

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 25th May, 2021

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

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

PRAYER

PAPERS LAID

REPORTS ON FINANCIAL STATEMENTS OF KAJIADO COUNTY EXECUTIVE AND ASSEMBLY

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to lay the following papers on the Table of the Senate today, 25th May, 2021: -

Report of the Auditor-General on the Financial statements of Kajiado County Assembly for the year ended 30th June, 2019.

Report of the Auditor-General for the Kajiado County Executive for the year ended 30th June, 2019.

(Sen. Poghisio laid the documents on the Table)

The Speaker (Hon. Lusaka): Chairperson of the Committee on Health, proceed. Vice Chair or any Member of the Committee.

Sen. Kwamboka: Mr. Speaker, Sir, I request that we do it next week.

The Speaker (Hon. Lusaka): We will come back to that.

Next Order!

Senate Majority Leader, proceed.

NOTICES OF MOTIONS

ALTERATION OF THE SENATE CALENDAR FOR THE FIFTH SESSION

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion:

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THAT, notwithstanding the Resolutions of the Senate made on 16th February, 2021 – approval of the Senate Calendar – 24th March, 2021 and 30th March, 2021 – alteration of the Senate Calendar – pursuant to Standing Orders 29(4) and 31(3)(c), the Senate resolves to further alter its Calendar – Regular Sessions – for the Fifth Session, 2021, in respect of Part III, to hold Sittings on Wednesday, 2nd and Thursday, 3rd, June, 2021, between 2.30 p.m. and 6.30 p.m., and that the Senate proceeds on Recess from Friday, 4th June, 2021, and resume its regular sittings on Tuesday, 6th July, 2021, as set out in Part IV of the Senate Calendar and as per Standing Order 31, approved on 16th February, 2021; and that the Senate Calendar – Regular Sessions – for the Fifth Session be altered accordingly.

The Speaker (Hon. Lusaka): Next.

ADOPTION OF REPORT ON IMPASSE ON THE 2020/2021
BUDGETARY ESTIMATES FOR KIRINYAGA COUNTY

Sen. M. Kajwang’: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations, on the impasse on the budgetary estimates for Financial Year 2020/2021 for Kirinyaga County, between the County Executive and the County Assembly, laid on the Table of the Senate on Tuesday, 25th May, 2021.

The Speaker (Hon. Lusaka): Let me rearrange the Order Paper. First, let us have Statements under Standing Order No. 51; Sen. Sakaja.

STATEMENTS

TRIBUTE TO CELEBRATED RUGBY LEGEND,
THE LATE BENJAMIN AYIMBA

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I rise to make a statement as the Chairperson of the Standing Committee on Labour and Social Welfare pursuant to Standing Order 51(1)(a). This is a tribute to a celebrated fallen rugby legend; the late Benjamin Ayimba. I begin by conveying my heartfelt condolences and those of the people of Nairobi to the family, friends and the entire rugby fraternity for the untimely loss. It is needless to say that the late Benjamin Ayimba, also popularly known as *Benja*, has not only contributed to the increased popularity of the sport in the last decade, but has demonstrated his love for both the sport and his love for his country.

Mr. Speaker, Sir, I make the statement cognisant of the fact that the mandate of the Committee on Labour and Social Welfare which oversees three Ministries, including the Ministry of Sports, Culture and Arts endeavours to support and oversight the programmes undertaken by this Ministry. For the last four years, the Committee’s focus

has been to ensure that our sports men and women grow and perfect their God-given talents and subsequently earn a livelihood through such efforts.

It is, therefore, against this background that I make this statement in recognition of the contributions of the late Benjamin Ayimba for close to two decades. Benja as he was informally known amongst his friends and within the rugby circles was an icon extraordinaire, whose transition on the 21st of May having lost the battle to Cerebral Malaria has left many who knew and admired his sporting talent at a loss. This is a gap to both the family and the rugby fraternity in this country and in this region that we will struggle to fill for the longest time.

The late Ayimba was, indeed, a prolific talented rugby player on the pitch and an astute coach, a husband and father. From the onset, I wish to recognize the late Ayimba's traits; traits that have contributed not only to his illustrious career as a rugby player and coach, but also contributed to placing Kenya at the highest pedestal globally in the sport. His journey was characterized by persistence, willpower and resilience to succeed against all odds.

Those who knew him in his early childhood and teenage days describe him as having had extraordinary traits, born and raised in a humble family setting, his rise to stardom began way back in the early 1980s at the Olympic Primary School in Kibra, Nairobi. Following his stint at Maseno School, his then Deputy Principal noted that as I quote, "he was an all-round sportsman." As he participated and won in track, field events and soccer, he seemed to have a keen eye on rugby.

A journey that saw him leverage on his talent and opportunities, hence his achievements as both a rugby player and coach. One of the articles that has been done describes him and summarizes his rugby talent as a mixture of brute strength, pace and dexterity that has never been witnessed in the rugby field with wonderful evasive skills for the backrow and the build of a front-row. Those who know rugby will understand what I have explained.

Indeed, all of us who have watched him on the pitch and interacted with him can relate to the statement. I remember when I first met him in 2002 after the floodlit tournaments, I told him that I will one day be the captain of the rugby team and he laughed, but that began a very close friendship after that.

Mr. Speaker, Sir, apart from the late Ayimba's notable traits, that brought honour to this country through the rugby sport, the Committee recognizes and notes his tremendous achievements spanning two decades. I am honoured that these achievements will forever remain in the record of this House and the record of this country.

Mr. Speaker, Sir, just to highlight a few, Benja played for Nondescripts in 2002, Cornish Pirates in England between 2003-2005 and the Kenya National Team from 2006. He captained Impala now known as Impala Saracens to two championships, the Kenya Cup in 2000 and the Enterprise Cup in 2001. He represented Kenya at the 1998, 2002 and 2006 Commonwealth Games. He was part of the Kenyan squad that featured in two Rugby World Cups Seven Series in 2001 and 2005 Rugby World Cup Sevens tournaments in Argentina and in Hong Kong, respectively. He coached the Sevens team between 2006 and 2011 and subsequently in 2009, secured the first ever IRB World Series Main Cup Finals in Adelaide, Australia.

Mr. Speaker, Sir, in the same year, he led Shujaa to its maiden Rugby World Cup Sevens Semi-Final in Dubai. The second attempt was at Kenya Sevens head coach between 2015 and 2017. He coached the team to its first ever appearance at the 2016 Olympics in Rio de Janeiro, Brazil, and strived to promote grassroots rugby. He was part of the first ever successful Kitui Sevens in 2018.

Mr. Speaker, Sir, the foregoing achievements are no small feat. The late Benja ventured in the rugby sport both as a player and a coach at a time when Kenya like several other developing countries continue to lag behind other established rugby nations like South Africa, New Zealand and the United Kingdom. Needless to say, he was the only Rugby Sevens coach who was relieved of his duties in 2011 and reinstated in 2015.

Despite these setbacks, he carried on and led the team to win the 2016 World Sevens Title in Singapore where the Kenyan team beat Fiji 30-7. That was a very serious achievement that remains in the history books of this country.

In that case, we salute the strength and persistence of this fallen hero. He was a pacesetter and a good example and to other talented and upcoming rugby sportsmen. He was, indeed, a classic example of resilience, following passion and talent against all odds. We also laud the late Ayimba and his associates on their aspiration to give back to the community, his vision to establish an age grading rugby academy in Nyanza region aimed at tapping talent at the grassroots is one that must not only be appreciated, but must also be supported to its successful fruition.

Mr. Speaker, Sir, his mixed achievements and many more, some of which I may not be able to highlight at this time, the Committee wishes to remember the late Benjamin Ayimba as one who, indeed, gave back to his country. An outstanding Kenyan whose efforts to grow personal talent, to mentor young people; he really mentored everyone he came across who was younger than him on and off the pitch, and to give back to community, did well to show patriotism.

One of the key pillars of good governance as espoused in Article 10(2) of the Constitution of Kenya, that defines the late Ayimba's legacy and signature. In the writings of Aristotle, he wrote,

“Man is at his best when he is doing his best at what he likes doing best.”

Indeed, the late Ayimba is one of those men whose achievements will remain engraved in the annals of history. He is among the few who applied this philosophy as the centrepiece of his life, with passion, firmness of purpose and tenacity being his firm foundation, no matter the insurmountable journey.

Mr. Speaker, Sir, to those of us who interacted with him, he was a beacon of hope in sports mentorship. We will have a reservoir of memories, of his selflessness; an example that will live on until the end of time. As a matter of fact, when the history of Kenyan Rugby is written, the man Benjamin Ayimba will find a chapter and a place. Literally, he is gone, but his mark on rugby will endure the test of time.

Mr. Speaker, Sir, having played his best, Benja is at peace. I would like to thank all Kenyans who followed the appeal that we had made and contributed to his medical costs, which had run out of insurance and everything. I particularly thank His Excellency, President Uhuru Kenyatta who responded to my call for help and donated Kshs1 million. I also want to thank the Right Hon. Former Prime Minister Raila Odinga who also

donated and visited the family and all those other Kenyans who donated Kshs50 or Ksh100.

Mr. Speaker, Sir, at this time, I make a final appeal that we still need to help the family. I want to thank Cabinet Secretary Amina whom we have been in touch with; she has really helped together with the Cabinet Secretary for Health and Kenyatta National Hospital to assist with some of those bills. Let us give this hero of Kenyan Rugby and Kenyan sport a befitting send-off.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you. Senator Mwaruma.

Sen. Mwaruma: Asante, Bw. Spika kwa kunipa hii nafasi ili kupitisha salamu za faraja kwa familia na wana Nairobi kwa ujumla, kwa kumpoteza mchezaji mashuhuri wa raga, Bw. Benjamin Ayimba. Yeye alifanya bidii akiwa mwanamchezo mashuhuri wa raga na alichangia pakubwa kuweka jina la Kenya katika ramani ya dunia.

Bw. Ayimba alikuwa ni mkufunzi mzuri ambaye alikuwa na nidhamu na nguvu kama mchezaji, ambaye nguvu zake ni za kuigwa. Nikiwa mimi ni mkufunzi wa mchezo wa kandanda na kama wakufunzi wa michezo mbalimbali, tunafanya kazi kubwa sana kuhakikisha kwamba wanamchezo wanapata ujuzi wa kucheza lakini kando na ujuzi peke yake, kuna yale mengine yanayo funzwa pale uwanjani.

Kwa mfano, nidhamu ya hali ya juu. Bw. Ayimba alikuwa na nidhamu ya hali ya juu na aliweza kupitisha hio nidhamu kwa wachezaji wengine. Wakati alifanya bidii kuinua wengine katika kiwango kile chake na wale wachezaji walipata kipato kizuri kupitia kwa huu mchezo wa raga.

Kwa hivyo, napenda kuungana na Wakenya na wanamchezo wengine nikiwa kama Makamu wa Mwenyekiti wa Kamati ya Bunge ya Michezo na Leba, niseme kwamba tusaaidiane na tushikane mikono na familia ya Benjamin Ayimba ili kuhakikisha kwamba huu mchezo wa raga umefika kiwango kingine.

Bw. Spika, sio mchezo wa raga peke yake lakini michezo mingine. Kenya inapata kipato cha juu kupitia kwa michezo kama raga na mbio ambazo tunaangalia wenzetu wanaotoka Bonde la Ufa. Wameleta kipato cha hali ya juu sana. Nashukuru pia wale viongozi ambao tumesikia kwa Mwenyekiti wa Kamati la Michezo na Leba kwamba walichangia pakubwa kulipia malipo ya hospitali ya Bw. Ayimba alipokuwa hospitalini.

Kwa hivyo, sisi wengine sote tushikane mikono ili tusaide familia na kuhakikisha ya kwamba Benjamin Ayimba tumempa buriani ya heshima na tunaomba Mungu ailaze roho yake mahali pema peponi.

Sen. M. Kajwang: Mr. Speaker, Sir, I join Sen. Sakaja and the entire nation that is mourning a great man, Benjamin Ayimba who brought great glory to this country. The definition of heroes of a nation tells you something about the soul of that nation. Unfortunately, Kenya is a country where our heroes tend to be politicians. Our heroes tend to be the Robin Hoods who acquire then come and distribute the proceeds to the people they acquired from in the first place. How I wish that we had a values system where people like Benjamin Ayimba who has brought global glory to this Republic would be elevated to the highest level.

Mr. Speaker, Sir, you will agree with me that when a politician and Benjamin Ayimba are on a queue, the politician will be told to jump the queue and not the Benjamin Ayimbas and not the Eliud Kipchoges of this world. We need to recalibrate the way we define and look at our heroes.

At this point in time, we cannot bring Benjamin Ayimba back to life. However, the glory, the adrenaline that he inspired in our bodies, the smiles that he put on our faces, the excitement he caused us every time we saw a player of the Kenyan Rugby Team reaching for the try line, every time we saw a conversion, a drop-kick that was successfully executed and every time we saw the strength of the pack and scam of the Kenyan team, those will live with us forever.

I wish that the family is taken care of. This is because as always is the case, we attend funeral and make lofty speeches. We talk about the deceased 10 per cent of the time and Building Bridges Initiative (BBI) 90 per cent of the time. I hope that this will be different. Let us make promises and commitments that we will live up to.

Mr. Speaker, Sir, the late Benjamin Ayimba did a lot to the game of rugby which was a minority sport. Back then, it was a sport that was confined to a few schools. In Nairobi, it was Nairobi School and Lenana School. In Western, it was Maseno School and St. Mary's Yala.

The generation of the late Benjamin Ayimba democratized the rugby movement to an extent that today the traditional schools that dominated rugby, Lenana and Nairobi Schools, are nowhere. Nowadays, it is Kakamega Boys and Musingu Boys. Rugby has moved to the Western part of the country and more people are now getting an opportunity to play it and go international to play in England and other countries the way Benjamin Ayimba did.

We might not be able to pay him or properly idolize him as a hero in his days of living, but the memories he has left behind and the glory he has brought to Kenya is immense.

Another niche sport where Kenya is renowned internationally is cricket. If you travel and meet a Pakistani, a Bangladeshi or an Indian and you start to discuss cricket, they know Kenyan cricket players whom you, as a Kenyan leader may perhaps not know. They have elevated the sport and brought up the name of the country to such lofty levels, but yet we treat them as '*watu wa kawaida*'.

May Benjamin Ayimba's soul rest in peace. May his family find comfort. May the leadership make promises that they are willing to keep. May we give him a dignified burial.

What he has done to the game of rugby which is basically a gentleman's game, is great. His memory will live and endure forever.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir, for giving me this chance.

I join the rest of my colleagues, on my own behalf and that of the people of Kericho to mourn this hero alongside everyone else of good will who is wishing his family God's grace during this extremely difficult times as they mourn a gentleman who gave his life for this country and served it in the place and field of his calling to the best of his abilities.

Mr. Speaker, Sir, Benjamin Ayimba contributed to the growth of rugby as a sport in the country. He made many whom ordinarily may not have loved the sport, as it is not one of our traditional sports as country, to fall in love with it. This is because of how he handled and motivated the young squad that he was lucky to have led. He won the titles around the country and it was a great moment of pride for us as a people.

Mr. Speaker, Sir, listening to his interviews every time they came back from the International Rugby Board (IRB) series be it on occasion that they won as was listed by Sen. Sakaja. Also, on occasion where they did not do so well, he would always have a good explanation as to what went wrong and always strived to make it better in their next appearance. He was a gentleman who made this country.

As a nation, I do not want to get into a moment of adage as a leader and start mourning and saying how we have not done so much for our sports people. I have taken the personal initiative knowing that this is something I am extremely passionate about.

I have a Bill in the formation stages going through the publication scrutiny stage before being read for the First Time before this House. It will look into the issues such as the one a few of my colleagues have spoken about.

We have men and women like Benjamin Ayimba who go out of this country and bring glory whose value cannot be measured. What is the value either in kind or monetary consideration of the young men and women who go around the world and fly our flag? Everybody gets to know about Kenya and reads about our history thanks to their exploits on the field.

We cannot compensate such people. However, there is something we can do to celebrate, honour, respect and make sure that their names prominently feature and that future generations will know that there were such men and women who dedicated their lives to making this country a better place. Therefore, the live of Benjamin Ayimba is the one that we will remember for a long time as a people.

I know that at this time his family is heartbroken. They have gone through a rough patch in the last few months. It is not simple for a family to come out to plead and call out for help as they have done because of his battle with illness.

It goes on to speak to the challenges that we continue to experience as a people on the cost of medication in the country and the fact that not even the ones we thought to be in a better place, for example, this gentleman, are able to afford it. It is simply out of the roof.

This is a situation and scenario that is in many of our families. Therefore, I join, Sen. Sakaja, who pleaded to Kenyans of good will who want to support this family to make our contributions so that we can celebrate him.

Others are worried about his young family and the contribution. However, much as I know that it is not easy to say this, in life, it all evens out at some point. For the good contribution that their father made to this country, it may not appear immediate, but for his good deeds, they cannot go without reaping his fruits in one way or the other. It may not be direct as it is right now. However, I believe that in one way or the other, members of his family, especially, the wife and the children will reap the fruits of their father's endeavors and exploits for this Republic.

This calls upon us because we are policy makers as Members of Parliament (MPs). As I have said, I have a Bill that is before this House, the Sports Act (Amendment) Bill of 2021. When we get to that opportunity, many of these things that we say whenever we are faced with such scenario - this is not the first time we are speaking as a House on the challenges that many of our athletes face. Let us bring our thoughts together to unlock the potential that is in this industry, so that people can make a good living during their playing days. Later on, as a coach such as Benjamin Ayimba, so that on the day of retirement, they have a good package and be celebrated for the contribution that they have made as sportsmen.

Mr. Speaker, Sir, I know that it is possible. For example, in the good days when we had just established the Sports Fund before the interference that came with it and we diverted a lot of the funds into health which is an important segment of society that we need to take care. However, we should not have diverted all the funds to the deprivation of sportsmen and women.

Mr. Speaker, Sir, sport is a huge industry. Many of the countries that have managed their sports well, for example, England, South Africa and others, have employed millions of young people who are enthusiastic because of how well they manage those industries.

I hope that as Parliament, in the few days that we have in our lifetime, we shall give a lifeline to this industry that continues to suffer. For example, in this season of the pandemic, we know for a fact that many young men and women earn from sports. However, after resumption of near normal operations activities in various segments of our society, we are still waiting for the Ministry of Sports, Culture and Heritage to give the nod of approval on resumption to all sporting activities.

We know that the English Premier League (EPL) came to a conclusion. At least a good number of fans were allowed into the stadium. We may not have the kind of resources they have to vaccinate all our people and send them back to the stadium, but at least we should vaccinate the players. This is because when they play, they earn and generate revenue which in returns meets their daily needs as a people. We needed to have done this, the same way we did for all the other industries.

We need a dimension shift. We need a conversation in the country that is bottom-up phased. When we sit and make a consideration and try to unlock travel routes because the big boys are travelling from Nairobi to London, we should also think about the young people who need to play football at Kisumu Stadium or here in Nairobi. The Ministry should give a proposal.

I challenge Ministry officials because I know there are some who are listening to this conversation. Let them give us a return to sports route so that clubs follow this particular route in all the sports that we are involved in so that many young people who draw their livelihood from sports get back to work.

Mr. Speaker, Sir, we should continue to push this in memory of the good work that was done by legends and great people like, Benjamin Ayimba.

May his soul rest in eternal peace. We continue to live on with the kind of attitude and demeanor that he had towards life, in doing his best despite the difficult circumstances that he found himself in.

Sen. Nyamunga: Thank you, Mr. Speaker, Sir, for giving me this opportunity to join my colleagues in eulogizing the late Benjamin Ayimba.

I have known him as a young person for over 30 years. I did not know much about the rugby as a game. However, from the time he was in upper primary to secondary school, he started being active and developed interest in rugby. I came to know about the game. I enjoyed and followed it through up to the point when he headed it as a coach.

The late Benjamin Ayimba was brought up by a single mother who is a good friend of mine to date. That is how I came to know the children. She is a strong woman who, from her strength, she managed to raise a family in a God-fearing way and in a way that the children would be in a position to take care of themselves in future.

This is a big blow to the family. This is because Benjamin knew that the mother struggled with them as a single mother. When they were in a position to take care of her, he did a lot of work. They used to live in Nairobi, but eventually the mother had to relocate home. He put up a beautiful home for her and made sure that he had enough activities to keep her busy as an elderly person in the village.

Mr. Speaker, Sir, when Benjamin retired from rugby, he did not stop there. He started a sports game that I got to know from the young people and my own son. It is still in the formative stages and was to be a big thing. I believe that people who used to work together with him will continue with that legacy.

In fact, one day he told me that he had been struggling with the sport game for a long time. It has been a seven years' work. He was an enterprising young person. He was strong and energetic. Unfortunately, he has lost his life at a very tender age. When a person is in their 40s, it is their prime. From time to time, when we lose our heroes, we stand up here and heap praise and great words on them and say all their achievements, but it ends there.

Mr. Speaker, Sir, we must come up with clear plans on how to take care of our heroes; people who have made Kenya shine at some level. I condole with the family of the late Benjamin Ayimba. As we prepare to lay Benjamin to rest, we must remember that he incurred a lot of debt as it has been mentioned by several colleagues. He has left behind a young family, a mother who was looking up to him for support. Benjamin's mother was a single mother who struggled to bring up her four children. Each and every one of Benjamin's siblings are stable now due to Benjamin's efforts. He was a very focused young person who knew his mother's burden and helped her to carry it.

As we eulogize the late Benjamin Ayimba, let us remember his family during this time. Let us prepare to give the late Benjamin Ayimba a befitting send off to his final resting place. I condole with the family that he has left behind. I feel very sorry for them. I commit the family to God and believe that they will be granted fortitude at this time.

Mr. Speaker, Sir, I thank you for giving me this opportunity to eulogize the late Benjamin Ayimba.

The Speaker (Hon. Lusaka): Proceed, Sen. Shiyonga.

Sen. Shiyonga: I thank you, Mr. Speaker, Sir, for giving me the opportunity to eulogize the late Benjamin Ayimba. We have lost a great icon who can never be replaced. However, it is not all lost because the late Benjamin Ayimba nurtured many to achieve great heights in rugby at the national and international levels. The late Benjamin Ayimba

shall be remembered for being a great rugby player and coach. Kenya as well as the international community of rugby has lost. May the Lord rest his spirit in eternal peace until we meet again.

Bye, Benjamin Ayimba.

The Speaker (Hon. Lusaka): Proceed, Sen. Cherargei.

Sen. Cherargei: Mr. Speaker, Sir, on behalf of my family and the great people of Nandi County, I take this opportunity to pass our deepest condolences to the family of the fallen hero and rugby maestro, the late Benjamin Ayimba for the unfortunate demise. I congratulate and thank all Kenyans of goodwill who stood with him during his sickness. I hope that Sen. Sakaja will guide us on how we can assist his young family as well as offset the medical bills that were incurred.

The late Benjamin Ayimba revolutionized rugby. When most of us were in high school, we go to know about rugby through him. Many young people admired and aspired to play rugby. If you played rugby, you were the 'yoyo' or cool in school. The late Benjamin Ayimba is among the pioneers of rugby in Kenya. I remember many of my friends in high school were very keen on playing rugby as a result of how well it was packaged by the late Ayimba and other individuals within the rugby arena.

Mr. Speaker, Sir, Nandi County is a home of champions. Over three quarters of the athletes in Kenya are from Nandi County. They included; Eliud Kipchoge, Conseslus Kipruto, among others, who have made their mark in the Kenyan sporting arena. Unfortunately, the Ministry of Sports, Culture and Heritage has not been gracious enough to ensure that our sportsmen and women enjoy the fruits of their labour.

I have stated before on the Floor of this House that we should not pay other people to be the brand ambassadors of Kenya when we have the likes of the late Benjamin Ayimba who wear jerseys that are branded with the Kenyan flag. Instead of giving so much money to Brand Kenya, we can use our sportsmen and women to fly our flags and wear Kenyan branded jerseys while on the racing track or on the field. The Ministry of Tourism and Wildlife can use the Kenyan sportsmen and women to market Kenya to the world and ensure that the proceedings benefit them. Instead of giving jobs to private advertising firms abroad, we should give that money to our sportsmen and women who run in different tracks worldwide to promote the diversity and unique culture of Kenya.

The issue of doping is slowly killing our sporting industry. I hope that the Chairperson of the Committee on Labour and Social Welfare, Sen. Sakaja, will follow up on this issue that is a cancer among many sportsmen and women in the sports fraternity. If a sports person is found guilty to have used doping substance and is banned from participating in sports for five years, Athletics Kenya does not allow the athlete to resume competitive sporting. I am of the opinion that the move is equivalent to subjecting the athlete to double jeopardy. I hope that the Committee on Labour and Social Welfare will look into that issue so that we do not subject our athletes to double jeopardy.

If somebody has served the ban that they were given by the International Association of Athletics Federations (IAAF) for substance abuse, they should be allowed to compete by the Athletics Kenya as long as they have been cleared by the necessary agencies such as Anti-Doping Agency of Kenya as well as many other agencies. Since

Sen. Sakaja is the Nairobi City County Senators, I hope that he will rename a street or sports facility after the late Benjamin Ayimba. Considering that Sen. Sakaja is also a good friend of the President, he can whisper to him to name a sports facility such as a rugby academy or anything else after the late Benjamin Ayimba so that his legacy can be outlived as well as have many people inspired by the works that he did within the sports fraternity.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Lusaka): What is your point of information, Sen. Sakaja?

Sen. Sakaja: Mr. Speaker, Sir, I would like to inform Sen. Cherargei that part of the plans that we are pushing for is to have the new rugby complex that is being done along Ngong Road named after the late Benjamin Ayimba. It is also a coincidence that on the same day that we lost the late Benjamin Ayimba, we were celebrating the first anniversary of the late Allan Makaka who was the fastest rugby player in the history of Kenya. We also lost a valuable rugby player in 2016 by the name Eric Situma. We will do something to remember the best rugby players that we had. I thank Sen. Cherargei for his suggestion.

The Speaker (Hon. Lusaka): Proceed, Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I thank you for giving me the opportunity to join you in condoling the family of the late Benjamin Ayimba. It is sad that we have lost him at a tender age. He has left behind a very young family. The contributions that the late Benjamin Ayimba made to the rugby sport nationally and internationally should not be in vain. We need to look for mechanisms to ensure that our sportsmen and women do not die in abject poverty.

Many sportsmen and women bring a lot of glory into this county. Since they also add to the economy and revenue of this country, there is need to ensure that they are paid royalties when they get sick or old. Most athletes spend their youthful years bringing glory to our country. The Government should take care of them when they can no longer play by paying them royalties which should spill over to their families. I know a number of sports persons who have died in abject poverty. For example, the late Robert Wangila was a very good boxer who died in poverty. More recently, the late Joe Kadenge also died in abject poverty.

Congestina has not died but she is just languishing in poverty. A sportsperson should not go through painful moments because they bring a lot of honour and glory to our country. They also fly the flag of Kenya high.

There is need to have capacity training for sportspersons. During their active and youthful years, there should be capacity trainings so that they are also be trained on how to utilise their money and begin preparing for retirement immediately they begin earning because it is not good for them to die in sorrow states. During their later years, they should not live lives full of pity.

We should see how to nurture talents of sports people and ensure that we get the best from them. Even as they make us proud, let us see how to help them age gracefully. When they exit this world, let us ensure that their families are happy about their achievements.

I condole with the family. On behalf of Persons with Disabilities (PWDs) and as a coordinator of PWDs sports, I pass my deepest condolences.

Thank you, Mr. Speaker, Sir, for giving me the opportunity.

The Speaker (Hon. Lusaka): Finally, Sen. A Haji.

Sen. A. Haji: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I offer my heartfelt condolences, on my own behalf and on behalf of the people of Garissa, to the family and friends of the late Benjamin Ayimba. I pray for peace and comfort for the family and the loved ones at this difficult time. His gentle soul will always be in our hearts.

Benjamin Ayimba will definitely be remembered. He goes down in history as the man who led Kenya win the 2016 Singapore Sevens after thrashing Fiji 37 to bring the coveted cup home. This happened only a year after being reinstated as the coach and just a year before the tournament. It is no mean feat and he was truly a Kenyan hero.

Sports has a major symbolic value and shapes national self-perception. I would like to assume all kinds of sports can unite countries. Kenya sportsmen and women, much like other national athletes, have become the national flag bearers. They have made this country visible on the global stage and inspired the generation of athletes and sportsmen and women.

The good news is that the Kenyan policy towards sports has been improving in the recent years but I think there is a lot of room for improvement. As leaders in this country, we need to push the Government more towards improving the policy towards sports, so that we appreciate our sportsmen and women more and even reward them better.

Thank you very much, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Before we go back to the other Statements, let me give the Floor to the Chair of the Committee on Devolution and Intergovernmental Relations to lay his paper.

(Interruption of Statements)

PAPER LAID

REPORT ON CONFERMENT OF CITY STATUS TO NAKURU MUNICIPALITY

Sen. M. Kajwang': Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Tuesday, 25th May, 2021-

Report of the Standing Committee on Devolution and Intergovernmental Relations on the conferment of City Status to Nakuru Municipality.

I thank you.

The Speaker (Hon. Lusaka): Let us now have the Statement from Sen. Cherargei. Sorry, let him give Notice of Motion first. Relax, Sen. Cherargei.

NOTICE OF MOTION**ADOPTION OF REPORT ON CONFERMENT
OF CITY STATUS TO NAKURU MUNICIPALITY**

Sen. M. Kajwang': Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the Conferment of City Status to Nakuru Municipality laid on the Table of the Senate on Tuesday, 25th May, 2021, and pursuant to Section 8(iv) of the Urban Areas and Cities Act, approves the conferment of city status to Nakuru Municipality.

I thank you.

The Speaker (Hon. Lusaka): Proceed, Sen. Cherargei.

Sen. Cherargei: Mr. Speaker, Sir, I needed your guidance because I have three Statements. Will I be allowed to read all of them so that if colleagues have interest, they can contribute on them?

The Speaker (Hon. Lusaka): That is okay.

Sen. Cherargei: Thank you, Mr. Speaker, Sir, for that guidance.

(Resumption of Statements)

**TENDERING AND AWARDED PROCESS FOR THE
CONSTRUCTION OF LAMU-IJARA-GARISSA ROAD**

Sen. Cherargei: Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Roads and Transportation on the tendering and awarding process for the construction of Lamu-Ijara-Garissa Road which is 257 kilometres, Hindi-Bondei-Kiunga Road which is 113 kilometres and Ijara-Saingilu-Hulugho Road which 83 kilometres, totaling to 453 kilometres awarded by the Kenya National Highways Authority (KeNHA) costing Kshs17.9 billion for a duration of 36 months as part of the Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Corridor Project. In the Statement, the Committee should:

(1) clarify whether due procurement process was followed during the tendering and awarding of the tender for the construction of these roads totaling to 253 kilometres at a cost of Kshs17.9 billion;

(2) confirm whether M/S China Communication Construction Company Limited has the capacity required to construct the road; and,

(3) state the plans that have been put in place by the Government to compensate persons whose land and property was acquired in the process of planning and construction of these roads under the LAPSSET Corridor Project.

**REFUND FOR UNUSED TICKETS CAUSED
BY CANCELLATION OF FLIGHTS**

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Sen. Cherargei: Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the seeking of Kshs14 billion by Kenya Airways as refund for unused tickets following the cancellations of flights occasioned by the advent of COVID-19. In the Statement, the Committee should-

(1) explain reasons why Kenya Airways is seeking from the National Treasury a reimbursement of Kshs14 billion refunded to its customers due to cancelled flights;

(2) outline measures that Kenya Airways has put in place during the COVID-19 period to ensure it remains solvent;

(3) indicate the revenue projection of Kenya Airways before COVID-19 pandemic and after; and,

(4) state the employment status of Kenya Airways staff including for those at senior management level.

I have a final Statement.

PERSONAL DATA PROTECTION BY TECHNOLOGY AND COMMUNICATION COMPANIES IN KENYA

Sen. Cherargei: Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Information, Communication and Technology regarding personal data protection by technology and communication companies in Kenya. In the Statement, the Committee should-

(1) state the measures that have been put in place by technology and communication companies to ensure that the Kenyans' right to privacy is protected;

(2) indicate the measures the Communication Authority of Kenya (CA) has taken to protect consumers using social media sites and technology companies such as Google, among others;

(3) state the measures taken to ensure that the applications in android and other smart phones are not infringing on users' personal data;

(4) state the procedure for approval of applications to be sold or installed on customers' or consumers' mobile phones; and,

(5) state the measures in place to ensure that personal data and information are not used by business agencies to send random SMSs or make unwelcome phones calls that are rampant bearing in mind that the process of filling the position of the CEO of the CA is ongoing.

I thank you, Mr. Speaker, Sir, for giving me the opportunity to seek the three Statements.

The Speaker (Hon. Lusaka): Thank you so much.

I will defer the Statements by Sen. Kang'ata because he requested and also for Sen. Loitiptip because he is not here.

MARITIME BORDER DISPUTE BETWEEN KENYA AND SOMALIA

CANCELLATION OF TENDER FOR SUPPLY, DELIVERY,
INSTALLATION AND COMMISSIONING OF ERP
AND CLAIMS MANAGEMENT SYSTEM

USE OF KPA AS COLLATERAL TO M/S CHINA
EXIM BANK IN FINANCING SGR

(Statements deferred)

The Speaker (Hon. Lusaka): Sen. Madzayo and Sen. Pareno are also not here. Let us get a Statement from the Standing Committee on Labour and Social Welfare.

Sen. Sakaja, are you ready? Since the Chair is not ready, we will re-arrange the Order Paper.

ACTIVITIES OF THE COMMITTEE ON LABOUR AND
SOCIAL WELFARE

(Statement deferred)

The next Statement is from the Standing Committee on Agriculture, Livestock and Fisheries.

ACTIVITIES OF THE COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES

(Statement deferred)

That brings us to the end of Statements.
Next Order.

MOTION

ALTERATION OF THE SENATE CALENDAR
FOR THE FIFTH SESSION

The Senate Majority Leader (Sen. Poghiso): Mr. Speaker, Sir, I beg to move-
THAT, notwithstanding the resolutions of the Senate made on 16th February, 2021 (approval of the Senate Calendar), 24th March, 2021, and 30th March, 2021 (alteration of the Senate Calendar); pursuant to Standing Orders 29 (4) and 31 (3) (c), the Senate resolves to further alter its Calendar (Regular Sessions) for the Fifth Session, 2021, in respect of Part III, to hold sittings on Wednesday, 2nd and Thursday, 3rd, June, 2021, between 2.30 p.m. and 6.30 p.m., and that the Senate proceeds on recess from Friday, 4th June, 2021, and resume its regular sittings on Tuesday, 6th

July, 2021, as set out in Part IV of the Senate Calendar, and as per Standing Order 31, approved on 16th February, 2021; and that the Senate Calendar (Regular Sessions) for the Fifth Session be altered accordingly.

Mr. Speaker, Sir, I just need to say that this Session has been very busy. Hon. Members have had a lot to do in spite of the situation with the Coronavirus Disease (COVID-19). Attendance has been very high, both physically and through Zoom. Committees have been working, and many times we have disrupted this Session with Special Sittings. It is, therefore, about time that Members take a little break combined with our normal recess.

Instead of just leaving, we will compensate for Tuesday because next Tuesday is a public holiday, Madaraka Day. To make up for that and to try and clear some of the work left, we put Wednesday and Thursday as meeting days, so that by the time we go on recess, we would have covered the most urgent activities in the Order Paper.

I thank Members for their patience. I know that they have been very busy. Some committees want to do work even during this time. Some committees are travelling. We want to make this alteration for the convenience of the House, so that we can make up for some of the time that we lost during the many times there have been disruptions.

Mr. Speaker, Sir, this is very straightforward Motion for Members to decide. I hope that they agree with me and we can take this and do it today, so that we can take a little break.

I thank you. I beg to move and ask Sen. Nyamunga to second.

Sen. Nyamunga: I second, Mr. Speaker, Sir.

(Question proposed)

The Speaker (Hon. Lusaka): Sen. Kwamboka.

Sen. Kwamboka: Thank you, Mr. Speaker, Sir. I support this Motion on the alteration of the Senate Calendar for the Fifth Session. Indeed, we have had a long period of time during this Session. A lot has been done by the Senators, even in this difficult moment of COVID-19. We have had many Sessions, both physical and hybrid ones.

Since we have not finished all the business that we have, and next week Tuesday we will celebrate Madaraka Day, it is good that we compensate with those two extra days. This is so that we can finish the pending business of Motions, Bills and reports. After that, we can go on a recess.

During the recess, the Members will continue having their Committee Sessions through hybrid sittings. If need be, some may even continue with physical sittings. That is the time that the Senators will have a break to go to *mashinani*, meet their constituents and have some time with them. During that period, they can also consider the COVID-19 rules, so that we can educate the public on the importance of taking the regulations seriously.

I support.

The Speaker (Hon. Lusaka): Sen. Sakaja, did you want to speak? Your card does not show your name.

Sen. Sakaja: Mr. Speaker, Sir, someone messed it. As the host Senator, I am really disappointed that someone has messed my card. It just says the card number, yet everyone else's gives their names. I hope that the clerks will sort that out.

I support this Motion that alters the Calendar of the Senate. You will remember that when we discussed this in the Senate Business Committee (SBC), I was pushing for more sittings. We take cognizance of the fact that the COVID-19 pandemic has made us slow down the number of sittings. We have been meeting once a week, but as a Senate, we have a lot of pending business.

Mr. Speaker, Sir, there are only 440 days left to the next elections or to the end of the term of this Senate yet as we speak today, we have 52 Bills that have been published, 23 Bills that are at the Second Reading stage, one is at the Committee stage and one is due for First Reading.

We have 52 Petitions. Petitions have timelines that we need to respond to as a House. It will be a huge disappointment if we do not finish the work of this Senate. I think we have a lot.

From next week, in as much as Tuesday is a public holiday, Wednesday and Thursday, ideally, if I could have been allowed to amend this Motion, which I will not, we would have met in the morning and in the afternoon.

This is a huge workload. Members have Motions on various issues, some are urgent and we never get to them. You have just deferred almost 10 Statements and this is where we are supposed to be.

Mr. Speaker, Sir, you also recognise that following the court ruling, several Bills which we had already dealt with as a Senate had to start the process again to be republished. These Bills went through rigorous process of legislation and public participation. I can give you an example of the Pandemic Response Management Bill, which I had sponsored. We had more than 164 different individuals and institutions coming to give their views.

Unfortunately, after we had gone through the entire process and submitted it to the National Assembly, we have to start again.

Mr. Speaker, Sir, I have another four; the Prompt Payment Bill which I sponsored with Sen. Farhiya which again we have to start, the Startup Bill which has been read for the First Time today - I am grateful for that - The National Disaster Management Bill and the County Government Public Service Boards Bill that is yet to be published.

These Bills went through rigorous public participation. I just want to assure the House and I will give an example of the Startup Bill, we interacted with many members of the startup community who proposed several amendments and even wanted some alterations. I would like to assure them that the Bill has been published with those amendments now incorporated.

The same applies to the Prompt Payment Bill; the amendments were already passed and we have incorporated them in the new published Bill as well as the Disaster Management Bill, which I sponsored with Sen. Mutula Kilonzo Jnr.

Because we do not just do things for the sake of doing things technically, that means that some of those processes in the normal processing of the Bill can be done faster; we can expedite. We do not have to go through the deepest extent.

In fact, when we call out for public participation, we should ask those stakeholders who had already come to us whether they have any new view or opposing view because we cannot deny them that chance to participate.

However, let us fast track it. It would be a proud moment for the Senate if we can deal with these Bills, at least 25 of them, within the next three months. I think it is possible.

Mr. Speaker, Sir, when we come back from the recess, I would suggest that at that point, observing the COVID-19 protocols, you can see we are few and some people are saying that Senators are not in the House, they should just know that we are social distancing and others are online. All Senators are keen in their duty.

Observing the COVID-19 protocols, let us be able to sit twice everyday such that on Tuesday we have a morning session and afternoon, Wednesday morning and afternoon and Thursday morning and afternoon. In a month, we will have done the work of two or three months.

Mr. Speaker, Sir, Chairpersons of Committees should be creative. If you look at the number of Petitions that are pending, they are 52 and Committees have Bills. However, Committees should be flexible enough to meet. You should allow us to meet sometimes during the session because of the mornings that we will have taken. We should meet online and in the evenings so that we can at least serve Kenyans and clear this backlog.

Personally, as a Chairperson, I feel very uncomfortable when I have pending work in my Committee; it feels bad or disorganized. I am glad to note that of the 52 Petitions, the Standing Committee on Labour and Social Welfare has zero. Sen. Kwamboka has helped me to clear all the pending Petitions in my Committee, together with all my Members and the Vice-Chairperson.

At least you can tap yourselves on the back because the Standing Committee on Labour and Social Welfare has no pending Petition. In fact, we are following up the work we did. So, *hongera*, Vice-Chair. It is because of having an able Vice-Chair that we are able to clear Petitions because she chairs meetings on my behalf when I am not there.

Mr. Speaker, Sir, I beg to second and urge Members to support us to do more in a shorter period.

Thank you.

The Speaker (Hon. Lusaka): This is a procedural Motion.

(Question put and agreed to)

Next Order.

BILL

Second Reading

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

(Sen. Kasanga 18.05.2021)

(Resumption of debate interrupted on 18.05.2021)

(Bill deferred)

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

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

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

BILL

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 30 OF 2020)

The Temporary Speaker (Sen. Nyamunga): Mover, Sen. Mwaruma

Sen. Mwaruma: Thank you, Madam Temporary Speaker, for giving me this opportunity to move an amendment on the Wildlife Management Act No.47 of 2013.

Madam Temporary Speaker, I beg to move that the Wildlife Management Act (Amendment) Bill of 2020 be read a Second Time.

This amendment Bill seeks to amend the Wildlife Management Act No.47 of 2013. This Act, when enacted, will be referred to or cited as; The Wildlife Conservation and Management Act of 2020.

Madam Temporary Speaker, it is quite a brief Bill in that, it seeks to amend few sections of the 2013 Act. I should say that this amendment Bill was a culmination debate of a Motion that I brought here, Members discussed and we decided that instead of having that Motion end there, we put an amendment Bill.

Madam Temporary Speaker, I come from a conservation area; Tsavo East and Tsavo West. There are several challenges that come as a result of living within the conservation area. If we amend this Bill, some of the issues that emanate from the challenges that bedevil the people living around the conservation areas would be resolved.

The first amendment, Section 2 of this Amendment Bill, seeks to insert Section 21 (a), which previously was not in the Wildlife Conservation and Management Act No.47 of 2013.

Section 21 (1) (a) will read-

“The Cabinet Secretary (CS) shall, as the case may be and in each financial year, provide adequate funds for the management of the affairs of each Community Wildlife Conservation Committee.”

This Section is important because, previously, we did not have enough financing for the Community Wildlife Conservation Committees. These Committees are tasked with payment of compensation on claims resulting from loss or damage caused. They do all the processes from the time of identifying the people who have died and the animals that have been killed to the point where valuation is done and compensation list is made for compensation.

Section 21 (1) (a) seeks to ensure that the CS adequately funds the Community Wildlife Conservation Committees.

21 (1) (b) reads-

“The Cabinet Secretary shall where no appeal has been lodged under this Act ensure that compensation required to be paid under this Act is undertaken within 12 months of a determination of the respective Community Wildlife Conservation Committee.”

Madam Temporary Speaker, I have already indicated that the Community Wildlife Conservation Committee is important. It determines the damages that have been incurred such as deaths of human beings or animals and destruction of crops.

The original Wildlife Conservation and Management Act No.47 of 2013 does not indicate the time or period that compensation is supposed to take place. For example, as I speak now, we have claims dating back from 2011 up to 2013 that have not been paid. However, when we insert this Clause or timeline, then those who incur losses as a result of human-wildlife conflict will be compensated within 12 months.

Madam Temporary Speaker, this is important because if we have damages emanating from the human-wildlife conflict, if you are not paid within the 12 months, you can seek judicial review from the courts to make sure that the Ministry of Tourism and Wildlife pays you.

Madam Temporary Speaker, Section 3 of this Amendment Bill seeks to amend Section 23 of the principal Act. Section 23 of the Principal Act talks about the Wildlife Endowment Fund. Section 23 (1) indicates that-

“The service shall establish a wildlife endowment fund and which shall be vested in the Board of Trustees.”

Section 23 (3) states-

“There shall be paid into the Wildlife Conservation Fund-

(a) monies appropriated by Parliament for purposes of the endowment fund.

(b) a proportion of such monies may be levied for the payment of environmental services by beneficiaries in productive services.”

It goes on up to (e), which states that the Board of Trustees shall facilitate community based wildlife initiatives; and - we have an insertion here-

“(f) such other purposes as maybe provided for by rules made under this Act.”

I am seeking to make an amendment by inserting f (a) to read-

“Provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management.”

Madam Temporary Speaker, the initial Section 23 does not speak to offering support to the local communities that are negatively affected by the activities undertaken with respect to wildlife conservation and management. They are left on their own.

For instance, the other day, elephants on rampage went where communities were living, uprooted crops and killed animals. Some of the elephants that were thirsty broke reservoir tanks. When we called the Kenya Wildlife Services (KWS) authorities requesting them to remove the animals, they said that the elephants had babies and if they removed them the babies would be eaten by wild dogs, lions *et cetera*.

Therefore, if you look at that scenario, it means that there is no Clause that speaks to offering support to the communities. This is because if all the cassava has been uprooted and all the food eaten, there has to be a mechanism through regulation, which will ensure that the communities whose food has been destroyed by wild animals can be given food and support. This is so that they can exist until the next planting and harvest season comes.

Madam Temporary Speaker, I am also seeking to amend Section 24 (1) (a) of the Principal Act. It talks about the Wildlife Compensation Scheme.

It reads-

“The Government shall establish a Wildlife Compensation Scheme that shall consist of-

(a) monies specifically allocated for this purpose through the budget process.”

If you look at this Clause, it is vague. It is wide and difficult to understand or implement such a Clause. I am seeking to amend this Section. The Section should read that-

“Monies annually allocated for the purpose by the National Assembly.”

This is because it is the National Assembly that appropriates money. It is different from just saying ‘money appropriated for this purpose through budget process.’ The budget process is quite wide and it can be ambiguous.

Section 5 seeks to amend Section 25 of the Principal Act. If I look at the initial Wildlife and Conservation Act No.47 of 2013, Section 25 of the 2013 Act, it talks about compensation for personal injury or death or damage to property.

Section 25 (1) (a) states that-

“Where any person suffers any bodily injury or is killed by any wildlife listed under the Third Schedule, the person injured, or in the case of a deceased person, the personal representative or successor or assignee, may launch a claim to the County Wildlife Conservation and Compensation Committee within the jurisdiction established under this Act.”

Section 25 (1) (a) states that:

“The County Wildlife Conservation and Compensation Committee established under Section 18 shall verify a claim made under subsection (1) and upon verification, submit the claim to the Cabinet Secretary together with its recommendations thereon.”

The Section that I seek to amend is Subsection 4, which reads-

“Any person who suffers loss or damage to crops, livestock or other property from wildlife, specified in the Seventh Schedule hereof, and subject to the rules made by the Cabinet Secretary, may submit a claim to the County Wildlife Conservation and Compensation Committee, who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration.”

Madam Temporary Speaker, I find this a bit difficult to implement where it States:

“Submit a claim to the County Wildlife Compensation Committee who shall verify the claim and make recommendations appropriate to the Service”.

What the Service is supposed to do is to consider whether to compensate or not. To me, that is problematic.

I am seeking to amend that Section by deleting the words “due consideration by the service” appearing immediately after the words “the service for” and substituting thereof the words, “for the purpose of processing the payments for compensation.”

Madam Temporary Speaker, why do we establish wildlife compensation committees if again there would be another arm that would go and do consideration for compensation? According to me, once the County Wildlife Compensation committees make recommendations and they have done the valuations and all that work, then whatever report is submitted to the Ministry of Tourism and Wildlife and Kenya Wildlife Service (KWS) should be for processing payments not due consideration.

This word “due consideration is problematic”. That is why we are having claims running back up to 2012, which have not been paid up to now yet they are deserving cases. People are suffering and losing livelihoods and nobody is caring to compensate them because of such ambiguous clauses.

In the same Clause 5 (c) in the amendment Bill, it should read “by inserting the words “within 12 months” immediately after the words “award and pay” in the introductory clause.”

Madam Temporary Speaker, again I am insisting on putting timelines in this Bill because it removes the ambiguity. We cannot wait for a compensation infinitesimally. Once you make your claim, you need to know after how long you can be paid.

Otherwise, if we do not put such clauses then we cannot go to courts to compel the Government to compensate these hard working citizens who have been impoverished by lack of taking responsibility by the Government of the day. This is to make sure that our people earn from their hard work.

The same Clause 5 (d) seeks to delete the word “either appearing immediately after the words “of compensation by” and immediately after the words “and compensation committee.” I think that would be rather straightforward.

Madam Temporary Speaker, Clause 6 of this amendment Bill seeks to amend Section 76 of the principal Act. Section 76 talks about the guidelines on incentives and benefit sharing. This is a very important Section in that, it speaks to how the communities living within the conservation areas are supposed to benefit. Section 76 talks about 5 per cent that should go to the communities that live around the conservation areas.

The communities living around the conservation areas are supposed to get 5 per cent of whatever is collected. Unfortunately, up to now, they are not getting anything.

When you ask the Ministry of Tourism and Wildlife, they are telling you they are not collecting enough even to run the conservation areas.

Madam Temporary Speaker, if you are not collecting enough to run the conservation areas, what do you do? They say that they borrow some money from partners across the world who are keen on conservation. My question is why you do not also borrow money to give the 5 per cent to the communities around the conservation areas. This is so that you can live as per this law: The Wildlife Conservation Act of 2013.

How it will look after the amendments, Section 6 should read-

“The Cabinet Secretary shall in formulating the guidelines ensure that the guidelines comply with the condition that a minimum of 5 per cent of the benefits from national parks and national reserves shall be allocated to local communities, neighbouring or negatively affected by activities undertaken for the preservation of the national park.”

Part (b) should read-

“by inserting the following new subsection immediately after Section 4.”

We have new Clause 4 (a)-

“The determination of the new percentage of the benefits to be allocated to the local communities under sub section (4) shall be based on the gross total revenue and fees collected with respect to the protected area.”

Madam Temporary Speaker, what was also lacking is that, we want the gross total revenue and fees. In the past in 2018, I tried to ask a question to the Ministry of Tourism and Wildlife to tell us how much they get from Tsavo East and Tsavo West National Parks and the CS brought some rather funny answers. He said that they collect Kshs50 million from Tsavo East and Tsavo West paid as land rates.

The question that I asked is; what about the Pay as You Earn (PAYE) for the employees who are employed to work in the hotels and the people who are working as game rangers, waders, game scouts and so on?

All that money should come into the gross total revenue or add up to the gross total revenue and fees collected within the protected area. What about the gate fees? The CS could not give us that data then. Now we are saying we need to get all that data and determine the 5 per cent of the gross revenue and fees so that we can determine how much 5 per cent should go to the communities living around the protected area.

Madam Temporary Speaker, we are saying if you use Kshs10 billion because we are supposed to raise that and we do not raise Kshs10 billion from the collections - we raise only Kshs8 billion and borrow Kshs2 billion from the conservation partners across the world - the communities are supposed to get like Kshs500 million. Why do we not borrow Kshs2.5 billion so that we make sure we fulfill all these clauses and the requirements of this Bill?

The Seventh Sub-section that I seek to amend is the Third Schedule in the principle Act No.47 of 2013. If you look at Schedule 3, it talks about wildlife species in respect of which compensation must be paid. They are listed as elephant, lion, leopards, rhinos, hyena *et cetera*. We also have poisonous snakes.

Madam Temporary Speaker, what happened in the Omnibus Amendment Bill to the Wildlife Management Act of 2013? In 2019, the National Assembly removed some of

these animals like the snakes, shark, stonefish, whale, stingray, wild pig and buffalo. This Bill has gone through public participation before we started the whole process. You know the reasons why we started this whole process again.

During public participation, I asked the CS why they removed the snake and so on. He said that it was this Bill requires that we have insurance. When they gave an expert to calculate the insurance premiums when we have the snake in this Third Schedule, they said that they were being asked for more than Kshs13 billion in premiums.

When you remove the snakes, then the premiums were coming down to about less than Kshs4 billion. That is why they removed the snakes. I asked them, 48 per cent of deaths within the conservation areas are because of the snakebite. Why do we remove? We were in agreement with the CS that we need to return the snakes. We were in agreement with the CS that we need to return the snake.

Madam Temporary Speaker, this Clause 7 should read: “seeks to put back the following animals in the Third Schedule.”

“The Third Schedule to the principal Act is amended in Part A by inserting the words “poisonous snakes, dangerous snakes, shark, stone fish, whale, sting ray, wild pig” immediately after the word “buffalo”.”

We put ‘dangerous’ and ‘poisonous’ together ostensibly because we can have some snakes that are dangerous but not poisonous or poisonous but not dangerous. To ensure we do not leave any snake behind, we put them together---

The Temporary Speaker (Sen. Nyamunga): Senator, what are the examples of dangerous and poisonous snakes?

Sen. Mwaruma: Madam Temporary Speaker, there are some snakes that are dangerous such as the python, but are not poisonous. It needs to wiggle one to a tree, break their vertebrae column and one is dead. The puff adder is both dangerous and poisonous. We sought to put these together so that the description encompasses all the snakes on earth.

This is quite a straightforward Bill. Sen. Sakaja, do you have a game park in the City? I request you as my Chair and *mulamwa*, the Senator of Nairobi City County to second.

Madam I do not want to end the debate here. After seconding, we need to have more time because there are people who are keen on this Bill since wildlife is domiciled across the whole country. We want to get more time for Members to contribute

I beg to move.

Sen. Sakaja: Madam Temporary Speaker, you have heard the Mover of this Bill, Sen. Mwaruma asking if I have animals here, when Nairobi National Park is teeming with many animals. As he has mentioned, being my in-law, he knows that I am well represented in his county.

As a country, the area of human-wildlife conflict needs to be given some more focus. We have gone to many parts of this country in various Committees. When I was chairing the Committee on National Security, Defence and Foreign Relations, at the time the late Sen. Haji was engaged in different processes outside this House, we visited Taita-Taveta County. Some of the issues that came up following a petition were related to human-wildlife conflict.

We have gone to various other counties such as Samburu, Isiolo and Tana River where many of the members of the public, because of the nature of this conflict and the feeling that the Government has focused more on animals than on them, they have a very negative view in many respects towards conservation.

We met families that have lost livelihoods and loved ones, but have not been compensated. This is a matter that is close to Sen. Mwaruma's heart, which is why I congratulate him for moving his Motion into a Bill.

I encourage colleagues to transform their Motions into legislative proposals. Many times if you look at the words of our Motions, most urge the Government to consider. The Government can feel or ignore the urge, consider or not, but once we make law, the Government has no choice but to follow. Many Motions are nice to debate, but the implementation is constrained.

Many times Government functionaries will say that there is no enabling legislative instrument or legal framework to implement what is brought into the Motions.

I congratulate Sen. Mwaruma for transforming the Motion that he brought earlier on in this term on wildlife conservation and management into this Bill, which – as I had explained earlier on the other Bills - has had to come back to the Senate.

We have had cases of this conflict that require compensation in Nairobi. Due to encroachment, people have been attacked in many of the places that border the park and not much has been done.

In another life, my father was a wheat farmer in Narok. We went through human-wildlife conflict as a family. A lot of money was lost when elephants ate his wheat. We bore the consequences for years, and he has never been compensated.

Madam Temporary Speaker, we are not legislating this for ourselves. Once we have mitigated the negative effects of lack of compensation, the communities around these conservation areas, parks, game reserves *et cetera*, will have owned the conservation. We will have transformed many of these conservation areas. The people themselves will feel that the animals are not their enemies.

When they see KWS rangers and wardens, they feel that they value wildlife more than human life. Once we change that dynamic, we will have the people as the biggest champions of conservation.

This country is regarded highly around the world because of the wildlife. If we are able to leverage on this and have the people as part and parcel of conservation and management, then we will be able to do much better in that area.

One of the areas that will make them champions of conservation and wildlife management is addressing the matter of compensation, such as giving timelines and classifying the animals.

The provision that has been put in Clause 2 about the CS providing funding is a very smart way, Sen. Mwaruma, without our neighbours down the corridor, saying that we are doing a Money Bill. They can then find resources within their budgets for management of these affairs for each Community Wildlife Conservation Committee.

Creating a Committee of the people around there gives them ownership that is not being done by people from Nairobi or KWS, but the people around there. They will then own this process.

Many communities have not seen the value of tourism, apart from those who may engage in trading curios. Many of them see it as a liability. When we say in Clause 23 that we will be able to provide to local communities that are negatively affected by activities undertaken with respect to wildlife conservation and management, then we are moving towards having them as part and parcel of wildlife management.

This Bill provides a timeline of 12 months for the compensation of human death, injury of crop and property damage caused by wildlife. Of course, there is no way we can ever fully compensate human life.

You can never fully compensate human death because you can never bring somebody back to life. However, many times, the victims are loved ones who are also breadwinners. There is, therefore, need to have some form of compensation.

In certain areas of Meru County, elephants invade homesteads and destroy plants and property. Many a times, the locals reiterate by attacking the elephants and killing them. There are also areas in Narok County that experience wildlife-human conflict. Adequate provision of compensation will prevent people from attacking the animals that invade their homes.

Madam Temporary Speaker, there are dwindling numbers of lions in this country. We have less than 2,000 lions in this county, yet they are a great heritage to this country. I have always said that we do not have to bequeath our children that heritage. Our children have loaned us the planet to keep for them. We have not inherited the planet from our ancestors; we are keeping it for the future generation.

More importantly, we should create provisions for the county governments to provide resources. In the areas of conservation, the county governments have an important role to play because all our parks and reserves are in the counties. Naturally, the county governments should take a bigger role. We need to regularize how the different counties benefit from the parks and national reserves in their counties. If the people of Narok County are benefitting directly from the proceeds of the park their county, the people of Taita-Taveta County should also benefit directly from the parks and game reserves that are in their county.

Madam Temporary Speaker, this Bill gives clarity and affects the powers and functions of county governments in terms of Article 110(a) of the Constitution of Kenya. It was interesting to hear the description by Sen. Mwaruma of poisonous and dangerous snakes. Section 76 of the Bill on the guidelines on incentives and benefit-sharing states that: -

‘The guidelines on benefit sharing shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighbouring a park.’

I am sure that even Nairobi County would like to benefit from the 5 per cent of the Nairobi National Park. As I have said, we should not have different applications. Most of us understand the difference between a park and reserve. However, the common *mwananchi* does not see that difference. The common *mwananchi* feels that some parts of this country are being treated unfairly if they are unable to benefit from what they have, whereas other counties are able to benefit from what they have.

Madam Temporary Speaker, the determination of the minimum percentage of the benefits to be allocated to local communities shall be based on the gross total revenue and fees collected in respect to the protected area. Sen. Mwaruma tried to stretch that, but it makes sense because that is what is accruing from that area. The national Government gets revenue from different taxes that are levied from the activities that are going on within that area. If it is within a geographically compact area, then a good administration should do a fair calculation of what goes to the communities around those areas.

In the Third Schedule, we have seen the definition of the animals in the respect of which compensation must be paid. I do not know what the rationale was in listing the animals since animals are just animals. We might limit compensation to the animals listed, yet there are other dangerous animals that are not listed. For instance, wildebeest is not listed, but during their migration, they come in millions, which may cause damage in some areas within the Maasai Mara Game Reserve.

If the wildebeest cause destruction of crops and other property or cause human death, does that mean that the affected persons will not be compensated? The listing of animals is limiting. It is, therefore, prudent to expand the list bearing in mind the issue of the cost of insurance and compensation. I have seen that the wildebeest are only listed under the crop and property damage and not human life. However, you never know.

Madam Temporary Speaker, I pray that this Bill will be fast-tracked. Before I take my seat, I would like to speak about the issue of incentives. We must incentivize the local communities. I am glad that there is a proposal in Section 76 of the Bill, where the Commission on Revenue Allocation (CRA) together with the Cabinet Secretary can formulate guidelines. I hope that Sen. Mwaruma will be involved in that process because he has been the champion of this issue regarding incentives and benefit sharing and the nature and manner in which the same shall be distributed.

There is no need to reinvent the wheel. If you look at other countries that have similar reserves and parks, there are very clear incentives. South Africa and Botswana have clear guidelines on the incentives. The community is part and parcel of the conservation because they have been incentivized and see the value of the parks and reserves. In such countries, some of the proceeds of the parks and reserves are used for building social amenities such as schools, hospitals and facilities, which make the people in the local area feel that they are beneficiaries of the animals there and that the animals are not a hindrance to the development, but part of their development.

The rules and regulations shall be formulated within 21 days to govern the regime on incentives. I hope that will be followed to the letter. We have done many Bills where the implementation period has not been strict. It is good for us to specify that certain things must be done within 21 days and that there shall be public participation or what Sen. Mwaruma has called public scrutiny at every stage of the formulation within the framework of the law and devolution and non-management.

Madam Temporary Speaker, private investments subject to Article 66 of the Constitution conservancies shall benefit local communities and investors shall provide such benefits by providing infrastructure, social amenities, scholarship and community education on conservation.

I recently saw a published article in one of the local dailies that talked about moving more to privatizing the national resources such as game parks and conservancies. That is a matter that should come before the Committee on Delegated Legislation because we want these natural heritages that include the animals in the parks to stay in the hands of the people to the greatest extent.

There can be partnerships, but not to take away from Kenyans. At the moment, there are people who own conservancies of over 100,000 acres and limiting the people from the surrounding areas from accessing the conservancy. We have had cases in the past where locals have been attacked and sometimes shot for trespassing into conservancies. Some conservancies are doing a great job. For instance, if you visit the Borana, Lewa and Ol Pejeta Conservancies, you will experience the beautiful resorts and see animals that are well taken care of.

I will invite Sen., Mwaruma to accompany me to one of the beautiful conservancies that I have mentioned. Apart from conservancies that run well, others are run in a way that even the locals feel they only benefit foreigners. There have been cases of racism in some of the conservancies. We all know too well the case of a local that was shot in one of the conservancies a few years ago and it led to a huge case that followed. We need to look into this matter keenly because we cannot have a few people benefitting from what God has given freely to the people of Kenya.

Madam Temporary Speaker, with those many remarks, I beg to second this Bill. I congratulate and thank the Senator of Taita-Taveta County, my brother-in-law, for coming up with this legislation

(Question proposed)

Sen. (Eng.) Hargura: Madam Temporary Speaker, from the outset, I would like to support The Wildlife Conservation and Management (Amendment) Bill, 2020 because wildlife is an important asset to this country and the world at large. It is the responsibility of every responsible government to protect and conserve its wildlife habitats.

I come from a county that has many such facilities. It has national parks like Marsabit National Park and Sibiloi National Park. We also have three island national parks in Lake Turkana. These are the southern, central and northern islands, which are all in Marsabit County. We also have national reserves like Marsabit National Reserve and Losai National Reserve, which are all part of community areas that have been set aside for the purpose of conservation of wildlife.

I was in the Committee on Land, Environment and Natural Resources when Sen. Mwaruma brought all the petitions that we have been discussing with the Cabinet Secretary. We had a serious petition from the county wildlife management and conservation committees because of their terms of service and the way they are remunerated.

We discussed that at length, but it all boiled down to the issue of financial resources. We expect these committees to perform the functions as outlined under Sections 18 and 25. Since they are the ones supposed to evaluate claims, they need to be

facilitated. The issue boils down to funding. It is very important that when you set up structures, you have to facilitate them properly.

The other aspect is the issue of compensation. I like the way the amendments are. Clause 21 is about the funding or resourcing of the service itself and it is specific. It is stated that the Cabinet Secretary shall, as the case may be, each financial year, provide adequate funding. This is where the problem is because we always hear funds are not enough.

It is good to prioritise what is important in that sector for the management of the affairs of each community wildlife conservation committee. These committees have problems. They brought a petition to the Senate because of not being funded properly for their remuneration and other activities.

The other aspect is compensation. The last time we followed up with the Cabinet Secretary, compensations that have been approved by the community wildlife conservation committees were running into billions. They approve when somebody is injured or killed. The kinsmen bring claims that are processed and confirmed, but they get stuck in the office of the Cabinet Secretary concerned. When we ask, we are told that there is no funding.

This amendment requires the Cabinet Secretary to budget adequately for compensations, knowing that Kenyans live with those animals and there is always the negative impact of the wildlife on the Kenyans' lives and livelihoods in terms of livestock and farm produce. Therefore, the Cabinet Secretary has to budget properly and adequately. I think the Sponsor is trying to be very clear that there must be adequate budgeting for it.

After budgeting, there were no time limits in making sure that compensation is done on time. This amendment seeks to cure that by giving the Cabinet Secretary a maximum of 12 months. Within 12 months after receiving a complaint, the Cabinet Secretary should make sure that the affected persons are compensated. Therefore, we are giving time limits.

The other aspect is the animals themselves. I was surprised by the explanation that Sen. Mwaruma gave that some animals were removed from the list of animals that compensation is done if you are injured by them or death occurs because of snake bites or something like that. The Cabinet Secretary gave an explanation that they removed those animals from the list because they were raising the premium for insurance. That is very unfortunate because, in that case, we are not considering the citizens of this country who are affected by those animals when they co-exist.

I will give an example of Losai National Reserve, which is in the southern part of Marsabit County. One of the main animals they stated are the buffaloes that are found in plenty. You will always get cases of herdsmen being injured and others killed by dangerous snakes because they are all over the place. They ambush you when you are herding. I know of several cases.

What are you saying if you remove that kind of an animal from the list of compensation? Removing any animal from the list of compensation is endangering the existence of that animal because they will be targeted by the public, since they will not be compensated if somebody is injured or killed by it. Therefore, it will better to deal with

them so that they are not there to raise any issue of compensation. That is a counter to conservation, management and security of those animals.

It is good that Sen. Mwaruma has brought an amendment on the Third Schedule, which seeks to bring back all those animals to the list because all the wild animals at any one time or another, will have negative impact on humans because of conflicts. In that case, we do not need to disadvantage the citizens who have given their land and decided to co-exist with the animals. In any event of unfortunate occurrence, then that person needs to be compensated, so that they also feel worth.

The other aspect is the communities living around the national parks. Most of the times, they are farmers or pastoralists with livestock. Animals like elephants always get out and destroy crops. Lions, cheetahs and leopards are interested in the livestock because they are easier to catch than the other wildlife. Therefore, there will always be that negative impact.

Other than the direct compensation of the person affected, there is also need to have the benefit from the national parks or conservancies to the host or neighbouring communities, so that they feel that those resources are of direct benefit to them through having some Corporate Social Responsibilities (CSRs).

For example, we have said that for every facility, 5 per cent of what is collected should go to the community. That also requires them to improve and attract revenue to themselves because they do not generate revenue on their own unless they get tourists. Therefore, they must also market themselves. They should not just work like in the mainstream public service where public officers are there just to get their salaries at the end of the month without gauging themselves on their outputs.

It needs to be oriented in such a way that wherever they are, much as they are protecting, they also have to publicize the kind of facilities they have. For example, Marsabit National Park is one of the most well conserved parks you will find. If you fly over it, you will find wildlife and a natural forest in its pristine form.

However, tourism is not very vibrant there. Rarely do you find tourists in those areas. There is, therefore, need to develop tourist facilities within the park and publicize it, so that we can generate revenue, and the communities around the park can get a share if it. Sometimes, when there is not much activity, you are just conserving and the community is not benefiting, you get conflicts.

In Sibiloi National Park, there is a lot of conflict between the rangers and the neighbouring communities who have to graze within the park during the dry season, because that is the only place there is grass. Therefore, there must be a way of managing that. When the neighbouring communities feel like during drought, the only place they can access for the survival of their animals is the park. Therefore, there must be a way for controlled grazing in the parks. That way, the community will feel the benefit of conserving that area, because when things will be so hard, it will be a fall back area with some management. That way, we can benefit.

Madam Temporary Speaker, I support this amendment. I hope that because of the outstanding claims that run into billions of shillings, this amendment goes through. We need to engage the Cabinet Secretary (CS), so that the backlog is cleared. The lives and

livelihoods of Kenyans are as important as any other priority given to the sector when budgeting is done.

If the budgeting is done centrally, this is an important aspect of this sector. It cannot be that there are no funds to compensate those who have been killed by wild animals, injured, and those whose property has been destroyed. It must be a priority for that sector, because those are the people who have given out their land to be converted to national parks and conservancies, and they cannot be told that they are not important.

I know people who have claims running to ten years back or so. I know of a case some time back of a young boy in my county who was killed by a leopard, and up to now, they have not been compensated. The only reason they are given is that the case is being taken all the way to the CS and there are no funds to compensate his family.

This Bill tries to cure that by giving the CS the responsibility to make sure that adequate budgeting is done. When the claims come, he is given a timeframe of 12 months to pay. That way, we will have Kenyans appreciating the heritage that we have. We have to conserve it, but mitigation also has to be there when there is that conflict.

Thank you, Madam Temporary Speaker.

I support.

The Temporary Speaker (Sen. Nyamunga): Sen. Mwaruma.

Sen. Mwaruma: Madam Temporary Speaker, I beg to move that pursuant to Standing Order 105 (1), the debate be now adjourned, and request Sen. (Eng.) Hargura to second.

Sen. (Eng.) Hargura: Madam Temporary Speaker, I second.

*(Question, that the debate be now
Adjourned, put and agreed to)*

(Debate on the Bill was adjourned)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon Senators, there being no other business, it is now time to adjourn the House. The House, therefore, stands adjourned until Wednesday, 2nd June, 2021, at 2.30 p.m.

The Senate rose at 4.48 p.m.