

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 7<sup>th</sup> September, 2021**

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

*[The Deputy Speaker (Sen. (Prof.) Kamar) in the Chair]*

### PRAYER

### COMMUNICATIONS FROM THE CHAIR

**The Deputy Speaker** (Sen. (Prof.) Kamar): Honourable Senators, I have three communications to make.

#### COMMENCEMENT OF PART V OF THE FIFTH SESSION OF THE SENATE

I take this opportunity to welcome you back to the regular sittings of the House. Part Five of the Fifth Session commences today and will run until Thursday, 21<sup>st</sup> October, 2021. It is my hope that you have taken time during the recess period to rest, reconnect with your constituents, families and friends.

Afford me a few minutes to recognize and commend you all for the tremendous dedication to duty that you each demonstrated in the preceding part of this Session. Respective committees dispensed with numerous Petitions and tabled reports.

I take this opportunity to single out the Standing Committee on Land, Environment and Natural Resources, which by far, had the highest number of Petitions, for honoring the call to duty and dispensed with twelve Petitions and tabled reports pursuant to Standing Order 232(2). Five Bills were passed on 5<sup>th</sup> August, 2021, and referred to the National Assembly pursuant to Standing Order 156.

This notwithstanding, I hasten to point out that the term for this August House is fast coming to an end and there is still a high number of Bills, Petitions, Motions and Statements before us.

As we begin the Fifth Part of this Session, I urge all Honourable Senators to take time to assess how we have undertaken our Constitutional mandate; collectively as the Senate, as Members of Select Committees, and individually as Senators representing

counties or specially elected. What will be the legacy of the Third Senate at the end of the term of the 12<sup>th</sup> Parliament?

Honourable Senators, the broader outlook of business in this Part, and the next, of the Senate Calendar projects a Session that will be heavy with Bills. There are twelve Bills due for consideration at the Committee of the Whole Stage, twenty at the Second Reading stage, four due for First Reading, and another undergoing concurrence pursuant to Article 110(3) of the Constitution.

I appeal to the sponsors of the said Bills and the movers of amendments to avail themselves once they are scheduled on the Order Paper, in order for the Senate to dispense with them expeditiously.

Other business already before the Senate includes 13 Motions, 47 Petitions before respective Standing Committees and Statements pursuant to Standing Orders 47 and 48. In this Part of the Calendar, we will also be expecting Chairpersons of respective Standing Committees to make reports pursuant to Standing Order 51(1)(b).

With respect to financial matters, the timeliness for processing of the budget for Financial Year 2022/23 have been altered in view of the upcoming general elections. Therefore, the Budget Policy Statement, Division of Revenue Bill and the County Allocation of Revenue Bill for the next financial year are now projected to be submitted to Parliament for consideration and approval, by 30<sup>th</sup> November, 2021.

This will ultimately necessitate a reconfiguration of the schedule of business to accommodate approval of the Budget Policy Statement and the finance Bill within the required period.

Hon. Senators, when the Senate proceeded on recess on 5<sup>th</sup> August, 2021, we had Bills pending consideration before respective Committees follows -

(a) One Bill before the Standing Committee on Health. That is the Health (Amendment) Bill (Senate Bills No. 26 of 2020).

(b) One Bill before the Standing Committee on Education; that is The Kenyan Sign Language Bill (Senate Bills No. 5 of 2011).

(c) Two Bills before the Standing Committee on Labour and Social Welfare.

(1) The County Hall of Fame Bill (Senate Bills No. 9 of 2021); and

(2) The Heritage and Museum Bill (Senate Bills No. 22 of 2021).

(d) Two Bills before the Standing Committee on National Security, Defense and Foreign Relations

(1) The Disaster Risk Management Bill (Senate Bills No. 14 of 2021); and

(2) The Kenya Citizenship and Immigration (Amendment) Bill (Senate Bills No. 33 of 2021).

(e) There were four Bills before the Standing Committee on Justice, Legal Affairs and Human Rights; namely:

(1) The Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021);

(2) The Preservation of Human Dignity and Protection of Economic and social Rights Bill (Senate Bills No. 21 of 2021);

- (3) The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021);  
and  
(4) The Lifestyle Audit Bill (Senate Bills No. 36 of 2021).
- (f) One Bill before the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.  
(1) The National Cohesion and Peace Building Bill (Senate Bills No. 19 of 2021).
- (g) Four Bills before the Standing Committee on Devolution and Intergovernmental Relations  
(1) The County Boundaries Bill (Senate Bills No. 20 of 2021);  
(2) The Intergovernmental Relations (Amendment) Bill (Senate Bills No. 37 of 2021);  
(3) The County Governments (Amendment) Bill (Senate Bills No. 38 of 2021);  
and  
(4) The County Oversight and Accountability Bill (Senate Bills No. 17 of 2021).
- (h) One Bill before the Standing Committee on Agriculture, Livestock and Fisheries.  
(1) The Coconut Industry Development Bill (Senate Bills No. 24 of 2021).
- (i) Two Bills before the Standing Committee on Finance and Budget.  
(1) The County Governments Grants Bill (Senate Bills No. 35 of 2021);  
and  
(2) The Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021).

*(Several Senators entered the Chamber)*

Senators, please, take your seats so that I can proceed.

*(Hon. Senators took their seats)*

I urge the respective committees to process these Bills in line with the provisions of Article 118 of the Constitution and Standing Orders No. 140(5) and 143(1) and table reports thereon.

You will all agree with me that the public participation processes enables broad consultations on a Bill, as committees engage key stakeholders to receive their views and incorporate them in making their report to the Senate. While the importance of this process cannot be gainsaid, I urge Standing Committees to also ensure that the legislative process proceeds to the next stage in a timely manner.

Hon. Senators, as we all know, the COVID-19 pandemic situation continues to persist globally and also here at home.

As national leaders, we must prioritize the interests of the country and the safety of all citizens.

Let us lead by example by observing the COVID-19 protocols at all times in both the Plenary and in Committee meetings.

In this respect, I have asked the presiding officers in Plenary and respective Committee Chairpersons to ensure adherence to these protocols.

Hon. Senators, I reiterate my support to facilitate you in effectively discharging your constitutional mandate.

Accordingly, I also reassure you that my office, and that of the Clerk of the Senate, are at your disposal in this respect.

I thank you.

Hon. Senators, I have a second Communication on the visit to the Senate by Ms. Kim C. Phan, Executive Director of the International Law Institute (ILI).

VISIT TO THE SENATE BY MS. KIM C. PHAN, EXECUTIVE  
DIRECTOR OF THE INTERNATIONAL LAW INSTITUTE

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery, of Ms. Kim C. Phan, Executive Director of the International Law Institute (ILI).

The ILI is an independent, non-political, non-profit educational institute serving a global constituency.

The ILI and its global affiliates has trained more than 39,000 participants from 186 countries in various areas including governance, trade and investment law and legislative management.

The ILI Mission is to "Foster Prosperity through the Rule of Law"-helping developing countries achieve economic growth through a sound legal framework.

*(Several Senators entered the Chamber)*

Senators, please, take your seats.

*(Hon. Senators took their seats)*

Hon. Senators, the Parliament of Kenya and specifically the Senate, has partnered with and participated in ILI capacity building programmes on leadership, legislative drafting and legislative management. Participants in such programmes include, the Senate Leadership, the Liaison Committee, the Standing Committee on Justice, Legal Affairs and Human Rights and the Senate Board of Management (SBoM).

Ms. Kim Phan has served as the Executive Director of the ILI for more than 15 years and is the course advisor for the ILI programmes on Leadership and Management in International Development, Women in Leadership and Legislative Strategic Management among others.

She also teaches a course on Leadership and Management at the University of California Irvine Law School. She is the immediate past President and board member of the Friends of the Law Library of Congress.

Hon. Senators, Ms. Kim Phan is visiting the Senate for continued engagements and collaboration between the ILI and the Senate.

We welcome Ms. Phan to the Senate and wish her a pleasant stay and fruitful engagements for the remainder of her stay in Kenya.

I request that we welcome Ms. Kim Phan in our usual manner as she stands.

*(Applause)*

I thank you.

*(Several Senators entered the Chamber)*

Senators, please, take your seats.

*(Hon. Senators took their seats)*

I will allow only two Members to join me in appreciating and welcoming Ms. Kim Phan. I will start with Sen. Kwamboka.

**Sen. Kwamboka:** Thank you, Madam Deputy Speaker. Let me join you in welcoming Ms. Phan, the Executive Director of the International Law Institute (ILI). I am one of the Members who were trained at Washington D.C. We learnt a lot when it comes to leadership skills.

Ms. Phan is warmly welcome to Nairobi, Kenya. This is where we normally conduct our business. The work that she is doing in Washington D.C. in training the leaders in different countries is worth it. This is because once we get back to our countries, we demonstrate whatever we learnt there. I thank her for coming.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Kwamboka. I will now allow Sen. Poghisio.

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, I thank you for the opportunity to welcome Ms. Phan to Kenya. It is good to see her this side of the ocean and to know that she still maintains a relationship with her students. I want to declare that I am one of those that who have been through her course at ILI.

We really enjoyed our time there. She was so responsible. We appreciate the fact that she has come to follow up on the relationship between us, the institute, and her personally. She has made so many personal friends among the students. We got to know her and her team very well. I just want to appreciate her and welcome her to Kenya and to this Senate.

**The Temporary Speaker** (Sen. (Prof.) Kamar): I had said that I will only allow two contributions, but I will allow Sen. Farhiya.

**Sen. Farhiya:** Thank you, Madam Deputy Speaker, for allowing me to join you in welcoming Ms. Phan to this Senate. I have never met her, but from the Curriculum Vitae (CV) that everyone is reading, she deserves a star. When women are in leadership, they always excel. I appreciate that she has lived up to that dream. Welcome to Kenya.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senators. Ms. Phan, you are welcome, again.

DEMISE OF SEN. PRENGEI VICTOR SITIENEI, MP,  
NOMINATED SENATOR

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, the third communication is on the demise of Sen. Prengei, who until his death was a Senator in this House.

Hon. Senators, as you are aware, on Monday, 16<sup>th</sup> August, 2021, we all received the tragic news of the passing on of the late nominated Senator Victor Prengei Sitienei, MP, which occurred through a tragic road accident at Gioto area in Nakuru County. The late Sen. Prengei was among the youngest legislators in the Twelfth Parliament and was, indeed, a great leader, principled legislator and distinguished man who passionately served, not just the special interest group, but Kenya in general.

The Late Sen. Prengei was born on 10<sup>th</sup> January, 1984 in Mariashoni Location, Molo sub-county in Nakuru County. His passion for academic excellence was evident at a very early stage in his life and demonstrated by the illustrious awards he received while pursuing degree programmes at the Maseno University. These include a Bachelor's degree in Economics (2008), Master of Laws (2009) and a Masters in Strategic Management from the Jomo Kenyatta University of Agriculture and Technology (JKUAT).

Hon. Senators, in his short stint in public service from 2010 when he begun his career, Sen. Prengei distinguished himself as a man of honour, respect and dignity. He worked as a deputy returning officer in the 2013 General Elections and in 2014, joined the Nakuru County Land Management Board as its chairperson, where he served for a year. He later joined the Betting Control and Licensing Board as a member, and served until he was nominated as a Senator representing the youth, following the 2017 General Elections.

Hon. Senators, in the Senate, the late Sen. Prengei served as the Vice-Chairperson of the Standing Committees on Lands, Environment and Natural Resources and the Standing Committee on Energy. He was an active member of the Standing Committee on Devolution and Inter-Governmental Relations and the Sessional Committee on Delegated Legislation as well as the Committee of Powers and Privileges.

The late Sen. Prengei relentlessly advocated for the human and land rights of minority communities and actively participated in community projects aimed at improving the lives and livelihoods of the people. He will be fondly remembered as a steadfast leader, an ardent defender of devolution, and for upholding the rule of law and constitutionalism. To his credit, the late Senator had drafted the Minority Protection Bill which was due to be introduced in the Senate.

I am saddened by his passing, considering that he had a bright career ahead of him in public service. I take this opportunity to express my condolences to his family, friends and relatives, the people of Nakuru County and the Senate for the loss.

Hon. Senators, in honour of our departed colleagues and in accordance with our tradition, I request that we stand and observe a moment of silence for his soul.

*(Hon. Senators observed a moment of silence)*

May his soul rest in eternal peace.

Hon. Senators, I will allow a number of you to make your statements on this last communication.

**Sen. Khaniri:** Madam Deputy Speaker, I rise with a very heavy heart this afternoon. Allow me to convey my deepest condolences to the family, the people of Nakuru County, the Senate, and the Republic as a whole for the loss of our dear departed colleague.

It is unfortunate that when our colleague was being laid to rest, I was out of the country on official duty. Therefore, I was not able to join those of you who joined the family during that sad moment of sending him off. However, I would like to state that I have very fond memories of our departed colleague.

I served with him in the Standing Committee on Land, Environment and Natural Resources where he was my Vice Chair deputizing Sen. Mwangi. During that period, I bonded so much with the young Senator. We travelled to so many places and did so many things together for the Committee and the Senate. I can only say that I will miss those times that I shared with my dear young brother and colleague.

Sen. Prengei died at a very prime age because he was a young man. Because of his death, the country has lost a young promising leader. My thoughts are especially with his young family that he left behind and the Ogiek Community.

Madam Deputy Speaker, we must endeavour to assist the young family that he left behind in whatever form that we can as colleagues and as a Senate. Being a Commissioner on the Parliamentary Service Commission, I will also ensure that all the dues that are due to his family are promptly paid.

Madam Deputy Speaker, the only honour that we can give to the minority group of the Ogiek is by nominating another Ogiek to replace our departed friend. This was the first time ever an Ogiek sat in a national Parliament. Our colleague was at the forefront fighting for the rights of the minorities and particularly the Ogiek. Therefore, that will need some continuity.

My recommendation and plea to the Jubilee Party would be to kindly consider nominating another person from that community, so that they proceed and conclude the issues that the young Senator was pursuing.

It is sad. I heard that when he got involved in the accident, there was no prompt action to try and save his life. He remained at the scene of the accident for some time before he was rescued. We do not expect that in the 21<sup>st</sup> Century. Emergency services must be there. We must improve on our emergency services. If there was prompt rescue operation, maybe his life would have been saved.

We urge both county and national governments to ensure that emergency services are improved around the country.

May the Almighty God rest our colleague's soul in eternal peace.

**Sen. (Prof.) Ongeri:** Madam Deputy Speaker, let me also add my voice to the rather sad and sudden demise of our colleague, Sen. Prengei, who was a Member of this House. He was a brilliant young man.

He carried out his responsibilities with dignity and decorum. He was able to reach to many other sides of the divide of this House. He was also able to mingle and accept guidance and advice at some stage during the course of his work.

I saw him as a man who had a mission to prosecute. Indeed, he represented the Ogiek Community and in fact the minority communities in general throughout the country of Kenya, once again testifying that this House takes care of the minority groups as we should and in accordance with our Constitution.

His family is still young and they are people with a future that they look forward to. The moment that future is a bit blunted because they have lost a star, somebody who was able to carry them through to the early teenage, they should accept and scale the problems of this world.

Seeing how the widows stood in the church and during the funeral, I believe and trust that they will carry the mantle of rearing and caring about those young children who have a tremendous future. His parents were totally devastated because the young man was their hope and expectation in life but suddenly, he was no more. That reminds us of the problems we have with our roads and the sides of roads which are not well done therefore creating potential dangers for casualties.

Indeed, we lost a valuable Member of this Senate. My condolences go to the wider family of Prengei. The brothers looked decent; people who are polished and willing to go an extra mile. Even when they were struck with the tragedy, they still kept their cool.

My condolences on behalf of Kisii County and our people in general, let me pass condolences to the family of the late Prengei.

May the Almighty God sustain and keep them well until such a time we will meet again.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Iman placed a request but she has disappeared. We are waiting for you to come back. Let us listen to Sen. Wako.

**Sen. Wako:** Thank you, Madam Deputy Speaker, for giving me this opportunity. I too want to add my voice to that of my colleagues and convey my personal condolences and condolences of the people of Busia concerning the passing away of the young Senator who had made history by being the first Member of Parliament (MP) to represent the Ogiek Community.

As other Members have said, he was very able. He showed and demonstrated that we can have able leaders even from the minority tribes like the Ogiek Community who can articulate the concerns of their people.

In Kenya, we focus so much on politics of numbers and that politics is the question of numbers. Therefore, the minorities tend to be left behind yet it is from the minorities that we can have national leaders who can be presidents and who can bring the entire country together.



I remember when President Moi came to power, they were not saying that he was a Kalenjin. They said that he was from a minority tribe of Tugen, which was a minor Kalenjin sub-tribe. That was the emphasis. Because of that, he was able to bring Kenya together.

Other leaders such as President Nyerere of Tanzania came from one of the minor tribes in Tanzania. President Kaunda who passed on recently came from one of the minor tribes in Zambia. In fact, there were more people of his tribe in Malawi than in Zambia. People used to say that his father was from Malawi and went to Zambia as a missionary.

Kwame Nkurumah, the great Pan-Africanist did not come from the Ashanti Tribe which is a major tribe in Ghana. He was from a minor tribe in Ghana.

We must give the opportunity to people from the minority tribes to also come up and be leaders. It may very well be that we shall be looking to such people to lead Kenya rather than say “because of the numbers, we have to look to major tribes to provide the leadership”. That is the legacy that he has left behind.

Therefore, we, as the Senate, should expedite that Minority Protection Bill which has been crafted so that it is passed as quickly as possible during this Session when we are still Senators and before the general election of 2022.

Madam Deputy Speaker, once again I convey my sincere condolences to the family and to the children that he has left behind. I noticed in yesterday newspapers that the Ogiek community has come together and they had agreed on a person who could be nominated. I would like to appeal to the people responsible for nominations to take on that recommendation and nominate because we would want such a person to be in the Senate as quickly as possible so that he can continue the good work that Sen. Prengei left.

With those few remarks, I thank you.

**Sen. Wambua:** Thank you, Madam Deputy Speaker for this opportunity to also join my colleagues in eulogising our friend, brother and colleague, the late Sen. Victor Prengei.

I want to begin by giving my condolences, the condolences of my family and those of the great people of Kitui to the family, relative and friends of the late Sen. Prengei.

I am pleased to hear that our Commissioner Sen. George Khaniri has committed to ensure that the benefits that are due to the family of our departed colleague will be processed and paid out in good time. That is the least that we can do for that family. Thank you, Sen. Khaniri, for giving that undertaking and I know that you will do it, not just for the family but also for the glory of God. We are very pleased to hear that.

Madam Deputy Speaker, secondly, we are living in very interesting times. I also like what I have heard from Sen. Amos Wako that leaders from minority communities in this country must get an equal opportunity to provide leadership beyond their communities. There is no better way of doing that than making sure that as colleagues of our departed friend, we fast-track a Bill that he had drafted on the plight and the rights of minorities and marginalized communities in this country. If we can do that, that would be a great honor to the Ogiek community and other marginalized communities in this country.

I also want to say that at such a time as this, we are reminded that in the passing on of our colleague, he became the fourth Senator in this term to pass on. We continue to condole with the families of our other colleagues that we lost in this term. These are: the family of the late Sen. Ben Okello Oluoch from Migori; the family of the late Sen. Boniface Mutinda Kabaka; the family of the late Sen. Yusuf Haji and now the family of the late Sen. Prengei.

Lastly, I want to thank the leadership of the Senate led by the Speaker for the efforts that they made in setting up a committee where I sat and co-chaired with Sen. Susan Kihika to arrange the burial of our colleague and for turning up in really good numbers in church to pray for the soul of our departed colleague and for those who escorted the body home for the final rites.

With those remarks, I condole with the family, relatives and friends of the late Sen. Victor Prengei.

I thank you.

**The Senate Majority Leader** (Sen. Poghio): Thank you, Madam Deputy Speaker for the opportunity to continue to offer my condolences, those of my family and the people of West Pokot and the condolences of this side of the House following the demise of our beloved young Senator, Sen. Victor Prengei.

Being on the same side with Prengei did not matter because he was friendly to both sides of the House and he made it easy for Members of this House to become friends with him.

He was amiable as it has been mentioned, a smiling young man who did not have any problems with anyone in this House. Many things have been spoken about him. We gave him a very good send-off. Some of us had an opportunity to say a few words at the requiem mass. I also went to his home and the burial site and I also had a moment there to speak on behalf of our side of the House and the House, to give our condolences and to mourn with the family.

I am particularly concerned about the Ogiek people and the marginalized communities that he represented in this House. I am very concerned because they have no opportunity at all of being elected if they stood for elections and so the only way is for them to be nominated. I want to join my colleagues who have spoken ahead of me who insist that we should get another person from the minority groups to represent, particularly from that Ogiek community if possible.

I want to say something that I have spoken about before; it is in public domain that sometimes in the burial of our colleagues politics exceed the limits that should really be allowed when we are giving a great send-off to our people.

In this particular case, I raised the issue and one faction of the political divide decided to run with it and keep everybody else out. They turned the whole place into a place where insults and very unkind words were used against the other side. I thought that was not fair because we all supported the effort to give our colleague a good send-off.

I was there and I saw that it was not tenable to continue being in that particular burial spot because it had turned into a political rally, pitting one side of this House against another and so on.

Very unkind words were said about this side of the House, the Jubilee side of the House and so on. I do want to agree that sometimes we take these things too far. The young man would not have agreed with that. His family did not agree with that. I think that the family would have said that this is enough but we overpowered the family and the church. The church could not even say anything. I saw the Bishop just sitting there and waiting, listening to all that stuff which was being said against other people.

That notwithstanding, we wish the family well. I know it is a very young family and we have said in many ways that the family should be supported. We have also said that the person replacing the late Sen. Prengei should be a person very close to the people of the Ogiek community.

I want to wish this House comfort for losing our colleague. May God rest his soul in eternal peace.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. (Dr.) Musuruve, proceed.

**Sen. (Dr.) Musuruve:** Madam Deputy Speaker, thank you for giving me this opportunity to condole with the family of the late Sen. Prengei. I pass my deepest condolences on behalf of my family, Persons with Disabilities (PWDs) in this country and I. On behalf of Kakamega County, I say *pole sana* to the family of Sen. Prengei.

I remember Sen. Prengei as being an active Senator. The last time I saw him very active was when we went to Zanzibar. He represented us very well in volleyball where he would always score. It is unfortunate that his time to rest came too soon when he was very young. He has left behind a very young family.

I thank Sen. Khaniri, who is also a Commissioner, for coming out strongly and saying he will ensure his dues are processed in good time so that his family does not suffer. It is clear that sometimes when people die, their families suffer simply because the benefits take forever to come out.

Sometimes the children of the deceased do not even go to school because the money takes time to come out. With this assurance, I believe that the children will continue to go to school and his widows will dust their feet and move on with life despite the pain of losing a loved one.

Sometimes the way of God pains us a lot but those are His ways. His ways are different. We thank the Almighty God for the years that He allowed us to interact with Sen. Prengei. May his soul rest in peace.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Madzayo, proceed.

**Sen. Madzayo:** Asante, Bi. Naibu wa Spika. Kwa niaba yangu na kwa niaba ya watu wote wa Kaunti ya Kilifi, ninatoa rambirambi zangu kwa familia, jamii na marafiki wa Sen. Prengei.

Sen. Prengei alikuwa kijana shupavu na Seneta wa hali ya juu katika kushughulikia maswala yanayohusu watu wa jamii yake ya Ogiek. Hususan, alijibidiisha sana upande wa kutetea maswala ya haki upande wa mashamba ya watu wake.

Sen. Prengei alikuwa kijana sana. Kifo hakichagui, hakipimi wala hakiangalii. Kinakuja kwa mtu yeyote, lakini kikija kwa mtu ambaye ameanza familia na hata

kuiweka familia yenyewe sawa sawa, ni jambo la kusikitisha. Ni jambo la kuuliza na sio jambo nzuri kutokea katika familia. Sisi kama Maseneta, tulimpenda Sen. Prengei lakini Mwenyezi Mungu alimpenda zaidi.

Bi. Naibu Spika, Sen. Prengei alitoka katika jamii la Ogiek ambao wanaishi katika Bonde la Ufa. Hii ni jamii ndogo sana tena ya watu wachache sana. Kumpoteza mtu kama huyu katika jamii na familia ndogo kama hiyo, sio jambo ambalo kila mtu anatafakari.

Sisi tuko upande huu wa Bunge na yeye alikuwa ule upande mwingine wa wale waliomteua. Pale walipo, tunawaomba tu waangalie maswala ya jamii ya Ogiek. Lipo jukumu la kuhusisha hili kabila dogo la Ogiek, ili kupatikane kiongozi mwingine kutoka hii jamii, apewe nafasi hiyo kumaliza muhula huu unaoendelea hadi mwaka wa 2022.

Mimi na watu wa Kaunti ya Kilifi tunasema pole kwa familia, jamii ya Ogiek an watu wa Bonde la Ufa. Maseneta tunasikitika na tunaomba Mwenyezi Mungu aiweke roho ya marehemu mahali pema peponi.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Kwamboka, proceed.

**Sen. Kwamboka:** Thank you, Madam Deputy Speaker. Let me join my colleagues to pass my condolences to the family of the late Sen. Prengei, Nakuru County and the Ogiek family.

Indeed, we have lost a very powerful and active colleague. As the Vice Chairperson of the Senate Sports Club, let me say we have lost the volleyball captain and it is painful because he was very active in sports.

During contributions in the House, he used to participate very well. He did not give us a hard time when we needed quorum in this House. We have lost a good leader of this country. We ask the Jubilee Party to kindly nominate one of the Ogiek family to, at least, represent the minorities in this country. May his soul rest in eternal peace.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Kasanga, proceed.

**Sen. Kasanga:** Thank you, Madam Deputy Speaker, for also giving me this opportunity. Thank you for also giving us time to eulogize our friend and colleague. Once again, I wish to extend my deepest condolences to the family of the late Sen. Prengei. I had an opportunity to be at the funeral service here in Nairobi City County and I got a chance to meet his family. We definitely send out deepest and heartfelt condolences to them.

It is a great loss to the Ogiek community, his young family and we always tell them – I repeat it here – the ways of the Lord are not for us to question but to understand that he will give us strength and courage to live and move on. Indeed, his visions for his decisions will be unveiled in good time. We will have to be patient.

We will remember Sen. Prengei as being very dignified in the House. Indeed, he set a good example to the young people of this country. He reminds us that a young person can rise up from their village wherever they come from and reach the highest level in a very honourable manner.

From him, we learn that young people can participate in politics in the right channels that are provided in our Constitution through our political parties. Through their involvement and community service, they can rise and reach the highest levels.

Madam Deputy Speaker, we learn from Sen. Prengei that once you arrive here, then you should carry yourself with the dignity that the seat deserves. In a way, this gives an example to future young leaders who will come here. We thank the Senator how he carried himself.

He was my Vice Chairperson in the Committee on Land, Environment and Natural Resources where we interacted a lot. In the first mission, we went to West Africa together for the ICGLR. He conducted himself with the highest level of decorum that I could possibly speak of. He was also a personal friend.

One of the things that did not come out clearly to us, as his colleagues, was how he was treated after the road accident. Our healthcare leaves a lot to be desired. We have to speak on this because healthcare is a devolved function. To this day, 10 years into devolution, we still have horror stories from Kenyans on how emergency services are handled in this country, more so along our highways which are death traps.

Anyone who uses the highways - which is most of us - has their life at risk. To this day, our emergency service response along the highways leaves a lot to be desired. We have to question this. What has happened to all the ambulances? Where are they 10 years into devolution?

Where is the policy that hospitals have to save a life first before asking for payment? We lose many lives on the highways. Even now during the COVID-19 pandemic, our emergency response leaves a lot to be desired.

Madam Deputy Speaker, if one listens even to COVID-19 patients' families, they tell you how they struggle to get their patients admitted. One cannot be served unless they pay so much money. It is sad in this day and age in a country with over Kshs3 trillion budget. These are conversations we must have in honour of our colleague.

Madam Deputy Speaker, I extend further deep condolences to the family of Sen. Prengei and to the Ogiek Community. I hope and pray that they can have somebody else come and represent them in this House. Even if that does come to fruition, although it is what we would desire, we have to remember that the minorities have to be equal rights of representation in the House. We must take up the mantle where he left off.

Thank you, Madam Deputy Speaker.

**Sen. Cherargei:** Thank you, Madam Deputy Speaker for giving me this opportunity to eulogize our colleague. On my own behalf of the people of Nandi County and my family, I extend our deepest condolences to the family of the late Sen. Prengei and the people of the Ogiek, which is largely part of the Kalenjin Community which I hail from. I pray and believe they shall find grace and fortitude during these hard times.

Sen. Prengei was a great man in his role. He had his *modus operandi* in this House. He used to always smile around. I cannot recall any time he offended anybody, including staff and colleagues here. He was a peaceful man.

As my colleagues have said, those who are doing nominations should, in respect of the legacy that Sen. Prengei left in the Ogiek Community and the marginalized in this

country, as envisaged in the Constitution, ensure that they give opportunity back to the Ogiek Community. In Tinderet Sub-county in Nandi County, we have quite a number of members of the Ogiek Community. Therefore, it is important that we honour them.

Madam Deputy Speaker, I agree with my colleagues that we are doing badly in terms of emergency response in this country. We are not setting up trauma centres, especially along our major highways. Going into the future we must agree as a Senate that the major highways, all the way to Mombasa, Namanga, Eldoret and many other parts, should have trauma centres or emergency response ambulances so that they can assist. There are many Kenyans who are dying not because of the accident, but the time it takes to receive medication.

I thank the funeral Committee led by the Senator of Nakuru, Sen. Kihika, co-chaired by Sen. Wambua, and other Members whom your office appointed. They did a wonderful job that was well organized.

I thank colleagues with whom we were with during the requiem mass here in Nairobi and all those who accompanied us to the funeral service. I specifically thank His Excellence the Deputy President, Hon. William Ruto and the Speaker of the Senate Hon. Lusaka for finding time to mourn with us.

I also thank colleagues whom I have heard saying that we gave enormous support. As the Parliamentary Service Commission (PSC) has indicated, I think they will try their best to ensure the dues are processed on time so that the children can continue well. I am happy that in that family, a brother known as Mr. Saitoti has taken charge. We hope when the PSC will process the dues in the fullness of time, so that the family will be taken care of.

Yesterday I saw that the Jubilee implosion is still continuing. By the time Sen. Prengei passed on, they had frustrated him so much. To put closure to these matters and going into the future, the party needs to withdraw the case it had filed against him in trying to remove him from his nomination.

He lived well. I thank the Ogiek Community for being very calm in spite of not being allowed to attend the funeral due to the COVID-19 protocols.

Madam Deputy Speaker, you and I come from the Kalenjin Community. You know very well that when you are married and have children, when you pass on, it is our tradition that the body must stay overnight over vigil. It is very unfortunate that the people who are in power denied the family that chance. It was very frustrating.

The Constitution respects our cultures and values. It was very sad for the powers that be to deny the family and community to allow the body of Sen. Prengei to stay in his home overnight as per the Kalenjin Community culture, more so the Ogiek. I do not know why the people in Government continue fighting the dead. In future, we should respect our culture and values and respect our diversity.

I know we have a heavy agenda, but I thank you for allowing is to eulogize our colleague.

Thank you, Madam Deputy Speaker.

**Sen. Boy:** Asante sana, Bi Naibu Spika, kwa kunipa fursa hii. Kwa niaba yangu na watu wa Kaunti ya Kwale, natoa rambirambi zangu kwa familia ya mwendazake Sen. Prengei.

Marehemu alikuwa Naibu Mwenyekiti katika Kamati ya Ardhi, Mazingira na Mali ya Asili. Ninakumbuka kabla hajatoka katika Kamati ile, tulikuwa na matembezi ya Kaunti ya Kwale. Tuliandamana na yeye na Kamati yote kwenda kuangalia mzozo wa ardhi Diani, Mbela Farm na uwanja mdogo wa ndege wa Ukunda.

Katika mazungumzo yake kama Naibu Mwenyekiti wetu, alikemea sana watu ambao wanaochukua ardhi ya watu na kudhulumu wananchi. Machozi yanatulenga tukikumbuka marehemu Sen. Prengei akitetea haki za wananchi.

Sisi kama wanadamu hatuna la kusema bali kumwomba Mwenyezi Mungu alaze roho yake mahali pema peponi. Sisi kama Maseneta tukumbuke familia yake kwa sababu ana watoto wadogo. Lazima tutafute wakati kwenda kuwafariji.

Kwa hayo machache, asante sana.

**Sen. Farhiya:** Thank you, Madam Deputy Speaker. I join you in passing my heartfelt condolences to my colleague, Sen. Prengei, who was a distinguished Senator. I served with him in the Committee on Delegated Legislation for about three years. He disagreed in a professional manner that made people think twice about how they thought about certain things.

He was so well-mannered and had a way of articulating and contributing his ideas. He was an active Member of the Committee on Delegated Legislation which is the only Committee that I served with him.

The loss of Sen. Prengei is a double tragedy. First of all, he came to the Senate as a youth, who are not so much represented in the political space, and he was also from a marginalized group. His loss has left a big gap in the two groups that are in dire need of his presence. As most of the Senators have submitted, he used to fight for people's rights. So, he has left a big gap in this House.

Finally, I thank our colleagues who represented those of us who were unable to make it to both the funeral arrangements and in the burial service.

I thank you, Madam Deputy Speaker, for giving me this opportunity to condole with the family of Sen. Prengei.

**Sen. Kang'ata:** Thank you, Madam Deputy Speaker, for affording me this opportunity to say something about my colleague.

First, our departed colleague was a young person who was articulate and learned notwithstanding the fact that he came from a marginalized community. He was a beacon of hope amongst the people of Ogiek Community.

Madam Deputy Speaker, this country has about 44 recognized ethnic groups. We have the major communities and other small communities. The performance of democracy is measured on how it affords the majority to have their way, but also how the minority are respected and treated in the community of nations.

When we see a representation of Ogiek in this good House by that young person, to me, it is an example of a democracy that is maturing, rising and consolidating. Therefore, the departure of our colleague leaves a major dent in this Republic.

He was a young person who had progressive Bills which were discussed by this hon. House. We now wonder what will happen now that he has left us. Somebody out there is crying for the people of Ogiek. We have a vision that one day, the people of Ogiek will be one of the most progressive and developed in the Republic.

Madam Deputy Speaker, we must continue to carry out the dream of ensuring that all marginalized communities get their due recognition notwithstanding being small in numbers. In our late brother, we saw the spirit of a community that is rising and taking its children to school.

Look at the history of this young person. He came from a community that has few schools. However, he was able to go to school and become the most educated person from that community. By that sheer good luck, he was nominated to this hon. House.

We shall miss his contributions. I urge those who come from Nakuru County to bring back another Prengei; another warrior for the Ogiek Community. We need a person who represents the small communities so that we continue to have a House that is duly represented from all parts of this Republic.

Madam Deputy Speaker, Kenya is not about the large communities. It is not an idea that has to be manifested or represented by those who come from big communities. I am proud to come from Mt. Kenya, but that does not entitle me to discriminate small communities and not give them due recognition.

When I look at the Ogieks, Ilchamus and others in Coast and semi-arid places, it is in the spirit of Sen. Prengei that we see progress where anyone can rise from wherever he is to reach to this honourable House.

With those few remarks, I pray that his soul rests in peace.

**Sen. Omanga:** Asante Bi. Naibu Spika kwa kunipa fursa ya kumwomboleza mwendazake, ndugu yetu, Sen. Victor Prengei. Alikuwa kijana mdogo shupavu ambaye alikuwa katika ujana wake. Alikuwa pia rafiki wa karibu.

Nilikuwa kwenye kamati ambayo ilifanya maandalizi ya sherehe yake ya mwisho. Tulikuwa naye kwenye Kamati ya *Delegated Legislation*. Ni mtu aliyependa watu wake sana. Tulipokuwa na Mswada kuhusu watu wake, vijana ama jamii ndogo, alikuwa na roho ya kufanya jambo.

Tulisumbuka naye sana kwenye chama chetu cha Jubilee. Alikuwa Mariashoni kule Elburgon na akapata ujumbe mfupi wa kumwalika aende mkutano. Wengi wetu ambao tulienda huko kwenye sherehe yake ya mwisho tuliona ya kwamba hakuna mtandao na kwa hivyo angeweza kupata ule ujumbe.

Kwa sababu angeweza kufika, chama chetu kilimdhulumu sana. Alikuwa na wasiwasi na ikawa ngumu kwake kufanya kazi. Alikuwa anapata vitisho na hangekaa kwa amani. Karibu apate ugonjwa kwa sababu ya vitisho alizopata kwa kukosa kuhudhuria mkutano huo. Lakini alisimama kidete na kile alichuamini kwamba hakupata ule ujumbe na ndio sababu hakuenda kwa mkutano.

Kwa sababu hiyo, tulienda kortini na tuna kesi hadi wa leo. Tuliangaishwa kama Jubilee Six. Alitumia pesa nyingi kortini kwa swala ambalo alikuwa la maana.

Alikuwa kijana ambaye alipenda kujihusisha na kila mtu katika Seneti. Wakati tulikuwa na sherehe yake kanisani, ulisimama na kusema vile ulivyomjua. Iitushangaza



kwamba hata wewe ulimfahamu na alikuwa rafiki yako. Hii inamaanisha kwamba alikuwa rafiki wa kila mtu. Hakuwa anabagua kama wewe ni mkubwa, mdogo, tajiri, maskini, kike au kiume. Kwa hivyo, ni uzuni sana kumpoteza kijana mdogo aliyetoka kwenye jamii yenye watu wachache. Tunaomba kwamba mtu atakeye chukua nafasi yake atoke kwenye jamii yake ya Ogiek.

Tunasema asafiri salama, sote tuko njiani.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. Our time is far gone. That was the last.

Next Order.

## MESSAGES FROM THE NATIONAL ASSEMBLY

### PASSAGE OF THE NATIONAL LIBRARY SERVICE BILL (NATIONAL ASSEMBLY BILLS NO. 5 OF 2020)

**The Deputy Speaker** (Sen. Prof.) Kamar): Hon. Senators, I have two Messages to deliver. The first Message is the passage of the Kenya National Library Service Bill (National Assembly Bills No. 5 of 2020).

Hon. Senators, I wish to bring to the attention of the Senate that on Monday, 9<sup>th</sup> August, 2021, pursuant to Standing Order No. 41 (3) and 41 (4), the Clerk delivered to me a Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020).

The Message which is dated Thursday, 5<sup>th</sup> August, 2021, was received while the Senate was on recess and was transmitted to all Senators on 9<sup>th</sup> August, 2021 pursuant to Standing Order No. 41 (5). Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020) was published vide Kenya Gazette Supplement No.24 of 20<sup>th</sup> March 2021 as a Bill concerning county governments to provide for the establishment and functions of Kenya National Library Service, to distinguish the functions of the Kenya National Library Service from the other public libraries and to preserve national documentary heritage.

AND WHEREAS, the National Assembly considered and passed the said Bill on Wednesday, 6<sup>th</sup> July 2021 with amendments, in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the National Assembly’s decision to the Senate.”

Hon. Senators, you will recall that following the High Court ruling on 29<sup>th</sup> October, 2020, on Constitutional Petition No. 284 of 2019, implementation of the

judgment by the Senate commenced. Notably, the High Court ordered that all Bills for which the concurrence process contemplated under Article 110 (3) of the Constitution could not be demonstrated be ceased and that the said concurrence process be adhered to before introduction of such Bills in either House of Parliament.

Hon. Senators, the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020) is one such Bill, for which the concurrence process pursuant to Article 110 (3) of the Constitution had not been demonstrated by the time the High Court gave its judgment. As such, the Bill ought to be aligned to Article 110 (3) of the Constitution, following which the Bill will be read a First Time in the Senate.

In view of the foregoing, the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020), as received from the National Assembly vide the Message dated Thursday, 5<sup>th</sup> August, 2021, will not be proceeded with in the Senate.

I thank you.

PASSAGE OF THE PARLIAMENTARY PENSIONS (AMENDMENT) (NO. 3)  
BILL (NATIONAL ASSEMBLY BILL NO 57 OF 2019)

Hon. Senators, the second Message is on the passage of the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 53 of 2019)

Hon. Senators, I wish to bring to the attention of the Senate that on Monday, 23<sup>rd</sup> August, 2021, pursuant to Standing Order No. 41(3) and 41(4), vthe Clerk delivered to me a Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019).

The Message which is dated 17<sup>th</sup> August, 2021 was received on 19<sup>th</sup> August, 2021, while the Senate was on recess and was transmitted to all Senators on 23<sup>rd</sup> August, 2021 pursuant to Standing Order No. 41 (5).

Pursuant to the said Standing Order, I now report the Message-  
“PURSUANT to the provisions of Standing Order 41 (1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019) was published vide Kenya Gazette Supplement No.115 of 9<sup>th</sup> July 2019 as a Bill that seeks to amend the Parliamentary Pensions Act, (CAP 196) Laws of Kenya so as to, *inter alia*, provide for the option for a Member of Parliament to elect to be paid either a pension or gratuity, provide for the payment of gratuities to former Members, and to reconstitute the Parliamentary Pensions Management Committee to align with the bicameral nature of Parliament by including Senators as members of the Committee;

AND WHEREAS, the National Assembly considered the Bill and passed it on Thursday, 5<sup>th</sup> August 2021 with amendments and in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, you will recall that following the High Court ruling on 29<sup>th</sup> October, 2020 on Constitutional Petition No. 284 of 2019, implementation of the judgment by the Senate commenced. Notably, the High Court ordered that all Bills for which the concurrence process contemplated under Article 110 (3) of the Constitution could not be demonstrated be ceased and that the said concurrence process be adhered to before introduction of such Bills in either House of Parliament.

Hon. Senators, the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019) is one such Bill, for which the concurrence process pursuant to Article 110 (3) of the Constitution had not been demonstrated by the time the High Court gave its judgment. As such, the Bill ought to be aligned to Article 110 (3) of the Constitution, following which the Bill will be read a First Time in the Senate.

In view of the foregoing, the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019), as received from the National Assembly vide the Message dated Tuesday, 17<sup>th</sup> August, 2021, will not be proceeded with in the Senate.

I thank you, Senators.

Next Order.

We have one Petition from Sen. Khaniri.

## PETITION

### RESETTLEMENT STATUS OF FORMER KIMONDI FOREST EVICTEES

**Sen. Khaniri:** Thank you, Madam Deputy Speaker, for giving me this opportunity to present this Petition.

I rise to present this Petition on behalf of the former Kimondi Forest squatters. This is a group of people who approached me and explained to me their plight. I guided them on how to make a Petition to a House of Parliament. We have gone through the processes and I now have the pleasure to present the Petition on their behalf.

This is a Petition to Parliament on the resettlement of former Kimondi Forest squatters.

We, the undersigned citizens of the Republic of Kenya collectively comprising former Kimondi Forest squatters from Nandi County, Chesumei Constituency and Kiptuiya Ward draw the attention of the Senate to the following:

- (1) THAT the former Kimondi Forest squatters have been living in Kimondi Forest since 1946 until 1987 when the Government evicted them.
- (2) THAT the former Kimondi Forest squatters were victims of:
  - (a) Forceful importation by the Government immediately after the Second World War to Kimondi Forest from various parts of the country and were used as

labourers to work in clearing the natural forest to allow planting of exotic trees.

- (b) That the former Kimondi Forest squatters were imported on lorries registration OHMS (On Her Majesty Service). Each lorry could carry up to seven families partly from western part of Kenya; other communities came in and were also brought by the Government after the Mau Mau fighters were released from detention.
- (3) THAT for a long time, we the petitioners have sought to have the matter resolved by writing a letter to the former Provincial Commissioner (PC) dated 2<sup>nd</sup> October, 1979.
- (4) THAT we the petitioners are in possession of a letter from the District Commissioner's (DC's) office, Nandi District dated 18<sup>th</sup> March, 2002 that affirmed the position that the Government will resettle the petitioners.
- (5) THAT we the petitioners have launched a petition with the National Land Commission (NLC) on the matter of historical land injustice Reference Number NLC/HLI/430/2018. This was done pursuant to provisions of Article 67(2)(e) of our Constitution.
- (6) THAT it was submitted to the NLC and that the Government of Kenya has undertaken previous resettlement programmes, but the petitioners have only received empty promises.
- (7) THAT it was also submitted to the NLC by the Kenya Forest Service (KFS) that a parcel of land totaling to 1,541 hectares from the Kimondi Forest that was gazette in the Kenya Gazette No.27, Vol.CXXI of 1<sup>st</sup> March, 2019, on page 877, Table No.10 Case No.NCL/HLI/430/2018 to be degazetted excision and survey to be completed for the purpose of resettling the former Kimondi Forest squatters.
- (8) THAT from the submission to the Historical Land Injustice Committee of the NLC, the Commission made a finding that we the petitioners were victims of historical land injustice.
- (9) THAT from these findings, the NLC recommended that the county government, in collaboration with the Ministry of Lands (Adjudication and Settlement Department) and other relevant authorities should resettle us.
- (10) THAT the current Governor of Nandi County, during his annual address to the Nandi County Assembly on 27<sup>th</sup> February, 2019, confirmed knowledge of the NLC findings and recommendation regarding our compensation.
- (11) THAT we the petitioners have sought redress from the above Government institutions to have our concerns addressed but to date the recommendations have not been implemented.
- (12) THAT the matters in this petition are not before any court of law.

*[The Deputy Speaker (Sen. (Prof.) Kamar) left the Chair]*

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

HEREFORE, your humble petitioners pray the Senate-

(1) Make recommendation to the Ministry of Lands to conduct an audit of the entire current claimant to establish the genuine original squatters that comprised the former Kimondi Forest squatters.

(2) Investigate the causes of continued delay and sidelining of resettlement of the petitioners.

(3) Intervenes to have the petitioners' resettlement process fast-tracked.

Mr. Temporary Speaker, Sir, this Petition is dated 2<sup>nd</sup> August, 2021. It is signed by 36 petitioners on behalf of the rest of the residents led by Peter Lunyenye, Yohana Rono, Ernest Ambetsa, Eunice Meli, Peris Wanjiko, Philip Ayodi and others.

I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations and clarifications in relation to the petition for not more than 30 minutes.

**Sen. Wambua:** I thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to comment on this petition brought to the Floor of the House by our colleague Sen. Khaniri.

I want to begin by saying that it is a shame that we are still talking about squatters 58 years after Independence. It is even a bigger shame that there is now competition even among the squatters on who is the original squatter and who is not. That is a conversation that a country that has been independent for the past 58 years should not even be having.

It baffles me how a Kenyan citizen by birth can be a squatter in their own country. The most baffling thing about this is that I am very sure these 36 Kenyans who have signed on behalf of many other original squatters at some point in their lives have been called upon to sing the national anthem. They sing that; "Justice be our shield and defender. May we dwell in unity, peace and liberty. Plenty be found within our borders."

How is justice the shield and defender for these people who according to their petition started pursuing this matter as early as 1979 and to date a resettlement or solution has not been found.

Mr. Temporary Speaker, I thank God that today as we discuss this Petition, the Senate Majority Leader is in the House. He will definitely take up this matter not just with the Committee, but to the Government that he represents and defends on the floor of this House that this is an issue that we cannot deal with.

A time has come that this country must do away with this conversation about those squatters. This is because if you have even one squatter in any corner of this country, even those landowners who have huge pieces of land, the land ownership is a sham.

I also want to thank Sen. Khaniri for doing this on behalf of petitioners largely drawn from Nandi County. The Senator for Nandi is here. Every effort must be made between the Senator for Nandi, the Committee to which this Petition will be taken and the leadership of this House to ensure that this conversation about squatters who first petitioned the Government in 1979, their matter is settled and resolved, once and for all.

With those remarks, I support the Petition.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Petition brought by my colleague Sen. Khaniri on behalf of these 42 Kenyans. It is not just these 42 people, there are thousands of Kenyans who have been made to be homeless because of greed.

Before I came to support this Petition, I was looking at the amount of land that the Agricultural Development Corporation (ADC) has. During the time of President Moi - and the Senate Majority Leader will bear me witness - a few very powerful individuals took advantage of this ADC and allocated themselves land. If you go to Laikipia, the other day we were told that the current Deputy President has a lot of land which belongs to ADC.

If you go to Njabini, you will find former Government officials owning thousands of acres of land; one person owning over 10,000 acres. I am sure Kulei has a big chunk of land in ADC of about 3,000 acres. There is also another 10,000 acres. Anyone who was anybody during the Moi era allocated themselves thousands of acres of land. Some of them are still around while some of them have gone.

I hope that the Committee which will look at this Petition will spend some time to evaluate this issue of squatters. I agree with my colleague Sen. Wambua that is ludicrous for anyone to say that they belong to this country called Kenya and yet they are a squatter. It does not even make any sense.

Mr. Temporary Speaker, Sir, the land the squatters---

**Sen. Cherargei:** *(Inaudible)*

**The Temporary Speaker** (Sen. Lelegwe): What is it, Sen. Cherargei?

**Sen. Olekina:** I am actually supporting you if you would just listen to me---

**Sen. Cherargei:** I am not in contention of whether you are supporting me or not. I have heard Sen. Olekina talking about ADC land, is it in order for him to tell this House that the Deputy President has land and yet he cannot produce evidence of ownership and possession of the same? Is he not casting aspersions? Can he substantiate? I think that is important so that he does not mix us up.

I agree with his line of thought of supporting squatters, but he does not need to bring to the floor of the House, stories that were discussed outside the precincts of Parliament. I think he needs to clarify if he has the proof.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I think it would be good for my colleague to pay attention and not just try to summarize. All I said is that it was alleged that the Deputy President owns over 10,000 acres of land which belong to ADC. This is information which was presented to the National Assembly which I believe is part of this Parliament.

My statement was very clear. I said that former Government officials during the Moi era allocated themselves thousands of acres of land and I mentioned some names. For example, I mentioned Kulei who owns over 3,000 acres in Njabini. Go to the ADC offices down the street and you will be given a list of everyone. When you follow the roots of all those people, they were all part of the Moi era. Maybe even the current Deputy President was able to be blessed and he got some land during that period of time; I do not know.

All I am saying is ludicrous. We cannot keep on saying that Kenyans are squatters yet we have a lot of land. I am giving you the easiest way out, my dear friend, the Senator for Nandi County.

I think should go to ADC and ask them to take some of that land which we do not really know how it is benefiting ADC now, if it is not a few individuals; they should allocate that land to Kenyans. There are so many Kenyans who cannot live on their land because of natural issues. I do not support anyone living in the forest. I completely do not support that.

If they lived in the forest for many years and they were removed, there must have been a reason as to why the Government did so. When you remove somebody from the forest, give them an alternative land.

I listened when the Petition was being read and one of the points I picked up---

**Sen. Wambua:** On a point of information, Mr. Temporary Speaker, Sir. Allow me to inform you, Sen. Olekina. I have heard you pleading with Sen. Cherargei to listen to you because you are trying to defend his people which is very true. In fact, I would just like to add on what he was saying. Since this Petition is about the people of Nandi, the people that Sen. Cherargei represents in this Senate, he should be louder in pursuing the cause of his people and not defending land owners whose acquisition of land cannot be justified. As you said, those were just allegations; they will be proved. The most important thing for the Senator for Nandi to do for now is to push for the cause of the landless people in his county.

I thank you.

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, I think maybe the training of Sen. Wambua is different from mine. My learned senior retired Justice, Sen. Madzayo will tell you that making unsubstantiated allegations is very wrong. I wanted some clarification from Sen. Olekina who has confirmed that he was just making allegations. So, I would appreciate the wisdom of Sen. Wambua to also listen because my background does not allow me to listen as aspersions are being cast on the character of anybody.

I agree with Sen. Olekina's line of thought that the major problem we are facing in Nandi has to do with land. I was only assisting him so that he does not walk into a dangerous landmine by making a statement that is not true.

However, Sen. Olekina has confirmed and said that it is an allegation so let us leave it at that. The issue of historical injustices to do with land is a very serious issue even where Sen. Olekina comes from and everywhere in the country. I was asking Sen. Olekina not to bring here cheap politics that we are seeing across the country at the moment.

**The Temporary Speaker** (Sen. Lelegwe): Proceed, Sen. Olekina.

**Sen. Olekina:** I know you had only given us 30 minutes so I will try to be brief and go straight to the point. The issue of land is very emotive. I agree with Sen. Wambua that my good friend from Nandi should really listen to us keenly.

You have given us only five minutes each. I will try to be brief and go straight to the point.

The issue of land is a very emotive. I too agree with Sen. Wambua that my good friend from Nandi County should listen to us keenly so that we can assist him to find a way to resettle his people. We have said no Kenyan should live in the forest because monkeys and other wild animals are found in the forest. We have chunks of land in this country. For example, we have the Agriculture Development Corporation (ADC) land. The first thing he should do is list those who own thousands of acres of land of ADC land. We should ensure that those poor Kenyans who lived in that land since 1946 are settled somewhere.

Many people have brought to the attention of the National Land Commission (NLC) and the defunct Provincial Administration before to be given this land because they have lived on it since 1946. Currently, they have brought it to the attention Cabinet Secretary, Ministry of Agriculture seeking redress so that they can be saved from being kicked out of it because they have lived on this land for many years even if they do not have the necessary documents. However, that does not justify any Kenyan to live in the forest.

As I conclude, I support the sentiments expressed by Sen. Khaniri that these people should be settled. The Committee on Land, Environment and Natural Resources has done a fantastic job addressing issues of people who have been disenfranchised. I urge to move expeditiously before the end of their term and ensure these people are settled. If they do so, we can say the Senator for Nandi County did something good for his people.

Mr. Temporary Speaker, Sir, those who live in the Mau Forest do not live there out of their volition, but because of situations like this. Maybe where they lived before, they did not have any ownership of land and were unable to afford buy a piece of land to settle. Very few people can afford to buy land now. The Senate Majority Leader here will bear me witness that many people who own chunk of land never bought it. Some of us inherited our land. However, if some Kenyans are unable to inherit land, then the Government should now take the necessary steps and settle them. Instead of owning all that land and enriching a few people who work with ADC, alienate some of it and settle these Kenyans.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Kasanga, proceed.

**Sen. Kasanga:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to weigh in on this Petition. I thank Sen. Khaniri for being the conduit of bringing this Petition to this House. We have dealt with similar cases in the Committee Land, Environment and Natural Resources. Without a doubt, land issue is the most emotive.

As Sen. Wambua said, it is a travesty to imagine that since Independence, we still have Kenyans, voters and taxpayers who are living as squatters in their country. What is even stranger about this Petition is the fact that the historical land injustice Committee of the NLC made a finding that the petitioners were victims of historical land injustice. From this finding, NLC recommended that the County Government in collaboration with the Ministry of Land and other relevant authorities to resettle them. Therefore, their case has already been considered and is a question of implementation. It is sad to see people



living in the forest. Where are the representatives of these people? I do not even know what to say.

I thank the Senator for bringing it and assuring these Kenyans that we shall deal with it in the Committee. However, we have a lot left to be desired considering that; we are very busy in the public realm preparing for another election. We are seeking votes from these same Kenyans whom we are seemingly not fighting for their rights. Surely, something is amiss somewhere.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Madzayo, proceed.

**Sen. Madzayo:** Asante, Bw. Spika wa Muda. Kwanza, ninamshukuru ndugu yangu, Sen. Khaniri, kwa kuleta Ardhi hii. Tunajua mambo ya mashamba yako na utetesi mwingi. Tunaelewa kwamba watu wetu hupata riziki yao kutoka mashamba yao na wanapenda kuyamiliki.

Hapo zamani palikuwa na mwanasiasa kwa jina J.M. Kariuki kutoka Kaunti ya Nyandarua. Katika hili Bunge, alisema kwamba Kenya ilikuwa na matajiri elfu kumi na masikini milioni kumi. Hilo lilikuwa jambo la kusikitisha lakini yeye alikuwa upande wa Kaunti ya Nyandarua na aliongea juu ya Wakenya wengi.

Hivi leo, kama kuna donda sugu ni suala la uskuota nchini. Mashamba ya ADC yamejaa maskuota. Tunavyoelewa hatupaswi kuwa na maskuota kwa sababu sisi sote ni Wakenya. Ni jambo la aibu sana kwa kwamba hata sheria zetu, hakuna mtu ambaye ni skuota. Hapa tumebuni neno 'skuota' kuwataja watu ambao hawana hati za kumiliki ardhi zao watu wasioishi Kenya.

Ardhi hii iko katika Kaunti ya Nandi ya ndugu yangu mdogo, Seneta mshupavu naninamuezi sana. Ninatumaini yeye mwenyewe analiifikiria jambo hili na atachukulia hatua ya nguvu zaidi. Ndugu yangu usilegeze kamba kwa sababu watu wa Kaunti ya Nandi wanakuhitaji.

Katika Kaunti ya Kilifi kuna shamba kubwa sana la ADC upande wa Sabaki. Hilo shamba lina historia na lilipeanwa kwa wananchi wenyewe. Zipo taratibu na stakabadhi nyingi sana ambazo ziliandikwa na viongozi waliokuwa Serikalini wakati huo, wakiesema shamba hilo lirejeshewe watu wanaoishi eneo la Magarini, hususan wanaoishi Sabaki. Lakini ufisadi mkubwa ulitokea baada ya mabwanyenye kujitokeza. Mwakilishi wa Wadi hiyo kwa jina Mhe. Bele, alikuwa akiuliza maswali na kuhoji na kutembelea watu wa huko kuona kwamba wako sawa. Mhe. Bele alikamatwa na kutiwa mbaroni. Mimi pamoja na mawakili wengine tulimtetee na akaachiliwa huru.

Hili shamba la ADC katika eneo la Magarini sehemu ya Sabaki linatuhusu sana. Haki za Wagirama na Wakenya wengine walipewa hati miliki ya hayo mashamba na wakaenda kuishi hapo. Hata hivyo, haki zao zilikiukwa kwa sababu walifurushwa na kuondolewa kinyama. Iwapo Serikali ina Wizara hususan inayohusika na mambo ya mashamba, ni jambo la kusikitisha kuona watu wamejikunyata mahali pamoja ilihali shamba walilopewa na Serikali liko hapo. Ni lazima Serikali iamuru watu hawa warejeshwe katika ardhi yao ya ADC huko Sabaki na waruhusiwe kuitumia ardhi hiyo kama makao yao na waweze kujikimu.

Wananchi wa Kenya na kuwaweka katika barabara na hali ambayo wanaishi na watoto, wao na familia zao katika hali ya kusikitisha.

Bw, Spika wa Muda, ombi langu ni kwamba haki itendeke kwa kila mtu kuanzia upande wa Nandi, na kwa Wamasai wanoishi kule, wakiongozwa na Sen. Olekina. Katika eneo lolote ambalo liko na maskwota Serikali ichukue jukumu ili wanaoishi pale wapate eneo hilo.

Watu wa Sabaki pia ni Wakenya na wana haki ya kupata ardhi yao ile ya ADC. Waendeleo kuishi palepale kama walivyokuwa wakiishi hapo zamani.

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir for this opportunity. From the onset, this is a timely Petition. As I have indicated, land in Africa and our setting is very emotive. When you read the book on Land Law and Conveyancing by Prof. Tom Ojienda, it starts by saying that land is an emotive issue.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Cherargei, we have five minutes left for this Petition on comments and observations and we still have one more request.

**Sen. Cherargei:** Mr. Temporary Speaker, I would have begged your indulgence since I am the authority having come from that county. Prof. Ojienda in his book Land Law and Conveyancing has written that land is a very emotive issue. It is defined in African setups that one is nobody if they do not own land.

We have very a serious issue of land and historical injustices. It is good the Senate Majority Leader is here. There was a resolution in 2018 where we adopted the Talai historical injustices. I have written to the National Land Commission (NLC) to address the Talai land historical injustices but there has been no response, even from the Attorney-General on the resolution that this House made.

I note that as we discuss this Petition there is already a Petition that this House has adopted regarding the Talai. I hope the Senate Majority Leader will find it out of his wisdom to talk to the NLC to ensure the Talai People are restituted.

The problem we are facing in Nandi county is that we have two sets of evictions. There are the Internally Displaced Persons (IDPs) and the forest evictees. It is not unique to Kimondi Forest evictees. We also have the Ndorobo Community Association of Kenya that are largely in Chesomei, Aldai, Mosop, Nandi Hills and Tinderet. Most of them are in Nandi Hills, Tinderet and Kipkororei. I agree that these are forest evictees where most of them are by the roadside.

I confirm to this House that the Ndorobo Community Association of Kenya have written to the Ministry of Devolution and the Ministry of Interior and Coordination of National Government. Members might not know here that the compensation was being tossed from the Ministry of Devolution to the Ministry of Interior and Coordination of National Government, where County Commissioners are in charge and even the NLC.

This is a problem across the country. There is a serious issue between forest evictees and the IDPs. From the clashes we have had from 1992, all the way to 2007-2008. I challenge the Senate Committee on Lands, Environment and Natural Resources chaired by Sen. Boy that they need to differentiate and address the issue of forest evictees; the IDPs.

Even on the Mau Forest issue, people are suffering and living by the roadside. It is not so unique to Nandi but it is a national issue. We must come up with proper resolutions. After we have resolved and adopted, the implementation status by the NLC and Ministry of Interior and Coordination of National Government in terms of restitution, resettlement and compensation must be done forthwith.

We can talk about Ndorobo, Ogiek and Kimondi forest communities and those who stay around Chemase area, largely in Tinderet sub-county. There are also those who were evicted from Kericho in 2006 who have settled around Kamelil in Tinderet Sub-county. These are people who are facing serious land historical injustices.

I agree with the Government that we can use the ADC land in Nandi because they give no value to the country. We can settle the squatters, forest evictees and IDPs so that we can get value for that.

Even in Nairobi we have evictions in Ruai and other places, since COVID-19 lockdowns. We need to address those people's problems because they are facing the same problems as Mau Forest evictees. I thank my colleague and neighbor for bringing this to our attention.

We have forest evictees, IDPs and infrastructural evictees. That is what we see happening in cities such as Nairobi where we evict people in order to do infrastructure.

I hope when the Committee will be handling this, they will have humility to involve some of us who have specific interest so that the issue of land historical injustices is not used for political expediency. In Nandi, for example, I have seen people who want to vie for offices politicizing the issue of historical injustices.

Let us address this issue legally and within the framework provided to ensure compensation for our people.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this chance to add my voice to this Petition. I congratulate Sen. Khaniri for coming up with it.

Issues of land are very emotive and need to be resolved. It is unfortunate that people can become squatters in their own country. The earnest prayer of the petitioners is very clear; they want the Senate to intervene, do investigations and ensure they are settled. They are right in asking the Senate to do this.

From the Petition it was very clear that they have tried many offices but their cries have not been heard. It is just in good faith that the Senate intervenes and ensures that they are settled. Land is a factor of production that can be used as collateral. One can do very many other things with land. Without land one becomes helpless.

I hope the Committee that is going to handle this issue is going to expedite it so that these people are justifiably placed in a manner in which they will also have harmony in families and be settled psychologically.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, Standing Order No. 232(1) requires every Petition to be committed to the relevant Committee for consideration. In this case, I direct that the Petition be committed to the standing Committee on Land, Environment and Natural resources.

In terms of Standing Order No. 232(2), the Committee is required in not more than 60 calendar days from the time of reading the prayer to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

Next Order.

### PAPERS LAID

**The Senate Majority Leader** (Sen. Poghisio): Mr. Temporary Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Tuesday, 7<sup>th</sup> September, 2021-

#### FINANCIAL REPORTS OF VARIOUS WATER AND SANITATION COMPANIES LIMITED

(i) Report of the Auditor-General on the financial statements of Mathira Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.

(ii) Report of the Auditor-General on the financial statements of Karuri Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.

(iii) Report of the Auditor-General on the financial statements of Ruiru-Juja Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2019.

(iv) Report of the Auditor-General on the financial statements of Murang'a South Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.

(v) Report of the Auditor-General on the financial statements of Othaya Mukurweini Water Services Company Limited for the year ended 30<sup>th</sup> June, 2019.

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

#### THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021

(vi) The Public Finance Management (Equalization Fund Administration) Regulations, 2021.

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

**Sen. Kibiru:** Mr. Temporary Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today Tuesday, 7<sup>th</sup> September, 2021-

#### REPORT ON THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILLS NO. 35 OF 2021)

(i) Report of the Standing Committee on Finance and Budget on the County Governments Grants Bill (Senate Bills No. 35 of 2021).

REPORT ON THE COUNTY GOVERNMENTS CASH  
DISBURSEMENT SCHEDULE FOR FY 2021/2022

(ii) Report of the Standing Committee on Finance and Budget on the County Governments Cash Disbursement Schedule for the Financial Year 2021/2022.

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Order.

**NOTICE OF MOTION**

APPROVAL OF THE COUNTY GOVERNMENTS CASH  
DISBURSEMENT SCHEDULE FOR FY2021/2022

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

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial year 2021/2022 and that pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2021/2022, laid on the Table of the Senate on Tuesday, 7th September, 2021.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Order.

**STATEMENTS**

ALLEGED ABUSIVE TREATMENT OF PWDs  
BY HUMAN TRAFFICKERS

**Sen. Kasanga:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the alleged abusive treatment of Persons living with Disability(PwDs) by human traffickers.

In this Statement, the Committee should address the following-

(i) Investigative allegations that there are human traffickers in Kenya exploiting PWDs mostly women and children by making them work as beggars, domestic servants and in other extreme cases, for prostitution among other inhuman treatment contrary to Article 54 of the Constitution;

(ii) State the nationalities of many such beggars flooding most Kenyans streets, clearly stating how they found themselves in Kenyan streets and whether they are documented to be in the country.

(iii) Outline the measures the Ministry has put in place, if any, to register and render the necessary support to all PWDs for the purpose of enabling them access human dignity, freedom, security, economic and social rights entitled to all Kenyans.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to comment on this Statement.

This is not the first time the issue of PWDs being used as beggars is coming up on the Floor of this House. I once brought it when PWDs were confined in houses in Kariobangi and dropped in the city early in the morning to beg. After begging, they were supposed to pay their masters who dropped them. It is a sorry state of affairs and it is still going on.

I saw some PWDs in Turbo Market and I decided to go to their aid. When I investigated where they came from, they said they came from Tanzania. It is unfortunate that people are taking PWDs from Tanzania to Kenya to beg on the streets then pay them afterwards.

It is something that needs to be investigated. If beggars from Tanzania and other parts of the world are trafficked to come and beg then they should be repatriated. It is painful and unfair that people can decide to use others in such a callous manner.

The societal perception of viewing PWDs as beggars should be a bygone. PWDs should be empowered so that they do not look for handouts but be in big positions that matter. Most people are used to giving PWDs handouts. Even those who are educated are made to beg.

I hope that the Committee will investigate and come to the root of the matter and ensure that they bring to a stop the issue of trafficking PWDs.

I support the Statement.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): I request Senators who wish to contribute or comment on the Statement to be brief.

**Sen. Madzayo:** Asante Bw. Spika wa Muda. Ninamshukuru Sen. Kasanga kwa kuleta Taarifa hii.

Walemavu wanateswa kwenye kazi hizi. Ni jambo la aibu kwamba ukiendesha gari, mataa yakiwaka nyekundu, wanakuja kwa dirisha kuomba. Hili sio jambo linalotendeka katika barabara pekee. Siku hizi, wako katika vichocho pia. Ukichunguza sana utaona kuna matajiri ambao waliwaleta kwenye barabara kuja kuomba omba ili wapate pesa.

Nilikuwa nimeketi mahali fulani nanikaona mlemavu akiomba na baadaye ukimwachia pesa, baada ya dakika mbili au tatu, mtu anakuja kuchukua hiyo pesa na yeye anabaki pale pale. Hao ni wale wanaambiwa enda uketi pale ukichanga pesa kiasi fulani jioni tutakupa kiasi fulani.

Bw. Spika wa Muda, ingekuwa vizuri ikiwa Serikali yetu itachukua uchunguzi maalum na wa kisawa.

Kamati ya mambo ya utekelezaji wa wafanyikazi na mambo ya jamii iangalie zaidi na kufanya uchunguzi ili tuweke mapendekezo.

Kama ni uchunguzi, ufanywe zaidi ili tuweze kulazimisha Serikali kufanya kitu fulani. Kunaweza kuwa na askari au watu hawa wachukuliwe wawekwe mahali wanaweza kujikimu kimaisha

Asante.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Statement by Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir, for giving me the indulgence. Sen. Kang'ata can come after me since I have been given a chance. I can finish and then he can come after me.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Yes, proceed, then he will come after you.

#### MALPRACTICES BY PLAYERS IN THE ENERGY SECTOR

**Sen. Cherargei:** I do not know whether the former Senate Majority Whip is restless today.

Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Energy regarding the malpractices by players in the Energy Sector, including suppliers of Liquefied Petroleum Gas (LPG).

As you are aware, the statutory body that has been authorized to regulate the petroleum business is the Energy and Petroleum Regulatory Authority (EPRA), according to the EPRA Regulations (2019) and the Energy Act.

In the Statement, the Committee should-

- (i) State why the EPRA, which is mandated by the regulations of the Energy Act (2019) has failed to curb the sale of adulterated fuel and cooking gas in the market as well as illegal filling of gas cylinders

As you are aware, EPRA gave a public notice of various companies that they have banned like City Gas Ltd., Green Energy, More Gas Ltd., Eco-Energy Ltd., Topline, Salama Gas, Valley Gas Ltd., Moto Gas Ltd. and Kufurow Gas Ltd. All these companies were put in the national newspapers to warn the public.

- (ii) The measures of such companies or any other company in place, by EPRA to ensure that all distributors and retailers of energy and petroleum products are registered.
- (iii) Elucidate on the mechanisms put in place to rid the market of counterfeit gas cylinders and the efficacy of the said mechanisms.
- (iv) Spell out measures being enforced by EPRA to ensure environmental and consumer safety in the Energy and Petroleum Sector.
- (v) Explain plans put in place to ensure accessibility of affordable energy.

This is very important because most *hustlers* and Kenyans depend on these affordable energy products, including LPG across the population, including the marginalized and rural areas, to ensure that our people do not use firewood. Sen. Olekina will tell you it is, so that they do not destroy forests. We need people to use gas and protect our forests.

- (vi) Explain why EPRA has not implemented the energy and petroleum industry players' reforms that would have reduced the malpractices experienced in the sector.

Mr. Temporary Speaker, Sir, the private sector has been harassed by the Petroleum Institute of East Africa. This is a private entity that uses the Director of Criminal Investigations (DCI) to arrest and close individual plants. This undermines the accessibility. In most of the cases, they present themselves as complainants in the said cases, filing applications through the advocate to deny the release of vehicles.

Finally, these individuals are using the Petroleum Institute of East Africa, which is private. They go and close down a particular LPG filling plant, which is affordable to Kenyans. I think that the Judiciary should pronounce themselves---

For example, if they get a gas filling plant in Nandi, they take the vehicles and all the instruments and bring them to the DCI headquarters. The case could be in Eldoret, which is the jurisdiction.

I do not know whether Sen. Olekina is part of the Committee on Energy. They should address this issue where people are arrested in Narok, the LPG is taken as well as the vehicles and many others, and brought to the DCI headquarters, yet that matter should be within the jurisdiction of court.

Mr. Temporary Speaker, Sir, that was additional information that I wanted to give to the Committee.

I thank you for that indulgence.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Proceed to the next Statement, Sen. Kang'ata.

ONGOING TRADE AGREEMENT NEGOTIATIONS  
BETWEEN KENYA AND THE USA

**Sen. Kang'ata:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the ongoing free trade agreement negotiations between Kenya and the United States of America (USA).

In the response, the Committee should address the following-

- (i) Examine the possibility of enabling Kenyans who are trained as caregivers, nurses and other related skills, who are willing to travel to the USA to provide essential services in Washington, Texas and Massachusetts states among others, where a deficit in the cited areas has been empirically established.
- (ii) Outline the measures that have been put in place, if any, to ensure that such Kenyans are accorded preferential treatment with regard to access to entry visas and other attendant requirements.
- (iii) State the measures that we will put in place following these negotiations to ensure that Kenyans in general are also facilitated with regards to accessing entry visas into the USA going forward.



Mr. Temporary Speaker, Sir, I was in the USA the other day and noted that many Kenyans said that there are many job opportunities there, but they do not have a work force.

When I look at the young people in Kenya who do not have employment, I wonder why we cannot use this opportunity that currently exists to compel the USA to admit more Kenyans into those places? There are opportunities of caregiving and nurses, whereas in Kenya, a vast majority of Kenyans have no jobs. If we can use these negotiations, we can create employment to our young people in Kenya.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Order.

## BILLS

### *First Reading*

THE SPORTS (AMENDMENT) BILL  
(SENATE BILLS NO. 40 OF 2021)

*(Order for First Reading read – Read the First  
Time and ordered to be referred to the relevant  
Senate Committee)*

### *First Reading*

THE ELECTIONS (AMENDMENT) BILL  
(SENATE BILLS NO. 42 OF 2021)

*(Order for First Reading read – Read the First  
Time and ordered to be referred to the relevant  
Senate Committee)*

### *First Reading*

THE ELECTIONS (AMENDMENT) (NO.2) BILL  
(SENATE BILLS NO. 43 OF 2021)

*(Order for First Reading read – Read the First  
Time and ordered to be referred to the relevant  
Senate Committee)*

**MOTION****APPROVAL OF THE COUNTY GOVERNMENTS CASH  
DISBURSEMENT SCHEDULE FOR FY 2021/2022**

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): The Chairperson of the Standing Committee on Finance and Budget.

**Sen. Kibiru:** Thank you, Mr. Temporary Speaker, Sir. I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial year 2021/2022, laid on the Table of the Senate on Tuesday, 7th September, 2021, and that pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2021/2022.

Mr. Temporary Speaker, Sir, this is the time that hon. Senators are called upon to execute one of our mandates. I would like to say that I happened to have been a student at the International Law institute (ILI). When we were welcoming the Executive Director of the ILI, she told us that Senators are not honourable because they are distinguished. Moving forward, as Sen. Olekina would say, we should be referred to as distinguished Senators.

Distinguished Senators, Mr. Temporary Speaker, Sir, Section 17 (6) and (7) of the PFM Act, 2012, provides that the National Treasury shall at the beginning of every month and, in any event not less than the 15<sup>th</sup> day from the commencement of the month, disburse monies to the county governments for expenditure for the subsequent month on the basis of the Disbursement Schedule prepared by the National Treasury and approved by the Senate.

The approved Disbursement Schedule must be published in the Gazette. The Cabinet Secretary in charge of the National Treasury and Planning submitted the County Governments Cash Disbursement Schedule for the FY 2021/2022 to the Senate for approval pursuant to Section 17(7) of the PFM Act, 2015, on 5<sup>th</sup> August, 2021.

It is good to note that the date was 5<sup>th</sup> August, 2021, because there is blame on delays in disbursement. This will absolve the committee and the distinguished Senators that we are not the cause of the delay in disbursement.

The Disbursement Schedule was tabled in the Senate the same day and committed to the Standing Committee on Finance and Budget pursuant to Standing Order No.183 (2) of the Senate Standing Orders.

The Standing Committee on Finance and Budget deliberated on the Cash Disbursement Schedule for the FY 2021/2022 and considered a report of the same containing its recommendations which include-

(a) That the Senate approves County Governments Cash Disbursement schedule as tabled on 5<sup>th</sup> August, 2021.

(b) The National Treasury should transfer the total disbursement for the first two months of the FY 2021/2022 within seven days upon approval of the cash disbursement schedule.

This is important because it appears we have a National Treasury that does not respect the law. It is important that Kenyans and everybody knows that when we approve it today, we expect the disbursements for the past two months to be made expeditiously.

Mr. Temporary Speaker, Sir, the County Cash Disbursement Schedule is a key Senate resolution as it operationalizes the release and transfer of approved allocation pursuant to the County Allocation of Revenue Act (CARA). The preparation of the schedule is informed by the basis of National Treasury estimates on revenue collection and overall cash flow needs for implementing programmed activities, projects and policies.

The allocations in the schedule should be in line with what was negotiated. That is Kshs370 billion, which is also provided in the CARA, 2021, using the third basis formula for equitable sharing of revenue that was approved by the Senate in September, 2020.

The County Allocation of Revenue Bill was assented to on 29<sup>th</sup> June, 2021, together with the related legislative instrument. Standing Order No. 183(1) provides that not later than the 15<sup>th</sup> day following the enactment of the County Allocation of Revenue Bill, the Cabinet Secretary for Finance shall submit to the Senate the Cash Disbursement Schedule for county governments, which shall be deemed to have been laid before the Senate.

It is on record that the Cabinet Secretary for the National Treasury and Planning took about 38 days. I saw the National Treasury releasing a press statement and trying to blame the Senate but this is a House of record. There is evidence that they took their time by having 38 as opposed to the 15 days that are provided by law.

The schedule is quite simple because it does not contain conditional grants, which may have involved consultation with many stakeholders and external partners. This act of delay is in bad faith and infringement of our Standing Orders. It further adversely affects functioning of county governments, especially when disbursement of funds to the counties is delayed in disguise that the Cash Disbursement Schedule has not been approved.

Mr. Temporary Speaker, Sir, I wish to state that the National Treasury was erroneous in delaying the submission of the schedule for approval and hence delaying disbursement of funds to the counties. Secondly, the National Treasury was misleading by putting it that the delay was caused by the Senate.

I have already talked about that. I do not know why the National Treasury assumes that the distinguished Senators are idle and can always dance to their tune as and when they are ready. This is a House of procedure and we follow the law and our Standing Orders. I urge the National Treasury to wake up and do their work as expected.

It may be noted that the disbursement schedule contains only allocations from the county equitable share. This is a departure from the tradition where the disbursement schedule had 3 schedules-

- (a) Schedule 1 on disbursement of the equitable share allocation;

- (b) Schedule 2 on disbursement of the conditional allocations from the nationally raised revenue; and,
- (c) Schedule 3 on disbursement of the conditional grants financed by proceeds of loans and grants from the development partners.

This breakaway from the tradition is due to the High Court ruling on Petition No.252 of 2016 that conditional grants to county governments are not items to be provided in the Division of Revenue Act. Consequently, the court ruled that they cannot be provided in the CARA.

The High Court directed that such conditional grants can be issued to the county level of government under the auspices of Article 190 of the Constitution or through an agreement between the two levels of government that respect the institutional and functional integrity of the either level of government.

To facilitate transfer of the conditional grants to the counties, the committee has sponsored the County Governments Grants Bill (Senate Bills No.35 of 2021) pursuant to Article 190 of the Constitution. This Bill was read a First Time in the Senate on 6<sup>th</sup> July, 2021. Consequently, it was committed to the Standing Committee on Finance and Budget pursuant to Standing Order 140(1) of the Senate Standing Orders.

The committee has since then conducted public participation and consulted key stakeholders pursuant to Standing Order No.140 (5) of the Standing Orders. The committee requests for fast-tracking of the Bill to ensure counties access funds availed to them as conditional grants. The County Governments Grants Bill is listed in today's Order Paper that should be debated and passed by the distinguished Senators.

We request that we expedite so that the counties can start using the monies that shall be allocated to them.

Mr. Temporary Speaker, Sir, finally the Committee recommends to the House that cash disbursement schedule for the Financial Year 2021/2022 be approved as tabled on 5<sup>th</sup> August, 2021. As I said from the start this is a straightforward Motion.

I beg to move and request Sen. Olekina to second.

**Sen. Olekina:** Mr. Speaker, Sir, I rise to second the Motion. From the onset I have to say I am disappointed. I am disappointed because Article 96 is quite clear on what our mandate as a Senate is. We are here to ensure that we send money to the counties, oversight those counties and ensure that we do the one thing, which this Senate does without requiring the input of the National Assembly. We are now going into the last month of the first quarter and county governments have not received any money.

I note one thing that the committee made clear observations that the National Treasury submitted the cash disbursement schedule 38 days after this hon. House had already passed CARA. If we have laws and we cannot be able to follow them, why do we waste taxpayers' money in enacting those legislations?

Mr. Temporary Speaker, Sir, county governments are now bleeding and when county governments bleed, it trickles down because bills are not paid.

Narok County was supposed to receive Kshs717 million for the month of July. For the month of August they were supposed to receive Kshs750 million. Now in this month of September they are supposed to receive Kshs717 million. They have not

received a penny yet we expect counties to be able to work and function. We expect bills to be paid.

The reason why we have a Constitution is to ensure that we deter these acts of negligence or incompetence from the Executive. Article 219 is very clear, a share of a county revenue which is raised by the National Government must be transferred without undue delay. How do you explain the 38 day delay which is contrary to the law? The law says 15 days after the approval of the cash disbursement schedule.

This House approved CARA on 30<sup>th</sup> June before the financial year began. If we really care about our counties and about how people perform their roles, we should actually try to observe the rule of law.

Mr. Temporary Speaker, Sir, I want to commend the Committee for having set a timeline on when the National Treasury should send the monies to counties.

In their report the Committee clearly indicated that within seven days a total of Kshs62.9 billion be disbursed to the county governments. If that money is not disbursed to the county governments, there is really no reason as to why we should have county governments in the first place. The National Government should be doing everything.

If Article 219 requires the money to be sent immediately then what else are we doing and the Treasury is refusing? I would like to recommend to the Committee on Finance and Budget to summon the CS, Treasury to give specific reasons as to why county governments do not have money and why they have violated the rule of law.

The courts have been very good to us Kenyans. They have been good to the rule of law but must someone go to court and say county governments do not have money?

As I second this, I am quite happy with the Committee giving the National Treasury seven days. I hope that the Committee will give the Treasury seven days and all Senators will be here. I had hoped that today all Senators would be here so that as soon as we finish debating this Motion we can pass it.

I can see our Minority Whip here and I hope that the Whips can mobilize Senators who can be able to vote online. When I look around, if it was the era where we did not have online sittings we would not have quorum to continue sitting here. This is something which is very sad and I hope that this Senate will be able to rise to the occasion for once during this year and ensure that the monies are sent to the county governments.

We should not be calling governors here to come and explain why they have not paid bills yet it is the Treasury which is not sending money; it is this House which is also not putting its foot on the ground to ensure that the counties receive the money they are supposed to receive.

Mr. Temporary Speaker, Sir, as I conclude, I want to call upon your office to fast-track the County Governments Grants Bill to ensure that the county governments can be able to receive the grants because this is the first time that the cash disbursement schedule does not include the money which is sent to counties as conditional grants.

If we dilly dally and we go through the same process of Bills, public participation, it comes back here for first and second reading and when we finish here it goes to the National Assembly where it takes another three or four months by the time county

governments will be getting their conditional grants it will be June, 2022. That time everyone will be out there busy campaigning and all the projects which were supposed to have been completed during this financial year will not be completed.

Mr. Temporary Speaker, Sir, I would hope that your office would be able to look at the Bills which are very important that they should not have to wait for six or seven months for them to be passed. We should try to ensure that we burn the midnight oil so that our county governments can get not only the conditional grants but they also get the cash which is their share of the money which is raised by the National Government.

With those few remarks, I beg to second.

*(Question proposed)*

**Sen. (Prof.) Kindiki:** Mr. Temporary Speaker, Sir, from the outset, I take this opportunity to thank the Committee for tabling this report of the Disbursement Schedule for our counties. It is unfortunate we are discussing this report when we have just lost a colleague, Sen. Prengei. I take this opportunity to condole with his family and the Ogiek community from which he came and all the young people whom he represented across our country. We have lost a great leader.

For the last nine years, we have been fighting consistently for proper and timely funding of county governments in our country. It is unfortunate that as years go by, we are witnessing great disinterest in devolution. I am afraid that this House almost exclusively remains the only active defender of devolution.

I say so because when we started this journey in 2013, county assemblies were extremely vibrant especially through the County Assemblies Forum (CAF). The Council of Governors (CoG) was extremely vibrant especially during the leadership of the Chairperson, Hon. Isaac Rutto, the governor of Bomet County at that time and subsequently, the Governor of Meru County, my neighbour, Hon. Peter Munya.

I am afraid today both county assemblies across the country and the CoG have abandoned the fights for funding of counties in an adequate and timely manner to this House. You will be surprised that the CoG Chairman may not have said anything worth talking about, about devolution for the last six months. That is shocking. In 2013, 2014, 2015 and 2016 each week, the devolution agenda was all over both social and mainstream media in the country.

Mr. Temporary Speaker, Sir, I urge colleagues that we should not despair that many of the stakeholders and partners in this journey have abandoned us to the perils of centrists and people who hate the dispersal of power from one centre, to create 48 alternative centres of growth for this country. The funding that counties are getting is not enough to realise the kind of development we desire to see across this country yet, even that little is trickling in in painful instalments.

As we speak, no county has received a penny this financial year. Shame to all those responsible and the CoG. This country continues to experience extremely difficult challenges around socio-economic inclusion. The only thing that could have helped this

country manage the challenges of disparities in development and poverty and keep this country together and united is a functioning devolved system.

Today, this system has been abandoned. It is in tatters. The funding comes in bits and pieces. Sometimes, a whole financial year ends and counties are owed hundreds of billions of monies and nobody follows up or talks on behalf of these counties. This is especially considering the person who has been entrusted by the President to manage the National Treasury is a former Governor. He is at the forefront of fighting the very counties which form the background and basis for where he got where he is today.

Mr. Temporary Speaker, Sir, I want to send a warning to my fellow countrymen that if we lose devolution, we will lose this country. If we cannot manage to resuscitate devolution, we will lose Kenya as we know it. Devolution is the number one thing that I know helped to stabilize and pull back this country from possible crisis under Constitution of Kenya, 2010.

I, therefore, hope that as we release this cash disbursement schedule, we are not just releasing paper figures. As we go into elections, I am afraid that the backlog of this disbursement is likely to be even greater because of the commitments around election and the distraction that is bound to increase with time.

I am a sad person that such a precious concept and project has been abandoned and left of the parents of those who do not think that equity and inclusivity especially in the dispersal of power and resources across our country is the only guarantor to a peaceful, united and prosperity of this country.

Mr. Temporary Speaker, Sir, equally, the little money that is getting into our counties, has been plundered by thieving governors who have robbed every bit of money that would have provided better rural access roads and the most basic drugs in our dispensaries and hospitals. The plunder continues unabated. The drama around arresting governors every six or few months, arraigning them in court and then suddenly the case just goes quiet, has now become an old movie.

We are unable to prevent and combat graft at the counties. The robbery happening in our counties is appalling. They steal drugs, roads, masks and anything that can be stolen. They have eaten anything that can be eaten. Greedy men and women who are supposed to be custodians of money for counties have eaten including money meant for mortuaries to preserve dead bodies. It is so sad. Yet, we will not lose hope. We will keep on fighting for devolution because we believe the future of our country is hinged on the success of devolution.

As we go towards the elections, this being an election year, I am looking forward to see the policy statements of political parties around this issue of devolution. I want to make a personal commitment as an individual citizen and also as the Senator for Tharaka Nithi County, the party that supports protection and the realization of the aspirations of devolution, is the party that we must support and build.

I am, therefore, looking forward that even in the Presidential debates that we will have in the next year, we must ensure that we look for real champions of devolution. New actors who can help us drive the devolution agenda to the next level.

I support this Motion and urge a speedy release of all the arrears of county funds that are being held illegally by the National Treasury. I believe if it was in the old days when yours truly was the Senate Majority Leader there would be a case in the Supreme Court of Kenya to force the National Treasury to release money with immediate effect.

I am just wondering where the leaders are of the Government and the opposition side. What are they doing in this town, coming here to read mundane statements when the counties of Kenya have not received money for July, August, September, and most possibly will not even receive for October and November? Shame!

This is something that should have taken us to the Supreme Court to force these mandarins to release county funds.

I support.

*(Applause)*

**Sen. Murkomen:** Thank you, Mr. Temporary Speaker, Sir. I thank you for giving us this opportunity to debate this very important agenda, which is the County Government Cash Disbursement Schedule.

Before I do so just like my predecessor both in leadership and also speaking this afternoon, Sen. (Prof.) Kindiki, I was not here when you were eulogizing Sen. Prengei. I will use one minute of my time to do so.

It is sad that during that very important break when we were visiting our constituencies and doing our Committee work, we lost our friend and brother Sen. Prengei in a terrible road accident. It is sad to lose such a young soul, a person who was barely 38 years and had a lot of years ahead of him to serve the people of this country and inspire minority communities across the country.

Sen. Prengei was known to me personally way before he was appointed to this House and even thereafter when he came to this House. He performed his duties diligently.

I am glad to have been in leadership at a time I allocated him, especially to the Committee on Land, Environment and Natural Resources where his performance was exemplary. As Vice-Chairperson of that Committee, he did a fantastic job.

I am also glad to note that as a friend, he stood by me and Sen. Kihika and stood by his views and political position to defend what was bad manners of Jubilee party at its onset. I am glad that everybody in Jubilee party, including those who are remaining to bury it, are agreeing that they had a terrible mistake from the beginning.

We are here today to eulogize a friend. I saw the Senate Majority Leader earlier speaking and pretending to care so much about the funeral of Sen. Prengei while he celebrated when Sen. Prengei was expelled from Jubilee party despite the fact that he comes from a party that has only two elected Senators in this House.

I feel for Sen. Prengei because I was his lawyer. My law firm offered *pro bono* services to him and five others who were expelled from Jubilee party. I am glad the Political Parties Dispute Tribunal made the right decision to restore Sen. Prengei to the Senate without which we would have been burying him as a former Senator.



Those who tortured him just like those who wailed most in Ceaser's funeral are the ones who also killed Ceaser. I saw some of those "Brutus" and "Cassius" who murdered Ceaser were speaking loudly here as though they came here to mourn him, yet they basically came to confirm his death. They did not go there to mourn him, but to confirm that the man they had expelled was no more.

I hope that the Jubilee Party, in the respect of the Ogiek Community as a minority group, will give them an opportunity to nominate another youth to come and serve in this House for the remainder of the term.

I thank all the people who have given a voice to this issue. The party leader of Jubilee and its leadership have a last opportunity to rise above the petty politics and atone for their sins by nominating another Ogiek to replace Sen. Prengei.

With that as it may, let me go the subject matter that we are debating this time. We must continue to live until our time comes. As we do so, we must do our job diligently.

As Sen. (Prof.) Kindiki said, we live in terrible and sad times in our country. The second term of Jubilee and President Kenyatta's administration has been a sad term for devolution. It has been a term for massacring and destroying independent institutions of governance.

Article 6 of the Constitution focuses on two levels of Government, which are supposed to operate independently but with mutual cooperation among the 47 county governments and one national Government.

Since 2017, it has been a time for consolidation of power to the Presidency and national Executive. It started by emasculating the Opposition and creating a country that has no accountability from those who were on the other side.

I must give a lot of credit to the CORD Coalition. As they existed last term, they put the Jubilee Coalition under strict accountability measures that were anticipated by our Constitution; that there will be a majority and minority side. However, there always would be a political party outside the one that is governing.

As a result of that, Jubilee Administration was always put under checks. Unfortunately, our former party, through its party leader, hatched something called the 'handshake' and an opportunity arose to attack county governments.

I know that Sen. (Prof.) Kindiki is remembering with a lot of nostalgia the first term of devolution, which had many governors speaking their voice. They were loud and held the national Government to account. However, once the minority side was dismembered and 'swallowed' by Jubilee, what followed was that governors were threatened with impeachment, not just from their counties, but a clear orchestrated operation between the Office of the Directorate of Criminal Investigation (ODCI), the Ethics and Anti-Corruption Commission (EACC) and the national Executive to make sure that governors were always threatened with charges.

I do not wish to excuse the bad manners of some of the governors who have stolen public resources. Unfortunately, the anti-corruption crusade that ensued was not legal and for purpose of achieving positive accountability for county governments. It was for purposes of intimidating county governments and ensuring that they toe the line. That

is why governors do not have money, but they do not talk. Since they know that they will get their salaries, they prefer to continue holding public office. They would rather not talk much, so that they do not lose their offices.

Mr. Temporary Speaker, Sir, many governors tell us outrightly that it is better for them to keep quiet and fight another day and not be out there with the Sonkos and Waititus of this world or the Governor of Wajir County.

I hear that Wajir County has two governors and it is about to have two deputy governors. I do not understand what is happening there.

Mr. Temporary Speaker, Sir, many governors have been intimidated, and we contributed to that intimidation. We made sure that we sanitized all impeachments no matter the legal standards that were not observed. That is why county governments cannot speak. You cannot blame the governors. They are actually on a mission for survival because they know that the next day they ask for money from the national Government, the next thing will be an impeachment, or the Director of Criminal Investigations (DCI) or the Ethics and Anti-Corruption Commission (EACC) will arrest them.

There is already a decision that has been made; that once you are arrested, you step aside. Once you step aside, you become a pariah and your political career comes to an end. You can understand. Gov. Anne Waiguru made a similar post that she cannot even enjoy her political rights and join the party that she wishes to join. This is because immediately she does that, Mr. Kinoti or Mr. Twalib of the EACC will come calling.

Mr. Temporary Speaker, Sir, this is the environment that we are operating in. We must not lie to the people of Kenya. That is the context within which devolution has been emasculated. Where are the independent institutions of governance in this country? Where is the Kenya National Human Rights Commission (KNHRC)? Where is the National Gender and Equality Commission (NGEC)?

One of the commissioners of NGEC is a 'Kieleweke' blogger. It is very sad. Dr. Nyokabi is a very good friend of mine. The commissioners who were so independent a few years ago are now blogging for not just a political party, but a section of the Jubilee Party (JP). It is a pity.

How do you achieve that independence? In the last term, we had the Commission lead by Mr. Nyachae. They spoke about devolution and we listened. We had the KNHRC speaking about human rights violations on the country during evictions and so forth. Do you even know who the Chair of the KNHRC is or who is managing it?

Mr. Temporary Speaker, Sir, we must understand that the environment that has been created--- The only person who has survived this onslaught and continuously received attacks is the Deputy President. All of us were obliterated. I was removed.

I see people praising Sen. (Prof.) Kindiki, but the people who are praising him are the ones who voted him out. They then come here and say that they voted out a good man for absolutely nothing. However, if you look at what they did that time, they thought that they were playing games. They enjoyed what the Executive was doing, but where is this House now?

Where are their Senate Majority and Deputy Majority Leaders? Where are their Speakers and Deputy Speakers? Where is the leadership of the Senate? The Senate has been weakened by what we ourselves did. We accepted to be used and misused by the Executive.

Mr. Temporary Speaker, Sir, even those of us who used to work with the Executive and were in leadership had the audacity to lead this House to go to court. Sen. (Prof.) Kindiki led us as the Senate Majority Leader. We went to the Supreme Court, and that is why this House still exists today. Sen. (Prof.) Kindiki again went to the Court of Appeal to represent matters on the Building Bridges Initiative (BBI).

If the BBI had passed, this House would be useless. All of you here who are male would have been called male representatives to the Senate. You would not even be Senators. If you come from Narok, they would say, "Sen. Olekina, the male representative of Narok County." There also would be a female representative of Narok County.

It would have been a very useless House with its responsibility removed. The protection of minority groups, which was intended by this Constitution--- For a vote to be passed in this House, it must get 24 votes, which is a super requirement for an absolute majority to vote for something in this House. It was going to be removed by BBI.

Gallant men and women of this country went to court to defend the institutions of governance, including this House. I feel so ashamed that Senators in this House voted for that BBI. What a great shame. We were going to be an absolutely useless House. If there is something that I celebrate today, it is that BBI collapsed.

If I come to this House again, I would come to some semblance of an institution that still exists. BBI was going to obliterate this Senate and make it the most useless entity of governance, yet it has been the only entity that has stood firm for devolution.

Mr. Temporary Speaker, Sir, I thank Sen. (Prof.) Kindiki, my teacher, for doing a fantastic job in this Senate. I will join you in the Supreme Court if these characters take us there as they seem to. These are the things we should talk about. We are saying that---

**Sen. Madzayo:** Hoja ya Nidhamu, Bw. Spika wa Muda. Sen. Murkomen ni rafiki yangu sana. Kwa hivyo, singependa kumkatiza akiwa bado anaongea.

Sen. Murkomen ni wakili na anajua kwamba ikiwa jambo liko katika mahakama, si vizuri kulizungumzia kwa kina. Yale yote anayosema yako kwenye *Supreme Court* ambayo itasikia na kutoa uamuzi. Najua kuwa Sen. (Prof.) Kindiki pia atahusika.

Je, ni sawa Sen. Murkomen kujadili mambo ambayo yako katika *Supreme Court*? Yeye ni wakili kama mimi. Ninamheshimu sana kwa sababu najua kuwa yeye ni mtu shupavu. Hata hivyo, amevuka mpaka. Je, ni sawa kufanya hivyo? Kama si sawa, basi afadhali aache na kuendelea na mengine. Nilikuwa nataka kumuunga mkono kwa yale mengine yote aliyosema.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, let us restrict ourselves to the subject of the Motion.

Proceed, Sen. Murkomen.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, Sen. Madzayo is perfectly in order to raise that issue, only that as a former Judge, he knows that the proceedings are not yet live at the Supreme Court. We only have the notice of appeal that has been filed.

I am referring to the proceedings that have already been concluded in the High Court and the Court of Appeal, and the judgment thereof, which we are free to discuss. When the proceedings begin, the judges will give directions and, of course, we will all be guided at that point in time.

Mr. Temporary Speaker, Sir, just allow me to say this. We should not forget one thing; that the amount of money in this Cash Disbursement Schedule, which is Kshs370 billion, was gotten through sweat and fights. We could not even say “Hi”. We would not even shake hands with my colleague, Sen. Kihika.

That time, we were on the same side with Sen. (Prof.) Kindiki. Sen. Kihika and Sen. Cherargei were not my friends for four months. Sen. Madzayo and Sen. Olekina among others were my best friends for those four months. That included you, Mr. Temporary Speaker, Sir, in ‘*Team Kenya*.’

If both sides had not stood firm--- We may come here and say ‘*Team Kenya*’ was heard, but that is not the case. It was collective hard work of both sides. Just imagine if the team lead by Sen. Kibiru, Sen. Kihika and others had given up early and said they were not going to change anything; we would share Kshs316 billion. We could never have gotten Kshs370 billion. It is because they made “one man, one shilling” so important and we made equitable distribution so important that the people at the top conceded to Kshs370 billion.

You know how we achieved the Kshs370 billion. It is because the “one man, one shilling” group wanted to succeed without punishing those of us who were fighting for equity, and that is how we got Kshs370 billion. We must not forget to celebrate, as a Senate, our greatest achievement amidst all these pandemics and challenges we went through because we made the Senate a stronger House for the four months we had negotiations.

For the first time, there has been a leap from Kshs316 billion to counties being given Kshs370 billion. No governor should walk around and feel like they are so proud of doing things on the ground there without giving due acknowledgement of the work we have done as Senators.

At the beginning of this negotiation, my county was saying: “Sen. Murkomen is joining another group, our county is gaining.” They were gaining a lot of money. Now look at Elgeyo-Marakwet County. They are jumping from equitable distribution of about Kshs3.7 billion last year and now getting Kshs4.6 billion. This is because their Senator stood firm to fight for devolution in this House.

I want to tell Sen. Kihika and other Senators--- Sen. Madzayo, it looks like you dropped your ambitions for governorship. However, for Sen. Kihika who is here, Sen. Mutula Kilonzo Jnr. who is not here, Sen. Malalah and many of us here who are running for governorship--- I think Sen. Kibiru is still debating because without joining the ‘hustler nation’, he has to drop his ambitions.

All of us here who are running for governorship must never forget the effort we put in this. You must never forget when you become governors that we did a lot of work to ensure that Nakuru County gets Kshs13 billion from Kshs10 billion. That is Kshs3 billion additional money to Nakuru County. Sen. Kihika, you must respect your next Senator when you become the Governor of Nakuru County. You must acknowledge that it is a collective effort of the Senate and county governments for these resources to come.

Some people are walking in the counties and saying 'I have built for you roads, I have built for you hospitals,' but they are not saying, "if our Senator had not fought for these resources, we would not be where we are."

**The Temporary Speaker** (Sen. Lelegwe): I will add you two more minutes.

**Sen. Murkomen:** Thank you, Mr. Temporary Speaker, Sir. You know, you were arrested in order for this money to go to the counties. Sen. (Dr.) Langat who was here was arrested too. Sen. Malalah was also arrested. I pray that Samburu County will remember.

Samburu is now getting Kshs5.3 billion, against last time when it got Kshs4 billion. It is getting an additional Kshs1 billion. Why would they elect another person to become the Senator when you are here, after being arrested for fighting for them to get Kshs5.3 billion?

The Senators of this House must be remembered. Many people are forgetting that Senators are doing a lot of work that is not so apparent on the face of it. Then, the governors and MCAs go around saying that they built this hospital and that road. How would they have done that without the fight from the Senator? How would Elgeyo-Marakwet be budgeting an extra Kshs1 billion if Murkomen had not fought in this Senate to ensure that his county and other counties across the country get more resources?

I hope the next Government that will come in place will be will be conscious of disbursing money to county governments on time; that we will not have a situation where we now have arrears of Kshs62 billion that is supposed to go to county governments.

We know Gov. Wambora; we impeached him here twice. We know that he cannot speak about devolution. Sen. (Prof.) Kindiki is becoming overambitious to hope that Gov. Wambora will question the current national Government about resources going to the counties. He will not. Let us just do our best to ensure that we push for that money.

It is a shame that the Cabinet Secretary (CS) for National Treasury, Amb. Ukur Yattani wants to go back again to become the Governor of Marsabit. How will he become the Governor of Marsabit when he cannot give money to Marsabit? He thinks that if he gives the money to Marsabit, his competitor, Gov. Mohamud, will become more popular. He should give money to Marsabit and go and tell them: "You see, when I was a Cabinet Secretary, I fast-tracked the disbursement of money to counties."

However, he is sitting in hotels in Nairobi announcing formation of political parties. That is not his job. His job is to ensure that county governments and government institutions in this country get the resources they deserve so that Marsabit and other parts of the country that are being ravaged by drought at the moment can get money to feed their people.

We do not want ASAL counties and pastoralist areas to continue suffering the way they are doing, yet you have a Cabinet Secretary there saying: “I am a pastoralist.” It is a shame.

I support.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Kihika, proceed.

**Sen. Kihika:** Thank you, Mr. Temporary Speaker, Sir. It is quite obvious that we have been on recess and the Senators have not had an opportunity to speak. It is obvious that they are back and energized.

On a serious note, I begin by eulogising my former Colleague, Sen. Prengei, who passed on while we were away on recess. This being the first Sitting since the incident, I wish to join by colleagues and quickly eulogise him as a great Senator, who was involved in fighting for minority rights, especially land rights. He worked hard and ensured his contributions towards the youth of this country were taken care of.

Sen. Prengei was a very principled Senator. It would be wrong for me not to mention that he was hunted down and prosecuted because of his firm stand, especially when the ‘dead’ Jubilee Party at the time, tried to have him sign off my removal as the Chief Whip of the Senate, as well as that of Sen. Murkomen as the Senate Majority Leader. Since he stood his ground, he was hounded into court, fought hard and expelled from being a Senator. However, as Sen. Murkomen stated, he fought hard and fought for the other five and they stayed on as the court processes continued.

It is unfortunate and sad that he is no longer with us. He was also a part of my Nakuru County Delegation. For the record, I wish to state that when I was not around, he made sure Nakuru County was not left behind in casting its vote. Even when I was around, we consulted and made sure that we voted and expressed the will of the people of Nakuru County in this Senate.

May our colleague and my friend, Sen. Prengei, rest in peace. I also pray that we end this Senate without any more deaths because that is the fourth Senator we have lost in this one term, which is too many. I pray that his family will be well and that God will comfort and take care of them in his absence.

Now turning to the issue on the Floor, The County Governments Cash Disbursement Schedule, I also congratulate the Committee for having done the work and brought it to the Senate. I also hope that we shall very soon vote on this, so that it can proceed and be processed in a timely manner. However, I also wish to condemn the delayed disbursements to counties. It has become the norm. In fact, it would be an exception to have the money disbursed on time, which is extremely unfortunate.

Mr. Temporary Speaker, Sir, beyond being unfortunate, I also believe that like Sen. Prof. Kindiki and Sen. Murkomen who have spoken before, it is also because we seem not to have a Council of Governors that is focused and able to speak on behalf of counties.

May I also state that it is quite obvious where they lost focus. This is after the combination of the ‘handshake’ and the Building Bridges Initiative (BBI), which then left governors sort of exposed, because there was a capture of Parliament by the powers that

be. If any governor was not part of the choir for the ‘handshake’ and BBI was brought to the Senate, then they would be removed. If they were part of the choir and probably the choirmasters like some that we saw, then they would quickly be made as white as snow and nothing would happen to them.

The problem with that is that we have seen an era where no governor stands up for even these delayed disbursements.

We have not had even one governor, not even the Chair of the Council of Governors (CoG), whom I agree with Sen. Murkomen is probably just the most useless and probably a photo-finish with Gov. Oparanya, because Gov. Oparanya was a disaster.

Mr. Temporary Chairman, Sir, I do recall at the funeral of the late Gov. Laboso, as the Senate fought hard with the National Assembly that more money was added. Gov. Oparanya actually had the nerve to stand at the funeral of the late Gov. Joyce Laboso and lecture the Senate for what he called or termed as our own interest in fighting to make sure that the counties were added money. When you have such a chairperson and the lacklustre Gov. Wambora, then this is what the results become.

I actually remember when I was the Speaker in the County Assembly of Nakuru and the Vice Chair of the County Assemblies Forum (CAF) back in 2013 through to 2017. That was a time when the Forum, as well as CoG, seemed to be vibrant and know what they were supposed to do.

Mr. Temporary Chairman, Sir, at the time, I remember with nostalgia Gov. Isaac Ruto. I wish we would get more chairpersons of the CoG like Gov. Isaac Ruto. I may not necessarily agree with him on many other things. However, on being a Chairperson of CoG, he has no equal. Gov. Munya tried a bit, but the bar was raised by Gov. Isaac Ruto.

I would wish that going forward, we would have governors who are focused as the chairpersons of this Council or even others who have the nerve, confidence or courage to stand up for the counties. However, because they have been captured and part of it is their own doing. They have stolen from the counties. Their cases or files are always kept and locked at that cowboy Directorate of Criminal Investigations (DCI) officer.

Mr. Temporary Chairman, Sir, I am not sure what his name his, maybe somebody could remind me. The cowboy keeps the files in his top locker. If a governor speaks, then they are called and told, ‘tomorrow you will be investigated,’ and the Ethics and Anti-Corruption Commission (EACC) officers as well. You have seen the extremely compromised governors who then cannot speak. They have become like the timid mice and the counties are actually on their own.

We are here and passing this Disbursement Schedule. I am looking at it and seeing that there was supposed to be a disbursement back on 15<sup>th</sup> July and 15<sup>th</sup> August that did not happen. Now, we are looking at 15<sup>th</sup> of September with Kshs62 billion in arrears. Then, you have counties that are struggling to pay their bills and provide services for their citizens. It is just a pathetic and awful site that we have going.

Mr. Temporary Chairman, Sir, when the country is so unfocused that we are talking about Building Bridges Initiative (BBI) and adding more seats at the top, instead of strengthening devolution and making counties extremely strong. This is so that we

would not have this crazy mad rush to be Prime Ministers or Deputy Prime Ministers, but instead strengthen counties. This is so that we would have those strong positions at the county level, as well as strong financed and well-resourced counties. Nobody then would be fighting or killing each other to be at the national level.

I support this County Government Cash Disbursement Schedule, but wish to ask that something must be done. Beyond having spoken about the CoG or governors not even speaking out, it is also an indictment on the Senate, as a House that protects devolution. We are quiet and have become, not even in the choir, but actually the choirmasters in what is going on in the country as far as wanting to please and be psycho fans.

Mr. Temporary Chairman, Sir, we have forgotten what it is that we are meant to be doing as the Senate, and that is, protecting devolution and speaking up. Even as Sen. (Prof.) Kindiki has said and Sen. Murkomen after that, even going to court, if that is what it takes to get the money released, so be it.

However, once again, we continue as you look in the Chamber granted, I know we are online as well. You will not find quorum or as many people or any excitement. However, if we are here to safeguard Gov. Waiguru, for example, then we are going to be a full House. If we are here to remove Gov. Sonko, then we are going to be a full House, plus our families in the Gallery to make sure they are watching how bad we can be as a House. However, when it comes to the core mandate of the Senate, then we have fallen short.

Mr. Temporary Chairman, Sir, it is also a call to this House to remember what it is that we are supposed to be doing. This second term is just a disaster as far as making sure that the devolution space has been strengthened. I am hopeful that with a year left, we can still get our work done and make sure that the counties get their money, devolution is protected and we do the right thing.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Madzayo, proceed.

**Sen. Madzayo:** Bw. Spika wa Muda, asante. Kwanza, nataka kujiunga na Maseneta wenzangu ambao wameweza kuchangia mjadala huu. Kama kuna kitu kikubwa ambacho watu wanaweza kukosania ni hali ya pesa. Tukiwa tunaongea mambo ya ugavi wa pesa zinazokwenda katika kaunti, hapo ndipo mahali watu huanza kukosana.

Nakumbuka wakati ule wa ugavi wa pesa, Maseneta kutoka pande zote mbili, kama vile alivyosema ndugu yangu, Sen. Murkomen. Tuliweza kujitenga na kusema kwamba inafika wakati mtu anafikiria, je, ni kaunti yangu ama ni njia nyingine panda?

Tunasema kwamba kila Seneta hapa aliyekuwa anapoteza na hata wale ambao walikuwa hawapotezi walikuwa na imani sana kwamba katika taifa la Kenya, haina haja ionekane wengine watapata zaidi na wengine kidogo ama wengine watapunguziwa na wengine wataongezewa. Ilikuwa ni sharti tuone ya kwamba haki ya ugavi wa zile pesa ilikuwa inaenda sambamba vile Wakenya wanataka.

Bw Spika wa Muda, ukiangalia hivi sasa, wale wauguzi katika Kaunti ya Mombasa, katika hospitali zote za serikali, wamegoma na hawafanyi kazi. Wamegoma na hali hiyo inaweza pia kuathiri wale wagonjwa ambao wanaenda kutafuta matibabu. Yote



haya yanaletwa kwa sababu pesa hizi hazijafika kwenye serikali za mashinani. Ni jambo la aibu hivi sasa ikiwa tumeketi hapa na wauguzi katika Kaunti ya Mombasa wamesusia kazi. Wanasema hawawezi kufanya kazi kwa sababu utafanya kazi aje ikiwa tumbo lako liko na njaa?

Tuko na Maseneta kwenye kamati hapa. Dadangu, Sen. Kwamboka, na ndugu yangu, Sen. Olekina; ndugu zangu Maseneta, sioni sababu ya kwamba Mombasa ama mahali popote katika nchi hivi sasa wamesusia kazi. Sen. Olekina, tafadhali angalieni haya mambo mkiwa katika Kamati ya Afya. Endeni mashinani na Hazina ya Kitaifa na katika wizara muone kwamba pesa hizi zimetolewa na zimeenda mashinani ili kuwasaidia wale dada zetu wapate mishahara yao ili waendeele kujikimu kimaisha.

Bw Spika wa Muda, hili ni jambo la kusikitisha. Mhe. Yatani yuko pale kama Katibu wa Baraza la Mawaziri katika Wizara ya Fedha na hajatuma hizi pesa katika serikali zetu mashinani. Basi haina budi isipokuwa hili Seneti kujitambulisha na kuona kwamba ikiwa Seneti imepitisha, basi kuna umuhimu wa Seneti iende katika Mahakama Kuu ili kuona kwamba uamuzi umetolewa kama itakuwa ni sawa ama sio sawa Mhe. Yatani apelike hizi pesa katika serikali zote 47 za mashinani.

Tulipitisha sheria ya County Revenue Allocation Act (CARA) tarehe 30/6/2021. Baada ya siku 15 tukishapitisha bajeti, pesa hizi zinafaa kupatikana na kupelekwa katika serikali za “*mashetani*”, hapana za mashinani. Sio serikali za mashetani, ni serikali za mashinani. Nataka nieleweke vizuri. Serikali za mashinani. Isije ikaleta kizungumkuti bure.

Bw. Spika wa Muda, nataka kuuliza ikiwa Waziri wa Fedha, Mhe. Yatani anajua kwamba hizi pesa kutokea tulipopitisha sheria hii tarehe 30/6/2021 inampa siku 15 ili aweze kupeleka hizi pesa zote katika serikali za mashinani na hajafanya hivyo, basi hili Bunge lingejitamka lenyewe. Inawezakuchukua hatua na kumwambia Mhe. Yatani awezekupeleka hizi pesa katika serikali za mashinani.

Bw. Spika wa Muda, nikija upande wa watu wa Kaunti ya Kilifi. Serikali ya Kaunti ya Kilifi bado haijapata mgao wa pesa uliopheleka. Mwezi wa Saba; ilikuwa wapate Kshs931 milioni. Hawajapata hata ndururu. Mwezi wa Nane ambao tumeachana nao hivi sasa ilikuwa wapate Kshs989 milioni. Kufikia hivi sasa Mwezi wa Tisa wanatakikana wapate Kshs989 milioni. Ukijumuisha pesa hizo zote wangepata Kshs2.9 bilioni.

Huu ni uzembeaji wa kazi ya Mhe. Yatani ama kuna kizungumkuti gani kinafanywa hapo mpaka hivi sasa pesa hizi ambazo zinatakikana kutumika ndani ya Serikali ya Kaunti ya Kilifi hazipo? Pesa hizi zingesaidia kuleta maendeleo na kupeleka madawa katika hospitali zetu na vifaa vingine vinavyotumiwa na wananchi. Mpaka hivi sasa, pesa hizi hazijakwenda katika Serikali ya Kaunti ya Kilifi. Tunauliza, je, ni haki kutendea Kaunti ya Kilifi namna hii?

Kama Mhe. Yatani anaweza kuzuia hizo pesa, tunamwambia sasa hivi, hili Bunge lishapitisha na tumeshatamka kwamba pesa hizi Kshs2.9 bilioni zinatakikana kwenda katika Serikali ya Kaunti ya Kilifi. Vile vile, katika serikali zote za ugatuzi katika Kenya ambazo hazijapata hizi pesa, ni sharti Mhe. Yatani aweze kupeleka hizi pesa katika serikali za mashinani.

Kipengele cha Katiba cha 219 kinashurutisha kikisema kwamba bila kupoteza wakati ama muda wa kisawa sawa unaotakikana ama bila kuchelewesha hizi pesa, pesa hizi zinatakikana zitolewe katika Hazina ya Kitaifa na ziende katika serikali za mashinani. Je, huu ni ukiukaji wa Katiba? Kama ni ukiukaji wa Katiba wa kweli kulingana na Kipengele cha 219 kinachosema pesa hizo “*without undue delay*,” yaani bila kuchelewesha kwa muda ambao hautakikani. Pesa hizi zinatakikana zifike katika serikali za mashinani. Tunauliza yeye awezekupeleka hizi pesa.

Bw. Spika wa Muda, ni jambo la aibu kufikia hivi sasa ya kwamba Waziri wetu wa Hazina ya Kitaifa ako na Kshs62 bilioni mikononi mwake na bado hajazipeleka katika kaunti zote 47 ikiweko Kaunti ya Samburu ambayo Bw. Spika wa Muda wewe ni mwakilishi ndani ya hii Seneti. Ukiwa unawakilisha watu wa Kauti ya Samburu, hawajapata mgawo wao wa pesa.

Tunasema watu wa Kaunti ya Samburu pia wana haki ya kupewa hizo pesa zao ili wapate kufanya maendeleo. Kama ni madawa, akina mama, watoto na wazee wasiojiweza wapate na manufaa yawezekufika katika serikali zile za huko mashinani. Ni aibu kubwa kwa Serikali yetu ya Kenya kuona ya kwamba hizi pesa zimeweza kuzuiliwa ndani ya serikali. Hatujui hizi pesa zinafanya nini pale ndani ya ofisi ya Waziri wa Hazina ya Kitaifa.

Bw. Spika wa Muda, Mswada huu ni muhimu sana kuliko Miswada yote. Tunasema hili Seneti liko hapa kwa sababu ya ugavi wa pesa. Watu walikuwa wakitishwa hapa. Tulikuwa tukitishwa hapa hata kutiwa ndani. Wenzetu walifungwa. Wengine walikuwa katika maeneo yao wakiwa wanataka kuja hapa ndani ya Bunge ili kupitisha Mswada kama huu ambao ulikuwa unajulikana ni hatari.

Wewe ni mmoja wao. Ulinaswa barabarani ukiwa ndani ya gari lako ukatolewa ukatiwa ndani ya lori. Ukapelekwa mpaka kwa polisi. Seneta wa Kaunti ya Kakamega alishikwa na kuwekwa ndani. Kuna Maseneta wengine walinyanyaswa. Sisi wengine tukatishiwa maisha kwamba tunawezakupigwa risasi. Tukasema kama mnaweza kupiga risasi; pigeni kwa sababu ya Mswada huu. Lakini jambo la kusikitisha ni kwamba hapa ndani tuko watu saba tu ukiangalia. Maseneta 40 wako wapi?

Bw. Spika wa Muda, Hoja kama hii inatakikana tujadiliwa hivi sasa na tupige kura ili tuweze kulazimisha Serikali kupitia Hazina ya Kitaifa na Waziri ili Mswada huu upewe kipaumbele. Halafu pesa hizi zote ambazo zinatakikana kupelekwa katika serikali za mashinani ambazo sio chini ya Kshs62 bilioni ziweze kupatikana. Ombi langu ni kwamba pesa hizi ziweze kupelekwa katika serikali za mashinani haraka iwezekanavyo ili watu waweze kufaidika na mgawo wa pesa zao.

Asante.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Kang’ata, proceed.

**Sen. Kang’ata:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion for several reasons. Indeed, this is one of the most important businesses of the Senate as established by Articles 94, 95 and 96 of the Constitution of Kenya 2010.

There are three important areas that counties should focus on, and good county governments should address. First is on the issue of health. The Coronavirus disease (COVID-19) has exposed the problems of our health system in this Republic. Thousands

of Kenyans have perished, and our hospitals are currently pressured by so many COVID-19 patients. When you look at the money that is allocated to counties for matters health, it is very little. This money that we are going to pass today, ought to give counties that ability to put more money into the health sector.

Mr. Temporary Speaker, Sir, allow me to give you an example of Murang'a County. It has about 318,000 households as per the 2019 Census. Out of that, I checked that the National Hospital Insurance Fund (NHIF) cards have been taken by about 18,000 public servants and about 18,000 private sector workers. So, let us say all factors remaining constant, about 40,000 households are the only ones that have an NHIF card.

I strongly believe that counties that have been managed well should use these resources to ensure thousands of households get NHIF cards. It is only Kshs6,000 per annum per family. When you look at the money that we fought to take to the counties, it is possible for every household, for instance, in Murang'a County, to be fully covered by NHIF.

Mr. Temporary Speaker, Sir, for instance, assume Murang'a County Government was to insure 100,000 households. That would translate to about Kshs600,000. The question is: Can Murang'a County afford such kind of sums? When we were debating the revenue sharing formulae in this House, originally, Murang'a County was set to lose about almost Kshs150 million as per some of the permutations that were being considered by this honourable House.

I am glad to report that I was the Chief Whip then. We were able to come up with a formula that was a win-win situation. As a result of it, Murang'a County is getting an extra Kshs890 million.

So, it is possible for Murang'a County, for instance, to use the Kshs890 million extra that I was able to push in that county to fund 100,000 households to get National Hospital Insurance Fund (NHIF) cards for free. That is only an extra burden of about Kshs600 million.

Mr. Temporary Speaker, Sir, another key area that counties should consider once we get this money going to their counties is minimum guaranteed returns. When you look at a county like Murang'a, 75 per cent of the entire workforce is in the agricultural sector.

If you go to the so-called seven wards that are in tea, that is, in Gatanga, we have Kariara. In Kandara we have Rocho. When you go to a place like Kiharu, we have the entire Murarandia region. You go to Kangema you find two wards, that is, Rwathia and also a place called Kanyenyaini. You go to Kigumo, Kinyona and Kangari then you go to Mathioya and you will find Upper Jombe and also Kiru Ward. They have tea.

Mr. Temporary Speaker, Sir, when you go to the lower region, we do coffee. In the very lower region, we have mangoes. If, for instance, our county government was to set aside monies for guaranteed minimum returns, say for mangoes, the entire lower belt of Murang'a County would ensure one mango is sold at about Kshs10 shillings. That would uplift our low zone farmers. That then would translate into improved livelihoods.

If you are, for instance, going to support milk prices, currently, Murang'a County has established a milk processing factory at a place called Maragua Town. Currently, it is sitting idle because there is a major fight between the cooperatives that take milk to

Murang'a County Creameries and the County Government of Murang'a, headed by Gov. Mwangi Wa Iria.

Mr. Temporary Speaker, Sir, the reason is that Murang'a County has about 32 cooperatives that take milk to that factory. Out of the 32 cooperatives, five of them form the bulk of the suppliers of that milk. In Gatanga we have two; Kiarutara and Kigoro. In Kigumo, we have a place called Kangari Dairy. We have Kahuro and Genda in Gakoigo.

Currently, the County Government of Murang'a has huge arrears for those farmers. I strongly believe that once we pass this money, Murang'a County should prioritise towards settling the July and August arrears that are owing to the dairy farmers of Murang'a.

Mr. Temporary Speaker, Sir, also, if the Murang'a County Government does not want farmers to sell their milk to third parties, it must ensure it hikes the producer prices. Currently, farmers are being paid Kshs35 per litre, then they deduct transport of Kshs2. So, the milk farmer gets Kshs33 out of Murang'a County Government Creameries at Maragua. However, the private sector is offering Kshs41.

Surely, it will only be logical for the Murang'a milk farmer to take milk away from Maragua factory to the private sector. Therefore, I support this Motion, so that the Governor of Murang'a County can use that money to ensure the Murang'a farmer gets at least Kshs39 per litre.

Mr. Temporary Speaker, Sir, I feel so bad when I see a situation where accounts of various cooperatives have been frozen by the County Government of Murang'a headed by Gov. Mwangi Wa Iria. I urge them to proceed with haste to uplift those freezes, which are now making the five major milk cooperatives in Murang'a County not operational.

I strongly believe that this Schedule should be passed as a matter of urgency, so that we support our farmers and ensure that Murang'a is well taken care of. We do not want a single farmer not getting his right due.

I am not convinced that Murang'a County Government cannot afford to pay its farmers Kshs40 per litre. I am not convinced why Murang'a County Government has arrears to the various milk farmers currently. That is in the month of July and August.

Mr. Temporary Speaker, Sir, the third area of intervention, which a good county government should look into, is the business sector. Murang'a people are renowned to be very good in business. We have established various businesses in this Republic, which employ thousands of Kenyans. If a good county government gets a good person who can manage its resources, we can deregulate the business sector and create employment.

When you look at our banks, supermarkets, *boda boda* people, *mama mboga*, market traders in various market places of Murang'a County, those traders face a lot of regulations. If you were to deregulate that market, you would have it easy for a common person to establish a business anywhere in Murang'a County.

Mr. Temporary Speaker, Sir, when I was a councillor, we came up with a policy that collated all licences that were being paid by various stakeholders. We came up with a document that is called a single business permit. It collapsed the several licenses that are being required to various business people into one singular document. That is way back in 2007. I served as a councillor between 2002 and 2007.

After that, there have been several statutes, which have continued to increase or embed new regulations and requirements, which negate the growth of businesses. I will give you one example of what we call the National Environment and Management Act. It is a requirement before you establish a business premises that you do what is called an environmental audit. Again, you have to pay to a person who is going to do that. To me, that is a bottleneck to businesses.

Mr. Temporary Speaker, Sir, again, you have other requirements of public health. If you are doing construction, you have to get a permit from the National Construction Authority (NCA). All those licenses whose net effect is to make it harder for a person to open up a business ought to be reduced or rather be collated into one document, as we did with single business permit. This is to ensure the business environment in our counties goes on, and it is better and easier. That will also make Kenya and our counties rise up in the index of ease of doing business universally.

I will rest my case by asking various Senators that we fought for more money to be sent to the counties. However, it is so sad that there has been a lot of corruption in our counties. It is also very sad that some governors have been using thugs and goons to manage our counties. I pray that in the next dispensation, we shall have governors who will not govern using goons.

Mr. Temporary Speaker, Sir, as a governor, you must be a democratic person who is ready to be criticised by *wananchi*. We are not demigods; we commit a lot of errors. Every time we do something wrong, let us be democratic and allow criticism from any quarter. That is how a democracy operates. However, this business of governors employing goons to intimidate unions and health workers---

Currently, thousands of workers have not been paid. I know of several counties, including Murang'a, where the parking attendants have not been paid. Therefore, I strongly believe that we need to fight and ensure they are paid in advance, so that our counties can run well.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Cherargei, proceed.

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, thank you for this opportunity. From the outset, this Cash Disbursement Schedule should have come at a better time and much earlier. Counties are grappling with a cash-crunch at the moment. Before I make my submissions, you are aware that under Article 219 it is very clear that a county share of revenue raised by the national Government shall be transferred to the counties without undue delay and deduction.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Senator!

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, how many minutes will I have tomorrow?

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Senator! Sen. Cherargei, you have a balance of 29 minutes to contribute on the Motion when it next appears on the Order Paper.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 8<sup>th</sup> September, 2021, at 2.30 p.m.

The Senate rose at 6.30 p.m.