

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 10th February, 2022

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

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

PRAYER

PETITION

REPORT ON PETITION: MURDER OF ENVIRONMENTALIST
AND CONSERVATIONIST MS. JOANAH STUCHBURY

The Speaker (Hon. Lusaka): The Chairperson of the Committee on National Security and Foreign Relations is not in. We shall defer that Petition.
Next Order.

(Petition deferred)

PAPERS LAID

The Speaker (Hon. Lusaka): Senate Majority Leader, please proceed.

REPORT ON FINANCIAL STATEMENTS OF VARIOUS
COUNTY FUNDS/WATER COMPANIES

The Senate Majority Leader (Sen.Pogishio): Mr Speaker Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 10th February 2022-

Report of the Auditor-General on the financial statement of Baringo County Executive Members Mortgage Scheme Fund for the year ended 30th June, 2017

Report of the Auditor-General on the financial statement of Baringo County Small and Medium Enterprise Fund for the year ended 30th June, 2017

Report of the Controller of Budget on the Annual County Government Budget Implementation Review for the Financial Year 2020/2021

Report of the Auditor-General on the financial statements of Eldoret Water and Sanitation Company Limited for the year ended 30th June, 2019

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Report of the Auditor-General on the financial statements Nyandarua Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Tana Water Works Development Agency (formerly Tana Water Services Board) for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Limuru Water and Sewerage Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Iten Tambach Water and Sewerage Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Gatanga Community Water Scheme for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Mandera Water and Sewerage Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Kwale Water and Sewerage Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Nakuru Rural Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Busia Water and Sewerage Services Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Kahuti Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Naivasha Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Amatsi Water Services Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Kikuyu Water Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Gusii Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Githunguri Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Migori Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Nyeri Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Nanyuki Water and Sewerage Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Nyahururu Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Kirinyaga Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Embu Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Mombasa Water Supply and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Embe Water and Sanitation Company Limited for the year ended 30th June, 2019

I guess it is Embu and not Embe.

Report of the Auditor-General on the financial statements of Rukanga Water and Sanitation Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Tavevo Water and Sewerage Company Limited for the year ended 30th June, 2019

Report of the Auditor-General on the financial statements of Isiolo Water and Sewerage Company Limited for the year ended 30th June, 2019

I thank you, Mr. Speaker, Sir.

(Sen. Poghiso laid the documents on the Table)

The Speaker (Hon. Lusaka): Thank you. Let us go to the next Order.

STATEMENTS

CIRCUMSTANCES SURROUNDING THE DEATH OF VITALIS MARK TANGA OKINDA

The Speaker (Hon. Lusaka): I cannot see Sen. Orengo. Therefore, the Statement is deferred.

(Statement deferred)

The next Statement is by Sen. Cheruiyot. Since he is also not here, the Statement is deferred.

ALLEGED DISCRIMINATION IN ISSUANCE OF NATIONAL IDENTITY CARDS IN SECONDARY SCHOOLS

(Statement deferred)

The Speaker (Hon. Lusaka): Is Sen. Omanga here? If she is not, the Statement is dropped.

UNSETTLED STATUTORY DEDUCTIONS FOR STAFF AT THE NAIROBI CITY COUNTY

(Statement dropped)

The Speaker (Hon. Lusaka): The next Statement is by Sen. Cherargei.

BAN OF EXPORT AND DEALINGS IN SCRAP METAL 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 Tourism, Trade and Industrialization

on the ban of export and dealings in scrap metal in Kenya. It is worth noting that people who deal in scrap metal business are approximately three million Kenyans.

In the Statement, the committee should-

(1) State the policy behind the indefinite and inconsiderate ban on scrap metal export and dealings in Kenya, giving reasons for the move.

(2) State whether relevant stakeholders in the industry were involved.

(3) State the number of culprits that have been brought to book concerning vandalism and malpractices to protect the sector instead of the total ban, which is causing joblessness, anguish, pain and hurting genuine business people in the trade.

(4) State the precautionary measures, if any, the Government has put in place to cushion thousands of workers who work in this industry and whose jobs have been affected by the move, considering that large manufacturing companies such as Associated Battery Manufactures (ABM)---

We heard the Managing Director (MD) say that they have closed business and they are likely to move out of the country. Therefore, we will lose revenue and people will lose jobs. They have warned of imminent closure due to lack of raw materials.

(5) State the targeted measures, if any, that the Government has put in place to curb illegal dealings in the sector while providing clear timelines for proper regulatory frameworks to be put in place.

Mr. Speaker, Sir, with your indulgence, it is important that this matter be expedited. If possible, it should not be the usual 14 days but at least within the next few days. We should get a preliminary report of the committee by next Thursday because more than three million Kenyans depend on this business. Now they are in anguish and pain because of revenue losses. Industries are most likely to close.

I thank you.

The Senate Majority Leader (Sen. Poghismo): Mr. Speaker, Sir, I want to thank Sen. Cheragei for his concern about the welfare of workers and industrialists who are affected by this ban. In my view, it is important that we ask whichever Committee that is going to deal with this to expedite.

However, we know that this was caused by people who have not been faithful. Even though there are many people who have been benefiting from this, there are many who vandalize infrastructure.

An hon. Senator: Point of Order!

The Speaker (Hon. Lusaka): Where is the point of order from?

The Senate Majority Leader (Sen. Poghismo): Mr. Speaker, Sir, it appears even strangers can ask for points of order since I cannot see anybody.

The Speaker (Hon. Lusaka): Who is the Member on zoom? Sen. Poghismo, please continue.

The Senate Majority Leader (Sen. Poghismo): Mr. Speaker, Sir, I am basically saying that the people in this sector should also help in the fight against destruction of property. They should also help by not purchasing scrap metals knowing very well that they are from communication or other infrastructures.

We know that the losses are huge. The other day, we had blackout all through because some people actually vandalized the high voltage transmission lines, causing wanton destruction. That caused blackout in this City and everywhere in the country.

What I mean is that much as we sympathize, we should also be responsible and watch out for those kind of things. I think the ban was not meant to punish. It was supposed to be temporary until a time when things are sorted out. I hope that the committee responsible will quickly return with the answers.

I would say it is a good move that we are concerned about the industry, our young people who are working there and employees of those companies. However, on the other hand, we should also be cautious.

I support.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I thank Sen. Cherargei for this Statement and the concern he has for the common Kenyan.

I want to sincerely say that blue-collar jobs should be encouraged because most of the time you find that blue collar jobs come out of one's own initiative. You find that those dealing with scrap metal are those Kenyans who have decided on their own to eke a living and eventually scrap metals become an industry where they are also able to employ other Kenyans.

I am a Member of this Committee on Tourism, Trade and Industrialization and I want to assure Sen. Cherargei that the many good thoughts he has for Kenyans and the dealers of scrap metal, we are going to interrogate as a committee and see to it that we reach a positive and conclusive arrangement where scrap metal is also one of the exports because it is an income generating venture and it creates employment.

I support this Statement and I am sure my Chairperson Sen. (Dr.) Ali and the entire Committee will be on top of it.

Sen. Hargura: Thank you, Mr. Speaker, Sir, for the opportunity. I would like to support the Statement by Sen. Cherargei. We know very well that scrap metal is a source of livelihood for some people. It is also a raw material for industries in this country like the *Jua Kali* sector, steel manufacturing industry and battery manufacturing industry.

This is a balancing act because in trying to source for these scrap metal we have seen what has been done to power lines. The pylons have been vandalized and we have had the country plunge into blackout because of that. I believe that is one of the reasons why the Government has banned the export and dealing in scrap metal.

However, there is need to have a balancing Act. While considering that this is a source of livelihood there must also be enough measures to make sure the scrap metal is not sourced by vandalizing useful utilities; it should be sourced strictly from unused or not useful sources like motor vehicle parts from scraps.

There must be a very clear policy on where scrap metal can be sourced from and that policy needs to be put in place. That is what this Statement is about, the Government putting in place the necessary policy to curb illegal dealings while still allowing legal dealings to continue.

I support and hope that the Committee will act with speed so that the Kenyans who have been benefiting from these sectors do not lose their means of livelihood from this sector while still having proper policy in place. There is need to urgently come up with the policy and implement it so that both sides benefit.

Thank you.

(Interruptions of debate on statements)

The Speaker (Hon. Lusaka): Using my discretion, I will allow the Chairperson National Security, Defence and Foreign Relations to read his Petition.

PETITION

REPORT ON PETITION: MURDER OF ENVIRONMENTALIST AND CONSERVATIONIST MS. JOANNAH STUTCHBURY

Sen. Outa: Mr. Speaker, Sir, I would like to lay the following Petition report on the Table of the Senate today 10th February, 2022: Report on the Standing Committee of the National Security, Defence and Foreign Relations. A Petition to the Senate concerning the circumstances which lead to the murder of Ms. Joanna Stutchbury.

Mr. Speaker, Sir, if you would recall, this Petition regarding the murder of Ms. Joanna Stutchbury, a protector of environment and natural resources was brought to the Senate by Sen. Abshiro Halake, on 4th August, 2021 and consequently it was committed to the Standing Committee on National Security, Defence and Foreign Relations.

The Petition prayers to the Senate were assisted by the Senate through an investigation on the circumstances leading to the alleged murder of Ms. Stutchbury and other environmentalists and conservationists in the country and appropriate recommendations on the findings, and on the alleged perpetrators. They wanted us: -

(i) To make a call to the Ministry of Environment and Forestry and Kenya Forest Service to revoke and gather parcels of the Kiambu Forest Reserve;

(ii) Appropriate recommendations for the protection of the lives of environmentalists and conservationists in Kenya; and

(iii) Review relevant policies and existing legislations with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

In order to address the prayers of the petitioners, the Committee met with various stakeholders in relation to the Petition who included-

(i) The petitioners, Conservation Alliance of Kenya

(ii) The Cabinet Secretary for Environment and Forestry

(iii) The Director of Kenya Forest Services

(iv) Kiambu County Commissioner of Kiambu and many others.

During the Committee investigation into the murder, the Committee established that on 15th July, 2021, an environmentalist, Ms. Joanna Stutchbury was shot dead outside her home in what appeared to be outright murder.

It is of importance to note that after meeting the petitioners they were requested to furnish the Committee with a list of other people who had ever been threatened but that was not forthcoming.

That, Ms. Stutchbury lived in a land which borders Kiambu Central Forest block known as LR No.21179 F/R No.284/108 which was gazetted as a Forest Reserve vide Proclamation No.44 of 1932.

That, on 5th February, 2018, the deceased received information about illegal encroachment by developers on Kiambu gazetted forest land which borders wetland and single-handedly confronted the developers who were constructing an illegal road.

That, preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Stutchbury might have been murdered due to her strong position and passion for the preservation of environment of Kiambu Forest area against the will of illegal developers who wanted to construct a road to gain access to their illegally acquired properties.

As I conclude it is my pleasure to Table the report of the Standing Committee on National Security, Defence and Foreign Relation in regard to the Petition of the alleged murder of the environmentalist Ms. Joanna Stutchbury.

The Speaker (Hon. Lusaka): Thank you. I want to go through the Statements again but before I do that, I will allow Sen. Cherargei to speak first.

Sen. Cherargei: Mr. Speaker, Sir for this opportunity. I thank the acting Chairperson of the Committee on National Security Defence and Foreign Relations. I saw an advertisement on television today that he wants to be the Governor of Kisumu County.

My condolences to the family of Ms. Joanna Stuchbury. It is unfortunate that she was murdered for her efforts in protection of the environment. The Chairperson of the Committee must be serious because his Committee has failed to tell the House two things. First, in the report the Committee says that this good lady was murdered; it was an outright murder.

The Committee should have come up with proper recommendations. I expected the Committee to tell us that they have involved the Directorate of Criminal Investigation (DCI) and the police officers to ensure that the people who killed this lady are brought to book. The Committee should have been gracious enough to provide the status report on the investigation into the alleged murder of Ms. Joanna Stuchbury who was killed outside her compound.

Secondly, the Committee has been wishy washy. They are not specific on the measures that the Committee intends to take henceforth. What we wanted to know is why she was murder, who are behind her murder? And what happens to the cause that she fought for to protect the environment. I agree with the rest of the findings of the Committee. However, Kenyans would like to know what happens next.

The Committee, through quasi-judicial mechanisms can direct the DCI to expedite the investigations into the alleged murder. The murder of Ms. Stuchbury sent a wrong signal to many people and foreigners who work in the country and is giving Kenya a bad name. Many Kenyans are killed and no one investigates the reason why they were killed. Several Kenyans have been killed through extra judicial processes.

We have had cases where bodies are found floating on a river in a neighboring county, River Yala. Other bodies were found in Tsavo National Park and in Tana Garissa County. We need to be careful so that Kenyans are not killed through extrajudicial processes, their bodies put into sacks and thrown into rivers. What happened to the sanctity of life that we talk about?

Mr. Speaker, Sir, I call upon the Committee on National Security, Defence and Foreign Relations. I believe in the Chairperson of that Committee, Sen. Outa, who is my neighbor. I know Sen. Outa as a rabble-rouser. I do not know why he feared to slay the

dragon on this matter. I know that he enjoys a close working relationship with Government. He should have used those networks to tell the family of our sister, other environmental activists and Kenyans the status of investigation into the alleged murder of our environmentalist.

With those remarks, the Committee can still re-look at their report. At this point I am cagy to say that I support this report. The Chairperson should be given more time to give us hard hitting and practical recommendation.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. Madzayo, you have the Floor.

Sen. Madzayo: Asante, Bw. Spika. Ni jambo la kusikitisha kwa ripoti ya Mwenyekiti kuja hapa na kuwa kama ripoti ya kawaida. Hususan ni kwamba Mkenya ama wakenya wamepoteza Maisha yao. Tunatarajia ya kwamba taarifa kama hiyo ambayo imeletwa hapa mbele ya Bunge iwe imeshikilia, inaweza kutegemewa na kutufikisha mahali pa kutuambia aliyetenda kitendo hicho, kwa sababu gani, na hatua gani itachukuliwa na serikali.

Jambo la kusikitisha leo ni kwamba huyu mama anayeitwa Joannah aliuwawa na imekubalika kuwa aliuwawa. Lakini baada ya hapo ni hatua gani imechukuliwa kuona ya kwamba wale watu waliofanya kitendo hicho cha kinyama wamechukuliwa hatua.

Maneno kama haya vilevile yametokea katika sehemu mbalimbali za nchi, ama maeneo ya Pwani hususan Mombasa. Ni jambo la kusikitisha kuona mpaka sasa vijana zaidi ya ishirini wameweza kupotea Mombasa na hawapatikani. Jambo ambalo limedhihirika wazi ni kwamba miili ya watu saba imepatikana. Miili sita kati ya saba zilizopatikana haijawezakutambuliwa na jamaa zao. Mwili moja iliyotambuliwa, ilipatika katika mto wa Yala.

Visa hivi vya Wakenya kupotea hasa vijana, alafu miili yao kupatikana katika mto wa Yala zimekidhiri zaidi. Ni jambo la kusikitisha kuona ya kwamba mto huo unatumiwa; kutupa watu waliofariki, waliouwawa mahali pengine na kutupwa huko, ama tayari wamechukuliwa na magari wamezamishwa wamefungwa na hawawezi kuongea wala kufanya chochote wakiwa ndani ya magunia. Kisha wakatupwa ndani ya mto hiyo ambapo hawawezi kuogelea wakiwa ndani ya magunia.

Ni hali ya kutetsha sana kwa sababu maisha ya Wakenya ni muhimu. Haiwezekani mtu kushikwa leo na kesho tunaambiwa amepatikana Yala kutoka Mombasa, Kilifi ama sehemu zozote za Kenya, si haki. Tunatarajia ya kwamba Mwenyekiti wa Kamati hii ya Usalama wa Taifa, Ulinzi na Mahusiano ya Mataifa za Kigeni awe akija kwenye Bunge la Seneti na kutuletea ripoti mwafaka ambayo inaweza kutueleza ni njia gani mwafaka inaeza tumiwa kusitisha mambo kama hayo. Polisi wanaweza chunguza ni watu wagani ambao wanaotenda vitendo vya kinyama na kutupa watu ndani ya mito kama mto wa Yala wamepatikana na hatua imechukuliwa.

(Resumption of debate on Statements)

STATEMENTS

The Speaker (Hon. Lusaka): Thank you. I had earlier on indicated I was deferring the earlier Statements but I want to drop them just the way I did with Statement number three. Statement number one and two are dropped.

CIRCUMSTANCES SURROUNDING THE DEATH
OF MR. VITALIS MARK TANGA OKINDA

ALLEGED DISCRIMINATION IN ISSUANCE OF NATIONAL IDENTITY
CARDS IN SECONDARY SCHOOLS

(Statements dropped)

We go to Statement under Standing Order 52(1). I invite the Senate Majority Leader.

Sen. Cherargei: Mr. Speaker, Sir, point of order.

The Speaker (Hon. Lusaka): What is your point of order?

Sen. Cherargei: Mr. Speaker, Sir, I did not hear you committing that Statement to any Committee and your directions on my Statement. I had requested that since this is an urgent matter the Committee can give us a preliminary report next week so that we can know the way forward.

The Speaker (Hon. Lusaka): It stands committed to the Standing Committee on Tourism, Trade and Industrialization. We should get a report in the next two weeks.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 15TH FEBRUARY, 2022.

The Senate Majority Leader (Sen. Poghiso): Mr. Speaker Sir, I beg to give a Statement on the business the Senate for the week commencing Tuesday, 15th February, 2022 Pursuant to Standing Order No.52(1).

Allow me to take this opportunity to welcome Honourable Senators back from the long December 2021 – January 2022 recess.

I might also add happy New Year. I trust that you are all well and have had an opportunity to interact with your constituents, family and friends.

Mr. Speaker, Sir, as indicated in the Hon. Speaker's Communication at the commencement of this Session, the Sixth Session is projected to be a short one. It is February to June, 2022. The same was validated upon the approval of the Senate Calendar yesterday, Wednesday, 9th February, 2022.

Following the reconstitution of the Senate Business Committee (SBC) on Tuesday, 8th February, 2022, the Committee considered the status of legislative business and noted that we will be required to come up with innovative strategies, to ensure that the Business before the Senate is dispensed with timeously.

I am delighted to note that one of the measures recommended by the SBC and communicated by the Speaker yesterday, is already under implementation. Therefore, I urge Senators with Business listed on the Order Paper, to be available to move the same,

failure to which such business will be removed from the programme of Senate Business for the week.

Mr. Speaker, Sir, the Business before the Senate includes eight Bills at the Committee of the Whole Stage and 21 Bills at the Second Reading Stage. Another 20 Bills are undergoing the concurrence process pursuant to Article 110(3) of the Constitution.

In addition, 48 Petitions – taking into account the two that were referred to Committees yesterday – are pending consideration by respective Standing Committees. A number of Statements pursuant to Standing Order Nos.47 and 48 are yet to be finalised by respective Standing Committees.

From the aforesaid, the Senate has begun the Sixth Session with a full plate. In the coming weeks, we expect the Division of Revenue and the County Allocation of Revenue Bills to be introduced in the Senate for consideration. This will be alongside any other Bills that will be referred to the Senate by the National Assembly. These will certainly add to our workload and I urge Chairpersons of Committees to hasten consideration of Business before Select Committees; and to table reports within the stipulated timelines according to our Standing Orders.

Mr. Speaker, Sir, at its next meeting on Tuesday, 15th February, 2022, the SBC will consider and approve the business for Tuesday, 15th February, 2022, which is projected to also contain business that will not be concluded in today's Order Paper. The SBC will further consider Bills at the Second Reading and Committee of the Whole stages, as well as Motions, as will be contained in the programme of Senate Business for the week.

On Wednesday, 16th February, 2022, the Senate will continue with Business that will not be concluded on Tuesday, 15th February, 2022; and any other business scheduled by SBC. On Thursday, 17th February, 2022, the Senate will continue with Business that will not be concluded on Wednesday, 16th February, 2022 and any other business.

Mr. Speaker, Sir, in conclusion, allow me to thank all Senators for the dedication and commitment they have continued to exhibit in their work in service to the people of Kenya. I also urge that we all continue to do the same during the Sixth and final Session.

Thank you and I, hereby, lay the Statement on the Table of the Senate.

(Sen. Poghiso tabled the document)

The Speaker (Hon Lusaka): Thank you.

Hon. Senators, for the convenience of the House, I wish to rearrange the Order Paper so that we go to Order Nos.16 and 17.

BILL

Second Reading

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Sen. Halake on 09.02.2022

(Resumption of Debate interrupted on 09.02.2022)

(Division)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE HERITAGE AND MUSEUM BILL
(SENATE BILLS NO.22 OF 2021)
(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL
(SENATE BILLS NO. 17 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY GOVERNMENTS (AMENDMENT) BILL,
(SENATE BILLS NO. 38 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

BILL

Second Reading

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

The Speaker (Hon. Lusaka): Senate Majority Leader, proceed.

The Senate Leader of Majority (Sen. Poghio): Mr. Speaker, Sir, I beg to move that the Irrigation (Amendment) Bill (National Assembly Bills No.12 of 2021) be now read a second time.

Mr. Speaker, Sir, let me take you a little back on the progression and the journey that this Bill has travelled. The Bill was published on the 16th April, 2021, passed by the National Assembly and referred to the Senate on the 21st October, 2021.

This Bill principally seeks to amend the Irrigation Act, 2019 to expand the administration and management of irrigation matters by the National Irrigation Authority (NIA). This will ensure adoption of the best practices in irrigation, as well as sustainable development of irrigation infrastructure, investment and financing.

Additionally, the Bill intends to consolidate the provision, management and administration of land both in national and public irrigation schemes as well as inter-county schemes for public use.

In recent years, Kenya has experienced food shortages arising from declining farm productivity, owing to low fertility level, high input costs and changing weather patterns in the face of rising population. Key among these is the weather and unreliability of rains. This is due to the effects of climate change and the fact that Kenyan agriculture heavily depends on rain-fed systems. This has put the majority of Kenyans in constant state of requiring food relief and farm input subsidies and a rising concern among public and social institutions.

Mr. Speaker, Sir, irrigation has taken a wider step in improving farming in Kenya. This move has really boosted the level of agriculture in the less endowed areas. Therefore, strengthening of irrigation legal framework will be an important tool for food

security, poverty alleviation and mitigation against effects of climate change. In this regard the importance of the Bill cannot be gainsaid.

The Bill specifically proposes some amendments. In Clauses 3, 4 and 5 of the Bill seek to amend Section 3, 6 and 8 of the Act, by expanding the administration and regulation of irrigation frameworks.

Clause 6 of the Bill seeks to amend Section 9 of the Act, to provide for the appointing and nominating authorities in line with the Constitution. Clause 8 of the Bill seeks to amend Section 13 of the Act, to harmonise the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007.

Clause 10 of the Bill seeks to amend Section 16 of the Act, by substituting the reporting obligation under the Act from the Department to the Irrigation Authority. Clause 11 of the Bill seeks to amend Section 17 of the Act. It proposes amendments that take into account the already existing legislative and regulatory structures, when prescribing administrative and regulatory framework on water storage.

Mr. Speaker, Sir, Clause 12 of the Bill seeks to amend Section 20 of the Act by inserting the Words, “subject to mandatory approvals” immediately after the word “a scheme”.

Clause 13 of the Bill seeks to amend the Act in Section 22 on annual estimates, to include estimated expenditure for development of infrastructure for the provision of irrigation services. Clause 14 of the Bill seeks to amend the Act in Section 27 to include the output level of results in monitoring and evaluation.

Clause 15 of the Bill seeks to amend the Act in Section 34, to enable the Cabinet Secretary (CS) to make regulations to provide for the development of irrigation. Such regulations include infrastructure and water storage as well as to provide for multi-government agencies consultation and collaboration.

Clause 16 of the Bill seeks to amend the Act in the Schedule in paragraph 2, to provide for other conditions for removal of a board member by the CS. It further proposes amendments in paragraph 3 of The Schedule, to provide for quorum for meetings to harmonize the provision of the existing policies on board meetings.

Mr. Speaker, Sir, this is a very important amendment on the Act. I request Members to look at it carefully and support it because the sooner we pass this, the better for all of us, as we are going to see an improved irrigation sector services in this country.

Mr. Speaker, Sir, we know that we have had issues even with irrigation matters. I think that these amendments will come to help sort out the issues.

With those few remarks, I beg to move and ask Sen. Madzayo to second.

I thank you.

Sen. Madzayo: Asante Bw. Spika. Kwanza, ningetaka kuunga mkono huu Mswada wa marekebisho katika unyunyizaji wa maji. Ukulima ni uti wa mgongo wa nchi yetu ya Kenya. Hususan Mswada huu ukiwa unahusika na unyunyizaji wa maji, ni jukumu muhimu sana katika nchi yetu ili kuona kuwa tumeweza kukuza chakula cha kutosha ama mimea ambayo inaweza kuzaa vyakula vya kutosha ili kustahimili Wakenya. Haya ni kwa sababu tunakumbwa na janga la njaa mara kwa mara. Kwa hivyo, hii ni sekta ambayo itawasaidia Wakenya kwa muda mrefu.

Baa la njaa katika Kenya ni donda sugu ambalo kila mwaka Wakenya wanapoteza maisha yao. Marekesbicho haya yanaweza kutengeneza sheria ikawa mwafaka kuhusiana na unyinyizaji wa maji katika nchi yetu.

Bw. Spika, ninaunga mkono. Asante.

(Question proposed)

Sen. Cherargei: Mr. Speaker, Sir, thank you for this opportunity. This is a straightforward amendment because I have seen it is more of editing that needs to be done. I will be very brief.

As you are aware, we are being told this year - or was it the end of last year - that two to three million Kenyans are facing starvation because of non-strategic placement of structures. For heaven's sake, we are in the 21st Century. No Kenyan should go without food. It should be a basic human right.

I was saddened when I watched the news today in the afternoon that Mandera County is facing a serious shortage of water and there is a serious drought happening in northern Kenya. The Ministry of Devolution, Arid and Semi-Arid Lands has been moved to that of the Public Service and Gender. No Kenyan should die of starvation because in the North Rift, we harvest in surplus, especially in December.

We were expecting that a 90-kilogram bag of maize should be Kshs3000-Kshs3500, so that we can get value. As we talk today, a bag of Diammonium Phosphate (DAP) fertilizer, not the DAP that people have known--- I am told that there is a political party known as DAP. The fertilizer costs Kshs5,000 and is approaching Kshs6,000.

Mr. Speaker, Sir, you and I come from a region where we rely heavily on agriculture. Even the Senate Majority Leader also depends on fertilizer. Let us reduce the pricing of fertilizer - not the political party - to at least Kshs1,800. The cost of input will go low and we will produce more.

I support this Bill because I have gone through it and I think it is a straightforward matter, as the Majority Leader has put it. Even in Nandi County, we need irrigation especially when in Chemelil-Chemase ward and Tinderet Constituency. These are areas that need irrigation. Other areas that need irrigation within Nandi County are Chemase and Kamasai near Kakamega County, so that we can plant throughout the seasons.

The challenge has been that we should not be disadvantaged simply because we have heavy rainfall. We should be made part of the entire North Rift, so that we continue producing food throughout the year. This will ensure that Kenyans in the northern part or any other part of Kenya do not suffer because of lack of food.

I want to comment on the amendment of Section 9: Administration of National Water Resources. It is very important because we are gender sensitive. At least, we are putting two genders. I have looked at the main Principle Act and it was not there. I commend this. Secondly, I commend the inclusion of County Governments in part of the four nominees that are being submitted by the Council of Governors (CoG).

That is significant because the Principal Act under Section 9 had not factored that. Although I do not know why the national Government would want to know why it would want its stamp print on every department, but it is okay. I agree with the drawing. At

least, they have tried to get people in civil and water engineering and economics. This is a basic understanding of what is happening.

The only place I have a problem with is Section 17, the Chief Executive Officer, and that will end my comment, so I can allow colleagues to comment. When you look at the Fourth Schedule, the water function is devolved. When you read the Principal Act, there is mischief here.

It says –

“The Cabinet Secretary shall in consultation with the Water Resource Authority (WRA) Secretary, the National Water and Storage Harvesting Authority (NWHSA), the National Land Commission (NLC), the COG and other stakeholders prescribe administrative and regulatory frameworks for water storage existing, and future irrigation requirements”.

That is in the Principal Water Act (2016). I think it is the same. I have a problem with the introduction of Sub-Article (2), which says –

“without prejudice to Sub-Section (1). “The Cabinet Secretary shall ensure that irrigation developments are planned and implemented”.

We are forgetting that under the Fourth Schedule, the role of water has been fully devolved. The Ministry of Water, Sanitation and Irrigation should be minimal. It should be as minimal as the smallest mustard seed that the Bible talks about in the book of Matthew.

I do not know why the Cabinet Secretary should have sweeping powers and say “without prejudice,” which means he can ignore. I wish they would have said, “shall ensure that in consultation with County Governments” because we are the protectors of devolution under Article 96.

When I used to be the Chairman of the Justice, Legal Affairs and Human Rights Committee, they used to bring omnibus amendments. We are reversing the gains of devolution by doing these minimal Amendments. The retired Judge, Sen. Madzayo, will understand this better. They are bringing very small changes, but very dangerous to devolution.

You cannot say that the stakeholders can participate in the formation, formulation and implementation of the policy of irrigation, but tell the Cabinet Secretary that he can still come through the back door with any other implementation. In other words, it means that we are going back to where we are running away from.

That is why you find that the Ministry of Water, Sanitation and Irrigation is controlling a lot of money that should have been used through revenue allocation to ensure we give our people water. In fact, in Kenya we should no longer be discussing about waterborne diseases or Nairobi City County not having water, yet that function has been devolved.

I agree that it should be crosscutting in terms of policy directions that have been provided. This provision is a threat to devolution. I wish the parent Act could be retained. The replacement and repealing is just in the wording, giving sweeping powers to the - Who is better placed to reduce conflicts in water resources if it is not the local county government administration or Member of County Assembly (MCA)? How can the Cabinet Secretary (CS), Hon. Sicily Kariuki, resign and there is no CS in that Ministry at the moment? How can the CS in Nairobi know the problems that people are facing in

Mandera, Wajir, Nandi and West Pokot? I thought the best placed person is the governor because he understands the nature of conflict that we have.

I will bring an amendment to that. I know the worry of the Senate Majority Leader is that this matter might go back to the Arbitration or Mediation Committee. Let Senators be keen. There is a systematic way of eroding the gains that devolution has made.

I do not have a problem with Section 34 because it is more of infrastructure, expenditure, monitoring and evaluation. I agree with the amendment of Section 27 because the Principal Act has not provided that which is important. This is because we would want to know the mechanism that has been provided for monitoring and evaluation, development, governance management and regulation.

Mr. Speaker, Sir, apart from the health and education sectors, the heavily funded sector is water. There are many donors who like to support Kenyans. It is so painful that Kenyans cannot get clean water, which is a basic human right. It is unfortunate that people from northern Kenya and Ukambani, who experience erratic rain, cannot do farming and those places are fertile.

Mr. Speaker, Sir, all of us here who have travelled to such areas know that if those people are provided with reliable irrigation, they can plant their own food and be food sufficient. It is unfortunate that the infamous Galana Kulalu project has been 'swallowing' money, but Kenyans are yet to see value for that irrigation project. Why do we allocate a lot of money to Galana-Kulalu if we can subdivide to counties and allow counties to have the irrigation? There is no value that we are giving to the people.

Sen. Madzayo: On a point of information, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): I do not see your card. Do you want to be informed, Sen. Cherargei?

Sen. Cherargei: Yes, I would like to be informed by the retired Judge. It must be good information.

Sen. Madzayo: Asante Bw. Spika. Lile shamba la Galana Kulalu haliko tena. Kwa hivyo, haitamsaidia hata akisema lilitumika vibaya ama namna gani. Limefungwa na hakuna kazi yoyote inaendelea katika Galana Kulalu.

Sen. Cherargei: Thank you, Sen. Madzayo for that information. The point I am trying to make is that money has already been spent.

The Speaker (Hon. Lusaka): There is a point of order from the Senate Majority Leader.

The Senate Majority Leader (Sen. Poghio): Mr. Speaker, Sir, is the retired Judge, my friend, the honourable Senator from Kilifi, in order to mislead this House and the nation by misinforming us that the Galana Kulalu project is dead, while I know to the contrary that they even had harvest this year? Is he in order to mislead us?

The Speaker (Hon. Lusaka): Sen. Madzayo, since you come from there, you may have to give more information.

Sen. Madzayo: Bw. Spika, pengine Kiongozi wa Walio wengi hajafhamu vyema. Hivi sasa, Serikali ndio inafanya mipango ya kuwekeza wale watu ambao wanataka kutengeneza shughuli ya Galana Kulalu, mambo ya mimea, huduma zao na kila kitu. Lakini, hivi sasa tukiongea, upande wa Galana Kulalu, ikiwa *area* yangu ninayo

wakilisha hapa, haifanyi kazi. Hakuna chochote ambacho kinatendwa katika lile shamba la Galana-Kulalu.

The Senate Majority Leader (Sen. Poghiso): Mr. Speaker, Sir, the fact is that I am responsible for Government business. I know and have information. The fact that there was no crop this year does not mean it is dead. The fact that he does not see what is going on is not visible. I want to inform him that there are a lot of activities that are going on, and let us allow it happen.

Mr. Speaker Sir, it would be misleading to say it is dead. This is because I know the Government is putting a lot of effort to make sure that it is an ongoing irrigation scheme. In fact, it will be one of the biggest irrigations schemes in the country.

Sen. Madzayo: Bw. Spika, sijui ni kwa nini tunajibizana na Kiongozi wa Walio Wengi na mimi ninaongea kuhusu upande ambao ninafahamu vizuri na ni eneo langu.

Shamba hili sasa limepata mabwenyenye. Serikali imekata mapande nakugawanya ilhali watu wanaoishi pale, hawajapewa mashamba. Iko kesi kubwa sana ambayo tumeleta kwa Serikali ya kwamba wenyeji wapewe shamba katika maeneo ya Galana Kulalu ambayo ina pande mbili.

Galana iko Kilifi na Kulalu iko Tana River. Kwa hiyo, lazima awezekuelewa yale maeneo. Maneno hayo sasa yanajibishiwa kwa hali ya kwamba watu wanazungumza lakini iweze kugawanywa kisawasawa na wakaaji wa pale wapewe hanki. Kama ni Wagiriama, wapewe mashamba yao. Hii ndio sababu nakwambia, hiyo biashara ya kwamba Galana Kulalu inazaa mazao imesimamishwa kufikia hivi sasa.

Hivi sasa, ndio watu wako katika zile njia za kuweza ku-*identify* wale wakaaji wamaeneo wapewe maeneo yao na kule kutabaki, Serikali inaweza kuleta watu wengine. Bado hatujakubali hayo maneno. Ukae ukijua hivyo.

The Senate Majority Leader (Sen. Poghiso): I do not know how long this is going take. I do not want this to go any further. I just want him to understand that his version is inspired by his political side of things.

As late as last week, we were with the CS for Agriculture, Livestock, Fisheries and Cooperatives in Mombasa. We were dealing with this same matter with all information given to us about what the Government is doing in order to irrigate more land. There is no such thing as giving away land to people except if it is designed, so that you have a portion for irrigation. What the Government is doing in Galana Kulalu is going on. I do not know about the separation of the two.

I just want us to end there. It will be up to him to convince his people about it. We should not end up in this House declaring a multi-billion shillings project that the Government has invested in dead. That is not the position at the moment.

The Speaker (Hon. Lusaka): Order, Senators. It is a matter of interest. From where I sit, I direct that the Committee on Agriculture, Livestock and Fisheries visits the project and give us an accurate report on what is on the ground. This is because it is a matter of interest.

(Sen. Madzayo consulted loudly)

Hiyo ya wenyewe kupewa ni stori ya siku nyingine.
Proceed Sen. Cherargei.

Sen. Cherargei: Mr. Speaker, Sir, the Senate Majority Leader talked about the political side of Sen. Madzayo. I thought they are in *Azimio la Umoja* together. I tend to agree with Sen. Madzayo because he is the representative for Kilifi.

The Speaker (Hon. Lusaka): Kuna Hoja ya nidhamu kutoka kwa Sen. Madzayo.

Sen. Madzayo: Bw. Spika, jambo tulilokuwa tunaongea hapa ni la muhimu sana. Ni ukweli kwamba mimi na ndugu yangu, Sen. Poghisi, tuko upande moja wa kisiasa katika eneo la *Azimio la Umoja*.

Sioni sababu yoyote ya mtu kuleta mambo ya *Azimio la Umoja* hapa ikiwa swala la mashamba linaloangaliwa hapo ni muhimu.

Kwa hivyo, yeye anahaki yakuleta mambo ya kisiasa hapa ilhali hakuna mtu yeyote ambaye ameleta mambo ya kisiasa?

The Speaker (Hon. Lusaka): Nafikiri Sen. Cherargei ana mazoea ya kuleta mambo ambayo hayahusiki na Bunge. Hafai kutuelekeza kwa mambo ya *Azimio la Umoja* na Kenya Kwanza ili tuweze kushughulikia maswala ambayo yako katika Bunge hili.

Endelea Sen. Cherargei.

Sen. Cherargei: Mr. Speaker, Sir, I agree with your direction. It was just made in jest because Sen. Madzayo is my good friend.

If that irrigation project fails, it will be one of the most spectacular failures of the legacy of President Uhuru Kenyatta. So, let us wait for the information and direction that you have given.

Finally, irrigation and water issues are fully devolved. Looking at the example of Galana Kulalu Irrigation Scheme, I wish county governments that are within that region were given a heads-up, so that the only role of the national Government is just to give policy directions and stakeholder engagements.

We will look into the future, but if Clause 11 is amended, and I hope the Senate Majority Leader will give us leeway--- I know it may look tedious because we may need to go to mediation. We should amend so that we do not risk clawing back clauses of devolution.

By and large, I agree that this is a straightforward amendment and commend the Senate Majority Leader for bringing it. I hope the same speed we are using to process National Assembly Bills will be used in our sister “Lower House”, so that our Bills do not take ages there.

As the Senate Majority Leader picks other Bills from the National Assembly, he should remind them to also process our Bills.

I thank you.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for this opportunity. I support this amendment because of the importance of water. We know well that there are many areas in this country that receive little rainfall, and so, they have a shortage of water. This threatens food security.

We all know about the Sustainable Development Goals (SDGs) that advocate for freedom from hunger. It is also a constitutional requirement that no Kenyan should suffer from hunger.

These amendments are timely and seek to ensure that everyone is free from hunger. Look at places like North Eastern Kenya where they get little rainfall. I am in

agreement with the Cabinet Secretary (CS) being involved in ensuring that when it comes to irrigation, it is planned for and implemented.

Many projects are done, but are neither planned for nor implemented. A case in point is a project we were talking about yesterday in the Senate that started some 10 years ago, but is still incomplete. Therefore, when the CS is brought on board, he or she will ensure that before an irrigation project starts, it is planned for. Even when it is planned for, it should also be implemented, and when implemented, it needs to have a timeframe for conclusion.

There is no need of the national Government or county governments coming up with projects that are indefinite when it comes to completion.

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

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

Madam Temporary Speaker, I also want to talk about periodical reports on the irrigation scheme. There needs to be a periodical report in the Senate or the National Assembly on how the project is going on, so that when money is taken there, we know that it will do a certain project. The money should be given in a staggered form, so that by the time a project is coming to an end, the contractors are given the last batch of their money.

Madam Temporary Speaker, I want to point out an amendment to Clause 13 concerning estimated expenditure for development of irrigation and estimated expenditure for provision of services. When an irrigation projects comes up in whichever area, there is need to have an estimated amount of money to be used in terms of developing the project and the money should be oversighted.

There is also the need to have an estimate of how much money will be used in ensuring there is delivery of services to *wananchi* because we are talking of freedom from hunger. If we have to actualize freedom from hunger, we must ensure that the expenditure of a project and provision of services are clear.

I also agree that there is need for assessment of inputs. We should know the input and output of a project. If the input of a project is far below the output, then the project is not viable. Therefore, we have to know the input and output of an irrigation project. The output is supposed to outweigh the input of a project.

Another amendment that I feel is important is the one to do with monitoring and evaluation system management. It is important that when an irrigation project comes on board it should be monitored. I have seen cases where Non-Governmental Organizations (NGOs) go to a place and put up a big tank of even 60,000 litres to harvest water. However, when it comes to monitoring, you will find expensive Land Cruisers going to monitor just that one project.

If it is an irrigation project, there is need to determine how monitoring of the project will be done, so that monitoring of the project does not outweigh the project's input and output because it is supposed to help the locals.

Under the SDGs, we are talking of freedom from hunger and that no Kenyan should be hungry. One of the SDGs is important when you are addressing the issue of

poverty. Therefore, a project must be viable and managed transparently in terms of expenditure and how it benefits people.

There is also another important amendment here. We cannot talk about irrigation without factoring in the issue of infrastructure. For example, if you go to North Eastern Kenya, maybe the road is not accessible. How will you begin implementing a project in a place that is inaccessible? When talking of an irrigation project, infrastructure, including the roads, has to come in.

Water harvesting is also important in an irrigation setup because there are times when rains come favourably, but at times, the rains are too much. Too much rain should benefit people at least for a year. When the rains come, the water should be harvested and stored. The issue of water storage is important.

That aside, we also need to know how the water will reach *wananchi*. That is distribution of water. We cannot rule out the issue of distribution of water. It has to come out clearly that if an irrigation project is coming on board, the roads must be passable and water harvesting systems should be installed.

Distribution of water to various points also need to come out clearly. There are many instances where we waste our God-given water, especially during heavy rains. That is free water because we do not pay for it. It is water that the Almighty God gives us. It is in good faith that when talking about irrigation, we should ensure that we harvest the water that God gives us, so that we store and distribute it to people for a better season.

As we talk about irrigation, we must be strategic as a nation and ensure that we come up with a strategy.

As a nation, we must be strategic with irrigation. Let us put in place strategies to help far-flung areas that experience water problems. These strategies should help with water storage and ensure these areas are water secure during all seasons.

I see farmers harvest and store maize as they await the dry season, so as to fetch better prices. They also consume the maize. I am talking about utilising the God given rain. During the rainy season, the rain needs to be harvested and stored so that during the dry season we can still have water to use.

We all know the benefits of water. No household can do without water. Our bodies comprise of water. Sometimes when you fall ill, you are advised to just take a lot of water because water is that important for our bodies.

This is a very good Bill that needs to see the light of day. I believe that my fellow Senators will support and pass it.

I support.

The Temporary Speaker (Sen. Nyamunga): Yes, Sen. Shiyonga.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for this opportunity to support The Irrigation (Amendment) Bill (National Assembly Bills No.12 of 2021). We all know that any amendment to any Bill creates an opportunity for improving especially livelihoods of Kenyans by even creating job opportunities

This Bill will enhance agricultural productivity and reduce food importation. We have vast land as well as irrigation schemes. We only need to manage them well and invest in labour and this will make it possible to improve the lives of Kenyans through mass food production.

I have mentioned saving on foreign exchange. We can save much more money that we use to import, for example, rice, if we utilize our rice irrigation schemes. We will even awaken our labour market. Our young people will stop going abroad to look for jobs because they will be the same ones who will work in our irrigation schemes.

Most of Israel is just arid land. Kenya has both arid and semi-arid areas. If we practice what Israel does, which is what this amendment supports, we will be in a better position. Our educated youth who are jobless will be employed in their own country and assist Kenya to improve its economic growth.

When an irrigation scheme is set up, infrastructural development is inevitable. If we pass this Bill, we can even develop more because we cannot invest without infrastructure. Infrastructure and development go hand in hand. We will then improve parts our county that are undeveloped and have not seen infrastructure since Independence.

I support the amendments because food production will improve. We will be able to feed Kenyans, save on foreign exchange and improve infrastructural development. We will also improve the livelihoods of Kenyans who depend on those irrigation schemes for basic needs. In the end, towns around the irrigation schemes will be better.

For example, Bura and Mwea grew from irrigation. In those towns, people are self-employment. That is what we need to improve the livelihoods of Kenyans. Those are some of the issues that we want to sort out in Kenya, so that we can all benefit. Kenyans are looking forward to improving their livelihoods.

I support the amendments.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator.

Yes, Sen. Pareno.

Sen. Pareno: Thank you, Madam Temporary Speaker for this chance to contribute to The Irrigation (Amendment) Bill (National Assembly Bills No.12 of 2021).

When I came in and heard the Debate, I remembered that just the other day we had a meeting with the relevant Ministry. They were working on regulations the irrigation system in this country. We had very robust discussion as to whether in regulations, we are going to be too mean to those that have very little to irrigate, yet very useful for sustaining our livelihoods and our usual food security.

Madam Temporary Speaker, what got the attention of the Committee on Delegated Legislation was the Galana Kulalu Irrigation Scheme. In a presentation that was made to us, Kshs7 billion went down the drain. Somebody procured a company to start the plant off and money was paid. The officers then told us that the company in charge could not even account for the expertise that were supposed to do that project. The project delayed and, at the end of the day, they had to cancel that contract. They are now starting afresh.

I asked them who the contract was awarded to and if they followed up the matter. I sought to know further from the Ministry officials what they did as a Ministry of Government to ensure that the person accounts for the Kshs7 billion that went down the drain. I asked if there was an arrest, investigations or a report on that.

Madam Temporary Speaker, we were shocked to be told that we are yet to start following on that, yet it is almost seven or five years down the line. Our question was:

did we intend to just appoint somebody to take that money down the drain? If we are not even following up that money, then what are we doing?

It is not that we lack laws in this country. The laws are there and we keep amending. We keep saying that we need food security and to do irrigation. At the end of the day, the law that we put in place is not implemented because nobody goes to follow up on what is happening on the ground.

While irrigation is a good start and gesture; while food security is something that we must do as a county, we must also ensure that people are accountable to these systems that we put in place. We cannot say that we are going to realize production of food because we are going to do irrigation and yet, somebody five years down the line has not accounted for the money that has gone to waste. It is time we got serious and went back to the schemes and ensure that we have food in this country.

I support these amendments.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator.

Hon. Senators, I do not see more interest on that amendment. I, therefore, call upon the Mover to reply.

The Senate Majority Leader (Sen. Poghio): Madam Temporary Speaker, I beg to reply. I take this opportunity to appreciate all hon. Members who have spoken and made their contributions to this amendment.

We hope that from here the hon. Members will approve the amendments, so that we can proceed to use this law in practice and make the necessary regulations to operationalize the amended Act.

This is a good way to do it. A number of issues have been raised and are well noted. I hope that during the Committee of the Whole and the Third Reading, we can make the necessary changes.

Madam Temporary Speaker, I also appreciate the concerns about monies spent in Government projects. As much as it has been said that Kshs7 billion has gone down the drain, the fact is that this is what went into the investment and it did not arrive at 100 per cent.

We are concerned about the first phase and the other phase. Now that we have learnt from our mistakes and experiences, what shall we do about the next phase, where, again, a big investment has been put?

There is also the issue of reviving the old irrigation projects, which are many. They may not be very big, but they still exist and infrastructure was put down. We should now look for opportunities to revive them and these amendments will help in changing the administration, so that we take greater caution.

With those few remarks, I beg to reply.

Pursuant to Standing Order 61(3), I request that you defer putting of the question to a later date.

Thank you, Madam Temporary Speaker.

(Putting of the Question on the Bill deferred)

The Temporary Speaker (Sen. Nyamunga): That is granted. Next Order.

*Second Reading*THE COMMUNITY GROUPS REGISTRATION BILL
(NATIONAL ASSEMBLY BILLS NO. 20 OF 2021)

The Senate Majority Leader (Sen. Poghio): Madam Temporary Speaker, I beg to move that The Community Groups Registration Bill (National Assembly Bills No.20 of 2021) be now read a Second Time.

Madam Temporary Speaker, this particular Bill was published on 5th May, 2021 and passed by the National Assembly and referred to the Senate on 21st December, 2021. This Bill is intended to provide a regulatory framework for the mobilization, registration, coordination and regulation of community groups.

We should be aware as Members of this House that there is no specific or particular legal instrument at the moment that regulates the registration of community groups in Kenya. Self-help groups act as vehicles for social mobilization and collective development of our people at the local level. It is through these self-help groups that people have been able to internalize issues on banking and community empowerment.

Madam Temporary Speaker, self-help groups are in various categories, including the ones referred to as ordinary self-help groups, the elderly persons' groups, youth groups, women groups, men groups, community based organizations, people living with disabilities groups, refugee groups and other special interest groups that exist. They are referred to as *chamas*, table-banking groups and many others.

As a result of this diversity, the Bill has found a way to formulate these groups into a more inclusive, considerate and flexible manner without stifling their registration by bringing in extra bureaucracy. The importance of creating the stand-alone registration process is to help in terms of operations, dispute settlement or resolution and amicable dissolution of the groups when they have expired in terms of them having achieved their purposes and are no longer required.

Madam Temporary Speaker, regulating these groups through law is official for national security and critical for national security interests. Therefore, the importance for such a Bill cannot be overstated.

Specifically, this Bill proposes the following: -

In its first two clauses, that is, the preliminary matters provided for are the Short Title of the Bill and the definition of key terms used in the Bill.

Clauses 3 to 8 provide for the office of the Director of Social Development which is intended to be the office in public service. The clause provides for the appointment and functions of that Director. It also provides for social development committees, their appointments, membership, functions and powers, the conduct of business and the remuneration of their members.

Clauses 9 - 20 provide for the registration of community groups including the registration of special community groups and the amalgamation and merger of community groups.

Part 4 provides for the requirements for registration and the circumstances under which the community groups may be dissolved or have their certificate of registration suspended or cancelled.

Madam Temporary Speaker, there are many opportunities for exploitation of these groups and misuse unless we do some of these things formally and give a legal framework. Therefore, it is important that we bring a law that ensures that groups are recognized officially and regulated.

Clauses 21 to 30 provide for the regulation of community groups, including the general objects of community groups, the appointment and the role of office bearers, the dispute resolutions in those groups, registers of members of those groups and obligation to maintain the confidentiality of members' details.

Clauses 31 to 37 provide for the financial matters relating to the community groups, including the maintenance of financial record. The responsibilities of treasurers over groups' accounts; the power of the Director to request information and documentation from community groups; the audit of community groups which is important; resource mobilization activities by the community groups.

Clauses 38 to 41 provide for the general matters. Clause 38 makes it an offence to obstruct the Director in the course of performing his or her duties, while Clause 39 provides for the general penalty. Clause 40 provides for making of regulations and Clause 41 provides for the transitional matters relating to community groups that had been registered by the National Government upon coming into force of the Bill.

The First Schedule provides for the conduct of business affairs of the county and sub-county community development committees. The Second Schedule provides for matters to be provided in the constitution of the community groups.

Madam Temporary Speaker, this is a very important piece of legislation. It is a very important Bill that will change the way things are done. It will make sure that we line up activities in our country that affect communities in a transparent manner; in a manner that can be held accountable. That is why we are bringing this particular Bill.

I, therefore, urge hon. Members to consider and pass this important Bill, which will be the instrument in providing a legal anchorage of registration, management and regulation of community groups or by whatever name we have known them. This in turn will create an enabling environment that provides or promotes community empowerment, self-reliance and sustainable development of our community groups and projects.

Madam Temporary Speaker, we all stand now to know that accounts and records will be audited, so that people who have taken advantage of community groups or those who have run away with resources of community groups will now be held to book.

With those few remarks, I beg to move and ask Sen. Pareno to second.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Sen. Pareno, please, proceed.

Sen. Pareno: Madam Temporary Speaker, I rise to second that this Bill be read a Second Time. In support, it is just the name that is being changed and what has been happening on the ground being put into law. We all know that we have a lot of community groups; women groups, men groups, a mixture of groups and youth groups coming up. However, there are no regulations to govern their operations.

We have had the social services department for some time now. I just wonder whether we are upping the game or organising more. The community groups have always been registered by the social services departments in our counties. As we work

on this law, we need to check how this relates to what the counties have been doing and how they can realign to this law.

Madam Temporary Speaker, it is good to guide them because this law has proposed that we have constitutions that these groups can rely on. A special way of doing application like, the table banking most of the times when people come to groups they just sit and decide to divide the money among themselves. Sometimes, they are not able to account for it or to hold each other accountable when it is meant for the community to develop itself. When people default, most community groups do not know what to do because there is nothing to really enforce. In the Maasai set up, when a member defaults payment, you find people walking to a home and the morning to tell the man that we have come to pick up some goats or sheep because a member of the homestead defaulted in the groups that they have been members to.

This kind of organisation and realizing that this is one way to hold our community together, empower, organize them and bring them to understand that they are part and parcel of developing and participating in our economy. This law will go a long way to help. I also see that there is provision for cancellation of registration when you misbehave.

Many Kenyans have ended up crying and getting desperate because they were in some pyramid schemes where they lost money. Some people enlist others into groups that they do not understand and have no proper regulations. This Bill gives provision of how to register, renewal of the registration and even how to deregister when the viability of a group is in question.

Madam Temporary Speaker, this law brings together several groups that have the same interest to forge together. It is better for several groups to come together because that is better than having one on their own when they are doing the same thing. Such groups can even share experiences and best practices. I hope that this kind of coming together will improve the economy of what we do down there in our communities.

This law also provides for members, officials to run the groups and inspection of registers so that at the end of the day there is accountability within these groups. Most of the time, groups come together but are not accountable. In the process, they end up losing their money. Generally, this is a good law that brings order and meaning to what most of our community groups are doing.

Madam Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Sen. Nyamunga): Sen. Cherargei, you have the Floor.

Sen. Cherargei: Thank you, Madam Temporary Speaker. From the onset, I support this Bill. The Community Groups Registration Bill (National Assembly Bills No. 20 of 2021) is long overdue. We leaders know the role that Community Based Organisations (CBO's) play in terms of creating opportunities for the many groups we have in the villages among the youth, women and men. There are so many CBOs that have been put in place.

Women are good at organizing and running their community groups. I have interacted with a number of CBOs in Nandi County. A number of them that are

successful are either formed by and/or run by women. Men should learn something from the women on how to build good CBOs.

This Bill proposes the establishment of the Office of the Director of Social Development which is important. I would like to make a few comments on the registration process of CBOs. We have been having problems where young people approach you and tell you when they go to the District Social Services, they have to pay Kshs1500 for registration. In some cases, others are required to pay Kshs5000.

Madam Temporary Speaker, it is important that community groups be assisted to register themselves. It is good that proposal has been made to have a social development director that will be specifically in charge of such registration. This will make young people and many other community groups such as those of people living with disabilities and other special interest groups to be handled by one department.

This Bill also seeks to enhance partnership, collaboration and linkages with other persons, groups and organisation for the benefit of the community. We have seen many donors and friends from abroad partnering with many CBOs and many groups for purposes of assisting them. When we have such a system, such kind of partnerships will be instant. In my County, in a ward called Kosirai, there is a women group that is called Villa Gate Women Sacco Group who have partnered with German donors. The groups currently have a tractor which they use to transport gas cylinder for cooking. They also lease out the tractor for ploughing. The group is getting a lot of money from such ventures. The German partners they are working together with is really working hard in revolutionizing the women of Chesumei Sub County specifically from Chepterit area. The Villa Gate Women Sacco Group is one of the many other CBOs that are run by women.

This Bill seeks to enhance the registration process which is very important. Donors and other Non-Governmental Organization (NGO's) are keen on working with groups which are legally registered. Clause 4 of the Bill states that the Director shall appoint a County Director of Social Development for each county which is very important in the spirit of devolution and we are protectors of devolution.

Supervision and committees in the counties will assist in efficiency and also protect these groups from dying. As Sen. Pareno has stated, most of the community groups can collapse easily because of their own differences. Having this Bill in place, having representation from civil society groups, county governments and active groups will also allow some form of oversight in the running of these CBOs.

Madam Temporary Speaker, this Bill proposes that there shall be five representatives of registered community groups and four from development partners. If that is implemented, it will be easy for the groups to get funds when they are looking for money. If the same development partners are sitting in these oversight groups, it can be easy for them to apply for funding or capacity building or support.

Clause 6 of the Bill talks about social development committee shall be the link between the National Government, community groups, communities and other development partners. The challenge has been how to establish the link. We have affirmative funds that are run by Women Representatives. I am sure that you know that because you served as the Women Representative of Kisumu County. We also have the Constituency Development Fund (CDF) and the Youth Enterprise Fund (YEF). There are

so many funds that are given at the national level. It is hard to for the people on the ground to know because of lack of linkages to the CBOs.

It is important that we have a Social Development Committee (SDC) that mobilise people when Community Based Organisations (CBOs) are doing capacity building and training within a county. It will be easy for formation.

Madam Deputy Speaker, you have been in politics for long unlike some of us. You go to a village and people come to tell you that they want to form a group. You cannot help an individual and so, the only way you can assist is through a group. When you have an SDC, you can go to a small *baraza* in the village in Nyando or Onjiko, sit with the people when they tell you they want to form a CBO and you just call the SDC.

The Majority Leader is wondering how I know your place and yet he has never been there. Personally, I have eaten at your place and I know the place very well.

When those people of Nyando tell you that they want to form a group, it will be easy, as leaders, to refer them to the SDC. You will not have time to assist them draft the by-laws and tell them what is to be done in meetings. This SDC will ensure awareness and capacity building. Training will also be very important.

Another quick issue is the making of recommendations for community groups for material and capacity building and financial support. I think that is the end game, Majority Leader. Our groups are there but how do they get linkages for capacity building? How do they ensure they get finances? How do they ensure that they are trained on how to maintain these groups?

This is a game changer because it will be helpful. Most groups die because they lack vision, capacity building and budget.

On dispute resolution, we know most of the time, these disputes sometimes arise especially from leadership and money.

Madam Temporary Speaker, the fourth point is on Clause 9. I am running through so that other Colleagues can have an opportunity to speak. Under this Clause, the group will comprise – and this is the beauty of it – at least 10 persons. In the case of special interests, for which Sen. (Dr.) Musurube should be excited about, it says at least five persons. It will now be easier for individuals to come together and form a group.

Sometimes you go to a function and three people come to you for assistance. They tell you that they are not in a group since one of the requirements for such groups is to have 20 or 15 people. It is now only 10 people.

In our African setting, according to the Kenya Population and Housing Census, I am told an average household in Kenya has six people. I think that is just for this part of the country but in the northern part, you can have CBOs of around 10 or 20 people because of the nature of the families that they have. So, 10 is a good a number and the inclusivity of Persons with Disabilities (PWDs) is a good idea. It will not only be easy for them to form a group but to also achieve their objectives.

On the numbers, I think even the Company Law has been amended unlike the tradition that has been there. I think CBOs are also picking up on the same. I really commend the drafters of the Bill.

The Bill further says that special interest groups shall comprise of people who only share a common interest. Due to its unique nature of their interests, they may fail to raise large membership within the community.

Madam Temporary Speaker, Sen. (Dr.) Musuruve and PWDs in the country have been given latitude. It could be a people from a lesser tribe or clan. This definition can encompass everything.

Clause 13(1) and (2) of the Bill says:

“(1) The Director shall, within fourteen days of receiving an application under section 9, either register or refuse to register a community group.

(2) Where the Director refuses to register a community group, the Director shall notify the applicants of the refusal in writing setting out the reasons for refusal.”

I think this is just basically principles of natural justice. What we should have added and, of course, the Bill has provided for, is whether they can appeal. Sometimes it could be out of technical, name or maybe the formation errors.

One of the conditions in this Bill is that you must be 18 years and above. Sometimes if we do not train our people, they can even include a 17-year-old and in the process, that could be a technical error. I wish for such a provision under the law. I think the Senate Majority Leader will agree with me, that we might amend somewhere to provide a review or appeal so that it does not become a dead end.

Still on Clause 13 of the Bill is with regard to the 14 days of receiving application, which is important. The usual standard has been three months or 90 days, which is a long time. Imagine a CBO in Mosoriot in my village of Kapkeben, has got a British donor who wants to give them some money. The donor is then told that he can give the donation within one or two months. We are now bringing it to 14 days and I think this is very important.

Regarding Clause 14, I think two years is sufficient for a registration to expire and you can apply for renewal. The other aspect I wanted to mention is cancellation of registration. Clause 15 talks about the director canceling the registration of a community group. I do not agree with this. I wish it could say “the committee” because we have already formed the Committee and wish it is given the powers to cancel a registration.

I agree with the basic requirements that a group can be cancelled if members of the community group fail to comply with community group’s constitution. However, I wish the director does not have sweeping powers. The same Committee that has been formed at the sub-county or even county level should be used. That way, we will not have a director walking around with sweeping powers and can just decide to cancel or revoke your license. That is dangerous. Let us also give oversight and accountability at that point in time.

I agree with the clause on a community group dissolving itself. That is voluntary. Another game changer is the merger of community groups. I think now it is recognized. A CBO may want to apply for more funds and now they are allowed to merge so that they can have capacity to apply. That is very important and it is recognized legally. You can merge groups and push for a similar agenda.

For example, we have five or six CBOs each having 10 members, that is around 50 members, who can then apply for a bigger chunk in order to achieve something. If they are applying for Kshs1551320 or 20 million, it will be easy to do that.

Finally, I think the offences are too lenient. Any person that refuses to honor summonses, I agree with the process of investigation. I also agree that if anybody is

aggrieved, then that matter can be referred to the decision of the director for appeal. That is Clause 26.

The only issue I have is that to make it deterrent, --- Being a learned senior in this profession, Madam Temporary Speaker, it should be deterrent in a way. When you tell someone that it is an offence not to honor summonses and yet there are differences within the group arising from accountability, Kshs10,000 is too little. I wish that amount is raised to Kshs50,000 and failure to pay, you get a jail term of six months. Six months in jail is okay but at least increase the amount from Kshs10,000 to 50,000.

The important part that I really wanted to comment about is on the issue of financial provisions. Most groups collapse because of accountability as a result of differences of finances. Clause 35(1) of the Bill says:

“Where the Director has reasonable cause to believe that circumstances have arisen which render it expedient for the proper performance of the Director's functions under this Act to do so, the Director may require in writing that a community group furnish the Director with ---”

In fact, I like the way the director is given the opportunity to look at financial records. When they have differences, it will be easy to refer to somebody who is neutral. If you refer the matter to the chairman or treasurer of the same committee, the officials can collude on the financial status.

The role of the director has been enhanced, in order to cross-check the information. In accountability, it is important to address issues of financial affairs. Clause 33 even talks about activities and financial affairs. The accountability part is important because most of these CBOs refer you to the treasurer when you ask about their financial status. That can bring mistrust. Most CBOs collapse because of mistrust in terms of handling finances.

Looking at my time which is far spent, this is a very unique Bill. It will assist most of our young people, women and the vulnerable groups within the society.

I have heard somebody say that men should also form groups. Even in this Senate, we should be thinking of registering Community Based Organizations (CBOs). Unfortunately, we are coming to the close of the term of the Senate. I wish in the near future; the future Senate can form groups because it requires only 10 members. We can be doing something around Nairobi just the way women form these groups such merry-go-rounds, and they can assist us.

God willing, if Sen. Pareno succeeds to get elected, and comes back to the Senate, then those are the things which you can carry into the future of the Senate.

(Sen. Pareno spoke off record)

I know. I saw it, but I do not want to mention the name here. I wish her well and maybe in the future of the Senate, these are some of the issues that they can carry. I wish she would reconsider running for that seat using my vehicle so that we can be very good.

The Senate Majority Leader, we support this Bill. Let us fast-track it and if there are amendments, allow it in the Committee of the Whole.

Thank you Madam Temporary Speaker, for the good job you are doing. You are yet to declare your ambitions but when you do, we will fully support you.

By the way, we wish you well also, because you are coming back as the Senator of Kisumu. I know the current Senator is running for governor. We wish you well and pray for you. You are my neighbor. I wish you could also come to our house so that we can go together. I understand where you are though and I wish you well.

I assure the Majority Leader that he has my full support on this one. I support.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. Proceed, Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for giving me this opportunity to support this very important Bill; the Community Groups Registration Bill (National Assembly Bills No. 20 of 2021)

It is very clear that community groups have existed since time immemorial. I know, that especially women are very good at coming up with groups. They come in different forms; in terms of, merry-go-round where, for example, they meet every month and bring in some money. Some of these groups start small.

In some groups, they actually come together, collect money every month and give to one woman to develop her home. Sometimes they even come up with money, buy utensils, give one person and so on. Some groups have come up with merry-go-rounds, for example, they buy a cow for everyone in the group. They even raise money and have bought plots, even an eighth for each and every person in that group.

They have existed to improve the socio-economic empowerment of the people in the groups, especially the women. It is only that these groups have not been enshrined in the law or been given recognition. This Bill comes in to give these merry-go-rounds, women and men's groups that legal sanctioning that now they will be enshrined in law and given status.

Recognition of these groups is very important. We have seen people joining cooperatives so that after saving some money, they can take a loan for self-development. Development can be individual, family or societal.

This Bill being made into law will be development for the people in that group, each of them individually. Some of these groups can come up with a proposal that they want to start a business for each member. Sometimes the members can choose the project they want. Members can look at their strengths and decide.

There are some members who can decide in such groups that they want to be funded to rear chicken, pigs, goats and all that. It comes out as individual, but at the end of the day, the individual benefits and the benefit spills over even to the families. This Bill then addresses Article 43 of our Constitution on the socio-economic cries because it empowers the members of the groups.

It is a very good Bill because it gets us a way even from the handouts that sometimes people are given. If you are supported to even keep fish, bees and sell honey or grow groundnuts and even make peanut butter, in such a group, then it empowers you. If you are a woman or a man with dependants, you will be able to bring something on the table.

This is a very neat Bill that is really timely.

The issue of director of the groups also comes in to ensure that the groups are organized, so that things are not done in a haphazard manner. It should be in a structured way that is easily viable.

Awareness is very important because there are people who are not aware that they can join groups where they can improve themselves to be economically better than they are now.

On groups, first of all, there is the issue of formation. People will come together and decide, “Yes, we really need to come up with a group”. After coming up with a group, and they want to register, then the registration needs to be fast tracked.

Apart from that, county governments need to be involved so that when they are creating awareness to the groups--- Sometimes people form groups without awareness of the mechanism of how the group will grow. When a group is formed, there is the initial stage where they will choose the chairperson, or the leader, the members and then the various activities that will be there.

The county government need to take it upon themselves to ensure that they are building capacity for the group members. When they come up with an activity, there needs to be someone in the county government who takes people through the activities. For example, if a women group decides they are going to make peanut butter, there needs to be an expert who will take them through on how to do it and how to raise the money. They should also be assisted to look for an exit for the activities of the group.

Even if they are doing a project, and there is no exit for the project, then money will not come into the group. The essence of having a group is to ensure sustainable economic development and empowerment of the members.

The issue of proposals has come in. You will find that some groups are well meaning. They really want to do one, two or three things. When you are talking of *mashinani*, you will see that there are some helpless youths. They want to come up with a project, they have formed a group, but they do not know how to do a proposal for funding. These people need to be trained on how to write proposals for funding. The proposals should be taken over by the county governments so that if it is a group of youths or women, they are empowered so that eventually they become productive citizens.

Madam Temporary Speaker, if all people are empowered from the ground, then the nation becomes better because no one will become a burden to another. This will also increase our Gross Domestic Product (GDP).

I am in agreement on what the Bill stipulates on composition of the groups

A group of ten can actually register as a community group.

I am also happy about provision for special interest. Sometimes, in a community, it may be very difficult to find ten people with disabilities coming together. So, the provision for five for other special interests who are unable to come up with ten is good. This is because even if there are five champions who are focused on their goals, they can achieve them. This is because the essence of the group is to empower people and make them better than they are.

One thing that comes out clearly from the groups is when it comes to dissolution, it should be a perfect dissolution that does not cause fights. Sometimes it can be voluntary dissolution which is okay.

I am happy that the Bill also talks about auditing. There is need to audit the funds that the group has and how they will be utilised so that no one allocates himself or herself more money than others in the group.

Madam Temporary Speaker, the issue of merger in Clause 17 is also very important. This is because a situation can come up whereby, a group realizes that it wants to do a big project but it is unable to. So, it merges with another group which has the same interest, for example, buying land. If a group decides that they will buy land and put up rentals and they are unable to, they can merge with another one. Once they merge, they lose their self-identity so that it is only one group. This is also well meaning.

The Registrar should also be involved so that when it comes to merging, there is transparency, neatness and eventually everyone benefits.

Madam Temporary Speaker, there is need for mechanisms to be put in place so that if there are any proceeds, every member gets profit. For example, after the two groups merge and are able to come up with a plot, then they put up rentals and if they are getting money from the rentals, then every member of the group should get the benefits. Probably, at the end of the year, when they are having their dividends, everyone should have the dividends.

I know of a group that has been in existence. I started a group for women in Lugari. They came together and decided they wanted to have a group and everyone was saying what they wanted. Some people wanted to keep pigs, others hens, while others wanted goats. Up to now, the group is still on going.

These groups are good because they enlighten people. They awaken your mind so that you decide to do something. There are people who never know that they can be productive just the way they are.

In these groups, both men and women sit together and they share their ideas and thoughts about themselves and how to earn money. They open and sharpen each others mind. You need somebody who has the same thoughts as you to sharpen you so that you can propel into the future in a productive way.

Madam Temporary Speaker, it is very clear that birds of the same feather, flock together. So, when we have groups that are dynamic and are doing marvelous things, it means that all the people in that group will benefit.

If these groups benefit in the community, then it will mentor other groups in the community as well. This is because we need mentors in the community. We need teachers of teachers. If people can look at a group and say that this group is moving far and is getting somewhere, most likely another group will also be formed and follow into those footsteps.

There is one thing that comes out also about contact. The Bill talks about the address. It should be open and accessible.

In some groups, nobody ever knows who the contact person is, and how information is disseminated. Sometimes, it is only the name of the chairperson that is known.

According to this Bill, everyone in the group will be aware of the contacts and information. So, dissemination of information, if this Bill is passed and assented to, will be transparent and up to date.

Also, just to refer to Clause 36, it talks about auditing of groups and dispute resolution. This is very important because there are some groups that are formed but they are not transparent.

I remember when I was very young, I was in a group and we agreed to buy a cow. I was a high school teacher that time. We really struggled to get the money to buy the cow because it was very expensive. The cow was giving us milk.

We were still naive. We did not have the awareness and the teachings on how to go about the proceeds of the milk. We found that whoever was keeping the cow was the one benefitting. This is because she was milking and getting the milk and by the time we knew it, it had given birth to three calves. It was messy. By the time the group ended, many members were not on talking terms. So, this Bill comes out clearly to ensure that such pitfalls are not there.

When it comes to also resource mobilization, it is very clear that the groups can have resource mobilization. The money should be used for the groups and there should be sanctioning for those who misappropriate money for the group. This is because when the money for the group comes, it does not belong to one person. It belongs to everyone and everyone has a say with in regards to the money.

Also, everyone has a say in the group so that when it comes to the merger, the chairperson cannot individually decide that he or she will merge with another group. There is going to be a consensus because three quarters of the group members must actually consent and accept that they are giving a go ahead for the merger of the group. I therefore, support this Bill.

I hope it sees light at the end of the tunnel because it is a good Bill that will empower our people not only here but, in the counties where they belong.

The Temporary Speaker (Sen. Nyamunga): Thank you Senator.

Sen. (Prof.) Onger, please, proceed.

Sen. (Prof.) Onger: Thank you, Madam Temporary Speaker, for allowing me to speak on what I consider a very important Bill before this House; the Community Groups Registration Bill 2021.

One of the fundamentals in society is to get organized socially, politically and economically. When you combine the three of them, socio-economic and political development, the country or community makes an advancement in that area of their interest.

Sometimes, national revenue may not be adequate enough to support such groups. However, they can deliberately have seed funds to these kind of groups to transform them into very active entities.

Sometimes, many people view development in different angles and dimensions. One of the most basic examples I have seen is the Indian example, the so-called cottage industries.

These cottage industries are literally village cottage industries whose idea was by farmers who had a common identity and commodity, cotton. They came together to add value to this commodity to advance the development of the region or the village to a particular level.

Therefore, they came with an identity of various looms and various fabrics that were considered to be a preserve of a particular State, whether it was a Kashmir State or Guajarat State, or for that matter the Bombay State.

All these were meant to give an identity of the kind of crop and the cottage industry that was going to enhance the economic welfare as a village and a community.

Eventually, this adds up to the Gross Domestic Product (GDP), not only of the state but also of the national Government at the end.

I know we have those who have had the privilege and opportunity to tour the Kibbutz in Israel. It is an agricultural settlement. In Kisii and Nyamira counties and many other counties, for example, we have shrinking land masses because of the population. It is not possible to carry out large scale farming in the little land strips that have been allocated to various homes. Therefore, farmers should come together like they do in Kibbutz.

In Kibbutz, farmers promote dairy products. They get dairy animals and have all of them housed in one place. Their labour input is part of their shareholding in that kind of arrangement. At the end of it, the final product is sold. There is an organized market. Lack of an organized market is one of the biggest problems farmers in Kenya are facing today.

In Kibbutz, people pull together their potential in terms of human, social and economic capital. There is input by their national Government. In our case, it would be a county government doing so because agriculture is a devolved function. At the end, you get a very viable and competing entity that will provide services to the people.

The interesting part of that Kibbutz arrangement is in line with what this Community Groups Registration Bill (National Assembly Bills No.20 of 2021) is proposing. There is an arrangement around that village or community.

The arrangement takes the form of social services, schools, road networks, infrastructure, water and sanitation, immunization programmes, prevention of certain infectious diseases and doing certain things which are right. If we do it right, even us we will be able to identify the primary agricultural products that will form the first base for those communities to coalesce with one another and promote a certain product.

For example, we have the banana industry in Kisii. This is the industry where a farmer has zero returns. Farmers have to till land and produce beautiful bunches of bananas. When you go along the main highway, you will find bunches of bananas literally rotting. Farmers have to sell bananas at through away prices. That is not amusing because they toil, apply fertilizer and manpower hours to till the land in order to produce bananas. However, when it comes to returns, they literally get no returns whatsoever.

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

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

The county governments and national Government and donors who are interested in community activities can support farmers by establishing cooling facilities for their bananas. They can do the simple aspect of collection from the farms to the storage points.

Madam Temporary Speaker, you will remember that this House passed a Bill which is now an Act of Parliament. That is The Warehousing Act. This is the nature of the kind of things that will be created at every given points. Farmers or organized groups will be able to deposit agricultural produce in that warehousing arrangement.

They will have collection and grading points and they will be able to sort out and get the grades which will be channeled through a marketing strategy that will fetch the

highest potential prices that are required for communities and groups so as to attain their potential.

What does that mean? It obviously means that it will increase the earning capacity of those groups. This will kill out the handouts culture, which has become an endemic in our society. When people have incomes, which are predictable and flowing in their pockets, it is quite clear that they will have to depend on their labour and economic welfare within that group. This is the only way they can achieve their goals.

The second element of success maybe that they may bring up a group for a particular item, call it a saving. I have seen some of the saving programmes in the form of Savings and Credit Co-operatives Societies (SACCOS), which have grown into huge conglomerates that handle large amounts of funds. The SACCO movement in this country is one of the most successful movements when properly handled.

We have a SACCO in our own Parliament which serves the membership of the National Assembly and the Senate. We similarly have various SACCOs like the *matatus* and *boda bodas*. This can be organized into a powerful entity where you have the *boda boda* in various centres or points of their businesses properly organized to pull their investments and earnings in form of savings.

That can grow into huge sums of money that can be ploughed back in full support in the form of either dividends or loans. Those will be accessible resources and money for them to get loans to advance their businesses and increase their capacity to earn more. To me, you need this type of a Bill to organize communities in the form of land and water resources that are available.

I have an example of West Pokot or Elgeyo-Marakwet. We have some of the fresh water rivers in those areas. Why do they not get themselves into groups and do water bottling plants that can be sold within those regions and beyond? That will increase the potential of possible earnings in various areas.

Again, we have mangoes in West Pokot and the Kerio Valley. Why can groups not come together and turn that area into a potential of processing mangoes juices that can be sold as the West Pokot and Kerio Valley juices?

For example, we have South African juices that are all over the shelves of retail shops, big supermarkets like Quickmart and other shops in this and various towns. Why can we not increase our potential that is lying dormant in those two counties?

It is my intention that if I am given the opportunity to serve as the Governor of Kisii County, these are some of the areas that I will have to develop progressively in form of value addition. I am seeking to become the Governor of Kisii County. We can have value addition of our bananas. You can do it by either selling bananas or increase the market into seven products that can produce enough for the communities. That can come in the form of communities or farmers who grow the bananas.

The other one is the avocado industry. When you do the correct collection, grading and marketing strategy from cold storage points, you can get very attractive prices in the Middle East where we have countries like the United Arab Emirates (UAE), Europe and everywhere else.

You will fetch very creditable prices that will be useful to the farmers. What happens to young men who have no capital seed in this kind of arrangement? They themselves are human capital and they have education and the necessary skills. What do

they do? They can come together and form groups. Those with Information Communication Technology (ICT) potential, skills potential and they become the seedbed of incubation centers at the ward development level. These then become centers of outsourcing by some of the international companies.

There are some international companies from USA and Canada among other areas who are now relocating their services to developing countries because of the potential of ICT prowess that exists and is available in those areas.

You are also able to promote young graduates from technical and vocational training centres who can pull together their human capital and social capital in form of skills and be able to do something to become a viable entity for outsourcing by those countries.

Why is China's economy growing steadily at 10 per cent and above? It is because they have been able to invest in technology. It is important to invest in technology because it is the lease of life we are giving the country to develop. China is able to attract investments from all over the world to be able to manufacture items that are cost effective because of labour.

We can turn this country and our counties into these kinds of havens of productive activities and be able to get very reasonable returns for citizens of those counties. At the same time, increase the Gross domestic product (GDP) not only of the counties, but also the national GDP.

In supporting this Bill, one of the areas that we will have to strengthen is the question of governance and financing aspects of it. Obviously, the auditing aspects becomes a major pillar on how these should be. They should be able to be put on check because some people have the tendency of squandering away the sweat of other people who have invested so well in these kinds of ventures. Therefore, auditing services which are captured in Article 36 will be a welcome thing to ensure that these funds must be available for collection.

On investment potential, the Director of Social Services in the Ministry of Labour and Social Protection should be able to have a very powerful extension arm in being able to assist these groups so that they can be coordinated and put together to achieve their potential.

We are in the right direction in adopting this Bill as a product of this Senate. It provides a seed bed for growth in our counties. With devolution, we have no business to start looking for mega projects where we will have no capacity or ability to achieve, but we can start from small items and scale ourselves to large and huge conglomerates which will have a beneficial effect for this country. It will have a social capital, political capital and economic potential.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): I have no other request. I call upon the Mover to reply.

The Senate Majority Leader (Sen. Poghio): Madam Temporary Speaker, I beg to reply and in replying let me begin by thanking colleagues who have so animatedly debated this Motion. I would like to congratulate Sen. Pareno who seconded this, also Sen. (Dr.) Musuruve, Sen. Cherargei, and Sen. (Prof.) Onger, and anybody else who has spoken to this Bill I want to say thank you very much.

As I listened to Sen. (Prof). Ongeru, animatedly and seriously debating this matter, you could see how he means well for his Kisii County. I wish you well as you go to vie for the position of Governor of Kisii; it looks like you have a good plan for them.

It is important that we realize all those potentials that we have had here. We have potential to grow small community groups into financial institutions for some, into great farms for others and into money-making instruments. I wish that hon. Members would take up this challenge and start using those groups to improve the economies of various representations whether it is the constituency or county.

I hope that Members will support this Motion and pass it quickly so that it becomes law, it will assist us in making sure we organize our people into groups. It will also ensure that they are registered well and are able to be identified with a particular group for a particular purpose and that they will be able to put all their issues to a particular point in the Government.

Madam Temporary Speaker, pursuant to Standing Order No.61(3), I request you to defer putting of the question to later date.

I beg to reply.

(Putting of the Question on the Bill deferred)

The Temporary Speaker (Sen. Pareno): Hon. Senators, the Community Groups Registration Bill (National Assembly Bills No. 20 of 2021) shall be deferred until the next sitting when we have enough numbers for purposes of Division.

Hon. Senators, I have also rearranged the Order Paper by deferring Orders Nos. 15, 18, 19, 20 and 21. So, we go to the next Order which is Order No.22.

Sen. (Dr.) Musuruve, could you approach the Chair?

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

BILLS

Second Reading

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

(Bill deferred)

Second Reading

THE COCONUT INDUSTRY DEVELOPMENT BILL
(SENATE BILLS NO. 24 OF 2021)

(Bill deferred)

Second Reading

THE ALTERNATIVE DISPUTE RESOLUTION BILL
(SENATE BILLS NO. 34 OF 2021)

(Bill deferred)

The Temporary Speaker (Sen. Pareno): Hon. Senators, after consultations Order Nos. 22 and 23 are also deferred.

Second Reading

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

(Bill deferred)

Second Reading

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

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, having concluded the business of the day, the Senate stands adjourned until Tuesday, 15th February, 2022 at 2.30 p.m.

The Senate rose at 5.12 p.m.