



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (FIFTH SESSION)**

**VOTES AND PROCEEDINGS**

**SPECIAL SITTING**

**WEDNESDAY, DECEMBER 01, 2021 AT 9.30 A.M.**

1. The Senate assembled at thirty minutes past nine O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair-

**(i) On Special Sittings of the Senate on Wednesday, 1<sup>st</sup> December, 2021 and Thursday, 2<sup>nd</sup> December, 2021**

“Honorable Senators,

By a letter dated 29<sup>th</sup> November, 2021, the Senate Majority Leader, with the support of the requisite number of Senators, requested for Special Sittings in the mornings of Wednesday 1<sup>st</sup> and Thursday, 2<sup>nd</sup> December, 2021.

Vide Gazette Notice No. 12994, I appointed the mornings of Wednesday, 1<sup>st</sup> December, 2021 and Thursday, 2<sup>nd</sup> December, 2021, as Special Sittings of the Senate, pursuant to Standing Order 30 (2). The Special Sittings shall be held in the Senate Chamber, Main Parliament Buildings, Nairobi, commencing at 9:30 am until 12:30 pm, respectively.

Pursuant to Standing Order 30(5), I indicated in the Gazette Notice that the business to be transacted –

- i) in the morning sitting of Wednesday 1<sup>st</sup> December, 2021, shall be debate on the Address by His Excellency, the President, to Parliament, made on Tuesday, 30<sup>th</sup> November, 2021; and

- ii) in the morning sitting of Thursday, 2<sup>nd</sup> December, 2021, shall be the consideration of -
- (a) the debate on the Address by His Excellency, the President, to Parliament on Tuesday, 30<sup>th</sup> November, 2021;
  - (b) the National Hospital Insurance Fund (Amendment) Bill (National Assembly Bills No. 21 of 2021);
  - (c) the National Cohesion and Peace Building Bill, (Senate Bills No. 19 of 2021);
  - (d) the Natural Resources (Benefit Sharing) Bill (Senate Bills No. 25 of 2020);
  - (e) the Co-operative Societies (Amendment) Bill (Senate Bills No. 11 of 2020);
  - (f) the County Vocational Education and Training Bill (Senate Bills No. 6 of 2021);
  - (g) the Prompt Payment Bill (Senate Bills No. 16 of 2021); and
  - (h) the Start-Up Bill (Senate Bills No. 1 of 2021).

Honourable Senators,

In accordance with Standing Order 30 (5), the business specified in the Gazette Notice, and as outlined in the Order Paper, shall be the only business before the Senate during the Special Sittings, following which the Senate shall stand adjourned until on Wednesday, 1<sup>st</sup> December, 2021, at 2.30 p.m. and on Thursday, 2<sup>nd</sup> December, 2021, at 2:30 p.m., respectively, in accordance with the Senate Calendar.

I thank you”.

(ii) **Implications of the High Court Judgment in Civil Appeal No. E248 of 2021 – Hon. Isaac Mwaura vs. Jubilee Party & Others**

“Honourable Senators,

You will recall that on Tuesday, 11<sup>th</sup> May, 2021, I issued a Communication, making reference to a Special Issue of the *Kenya Gazette* No. 102, dated 10<sup>th</sup> May, 2021, containing Gazette Notice No. 4597, which communicated the occurrence of a vacancy in a Member of the Senate elected through a party list. The Gazette Notice notified 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 Sen. (Dr.) Isaac Mwaura Maigua, became vacant, with effect from the 7<sup>th</sup> May, 2021.

A number of Senators raised several points of order, following which, on 18<sup>th</sup> May, 2021, I gave a detailed Communication on the circumstances that led to the declaration of vacancy vide Gazette Notice No. 4597.

Following the said Gazette Notice, the Chairperson of the Independent Electoral and Boundaries Commission, vide Gazette Notice No. 4598 dated 11<sup>th</sup> May, 2021, gazetted Mr. Sammy Prisa Leshore as the Member Nominated to the Senate to represent persons with disabilities, in place of Sen. (Dr.) Isaac Mwaura Maigua.

Honourable Senators,

You will also recall that Sen. (Dr.) Isaac Mwaura Maigua subsequently challenged the decision of the Political Parties Dispute Tribunal in *High Court Civil Appeal E248 of 2021: Isaac Mwaura Maigua vs Jubilee Party and Others*. On 11<sup>th</sup> May, 2021, the High Court issued the following Orders.

*Pending the inter partes hearing and determination of the aforesaid motion the respondents are hereby restrained by an order of injunction from implementing or further acting on the judgment of the Political Parties Tribunal dated 7<sup>th</sup> May 2021.*

*Pending the inter partes hearing of the motion dated 11<sup>th</sup> May 2021 an order for stay of further implementation of the Gazette Notice number 4597 Vol CXX11-102 dated and issued on the 10<sup>th</sup> May by the 3<sup>rd</sup> Respondent.*

Following several Mentions on the matter on diverse dates in the Months of May, June and July, 2021, Sen. (Dr.) Isaac Mwaura Maigua, subsequently filed the substantive appeal against the judgment of the Political Parties Dispute Tribunal and parties filed their respective responses and submissions on the Appeal. On 24<sup>th</sup> November, 2021, the High Court delivered its judgment on the Appeal.

Honourable Senators,

In the judgement, the High Court set aside the decision of the Political Parties Disputes Tribunal, expelling Sen. Mwaura from the Jubilee Party. Specifically the High Court quashed the notices by –

- a) the Registrar of Political Parties on the removal of the name of Sen. Isaac Mwaura Maigua, from the Jubilee Party membership list;
- b) the Speaker of the Senate communicating the occurrence of a vacancy in a Member of the Senate elected through a party list; and
- c) the Independent Electoral and Boundaries Commission (IEBC) appointing Mr. Sammy Prisa Leshore to replace Sen. (Dr.) Isaac Mwaura Maigua as the Member of the Senate representing persons with disabilities.

Honorable Senators,

As your Speaker, I have often reiterated that the Office of the Speaker is ill-equipped and totally devoid of the mandate to delve into or inquire into the internal affairs of political parties represented in Parliament. This is a matter that falls within the mandate of the members of the respective parties. Sen. (Dr.) Isaac Mwaura Maigua exercised his constitutional right to appeal against the decision of the Political Parties Disputes Tribunal, and a verdict has been delivered by the High Court.

My role in this matter therefore is to abide by the decision of the High Court, as the Office of the Speaker has no interest in the direction, or inferences that the concerned parties would take on the matter. In this instance, the role of the Office of the Speaker is limited to receipt of the Judgement, analyzing its contents and where it concerns this office, implement its findings.

Honorable Senators,

The High Court having quashed Gazette Notice No. 4597 by the Speaker of the Senate which declared a vacancy of a member elected through a party list, thereby removing Sen. (Dr.) Isaac Mwaura as a Senator; and further, the High Court having quashed Gazette Notice No. 4598 dated 11<sup>th</sup> May, 2021 by the Chairperson of the Independent Electoral and Boundaries Commission which appointed Mr. Sammy Prisa Leshore to replace Sen. (Dr.) Isaac Mwaura as the Member of the Senate representing persons with disabilities, I therefore direct that Sen. (Dr.) Isaac Mwaura Maigua, CBS, MP, remains a Senator in accordance with the Constitution of Kenya and the Senate Standing Orders.

I thank you!"

#### 4. **PAPERS**

The following papers were laid on the Table of the Senate –

- i) The Eighth (8<sup>th</sup>) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Tuesday, 30<sup>th</sup> November, 2021;
- ii) The Eighth (8<sup>th</sup>) Annual Report (2020), on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- iii) The Eighth (8<sup>th</sup>) Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- iv) The Annual Report to Parliament on the State of National Security, 2021; and
- v) The Kenya Business Climate Reforms Milestones Report for the year, 2020-2021.

*(The Senate Majority Leader)*

5. **NOTICE OF MOTION - DEBATE ON THE PRESIDENT'S ADDRESS TO PARLIAMENT**

(The Senate Majority Leader)

**THAT**, pursuant to Standing Order 24 (6), the Thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Tuesday, 30<sup>th</sup> November, 2021 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Wednesday, 1<sup>st</sup> December, 2021 -

- i) The Eighth (8<sup>th</sup>) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Tuesday, 30<sup>th</sup> November, 2021;
- ii) The Eighth (8<sup>th</sup>) Annual Report (2020), on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- iii) The Eighth (8<sup>th</sup>) Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- iv) The Annual Report to Parliament on the State of National Security, 2021; and
- v) The Kenya Business Climate Reforms Milestones Report for the year, 2020-2021.

6. **MOTION - DEBATE ON THE PRESIDENT'S ADDRESS TO PARLIAMENT - (1<sup>ST</sup> DAY)**

Order read;

Motion made and Question proposed;

**THAT**, pursuant to Standing Order 24 (6), the Thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Tuesday, 30<sup>th</sup> November, 2021 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Wednesday, 1<sup>st</sup> December, 2021-

- i) The Eighth (8<sup>th</sup>) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Tuesday, 30<sup>th</sup> November, 2021;

- ii) The Eighth (8<sup>th</sup>) Annual Report (2020), on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- iii) The Eighth (8<sup>th</sup>) Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- iv) The Annual Report to Parliament on the State of National Security, 2021; and
- v) The Kenya Business Climate Reforms Milestones Report for the year, 2020-2021.

*(The Senate Majority Leader)*

Debate arising;

And the time being thirty minutes past twelve O'clock, the Temporary Speaker (Sen. Judith Pareno, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

7. **SENATE ROSE** – at thirty minutes past twelve O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Wednesday, December 1, 2021 at 2.30 p.m.*

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