen. Methu's microphone went off)

The Temporary Speaker (Sen. Mumma): Sen. Veronica, I request that you follow the same trend, so that Sen. Mandago also gets a chance to speak.

Sen. Veronica Maina: Thank you, Madam Temporary Speaker, for this opportunity to debate this very important Motion that has been brought to the Senate by our colleague, Sen. Karungo Thang'wa. You may have noticed that all the Senators who

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

have debated this Motion are very passionate about the decision that may be arrived at at the end.

I am confident that many of the Senators who have spoken on this issue have received their education through public institutions. The majority of them, like myself, come from the village, with the exception of perhaps a few, such as Karungo-Thangwa. I am not sure whether he comes from the village or from the suburban areas of Kiambu Town.

Many of us are here today courtesy of the education we received, which was provided by the Ministry of Education through public institutions. I am a proud product of public institutions, from nursery, primary and secondary school, to the university. That means, during my years of growing up, if I had not had a government that was responsive to children's right to education, I may not have been here today. That is why I speak on this issue with deep compassion for the young children and learners I meet every day in Murang'a County or in many other counties across Kenya

I examine the funds that have been disbursed to various offices, including the Office of the Member of the National Assembly, the Office of the Governor and the Office of the Presidency, all of which have distributed bursaries into different pockets. When we call on the Controller of Budget to account for how much has been disbursed to the Ministry, we are unable to obtain a clear figure. The funds are scattered here, there and everywhere.

We must now find a way to consolidate these funds, so that we can work with a policy that moves us towards free education. This sentiment has already been echoed by Senators who have spoken before me. However, I feel it is important to weigh in on this idea.

It is important that every child in Kenya should wake up and not have to return home in search of school fees. I personally had to go back home to look for school fees, except for the first term in secondary school and the last term. I know how painful it is to lose an entire week as a bright student simply because you are unable to stay in school and complete your work.

I stood up to say that it makes a lot of operational sense to pool that money and send it directly to the schools, so that we cut on the time that parents have to go to make applications, queuing in thousands outside an office, only to be given Kshs2,000 or Kshs3,000 out of what they need in a school fees invoice that could be asking for Kshs40,000 or Kshs50,000. If there is something the Government can do that will become a signature of the current regime, it should be offering genuine free education at both primary and secondary school levels.

Sen. Thang'wa, this is a good Motion because the initiative is good. I know reason will prevail because it is not about politics of the day. We are looking at how to operationalise a Fund in an effective way, so that the best interests of a child are served as per Article 53 of the Constitution and the Children Act which details the rights of every child. One of the rights of every child carried from Articles 43 and 53 of the Constitution are social and economic rights, which by extension could mean education is part of that because it enables a child to have economic and social rights.

Madam Temporary Speaker, looking at legislation around the best interest of a child weighed against politics of the day, as a House, let us accept to have the best interest of a child. We should put the funds in a pool and send them to the schools. Let every child in Kenya wake up every morning and go to school without worrying whether their fees has been paid or not. They should not worry whether they come from Turkana, Murang'a, Mombasa or Mandera. Let them walk to the schools with infrastructure that gives them an equalization measure across the whole country.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Mandago.

Sen. Mandago: Thank you very much, Madam Temporary Speaker, for this opportunity to speak on this Motion. Let me start by saying that I am in support of this Motion proposing to consolidate all the bursaries and make sure that we have free, compulsory and accessible primary and secondary education.

This Motion gives us an opportunity as a nation to de-weaponize the use of bursaries for political gain. Political gain is both ways; the electorate and elected leaders. Equally, elected leaders are always under pressure from the electorate who threaten them that if they are not allocated bursary, they will not see the door of Parliament or county assembly or they will not be the governor after the next elections. Therefore, this Motion serves not only the citizens of this country well but also the elected leaders. The responsibility of making sure that all the children of Kenya access education is left with the Executive and Ministry whose sole mandate as per the law and the Constitution is to ensure that all the children of this country access education as their right.

We, as a Senate, are not against bursaries. First, we thank policymakers who appeared before us and thought of the good idea of bursary. Bursary has served its purpose for the time it has been in place. We do acknowledge that it has made it possible for some children to advance their education, which they would not have without bursary. However, we want to make the situation better by making sure that there will be no application. There will also be no need to see the chief. One will not need to know their MP, governor, MCA or anybody. A child in Kenya at the right age will just go to school and advance their education.

Madam Temporary Speaker, I want to dissuade colleagues who are using political platforms to try and discredit a process that is going to equalize the children of Kenya. Giving this responsibility to the Ministry of Education is actually creating order and making sure that standards are followed in all our schools to make sure that the quality of education improves.

Therefore, I fully support this Motion and would like to thank the Senator for Kiambu County, whom I confirm is a villager, who went to a public school, that indeed, this Motion is going to solve the problems that we have had in this country.

Madam Temporary Speaker, the Government of Kenya and this country will never lack sufficient resources to be deployed for education. Consolidating the amounts we spend in bursaries in the various dockets, whether in the county governments, Member of Parliament, the Women Representatives, Members of County Assembly, plus the budget that has been going to the Ministry of Education, properly managed and streamlined, is sufficient without looking for additional resources to make education

work. This could not have come at a better time, other than the time when Competency Based Curriculum (CBC) is being rolled out.

The CBC as a model of education is also the best thing that happened to this country. We have spent time and many years as a country learning a lot of theory and that is why you find there is very little innovations coming out. There is very little research that can impact industry that has been coming out because of the curriculum that was being implemented. Therefore, this ties in very well with CBC. If we make it equitable and accessible, it will develop this country.

I thank you.

The Temporary Speaker (Sen. Mumma): The Mover may reply.

Sen. Thang'wa: Thank you, Madam Temporary Speaker, for the opportunity to reply to this Motion.

From the onset, I would like to take this opportunity to thank every Senator who contributed to this Motion. To be precise, this Motion has been spoken to by 17 senators, including myself. Out of the 17 senators, only one has opposed it.

Madam Temporary Speaker, this Motion is calling for free secondary education. That is what was in the mouth of every Senator who supported this Motion, saying that we should have free education. I call upon President William Ruto, that the majority who have spoken have said that this country is ripe for free secondary education. Just like President Mwai Kibaki, who gave us free and compulsory primary education, President Ruto can now make it his legacy and give us free, compulsory secondary education.

Madam Temporary Speaker, it does not make sense to make primary education compulsory and free, then after you educate them, you tell them, pay for your children. If you made it compulsory in primary school, also make it compulsory and free in secondary school.

Madam Temporary Speaker, we have come to learn that from the funds that I have calculated here, not once or twice, the country has funds. I therefore, would like to answer Sen. Ledama, who opposed the Motion. I think he opposed the Motion because of semantics. Perhaps he got it wrong somewhere. He opposed it but supported within the context. So, I think it was the issue of audit.

When you talk about the Ministry to audit, we are not talking about the auditing that is done by the Auditor-General. We are talking about review, look into and research. It is worth noting that every Ministry has internal auditors. I think they need to do that to tell us where we are at, as a country.

In addition, Madam Temporary Speaker, if you read the resolution number two of this Motion, it says "consolidate". I have to be clear here, because this is one of the issues that has confused the Senator. Here, 'consolidate' means integrate, harmonize, streamline, not necessarily putting it in one basket. I would even oppose that myself.

I am not calling for bursaries to be put in one basket, then we start dishing out the way we are dishing it out. That is centralization. It is taking it away from the village and bringing it to Nairobi. I cannot support that. The money that you have for bursaries is integrated into the schools, so that education can be free. I want to demonstrate by saying that yesterday, I made the calculations.

I said a Member of Parliament is disbursing an average of Kshs50 million per constituency. With 290 constituencies, that is about Kshs14.5 billion. Women Representatives are giving between Kshs10 million to Kshs15 million per county. That is about Kshs705 million. Governors are giving up to Kshs500 million per county. If you multiply that by 47 counties, that is about Kshs23 billion. If you count what the Ministry of Education is giving as scholarships and bursaries, if you count what the President is giving as bursary, if you count what the corporations like “the Wings to Fly,” are giving, I am telling you the money that is out there is more than Kshs50 billion. That is from the Government without calculating bursaries from the private sector.

If we put all these Kshs50 billion, divide that amount by five million students who are in secondary school today, every student will get additional Kshs10,000. Today, they get Kshs22,000, so that will be Kshs32,000. I mean, it is more than the required amount for education here in Kenya.

So, the answer lies here, by making education free, by putting all these bursaries, all the capitations and declaring secondary education free of charge. I have done my own research from the Members who have supported me and from the members of the public. Even as we speak today, I have just received a letter on WhatsApp. I am not going to read all of it. It is a letter from the members of Mount Elgon Development Network. They have written a very nice letter that we should look at as the Senate.

One of the recommendations they have made is to separate funds for the bursary channelled to schools and allow free and compulsory education. This is from Mount Elgon. I do not even know who they are. I could read one or two names; Janet Chemtai and Linet Chepkemoi, and it is written and signed by Cannon (Rtd) Cherotwei Simotwo. So, this tells you the time is now, and the time is right for us to give this country free secondary education.

When I talk about calculating the cost of education, and it was also raised here, we want to know how much it costs or how much one student or one child requires from Form One all the way to Form Four. Once we know how much, we just multiply by the number of students. The moment we multiply, the country will know the amount of money they are going to budget for education. Once they do, we will make education free. The last time the Cabinet Secretary was here, he said they have not calculated. That is why we are now telling them, calculate and report to the House, so that both the National Assembly and this House will be able to harmonize and make sure that secondary education is free.

It has been said here that those who get bursary know *waheshimiwa*. Sen. Mandago has brought another aspect. Even *waheshimiwa* themselves are sometimes threatened. They are told, “if you do not give me bursary, I will never vote for you”. So, we are helping everybody in this aspect. We are helping the Member of Parliament not to be threatened and we are helping the voter to get free education. I want to give an example. There are two Mama Mboga who pay for education. One *mama mboga* will spend the whole day at the MP's office, the governor's office or the MCA's office, while the other Mama Mboga who is tired of standing at the MP's office or the governor's office, goes for a *kibarua* or goes to just do some handy work somewhere to get some money.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

It does not mean that the *mama mboga* who is paying for that education or able to pay that education is better off than the other *mama mboga* who is spending all the time at the MP's or the governor's office looking for money. That tells you that if we were to make education free, everyone would stop going to Members of Parliament and go to work. The Members of Parliament, MCAs, governors and everyone else would be voted not for the Kshs2,000 they gave as bursary, but how much they defended the rights to have basic education, which is the primary and secondary education.

Madam Temporary Speaker, it is also good to quote because Sen. Nyamu said something that was intriguing, that free education is the equalizer, but bursary is the divider. That is something we need to tell everyone who is concerned when it comes to funding education.

This should go on record. The Senate is not fighting bursary, but only saying that we put this money in school and make education free. We are not saying that counties should not give bursaries. We are telling counties that if we make education free, the monies they were paying for education will be used to make roads, better the healthcare and pay better salaries to their people.

As I conclude, I urge every Senator to support this Motion because this is what Kenya wants.

Madam Temporary Speaker, I request that pursuant to Standing Order No, 66(3) putting of the question be deferred to a later date.

I reply.

(Putting of the question on the Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Muma): Hon. Senators, it is now 6.42 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 Tuesday, 13th May, 2025 at 2.30 p.m.

The Senate rose at 6.42 p.m.