

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 16<sup>th</sup> February, 2022

### Afternoon Sitting

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

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

### PRAYER

### PAPERS LAID

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

**The Senate Majority Leader** (Sen. Poghisio): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, 16<sup>th</sup> February, 2022-

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

Report of the Auditor-General on the financial statement of County Executive of Murang'a for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Murang'a for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Samburu for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Samburu for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Nyandarua for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Nyandarua for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Baringo for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Baringo for the year ended 30<sup>th</sup> June, 2020;

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Report of the Auditor-General on the financial statement of County Executive of Migori for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Migori for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Kakamega for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Kakamega for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Nakuru for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Nakuru for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Trans Nzoia for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Trans Nzoia for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Homa Bay for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Homa Bay for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Tharaka Nithi for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Tharaka Nithi for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Kisumu for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Kisumu for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Kajiado for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Kajiado for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Uasin Gishu for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Uasin Gishu for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Turkana for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Turkana for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Executive of Tana River for the year ended 30<sup>th</sup> June, 2020;

Report of the Auditor-General on the financial statement of County Assembly of Tana River for the year ended 30<sup>th</sup> June, 2020; and,

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Report of the Auditor-General on the financial statement of County Assembly of Kericho for the year ended 30<sup>th</sup> June, 2020.

Thank you, Mr. Speaker Sir.

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

### POINT OF ORDER

#### RECONSTITUTION OF CPAIC AND OTHER SESSIONAL COMMITTEES TO CARRY OUT OVERSIGHT

**Sen. M. Kajwang’:** On a point of order, Mr. Speaker, Sir.

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

**Sen. M. Kajwang’:** Mr. Speaker, Sir, since we resumed business, the Senate Majority Leader has laid many papers before the House. A majority of them are reports of the Auditor-General on the accounts of various county executives, assemblies and various funds.

For those of us who still go out to seek votes to come back to this House, the biggest question has been the action taken by the House on the reports of the Auditor-General. There is a lot of concern that some of these reports touch on governors whose terms are coming to an end. Therefore, there is concern that they will not be brought to account.

Could the Senate Majority Leader brief the House on when the leadership intends to reconstitute the Sessional Committees; that is the Public Accounts and Investment Committee (CPAIC) and the Delegated Legislation Committee? All the tens or hundreds of reports that have been laid on the Table, will be not be acted upon if those committees are not reconstituted.

Finally, Mr. Speaker, Sir, the leadership should also do some hygiene around membership of Committees. For example, Sen. (Dr.) Mwaura’s position as a Senator was affirmed by the court. When he came back to the Senate to take his rightful place, he went back to the Committees that he sat in previously. It is very difficult for the Chairpersons of those Committees to be the ones telling him that he had been substituted.

It is the leadership that should give him guidance. The Whip on the Majority side should give guidance to Sen. (Dr.) Mwaura. If he has been replaced in Committees, it looks like that information has not got to him. He is attending Committee meetings faithfully and religiously. It is still okay because any Senator has a right to attend any Committee meeting. However, the problem only comes in when it comes to voting and benefits or entitlements of being a Committee member.

I urge the Senate Majority Leader to assure the House the hygiene will be done and that the Sessional Committees will be reconstituted in good time.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): The Senate Majority Leader, do you want to respond? I can see Sen. Khaniri. Do you want comment on the same? You may have the Floor.

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**Sen. Khaniri:** Mr. Speaker, Sir; it is on the same. I want to buttress the point raised by my brother Sen. M. Kajwang'. That is a very important point. There is a lot of concern out there in our counties on oversight role on county governments. As much as we try to explain to the public that the primary oversight is done by the county assemblies and we only do secondary oversight, people want to see action. I reinforce the point that the Committee be put in place.

The life of this Parliament is coming to an end very soon. Once we act on these reports by the Auditor General, there is lack of implementation. As he correctly observed, some of the reports are on governors who are outgoing. They have finished their two terms. Not only that, there are those who were in the last regime who did not make it for their second term, yet there were very strong implicating reports on those governors.

There seems to be no action taken about misappropriation of funds in the counties. Even after the Committee looks at the reports and makes recommendation to Ethics and Anti-Corruption Commission (EACC), we have not seen any action. It brings me back to my point that we must bring back the Implementation Committee in the Senate to follow up and ensure that the reports that we make to EACC and other Government agencies are acted upon.

People want to see action taken against governors who have misappropriated public funds. I reinforce the very important point by Sen. M. Kajwang'.

**The Speaker** (Hon. Lusaka): The Leader of Majority, do you want to respond? Okay Sen. Sakaja, you want to comment on the same? You may have the Floor.

**Sen. Sakaja:** A quick response, Mr. Speaker, Sir. For those who were not in this House before, from 2017 onwards, every time there is such an issue, Members ask for the Implementation Committee. We now are in 2022. Would I be in order to ask that the Leadership and the Rules and Procedural Committee tells us where they are in terms of re-instating that Committee?

This is because many Committees pass very serious resolutions; not just CPAIC, all our Committees. Because of the nature of work if you look at the number of Petitions and Statements before our Committees, it is very easy for things to slip through our fingers. The Senate Majority Leader as he responds can tell us if there has been any progress. Should we expect that now or in the next Senate?

In the absence of that Committee then this House is being seen as the most highly resourced talk shop in this country. We talk about governors, the ills in the national Government and then nothing is done. We will lose our saltiness if all we do is lament and talk. The Bible says if you lose your saltiness, you are worth nothing, but to be trampled upon by men and thrown away.

The Senate Majority Leader is holding responsibility and he needs to tell us where we are in terms of amending our Standing Orders to reintroduce the Senate Implementation Committee.

Mr. Speaker, Sir, the most recent Chairperson of CPAIC should also tell us where we are on implementing those resolutions that we have had from our county governments.

When those of us who want to become governors are elected, you included, Mr. Speaker, Sir, I do not want to come and respond to Governor Kananu's or Governor

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Sonko's audit queries. I want to deal with Nairobi City County administration; the one I will take over.

Mr. Speaker, Sir, we need those answers as soon as possible.

**The Speaker** (Hon. Lusaka): Proceed, the Senate Majority Leader.

**The Senate Majority Leader** (Sen. Poghisio): Thank you, Mr. Speaker, Sir. I take this opportunity to thank the Members who are raising these very pertinent issues of challenging all of us in our respective positions as Committees. Some of these things fall directly under the Procedure and Rules Committee which is responsible for making sure our Standing Orders are updated and prioritizing which Committees can become Sessional or Standing, including the issue raised about the Committee on Implementation. This is coming to the desk of the Senate Business Committee where Sen. Sakaja sits. You can also begin that process.

We have asked for this Committee. We have also asked if some of the Committees called Sessional Committees, especially a Committee such as the Committee on Delegated Legislation can become a Standing Committee so that we do not have to have this issue of replacing that every so often.

On the issue raised about nominated Sen. (Dr.) Mwaura, we have tried to bring here a list to affirm the various Committees and this House did not allow that to go through. The changes have not happened. As soon as that is possible to do, he should be able to be in his rightful Committees.

These questions can be dealt with either for now or for posterity. The idea is how we move within such a short time remaining to amend our Standing Orders so to allow for another Committee such as the Committee on Implementation. Those are the things that we need to consider as well. For posterity, maybe for the next Parliament, we can think about it.

We are also pressed for time in terms of when we are going to adjourn *sine die* which is coming in June. We, therefore, do not have much time to be thinking about some of these things now. We already have problems, even on the quorum in Committees. It is also a problem having quorum here. It is important that we take note as Senate Business Committee as the relevant Committees and we work to improve the next time.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr, via zoom also wanted to contribute to this. Yes, Sen. Mutula Kilonzo Jnr. We are unable to get Sen. Mutula Kilonzo Jnr. I want to reinforce what the Senate Majority Leader has said. We made a recommendation on the restoration of the Committee on Implementation. The recommendation is positive. However, because of the timeframe, it will be implemented by the next Senate.

Proceed, Sen. Mwaruma.

**Sen. Mwaruma**: Thank you, Mr. Speaker, Sir. The Senate Majority Leader has responded to the concerns, except the one on reconstituting the sessional Committees.

**The Speaker** (Hon. Lusaka): In the Senate Business Committee (SBC) which met yesterday, we gave them one week. They should be able to do so because we are running out of time. We should get it by next week.

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Next Order.

## STATEMENTS

### DIMINISHING INTEREST OF OUR YOUTH IN AGRICULTURE

**Sen. Khaniri:** Mr. Speaker, Sir, I thank you for the opportunity.

I rise pursuant to the provisions of our Standing Orders and in particular Standing Order No.47 (1) to make a Statement on a matter of countywide concern mainly the diminishing interest of our youth in agriculture.

Mr. Speaker, Sir, research from the Food and Agriculture Organization (FAO) of the United Nations (UN) shows that the agricultural sector solely employs 40 per cent of Kenyans, including 70 per cent of Kenya's rural population. This then contributes to over a quarter of Kenya's Gross Domestic Product (GDP). Another quarter comes from its linkages with other sectors, accounting for 65 per cent of total export earnings.

Mr. Speaker, Sir, agricultural processes do not only benefit farmers. From each emerging burgeoning fashion designer working with cotton or leather to persons in the tourism and hospitality industry all have direct outputs linked to the success or failure of agriculture as a sector and all build careers on the success of Kenya's farmers.

For a sector so central to Kenya's economy, not only does agriculture benefit us business-wise, but also in our daily lives, since we are humans and we need to eat.

Mr. Speaker, Sir, studies show that young people have a negative attitude towards agriculture and the work it entails. Most of our youth believe that a career in the agricultural sector is not profitable to small-scale and individual farmers, but instead only profits large industries and organizations.

Besides this, the sector does not have relatable role models to steer the younger generation towards wanting to venture into it. Due to this belief, we find that very few, if any, young people are venturing into agriculture as a career or even just as a hobby.

This is a very worrying trend and it leaves Kenya's agricultural future in a lot of uncertainty. We need to find ways in which these knowledge gaps can be bridged because there is no pride whatsoever in our agriculture sector despite it having great potential for the benefit of Kenya and its citizens.

Mr. Speaker, Sir, it has become evident that as much as many people would like to venture into agriculture, they become more and more discouraged due to fear of making losses. Investing in agriculture in this country does not seem appealing because the Government has not made vigorous efforts to ensure that farmers are given incentives and have favourable returns on their investment. Our youth have seen how farmers continue to be mistreated in this country and have not benefited from their farming activities.

Mr. Speaker, Sir, the price of input to engage in farming is quite high. Yet when it gets to reaping the benefits of hard work, the yield is low. Look at what happened last year to the maize farmers; they invested heavily in buying seeds only to later find that they were supplied with suspect seeds that failed to germinate, leading to crop failure and, therefore, huge losses.

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Let us not forget the hundreds of times farmers have had to strike due to unfair treatment and losses. Our farmers do not seem to be respected and their rights are always being infringed. If it is not high taxes of fertilizers today, it is unfair treatment tomorrow or un-kept promises.

Just the other day, tea farmers had to uproot their crops due to low returns. Imagine how bad it was for them to choose to lose everything. If all we ever hear is farmers complaining about poor treatment, low returns and losses, would our youth or anyone, for that matter, be motivated to venture into agriculture?

Mr. Speaker, Sir, we, as a nation, have been blessed with fertile soils and numerous natural resources that give us a head start to successful agriculture. Why are we not maximizing on these resources? To see the youth fearing to use these resources freely is quite heartbreaking. The unfortunate thing is that when the dry season starts, you will hear everyone complaining about the lack of food. Prices of maize and other food products will possibly increase yet farmers will still not receive good yield.

We need to find out what we are doing wrong as a country and create better terms and opportunities for our farmers, especially for our youth who would love to venture into farming.

Mr. Speaker, Sir, the Government has not treated farmers fairly over the years and this needs to come to an end. Let us, as a Government, create urgency in ensuring that farmers are not always crying and complaining. We can develop mandates to implement action plans that ensure far better benefits from our nation's soil to individual farmers, micro, small and medium-sized players.

Further, the way agriculture is taught can be revamped to make it more attractive to our youth. Teachers should also be offered new training and resources to ensure intake and retention of interested, innovative young minds in formal and informal learning. The benefits of agriculture to other sectors should also be discussed more to have these conversations. It should be taken seriously as an important educational platform as this is the quickest way to gain the attention of our youth.

All these and other interventions should be youth pioneered and led in the public and private sectors to start and continue the actions needed to revive youth interest in agriculture for the good of all Kenyans. The future of agriculture is highly dependent on our youth's interest in that sector. It would be wise of us to make more effort in encouraging interest in this sector.

**The Speaker** (Hon. Lusaka): I thought I saw Sen. Sakaja. Did you withdraw?

**Sen. Khaniri:** Huyu ni wa Nairobi, hajui kilimo.

**Sen. Sakaja:** Mr. Speaker, Sir, that is exactly why I want to speak. I have heard Sen. Khaniri saying '*mtu wa Nairobi hajui kilimo*'.

First, I want to thank Sen. Khaniri. He always brings very topical Statements and he has taken advantage of the provisions of our Standing Orders. More of us need to give such Statements.

Mr. Speaker, Sir, there is something called urban and peri-urban agriculture. Historically, this has been used in many cities and urban settings to ease the cost of food production. It has also alleviated a lot of families and residents of urban areas from abject poverty. I always talk about urban poverty.

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In Nairobi if you do not have money, you will not eat and you will not have a place to stay. There is urban agriculture whether it is in the gunny bags or what we call *gunias* or community gardens like what was popularly done in Seattle and in various jurisdictions for subsistence need and has helped people earn an extra income.

Many people in Nairobi and other urban areas like Nakuru do not have extra coins. They are in what we call the *kadonye* economy. As a result, they get everything in small rations. If it is maize flour, they get it measured in small sizes. Even for tooth paste, when you go with a toothbrush, you are given just a little bit of it for that day.

We also have the issue of peri-urban and urban agriculture. If you remember well, when we had the debate on the revenue sharing formula, I insisted that Nairobi cannot be scored zero on agriculture. This is because we have areas in Nairobi like Dagoretti South where we have Waithaka, Uthiru and other areas in Kasarani Constituency such as Njiru and Ruai and some areas in Karen and so on where agriculture takes place.

Mr. Speaker, Sir, some livestock that have won in our annual agricultural shows are from Nairobi City County. I am sure you know that as a former Permanent Secretary in the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

The main reason why young people are losing interest in agriculture is because we have not looked at the value chain of it. Agriculture contributes 56 per cent of our Gross Domestic Product (GDP), but only 3 per cent of revenue. That gap is because of lack of value addition. The youth want to make a quick buck, but we should show them how to do value addition.

I am glad that today I saw the Governor of Makueni County, Prof. Kivutha Kibwana, launching a processing plant for pulses and grains in Makueni County and I think he has done well. The plant cost Kshs210 million. That will change the value of what a farmer would have given us in form of raw materials to a finished product. Value addition is supposed to happen in the urban areas, including Nairobi.

As I buttress the point of Nairobi, where is the market for all these things that come from across the country? We have 15,000 extension officer visits annually in Nairobi City County, yet in the formula that was being propose that time, there was not a shilling being put for the extension officer visits by Nairobi City County.

Mr. Speaker, Sir, I would like to tell Sen. Khaniri that there is a whole write-up on what urban and peri-urban agriculture has been able to do, including in the United States (US) during the time of the Great Depression. If I remember well, the President then insisted on the cities doing that and it really cushioned people from excess depression.

I have areas in a Mathare, for instance, just by the water, where young people are doing pig and chicken farming. That has alleviated them from poverty and they have seen the result of doing chicken and pig farming in the urban areas. So, we are also affected because we are not just consumers, but we can also be producers.

We intended to put it a notch higher after August 2022, when the necessary happens, *inshallah*, just to make sure that even us in the urban areas can see that instead of using extra Kshs200 on flour and on vegetables, even within the slums, we can provide, so that we are food sufficient. I thank Sen. Khaniri for that. We need to start being more creative.



One of the companies that is going to be one of our first unicorns in terms of start-up sectors in this country and East Africa region is Twiga Foods Ltd. They have bridged the gap between production and the market. Their turnover is now Kshs100 million a day, but it is just a start-up. That is why I insisted. I thank the Senate for passing the Start-ups Bill that has now gone to the National Assembly. That unicorn is now a global case study.

Twiga Foods Ltd is Kenyan-owned and Kenyan-driven, but it is doing a turnover of Kshs100 million daily. They are even moving to other products like oil, electronics and so on, but the basic structure of it was about agriculture and creating a value chain and making sure there is value addition within our ecosystem.

I, therefore, thank Sen. Khaniri for that. I think it is something we all must look at keenly.

**Sen. Nyamunga:** Thank you, Mr Speaker, Sir, for giving me the opportunity. I would like to support the Statement by Sen. Khaniri on the diminishing interest on agriculture by the youth. I agree with the contribution by Sen. Sakaja. However, the most important thing is that Kenya is an agricultural country. Most of us know that because we were taught when we were in primary school. We know well that Kenya is a consuming country. We import a big percentage of our food even basic ones like vegetables and fruits.

We also know that we are favoured with land, but the most unfortunate thing is that the input is very expensive. So, it is not attractive to our young people because they know whatever little money they have, once they put in agriculture, that is the end of it.

Firstly, it is very expensive and secondly, rain-fed agriculture can never be competitive anywhere in the world. In fact, if we continue with rain-fed agriculture, I do not think anybody will be interested.

When I was young, it was very clear that on 15<sup>th</sup> February, people would start planting because rains would come within a week. Right now, you can plant like three or four times because we can no longer predict our rains. So, we should not continue relying on the rain-fed agriculture.

Thirdly, we know well that one of the Big Four Agenda of the Government is food security. We cannot achieve food security if we do not work towards improving.

As mentioned by Sen. Sakaja, the market chain is critical. We also have middlemen who come between the farmer and the market. Those are issues that need to be addressed. It is important that this Statement goes beyond this.

I think this is not the first time we are talking about this. Something needs to be done about agriculture if we need to have food security and engage not only our young people, but everybody else in agriculture.

I support.

**Sen. (Dr.) Musuruve:** Thank you, Mr Speaker, Sir, for giving me this opportunity. I will begin by thanking Sen. Khaniri for coming up with this Statement, which is of great concern. This is because the youth are energetic and innovative. If engaged, then whatever it is, will become successful.

It is true that the youth are not engaged and interested in agriculture. The lack of interest could be attributed to lack of motivation and incentives in getting into agriculture.

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County governments probably need to ensure that they bring the youth on board by raising awareness about the importance of agriculture. Apart from awareness, they should also give them opportunity to get tenders, so that they can be motivated to get into agriculture.

Agriculture is closely related to food security. If the youth participate in enhancing food security, then our country will be free from hunger. Even colleges and universities should embrace agriculture strongly by offering courses that will make the youth go back to their societies and get into agriculture.

When people take courses, they ask themselves what the value is. Therefore, there is need to create employment for the youth who finish courses in agriculture to entice others to get into agriculture because agriculture is important. One of the most important aspects of the Sustainable Development Goals (SDGs) is to ensure that there is food and no citizen faces hunger.

Mr Speaker, Sir, there are many incentives that the youth can be given. For instance, being exempted from tax can motivate them to venture into agriculture. That could be one of the ways of ensuring that we engage our youth productively.

**Sen. M. Kajwang’:** Mr. Speaker, Sir, I would like to congratulate Sen. Khaniri. In the life of this Parliament and ever since I joined this Senate, he has always utilised this Standing Order in a manner that will help him in future to write his memoirs. He has always talked about topical issues.

What I have seen other great leaders do is that they take their contributions in parliament and in public service and compile into a book. I encourage Sen. Khaniri to do so.

Mr Speaker, Sir, one of the greatest scams of my generation, the generation that Sen. Khaniri is crying about that has got no interest in agriculture, was a song that used to be played in the morning and lunch time when we used to go to school. That song was by Ben Blastus O’bulawayo.

That Swahili song said “*someni vijana, muongeze pia bidii. Mwisho wa kusoma, mtapata kazi nzuri sana.*”

Mr. Speaker, Sir, many young people went to school hoping that education was going to be the key to success. Along the way because of corruption, ethnicity and thievery, the Government changed the padlock and education could no longer unlock success in this country.

The problem with the youth lies with the culture we have created, that agriculture is associated with failure. Where I come from, the lake has got a lot of riches. Recently I visited Victory Farms which is a huge aquaculture project that is doing 30 tonnes of fish a day. If you multiply that by 365 days and you multiply it with the price of fish at Kshs300 per kilogramme, this company is doing Kshs3.2 billion every year from the lake without doing anything. They are just putting cages in the lake, the fish is growing and they are making billions of shillings.

Mr. Speaker, Sir, we need to build a culture that does not make agriculture look like dirty work. If you go to Wilson airport, the small aircrafts that you have there, if they are not owned by politicians, they are owned by the farmers of Narok and Laikipia. In

fact, farmers are sending their children and workers to aviation schools because they are the ones who then come back and do overhead spraying.

We must expose such things to our young people so that they can see agriculture is also glamorous. It is as glamorous as or even more glamorous than some of these things that we aspire to do in offices like being lawyers, doctors and engineers.

To be honest, to be a successful lawyer in this country requires a lot of hard work. If you want to short circuit the system, you have to be corrupt to be on top of others. Very few lawyers have the patience of Sen. Amos Wako, who has been in the profession for as long as I have been born.

Mr. Speaker, Sir, I want to encourage Sen. Khaniri that in this matter please also look at our cluelessness when it comes to policy. When the Kibaki Government came into power, the Economic Recovery Strategy for Wealth and Employment Creation came up with the strategy for revitalisation of agriculture.

The Kibaki Government collapsed 30 parastatals into one parastatal that was called Agriculture and Food Authority (AFA). Over the years, this Parliament has dismantled the AFA. We now have a fisheries authority. We now have a Bill for a livestock authority. We are now back peddling on the reforms that we had there. There could be lessons there.

Mr. Speaker, Sir, even today we are told that there is no clear policy position regarding issues like National Cereals and Produce Board (NCPB) and fertilizer subsidies. I think Sen. Murkomen has been very vocal on some of those issues that there is some confusion from the national Government. We need to look at how that policy is discouraging our young people and the growth of this agriculture sector.

Mr. Speaker, Sir, as I finalise, there is also the failure of devolution. How many counties still have farmer training colleges? The ones that we have inherited in Homa Bay County, we have converted it into a university and the majority of the students are studying procurement and supply chain management. How are we going to build an army, a cadre of people who are going to do value addition and innovation in the agriculture sector? We must now re-examine this conversion of FTCs and colleges offering secretarial and accountancy courses and all sorts of white collar jobs.

We must also ask our governors what happened to extension services. When I was growing up, and you do know at some point in your life when you were stationed in Homa Bay County, that my father had one of the biggest herds of cattle which when they were crossing the road there would be traffic jam on the road between Mbita and Homa Bay.

Growing up regularly, and I am not a dynasty, I am a hustler, we would have extension officers come home. There would be mass cattle dips. The entire village would come with their cattle and they would be dipped so that the ticks and the tsetse fly could be eradicated.

We would have extension workers who would come regularly, vaccinate and inoculate the cattle. When you left office as a livestock Principal Secretary (PS) and when the county governments took over, we have never seen those people again.

Farm mechanization, almost every now governor buys a fleet of 50 tractors and then employs his former thugs, to be the drivers and turn boys of then those tractors

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disappear. In fact, for the case of my county, when the Governor bought the tractors, he gave them to his former boys. Those boys would go for one week just robbing all over, ploughing and picking cash. At the end of the day, they would bring in a thousand or two thousand shillings and surrender it to the county government.

There has been a serious failure by our devolved governments and I hope that this Senate in its next life will prioritise some of the concerns that have been raised by Sen. Khaniri.

Even most of us, whether we like working from rooftops like Sen. Cherargei, or whether we like working from offices like some of us from the Azimio side, let us give our young people the right prescriptions. Wheelbarrows are not solutions to that lack of interest to agriculture, neither are handouts and regular payments that we are giving out to our young people. Our young people want to be empowered. They want to go the bank to get money that has come from their sweat and not money that has come from State agencies.

Mr. Speaker, Sir, I want to challenge most of us here since we are some of the biggest campaigners out there from rooftops and others that let us tell our young people the truth that their success is not going to come from pushing wheelbarrows or wheel carts or expecting the Government to give you some handouts. It will come from hard work. That hard work must be backed by the right policies from the Government.

I support this Statement and I also thank Sen. Khaniri for bringing it before this House.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I would like to support the Statement by Sen. Khaniri. We know very well that majority of Kenyans are youth below the age of 35 years and the unemployment rate is very high. There are no available jobs to absorb all these youth; most of them are graduates.

Kenya being a developing country, the most probable way of absorbing this labour is through livestock production and even agricultural production. In my case, coming from a livestock production county that is even a worse way of engagement of youth as it is now because there has been no policy of improving livestock production, especially in the pastoral areas.

What has been there has actually been only for the commercial big ranch owners, but the pastoralists have been left on their own. Unfortunately, that is why drought has always been coming and clearing whatever they have and then the rains come and the process starts.

There should be an investment and improvement to make livestock rearing or animal production attractive to the youth, those who have gone to school, so that they see it as a means of employment. Then that way they can get involved in it. They do not need to be the ones following the animals around. However, if they know that there is development in that chain in the sense that they produce the animals then there is an established body, association or maybe livestock marketing groups within the counties, so that there is ready market.

From there, there should be improvement, having holding grounds where you have feed loads to improve them, vaccinations so that they are in the right conditions for export. They will either export them live, or you have abattoirs to export the meat, then it

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creates business in terms of that animal which is being produced. When they produce the right breeds and sell back to the pastoralists, then that will attract the youth.

Even if they have gone to school, they will engage with livestock production at a level where they will understand because they can see the end. They will know that, at the end of the chain, they will have somewhere to sell and buy the right breeds. Just like the farmers do, they sell and buy the seeds and it will be continuous that way. That will absorb our youth and they will be engaged in production.

As it is now, if we do not have that kind of policy, especially in the pastoralists area, then we are going to have a problem. That is why we have insecurity because we have youth who are not employed; youth who have gone to school and dropped out of the traditional livestock production system.

Unless it is made attractive to them, it will be difficult to absorb these youths and that is why we are having problems with insecurity in our area. There are idle youth who can easily be engaged in this kind of activities.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Kavindu via zoom.

**Sen. Kavindu Muthama:** Mr. Speaker, Sir, I thank you for giving me this opportunity to contribute.

First of all, I congratulate Sen. Khaniri for this Statement. It is a high time that agriculture is looked at as a very beneficial aspect in this country. It is my prayer that this Statement by Sen. Khaniri will see light of day and that the Government will support youths in farming because it is quite expensive.

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

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

**Sen. Murkomen:** Mr. Speaker, Sir, I request Sen. Kavindu to understand that the people of Kenya are following this debate. The Standing Orders are very clear. If you are going to participate on Zoom platform, you must be in a place where you can be seen and be still. If I am not wrong she is in a car.

Kenyans will wonder whether we take our business seriously if someone can be shopping in Kenyatta Market at the same time contributing to the debate of this House in a car that is moving. There is nothing wrong about shopping at Kenyatta Market, but Sen. Kavindu can take time to be still and contribute to this important statement. I feel dizzy. I wonder what other Kenyans feel out there.

**The Speaker** (Hon. Lusaka): Sen. Kavindu, you are in a car. You are mobile.

**Sen. Kavindu:** Mr. Speaker, Sir, I am rushing to the office. I was late somewhere. You called me before I reached my office and I decided to contribute.

**The Speaker** (Hon. Lusaka): I have noticed you are always rushing and not arriving on time.

*(Laughter)*

That is the same reason you gave yesterday when you were coming. Come to the Chamber, I will give you an opportunity.

**Sen. Kavindu:** Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Murkomen, you are next.

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**Sen. Murkomen:** Mr. Speaker, Sir, I echo the words of Sen. Kajwang' that Sen. Khaniri has distinguished himself as the master of Statement Hour. If there is a person who has used well the Statement Hour, it is him.

Apart from his prowess as a man who is extremely knowledgeable on the Standing Orders, I am told only after the late hon. Shikuku; he has also distinguished himself as a man who uses Statement Hour very well to bring issues that are of great concern to this Republic. Maybe Sen. Khaniri wants to finish strong considering that I see he is changing careers away from Parliament.

Agriculture is very lucrative. When the deputy President spoke yesterday to a group of people in Nyeri, he gave an example of avocado farming. He said that in China, one avocado cost about Kshs140. However, there is a young man in China who did a very interesting video moving from his house to the supermarket and demonstrated that one avocado costs Kshs250. These avocados are sourced from South American countries like Peru, Chile among others. In fact, there is a movie in Netflix I cannot remember the title, but it talks about this green gold called avocado which people are fighting over in countries like Colombia. People are also controlling where this crops are produced.

Agriculture is very lucrative, but the way agriculture was presented many years ago was that it was for those who are established with big farms. If you did not have 10 to 100 acres, you were not considered a proper farmer. However, you now can do passion fruits farming in an acre and earn consistently every week. You can sell every week to those who are collecting and supplying your crops such as passion fruits and all other agricultural products.

Agriculture should not be what it is. People use to say they do not want to do farming, but go to university. Now, after you are done with university you realize you want to go back to agriculture. What Sen. Khaniri has said is that we should have specific targeted policy that makes sure agriculture and farming in this country, including livestock is attractive to youths and the generation below 40 years.

We should explain to the youth that doing agriculture does not mean you are backward or less educated. You can go back to farming after you complete your university education and use it to ensure you achieve a certain growth in your life. I attempted to do small scale horticulture in my farm. One of the things I struggled with was to get an agricultural extension officer.

If you go round in the counties, you will meet very few agricultural extension officers who are trained on different products. Most of them may only know how to deal with maize yet you want to have those who can deal with the delicate crops like avocado and other tree crops. This is another area that county governments need to think about. Those going to be governors, I urge you not to build big hospital buildings which have no medical equipment or shops and markets yet there are no products from the farm. We need to go back to basics. Even if it means having two or three qualified extension officers per sub-county, it will be useful to have farmers. That is an area that we need to invest in.

I want to convince Sen. Khaniri that when those of us who are in the hustler nation talk about bottom up, I am serious and not even doing politics. You can go and do your bottom up even in a different political party. However, one of the things that we

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must do as a country to improve earning is to get away from this injection of lot of resources on capital intensive projects. We have done enough such as the superhighway, railway, by-passes *et cetera*. It is time to inject our resources directly to where results will lead to *pesa mfukoni* so that people will have money directly in their pocket and be able to contribute to the economy from the source.

Let us have good feeds, agricultural extension officers and good marketing done either by county or national Government using the agencies established by law. If we do so, we will change the lives of our people because even though we have a small percentage of Kenyans with degrees and looking for jobs, it is clear that we are unable to absorb all these people in the job market. What are we going to do with these young people? We must train them and tell them when done with your business, agriculture course or even law degree.

One of my friends who is running now for Member of Parliament (MP) in Murang'a, Mr. James Mureu, runs one of the biggest law firms in the world, but he is a very serious farmer. Sen. Wako and Sen. Omogeni know him because he runs one of the biggest law firms in Africa. Mr. Mureu is also a horticulture farmer in Naivasha. He exports horticultural produce to Europe.

Agriculture is profitable. It can employ our youth. We must take what Sen. Khaniri has said seriously. We must go back in the next government either county or national to ensure that we make agriculture the centre of youth employment; from bottom up.

I thank you.

**The Speaker** (Hon. Lusaka): We are running out of Statement Hour because we have another Statement, but I know this is a very interesting topic. Growing up, one of the things that discouraged people from agriculture is that whenever you committed a crime in school, your punishment would be to go and farm. Therefore, you grow up knowing that farming is a punishment. Next Statement is from Sen. Faki.

#### THE STATE OF OPERATIONS AT THE OLD PORT IN MOMBASA

**Sen. Faki:** Asante, Bw. Spika, kwa kunipa fursa hii. Nimesimama chini ya Kanuni za Kudumu Nambari 48(1), kuomba taarifa kutoka kwa Kamati ya Barabara na Usafirishaji, kuhusiana na kusimamishwa kwa kazi katika Bandari ya zamani ya Mombasa. Bandari hiyo ilikuwa ya kwanza kujengwa humu nchini. Iitumika kwa miaka mingi mpaka mwaka wa 2017, wakati---

**The Speaker** (Hon. Lusaka): Order, Senator! The Statement you are talking about is not what you submitted to us. You submitted the Statement in English and what you are presenting is in Kiswahili.

**Sen. Faki:** Mr. Speaker, Sir, it is a Statement that I have translated in to Kiswahili. It is English, but I have decided to read it in Kiswahili, which is a language of this House and that of the African Union (AU).

**The Speaker** (Hon. Lusaka): That is not what I approved as the Speaker. You could have submitted it in Kiswahili so that I approve.

*(Loud consultations)*

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**Sen. Faki:** I am sorry, Mr. Speaker, Sir. Let me read it in English.

I rise pursuant to Standing Order No.48(1) ---

**Sen. Madzayo:** Hoja ya nidhamu, Bw. Spika

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

**Sen. Madzayo:** Bw. Spika, katika tafsiri ya ile Kauli anayoieleza sasa Sen. Faki, ikiwa unaitafsiri tofauti na vile ilivyoandikwa kwa Kingereza, mtu asimame na kusema yale makosa.

Ikiwa yeye ana utalam wa kutafsiri hii Kauli ya Kiingereza kwa Kiswahili hakuna makosa yoyote. Anayosema ni yale ambayo ameandika kwa Kingereza.

**The Speaker** (Hon. Lusaka): Ile Kauli niliyopitisha sio ile anayosoma. Aliileta kwa lugha ya Kingereza wacha aiwasilishe katika lugha hiyo kwa sababu ako nayo.

Let us not dwell on that for now. Sen. Faki is very good in both languages and what he has is in English.

Proceed.

*(An Hon. Senator spoke off record)*

**Sen. Faki:** Mr. Speaker, Sir, I have studied English since 1969. So, it is not a problem.

Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1), to seek a Statement from the Standing Committee on Roads and Transportation, on the state of operations at the Old Port in Mombasa County.

In the statement the Committee should:

(1) Explain why the old port in Mombasa County has been rendered partially in-operational by the Kenya Revenue Authority (KRA) and the Kenya Ports Authority (KPA).

(2) State why the Port has been closed to small vessels, some of which were undertaking transshipment business between Mombasa and the other small ports of Zanzibar, Pemba and Tanga.

(3) State the measures being taken by the Government to reopen the Port, considering its partial closure has negatively affected business in Mombasa especially the Old Town area.

This Old Port used to allow many small vessels which could not go into the main port on the other side, to dock and discharge goods. Some of these goods were important to the livelihood of people. For instance, dry fish from parts of Kismayo and other places, used to be offloaded at this Port. From there, it would be transported all over the country for people to enjoy fish at a low price.

As a result of the closure, vessels have not been coming. This has affected business in that part of Mombasa County.

I beg that this Statement be referred to the relevant Committee so that they can visit the place and see that it is almost dead. What is there currently is a consignment of rice, which was impounded in 2017. It is still there rotting. It is bad to allow food to rot yet people are dying of hunger.

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

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**Sen. Madzayo:** Asante, Bw. Spika. Ninamuunga mkono na pia ninamshukuru Seneta wa Mombasa Kaunti kwa kuleta Kauli hii.

Bandari hii ni ya zamani. Tunakumbuka Bandari hii ilikuwa inatuika kwa biashara ndogo ndogo. Sio kama ile Bandari kubwa ya upande ule wa KPA. Bandari hii ilikuwa ya wafanyikazi na wafanyi biashara ndogo ndogo. Sio zile biashara kubwa kubwa za meli ama meli zile kubwa za kiutalii. Bandari hii ilikuwa inasaidia.

Serikali inatakiwa kuwa na nia ya kusaidia wafanyikazi wadogo. Hii Bandari imekuwa ikiwasaidia wafanyibiashara wengi kama vile wa kuleta nguo kwa bei nafuu kutoka Kismayo ama Middle East. Vyakula kama tende na vinginevyo pia vilikuwa vilikuwa vikiingilia hapo. Samaki kama papa, ng'onda na vipugu walitwaaliwa hapa. Biashara hiyo iliwezesha Mkenya kununua chakula kutoka kwa bandari ndogo.

Hii Kauli ikiwasilishwa kwa Kamati husika, itakuwa vizuri Wanakamati waende wajionee na wafahamu kwa nini ile bandari ilifungwa na kufanya wafanyibiashara wadogo kukosa mapato.

Asante, Bw. Spika.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Musuruve, was this request before or you would like to contribute to this Statement?

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I would like to contribute to this.

**The Speaker** (Hon. Lusaka): Okay. Proceed.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I thank Sen. Faki for coming up with Statement. The Statement concerns small businesses. As a country, we have to see how to encourage small businesses to grow. There are people who have started small business and ended up being employers.

This Statement deals with trade and there is a close relationship between trade and accessibility of roads. I, therefore, hope you will refer this Statement to the Committee on Tourism, Trade and Industrialization. I am the Vice-Chairperson of this Committee. I would be interested to go there to see what is happening and bring a finding to this House. This will be for the purpose of ensuring accessibility of the Port by the small-scale traders.

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

**Sen. Sakaja:** Mr. Speaker, Sir, I thank Sen. Faki and remind him that there is a lot happening down there. Recently when my Committee had a session on the issue of seafarers, a lot was unearthed. Some of those who came to participate, including Members of the County Assembly (MCAs) from Mombasa County, expressed concern. They stated that years ago, you would find a lot of fish coming in from trawlers belonging to big fishing companies.

You would find all types of fish like octopus and the one Sen. Madzayo was saying that we cannot pronounce. Mr. Speaker, Sir, when you allow Members to use Swahili, let them use Swahili that we understand, or give us explanations.

Mr. Speaker, Sir, we discovered something. A group of seafarers told us that they would go to the deep sea and stay there for months without fishing. They would be asked not to fish. Sen. (Dr.) Milgo was there. A fishing vessel would stay in high seas for months. At that time, we were dealing with labour issues. One night another vessel comes, offloads some cargo and that is what they bring back to the port.

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Mr. Speaker, Sir, there is a lot of illicit trade that is going on and many other countries taking advantage of the laxity in our territorial waters. We directed that the relevant authorities who deal with these maritime issues including the Coast Guard and, we even suggested that the Director of Criminal Investigations (DCI) to assist in investigating and bringing us a report because we are not done with this matter. In fact, immediately after we finished we got several calls from many of these people who I would assume are cartels in that industry.

I want to inform Sen. Faki that we are awaiting that report from the Coast Guard and the relevant investigative authorities. It is directly affecting the incomes of the people, not just from Mombasa City County but all Kenyans. Under Chapter 5 of our Constitution, that resource belongs to the entire country. There is a lot of fishy business - no pun intended - that is happening at the coast and it needs to be brought to light.

We will be very happy to bring that report but to let them know that we did not just come and listen we have brought our report and part of those recommendations are for the Coast Guard to get back to us. We must do everything to take care of small businesspersons. That is why we are speaking the same language with Sen. Murkomen; that we want everyone to do “work which is work” or *Kazi ni Kazi* so that they get *pesa mfukoni*. There is nothing more important.

There is no need for us to focus and center around big business men and huge Japanese trawling fishing lines, while our small fishermen and traders in those markets in Mombasa, Kilifi and Kwale, no longer have the produce to trade with because somebody else is doing illicit business at a very high capacity. That is not the Kenya that we want.

I thank you.

**The Speaker** (Hon. Lusaka): Finally, Proceed, Sen. (Eng.) Hargura.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I thank Sen. Faki for coming up with this Statement. I am a Member of the Committee on Roads and Transportation, and we will take it up. Once during a trip to the coast, I visited the old port.

When we talk about Blue Economy, then there must be a place to land. The small-scale fishermen and transporters will not need to use the main port. There must be many such small ports along the coastline so that they can easily dock, drop and pick whatever they are dealing in. Even when it comes to transport, those centers along the coast like Lamu all the way to Mombasa must have another route. You do not just have to use the road transport. You can also use the sea and you must have many stopping points and small ports like that one.

It is not fair to say that because there is illicit trade going on, we now close the harbor. It is the responsibility of the security agents to give intelligence to the organizations here to make sure that they monitor whatever is coming in. It is not a solution to close down a port. We will take it and see the reason it was closed. It is very important to have all these small ports open along the coast to improve access by small-scale fishermen and transporters. The Blue Economy cannot thrive without these small ports along the coastline.

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

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### POINT OF ORDER

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REQUEST BY DEVOLUTION COMMITTEE TO DEFER  
THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL

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

**Sen. M. Kajwang**': Mr. Speaker, Sir, with a lot of respect to your authority to organize the Order of business, I wanted to bring your attention to Order No.16. The Intergovernmental Relations (Amendment) Bill, (Senate Bills No. 37 of 2021) which is an amendment, which should be going to the Committee of the Whole. The reason I raise this at this point, is to beg your indulgence to defer that Order. I request that your office scrutinizes the proposed amendment to see whether they are in line with the Standing Order No. 147(5) which says-

“No amendment shall be permitted to be moved to a Bill, if the amendment deals with a different subject or topic or unreasonably or unduly expands the subject of the Bill.”

I wish I would have executed this when Sen. Omogeni was here but he has made an amendment to another amendment that I brought to the House. When I looked at his amendment, I felt that it was offensive to Standing Order No.147 (5). The fact that it is on the Order Paper means that you are seized of the matter. I request you have a second look at it to confirm whether we are in line with Standing Order No. 147(5).

Secondly and finally, I will also take the opportunity to engage Sen. Omogeni to explain to him the thoughts of the Committee on Devolution and Intergovernmental Relations on why we thought we needed to prioritize the issue of transfer of functions.

Mr. Speaker, Sir, it might not be known to many of us that the deed of transfer of functions between the Nairobi city County government and the Nairobi Metropolitan services (NMS) has been extended. It ought to have lapsed in March, 2022 and we got the information that it has been extended to run till August, 2022.

Sen. Sakaja, who is going to run for a gubernatorial seat for the Nairobi City County government needs to know whether you are going to run the city with all its flesh and bones or you are going to do it with bones like the fish we call *mgongo wazi*. This is because NMS has taken all the flesh and the governor is remaining with the bones.

That amendment which started when Sen. Kinyua was Chair. Sen. Murkomen and the rest of us in the Committee on Devolution and Intergovernmental relations thought it was urgent and important. If we mixed it with issues of the Council of Governors (COG) or strengthening the CoG, we were going to run into issues of Money Bills in the National Assembly and we were going to introduce an additional point of failure.

I urge that you look at Standing Order No.147 (5) but I will also take the opportunity to explain to Sen. Omogeni why we think we can deal with this amendment in a different fashion. Therefore, we stand down that Order.

**The Speaker** (Hon. Lusaka): Okay. I hear you and we will stand it down until you consult and we will resume when that is done.

*(Bill deferred)*

Proceed with the next Order.

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*(Sen. Sakaja sought an intervention)*

No, let us proceed, Sen. Sakaja. Okay, proceed briefly.

**Sen. Sakaja:** Mr. Speaker, Sir, for the avoidance of doubt, we are aware and I am glad that Sen. M. Kajwang' has mentioned it. He has been a very good leader in the Committee of Devolution and Intergovernmental Relations. The transfer of functions from the Nairobi City County government to the National Government through NMS has been extended until August, 2022. For the avoidance of doubt, it will not go a day after 9<sup>th</sup> August, 2022.

I have seen people commenting in a certain forum - where I am with Sen. Murkomen - that it is being extended past that date and it can be done because of perpetual succession. It is impossible! The next governor of Nairobi City County will be the one who will have the authority to determine whether they should continue with NMS.

The next Governor who - God willing is standing before you - will determine which operational set-ups in NMS are still working that can be a department under the City County government. For now, they should start handing back. We shall bring a Statement here to make sure we have the full Assets and Liabilities Register. This is so as to know what they have been working on so that they start handing over Nairobi County back to the people of Nairobi who are eagerly waiting to make a decision on the 9<sup>th</sup> August, 2022 on who their next governor will be.

Sen. M. Kajwang', do not worry about that, we are on it completely.

I thank you.

**The Speaker** (Hon. Lusaka): I hear you. I know why you are emphasizing on 9<sup>th</sup> August.

Next Order.

## **BILLS**

### *Second Reading*

#### THE COUNTY RESOURCE DEVELOPMENT BILL (SENATE BILLS NO. 45 OF 2021)

*(Sen. Nyamunga on 16.2.2022 – Morning Sitting)*

*(Resumption of Debate interrupted on 16.2.2022 – Morning Sitting)*

**The Speaker** (Hon. Lusaka): Sen. Faki, you have five minutes.

**Sen. Faki:** Asante sana Bw. Spika. Wakati tulihairisha kikao, nilikuwa nazungumzia maswala ya Jumia za Kaunti za Pwani. Tulisema kwamba kuna miradi, kwa mfano, sehemu ya Kilifi na Tana River ambazo zinasifika pakubwa kwa kukuza maembe mazuri kama vile, *Apple mango*, Ngoe, Boribo na mengi mengine ambayo yanakuzwa katika eneo yale.

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Bw. Spika, Kaunti za Kilifi na Tana River zinajenga mitambo yao yakuprocess hayo matunda. Kwa hivyo, iwapo kaunti hizi zitakuwa katika mfumo mmoja, miradi kama hii itafanya kwa pamoja ili watu waweze kupata faida ya miradi kama hii na vile vile pia kupunguza gharama za maisha.

Bw. Spika, nimeona kwamba Mswada huu ni muhimu sana kwa nchi yetu. Kwa hivyo, sote tuunge mkono ili kuhakikisha tuna Sheria yakuzisaidia kaunti zetu kuweza kuimarisha raslimali zetu ili kuwe na mapato zaidi.

Naomba kuunga mkono.

**The Speaker** (Hon. Lusaka): I do not see any other interest.

*(Sen. (Eng.) Hargura consulted loudly)*

You know the problem is that some had logged in earlier. I may not know whether it was for this or it was earlier.

Proceed, Sen. (Eng.) Hargura.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I would like to thank, Sen. Nyamunga, for coming up with this Bill. I hope it will be processed through until it becomes an Act of Parliament before the end of the life of this Parliament.

This Bill deals with the county resources development. For the last nine or so years, counties have mainly been depending on the resources allocated by this House from the centre; the equitable share. Looking at the reports by the Controller of Budget and the Auditor-General, you will find that the counties are even generating less than what the local authorities used to generate despite the fact that they have more capacity and more resources in terms of manpower.

They can easily map out their resource areas and even digitize it and make sure that everything is collected and reported. However, some have been having manual means of collection, which end up in peoples' pockets sometimes or the revenue at source is not recorded. One issue has been that the focus has been on the money from the equitable share. There is need to have a structured way of making sure that counties clearly identify the resources they have as the Bill here states in Section 4.

They need to access all the resources within the county, look at the means of exploitation in a sustainable manner of those resources, come up with the infrastructure requirements and the missing links so that they can easily generate their own resources. Some counties have capacity to generate whatever they are being given from the center now. It is only that they have not looked in that direction. There is need to have a Bill which turns their attention in that direction.

Section 5 of the Bill deals with the responsibility of the County Executive Committee Member (CECM). Therefore, it is clearly a function within the county. That the CECM in charge of resource management will have to do an evaluation and monitoring of the resources available in that county, come up with a way of exploiting those resources and, at the end of the day, have those legislations or the necessary approvals through public participation and through the county assemblies so that it is clearly anchored. It is a process they need to do maybe every year or they can do it as part of their County Integrated Development Plans (CIDP) then they implement it from there.

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If you look at counties like Marsabit, for a long time, they have been considered to be low potential counties because the country has been thinking agriculture. However, right now, you find that it is the next frontier of development. This is because we have many renewable energy sources like solar and wind.

If we have the necessary legislation then the counties work with investors, they can easily generate what they are getting from the national Government as their own source revenue by going to partnership because they own the resources.

When it comes to sharing, there was the National Resource Revenue Sharing Bill here in this House by Sen. (Dr.) Zani. I do not know how far it has gone in the National Assembly. It provided clearly how to share these resources among the national Government and the county government, or if it is a shared resource across one or two counties. If that is approved, then we can easily develop these resources and generate our own revenue.

The commonly known livestock sector has not been developed at all. The counties considered that as a resource, not only in terms of going to the market and collecting sales from the livestock traders, but improve production, provide market in terms of having disease free zones, holding grounds, so that the livestock keepers or the pastoralist can sell to an organized county entity.

This will improve the quality through feedlots and vaccination then either sell the livestock as live animals, export them out or have abattoirs and sell meat. That way, along the process they will generate revenue from the livestock farmers and also from whatever products they will be selling. There is need to get counties to focus on development of their resources through this kind of a legislation.

The other thing is about the regional economic blocks. Currently, I checked we have six regional economic blocks in this country. I did not find any concrete legislation other than policies through the Ministry of Devolution and ASAL to assist them in coming up with these regional blocks.

Forty-six counties excluding Nairobi City County are all part of one of these six regional blocks. They are supposed to assist them to spur economic growth within the respective region through policy harmonization and resource mobilization. Like in Northern Kenya, we have Frontier Counties Development Council (FCDC), which could easily look at what they can do best, either through grants from the national Government or development partners can have that particular sector enhanced and improved.

For example, if transport has been a problem, through that engagement the FCDC, the road from Isiolo, Modogashe, all the way to Wajir and Mandera being tarmacked. This is because it is part of the enablers in that region and it affects several counties all of which are within the same block. They can negotiate and lobby together. That way, that kind of a road can be done and it is about to be done.

However, if it was for each county to look for its own resources, it would not have been easy. Now that they are doing it as a bloc, they can easily approach international financiers to get grants or even loans through the national Government. They can also implore the national Government by lobbying as a bloc, to do infrastructure development arguing that with good infrastructure in place, counties can improve and develop other resources.

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It is important that it requires legislation. However, up to now, I have not seen any existing legislations to support blocs other than policies by the national Government.

The First Schedule gives a clear way of coming up with these economic bloc agreements. That way, we have some structured way of engagements by the counties because these could not be the only blocs. Other interests may develop and you will find that some even belong to more than one bloc. There must be a way of joining these blocs.

Legislation will go a long way in ensuring that we have a legislative framework to enable counties to develop economic blocs and see how they can be enhanced and improved.

In the morning, I heard Senators from the Coast lamenting that the one for the Coast known as *Jumuia ya Kaunti za Pwani* has not had any impact so far. If there is a way of monitoring, then they can be pushed to make sure that they use their collective power and resources for the benefit of the residents of those counties. With that, we can have development boosted because of economy of scale.

Areas with similar historical, political and economic conditions can easily use their economies of scale to work together. That way, economic blocs will be useful, but they require this kind of a law because there is no existing law.

I support and hope this Bill will become an Act of Parliament before the end of this session, so that we have something to build on in future.

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

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir, for this opportunity. From the onset, I want to congratulate my neighbour, Sen. Nyamunga, for this brilliant Bill called The County Resource Development Bill, 2021. I hope when the time comes, she will be rewarded accordingly in Kisumu County, just as we are rewarded in heaven.

There are two issues I want to point out about this Bill, which is unique. I know most of my colleagues have talked extensively in terms of resource exploitation. I think every county has a unique resource. When you go to Kisumu County where Sen. Nyamunga comes from, they have Lake Victoria where fishing is done. A new port is also being developed there. In Nandi, apart from agriculture, we have gold around Chemelil/Chemase area. We have many other unique resources.

A petition was brought to this House concerning exploitation of gold in Chemelil/Chemase. Up to now, we have never known the true value. The private miners in Kaborogin and Chemelil/Chemase generate around USD120 million.

When you look at the Mining Act and the Mining Regulations of 2015, there is community development agreement where the people are supposed to get 10 per cent. If that was the case, Chemelil/Chemase Ward would get around USD12 million. That money would be used for community development in Nandi.

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

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

Mr. Temporary Speaker, Sir, the *pro rata* is 70 per cent to the national Government, 20 per cent to the county government and 10 per cent to the neighbouring community in terms of resource allocation in a county.

We, the people of Nandi, are yet to know the true value of exploitation of gold. Opportunities can be created and the community can benefit from the Corporate Social Responsibility (CSR). I agree that this Bill will assist in mapping out the legal framework on exploitation.

Mr. Temporary Speaker, Sir, we also have Sitatunga. King'wal in Nandi County is the only place in the country where you can find animals called Sitatunga. That is a natural resource. Many people are talking about exploitation of resources and this law provides for that.

The challenge with county governments is own source revenue. If we have a law that will allow counties to map out and exploit resources, like in Homa Bay County, it will be easy for counties not to depend on the shared revenue from Nairobi. If counties become creative and exploit resources within, they will get own source revenue. As it is, the allocation to the national Government is 70, 20 per cent for county government and 10 per cent to the immediate community.

We have always had challenges when it comes to natural resources. For example, we had an oil crisis in Turkana. Tullow Oil Company sorted the national and county governments but did not sort the locals. That led to a standoff over the oil exploitation by Tullow Oil Company, yet they are yet to disclose.

Millions of shillings have been factored in the Tullow Oil Project in Turkana County, yet the people of Turkana are yet to benefit. Exploitation of resources will ensure that people get value for money. We will also have employment opportunities created and benefit from the CSR.

When identifying effects of resource exploitation, we have to know that there are environmental issues. When exploiting resources, be it minerals in Nandi or oil in Turkana, we must ensure that the process is environment friendly. That is where we should move as a country. We must also protect the environment because it does not make sense to exploit a resource without protecting the environment. The only gift to our future generations is to protect the environment.

I want to repeat that the biggest fight especially in coastal counties and other areas is because resources are not distributed equitably. I cannot see anyone from the Coast. That is why when you go to Nigeria, there are states that are ungovernable.

I hope the Nigerian ambassador will not attack me on *Twitter* like the one from DRC Congo did. I have a friend who works in Nigeria. You cannot go out of some cities without a police escort because of unequal distribution of resources. They also have oil crises in some areas.

If you want to witness unequal distribution of wealth, just go to Nigeria. That is in the public domain.

When you look at the Democratic Republic of Congo - I hope the Ambassador will not have a problem - we are having a problem because of this issue of minerals. We really need to agree on this resource exploitation.

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Mr. Temporary Speaker, Sir, let me comment on the economic blocs. There is *Jumuiya ya Pwani* and the North Rift Economic Bloc (NOREP) from us coming from North Rift. There is also the Lake Region Economic Block (LREB). It is important to have a legal framework. For example, in the North Rift, the only time we can work is to discuss issues of farming. Agriculture is dominant in the North Rift. We also have issues of insecurity and infrastructure that can be discussed.

I do not know why the Senate Majority Leader is in a hurry yet he has not been in the House for a while now. He should relax. I am making a point about insecurity in the North Rift. He should be grateful that I am mentioning the issues of Kerio before the Republic of Kenya.

I do not want to take a lot of time. I was just demonstrating that when you come to the North Rift, we have unique issues, for example, the issue of farming. If we were to work with development partners, it would be on the issue of fertilizers, which is a problem. A bag of fertilizer is now almost Kshs6,800. However, I know under the incoming government of the bottoms-up economy model and the hustler nation, we hope to buy a bag of fertilizer at Kshs1,800 because we do not want handouts to be given to anybody.

Mr. Temporary Speaker, Sir, when you go to Eldoret, there is a challenge of how to market fishing and the issue of resource exploitation in Lake Victoria in that region. I agree that there should be a legal framework in order to guide the economic blocs so that they engage with other development partners, the National Government and other agencies.

I congratulate my sister, Sen. Nyamunga and wish her the best. I hope when the Bill reaches the National Assembly, it will be fast-tracked the way we are fast tracking it here and this can become one of her achievements in the Senate as she seeks to vie for the seat of Senator for Kisumu.

I thank you.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, this is a good Bill and congratulations to Sen. Nyamunga for bringing it to the House. When you were moving it, I was not in the House but I was listening. You said it was long overdue and it is something you have always been thinking about before you came to this House. I remember we were in the other House together.

Sen. (Eng.) Hargura mentioned something very important that our counties have misunderstood the proper application of the principles of devolution. If you look at the principles of devolution, there are four elements. The first element is the expenditure responsibilities of a county. That is in the Fourth Schedule. Therefore, you look at Kisumu and ask what is Kisumu supposed to do for its people because we have devolved resources and power.

After you looked at expenditure responsibilities, the second principle, which is found in Chapter 12 of our Constitution, is the revenue raising capabilities. It tells you what resources do you have to raise money? They could be exploiting natural resources, which have an economic impact. It could be some form of taxation, business fees, permits, cess, *etcetera*. The gap between those two is what gives you the third principle.

Mr. Temporary Speaker, Sir, the third one is called intergovernmental fiscal transfers. That is what we do here every year when do Division of Revenue. The third one is supposed to fill the gap between the first and the second one but, we have made it the main thing such that counties now no longer think about their resources and revenue generation; they only focus on the third item that is the equitable share.

Ideally that should fill a gap between what you are supposed to do---

*(Loud consultations)*

Mr. Temporary Speaker, Sir, kindly protect us from the loud consultations.

**The Temporary Speaker** (Sen. Kinyua): Order Members. Let us consult in low tones.

**Sen. Sakaja:** Thank you, Mr. Temporary Speaker, Sir. If you look at many of our counties, we only talk about revenue allocation but do not talk about revenue generation. We might soon need a commission of revenue generation because everybody has focused on how to divide the cake or pie but no one is preoccupied with how to bake a bigger case for this country.

If that was the case, we would never have had the fights we had in this House and our counties would be very productive. In fact, Nairobi County would be giving other counties resources.

The fourth principle is sub-national borrowing. That is how counties can be guaranteed. That is in Chapter 12 of our Constitution. For you to take any instrument like a loan, a county must be guaranteed by the national Government. County governments have not been creative. The first county where I have seen some thinking around that has been Laikipia County where governor Nderitu was recently talking about an infrastructure bond or something like that. That is where our counties need to get to.

If you look at what we need to do in Nairobi City County, there is many infrastructural gaps that need to be sorted including the mass transit system, we need a proper rail system and an overhaul of our sewerage and water system, to redo the pipes and be put in the latest technology. Those things can cost around Kshs150 billion, but Nairobi cannot afford that.

I am glad that as the Senator of Nairobi and I made sure that we moved from Kshs15 billion to Kshs19 billion. However, if we focus on that, it will take us many years to get to that level.

We need creative ways of packaging bonds, doing public/private partnerships and looking at the resources within the county to be able to get a block lump-sum figure of Kshs200 billion to sort out all the infrastructural needs in this City, then you get a proper payment period by guaranteeing the income of the revenue that Nairobi is supposed to get in the next 20 years. That is the kind of thinking that we need to transform devolution and our counties.

The Kshs7 billion that Homa Bay County receives will in no way transform Homa Bay; it will just keep it going. The money that Kisumu County gets will keep it going. You will just be paying salaries. My wage bill in Nairobi is close to Kshs18 billion per year. The money we give them from here is just for paying salaries.

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We then cannot get different results from our counties or transform devolution with the same thinking of the first two series of the governors that we have had.

This is an important Bill because one, it links us up with the Bill that was already passed on revenue sharing of local content on what is within a county. That which is found within the county, how it is identified and exploited.

In Nairobi County, we have mining and people do not know this. If you go to Ruai, we have quarries there. There are a lot of stones, leave alone the Ndarugo belt that borders us from Kasarani. There are many quarries and a lot of mining being done here. However, what happens is that due to lack of a framework, whoever is elected Member of Parliament brings their youth to take over those quarries, then if somebody else is elected, they again bring their set of youth to take over. There is nothing beneficial there to the community apart from a select group of young people who at that point are dealing with that.

Our garbage in Nairobi is a resource. There are countries that export garbage because of transformation of garbage to energy. We need to look at what we are collecting. A lot of it is biodegradable and can be used to produce plastics and light up the city. The City of Nairobi can be lit fully by the Dandora dumpsite.

On Saturday, I was in Kayole dumpsite and I saw the potential there but no one is thinking creatively enough of how to bring out the economic aspect of that resource that we have. I think this is very welcome.

Mr. Temporary Speaker, Sir, the other thing I have seen in this Bill that represents some potential or something to look at is the issue of regional blocs. I am not sure why there is no regional bloc that has considered Nairobi as a partner. You would have a very big advantage by having Nairobi as your partner in your regional bloc. I will give you a quick example - your counties have a regional bloc of central province. People should stop thinking of regional blocs as ethnic blocs. People should even stop thinking of regional economic blocs.

People should stop thinking as regional economical blocks as geographically compact blocks that these counties must join each other. They must see regional blocs based on economic aspects that teaming up with this county will help us.

A lot of the produce that comes to the markets in Nairobi City County every morning from 4 a.m., comes from the central part of Kenya. Those counties in the central economic bloc should be interested in partnering with the Nairobi City County so that we can negotiate access to markets and cess. We can agree with many people in the private sector and manufacturers because they are complaining. It is very expensive to move a truck from Mombasa to Nairobi because every step in almost 10 counties in between, you have to pay for branding and cess. It even becomes unproductive

Mr. Temporary Speaker, the regional blocs should see how to improve business and make sure we are not stifling but improving. I gave an example of the County of Kirinyaga because Sen. Kajwang' was talking about transfer of functions from county to national level. One of the functions that I will ask the national Government to transfer to me when I become the governor of Nairobi City County is the school feeding program.

Our children are suffering because they are not being fed yet we are told that we cannot do school feeding program as a county government because school feeding is

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under primary schools which are under National government. No one is looking at the school feeding programme. The national Government School Feeding Program is in the Arid and Semi Arid Lands (ASALs). They think that those are the only areas where people are hungry.

Early last year, I went to Dagoretti North to donate desks and I was heartbroken. When I asked those children; what would you like me to give you? Do you want balls or a school bus? I was just joking with them. They told me that they wanted lunch because they have no food. There is poverty in the City. We would want to transfer that function from the national Government to the Nairobi City County.

On the issue of the regional blocs, I would need to talk to the governor of Kirinyaga County and the industries in that county. I will tell them that I need rice, for Nairobi City County to be able to buy directly from the County of Kirinyaga to feed our children in school. I would also need livestock for meat from Isiolo County or from other counties. Let us be more creative when we are talking about regional economic blocs. It does not need to have to be counties that are geographically compact but those with a similar economic interest.

Finally, I would like to speak on the issue of local content. There was a Bill that was brought to this House by Sen. (Dr.) Zani and passed. I am glad that Sen. Nyamunga has connected the two Bills by speaking about, how the national Government will have to enter into an agreement with the county government on the ratio of sharing.

What has happened in many counties like the county government of Taita Taveta where mining of gemstones is done, the county government of Turkana where drilling of oil is done or the county government of Kwale where titanium is mined. I do not want to mention any company adversely but all the companies that have set up in those regions do is a token Community Social Responsibility (CSR) such as opening three or four schools.

The other day we were in Sen. Cheruiyot's county and Bomet County. When we went to see one of the tea estates they showed us the number of people that they are educating. The resources that they are getting by having a lease of thousands of acres needs an economic return to the people and to that county. That land is held by the county in trust for the people. We are not getting a good deal from a lot of these resources.

Mr. Temporary Speaker, Sir, I support this Bill. I hope that it passes and that the National Assembly will pass it. Overall, we need to rethink and change our ways of thinking. We cannot solve today's problem with yesterdays thinking. It is impossible. I am glad to see that in Clause 14 of the Bill, Sen. Nyamunga is talking about inclusion of youths marginalised groups and women groups. For instance, in the Nairobi City County one group that we need to incorporate in planning is the area resident associations and the estates groups. For example, in South C the estate resident associations know what they need in their area.

You will never hear of an estate group or a *chama* where the treasurer has stolen money because they own it. The standard of choosing the treasurer or chairman is so high at that low level. Why should we not use those groups for development? Why not say in Pipeline, Tassia or Fedha estates, where they have a very good association, they will be

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part of participatory budget making. They can be involved at told that out of the whole county's budget, they will be given Kshs20 to 30 million based on the resources. You can then ask them to sit down and agree on the projects that they want in Buru or Kayole? What resources can we get from there? How do we then plant trees? How do we involve those groups?

Thank you, Sen. Nyamunga for taking note. I do not know if I will need to amend this toward area resident associations but a good leader does not need very prescriptive laws. You can take advantage of that law and do what is needed. This is an important law. I support and wish you all the best as it passes. These are things that we will need to implement. Let us change our thinking so that we can transform our counties through devolution.

I support.

**The Temporary Speaker** (Sen. Kinyua): Thank you Sen. Sakaja. I also want to bring to your attention that we have quality beef in the Laikipia County.

Sen. M. Kajwang' the Floor is yours

**Sen. M. Kajwang'**: Mr. Temporary Speaker Sir, I rise to support this Bill that has been brought by Sen. Nyamunga; the County Resource Development Bill (Senate Bills No. 45 of 2021). I congratulate Sen. Nyamunga because in the Committee on Devolution and Intergovernmental Relations---

**The Temporary Speaker** (Sen. Kinyua): What is it Sen. Mwaura? Sen. Mwaura is online.

**Sen. Mwaura**: Mr. Temporary Speaker, Sir, I have not been given an opportunity to contribute. It is only fair that you also balance with those of us who are online.

**The Temporary Speaker** (Sen. Kinyua): Sen. M. Kajwang, you can proceed.

**Sen. M. Kajwang'**: Mr. Temporary Speaker, Sir, I will be brief to allow those online and those with other Bills to prosecute their business. I congratulate Sen. Nyamunga because the issue of regional economic blocs has been an agenda of the Committee on Devolution and Intergovernmental Relations from the time the Committee was chaired by the distinguished Senator for Laikipia until now that until now it is being chaired by the Senator for Homa Bay County.

It has been an agenda from the time that the Committee was chaired by the Senator for Elgeyo Marakwet County. Sen. Nyamunga has taken the bull by the horns and brought to this House a legislative proposal that will help the establishments of regional blocs, relationships between counties that set out to cooperate under regional blocs. I congratulate her on this because this has been a huge gap in legislation.

Mr. Temporary Speaker, Sir, sometimes, I like reading books by Adam Smith especially his book on *Wealth of Nations*. On the question on how do nations get wealthy? Parents also we need to pose that question to our children so that we have a conversation. How do families get rich? Is it by going into politics, engaging in corruption or looting and pillaging? It is through productivity.

A family gets rich when the family engages in production of some goods or services. If you are a lawyer go practice your law, get money and your family will be rich. Go get tomatoes take them to the market sell them for Kshs1 profit and you will be rich. It is the same logic with nations. The conversation in this country should turn

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towards productivity because that is how nations get wealthy by producing goods and services.

Sen. Nyamunga is telling us that we now must take an inventory of the resources that reside in our respective counties. It reminds me of a campaign slogan or a manifesto item that I saw in Ghana.

In Ghana, there they were talking of one district one factory. They recognised that each district had a unique natural resource. The key to unlocking wealth and productivity in those areas was to ensure that there was some value-addition of the resources that resided there.

Mr. Temporary Speaker, Sir, if you look at our counties for example County of Laikipia, with its vast parcel of land, animal population and other may be other natural mineral resource. If the county government of Laikipia was to specialize in one thing and do it well, they would be rich. Similarly, Homa Bay county with its proximity to the lake and the great potential of fisheries should just focus on one thing and do it well. The gross county product of our counties will grow.

There are probably two counties in this Republic that have an up to date statistical abstract. I do not know whether it has changed but the last time I checked three months ago it was only Laikipia and Makueni that had up to date statistical abstracts. Up to date meant the year 2020. Many of our counties are still relying on statistical abstracts of 2017 or 2019.

What I saw in one of these counties is that a governor knows what the Gross Domestic Product (GDP) is. He knows what the target growth of that GDP should be. Many of our governors have got no idea what the wealth of counties are.

Mr. Temporary Speaker, Sir, many Senators here do not know the Gross Domestic Product (GDP) of Nairobi City, Kisumu and Kakamega counties and yet that statistic is out there. The Kenya National Bureau of Statistics (KNBS) does a report and I think their last report was in 2019.

If we map our resources, then it will be possible for governors and the leadership in counties to say--- For example, the GDP of Homa Bay County is Kshs115 billion out of a Kshs10 trillion economy. That is just one per cent of Kenya's economy. The GDP of Nairobi City County could be about Kshs1.4 or Kshs1.5 trillion, which is about 15 per cent of the GDP of this country.

Can we have governors who start thinking about how to grow wealth in their respective domains? Can we stop this idea where we think that economic growth and development is the sole preserve of the national Government? That Hon. Ukur Yatani is the one who will tell us how wealthier or poorer we have become.

If we identify, catalogue and exploit the resources that are in innate or natural to our respective counties, I believe we will get to a generation where productivity is a conversation.

Devolution was ushered not just for political rights. There are those who still argue that devolution was because of mismanagement and that the center had neglected the far-flung areas. That is true. In the morning, I listened to Sen. Farhiya talking about the past, when people used to say they were coming to Kenya and these are people who

are supposed to be Kenyans. Yes, there was political marginalization that devolution was supposed to cure.

However, devolution was expected to bring about prosperity and spur productivity to a level where productivity in 47 units would add up to greater productivity of one nation called Kenya.

When we say counties should do roads, doing roads is not the end; it is a means to an end. Doing roads is supposed to unlock the productivity of agricultural zones. In the lake regions, if you do not have roads going to fish landing sites, then fish goes bad before it goes to markets. Governors must see roads, not as a favor that is bestowed on the people who voted for them or who support them. They must see roads as a productivity factor that allows people get their produce to markets faster. That way, they can grow their economies.

We must see water as an enabler because a healthy population is a productive population. We must see trade and the issue of markets, not as a favour to be doled out. We have seen all sorts of funds. The National Government Affirmative Action Fund (NGAAF) is being used to build markets in areas and regions that support a candidate or not. Devolution must be seen....

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Sakaja?

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I have a point of information.

**The Temporary Speaker** (Sen. Kinyua): Sen. M. Kajwang, do you want to be informed?

**Sen. M. Kajwang':** Indeed, Mr. Temporary Speaker, Sir. I would accept my "rubble" to inform me.

*(Laughter)*

**Sen. Sakaja:** Mr. Speaker, Sir, as his "rubble", I would like to inform him that the GDP of Nairobi City County is USD27 billion. That is from the latest statistics. If you convert it, it is way more than a Kshs1 trillion. The record should not show that Sen. Kajwang' has a different figure that is way below.

**Sen. M. Kajwang':** Thank you, Sen. Sakaja. I referred to the 2017 numbers and I know from 2017, there has been a lot of growth even in the overall economy. It is a good thing that we have a Senator and a prospective governor who is aware of the numbers coming from the counties. We need those kind of governors who understand where their counties are and where they are going.

As I summarize, we need to look at devolution not just from the perspective of economic rights and freedoms, but also from the perspective of prosperity and productivity unlocking. My political formation has looked at the Ghana model, of "one factory one district". We will probably be refining it and talking about it. We are talking about sparing the rural economy. You spar the rural economy by making sure that resources that reside in those rural areas can be exploited, added value and put money in the pockets of people.

The *Azimio* team stands for productivity and transformation of the rural economy. That is what happened in China. At some point, China was a lost case. After the failed Cultural Revolution, people were so poor but in one generation, China has managed to

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lift billions out of poverty because of a rural transformation strategy. The same strategy that the *Azimio* team will apply post the elections this year.

Mr. Temporary Speaker, Sir, let me conclude by talking about regional blocs. We must encourage them and ensure sanity in their establishment and management.

The Lake Region Economic Bloc (LREB) is one good example of a regional economic bloc that can work. So far, it has worked. I congratulate those who set it up and run it. They have very good ideas. We disagreed with them when they wanted to establish a commercial bank. We thought that the focus should be to unlock productivity in the fish, cotton, sugar and tobacco sectors. We thought they should take care of the agricultural and tourism industries first, before talking about a bank that was going to employ relatives and cronies of the officials. If they focus on productivity enhancement, they have our full support.

Today, fish coming from Sindo in my county to Nairobi County, has to go through seven counties. It starts from Homa Bay to Kisii, Nyamira, Bomet, Narok, and Kiambu counties before it gets to Nairobi City. If we do not have proper regional agreements between these county governments, then you will find that fish monger has to pay taxes almost seven times along that value chain. This makes the *omena* arriving in Nairobi City County more expensive than the fish that is coming from China, that is taxed at only one point of entry.

I hope that the proposals by Sen. Nyamunga in establishment of regional blocs and cooperation among counties, will help us to reduce some of the tariff and non-tariff barriers that have hindered trade amongst counties. We saw an example in Elgeyo-Marakwet and Uasin Gishu counties. At some point, it was established that Uasin Gishu County was drawing its water from Elgeyo-Marakwet County. The water source was elevated and that elevation was in Elgeyo-Marakwet County.

I recall when the Senate went to Eldoret for Senate Mashinani, we had a lengthy discussion with Gov. Mandago. It was on the provisions of the law that allows him to come up with an inter-county agreement, to exploit a resource that jointly benefits two counties.

I have seen Sen. Nyamunga has given further effect to the idea that counties sharing a resource can exploit it jointly. For a county that has a resource that can benefit another, there can be a framework for its exploitation in a manner that benefits all the parties concerned.

Mr. Temporary Speaker, Sir, I support this and congratulate Sen. Nyamunga. I pray that this Bill will be processed quickly by the National Assembly so that we also have the Nyamunga Act that established regional economic blocs and county resource development framework.

**The Temporary Speaker** (Sen. Kinyua): Sen. Shiyonga, you may have the Floor.

**Sen. Shiyonga:** Thank you, Mr. Temporary Speaker. I rise to support the County Resource Development Bill sponsored by Sen. Nyamunga. This Bill will go a long way in enabling and unlocking the development started by devolution.

With regard to unlocking and enabling devolution, some of the functions mentioned here will go a long way in enabling and even sharing resources that are produced amongst those counties. The economic blocs that have been highlighted, shall

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give member counties a platform to accurately share any resources that are shared among them.

Residents of these counties share many things within their territories. It will enable them to even further plan and implement their development plans. This is especially with regard to resource mobilisation and investment.

Mr. Temporary Speaker, Sir, programmes are implemented in these counties. You may find several counties having a common natural resource, which then forms a basis for an economic bloc. Such resources will be shared equally through the laws in this framework.

It will enable even those who are implementing it to fast-track the process. This is because an additional Clause has been put there in respect to the number of days that a program is supposed to take before even evaluation.

This will enable them fast track those developments guided by a timeframe.

Mr. Temporary Speaker, I various counties have different investments and abilities. We have so many development partners visiting those counties. It is very important that if they are guided by the agreements and laws that have been put into this framework or formed by those economic blocs, then it will be easier for them to agree over a function, law or policy. Those counties will then enjoy the development or grants that will have been brought by those partners for investment.

I congratulate Sen. Nyamunga. It is a good Bill. The Senate does to look at what the particular counties have done. Monitoring and evaluation will be one of the functions that will be fast tracked. Most of the resources will be utilized in a more advantageous manner to those that come from those counties. That will be better than waiting for the Senate to look into what they have and programs they have implemented so that they can give them feedback or tell them where they have gone wrong.

I hope when this Bill goes to the National Assembly they may also fast track it and bring it for ratification.

Thank you. I support.

**Sen. (Dr.) Mwaura:** Thank you, Mr. Temporary Speaker, Sir. I too support this Bill. My Bill has been pending since morning and I have been here the whole day. I was told I will come after 10 minutes and it has not happened. Anyway, let me proceed with this Bill.

This is a very important Bill because it is speaking to matters economy. I am very surprised to hear my colleagues from the *Azimio la Umoja* all over sudden supporting matters economy. Their pre-occupation was and, I think, is still is about sharing of positions, who gets what in terms of the political architecture and the Constitutional change. I think they are waiting for the Supreme Court ruling.

The economic mantra about changing the country is with the Deputy President (DP) and his allies. It looks very interesting because we said we were going to change the narrative and the conversation. It is now very clear that every person now is harping matters economy to demonstrate whatever plans they have for this country. That is most welcome and I want to encourage our political competitors to join us on board in this clarion call to make Kenya a better place.

Mr. Temporary speaker Sir, as a country we are doing very badly economically to the extent that we cannot fathom how we are going to pay our current public debt. Counties are trying to really on the National government to get guarantees with regard to them participating in the economy. Looking at the public debt around counties, they have taken commercial loans in that regard.

This Bill is important even for Central Kenya region where I am the Chief Executive Officer (CEO) of Mlima House. We would want to have Central Kenya Development Authority, which would harness issues to do with, for example, the water towers which we rarely gain from. We also have Tourism also and any other form of natural resources that is there within the central Kenya region.

However, this kind of centralized dependency on equitable share has become very easy to go by. Yet even when this is the first charge of any given budget, we are very constrained. Let me tell you the reason. Recently you saw our economy has been valued at about Kshs13T. I beg to differ.

There is no way our economy could have grown from 9.8T to 13T within a period of one year just because our public debt has increased to over 11T. We are looking at an insolvent country. It is important to start asking ourselves, how we go back to productivity. I think I heard Sen. Murkomen talk about this.

There are three factors that are very critical in productivity, competitiveness and the market. Some of the products that we have can be ably consumed by the local market. For example, if you look at the amount of sugar that we import *vis-à-vis* what is produced it is amazing to see that to produce one ton of sugar in this country, you use about 800 dollars while in Brazil you only do it at 250 dollars. How do we make sure that we improve our competitiveness? How do we reduce the non-tariff barriers so that we access markets?

Right now, look at the border of Tanzania or let us talk about East Africa. You see so many Lorries bringing maize, beans and potatoes from Tanzania yet Kenya has the capacity to do so but then we are not doing it. This is because we have given our people what we call development, which in this regard is the infrastructure.

Since time immemorial and especially in this administration, a lot of infrastructure has been developed. That is the hardware. Whose goods are actually on our roads and railways? They definitely are not goods of the common *mwananchi* or *wanjiku* on the ground.

If you look at Schedule Four of the Constitution, we have not seen counties going out of their way to establish the so called industries. I heard my friend, Sen. M. Kajwang' talking about one factory per county. It is possible to have even one factory in every county but very few have been able to do so. For example, if you look at Ukambani, you will find that it will be more profitable for them counties to concentrate more on fruits such as mangoes. That way their counties will be more productive.

Looking at avocado, one litre of avocado oil costs Kshs6,000. Kenyans do not need the Kshs6,000 handouts that has been promised by *Azimio la kuzimia*. What they need is a situation where you are producing these avocados, selling one litre for Kshs6000. If you are producing 10 litres a day or even a month, you have your

Kshs60,000. This is more profitable because Kenyans would want to produce for themselves. They are not used to handouts.

Those are the kind of areas that we have missed especially for us politicians. We have this tendency of promising roads and water and other kind of infrastructure to the extent the Government has ended up borrowing all the money from the banks. There is even no money for private sector investment which would draw these kinds of economic activities.

If Isaac Mwaura, for example, has an idea, he would go to a bank then borrow so that the idea becomes marketable earning himself, his family and the people he will employ an income.

It is a paradigm shift and we in the “Hustler Nation” do promise that we will take a third of our development budget towards economic regeneration. That is what we need to do so that you put money where people are producing. That is better than waiting for handouts in terms of bursaries and roads built at inflated costs. They are crowding out any form of investment while reallocating wealth to the most privileged people who can make government decisions in lofty air-conditioned offices.

These are the kind of shifts that we need to look at. We seem to have over-devolved. I heard Sen. Sakaja giving an example that even the money for equitable share can only go for recurrent expenditure.

It is true that this country has moved from development surplus to a recurrent deficit. Currently, we are borrowing Kshs800 billion to finance recurrent expenditure. That is why you find even the budget for the second quarter is yet to be availed to all the Ministries, departments and agencies, including Parliament. It is becoming very difficult to access the Exchequer.

This can only change when we refocus our development. We also must agree as a House of reason - as a Senate - that we over-devolved. Forty-Seven devolved units was way too much and most of them are not economically viable.

For instance, if you look at transnational infrastructure and the ecosystems that transcend the boundaries of a county, they go along the tribal lines that were demarcated to suit political and colonial ends, if you go further down history.

You cannot therefore say that a county like Lamu would not need Tana River County for it to survive economically. You cannot say Isiolo County would not need to cooperate with Meru County to survive economically. All the counties in Mt. Kenya region require one another because they have the same people with similar culture and economic engagements.

Therefore, these economic development models are critical. They mimic what is happening at the continental level, where you have regional economic blocs such as East African Community (EAC) that is now a seven-member state with a huge market in Congo of about 150 million people.

The same applies for Southern African Development Community (SADC) and Economic Community of West African States (ECOWAS). That is the future. You can see the way Britain was affected when they left the European Union (EU). They got respite from the former President of United States of America (USA), Donald Trump, to reduce their balance of payment deficits. Therefore, counties have to associate.

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Sen. Nyamunga, this is a welcomed Bill. I am afraid of the time that is remaining because it has to go to the National Assembly and back, and we only have two or three months of legislative time that people can concentrate before we have *Sine Die* recess sometime in June. This is a welcome Bill that should have come earlier, and I fully support it.

When you look at the regional economic blocs, we need to look at other forms of financing of such kinds of developments. Particularly, if we have Private Partnerships and foreign investors taking over so that we have shared ownership, but also concessionary maybe for 20 to 25 years. That is the only way we will rebuild our economy.

It is also an indictment on our national Government to ensure that then we create new markets for our products. We have ceded so much ground to the extent that most of the products that are coming into the country need not to. Some of them actually need to be banned. For example, why should we be importing eggs and milk in this country? These should be left to our local farmers, so that we produce better and to have sustainable livelihoods.

I support this timely Bill. I hope it will see the light of day before the end of the 12<sup>th</sup> Parliament.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. (Dr.) Mwaura.

Sen. Wambua, please, proceed.

**Sen. Wambua:** Thank you, Mr. Temporary Speaker Sir. I will be brief on my contribution to this Bill. First, I would like to thank Sen. Nyamunga for coming up with this Bill. As my colleague, Sen. (Dr.) Mwaura, has said, I wish that this Bill had come into this House earlier.

Having said that, I would like to make three observations. One, one of the biggest problems that we have in our counties is in terms of development. I do not know whether the mentality of county governors is a product of incompetence or it is a default setting. If they do not receive money from the national Government, then everything including salaries stops. They have made themselves beggars of resources from the national Government.

Mr. Temporary Speaker Sir, I wish that through this Bill, the next crop of governors, most of whom I believe will come from this Senate, will open their eyes and appreciate that the real motivation behind devolution was not to create units whose only preoccupation is to receive funds from the national Government to undertake development.

Mr. Temporary Speaker Sir, I am a very proud Senator this evening. This is because this Bill speaks to what my political party, Wiper, stands for. We have it on record as a party that we are pushing forward the agenda of one factory in one county. That, at least every county in this country must have a factory that does value addition to raw materials and resources found in that county.

Mr. Temporary Speaker, Sir, we are not just talking about one factory in one county for the sake of it. That comes with a lot of benefits. It creates jobs for our young people and open up counties for inter-county trade. It will open up this country for international business for export of processed and semi-processed products.

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That cannot happen in a situation where we have county governors whose major source of funding is money from the National Treasury and Planning. That can never happen. County governments must exploit resources found within to develop and create jobs for their people.

Mr Temporary Speaker, Sir, I am very sure that when Sen. Nyamunga was drafting this Bill, she must have thought about a Bill that she really supported, the Mung Beans Bill that I pushed through this Senate. I continually thank Senators for passing it.

Mr. Temporary Speaker, Sir, this Bill speaks to a principle that is very dear to my heart; that every county is endowed differently, but so richly as to to sustain itself especially for basic needs without having to wait for funding from the national Government.

I heard my colleague, Sen. (Dr.) Mwaura, trying to create the wrong impression that certain economic models are specific to certain political formations. This Bill is not about any political formation. This is a Bill about our counties and resources found within our borders. It is a national Bill for all intents and purposes.

Mr. Temporary Speaker Sir, in the best interest of a colleague of mine who also want to move a Bill, I will not say more.

I fully support.

**The Temporary Speaker** (Sen. Kinyua): Thank you Sen.Wambua.

Sen. Halake, please, proceed.

**Sen. Halake:** Thank you, Mr. Temporary Speaker Sir. I will be very brief to allow my colleague to move his Bill. I quickly congratulate, Sen. Nyamunga, for this timely Bill, The County Resource Development Bill, 2021. I congratulate her because these are the kinds of Bills that will bring change to our country.

Many of our Bills are not economy facing but this is. Therefore, the economic outcomes that this Bill will ensure will go a long way in the socioeconomic sectors that will give our people the dignity and self-determination they need.

Mr. Temporary Speaker, Sir, the provisions within this Bill for counties to come together to form regional blocs will give them economic viability because some counties are quite small. The fact that they can come together and form a viable economic unit is a good thing.

That having been said, I will just add one more thing. For the first time, our counties have to act like governments. What a government does is to ensure it is economically viable so that it can provide services. However, our counties act like departments of the national Government. One level of government should not be subservient to the other. They should actually be equal, but organized differently.

Waiting for the national Government to disburse funds or counties getting on their knees if they do not get funds from the national Government takes away their legitimacy. A government should provide services to its people, whether or not another entity is enabling that.

County governments should ensure that they are economically viable. They should work on all the infrastructure and foundational economic indicators to ensure that they run as governments and not as departments of another government.

This Bill will go a long way in ensuring that devolution is entrenched and county governments are not viewed as small departments, as the case is, but big entities.

I know that Nairobi City County has a huge GDP, but without the subventions from the national Government, we have seen services just come to a halt. What is that GDP all about if when the national Government does not send money, Nairobi City County also stalls?

We need to start holding our county governments accountable by looking at every parameter of a government. If they cannot do certain things, then they should not consider themselves as governments but rather departments.

Mr. Temporary Speaker, Sir, having said that, I do not want to take too much time. I know that Sen. Murkomen is looking at me with bad eyes. That is one of the issues I wanted to flag out. I congratulate the Senator for her good and economy-facing Bill.

I support.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Halake. There being no other request, I call up on the Mover to reply.

**Sen. Nyamunga:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity again. First, I want to say that, generally, I am an independent-minded person and I do not believe in dependency. That is what motivated me to come up with this Bill.

I started working on this Bill immediately I joined the Senate. It took a long time because it drew a lot of interest from the governors. They wanted to introduce some clauses that made it to become a Money Bill. For that reason, it had to go to the National Assembly where it took a bit of time. We had to recall it because it was not going through. That is why it has taken so long.

I thank all the Senators. I feel indebted to them. We have had many contributions to this Bill. I thank Sen. (Dr.) Musuruve who seconded this Bill. I may not have time to go through each and every contribution that each Member made, but I have taken notes. They have really enriched this Bill.

I thank Sen. Farhiya, Sen. Omogeni, Sen. Madzayo, Sen. Faki, Sen. (Eng.) Hargura, Sen. Cherargei, Sen. Sakaja, Sen. M. Kajwang', Sen. Shiyonga, Sen. (Dr.) Mwaura, Sen. Wambua and Sen. Halake.

Mr. Temporary Speaker, Sir, taking into consideration the work that has been done in this country's infrastructure, I congratulate the President because what he has done may not be seen today. However, some 10, 20, 30 or 40 years to come, every Kenyan will understand that it was important to expand our infrastructure. After expanding it, it becomes easy for the rest to fall into place.

What is now important for all of us is to get the best president who will move this country. First of all, they should get rid of corruption. Secondly, they should bring unity in this country and finally jumpstart the economy. That can be done by none other than President Raila Amolo Odinga.

I believe in his track record. I believe he is the best person who will move this country and also put governors "on toes". Right now, governors are not doing enough other than whining about the national cake. That is the only thing they are concentrating on instead of doing their work. Any time money delays, there is a lot of cry.

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Governors have made many traders and business people go on their knees because of their lack of thinking outside of the box. Our counties are endowed with a lot of resources. If only---

**The Temporary Speaker** (Sen. Kinyua): Sen. Nyamunga, are you insinuating that it is the work of the president to oversight governors?

**Sen. Nyamunga:** He has to put them “on toes”. If he keeps giving them money all the time, how will they think outside the box and develop resources that they have? The President has to do that. Governors must be put on toes.

All county employees must also be put “on toes” because we do not want cries all the time when the national Government is also constrained by resources that they collect from businesses.

Otherwise, I am very grateful and thank all of us. Above all, I beg to reply.

Mr. Temporary Speaker, Sir, I beg that putting of the question be deferred to another day for the obvious reason that we do not have numbers.

I thank you.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Nyamunga. We will put the question tomorrow.

*(Putting of the question on the Bill deferred)*

Hon. Members, I want to rearrange the Order Paper. Let us go to Order No.20.

### *Second Reading*

#### THE ELECTIONS (AMENDMENT) BILL (SENATE BILLS NO. 42 OF 2021)

**The Temporary Speaker** (Sen. Kinyua): Sen. Murkomen, proceed.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I beg to move that The Elections (Amendment) Bill (Senate Bills No.42 of 2021) be now read a Second Time.

Mr. Speaker, Sir, this is a Bill that is straightforward, but sometimes not all things are straight, just like not all common sense is common. This is a Bill that is so precise and surgical, such that it goes to the heart of the problem I want to solve.

The Kenyan people are going to elections on 9<sup>th</sup> August, 2022. As many Kenyans as possible would like to run for various offices, but there is only one serious impediment affecting many candidates. The 2019 census indicates that only 3.5 per cent, which is 1.2 million Kenyans, have a university degree, yet Section 22 of the Election Act, No. 24 of 2011 provides the qualifications of nomination for candidate to be a Member of Parliament. You must have a degree from a university recognized in Kenya. This is where I have a problem.

It also provides that for you to be a Member of the County Assembly, you must have a degree from a university recognized in Kenya. This is the heart of my problem. This is where I have greater concern because whereas we have the aspirations to have Kenyans have a university degree, with the benefit of hindsight and experience we

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received in 2011, it is very clear that this provision was not well-thought-out. I will explain why.

Number one, as I have said, out of the vast majority of Kenyans, only 3.5 percent have a degree, while 96.5 percent of Kenyans do not have a degree. The 2019 census showed that in Mau East District, Narok County, not a single person was recorded to have a degree. In Mt. Elgon Sub-County, it was also clear from the census that there is no one individual who has a degree. That does not mean that people from Mt. Elgon do not have degrees. It shows that most of the degree holders from this area have migrated to other areas, either to Kitale Town or Nairobi.

In fact, Sen. Sakaja should be aware that 25 per cent of the 1.2 million Kenyans, which is nearly 300,000 of the graduates, reside in Nairobi and the rest move to cities like Nakuru, Kisumu, Mombasa and other towns around Nairobi; talk about Machakos, Kiambu, Rongai and other areas.

I think it is unfair that when we talk about degree qualification and say that only 3.5 per cent of Kenyans should qualify to vie as MCAs and MPs. It is unfair to say that 96.5 per cent of Kenyans should only choose leaders from 3.5 per cent of their population.

Number two, the reason I think this degree requirement is unfair and unfortunate is because it is clear in Article 38 of the Constitution that everyone has a right without unnecessary restrictions to enjoy political rights.

I can just imagine that the Kenyan people wrote a Constitution to govern 100 per cent of the people of Kenya, but then from a Statute, we tell them that Article 38 will only be enjoyed by 3.5 per cent of the population. How unfortunate to say that Article 38 is good but we have put some restriction.

I agree with the Judge who in the case of the County Assemblies Forum against the Independent Electoral and Boundaries Commission (IEBC) and others said that it was not feasible that MCAs should only come from 3.5 of Kenyan people, 25 per cent of whom have migrated to Nairobi and other cities to look for money and a better life. Now, you are telling them that this special club of individuals can now go to Isiolo, Wajir or Elgeyo-Marakwet to run for seats and if they do not get, to come back to the City. You are telling people who live in those vicinities - the teachers who have taught in Embobut Ward for 10 years – that they are not qualified to become an MCA in that area. That is unreasonable restriction. That is a violation of Article 38 of the Constitution.

I am glad that already the courts have assisted us. The courts have already said that a degree requirement for MCAs is unreasonable. However, that is the same section that captures also Members of the National Assembly. Just imagine in the 290 constituencies, we are saying the only people qualified to run for these offices are those who have degrees.

I have no doubt in my mind that a properly prosecuted matter in a court of law today would bring the same results that the Judge arrived at when he spoke about the county assembly, especially if you put the statistics on the table to indicate that you cannot lock out 96.5 per cent of Kenyans from running for office as Members of Parliament.



The other unreasonable thing about this academic qualification - and I will show you how ridiculous it is - is that it says if you have a degree you qualify to run for office, but if you have a diploma in law, you do not qualify to run for MP.

Imagine that nurse who has a diploma in nursing from Kenya Medical Training College (KMTC), that clinical officer, that person who studied radiology from KMTC and practiced. If you go to hospitals, these are the people who do scans and nursing. They are the clinical officers treating Kenyans, having gone to school for almost four years, equivalent to the person with a degree. However, since they do not have a paper written "degree," you tell us that although he is a clinical officer, nurse or radiologist; he is qualified, has studied and worked to treat people, he cannot qualify to hold office of a Member of Parliament. This is because they do not have a paper written "degree" and yet, these are professionals of high calibre

Think about your teacher in high school. Probably, your high school teacher went to Kenya Science Teachers College in either Nyeri or Nairobi. Those days they were only three. My Physics and Chemistry teachers had gone to Kenya Science Teachers College. He was one of the best physics teachers in the Republic; they were the ones setting exams.

Now tell me, that Physics teacher, qualified with a diploma, has retired and wants to be an MP of his constituency somewhere in western Kenya. Then, Mr. Misiko is told that he is not qualified to run for the MP. That although he has produced so many graduates, is well read and a professional with knowledge in Physics globally, he is not qualified to come to this Chamber to become an MP.

However, a person who has gone to some college, qualified and got a degree in leadership - and you cannot even verify properly how they went through this education process--- Maybe they even got E's from first year to fourth year, but because they carry a paper called a "degree," they are more qualified than that professional who has served the country in different capacities.

We encourage our youth to go to Technical Training Institutions (TTIs) and tell them that when they go there they will become professionals with engineering knowledge who can dismantle an engine of a vehicle, work on it and restore it.

They can drive a car safely. How then can you say that such a person cannot run for office and become a Member of Parliament because he does not have a university degree?

Sen. M. Kajwang' think of a Certified Public Accountant (CPA) in Kenya. That person may not have a formal degree, but if he sat in this House, he or she would scrutinize the accounts of county governments better than most of us who have other degrees that are unrelated to accounting. However, since that person does not have a degree, it is said that they are not qualified. The unfairness of picking a university degree as the only qualification to become a Member of Parliament is ridiculous.

A CPA-K holder studies longer to get that qualification than the person who has gone for a bachelor's degree in leadership in some universities. I do not want to mention the name of any university. Let us just assume that person has obtained a degree from some university operating on the third-floor of a building in River Road and there is a bar below that university.

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**The Temporary Speaker** (Sen. Kinyua): Sen. Murkomen, from the Bill, it is clear that the degree should be from a recognized university.

**Sen. Murkomen:** Mr. Speaker, Sir, I am speaking like a former lecturer at a university. When universities started mushrooming in this country, most of them were operating in some building, where downstairs it is a bar or restaurant and the universities were operating upstairs. That is why I was avoiding to mention names because I do not want to defame those institutions of higher learning.

I am glad with the reforms in the education sector. They have reduced the mushrooming and uncoordinated growth of universities in various small buildings across the country. You had lecturers running from Eldoret to Masaai Mara to Bondo, Karatina and coming back to Nairobi to teach. My colleagues used to drive to Karatina, go back to Moi University Eldoret then drive to Bondo before heading to Maasai Mara. It was a very difficult time.

Let us look at all the professionals and consider them. You may have gone to the army and served your country. You have gone through training in the military from one stage to another and get professional training. However, because it is not formally called a university degree, you are told that you cannot run for a political seat. Somebody who has risen to the position of a major or lieutenant general without formal degree qualification are told that they do not qualify to be a Member of Parliament. Back then, a person who has risen through the police ranks to become the Inspector General of police did not require a university degree, maybe now they do. How then can such a person not be qualified to run for a political seat?

I would like to convince my colleagues that the qualifications that one must have a university degree is ridiculous, unfair and creating a club of few privileged who access leadership against the provisions of Article 38 of the Constitution. What about those who are already in Parliament? What happens to such a provision? You tell people that you must have a degree to join Parliament, but we know that Tom Mboya did not have a university degree. He had a diploma from a university in London. He went to Oxford University where he earned his well-recognized diploma.

Mr. Temporary Speaker, Sir, Tom Mboya is the man who wrote the Sessional Paper No.10 of 1965. We may never agree with the sessional Paper No.10 of 1965 because of the inequalities that came with it. However, he was qualified that he is the one who organized airlifts with President J.F. Kennedy to take hundreds of Kenyans to the United States of America to acquire degrees they came back to develop this country; including the Barrack Obama Senior, Professor George Saitoti and many other renowned professionals in this country who went through that programme. The man who did that had barely a diploma. He did not have a university degree. Tom Mboya's footprints in the history of this country are forever recognized.

What about former President Daniel Arap Moi who never stepped into any university; he did not have a formal degree. Did you know that President Daniel Toroitich Arap Moi was one of the most brilliant students who had been invited to go and study in Alliance High School, but because someone hid his letter, he ended up going to one of the best in high schools in this country; Kapsabet High School. I am sure Sen. Cherargei will be proud of that because they share the same history with former President

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Moi. From there, he went through college to become a teacher and became the President of the Republic of Kenya for 24 years. Suddenly, because we are being reactionary, we are saying people must have degrees to be elected as leaders.

Brothers and sisters who have the privilege to be here, let us not block our colleagues from having opportunities to continue to serve. I do not want to mention people's names because I do not know many in this Chamber who do not have a university degree. However, I know a number in the National Assembly who are qualified leaders and have served their constituents for more than 15 years. Are you suddenly telling me that such people are not qualified? Because of this Bill, they will not participate in the upcoming elections of 9<sup>th</sup> August, 2022, since they suddenly become 'lesser' Members of Parliament? If they qualify, then why can other like them not qualify? If we say we are going to protect those who have already served Members of Parliament, we must protect those who have similar potential to become Members of Parliament. This is where I beg our colleagues to support.

I would like to remind us that Sen. Linturi was in the 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> Parliaments. There is no requirement for academic qualification for a degree, but look around. Who is not qualified to be in this Chamber? Why did Kenyans end up electing at least 90 per cent of us who have degrees to come here, notwithstanding the requirement that you do not have a degree to become a Member of Parliament? Why did they elect Sen. Sakaja, Sen. M. Kajwang, Sen. Linturi, Sen. Cherargei my former student, Sen. Halake, Sen. Nyamunga or a Doctor of Philosophy holder like Sen. (Dr.) Musuruve, or a professional pharmacist like yourself? Why did they choose us yet it was not written anywhere that you must have a degree?

The people of Kenya will factor these academic qualifications in choosing the leaders. You do not need to lock others because they will elect 90 per cent of us based on that academic qualification. You do not need to lock out the other 10 per cent who will come without a degree, but with a diploma and perhaps by the time our terms end they will acquire their degrees or even master's degree.

I beg the Senate to agree with me that not putting academic qualification to leadership does not mean that Kenyans are not going to elect leaders who have academic qualifications. It means that we give everybody an equal chance. If you are expecting 96.5 per cent of Kenyans to vote for us, we should also expect them to enjoy those rights and privileges that they are according us.

Every day, I am grateful that somebody somewhere could not go to school and does not have food or shoes, but is responsible for my greatness, being here, my popularity and visibility. I am visible here because someone in Embobut Forest, another one in Kalwal, Keiyo South, or another one who lives in a slums in Iten or Kapcherop is responsible for my being here. I wear a tie, look good, have a bodyguard, a good car and live in a good place because of such people. We should not do what is called *matharau*, by stating that we are the more privileged, educated and have more opportunities and look down upon the 96.5 per cent of Kenyans who do not have university degrees. Let us open the door for them to have a chance to be elected and grow from that election going forward.

Mr. Temporary Speaker, Sir, there is no empirical evidence that better leaders are the ones that have university degrees. I like what the Judge said in the decision of the County Assembly Forum (CAF) and others versus the Independent Electoral Boundaries Commission (IEBC) and others; that leadership in Kenya should pursue more ethics and values than papers.

Papers are sometimes procured unethically. How many leaders are in court now, fighting court cases because of the questions around their academic qualifications? They found this requirement to be an impediment to leadership. Therefore, some went and found people to do examinations for them in order to get a degree. I know of a person who graduated on a Sunday from a university that does not hold graduation ceremonies on a Sunday. While forging the date, he did not check properly.

Mr. Temporary Speaker, Sir, you know of this case and Sen. Sakaja knows of it too. I do not want to mention the name because it was in his Party. An aspirant said he had a degree from I think Guatemala or Ecuador, one of the South American countries. On the dock, he was asked the name of the airport where he landed when he took the plane to Ecuador. He said he could not remember because it was a long time ago. Who does not remember the first day of going to school?

The next question was what the language of instruction was. He said it was English, but that country only uses Spanish. That university has never taught in English.

*(Laughter)*

People are faking academic qualifications because it has become a mandatory requirement. I beg that you agree with me. The Lord's Prayer says; "lead us not into temptation". This law is leading Kenyans into the temptation of faking university degrees and qualification just to have a chance. It is not that they are sure they will be elected; it is so that they have a chance to compete for an elective position. We should not do that to our people.

Second to last, there is lack of non-conventional qualification where you rate somebody's experience. Experience is a very important thing over time. My father does not have a Class Eight or Form Four certificate. He went up to Class Three, and when he was done, he became a lay preacher.

After some time, his church organized for training of lay preachers to become evangelists. He went for two years training and qualified to be an evangelist. Remember he had to self-educate first in order to know how to read and write because finishing school at class three does not constitute, in most cases, that you understand English and Kiswahili.

While we were in primary school, he was also self-educating. He would buy to read and even called teachers at home to teach him. He went to college for a training organised by the church. After two years, he was awarded a certificate and became an evangelist. He took another ten years of experience as a preacher and then went back to school, trained again for two years and become a pastor. He later rose and became a reverend.

Mr. Temporary Speaker, Sir, if he was to seek for a Member of County Assembly (MCA) position, he would not qualify, yet he is leading souls to heaven. This is a more honourable task than being an MCA on earth. Such people do not qualify because we do not have non-conventional ways of testing experiences and qualifications that would, otherwise, make them leaders without this requirement for academic qualification.

I am aware that my colleague, Sen. Olekina, also has an amendment, but if mine succeeds, then it will not be necessary. Let us just say that to be a leader, it is enough to be able to read and write in English or Kiswahili. In the case of a person who is hard of hearing, then they should be literate in Kenya Sign Language (KSL). That should be enough for entry requirements. From there, then the people of Kenya can vet us.

There is no other no other employment in the Republic of Kenya that is equivalent to election. There is no vetting done to other people as much as those sitting in this House; neither is there a more challenging job than leading people. It was challenging to Moses, Joshua and Gideon from the Bible. It is challenging to leaders in this country even up to now.

If one can have the power and capacity to be vetted by, for example, 700,000 people in Meru County and you have been elected, what is a university degree compared to these rigorous vetting, where someone trusts you, goes to a polling booth, locks himself there and votes for Sen. Mwangi? What kind of faith and trust is that? How have you been able to convince somebody? It is one thing to say that leaders are buying votes and so on, but when that person enters a polling booth, he is alone and still has the audacity to mark my name. It is a strong statement of faith and trust.

I sometimes find people discussing leaders like Sen. Sakaja, who got 830,000 votes from the people of Nairobi City County. That is a huge endorsement. He has never met those people face to face, but they have faith in him that he will represent their views in the Senate.

That is a greater vetting than forcing someone to have a degree. In any case, we are not even sure of the degree qualifications of some of our top people who have become presidents and presidential candidates. Why should we subject other Kenyans to these requirements?

I beg to move and request Sen. Sakaja to second.

**Sen. Sakaja:** Thank you, Mr. Temporary Speaker, Sir. I rise to second this Bill. I will pick up from where Sen. Murkomen has started from.

An election is an expression of the sovereignty of the people. The people of Kenya are the ones who ultimately determine who becomes their leader, especially in representative positions. We need to differentiate that.

A representative position is like that of an MCA representing his people in a ward. The people in that ward in Suba or Mbita feel that Sen. M. Kajwang' is the one to represent them. He is an expression of their aspirations, has been with them in the community and they decide to choose him. It would be wrong to put an undue barrier to that. Representative positions are like those of Members of Parliament (MPs) of the National Assembly or even the Senate, when you stretch the meaning because we represent in a corporate sense of it.

I support this for the position of MPs and not for governor and President positions. Those are higher thresholds of decisions that are made individually but these others are collegiate institutions. That three per cent that Sen. Murkomen will sit in the County or National Assembly with other leaders and vote on issues collectively. They take collegiate responsibility of their decisions at that level. The value of that education then can be either compensated or assisted by those who they are with.

However, Mr. Temporary Speaker, Sir, express executive authority is different and it is really a Kenyan thing. To be President of the United States of America (USA), the biggest democracy in the world, the only requirement is to be an American citizen. There is no academic requirement. As long as you are a voter who is 21 years, you can become the President of USA and command the biggest economy in the world.

We have put those restrictions and they have brought about what Sen. Murkomen is talking about. We have people who have walked around with degrees, but have no classmates. No one can tell you that I went to school with so and so and cannot even show a photograph from school. No one says that a certain person taught them because they have gone and procured papers. These papers are everywhere.

For the executive positions of governors and deputy governors, it is necessary and it would be good to have that filter. I do not want to call it a filter because if you become Governor of Laikipia County, for instance, there is no university degree that will make you a good governor. You are in charge of water, health, finance and infrastructure.

Which degree covers all of those? You are not going to play a technical position. What we need is leadership that you can be able to get the best engineer, water person, doctors. You do not have to be a doctor to be in charge of Ministry of Health.

The Cabinet Secretary for Health, Hon. Mutai Kagwe, is not a doctor. Is he not qualified to be the CS for Health? In fact, there is no academic requirement for CS. The CS for Infrastructure is a banker. It is an argument that does not hold ground, unless you say you need a qualification in a specific field. What this was trying to cure was a time where I think in previous governments the President then would try and bring very illiterate people to leadership positions. I will not mention them because they were loved by their communities, but extremely illiterate people.

The Constitution then before 2010 said that there must be an aptitude test. There used to be an English and Kiswahili test. If you can communicate and read and your aptitude show that you can interact with a matter, rationalise it, deliberate it in your mind and make a decision, then you qualify to present yourself again to the people to elect you. It is not that qualification that gets you elected.

If it was so we would say that for you to be a Member of County Assembly (MCA) maybe have a diploma, Member of Parliament (MP) have a degree, Senator have masters. Governor would need to have a doctorate and then for you to be President you be a professor.

That would be if the extent of the education really had a direct correlation with your leadership capacity but it is not so. We have seen, people in this Parliament who have titles such as Professor or Doctor. In fact, there was one in the last Parliament I think the previous one from Nyanza. People used to ask from where and what kind of

professor he was. This is because when they speak, they rick of ignorance even on a basic debate on a very simple issues.

I like the example of the late hon. Tom Mboya and even more recent examples that we have heard. You hear them; you hear education. You can tell that this person has considered a matter. That was the case even for the late hon. Martin Shikuku, who held the record for debate in Parliament. He would speak for a week and speak very well in proper debate. He would understand the law.

We had people like hon. Paul Muite who did not even go to Law School and became a lawyer. He was admitted to the Bar because of his experience. People like Steve Jobs did not complete their university education, and others such as Richard Branson and even Bill Gates.

Mr. Speaker, Sir, hon. Tom Mboya did more beyond just doing the Sessional Paper, which I saw Sen. Halake does not like. If there was one person who did the heavy lifting on the journey to independence, it was Tom Mboya. He was the one negotiating the Littleton Settlement and the Lenox-Boyd Constitution.

When he went to London with Jomo Kenyatta and Jaramogi, they would be put in dormitories while he would be put up at the Piccadilly because he was the one who had been talking with the foreign office. From there, he was the one writing the letter, yet, he was in his twenties.

Educational qualification on paper is not a guarantee of leadership capacity and ability. Very many of our MCAs and our colleagues from the other House have approached us saying, "I have led these people. I have been a councillor there and became an MCA. I have led these people all this time. Why are you blocking us?" I am glad that Sen. Murkomen has come with the statistics that only 3.5per cent of Kenyans who hold degree qualification.

Mr. Speaker, Sir, if we were even to put threshold because it says that Parliament shall enact a law determining the qualification, the basic threshold should concomitant with what has been the universally available level of education. If you say that we have free education from primary school to secondary school, then let it be that if we are to move further.

Some people qualify to go to the universities because they got A's. We know people who got very good marks such Cs, C+, Bs but could not afford to go to university. You might find they come from such great poverty that they have to forego going to school so that they can start doing something that gives them an income to take care of their families.

Therefore, if there have been no equal opportunities in this country for everyone to attain that universally acceptable level education, then that should not be a barrier again for leadership. We should follow the expression of the will of the people in those representatives.

I thank Sen. Murkomen for doing this. I know many of these leaders we talk to when around the County Assemblies and even prospective people who want to come to Parliament have really been saying, "do not limit us. If my people feel that I can lead them; if Article 38 says I have the right to vie and to stand for election, please do not limit that."

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I insist for the seat of the Governor and the President there needs to be some threshold. It should all be an aptitude test. We have had people here such as governors in their last term and the other term who have papers, but there no education in them. Some were even struggling to read. Would you rather have that person who is struggling to read but has a document that says he has gone to school and he has been given the power to read or have a person who is a Certified Public Accountant(CPA-K), who has done up to Section six part three of CPAs? A pilot who is flying the Dream Liner today is not qualified to become an MP. Have you have ever sat at a cockpit and look at the calculation, the mathematics involved the physics yet, that person is not qualified to be an MP.

I think it is a legislation that does not make sense at all. We need to check for the issue of inability to interact, communicate, to read and understand and translate it to the people that you are serving. Even as you do that, I think it is upon us well to think about how we increase access to education.

I think the Government that comes in the Kenya Kwanza Government must make sure there is accessible universal education up until university. When that is done for a period of five to 10 years, then we can put that as the threshold. That would be because the education was available; you could have gone there for free, but you chose and decided not to.

Mr. Speaker, Sir, we have County Assemblies that debates such intricate issue of their people that they allow even vernacular for them to be able to debate. Why do they allow that? It is because leadership is not eloquence in English or knowing *methali*. It is being able to have a vision, to be trusted by your people to translate it to them and to lead them towards their destination.

I will not mention certain Women Representatives in this country who people thought were not literate, but if you go to their people, that is the leader they want. If you bring a Professor versus that lady, they will choose that lady and the people choosing her are very much educated. You will be surprised.

I think the people of Kenya have had a way of correcting. In those very marginalized areas incidentally, despite that requirement not having been there before they have brought us some of the most educated people. The highest number of doctors and people with masters in the National Assembly are from marginalized areas. They are from the North Eastern and Eastern parts of this country.

We have challenges with those from urban areas. When you see who is coming from the urban areas in terms of just that document, there is a disconnect. Therefore, Kenyans will be able to correctly choose. Yes, there is professor so and so, but there is also this person whom we have been with in the trenches. This person has helped us when we have had issues of famine and our children. This is the leader we want.

Therefore, let that decision, sovereignty and right in Article 38 be not limited to only three per cent of Kenyans. Let it be available to all Kenyans in those offices. Let the rest of us who feel that we have studied; we have a lot of qualifications and multiple papers go for Governor and President and the rest when they get there they can join us. For now, let us not limit the representative offices of MP and MCA.

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We have gone through this as a Justice, Legal Affairs and Human Rights Committee. There were two proposals. One by Sen. Murkomen and one by Sen. Olekina. We tried to harmonize because Sen. Olekina's was different. He was saying that for you to be a councillor, you should have been a former councillor as well as an MCA. It was a bit complicated in looking at it because you cannot choose when to have been a councillor.

Mr. Temporary Speaker, Sir, if you look at it the Constitution says that you can run for office if you are 18 years but who has a degree at 18 years? Who has a diploma at 18 years? It is contradicting itself.

Mr. Temporary Speaker Sir, a young person, at 18, can finish school and say the Constitution allows him or her to vie. Why is there this undue restriction? This is because it would take them another four to five years to go to university.

I urge Sen. Olekina not to try and convince us to make an amendment. Let us not do the same process twice in terms of two laws. The first one that came was Sen. Murkomen's. I think this is the way to go.

I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Murkomen?

*(Interruption of debate on the Bill)*

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, having consulted my colleagues, I would like to move the following Motion-

THAT, pursuant to Standing Order No. 31 (3) (1) that the Senate extends its sitting today until the conclusion of business appearing in Order No. 20 in today's Order Paper.

I ask Sen. M. Kajwang' to second.

**Sen. Kajwang':** Mr. Temporary Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

*(Resumption of debate on the Bill)*

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Kajwang'.

**Sen. M. Kajwang':** Mr. Temporary Speaker, I rise to support this amendment. When Sen. Murkomen made his intention to amend The Election Act, it was a time of heightened political activity.

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It gave the impression that this was another partisan amendment. People took positions based on who they did not like rather than what they liked. This Senate is the House that has proven that when we have controversial issues, we are able to look at the merit of the arguments put before us.

This is a matter that I want to debate, not from the lens of my political affiliation or political party membership, but out of my conviction on the kind of leadership we need in this country.

Sen. Murkomen proposes that we amend the law so that those who can run for Parliament and posts in county assemblies are able to read and write in the English or Swahili language or are literate in the Kenyan Sign language.

In essence, he is talking of basic literacy, which is defined as being able to construct a simple sentence in a language of choice. This is in response to the coming into force of the amendment that was passed by the National Assembly back in 2017.

We were in this House with Sen. Murkomen and that idea had originated from Windsor Hotel and Golf Resort, where there was a select Committee that had gone there. It was headed by Sen. Orenge and Sen. Murungi and other Senators.

I believe Sen. Murkomen, Sen. Mutula Kilonzo Jr. and others were part of that team. Amongst the proposals that they came up with, there is one can that they decided to kick down the road and that was the one on qualification of Members of Parliament (MPs) and Members of County Assembly (MCAs). They said let it take effect in the next elections so that it was not going to affect them in that election.

Mr. Temporary Speaker Sir, before that amendment in 2017, one required to have a certificate, a diploma or other post-secondary school qualification to qualify to run for MP or MCA. For the record, I do not support that postponed proposal that for you to become an MP or MCA, you need to have a university degree.

As I proceed with my contribution, I will attempt to make a distinction between basic literacy and basic education. I will conclude by saying which of the two leaders should have.

Sen. Murkomen has spoken about basic literacy but the Act before 2017 talked about basic education, which was defined as a post-secondary qualification.

To the question of how many Kenyans have a university degree, if the number presented by the Mover of this Bill is correct, 3.5 per cent, then restricting membership of Parliament and county assemblies to 3.5 per cent of the population is creating an elite that is unacceptable, given the kind of Constitution and nation that we are trying to build. This 3.5 per cent, in terms of regional distribution, is extremely skewed.

We know that in Northern Kenya, certain parts of the Rift Valley and Southern Kenya, the distribution of degrees might not be as dense as distribution of degrees in places like Nyanza, Central, Western and Eastern.

It is because of the concept of African socialism where we talked about developing high potential areas. It was also a legacy of colonialism that the schools and missions were established in certain specific areas and therefore residents of those areas benefited at the expense of people from the Northern frontier areas that were declared war zones for a long time all the way to independence.

Mr. Temporary Speaker Sir, it would be possible, if you came to Homa Bay County, that when you throw a stone it will land on the roof of a degree holder.

In fact, in some villages, when you throw a stone, it would land on the roof of a PhD holder, but that is not the case across the country. Therefore, to restrict political leadership to only 3.5 per cent of the population, would be discrimination of a large proportion of Kenyans.

In this House, we have 67 Members of the Senate. Most likely we have 150 degrees amongst us because many of us have 2 or 3 degrees but that is not the case everywhere. Secondly, what type of Government did we envision when we enacted our Constitution in 2010?

If you look at Article 4 and 10 of the Constitution, it tells the kind of nation we envisioned. We say we are a multi-party democracy founded on national values and principles.

The national values and principles include things like nondiscrimination, equality and participation of the people. Therefore, it would be unfair to openly and out rightly discriminate against the majority of the population because that will fly against the provisions of Article 10 and 4 of the Constitution.

Are we a democracy or a meritocracy? This has been the debate in many parts of the world. That; what form of government works? The Chinese believe that a meritocracy is the best form of government, but it is a meritocracy that is guided. That for you to become a member of the Communist Party of China, you have to be natured through the system. You have to start from the bottom. In fact, it is almost an unwritten rule that for you to lead China, you must have been a premier or have led some region or must have been in the party structures for a long time. That is a meritocracy.

In our Constitution, we chose a democracy. Democracy means that all members who have the right to vote, also have the right to vie to represent the rest of the population.

Where we must insist on meritocracy is the civil service. In Parliament, we must insist on people who have their ears to the ground and who are articulate and able to bring the concerns and wishes of their people to Parliament.

There is also the question of universal suffrage. Young people do not know that for some years in the history of this country, not everyone could vote. That in pre independence, there was a complicated voting system where it depended on the number of cows, or the acres of land that you had. Even women did not have the vote. People do not know that the United States of America (USA) that we so admire, not too long ago, black people did not have the right to vote.

In our Constitution, we said we are a Republic and based on universal suffrage where any Kenyan of adult age has a right to vote.

If we talk about universal suffrage as a principle of our representative politics, this business of people lining up to apply for voters' cards when they are already citizens of the Republic is nonsense.

I wish this House had the capacity. Given an opportunity, in the next Senate, we must abolish all these side laws we have that disenfranchise Kenyans. You will find

someone having gone through a rigorous process coming from Suba, which is a border Sub-county.

The kind of suffering that those of us who come from border sub-counties are subjected to is unheard of. When you tell someone from Kiambu the kind of travails you get through to get an Identification (ID) card, they will think that is a different Kenya. If you come from Kiambu, you can go to Huduma Centre at Telposta and within a few days, you get your ID.

However, if you come from Suba, Mfangano Island or Remba Island, you are guilty until you prove your innocence. They consider you to be a Ugandan simply because you come from the border with Uganda or Tanzania and there will be vetting. You will be told to bring all sorts of documentation which people who come from the centre of the country are not subjected to. We are disenfranchising Kenyans, yet we are saying that universal suffrage is an inalienable principle and concept to the politics of this country.

They said no taxation without representation. How many Kenyans are paying taxes and how many Kenyans are voting? There is a big debate. If you recall, Plato said that their democracy is the worst possible form of government because sometimes those who are enlightened are overpowered by those whom he thought did not have the skills or qualities to make decisions. However, we went for universal suffrage. Therefore, every vote should count.

The concern that led people to propose that we need to have degrees was an example in our counties where Members of County Assemblies (MCAs) have to oversee a County Executive Committee Member (CECM) with degrees or PhDs in financial matters. So, you have got an MCA elected because he is passionate about representing his people but has to deal with the County Integrated Development Plan (CIDP), the County Fiscal Strategy Plan and the Annual Development Plan (ADP).

Many people thought that the skills of a CECM should match those of an MCA but I beg to disagree. A CECM does more of a technocratic bureaucratic job. As I said earlier, meritocracy must be observed in bureaucratic and technocratic positions. CECMs doing that job require degrees but MCAs being representative need basic skills to represent their people.

The same thing has been said about Parliament. You will find Cabinet Secretaries coming before Parliament and running rings around MPs. I do not think they would run rings around MPs because of the absence of education in Parliament. In any case, this Parliament has got one of the best technical support structures I have seen elsewhere.

Thanks to being a leader of a committee, I have visited a number of Parliaments. What Members would lack in form of degrees, will be more than compensated by the qualities, attributes and technical skills that we have in Parliament.

If we use our Clerk's offices and bodies like the Parliamentary Budget Office (PBO) properly, you will not require to have a PhD in public finance for you to chair the County Public Accounts and Investments Committee (CPAIC). You will only need to have a team of analysts, accountants and systems people to advise you on how to make the right decisions as an MP.

Mr. Temporary Speaker, Sir, I said earlier that we must distinguish between literacy and basic education. That is where I have a problem with the Sen. Murkomen's amendment. I made it clear that I do not support the degree requirement but Sen. Murkomen is proposing that we move away from the basic education to basic literacy. Before the Act was amended in 2017, it required a post-secondary qualification.

Sen. Murkomen does not even talk of post-secondary, secondary or primary education. According to him, as long as you are able to read and write in English or Swahili, then you can come to Parliament. I have a problem with that.

What are the duties of a legislator? It is to legislate, represent and oversight. For you to be a good legislator, you do not need a PhD or a degree because, as I said, this Parliament has got very robust structures. We hope those structures can be replicated across our county governments.

You need to have basic education to be a good legislator. However, I do not subscribe that for you to be a good legislator, all you need to do is to speak in English, Kiswahili or the Kenya Sign Language (KSL).

There must be evidence that you went to a school and came out with some qualifications. At the end of the day, the Government is a complex organization that even if you went and studied metalwork at post-secondary, there will be something about metalwork that will be discussed in this House.

The other duty of an MP or MCA is to represent. Again, you do not need a PhD to be a good representative. What you need is basic education to represent your people well. You must be in a position to sit with the Kenya National Union of Teachers (KNUT) or health workers in your respective domain and have a basic understanding of some of their concerns so that you can represent them. In my view, to reduce the requirement to just speaking English or Kiswahili is dropping the bar too low.

The other responsibility is to oversight. You need certain basic skills to carry out oversight. You do not need to a PhD because there are specialized institutions. We have got the Auditor-General, the Ethics and Anti-Corruption Commission (EACC), the Ombudsman and several other constitutional institutions that have been established.

We are not saying that a perfect MP is a guy with a PhD in everything. A perfect MP is a guy with basic education, compassion, empathy, and a heart of his people that he holds dear and brings their issues to the House.

The other duty of an MCA or an MP is in budgeting. Once more, you do not need to be a Certified Public Accountant (CPA-K) or Fellow Member of Association of Chartered Certified Accountants (FCCA) because you will have the Controller of Budget (CoB) and several bodies supporting you.

Mr. Temporary Speaker, Sir, as I conclude, I do not support the lowering of the bar to basic literacy, but I support the establishment of the bar to basic education. That is the Elections Act before it was amended in 2017.

Let the record be clear. I do not support reduction of minimum qualifications to reading and writing in English or Kiswahili. I support the re-introduction of the provision of basic education, which is a post-secondary qualification and not a university qualification.

I want to propose that we go back to the law as it was before 2017. That is post-secondary qualification. Secondly, I propose that political parties be allowed to establish their rules.

Political parties are like clubs. For you to have the holy communion in the Adventist Church where I belong, you must be baptised. If you do not like it, you can go to the Legio Maria Church where you must also be baptised. If you do not like it, you can go to Dini ya Msambwa where for you to have the communion, you must be baptised. Let political parties decide the minimum qualifications for the people they are going to nominate.

Thirdly, academic qualifications should apply to nominations because nominations are a top-up to the existing skills already in the House. The skills in the House are subject to universal suffrage. Anyone with a degree or certificate in masonry can come to this House. However, when it comes to nominations at county and national level, let the degree requirement apply.

Fourthly, meritocracy should be the hallmark of our civil service. Let Parliament be representative and democratic but let the civil service be meritocratic.

Mr. Temporary Speaker Sir, let us not kick the can down the road. Let us not suspend that provision to the next election. Let us deal with it. In the interest of Sen. Murkomen in as much as I do not support the degree requirement, I also do not support the reduction of the minimum requirement to basic English and Kiswahili.

I support the situation that was there before the 2017 amendment which is basic education defined as a post-secondary qualification.

Mr. Temporary Speaker, Sir, I support and if there will necessary amendments we shall move them at the right time.

I thank you

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I know these amendments have generated a lot of political heat but let me congratulate my lecturer, Sen. Murkomen, for this wonderful thought to the hustlers. Most of the hustlers were not able to go beyond primary or secondary school because of the hardship of getting school fees.

In terms of access of education, Kenya has come of age. Education is a basic Human rights as per our Article 43 of the Constitution, on economic and social rights. Right to quality education is one of the basic rights. We have seen significant growth in terms of access to education since the introduction of free primary education from 2003. However, that should not be a yardstick in terms of qualification to leadership. When you read the text and form of Article 38(3)(c), it states:

“To be candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.”

So, it is a basic right that entitles each and every Kenyan to participate in the electoral process. The introduction of qualification as looked at under Section 22 which is the intention is to amend was not envisaged under Article 38.

What we should know is that leadership is God-given. For us, Christians, who believe in the Holy Bible, when you look at the book of Roman's, it says that leadership

comes from God. Therefore, it goes without saying that although we need basic or minimum requirements leadership---

I have seen many political parties have advertised that when you are looking for a certain position, you must have certain minimum requirements or qualifications. It is very important, and I agree with Sen. M. Kajwang' that political parties must agree on their requirements for any of the aspirants that are running for offices.

This is a straightforward amendment. Leaders come and go but the bottom line is service to the people. In the place where I come from, one of the MCAs who is a good friend of mine, hon. Fred Kipkemboi, who is representing Kapsabet Ward for the second term almost 10 years now, did not have a degree. However, he has been elected and re-elected.

Kenyans are looking beyond the degree. I read in the *Corridors of Power* that some of our colleagues were excited that some of their opponents will be technically knocked out for not having a degree. However, they should note that it is the decision of the people.

Let the people decide the leaders they want but I agree that at least, let us have some level of literacy so that we have some basic understanding of the legislative process. The legislative process is very rigorous and therefore comprehending and understanding should be our top priority.

In as much as Sen. Murkomen would want this issue to be read and write, I tend to agree with 2017 where we go with post-secondary education because we should show some progress from independence up to where we are now.

We should at least ask for post-secondary education. After five or ten years, we can move to the level of having a degree qualification or a diploma.

You should have at least a form four certificate and a certificate from a university or a college will suffice. In upshot and with tremendous respect, we must also make progress as leaders. This should not be a license to the children who are in school not to go to higher institutions of learning simply because Parliament has passed that to be a Member of Parliament, a Member of County Assembly (MCA) or a women representative; that you do not need to go to school to win a seat.

We are just protecting the interest of Article 38 on political rights. However, as leaders, we should know that we are role models and mentors for the people who lead. Therefore, we need to at least have some basic form of education, so that when we go to schools and other forums, we can tell the students to get encouraged.

In as much as it is not a legal requirement if we pass this amendment, my only challenge to leaders is that we should at least get some education so that we become role models and mentors. We do not want to see children not going to school or college simply because the Senate or the National Assembly has passed a law to say that one only needs to read and write to be become a MP or an MCA.

It is important because most of our grandmothers and fathers used to only learn how to read and write so as to read the Bible. It is very interesting. That was the only motivation. The only motivation that my grandparents had to know how to read and write was to read the Bible.

Going into the future, we should encourage our colleagues; who because of different factors were not able to pay school fees because we are in leadership. If you walk around your county, you will meet a number of students who are brilliant but because of lack of school fees or other factors, they were unable to go to higher institutions of learning.

I agree with Sen. Murkomen that some of us who grew up through bottom up or hustlers, we had to stop our education at some level so that others can continue or you can go to a *kibarua* for the family to fend for themselves. There are so many other factors that may have led to lack of a university degree. Education qualification is not a yardstick of a good leader. It is just among the many factors that make a leader. Kenyans should be allowed to decide the leaders they want to elect and how they want to elect them.

I know the political class has generated a lot of heat on this matter. As I said initially, I know a number of people in this House who were excited that the degree requirement will be there so their opponents would disappear. I urge them to change the strategy. Let the people decide because many people imagine that when you do not have a degree, you are stupid. There is a Member of Parliament who had counted and said that out of his eight opponents, six of them do not have a degree. He was excited that things were looking good during nominations. Unfortunately, things have changed.

Sen. Murkomen has a lot of support because a number of MCAs have called me. The people of Nandi County have told me that I have to support Sen. Murkomen's amendment so that we give what we call free hand. Let the people elect the person that they want. If they want a person with a PhD, so be it. If they want someone who just knows how to read and write, so be it.

The only problem I know is the Salaries and Remuneration Commission (SRC). We need to find ways to deal with that animal, because it will have an excuse of saying, before we set terms of engagements, emolument, allowances and salaries, we must look at the qualifications in place. The SRC should know that this issue is beyond their paycheck. They are punching above their weight. We are the lawmakers; we make and amend the law. We legislate and oversight.

Mr. Temporary Speaker, Sir, the Salaries and Remuneration Commission (SRC) will insist that one must be able to read and write. Hon. Barngetuny and Hon. Mulu Mutisya were good leaders in this country but they did not go to any school and yet they were able to lead our people. For an MP, the SRC should look at the job description and not to be busy with academic qualifications. That has been the argument for a back and forth fight.

I hope the next Parliament should deal with this animal called SRC. It should know that their meritocracy should apply to civil servants and professional courses only. For example, it should apply to the very good staff that we have here because of the legislative agenda in Parliament. If you want to be a doctor, you need some qualification. At the end of the day, the SRC should relook at its application of the law and ensure they do not punch beyond their paycheck.

Leadership does not mean coming here to just legislate. You must be able to communicate to the people in the village. They might not understand the English I speak



but when I switch to my local dialect, I will be able to explain to them what happens in the Senate, what needs to be done and the legislations we are pushing.

The bottom line is that one should learn to read and write in English, Kiswahili and their mother tongue. In fact, Sen. Murkomen should have added that. I can tell you for free that on this, some people will lose. At the end of the day, even if we come to the Senate, you should also be able to go back and communicate to the people.

We do not want to only speak English and Kiswahili. We also need to speak Dholuo, Kalenjin, Kikuyu and other languages across the country. You should know your local language. Representation is being able to represent your people on the Floor of the House and be able to communicate back at home in public barazas, *vijijis* or funerals. This is very important so that people feel represented.

Mr. Temporary Speaker, Sir, the aspect of representation includes language. Where you are, you are the face of representation. The fact that you are somewhere you should know that the culture, values, language and societal expectations are part of the representation that we are talking about. What Sen. Murkomen is trying to tell the country is simple; we should look beyond academic qualifications. We should look at the culture, values, societal expectations and very many other aspects that we call salient features.

Mr. Temporary Speaker, I know we have time and we can even extend up to midnight but let me wind up so that so that other colleagues can also have an opportunity to speak. However, our colleagues want to go home and this is a busy season where people are making phone calls and lobbying for various seats.

I hope our colleagues in the National Assembly will have the vision that we have. Academic qualification is not a yard stick for good leadership. They should know that leadership is beyond academic qualifications. There is more that involves leadership. All of us seated in this Chamber know that leadership is a unique calling. Even with a Doctorate of Philosophy (PhD) and whether you know how to read and write, there is a unique way in which leadership is done.

Mr. Temporary Speaker, Sir, I appeal to my colleagues to pass this Bill the way it is. In the same breath, I urge our brothers and sisters in the National Assembly to process this Bill. If there are amendments to improve the Bill, I know Sen. Murkomen will not have a problem.

Let the people decide. Let us not come here and dictate and imagine that we are a privileged political class where we imagine that since we are in Parliament, we are self-protecting ourselves.

Elections have shown that 70-80% of Members of Parliament in any election are likely to lose in any following election. We have many professors and well read who have not been voted back. It is a double-edged sword.

Therefore, there are many young people who want to contest but are yet to get their degrees but they have their form four certificates. They would like us to open the country. Even if you are 21 years old and you want to run for presidency, why should you not run? I have gone to many functions where somebody speaks very well, and upon asking who they are, you are told they are in second or third years at the university. You can see people are willing to support them.

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We have so many “hustlers” such as *boda boda*, *mkokoteni* guys as well as *mama mbogas* who want to run for these seats. I know many people will not agree with us but let them be given the opportunity to run. Let the people decide. Even if you know how to read and write, we have competent staff of Parliament that can ensure that anything that you want to legislate will be processed.

Somebody can argue that people who will be elected might have limited scope of education, therefore it will affect their legislative output. That is not the point. The point is that the person who needs to read and write will have enough professional staff who can come and assist them and ensure that they deliver on the work of representation, legislation and any other form of oversight that we have as National Assembly and the Senate.

Mr Temporary Speaker Sir, nominations are coming up. I have seen political parties saying one must have a degree or something like that. I appeal to my colleagues that we process this amendment quickly because of the timelines of nominations and submitting to the IEBC.

I hope the same way President Kenyatta - as soon as he lands from Dubai - will be very quick in assenting to this Bill the same way he has been in signing the Political Amendments Bill. It will assist many Kenyans.

I thank you, Mr Temporary Speaker, Sir. I support.

**Sen. (Dr.) Mwaura:** Thank you, Mr Temporary Speaker Sir. I rise to support the Amendment by Sen. Murkomen. There has been a lot of complaints lately from all our political supporters that there is no way you have a situation where if you do not have a degree, you cannot be a Member of Parliament. It has not been proven scientifically that when you have a degree, you are a better legislator.

I know for sure this parliamentary business is a rather middle-class engagement because there is a lot of English being spoken. Even without that qualification, we have still ended up having educated people. The last time I counted, out of 349 Members of the National Assembly, about 105 had a degree. That threshold is much higher in the Senate.

You therefore do not need a law to compel Kenyans to elect Members who have gone to school. You will end up having people having fake degrees just to qualify to be a Senator or a Member of the National Assembly or a Member of the County Assembly (MCAs).

It is also true that we are increasingly seeing younger generation of people who have gone to school being elected as MCAs. For example, we have had doctors such as Dr. Mbae from Nakuru County. We also have engineers and economists like my friend, Solomon, who is MCA for Ndenderu. There are many people who are qualified to become MCAs and have been elected when they have a degree or so. This is a matter of time not legislation. It is not really a question of legislation.

In any case, if you are to compare in the corporate world, the late Bob Collymore never had a university degree, yet he was one of the celebrated Chief Executive Officers (CEO) of the biggest Telecommunication Company that is Safaricom.

Mr. Temporary Speaker, Sir, I know we make some of these laws and say let us have one of our own to be there. I can say without a doubt that there is urgency in

having legislators who are educated, especially because of the nature of the business in the House.

I am sure even our clerks can agree with us, it takes sometimes a well-educated legislator to prosecute matters, to sit through Bills and make arguments. I have also noted very curiously that people come to Parliament very naïve. I have been privileged to see this twice. There have been Members with very limited debating skills, for example.

I remember one of the greatest ladies from Nyanza Region, who once asked me when we were new in the Eleventh Parliament, Sen. Mwaura, how are you able to debate for 10 minutes? She asked me this question but today I see her as one of the best legislators' - Women Representative - from that region.

When you look at the Senate when we began, people like Sen. Orengo and Sen. Wetangula were the gurus. However, you can see, as we come to the end of this Parliament, skills have improved.

In fact, Parliament has become a very good schooling for many people with regards on how to engage publicly.

I do not really carry this aspiration that we need to have an elite club that is self-effacing so that we are the only ones who have gone to school and therefore rule over the country. Let the people decide this in the ballot.

In fact, when I was a student at the University of Leeds in England, we used to ask ourselves this question, do you need to have professors and PhD holders lead the country because they have instilled knowledge and are able to superintend over the affairs of the public in a more reasonable manner? Or do you want to have the first 100 people at a local polling center be elected for whatever position?

The answer is always that you want the first a 100 people to be elected. This is because there is a lot of latent knowledge that may not necessarily be resident within the conference of the disciplines of our society that would largely be emanating from a westernized if not a western society. That does not necessarily mean that therefore those solutions are only applicable to a country such as ours.

You need people with the right kind of skills. In fact, that is the reason why, every time we go to political rallies, we first use English. For example, when the President is addressing the Nation, he starts with English and later on speak Kiswahili and even uses mother-tongue. There is a lot of wisdom that you find in terms of communication to the people.

Education gives you the background and some kind of specialisation. However, it does not necessarily have to be legislated for such a thing to happen.

I know for sure for some of us, it will be advantageous to have those that we are competing with not to contest but it is unfair. This is because this is a form of discrimination that is also unconstitutional according to Article 38 on people's rights. So, if they choose to have a leader who is a reflection of themselves because majority of Kenyans do not have degrees, then what do we need to do as Parliament to ensure that those rights are actually accrued?

We cannot therefore pass the legislation that would make that not possible. May be, somebody will ask, what happens to the issue of qualifications? Yes, it is true, but in

a political job, it is not like an appointed position where you go and apply for a job. That would be different if that were to be the case.

I know for sure to a certain extent we have done it because it is now constitutional, that for you to be a governor or President, you should have a degree. This is because that is an executive role where you implement decisions that are made by Parliament and such other bodies.

Parliament is a source of law. So, it can be the informality that constitute the formal. Therefore, it needs everybody from all walks of life as long as they have attained excellence. They can be elected from traders, professionals, teachers, fishmongers and the best sweeper in town if they so convince the electorate that they can be elected, then so be it. That also enhances the sacrosanct principle of equal opportunity for all.

I support and also dissuade Sen. M. Kajwang' from believing that a degree should apply to only 20 Senators and the 12 Members of the National Assembly who are elected on first-past-the-post to represent special interest groups as per the party lists.

I beg to differ because when you are elected to Parliament, whether on first-past-the-post or through a party-list, you are supposed to have qualifications just like any other legislator. That will be discriminatory. It may look positive but it will not apply as such because whatever is good for the goose is good for the gander. We need to ask ourselves questions.

Earlier on, we had a preoccupation for presidents attending all university graduation ceremonies because they were chancellors of all universities. They could have even 20 honorary degrees conferred on them. That did not necessarily lead to a better country. I do not think those that got those accolades ended up becoming the best presidents or vice presidents.

It is important to accept that there is hue and cry especially from MCAs. Most of them are the local merchants, *boda boda* riders, *mama mbogas* and carpenters who have the support of "Wanjiku" to represent them in the county assemblies.

We were to demonstrate that people who have got higher levels of academic qualifications qualify to be better leaders. Kenyans would see for themselves and would therefore make that decision without any form of legislation.

To add to it, there is a way in which when you have too many people who are educated in the leadership system, they tend up mediating or interlocuting conversations and decision-making to the extent that they become lofty and far removed from the people. Therefore, we need to have a proper mix of people who have gone to school and those who are street smart. That mix is actually the full essence of representation. Therefore, this Bill needs to be amended.

I also agree that one needs to have some kind of post-secondary education and not just being able to read and write because that lowers the bar too low. Remember this has got an effect on how MPs are categorized in terms of the hierarchy and order of precedence in this country. If that is the case, our remuneration will be lowered way below even the position of commissioners and other office holders that we vet.

One may say this is a reaction of those that have degrees or professionals who feel they are better than politicians who get elected into office. Yes, but equally true is the fact that we have quality representation. Therefore, we do not need to lower it further down.

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We need to have a middle ground where it should not necessarily be a degree but post-secondary education for all MCAs, so that we have some minimum standards when it comes to prosecuting the agenda both in the county assembly and national level.

It is good to note that it has been documented that those who have good communication skills possess the world. The power gap is not a matter of conjecture. However, like where I come from in Central Kenya, people who tend to be elected more often than not are businessmen and women compared, for example, to Nyanza Region where Sen. M. Kajwang' comes from where there are more professors and people who can speak good English.

Therefore, these are just local regional dynamics based on our history but whoever came up with this law may have meant well for the country. However, we are yet to achieve middle income where people will have attained college education. This debate is not just isolated in Kenya.

In 2016, one of the reasons why Hillary Rodham Clinton lost is because she based her campaign on college educated people who are meant to be the majority in America and women because of the hidden bias against women in American society. She did not win the college vote although she won the popular vote. We are yet to attain that status.

Looking at the statistics that were presented by the Mover that it is only 3.6 per cent, then such a legislation will be elitist only akin to the apartheid laws of South Africa in the racial discrimination era. We, as Senators, being the House of reason and decision would want to ensure that we protect our counties because they are yet to have the right kind of professionals to lead their people.

I wish this was the case for the country but the truth is that we are not yet there. Sometimes it is good to imagine that because of this idea rote learning, it does not always mean that because you have a degree, you have gone to school. Even for PhD, of late, there have been serious complaints. Remember the case of Jomo Kenyatta University of Agriculture and Technology where people were wondering how comes there were many people who were getting PhDs the other day only to realise that there were people who were doing degrees for others.

Let us have an honest and robust debate about this issue but I do not think that just simply having an academic qualification makes you a good leader. If that were the case, then the *Mau Mau* would not have gone to fight for Independence because they were not properly educated.

The problem with our universities is that they are no longer populated with faculty and learners in pursuit of intellectual rigor and discovery. They are mostly daytime career people, evening moonlighters and students whose goal is to get that piece of paper to impress upon parents and employers. This is the essence of an academic pandemic, people who are rote learners, people who think they went to school to learn for their parents. Those are not the kind of people who you start saying that they should be Members of Parliament or MCAs.

Let natural attributes be clear. Let the people have the opportunity to choose. Just to caution, when you come to fill human resource establishments, mere qualifications do not relay to competence. They only signal that competence. It has been documented that

some of the people who perform well at work are diploma holders and many Senators here will bear me witness.

Let this matter rest but I would implore upon the sponsor of the Bill, Sen. Murkomen, to consider making some amendments so that you have some lower threshold but at the same time not making it so stringent that those who do not have degrees may not be able to lead this country.

Mr. Temporary Speaker, Sir, I support.

**Sen. Mwangi:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. From the onset, I would like to say that this idea is very good. It is a very great idea brought to this House by a great man called Sen. Murkomen.

I do not really know what we are up to because Kenya has borrowed a lot from other countries in the world. This law is not in any other country. I do not know why we have to say that for one to be a Member of Parliament, he must have a university degree.

In the USA, they have had 12 presidents who had no university degrees.

Mr. Temporary Speaker Sir, President Abraham Lincoln, who did a lot of work for his country, never had a University degree. In Britain, Winston Churchill never had a university degree. John Major also never had a university degree. This country has in the past been ruled by leaders who never had university degrees.

When we talk of a lawmaker, we mean a man who is diverse and not necessarily a PhD or a degree holder; a person who looks at issues in many dimensions. When we say we only want three point, five percent of the Kenyan population to be the only ones who can come to this House. What are we going to do to the 96.5 percent? Who is going to represent those without university degrees in this House?

This idea had not been well thought of. It is an idea that was brought to Parliament by cowards who thought that they wanted to get rid of those without university degrees from coming to this House. I was in the 7<sup>th</sup> Parliament and we had Martin Shikuku who could talk for four days consecutively without any other Member talking. We had to change the Standing Orders to facilitate other Members to have a chance to contribute. We have had professors in this Parliament who have never opened their mouths to say a thing. I do not know where we want to take Kenya to. This is a discriminatory law and for that case, I fully support Sen. Murkomen's suggestion that we get rid of that law in print.

You only need to know how to read and write to be in this House. That is what was in this country before. They used have some Kiswahili tests if you had never done Kiswahili in school. They used to have to convene a panel that used to test somebody on whether he or she could speak, and write Kiswahili. The same applied for English. Those who wanted to come to Parliament, even without going to primary school could not be prevented. They could go and contest for people to elect them to come to Parliament.

Over the years, we have seen some of the best legislators and not even those you call professors. It is very good to have professors here. However, we should not turn this Parliament into a university. This is Parliament and we should understand it as that. We should deal with deal with parliamentary issues not university issues. Professors who feel that they do not want to come to Parliament can continue teaching at the university.

They would do a good job, and they have been doing a good job. Those who come here should be active in legislation and other activities that Parliament is engaged in.

Mr. Temporary Speaker, Sir, it is important to know, that we have a country for today and tomorrow. We do not only have a country for today, that one single person or a group of people can come and feel that they are threatened in the constituencies or counties by somebody without a university degree and then comes here and influences legislation that for one to be a Member of Parliament he must have university degree. We need to go further than that.

Mr. Temporary Speaker, Sir, we need to go further than that. We need to be diverse as we look at issues affecting this country. You are never a professor for all the fields. You are perhaps an Economist and not an Engineer. You are a Doctor or this and not the other. We should not think of locking people out on grounds that they do not have university degrees. We have seen them contribute and do a wonderful job.

President Moi never had a university degree but he did a lovely job. I know some people blamed him but I also know there is no leader who has never been blamed by a section of the people that they lead. We should ensure that whatever we do in this House, is not to benefit an individual or a few individuals just for recognition. Their superiority in education performance should be recognised. We will recognise them even if they come here and meet others who are not of their level.

Otherwise, if we really wanted to legislate on education, then we would have said that you must be a professor to be an MP. We have some professors here but they are not many.

The electorate should be the ones to determine the leadership they want in their various constituencies in counties. It should not be determined by a few people who feel that they are threatened. You are an elected Senator and for people to elect you, you went through thick and thin. People evaluated you and really knew that you are the kind of representation that they would love to have in this world. Who is that individual or group of a few individuals who think that they will legislate and oppose the people who have elected you to come to this House?

As I said before, 96.5 per cent of people in this country do not have university degrees. However, they also need representation. We want their voice to be heard here. We want the voice of every Kenyan in this country to be heard, for determination of national issues through the laws that are legislated in this House.

In my county, we had the late G.M. Kariuki whom we respected and honored. We continue to honor him posthumously. The late G.M. Kariuki did not have a university degree but was one of the best debaters in Parliament. Do we want to ensure that we lock out such brains? Do we want to say that those without university degrees do not need to be represented here? We need a place for everybody in this House.

Mr. Speaker, Sir, this law intending to lock out people without university degrees, is the highest level of autocracy. You are simply saying out of the 3.5 per cent of Kenyans who have a university degree, a few of them are the ones who will be elected to Parliament.

Mr. Temporary Speaker Sir, out of the 3.5 per cent of Kenyans, a few of them who will be elected are the ones who come to Parliament. We need every contribution of every Kenyan in this House.

For example, as I said before, the requirement is only one, know how to read and write. In great countries like Japan, they do not have these kinds of qualifications that one must have a university degree. They give that freedom to the electorate to elect whoever they want to be their representative.

I think we want to live outside this world. We want to make legislation that is not in any other country because of either hatred, or to ignore some members of the society. We do not want contributions from them because of our own reasons.

It is my appeal to the National Assembly to see the sense of restoring the order registration, that is the Political Parties Act, 2011. There should be at least a standard of education that is post-secondary school. Even at form four level one is able to legislate, come here and speak out his mind and the minds of the people he is representing.

I beg to support.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Mwangi. Sen. Halake? Sen. Linturi? There being no other request, I call upon the Mover to reply.

**Sen. Murkomen:** Mr. Temporary Speaker Sir, thank you very much. I thank my colleagues for their great contributions on this very important subject. I am glad that we all now agree that a degree qualification in Kenya now would amount to unfair restrictions on the political rights of our citizens as per Article 38 of the Constitution.

I also thank all my colleagues for their additional contributions and particularly suggesting that perhaps we might need to add a slight qualification, such as post-secondary qualification certificate as used to be before. If that be the case, I am willing to entertain and support any amendments that will be within the reasonable standards that will still protect the idea that you want to have as many Kenyans as possible have the right to exercise their constitutional rights as enshrined in Article 38 of the Constitution among others.

There was a suggestion by Sen. M. Kajwang' that for those to be nominated, they must have a degree considering that the party is picking from a people who are not being elected. That should be left to the wisdom of the party. All MPs who will come here will not have two categories. The Constitution itself considers those in the party list as being elected.

The reason our colleagues who came through the party list are here is because the people of Kenya went to the polls knowing that if we vote for more Senators from this party, these are the kind of Senators that will also join the Senate through the party list. Therefore, I do not think that it is wise for us to create a list of qualifications of the same people who are coming to serve in this Chamber.

I would perhaps decide that in my party, I want to nominate a person who is a Certified Public Accountant (CPA-K), who is diligent in public accountability so that he can go and serve in the relevant Committee of accountability in the Senate.

If you followed clearly what I was talking about here, there are seven qualifications that are equivalent to having a degree but are not degrees.



Mr. Temporary Speaker, Sir, you can have a diploma and a higher diploma in nursing but that is not characterized in this country as a university degree. Then you punish those people who have the qualifications and should serve in this Chamber.

Sen. Cherargei captured something important. The lawyers present here are not experts in legislative drafting. We depend on the department that deals with legislative drafting to draft for us and we have the best of them.

With my high qualifications on matters of law, I still cannot reach my teacher, Sen. (Prof.) Kindiki. However, Sen. (Prof.) Kindiki and our Senior Counsels generate an idea and give it to our staff if we want to draft a Bill. We are not legislative drafters yet we have higher degrees and long-term experience on matters of law.

Mr. Temporary Speaker, Sir, if there is a colleague here who is a nurse with a degree in nursing or medicine and we are discussing legal issues, they will depend on the staff.

Let us not say that the fact that someone does not have a degree qualification, they have no capacity to move Motions, laws and legislations. Hon. Shikuku, Hon. Tom Mboya and many others did it here in this Chamber. They did not have degree qualifications but were passionate legislators.

There were other prominent Kenyans like the former Vice President and later President Daniel Moi. He moved a lot of Motions on behalf of the Government in this Chamber without having a degree qualification. Did President Jomo Kenyatta have a degree? He wrote books, lived in London and was educated. I am not sure whether he came back with a degree.

Mr. Temporary Speaker, Sir, I do not know the education level of Harry Thuku and Achieng Oneko but they are our heroes. Hon. Jaramogi Oginga Odinga was not a degree holder but he wrote many books and was a very eloquent legislator in this Chamber. We are privileged to be speaking on the same Floor where those heroes spoke.

Let us not use degrees to block our colleagues. Sen. Halake shared with me a few of her ideas. Where she comes from and this is the story of many pastoralists' areas, the cost of education is high. Getting a teacher to be posted in Wajir, Isiolo and other marginalized areas is a problem.

When insecurity occurred, many teachers who did not come from those regions left those parts. There was a crisis. That means the percentage of those educated becomes more acute when you go to these marginalized areas.

Therefore, let us not deny them an opportunity to elect leaders they deserve. Let us not reward privilege according to Sen. Halake. She insisted that this is not to say that education is not important for leadership. I agree with her.

People should not flip the conversation. We are just saying that we should not erect roadblocks for people who want to come here and then continue their education.

Like Sen. Cherargei said here, let me go and stand there and tell the people to elect me because I have three degrees. Let another person also tell the people to elect them because they do not have degrees and so they are alike. Let those that do not have degrees vote for each other.

If you are not careful, you will be beaten by the hustler in the village because people want a person who understands their issues and can represent them.

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Mr. Temporary Speaker, Sir, I want to appreciate my colleagues. I also make a personal call to as many Senators as possible tomorrow. The IEBC is issuing timelines continuously. Those who will be affected are those seeking to become MPs because MCAs have already benefitted from the court decision. To make this be of use, we should vote tomorrow. We should have the Committee of the Whole latest on Tuesday in order to accommodate the amendments and send the Bill to the National Assembly.

I will be making personal calls to all the Senators tonight to be available tomorrow for voting on this subject matter, if possible, so that we work on this issue on Tuesday. I think it is important for us to guide the nation on this subject.

Mr. Temporary Speaker, Sir, with all due respect to all of us who out of luck and privilege--- There are people we went to primary school with. For some of us, maybe two or three of them have a degree. In my case, there is none because some ended at diploma level. Let us give them a chance the same way they have given us a chance to come to this House.

Mr. Temporary Speaker, Sir, I beg to move. In line with what I had said earlier, I request you to defer putting of the question to a later date pursuant to Standing Order No.61(3).

**The Temporary Speaker** (Sen. Kinyua): The request has been granted. We will put the question tomorrow.

*(Putting of the question on the Bill deferred)*

#### ADJOURNMENT

**The Temporary Speaker** (Sen. Kinyua): Hon. Senators, having concluded the business appearing as Order No. 20 in the Order Paper as resolved, the House stands adjourned until tomorrow, Thursday, 17<sup>th</sup> February, 2022, at 2.30 p.m.

The Senate rose at 7.06 p.m.