

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 11<sup>th</sup> May, 2021**

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

*[The Speaker (Hon. Lusaka) in the Chair]*

### PRAYER

### COMMUNICATION FROM THE CHAIR

#### OCCURRENCE OF VACANCY IN A MEMBER OF THE SENATE ELECTED THROUGH A PARTY LIST

**The Speaker** (Hon. Lusaka): Hon. Senators, I have the following Communication to make. During the lunch break, I received a copy of the Special Issue of the Kenya Gazette No.102, dated 10<sup>th</sup> May, 2021, containing Gazette Notice No.4597 communicating the occurrence of a vacancy in a Member of the Senate elected through a party list.

In the Gazette, it is notified for the information of the general public that pursuant to Article 103(1)(e)(i) of the Constitution and Section 37 of the Elections Act, the seat of the Member of the Senate elected under Article 98(1)(d) of the Constitution and held by Senator Isaac Mwaura Maigua became vacant with effect from the 7<sup>th</sup> May, 2021.

It is important to note that the publication of this Gazette came to my notice for the first time during the lunch break this afternoon. This explains why in the morning sitting no issue was raised about the participation of Sen. Isaac Mwaura in the proceedings, including voting at Second Reading of the Constitution of Kenya (Amendment) Bill, 2020.

Hon. Senators, the question then is what happens to the vote taken at Second Reading of the Constitution of Kenya (Amendment) Bill, 2020, in which Sen. Mwaura participated. Article 124 of the Constitution of Kenya is explicit on this matter. For clarity, Article 124(3) provides as follows-

“The proceedings of either House are not invalid just because of—

(a) a vacancy in its membership; or

(b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the House.”

However, henceforth the Senate is notified of the vacancy.

I thank you.

**Sen. Cheruiyot:** Mr. Speaker, Sir, allow me to seek clarification from you with regards to the communication you have just made. There is somebody who said here last week - I cannot remember who it was - that Senate is a gracious beneficiary of court orders. The reason we survive is because on many occasions, when Members of the National Assembly in total disregard of the constitutional provisions have gone ahead to do things that injure the standing and place of the Senate in our Republic, we have always rushed to the courts and that is why we are still relevant.

Mr. Speaker, Sir, I am aware that on your desk you have a court order against the decision that you have taken. Would it not be better if you inform the House why you have chosen to take this decision in total disregard of a valid court order? It might be Sen. Mwaura today, but we do not know what anybody else out there may do tomorrow and it may require the gracious protection of our courts as a House.

Mr. Speaker, Sir, please guide this House with regard to that issue because I find it to be a grave matter. It is not an issue to be treated casually such that a notification is just issued and we move on as if nothing has happened.

**The Speaker** (Hon. Lusaka): I will do that later because I just acted according to the provision which requires reallocation of special seats from the party lists. It is provided that where a political party expels a member assisted through a party list during the term of Parliament or County Assembly, as the case may be, the party shall be required to submit a resolution or decision of the party, a notification to the Registrar of Political Parties, expulsion and declaration of a vacancy from the relevant Speaker and a court order actioning the expulsion where applicable. This was done after a lot of consultation by our legal team in the Senate.

Let us go to the next Order.

*(There was a technical hitch)*

My screen has a technical problem. I cannot even see. Let us proceed then we will come back to that one.

*(An hon. Member spoke off record)*

My screen is off. I do not know who it is.

**Sen. Cheruiyot:** Mr. Speaker, Sir, do not set a bad precedent. We agreed that we are going to use a hybrid system because we passed a resolution. Hon. Members who are online are just like us who are seated here. If there is a technical issue, we resolved that we should wait until it is resolved then they are heard. Otherwise we will revert back to the usual tradition where all of us have to come to the House.

It is not fair to have this kind of a hybrid system, but when we face technical issues, then we want to proceed. Maybe that particular point of order requires your urgent attention.

**The Speaker** (Hon. Lusaka): Hon Senators, can all the Senators taking part in this sitting through the virtual platform indicate. The secretariat has informed me that they have not received any request so far.

The matter raised by Sen. Cheruiyot will be revisited before the end of this sitting. Let us proceed. Next Order.

### PAPERS LAID

**Sen. Wamatangi:** Mr. Speaker, Sir, I beg to lay the following papers on the Table of the Senate today, Tuesday, 11<sup>th</sup> May 2021.

#### THE CBK ANNUAL REPORT FOR 2019

#### The Central Bank of Kenya Annual Report 2019

#### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY EXECUTIVES AND COUNTY ASSEMBLIES

Report of the Auditor General on the Financial Statements of the County Executive of Kwale for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of the County Assembly of Kwale for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of the County Executive of Kirinyaga for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of Kirinyaga County Assembly for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Executive of Marsabit for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of the County Assembly of Marsabit for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of the County Executive of Mombasa for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of the County Assembly of Mombasa for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Executive of Isiolo for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Assembly of Isiolo for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Executive of Busia for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Assembly of Busia for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Executive of West Pokot for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Assembly of West Pokot for the year ended 30<sup>th</sup> June, 2019;

Report of the Auditor General on the Financial Statements of County Assembly of Kakamega for the year ended 30<sup>th</sup> June, 2019; and

Report of the Auditor General on the Financial Statements of County Executive of Kakamega for the year ended 30<sup>th</sup> June, 2019.

Mr. Speaker, Sir, I beg to lay.

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

**The Speaker** (Hon. Lusaka): Next Order.

## **BILLS**

### *First Reading*

THE STREET VENDORS (PROTECTION OF LIVELIHOOD)  
BILL (SENATE BILLS NO.7 OF 2021)

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

### *First Reading*

THE COUNTY HALL OF FAME (SENATE BILLS NO. 9 OF 2021)

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

### *First Reading*

THE OFFICE OF THE COUNTY PRINTER BILL  
(SENATE BILLS NO. 13 OF 2021)

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

### *First Reading*

THE DISASTER RISK MANAGEMENT BILL  
(SENATE BILLS NO. 14 OF 2021)

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

*First Reading*THE LAW OF SUCCESSION (AMENDMENT)  
BILL (SENATE BILLS NO.15 OF 2021)

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

**POINT OF ORDER**ALLEGED DISREGARD OF COURT ORDER STOPPING  
THE REMOVAL OF SEN. (DR.) MWAURA

**Sen. Cheruiyot:** On a point of order, Mr. Speaker Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Cheruiyot?

**Sen. Cheruiyot:** Mr. Speaker, Sir, I raised an issue earlier to which I did not hear your response. I raised a point of order with reference to the court order that was served to your office. It is important for this House to know whether you received the court order or not. For purposes of record, I would also like to know the reasons why you have chosen to disregard a valid court order.

**The Speaker** (Hon. Lusaka): I have not received any court order so far. What I used to give a directive was information from the legal team, which arrived at the decision to give the information that was required under Article 56(a).

**Sen. Kihika:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Kihika?

**Sen. Kihika:** Mr. Speaker, Sir, I do not know how we are going to have this sitting properly because there are several Members online who would like to take part in the proceedings, but the system is faulty. The biggest concern that I would like addressed before we proceed is what happened to the pre-existing court order that Sen. (Dr.) Mwaura had served your office. We will bring a copy of the same court order in the Senate Chamber in the next few minutes. I, therefore, ask that we do not proceed, until the issue is determined.

**Sen. Pareno:** On a point of order, Mr. Speaker, Sir,

**The Speaker** (Hon. Lusaka): There is a point of order from Sen. Pareno.

**Sen. Pareno:** Mr. Speaker, Sir, it is unfortunate that we have to discuss what has happened to Sen. (Dr.) Mwaura. I heard you make a Communication and ruling. I am wondering whether Sen. Kihika is in order to ask for another ruling on that. I am not saying we are not concerned with what has happened to Sen. (Dr.) Mwaura. However, the Standing Orders of this House must be observed.

**Sen. Kang'ata:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Kang'ata?

**Sen. Kang'ata:** Mr. Speaker, Sir, allow me first to declare my interest in this issue. Sen. (Dr.) Mwaura happened to be my best man in my wedding. It, therefore, goes without saying I need to be heard on this issue.

Give us guidance on how you came up with that communication, taking into account that there is an existing court order. There are several steps that have to predicate your decision before you render it. I expect that you will consider tabling before us the correspondence from the Independent Electoral and Boundaries Commission (IEBC) and the Tribunal. I also expect an explanation as to why a valid court order has been disregarded by the political party, the IEBC and the Senate, such that my personal friend is no longer a Member of this honourable Senate.

If we allow your communication to stand, we shall be setting a very dangerous precedence in this House. Next time it will be you or me, where the Executive uses its power to deny, de-whip and denominate our fellow colleague.

I urge the hon. Senators to, please, rise and stamp our authority on behalf of Sen. (Dr.) Mwaura. It is now that he needs us. Next time it will be another person in a similar predicament. Notwithstanding our political differences, let us stand for our colleague.

**Sen. Murkomen:** Mr. Speaker, Sir, as a matter of fact, I have been raising this point of order for some time now. First of all, on the issue of Sen. (Dr.) Mwaura, it will be unfortunate if you are going to disregard an existing High Court order up to 20<sup>th</sup> May, 2021, to preserve the rights of Sen. (Dr.) Mwaura.

I would expect that you would handle differently a matter that involved removal of a fellow Senator. Why would you be so much in a hurry without the proper decision of the courts to remove someone who has been elected? Let us stop the stories of 'nominated' Senators. There is no deference between those who were elected through party lists and those who were elected by votes like myself. The Constitution treats all of us equally.

Why would you want to be in such a hurry to de-gazette a colleague, when a legal process is ongoing; when a similar process in the National Assembly overthrew the whole process up to now at the Court of Appeal?

There could be other grounds for expediting processes such as our removal, which happened one year ago, but we are still waiting for your ruling. However, when it comes to complete removal of a Member, not from position, but Parliament, you should not have acted in such a hurry, especially against an existing order of the High Court that is in place up to 20<sup>th</sup>, May, 2021.

I believe that the Clerks and your office should have given you a different advice. I can see you are extending that blame to somebody else, but the decision is yours. Before taking that decision, you should have spent time to consult the relevant documentation.

It will be sad if, as a Senate, you become the first Speaker under the Constitution of Kenya, 2010 to violate it by removal of a colleague.

Mr. Speaker, Sir, I urge you to reconsider that stand.

**Sen. (Prof.) Kindiki:** Mr. Speaker, Sir, with tremendous respect, I request you to reconsider your decision. There would be nothing inferior or untoward if you reconsidered it. In the matter of Sen. (Dr.) Isaac Mwaura, this is the first time in the history of Kenya that a Member of the House has lost office through this process.

Secondly, I know arguments have been made about the court order. I concur with those arguments, except to say this is the only area where I concur with courts injunctioning Parliament, because I have already made my position clear on injunctions and the two Arms of Government; the Legislature and the Executive.

I have always argued in the past, the present and the future that the Judiciary cannot injunct Parliament in its legislative role, but in quasi-judicial or administrative roles, injunctions are quite legal. If there is a court order, it needs to be complied with. Secondly, I see no hurry in chasing a colleague. As the Speaker of this House, Sen. (Dr.) Mwaura is our colleague.

Finally, I wish to go on record that this a travesty of justice, whatever decision you take. I hope the people of Kenya are taking notice of how we are observing the Constitution that they passed. If we are disregarding it, nothing will prevent us from even undermining the amendments we are considering this afternoon.

Mr. Speaker, Sir, I beg you respectfully to reconsider your decision.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. It is sad to discuss our colleague. You have the discretion, at any point in time, to reconsider and relook at your decision.

Sen. Mwaura showed me a pre-existing court order that was up to 20<sup>th</sup> May, 2021. Since you are our father, you are supposed to protect all of us. You are our last line of defence. We expect that when anything comes before you, especially on your colleagues Senators, being our leader in this House, you will take time to consult and relook.

The advantage that existed is that you already had a court of order in place. You being a seasoned administrator and leader, you should have relooked at those issues that exist on the table. If you allow this to slide, it is a threat to democracy. If a person will disagree with the opinion of the party or anybody else who has the power, they will be removed. My worry goes to our nominated colleagues. They will be threatened and thereafter donate their brains and minds to somebody else so as not to make decisions that can run foul against the owners of a party.

It is good that the fighters of the second liberation and democracy, for example, Sen. Orengo, are in the House. We must be careful. I beseech and beg of you because Sen. Isaack Mwaura is one of us.

Finally, today we are considering the Constitutional (Amendment) Bill which we are told will address issues of marginalization of the underprivileged in the society. Sen. Mwaura was nominated to represent people living with disability. We should not undermine what we are supposed to be considering as part of inclusivity. Sen. Mwaura was representing a special section of this society. Therefore, it will be unfortunate for us to undermine the aspect of the special interest group.

This issue is not only about the Majority or Minority side. As a House, we need to stand with one of us just the way we stood when, Sen. Linturi, Sen. (Dr.) Langat and Sen. Lelegwe and many others were arrested. The House was suspended until the matter was heard.

Mr. Speaker, Sir, I congratulate you for standing for our best interest as a House. Therefore, as our father, seasoned administrator, leader and our last defence, this a serious matter.

You need to reconsider and relook at your decision. This is because a mischievous person in the IEBC can go ahead to de-gazette, Sen. Mwaura, and gazette somebody else using the strength of your decision. This House has *quasi-judicial* powers. So, I beseech and beg of you. This is about one of us. We look up to you to provide appropriate guidance and ensure that justice is served.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, this matter is unfortunate, but we have ourselves to blame. I want to be forthright with the Members here. I have always pleaded that this House has to comply with court orders.

I raised this issue when we had a court order in the matter concerning the impeachment of the Governor for Taita Taveta and the House declined to obey that court order. We cannot choose which court order to obey or not. We cannot argue that a court order is legislative or not.

In accordance with Article 10, a court order is a court order. I still believe that if we want to become a nation governed by laws, the first principle is to obey court orders. We have not been faithful to this fundamental requirement of the law.

We also have a court order on the impeachment of the Governor of Wajir, but we said Parliament cannot be enjoined. I do not believe that Parliament cannot be enjoined. Parliaments are enjoined worldwide. For example, there are many court orders in the House of Representatives and the Senate in the United States of America (USA).

In the Supreme Courts of England, there were proceedings challenging active proceedings in the House of Commons and House of Lords. It was presided over by an honoured Lady Chief Justice. Parliament was enjoined and the issue remained there until the appeal process was completed.

So, I plead that you cannot elect and chose which orders to obey or not. Right now, we have orders against the National Assembly and it is complying with them in the matter which is in the Court of Appeal. However, we are on record saying that court orders mean nothing.

I think it is an unfortunate state of affairs. Not even during the Kenya African National Union (KANU) rule would somebody say that you cannot obey court orders. You have to blame yourselves. You have said it on record. In fact, I was writing some article based on the two decisions which are here.

If you remember, the former Deputy Speaker (Sen. (Prof.) Kindiki, made a landmark ruling where he said that we cannot obey court orders. That is on record. I believe that questions of human rights are fundamental and central to our system of constitutionalism. Whenever there is an allegation or threat to a violation of fundamental rights, the courts can intervene.

I remember a Parliament in South Africa trying through Committees, a Member of the Democratic Party which was a minority party. The parliamentarians said that they can disregard court orders because they wanted to kick the MP out. However, the High Court, sitting in Cape Town, intervened and Parliament was enjoined.

Mr. Speaker, Sir, we have to be consistent. We should settle this question on whether court orders matter or not. So, when it pleases us, we say that there is a court order. However, when it does not, we say that court orders can go to hell. We have to be consistent.



Mr. Speaker, Sir, we now have two sets of documents. A letter from the lawyer purportedly serving your office with a court order which is dated today and another letter dated 10<sup>th</sup> March. All these papers should be placed before you.

I have a lot of sympathy for Sen. (Dr.) Mwaura. I can even go and intervene for him in court just like I did in the case of, Sen. Wetangula, when he was maliciously removed. In fact, he was being removed by an order of the court. We argued and said that the court order was not good enough for his removal. Sen. Wetangula will confirm that. This time, I am ready and prepared.

Last week, I made a speech and said that you have a right to protect me and I also have a right to protect you. This is one of our own. We should find a better way to protect him.

Mr. Speaker, Sir, the only problem that you have is that there is a gazette notice. Sen. Wako will tell you that in law, they would say that you are *functus officio*.

The law does not allow you to recall your decision in matters like this, when it is already gazetted. However, I know how this decision can be recalled, but not by you. No, because it is *functus officio*. He cannot.

(Laughter)

That is a fundamental principle of law and Sen. (Prof.) Kindiki knows that in this circumstance, you are *functus officio*. You cannot pretend to be doing anything. You will be in a lot of trouble if you were to revise this decision which you have already made and is gazetted.

I had a little discussion with Sen. (Dr.) Mwaura outside – let me be open – and I told him what exactly should be done. Pleading here with you in this kind of circumstances is lamentation. You better get all the papers and see when you were served and if it was before this gazette notice. Also, get the order of stay. Does it stay your decision? We need to get all these details for you to make a decision.

I plead that we should sit together and find a way to help because Sen. (Dr.) Mwaura is one of our own. We are not going to help by pleading with you, when the thing is already in the gazette notice. By the way, not even the President of the Republic of Kenya can do that. Once he gazettes something under an instrument of the law, it is over.

**The Speaker** (Hon. Lusaka): Sen. Wetangula, proceed.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir, for this opportunity. I join my colleagues who have extended a heart of sympathy to Sen. (Dr.) Mwaura, who has fallen victim of the implosion in his party.

Sen. Orengo has put it very well. When I was maliciously pursued to the extent where the Supreme Court directed that my name be struck off the voters' roll and directed the IEBC to effect the order, first my case is slightly different. Nothing was gazetted, but we went to IEBC and they formed a tribunal chaired by a lawyer, Mr. Letangule, Mrs. Mahiri Zaja and Mr. Alawi. They made a decision that was probably more sound than the decision we got from the High Court. They protected my rights,

having won openly and convincingly in an election to be taken away by some malicious pursuit.

Mr. Speaker, Sir, in this particular case, I share the same views with Sen. Orengo. One, you have made the Communication from the Chair, which you say you have been advised by Senate lawyers and you have quoted a Gazette Notice. I can tell you that in law, if you try to reverse your decision, you will be in serious trouble. I do not think you have made that Communication either maliciously or ignorantly because you have quoted the Gazette Notice.

I advise my good friends, Sen. Cheruiyot and Sen. Murkomen who can give *pro bono* services to Sen. (Dr.) Mwaura; and, my distinguished colleague, Sen. (Prof.) Kindiki, a fine lawyer in his own right and who traces his roots in law partly from me; that the best you can and should do is look at the Constitution. It says that you cannot be disenfranchised until you have exhausted all the machinery and steps of appeal. I do not know if Sen. (Dr.) Mwaura has exhausted that.

Secondly, is to go to court and fight ferociously. Some of us who stand for rights of others are available, if we are requested to lend a hand and our brain to expunge and annul the Gazette Notice. Neither the Government Printer, the Speaker of this House nor any person other than the High Court can expunge that Gazette Notice and go back to the status quo ante, then Sen. (Dr.) Mwaura's position will be saved.

We can debate here for the next one hour and say many things with very colourful language and quote the law, Shakespeare, Greeks and everybody.

*(Laughter)*

Eventually, it is a matter of application of the law. I agree with Sen. Orengo that we finally need to agree as a House, whether court orders matter or not.

Sen. Cheruiyot, you avoided to mention, but it is me who said here last week that this House has benefitted immensely from court processes. I dare say that our Advisory Opinion and several forays in court is what has given dignity, standing, presence and respect to this House. Otherwise, we would have been overrun. We have enemies from every direction, but courts have been our first and last line of defense.

**The Speaker** (Hon. Lusaka): Hon. Senators, I have listened and heard. The only thing I can confirm is one, as at the time I sat here, I had not seen any court order because you remember we came here at 10.00 a.m.

Two, on Tuesday, I will avail all the documents that led to that decision because there are also other pending petitions in my office where action has not been taken. There must be a reason why action has not been taken. On Tuesday, I promise to show you all the documentation I have that led to that process.

Next Order.

## BILL

### *First Reading*

#### THE PROMPT PAYMENT BILL

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(SENATE BILLS NO. 16 OF 2021)

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

Let us move to the next Order.

### COMMITTEE OF THE WHOLE

*(Order for Committee read)*

*[The Speaker (Hon. Lusaka) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Chairperson (Sen. Nyamunga) in the Chair]*

THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

**The Temporary Chairperson** (Sen. Nyamunga): Hon. Senators, kindly, take your seats. We are now in the Committee of the Whole to consider the Constitution of Kenya (Amendment Bill), 2020.

*(Loud consultations)*

Order, hon. Senators!

*Clauses 2-10*

*(Question, that Clauses 2-10  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*Clauses 11-20*

*(Question, that Clauses 11-20  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*Clauses 21-30*

*(Question, that Clauses 21-30  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

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*(Loud consultations)*

Hon. Senators, if you need to communicate, kindly, do it in low tones. Sen. Malalah and Sen. M. Kajwang', we need some order, please.

*Clauses 31-40*

*(Question, that Clauses 31-40  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division will be at the end.

*Clauses 41-50*

*(Question, that Clauses 41-50  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*Clauses 51-60*

*(Question, that Clauses 51-60  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*Clauses 61-70*

*(Question, that Clauses 61-70  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*Clauses 71-74*

*(Question, that Clauses 71-74  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*The First Schedule*

*(Question, that the First Schedule  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

*The Second Schedule*

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*(Question, that the Second Schedule  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): The Division will be at the end.

*The Title and Clause 1*

*(Question, that the Title and Clause 1  
be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Nyamunga): Division at the end.

Hon. Senators, we are at the end of the clauses. I direct that the Division Bell be rung for two minutes.

*(The Division Bell was rung)*

**The Temporary Chairperson** (Sen. Nyamunga): Hon. Senators, kindly, take your seats.

Hon. Senators, the Speaker ruled in the morning that there will be no amendments. Therefore, we proceed directly to put the question.

*(Question put)*

*(Loud consultations)*

**The Temporary Chairperson** (Sen. Nyamunga): Can I put the question again? The voting is 'yes' or 'no.'

Hon. Senators, you will vote once. I want to put the question again.

*(Question put)*

*(Roll call voting in progress)*

## **DIVISION**

### **ROLL CALL VOTING**

*(Question, that Clauses 1 – 74, First Schedule, Second Schedule, Clause 1 and Title be  
part of the Bill put and the Senate proceeded to vote)*

**AYES:** Sen. (Dr.) Ali; Sen. Boy; Sen. Chebeni; Sen. Dullo; Sen. Faki; Sen. Farhiya; Sen. A. Haji; Sen. Halake; Sen. (Eng.) Hargura; Sen. (Prof.) Kamar; Sen. Kasanga; Sen. Kavindu Muthama; Sen. Khaniri; Sen. Kibiru; Sen. Kinyua; Sen.

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Kwamboka; Sen. M. Kajwang'; Sen. (Eng.) Mahamud; Sen. Madzayo; Sen. (Eng.) Maina; Sen. Malalah; Sen. (Dr.) Mbiti; Sen. (Dr.) Milgo; Sen. Mugo; Sen. Moi; Sen. Mpaayei; Sen. (Dr.) Musurube; Sen. Mutula Kilonzo Jnr.; Sen. Mwangi; Sen. Mwaruma; Sen. Ndwiga; Sen. Nyamunga; Sen. (Dr.) Ochillo-Ayacko; Sen. Olekina; Sen. Omogeni; Sen. (Prof.) Ongeru; Sen. Orendo; Sen. Outa; Sen. Pareno; Sen. Poghisio; Sen. Prengei; Sen. Sakaja; Sen. Shiyonga; Sen. Wako; Sen. (Rev.) Waqo; Sen. Wamatangi; Sen. Wambua; Sen. Were; Sen. Wetangula; Sen. (Dr.) Zani and Sen. Zawadi.

**Teller of the Ayes:** Sen. Shiyonga.

**NOES:** Sen. Cherargei; Sen. Cheruiyot; Sen. Iman; Sen. Omanga; Sen. Kang'ata; Sen. Kihika; Sen. (Prof.) Kindiki; Sen. (Dr.) Langat; Sen. (Dr.) Lelegwe; Sen. Linturi; and, Sen. Murkomen.

**Teller of the Noes:** Sen. (Dr.) Milgo.

**ABSTENTION:** Sen. Seneta

**The Temporary Chairperson** (Sen. Nyamunga): Honorable Senators, the results are as follows:

**AYES:** 51

**NOES:** 11

**ABSTENTIONS:** 1.

The "Ayes" have it.

**The Temporary Chairperson** (Sen. Nyamunga): Mover, please proceed.

**The Senate Majority Leader** (Sen. Poghisio): Madam Temporary Chairperson, I beg to move that the Committee do report to the Senate its consideration of the Constitution of Kenya (Amendment) Bill, 2020 and its approval thereof without amendments.

*(Loud consultations)*

**The Temporary Chairperson** (Sen. Nyamunga): Hon. Senators, let us have some order please.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we have now resumed the House for reporting.

Chairperson.

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**Sen. Nyamunga:** Madam Deputy Speaker, I beg to report that the Committee of the Whole has considered the Constitution of Kenya (Amendment) Bill (2020) and its approval thereof without amendments.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Mover.

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, I beg to move that the House do agree with the Committee on the said report, and ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

**Sen. Cherargei:** On a point of order, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): What is your point of order, Sen. Cherargei?

**Sen. Cherargei:** Madam Deputy Speaker, out of curiosity, there are people who are voting virtually. How will we know how they are voting? Most of those who oppose the Report are voting virtually, and they are online.

In future, I do not know how we will work with the Standing Orders, since we are voting virtually. We doubt the validity of the vote. With all due respect---

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, that does not sound like a point of order.

**An. hon. Senator:** It is!

**The Deputy Speaker** (Sen. (Prof.) Kamar): It is not because we are using a hybrid system and have seen everybody who has voted. The procedure on how to vote virtually is okay. Anything else, we can discuss later.

### THIRD READING

#### THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon Senators, we will again do a Roll Call Vote.

Mover.

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, I beg to move that The Constitution of Kenya (Amendment) Bill (2020) be now read a Third Time, and ask the Senate Minority Leader to second.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, I beg to second; that the Bill be now read a Third Time.

*(Question proposed)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I will now put the Question; that The Constitution of Kenya (Amendment) Bill (2020) be now read a Third Time.

We will do Roll Call voting. While the tellers come forward, can we ring the Division Bell for two minutes?

*(The Division Bell was rung)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we will do Roll Call voting.

*(The Senators proceeded to vote)*

*(Roll call voting in progress)*

**The Clerk-at-the-Table:** Sen. Cherargei Samson

**Sen. Cherargei:** I, Cheragei Kiprotich Samson, on behalf of the beloved people of Nandi County and in the spirit of Koitalel Arap Samoei and Jean Marie Seroney, I vote no to this deception.

**The Clerk-at-the-Table:** Sen. Cheruiyot Aaron.

**Sen. Cheruiyot:** Madam Deputy Speaker, on behalf of the people of Kericho, we say no to this attempt at mutilation of our Constitution.

**The Clerk-at-the-Table:** Sen. Gona Christine Zawadi

**Sen. Zawadi:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the-Table:** Sen. Haji Abdikadir Mohamed.

**Sen. Haji Abdikadir:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the-Table:** Sen. Haji Farhiya Ali.

**Sen. Farhiya:** I vote yes.

**The Clerk-at-the-Table:** Sen. Halakeh Abshiro Soka

**Sen. Halakeh:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the-Table:** Sen. (Eng.) Hargura Godana

**Sen. (Eng.) Hargura:** I vote yes.

**The Clerk-at-the-Table:** Sen. Iman Falhada Dekow

**Sen. Iman:** I vote no.

**The Clerk-at-the-Table:** Sen. (Prof.) Imana Malachi Charles Ekal

**The Clerk-at-the-Table:** Sen. (Dr.) Inima Getrude Musuruve

**Sen. (Dr.) Musuruve:** Madam Deputy Speaker, on behalf of Persons with Disabilities (PWDs) in this nation, I vote yes.

**The Clerk-at-the-Table:** Sen. Kajwang' Moses Otieno

**Sen. Kajwang' M.:** Madam Deputy Speaker, on behalf of Homa Bay County I vote yes.

**The Clerk-at-the-Table:** Sen. (Prof.) Kamar Margret

**The Deputy Speaker** (Sen. (Prof.) Kamar): I vote yes.



**The Clerk-at-the-Table:** Sen. Kang'ata Irungu.

**Sen. (Dr.) Kang'ata:** Madam Deputy Speaker, taxes will be increased to support a double decker Parliament. We will need an extra Kshs20 billion to support new institutions which are being created by the Building Bridges Initiative (BBI), and therefore, I vote no because Murang'a businesses' will be overtaxed.

**The Clerk-at-the-Table:** Sen. Kasanga Sylvia

**Sen. Kasanga:** Madam Deputy Speaker, I vote yes.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Have you voted? Can we hear your voice?

**Sen. Kasanga:** Madam Deputy Speaker, I vote yes.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, please, be quiet so that we can hear to people online.

*(Loud consultations)*

*(Laughter)*

Sen. Kasanga, please vote.

**Sen. Kasanga:** Madam Deputy Speaker, I vote yes.

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

Hon. Senators, please take your seats so that we can hear those online.

Thank you.

**The Clerk-at-the-Table:** Sen. Khaniri George.

**Sen. Khaniri:** Madam Deputy Speaker, for and on behalf of the great people of Vihiga, I vote yes.

**The Clerk-at-the-Table:** Sen. Kibiru Charles

**Sen. Kibiru:** Can I also vote for Meru?

Kirinyaga votes yes.

**The Clerk-at-the-Table:** Sen. Kihika Susan

**Sen. Kihika:** Madam Deputy Speaker, I vote no.

**The Clerk-at-the-Table:** Sen. Kilonzo Mutula Jnr.

**Sen. Mutula Kilonzo Jnr.:** Makueni County votes yes.

**The Clerk-at-the-Table:** Sen. Kimani Wamatangi.

**Sen. Wamatangi:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the-Table:** Sen. (Prof.) Kindiki Kithure

**Sen. (Prof.) Kindiki:** Madam Deputy Speaker, certainly I vote no

**The Clerk-at-the-Table:** Sen. Kirinyaga Ephraim Mwangi Maina

**Sen. (Eng.) Maina:** I vote yes.

Can you hear me?

**The Clerk-at-the-Table:** Sen. (Dr.) Langat Chirstopher Andrew

**Sen. (Dr.) Langat:** Madam Deputy Speaker, on behalf of the people of Bomet who love the truth, I say no to this impunity.

**The Clerk-at-the-Table:** Sen. (Dr.) Lelegwe Letumbesi

**Sen. (Dr.) Lelegwe:** Madam Deputy Speaker, on behalf of the people of Samburu who will lose Kshs1.3 billion when this Bill passes, I vote no.

**The Clerk-at-the-Table:** Sen. Linturi Mithika

**Sen. Linturi:** A definite no.

**The Clerk-at-the-Table:** Sen. Loitiptip Anwar

**The Clerk-at-the-Table:** Sen. Lokorio Petronilla Were

**Sen. Were:** On behalf of the women on Kenya, the people of Busia County and the people of Baringo County, I vote yes.

**The Clerk-at-the-Table:** Sen. Madzayo Steward

**Sen. Madzayo:** I vote yes.

**The Clerk-at-the-Table:** Sen. (Eng.) Mahamud Mohamed Maalim

**Sen. (Eng.) Mahamud:** I vote yes.

**The Clerk-at-the-Table:** Sen. Makori Beatrice Kwamboka

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Kwamboka, you are on mute. Unmute.

Sen. Kwamboka, we cannot hear you. Please, unmute.

**Sen. Kwamboka:** I have unmuted.

**The Deputy Speaker** (Sen. (Prof.) Kamar): We can now hear you.

**Sen. Kwamboka:** On behalf of Orange Democratic Movement (ODM), the women of Kenya and the Nairobi women, I proudly vote yes.

**The Clerk-at-the-Table:** Sen. Malalah Cleophas Wakhungu

**Sen. Malalah:** I vote yes.

**The Clerk-at-the-Table:** Sen. Masitsa Naomi Shiyonga

**Sen. Shiyonga:** Come and sanitise this.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us continue while we wait for the sanitiser.

**Sen. Shiyonga:** Madam Deputy Speaker, for the benefit of women in this Republic of Kenya, for this Constitution and on my behalf, I want to say that I vote yes and support *baba* and His Excellency Uhuru Kenyatta.

Thank you.

**The Clerk-at-the-Table:** Sen. (Dr.) Mbito Michael Maling'a

**Sen. (Dr.) Mbito:** Madam Deputy Speaker, Trans Nzoia County votes yes.

**The Clerk-at-the-Table:** Sen. (Dr.) Mbogo George Ochillo-Ayacko

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Ochillo-Ayacko, please unmute. We cannot hear you.

Please unmute. You are still on mute.

Senators, please take your seats. Let us move on.

**The Clerk-at-the-Table:** Sen. (Dr.) Milgo Alice

**Sen. (Dr.) Milgo:** Madam Deputy Speaker, on behalf of the great people of Bomet County who are gaining money and two new extra constituencies, I vote a big yes to BBI.

**The Clerk-at-the-Table:** Sen. Omogeni Erick Okong'o

**Sen. Omogeni:** Madam Deputy Speaker, on behalf of the people of Nyamira, I vote yes.

**The Clerk-at-the-Table:** Sen. Moi Gideon

**Sen. Moi:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Philip Mpaayei Salau.

**Sen. Mpaayei:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Mugo Beth Wambui

**Sen. Mugo:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Murkomen Kipchumba.

**Sen. Murkomen:** Madam Deputy Speaker, for the third time and in the best interest of our great Republic and for posterity, I vote a big---

**The Deputy Speaker** (Sen. (Prof.) Kamar: Sen. Murkomen, we are not able to see you.

**Sen. Murkomen:** Madam Deputy Speaker, can you hear me?

**The Deputy Speaker** (Sen. (Prof.) Kamar: Yes, but we want to see your face.

**Sen. Murkomen:** Madam Deputy Speaker, as I said, for the third time and on behalf of the people of Kenya and for posterity, for the good of the nation and for history to remember us, I vote a big no.

**The Clerk-at-the Table:** Sen. Muthama Agnes.

**Sen. Kavindu Muthama:** Madam Deputy Speaker, on behalf of the people of Machakos, we have received three constituencies and we cannot afford to lose them and many other benefits, I vote yes.

**The Clerk-at-the Table:** Sen. Mwangi Paul Githiomi.

**Sen. Mwangi:** Madam Deputy Speaker, I vote yes.

*(Loud consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, please your consultations must be low enough for those online to be heard.

**The Clerk-at-the Table:** Sen. Mwaruma Johnes Mwashushe.

**Sen. Mwaruma:** Madam Deputy Speaker, Taita-Taveta votes yes.

**The Clerk-at-the Table:** Sen. Mwinyi Haji Mohamed Faki.

**Sen. Faki:** Madam Deputy Speaker, Mombasa votes yes.

**The Clerk-at-the Table:** Sen. Nderitu John Kinyua.

**Sen. Kinyua:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Ndwiga Peter Njeru.

**Sen. Ndwiga:** Madam Deputy Speaker, on behalf of the great people of Embu County, and on behalf of those who know the history of this country, I vote yes.

**The Clerk-at-the Table:** Sen. Nyamunga Rose.

**Sen. Nyamunga:** Madam Deputy Speaker, on behalf of the people of Kisumu, I vote yes.

**The Clerk-at-the Table:** Sen. Olekina Ledama.

**Sen. Olekina:** Madam Deputy Speaker, once again, this being a Bill by popular initiative I am confident that the vote of consciousness lies not with me, but with the registered voters who shall have their say in the referendum. I exercise my duty on behalf of the County of Narok by passing this Bill to the voters and thus, I vote yes.

**Hon. Senators:** We have not even heard what he said. He has not voted.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Olekina, we have not heard your vote.

**Sen. Olekina:** Madam Deputy Speaker, I said once again this is not a conscious vote which---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Can we hear your vote? Do not repeat everything. We have heard everything. Make the vote.

**Sen. Olekina:** I am voting yes to pass this Bill to them, for them to determine their future in the referendum. So, I vote yes.

**The Clerk-at-the Table:** Sen. Omanga Millicent.

**Sen. Omanga:** Bi Spika wa Muda, kwa niaba ya walalahoi, wanyonge, mahustler na single mothers wa Kenya hii, napiga La.

*(Loud Consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, please, can we consult in low tones so that we can complete?

**The Clerk-at-the Table:** Sen. Onger Samson.

**Sen. (Prof.) Onger:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Orengo James.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Fredrick Outa Otieno.

**Sen. Outa:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Pareno Judith.

**Sen. Pareno:** Madam Deputy Speaker, for the sake of Kajiado County, the women, my party ODM that believes in devolution, peace and prosperity of this country, I vote yes.

**The Clerk-at-the Table:** Sen. Poghisio Samuel.

**Sen. Poghisio:** Madam Deputy Speaker, on behalf of the people of West Pokot, I vote yes.

**The Clerk-at-the Table:** Sen. Victor Prengei.

**Sen. Prengei:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Sakaja Johnson.

**Sen. Sakaja:** Madam Deputy Speaker, on behalf of the 4.3 million residents of Nairobi City County who deserve adequate representation hence the 12 more constituencies; on behalf of the urban poor who deserve more resources hence Kshs40 billion for Nairobi, I vote yes.

**The Clerk-at-the Table:** Sen. Seneta Mary Yiane.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Seneta, please come online and vote.

**Sen. Seneta:** Madam Deputy Speaker, I choose to abstain.

**The Clerk-at-the Table:** Sen. Wako Amos.

**Sen. Wako:** Madam Deputy Speaker, I vote yes.

**The Clerk-at-the Table:** Sen. Wambua Enock.

**Sen. Wambua:** Madam Deputy Speaker, because a decision has been made that the final decision on the fate of this Bill lies with the people of Kenya, to facilitate a smooth passage of this Bill to the final decision-makers, I vote yes.

**The Clerk-at-the Table:** Sen. Waqo Naomi Jilo.

**Sen. Waqo:** I vote yes.

**The Clerk-at-the Table:** Sen. Wario Golich Juma.

**Sen. Wario:** Madam Deputy Speaker, I vote no.

**The Clerk-at-the Table:** Sen. Wetangula Moses.

**Sen. Wetangula:** Madam Deputy Speaker, on behalf of myself, Ford-Kenya Party and One Kenya Alliance, I vote yes.

**The Clerk-at-the Table:** Sen. Zani Agnes.

**Sen. (Dr.) Zani:** I vote yes.

**The Clerk-at-the Table:** Sen. Ali Abdullahi Ibrahim.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Ali, you seem to be muted,

**Sen. (Dr.) Ali:** I am not muted. I do not know what is happening, but I vote yes.

**The Clerk-at-the Table:** Sen. Iman Malachy Charles Ekal?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Ekal, we have not seen you.

Sen. Ekal and Sen. (Dr. Ochillo-Ayacko please come back online.

**The Clerk-at-the Table:** Sen. Loitiptip Anuar.

Sen. Mbogo Ochillo-Ayacko.

**Sen. (Dr.): Ochillo-Ayacko:** Madam Deputy Speaker, can you now hear me?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Yes, we can.

**Sen. (Dr.) Ochillo-Ayacko:** I Dr. Mbogo Ochillo-Ayacko of Migori County--- can you hear me?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Senator, just vote. You are clear.

**Sen. (Dr.) Ochillo-Ayacko:** I vote yes.

Senators Ekal and Loitiptip, please vote if you are online.

**Sen. Wario:** Madam Deputy Speaker---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Is that Sen. Loitiptip?

**Sen. Wario:** This is Sen. Wario.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Wario we heard you. We are looking for Sen. (Prof.) Ekal. Sen. Loitiptip and Sen. (Prof.) Ekal, you have the last chance.

Let us just proceed to count the votes.

## DIVISION

### ROLL CALL VOTING

*(Question, that the Constitution of Kenya (Amendment) Bill 2020  
be now read a Third Time, put and the Senate proceeded to vote)*

**AYES:** Sen. (Dr.) Ali, Sen. Boy, Sen. Chebeni, Sen. Dullo, Sen. Faki, Sen. Farhiya, Sen. A. Haji, Sen. Halake, Sen. (Eng.) Hargura, Sen. Kajwang' M., Sen. (Prof.) Kamar, Sen. Kasanga, Sen. Kavindu Muthama, Sen. Khaniri, Sen. Kibiru, Sen. Kinyua, Sen. Kwamboka, Sen. Madzayo, Sen. (Eng.) Mahamud, Sen. (Eng.) Maina, Sen. Malalah, Sen. (Dr.) Mbiti, Sen. (Dr.) Milgo, Sen. Moi, Sen. Mpaayei, Sen. Mugo, Sen. (Dr.) Musurube, Sen. Mutula Kilonzo Jnr., Sen. Mwangi, Sen. Mwaruma, Sen. Ndwiga, Sen. Nyamunga, Sen. (Dr.) Ochillo-Ayacko, Sen. Olekina, Sen. Omogeni, Sen. (Prof.) Ongeru, Sen. Orendo, Sen. Outa, Sen. Pareno, Sen. Poghisi, Sen. Prengei, Sen. Sakaja, Sen. Shiyonga, Sen. Wako, Sen. Wamatangi, Sen. Wambua, Sen. (Rev.) Waqo, Sen. Were, Sen. Wetangula, Sen. (Dr.) Zani, and, Sen. Zawadi.

**Teller of the Ayes:** Sen. (Dr.) Milgo

**NOES:** Sen. Cherargei, Sen. Cheruiyot, Sen. Iman, Sen. Kang'ata, Sen. Kihika, Sen. (Prof.) Kindiki, Sen. (Dr.) Langat, Sen. (Dr.) Lelegwe, Sen. Linturi, Sen. Murkomen, Sen. Omanga and Sen. Wario.

**Teller of the Noes:** Sen. Shiyonga

**ABSTENTION:** Sen. Seneta.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, we now have the results of the vote. The results of the Division are as follows-

**AYES:** 51

**NOES:** 12

**ABSTENTIONS:** 1

The "Ayes" have it.

*(Question carried by 51 votes to 11)*

*(The Bill was accordingly read a Third Time and passed)*

## POINT OF ORDER

### SENATORS' COMMENTS ON THE PASSAGE OF THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

**The Deputy Speaker** (Sen. (Prof.) Kamar): I can see Sen. (Prof.) Ongeru wants to say something.

**Sen. (Prof.) Ongeru:** Madam Deputy Speaker, I just want to comment that we have done this voting in solidarity based of what we think the BBI will put on the table. We have made some relevant comments particularly in my area where there is one of the most deserving constituency that needs to be split into two. That is Bobasi Constituency.

I have pleaded that when this goes for the third or fourth stage, that constituency should be considered because it has a very large population and they will hugely benefit from the split. That will be a good thing to do. Going by the proposals of the Kenya National Bureau of Statistics (KNBS), we will be happy to see that captured in the foreword.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): The last one is Sen. Omogeni.

**Sen. Omogeni:** Madam Deputy Speaker, I just wanted to give some words of comfort to my good friend Sen. (Prof.) Ongeru that once we pass this Bill, it will go as it is, but in future when we review the constituencies, maybe we can think of Kisii. Sen. (Prof.) Ongeru, this is cast in stone. It will go as it is.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Senate Minority Leader.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, I want to thank the House for passing this Bill. There are many people who have very simple minds and sometimes do not understand these processes. It should be noted that the recommendations of the Joint Committee of the National Assembly and the Senate in which I sat, where senior counsel Sen. Omogeni presided over together with Hon. Muturi Kigano were made.

This report that accompanied the Bill will be a historic document. I am saying this because there are many people who do not understand what we are saying. People are saying that the role of Parliament is simply ceremonial. I want to repeat here that if the role of Parliament was ceremonial, we would not have taken time and go through three Divisions and three voice votes. I know that in the annals of history, the debates that have taken place in this Senate will form important historical documents. We should not just have it in the HANSARD, but there should be a report of the HANSARD on this debate.

Sen. Zawadi, you will be surprised that 20 years from now, when some of us will not be alive, your speech in this debate may be used in order to try and determine what prompted us to pass this Bill because we are the makers of this document unlike what some people think. So, our work and the debates here have not been in vain.

I remember reading a report on the contribution of the Kenya People's Union (KPU) during a period of time. There was a special report given at that time by the National Assembly and printed by the Government Printers. They printed the contribution of the KPU in the debates of Parliament at that time. So the work we have done here is not in vain at all and I want to commend every Member who spoke on this Bill.

Finally, I think it should be remembered, for those out there who have misunderstood us that the recommendations of the Joint Committee---

*(Loud consultations)*

Madam Deputy Speaker, there is a very noisy part of this House.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, please consult in low tones so that other Members can be heard.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, we are lucky these days because there are no people in the Gallery.

However, there was a time when there would be many Kenyans here to witness how their Members of Parliament make laws. Sometimes, what we see here is very dispiriting. We need to know that we are carrying out a very important duty. We stopped debate in this House at one time when one of us was arrested because there was an important debate on that day that we wanted all of us to participate in.

I would like to emphasize that the Joint Committee of Parliament recommended that the Constitution of Kenya (Amendment) Bill, 2020 be passed as it is. The Joint Committee made observations which became part of the debate. I hope that after passing this Bill, we have to live with it as part of our history and contribution to this country. The courts will try to determine what we meant and what we wanted to do through this enactment.

I thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Kavindu Muthama.

**Sen. Kavindu Muthama:** Madam Deputy Speaker, I thank you for giving me this opportunity. I am grateful that the Bill proposes an additional three constituencies for Machakos County. However, Masinga which is a very sparse area, will not be subdivided. I pray that the area will be considered next time and given an additional constituency.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Wetangula.

**Sen. Wetangula:** Madam Deputy Speaker, I congratulate this House in totality for the mature debate and vote that we have registered this afternoon. In the history of this House, no Bill has ever been debated as vigorously, extensively and deeply as the Bill that we have passed this afternoon. Every single Member desired to speak to the Constitution of Kenya (Amendment) Bill, 2020. The Members who did not speak to this Bill are probably less than 10.

All the Members who spoke to the Constitution of Kenya (Amendment) Bill, 2020 were constructive and even those who did not support the Bill like my distinguished colleague from Kericho County were very eloquent in their treatise.

*(Sen. Omanga made a gesture)*

Sen. Omanga is also gesturing me to acknowledge her contributions.

*(Laughter)*

Sen. Omanga made very positive contributions to the debate on the Constitution of Kenya (Amendment) Bill, 2020. After the passing of the Bill in this House, we shall no longer have those who opposed or those who supported. This is a Bill that has been passed by the Senate; we carry everybody on board. We may not have gotten everything that we wanted, but the Constitution is a living document. It is dynamic in its own nature so there will always be another time to bring on board what was left behind or correct what we think was excessive this time round. Let us move forward as one.

I would like to encourage my colleagues; Sen. Cherargei, Sen. Cheruiyot, Sen. Murkomen and every other Senator who was opposed to the Bill that as we go out to the referendum, let us move as one. Let us unite the country and be each other's keeper. That is the only way Kenya will move forward. For those who gloat in marginalizing others, when they realize that even those they are marginalizing are united with everybody, we will reform each other.



**The Deputy Speaker** (Sen. (Prof.) Kamar): Your time is up Sen. Wetangula. I am using the discretion of giving each Senator two minutes to make their remarks. I am the only time keeper today so I will stop any Member who goes beyond the two minutes.

Proceed, Sen. Cherargei.

**Sen. Cherargei:** Madam Deputy Speaker, I thank you for this discretion. From the outset, I would to remind Kenyans that if the Constitution will be amended, they should be ready for high taxation under the double decker Parliament and many others since the economy is in the Intensive Care Unit (ICU). I expected the process would have been more inclusive. However, some of us are not interested in the politics of 'us versus them'. We leave everything to the conscience of Kenyans. However, I will continue to oppose the BBI up to *mashinani*.

Kenyans were looking up to this House. Unfortunately, only 12 of us have stuck with the truth. I hope that in the fullness of time, we will be vindicated by Kenyans. If the referendum passes, Kenyans should be ready for high taxation and hard economic times.

I thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Madzayo.

**Sen. Madzayo:** Bi Naibu Spika, asante sana kwa kunipa fursa hii. Kwanza namshukuru Mwenyezi Mungu kwa kutupa uwezo wa kuketi hapa kama Maseneta na kujadiliana na hatimaye kupitisha Mswada huu wa Constitution of Kenya (Amendment) Bill, 2020. Nina uhakika kwamba tutakapoenda kwa kura ya maoni, kazi tuliyoifanya hapa imeonekana na kila mtu katika taifa letu la Kenya. Nimefurahi kwamba Maseneta wamendeleza majadiliano kwa hali ya ungwana bila kukosana na hatimaye kupiga kura na kupata muelekeo. Tumewaonyesha Wakenya muelekeo wa kufuata. Tutazidi kuwa himiza Wakenya mashhinani kupitisha Mswada huu utakapo pelekwa kwa kura ya maoni mashinani.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Sakaja, the Senator for Nairobi City County.

**Sen. Sakaja:** Madam Deputy Speaker, first of all, I would like to remember the late Sen. Yusuf Haji who spearheaded this process. He was one of our colleagues. I am sure that he is looking down at us with pride. I therefore dedicate this vote to him. This process has been long. I would also like to acknowledge Sen. Amos Wako who was also part of the BBI Steering Committee. It is important for us to understand, as a House, that our part is now done.

As Sen. Orendo has intimated, there has been a lot of innuendo out there. The Joint Committee of Parliament had a report. I was part of the Committee and registered my dissenting opinion on one issue. Ultimately, the Joint Committee agreed on the need to pass the Constitution of Kenya (Amendment) Bill, 2020 and the need to respect the will of the people. After passing of the Bill in both Houses of Parliament, it will go back to the people who will make that choice. I just pray that all of us, as leaders, will campaign peacefully because a process and a Bill that is meant to unite our people should not be a source of division going forward.

I urge all Members to watch our tone so that we do not divide this country again. Let us not have a 'we versus them' Let us go out there to campaign in the spirit of one Kenya. I would also like to appeal to colleagues, that when the time comes for us to go

out and campaign for the BBI, we should remember that COVID-19 is still there so we should not lead to another spike of infections.

Finally, I have heard many people say that the county's focus should not be on the BBI right now and that we should focus on alleviating the many problems that Kenyans are facing. This is their opportunity. Now that Parliament is done with the Bill, let us see proposals on economic cushioning. Let us receive proposals on making sure that Kenyans receive the COVID-19 vaccine. I urge fellow Members of Parliament to now focus on the priorities right now, as we let the relevant institutions; the Independent Electoral and Boundaries Commission (IEBC) and the rest to focus on the remaining part of this process. Our work is done for now on the Constitution of Kenya (Amendment) Bill, 2020. Let us now do what we must do.

I thank all Members of this House who voted for the Constitution of Kenya (Amendment) Bill, 2020. I am glad that we have finally entrenched the principle of the vote. I am glad that the over half a million voters of Nairobi City County will no longer be represented by just one person in the Senate. That is a score for me especially considering that additional resources that will go to the counties. It is a truly a historic and good day for this country.

Madam Deputy Speaker, I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed Sen. Gona Zawadi.

**Sen. Zawadi:** Bi Naibu Spika, asante sana kwa kunipa fursa hii ya kujiunga na wenzangu kupongeza Bunge la Seneti kwa kukubaliana na kupiga kura nzuri. Kila safari ya hatua mia huanza kwa hatua moja. Leo tumechukua hatua moja. Kwa niaba ya Kaunti ya Kilifi, nawashukuru Masenata kwa kupitisha Mswada huu. Kuna mengi ambayo tulikuwa hatupati kwa hivyo nina imani kuwa kupitisha Mswada huu, kuna mazuri mengi yatakayo fuata nyuma.

Ingawa kuna kaunti nyingi ambazo hazitapata maeneo bunge zaidi, ningependa kuwakumbusha kwamba kila kilocho na mwanzo hakikosi mwisho. Sio kwamba tunawaonea au hatuwapendi, lakini siku haikuwa yao. Wakati utafika siku moja na watapata maeneo bunge mengine. Na hata kama hawatapata sehemu zaidi za uwakilishi Bungeni, nina hakika kuna mengine ambayo wameyapata mazuri kulingana na hiyo BBI. Ukiiangalia viziri utakuta hapo ndani kuna mambo mazuri mengi na mabaya hayakosi kwa sababu ni mwanadamu aliyeitengeneza.

Ninaamini tulivyoanza kwa mwendo huu, tumeanza safari na nina hakika ina mwisho mwema.

**Sen. Linturi:** Thank you, Madam Deputy Speaker, for this opportunity. I will try to be as brief as I can. On behalf of the minority vote, democracy is always that the majority will have their way and the minority will have their say.

I would want the country to learn from this vote that we are getting to an area whereby the public is now going to decide on whether to amend this Constitution or not. The responsibility of passing it is on them.

I ask them not to be divided. Looking at what has happened in this Senate, we may have had varied ways of trying to express ourselves. However, at the end of the day when the vote is cast, we all come together and agree on the results.

The only area I feel I need to tell Kenyans and everybody else who will be participating, the most critical thing to remember is that this country is not divided by wananchi themselves, but by the leaders. We have a responsibility to preach peace and to tell people that the referendum will come and go, but the Kenyan people must always remain united.

Whoever will be participating in whichever election, we must always be ready and willing to tell people that Kenyans must be willing to accept the result of any election. Otherwise, that is one of the major problems breaks the country.

**The Deputy Speaker** (Sen. (Prof.) Kamar): The requests are increasing so, please stick to my one-and-a-half-minute discretion.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me this time to give my comments. This is a very inclusive process for us as Kenyans. We have agreed as a Senate that we go to the referendum. Therefore, we should forget the past and work together because the things that have been ailing us as a country have been addressed in the Constitution.

We have to know that a constitution is a living document. Even after 10 years, maybe amendments will be done. A Constitution is supposed to serve people. I am sure the BBI will serve Kenyans. We will look back and say we did a good thing in passing it.

**Sen. (Dr.) Milgo:** Madam Deputy Speaker, I also take this opportunity to congratulate the Senators. Today, hon. Senators have sent a clear message to Kenyans that they are in support of the two principals, His Excellency Uhuru Muigai Kenyatta the President of this country and Rt. Hon. Raila Amolo Odinga in their vision of having a peaceful and united country. We have had a challenge after every general election. This Constitution of Kenya (Amendment) Bill, 2020 shall go a long way in curing a number of issues.

In addition, the money that will go to the counties is a lot as a result of this Bill. Therefore, it will improve the livelihood of our people. I urge our people to support this Bill.

**Sen. Wamatangi:** Thank you, Madam Deputy Speaker. I congratulate all Members of the Senate who have made contributions to this Bill. I also congratulate you, Madam Deputy Speaker and the Speaker's Panel for the good work you have done in coordinating and regulating debate here.

It is good to exhale and go through what we have gone through and the lessons we have learnt. To me the bigger lesson is that the dynamism of the debate and the diversity of opinion we have had should not be a basis for us to have enmity.

Now we have a clear way forward that this Bill is now back to the owners who are the people of this country. They are the ones who first through the promoters made the suggestion. Indeed, there is something for almost everyone. Although some may not have got precisely what they wanted, what is good in it outweighs any challenges. For example, in the area I come from, Mt. Kenya Region, our people have been consistently for more than 30 years raising the issue of under-representation. Somehow, that will be addressed when Kenyans support this Bill.

That is how we started the “one man-one vote-one-shilling campaign”. We believe that alongside other Kenyans we also have something to take in this Bill, when the people finally decide on it, we will be better off as a country.

**Sen. Wako:** Thank you, Madam Deputy Speaker, for giving me this opportunity. As a person who was a co-chairperson of the constitutional Committee for BBI, it is my great pleasure that at long last Parliament has passed this Bill overwhelmingly.

There are 74 clauses in this Bill, which makes it difficult for one to agree with all of them. What is important is that one agrees with overall thrust of the amendments. We all agree that if these amendments will carry the country forward.

As we go to the referendum, I ask our people to also look at those clauses in the Bill where not much attention has been given. Much attention has been given on political issues in the Bill such as the structure of the Executive. However, there are many other clauses dealing with the economy in the Bill. Particularly Clause 10A which deals with Regional Integration and Cohesion, Clause 11A which deals with the Economy and Shared Prosperity and Clause 18A which deals with Responsibilities of a Citizen.

If this Bill is enacted as endorsed by the people, I am quite confident that it will carry and give this country the opportunity to restructure its politics and be more focused. We should not be too politicized that we forget the real issues of the economy.

If that environment is created, then it will be possible to deal with the many problems that this country is facing right now in the economic field. It deals with issue of governance, which provides an enabling environment to deal with the very heavy economic issues that are challenging this country.

I recommend to the people to endorse this Bill overwhelmingly the way Parliament has done.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Senator for Murang’a and please make sure it is two minutes like everybody else.

**Sen. Kang’ata:** Madam Deputy Speaker, when this process started, there were areas I was very happy with. I am on record as having supported those areas. One of the most important was the Ward Development Fund which was my original idea that I brought before the Senate. It was passed and went to the National Assembly and got stuck there. To the extent that it percolated into BBI, I was happy.

I only became a little bit cagey when I saw three issues. One, a report detailing the cost of BBI once it is passed. There is a parliamentary report that denotes that Kenya will suffer an extra Kshs20 billion per annum once the BBI passes. This includes support to the double-decker that includes other institutions which are being created.

Two, I thought that this process will amend some of the problematic areas I found, most importantly, the enhancement of presidential powers *vis a vis* the Judiciary. I am a victim of an over-bearing Executive. When I was a Vice-Chairman of the Student Organization of Nairobi University (SONU) at the University of Nairobi (UoN), I was suspended because of an Executive that was so over-bearing. So, when you provide in this Bill, a situation where the President has the unilateral power to appoint people in the Salaries and Remuneration Commission (SRC) and dismiss or penalize a judge, I have a problem with that.

Madam Deputy Speaker, there is a Clause that proposes to delete representation of teachers in the SRC. I strongly believe that teachers are important in molding the children of this country and without them, we could not become lawyers, doctors or professors. So, when we kick them out of the SRC, we negate the entire teaching fraternity.

I urge primary and secondary school teachers to look at how that Clause will affect their bargaining power particularly taking into account that we have ratified international treaties that support labour. In Article 2(6) of the Constitution, those treaties are now part of the Kenyan law.

Finally, my region has not gotten sufficient constituencies. I strongly believe that Murang'a County should have gotten two extra constituencies. Nyeri, Tharaka Nithi and Nyandarua also did not get a single constituency. The idea that Mt. Kenya has many constituencies---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Senator, your time is up. We were not opening debate. We want people to thank us for being good Chairs.

**Sen. Pareno:** Madam Temporary Speaker, I am happy to have participated in making history for this country. At least, we will have left a mark that we tried our best at this particular moment. I am happy that finally, we have passed it.

We will have more women legislators. We will also have better sharing of resources and prosperity for this country because we will have more resources on the ground.

I am happy that we have passed a Bill that deals with the issue of the winner takes it all in our elections. We will have a new structure that is coming in.

Finally, we will go into a referendum more united looking at the kind of participation and support that we have had. I believe that this country will have a better future and that we will vote 'yes' for our destiny come the referendum.

**Sen. Mutula Kilonzo Jr.:** Thank you, Madam Deputy Speaker. I do not know whether Sen. Wamatangi mentioned this but as Whips, we owe to our colleagues who are in Nairobi, those who are out of the county and out of Nairobi a hand for listening to us. Nobody pushed you and all of you participated. We have a record of 65 Senators who participated in the vote.

Senate Majority Leader, you should thank the Senators because we have not only surpassed the record set by the National Assembly, but we also had a better debate than them, irrespective of the disagreements on the Floor.

Two, I am now convinced that we should have passed some other things through the parliamentary initiative. We have done more than two-thirds both at the National Assembly and the Senate. I hope that at some point, this Senate and the National Assembly can find a way to use the parliamentary initiative to pass the minimum amendments without necessarily going to a popular initiative or a referendum. To the principals, this was a good idea to build a good Kenya. I am proud to participate in this process. I watched the Constitution, 2010 on television. A lot of myths about the hold on Parliament has been demystified this week. We can make a decision and we think well for this country.

Senate Majority Leader, if you can get 65 Senators voting on this process, as political as it is, bring us here to discuss the attendant laws that will come as a result of this constitutional amendment. They are important.

We want to make sure that our elections are peaceful. I have repeated that we must look at our elections and the laws that will govern them. People are suffering. Can we discuss economic issues and matters concerning Wanjiku, Mutheu and Atieno on this Floor? Before we go home and through our respective elections, we can do better. Let us have a conversation around things that Kenyans think are not political but people driven.

Thank you, Madam Deputy Speaker, for your patience and guidance.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Finally, let us have the Senate Majority Leader, Sen. Poghisio.

**Sen. Shiyonga:** On a point of order, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us allow, Sen. Shiyonga. Sen. Poghisio, we want you to be the last.

**Sen. Shiyonga:** Madam Deputy Speaker, thank you for giving me this opportunity. I am proud to have been the tallying and returning officer for this particular process in this Senate. I stand to be commended.

I congratulate Senators of Kenya for the period and time they have taken to discuss this Bill. We have learnt a lot. We have seen the input from the report. Nothing can dim the light which shines from within. The Constitution has been discussed here and it is within. Nothing will stop us from seeing the light that is within us.

Malava Constituency in Kakamega County will be added one more constituency. I am happy that we will get the real money and devolution working from within. I thank the people who started this process and came up with the handshake that repealed everything that we have seen and discussed.

As we go out there for the referendum, we are ready and prepared as individuals and the representatives of the people. I am glad that the women of Kenya will benefit from this. Therefore, we respect our leaders who spearheaded this process through this House. Our work has been done. It is now upon the people of Kenya to conclude the good work that our leaders started.

**The Senate Majority Leader** (Sen. Poghisio): Madam Deputy Speaker, you can be rest assured that this is to congratulate and thank those who participated, which is almost everybody in this House.

As has been said by Sen. Mutula Kilonzo Jr., there was a high participation rate. Only two Senators did not participate. So, I thank all the Members even those who did not support the Bill. I know that down in their hearts, they know that this is a good Bill. They definitely voted with us even though they voted “No”. You can already say let the majority have their way and the minority also have their say. That is a good principle for this House.

Madam Deputy Speaker, for our Members to stay throughout to vote and even those overseas participating, it means this is very important. I stated very early that this is a historic moment and I am glad everybody wanted to participate. Thank you for that. We now move to the next stage.

We will always be thankful because the debate in this House has been praised. I remember when the President of our neighbouring country came here, she said something about the debate, which she listens to. I purpose to think she listens to the Senate more.

We will ensure that the things that Sen. Mutula Kilonzo Jnr. said are brought here. The laws requiring our numbers like this should come sooner than later and also as part of fulfilling the requirements of this Bill. This has been the BBI Bill. We must always remember that the “handshake” people started it and eventually, we and others will campaign for it.

Let us begin by thanking the Parliament of the Republic of Kenya, the former Prime Minister, all the political leaders who have supported this process and Members today. I wanted to use this opportunity to say thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senators. That brings us to the end of the BBI Bill. That seals the fate of BBI Bill in this House. Thank you everybody for your participation. This has been good. Your last remarks are the best and have set the tone that we need on the ground when we go to campaign. We need to campaign together in a united manner.

Next Order!

## MOTION

THANKS FOR THE ADDRESS TO PARLIAMENT BY THE  
PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA

**The Senate Majority Leader** (Sen. Poghio): Bi. Naibu Spika, kabla sijapendekeza majadiliano haya, ningependa kupendekeza kwamba Hoja yenyewe ingechapishwa kwa Kiswahili. Hivyo, sote tungejadiliana kwa Kiswahili. Kwa sababu imechapishwa kwa Kiingereza, inanibidi niisome kwa Kingereza. Hata hivyo, ninaomba Seneta wa Kaunti ya Kilifi mwenye Kiswahili safi ndiye ataunga mkono nikishapendekeza.

Madam Deputy Speaker, I beg to move that pursuant to Standing Order No.24 (6), the thanks of the Senate be recorded.

**The Deputy Speaker** (Sen. (Prof.) Kamar): There is a point of order from Sen. Wetangula.

**Sen. Wetangula:** On a point of order, Madam Deputy Speaker. If you make your bed, you must lie on it. The Senate Majority Leader stood when you called the Order. He stepped forward in compliance and started speaking in Kiswahili. Under our Standing Orders, he should just speak in Kiswahili to the end. He cannot make excuses in Kiswahili and then suddenly switch to English. That is offensive to our Standing Orders.

Madam Deputy Speaker, we will only be able to perfect our Swahili speaking in this House by practice. In fact, I am awaiting to speak to this Motion in Kiswahili.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Poghio, there is another point of order, but you brought this to yourself.

There is a point of order from Sen. Pareno. Maybe she is translating it.

**Sen. Pareno:** Hoja ya nidhamu, Bi. Naibu Spika. Ninaomba ikiwezeneka Kiongozi wa Walio Wengi katika Bunge la Seneti aendelee kwa Kiswahili kama alivyoanza. Sisi nasi tuujadili kwa heshima ya Mama wetu, Mtukufu Rais wa Jamhuri ya Muungano wa Tanzania.

Ingefaa sana kwa sababu ya kupenda vile alizuru Kenya na kwa heshima ya lugha yao na yetu ya Kiswahili. Pia, kwa heshima ya Kiswahili ambayo ni lugha ya Muungano wa Afrika Mashariki.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Another point of order from Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Hoja ya nidhamu, Bi. Naibu Spika. Ninamuomba Kiongozi wa Walio Wengi atusikize kwa makini. Hili sio jambo la kupuuza. Ninaomba iwapo ingewezekana Hoja hii ingechapishwa kwa Kiswahili katika Orodha ya Shughuli za Bunge. Kisha, Kiongozi wa Wengi pamoja na yule atakayemuunga mkono, waendeleze Hoja hii kwa Kiswahili.

Rais Suluhu alisema anafurahia Kiswahili chetu kwa sababu kiko na ucheshi. Kwa hivyo, ni wakati wetu na jukumu letu pia tujadiliane Hoja hii kwa Kiswahili. Nakala niliyonayo hapa imeandikwa kwa Kiswahili. Ninashangaa kwa nini Kiongozi wetu anaanza kwa Kingereza ilhali nakala ambayo anataka tuunge mkono imeandikwa kwa Kiswahili.

Je, huu ni ungwana?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Poghio, I hope you have taken note that you started with one language. All you need to do is to translate that paragraph as it is.

**The Senate Majority Leader** (Sen. Poghio): Madam Deputy Speaker, you must realize that I have not delved into the Motion. I have not moved the Motion. I only made comments outside the Motion in Kiswahili, knowing very much that it is actually our Standing Orders that prevent me from moving on in Kiswahili when reading what is on the Order Paper.

That is why I said that it would have been better if the Motion had been drafted in Kiswahili, so that then that would force me to read it in Kiswahili and proceed with the debate. Other than that, I had not yet moved the Motion. Those first comments were just in another language but the Motion, as written---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. I agree that you had not started and so, you can move the Motion.

**The Senate Majority Leader** (Sen. Poghio): Thank you, Madam Deputy Speaker. Let me now move the Motion. I would have loved to say it in Swahili but I am prevented by the rule that I must read as it is, which is in English. Our people should have done this in Swahili.

Madam Deputy Speaker, I beg to move the following Motion:

THAT, pursuant to Standing Order No.24 (6), the Thanks of the Senate be recorded for the Address to Parliament, by Her Excellency Samia Suluhu Hassan, President of the United Republic of Tanzania, delivered on Wednesday, 5<sup>th</sup> May, 2021.



Madam Deputy Speaker, it is at this point that I wish I could mix the languages, but I cannot. My goose is cooked in this matter. I would have loved to entertain the President of Tanzania with my Kiswahili. I am sure there will be many who will entertain her anyway, as she said, it is entertainment enough hearing our Kiswahili.

Madam Deputy Speaker, it is important for this country and Parliament, particularly the Senate of the Republic of Kenya, which found a lot of recognition in that Address, to discuss and debate the contents and policies that were contained in the Address. This is especially because this is a President who was sworn in, in March 2021. The first serious business that she undertook was the State visit to this country. She has said it very clearly that Kenya is related to Tanzania in three areas, including our languages and communities. She said that we share communities.

The President spoke with passion and in very fine Kiswahili. That is when you know very fine language. She was full of praises for the two Houses of Parliament. I wanted to use this opportunity to, therefore, thank Her Excellency for the endearing Address she gave.

Madam Deputy Speaker, if you sat in that Chamber, you would not have fallen asleep or gotten distracted. You paid attention to her because she was very colourful in her language. The most important thing is that there were many policies and good things that came with her Address. The Address was full of very concrete areas of development. One of them that I noticed is that she particularly wants Kenyans to invest in Tanzania; to be free to move into Tanzania and for Tanzanians to move over. This is something that had been affected by the leadership that was before her.

In my view, she has restored the good relationship that existed among our people. Our people still live on both sides. They move back and forth. She gave the example of our wildlife, which move back and forth. There is more to our relations with Tanzania than we think. We know that it had been affected by politics, and now she has tried her best to remove that barrier and allow our people to move freely.

Madam Deputy Speaker, if you look at the way we relate, she mentioned three things. She spoke of our relations personally and also geographically. In the geography, she is very clear that we share a very long common border, both on land and seafloor. Therefore, we have a reason to share together.

She mentioned some major projects in her address. The one that caught my attention is the natural gas pipeline that is being proposed to move from Dar es Salaam into Mombasa. We share these resources. It is easier to move that gas pipeline from Dar es Salaam into Mombasa and back.

She mentioned a number of roads that we are doing together as two countries. I am glad that during her State visit, she liked what she saw in Kenya. She praised the strides in development that the Kenyan Government has made.

Madam Deputy Speaker, being a new person on the block, and she described herself that way, she had to come and introduce herself to the neighbours, which in essence is what you do when you are new. The neighbouring Presidents have been in office for a while. She has done a good thing. You seek advice from your neighbours, but also have something to offer such as fresh ideas for the enforcement and the strengthening of the East African Community (EAC). She mentioned this as one of our

relations, that we are related historically. In history, we were the first to form the precursor to the EAC, that is, Kenya and Tanzania before we were joined into East Africa, where Uganda came in and then now it is the EAC.

Madam Deputy Speaker, there is a lot to gain from good relations. Peace is one of the things that we gain from good relations. The freedoms that we get by being able to access our borders, we are able to defeat small issues like diseases, hunger *et cetera*. This is because if you have a better facility in Tanzania, and you are near there, you can benefit from that facility. If there is food in Tanzania, which is not in Kenya, it is easy for us to meet our needs. If there is more in Kenya, that movement allows our people to have these freedoms.

Education is the other one. There are many Tanzanians who would like to come and study in Kenyan schools. There are many Kenyans who would like to pursue their university education and even high school education in some of the schools.

The other way that we benefit from each other, and which she definitely made very clear to all us, is in tourism. She made it very clear to me that we have been hurting each other by saying Kenyan tour vans cannot go into Tanzania and vice versa, yet there is enough that the tourists can benefit from by just visiting both countries and making it a joint programme.

These are some of the things that I was able to glean from that wonderful Address. I know that many colleagues want to speak on to this. I just want to say that we, Members of Parliament, have been given a challenge by the President of Tanzania. We better legislate in such a way as to strengthen the EAC and give our people basic needs. Our people do not have to struggle too much in order to get medicine.

We should legislate to free our people into thinking businesswise. We must help our people to think businesswise, joint ventures, going to farm in Tanzania, which she declared has so much land, and also mining.

Madam Deputy Speaker, if I were to dwell on the Address for too long, I would probably deprive others of the opportunity to comment. I would like to use this forum to pass congratulations to the President of the United Republic of Tanzania for the Address she made. I have mentioned just a small part of it. She definitely has a bright future and is up to the task. We wish her well.

Madam Deputy Speaker, I beg to move and ask the Senator for Kilifi County to second.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. Sen. Madzayo, kindly, proceed.

**Sen. Madzayo:** Shukran, Bi. Naibu Spika. Kwanza, natoa shukran kwa Rais wa Jamhuri ya Muungano wa Tanzania, Mhe. Samia Suluhu Hassan.

Tuna mshukuru Rais wa Jamhuri ya Muungano wa Tanzania kwa sababu tunawazia jambo muhimu ambalo alileta. Kitu cha kwanza, tunawapa kongole watu wa Tanzania kwa sababu katika historia ya nchi hiyo, kutoka wapate uhuru mpaka sasa, ni Rais wa kwanza mwanamke katika Muungano wa Mashariki ya Kati.

Bi. Naibu Spika, sisi kama watu wanaotoka sehemu ya Pwani tunajua kuzungumza Kiswahili. Lakini, Rais wa Muungano wa Jamhuri ya Tanzania aliweza

kuongea Kiswahili safi. Nilipokisikiliza, nilisema hata kama tunatoka maeneo ya Mombasa, Kilifi ama Malindi hatuongeti Kiswahili kama hicho. Kiswahili chake kilikuwa safi kabisa.

Bi. Naibu Spika, tunaelewa kwamba mipaka yetu na Tanzania imekuwa imara kwa miaka na miaka nyingi na itaendelea kuwa hivyo. Hatujui lakini tunaambiwa katika lugha ya dini kwamba maisha na maisha tutaendelea kuwa majirani. Rais Suluhu alitambua kuwa ikiwa wanyama wanaweza kuishi kama ndugu na kutembea pamoja--- Alitupatia mifano ya kwamba ikifika mwezi fulani mwakani, wanyama wa kiume huridhishwa sana kwa sababu wale wanyama wa Tanzania wa kike huwa wanavuka mto nakuja Kenya. Wanapata mimba na kurudi kwenda kuzalia huko kwao. Hatusemi kwamba wao wanakuwa wengi kwa kuwa wengine huwa wanabaki huku, na ndio jinsi ya watu wanaoishi pamoja kuweza kuelewana na kuishi kama ndugu na dada.

Bi. Naibu Spika, tumeona katika mipaka hiyo kuwa sio wanyama pekee yake. Katika maeneo tofauti ya mipaka kuna jamaa ambao wanaishi pamoja. Tukiangalia upande kama Pwani, ukitaka kwenda Tanga ama Dar es Salaam unaweza kupitia maeneo ya Horohoro ama Lungalunga. Hiyo ni mipaka ambayo jamaa wa Kidigo katika Jamii ya Mijikenda wanaishi, humu nchini na vile vile upande wa Tanzania kupitia sehemu za Tanga na Dar es Salaam. Ikiwa wanyama wanashirikiana na binadamu kuketi pamoja, biashara zetu pia zinaweza kuwa pamoja. Tukija katikati tuko na eneo ambalo liko na Wataita na Taveta, ambao wako Voi na ni wengi. Nao pia wanaushirikiano katika mpaka huo.

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

*The Temporary Speaker (Sen. Pareno) in the Chair]*

Vile vile, tuko na eneo la Namanga. Ukitoka hapa Nairobi utapita eneo la Namanga. Kule kuna Wamaasai. Bi. Spika wa Muda, nakusifu kwa sababu wewe ni mmoja wao. Ikiwa mnaishi kwa amani upande wa Namanga Kenya na upande ule mwingine. Hatuwezi kujua tofauti kwa sababu majina yanafanana. Vile mnaishi na tabia zinafanana. Ukienda upande wa Namanga kule Tanzania, Wamaasai wanaoishi kama ndugu. Kwa hivyo, ni jambo ya kufurahisha ikiwa Rais wa Tanzania anaweza kuja hapa na kutueleza kwamba wanyama wanashirikiana, binadamu wanashirikiana na mipaka iko pamoja. Sisi tunaishi kama ndugu na hatuwezi kugeuza Maisha kwanzia sasa na milele. La muhimu katika ushirikiano huo, alisema ya kwamba ingekuwa bora tukiongeza biashara pande zote mbili. Tusilemeane kwamba wengine wanaleta nyingi zaidi ya wengine. Tuone kwamba tutakuwa na ushirikiano bora.

Bi. Spika wa Muda, katika Hotuba yake, alisifu Bunge la Seneti na Bunge la Kitaifa akisema kwamba ni jambo bora aliyoiona. Ni kwamba tunaongea Kiswahili ambacho ni cha kufurahisha sana. Kama alivyokuwa akisema Kiogozi wa Walio Wengi, alijaribu kuongea lakini katikati akageuza; ni kama maji yalizidi unga. Akasema kwamba anependelea kuongea kwa lugha ya Kiingereza, lakini hiyo ni mojawapo ya tafakari zetu. Kiogozi wa Walio wa Wengi amejaribu sana. Ni mara yangu ya kwanza kusikia akiongea Kiswahili. Ni kizuri lakini labda alikuwa na hofu ya kukosea. Nina matumaini

makubwa ya kwamba kwa vile sasa tuko na ile Hotuba yake katika lugha ya Kiswahili, Wenzetu maseneta watakaopata nafasi ya kujadili Hotuba ile wataongea kwa lugha ya Kiswahili.

Bi Spika Muda, ningependa kuongeza zaidi kuwa isikuwe ya mwisho. Katika Kanuni za Seneti, ikiwa tunaweza kuruhusu mtu aanze kwa lugha ya Kiswahili ama Kiingereza na hawezi tafsiri neno katika lugha ya Kiingereza ama Kiswahili aweze kulisema kwa lugha yoyote. Kwa mfano katika sentensi anaweza kusema ‘*good morning*’ ikiwa hawezi kusema ‘habari ya asubuhi.’ Hufai kukosolewa kwamba umefanya makosa. Kuna ule uoga ya kwamba nikiongea hivi naweza kuongea makossa, kwa hivyo, afadhali niongee Kiingereza.

Tukirekebisha taratibu zetu za Bunge, inaweza kuwa vizuri zaidi kwa sababu itapeana nafasi kwa Seneta yeyote ambaye ana uwezo wa kuongea, hatumaye akiona hataweza kumaliza sentensi kwa lugha ya Kiingereza anaweza kutumia lugha ya Kiswahili. Katika Bunge la Tanzania inakubaliwa kuanza kwa lugha ya Kiswahili kisha kutumia maneno ya Kiingereza. Tukirekebisha taratibu zetu itakuwa sawa.

Mwisho ni kumsifu Rais wa Jamhuri ya Muungano wa Tanzania. Aligusa jambo la janga hili la COVID-19. Alisema kuwa sisi kama majirani tunaishi na kufanya biashara pamoja, tunashirikiana kwa mambo mengi. Ikiwa ushirikiano huo utaendelea, ni vizuri kulipiga vita janga hili pamoja. Kenya imeendelea mbele zaidi kupiga vita hili janga ya COVID-19, lakini upande wa Tanzania, kidogo walienda pole pole. Jukumu letu ni kutia maanani Hotuba ya Rais ya kwamba wamekubaliana kuanzisha--- Nilifurahi sana nilipoana kwamba wote waliokuja katika ziara hii na kuingia Bungeni kusikiza Hotuba ya Rais walikuwa wamevaa barakoa wote. Hiyo ni ishara kuwa wao pia wana juhudi na mwelekeo wa kupambana na hili janga ambalo linaweza kutumaliza sote. Watu wanaosikizana, kufanya biashara pamoja, kulala katika hoteli moja na kukula katika chumba cha malaji pamoja, ikiwa hawatavaa barakoa inaweza kuwa hatari, iwe ni upande wa Kenya ama Tanzania.

Nashukuru Mwenyezi Mungu kwa sababu sisi tulitilia maanani hapo awali na tukasema ya kwamba tutapigana na Korona mpaka tuone ya kwamba tumeishida ama vile wanavyosema, ule mzunguko tumeunyorosha.

Bi. Spika wa Muda, nataka nitie mkazo ya kwamba ile Hotuba ya Rais ilikuwa ya maana sana.

Nilifurahishwa sana wakati aliposema akiwa huko Tanzania aliweza pia kutambua ya kwamba majina yetu huwa yanafanana. Sio ya wale Maasai peke yake lakini pia akatuambia ya kwamba kwa sababu yeye anatoka sehemu za kisiwani huko Zanzibar, kuna majina kama ya ndugu yetu ambaye tuko naye hapa, Sen. Mwinyihaji Faki. Alisema kuwa jina hilo pia linatoka katika kisiwa cha kule sijui ni Pemba ama ni Zanzibar. Huko nako ndiko wako na majina kama hayo.

La mwisho---

**The Temporary Speaker** (Sen. Pareno): Pia alitupa jina Namelok ambalo linatoka upande wa Maasaini. Alitupa pia na Kioko. Kwa hivyo, alitaja majina mengi kutoka pande zote za Afrika Mashariki.

**Sen. Madzayo:** Bi Spika wa Muda, shukrani kwa kuniongoza. Nakumbuka alisema kwamba kule pia kuna majina ya Kikamba. Hata Kilonzo ama Musyoka,

tunawezapata majina kama hayo. Sen. Mutula Kilonzo Jnr. anajua zaidi. Bi. Spika wa Muda, nawe pia unaelewa zaidi.

Kwa hivyo, wale ambao tunaishi kama ndugu ni hususan kuona ya kwamba tunajisaidia wakati kama huu wa hili janga la Coronavirus disease (COVID-19). Kiswahili chetu ni lazima tukidumishe na tujivunie. Sio kwamba kama hujui Kiswahili ama Kizungu basi wewe sio Mkenya, kwa sababu hizi ndizo lugha zetu mbili za kitaifa.

Nataka nikome hapo na tumsifu sana Bi. Spika wa Muda kwa hii Hoja. Naunga mkono ama ku-*second*. Siwezi kujua kama '*second*' ni kuunga mkono ama ni kufanya nini. Pia mimi nimetumia jina la Kizungu.

Asante Sana, Bi Spika wa Muda. Nina *second*.

**The Temporary Speaker** (Sen. Pareno): Nafikiri hata kuunga mkono ni sawa.

*(Question proposed)*

Sen. Mutula Kilonzo Jnr., endelea.

**Sen. Mutula Kilonzo Jnr.:** Asante, Bi Spika wa Muda. Kwanza ninamshukuru Rais wa Tanzania, Mhe. Samia Suluhu Hassan, kwa Hotuba yake ambayo imeleta maridhiano. Kwa jamii ya Watanzania ndugu zetu tukubalie tuendelee kuwapatia risala zetu za rambi rambi kwa kumpoteza kiongozi wao, Rais John Pombe Magufuli. Mungu amrehemu na amlaze mahali pema peponi.

Jambo ambalo Rais wa Tanzania alifanya au Hotuba ambayo alitoa imekomboa mambo ambayo yamewashinda wanaume. Viongozi wanaume wameshindwa kuleta uwiano katika Afrika Mashariki. Imebidi mwanamke awaonyeshe viongozi wanaume njia. Jambo hili ni la muhimu. Wale ambao kama sisi tunapigia debe Mswada kama ule ambao tumepitisha leo. Ni kwa sababu katika maoni yangu, viongozi ambao watachaguliwa katika kaunti zetu 47 ni wanawake. Ni njia mufti kutafuta uongozi wa kitaifa kupitia kwa Bunge hili. Jambo la kuwezesha wanawake hao wapate nafasi kama hiyo ni kuchaguliwa katika kaunti zetu.

Kuna jambo lingine. Kuna watu hawakumbuki historia yetu na ni vizuri niseme. Ni kwa sababu Sen. Wako na marehemu mzee wangu, Baba, Sen. Mutula Kilonzo, walisomea Dar es Salaam wakati ambapo hakukuwa na shahada ya uanasheria katika vyuo vyetu huku Kenya. Walifunzwa sheria na wengine wengi ambao ni majaji. Wengine kama mwenyekiti wa timu ya Gor Mahia, Ambrose Rachier, walisomea uanasheria nchini Tanzania.

Bi. Spika wa Muda, lakini mambo ambayo yanazungumziwa hapa ni nafasi za kibiashara kwetu sisi Wakenya. Kuna nafasi za kibiashara za Watanzania. Ni jambo la muhimu. Kwa sababu wale ambao ni wafanyibiashara na wengine ambao ni wateja wetu katika kazi zetu mbali mbali wametuingia kwamba wamepata shida.

Mahindi ambayo yanatoka Tanzania yanapitia kwako Namanga, Bi Spika wa Muda. Yale mengine yanapitia Emali na Kibwezi. Yanaletwa Kenya kwa bei nafuu. Lakini mahindi ambayo tunayapanda Kenya hayawezi kuuzwa Tanzania. Kwa muda mrefu ilikuwa ni vigumu sana kuuza maziwa Tanzania. Nakumbuka nikiwa katika nchi ya Zambia, yule ambaye ni msimamizi wetu huko kama balozi aliniambia kwamba njia

mufti ya sisi kuingia katika Jumuiya ya Southern African Development Community (SADC), ambayo Tanzania ni mwanachama, ni kupitia Tanzania.

Bi. Spika wa Muda, kwa hivyo, tunataka kumshukuru kwa dhati Rais wa Tanzania kwa mambo na matamshi na kufunguliwa njia kwa biashara ya Wakenya na Watanzania ili Wakenya na Watanzania tutafute njia na kutafuta pia Waganda. Tunataka Rais Uhuru Kenyatta, Rais Suluhu Hassan na Rais Museveni wakutane na Rais Kagame pia ili tutafute njia ambayo tunaweza kufanya Jumuiya hii idumishwe.

Tunataka tuwe na kampuni moja ya ndege kama vile tulikuwa na kampuni moja ya ndege zamani. Pia, tunaweza kuwa na kampuni ya reli na kampuni za vitu vingi hata mawasiliano kama ilivyokuwa kabla ya Jumuiya hii kuvunjiliwa mbali mwaka wa 1977. Je, ni kwa nini? Ndio kwa sababu tunasema uongozi umelekea. Tungekuwa na mtu kama Rais Suluhu kabla hatujafanya mkataba wa ujenzi wa reli tulioufanya na Wachina, ambayo inapitia kwako, ingekuwa rahisi. Deni hili ambalo tuko nalo na hawa Wachina halingekuwapo.

Bi Spika wa Muda, hivi maajuzi nilitembelea nchi ya Dubai. Nimesikia kwamba wamefungua bandari yao Tanzania ili wafanye biashara kwa njia rahisi kuliko Bandari ya Mombasa. Ninauliza swali hili na hawa wenzetu Maseneta kutoka Pwani watajibu haya maswali.

Bi. Spika wa Muda, bandari yetu kuna *dock* au kizimbani. Kuna mfanyibiashara mashuhuri ambaye amekomboa sehemu ya kufanyia biashara. Sisi Wakenya tumeshindwa kutafuta mtu ambaye tunaweza kuungana naye ili tufanye *public private partnership* katika bandari ya Mombasa ili tuimarisha huduma. Wafanyibiashara wengi wanahamia Rwanda au Tanzania. Ni lazima tujiulize ni kwa nini wanafanya hivyo.

Mimi hupenda sana kuwaona wanyama wa porini. Kuna wakati nilienda pamoja na familia yangu Tanzania kuwaona wanyama. Tulienda Manyara, Ngorongoro, Kirawira na Mbuga ya Wanyama ya Serengeti. Nilishangaa kuona sehemu ambazo mbuga za wanyama zimetengewa ili kudumisha sekta ya utalii. Bei za hoteli za Kirawira, Serengeti, Ngorongoro na Manyara ni ghali mara tatu kuliko za Mombasa na Nairobi. Jambo la kushangaza ni kwamba hoteli zote zilikuwa zimejaa watalalii. Ni kwa nini? Kuna watalii wanaokuja kusheherekea sikukuu ya Ramadhan na wanapitia Uwanja wa ndege wa Kimataifa wa Jomo Kenyatta. Utapata gari za Tanzania hapo, lakini hakuna gari za Wakenya utazona uwanja wa ndege wa Tanzania.

Bi. Spika wa Muda, mimi ninaona kama ni malaika ametumwa ili tufanye hii kazi. Nimetumia barabara aliyozungumzia inayotoka Voi hadi Mwatate. Hiyo barabara ilikuwa mbovu sana na kuna sehemu za utalii za kifahari. Wale ambao hamjatembea sehemu hiyo kuna hoteli maarufu inayoitwa Salt Lick Safari Lodge. Kuna mahali pa kifahari ambapo hema hutengenezwa huko Mwatate. Mnaweza kutembelea sehemu hiyo ukielekea Tanzania wakati barabara hiyo itakamilishwa. Waheshimiwa maraisi hawa wawili wamesema watajenga barabara hiyo ili kuimarisha mawasiliano kati ya wananchi wa mataifa haya mawili. Kutoka Arusha hadi Manyara ni karibu kilomita 500 au 600. Hakuna babarabara yoyote kama hiyo nchini Kenya.

Nilistaajabu wakati Rais Magufuli alipata uongozi. Badala ya kuwa na sherehe kubwa ambayo ingeharimu Serikali ya Tanzania pesa nyingi kwa kuandaa karamu ya ushindi wake, walitengeneza barabara ambayo inatumiwa na wazima moto na

wanaosafirisha wagonjwa hospitali. Gari zinapita katikati. Kenya inajenga barabara za ghorofa eneo la Mombasa Road kutoka Mlolongo. Hakuna mtu ambaye anafikiria ni kwa nini hatuwezi kuwa na barabara inayoweza kuwafikisha wagonjwa au wazima moto kwa haraka.

Kuna ripoti kwamba wakati barabara ya Thika ilifungwa hivi majuzi, kuna mtoto alikufa. Hii ni kwa sababu barabara ilifungwa na hakuna mahali ambapo wazazi wake wangeweza kupitia ili wafike hospitali kwa haraka.

Bi. Spika wa Muda, zamani Watanzania walikuwa wanaambiwa waje Kenya ile waone dunia. Sasa ni wakati wetu kwenda Tanzania ili tuangalie nchi ambayo inaendelea kudumisha uchumi wake kwa njia ambayo inafaa.

Kuna jambo lililotajwa kwenye hotuba hii kwamba kule Tanzania kuna Kilonzo, Kioko na Maasai. Hii inamaanisha jamii za Tanzania na jamii za Wakenya mpakani ni familia moja. Wakati babake Gavana wa Makueni aliaga dunia mwaka 2014, tumlimzika karibu na Ziwa Chala, upande wa Tanzania. Tulipikiwa mapochopocho ya ajabu na Wanyamwezi. Walikuwa wametengamana na Wakenya.

Wakati nilienda Kasigau kumzika mamake aliyekuwa Seneta wa Taita, Seneta Dan Mwazo, tulipikiwa na kukaa na Watanzania. Waliniambia kwamba katika eneo hilo wanapata huduma za hospitali kwa bei nafuu upande wa Tanzania. Sisi kama Wakenya tuna mambo mengi ambayo tunafaa kuyaiga kutoka kwa ndugu zetu Watanzania.

Wakati Seneta Wako atapewa nafasi kuzungumza, labda atatueleza jambo hili lilitoka wapi. Nilimwuliza dereva aliyekuwa ananielekeza pamoja na familia yangu jina lake. Unajua sisi tuna tabia ya kuuliza watu majina yao. Aliniambia anaitwa Amos. Mimi sikuridhika na jina Amos. Nilitaka aniambie jina lake la pili ili nijue ni wa kabila ipi. Ukabila wetu na mambo ambayo tunafanya ni tabia mbaya. Tunauliza maswali hayo ili tujue kama tunaweza kunong'onezana kwa lugha ya mama.

Bi. Spika wa Muda, kuna kamati kubwa ambayo ina wanachama wanne wanaotoka kabila moja. Wakati mkutano unaendelea, wanazungumza kwa lugha ya mama. Ni kwa nini?

Nilimwuliza huyo dereva, “Wewe unaitwa nani?” Alinipa jina la kwanza. Nilimwuliza jina la pili, akasema kuwa huwa hawasemi jina la pili huko Tanzania. Nilimwuliza kwa nini, akaniambia kuwa hawana ukabila kama sisi Wakenya. Tanzania ina makabila zaidi ya mia moja. Hata kama tumepitisha Mswada tuliyoujadili leo, tunaka tuwe na nchi ambayo ukisema jina lako ni Gertrude, Amos ama Stewart, yatosha, na hakuna atakayekuuliza umetoka wapi.

Bi. Spika wa Muda, kuna stakabadhi za Serikali ambazo zinahijataji useme wewe ni wa kabila lipi. Wewe ni wakili kama mimi. Ukienda kortini utaona kuwa kuna stakabadhi, kwa mfano, *charge sheet* unahitajika kuandika kabila lako. Wakati utafika tuseme kwamba jambo hili halileti utengamano na uwiano katika jamii zetu. Iwe ni hatia kuzungumza lugha ya mama kwenye mkutano au hadharani. Ukitaka kuzungumza lugha ya mama, ujifungie uzungumze kwako nyumbani ukiwa peka yako kwa sababu unaweza kuwa umemwoa mtu ambaye si wa kabila lako. Hilo ni jambo ambalo tunafaa kuiga kutoka kwa Watanzania. Tungepatiwa nafasi, tungehamia huko tutafute familia, lakini kwa sababu tumezaliwa huku, tutakaa lakini lazima tuige mfano wa Watanzania.

Ninamshukuru Rais Suluhu. Aendelee kutaja mijadala tuliyo nayo katika Seneti. Ninajua kwa hakika kwamba alikuwa anatazama mijadala wa Seneti.

Tutaendelea vivyo hivyo na twaomba kwamba hivi karibuni, tutaona hao Marais wa Mataifa ya Rwanda, Burundi na Tanzania wakikaa pamoja.

Hakuna haja sisi tutoke hapa, Kamati ya watu karibu ishirini wanaenda kuangalia ni kwa nini Kigali wamepanda nyasi barabarani, wamepanda miti au hakuna uchafu. Aaaaaiih!

Bi. Spika wa Muda, tukae chini kama watu ambao wanazungumza lugha moja; Warwanda wanazungumza Kiswahili na Waganda wanazungumza Kiswahili. Tuhakikishe kwamba twaweza kuzungumza Kiswahili tukiwa Rwanda, Tanzania na Uganda. Na tutafute nafasi kama Bunge pia tuwe tukifanya majadiliano katika nchi zetu ambazo hao watu wote ni ndugu na dada zetu.

Asante kwa nafasi hii.

**The Temporary Speaker** (Sen. Pareno): Sen. Mutula Kilonzo Jnr., leo umejaribu kuzungumza Kiswahili kabisa.

Nakumbuka Mheshimiwa Rais Suluhu Hassan alisema kwamba anapenda kutazama mijadala kwa sababu ya vile tunaongea Kiswahili. Kwa hivyo, naomba ikiwezekana, tujaribu kwa raha zake na kwa heshima zake kuongea kwa Kiswahili.

Karibu, Sen. Wako.

**Sen. Wako:** Thank you, Madam Temporary Speaker, for giving me this opportunity to speak on a subject that is very close to my heart.

I want to congratulate the President of the United Republic of Tanzania, Her Excellency, Samia Suluhu Hassan, for her historic visit to Kenya; a visit that I think has changed the enabling environment under which the relationship between Kenya and Tanzania can only be strengthened and developed deeply.

When I say that and when we talk about the relationship between Kenya and Tanzania, we have in mind all the time that if there is any discord between Kenya and Tanzania, the seeds of that discord were contributed quite a bit by the colonial government.

I say this because the colonial government came with an idea of bringing Kenya, Uganda and Tanganyika together under some association called the East African High Commission. The Chairman of the East African High Commission was the Governor of Kenya. The headquarters of that High Commission was Nairobi.

Any services that were common were all headquartered in Nairobi or rather in Kenya. We had the East African Railways, Nairobi, East African Harbours and Corporation with its headquarters in Mombasa and so on. Nairobi was like the centre for East Africa. Other countries viewed Nairobi as the place to provide the leadership and that is why maybe we got spoilt a bit.

Come Independence, Mwalimu Julius Kambarage Nyerere, a very forward looking statesman, said that he can delay the independence of Tanganyika if only we can get our independence at the same time and have the East African Federation. That was not to be and instead, the East African High Commission then became the East African Common Services Organisation.



The structures remained the same and the only changes were in personnel. For example, we had the East African Airways whose headquarters was in Nairobi and its Chairman was Chief Fundikira Abdallah Said III from Tanzania.

That proceeded and when all the countries became independent, it was felt that we should now have a formal relationship. That is how the East African Community was born. The feelings of Uganda and Tanganyika was that Kenya had received everything under the relationship. Therefore, an attempt was made to decentralise the headquarters. The headquarters was moved from Kenya to Arusha. Of course, where we now have the courts was the headquarters of the East African High Commission.

The East African Posts and Telecommunications' headquarters was moved to Uganda. It is important for people to realise that as a deliberate measure to ensure that at least other countries shared a little bit more equally with Kenya in the assets of the East African Community.

Madam Temporary Speaker, I am just going through this because I have a very short time. On top of that, the differences in development brought about by the policies of the colonial government after independence; an attempt was made to decentralise the East African Community and to make partners equal, we had three Ministers from Kenya, Uganda and Tanzania.

There then developed what we call differences in ideology. In Tanzania, we had the Arusha Declaration. I must say that at that time, as Sen. Mutula Kilonzo Jnr. said, I and his father were students in Dar es Salaam, we demonstrated in support of the Arusha Declaration and in support of the nationalisation of the key heights of the economy like banks, insurance, housing and so on.

However, in Kenya, that type of socialism was not to the liking of Kenyans. In Kenya, instead, we had the African Socialism Paper No.10, which was crafted by the Late Tom Mboya and the Third President of the Republic of Kenya, His Excellency Mwai Kibaki. Although it was called African socialism, at the end of the day, it was capitalism; market economy and so on which was very different. There was no question of nationalising banks, insurances and so on.

There was a question of encouraging farmers, be they large-scale farmers or small-scale farmers. In Tanzania, the emphasis was that everybody must be added into the village. What we call the villagisation policy and so on. Therefore, differences of ideology came in.

We all know that in Uganda, Idi Amin came and Nyerere could not sit with Idi Amin at the Summit. That together with what we have said, the differences, led to the breakdown of the Community in 1977; the community, which began to be revived in 2000.

However, that spirit that Kenya had been favoured was very much there particularly in Tanzania up to the time President Magufuli took over.

If you look at the balance in trade, it was very much weighted in favour of Kenya and Uganda. When we were there as students, things like toothpaste, Omo for washing; all these things were being manufactured here and sold in Tanzania.

Now Tanzania felt they must also industrialize and therefore the trade began improving but they could not really compete with Kenyans.

When I was the Chairman of the First Tracking Federation, when we went to Tanzania, most of the leaders there said that they do not want to move too fast to open up Tanzania because in Kenya, we are capitalists, we are very aggressive and we will take over Tanzania. They said that we should wait for them to also develop those habits before they can properly federate. Then came Magufuli.

One thing that Magufuli succeeded in doing is transforming Tanzania from a least developed country to a lower middle-income country within a space of five years. That was really an achievement. Although Tanzania's export to Kenya began almost levelling up with Kenya's exports to Tanzania, at the end of 2019, Kenya's export to Tanzania was US\$330 million and Tanzania's export to Kenya was US\$269 million. Trade began leveling up.

Magufuli even went further to ban the Kenya Dairy and Kenya Airways and we all know the differences that came about. Therefore, although we were in the East African Community, we did not appear to be partners. We appeared to be competitors. We did not appear to be strategic partners in economic and social development; we appeared to be competitors.

Madam Temporary Speaker, that is why I really laud the first woman president in East Africa, Hon. Samia Suluhu Hassan. With a light touch, one of the Luhya ethnic sub-group they are called Samias.

When Samia Suluhu came here, she has really provided an enabling environment under which we can now develop far much better. We can only realize the benefits of this new relationship if both the Kenyans and the Tanzanians in all fields, be it business, professional, regarded each other with respect.

Sometimes Kenyans say: "We are now going there", they should realize that Tanzanians are also coming. When it comes to natural resources, Tanzania is more endowed in terms of natural resources than even Kenya.

This relationship which Hon. Suluhu has now enabled will be a relationship based on mutual respect. I feel that what Madam Suluhu has done is going to enrich and further enhance the cooperation within the East African Community because as you know, the member States have already signed the Customs Union. They have already signed the common market. The East African Monetary Union is currently being negotiated. Maybe in the year 2024, we should be having the Monetary Union. However, all these will be meaningless if the actual relationship on the ground is not amicable. Madam Suluhu's Address has made that relationship to be amicable and we should be able to benefit from that relationship.

Madam Temporary Speaker, I think the East African Community is going to go further. Madam Suluhu made a very important point about language. After retiring as the Attorney-General and when I was thinking that I may join politics and I could not speak Kiswahili, I went to the Institute of Kiswahili in Zanzibar where I was taught some rudimental Kiswahili which makes me get along. In order to become East African, I had to go there merely to refine it so that I can speak proper Kiswahili---

**The Temporary Speaker** (Sen. Pareno): In Zanzibar, there is the Swahili Commission.

**Sen. Wako:** Thank you, Madam Temporary Speaker. With the Kiswahili that I learnt from that Commission, when we have a debate and I am still a Member of the Senate, I would be able to address the Senate in Kiswahili. It is just that when I left Zanzibar, I told my friend the Deputy Leader of Minority who comes from the Coast to make sure that I am taught all the time. However, he has not made any effort to do that. So I am appealing to him to please ensure that my Kiswahili improves by having a teacher who can teach me all the time.

The other point that I wanted to mention is the issue of tribalism, ethnicity which Sen. Mutula Kilonzo Jnr. has mentioned. I am a firm believer in the political, economic and social integration of East Africa. I believe if we have in place that political federation for East Africa, a number of the problems that are bedeviling the member countries will be dealt with in a very nice way and we shall be learning from each other.

The other countries may learn from us how to be entrepreneurs, how to make money and so on. We shall also learn from them how to be naturalists, how to think African and not how to think Luhyia, Kamba, Digo and so on. We shall be learning from them. As Sen. Mutula Kilonzo Jnr. said, we shall learn how we can keep our cities clean the way Rwanda has done.

With this thing that Madam Suluhu has now began as president and she has a whole four years to go in that presidency, I really appeal to her to be as the mother of East Africa; to be the one who will slow down people who are angry with each other. She can be the mother who will mediate between the various quarrels, most of them petty between countries, so that we can focus on what she rightly said, what can bring economic and social development for our people.

At the end of the day, all these structures that we are recreating whether it is devolution in Kenya or in East Africa, the aim is one. The aim is to ensure that the standard of living for our people goes high, progresses, develops and that we can talk with our chests high in the world today.

Madam Temporary Speaker, thank you for giving me this opportunity to speak on this very important visit which I say is a historic visit. It has changed the atmosphere in Kenya and by extension in East Africa and we should not let that environment again be poisoned by people who may not want us to come together for the benefit of our people in this region.

With those few remarks, I support.

**The Temporary Speaker** (Sen. Pareno): Sen. Wetangula na Sen. Cherargei hawako. Una nini, Sen. Madzayo?

**Sen. Madzayo:** Bi. Spika wa Muda, kwa heshima na taathima, kulingana na Kipengele 105(1) cha Kanuni za Kudumu za Seneti, naomba mjadala huu uahirishwe. Naomba aliyekuwa Mkuu wa Sheria, Sen. Wako, aniunge mkono.

**Sen. Wako:** I second. I think it is self-explanatory.

**The Temporary Speaker** (Sen. Pareno): Maombi ya kuahirisha mjadala huu ni muhimu kwa sababu Maseneta wengi wangependa kuchangia kuhusu hotuba ya Rais wa Muungano wa Tanzania, Mama Samia Suluhu Hassan. Kwa hivyo, mjadala huu unafaa kuahirishwa hadi wakati mwingine utakapowekwa kwenye *Order Paper*.

*(Question, that debate on the Motion be now adjourned,  
put and agreed to)*

*(Debate on the Motion was adjourned)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, having concluded the business of the day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 18<sup>th</sup> May, 2021, at 10.00 a.m.

The Senate rose at 6.15 p.m.