



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fifth Session

Wednesday, 22nd July, 2026 at 2.30 p.m.

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 22nd July, 2026

Afternoon Sitting

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

[The Deputy Speaker (Sen. Kathuri) in the Chair]

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, please confirm whether we have quorum.

(The Clerk-at-the-Table consulted with the Deputy Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

The Deputy Speaker (Sen. Kathuri): Clerk, I hope we now have quorum. Proceed and call out the First Order.

PAPERS LAID

The Deputy Speaker (Sen. Kathuri): The Senate Majority Leader or his representative has several Papers to lay.

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

I beg to lay the following Papers on the Table of the Senate-

THE TOURISM (TOURISM ENTERPRISES) REGULATIONS, 2026

The Tourism Enterprises Regulations, 2026.

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THE BI-ANNUAL REPORT OF THE COMMISSION ON ADMINISTRATIVE
JUSTICE FOR THE PERIOD JULY-DECEMBER, 2025

The Biannual Reports of the Commission on Administrative Justice for the period July-December, 2025.

Thank you.

(Sen. (Prof.) Tom Odhiambo Ojienda, SC laid the documents on the Table)

The Deputy Speaker (Sen. Kathuri): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

Hon. Senators, we have several Statements under Standing Order No.53(1). We shall start with the Senator for Marsabit County, Sen. Mohamed Chute. He has two Statements.

Where is the Senator? Those Statements are dropped.

BOUNDARY DISPUTE AT ARBJAHAN ALONG MARSABIT-WAJIR

OPERATIONS OF BUPA GLOBAL INSURANCE IN KENYA

(Statements dropped)

Proceed, Senator for Kisumu County, Sen. (Prof.) Tom Ojienda.

SUBDIVISION AND CONVERSION OF AGRICULTURAL LAND TO NON-AGRICULTURAL USES ACROSS KISUMU COUNTY

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

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on a matter of county-wide concern regarding the subdivision and conversion of agricultural land to non-agricultural uses across Kisumu County.

In recent years, productive farmland in the semi-urban areas surrounding Kisumu City and along major transport corridors across Kisumu County has increasingly been subdivided and converted to residential, commercial and other non-agricultural uses. This has grossly reduced agricultural productivity in the county and threatens the county's economy, which is significantly dependent on agriculture.

In the Statement, the Committee should address the following-

(1) The total acreage of agricultural land across Kisumu County that has been converted to non-agricultural use from 2001 to date, including the reasons for approval of the change of use.

(2) Whether in determining applications for subdivision and change of use of agricultural land, the County Government of Kisumu gives special consideration to the impact of such land transactions on agricultural production and overall food security in the county.

(3) Whether the County Government tracks the cumulative impact of approved subdivision and changes of user transactions for agricultural land on agricultural productivity and household food security within the county, and if so, to provide the current data on the same.

(4) The measures in place to safeguard high-potential agricultural land from indiscriminate subdivision and conversion to non-agricultural use, and to generally promote sustainable land use planning in Kisumu City.

Thank you.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Enock Wambua.

POLLUTION OF RIVERS IN KITUI COUNTY

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on a matter of countywide concern regarding the increasing pollution and contamination of rivers flowing into and through Kitui County, particularly the Athi and Tana rivers.

Mr. Deputy Speaker, Sir, these rivers – the Athi River and the Tana River – are lifelines for irrigation, livestock and domestic water use, yet upstream industrial, municipal and mining activities have degraded water quality, threatening food security, public health and community livelihoods.

The contamination of these rivers has become a pressing environmental and socio-economic crisis. Communities depending on them face declining agricultural productivity, risks to livestock and exposure to waterborne diseases. Urgent interventions are needed to safeguard both the environment and the people of Kitui County.

In the Statement, the Committee should address the following-

(1) The measures taken by the National Environment Management Authority (NEMA) and other relevant agencies to hold accountable industries, municipalities, mining operations or any other entity responsible for discharging pollutants into these rivers. Detailing enforcement actions, compliance and prosecutions, if any, undertaken.

(2) The findings by NEMA, the Water Resources Authority (WRA) and other relevant Government agencies regarding the sources, nature and severity of contamination before the rivers flow into and through Kitui County, including the results of water quality monitoring conducted over the last five years.

(3) Safeguards for communities, outlining Government interventions to protect farmers, livestock keepers and households that depend on these rivers, including

continuous water quality monitoring, public health advisories, environmental restoration programmes and support to affected farmers.

(4) The long-term interventions describing policy, regulatory and inter-county measures to eliminate pollution, restore ecological integrity and guarantee safe water access for irrigation, livestock production and domestic use.

Mr. Speaker, Sir, I thank you. I beg your indulgence again, today as I did yesterday, so that the Committee to which the Statement shall be assigned will move with speed to deal with this matter. It is the Committee led by the Senator from Mombasa, Sen. Faki.

The Deputy Speaker (Sen. Kathuri): Sen. Joe Nyutu.

OPERATIONALISATION OF GIKONO
LANDFILL IN MURANG'A COUNTY

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir.

I rise pursuant to Standing Orders No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on a matter of county-wide concern regarding the operationalisation of the Gikono landfill in Muranga County.

While the commissioning of the facility by the County Government of Murang'a marks a significant milestone in improving solid waste management, concerns remain about the implementation of key environmental safeguards, security measures and community relations that are integral to the project's design.

In the Statement, the Committee should address the following-

(1) Whether the County Government has commenced the 250-meter tree buffer around the landfill and give the expected timeline for completion.

(2) The schedule for fencing the entire landfill to secure it against theft, vandalism, encroachment and unauthorised access.

(3) The budgetary provisions made for the establishment of the tree buffer and the construction of the perimeter fence, including the implementation schedule for both activities.

(4) The strategies by the County Government to ensure adherence to Environmental and Social Impact Assessment (ESIA), the Environmental Management and Coordination Act (EMCA) and the National Environmental Management Authority (NEMA) conditions alongside mechanisms for public participation, grievance redress and fostering harmonious relations with neighbouring communities.

The Deputy Speaker (Sen. Kathuri): I will allow comments for at least 20 minutes or so. I start with Sen. Muthama.

Sen. Onyonka, are you ready for comments or are you queuing for some other business?

Sen. Kavindu Muthama: I am ready for comments.

The Deputy Speaker (Sen. Kathuri): Just under two minutes, proceed.

Sen. Kavindu Muthama: Thank you, Mr. Deputy Speaker, Sir. I will comment on the statement by Sen. Wambua from Kitui about the pollution of the rivers. This is a country-wide issue. Most of the rivers are polluted and I do not know what the

Committee would do to NEMA, so that they clean the rivers and also deal with the people who are polluting the rivers.

Sen. Seki's Committee should call NEMA. I also believe that NEMA should be called in this House because this week, and last week, we were dealing with pollution of rivers. They should come to the House and answer why there is so much pollution of rivers.

The Deputy Speaker (Sen. Kathuri): Sen. Boni Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. The issue raised by Professor about land use begs for a wider and a more generalised answer. We do not know at what stage the National Land Commission (NLC) is involved. The country will remember when the Government came up with the so-called Affordable Housing Programme. They just attacked property in towns. For example, if you go to Kakamega, one of the most affluent parts of the Town is Milimani. It was attacked and houses were razed down. We supported because we thought the Government knew what it was doing, only for it to end up using half an acre of over 20 acres that were pulled down. Our town now looks like a city which had been at war because buildings have been destroyed. The so-called affordable houses have not been put up. This should not be allowed. They should be consulted on such important issues.

Mr. Deputy Speaker, Sir, the issue raised by Sen. Wambua, the Senator for Kitui, is very important. I do not know the role played by the Ministry of Environment, Climate Change and Forestry. Three weeks ago, I had an opportunity to visit Ahero Town to specifically inspect a Financing Locally-Led Climate Action (FLLoCA) programme. I found the County Government of Kisumu using FLLoCa funds---

The Deputy Speaker (Sen. Kathuri): Sen. Boni Khalwale, you know we agreed on two minutes, but I will add you 30 seconds, so that you conclude what you were saying. You know comments are just comments, not a debate.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir, for your magnanimity. The same thing applies to Kakamega. We have a dam at Bukhulunya Village in Kakamega Town that is supposed to handle sewage. However, it collapsed years ago. It has become a grazing ground for goats and pigs. Raw sewer is just rotating in Kakamega Town. Where is the Government at the national level? Since the County Government of Kakamega has collapsed anyway, the national Government should come in and save us.

The Deputy Speaker (Sen. Kathuri): Sen. Beatrice Ogola.

Sen. Ogola: Mr. Deputy Speaker, Sir, I rise to give a comment on the Statement by the Senator for Kitui, Sen. Enoch Wambua. The issue of pollution must concern us as a country. Due to lack of water, most people along rivers use the water directly without treatment. They use it for domestic use, and this is why there are many emerging diseases related to sanitation. The issue of pollution must not only be addressed by NEMA, but even as a country. We must enhance public education to our people to know that polluting rivers is actually endangering their lives.

I was a County Executive Committee Member (CECM) for Environment in Homa Bay County. There were people who would throw garbage in rivers. Members of the public would call me to tell me that we should go to collect that baggage. Our people

must know that taking care of themselves begins with their own management. The environment should not only concern us because pollution also adds to the cost of treatment that our people are undertaking.

Mr. Deputy Speaker, Sir, I support this. The County Government, NEMA and the Ministry of Environment, Climate Change and Forestry must combine efforts to look into it, not only in Kitui, but also in the whole country.

Lastly, on the Statement by Sen. Ojienda, we need to know that land remains---

The Deputy Speaker (Sen. Kathuri): Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Deputy Speaker, Sir. I rise to support the Statement by the Senator for Kitui, Sen. Wambua, on pollution and the contamination of rivers. This is something that cuts across the whole country. It may not be specific to Kitui County because rivers flow through several counties. The major missing link has been NEMA.

I am privileged to sit in the Committee on Land, Environment and Natural Resources and we have been to places. We visited Sukari Industries Limited somewhere in Ndhiwa and found that NEMA had not done what they were supposed to do. This is a matter of great concern because rivers that flow ultimately to the Indian Ocean can be polluted and contaminated while NEMA does nothing. This will cause a problem not only to the users of the water from the rivers, but also to marine life because at the end of the day, every other river in this country flows into the Indian Ocean.

Mr. Deputy Speaker, Sir, I support that the Committee should prioritise this matter and see to it that we protect rivers against further pollution because we are risking the lives of our people. Other than waterborne diseases that may come from the pollution and contamination, we could suffer other illnesses because some of the contamination comes from industrial waste. Could this be the reason that we have had a rise in cases of cancer?

I, therefore, urge my Chairperson, Sen. Faki, to give priority to this Statement, so that we protect our lives, the marine life and our health.

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka.

Sen. Onyonka: Mr. Deputy Speaker, Sir, I have been thinking about what Sen. Wambua has talked about. I have an idea which might help us because we have been discussing this issue of NEMA for the past three weeks. Why not have the Committee on Land, Environment and Natural Resources of this House go out there and just visit the country?

In Kisii, we only have one NEMA officer who is supposed to go through all the sewer and water systems in Kisii. He should make sure that he inspects the trees which are being cut and all these things we are talking about. My honest feeling, like we have said before, the way we have the Senate going to *mashinani*, some of our committees should not be in this House. Could we go around our country and look at the mess we have created, so that we come up with solutions which are practical? When we are discussing and looking at what needs to be done, the Committee should be making recommendations as to what we need to do.

Mr. Deputy Speaker, Sir, we have been debating in this House, not only about our environmental matters, but also about water. I could name 20 things which are not going

on well. Let the committees visit county governments and each committee writes its report. I do not see what we are doing here. We sit in this House every day doing nothing.

Sen. Cherarkey: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey? Use your time wisely. You have just two minutes.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. I just want to call my brother, Sen. Onyonka, to order. The reason we sit here is because we have a constitutional obligation under Article 96 and one of our roles is to do legislation. I, therefore, appeal to him because he is one of the seasoned legislators. He should be well-versed with what we do. He needs to capture that. I know he was with Dr. Matiang'i in the morning.

Secondly, I agree with Sen. (Prof.) Tom Ojienda on the issue of conversion of agricultural land into commercial use. Where I come from, we should push for what we call the Land Consolidation Policy. I am saying this knowing that Sen. (Prof.) Tom Ojienda is a Land Law lecturer, who has written extensively on the principles of conveyancing in his book called Land Law and Conveyancing in Kenya, I believe the Second Edition.

In a country, the land does not expand. The limit and the growth we have in Kenya of 55 million Kenyans will continue. That is why there is wisdom by Dr. William Samoei Kipchirchir arap Ruto for coming up with the affordable housing programme. The people who want to scrap affordable housing should listen to this. Even in Kisii, where you come from, and in Nyamira, there are so many people there that there is no land to expand to.

The solution is promoting the Affordable Housing Programme. We must support the President, so that we have more agricultural land to produce more food. I am wondering what our brothers are talking about when they want to scrap affordable housing. Where will you feed Kenyans from? Most of them here close their doors when Kenyans go begging for food.

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo, you have the Floor.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir, for an opportunity to comment. I would like to comment on the Statement requested by Sen. Wambua, the Senator for Kitui. The two main rivers, Athi and Tana, especially Athi River where Thwake Dam is being prepared. I hope it is going to be completed in the near future. The pollution from Nairobi is extremely amazing. It is a lot.

I remember the President commissioned some team to begin cleaning the rivers in Nairobi. As soon as the President left, that team left and the water continues to be polluted. I believe it has carcinogens because of the industries. It does not only go through Makueni and Kitui, it goes all the way to Kilifi. Currently, there is even pollution from plastic papers and plastic bottles, and all these go up to the ocean. Something has to be done quickly by NEMA.

The last time I got some explanation from NEMA, they were talking about planting bamboo trees along the river, which I do not think is sufficient. We need to deal with the symptoms and cure the water pollution, particularly from Nairobi River. The NEMA is not doing a serious job on this. It has relaxed on its job and this House has to

take serious measures against NEMA. If NEMA is not going to perform its tasks, it should be reconstituted and we look for a fresh team and fresh scientists to take matters seriously.

I hope the problem is not funding. It should be funded well, so that we clean up the rivers in Nairobi. We should clean up all the rivers and apply the law, so that the polluter pays. The companies polluting River Athi must pay.

I support Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Joyce Korir? Sen. Mandago?

Sen. Mandago: Thank you, Mr. Deputy Speaker, Sir. I want to comment on the Statement sought by Sen. (Prof.) Tom Ojienda on the issue of subdivision of agricultural land. Food security is a serious matter for every nation. Continuous subdivision of agricultural land will put this country at risk of having to import food if we convert our rich soils for commercial purposes.

I want to commend Sen. (Prof.) Tom Ojienda for this Statement and ask the House and the Committee on Land, Environment and Natural Resources that is going to consider this Statement, to consider amending the Land Act.

I speak from experience knowing that the land function is shared between the national Government and county governments. That confusion and the amendments in the Land Act abolished the land boards that were responsible for approving the subdivisions. Therefore, you find surveyors and land officers carrying out subdivisions at the comfort of their offices, dismantling the much-needed agricultural land.

I ask the Committee on Land, Environment and Natural Resources to be diligent and propose amendments, so that where necessary, we stop any further subdivision of agricultural land in this country. If you move around our towns and cities, you will find a lot of empty spaces that have not been developed. We are going further from the towns and cities to subdivide agricultural land. There is need for controlled expansion of towns, so that agricultural land can be preserved for food production.

I, therefore, want to second and support this Statement and ask the Committee on Land, Environment and Natural Resources to consider limiting subdivision of agricultural land.

Sen. (Prof.) Tom Ojienda, SC: Mr. Deputy Speaker, Sir, I want to speak to the Statement by the Senator for Kitui, Sen. Wambua, on pollution. The concerns about environmental regulation and the power bestowed upon NEMA under the Environmental Management and Coordination Act, (EMCA), 1999, are important. It is also important to note that there are two other institutions that are created by EMCA, the Public Complaints Committee and the National Environment Tribunal, where I served for six years. Therefore, I understand the underpinnings around pollution.

The regulations that are set out that require the intervention of NEMA for various undertakings, including compliance by factories and the problems of pollution arise from the fact that there is no policing or supervision by NEMA to ensure that factories or industries do not discharge pollutants into rivers.

This problem is not unique to Tana River or the Athi River that flows into the ocean. However, there has to be supervision by the arms of NEMA to ensure that what is

finally discharged are not pollutants that endanger the lives of Kenyans. This is because our citizens drink directly from these rivers.

This problem is not unique to Kitui County because in Kisumu County, we have factories that process sugarcane that also pollute rivers directly because there is no supervision by NEMA. NEMA needs a wing that will ensure that factories only discharge waste that does not endanger the lives of citizens. The law is there; this is simply a call for its implementation.

Sen. Abass: Mr. Deputy Speaker, Sir, I want to contribute to Mheshimiwa Wambua's Statement. What is happening in this country is unfortunate. There is a lot of pollution and NEMA has taken a back seat to control pollution in this country. It is not only in Kitui; it is all over this country. If you go around the country, most rivers, especially in Nairobi and the big towns, are so polluted that you get disgusted to take water from there.

Deforestation along the riverbanks is also taking place and those activities also pollute the rivers. We now need to have a serious policy that can be enforced by NEMA, so that all rivers and riverbanks are protected. People must not farm 50 metres from the riverbanks so that, at least, we can contain trees along the riverbank to avoid too much pollution. If you go to the other world, you see rivers passing in the middle of the cities and they look so nice and clean. So, we can also do that in this country.

I also want to contribute to Sen. (Prof.) Tom Ojienda's Statement. Food security is very important in this country. We only receive food from outside. We are becoming consumers and are unable to produce our own food. The subdivision of land should be stopped. Also, land for production of agriculture must be at least 100 acres.

The Deputy Speaker (Sen. Kathuri): Chairman, we are coming to the close of the Statements' Hour.

Proceed, Sen. Methu.

Sen. Methu: Mr. Deputy Speaker, Sir, I seek your direction. Yesterday, when we were supposed to comment on Statements that were sought, only two Senators commented and we only had six minutes before we adjourned. I am asking whether we can still comment on the Statements that were sought yesterday because we did not comment on them.

The Deputy Speaker (Sen. Kathuri): Chairman, Sen. Faki, tell us something about NEMA. Every day, there are issues of NEMA in this House. Could you brief us on your plan, as a Committee, on NEMA issues? You remember the CS was here last week and many Members raised issues about NEMA.

Sen. Faki: Thank you, Mr. Deputy Speaker, Sir. I remember last week the Cabinet Secretary for Environment, Climate Change and Forestry was present in the House and the answers that she gave were very unsatisfactory to Members who attended the session.

I think we need a plenary to discuss issues of NEMA in this House. This is because there are issues of pollution of rivers and environment arising from mining activities and pollution of the sea. For instance, in Mombasa, the Mombasa Water and Sanitation Company (MWSC) drains their sewers into the Indian Ocean. My colleague,

Sen. Osotsi, visited the Kipevu Water Treatment as a Committee and he saw firsthand that sewer is draining into the Indian Ocean.

So, whereas my Committee will take up the issue, we need a *Kamukunji* with NEMA and the Cabinet Secretary in charge of Environment, Climate Change and Forestry present in this House, so that we can address all the issues that Members are raising about NEMA.

If you go to Athi River, you will note that all the polluted streams drain into Athi River. Nairobi River also drains there, though there are on-going plans to rehabilitate Nairobi River. Pollution is high in Athi River and Nairobi. This is a national crisis. Most of the NEMA officials working in our counties are part of the corruption cartels that feed into this problem. They are supposed to inspect, but they do not do that. They are supposed to make closure orders, but they do not do that. They are supposed to make reports to the Ministry, yet nothing is done.

We need to have a *kamukunji* with the Cabinet Secretary and NEMA for us to make resolutions that will be undertaken by NEMA and the Cabinet Secretary for Environment, Climate Change and Forestry. I can see the Senate Majority Leader frowning about this, yet the same pollution also happens in Kericho. River Nyando is polluted by the tea factories in Kericho.

The other day, Sen. Joe Nyutu was complaining about the waste from avocado factories in Murang'a. Kibos Sugar and Allied Industries Limited also drains its waste into River Kibos and River Nyamasaria. This is a crisis and we need to do something about it.

Thank you.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, your instructions to the Chairperson were that he was to propose a way forward to the House. However, he has rewritten the book of Lamentations and added a new chapter. He has just poured the misery, which we are already aware of.

What we expected to hear from him was the proposed way forward for us to assist him as a House.

The Deputy Speaker (Sen. Kathuri): He has put across a proposal.

(Loud consultations)

Order, Members. We all cannot be the chairpersons at the same time. I want to inform the Senate Majority Leader from where I seat. The Chairperson gave an undertaking to have the Cabinet Secretary and NEMA team appear before the Senate in a *Kamukunji* way, for us to all engage NEMA. The Cabinet Secretary was here last week, and she was not able to explain a lot on NEMA issues.

That is a way forward. What we probably need is a commitment on when this will happen. After how long?

Sen. Wambua: Mr. Deputy Speaker, thank you for that direction on the need to have a session with NEMA and the Ministry to discuss these issues. However, when we call those people here, they come with data that they have generated from boardrooms or wherever.

Tana River, Athi River and Nairobi River are not very far. This is a national crisis. The Committee can commit, even tomorrow, to visit these sites. With that, we will have our own in-house generated information on what is happening as we call NEMA and the Cabinet Secretary. We will not just rely on them to come and tell us what they are doing and what they have not done.

Let us take this matter more seriously than the way we have treated other Statements. This country is being poisoned and NEMA is just watching.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): I want to give two Members the opportunity, one from this end and another on my left, to make their comments on the Statements, and then we close at that point.

Sen. (Dr.) Khalwale: The matter raised by the Senate Majority Leader in response to the comments by the Chairperson requires that the Speaker gives direction. The meaning of the Senate Majority Leader in the Senate is that he is the Leader of Government Business in the Senate.

(Sen. Abass stood at his place)

The Deputy Speaker (Sen. Kathuri): Sen. Abass, you cannot stand between the Member contributing and the Chair.

Sen. (Dr.) Khalwale: That means that he is the leader of Government business in this House. How the leader of the Government business can challenge a legitimate proposal by the Chairman on the failures of his own Government and not lead the House in ensuring that the Cabinet Secretary is brought here begs for the question---

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, I think we---

Sen. (Dr.) Khalwale: Is Sen. Cheruiyot performing the functions of the Leader of Government Business in this House or he is on a personal agenda like financing World Cup trips to go and watch football in the United States of America (USA)?

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, you are out of order. Have your seat.

Sen. (Dr.) Khalwale, the Chair directed the House on the way forward. I think the Senate Majority Leader is delegating a lot of influence and duties to the Chairpersons of Committees. The Chairperson of the Committee is renowned and progressive. Actually, the Chairperson of the Committee on Land, Environment and Natural Resources has performed more than the former Chairperson.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, allow me to explain something.

The Deputy Speaker (Sen. Kathuri): Just because of the World Cup issue, you can clarify whether you are---

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I explained myself in very plain and simple English. I wanted to hear the way forward that the Chairperson was proposing to the House. How Sen. (Dr.) Khalwale has interpreted that to delegation of responsibility leaves a lot of questions to the House.

To the best of my knowledge, Sen. (Dr.) Khalwale is a lover of some colourless liquid, which is not allowed into the House, but I wonder if he has sneaked into the House today having consumed it. Otherwise, how else do you explain the confusion?

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): No, nothing is out of order now.

Sen. Gataya Mo Fire, take your two minutes to make comments on the Statements. We cannot spend the whole afternoon on points of order. There is a lot of business ahead of us.

(Loud consultations)

Sen. Gataya Mo Fire: Mr. Deputy Speaker, Sir, can I be heard in silence, please?

I want to support the Statement by Sen. Wambua, the Senator of Kitui County. He has confined himself to Kitui, but this is a national matter. Pollution has become very disastrous in this country. This matter needs a special session for discussion. It is not something that we should take lightly. We need a special sitting for this matter. We have been all over the country and this country is not heading towards the right direction.

The so-called NEMA does not have the capacity to tame. We need to enhance the capacity of NEMA. Kenyans are very indisciplined in terms of pollution. One will be shocked to find very distinguished members of the society littering all over. They even throw dirt in the rivers. It is a matter that needs serious conversation. It is not an issue that can be solved by bringing a Statement or parading NEMA here. It is an issue that requires a whole topic because this country is not heading towards the right direction. We have so many rivers, yet our fish are dying because they cannot exist in those environments.

I congratulate Sen. Wambua for bringing this Statement, though he has confined himself to Kitui. This is a national issue, and it cuts across all the counties in this country.

Sen Gataya Mo Fire: Sen. Faki who heads the Standing Committee on Land, Environment and Natural Resources should move with a lot of speed and ensure that we handle all those statements.

The Deputy Speaker (Sen. Kathuri): Last but not the least, on Statements, Sen. Omogeni, proceed to make your comments as we conclude on that business.

Sen Omogeni: Mr. Deputy Speaker Sir, my comment is on the Statement by the Senator for Kisumu County on subdivision and conversion of agricultural land to commercial.

Mr. Deputy Speaker Sir, unless we understand the frustration that we have put Kenyan farmers into by failing to support agriculture, this problem of subdivision will never die. What do you expect from tea farmers in Kericho, Kisii, Nyamira and Bomet counties if you are paying them a bonus of Kshs12,000? They will convert their houses and land into commercial user, so that they can build commercial homes or apartments to get better income. If the Government wants to address this problem of subdivision, they have to support the income of farmers.

Sen. Cherarkey, if you want to do affordable housing, you should understand the person who needs affordable housing. For instance, do affordable housing in Kisii

County, specifically, the villages where the locals stay in grass-thatched houses. I have given an example of Kisii because you had mentioned Kisii and Nyamira counties. Thereafter, you can tell us that you are doing affordable housing. Just going to cities such as Nairobi to do affordable housing, so that people who own companies can get money by supplying cement will not help.

Prof. Ojienda, your Statement is good and commendable, but the solution to it is that we must find a way of putting money into the pockets of our farmers. If we do not do that, they will look for alternative means of getting income from their land.

[The Deputy Speaker (Sen. Kathuri) left the Chair]

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

The Constitution allows them to own their land and do whatever they want on it. Unless, this is done, we will see---

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. LUCIA IROBO JUNIOR SCHOOL

The Temporary Speaker (Sen. Mumma): Hon. Senators, I have a Communication from the Chair about the visiting delegation of teachers and students from St. Lucia Irobo Junior School, Kakamega County.

Hon. Senators, I would like to acknowledge the presence of a visiting delegation of eight teachers and 44 students.

(Loud consultations)

Hon. Senators, please listen. Order, Sen Khalwale, you need to listen to this. I will begin again.

Hon Senators, I would like to acknowledge the presence of a visiting delegation of eight teachers and 44 students from St. Lucia Irobo in Kakamega County, who are seated in the Public Gallery. The delegation is visiting the Senate for an academic exposition.

On behalf of the Senate and on my own behalf, I extend a warm welcome to the delegation and wish them a fruitful visit to the Senate. I thank you and invite Sen Boni Khalwale to also welcome them.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. Before I invite the children to follow the proceedings, I would like to bring to your attention that the Temporary Speaker, the distinguished Sen. Catherine Mumma, is a daughter of the same village that you come from. Thanks to her excessive beauty, she managed to get married in the neighbourhood to our good in-laws.

I think it is for the benefit of this House to know that Irobo Primary School, where these children have come from, is the same primary school that the husband to the late Teresa Shitakha went to. Young children, we buried Shitakha a few weeks ago at an advanced age of 99 years. I spoke in that funeral and even your parents heard me. She left a record as the first Luhya woman, in the greater western Kenya, to vie as a Member of Parliament, even though she did not succeed.

I encourage the girl-child in Kakamega County and, in particular, Shinyalu Constituency, where Mama came from, to ensure that one of you will one day come to Parliament, not through affirmative action, but by vying and beating men.

I thank you. Allow me to promise them that after we finish, I will meet them at the back, so that we can speak in Kiluhya. *Khulomolokhe Lwisukha nende Lwidakho.*

(Laughter)

Sen. Lemaletian: On a point of order.

The Temporary Speaker (Sen. Mumma): I think you are late for the point of order. He has already finished.

Sen. Lemaletian: Intervention.

The Temporary Speaker (Sen. Mumma): Sen. Hezena, what is your intervention?

Sen. Lemaletian: Thank you, Madam Temporary Speaker. We really respect the Senator, the bullfighter, Boni Khalwale, but as he can see, the Temporary Speaker at this moment is also a lady from *Mulembe* nation, who came to this House through affirmative action. Is Sen. Boni Khalwale undermining the women who get to Parliament through affirmative action?

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Khalwale, in one minute, please confirm that you have respect for Members of the Senate or Parliament, who are here through affirmative action.

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

(Loud consultations)

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

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I am the only Member of Parliament (MP) in this House who was part of drafting of the Constitution that created affirmative action. It is because of the acknowledgement that women and youth are faced with challenges that we gave you that opportunity. The intention of that particular clause was for nominated members to serve for one term and, thereafter, vacate office to pave way for others as they vie and compete.

As a husband of several wives and a father of very many children, most of them being girls, I respect women. What would I have against them?

Thank you, Madam Temporary Speaker.

(Loud consultations)

Do not quarrel.

The Temporary Speaker (Sen. Mumma): Sen. Khalwale, thank you for confirming that Nominated Members are equal and useful in this House.

Sen. Cherarkey, what is your issue?

The Senate Majority Leader (Sen. Cheruiyot): Kumbe wewe ni muoga kiasi hiki? Kama wewe ndio waluhya wanategemea---

The Temporary Speaker (Sen. Mumma): Order, Senate Majority Leader.

Sen. Cherarkey: Madam Temporary Speaker, on a point of intervention and follow-up. I confirm that we are proud of all Members who come to the House through affirmative action; they are even doing better than elected Members.

PAPER LAID

PETITION TO THE SENATE FROM UNIVERSAL HEALTH COVERAGE AND GLOBAL FUND STAFF

At the gate today, the Senate Minority Leader and I received a Memorandum on the urgent resolution of the stalemate regarding the assumption of Universal Health Coverage (UHC), global fund staff, gratuity payments, wrong job grading and an implemented return to work formula.

In quick summation, the prayers are that the Council of Governors (CoG) leadership should account for delays in payroll, data transfer, county assumption frameworks and widespread refusal of county governments to negotiate Collective Bargain Agreements (CBAs).

The second is that the Cabinet Secretary for Health should explain the implementation status of transition frameworks and resolution of the 14-day strike notice, grievance and safeguarding of health work. The Cabinet Secretary for National Treasury and Economic Planning to address structural shift funds from---

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, let me guide you; you do not need to read it.

Hon. Senators, this is a Petition that Sen. Cherarkey and the Senate Minority leader received from a group of people at the gate. I think all you need to do is table it and we will refer it to the relevant committee.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I remember the last communication was that when you are tabling something, you must, at least, tell the House what it is about.

The Temporary Speaker (Sen. Mumma): No, you already actually introduced it. You already introduced what it is. You do not have to read it.

Sen. Cherarkey: Okay. Madam Temporary Speaker, with your indulgence, I request that I table this Petition and request that there was an earlier petition we tabled last time on a similar issue. Can you---

The Temporary Speaker (Sen. Mumma): No, no, no. Sen. Cherarkey, we are focusing on this particular Petition, please.

Sen. Cherarkey: Madam Temporary Speaker, I beg to table and request for your indulgence through the Standing Committee on Health to fast-track.

I thank you.

(Sen. Cherarkey laid the document on the Table)

The Temporary Speaker (Sen. Mumma): Senate Majority Leader, you may proceed.

POINT OF ORDER

PROCEDURE OF PRESENTING PETITIONS BEFORE THE SENATE

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I am concerned about the process that has been followed on this Petition. This has nothing to do with the substance of the Petition. The procedure that you are allowing----

Constitutionally, members of the public are allowed to petition this House, which is perfectly in order. I am concerned about the manner in which petitions are processed and brought to this House.

These present petitioners, who are conveying their message through the Senate Minority Leader and Sen. Cherarkey, came before Parliament this afternoon at around 1.30 p.m., in a hired vehicle together with loudspeakers. They blocked the entry and said that until they are listened to, they would not move. I am now surprised that they actually know of a better way of presenting a petition to Parliament other than what they highlighted.

By receiving the Petition, we are doing what we are supposed to do, but should it not also, by way of feedback, should we not, as a House, then equally guide them in presenting? Many other citizens exercise this democratic right differently.

There is a Mr. Omusundi who always petitions this House. He sends his petition and his matters are considered. Otherwise, we will find ourselves in a situation where citizens will imagine that that is the best way to get their matters fast-tracked in Parliament. That you come, block the entrance, and by that afternoon, the matter is presented before the Floor of the House.

I am afraid that it is not a good precedent and this is something that needs to be checked and guided accordingly. We are setting a not very good precedent. That is just my concern on the process, not on the Petition itself.

I thank you.

The Temporary Speaker (Sen. Mumma): Thank you, Senate Majority Leader, for your concern.

Hon. Senators, allow me to guide that this Petition should be submitted to the Secretariat to be processed before it goes to the relevant committee. I believe and my

recollection of the provisions of the Constitution is that the petition can be brought as it is brought. The petition can also be brought physically through a procession, and I think there is nothing wrong with that.

We need to guide the public that the procession must be peaceful and should not be disruptive. So, it is acceptable for a procession to come to Parliament and bring the petition, so long as they do it peacefully without disruption. It is our duty to receive that petition, as a House.

So, I will guide us to blend the processes as provided in the Standing Orders, so that the Petition is received by the Secretariat and processed accordingly.

I thank you.

Hon. Senators, allow me to reorganise the Order Paper for the day, so that we can move on to Order No.16.

Sen. Wambua, what is your issue?

Sen. Wambua: Madam Temporary Speaker, thank you for your indulgence. It is just on the same issue. I know you have given directions on it. The direction and guidance that we need from the Chair is whether there is a single door through which all matters that are processed on the Floor must follow. Yes, we can do our procession peacefully; the leaders can receive documents, petitioning us on any issue on land. However, for the matter to be properly before the House, it must be processed through the office of the Speaker and the office of the Clerk of the Senate.

Tomorrow, I will also get a petition from the people of Kitui County on the pollution of the Rivers Athi and Tana, and I will come and read it here without it being processed through the proper channels. I think that guidance is important.

The Temporary Speaker (Sen. Mumma): Thank you, Sen. Wambua. You are just reiterating what I have said, and you will recall I stopped Sen. Cherarkey from reading the Petition and asked that he just tables it. So, allow that we proceed to the Next Order.

Senator for Nairobi City County, Sen. Sifuna.

Sen. Sifuna: Madam Temporary Speaker, I am an ardent defender of the rights under Article 37 of the Constitution of Kenya, 2010 and the right to petition Parliament.

Processions, by their nature, are very disruptive. Of course, we are allowed only certain restrictions under Article 37 that you will be peaceable and unarmed. However, people can be noisy when petitioning. So, I feel like the directive that the Speaker has given is a bit restrictive to people who would want to petition Parliament.

Previously, I knew that our attention had been brought to the presence of petitioners outside our gate through *vuvuzelas*, which can be very disruptive and the Speaker has sent us to receive those petitions.

I fear that the direction that you have given might have gone a bit too far. Processions, by their nature, are disruptive to the flow of traffic; they are disruptive to ordinary life, but that is what the Constitution expects.

The Temporary Speaker (Sen. Mumma): Hon. Senators, I think the Senator for Nairobi City County is right that the provision in the Constitution talks about peaceful procession and unarmed. So, to the extent that they are peaceful and unarmed, those processions should be acceptable. That is agreed.

Can we move on now to Sen. Kathuri?
No, sorry, Order No.16.

BILL

Second Reading

THE COUNTY GOVERNMENTS LAWS (AMENDMENT) BILL (SENATE BILLS NO.52 OF 2024)

Sen. Kathuri: Thank you, Madam Temporary Speaker, for the opportunity to move this, Bill.

I beg to move that The County Government Laws (Amendment) Bill (Senate Bills No.52 of 2024), be now read a Second Time.

Madam Temporary Speaker, this Bill actually touches on the work and the responsibilities of deputy governors. We very well know that they live under a lot of pressure from the governors. This Bill is actually trying to see how---

(Loud consultations)

Madam Temporary Speaker, could you kindly allow my thoughts to flow properly by protecting me? Sen. Methu, could you move to the back side?

The Temporary Speaker (Sen. Mumma): Hon. Senators, Senate Majority Leader, please, kindly, Senator for Kakamega and the Senate Majority Leader, let us accord some respect to the Senator who is reading the Bill. Let us listen, please.

Sen. Kathuri: Madam Temporary Speaker, the County Governments Laws (Amendment) Bill (Senate Bills No.52 of 2024) seeks to amend and allow the county government to provide specific functions for the office of the deputy governor. In addition, it also amends the Intergovernmental Relations Act, 2012 and connected purposes.

Madam Temporary Speaker, all Senators present are aware that according to statistics gathered during our stakeholder engagement with deputy governors, 42 deputy governors are currently not on speaking terms with their governors. These two leaders are elected together. They sit down, agree and jointly marshal votes to get into office. However, once they assume office, we know what follows; the governors immediately turn on their deputy governors. In fact, we have had deputy governors brought to this Chamber on impeachment Motions. This is a very important Bill touching directly on devolution.

The Temporary Speaker (Sen. Mumma): Sen. Kathuri, did you move that the Bill be read a Second Time?

Sen. Kathuri: Yes, I did.

The Temporary Speaker (Sen. Mumma): That is fine. Proceed.

Sen. Kathuri: Madam Temporary Speaker, I am a seasoned legislator. I moved the Bill to be read a Second Time despite the noise coming from behind me. The HANSARD will bear me witness.

This Bill proposes to assign specific functions to deputy governors. These include the general administration of the county government and overseeing the implementation of county executive committee decisions. All the Senators in this House are well aware of the challenges between governors and deputy governors.

I am also proposing that deputy governors undertake the duties of a specified portfolio within the county executive committee as assigned by the governor. They should also represent the governors and the county governments in various official capacities in the national and county levels of government.

At the moment, no deputy governor is permitted to represent the governor at the Council of Governors (CoG). The governors have completely refused. Consequently, deputy governors are sidelined. I hesitate to use the phrase 'flower girls' or 'flower boys,' as my colleague here is a champion for gender rights. However, I emphasise that deputy governors have been reduced---

The Temporary Speaker (Sen. Mumma): Sen. Kathuri, we do not have flower boys, we have page boys.

Sen. Kathuri: No, I meant flower boys in another connotation.

The Senate Majority Leader (Sen. Cheruiyot): They are called page boys.

Sen. Kathuri: No, I am not referring to weddings. There are men and boys who have become flower boys.

(Laughter)

I know what I mean.

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

Sen. Kathuri: I do not want to be very specific on a particular---

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

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

Sen. Crystal Asige: Thank you, Madam Temporary Speaker, for the opportunity. This is a point of clarification. The Senator for Meru, being a very seasoned legislator, as he has stated, understands that this House is visible to the public. Indeed, we are here not to talk to ourselves, but to educate the general public across the country.

When the Senator uses terms like 'flower boys' and 'flower girls,' I fail to see how that educates the public on the Bill he is moving. He must ensure that all Members and the public understand his arguments clearly. May he, therefore, explain and clarify what he means by 'flower girls' and 'flower boys' in county governments, so that both this House and the public are well informed?

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Kathuri, please, explain who the flower boys and flower girls are.

Sen. Kathuri: Madam Temporary Speaker, in the interest of managing our time, I withdraw that phrasing, so that we can make progress. I want to allow Hon. Members to debate this important Bill.

As I was stating, we want deputy governors to facilitate and maintain effective intergovernmental relations. At present, no governor allows a deputy governor to represent them in national forums alongside the President or Deputy President. Even when incapacitated, governors have seemingly agreed never to allow deputy governors to represent the county beyond its borders.

I wish to quote Professor Ben Nwabueze. He said-

“Concentration of government powers in the hands of one individual is the very definition of dictatorship and absolute power is by its very nature arbitrary capricious and despotic.”

In analysing this situation, when a President is elected, significant duties are assigned to the Deputy President. However, deputy governors suffer because most governors fail to transmit budget allocations to their offices. Consequently, these deputy governors sometimes have to buy tea for their offices and fuel their official vehicles out of their own pockets because their offices lack dedicated funding.

In Parliament, the Budget and Appropriations Committee allocates funds directly to both the Office of the President and the Office of the Deputy President. Therefore, this Bill will compel county assemblies to approve budget allocations specifically for the Office of the Deputy Governor.

I remember during the disputes in Meru County, the Deputy Governor's water supply and electricity were disconnected and he had no official vehicle. He survived by a miracle. These deputy governors have come together to request that this House passes this Bill, so that they are empowered to function properly. Many of them are professionals who could add significant value to their respective county governments, yet they are prevented from carrying out any meaningful work.

Madam Temporary Speaker, this Bill comes at the right time. We were originally meant to consider this Bill during our Senate sittings in Busia, which would have provided an ideal forum for discussion. Nevertheless, the timing now is most opportune.

The Fourth Senate has already considered the proposed removal from office of two deputy governors; Dr. William Oduol of Siaya County and Dr. Robert Monda of Kisii County. In both impeachment proceedings, the legislative gap stemming from a lack of clearly defined functions for deputy governors was glaringly evident. Across many counties, this ambiguity has heightened tensions between governors and their deputies, ultimately destabilising service delivery.

Madam Temporary Speaker, as I noted, we held engagements with all the deputy governors and their representatives. I wish to commend the Standing Committee that processed this Bill, chaired by Sen. Abass. They did very good work. We processed this Bill without any hitches.

Article 179 of the Constitution of Kenya establishes the county executive committee, comprising the governor, the deputy governor and members appointed by the governor with the approval of the county assembly. However, in most county governments, deputy governors do not even know when the Cabinet sits. They do not

receive meeting notifications. It is that bad. Therefore, once this Bill is passed by the Senate and sent to the President for assent, it will greatly enhance devolution. Since the Senate is charged with protecting devolution and county governments, this Bill sits properly within the mandate of this House.

Madam Temporary Speaker, if there is any other Bill that really touches on our work as the Senate, it is such a Bill. So, as the Fourth Senate, we need to make sure that we enact a law that will help our county governments to function properly.

I want to thank this House because from this year this House also passed a law that has now allowed the county assemblies to access their money directly from the National Treasury, to be autonomous. I want to thank them, they supported that Bill which I brought to this House and now the 47 county assemblies are autonomous. They are now able to plan for their activities and programmes, the way the Senate and the National Assembly, in the running of the National Assembly and the Senate, do not depend on the Executive. So many years ago, about 20 years, when I was not a member of the National Assembly, Parliament used to queue at the Office of the President so that they could get their money from the Executive. So, this is what we have actually been able to accord our county assemblies. Now they are happy. Let us support this other one for the deputy governors. We know they are suffering.

Therefore, Madam Temporary Speaker, this is a very straightforward Bill, which I do not want to take a lot of time on because I can see my colleagues are queuing. I want to move and ask Sen. Cherarkey to second the Bill.

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, before you second, allow me to make this Communication.

(Interruption of debate on Bill)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TENWEK
HIGH SCHOOL IN BOMET COUNTY

Hon. Senators, I would like to acknowledge the presence of a visiting delegation of five teachers and 108 students from Tenwek High School in Bomet County, who are seated in the public gallery. The delegation is visiting the Senate for an academic exposition. On behalf of the Senate and on my own behalf, I extend a warm welcome to the delegation and wish them a fruitful visit.

I thank you.

I will now allow Sen. Sigei to also welcome them for only two minutes.

Sen. Wakili Sigei: Madam Temporary Speaker, thank you for the opportunity to welcome the students and teachers from Tenwek High School.

Tenwek High School, Madam Temporary Speaker, is my school. That is the school where I honed my academic and political career. I want to celebrate them today.

In fact, Tenwek High School is one of the two C1 schools in the county. I am proud of the school.

Last weekend, we were celebrating academic excellence as well as sports. This school represents the region in football. I am very sure the Senate Majority Leader will be happy to hear that it is representing the region in academics.

I am very sure as they have come in, they will go back having learnt not only what goes on in this House, but also appreciate the work that we do. They will also pick up several characteristics that we always tell them, that this is a House where we debate, legislate and they will go back home with good examples of how these are supposed to be done and how they are supposed to behave.

As a matter of fact, among the greatest people who have come from this school is Hon. Wilson Sossion, one of my greatest teachers, who, by the way was yesterday nominated as one of the commissioners of the Teacher Service Commission (TSC).

I celebrate the school. I want to wish these great students and the teachers a wonderful stay. Of course, together with Sen. Joyce Korir, who is here in the Chamber, we will meet them behind to share more about what we do in the Senate. Welcome to the Senate.

Thank you for the indulgence, Madam Temporary Speaker.

(Sen. Wakili Sigei spoke off record)

The Temporary Speaker (Sen. Mumma): I was just going to call Sen. Commissioner, Joyce Korir, to also give her words of welcome. In one minute, welcome.

Sen. Korir: Thank you very much, Madam Temporary Speaker, for giving me this opportunity to welcome our students and the teachers from Tenwek High. As has been said by the hon. Senator, this is one of the best-performing schools in the entire region. I want to congratulate them.

I also want to appreciate the teachers for taking this opportunity to bring them here to learn how the business of this House is conducted. I want to say that this is also a school that has produced several leaders, as has been said by the hon. Senator. This is one of the schools where my father-in-law was a student. My husband and my firstborn son were also students there. So, it is a school that has made us proud. I want to say that we wish them all the best. I welcome them to this House. This is where they belong.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Hon. Senators, I see Sen. Onyonka frantically asking. I do not know what his connection is.

Sen. Onyonka, one minute, please.

Sen. Onyonka: Madam Temporary Speaker, I wanted to say that I also share a history with Tenwek. I think I should say something.

I know Sen. Cherarkey does not realise that, as he keeps saying how Matiang'i is a bad man, many of our patients actually go to Tenwek Hospital, which is one of the best hospitals in Kenya. I want to tell the young men and the teachers up here that we are very proud that the hospital has actually been providing services to our people.

Mr. Cherarkey, could you please clap for me for being so intelligent? Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): I wish to confirm that Tenwek is an excellent hospital. Sen. Cherarkey, you may now second the---

Sen. Cherarkey: Thank you, Madam Temporary Speaker. As I second the County Governments Laws (Amendment) Bill (Senate Bills No. 52 of 2024), I appreciate the nexus that Sen. Onyonka is trying to create. All the same, let me extend a warm welcome to the teachers and students of Tenwek Boys High School. We are proud. I think it is one of the best schools in the country.

Of course, Kapsabet Boys' where I went to is one of the top schools. I want to encourage them to keep the spirit because from Kapsabet Boys, we have produced two Presidents; the Fifth president, Dr. William Ruto, the former President Moi and of course, yours truly. So, please, work hard. We want to see you up there.

We are proud that your Senator does not say 'senator, your 'sinator', who is your presidium is also a proud alumnus of that school and one of the top lawyers in the country. We also have Sen. Commissioner, Joyce Korir.

I wish I would have joined you on Saturday to celebrate---

Thank you.

The Temporary Speaker (Sen. Mumma): I hope his time is running.

Sen. Cherarkey: Yes, of course it is running, Madam Temporary Speaker. I would have joined you on Saturday, but your Senator knows why.

(Resumption of debate on Bill)

Madam Temporary Speaker, let me begin by seconding the Bill. I have received so many phone calls from deputy governors, especially my brother, the distinguished Senator of Meru, *Njuri Ncheke* elder, the Deputy Speaker, a seasoned legislator, Kathuri Murungi and one of the proponents of Mt. Kenya East and Mt. Kenya East spokesperson has aptly put it, most of our deputy governors have been reduced to reading newspapers.

You know, nowadays there are some national newspapers, like *The Standard*, which give us funny and interesting stories that do not add up. They like reading. So, they have been reduced to taking water, reading newspapers and waiting for lunchtime to go. One thing is clear; their offices are running dry. They do not have official vehicles. They do not have fuel. They do not have an office allocation. They do not have anything.

You have to appreciate that most of the deputy governors are suffering from depression, because if a governor notices that you are a threat to their political dominance in the county, they would want to vanquish you.

I remember the story of Dr. Robert Monda from Kisii, where there was a political witch-hunt until he was hounded out of office. I remember the Deputy Governor of Uasin Gishu, Engineer Barorot, who was politically hounded out of office through frustration, lack of cars and many other things.

I remember the impeachment of CPA William Oduol. The impeachment came to this House from Siaya. We had impeachment proceedings in this House. He was

politically hounded out by Governor James Orengo and the rest until he became frustrated.

Madam Temporary Speaker, you sit in the Committee on Devolution and Intergovernmental Relations---

Sen. Oketch Gicheru: On a point of order!

The Temporary Speaker (Sen. Mumma): What is your point of order, Sen. Eddy?

Sen. Oketch Gicheru: Madam Temporary Speaker, I am rising under Standing Order No.101 on imputing improper motive. The impeachment process of deputy governors affects this House both in reputation and on duty.

The Temporary Speaker (Sen. Mumma): Sen. Eddy, when raising a point of order, you go straight to the offending aspect.

Sen. Oketch Gicheru: That is where I am going to.

The Temporary Speaker (Sen. Mumma): No, you seem to be laying some background on something. Just go to the offending bit, please.

Sen. Oketch Gicheru: Madam Temporary Speaker, I do not know whether you got what the Senator for Nandi said. He said that the impeachment of Dr. Monda of Kisii County was a political witch-hunt. Remember this House pronounced itself on the issue and impeached Dr. Monda. Does it not impute improper motive on the entire House that went through that case and impeached Dr. Monda? If he says it was a political witch-hunt, then it affects the House that made the decision.

The Temporary Speaker (Sen. Mumma): That is true. Sen. Cherarkey, you will explain how the impeachment of Dr. Monda was a political witch-hunt, and provide evidence. If you do not have that evidence, please withdraw and proceed with your contribution.

Sen. Cherarkey: Madam Temporary Speaker, impeachment is a political process. I expected the new Deputy Minority Whip to be well-versed. I am saying it is part of a political process, which is attributed---

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, please substantiate that it was a witch-hunt. That is actually what we are saying. Everybody knows it is a political process as well.

Sen. Cherarkey: Let me replace that by saying it was a political process.

The Temporary Speaker (Sen. Mumma): Then withdraw the word “witch-hunt”.

Sen. Cherarkey: I withdraw the word “witch-hunt” and replace it with “political process”.

The Temporary Speaker (Sen. Mumma): That is okay.

Sen. Cherarkey: Madam Temporary Speaker, when you go there, you will understand the dynamics of impeachment. What I was saying is that even CPA William Oduol of Siaya---

Madam Temporary Speaker, it is good that you are a Member of the Committee on Devolution and Intergovernmental Relations. I think you are the Vice-Chairperson. He has even petitioned your committee regarding inaccessibility of his office. After the impeachment process failed, the Governor and his people blocked access for CPA William Oduol, who is the duly elected Deputy Governor of Siaya even after this House

rejected his impeachment. It is similar to what happened to Eng. Barorot, the Deputy Governor of Uasin Gishu. He was subjected to political machinations until he was forced out of office.

There is another limbo in Kericho. I wish the Senate Majority Leader was here. Eng. Fred Kirui does not see eye to eye with the governor. The deputy governor has never been allowed to access the office by the governor. The office has been blocked; there is no official vehicle and there is no fuel. It is sad that we are subjecting deputy governors to such inhumane processes. Kericho is the only county that has closed the county referral hospital. That happened today. Many people called me complaining. In this Bill, we are proposing to have the link between county governments---

I always wonder because health is a devolved function. Why would you close a county referral hospital like what has happened in Kericho? We hope that by close of business today, Kericho County Referral Hospital will be reopened because it serves people from Kisii, Nyamira and the entire South Rift.

Now Eng. Fred Kirui cannot access his office. What we are trying to do is to ensure that we give opportunity to deputy governors. One is lucky to have a boss like Dr. William Ruto. You remember the case of the impeached Deputy President. The President even allowed him a budget and to chair some committees of the Cabinet. He also allowed him to chair Cabinet meetings. We have also seen Prof. Kithure Kindiki---

Sen. Methu: On a point of order, Madam Temporary Speaker. Mine will be quick since I do not want to disrupt the flow of thought of Sen. Cherarkey because that is what he does to all of us. Therefore, I do not want to serve him with his own medicine.

He said that the President allowed him some budget. I would like him to substantiate because I thought the budget-making process is a preserve of Parliament. I think it is Parliament that approves budgets of all Government agencies in the Republic.

Sen. Cherarkey: Madam Temporary Speaker, I did not talk about the budget. I said he allowed him to chair some committees of the Cabinet.

Sen. Methu: On a point of order, Madam Temporary Speaker. The HANSARD should be produced so that we know what he actually said.

(Sen. Cherarkey stood in his place)

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, please sit down.

(Sen. Cherarkey sat in his place)

Sen. Methu: Sen. Cherarkey said that the President allowed him some budget. That is exactly what I heard. If he is disputing that, that is not what he said, the HANSARD should be produced.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, let us not pull and push. You know what you said and whether it is appropriate or not. Therefore, you should simply withdraw.

Sen. Cherarkey: Madam Temporary Speaker, the budget-making process starts with the Executive. I can see the Senate Deputy Minority Whip is here. He is also a

Member of the Committee on Finance and Budget. Sen. Eddy can inform me on the budget-making process.

(Sen. Oketch Gicheru spoke off record)

You wanted to inform me?

The Temporary Speaker (Sen. Mumma): No. Sorry, just proceed.

Sen. Cherarkey: Okay. What I was saying is that if you get a good boss like President William Ruto, even the impeached Deputy President was allowed latitude on office operations. He could chair Cabinet meetings and some committees of the Cabinet. He was allowed to carry out office operations as per the law.

Under the Constitution, the Deputy President is the principal assistant of the President. Even the current Deputy President, Prof. Kindiki, enjoys latitude on office operations. In fact, he has been allowed to chair some committees of the Cabinet.

I know of governors who work well with their deputies. What we are trying to do is to put it in the law. We are not being prescriptive because we want to assist deputy governors because when you meet most of them---

I would like to listen to Sen. Beatrice Ogola, who was a County Executive Committee Member (CECM) previously and Sen. Karungo Thang'wa, although he was impeached. I would like to get their reasoning on how a Cabinet---

Sen. Thang'wa: On a point of order, Madam Temporary Speaker. I do not know why we keep on entertaining this noisemaker every time. Instead of discussing substantive issues, he always brings drama in the Senate. I am in this Senate because I was elected by the people of Kiambu. The law is very clear that if you are impeached, you should not be elected. I was elected and that is why I am here.

Madam Temporary Speaker, I do not understand. He should come here and apologise. We should not allow Sen. Cherarkey to use derogatory terms to demean people in this Senate. Yesterday, we were called grasshoppers. In Rwanda, they called people cockroaches and that is why people fought. We should not allow that to happen.

The Temporary Speaker (Sen. Mumma): Order, Sen. Thang'wa. You can now sit.

(Sen. Thang'wa sat at his place)

Sen. Cherarkey, do you have any evidence that Sen. Thang'wa was ever impeached? Please, confirm that you have evidence that he was impeached. If you do not have that evidence, please withdraw.

Sen. Cherarkey: Madam Temporary Speaker, there are no noisemakers in the Senate. Perhaps it escaped your attention.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, you will be guided by the Chair, after which you will raise whatever issues you have.

Sen. Cherarkey: I have all the evidence that he was impeached, and I will table it tomorrow.

The Temporary Speaker (Sen. Mumma): During tomorrow's session, Sen. Cherarkey will table evidence of Sen. Thang'wa being impeached.

Sen. Cherarkey: Yes. What about the 'noisemaker' part? Could he withdraw because there are no noisemakers here?

The Temporary Speaker (Sen. Mumma): Sen. Thang'wa, please withdraw your reference to noisemakers.

(Sen. Methu spoke off record)

Sen. Methu, I can hear what you are saying. You are asking him to defy the Chair, which is not right. Please, withdraw and let us proceed.

Sen. Thang'wa: Madam Temporary Speaker, I withdraw use of the word "noisemaker" and instead say he makes a lot of noise.

The Temporary Speaker (Sen. Mumma): I will not accept that. Please, just withdraw.

Sen. Thang'wa: Madam Temporary Speaker, it is only that I respect you, I do not respect Sen. Cherarkey.

I withdraw.

The Temporary Speaker (Sen. Mumma): Senator, just withdraw. Sen. Cherarkey, you realise you are spending most of the time not speaking to the Bill. Actually, you might want to help yourself on this.

Sen. Cherarkey: Madam Temporary Speaker, the rules of debate are very clear. I am allowed in the next few minutes to converse and give real-life examples. We need to interrelate what we are legislating on with what is happening on the ground. I will restrict myself, as guided and thank you for that.

We are looking at deputy governors who can work simultaneously. That is why I was saying, in good faith, that I would want to listen to people who have become Chief Executive Committee Members (CECMs) in counties, so that they can tell us what really goes on. I know a number of deputy governors who have worked very well with their governors.

Madam Temporary Speaker, it is sad that most of these deputy governors and governors normally work together in a county to win votes. However, when they go into running the government, like what we saw in Kericho, for example, because I am well-versed, that is why they do an Azimio-like thing. When they start running the government, the divorce becomes noisy, messy, and with a lot of casualties, to the detriment of the performance in the running of the affairs of a county government. That is why we are saying, of course, we are aware under Article 179 that the Chief Executive Officer (CEO) is the governor, and the deputy governor is the deputy CEO. We are proposing that the deputy governor be given a position to be a CECM in charge of any department and participate.

We are also aware that they can represent governors in various official capacities, both in the national and county governments. This also includes funerals and birthday parties. I have seen most of the deputy governors, when in social functions, even when mourning somebody, they insist that they represent the governor in giving the

condolences. I do not know the relation, but we are proposing for official national and county functions.

We are also proposing that they have intergovernmental relations as members, to maintain effective relations. We are aware that there are many challenges that face county governments, especially on the issues of asset management, transfer of liabilities and preparing an asset register. Therefore, we are proposing, through Sen. Kathuri's Bill, that we look to ensure that they become part of intergovernmental processes.

Madam Temporary Speaker, we are aware also that whenever a governor is unable to attend an Intergovernmental Budget and Economic Council (IBEC) that is chaired by the Deputy President, they are allowed to sit in the Summit. We are proposing that they be there by law. It does not mean that if the governor and deputy governor do not see eye to eye, they cannot be allowed to ensure that they appear. So, we are proposing that they sit in the Summit that is chaired by the President in the Intergovernmental Budget and Economic Council (IBEC).

We are proposing that the deputy governor can appear before a county assembly on accountability and transparency matters, so that they can appear alongside the CECM for Finance, especially on the audit reports. As envisaged in Article 229 of the Constitution of Kenya, audit reports are normally generated and transmitted to the county assemblies and Parliament.

We also propose that the deputy governors become part of budgetary implementation and monitoring, especially in public participation and the Finance Bills generated by counties, so that we can ensure accountability in the running of the counties. We are also proposing a Prime Cabinet Secretary-like office to create a liaison between the county executive and the county assembly. You are aware that the Prime Cabinet Secretary, Hon. Musalia Mudavadi, who is also the Cabinet Secretary for Foreign and Diaspora Affairs, has created an office that acts as a liaison between Parliament and the Executive. Therefore, we propose that the deputy governor be given a similar role, so that they ensure that the Bills, Motions and other issues raised at the county assembly can be handled and equated to that. So, we are proposing a liaison office to create a link.

In a nutshell, since I want my colleagues to contribute, I know most governors are doing this and we appreciate them. Dr. Willis, the Deputy Governor of Kisumu is my good friend. I have seen him working very well with Professor Anyang'-Nyong'o, which is very impressive. He has represented the governor in many functions, both official and unofficial. We want counties to work together.

Madam Temporary Speaker, some governors are performing these functions. I have given an example of President William Ruto. What we are seeing at the national level is that we are meeting with the counties. The same way, the relationship between the President and the Deputy President works, we want to see governors working with their deputy governors. We do not want to see governors who undermine their deputies.

With those very many remarks, I beg to second this Bill. I call upon my colleagues to also contribute, then we process it for the benefit of the deputy governors of the Republic of Kenya. I yield back the microphone.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, it is not you who calls upon the others to contribute. You may sit down.

(Question proposed)

Senator Eddy Oketch.

Sen. Oketch Gicheru: Madam Temporary Speaker, I thank you for this opportunity. This is a very important Bill. I support it. The Mover of this Bill, as he said, our Deputy Speaker, is also a seasoned political leader in this country. I have been impressed by how many Bills he has been able to pass in terms of responding to some of the needs in the counties.

Madam Temporary Speaker, remember that last year, the Deputy Speaker worked on the Bill that could bring about sanity between the county governments and the county assemblies. The Bill ensures that there is autonomy of the county assemblies. It helps in running their own accounts and not to depend on the County Revenue Fund (CRF) entirely. It also helps in dealing with their budgetary needs, so that there can be some sanity in terms of oversight by the Members of the County Assemblies (MCAs). This is also one of those areas that the Deputy Speaker has spotted in terms of giving the deputy governors a very good direction of getting proper assignments.

Madam Temporary Speaker, our governors have become rogue. Where one or two are doing well, we can congratulate them. We have a menace in the country where the governors are completely sidelining their deputies, especially in financial allocations and in things they can be able to do. The way the dignity of this office was crafted by the Constitution was to the effect that if you strip anybody of their responsibility in the Constitution, then you strip off the dignity of the people in that particular office. The Constitution intended that when you have a deputy governor, they must be accorded the same executive status that the governor enjoys. These offices are about dignifying the people themselves.

We know how our counties are created, where, for somebody to be a deputy of a governor, it must be a game of numbers. One person will bring perhaps their region, clan or ethnic group to the mortgage of politics, where they agree in respect of that particular community or region. If you end up mistreating that particular deputy governor, you are mistreating the people who gave you their trust by voting for you.

I will give an example of Migori County. In Migori County, the chemistry has always been that when you take somebody from the Luo side, of course, we have got a very serious cosmopolitan, without any disregard to any community in Migori County--- Migori County is one of the counties in Nyanza that is extremely cosmopolitan. We have the Somalis in that community and we have always elected hon. Members from that community. We have the Luo community and we have always elected members of that community. We have the Kuria and Kisii communities that are very industrious. It happens that since the inception of counties as a devolved system, the Luo side always takes a deputy governor from the Kuria side to run together. If you start mistreating that particular deputy governor from Kuria, you will be mistreating, disrespecting and removing the dignity of the people of Kuria who voted for you. Therefore, it is extremely important to not just stop at assigning these duties. This is because when I read this Bill, I liked its concept and intention. However, my worry is it merely solves the problem.

When you look at Section 32 that is being amended, perhaps we can work on this together to make these functions more explicit. In my humble view, only Section 32(f) and (i) gives a practical role to the deputy governor. If you read Section 32 (f), it says the deputy governor shall-

“where appointed as a county executive committee member under sub-section (b), make recommendations to the Governor on matters relating to the specific appointed position in the county executive;

This one is more explicit in terms of a role that can be executed.

Then (i) states that-

“assist the Governor in the implementation of the county budget, including expenditure, monitoring ensuring responsibility and fiscal promoting financial accountability as directed by the Governor and in line with relevant national regulations;”.

I can see how this can be implemented and be made an exclusive role for the deputy governor. However, if you look at the other proposed roles here, I feel that they are still ambiguous and I hope that the author can work on this. They still leave the fate of responsibility and functions of the deputy governor to the goodwill of the governor.

If the Mover of this Bill will agree, we need to make these ones more explicit so that there is more dignity. When the deputy governor takes a role to perform, it is not at the discretion of the governor. That is the lacuna.

Madam Temporary Speaker, we send so much monies to counties. In fact, in almost four categories. The budget-making process and the allocation of resources is almost explicitly given to the governor. He has all the discretion to influence the budget-making process to the extent that even Members of the County Assemblies (MCAs) are removed from this.

We send money to counties, one, through the equitable share and two, through the additional revenue allocation, like the County Allocation of Revenue Bill that we pass in this House. If you look at the County Allocation of Revenue Bill alone, you find a lot of explicit ways to give the deputy governor power. For instance, in the County Allocation of Revenue Bill, you will find some of the innovative things that we send additional revenue to the counties are given to Financing Locally Led Climate Action (FLLoCA), which is an independent project in the pretext of donations that we get from outside the country in terms of grants to address a particular problem. FLLoCA addresses a particular climate change intervention in the grassroots.

Why can we not say that if we send additional revenue allocation to counties, the function for which we have sent that money must be checked and performed by the deputy governor? That way, we will be giving the deputy governor a particular portfolio to be able to, first of all, manage but most importantly, execute the vision for implementation.

Another way that we send money to the counties is through the World Bank resources that target urban areas and cities. For instance, today I saw in the Order Paper, although it was pushed down, that we wanted to discuss something around Thika Town being conferred city status. The Urban Areas and Cities Act specifically deals with municipalities, urban populations and markets in some of these municipalities. For

instance, in Migori County, we have four municipalities, Rongo, Awendo, Migori and Kehancha municipalities.

The money that we send in the additional revenue criteria from the World Bank deals with ensuing urban population in these municipalities although we have boards and chairmen who run these municipalities. The essence of service delivery in those municipalities, if we were explicit enough to give those functions, whether it is supervision or implementation, to the deputy governors, we will be giving them an explicit role that will also empower them to think about financial and budgeting tools that sidelines them.

The author of this Bill, our able Deputy Speaker and the esteemed Senator for Meru, has been doing a lot of legislation in this House. Another way that money goes to the County Revenue Fund (CRF), apart from these three that I have mentioned, is through own-source revenue. There is no place that is so blurred to the Senate as the own-source revenue. Our governors are collecting millions of money through own-source revenue that if you look critically, is not even automated. For instance, in my county, what my governor declares as collected is about Kshs686 million in own-source revenue. However, if you look at the potential of the county and the data that comes from boda boda riders, the governor, through his revenue officers, puts them to give him money through some rope of some sort. In the middle of nowhere, some revenue officers will be somewhere with some rope to take money from boda boda riders. How are you sure that those revenue officers take those monies to the CRF? How are you sure that what is declared from a rope that has been put in the middle of some bushes somewhere, goes to CRF?

If you were to put a serious executive, as a deputy Chief Executive Officer (CEO) of the county, to be able to both check the implementation of the on-source revenue, as well as monitor, evaluate and even ensure that there is accountability framework on the on-source revenue infrastructure, he or she would have a very explicit role in contributing to the well-being of the economy.

Yesterday, Sen. Wambua came with a statement on the problem of degradation of the rivers by harvesting of sand in Kitui. In fact, I wish we got the chance to comment on that Statement yesterday. If you go to Kitui and look at the way sand is harvested, the revenue that comes from the sand goes through an on-source revenue infrastructure, which is not well placed and put, like for instance, what Governor Kang'ata has done in Murang'a. He has tried as much as possible to automate a number of revenue infrastructures in that County.

Kitui County is not dissimilar to Migori County. Migori County also harvests sand, but the sand harvesting happens mostly from River Migori and the lake, in a place called Modi in Nyatike. The revenue collected from sand harvesting is not automated. They do not even think of regenerating the riverbanks and the lakeshores where sand is harvested. There is no mechanism of rehabilitating land after sand harvesting, neither do they have plans to plough back resources to the community.

The deputy governors can be more meaningful if they are given a specific role as such. Clause 32(1)(a) of this Bill states that the deputy governors will deputise the governor in the execution of governor's functions, including the general administration of

the county government and overseeing the implementation of the county executive committee decisions. That still leaves the deputy governor at the mercies of the governor. He is the one who will determine what that county deputy governor will do.

The next clause states that the deputy governor will undertake the functions of a specified appointed position in the county executive committee as may be assigned by the governor. Again, we will leave the fate of the deputy governor in the hands of the governor.

Another clause states that the deputy governor will represent the governor and the county government in various official capacities at the national and the county levels of government. My question is; how will you implement this? We have seen the ego of governors in this country and all functions are about them. In Migori County, my governor carries his own chair to those functions and has a red carpet and we have seen a number of governors doing this. So, which governor will allow their deputy governors to represent if there is no mutual understanding and mutual respect, which is what we are trying to solve here. I do not see any governor allowing their deputies to be the face of that county in national functions and county functions.

I support this Bill, but for us to solve the lacuna of ambiguity of roles, let us use this Bill to bring amendments. I hope that the author will listen to us and perhaps allow us to draft some amendments. We should make the functions of the deputy governor as explicit as we can. The functions of the governor are already explicit. The opportunistic way to do that is look at the sources of revenue that are going to the county and align those sources of revenue with functions that they go with after which, we should look at the functions that the deputy governor can do.

If we do that, we will give the county governments some sanity. There are instances where the deputy governors are financially starved as Sen. Cherarkey said. A good example is the case of Siaya County where the Deputy Governor is completely side-lined financially and also starved. You find that approval of vote heads for their vehicles, staff, subsistence and domestic or international travel is completely side-lined. The best way to cure it is to make sure that the sources of resources going to counties and the respective functions going with those resources are looked at more holistically and objectively. After which, we should assign particular roles that go with those resources.

I have cited a number of them such as the World Bank and revenue allocation. What might be difficult to align is the equitable share because it at times affects the overheads that constitute the recurrent budgets of the county. In some counties, we have seen some serious projects that constitute what we call flagship projects. In Migori County, we have five flagship projects affected by the national revenue. We have the stadium, markets, County Aggregation and Industrial Parks (CAIPs), the County headquarter and the airport under construction in Migori County. It might be difficult to take away those ones from the governor. However, we can take away projects that affect some other sources of revenue that we might not be able to trace, like the own-source revenue. I strongly feel that aligning those functions with a deputy governor will give some meaning to the deputy governor and dignity to them and the people who fronted or supported them as they supported the governor to take that seat.

I do not want to speak too much, because there are colleagues who also want to contribute to this Bill. I support this Bill, but with some serious amendments. We need to make these functions as explicit as possible.

I thank you, Madam Temporary Speaker.

Sen. Methu: Thank you very much, Madam Temporary Speaker. With your kind indulgence, please allow me to congratulate my brother, who is my agemate, Sen. Oketch Gicheru, on his appointment as the Senate Deputy Minority Whip.

We have been here for four years and we have seen the clock go all around. I was here when Sen. Sifuna was hounding the Senator for Isiolo County out of office. We were all here and we were happy about it. Sen. Thang'wa and I were removed from office by Sen. (Dr.) Khalwale. He is the one who moved the Motion, but he is now with us in the trenches. We have seen everything and we shall see everything.

I congratulate Sen. Oketch Gicheru and I want to tell him to enjoy it while it lasts. He is now the Senate Deputy Minority Whip, the Chairperson of the Committee on Roads and Transportation and the Vice-Chairperson of the Committee on County Public Investments and Special Funds. He should enjoy it while it lasts. We have been there. He might join us in the trenches someday.

Thank you, Madam Temporary Speaker for giving me an opportunity to weigh in my thoughts on this particular Bill. I have spoken about these many times. I would want to have a very serious conversation with Sen. Oketch Gicheru because from his contribution, he has more problems with the Bill than he supports it. In fact, he has proposed more amendments and given less support to what is contained in this Bill.

I feel that the Mover of this Bill, the Hon. Senator for Meru, is trying to cure a headache by cutting off the neck. He is actually trying to cure a diarrhoea by stitching the exit. There are two things we cannot legislate.

(Laughter)

I do not know what is amusing the Senator for Narok County.

There are two things we cannot legislate. We cannot legislate relationships and love. We have all stated the problem that many deputy governors are suffering. We have said these many times, but I do not think this piece of legislation is meant to cure that particular problem. In fact, we are digging a deeper hole than we are intending to cure. I think we are making it even worse and I will give you the illustration. It is in the thinking of the Mover of this Motion that once we allocate a specific responsibility to the deputy governor, then we can at least give them some leverage in terms of administration of a county.

It is common knowledge that is contained in the Constitution of Kenya that the Chairman of the Intergovernmental Budget and Economic Council (IBEC) is the Deputy President. In the days preceding Mr. William Ruto's administration, he was the Deputy President. When he fell out with his boss, President Uhuru Kenyatta, he would call for IBEC meetings and nobody would attend except governors from his own formation. In fact, only governors from Rift Valley and a pocket from Central Kenya who supported him then were attending IBEC, despite the fact that it is contained in the Constitution that

the Deputy President is the chairman of IBEC. Therefore, even if we give the deputy governor a specific role to play in terms of the administration of the county government, I do not think we will have cured the problem.

I have seen that one of the proposals is that the deputy governor will be a member of the County Executive Committee (CEC). Ridiculously, it also says that the deputy governor will be notified of when the county CEC is sitting. Do you actually know that the deputy governor is an automatic member of the CEC as per the Constitution of Kenya, Article 179(2)? The CEC has CECM appointed by the governor; the deputy governor and the governor himself. As it is now, even without this piece of legislation, there is nothing that stops the governor from inviting the deputy governor to CEC meetings. However, they are complaining that they have never been invited. What stops them from being invited now? That is question number one.

Two: We are seeing that the person who appoints the deputy governor to a substantive role in the County Executive is the governor. What happens when they fall out? Who is the accounting officer in the departments of county governments? It is the chief officers. Who appoints chief officers? It is the governor. What are we saying when we say that the deputy governor will be appointed to a substantive office and yet, the accounting officer of that particular substantive office is a chief officer, who has been appointed by the governor?

Madam Temporary Speaker, do you actually know that in the years preceding 2022, it was actually an abomination for a Principal Secretary (PS) to even visit the Deputy President then, Mr. William Ruto, despite the fact that he was the second in command in the Republic? There is no way of legislating relationships and love.

My very considered opinion is that for us to cure this problem, let us abolish and scrap the position of the deputy governor. In fact, why do we force people to have governors that they have not voted for? We always say that if there is a vacancy in the office of a governor by a governor dying; jailed for more than six months; become bankrupt or insane, then automatically the deputy governor takes over. What makes people believe that this deputy governor was being viewed by the voters the same way they viewed the governor of their county?

In fact, as Sen. Eddy has said, I am a secretary general of a party and I know how many egos are taken care of when we try to put people together. That, I run against somebody, defeat them and then again, take them as my running mate, yet, that person has already been rejected by the voters. However, since we need some convenience in terms of the clan and region, we pick this person to be my deputy and once I die, this person who was rejected comes up to become the governor through the back door. That is why I oppose this particular piece of legislation.

The only way to cure this particular problem is to abolish this position. Once people fall out, it does not matter whether you have given them any role in the Constitution or not. I have even given you examples of the highest offices in the land. I am happy that Sen. Eddy has actually said that when a deputy governor is mistreating a governor, they are actually mistreating the people of the region where that person came from. I wonder where that wisdom was when they were impeaching Deputy President Rigathi Gachagua because, William Ruto says that it is not the people of that region that

he impeached. It is the same thinking for the deputy governor and for the Deputy President.

Madam Temporary Speaker, Clause 32(g) is what I was speaking about; that if you attend CEC meetings as a CECM pursuant to Article 179 of the Constitution, you are entitled to reasonable notice of CEC meetings. As it is now without this legislation, what stops a deputy governor from getting notices of these meetings? He is a member of the executive committee anyway with or without this legislation. This subclause (g) is not supposed to be here.

Now, if you read subclause (h), it says that-

“from time to time, the deputy governor will appear before the county assembly to respond to questions regarding the implementation of the county development projects by the county executive committee.”

The CEO of a county is a governor. Every time people appear before the committees of either the National Assembly, the Senate or even the county assemblies, the accounting officers are the ones who deal with finances of the county. What role would a deputy governor be doing in the audit of a county? They have absolutely no role because they are not accounting officers and thus, have nothing to do in terms of appearing for audit questions.

I know there are some Members of this House who have sat in the County Public Accounts Committee (PAC). Assuming we have invited a county to come and appear before Parliament and a deputy governor appears, do you think any committee of Parliament would want to listen to a deputy governor? Why would we listen to him? I mean, he has no executive authority of the county. Why is he appearing?

Subclause (i) says that they are to-

“assist the Governor in the implementation of the county budget---”

Since we are trying to bring this legislation to manage the relationship between the governor and the deputy governor, how would that person assist me in the implementation of the budget if you have already fallen out?

The county is divided in departments. For example, there are budgets for the Departments of Water, Sports and Roads and each department has a Director, a Chief Officer and a CECM. Where does the deputy governor come in in terms of implementation? Whether you like him or not, hate him or not and whether you are together or have fallen out, how does the Deputy Governor come in?

In my opinion, this Bill is very shallow. Well, let me not say that. If you read Subclause (i), it further says that functions of the deputy governor will include-

“monitoring expenditure, ensuring fiscal responsibility and promoting financial accountability as directed by the governor.”

So, if you have fallen out with your governor, at what point will you be directed by the governor? How would a deputy governor promote financial accountability?

When I say this Bill is shallow, this is what I am speaking about. How does a deputy governor monitor expenditure? He is not an accounting officer and has no executive authority. Surely, since we have been lobbied by Sen. Kathuri to come and support this Bill, we cannot just support aimlessly because he has told us to support. He

wants to make the deputy governor feel that there is something we have done as a House, and we are creating more problems than we are trying to cure.

Clause 32(j) says-

“serve as an executive liaison office with the county assembly for purposes of facilitating and fostering positive relations between the county assembly and the county executive committee and enhancing the smooth implementation of the county government’s development agenda and policies.”

Madam Temporary Speaker, as it is today, this role is given to the county secretary. So, will the deputy governor double up as the county secretary? Will the deputy governor be appointed as the county secretary and take the same responsibilities as the deputy governor?

There is one thing that we cannot do. We cannot come here in this House just to make deputy governors feel happy by supporting a Bill that is not meant to cure anything. There is no way you can give a responsibility that is already being held by somebody and then you are not saying what will happen to this other person. You are actually creating two centres of power. You make him the liaison between the county assembly and the county executive, yet you have the county secretary. So, what becomes of the county secretary? This is creating a crisis on another crisis and is making a---I do not even know.

Clause 32 (e) says-

“engage with the public and various stakeholders on issues affecting the respective county and put in place measures to address concerns and promote transparency and accountability in the governance process”

If I were to read word for word, slowly, engage with the public today, without this legislation, what would stop the deputy governors from engaging the public? Why do we need this legislation for the deputy governor to engage the public? I mean, I think that is exactly what they do every day; even when they are falling out, they still engage the public, whether they are together or not.

The ultimate cure and I will say it for the tenth time, if you want to get any executive authority in terms of appointment, implementation, accountability, monitoring of expenditure, if that is what you are looking for, run for the position of governor. A deputy governor, in my opinion, today, as it is in the Constitution, is a spare wheel. A spare wheel is never useful so long as the four wheels of the car are intact.

As it is today, Madam Temporary Speaker, until there is a vacancy in the office of the governor, you serve at the pleasure of the governor. That is what it is. This Bill is not making it any better, in my opinion.

In fact, if you read Clause 32 (1) from (a) all the way to (j), you will not see anything new here. The only new thing in this Bill is to say that a deputy governor will be appointed to a substantive position. First, you have not even been told what this substantive role they are being given is. Somebody can say you will be in charge of disaster management or whatever it is, because it is not specified. You are not being told. It is even better in the national Government because the Deputy President is in charge of the IBEC.

Now, in this case of the deputy governor, the role that you are saying they should be appointed into a substantive role, we are not even saying what kind of role it is. You

can even be told that you will be in charge of carrying the governor's seat around. That is a substantive role. You can be told that you will be in charge of county askaris, or I do not know what.

This is a very ambiguous Bill. It is not a well-thought-out Bill. This is not a Bill that you can say somebody put a lot of effort into preparing. It is just something that was crafted to make the deputy governors feel happy. We are just massaging the egos of the deputy governors for nothing and making them feel like we are doing something. We are passing legislation to make them feel better. We are passing legislation to make them feel like the Senate has actually addressed their issues. In this Bill, nothing has been addressed.

Even in terms of the implementation, it is not clear how you will implement this Bill. Tell me, how do you tell deputy governors that they will be in charge of expenditure in their county, yet they are not accounting officers? How? I wish you had said they will not even be appointed as CECM; they will be appointed as Chief Officer, because at least a Chief Officer is an accounting officer.

With those many remarks, I wish to say that I vehemently oppose this piece of legislation. I do not think we need to amend this. We need to just do away with it and do a fresh Bill and make it better.

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

Sen. Olekina: Thank you, Madam Temporary Speaker. Let me begin by appreciating the good Senator of Meru for taking some time to try to resolve a dispute.

The intention of the Bill is very good, but the drafting of this Bill risks creating another centre of power. It will worsen the current situation in the conflict between the governors and the deputy governors.

I feel the struggles, the challenges that the deputy governors go through, but honestly, we have to be very careful not to create a huge problem in the county in devolution that we may no longer be able to resolve.

In this House, Madam Temporary Speaker, your Chair ruled that only Cabinet Secretaries appear before committees of this House to respond to matters that affect their respective departments, not principal secretaries. When we now come up with the legislation and we are not specific in terms of the roles of a deputy governor by saying that, when the governor fails to appear in the Summit, then you send the deputy governor without being specific, it will create serious problems.

This Bill will make sense if it is very clear and I thought that the framers of the Constitution were very clear when they created the position of the deputy governor, which was clearly to deputise the governor, to carry out the functions that the governor.

The problem is money. Our governors are living a lavish life and, of course, the deputy governors envy them because they have both traversed their counties seeking votes; they have gone as a team. In most cases, I will try to demystify this further down.

In our cultures, particularly the pastoralist, a governor is given more support if he selects a deputy from a very strong clan. Like in the Maasai community, we have two parallel clans. We have one called Odomong'i, which is the red cow and the other one is Orok Kiteng', which is the black cow. So, when you look at the politics of Kajiado and Narok counties, in most cases, if a governor or a candidate is seeking to appoint a deputy

governor, if he is coming from Orok Kiteng', he will actually appoint one from Odomong'i, because then he will get the support of the rest.

(Loud consultations)

Where problems arise is when the two of you were living in an apartment in Kilimani---

The Temporary Speaker (Sen. Muma): Senators, please.

Sen. Olekina: Then, all of a sudden, you, as the deputy governor, continue to live in that apartment in Kilimani, but the governor who has come in now has a manicured mansion in Karen. That is where the problem is. The problem is not that Article 179, which seems to be misunderstood here.

This is why I wonder whether we, the politicians, become very adamant and refuse to take advice from the secretariat. I am trying to understand how the drafters of this legislation would repeat what is already in the law, Article 179(2) of the Constitution of Kenya; a county governor and the deputy governor are members of the executive committee. Why then would we include such a provision in this proposed law? I do not know whether excessive pressure was placed on the drafters to include it, whether it was an attempt to seek relevance or simply an oversight.

Madam Temporary Speaker, I wish to reiterate that the intention behind this Bill sponsored by the Deputy Speaker is noble. I feel the pressure faced by the deputy governors, much of it is monetary. Some of them are denied funds and cannot even fuel their official vehicles. If our goal is to clarify that the deputy governor deputizes the governor, let us ensure that their budget is clearly ring-fenced, so they do not depend on the Governor just to fuel their vehicles.

We have faced similar challenges with county assemblies, where we debated amending the Public Finance Management Act, 2012 to guarantee their financial autonomy. Should we not, therefore, look at the Public Finance Management Act, 2012 or the County Governments Act, 2012 to clarify the allocation of funds to the office of the Deputy Governor? That the deputy governor being the deputy to the Governor, must have a clear, dedicated budget or percentage of the budget to carry out their functions? That is where the main problem lies.

Secondly, I empathize with the frustration felt by deputy governors. Having traversed the county on a joint campaign, one assumes office as Deputy only to be given no responsibilities at all. They are left sitting in an office, driving a fancy car that often runs out of fuel and forced to fight simply to get operational funding. Naturally, they plead for their roles to be explicitly defined.

Therefore, I do not belong to the school of thought that believes we should kill this Bill. Instead, we ought to work on the draft to ensure it aligns with the Constitution. In its current form, the Bill risks creating two centres of power, which will only perpetuate conflicts between governors and deputy governors.

If we want to make devolution work, we must first add a Clause establishing a dispute-resolution mechanism to resolve conflict between the deputy governor and the governor. I hope the Deputy Speaker will think about this. We should also empower

county assemblies to define and secure the deputy governor's budget due to their constitutional mandate.

I support the proposal that every deputy governor may be assigned a docket to serve as a CECM for a particular department. That will keep them engaged and help them contribute effectively within the CECM.

The biggest challenge I see is that during CECM meetings, deputy governors rarely speak up. I want to remind them to refer to Article 179 of the Constitution, which makes them part and parcel of the CECM. In fact, Article 179 provides that the executive authority of a county is vested in and exercised by the County Executive Committee, which consists of the Governor, the Deputy Governor and the 10 CECMs.

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

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

Madam Temporary Speaker, this is my view---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Olekina---

Sen. Olekina: Mr. Temporary Speaker, Sir, I am glad to see you. You are finally here.

The Temporary Speaker (Sen. Wakili Sigei): I want you to take note of the change of the Chair.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. You change so often that sometimes we do not even notice.

It is imperative that anyone entrusted with responsibility carries it out diligently. There are counties where the governor and deputy governor work very well together. My two cents on this matter is that before embarking on campaigns, the two leaders should execute a legally binding memorandum. This will ensure they can run the county effectively without creating two centres of power.

A couple of years ago, this House was asked to impeach the Deputy Governor of Siaya County. However, we found no merits to sustain the impeachment. What was happening was purely a personality conflict between Governor James Orengo and his Deputy. Should we allow egoism to dictate how governance is exercised? My answer is no.

I encourage the Deputy Speaker to personally review every Clause in this Bill because several proposed provisions, particularly Clause 32, are repetitive and will create confusion and duplicate centres of power. Devolution should not be about power struggles, but delivering services to the people.

Finally, let me repeat what I stated earlier because it is very important: The intention of this Bill is noble, but the problem lies in its drafting. Let us clearly define the role of the Deputy Governor. If we cannot do so, let us do away with the office altogether. Should a vacancy arise, for instance if a governor dies, a new election should be called to elect a new governor.

Across most of our 47 counties, there is no harmonious working relationship between the governor and the deputy governor. In fact, county administration is

dominated by a single individual, not the two. Why waste public resources? We should either scrap the Deputy Governor's position or ring-fence their budget. We should also clearly outline their specific deputizing duties, rather than granting broad, unspecified powers like representing the Governor at a Summit.

Mr. Temporary Speaker, Sir, there is a Clause in the office of the Attorney-General Act permitting the Attorney-General to designate certain powers to the Solicitor-General. In the last administration, there was a huge conflict because when the Attorney General designated those powers to the Solicitor General, the person who was now in charge of government business was no longer the Attorney General, but the Solicitor General. That is a fact. Do you want to create another problem here?

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Olekina. Sen. Mariam, proceed.

(Sen. Thang'wa spoke off record)

Sen. Thang'wa, the Chair who preceded me had already indicated the justification for granting Sen. Mariam the opportunity to speak ahead of you. While I acknowledge that according to the queue in the system Sen. Maanzo was next in line to speak, the Chair retains the discretion to reorder the sequence to allow Members to contribute effectively.

Sen. Mariam, you have the floor.

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. First, I congratulate the Deputy Speaker for coming up with this Bill that will solve some problems. Everything has been highlighted. However, I wanted to highlight one thing instead of repeating myself.

In the primary Act, the deputy governors were only given five roles. In this Bill, they have been given about 10 roles. I have an issue with one on Clause 32(1)(g) which states; -

The deputy governor shall: -

“Attend county executive meetings as a member of the county executive committee pursuant to Article 179(2) of the Constitution and be entitled to reasonable notice of county executive meetings.”

Yes, it has been highlighted in Article 179(2), as the members of the County Executive Committee Member (CECM), but in that Article, and in the primary Act, it is silent on the attendance of the Deputy Governor to the CECM meetings. That shows that it is open. He can either attend or not. This amendment restricts him; he must attend; if he is absent, there must be a notice. There must also be a notice to be given to the deputy governor, because currently, when the CECM holds a meeting, the current governors and deputy governors must be aware. There must also be a notice to be given.

Clause 32(1)(h) states as follows:-

“From time to time appear before the county assembly to respond to questions regarding the implementation of county development projects by the county executive committee.”

Mr. Temporary Speaker, Sir, I totally disagree with this one because the chair of the CECM is the governor. If the governor is given priority to appear before the county assembly any time, that is contradictory because it is the governor who appoints him as a county executive member. So, the overall chair is the Chief Executive Officer (CEO) of the county government. The CEO of the county government is responsible for answering all questions to the county assembly, not to him.

Maybe he can appear before the county assembly to respond to the dockets he has been given under the County Executive Committee (CEC) members. When we visited some counties, we realised that CECM of health, is usually the deputy governor.

Now, when the issue of health is raised, he can appear as a CECM, not as a county deputy governor. So, they have to specify at what point he can appear in the county assembly to respond to a question.

The other issue is the one of assisting governors in the implementation of the county budgets. This one is a blanket clause. It has to be specific in assisting the governors in the implementation of the county budget, a role he has been given as CECM. If he is not given a role in the CECM, he cannot take part in the implementation of the budgets and monitoring of expenditure.

So, this one must be specific to the role he or she has been given in the county CECM dockets.

Clause 32(1)(j) says-

“The deputy governor, shall -

Serve as an executive liaison office with the county assembly for purposes of facilitating and fostering positive relations between the county assembly and the county executive committee in enhancing the smooth implementation of the county government’s development agenda and policies.”

Mr. Temporary Speaker, Sir, this one is overruled because he is not the CEO of the county executive. So, the person who is the county executive is a Governor who creates a relationship with the county assembly. If you give to the county deputy governor, it is more of creating conflict between the county governor and his deputy. They will be fighting because this role will breed a conflict of interest between the two.

Mr. Temporary Speaker, Sir, with those remarks and since others have been highlighted, I do not want to repeat myself. We will need to bring amendment on these harsh issues I have highlighted.

Mr. Temporary Speaker, Sir, I support the Bill with amendments.

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo.

Sen. Maanzo: Thank you, Mr. Temporary Speaker, Sir. I want to go back to the Constitution. You know how the county executive is formed.

Article 179(4) states as follows: -

“The county governor and the deputy county governor are the chief executive and deputy chief executive of the county, respectively.”

In Article 179(5) it states as follows: -

“When the county governor is absent, the deputy county governor shall act as the county governor.”

In addition, you also know that under Article 180(5) states: -

“Each candidate for election as county governor shall nominate a person who is qualified for nomination for election as county governor as a candidate for deputy governor.”

Those are the provisions in the Constitution. From the proposals by Sen. Kathuri, Senator for Meru, whom I have a lot of respect for, this amendment Bill is seeking to delete Section 32, which has five subsections, and bring in a new Section 32, which has about 12 functions, with seven more functions.

Mr. Temporary Speaker, Sir, if this Bill had come to the Committee on Justice, Legal Affairs and Human Rights, I believe it would look different. Unfortunately, it went to the Committee on Devolution and Intergovernmental Relations. Ordinarily, I think this sort of law should have come to the Committee on Justice, Legal Affairs and Human Rights.

Mr. Temporary Speaker, Sir, you are aware that the idea is very good and very noble. I think it should not be lost. We are aware, as the Senate, that several governors and deputy governors have had issues. To regulate those issues, you first of all need to look at their relationship.

In the event the governor is no longer governor, the deputy governor is automatically sworn in to office. Both of them have the same qualifications to be elected. Therefore, I am looking at the original idea of the original Section 32.

We have seen, like in the case of Machakos, when Dr. Mutua was Governor, he immediately fought with his deputy and even brought him here for impeachment. The Senate refused to impeach him, kept him without an office, without a vehicle, without employees, for as long as they were serving together and finally, he exited.

His next deputy governor was appointed the County Executive Committee Member (CEC) in charge of Finance, and then, you know, there are many other examples in the country where we have seen deputy governors being brought here for impeachment. Sometimes it works, sometimes it does not. The two have to go and coexist and what tends to happen when the governor differs with the deputy then it seems to be a problem.

In a lot of cases, like in the case of Hon. Savula and his governor, both of them are shareholders of their government; I would say equal shareholders. Each person contributed to the existence of the other and you know, Hon. Savula, having been a Member of Parliament and having been a journalist, is versed in many issues. I believe the two of them can gel well, help each other and share power.

I do not think the idea was to have a governor and their deputy to share power equally although such arrangements can be done. That has been the situation in the national Government of Kenya since inception of devolution. We now have a presidential system.

During the era of President Uhuru and Hon. William Ruto, they were like 50-50 shareholders of the Government. That was during the first and even the second term. The Government of William Ruto as President and his second Deputy President of the

Republic had a 50-50 arrangement. If anything, Hon. Rigathi Gachagua brought more numbers than the other. That is similar to county governments.

Sen. Cherarkey: On a point of order!

Sen. Maanzo: There is nothing out of order. Sen. Cherarkey, I know you do not like the second Deputy President. When you become---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo, let me allow Sen. Cherarkey to raise his point of order.

(Sen. Methu and Sen. Thang'wa spoke off record)

Sen. Methu and Sen. Thang'wa, the Chair is one. I have allowed Sen. Cherarkey to raise his point of order.

Sen. Cherarkey, proceed. It is the Chair to determine whether it is a point of order or otherwise.

(Loud consultations)

Sen. Cherarkey: Do I proceed when there are heckles?

The Temporary Speaker (Sen. Wakili Sigei): Proceed.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I rise under Standing Order No.105 on responsibility for statement of fact. Straight to the point, have you heard Senior Counsel Sen. Maanzo alluding that the arrangement between President William Ruto and the impeached Deputy President Rigathi Gachagua was 50-50. Could he table evidence as per Standing Order No.105 to show that there was a 50-50 arrangement?

I yield.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo, you have heard the point of order. Are you able to table any document to that effect? If not, you should do otherwise.

Sen. Maanzo: Mr. Temporary Speaker, Sir, I cannot table evidence but it is a matter of fact. I withdraw that but the way they shared Government position was a matter of fact. The point I was trying to drive is that when there is president and their deputy or governor and their deputy, sometimes there are political---

Sen. Kinyua: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo, please take your seat.

(Sen. Maanzo sat at his place)

What is your point of order, Sen. Kinyua?

Sen. Kinyua: Mr. Temporary Speaker, Sir, I rise under Standing Order No.105 on responsibility for statement of fact. I agree with Sen. Maanzo that it was a 50-50 arrangement because I was a Member of the United Democratic Alliance (UDA). After the disagreement between former Deputy President Rigathi Gachagua and the President,

that is what caused what happened in Ol Kalou. You can see exactly that after the disagreement.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order?

Sen. Kinyua: I am confirming what Sen. Maanzo is saying. It was a 50-50 arrangement.

The Temporary Speaker (Sen. Wakili Sigei): You are out of order. Take your seat Sen. Kinyua.

Sen Maanzo, proceed.

Sen. Maanzo: Mr. Temporary Speaker, Sir, I am sure some of us who will want to run for governor one day will face that reality. You may have to come up with a political agreement. I think that is what leads to problems after elections.

Ordinarily under the law, a governor is supposed to take full charge of government and the deputy is a principal assistant. I think that is what the Deputy Speaker, Sen. Kathuri, is seeking to address. We know there have been concerns. I wish we looked at the public participation report to know how different deputy governors responded.

I have heard those cries myself. I have helped to settle situations where a governor and their deputy have differed and the county suffers because of lack of development due to a hostile political situation. Eventually we must find a solution to this.

During Third Reading, we need to redraft this Amendment Bill to suit the situation. That is why public participation is very important in any legislation. This includes feedback from the people and the adoption of that feedback.

This House has already given feedback. Luckily, we have very experienced people here. Sen. Thang'wa and Sen. Methu have served in counties. They understand this relationship very well.

They have contributed well. I believe some will do even better after me. I have also listened to Sen. Mariam. She has a lot of experience from the county she comes from.

Those who have worked in county governments in senior positions before can guide us as representatives. I wish Sen. Murango were here. He was a Member of the County Assembly (MCA) in Kirinyaga County. He now wants to become the Governor there. I am sure he will be a very good Governor.

We must draw from that experience. Using the experience of Sen. Methu and Sen. Thang'wa, we can redraft this and come up with a solution to the problem we are trying to solve.

Sen. Methu has put it very well. It is like trying to cure diarrhoea by blocking the exit. You increase the problems and the person is likely to die. We are likely to increase the problem between the governor and the deputy governor.

We, as a Senate, believe in devolution. We want to solve this problem. We want counties to run well. From my Makueni experience---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, allow Sen. Maanzo to conclude.

Sen. Maanzo: I am also about to wind up. I am coming to the positive side of things. In Kenya, there are many counties with good examples.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo, you are addressing the Chair, not Sen. Cherarkey.

Sen. Maanzo: Yes. I am addressing the nation and I have stated facts.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Maanzo, you have the Floor. Do not speak to your colleague. Proceed.

Sen. Maanzo: The interruptions are too many. Does Sen. Cherarkey want to run the Senate alone? If you cannot allow others to think, then you should talk alone.

Mr. Temporary Speaker, Sir, I want to conclude. There are many examples of good working relationships in counties. One is Makueni. The Governor of Makueni and the deputy governor of Makueni work well. In Makueni, the practice is that if the governor is male, the deputy is female. In the future, if the governor is female, the deputy will be male. This balances gender parity.

Currently, we have a Deputy Governor who is a former County Commissioner. She has long experience in government. She has come out strongly to stabilise the government. She ensures the government is run well technically. Even our national days are better now. Previously, national days had the governor, the county commissioner and a few people. Now in Makueni, it is a fully-fledged occasion. This is a good example of a governor and deputy governor working together.

Even without this regulation, many governors and deputy governors can work together. We cannot regulate relationships through law. It must be created. There must be a willingness. There must be respect between the governor and the deputy. The Deputy must be allowed to deputize the Governor.

If that happens, there will be no problems. There will be no need for this regulation. Unfortunately, in several counties, there have been problems. We have seen governors bringing deputies here for impeachment. Some have been impeached. Others have not. Therefore, there is need to make this law better. Look at it at the Third Reading and ensure it serves the country.

Thank you. I support.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Thang'wa.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir. I also want to contribute to this important Bill that seeks to give powers to the deputy governors. I happen to be a Member of the Committee on Devolution and Intergovernmental Relations. We went through this Bill and gave our observations and recommendations.

Before I say whether I am supporting or opposing this Bill, I just wanted it to sink in your mind and imagine having a deputy governor like Sen. Cherarkey. So, now with that in your mind, you realise that you do not need this kind of law. The law is very clear.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, I do not want to allow Sen. Cherarkey to interrupt you. I do not find it offensive by referring him in any other manner and specific as you have done. However, watch the content of your speech especially in reference to your colleague Senator or any other person who is not in this House.

Sen. Thang'wa Thank you very much, Mr. Temporary Speaker, Sir. I am well guided.

I want to give you a bit of genesis of this Bill. I understand it came to the Committee of Devolution and Intergovernmental Relations many months ago. This Bill was supposed to cure what was happening in Meru County then. If you remember very well, there were issues of the governor and the deputy governor. The governor was impeached about four times and returned to office. They thought they would bring a Bill that would create a co-governor and this is the Bill.

We cannot cure mistrust with the law. Just like Sen. Methu once told me, and I believe he probably said it on the Floor of this House, you cannot force people, especially politicians, to love each other. I like using analogies. This Bill is like the best man of a certain wedding requesting some roles from the bridegroom. When you ask to be a deputy governor, your work is only one. You are a governor-designate, just in case the governor dies or is impeached. Period.

If you feel you are good to be a governor, run as a governor. I want to declare that this law is seeking to amend the Constitution through the back door. If you read the Constitution, Article 179(2)(a) says that the County Executive Committee consists of the county governor and the deputy county governor. So, why are we saying in this law that he or she should be attending these Cabinet meetings and be given enough time? You are actually telling the governor to be writing to the deputy to invite him to the meeting. They have their own mechanism.

If you read the same Article, 179(5), when the county governor is absent, the deputy county governor shall act as the county governor. That is the only role the Constitution gives the deputy governor when the governor is absent. If the governor is present, just go home and rest. This is the Constitution. Why are we amending the Constitution by telling the deputy governor to be a co-governor?

I understand what they were trying to cure then. Since it was cured and the person whose law was supposed to help is already a governor, can we just withdraw this Bill and say, if you want to be a governor, just run as a governor. This law is available in the County Government Act. If you read Section 32 of the County Government Act is being amended by this law and you can see it has been amended by so many clauses.

It starts from A, all the way to J. This law removes one of the fundamental sections that the law created when they got to know that the deputy governor is not a co-governor. He only acts when the governor is away. If the governor is available, he can only do what he has been assigned by the governor himself.

Let me tell you what they are to remove with this law. Remember, the law says that a deputy governor should act when the governor is absent. Section 32(4) of the County Government Act says-

“When acting in office as contemplated in Article 179(5) of the Constitution, the deputy Governor shall not exercise any powers of the Governor, to nominate, appoint or dismiss, that are assigned to the Governor under the Constitution or other written law.” This law has deleted that clause.

What does that tell you? Do they want the deputy governor to start dismissing and employing? We are creating two centres of power trying to cure the problem that was in Meru County that was probably cured when they impeached the Governor though I do not believe it was cured.

Section 32(5) states that-

“The Governor shall not delegate to the deputy Governor any of the functions referred to in subsection (4).”

The law is telling the governor that he cannot delegate that, yet we are here as a Senate, creating two centres of power. We are trying to tell the deputy governor that he can even manage budgets and finances. That is the work of the county treasury. If you want to be a county treasury, nothing stops you from talking to your governor and then the governor can make you a County Executive Committee Member (CECM) for treasury.

I am a former Member of County Assembly (MCA). Sen. Maanzo has told us that we have a lot of experience, and I believe that nobody in this House has more experience when it comes to devolution. I have served as an MCA and a CECM in the cabinet and I am now serving as a Senator. What I am trying to say is that we should not try to legislate relationship. If they are working together, let them work together. If they are not working together, somebody can resign. You are not supposed to be in an office if you are not working.

I do not agree with Sen. Olekina in most cases, but I agree with him on this. He has said that the best thing is to scrap the seat of the county deputy governor. I support. If we cannot cure the relationship, let us scrap that. It will need an amendment of the Constitution. Let us remove that seat so that if a governor is impeached, people will be given a new mandate to elect a different governor.

Actually, many impeachments that have come here have been induced by deputy governors and you will agree with me. So, the problem is actually them. They always want the governor to go so that they can take the seat.

The problem is more political than legal. Since we cannot cure political problems through the law, let those who want to run as deputy governor know that their boss is the governor. The law gives the governor more powers that he can delegate some if he may. Remember the gentleman who said, shall or may. This law says “may” not “shall”. So it depends on what the governor wants his deputy to do.

If you look at H on the amendment, it says, from time to time appear before the county assembly to respond to questions. Nothing stops him today to appear before the county assembly.

Actually, the county assembly can summon anyone. I think it is in Article 185 of the Constitution. That is what the law says, anybody can appear. Nobody stops them. The deputy governors are trying to get power so that there can be two centres of power. They are unable to impeach the governors and then, there will be push and pull between these two people. Now, as Committees of the Senate, who will we be summoning? Will we be inviting the deputy governor or the governor?

Mr. Temporary Speaker, Sir, remember, we have had the problem of county assemblies having two speakers, two county clerks and even two assemblies. Can you imagine what this law would do? We will be dealing with a certain deputy governor who has already taken the whole county headquarters to a different place and thus, we will be having two governors in a county.

I oppose this law and implore the Senator for Meru County to withdraw this Bill because, the problem he is trying to cure was cured. We only have one year to the

election; people will appoint deputy governors they are willing to work with and if they do not work together---

I heard Sen. Eddy say that impeaching a governor from the Kuria side is impeaching the whole community. That is the exact thing we tried to say when the Deputy President of this Republic was being impeached. Impeaching the Deputy President is impeaching the whole community of Murima.

Since I understand that this was supposed to cure something very different which has already been cured, I rest my case and oppose this Bill seconded by Sen. Cherarkey. I also want to tell you that you all will be Ol Kalou.

(Laughter)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Tom Ojienda, proceed.

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

With a very heavy heart, I agree with Sen. Thang'wa on a number of issues. A close reading of Article 179 that confers executive power to the CEO of the county who is the governor, while holding the power in the county to appoint and execute all that has to be done in the county, has the mandate to delegate executive power to the deputy governor. What this Bill does is try to direct the governor to share executive power with the deputy governor and CECMs as properly designated by the Constitution.

This is an unconstitutional amendment to the Constitution. The intention of this Bill is to undermine the very provisions that the Constitution clearly provides for. The proper way to deal with the power of deputy governors is to bring an amendment to the Constitution. Short of that amendment, it is impossible through a Bill brought before Senate to kind of recraft the Constitution in a manner that is unconstitutionally, trying to deviate from constitutional provisions.

Again, let me also agree with Sen. Thang'wa on this; this Bill was brought against the backdrop of the impeachment of the governor of Meru County, whose action is still in court. At some point, she was my client who has since been replaced with the deputy governor, the substantive governor of Meru County. I understand that that Governor has suddenly become very popular after her impeachment.

The point here is that this Bill may have served its purpose and should have been dropped at this point because it was tailor-made for purposes of impeachment of the Governor of Meru County.

Mr. Temporary Speaker, Sir, we have examples of counties where deputy governors and governors work together for the people. Let me give you an example of my own County, Kisumu, where the Deputy Governor, Dr. Ochieng' Owili, is sitting pretty; he is a sitting pretty duck, he is out there, he only does assignments given to him by the governor. Other times, he is out there, he is idle; he does not perform any duty unless Governor Nyong'o assigns him that role. That shows you that deputy governors who are not overzealous, who are not too keen to carve their own space, work well with governors who are in office.

A strong deputy governor and a strong governor can hardly survive in the same space. If you look at the example of Makueni County, you find that Makueni is a shining example of a perfect coexistence of the governor and deputy governor. Look at Kakamega. However, in Siaya, for instance, Deputy Governor Hon (Dr.) Oduol was brought to the Senate for impeachment by Governor Orengo because the Deputy Governor was trying to enjoy, was trying to carve out gubernatorial powers from the governor, which he cannot enjoy unless Article 179 of the Constitution is amended.

Let us not cleverly take away powers of the County Executive Officer (CEO) of the county through a Bill or through legislation and purport to direct, through the back door, a governor to give powers to the deputy governor, including powers, for instance, as the Bill designates, for a governor to appoint a deputy governor as a CECM. That is shared power. You cannot sneak and share the power of a CEO from the back door. That is done through the front door as the law mandates.

I oppose this Bill; it is utterly unconstitutional and should collapse on its backside and die.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. (Prof.) Tom Ojienda.

Sen. Kinyua, you may proceed.

Sen. Kinyua: Asante, Bw. Spika wa Muda kwa kunipa fursa hii. Kwanza kabisa, nampongeza Seneta wa Meru, Naibu Spika, kwa Mswada huu aliouleta katika Bunge hili. Amejaribu kutuliza mgogoro ulioko kati ya magavana na manaibu wao

Itakumbukwa kuwa katika Seneti iliyopita, mimi nilikuwa Mwenyekiti wa Kamati ya Ugatuzi na Mahusiano kati ya Serikali. Miaka minne ilikwisha bila Naibu Gavana wa Kaunti ya West Pokot kuwa katika Jamhuri ya Kenya. Alikuwa ni daktari Marekani.

Sijui ni kwa nini Sen. Kathuri analeta Mswada huu hapa. Mtu yeyote ambaye anawania kiti chochote katika Jamhuri ya Kenya anapaswa ajue majukumu ya kiti kile, ajue uwezo wa kiti kile, ajue anaweza kufanya vipi na kiti kiti.

Kwa manaibu wa magavana kuja hapa, kwa sababu nimesikia wakiwa na vikao wakijaribu kuzungumzia Mswada huu, nimesikia Seneta wa Meru, Sen. Kathuri akisema ya kwamba aliwasikiliza na kuna mambo ambayo waliyataja. Walisema kuwa hawapewi majukumu, wanakaa katika ofisi, hawana bajeti yoyote, kazi yao ni kukaa katika ofisi, na gari zao hazina mafuta ilhali inasemekana vizuri sana.

Nafasi hii ya naibu wa gavana ni ya kusaidia kuimarisha kazi ya gavana kuhakikisha kuwa tawi la utenda kazi la kaunti linafanyika kwa ufanisi na vyema. Ikiwa hajapewa kazi yoyote na gavana, anataka mafuta ya nini? Kazi yake ni kukaa ofisini na kungoja. Seneti ikikubali sheria hii kupita, italeta kuingiliwa kwa mamlaka ya gavana, kwani aliyepewa majukumu ya kuulizwa maswali katika Seneti au Bunge la Kaunti ni gavana.

Majukumu yanayopendekezwa hapa yatatengeneza serikali mbili zitakazoleta migogoro katika kaunti. Hii itapelekea kudorora kwa utendaji kazi. Waswaili wanasema: “Fahali wawili wapiganapo, nyasi ndizo huumia.” Kuwa na fahali wawili katika gatuzi italeta vurugu na mvutano.

Nimemskiliza kwa makini Sen. Cherarkey, tuliyekuwa naye katika Kamati ya Ugatuzi ya Seneti iliyopita. Jambo kama hili lililetwa kwa Kamati hiyo nikiwa Mwenyekiti na yeye akiwa mwanachama. Alikubaliana na mimi kwa wakati huo. Sijui fikra zake zimegeuka lini, kwani alisema gavana anapaswa kupewa mamlaka ili awajibike. Kwamba yeye peke yake ndiye anayeweza kuulizwa maswali kuhusu kaunti, kwani yeye ndiye aliyechaguliwa.

Ikiwa inasemekana kuwa naibu gavana ameshamiri na ana uwezo, basi anapaswa kugombania kiti cha ugavana. Rais wa Jamhuri ya Kenya, Dk. William Ruto, alipokuwa Naibu Rais, alilalamika kuhusu kutopewa bajeti na kudhulumiwa, na ilijulikana wazi kuwa alidhulumiwa. Alipoona anadhulumiwa kwa hicho kiti, aligombea kiti cha urais. Tunataka hawa magavana wagombanie viti vya ugavana, lakini sio kutuambia tutengeneze sheria zitakazowapatia majukumu ambayo hayapo kwa Katiba. Mtu yeyote anayegombania kiti chochote – iwe Seneta, Mjumbe wa Kaunti ama Mbunge – anajua majukumu ya kiti hicho.

Nimeangalia ripoti iliyoletwa na kamati ya ugatuzi. Utafiti unaonyesha ya kwamba manaibu wa magavana hawajulikani. Anayejulikana wakati wa uchaguzi ni gavana. Haiwezekani kwamba baada ya uchaguzi, unatumia mlango wa nyuma ili upatiwe majukumu ambayo hayapo katika sheria za Kenya.

Bwana Spika wa Muda, napinga Mswada huu ulioletwa na Sen. Kathuri. Alikuwa na wazo zuri la kuleta uwiano katika gatuzi zetu, lakini hatuwezi kuweka uwiyo kati ya gavana na naibu wake kwa kutunga sharia Wakati talaka inatokea, sheria za talaka ziko, na huwezi kulazimisha watu wapendane.

Kwa hivyo, ningependa kumwambia Sen. Kathuri kuwa yeye ni Mkristo mwenye maono mazuri, na mwelekeo mzuri, ndio maana Sen. Cherarkey amemuunga mkono. Lakini naomba kumueleza Sen. Cherarkey kwamba talaka ikifika, hakuna namna unavyoweza kuwapatanisha watu walioamua kutengana.

Naibu wa gavana wa Kaunti ya Laikipia, kila wakati nikimuona katika mikutano--

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Sen. Cherarkey: Point of order!

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Cherarkey?

Sen. Kinyua, please take your seat.

(Sen. Kinyua sat at his place)

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I rise under Standing Order No.101(6), which states as follows-

“A Senator shall refer to another Senator by the title “Senator--- (name of the Senator)”.

Mr. Temporary Speaker, Sir, did you hear the distinguished Senator for Laikipia referring to me as Cherarkey? Could he abide by the Standing Order? You know this is a ranking Member. In fact, he should be thrown out because he is a ranking Member.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, you have made your point.

I must admit that for a number of times I have heard Sen. Kinyua speaking and making reference to colleague Senators, I have not heard him not making reference them as Senator so and so. Therefore, he is in order.

Proceed, Sen. Kinyua.

Sen. Kinyua: Asante, Bw. Spika wa Muda. Ikiwa nimekosea bila kutaja Seneta, ninamwita Seneta mara nne ili kulipiza ile nimekosa kutaja. Amekuwa akikoroga watu, na sasa pengine anajishuku kama ni Seneta. Sen. Cherarkey, wewe ni Seneta.

Sen. Cherarkey: Hoja ya nidhamu!

Sen. Kinyua: Bw. Spika wa Muda, nikimalizia, ningependa kusema kwamba Laikipia---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Kinyua, the unfortunate thing is that you were given the leeway by the Chair, who noted that you were in order to make reference to your colleague by name and title, but you have now gone overboard. I do not want to permit interruption to your contribution. However, you also need to comply with the Standing Orders by speaking to the Chair and not your colleague Senator.

Sen. Kinyua: Asante, Bw. Spika wa Muda. Nilitaka kusema kwamba katika Kaunti ya Laikipia, Naibu Gavana na Gavana hawaonani, na imekuwa vigumu wao kufanya kazi pamoja. Tunataka kutengeneza sheria hapa kusema kuwa lazima wapendane, watembee Pamoja, na kufanya kazi pamoja.

Walipokutana, waliamua kuwa mmoja wao kuwa naibu wa mwingine. Sisi, watu wa Laikipia, tuliambiwa na wao. Kwa hivyo, hatufai kutengeneza sheria hapa za kuwahimiza kufanya kazi pamoja. Walipokuwa wakifanya kampeni, walikuwa wanavaa suti, shati na tai zinazofanana, na walikuwa wanatembea kwa miondoko. Wakati wa talaka ukifika, hatufai kutumia Seneti kuhalalisha mambo wanayopaswa kufanya.

Bw. Spika wa Muda, kwa hayo mengi, napinga Mswada huu kwa sababu mapendekezo yaliyoko hapa yanakinzana na kaunti ambazo magavana na manaibu wao wanafanya kazi pamoja jinsi inavyostahili. Kwa hivyo, hatufai kutengeneza sheria za kutaka watu wawe na mapenzi.

Nashukuru Bw. Spika wa Muda.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Kinyua. Next is Sen. M. Kajwang’.

Sen. M. Kajwang’: Mr. Temporary Speaker, Sir, I also rise to contribute to the proposed amendments to the County Governments Act. The County Governments Act needs thorough audit and interrogation. Ten years after devolution, this Senate ought to do this nation a favour by looking at the entire Act holistically instead of piecemeal amendments.

I have noted that today we are discussing amendments to a section of the Act that relates to deputy governors but there is also another legislative proposal in the Order Paper to make further amendments to the County Governments Act. How I wish sometimes we tied some of these issues up so that we have a comprehensive review and amendments to the County Governments Act.

The role of a deputy governor is clearly spelt out in the Constitution. We have Article 179(4) which I like quoting whenever governors appear before my committee.

I always remind them that a county governor is the CEO of the county. For that reason, we expect them to respond to all issues raised in financial statements, performance reports and budget implementation reports. The buck stops with the CEO. The deputy governor is designated as the Deputy Chief Executive of the county.

Mr. Temporary Speaker, Sir, I will not repeat what others have said. I want to pose a question on Article 179(5). It states that when the County Governor is absent, the deputy county governor shall act as County Governor.

How do we define the absence of a County Governor? Is it when the Governor has gone to watch the World Cup in America? Is the Governor just absent? Is it when the Governor has left his county and gone to another county? For example, Governor Orengo was in Homa Bay today. He caused a lot of chaos in Homa Bay. Would the people of Siaya deem him to be absent from Siaya?

We need a clear definition of the absence of a County Governor. Absence could be through impeachment, resignation and vacation of office through means defined in the Constitution. There is also an absence referred to as leave. In corporate governance, this is a common practice.

A Chief Executive Officer, as defined in the Constitution, a governor must be subject to human resource policies. A CEO cannot be on duty from the first day of the election to the last day. We, as State Officers and Members of Parliament (MPs) go on recess. This House does not sit from the first day of our election to the last day. Is it viable for a Governor to be present and discharge duties 24/7 for five years?

There is something called leave. Even our employees are subjected to it. A petitioner came here. He asked Parliament to enact legislation to provide for Governors to take leave. If a Governor takes leave, it could be medical leave. I saw the Governor of Murang'a take medical leave. He had an injury. He assigned his Deputy to act in his absence. We have seen Governors go on maternity leave. That is a good thing. I am sure some Governors have gone on paternity leave.

When you go on leave, is that an absence? In corporate practice, that is absence, but in that situation, there is temporary incumbency. What happens in the national Government should apply to the county governments. Temporary incumbency is handled in Article 134 of the Constitution. It talks about the absence of the President.

We saw this when Uhuru Kenyatta went to The Hague. He went to respond to summons from the International Criminal Court. The Constitution foresaw such a situation of absence. In that case, the person who steps in cannot have unfettered powers. In the national Government, a temporary President cannot nominate judges; he cannot appoint ambassadors; he cannot appoint Cabinet Secretaries; he cannot confer honours and exercise the power of mercy.

What we need to do is define absence. We must also define the powers of a Deputy Governor during temporary incumbency. Would a Deputy Governor acting under temporary incumbency appear before the Senate and its Committees?

This could be limited. The same applies to the Deputy President under Article 134. For me, that is the clarity required. Otherwise, what you are trying to do here is dictate to a Governor how to delegate.

Mr. Temporary Speaker, Sir, I further want to make a proposal that we need to go back to Article 180(5) of the Constitution, which talks about-

“Each candidate for election as county governor shall nominate a person who is qualified for nomination for election as county governor as a candidate for deputy governor.”

Who nominates a person to be deputy governor? It is not the political party, the assembly or any other person. It is the governor. It is the candidate for election as county governor who nominates a person who, in their considered opinion, is qualified for nomination for election as county governor as a candidate for deputy governor.

If we had an opportunity to rewrite this Constitution, I would rewrite Article 180 (5) and say that immediately after an election, the candidate who is elected governor shall nominate a person who is qualified for nomination for election as deputy governor. This is because when they go into a joint ticket, there is a perception of being shareholders and a 50-50 government. I have seen that in Homa Bay County where the deputy governor resigned a few months ago. The problem was there was a perception that there were two powerhouses that went into an election and won. So, people thought that the governor and deputy are co-governors. There is nothing like that.

Even if the party requested the governor to nominate somebody, the responsibility under Article 180 (5) falls and lies with the county governor. If it is the duty of the county governor to nominate a person, I would also rewrite this Constitution to allow for the governor to rescind the nomination of a deputy governor subject to approval of the county assembly. This is so that we do not have to subject deputy governors to all this circus that we have seen them being brought to the Senate for impeachment.

If we do not amend Article 180 (5) as I have proposed, perhaps, we should amend it to say that where a candidate for election as county governor is required to nominate a person, that person should be of the other gender. That also will advance certain principles that are in this Constitution that we have been unable to achieve.

There are two functions I have seen some county governments assign to the deputy governor. There are counties that have said the County Budget and Economic Forum shall be chaired by the deputy governor. Of course, statute requires the governor to chair it but in many cases some governors have allowed their deputy governors to chair it. This is similar to the Intergovernmental Budget and Economic Council (IBEC) at the national Government that statute requires to be chaired by the deputy President.

I have also seen some counties in their County Disaster Management Acts designate the chair of the County Disaster Committee to the deputy governor.

However, it is not possible for the Senate sitting in Nairobi to say that a specific role must be assigned to a deputy governor. This is because the Constitution again, in Article 179(2), talks about the County Executive Committee consisting of the county governor and the deputy county governor and other members appointed and approved by the county assembly.

It would be good practise to ensure that the deputy governor has something substantive to keep them busy. However, at the end of the day, before you apply for a position, please read the job description.

This Senate and many of its pioneer Members suffered from that. I was in the 11th Parliament and every day when senior Members rose to speak, they were lamenting about the limited powers of Members of the Senate. People kept reminding them that they are the ones who wrote this Constitution. Many of them wrote this Constitution. How come they did not know that the Senate that they created was the Upper House in words but the Lower House in reality? So, if you are going to go for the position of deputy governor, please read the Constitution so that you do not have complaints and tussles thereafter believing that you are a co-governor or a deputy governor.

I know that sometimes it is political compromises and settlements. However, the reality is once the election is over, a bus can only have one driver and the deputy can only step in when that driver is absent.

Most governors choose that if they are going to be absent, the bus would rather stop and wait for them to come back. That is why we need to allow governors to have a framework for going on leave, a framework for definition of absence, and a framework for deputy governors to take over in the case of temporary incumbency.

I will not take much time because I want my other colleagues to comment on this. I would also want to request deputy governors to read the 48 laws of power by Robert Greene. Law number one in the 48 laws of power is never outshine the master. That seems to be the problem in many cases where we have very competent deputy governors, some of them who are technocrats, serving under governors who are largely politicians. Those governors know how to get the vote and sometimes once they have gotten the vote they have no idea what to do with it. You then find that it is a deputy governor who knows what to do after the victory.

People then start getting the perception that the deputy governor is becoming more popular, more effective then you end up with some impeachment Motions that are not very useful to the counties in question. I believe that there is more we can do to strengthen the office of the deputy governor, but not in the manner that has been presented here. I do hope that at some point we will write Article 185 of the Constitution either to provide for gender pairing or to allow for governors to appoint deputy governors after an election.

With those remarks, I oppose this amendment.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. M Kajwang'. We will now hear from Sen. Mumma.

Sen. Mumma: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute to this. I am the Vice Chairperson of the Committee on Devolution and Intergovernmental Relations and we looked at this Bill.

When the Mover moved the Bill today for Second Reading, he may have given the impression that the Committee agreed with it as it is. It is nearly one year since we submitted our Report. I will actually share that Report in the House Business Committee Forum, so that Members who have not contributed to this debate can also see what the Committee looked at and they will also see the recommendations of the Committee.

There are a number of things. Clearly, we have a huge problem between many governors and many deputy governors. That is the reason why deputy governors came together to try and see whether they can find a way and get assigned functions through

the law. Even as they are doing so, one can kind of empathize with them on the basis that the office of the deputy governor is a public office that is a public resource. So, to a certain extent, it is wasteful expenditure to put somebody in office being paid public resources and doing nothing. I think it is something that needs to be dealt with.

However, as colleagues who have spoken before, I support what nearly all the Senators have said except for a few, we need to be careful about rewriting the Constitution through this law. Even as we are being careful in rewriting the Constitution, we also need to be careful to ensure that we do not get into an overreach. It is the role of Parliament to make laws, but it is not the role of Parliament to do executive assignment of roles.

Every executive has one center of power, one Chief Executive Officer. That is why from 2013 to 2022, we had a president and a deputy president, but when you hear the then Deputy President speaking, he speaks as if he were never part of that Government. The only reason the world allows him to do that is because the back stops with the president.

The Constitution did not split the country by saying that the deputy president will be in charge of this or the other. Therefore, when we are evaluating performance of a government, we look at both the portion of the president and the deputy president. What the Deputy Governor's (DGs) want us to do is jump into the arena of the executive implementation of its mandates and help the governor assign tasks to them. I do not think we can do so. However, we must tell the governors that it is wasteful to have an idle office receiving salaries and packs.

Mr. Temporary Speaker, Sir, the Committee's recommendation might just be one because the second one was reiterating the fact that the governor may delegate work, a provision that is already within the County Government Act. After looking at all the clauses, we actually proposed that we delete the clauses as provided and amend Section 32 of the County Government's Act to require the governor to assign responsibilities to the deputy governor and ensure that the office of the deputy governor is adequately facilitated.

Having looked at everything, we felt that that statutory requirement in broad terms may very well be the one that will then make the governor assign responsibility to that office and ensure that it is adequately facilitated. I think that is the best arrangement we can ever have because we cannot go further and say what the deputy governor should be assigned to do. We will be crossing the line if we go about those clauses that way. The Senate will now have joined the office of the governor in trying to assist them run their counties.

We did this knowing very well that it is not a problem with the law because we have county governments where governors and their deputy governors are working pretty well. They have assigned tasks to deputy governors who are carrying them out. We have counties where deputy governors are chairing committees, running dockets and delivering on their mandates without a problem.

As somebody said, the love affair has now failed and divorce is looming. Therefore, they think that the Senate can cure that kind of relationship with this kind of

law. As a Committee, we met quite a number of people; we have a detailed report on each and every one of them---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mumma, when the House resumes tomorrow, you will have 11 minutes to conclude on your contribution to this particular Bill.

ADJOURNMENT

Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate stands adjourned until tomorrow, Thursday, 23rd July, 2026, at 2.30 p.m.

The Senate rose at 6.30 p.m.