

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 18th May, 2022

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

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

PRAYER

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM EDMUND A.
WALSH SCHOOL OF FOREIGN SERVICE, USA

The Temporary Speaker (Sen. Kinyua): Hon. Senators, I have a Communication.

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation of students from Edmund A. Walsh School of Foreign Service at the Georgetown University in Washington D.C, United States of America (USA).

The delegation is in the Senate to understand the workings of the Parliament of Kenya and the intricacies of legislating during a transition period. They are led by Prof. Scott Taylor, Vice Dean, School of Foreign Service and Professor of African Studies and Ms. Marta Manzano, Assistant Director, African Studies Program.

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

I thank you.

Sen. Khaniri: I thank you, Mr. Temporary Speaker, Sir. Allow me to join you in welcoming our visitors from the United States of America. I am a product of the USA education system. I went to school in New Jersey. I have also had a chance to attend the Senate and House of Congress in Capitol Hill, Washington D.C.

Welcome to Kenya, and I wish you a fruitful stay.

I see so many empty seats. I assure you that it is not always like this. We are in an electioneering period. Therefore, Members are busy in their constituencies seeking re-election. Otherwise, it is normally a full House. We take business in this House very seriously. We do not want you to go back with the impression that attendance in the

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Senate of the Republic of Kenya is poor. No, that is not the case. We normally have a full House.

Furthermore, we introduced virtual attendance after COVID-19 pandemic. There are other Members who are attending virtually. They could actually even make their contributions virtually.

You are welcome. We wish you all the best, a fruitful stay and safe journey back to USA.

I thank you.

The Temporary Speaker (Sen. Kinyua): Let us have Sen. Outa.

Sen. Outa: Thank you, Mr. Temporary Speaker, Sir. Let me also take this opportunity to welcome the delegation from the United States of America to Kenya.

I take cue from my senior, Sen. Khaniri. I am also a product of the United States of America schooling system. I went to school in City University of New York (CUNY). I then moved to a little school known as Biola University in Orange County, Southern California. I lived in the USA for quite a bit. I also worked there as a church minister at the Brown Baptist Church situated in Brooklyn, New York.

We welcome you. It is unusual to find this House empty. People are outside there trying to defend their seats. Some of them are running for governor and others want to come back here and, therefore, we are representing them.

We want to assure you that Kenya is a very peaceful country. Do not head back to the United States of America by the end of your visit here, without visiting the Maasai Mara and the beach along the coast of Mombasa, which has white sand. You will enjoy. The hospitality in Kenya is great. We are great people. We pride ourselves as the most welcoming people in the entire Sub-Saharan Africa.

Pray for this nation that the coming General Elections will be peaceful. We are looking forward to have a winner declared without any hitch. We pray for a good transition, just like in the United States of America. That will be one of the best ever elections in Africa. It will be the first time that this country will remain peaceful after the General Elections.

We believe that our relationship with the United States of America will continue to have good ties. You are here as ambassadors representing the people of United States of America. As the Chairperson of the Committee on National Security and Foreign Relations, I highly welcome you.

The Temporary Speaker (Sen. Kinyua): Thank you. I did not know that Sen. Outa is a pastor. At least I have known it today.

Proceed, Sen. Ndwiga.

Sen. Ndwiga: Thank you, Mr. Temporary Speaker, Sir. I join my colleagues in welcoming the delegation from the United States of America.

Unlike my colleagues, I did not have the advantage of studying in the USA, but my father was in the Michigan State University. Therefore, I still have the benefit of your system.

Mr. Temporary Speaker, Sir, when we were rewriting the Constitution of this country, we borrowed a lot from the American system. In fact, even the very establishment of this House - because we did not have the Senate before the current

Constitution, which we have now. It was created following the model of what you have in the USA.

I have had the advantage of attending the Senate sessions in your country. I have been around here in the corridors of this Parliament for about 20 years and been to your Senate many times. I know how you operate and we borrowed a lot from America. In fact, our hope right now, as a Senate of this country, is that some of the aspects which were not properly captured in our Constitution that we borrowed from America, that this time we will find time to include them in the Constitution as we move on.

I wish to take this opportunity to welcome you to this country. Like my friend, Sen. Outa, I wish you could find time to tour our tourism sites like our Coast, which is renowned worldwide. In fact, the Diani Beach in our Coast is one of the most famous in the world. I hope that you will find time to visit those sites.

Thank you, Mr. Temporary Speaker, Sir.

VISITING DELEGATION OF LIBRARIANS FROM 27 COUNTY
ASSEMBLIES ON ATTACHMENT PROGRAMME

The Temporary Speaker (Sen. Kinyua): Hon. Senators, I have another Communication to make. I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a delegation comprising 31 librarians from 27 County Assemblies who are on a five-day attachment programme in the Senate. The County Assemblies represented are: Samburu, Taita-Taveta, Laikipia, Vihiga, Siaya, Busia, Nyamira, Tharaka-Nithi, Tana River, Nyandarua, Wajir, Embu, Kisumu, Nakuru, Kajiado, Nairobi, Kirinyaga, Kiambu, Nyeri, Kisii, Mandera, Migori, Homabay, Garissa, Kericho, Bomet and Kakamega.

The objective of the attachment programme is to equip the officers with specialized knowledge and sharing of experience between officers of Parliament and county assemblies and further to facilitate upscaling of the operation of the county assembly libraries as a critical legislative body in preserving legislative records as a vital resource for legislature.

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

I thank you.

Sen. Khaniri: Bw. Spika wa Muda, ningependa uniruhusu kujumuika na wewe kukaribisha wageni wetu kutoka bunge za kaunti mbalimbali, ikiwemo Bunge la Kaunti ya Vihiga. Vihiga ni Kaunti ambayo ninawakilisha katika Seneti hii. Tunafuraha kuwakaribisha hapa na nina furaha ya kwamba Bunge la Kaunti ya Vihiga imeweza kupata nafsi nyingi za kutuma wajumbe wengi katika Seneti hii kujifunza mambo mbalimbali ya kuendesha Bunge.

(Sen. Faki stood in his place)

The Temporary Speaker (Sen. Kinyua): Ni hoja gani ya indhamu Mhe. Faki?

Sen. Faki: Bw. Spika wa Muda, mwenzangu Sen. Khaniri amezungumzia nafsi badala ya nafasi. Nafsi na nafasi ni vitu viwili tofauti. Kaunti ya Vihiga imepata nafasi nyingi kuleta wafanyakazi wake hapa Bunge kusoma. Kwa hivyo, sio nafsi, ni nafasi.

The Temporary Speaker (Sen. Kinyua): Sen. Faki, pengine ni vile tu alivyo tohoa lile neno kwa sababu ulimuelewa. Ni vyema tayari amekuelewa vizuri.

Endelea Sen. Khaniri.

Sen. Khaniri: Bw. Spika wa Muda, hata hivyo ninakubali kukosolewa na Sen. Faki. Nilikuwa nasema ya kwamba wamepata nafasi za kuja kujifunza mengi kwa Bunge la Seneti. Nashukuru ya kwamba uongozi wa Kaunti hiyo inawapatia nafasi hiyo. Seneti ni mahali pazuri pakuja kujifunza. Tuko na mila na tumaduni njema za kuigwa. Kwa hivyo, mnajifunza kutoka kwa wale ambao wamebobeza katika taaluma yao.

Kwenu siwezi jitetea. Nilijitetea kwa wageni wa kutoka mbali kuwaeleza ya kwamba Seneti hii viti vinaoneka bila watu kwa sababu watu wamekimbia mashinani kutafuta kura. Nyinyi ni wa hapa n mnaelewa ya kwamba hii sio kawaida yetu. Wengi wanatafuta njia za kurudi hapa; wengine kama mimi wanataka kuwa Magavana. Ninawania kiti cha Ugavana wa Vihiga. Kwa hivyo, hii sio kawaida yetu. Tunawakaribisha na tunawatakiya kila la kheri kwa wiki ile moja mtakayokuwa hapa.

Asanteni.

Sen. (Dr) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to join you in welcoming the visitors in the House. I want to thank the delegation that has come from the counties to be here with us.

It should be very clear to the delegation that is present here today that we are committed to ensuring that money is allocated and disbursed to the counties. We are also committed to ensuring that there is service delivery in the counties, but the onus is on the county assemblies to ensure that the money is rightly utilized, service delivery is done effectively and there is effective public participation in the counties.

I also want to thank the visiting students from the USA. I have seen some of them are young and others old. Benchmarking in the Senate is very good because you get to see what exactly happens in leadership. This is very important because the future is in the hands of the youth. We are grooming them, so that when they come to the Senate and see how we are legislating, they will have something to take home.

I thank you Mr. Temporary Speaker.

Sen. Faki: Asante Bw. Spika wa Muda kwa kunipa fursa hii kujiunga pamoja na wewe na Seneta wenzangu wahudumu wa maktaba kutoka kaunti zilizotajwa. Maktaba ni kiungo muhimu cha elimu na vile vile cha taasisi tofauti tofauti ili kuweza kujua tunatoka wapi na tunaenda wapi. Yale watakayo soma hapa itasaidia pakubwa kuweza kutengeneza maktaba na makavazi mazuri kwa vizazi vijavyo.

Hapa Bungeni tuna utalaamu mwingi na vitabu na stakabadhi nyingi ambazo zitasaidia pakubwa kutuelimisha sisi kama Maseneta na watu wengine kuhusiana na taratibu za Bunge na mambo mengine kama hayo. Kwa hivyo, kusoma kwao na kuhudhuria kwao vikao hivi itasaidia pakubwa kuweza kujenga elimu na pia kueneza uhusiano mwema kati ya Bunge letu la Seneti na zile kaunti ambazo zimetutembelea.

Karibuni na asante Bw. Spika wa Muda.

Sen. Cherargei: Thank you, Mr. Temporary Speaker, Sir. I welcome the team of librarians from the 27 county assemblies that are being attached to the Senate and the National Assembly. On behalf of the great people of Nandi County, allow me to warmly welcome them to this Chamber.

The Senate and county assemblies play almost the same role in terms of primary oversight. We are the big brothers of county assemblies. We are ready to mentor them and ensure that they learn as much as they can.

I know that with the onset of devolution, there has been a great challenge in terms of capacity building, especially to our county assemblies. However, I am contented that at the end of the tenure of the second generation of devolution, most county assemblies have made significant improvement.

Mr. Temporary Speaker, Sir, I have the privilege of sitting as a Member of the Sessional Committee on County Public Accounts and Investments. We have interacted with county assemblies and I am happy to note that most of them have built capacity in human resource as well as modern county assemblies to accommodate members. They are now offering services, which is part of ensuring that we have capacity.

There are many challenges that county assemblies still face in terms of capacity building for Members of County Assembly (MCAs). I am happy that as we go to the third generation of devolution and ensuring that it works, God willing, some of us will be part of the second or third generation of devolution. For us who are in the Kenya Kwanza Alliance (KKA) and have undertaken the bottom-up economic approach, the bottom-up will start from the counties that we are talking about. I am delighted that my neighbour, Kericho County Assembly, is here.

Mr. Temporary Speaker, Sir, I have also seen your county, Laikipia County, in the delegation of the 27 county assemblies. It is good that the team from Laikipia County are privileged to see you be the Temporary Speaker of the day. They have a lot to learn from your office. They can interact with you, and we know you are good in Kiswahili. Some of us including, Sen. Madzayo who comes from Kilifi County and my brother Sen. Faki from Mombasa County, are not so good in Kiswahili. The Laikipia County team should be excited to see you presiding over the Senate today.

I am pleased that you are one of the people who have succeeded to secure the ticket of United Democratic Alliance (UDA), a part of KKA who will run in August. We have no doubt that the people of Laikipia County have seen your tremendous performance on the Floor of the House, which is equal to mine.

In a minute, I would like to remind you that we were together with Sen. Madzayo when we were pushing for one man, one vote, one Shilling. We have said that that dream can be deferred, but we will continue pushing on to ensure equity in terms of resource allocation in our county. We will not leave behind Kilifi, Mombasa and many other counties.

I am aware that we also have a delegation from Georgetown University. We welcome them and let them learn as much as they can. Fortunately, or unfortunately, being an election season, most of our colleagues are either away on parliamentary duties or other exigencies of work as the Senate.

We assure them that our secretariat, your Office and individual Membership, are ready to provide any support that they might need. As friends of this country, I hope to see them after the 9th August, 2022 elections. We are going to do peaceful campaigns before, during and after the elections. The next time they come, there will be a new Government being run by KKA Coalition Government in this Republic.

The Temporary Speaker (Sen. Kinyua): Asante, Sen. Cherargei.

Sen. Madzayo, tafadhali endelea.

Sen. Madzayo: Asante Bw. Spika wa Muda. Kitu cha kwanza, ninaungana na wewe kuwakaribisha maafisa wanaofanya kazi katika serikali za ugutuzi. Maafisa hao 31 wameingia katika Bunge la Seneti ili kujionea hali inavyoendelea.

La muhimu ni kwamba hawa wafanyakazi katika maktaba wamekuja hapa kujionea na kupata faida ya kusoma na kujua jinsi ya kuendeleza maktaba huko wanakofanya kazi. Cha muhimu ni kuona watakaporudi wanakotoka, wataenda na elimu ambayo itawafaa katika kazi zao.

Ninaona watu 31 lakini niko na imani pengine wale waliobaki, pia watapata nafasi ya kuja. Nimeangalia hii orodha nikaona wanatoka kaunti 31, lakini katika hii orodha, Kaunti ya Kilifi haipo. Niko na imani ya kwamba Kaunti ya Kilifi itakuwa katika raundi ingine itakayokuja.

Jambo lingine la muhimu ni kuona ya kwamba serikali zote 47 za ugutuzi zimeamka. Kila kaunti inatajikana kuiga mfano huu na kuwa na maktaba yao ambayo itaweza kuwasaidia. Maktaba hizo pia zitasaidia waakilishi wa wadi mbalimbali kujinufaisha na elimu bora ambayo itawawezesha kusaidia serikali zao kuwa na nguvu zaidi. Wanapojisomesha na kujifahamisha kuhusu utendakazi wao, watakuwa bora zaidi kuliko vile walivyo sasa.

Bw. Spika wa Muda, umefanya jambo jema kuwakaribisha hawa kuja kuona vile Seneti inafanya kazi na kuona vile Bunge linaendelea. Nina uhakika katika hizi siku tano ambazo watakuwa hapa, wakirudi nyumbani, wataweza kuona faida ya kuja hapa kujisomea mambo ya maktaba katika Bunge letu la Seneti.

The Temporary Speaker (Sen. Kinyua): Sen. (Eng.) Mahamud, please, proceed.

Sen. (Eng.) Mahamud: Mr. Temporary Speaker, Sir, let me also join you in welcoming the students from Georgetown University in the United States of America (USA) as well as the librarians from different counties in the country.

In welcoming the students from the School of Foreign Relations in Georgetown University, they may have just heard of this country, but they are now here. As they were entering the gate, I told them that I know where the beautiful Georgetown University is in Washington DC. For sure, Georgetown is a very wonderful and reputable University.

Welcome to our Senate and the Parliament of Kenya in general. See this country for yourselves, since seeing is believing. We are a bit noisy in the country currently. Notwithstanding the noise, Kenya is a beautiful country as you will see.

Travelling and seeing various parts of the country is very important. The United States of America (USA) is big, but Kenya brags of being one of the best in the region. It is a peaceful country, which has developed by its own standards.

I welcome you.

I also welcome the librarians to Senate of the Republic of Kenya. You come from the county assembly, which is an important arm because it is the parliament of the counties. Capacity building for members of the assembly is very important.

When we build capacity, we need to have properly functioning libraries with various reference materials, with periodicals and law books that can enhance the knowledge and scope of the outside world.

I do not know how much your county governments facilitate libraries and the importance they are given. However, when you are here, you can influence the decision making in your counties to have proper staff with right materials, so that county assemblies are encouraged to read.

The reading culture in the country is very poor. It is only when you read and do research that you get knowledge on how to do things that can help the people.

Mr. Temporary Speaker Sir, I thank you for welcoming them. They should see how the Parliament's library functions. They can give the proposals to their county assemblies, so that their libraries are improved. This will help the Members of County Assembly (MCAs) to function properly.

With those many remarks, I wish to welcome both the teams and our students from USA to Kenya.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. (Eng.) Mahamud.
Next Order.

PETITION

REPORT ON PETITION: CONTINUOUS EXCLUSION OF PWDs IN MIGORI COUNTY BUDGET

The Temporary Speaker (Sen. Kinyua): The Chairperson of the Committee on National Cohesion, Equal opportunities and Regional Integration is not here. Therefore, the Petition is deferred.

(Petition deferred)

The Temporary Speaker (Sen. Kinyua) Next Order

PAPER LAID

The Temporary Speaker (Sen. Kinyua): The Chairperson Committee on Agriculture Livestock and Fisheries, please, proceed.

REPORT ON CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS TO THE COFFEE BILL (SENATE BILLS NO. 22 OF 2020)

Sen Ndwiga: Mr. Temporary Speaker Sir, I beg to lay the following Paper on the Table of the Senate today, 18th May, 2022-

Report of the Standing Committee on Agriculture Livestock and Fisheries on its consideration of the National Assembly Amendments to the Coffee Bill (Senate Bills No. 22 of 2020).

I thank you.

(Sen. Ndwiga laid the document on the Table)

The Temporary Speaker (Sen. Kinyua): Next Order.

STATEMENTS

INQUIRY INTO KSHS9 BILLION FOR REHABILITATION AND IMPROVEMENT OF THE OLD MOMBASA ROAD

The Temporary Speaker (Sen. Kinyua): Sen. Cherargei, please, proceed.

Sen. Cherargei: Mr. Temporary Speaker, Sir, I have a request for Statement on the Kshs9 billion set aside for the rehabilitation and improvement of the Old Mombasa Road after the construction of the Nairobi Expressway.

Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the extra Kshs9 billion that has been set aside by the Ministry of transport to be used in rehabilitation and improvement of the Old Mombasa Road (Lower deck) after the construction of the now the famous Nairobi Expressway.

In the Statement, the Committee should-

(1) State why the cost of the construction of Nairobi Expressway which was initially projected to cost of Kshs65.2 billion, but later increased by Kshs7.6 billion to Kshs72.8 billion as stated by Kenya National Highways Authority (KENHA) did not factor in the cost of rehabilitation and improvement of old Mombasa Road.

(2) Explain the reasons for the Ministry setting aside Kshs9 billion, yet the contractor, China Roads and Bridges Construction Company is responsible for damages on the old Mombasa Road (lower deck) and should take full responsibility.

(3) Explain whether the contract that was awarded to China Roads and Bridges Construction Company had factored escalation costs, stating the amount projected for escalation and variation on the construction of the Expressway, considering this extra cost of rehabilitation of Kshs9 billion.

(4) Provide a comprehensive report on variation of costs in contracts for construction of other major roads in the country, if any, and the total amount involved in such variation in all roads that are being raised to bitumen standards across the country

(5) Finally, provide a definite timeline on completion of the renovation and rehabilitation works giving a clear guideline on the usage of Nairobi Express Way especially for emergency services such as fire engines, ambulances and use by the VIPs among other emergency services. This is because most Kenyans who live along Mombasa Road relocated because of the construction and most business were closed along that route.

The Temporary Speaker (Sen. Kinyua): Proceed, Sen. Madzayo.

Sen. Madzayo: Bw. Spika wa Muda, nataka kuongeza kidogo nikisema ya kwamba wale waliotengeza barabara walikuja hapa Kenya wakapata kwamba kuna barabara zake tayari.

Walitoboa mashimo, na kutengeneza barabara yao nzuri sana. Mimi nishawahi kuipitia. Lakini sasa, waliharibu barabara ya chini. Kuna umuhimu ya kwamba anayeharibu ndiye anayetengeza. Ninaona kuna mushkil hapo ya watu fulani kutaka kuingia katika mambo ya ufisadi;

Hizo Kshs9 billion ni pesa za Wakenya walalahoi ambao wanajaribu sana kuishi katika hii inchi ambayo imekuwa ghali kwa watu kuishi.

Tunataka kujua ni kwa nini wanauliza swala la kuongezwa pesa za Kshs9 billion ili kutengeza sehemu ambayo iliharibiwa na wale waliopewa hiyo *contract* waitengeneze.

Bw. Spika wa Muda, tumekuwa na ufisadi sana Kenya hususan Wizara ya Barabara. Kama mtu yeyote anataka kuwa tajiri, anaenda katika upande wa kutengeza barabara na tumeona hiyo ikitendeka. Watu wanaotengeneza barabara wamekuwa matajiri wa kupendukia, huku Mkenya wa kawaida akiendelea kukandamizwa na kuwa maskini hohehahe. Hivi sasa tuna barabara ya Nairobi Express Way ambayo tunalipa pesa nyingi kuitumia. Ukienda uwanja wa ndege wa kimataifa wa Jomo Kenyatta (JKIA), ukirudi, ukitoka na ukiingia ndani ukiwa unaenda sijui pande gani na gani, utatumia elfu kumi kwa siku mbili. Bei hii ni ghali muno.

Bw. Spika wa muda, nakuambia wazi ya kwamba ufisadi wa namna hii, sisi kama Wakenya hatuwezi kuukubali. Lazima kuwe na sababu mwafaka ambazo zitaeleza vizuri ya kwamba hizi pesa wanazohitaji Wakenya kulipa ni za kazi gani.

Nampa Sen. Cherargei heko kwa sababu ya kuangazia suala hili. Tuanataka kujua ni kwa sababu gani hii kampuni kama bado iko na sasa wananendelea kuwatoza Wakenya pesa. Je hizo pesa wanachukua kutoka kwa Wakenya watazitemia kutengeneza barabara ilioko chini ambayo wameharibu kabisa?

Asante, Bw. Spika wa Muda.

The Temporary Speaker (Se. Kinyua): Asante. Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, I thank you for giving me this opportunity to give my comments. I thank Sen. Cherargei for bringing an important Statement on the Floor of this House. It is coming at a time when we are almost going for recess. This is a very serious Statement needs to be pursued up to the end of it all.

There is need for the Committee to ensure that it intervenes, interrogates and finds out the modality of payment of the money to the contractors. If the contractors were paid upfront all the amount of money, what was the logic? There is no need of the contractors being paid upfront before completing their work. Every work must have a warrant. When you go to buy a fridge, you are given a warrant of guarantee of one or two years. Similarly, we cannot construct a road this year and then next year we rehabilitate it using taxpayer's money. That is very wrong and there is need to investigate.

The Committee should also inform Kenyans within what timeframe will this road be completed because the life of the Twelfth Parliament is almost ending.

Mr. Temporary Speaker, Sir, as this Committee investigates what Sen. Cherargei has brought on the Floor of the House, it is also necessary for it to tell us about the Nairobi Express Way where Kenyans are being made to pay Kshs5000. If a person has

three or four vehicles, does it mean that they will be charged for every vehicle. That road is meant to help Kenyans, but it is now a business. It does not make sense to use taxpayers' money to do a road that Kenyans will pay while using it. This is something that we Kenyans should not keep quiet about. We demanded for answers as to why we are being charged highly to use the Nairobi Express Way.

Mr. Temporary Speaker, Sir, it is the onus of the contractors to do any repairs that are there. It is not for the Government to allocate a huge sum of taxpayers' money again to rehabilitate the road that was there before yet the contractor was paid a full amount of money. There is need to investigate this matter.

I thank Sen. Cherargei for bringing this matter on the Floor of this House. This is a Statement that should not be taken for granted. It should be treated with the seriousness and the gravity in which it has come on the Floor to this House.

Mr. Temporary Speaker, Sir, I support it.

The Temporary Speaker (Se. Kinyua): Sen. Faki

Sen. Faki: Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii., Najiunga na Sen. Cherargei katika maombi yake ya taarifa kuhusiana na barabara ya Mombasa Road.

Zabuni ya ile barabara ya moja kwa moja yaani Nairobi Express Way, ni tofauti na zabuni ya kurekebisha barabara ambayo ilikuwako hapo awali; Mombasa Road. Haiwezekani kwamba zabuni hiyo itolewe bila ya kufuata sheria. Sheria inasema kwamba zabuni zozote za barabara zinazohusu fedha nyingi ni lazima ziende kwa mipango yote ya zabuni. Kwa mfano, kutangazwa kwa kandarasi ili yeyote ambaye ana uwezo wa kufanya kazi ile aweze kupewa nafasi ya kuifanya.

Bw. Spika wa Muda, hii barabara ya moja kwa moja imejengwa kwa mfumo wa jenga, endesha na baadaye itaachwa mikononi mwa Serikali. Kwa hivyo itakuwa ni makosa na ubadilifu wa fedha kuwacha zabuni kama hii kufanywa bila ya kufuata sheria. Hii taarifa ni muhimu sana.

Ningeomba Kamati ya Barabara na Usafiri iangalie kwa makini na haraka kwa sababu muhula wa Bunge hili unaenda kuisha. Hii ndiyo fursa ambayo watu wanao fanya kazi katika Serikali kuweza kupata nafasi ya kupitisha zabuni ambazo hazina kichwa wala mguu ili kufanya ubadilifu wa pesa.

Asante, Bw. Spika wa Muda.

The Temporary Speaker (Se. Kinyua): Sen. (Dr.) Musuruve, you can read your statement.

WORLD HYPERTENSION DAY

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order 47(1) to make a Statement on matter of general topical concern; namely, World Hypertension Day.

The objective of the World Health Organization (WHO) on this day is to communicate to the public the significance of hypertension and its serious medical complications and to provide information on prevention, detection and treatment.

This day is celebrated annually on 17th of May. It was initiated by the World Hypertension League, an umbrella organisation that unites national hypertension leagues

and societies around the world. The theme for this year's World Hypertension Day is "Measure your blood pressure accurately, control it, live longer".

In many parts of the world, millions and millions of people around the globe have died as a result of blood pressure and its related consequences. High blood pressure is often called the silent killer. This is because most of the time, it has no obvious symptoms to indicate something is wrong.

Mr. Temporary Speaker, high blood pressure is classified into four categories; the normal, pre-hypertension that is mild, stage one, moderate and stage two severe.

Hisatomi Arima et al. in his 2011 research on Mortality Patterns in Hypertension, stated that raised blood pressure is responsible for 7.6 million deaths per annum worldwide, more than any other risk factors. Around 54 per cent of stroke and 47 per cent of coronary heart diseases are attributed to high blood pressure.

Further, adding that, over 80 per cent of this burden occurs in low and middle income countries. Blood pressure related diseases also contribute to cardio vascular death among people below the hypertensive threshold of 140/90 mmhg.

As we commemorate this day, awareness on blood pressure is important because it is one of the vital signs used to check how well your body is.

Blood pressure is measured in millimetres of mercury, that is the mmhg. The reading has two numbers; the first number is the systolic blood pressure which is the pressure in your arteries when you heart beats. The second one is the diastolic pressure which is the pressure when you heart rests between beats. Normal pressure should be 120/80 mmhg. Although there may be spikes throughout the day based on your activities.

High blood pressure is usually managed by lifestyle changes, and if necessary, medications. High blood pressure can quietly damage the body for years before symptoms develop. Uncontrolled high blood pressure can lead to disability or poor quality of life or even a deadly heart attack or stroke. Many Kenyans high and mighty, low and humble have died as a result of high blood pressure and related causes.

As we mark this day, I would like to call upon the national Government, in conjunction with the county governments, to take up the responsibility of-

- (i) Creating awareness on the causes of high blood pressure;
- (ii) Availing free blood pressure checkups in all county hospitals;
- Availing free medical awareness on how to prevent high blood pressure; and,
- (iii) Ensuring that every Kenyan has the highest attainable standards of health.

Mr. Temporary Speaker, Sir, I thank you for this opportunity and wish you all a happy belated World Hypertension Day.

The Temporary Speaker (Sen. Kinyua): Proceed, Sen. Cherargei.

Sen. Cherargei: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I would like to thank Sen. (Dr.) Musuruve because she has done exceptionally well. I wish to see her in the next Parliament because of the grasp of issues and the kind of legislation she has brought in this House.

I wish to see her in the next Parliament either in the National Assembly or Senate. I hope the party, through Sen. Madzayo who is the Senate Deputy Minority Leader, is taking note. I also hope the people of Kakamega are taking note.

Mr. Temporary Speaker, Sir, I thank her for bringing up this issue because World Hypertension Day is important. Article 43 of the Constitution of Kenya, 2010, states clearly that access to the highest quality health services in this country is a basic human right. The Bill of Rights is important in our Constitution, 2010.

High blood pressure is a silent killer. As she has put it, it is not only killing the mighty, but also ravaging our villages. The worst part is that most people do not know that they are suffering from it because it has no symptoms.

It is one of the diseases that result from our lifestyles and the choices we make. However, these are diseases that can be managed by ensuring we change choices in our lives.

This is a reality both at the highest level like the Senate to the lowest level in our villages. This is the biggest challenge we have as a country. As we mark this day, as Parliament, especially the Senate and other people employed by the Government, or working in the private sector who earn salaries, majority of them do not do regularly medical checkups. Some of them go for medical checkups, once in a while.

If detected early, high blood pressure can be managed and you live a normal life. After some time, it destroys body organs, yet symptoms are not seen. That is why some people call it a “silent killer.”

It is worth noting that health is a devolved function. One of our colleague’s requests is to create centres in our county and sub-county hospitals and local dispensaries. Such include places like Mosoriot Sub County Hospital or Kapsabet County Referral Hospital where ordinary people can walk to and check their blood pressure. We also have other hospitals in Nandi, Laikipia, Embu, Kilifi, Mombasa *et cetera*. People need to have access to them for regular medical checkups.

The reason we devolved health functions was to ensure we bring services closer to the people. However, up to now, the health sector is struggling. It is in the Intensive Care Unit (ICU).

One of the challenges facing the health sector in our country is lack of human resources. There are always unsettled fights with governors when it comes to hiring staff and paying salaries and emoluments. That has bedeviled the health sector in our counties.

There was some wisdom by the drafters of the Constitution to devolve the health sector. They realized that each Kenyan should access a health centre, or a dispensary, or a Level 4 hospital, or a county referral hospital, or a national referral hospital such as Moi Teaching and Referral Hospital (MTRH), Mbagathi Hospital, or Kenyatta National Hospital (KNH) and others like the one that was built in Nyeri. Governors can do that so as to ensure our people can go for checkups.

There are many Kenyans suffering from high blood pressure while others are diabetic even in our own families. I was told that as a man, when you have high blood pressure and diabetes, performing other duties and rising to occasion becomes a problem. Those are some of the challenges we are talking about because of these diseases. In fact, medical awareness is important.

Sometimes hospitals carry out awareness on issues to do with children, breastfeeding and many others. Things like free medical camps and awareness programmes should be included.

Kenyans should also know the causes of high blood pressure. Among people with high blood pressure in the country are us politicians. Before nominations, most of us had high blood pressure.

The high prevalence of high blood pressure in the country is also because of the nature of our work. I urge my colleagues that even as we do politics, we should be careful, so that it does not come with the cost of ill health. The competition and fighting politically should not make us victims.

This issue should be addressed. Counties should create awareness among *wananchi* suffering from diabetes and high blood pressure. Since these are lifestyle diseases, there is a way that even hospitals at the lowest level, be it in Laikipia or Nandi counties, for example, need to teach our people. It is not a death sentence because you can still manage and enjoy life.

I do not know whether there are Members of the Committee on Health here. I hope they will refer to the HANSARD and take note that this is a serious issue. As Parliament, we should also have medical awareness and free medical checkups especially after 9th August.

Mr. Temporary Speaker, Sir, once again, I thank Sen. (Dr.) Musuruve for bringing this to the attention of the nation and to all of us. This is a silent killer with no vital signs. As I said, it is about the choices we make in life. Both county and national governments must be at the forefront to ensure our people do not continue to suffer from some of these diseases that can be prevented.

Mr. Temporary Speaker, Sir, with those many remarks, I wish all of us, mostly our brothers and sisters suffering from high blood pressure, well. I call upon the sector players in the Ministry of Health to take note of this.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. Cherargei.

Since the Chairperson of the Standing Committee on Roads and Transportation is not there, the Statement is deferred.

ACTIVITIES OF THE COMMITTEE ON ROADS AND TRANSPORTATION

(Statement deferred)

The Temporary Speaker (Sen. Kinyua): Let us move on to the next Order and allow the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries move his Motion.

MOTION

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COFFEE BILL (SENATE BILLS NO. 22 OF 2020)

Sen. Ndwiga: Thank you, Mr. Temporary Speaker, Sir. I beg to move-

THAT pursuant to Standing Order 159, the amendments of the National Assembly to the Coffee Bill (Senate Bills No. 22 of 2020) be now considered.

First, I thank the Committee on Agriculture, Livestock and Fisheries for the diligent work they have done in considering these amendments. Secondly, I thank the stakeholders both farmers and others who gave us important input while considering the amendments to the Bill.

When I moved this Bill I enumerated the problems of coffee farmers, the history of coffee farming and why the Senate found it necessary to introduce a Bill in this House. The main reason was to alleviate the problems that coffee farmers in this country go through, particularly the peasant coffee farmers.

We do not agree with the amendments from the National Assembly. The problem is that we cannot agree with some and disagree with others. It is either we agree or disagree with all of the amendments. This is the unfortunate bit. We may agree with quite a number of amendments they have brought. However, the Committee found that we cannot agree with them the key amendments they have brought, because they kill the spirit of this Bill.

We brought this Bill to this House which was considered and passed unanimously. This was because in the wisdom of the Members, the Bill address the core problem of coffee farming in this country.

You will remember that this House featured and indicated that since Independence, we have never got ourselves out of the yoke of colonialism in some sectors, especially the coffee sector. We have done well in many areas, including in the coffee sector. However, the farmer has been held captive by marketers; by people who control their coffee beyond where they can intervene.

In the coffee sector, once the coffee leaves the farmer's farm, it goes to their cooperative society. From their cooperative society, the coffee, which at that point is called parchment goes to a miller who is licensed currently by the Agriculture and Food Authority (AFA) and it is milled. After the coffee is milled, it is taken to the auction.

Coffee grades which are taken to the auction are realized at the milling. The farmer has no way of knowing what kind of grades his coffee has realized until they are told by the millers. The mischief in the coffee industry in this country has been that the same miller has also been the marketer. The same miller holds two licenses - marketing and milling.

The mischief has been that it is only the miller who knows the grades of the coffee that they are taking to the auction. The farmer does not know. The only information farmers have is what they have been given by the millers.

When the coffee goes to the auction, the same miller who has another license called the marketing license is the one who goes to market this coffee. To cure this mischief, we introduced a Direct Payment System (DSS) in the Bill we passed in this House.

Once the cooperative or the farmer takes their coffee to the miller, it still belongs to them. They can pick their coffee and take it to the auction themselves or through an

agency which is appointed by the farmer. This way, the farmer will be guaranteed that the proceeds they will get from their coffee is the actual they are entitled to.

Currently, that is not the case. Today, a farmer will take their coffee to a miller who will instruct the farmer that they have many bags of AA or AB or PB and the miller will auction the coffee. The same marketing agent is the agent of the buyer. That is what has killed coffee farming in this country and driven the farmers out of their coffee farming.

You will be shocked by the difference in amount of revenue between the coffee marketing when the coffee is taken to the auction and what they realise when they sell the coffee. The amount is three times what the farmer gets because the farmer is not involved in the eventual sale of their coffee. This is the mischief this Bill seeks to cure.

I am shocked that when we started doing this Bill, we were moving extremely well even with the Ministry of Agriculture. Somewhere along the way, we parted ways. Where we agree is that we want to establish a coffee board which is being established by this Bill.

This Bill is establishing a Coffee Research Institute, the way it used to be. If you remember, when I moved the Bill, I indicated that I did not want to go back to what happened when the board was revoked and all the functions taken to AFA. All issues related to crops were taken to AFA. That is where the management of coffee and most of other crops started to dwindle.

This Bill seeks to establish a coffee board and a coffee research institute. Some of the amendments from the National Assembly which we do not agree with, is that we do not want to wish away the county governments. Agriculture is a wholly devolved function. It is inconceivable that you would have amendments that wish away our county governments.

County governments are the ones that are in charge of cooperatives and crop development on the ground.

I seek the House and the country to note, that whereas the National Assembly passes the National Budget and the Senate passes the County Allocation of Revenue Bill, the amount of money that remains with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives is what is causing mischief in our counties. There is so much money that remains with the Ministry and yet agriculture is a devolved function. That is why we are not developing at all.

I do not want to go to other crops; I want to concentrate on coffee today because the amendments we have received from the National Assembly do not cure what we were expecting. I am surprised that through these amendments that the National Assembly has introduced into this Bill, they want to remove the benefits which we have gotten from coffee regulations.

The President appointed the Coffee Commission which developed the regulations. Those regulations were brought to this House. Before they were brought to this House, my Committee engaged that Commission and went through them and we were satisfied they were good regulations. We invited all Senators and Members of Parliament from coffee growing areas. We sat for breakfast, went through those regulations and agreed on them.

Both the Senate and the National Assembly passed those regulations and they are in force. You get surprised when the Cabinet Secretary (CS) in the same Government now wants to go through the backdoor to remove those regulations. It is inconceivable.

That is why we have so many problems in this Government. When you have a government whose left hand does not know what the right hand is doing, please do not call that a government that knows where it is going.

Mr. Temporary Speaker, Sir, although I am as the Chairperson of the Committee on Agriculture, Livestock and Fisheries, I also happen to be a coffee farmer. We, as coffee farmers of this country, want the Bill that the Senate passed here to be the Bill that will see the light of day. The regulations which we are seeing here and the amendments brought by the National Assembly will not give us that hope.

Our main objection to the amendments rests on coffee marketing. That is our main objection. I know that most Senators who are here and who supported the Bill will remember that the coffee farmer has been made a slave of coffee marketers. The people who make money are not the farmers but the marketers.

We have had an opportunity as a Committee to visit one marketer in the USA, a roaster called Geoffrey's in Florida. That roaster told us categorically that they love Kenyan coffee, it is very good, but that it not available. They cannot access it. When they do access it, it is very expensive. He showed us his invoices and receipts.

The last time he had bought coffee from Kenya he had paid US\$1200 a bag. How much is the farmer getting here? A farmer would be lucky to get US\$300 of that same bag. That tells you where the mischief is. I am shocked that a CS in charge of Agriculture and who understands these things would want to introduce amendments to go and kill the same farmer the Government is supposed to protect. It is very inconceivable. This should be condemned by all right-thinking Kenyans.

The other thing we have noticed of late is that these marketers have actually put the Government in their pockets. As the CS traverses the country doing his campaigns in coffee growing areas, he tells farmers how the Chairperson of the Senate Committee on Agriculture, Livestock and Fisheries does not understand coffee and how the chairperson, Sen. Ndwiga, is the one stopping coffee reforms. Can you believe this?

After the CS in the Government addresses those farmers, he tells them to line up and gives them Kshs1,000 each. Would you believe that? Where else have you ever heard of a CS going out to do his work and afterwards, he gives bribes to the people he was talking to? This is money from the marketers. It is marketers who are using the CS to kill this Bill. These are the same marketers we are asking, we may be at the tail-end of the life of this Senate, but I can assure you, we will be back here again, purposely to pursue some of these things.

One of the reasons why the CS should not be allowed to get away with this is because this is going to kill the coffee industry. It is the same reason that has caused the production of coffee to dwindle from 125,000 metric tonnes to less than 30,000 metric tonnes, which we are exporting today. Why? It is because of this kind of behaviour.

I hope that whoever advises the President will get this message clearly that the coffee marketers have taken hold of his Government and they have put his Government in their pockets. They want to frustrate coffee reforms through his CS.

I do not want to bore the House with the number of amendments we are rejecting, because we either accept all of them or reject all of them. I do hope that in the next one week, both this House and the National Assembly will find wisdom to establish a Mediation Committee to look at the amendments which are acceptable and the amendments which are not acceptable. I sincerely do hope that this Bill will see the light of day.

Mr. Temporary Speaker, Sir, for those of us who pray, I hope we pray for the Government to begin to realise that the citizens of this country – the peasant coffee farmers out there – look up to the Government for protection. If it is the same Government that is denying them protection, it is clearly unthinkable.

Right now, you will hear that coffee prices are good and we are being paid well. I want to caution coffee farmers that the price has not changed. The regulations we made here are the ones which will make a difference. We are seeing high coffee prices is not because the market has changed. It is because the dollar rate has shifted, whilst coffee is paid in dollars. The dollar rate is what is making the prices of coffee to look very good right now.

Mr. Temporary Speaker, Sir, the only cure and protection we have for the Kenyan coffee farmer is this Bill; that is if you remove the mischievous amendments which have been introduced by the Government through the National Assembly.

With those few remarks, I beg to move.

The Temporary Speaker (Sen. Kinyua): Your seconder?

Sen. Ndwiga: Mr. Temporary Speaker, Sir, I have two Members from my Committee who are here. One has just walked in. The other one was here and was listening. Sen. Madzayo, could you kindly second?

The Temporary Speaker (Sen. Kinyua): Sen. Madzayo, proceed.

Sen. Madzayo: Thank you, Mr. Temporary Speaker, Sir. I second.

(Question proposed)

Sen. Cherargei: Mr. Temporary Speaker, Sir, I thank the Committee on Agriculture, Livestock and Fisheries led by Sen. Ndwiga for that wonderful work that they are doing.

The issue of coffee continues to be a serious problem. In Nandi County where I come from, almost all sub-counties grow coffee, led by Tinderet Sub-County. Most farmers have been facing challenges of growing, marketing and getting value for their coffee.

It is important to note that coffee, just like any other crop in the Republic, continues to make our farmers poorer. They invest a lot. The Chairperson has explained that the problem is not with farmers or the people of Kenya; but the Ministry of Agriculture, Livestock, Fisheries and Cooperatives; the Government and coffee marketers.

Sen. Ndwiga understands coffee matters very well, having worked as a Cabinet Minister in past governments. Since, the current CS, hon. Peter Munya, came in as the CS in that Ministry, our farmers continue to suffer. He has turned most of his engagement

with farmers to political rallies. You see him most of the time insulting, demeaning and even giving handouts to farmers.

Mr. Temporary Speaker, Sir, you remember the fight we heard about in the tea and coffee sector? These cartels must be called out---

The Temporary Speaker (Sen. Kinyua): What is it, Sen. Madzayo?

Sen. Cherargei: Mr. Temporary Speaker, Sir, these cartels in the Ministry of Agriculture, Livestock, Fisheries and Cooperatives continue to destroy our farmers. We must name and shame them.

The Temporary Speaker (Sen. Kinyua): What is it, Sen. Madzayo?

Sen. Madzayo: Asante, Bw. Spika wa Muda. Ninasimama kwa hoja ya nidhamu. Ikiwa yule ambaye anazungumziwa hayuko ndani ya Bunge wala hajaitwa Bungeni na kuulizwa kisha akashindwa kujibu, mtu anaweza kusema alimwuliza na hakuweko? Je, ni haki?

Waziri wa Kilimo, Ufugaji, Uvuvi na Vyama vya Ushirika, hayuko hapa. Katika mjadala unaoendelea hivi sasa, ndugu yangu anamtaja. Singependa kabisa kumuingilia kati rafiki yangu, mdogo wangu ambaye ninampenda sana na tunasikizana zaidi. Ni haki kuongea juu ya mtu ambaye hayuko ndani ya Bunge kwa njia ambayo haifai, ama kumwonyesha katika Taifa ya kwamba pengine si mtenda kazi maalum? Watu wengine kama sisi tunajua yeye ni mtendakazi. Je, ni sawa kuongea kama hayuko hapa ama si sawa?

The Temporary Speaker (Sen. Kinyua): Sen. Cherargei, pengine wacha sana kuzungumza kana kwamba unamkemea Waziri.

Hata hivyo, kulingana na vile ambavyo nilikuwa nikifuatilia Mjadala huu kutoka kwa Mwenyekiti wa Kamati ya Ukulima, Ufugaji na Uvuvi, kuna mambo ambayo aligusia. Nilisikia akisema yule Waziri amekuwa akipeana kile ambacho aliita hongo ya elfu moja moja kwa kila mkulima katika mikutano. Sijui kama ni kweli.

Sen. Cherargei, tafadhali jihusishe na mswada wenyewe bila hasa kumuingiza Waziri katika hayo mambo. Pengine taja tu maneno ambayo unajua lakini sio kuleta nia mbaya kwake.

Sen. Cherargei: Bw. Spika wa Muda, ninafikiri nimemsikia ndugu yako akisema kwamba hangependa “kuniingilia kati kati”. *I do not know what that means but may be it is a story for another day.*

(Laughter)

The Temporary Speaker (Sen. Kinyua): Sen. Cherargei, ni vizuri kama ulianza kwa Kiingereza, uendeleo kwa Kiingereza. Wacha kuchanganya lugha.

Sen. Cherargei: Mr. Temporary Speaker, Sir, my apologies. I heard him say something in Kiswahili but I did not understand. I hope you know better because you are good in Kiswahili.

I was saying that the Chairperson of the Committee on Agriculture, Livestock and Fisheries has told us that one of the impediments to the success of coffee reforms, has been the Ministry itself. We have always seen the Ministry officials--- I have just said

that coffee continues to become a problem. As the Government of the bottom-up people, one of our proposals is to look at how to guarantee minimum returns for our farmers.

When we implement and guarantee minimum returns to our farmers even at the coast through the bottom-up--- I can Sen. Madzayo is excited because he really wants to see this Government of bottom-up economic model. Every farmer will get guaranteed minimum returns.

That is the only way we will finish these cartels that continue to frustrate our farmers in the coffee, tea, sugar and milk sectors. The only way to fix this is a bullet called “guaranteed minimum returns to our farmers”.

The Chairperson of the Committee on Agriculture, Livestock and Fisheries has spoken passionately about coffee. I remember we had a fight in this House, when the World Bank gave us Kshs10 billion through the Coffee Cherry Fund. We fought over it in this House. The CS was summoned but he did not give us concrete answers. This is even on record in the HANSARD of the Senate of the Republic of Kenya.

Mr. Temporary Speaker, Sir, when we want to do these reforms, these people do not want, because they want to play around with funds, such as the Kshs10 billion Coffee Cherry Fund from the World Bank. They fear regulations and legal framework that ensure transparency and accountability of managing public funds that belong to farmers.

Mr. Temporary Speaker, Sir, we were sad on that day because Nandi was excluded from the counties that were supposed to benefit from the Coffee Cherry Advance Revolving Fund (CCARF) of Kshs10 billion. We protested in this House. The Cabinet Secretary (CS) was summoned but he never gave us concrete answers.

My brother, Sen. Ndwiga, will tell you that almost three-quarters of this country has the potential to grow coffee. Everywhere you go across the world, you will spot a coffee shop. Across the world, coffee is more consumed than tea.

Mr. Temporary Speaker, Sir, we need our farmers who grow coffee to have value for their coffee. So, we raise these issues because in Nandi County, where I come from, there are farmers who still struggle to grow, store and market coffee. Others have built co-operative societies while others are still struggling to buy pulping machines.

When I was doing my campaigns, I went to a place called Kipsielei in Tinderet, Sub-county near Kibukwa. They are still struggling to build co-operative societies in order to have their own pulping machines. I remember one of their machines had broken down. That is the pain that coffee farmers continue to suffer because of cartels and the impediment of the Ministry of Agriculture, Livestock, Fisheries and Cooperatives yet the Government has not made a decision to crush cartels.

The Chairperson has explained very well that the cartels are known and they know what they are doing within the Government.

Being part of the larger *Kenya Kwanza*, I appeal that we must agree to fix and do coffee, tea, sugar cane, coconut, milk and other reforms to ensure farmers get value for guaranteed minimum returns.

Mr. Temporary Speaker, Sir, I thank our Chairperson for speaking with passion. I am a representative of the people who grow coffee in the North Rift and in my neighbouring, Kericho County.

We were sharing with the Chairperson that Kipkelion was one of the first places to grow coffee and have a machine in the 1930s, before the onset of colonization in this Republic. However, when you go there, they are yet to get the value for coffee they have grown over decades.

Therefore, I support and agree if there are amendments that need to be done, the Senate must stand its ground because agriculture has been fully devolved.

The Temporary Speaker (Sen. Kinyua): What is it, Sen. Ndwiga?

Sen. Cherargei: Mr. Temporary Speaker, Sir, I do not mind being informed by *Waziri*.

Sen. Ndwiga: Mr. Temporary Speaker, Sir, I want to inform my colleague that it is true. Out of the regulations we passed here, the first beneficiary of direct coffee sales was Kipkelion Coffee Co-operative Union and they took advantage of that.

For them to get permission to export their coffee, after they found their own market, good beans and we introduced the buyers to them, the Ministry has been putting barriers to prevent them from getting direct licences to export their coffee to wherever they want. That is why they want to reverse these things.

Kipkelion Coffee Co-operative Union exported seven containers and they were paid in excess of Kshs150 million. That is where we want to go, Mr. Temporary Speaker, Sir.

Sen. Cherargei: Mr. Temporary Speaker, Sir, let me conclude. I saw Bomet County also want to do such a thing. I do not know how it will be running authorities but I am very impressed. That is why agriculture is devolved.

As the Senate, we must stand our ground considering one of the important functions that was devolved was agriculture.

I am happy that Kipkelion Coffee Co-operative Union got an opportunity to do direct sales as this will encourage other co-operative unions in Nandi, Laikipia and across the country.

I therefore call upon the Senate to take its rightful position of protecting devolution as envisaged in Article 96.

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives must be told that they will only retain policy making at the national level. Any other part of implementation such as licensing must be given to counties. They must be given that power.

I wish that one day a co-operative society in Kabrer in Tinderet Sub-county can direct their sales to the USA, Iran or anywhere else.

Mr. Temporary Speaker, Sir, it is sad that the same Government wants to stifle the benefit.

Thank you, for the information, Sen. Ndwiga, that when Kipkelion Coffee Co-operative Union benefited, the Ministry put barriers.

I remember at some point when the Governor for Bomet went to Iran to engage them in order to sell their product directly, the Minister for Agriculture, Livestock, Fisheries and Cooperatives answered him instead of assisting counties to ensure they get licenses to sell.

So, we must address this issue of coffee fully. We must call out cartels that are preventing reforms within the coffee industry.

I know we are constrained of time but when we come back, we must continue with this fight. I hope and believe that we will have a Government that believes in guaranteed minimum returns; which is the *Kenya Kwanza* Coalition.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Kinyua): Sen. (Dr.) Musuruve, proceed

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for this opportunity.

As Sen. Ndwiga was taking us through, I could really see the role of the Senate.

If you look at the Coffee Bill (Senate Bill No. 20 of 2022), it comes out clearly that we are keen on representing, the counties and their interests. One of our core interest is to ensure that we are protect our farmers.

The country signed the Maputo Declaration and it stated clearly that we will support agriculture and about 10 per cent of the national revenue will go to agriculture.

One of our core serious business is to protect the interests of our counties. Therefore, the farmers must be prioritized.

In the Senate Bill that we gave, the proposition was that both the national and the county Governments must be involved in farming. The reason is that the national Government comes with a specific role. For instance, when you are talking about policies, it will come from the national Government which needs to cascade to the county governments.

On the issue of security, you find people being murdered in coffee growing areas and so the Government needs to provide security in those areas.

Mr. Temporary Speaker, Sir, it is clear what both the national and county Governments need to do.

In the event of disease outbreaks, it is the business of both the county and national Governments, so that we protect our farmers and encourage them as we make their industry sustainable.

One of the issues in this industry that must be remembered is we must encourage our farmers so that their work becomes self-sustaining. Farmers employ themselves and are also creators of employment. It is our onus as the Senate to ensure that the business that is going on in the coffee industry will benefit farmers directly.

Therefore, farmers should get money from their proceeds directly. We should not have people brokering so that farmers get money. When it comes to support, it should come from the Government. The farmer should not be encouraged to look for loans from banks and pay interests and all that. There must be a mechanism to ensure that the board that is created will ensure when it comes to planting, farmers have seedlings, when it comes to diseases, farmers have protection and all that.

Mr. Temporary Speaker, Sir, when it comes to real coffee, Kenyan coffee is drank in many parts of the world. If you go to the USA or Dubai, the coffee is expensive. However, it is unfortunate that once this coffee is exported, the real farmer who plants it cannot afford to buy it.

However, we must look for mechanisms of encouraging our own. We need to encourage this industry so that that it can be self-sustaining and continue being a creator of employment.

Let us look at amendments that are sustaining farmers. Amendments that are getting money from our farmers are not good. I know the Sugar industry that was doing very well. It collapsed at one point simply because the farmers were not getting direct benefit. Therefore, some farmers decided not to continue with the industries.

We need to ensure that we are helping farmers and encouraging them to continue with this industry of growing coffee.

I thank you.

The Temporary Speaker (Sen. Kinyua): Hon. Senators, there being no other interest, I put the question which is that pursuant to Standing Order 159, the Amendment of National Assembly to the Coffee Bills (Senate Bill No. 22 of 2020) be now considered.

(Question put and negatived)

Hon. Senators, I want to defer Order No. 9 to 33.
Next Order.

BILLS

Second Reading

THE COUNTY ALLOCATION OF REVENUE
BILL (SENATE BILLS NO. 1 OF 2022)

(Division)

(Bill deferred)

Second Reading

THE LANDLORD AND TENANT BILL
(NATIONAL ASSEMBLY BILLS NO. 3 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE PERSONS WITH DISABILITIES (AMENDMENT)
BILL (SENATE BILLS NO. 29 OF 2020)

(Division)

(Bill deferred)

Second Reading

THE ELECTION CAMPAIGN FINANCING (AMENDMENT)
BILL (SENATE BILLS NO.51 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE EMPLOYMENT (AMENDMENT) BILL
(SENATE BILLS NO. 54 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE COTTON INDUSTRY DEVELOPMENT BILL
(SENATE BILLS NO. 55 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE SUGAR BILL (NATIONAL ASSEMBLY
BILLS NO. 68 OF 2019)

(Division)

(Bill deferred)

Second Reading

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILLS NO. 32 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE SACCO SOCIETIES (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 55 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE SUSTAINABLE WASTE MANAGEMENT BILL
(NATIONAL ASSEMBLY BILLS NO. 22 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE NATIONAL COHESION AND PEACE BUILDING BILL
(SENATE BILLS NO. 19 OF 2021)

(Division)

(Bill deferred)

Second Reading

THE COUNTY E-HEALTH BILL
(SENATE BILLS NO. 39 OF 2021)

(Division)

(Bill deferred)

MOTIONS

ADOPTION OF AUDIT REPORTS FOR COUNTY EXECUTIVES FOR FYs
2018/2019, 2016/2017, AND 2017/2018 (VOLUMES I, II AND III)

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Reports by the Auditor General on the Financial Statements of the following County Executives for the Financial Year 2018/2019- Embu; Homa-Bay; Kericho; Kilifi; Kirinyaga; Kisii; Kwale; Machakos; Mombasa; Nandi; Baringo; Bomet; Garissa; Kajiado; and West Pokot as contained in Volume 1 of the Report and the following County Executives- Isiolo; Kakamega; Kisumu; Laikipia; Mandera; Marsabit; Nakuru; Narok; Nyandarua; Samburu; Taita Taveta; Trans-Nzoia; Uasin-Gishu; Vihiga; and Wajir, as contained in Volume 2 of the Report, Laid on the Table of the Senate on Thursday 2nd December, 2021.

(Division)

(Motion deferred)

ADOPTION OF THE SPECIAL AUDIT REPORT ON UTILIZATION OF
COVID FUNDS BY 28 COUNTY GOVERNMENTS

THAT, the Senate adopts the Report of the Standing Committee on Health on the special audit report on utilization of COVID-19 funds by twenty-eight (28) county governments, laid on the Table of the Senate on Wednesday, 9th February, 2022.

(Division)

(Motion deferred)

COMMITTEE OF THE WHOLE

THE INTERGOVERNMENTAL RELATIONS (AMENDMENT)
BILL (SENATE BILLS NO. 37 OF 2021)

(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LAW OF SUCCESSION (AMENDMENT) BILL,
(SENATE BILLS NO. 15 OF 2021)

(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PRESERVATION OF HUMAN DIGNITY AND PROTECTION OF ECONOMIC
AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 21 OF 2021)
(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LIFESTYLE AUDIT BILL
(SENATE BILLS NO. 36 OF 2021)

(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE SPECIAL NEEDS EDUCATION BILL
(SENATE BILLS NO. 44 OF 2021)

(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE MENTAL HEALTH (AMENDMENT) BILL
(SENATE BILLS NO. 28 OF 2020)

(Consideration of National Assembly Amendments)

(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE IRRIGATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)

(Division)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY ALLOCATION OF REVENUE BILL
(SENATE BILLS NO.1 OF 2022)
(Division)

(Committee of the Whole deferred)

MOTIONS

ADOPTION OF THE REPORT ON THE INQUIRY
INTO THE ECDE LANDSCAPE

THAT, the Senate adopts the Report of the Standing Committee on Education on the inquiry into the Early Childhood Development Education (ECDE) landscape in the country, laid on the Table of the Senate on Tuesday, 10th May, 2022.

(Motion deferred)

MOTION

ADOPTION OF THE REPORT ON CONSIDERATION
OF THE CONTROLLER OF BUDGET REGULATIONS, 2021

The Temporary Speaker (Sen. Kinyua): The Chairperson, Sessional Committee on Delegated Registration.

Sen. Faki: Mr. Temporary Speaker, Sir, the Controller of Budget Regulations 2021, were published by the Controller of Budget on the 3rd of December, 2021 pursuant to Section 25 of the Controller of Budget Act.

The Temporary Speaker (Sen. Kinyua): You need to move the Motion first.

Sen. Faki: Mr. Temporary Speaker Sir. I beg to move –

THAT the Senate adopts the report of the Sessional Committee on Delegated Legislation, on its consideration of the Controller of Budget, Controller of Budget Act (CoB) Regulations, 2021, laid on the Table of the Senate on Tuesday, 10th of May, 2022 and pursuant to Section 18 of the Statutory Instrument Act, annuals the Controller of Budget Regulations 2021.

The controller of Budget Regulations 2021 were published by the Controller of Budget on 3rd December, 2021. Pursuant to Section 25 of the Controller of Budget Act,

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the Regulations were tabled before the Senate on 9th of February, 2022, and subsequently committed to the Senate's Sessional Committee on Delegated Legislation for scrutiny, pursuant to Section 15(2) of the Statutory Instruments Act, 2013.

In brief, and without going into the details of the regulations, the main objective of the regulations is to set out procedures for a number of activities in budget implementation including, authorization of withdrawals of the funds and enforcement of the budgetary ceilings for a detailed itemization the objectives of the regulations are at regulation four.

In terms of contents, some of the salient features of the regulations broken down in parts include; -

(a)The procedure for request and approval of funds, from the Consolidated Fund, County Revenue Fund and any other Public Fund at part two;

(b)Factors to consider while monitoring, evaluating and reporting on budget implementation at part three;

(c)Procedure for conducting investigations and the guiding principles for conducting the investigations at part four;

(d)Mechanisms for dispute resolution and complaint handling at part five; and

(e)Miscellaneous matters, in relation to access, management of information and records at part six.

To have a deeper appreciation of the regulations, a chapter on the Committee's Report gives a detailed breakdown of the content of the regulations wholesomely.

The Committee, in scrutinizing the regulations, received submissions from various stakeholders such as the National Treasury, the Central Bank of Kenya (CBK), the County Assemblies Forum, the Council of Governors (CoG), the Office of the Auditor-General, the Intergovernmental Relations Technical Committee (IGTRS), the Committee on Revenue Allocation and the Institute of Certified Public Accountants of Kenya (ICPAK).

From the engagement with stakeholders, a raft of proposals, which in their view could have enriched the regulations were submitted. All the submissions made by the stakeholders have been annexed to the Committees Report.

The Committee made the following observations:

The regulations contained conflicting timelines with the existing statutes. Regulation 22 (3) on submission of quarterly reports to the Controller of Budget by the 15th day after the end of each quarter contradicts section 83, section 83(3) and (5) of the Public Finance Management Act, 2012, which requires ministries, departments and agencies (MDAs) to submit to the National Treasury and a copy to the Controller of Budget the quarterly report on the 15th day after the end of each quarter.

In this particular regulation, the Controller of Budget wants the reports to be submitted to it rather than being submitted to the National Treasury in conformity with the Public Finance Management Act (PFM). The PFM Act takes precedent over any other legislation that talks of financial matters.

The National Treasury thereafter, is requested to submit a consolidated quarterly report to Parliament and a copy to the Controller of Budget by the 45th day after the end of each quarter.

The Committee noted that while the timelines in the regulations were in tandem with Section 9 of the Controller of Budget Act, Section 6 of the Public Finance Management Act, 2012, says that the PFM Act shall prevail in case of any inconsistencies with any other legislation, in a number of matters, including the preparation and submission of budget estimates and the time for doing so; raising of revenue and making of expenditures which are activities in the implementation of the budget.

While scrutinizing the Statutory instruments, the Committee was guided by the consideration set out under Section 13, of the Statutory Instruments Act. In this specific matter, the Committee found that the regulations were not in accord with written law, mainly the PFM Act as anticipated under section 13(a) of the Statutory Instruments Act.

The Committee further observed that the penalties contained in the regulations are not sufficient to deter non-compliance. In other words, the regulations were toothless. Regulation 49 gives a blanket penalty by making reference to the Controller of Budget Act. Based on the foregoing, the Committee noted with concern that there was no need to have regulations in place without sufficient consequences for non-compliance.

While the Committee appreciates the right of independent office holders to conduct investigation, the Committee noted that the investigative powers as contained in part four of the regulations are likely to overlap with the investigating powers of other Government agency such as the Office of the Auditor-General, the Directorate of Criminal Investigation (DCI) and the Ethics and Anti-Corruption Commission.

Lastly, the Committee was of the view that the regulations do not address the challenges currently being experienced such as pending bills. The pending bills have been a real problem to all the counties and the national Government. Therefore, the failure by the regulations to address this pertinent issue was a flaw on the part of the regulations.

Regulation 8(2)(c)(iii) and 10(2)(a)(iii), provides that an up to date schedule on pending bills and payment plan be provided by the national and county Governments. During a request for approval for withdrawal of development expenditure to enable the Controller of Budget track the payment of pending bills. The Committee observed that this was only a tracking mechanism and will not assist in the actual settlement of pending bills before incurring new expenditure.

It is after thorough scrutiny of these regulations that the Sessional Committee on Delegated legislation recommends that pursuant to section 15 (1) of the Statutory Instruments Act, 2013 and that in accordance with standing Order 221(4)(b) of the Senate Standing Orders, the Controller of Budget Regulations, 2021 be annulled.

Mr. Temporary Speaker, Sir, I take this opportunity to thank your office, the Office of the Clerk, Members of the Committee and the Secretariat for the good work that they have continued to do. I call upon Sen. Cherargei to Second this Report.

I thank you.

Temporary Speaker (Sen. Kinyua): Sen. Cherargei.

Sen. Cherargei: Mr. Temporary Speaker, Sir, I want to thank the Chairman of the Committee, Sen. Faki, for the good job because I have gone through the report. They engaged the stakeholders and they have done a thorough job.

I just want to make two comments as I second this report that has been annulled. There is the issue of pending bills. I am a Member of the County Public Accounts and Investments Committee (CPAIC), which looks at counties' audit queries. The biggest challenge we have is pending bills. Most Kenyans, Persons with Disabilities (PWDs), the youth and women who do business with the counties and the national Government have not been paid.

I remember last time we checked, we were told that more than Kshs110 billion was pending bills owed to county governments. We had a Bill by this House called the Prompt Payment Bill that sought to ensure that Kenyans who provide services and goods to any Government entity are paid promptly. Pending bills need to be captured.

We also had a problem with the Regulations. The best placed person to deal with that is the CoB, because they know the consequences of having pending bills. They should have looked at this issue and addressed it once and for all.

Mr. Temporary Speaker, Sir, the issue of pending bills is a live matter. Therefore, we must ensure we give it the attention it deserves. Many Kenyans, including your friends and people of Laikipia--- I have also seen that Laikipia County has huge pending bills which will continue to eat into their development budget. It is unfortunate that pending bills were omitted.

The Public Finance Management (PFM) Act and the Constitution take supreme positions. The overlapping issue of the Ethics and Anti-Corruption Commission (EACC) is also important. By the way, the CoB cannot investigate themselves. You cannot be a judge in your own case. The annulment of these Regulations is welcome.

Mr. Temporary Speaker, Sir, allow me to make one or two points on the issue of County Assemblies Forum (CAF) before I conclude. I have seen their recommendations which are important. We are not annulling this report in uncertainty. They can still consult the necessary stakeholders and re-draft the Regulations.

I have noted that the CAF proposed to be autonomous in order to access their funds. We know that is politics. When governors want to control county assemblies, they control their budgets.

For example, if a county assembly makes provision for mortgages and car loans in their budget, if the governor thinks that the county assembly is "going rogue", they can decide and---

The proposals that were made through the CAF cannot be wished away. I hope that they will be captured in the next regulations. They must have timelines when county assemblies should receive their monies through county treasuries. The CECM for Finance should not have sweeping authority.

The Commission on Revenue Allocation (CRA), the Office of the Auditor-General (OAG), the Institute of Certified Public Accountants of Kenya (ICPAK), the National Treasury and many other bodies made submissions. These Regulations will keep on improving.

In future, these stakeholders must consult us. These Regulations have been annulled because they have not met the threshold and standards of regulations provided. However, not all is lost. We can still use them as reference in drafting future rules and regulations.

I heard that the reason the Building Bridges Initiative (BBI) was thrown out was because they gave us a framework on how to amend our Constitution in future. When we annul this report, it will also give the CoB opportunity to redraft the Regulations so that they are within a certain framework. Therefore, the annulment was welcome.

I thank the committee and Members who annulled this report. People should know that Parliament is not a conveyor belt of the Government or any entity such that they can just bring regulations and expect us to pass them. We must do it through tooth and nail. We have to look at it word by word and give the rational.

Sometimes some Government officers insult Parliament thinking that we do not have the capacity. For anything they bring in this House, we must use the microscope, because we are the lawmaking body. Laws that we pass must be crystal clear and those that can assist our people to move forward.

I welcome Sen. Olekina. I know he has been busy crisscrossing the country because of Azimio la Umoja Coalition campaigns.

Mr. Temporary Speaker, Sir, I second this Report and thank you.

(Question proposed)

Sen. Olekina: Mr. Temporary Speaker, Sir, I rise to support the Motion before us, which is adoption of the report of the Sessional Committee on Delegated Legislation on its consideration of the CoB Regulations, 2021.

I have had a chance to listen to the Senator for Nandi seconding the report. I also had a chance to talk to the Chairperson of the Committee on Delegated Legislation. I have also played a key role in the CPAIC where we have a lot of---

Sen. Cherargei: On a point of order, Mr. Temporary Speaker, Sir. Have you noticed that Sen. Olekina is carrying a *rungu* on the Floor of the House? Is that allowed?

We are worried because of how he has been talking in the public of late. He can become ferocious. How can somebody be allowed to carry a *rungu* into the Chamber? I am worried!

Mr. Temporary Speaker, Sir, Sen. Olekina may decide to jump on you with the *rungu*. Is one allowed to walk into the Chamber with a Maasai *rungu*? I know it is allowed during Maasai meetings but not in the Parliament of Kenya.

The Temporary Speaker (Sen. Kinyua): Sen. Olekina, it is okay to have the African regalia and I know that is in order. We have Maasais in Laikipia. You can only speak to people when you are in this regalia and you must be holding that *fimbo*.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir, for supporting this. I hope that will go to the HANSARD, which is a record of Parliament, that the Speaker allowed the full traditional regalia in the Chamber. Thank you because as the Senator for the people of Narok, I have had an opportunity to defend their culture. I want to assure the good Senator for Nandi County that a "*rungu*" is a sign of leadership. It is not a weapon. It is something that allows and gives me more courage when I am speaking about issues that we are deliberating in this Parliament.

The issue at hand today is something that has affected so many Kenyans. Many Kenyans have paid the price. They have committed suicide because the county governments and even the national Government have not paid them.

When you have regulations, they have to go hand in hand with the Public Finance Management (PFM) Act. If they do not go hand in hand, then I completely support the idea of nullifying them. If county governments require to withdraw money from the consolidated fund. They require the approval of the Controller of Budget (CoB) and send the list of all the pending bills, why should they not pay?

Any regulations that have been set out should be made very clear that if the county governments or national Government request for payments for certain products or goods in the development budget or any activity that the county governments carry out and they do not comply with regulations which are set out, they should be punished. We will not have a problem with pending bills.

Pending bills have continued creating many problems. In the first place, when you know very well that it is “first in, first out”, there is absolutely no reason for having pending bills.

As I support this Report from the Committee on Delegated Legislation, I continue re-emphasizing on the importance of at least any regulations that are passed in this House to comply with the rule of law. There is no reason for us to spend most of our time drafting legislation and coming up with regulations, which do not go hand in hand.

I support one of the observations that was made by the Committee, which I will read so that I can summarize. It says –

“The regulations contained conflicting timelines with the existing statute, Regulation 22 (3), on the submissions of quarterly reports to the COB by the fifteenth day after the end of each quarter contradicts Section 83(3) and (5) of the PFM Act 2012 which requires Ministries, State Departments and Agencies (MDAs) to submit to the National Treasury and a copy to the COB the quarterly report on the fifteenth day after the end of every quarter.”

If these things were going hand in hand with the main statute, then we would not have a problem of pending bills. When we go into the next Parliament, it would be important that this Parliament to go on record as having put some sanity on the issue of pending bills.

I thank you for allowing culture to continue prevailing. I call upon all the Maasai people and the pastoralist community to see where the country is moving. We have had many problems. The only government which is going to assist us is the one going to be formed by the Rt. hon. Raila Amollo Odinga.

This is because he will not support any monkey business where county Governments and State Departments are not paying their pending bills. We need to learn to live within our means. When we come up with proper regulations that go hand in with the PFM Act; we will have a beautiful country.

I support.

The Temporary Speaker (Sen. Kinyua): Point of Order, by Sen. Cherargei.

Sen. Cherargei: Unfortunately, Mr. Temporary Speaker, Sir, he has finished. I thought he was speaking as if he was in a campaign rally. Is it in order to start campaigning for people on the Floor of the House instead of canvassing serious issues?

I am not satisfied on the issue of dressing upon looking at the Speakers rules and regulations. I request for your ruling on this matter. No, I am not trying to offend. I just need the Speakers ruling to inform me. If we do not take care, I will also come with a walking stick and other people can come dressing like a sultan. Sen. Faki might come holding the *diriji* that looks like a knife.

I am requesting for a ruling on wearing a traditional regalia such as Sen. Olekina. What happens when you walk into Parliament with a *bakora*, *rungu* or a knife? Where I come from, people are allowed to carry knives to functions. You have also said that Laikipia County has a majority of Maasai people.

I request a ruling so that we can know what to wear and what we are allowed to bring to the floor of the House.

I thank you.

The Temporary Speaker (Sen. Kinyua): Thank you Sen. Cherargei. I have looked at the Speakers rules in detail. I had ruled before but I want to change the ruling. The weapon '*fimbo*' is not allowed in the Chamber but for today it can be as he had already entered. Serjeant-At-Arms, it should not be allowed.

(An hon. Member spoke off record)

Unless you are not going to converse on that matter. Proceed Sen. Madzayo.

Sen. Madzayo: Bwana Spika wa Muda, mwacha asili ni mtumwa. Sote kama Waafrika tukona asili zetu tofautitofauti. Ukiniambia niwache pombe ya mnazi itakuwa si sawa. Ijapokuwa mimi si Mmaasai lakini naishi naye kila siku nikiingia na nikitoka pia. Yeye ni ndungu yangu na rafiki yangu. Nimeenda ambapo amezaliwa, Kijiji kile na mahali familia yake yote ip, naijuwa.

Katika miendendo na asili za wa-Maasai fimbo ni mmojawapo ya nguo ambazo wanazovaa. Huwezi kua Maasai na ukawa mikono yako ni mitupu kama hii yangu. Uamuzi uliotoa kwamba kinaweza kuwa kifaa hatari, si rahisi sana Wamaasai kuwa na hasira za kuanza vita. Labda awe amechokozwa ama amefanyiwa kitendo cha uhasama ili achukuwe hatua kama hiyo.

Fimbo ni mojawapo wa nguzo za Kimaasai na ni sehemu ya mavazi. Tukisema hakiruhusiwi ndani ya hili Seneti nafikiria itakuwa ni makosa. Hapo awali, Spika mwenzako alitoa uamuzi huo na kusema kuwa moja katika nguo wanazovaa, taratibu na hisia zao, fimbo ya mkononi ni mojawapo wa mavazi ya Kimaasai.

Asante.

The Temporary Speaker (Sen. Kinyua): Sen. Olekina.

Sen. Olekina: Mr. Temporary Speaker, Sir, let me just reiterate on the importance of your earlier ruling. You come from a county, which is cosmopolitan, but originally was a Maasai owned county. There is a difference between a weapon and a leadership tool.

For many years the second President of this country Daniel Arap Moi, had a *rungu* with him all through. There is no single day he took that *rungu* and hit somebody with it. There is also a difference between a weapon and a *rungu*.

Mr. Temporary Speaker, Sir, this *rungu* cannot be held by anybody else. This is something that has been blessed by the elders and handed over to me for leadership. My own children, wife, family and friends cannot hold this *rungu*. This is one that no one can even stand and talk.

To be honest, when I stand here without my leadership tool I feel like I am naked. When I am talking, I get a little bit confused, but the moment I hold the leadership tool, I can be able to canvass on issues, such as the issue that we were discussing before.

Mr. Temporary Speaker, Sir, I am not challenging your subsequent ruling. I am just requesting you to go back, really analyze and look at the wording. Try to demystify the meaning of the content, which is written in the Speakers' Ruling because this is part of us.

I would like to add one other thing and request my dear colleague, whom I respect a lot, the good Senator from Nandi, Sen. Cherargei, allow me to say these words and I will translate them: *Waswahili husema: "Muacha mila ni mtumwa."* You cannot forget where you come from. As we walk today, we must continue walking as if we have one foot in the modern culture and another one in the traditional culture. That is the only reason why we can be able to survive in this country.

We were colonized in this country but the moment you now tell me to come here and you challenge my culture, it is as if you are telling me that you do not respect my culture.

Mr. Temporary Speaker, Sir, we have been terrorized and stigmatized for so many years and now when we have an opportunity to be able to demonstrate that we too exist in this country, we are being challenged by our colleagues. This Senate is a House of reason and union, where we all come together so that we can support our cultures.

Mr. Temporary Speaker, Sir, I would like to request you and also request my dear friend, the Senator from Nandi, to allow culture. Please, my brother, walk with one foot in the modern culture and one foot in the traditional culture. That is the only way that we can be able to have everybody in this country respected. Foreigners are respecting us. If I can be able to walk into Capitol Hill with this *rungu*, why can I not get into the Senate with it and I have not done anything to anybody?

The good Senator is saying that I can be violent. I want him to show me one single day - and I have traversed the whole of Kenya with it - that I have used this *rungu* to hit anybody apart from just emphasizing a point.

Mr. Temporary Speaker, Sir, to be honest with you, the next time you will say that I should come here with black shoes, with laces and socks then what will I look like? A zombie walking? I just respect my culture. I come here and articulate on issues that affect our people. The bills of our people have not been paid by the county governments. Our people are not equal.

Mr. Temporary Speaker, Sir, I request my dear brother, Sen. Cherargei, to go back and read the proverbs of his own people. We have five fingers and they are not equal. We are not equal in this country. Why is it that we come here and talk about the

issue of the Equalization Fund? We talk about the Sessional Paper No. 5, because we want to see how we can all be equal.

Let us respect culture and if there is a problem with the way those Speakers' Rulings are written, then the Speaker should advise us on how we can re-write them, to incorporate what we have now, so that tomorrow, our good friend Sen. Cherargei will accept them. I will be very happy to see him dressed traditionally, *wacha hii suti unayovaa kila siku*. Dress traditionally and be happy with your culture.

Thank you.

The Temporary Speaker (Sen. Kinyua): Let us have Sen. Cherargei, then I will make a ruling.

Sen. Cherargei: Mr. Temporary Speaker, Sir, personally as a leader in this Republic, I respect all cultures, regardless of where they are from and there is beauty in diversity. Sen. Olekina should not mislead the Republic of Kenya by saying that I am against the Maasai culture; I am not. In fact, most of the names that we have in the County of Nandi are originally from the Maasai.

Sen. Olekina should not mislead the Nation. We have not prevented him from coming to the House, wearing Maasai *shuka* and regalia. I was worried about Standing Order No.109. I have read the Speakers' Ruling and it states that:

“No Senator shall bring a firearm or any offensive weapon into the Chamber or the venue of a Committee sitting, and any such weapon shall be deposited with the Serjeant-at-Arms for safe custody before entering the Chamber or the venue of a Committee sitting, and collected at the time of leaving.”

Sen. Olekina: (*Inaudible*)

Sen. Cherargei: No! I am requesting for a ruling from the Speaker. Can you hold your peace? You are even misleading yourself because you are being reactive, which might prove my assertion that you are violent.

Mr. Temporary Speaker, Sir, we need to interpret the term “or any offensive weapon.” It further says: “No Senator shall bring a firearm or any offensive weapon.” Personally, I know that a *rungu and bakora* in our culture are signs of authority. However, sometimes they can be used as weapons. I need the interpretation of “any offensive weapon into the Chamber or the venue of a Committee sitting, and any such---”

Sen. Madzayo: (*Inaudible*)

Sen. Cherargei: Listen, Sen. Madzayo, I know you are a retired Judge. It states that:

“Any such weapon shall be deposited with the Serjeant-at-Arms for safe custody---”

We have a number of them here. You can deposit your *rungu* there.

“---for safe custody before entering the Chamber or the venue of a Committee sitting, and collecting at the time of leaving.”

Mr. Temporary Speaker, Sir, I have read the Speaker's Rules. It is copy and paste of the Standing Orders that we are using. In this House, we are guided by rules and regulations. We have no problem with Sen. Olekina's attire; he has been dressing like this. It is only today that he has walked in with a *rungu*.

He used to deposit his *rungu* with the Serjeant-at-Arms from day one. I used to see him do that. Therefore, we need your ruling, to allow the House to move forward. The only Members who can be allowed to the Chamber with it are Persons Living with Disabilities (PWDs) like Sen. (Dr.) Musuruve, who uses crutches. During the time when I was using crutches, the Serjeant-at-Arms would take them once I sat down.

Sen. Olekina should not reduce the Senate of the Republic of Kenya into a village *baraza*. The village *baraza* is the place where you can go with those weapons and symbols of authority.

I have tremendous respect for Sen. Olekina. He has stayed in the United States of America and he knows that there must be order in every society. There are rules and regulations that guide this House and I need a ruling on the issue of why Sen. Olekina brought a *rungu* to the Floor of this House.

I request Sen. Madzayo to keep a social distance because that distance is too small considering the way Sen. Olekina is flinging that *rungu*. That distance is too small.

Mr. Temporary Speaker, Sir, to extrapolate, Standing Order No. 110 talks about Senators bags. He is misleading the country. It is only the other day under this Standing Order that women legislators were allowed to come with their handbags to the Floor of the House. It used not to happen and Sen. Madzayo is a witness to that.

It was allowed the other day. If women were only allowed the other day to enter into the Chamber with their handbags - which form part of their dressing - they must be frisked by the Serjeant-at-Arms at the entry of the Senate, then Sen. Olekina is wrong. He must be tamed and follow the rules and regulations of the House.

The Temporary Speaker (Sen. Kinyua): Okay, let us have the last one.

Sen. Olekina: Mr. Temporary Speaker, Sir, I think we need to respect each one's culture. I have tremendous respect for the Nandi people. I love the Nandi people but what the good Senator for Nandi is demonstrating is complete hatred towards my culture.

We can talk about rules. If we have to go by the so-called rules, that are drafted as advised by our colonial masters, who brought them to Parliament, because the good Senator is talking about me turning this Senate into a *baraza*---

QUORUM

Mr. Temporary Speaker, Sir, if we are going to stick by the rules, then I rise under Standing Order No. 36 (1), which states that-

“If at any time after the Chair is taken, or when the Senate is in Committee, a Senator objects that there is not a quorum present, the Speaker or the Chairperson shall count the Senators present in the Senate or the Committee as the case may be.”

Mr. Temporary Speaker, Sir, Standing Order No.36 is about quorum during the proceeding of the Senate. Specifically, No.36(1) says:

“If at any time after the Chair is taken, or when the Senate is in Committee, a Senator objects that there is not a quorum present, the Speaker or the Chairperson shall count the Senators present in the Senate or the Committee as the case maybe be”.

Mr. Temporary Speaker, Sir, I rise on that Standing Order because you should rule on whether this House is full. After that, we can then deliberate on it because it has serious repercussions on the history of this nation. We need to know whether we have quorum to continue the Business in this House.

The Temporary Speaker (Sen. Kinyua): Thank you, Sen. Olekina. I have already ruled on the issue of the *finbo* and said it is not allowed in the House.

Now, we can confirm the quorum as Sen. Olekina has sought. We have five Senators here and five online. Ring the Quorum Bell for three minutes.

(The Quorum Bell was rung)

The Temporary Speaker (Sen. Kinyua): Ring the Quorum Bell for two more minutes to make it five minutes.

(The Quorum Bell was rung)

ADJOURNMENT

Hon. Senators, I have confirmed that we do not have quorum both physically and online. The Senate, therefore, stands adjourned until Thursday, 19th May, 2022 at 2:30 p.m.

The Senate rose at 4:56 p.m.