

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 14th May, 2025

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

(The Clerk-at-the-Table consulted with the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order, hon. Senators. We now have quorum. Let us settle down.
Clerk, you may proceed to call the first Order of business.

PETITION

GRABBING OF PUBLIC LAND IN KITHIMA LOCATION, BUURI EAST SUB-COUNTY, MERU County

The Speaker (Hon. Kingi): Hon. Senators, Pursuant to Standing Order No.232(1)(b), I hereby present a Petition that has been submitted through the Clerk by

Mr. Daniel Mutuma Rukaria and other residents of Kithima Location, in Meru County regarding public land grabbing.

As you are aware, Article 119(1) of the Constitution states-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

The salient issues raised in the said Petition are as follows-

THAT, Kithima Location, Buuri East Sub-County, Meru County, does not have a public health facility, public primary school or a public secondary school. This situation has forced residents to walk long distances to access health and educational facilities;

THAT, land had been set aside for public amenities as follows; Land Parcel No: Kiirua/Nkando 704 for Kithima Dispensary; land Parcel No.Kiirua/Nkando 702 for Kithima Primary School and Land Parcel No.Kiirua/Nkando 590 for C.C.M Secondary School. However, these parcels of land have been grabbed and are currently occupied by private developers, therefore, denying development of these facilities in the area; and,

THAT, the Petitioners have made efforts to have this matter addressed by the Ministry of Lands, Public Works, Housing and Urban Development, the National Land Commission, the County Land Management Board and the Meru County Executive Committee Member for Lands, Physical Planning, Urban Development, Housing and Public Works, but these efforts have not been successful in resolving the matter;

THAT consequently, the Petitioner prays that the Senate intervenes and investigates the matter with a view to-

- (1) Have the illegal occupants of the said parcels of land evicted;
- (2) Having the mapping and boundary demarcation of the aforementioned parcels of land to resolve the existing encroachment issue and restore the land to its intended use; and,
- (3) Make recommendations necessary to protect public property and the constitutional rights of the residents of Kithima Location.

Hon. Senators, Pursuant to Standing Order No.238(1), I commit the Petition to the Standing Committee on Land, Environment and Natural Resources for consideration.

In terms of Standing Order No.238(2) (a), the Committee is required, in not more than 60 calendar days from the time of reading the Prayer, to table its report in the Senate for consideration.

Thank you.

*(The Petition was committed to the Standing Committee
on Land, Environment and Natural Resources)*

Next Order, Clerk.

PAPERS LAID

The Speaker (Hon. Kingi): The Chairperson, Justice, Legal Affairs and Human Rights Committee (JLAHRC).

Where are the Members of the JLAHRC Committee? Majority Leader, can you come to the aid of your Chair? There is a Paper that is supposed to be laid on the Table.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, I thought I had trained very many assistants, but nonetheless--- There were many others besides Sen. Methu.

REPORT ON CONSIDERATION OF THE COUNTY CIVIC
EDUCATION BILL (SENATE BILLS NO.4 OF 2024)

Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 14th May, 2025-

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the County Civic Education Bill (Senate Bills No.4 of 2024).

REPORT ON CONSIDERATION OF THE KENYA POLICY ON PUBLIC
PARTICIPATION (SESSIONAL PAPER NO.3 OF 2023)

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023).

I beg to lay.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Hon. Senators, before I call you for purposes of requesting for Statements, allow me to make the following Communication.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF FROM ST. FRANCIS KATANGI
BOYS' SECONDARY SCHOOL, MACHAKOS COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from St. Francis Katangi Boys' Secondary School in

Machakos County. The delegation comprises two teachers and 39 students who are in the Senate for a one-day academic exposition.

Hon. Senators, in our usual tradition of receiving and welcoming guests to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I do not see the Senator for Machakos in the House. I will, therefore, delegate this to Sen. Beth Syengo, in under one minute, to extend a warm welcome to them.

Sen. Beth Syengo: Thank you. Mr. Speaker, Sir. I take this opportunity to welcome the students of Katangi to the Senate. Make sure that you learn all that you can within this visit. I remind you that Kamba people are great. Learn to become great as the Kamba leaders who have done great things for this country.

Thank you.

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.53(1). Proceed, Hon. Sen. Edwin Sifuna, Senator for Nairobi City County.

QUESTIONS AND STATEMENTS

STATEMENTS

DEVELOPMENTS ON LAND LR No.5871/2 IN NAIROBI CITY COUNTY

Sen. Sifuna: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on a matter of county-wide concern regarding the parcel of land known as LR No.5871/2, situated near Thika Road Mall in Roysambu Constituency.

The land was previously occupied by the defunct Uchumi supermarket chain and is currently under the control of the Kenya Defence Forces.

In the Statement, the Committee should address the following-

(1) The current use and development status of the parcel of land by the Kenya Defence Forces.

(2) How the Kenya Defence Forces' use of the land will benefit the local community, especially those of Roysambu Constituency, comparable with the public benefits that citizens in other regions living around military installations enjoy, including but not limited to access to schools, hospitals or other community amenities.

Thank you.

The Speaker (Hon. Kingi): Senator from Busia County. Is that correct?

Sen. Okiya Omtatah: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Andrew Omtatah.

Sen. Okiya Omtatah: Mr. Speaker, Sir, I have two statements. Can I read them out loud?

The Speaker (Hon. Kingi): Proceed.

HANDING OVER OF COOKING GAS HANDLING FACILITY
TO A PRIVATE FIRM IN MOMBASA COUNTY

Sen. Okiya Omtatah: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Energy on a matter of national concern regarding the handing over of a massive cooking gas handling facility to a private firm.

Mr. Speaker, Sir, the Kenya Pipeline Company (KPC) has been left counting losses amounting to millions of shillings after its plan to develop a 30,000 metric tonne Liquefied Petroleum Gas (LPG) facility in Mombasa, aimed at making gas more affordable and accessible to consumers was halted.

The project will now be undertaken by a private firm, Asharami Synergy, leaving KPC to bear the costs of preparatory work already completed. Kenya Petroleum Refineries Limited has now announced that it will lease 23.19 acres of its land to Asharami Synergy on a 31-year lease to develop, operate and maintain the plant.

In the Statement, the Committee should address the following-

(1) Reasons why the plan by the Kenya Pipeline Company (KPC) to develop the cooking gas handling facility in Mombasa was quashed and the project handed over to Asharami Synergy, which is a subsidiary of Sahara Group of Nigeria.

(2) Circumstances leading to the decision by the Ministry of Energy and Petroleum to hand over the gas handling facility to Asharami Synergy rather than allowing KPC to undertake the project.

(3) Whether Kenya Petroleum Refineries Limited (KPRL) followed the law and the laid-down procedures in leasing the 23.19 acres of the pipeline land on which the facility lies, to the said firm.

(4) The process of selection of a company to develop the gas handling facility, including details on all received proposals, as well as the justification for contracting Asharami Synergy to construct and operate the facility on a 31-year lease.

(5) How KPC plans to recover the Kshs192.64 million taxpayers' money brought out during the office of the Auditor-General's review of the KPC's financial results for the year ending June, 2024, that was spent in undertaking studies, including demand survey, environmental and social impact assessment, front-end engineering designs and the estimated cost of the project.

WITHDRAWAL AND UTILISATION OF FUNDS
FROM THE CONSOLIDATED FUND

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Finance and Budget on a matter of national concern regarding the withdrawal of Kshs19,707,023,504 from the Consolidated Fund under the vote item “State Officers’ Salaries Allowances and Miscellaneous” in January, 2025.

According to the Statement of Actual Revenue and Net Exchequer Issues for FY2024/2025, published by the Cabinet Secretary for the National Treasury and Economic Planning through Gazette Notice No.1864 - which unfortunately, was misdated as having been published on 10th February, 2024 - it ought to read 10th February, 2025.

The budgetary allocation for this vote item was Kshs4,209,674,431. This amount covers salaries and allowances for the President, Deputy President, Judges, Attorney-General, Auditor-General, Control of Budget (CoB), members of constitutional commissions and other State officers.

Mr. Speaker, Sir, the monthly estimated disbursement should average Kshs350,806,203. However, by 31st December, 2024, the cumulative disbursement stood at Kshs1,723,787,530, implying an average of Kshs287,297,922 per month.

Accordingly, the expected cumulative figure for January, 2025 would have been approximately Kshs2,011,085,451 yet the cumulative payment reported by the end of January, 2025 was Kshs21,708,109,025, indicating an overpayment of Kshs19,707,023,574 in a single month.

Notably, in February, 2025, the reported monthly disbursement dropped back to Kshs301,385,053, bringing the cumulative amount to Kshs22,091,494,078 as per Gazette Notice No.3354, which unfortunately is also misdated as having been produced on 10th February, 2024 instead of 10th February, 2025.

In the Statement, the Committee should address the following -

(1) The justification for the payment of Kshs19,707,023,574 in January, 2025 against an expected monthly allocation of approximately Kshs287,297,922 and why this amount was recorded under State officers salaries, allowances and miscellaneous.

(2) Disclosure of the recipients of the excess Kshs19,707,023,574, including a breakdown of payments and confirmation of whether any new employment or reclassification occurred within that month.

(3) Clarification on who authorised the withdrawal of the unbudgeted Kshs19,707,023,574 from the consolidated fund and whether the withdrawal followed a due process under the Public Finance Management (PFM) Act and the Constitution of Kenya, 2010.

(4) The remedial steps taken by the National Treasury, including whether investigations have been initiated if the funds are being recovered and what actions are being taken against responsible officials.

(5) The measures instituted by the National Treasury to prevent similar unauthorised withdrawals from the Consolidated Fund in the future, including internal control reforms and audit mechanisms.

Thank you, Mr. Speaker, Sir.

STATUS OF RENEWABLE ENERGY DEVELOPMENT AND EQUITABLE
ACCESS TO ENERGY FOR KISUMU COUNTY RESIDENTS

Sen. (Prof) Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, I have four Statements this afternoon. The first Statement is on renewable energy development and equitable access in Kisumu County.

I rise pursuant to Standing Order No.51 to seek a Statement from the Standing Committee on Energy on a matter of county-wide concern regarding the status of renewable energy development in Kisumu County and the equitable access to clean, affordable and sustainable energy by households, public institutions and small businesses within Kisumu County.

Kenya continues to invest in renewable energy sources such as geothermal, wind and solar as part of its national development and climate response strategies. It is important to assess how such investments translate into equitable access to energy for counties across the country.

In this regard, the Committee should address the following-

(1) The status of renewable energy projects implemented or planned in Kisumu County, detailing the type of technology, project scale, source of financing and current operational status.

(2) The share of national renewable energy funding or incentives allocated to projects in Kisumu County over the past five years.

(3) The existing frameworks for collaboration between the Ministry of Energy and the County Government of Kisumu to promote the rollout of off-grid and mini-grid clean energy systems, particularly for public schools, health centres and local markets.

(4) The measures in place to enhance access to clean and affordable energy in public institutions, households and small enterprises within the county.

(5) The process of leveraging on the national transition to renewable energy to address energy poverty, lower costs of electricity and promote equitable development in the counties with a specific focus on Kisumu County.

DILAPIDATED STATE AND COLLAPSED
SERVICES AT PAP ONDITI HOSPITAL

Mr. Speaker, Sir, if it pleases you, my second Statement is on the dilapidated state of Pap Onditi Hospital in Kisumu County.

I rise pursuant to Standing Order No.531 to seek a Statement from the Standing Committee on Health on the matter of county-wide concern, namely, the alarming state of disrepair and collapse of Pap Onditi Hospital in Kisumu County.

Pap Onditi Hospital, once a vital lifeline for thousands of residents in lower Nyakach and neighbouring areas, today suffers from acute shortage of medical personnel, essential drugs, basic diagnostic equipment and critical infrastructure.

Patients seeking medical attention are routinely turned away or referred to distant facilities, endangering lives and worsening health inequalities.

Mr. Speaker, Sir, in this Statement, the Committee on Health should address the following-

(1) The status of staffing, medical supplies and operational infrastructure at Pap Onditi Hospital.

(2) Interventions that the Ministry of Health (MoH) and the Kisumu County Government are undertaking to rehabilitate the Hospital and restore full service.

(3) The immediate and long-term plans, including budgetary allocations, aimed at upgrading Pap Onditi Hospital to meet the health care needs of the residents.

(4) Timelines for the implementation of emergency measures to stabilise services and prevent further loss of life at Pap Onditi Hospital.

DATA MANAGEMENT AND SECURITY ON E-CITIZEN AND MAISHA NAMBA SYSTEMS

Mr. Speaker, Sir, my third Statement is on data management and security on Government's digital systems and platforms.

I rise pursuant to Standing Order No. 53 to seek a Statement from the Standing Committee on Information, Communication and Technology on a matter of national concern regarding data management and security on the e-Citizen digital platform and the recently launched Maisha Number Digital Identification (ID) System.

As the Government expands its digital identity and service delivery frameworks, there is growing public concern regarding the protection of personal data, consent mechanisms and the adequacy of infrastructure to prevent data breaches.

In this Statement, the Committee should address the following-

(1) The institutional safeguards in place to ensure that personal data collected through e-Citizen digital platforms and the recently launched Maisha Number Digital ID System is protected in accordance with the Data Protection Act, 2019.

(2) The measures in place to ensure consent is sought and granted before collection or sharing of individual biometric or digital identity data.

(3) Findings of any independent audit or risk assessment conducting the security architecture of the e-platform and Maisha Number system.

(4) The role of private contractors or third parties in the design and management of the e-Citizen Platform and Maisha Number system, including the extent of access to citizen data.

(5) Mechanisms for redress and accountability in the event of data misuse, breaches, and identity theft.

PERSISTENT POWER OUTAGE
ACROSS THE COUNTRY

Mr. Speaker, Sir, my last Statement is on the persistent power outages across the country.

I rise, pursuant to Standing Order No.53, to seek a Statement from the Standing Committee of Energy, chaired by Sen. (Dr.) Oburu, on a matter of national concern namely; the persistent power outages that occur across the country during the rainy season - and we have them here - and the continued failure by Kenya Power to develop and implement resilient weatherproof energy infrastructure.

Mr. Speaker, Sir, seasonal rains routinely trigger nationwide blackouts lasting hours or even days, exposing critical failures in the Kenya Power infrastructure. These outages endanger lives, especially rural hospitals, lacking reliable backup and result in substantial economic damage to households, small and micro enterprises, educational institutions, and industries.

Far from being isolated incidents, the frequent blackouts highlight systemic grid weaknesses and more troubling, Kenya Power's chronic lack of preparedness for predictable annual events.

In the Statement, the Committee should address the following-

(1) The root causes of Kenya Power's continued nationwide failure to maintain stable electricity during rainy season and provide a region-by-region analysis of the most affected areas.

(2) The level of preparedness by Kenya Power to manage power distribution during predictable rainy seasons, including existing preventive strategies, infrastructure audits, and disaster response protocols.

(3) The human cost of power outages, particularly in hospitals and public health institutions, by assessing fatalities, patient harm and the adequacy of emergency backup systems.

(4) Establish whether Kenya Power has developed or intends to implement any long-term weather-resilient infrastructure or modernisation initiatives, including clear timelines for execution in high-risk zones.

(5) Policy measures, including the creation of a compensation framework for consumers who incur economic loss or damage due to preventable service disruptions.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.56(1), the Chairperson Standing Committee on Trade, Investment and Industry, proceed.

ACTIVITIES OF THE COMMITTEE ON TRADE,
INDUSTRIALISATION AND TOURISM

Sen. Boy: Mr. Speaker, Sir, I rise pursuant Standing Order No.56(1)(b) to make a Statement relating to the activities of the Standing Committee on Trade, Industrialisation and Tourism for the first quarter of the Fourth Session covering the period between February and April, 2025.

During the period under review, the Committee held 22 sittings, during which it considered 18 Statements and four Bills. The Committee considered the Budget Policy Statement (BPS) 2025 among others.

The Committee recommended that prior to the embarking of Phase Two in the implementation of the County Aggregated Industrial Park (CAIPs), the Ministry of Investment, Trade and Industry should ensure that all the 19 counties that were in Phase One have fully implemented the CAIPs.

The Committee undertook county oversight and networking engagements in Mombasa and Kwale counties. During this visit to Kwale County, the Committee visited the Shimoni Fishing Learning Site and the Kwale Aggregated Industrial park. In Mombasa County, the Committee visited the Dongo Kundu Special Economic Zone and the East African Tea Trade Association.

Following the constitution of the Committee of the Senate, the Committee conducted a mini-induction retreat with the Ministry of Co-operatives and Micro and Small and Medium Enterprises Development and the Ministry of Tourism and Wildlife. The retreat enabled the new Members of the Committee to familiarise themselves with the relevant ministries and the relevant semi-autonomous Government agencies. It also allowed the Committee to interact with the leadership in the various ministries. The Committee will finalise its mini-induction with the Ministry of Investment and Trade, which is yet to happen because of scheduling issues.

The Committee also conducted a retreat to consider the submission received on the Creative Economy Support Bill, 2024 and the Cooperatives Bill 2024.

Mr. Speaker, Sir, during the period under review, the Committee considered the following Bills-

- (a) The Creative Economy Support Bill, 2024 (Senate Bills No.30 of 2024);
- (b) The Start-up Bill 2022 (Senate Bills No.14 of 2022);
- (c) The Cooperatives Bill, 2024 (National Assembly Bills No.7 of 2024); and,
- (d) The Business Laws (Amendment) Bill 2024 (Senate Bills No.54 of 2024).

The Committee reviewed the amendments made by the National Assembly on The Startup Bill, 2022, (Senate Bills No.14 of 2022) with the Mover of the Bill.

The Committee is currently in the process of tabling its report.

The Creative Economy Support Bill (Senate Bills No.30 of 2024) seeks to streamline and monetise the creatives space in Kenya. The Committee considered submissions received following public participation and it is currently awaiting to table its report.

The Cooperatives Bill (National Assembly Bills No.7 of 2024) seeks to revamp the cooperative societies in line with the current times. Due to challenges that have been experienced with Savings and Credit Co-operative Societies (SACCOs) lately, this Bill is timely. The Committee considered submissions received following the public participation and it is currently in the process of tabling the report.

The Business Laws (Amendment) Bill (Senate Bills No.54 of 2024) is an omnibus Bill that will amend various laws. The Committee will consider submissions made by the public during public participation and thereafter table its report on the Bill.

The Committee held a consultative meeting with the Cabinet Secretary for Investment, Trade and Industry, on the pending legislative business. The Cabinet Secretary committed to the full implementation of the County Aggregation and Industrial Parks (CAIPs) Programme in Phase One.

Moving to Statements, the Committee observed that there was an increase in the number of statements pending before it that require the attention of relevant cabinet secretaries and governors in person. The committee has, therefore, scheduled to invite substantive cabinet secretaries and governors to appear before it to explain on the status of pending statements relating to their specific mandate. The committee will prioritise finalization of pending statements and other legislative business.

Mr. Speaker, Sir, in conclusion, I wish to thank your office and that of the Clerk of the Senate for the support accorded to the Committee on its work in executing its mandate. I also wish to thank Members of the Committee for their diligence and contributions during committee activities and the Committee secretariat for the facilitative responsibility.

I thank you.

The Speaker (Hon. Kingi): Next is the Chairperson of the Standing Committee on Roads, Transportation and Housing. If the Chairperson is not here, do we have any Member of that committee to represent them?

(An hon. Senator spoke off record)

Okay. We will move to the next Statement.

(Loud consultations)

Well, that matter has already been deferred to a later date.

ACTIVITIES OF THE COMMITTEE ON ROADS,
TRANSPORTATION AND HOUSING

(Statement deferred)

The Speaker (Hon. Kingi): Next is a Statement by the Chairperson of the County Public Accounts Committee (CPAC).

ACTIVITIES OF THE COUNTY PUBLIC
ACCOUNTS COMMITTEE

Sen. M. Kajwang’: Mr. Speaker, Sir, pursuant to Standing Order No.56(1)(b), I wish to present a Statement relating to the activities of the Senate CPAC for the period commencing 11th February, 2025 to 30th April, 2025. It is important to note that those are the dates from which the committee was reconstituted to the end of the third quarter.

During the period under review, the committee held a total of eight sittings that included election of the Chairperson and Vice-Chairperson, consideration of its work plan and interrogation of reports of the Auditor-General on the financial statements of various county executives.

Mr. Speaker, Sir, as you are aware, on 1st October, 2024, the High Court in the Republic versus Nairobi County City Assembly and Musumba and four others, *Ex Parte* Application E082 of 2023, 2024, delivered a judgment which materially affected the mode of operations of the CPAC.

In light of the above mentioned judgment, the Committee was thereafter compelled to prepare and table its reports for Financial Year (FY) 2023/2024 by end of March, 2025, which were debated and approved by the Senate on Thursday, 27th March, 2025.

Mr. Speaker, Sir, since this Statement is restricted to 30th April, perhaps this will come in the next report because subsequently in May, Justice Aburili delivered a ruling on that matter and we shall update the House appropriately.

Taking into account the constitutional timelines provided for in Article 229(8), the Committee invited 18 governors or county entities to appear before it and requested the rest to submit written management responses. Out of the 18 governors invited, only four appeared before the committee. The committee remains deeply concerned by the growing trend of governors failing to honour invitations to appear before Senate committees without offering any justifiable reasons, a practice that amounts to contempt of Parliament.

In light of this, the Senate should consider exploring avenues for amending the Parliamentary Powers and Privileges Act, 2017 to introduce stricter penalties, including

fines, imprisonment or other punitive measures to safeguard the authority and dignity of Parliament. From experience, governors are happy to pay the Kshs500,000 fine and go scot-free.

Further, the Committee requested the clerks of the 47 county assemblies to submit written management responses. The committee resolved to adopt the Auditor-General's reports for 45 county assemblies as submitted by the Auditor-General. The committee noted that two county assemblies, namely, Homa Bay and Migori, had adverse opinions and prepared its report on the two county assemblies, which were tabled and adopted by the Senate.

The Committee further conducted a comprehensive fiduciary risk analysis from the Auditor-General's reports for all the counties during FY 2023/2024. This rigorous examination revealed systemic weaknesses in public financial management across county governments, with a cumulative fiduciary exposure amounting to Kshs532.67 billion. The detailed fiduciary risk report was tabled, presented and adopted by the Senate on 27th March, 2025.

Mr. Speaker, Sir, in terms of budgetary compliance, the Committee observed frequent and unauthorised reallocations of development funds towards recurrent expenditures often without requisite approvals by county assemblies. Moreover, there was a worrying trend of under-absorption of development budgets, leading to poor service delivery and stalled growth initiatives.

Human resource management across the counties was equally troubling. Counties were found to engage in rampant irregular recruitment, resulting in the proliferation of ghost workers, casual employees hired beyond statutory limits, and improper remuneration practices including overpayment of allowances.

Further, the wage bill crisis persisted unabated with only 11 counties adhering to the 35 per cent wage bill ceiling as prescribed by law. Alarming, 16 counties were found to be spending over 50 per cent of their revenue on wages.

The committee also noted with concern the matter of pending bills with counties accumulating debts totaling to Kshs181 billion. Kshs179 billion of that is owed by county executives and Kshs2 billion by county assemblies.

Mr. Speaker, Sir, it should concern this House if county assemblies, which generally do not do a lot of development, still owe Kshs2 billion to service providers. Other troubling practices identified by the Committee included processing of payments outside the Integrated Financial Management Information System (IFMIS) platform, irregular imprest management characterized by multiple unrecovered advances, unauthorised funding of the Council of Governors (CoG), and the prevalence of incomplete and unutilised projects.

In conclusion, these findings paint a deeply concerning picture of financial governance at the county level, revealing systemic weaknesses in public financial management systems and highlighting potential instances of gross financial malfeasance.

Since this report was restricted to the period up to 30th April, 2025, when we make our subsequent reports, we shall update the House on how the Committee has responded to the ruling delivered by Justice Aburili on 7th May, the county visits that the Committee has organised and how the Committee has planned to ensure that the resolutions of the House on 27th March are closed and matters that were referred to investigative agencies are addressed.

Mr. Speaker, Sir, I wish to express my sincere gratitude to Members of the Committee and the dedicated secretariat who worked tirelessly and for long hours to ensure that we consider and adopt reports for all the 47 county executives and 47 county assemblies within the limited timeframe and bring a report to this House on 27th March, 2025.

I thank you.

The Speaker (Hon. Kingi): Next is Sen. Wakili Sigei.

CHANGE OF REVENUE COLLECTION SYSTEM AND OTHER
FINANCIAL MALPRACTICES IN BOMET COUNTY GOVERNMENT

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir, for allowing me the opportunity to read this Statement.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget on a matter of county-wide concern regarding the transition from JamboPay revenue collection system to BometPay revenue collection system and other financial malpractices by the County Government of Bomet.

Mr. Speaker, Sir, the County Government of Bomet has not provided any justification for the transition from the previously functional JamboPay to BometPay or disclosed details on the procurement process for the new procurement system despite the provisions of Article 201(a) of the Constitution requiring openness and accountability in financial matters and Section 104 of the Public Finance Management Act, requiring transparency in financial management by the county entities specifically.

Additionally, the County Government is carrying out revenue collection without an enacted County Finance Act contrary to Article 210(1) of the Constitution, and continues to collect land rates without an updated valuation roll.

Mr. Speaker, Sir, in the Statement, the Committee should address the following-

(1) The transition process for the revenue collection system for the County Government of Bomet from JamboPay system to BometPay system, including the justification for the transition, its budgetary implication, the structure and extent of the public participation exercise undertaken, if any, by the County Government, the approval process for the budgetary allocation for the new system and whether the procurement process for the new system adhered to the Public Procurement and Assets Disposal Act.

(2) How revenue accounts and cash transfers were administered during the transition period, the oversight mechanism in place under the new revenue collection system, including how revenue collection data is being recorded and monitored, and whether any assessments have been done on the new system to evaluate efficiency, transparency and accountability.

(3) The impact of the transition on revenue collection, including a comparative analysis of revenue collection data from before and after the transition.

(4) The legal framework governing the county government's revenue collection in the absence of County Finance Act, as well as the methodology applied for land rates collection in the absence of an updated valuation roll.

(5) Evidence of the public participation, if any, undertaken by the County Government on proposed county finance laws in the financial years 2022/2023, 2023/2024 and 2024/2025.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, we are supposed to proceed to comments. However, I am informed there is a Motion that is supposed to address a crisis in Nyamira County, and I believe we need to give it priority.

We have two groups, each purporting to be the legitimate County Assembly of Nyamira and each is busy churning Bills and laws, not knowing which one is the right House to guide Nyamira County. That is indeed a crisis and, as a House, we need to give direction on how things can be put in order in Nyamira County. Therefore, pursuant to Standing Order 45(2), I will rearrange today's Order Paper. We will move to handle Order No.13 and, thereafter, resume the normal flow as contained in today's Order Paper. However, before I allow the Clerk to call Order No.13, allow me to make this Communication.

Hon. Senators, you may walk in and take your seats.

(Several Senators walked into the Chamber)

(Loud consultations)

(Several Senators stood up in their places)

Order, hon. Senators!

Senate Majority Leader, you should guide your Members well.

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM ST. FRANCIS GIRLS
MANG’U HIGH SCHOOL**

I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from St. Francis Girls Mang’u High School, in Kiambu County. The delegation comprises two teachers and 51 students, who are in the Senate for a one-day academic exposition.

Hon. Senators, in our usual tradition of receiving and welcoming guests to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I call upon the Senator for Kiambu County to extend a word of welcome, in under one minute.

Proceed, Sen. Karungo.

Sen. Thang’wa: Thank you, Mr. Speaker, Sir, for the opportunity. I take this opportunity to welcome the girls from St. Francis Mang’u, and the teachers who have come to visit us today. This is the Senate, and I am your Senator. My name is Karungo Wa Thang’wa. I thank your parents for voting for me.

This is a great opportunity for you to come to learn and see what we do at the Senate. The Senate has been described by Kenyans as the last line of defence when it comes to legislation and passing Motions and laws that assist and help the common *mwana*. As you learn, feel free to interact with the Senators. They are friendly. It is also important for you to know that our roles are majorly three. That is representation, oversight, and making laws.

Once again, *karibuni sana*.

Thank you.

The Speaker (Hon. Kingi): Clerk, call Order No.13.

The Chairperson, Standing Committee on Devolution and Intergovernmental Relations, please, proceed.

MOTION**ADOPTION OF PROGRESS REPORT ON OPERATIONAL AND
LEADERSHIP CRISIS IN NYAMIRA COUNTY ASSEMBLY**

Sen. Abass: Mr. Speaker, Sir, I beg to move-

THAT, the Senate adopts the Progress Report of the Standing Committee on Devolution and Intergovernmental Relations on the Operational and Leadership

Crisis affecting the County Assembly of Nyamira laid on the Table of the Senate on Thursday, 17th April, 2025.

Mr. Speaker, Sir, the Senate Standing Committee on Devolution and Intergovernmental Relations has reported a long-standing dispute of the County Assembly of Nyamira that allegedly split the Assembly into two factions. The Committee is further concerned that the dispute is affecting the smooth functioning of the County Assembly and effective service delivery in the county.

Additionally, Mr. Speaker, Sir, on Tuesday, 1st April, 2025, the Senator for Nyamira, Sen. Omogeni, CBS, SC, MP, rose pursuant to Standing Order No.53 to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations, regarding the leadership and operational crisis currently affecting the County of Nyamira.

In the Statement, the Senator informed the House that the Assembly had split into two rival factions, each conducting parallel sittings in different venues, led by individuals claiming to be the legitimate Speaker and Clerk. This state of affairs caused confusion, undermined the legislative integrity, and will potentially jeopardize public confidence in institutions and oversight of the Senate.

Mr. Speaker, Sir, the Senator requested the following-

(1) Officially designated and gazetted location of the County Assembly of Nyamira and whether sittings held outside the location were duly approved;

(2) The status and legal standing of businesses transacted by the two factions, including the adoption of the supplementary budget and other legislative issues made during the standoff;

(3) The process through which the two Speakers and Clerks were appointed and whether due process and relevant Standing Orders were followed in the installation;

(4) The steps taken by the relevant constitutional and intergovernmental bodies to resolve the leadership dispute to restore order in the county; and,

(5) The Senator further recommended that the Committee initiates and leads a mediation and reconciliation process to return assembly institutional normalcy, safeguard the rule of law and protect the interest of the residents of Nyamira.

Mr. Speaker, Sir, the Standing Committee on Devolution and Intergovernmental Relations considered the matter and invited both factions to a meeting of the Committee on 8th April, 2025 to address the Committee on the dispute. The individuals were Hon. Thaddeus Nyaboro and Hon. Enock Okero, both claiming to be Speakers; and Duke Oyaro and Silvanus Ndemo who are Clerks.

The Committee also invited the Controller of Budget to provide information on financial issues arising from the approval of the account, budget and acquisitions. The Committee conducted extensive discussions with the stakeholders regarding the matter, noting the major issues arising from the deliberation. Further, the Committee did an in-depth analysis into the issue emerging from the stakeholders' submissions, and made various observations as set out in the report.

The Committee observed that-

(1) There were two factions that consist of separate leadership structures, including Speakers, clerks and the county assembly service boards leading to confusion, legal uncertainty and inability of the County Assembly to effectively fulfill its constitutional duties;

(2) The two warring factions have an intense dispute that has culminated in numerous cases being filed before various courts, which have further complicated the situation in the assembly. Some of these courts include-

(i) Nyamira High Court Case E008 of 2024 by Enock Okero vs the Nyamira County Assembly and others challenging the suspension of Hon. Enock Okero as the Speaker;

(ii) Petition No.ELRC- E001 of 2024 at the Kisii High Court - Enock Okero and others vs the County Assembly of Nyamira and Acting Clerk of Nyamira County Assembly, challenging the impeachment of the Hon. Enock Okero as the Speaker;

(iii) The High Court Case No.E007/2/2025 County Assembly of Nyamira vs State Law Office and the Government printer challenging the legality of various gazette notices;

(iv) High Court Case No.E001/2/2025 - Edwin Osongo Versus the IEBC and Nyamira County Assembly and others challenging the election of Hon. Thaddeus Omengi Nyabaro as Speaker of the County Assembly of Nyamira;

(v) High Court Case No.E050 of 2025 at the High Couty of Milimani, the County Assembly of Nyamira versus the Central Bank of Kenya regarding the granting Hon. Silvanus Ndemo partial access to the bank accounts of the County Assembly to facilitate payment or salaries for MCAs Staff Ward office, remittance of KRA dues, taxes and statutory deductions and payment to essential services providers.

All these cases are currently active and live in courts-

(vi) The County Assembly of Nyamira also faces operational challenges over an ongoing parallel County Assembly sitting held by two factions each claiming legitimacy. One faction is the sitting in the gazetted wards and the other holding its sittings within the County Assembly Chamber;

(vii) The contestation of the office of the Speaker has consequences affecting all other County Assembly service structures, therefore it is imperative for the legitimate Speaker to be ascertained.

Based on these findings and observations, the Committee made the following interim recommendations-

(i) In accordance with Section7(b)(ii) of the County Governments Act Cap 265, which provides for the location of sitting of county assemblies, and in particular subsection (2), which provides as follows-

“Except for a sitting of a new county assembly under subsection (1), a sitting of a county assembly may be held at any place within the county and make comments at any time as a county assembly may appoint.”

There was no restriction on this from the assembly.

Gazette Notice 7658 of 2017, the sitting of the County Assembly be held at the county assembly premises located in Nyamira Assembly Building opposite the Kenya Industrial Estate, Nyamira; and,

Pending the determination of the court cases, the County Assembly assumes its normal operations in accordance with the Constitution, the County Governments Act and the Standing Orders of the County Assembly.

The Committee has planned to visit Nyamira County on 23rd May, 2025, to go and reconcile the two warring factions and also to meet the Governor and Senator for Nyamira County, Sen. Omogeni.

From our observations, we feel that this is politically motivated and two leaders are actually engaged in different factions. Therefore, we believe that if we also meet the two of them, the Committee will be able to solve this problem. I hope our hon. Senator is here and will assist the Committee with our visit. I feel this issue is politically motivated and one of the two factions belongs to one; to the Senator and the other to the Governor from my observation.

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

Sen. Abbas: Having said that, may I take this opportunity to commend the Members of the Standing Committee on Devolution and Intergovernmental Relations for their devotion and commitment to duty as the Committee continues to consider this matter.

I also wish to thank the office of the Speaker and the office of the Clerk of the Senate for the support extended to the Committee in taking this important assignment. Lastly, I wish to thank the stakeholders who presented their submissions to the Committee.

With those few remarks, I wish to move this Motion and request the leadership the House to adopt a progress report of the Standing committee on Devolution and Intergovernmental Relations on its considerations of the operational and leadership crisis affecting the County Assembly of Nyamira.

The Speaker (Hon. Kingi): Who is seconding your Motion, Sen. Abass?

Sen. Abass: Sorry. I request Sen. Thang’wa, who is a Member of the Committee, to second.

The Speaker (Hon. Kingi): Proceed, Sen. Thang’wa.

Sen. Thang’wa: Mr. Speaker, Sir, I second.

The Speaker (Hon. Kingi): Hon. Senators, the Motion has been moved and seconded. I will proceed to propose the question.

(Question proposed.)

Hon. Senators, this is a Motion. In our Standing Orders, you have 20 minutes. You may want to take the 20 minutes. You know exactly what to do if you want to limit debate. That is not in my hands.

Sen. Orwoba: On a point of order.

The Speaker (Hon. Kingi): Yes, Senator Gloria.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I rise to request that we limit the debates to five minutes per Senator.

The Speaker (Hon. Kingi): Under what Standing Order?

Sen. Orwoba: Under the Standing Order No.111; Limitation of debate.

The Speaker (Hon. Kingi): Hon. Senators, we may go the whole-hog and I end up putting a question or strike a consensus. On the time allocated per Senator to speak, do we then agree that we each speak for five minutes?

Sen.(Prof.) Tom Odhiambo Ojienda, SC: On a point of order.

The Speaker (Hon. Kingi): There is no Senator on their feet, Professor. Do we have a consensus that a Senator speaking shall not take more than five minutes?

(Senators responded in the affirmative)

Very well. Senator for Kisumu, we are done already with that aspect. It is five minutes.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, may I move my amendment? I have a notice of amendment to the Motion.

I beg to move the following amendment to the Motion by the Chairperson, Standing Committee on Devolution and Intergovernmental Relations-

THAT the Motion be amended by deleting the full stop at the end and inserting the following words-

“Subject to the insertion of the following recommendations after recommendation number two of the report of the Committee.”

(Loud consultations)

The Speaker (Hon. Kingi): Order, Hon. Senators.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, the proposed amendment is as follows-

THAT the decisions and resolutions made by the impeached Speaker and Members of the County Assembly that convened outside the gazetted precincts of the County Assembly are null and void.

(Sen. Cherarkey crossed the floor)

Senator Joyce, what is your point of order?

Sen. Korir: Mr. Speaker, Sir, is it in order for Sen. Cherarkey, to just cross the Floor and interrupt the Members while talking as if in a marketplace?

The Speaker (Hon. Kingi): Senator for Nandi, kindly leave the Chamber for the remainder of this session.

(Sen. Cherarkey withdrew from the Chamber)

Sen.(Prof.) Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir, the proposed amendment is to paragraph---

The Speaker (Hon. Kingi): Order, hon. Senator. Yes, what is your intervention, Senator for Kakamega?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I thank you for this opportunity. This morning, just like you have seen this afternoon, we have sat through the embarrassment of Senators exchanging with the Chair when the Chair directs that they leave the Chamber. In fact, we lost 10 minutes in the morning because the Senator affected refused to go. This is an embarrassment. Those of us who are sufficiently experienced have never seen it in this House.

Can you find a way of restoring the dignity of Senators and the Senate, so that Senators do not come here thinking they are coming to prove their macho? Once they have broken the rules, they go out.

The Speaker (Hon. Kingi): Hon. Senators, the dignity of this House rests in your hands. I am your Speaker, not your prefect. I am here to coordinate and facilitate debate. If you decide to be belligerent, the only thing I can do is to ask you to leave the Chamber, so that you allow your colleagues to continue with debate and the business of the House.

So, the dignity of this House shall not be brought about by the number of Senators we ask to leave. That is why I am very restrained in asking a Member to leave the Chamber. I will always caution with the hope that a Member will see the need to behave in a manner that befits the title of an hon. Senator. So, let us help each other and the Chair. I will help you by conducting and facilitating debate. You are elected to come to this Chamber and debate matters of national concern.

If you are going to belittle ourselves to the kind of things that the Senator for Kakamega has just alluded to, then honestly, we are really belittling the dignity of this Chamber. So, hon. Senators, let us uphold the dignity of this House by the way we carry ourselves.

Senator for Kisumu, you may proceed.

Sen.(Prof.) Tom Odhiambo Ojienda, SC: Mr. Speaker, Sir. The amendment proposed is to the recommendation number two in the Report, and it reads as follows-

THAT the decisions and resolutions made by the impeached Speaker and Members of the County Assembly that convened outside the gazetted precincts of the County Assembly are null and void, because they are.

Secondly, I propose that an amendment be carried as follows-

THAT the Ethics and Anti-Corruption Commission investigates misappropriation and spending of public resources by the impeached Speaker of Nyamira County Assembly and a group of Members of the County Assembly that held meetings outside the gazetted precincts of the County Assembly.

Lastly, I propose-

THAT the Clerk and the County Assembly surcharges and recovers all allowances and funds paid to the impeached Speaker and the group of Members of the County Assembly who conducted business outside the gazetted precincts of the County Assembly.

We cannot afford to have two Assemblies and two Speakers.

I request Sen. Wambua to second.

The Speaker (Hon. Kingi): Yes, Senator Mungatana.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I think this amendment is premature. The reason I am saying this---

The Speaker (Hon. Kingi): Sen. Mungatana, once the Motion for amendment has been moved, it shall be seconded. Once I propose the question, you can rise and put your point across.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I am much obliged.

The Speaker (Hon. Kingi): Professor, who is your seconder? Sen. Enoch, you are the seconder, I presume.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I have been called upon to second the amendment to this Motion.

As we second the amendment to this Motion, let it be known to all of us in this House, that the county assemblies are what is referred to as regional parliaments in other jurisdictions; institutions that have capacity to make laws and transact business for and on behalf of their respective governments.

In those assemblies, it can never be that a section of leaders in one assembly will decide that they are going to have a sitting in the office of a Member of a County Assembly and call themselves the assembly of that respective county; pass laws and appropriate funds for the executive. Then we sit here and say that we are over sighting devolution. If we allow that to happen in Nyamira, it will happen in Tana River, Kakamega, Bomet and before we know it; any time MCAs are able to marshal a quorum to do anything, they will appoint among themselves a speaker, they will do what they want to do, they will appropriate and then they will say that they have done it as an assembly.

Mr. Speaker, Sir, assemblies are designated venues and once a place is designated as the sitting of an assembly, there is a procedure of gazettelement. To the extent that, if any business takes place in any place with a speaker that is not gazetted as a sitting of the assembly of any county, the business transacted in that place cannot be said to be legal business.

The Speaker (Hon. Kingi): The Senate Majority Leader, kindly take your seat.

(Question of the amendment proposed)

Now, the Floor is open. Sen. Mungatana?

Sen. Mungatana, MGH: Mr. Speaker, Sir, first, I thank you for giving me the Floor, but I beg to oppose the proposed amendment. That amendment is speaking to the finality of that Report. I took my time to listen because I have serious concerns about the problems that are facing Nyamira, like all of us. We do not want the problems to continue. However, I listened to the Chairperson of the Committee on Devolution and Intergovernmental Relations, Sen. Abbas, and he said that it was a progress report. I was going to support him in the original format because he said; the heavy recommendation was that the Committee was going to go to the ground. They have suspicions that maybe, these factions are supported by politicians and they were going to have a meeting with the senior politicians there, the Senator and the Governor.

This is a very good recommendation and it is a progress report, so that they can feel and hear. In our language, we say, you want to feel the stomachs of the people of that decision. This is because the Committee had a first-hand opportunity to sit and hear the witnesses. We were not there and it had the opportunity to listen to the grievances of both sides. The same Committee, which is led by a highly respected Senator is saying; let us go and sit like elders and talk to them.

Mr. Speaker, Sir, I was going to suggest that during that meeting, the religious community or elders should be involved, so that some form of understanding can be reached. If that understanding is not reached, I was going to convince the House that at the finality, when those heavy propositions that are being made; that some people must be investigated, maybe arrested or refunds be ordered, can be done after the attempted resolution of the matter in a peaceful way.

Political problems cannot be solved by courts or the EACC. This is a political problem and the best way is this intervening Committee to sit with them and talk. However, when we say that the other side must refund money and for the other side, all the meetings they have done are illegal and yet the Committee is just giving us a progress report, it is like the Senate is taking a position before even the meeting is convened. It is like the Senate has already decided, but the Committee has not recommended to us that we take that position.

Mr. Speaker, Sir, I do not know whether the hon. Senator for Kisumu, who is a member of that Committee, has spoken but I am not sure, but the Chairperson of that Committee has spoken to the progress report. I stood here to say it is premature. I would like to request that we give them one or two weeks and they will come back having made those attempts. There is nothing wrong with attempting a resolution.

Those of us who practice law have been told many times that a bad consent is better than a good judgment. The best judgment that you can give is not like a poor consent. It is better to have a poor consent, but a consent between parties. Why not give the opportunity to the Chairperson and his Committee to go and attempt a political solution? Why are we in a rush? I am asking this so that we are not seen to be partisan as a House. Let the Committee go and attempt and this amendment that is being introduced is finalizing this report. That was not the intention of the Chairperson. I listened to him carefully.

Mr. Speaker, Sir, unless we are saying we have no confidence in what the Chairman and the Committee is doing, I believe it is unfair to take a position at this time, whether that position is correct or not is not what I am saying. I am saying that we should give the Committee an opportunity to go and listen and seek a political solution. Let us not take a position now on Nyamira, so that we can give all political players, including the religious groups or the elders there a chance to give us a solution that will solve this problem once and for all.

I beg to oppose that amendment and ask that we let the Committee go with the first form of the Motion; that they go down to Nyamira and attempt a political solution.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): M. Sen. Kajwang’.

Sen. M. Kajwang’: Mr. Speaker, Sir, the person who represents the people of Nyamira in this House is Sen. Okong’o Omogeni. He is the one who moved the Committee to carry out an inquiry on matters to do with the affairs of the Assembly in Nyamira County. Generally, when a Senator escalates such matters to the Senate, we must take it seriously because it implies that he attempted other methods of reconciliation and failed. He, therefore, saw it fit to bring it to the Senate. Sen. Omogeni brought this matter to the Committee on Devolution and Intergovernmental Relations on 1st April, 2025. I do not think it was a fool's day prank. It is 45 days later.

We have an interim report and it is not normal, as you know, Mr. Speaker, Sir, that when a Statement is requested, the Committee reports back to the House. I believe you allowed the Committee to report back to the House by giving interim recommendations because of the seriousness of this matter.

My concern is as follows. In those 45 days since Sen. Omogeni flagged this issue, laws are being passed, budgets are processed and public participation is ongoing in two different assemblies; and withdrawals are being authorized from the County Revenue

Fund, perhaps with the authority of two different assemblies. This Senate must put a stop to that nonsense, because there is no better way to describe it.

In as much as this is an interim report, we must put a stop to that absurdity. It is that absurdity that made the drafters of our Constitution to introduce Article 192 that allows for suspension of county governments. The County Governments Act says that a county can be suspended where the people or the leadership of the county engage in activities that are detrimental or against the objectives of devolution. What else can be against the objectives of devolution than this thing or this theatre of the absurd that we are seeing in Nyamira? I want to recommend that this House makes strong interim recommendations in as much as this is an interim report.

I wonder how the Controller of Budget (CoB) is handling requisitions authorized by two different assemblies. There is a big problem, and I wish Sen. (Prof.) Odhiambo Ojienda had a far-reaching recommendation on the Controller of Budget to stop authorization of withdrawals from an assembly that is not recognized in law. If we are going to go with the persuasion of Sen. Mungatana, then Sen. Abbas must convince us. This matter has been in his Committee for 45 days. What is it that we must do for the people of Nyamira to know that we are serious?

Mr. Speaker, Sir, I will say this for your information and for the information of the House. When the Governor for Nyamira County appeared before my Committee, this matter played out. My Committee resolved to visit Nyamira, but because the Committee on Devolution and Intergovernmental Relations was seized of the matter, we allowed that Committee to pursue the matter. They are doing it rightly so, because that is where this responsibility lies.

We want bold recommendations, even if the Committee is visiting Nyamira tomorrow. We must put a stop to the leakage of public resources through illegal activities that are being perpetrated by actors in Nyamira. It is for that reason that I would support the interim recommendations as proposed by Sen. (Prof.) Odhiambo Ojienda. However, the Committee on Devolution and Intergovernmental Relations must also move with speed. If we cannot solve this matter in Nyamira, then this House is as good as useless.

I support.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, this is a very sad affair.

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

The Speaker (Hon. Kingi): The Senate Majority Leader, would you wish to get some more information from the Chairperson of the Committee on Devolution and Intergovernmental Relations before you make your comments?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I do not mind.

The Speaker (Hon. Kingi): Proceed, Sen. Abass.

Sen. Abass: Mr. Speaker, Sir, I want to inform the House. This issue seems to be having a lot of interest. What we said is that this is a progressive report. We have not

finalized the situation. Two, we have a gazette notice that was gazetted and it is what we call *Bunge Mashinani*. All the areas where these people sit outside the designated place for the assemblies have already been gazetted.

We also asked the Controller of Budget the same questions raised by Sen. M. Kajwang'. The Controller of Budget said that she does not deal with assemblies. She said that she deals with the finance department and the county executive committee members of the counties. That is why she released the funds.

I ask this House to be patient. I see a lot of interest and influence in this issue. This is the second time the report is being changed before it is finalized. We can also withdraw, then other people take it over.

The Speaker (Hon. Kingi): Mr. Chairperson, are you giving information or you are giving your opinion?

Sen. Abass: Mr. Speaker, Sir, I am informing you. This issue has developed a lot of interest in this House. The Committee---

The Speaker (Hon. Kingi): The Senate Majority Leader, you may decide to use that information. Hon. Senator, let us make progress.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I have listened to the Chairperson of the Committee on Devolution and Intergovernmental Relations. I hold the Senator together with all the Members who serve in that Committee in high regard, but I must look them straight in the eye and tell them that they have failed this House.

They have had 45 days, which translates to one-and-a-half months. A colleague walked up to them and told them that there is an absurd situation in his county. He told them that two sittings are happening and both are purporting to be the county assemblies of that county. My question is: what would be more urgent?

Many times, we walk up to each other, as colleagues, and request that we intervene on matters that affect the citizens that we represent in this House. Something is not right on account of the length of time that it has taken this Committee to give us a progress report.

Secondly, you have heard the Chairperson of the Committee Devolution and Intergovernmental Relations say that the Controller of Budget told them that they only get requisitions from the county executive. That work is her duty. I am sure that the purpose of specific requisitions are stated when requests are taken to her. That includes the requisitions for county assemblies. That is why we devolved the Office of the Controller of Budget. They have representatives in all our 47 county governments.

It is possible that she feigned ignorance. However, I do not understand how the nine members of that Committee, the clerk and the legal counsel of the Committee accepted that as an answer. We have to be honest with ourselves. We have to be serious if this House indeed caters for the interests of devolution. This matter stinks to the highest of heavens. It is not fair for this to happen in a country governed by the rule of law.

If we allow Nyamira to have two or three sittings, what will stop Sen. Methu or Sen. Wambua from starting another parliament tomorrow? Sen. Wambua can choose to have another parliament in Kitui. What precedence are we setting?

I know we are starved of time, but I want to make this request. Mr. Speaker, Sir. There is also another entity that has failed us. Our Judiciary must stop hiding under the cover of independence. Independence is not a cover for incompetence. The judge who sits in Nyamira is the one who has given orders that have caused this level of confusion. Can those judges walk out of Nyamira Law Courts and head to the County Assembly of Nyamira and make a determination of what needs to happen?

How do you sit as a judge, driven home every evening on taxpayers' money when this kind of maladministration is happening and being visited on the people of Nyamira? That is not right. The Chief Justice actually needs to bring this matter to her attention. When a judge issues orders that break apart a county and perpetuates a situation where there are two sittings in a county assembly, then it speaks of their incompetence. That is not interference with judicial independence. When we pass laws in this House and there is lack of clarity, as Parliament, we endeavor to provide clarity. We even inform the users of that particular law the intention of Parliament. Can that judge make a determination of this case in the public interest? This is a matter of great public interest because money is being lost in Nyamira because nobody overlooks what is happening in the county executive yet these games continue while we watch.

Mr. Speaker, Sir, can you direct that at the rise of this House, if there is nothing more urgent, the Committee on Devolution and Intergovernmental Relations heads to Nyamira and sits there until they resolve this particular issue? It has taken 45 days yet they are giving us a progress report. Sen. Abbas and your team, you cannot be proud of yourself.

All the nine Senators serving in that Committee have let us down. If each of us were to work the way the Members the Committee on Devolution and Intergovernmental Relations---

The Speaker (Hon. Kingi): Senate Majority Leader, there is some more information that Sen. Omogeni wishes to share with you. Are you amenable?

The Senate Majority Leader (Sen. Cheruiyot): Sure.

Sen. Omogeni: Thank you, Mr. Speaker, Sir. I wanted to inform my good friend, the Senator for Kericho County, about the matter he has raised regarding injunctions issued by judges. If you read the report tabled by the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations, a petition was indeed filed by the impeached Speaker under Petition No.E001 of 2024.

On page 20 of the report, the Speaker swore an affidavit where he sought an interim injunction from the courts to stop or stay the impeachment. However, the records presented before this House indicate that the honourable judge never issued any conservatory order. Therefore, the impeachment was never stayed by the court. I have

heard you make remarks about some judges. Maybe some orders were issued earlier, but regarding the impeachment, no stay orders were issued.

Secondly, I heard you tell the Chair that he should proceed to Nyamira and deal with this matter. If you read the report tabled on page 29, the Chair states, and I want the Senate to listen carefully, that the sittings held contrary to the provisions of Section 7(b)(ii) of the County Governments Act are invalid, null and void, and contrary to the law.

As you tell the Chair to go to Nyamira, is he going there to eat matoke or resolve this matter? He has already made a finding that aligns with the law. This House should be agreeing with the amendments proposed by Sen. (Prof.) Ojienda, which align with the Committee's recommendations. The only mistake is that while all these findings are in the body of the report from page 27 to page 29, they are missing in the interim recommendations.

I agree with the sentiments of Senators that, if this matter is not addressed, similar issues will continue happening in the county assemblies of Taita Taveta and Machakos. This will become the norm. The money appropriated by this House for county governments will end up in the pockets of governors.

That is the information I wanted you to have, Senate Majority Leader.

The Speaker (Hon. Kingi): Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): In conclusion, that is very useful information and a handicap we suffer. I tried to locate the report on our tablets, but I could not find it. We now have to respond based on what we have heard the Chair say. I listened to him, and he referenced certain orders. If that is the case, as Sen. Omogeni put it, then I will hold back my comments on what perhaps needs to happen regarding the judiciary's actions on this matter.

Lastly, as Sen. Omogeni suggests, this situation is about to worsen, bear in mind that this House has already passed a law granting financial autonomy to county assemblies. The situation will become even more serious. This is because county assemblies will be the ones determining how to allocate these funds. Imagine a situation where two county assemblies are fighting over a particular pool of funds. It would be undesirable.

That is why, with tremendous respect to Sen. Abass and the team of the Standing Committee on Devolution and Intergovernmental Relations, I have expressed concerns about the time taken to resolve this issue. I feel this House deserved better. It is unfortunate that 45 days later, we have an interim report with no clear mention of the final conclusion or timeline for resolving this matter. I just heard the Chairperson say that you are planning to visit and will return with this report.

Mr. Speaker, Sir, in your wisdom as you work to resolve this matter, seek audience, either for the Committee or the Committee of the Whole with the Controller of Budget.

As I have said, among all the absurd statements made, the most concerning is the Chair's revelation that the Controller of Budget claims she cannot determine which function of the Assembly is benefiting from these funds because she receives Exchequer requests directly from the county government. These funds are not sent to anyone in the county assembly. The Controller of Budget remains a key player in this dispute. I am beginning to wonder, Sen. Onyonka, given that the Controller of Budget comes from this county, could she be complicit in the conflict? I am just wondering.

Mr. Speaker, Sir, I believe this is an issue that requires a formal determination. I know many colleagues wish to contribute to this matter, so I will conclude my remarks here.

I thank you.

The Speaker (Hon. Kingi): Sen. Faki, proceed.

Hon. Senators, we will take two Senators from the Majority Side, and two from the Minority Side. Then, we will put this to a vote.

Sen. Faki: Mhe. Spika, pia mimi najiunga na Maseneta waliotangulia kuchangia Hoja hii kwamba yanayoendelea katika Kaunti ya Nyamira ni makosa. Hoja hii ilipokuja kwa mara ya kwanza, kabla ya Kamati kuambiwa ichunguze, suala hili lilikuja katika hali isiyokupendeza. Kuna bunge mbili katika Kaunti ya Nyamira yanayotoa mwongozo tofauti kwa serikali ya Kaunti ya Nyamira.

Ni lazima Gavana wa Kaunti ya Nyamira alaumiwe kwa sababu yeye ndiye msimamizi mkuu wa mambo yote. Ijapokuwa Bunge la Kaunti lina nafasi ya kufanya maamuzi yake kibinafsi, masuala yote yanapitia katika meza yake.

Ni aibu kwamba hata baada ya Kamati kwenda, mabunge yale mawili hayakuweza kuamua ni Bunge lipi halali. Tukiacha suala hili liendele, litaenea katika Mabunge mengine. Vilevile, itakuwa shida kutatua. Kila mtu ataona kwamba ana haki ya kutoa *Kenya Gazette* kwamba watakuwa na kikao mahali fulani huku wananchi wanapata shida na pesa za umma zinaendelea kufujwa. Kuna haja ya suala hili kutatuliwa kwa haraka.

Ikiwa korti imesema hakuna amri ya kuzuia kubanduliwa kwa Spika aliyebanduliwa, ilhali yule spika mwengine ameshaapishwa, hakuna sababu ya kuwa na mabunge mawili. Tusubiri mahakama itakapoamua kesi hiyo.

Tukiachana na suala hili, kuna siku tutasikia kuna Naibu Rais amefungua ofisi mahali fulani na anafanya kazi kwa wananchi wa Kenya akiwa na Wabunge wake.

Asante, Mhe. Spika.

The Speaker (Hon. Kingi): Lastly, Sen. Boni.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir---

The Speaker (Hon. Kingi): Hon. Senators, we are debating on the amendments. You will have an opportunity to debate the report. I have the dashboard. We are going to handle the amendments, and thereafter, each one of you will have an opportunity to contribute to the Report.

Proceed, Senator.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, what is begging in this issue, whether one is speaking to the amendment or the main report, is action. I would like to appeal to my brother, Sen. Omogeni, the Senator for Nyamira that politics being what it is, it is quite clear that the two bulls of Nyamira are at play. The Governor is controlling one house, and maybe the other bull, is controlling the other Assembly.

(Applause)

It is against this backdrop that I appear---

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Omogeni?

Sen. Omogeni: Mr. Speaker, Sir, I have great respect for my seniors, including Sen. Abass. I have read through the report. He made a remark to the effect that one group is controlled by a Governor and another group is controlled by a Senator. I have read the report that he has tendered before this House from page one to page 30. I do not feature in that Report. Therefore, that statement is not factually correct and that misleading information is being repeated by Sen. (Dr.) Khalwale.

Mr. Speaker, Sir, if you read the proceedings, I do not head any faction of the County Assembly. Sen. (Dr.) Khalwale, I have no interest in causing two sittings to happen in the County Assembly of Nyamira. In fact, if that was my interest, I would not have brought this Statement to this House.

Mr. Speaker, Sir, I want that to be dispelled, so that we do not speak on matters that cannot be substantiated; matters that would be contrary to our Standing Orders, because Sen. (Dr.) Khalwale may be imputing bad motive on my person as the Senator of Nyamira, that I want to cause two sittings. That is not the case. The only thing I am seeking assistance from this House is to ensure that we have law and order in the County Assembly of Nyamira. That is all.

The Speaker (Hon. Kingi): Very well. Sen. Boni, is your statement ---

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to thank the Senator of Nyamira. If you had followed my statement from the beginning, I was not trying to impute. I was saying, politics being what it is. I then I said, maybe there are two bulls.

The Speaker (Hon. Kingi): Sen. Boni.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Boni, for you to use the word “maybe”, you must have gotten some facts to buttress the use of that word. If you do not have any facts to support you using the word “maybe”, please proceed to withdraw.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I do not know what is happening in Parliament these days. There is freedom of speech in Parliament. When a Member finishes speaking, a Member with a contrary opinion, then opines otherwise. Otherwise,

this thing of being asked to withdraw, apologise and even sometimes the Chair stops you from making your contribution.

The Speaker (Hon. Kingi): Sen. Boni, the Chair has ruled on this matter. Kindly, proceed.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, look, we did not come to Nairobi to play around.

The Speaker (Hon. Kingi): I know.

Sen. (Dr.) Khalwale: We are not children. We are speaking on important matters of governance. Allow me to flow and where I am wrong, I will be corrected.

The Speaker (Hon. Kingi): Sen. Boni, abide by the ruling and then continue flowing.

(Applause)

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. With due respect to my brother, I have nothing against you. I have no interest in Nyamira. It is on the strength of the speech by the Chairperson of the Committee, who has actually brought in the possibility that the two of you control the warring parties. Therefore, I am free to comment.

Mr. Speaker, Sir, the reason I sat very well with Sen. Mungatana about bringing in other parties, including the church and other players like elders, it is because he was now pursuing the possibility that it is not points of law, it is just ego amongst two people who are unable to work together.

If indeed, Sen. Omogeni, that is not the case, then I can tell you, the best thing to do so as to resolve this matter quickly, is to agree that just like bank robbers, the Members of the County Assembly (MCAs) and the leadership in Nyamira are fighting over money. If that be the case, because the Controller of Budget (CoB) has refused to be proactive, let us find that this is a breach of the financial control mechanism. Let us also find that this breach is persistent.

Therefore, let us invoke Article 225 of the Constitution that gives this House the power to stop for 60 days, 50 per cent of the budget that goes to Nyamira, so that both parties will have something to lose and not fight for what they want to benefit and then they agree to come back on the table. Otherwise, what did you want the Chairman of the Committee on Devolution and Intergovernmental Relations to do? Did you want him to go with machetes to Kisii and tease people, so that they listen to him? He has come and told us where he is.

This is a progress report. We all chair committees. We know how difficult it is for a committee to complete work. You may want to complete work in 30 days, but because of the volume of work that comes to the Chair and the Secretariat, it can stretch

sometimes to 90 days. Let us not just give our Chairman a bad name so as to slaughter him. It is a good effort, but the House should help him by invoking Article 225.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon. Senators, we need to dispense with this Motion to amend. I will proceed to put the question.

(Question of the amended Motion put and agreed to)

(Question of the Motion as amended proposed)

The Speaker (Hon. Kingi): Hon. Senators, we are now going back to debate the original Motion as amended.

Proceed, Sen. Kinyua.

Sen. Kinyua: Asante, Bw. Spika, kwa kunipa fursa hii. Nitaanza kwa kuvulia njuga Hoja hii ikiwa na marekebisho. Ni jambo la kuvunja moyo sana ukitembelea gatuza unapata ina na maspika wawili, karani wawili na vikao viwili, ilhali ni gatuza moja.

Bw. Spika, ikiwa Spika ametimuliwa kutoka kwa kiti chake, hana haja yoyote kuwa na kikao chochote mahali popote. Lakini hata tukiwa tunasema hivyo, nimeangalia nikaona ya kwamba kuna hizi sehemu ambazo kwa lugha ya kiingereza wanasema zimegazetiwa na ambazo zinapaswa kutumika kama vikao maalum vya Bunge la Kaunti ya Nyamira.

Idara za Serikali zinachangia kuchanganya wananchi wa Kenya. Unapata ya kwamba mahali ambapo hiki kikao cha Wawakilishi Wadi wa Nyamira wamekutana, wanatumia sheria. Nimemsikiza Mwenyekiti akituambia ya kwamba tayari hiki kikao chenye ni *gazetted* na kuna namba ya Gazeti Rasmi ambayo imepewa.

Bw. Spika, ni kama tuna idara tofauti za Serikali. Kuna idara ambayo inasema ya kwamba ndiyo, kuna wale ambao wanapaswa kuwa mashinani na kuna wale ambao wako katika ile sehemu ambayo imetengwa maalum ya hawa wawakilishi wadi kukutana na kufanya vikao vyao. Idara za Serikali zinapaswa kuwa zinawasiliana, si kupeana mambo kiholela. Kwangu inakaa ni kama ni miujiza kama si maajabu.

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

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

Bw. Spika wa Muda, nimemsikiza Seneta kutoka Nyamira akielezea yale mambo ambayo yanatendeka huko. Unapata ya kwamba kama ni hela, zinatoka na zinapeanwa kwa gatuza hizi mbili. Ikiwa pesa zinatumiwa na kaunti hiyo kwa njia ambayo haifai, basi wanapaswa kurejesha.

Bw. Spika wa Muda, nashindwa ni kwa nini tunaandika kwa mate ilhali kuna wino. Tusiwe tunatoa mapendekezo ya kupoteza muda. Wakati mwingi tunatoa mapendekezo ambayo hayafuatiliwi. Kamati husika imekuwa ikishughulikia jambo hilo kwa zaidi ya siku 45 lakini watu hawajapata majibu. Isiwe sisi kama Seneti tunatoa mapendekezo ambayo hayatiliwi maanani.

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

The Temporary Speaker (Sen. Abdul Haji): Sen. Kinyua, je, ungependa kujulishwa na Sen. Mumma?

Sen. Kinyua: Kiingereza hunichanga. Nitafurahi akinijaza kwa Kiswahili.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mumma, tafadhali mjulishe kwa Kiswahili.

Sen. Mumma: Mr. Temporary Speaker, Sir, I think I have a right to choose the language that I want. So, allow me to do so.

The Temporary Speaker (Sen. Abdul Haji): Sen. Kinyua, unaonaje?

Sen. Mumma: Bw. Spika wa Muda, acha nijaribu.

Asante sana, Sen. Kinyua, kwa kukubali nikujulishe. Ningependa kufahamisha Seneti kwamba hili suala halikuangaziwa na Kamati ya Ugatuzi na Mahusiano ya Kiserikali pekee. Spika aliamuru kuwa Kamati ya Haki, Masuala ya Kisheria na Haki za Kibinadamu iangalie mambo ya kisheria yanayohusiana na mambo ya Nyamira.

Kile ambacho hatujaelezwa leo ni ikiwa Kamati hiyo ilimaliza ripoti hiyo au kama ilitekeleza majukumu iliyopewa na Spika. Si vizuri kuendelea kukashifu Kamati moja ilhali hatujapata ripoti ya kamati ya pili.

Sen. Wakili Sigei: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Is it a point of information or point of order?

Sen. Kinyua: Mr. Temporary Speaker, Sir, I have no problem being informed by Sen. Wakili Sigei.

The Temporary Speaker (Sen. Abdul Haji): Kwa Kizungu ama Kiswahili?

Sen. Kinyua: English is okay.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Wakili Sigei.

Sen. Wakili Sigei: Bw. Spika wa Muda, ningependa kutilia mkazo jambo lililosemwa na Sen. Mumma. Kamati ya Haki, Masuala ya Kisheria na Haki za Kibinadamu ilipewa jukumu la kuangalia mambo mawili. Tutakuwa na mkutano Ijumaa. Tuko tayari kuangalia mambo hayo kisha tutatoa mapendekezo yetu.

Bw. Spika wa Muda, nilitaka tu kumjulisha mwenzetu, Sen. Kinyua, kuhusu kile ambacho tumepanga kama Kamati ya Haki, Masuala ya Kisheria na Haki za Kibinadamu.

Sen. Kinyua: Bw. Spika wa Muda, hiyo ni dhahiri shahiri kuwa Kamati hiyo imezembea katika kazi yake kwa sababu hawajalivalia njuga jambo hili ambalo ni muhimu kwa sababu sasa ni zaidi ya siku 45. Wanasema kuwa hawajakuwa na kikao

kushughulika jambo hilo ilhali katika Kaunti ya Nyamira, pesa zinaendelea kutumika kwa njia isiyofaa kwa sababu wanaendesha vikao viwili.

Kamati hiyo inayoongozwa na Sen. Wakili Sigei haioni kama hilo ni jambo ambalo linafaa kushughulikiwa kwa dharura. Wanapaswa kuleta ripoti kama ilivyofanya Kamati ya Ugatuzi na Mahusiano ya Kiserikali. Kamati ya Haki, Masuala ya Kisheria na Haki za Kibinadamu haijafanya chochote ilhali wao ndio wanapaswa kushughulikia jambo hilo.

Kwa kumalizia, naona *Gazette Notice* ya tarehe 23/11/2024 ambayo inasema kwamba wamekubali kuwe na vikao Masaba North Sub-County Office, Nyamira Sub-County Office, Manga Sub-County Office, na Borabu Sub-County Office. Swali langu ni, je, kwa nini Idara za Serikali zinakubali mambo kama haya kutendeka?

Bw. Spika wa Muda, naunga mkono kwamba vikao hivyo visitishwe. Wanafaa kuwa na kikao kimoja ambacho kinakubalika. Nashukuru.

The Temporary Speaker (Sen. Abdul Haji): Next is Sen. Wambua.

Sen. Wambua: Mr. Temporary Speaker, Sir, I have a big file here. So, I need some surface.

Mr. Temporary Speaker, Sir, I thank you for this opportunity to contribute to the debate on this Motion. How I wish the Chairman of the Committee on Devolution and Intergovernmental Relations was in the Chamber because there are certain things that I wanted him to hear. Since I can see some Members of the Committee, I hope they will take note.

Under Section 7(b)(ii) of the County Governments Act, a resolution of the Assembly, following all the procedures of debate, is necessary to designate a sitting outside the gazetted premises of any assembly. It is very clear in their own interim report that they have made a finding that the sittings that have been gazetted outside the designated Chamber of the Assembly were not a product of a resolution of the County Assembly of Nyamira.

(Loud consultations)

Mr. Temporary Speaker, Sir, I feel like I am speaking to myself. I find it difficult to continue with my contribution.

Sen. Wakili Sigei: On a point of order, Mr. Temporary Speaker, Sir. I would like to help the Chair to manage Sen. Olekina and the Senate Minority Leader who were entirely disrupting the proceedings. We desire to listen to the Senator as well as the Chair to coordinate and manage the House. Is it in order for them to continue consulting the Chair when we have someone on the Floor?

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Sen. Wambua, please proceed with your submissions. I was just consulting with the leadership on a matter which touches on your side.

Sen. Wambua: You want me to proceed?

The Temporary Speaker (Sen. Abdul Haji): Yes, because I can multi-task.

Sen. Wambua: Mr. Temporary Speaker, Sir, I do not doubt that. The only problem I have is that the Chair of the committee is not in the House. So, I would like to address the Speaker. One of the issues that we are dealing with here is having different assemblies in one assembly. I can see a semblance of the same thing. If the consultation is important, I can sit and wait.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Wambua, because we have concluded.

Sen. Wambua: Mr. Temporary Speaker, Sir, let me go on record. What you are doing is not right. Honestly, what is happening is not right.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, proceed because I am listening.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. That is okay. What I was saying is that the Assembly needed to pass a resolution for there to be sittings outside the designated Chamber of the County Assembly of Nyamira.

Mr. Temporary Speaker, Sir, in the findings of the Committee, in their interim report, the Committee has found that resolution was not granted. So, any place that the Assembly has sat, which has not gone through the process of designation, and any decisions and resolutions that have been made out of those sittings are null and void. That is a plain reading of the law.

Secondly, Mr. Temporary Speaker, Sir, I will be the last person to impute any improper motive on any person, leader or committee. However, I would like to take great exception to the way this matter has been handled by the Senate Standing Committee on Devolution and Intergovernmental Relations, with all due respect to the Committee.

This is a very serious issue. This matter portends an existential threat to devolution as we know it. County assemblies are now borrowing from what is happening in Nyamira County. I stand here to inform this House that in the County Assembly of Machakos, something funny has happened. The Members of County Assembly (MCAs) have moved a Motion to impeach the Speaker. There is chaos in the Assembly and the Speaker from her office writes a letter closing the Assembly indefinitely.

Mr. Temporary Speaker, Sir, as we speak, the County Assembly of Machakos has been closed indefinitely by a letter from the Speaker, because she was facing impeachment.

As I said, I do not want to impute any improper motive on any Senator, but this Committee plays such a crucial role in the success of devolution. Today, it is Nyamira and Machakos counties, but you do not know what is going to happen to Nyandarua County tomorrow or to Bomet County the day after tomorrow. The Senate Standing Committee on Devolution and Intergovernmental Relations must make serious

recommendations and apply themselves to the situations that they face on the ground, as far as devolution is concerned.

Lastly, I have heard that the Committee wants to go back and have sessions with the Governor and the Senator, who is actually the leader who brought the Statement to this House. I wonder, what kind of appointment does the Committee need with the Senator of Nyamira County, to deal with the matter of Nyamira County Assembly? It never occurred to me that the Senator of Nyamira is so inaccessible that the Committee has got to make an appointment, take more than 45 days to have a sitting with him to discuss a crisis that is happening in Nyamira County.

Mr. Temporary Speaker, Sir, a time has come that, all of us, including myself, must begin to take the business of this Senate a lot more seriously. For the Chairperson to put it on record that 45 days later, he is planning to meet the Senator of Nyamira County and discuss the issues of conflict in the County Assembly of Nyamira, is a slap on the basic intelligence of the people of Nyamira County and the Senators in this House. It should not be allowed to happen. There are some Statements that should not be made by chairpersons of committees.

As I said, I do not want to impute any improper motive on anyone. However, before we seek to be respected by the national and county executives, as a Senate and committees of the Senate, we must respect ourselves. We must dignify ourselves before we ask other people to respect and treat us with dignity.

With those remarks, I support.

The Temporary Speaker (Sen. Abdul Haji): Sen. Thang'wa, please proceed.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir, for the opportunity.

When I read the Motion as it is today, I do not know whether to support or oppose, because what has been added goes deeper than what this House is supposed to do. I will be saying whether I support or not at the end of my contribution.

Mr. Temporary Speaker, Sir, I would like to remind this House that this issue of Nyamira County Assembly was directed to the Senate Standing Committee on Devolution and Intergovernmental Relations, which I am a Member. We have scrutinized this issue as members of the Committee. We have even invited the Senator of Nyamira County, Sen. Omogeni, to the Committee. So, it is wrong to say that he has not been invited.

If you look at the Order Paper today, you will see, if they are not wrong, that the report that we are debating today was tabled on 17th of April, 2025. That is almost a month ago, so I do not know whether it is the Committee or the Senate as it is.

This issue of Nyamira County Assembly is one that we need to comb with a toothpick, as they say, because we might be curing half of the issue. In Nyamira County Assembly, there are two Speakers, one impeached, as they say, who is holding sittings away from the precincts of the Assembly. That is one fact. There is another fact, whereby another Speaker is holding the sittings inside the precincts of the Assembly. The one who

is holding the sittings away from the Assembly precincts is breaking the law. Similarly, the one who is also holding the sittings in the gazetted County Assembly is also breaking the law. I will tell you why, because I am a Member of this Committee and I know it.

The Speaker who is purported to have been voted for by other MCAs is a sitting MCA. The law says, you have to elect a Speaker who is not an MCA. That Speaker who is purported to be the current Speaker or the substantive Speaker of the County Assembly of Nyamira is a sitting MCA.

The Temporary Speaker (Sen. Abdul Haji): Sen. Thang'wa, I am being informed that you seconded the Motion.

Sen. Thang'wa: It is a new Motion because it has a new amendment.

The Temporary Speaker (Sen. Abdul Haji): Just a moment, Sen. Paul Thang'wa. Give me a minute.

(The Clerk-at the Table consulted with the Speaker)

Sen. Paul Thang'wa, unfortunately, it is the same Motion. So, you cannot debate it again. I will have to stop you right there and give to the next Senator.

Sen. Gloria Orwoba, please, proceed.

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion with the amendments that have been brought to the Floor of the House. I listened carefully to my colleague, Sen. Mungatana, who said that we should not be quick to recommend and do things before the Committee is done.

I want to remind this House that we constantly say that we do not want to be the morticians of things. We do not want to keep waiting until things are done to be called upon to oversight over matters that have already been concluded. This is one of the Motions where we are going to set precedence as a House; a House that is protecting devolution and ensuring that devolution works, I believe that the actions that we take in terms of the matter of Nyamira---

(Sen. Oketch Gicheru stood at the Bar)

The Temporary Speaker (Sen. Abdul Haji): Sen. Orwoba, I will just interrupt you briefly. Kindly, take your seat.

I have a Communication from the Chair.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR**SUSPENSION OF SEN. EDDY OKETCH FROM
THE SENATE DURING THE MORNING SITTING**

Hon. Senators, I have been approached by the Senate Minority Leader and the Senate Minority Whip seeking clarity on the suspension of Sen. Eddy Oketch during the sitting of the Senate this morning.

Hon. Senator, I have reviewed the directions given by the presiding officer and further confirmed from the presiding officer. I have established that the suspension was for the remainder of the morning session pursuant to Standing Order No.21.

I therefore admit Sen. Eddy for this session.

I thank you.

(Resumption of debate on Motion)

Senator Gloria Orwoba, you may proceed

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir. As I was saying, whatever this House decides on the issue that is affecting Nyamira County is actually going to set a precedence on how we protect devolution as the Upper House.

I have listened to my colleagues debating and weighing in on the matter. I happen to come from Kisii County, which is a neighbour of Nyamira County. I can tell you that as much as we joke about Nyamira County being our younger brother or our younger sister, these issues are completely affecting the development of Nyamira County. It is not just a matter of conducting two separate assemblies.

In the last financial year, Nyamira County lost Kshs19 billion, which cannot be accounted for. When you look at the matters that are going on in Nyamira County---

(Sen. Oketch Gicheru walked into the Chamber)

(Applause)

I do not know whether I should pause and wait for Sen. Eddy to maybe give a prescribed apology now that he is back from his suspension.

Mr. Temporary Sir, it is not just an issue of two separate assemblies. Nyamira County lost Kshs19 billion in the last financial year. We are yet to be told what happened in terms of accountability of those funds.

Right now, we are being told that the county assembly is actually receiving funds through the Controller of Budget. I have heard my colleagues say that the Controller of

Budget will only follow the law and has to send the funds because they only deal with the CECM for Finance.

Let it be on record that the Controller of Budget is actually living in this planet. She is from Nyamira County and she is aware of the things that are happening in that county. So, as much as we are all trying to be independent, what is happening in Nyamira County is an outright abuse of office.

One of the recommendations that I think did not make to the amendments is that we should stop funding this county assembly until they put their house in order,

I believe that in a time where no one can tell you which is the legitimate assembly, then we also can decide that the county is not functional. So, we should stop the Exchequer from sending all this money that we are losing. As I have said, Kshs19 billion was lost in the last financial year.

As I conclude, one of the things that we are not debating in this House, I have heard Sen. (Dr.) Bon Khalwale say that it is political. If it is political, then maybe we need to find a political solution, and maybe the Senator for Nyamira County, my colleague, Sen. Omogeni, should be able to work with the Committee of Devolution and Intergovernmental Relations and find a political solution.

As much as it is political, we have to remember that as the Upper House, we are here to protect and defend devolution. At the point where that becomes an issue, then everything else has to be put aside, so that we protect and defend devolution.

I support this Motion with amendments. I am also a bit disappointed with the Committee on Devolution and Intergovernmental Relations. I know that probably they do not have the authority to stop things. This report should have come in earlier, so that we debate it and make sure that we are not losing more funds as we are by of tabling reports on the Floor of the House.

Mr. Temporary Speaker, in conclusion, Nyamira County, if governed well, can really produce a lot of good things for the benefit of this country. If, for example, in Kisii and Nyamira counties, we decide to focus on farming, we can feed the whole of this country without even importing any form of food, be it maize, sugar and anything. So, this is an issue that the whole country should look at because it is not just Nyamira County, it is actually affecting us. There is a whole domino effect around the assemblies and them not functioning or otherwise.

Mr. Temporary Speaker, I beg to support the report. I want to thank Sen. Omogeni for continuing to do his work in Nyamira and for continuing to make sure that he is independent, devoid of everything that is happening there.

The Temporary Speaker (Sen. Abdul Haji): Sen. Osotsi, you have the Floor.

Sen. Osotsi: Thank you, Mr. Temporary Speaker, Sir. The matter before us is weighty. I think the Senate is under a major test to see how we are going to resolve this matter.

I have read the report by the Standing Committee on Devolution and Intergovernmental Relations, and I think more should have been done. There are instances of clear violation of laws by both parties, which I think the Committee should have done more to ensure that the law is upheld.

There is a serious problem with Nyamira County. As the Chairperson of County Public Investments and Special Funds Committee (CPIC), I have had a lot of problems dealing with this county, particularly, the governor of this county. In fact, there are about five counties which are in a category of their own when it comes to matters of governance, accountability and transparency - where impunity rules. What we are discussing now is impunity of the highest order, where people have decided to violate the law; people have decided to create their own law and operate in their own space.

If you look at the history of this matter, you realize that it started with the attempted impeachment process against the Governor, then it went to the Speaker and then it created the two parallel assemblies and amended the Standing Orders, so that they could carry out this impeachment.

The overall effect of all this is that there is no oversight in Nyamira County because of the two parallel Houses, because of the inability of the County Assembly to enforce the appearance of the County Executive Committee Members (CECMs) before them. So, we are in a very serious situation at the moment and that is why I started by saying, I wish the Committee could have done better than what I have read in their Report. This is also a clear sign of interference in the management of the County Assembly, starting with the Governor himself.

We have seen how the County Executive of Nyamira has behaved when they appear before the CPIC and CPAC. They clearly demonstrate that they are not ready to be held accountable. If they can do that to the Senate committees, then what about the County Assembly?

So what is happening here? The elephant in the room is that every effort is being made to frustrate oversight, accountability and good governance of Nyamira County. That is where the Committee should put their focus on and ensure that the right things are done for the good of the people of Nyamira. I encourage the Committee, since this is a progress report, to try and do better than what they have presented before us.

Mr. Temporary Speaker Sir, the Committee on Devolution and Intergovernmental Relations is the interface of this Senate. Most of the issues that affected devolution entirely are supposed to be handled by this Committee. I know there are numerous outstanding matters, which have not been handled such as the Intergovernmental Relations Mechanism. It is high time we had a proper law governing that in this House. That would address some of these challenges.

You have seen the response from the Controller of Budget (CoB). It is not justifiable. How does the CoB appropriate money to this County Assembly, an illegal supplementary budget and we leave her to go scot-free?

Something has to be done around there because public funds must be protected even as the two assemblies fight.

It is also an opportunity to re-look the County Governments Act, 2012 in terms of location of the sittings of county assemblies and even ourselves here. Probably this matter of Senate Mashinani has to be---

The Temporary Speaker (Sen. Abdul Haji): Your time is up, Sen. Osotsi. Proceed, Senator Methu.

Sen. Methu: Thank you, Mr. Temporary Speaker and thank you, Commissioner Joyce Korir. I also welcome back Sen. Eddy. He is a young legislator in this House. It always a pleasure to have him around here. My age mate, who now crossed over and took over from where I left. He is a bit older than me.

First, I express my dissatisfaction and displeasure by a comment that has been made by the Chairman of the Committee, Senator Abbas. I wonder whether there was a legal mind in that Committee and a researcher advising them when the CoB said that there was nothing she could do to stop funds going to the County Assembly.

Unless anything has changed, for as long as I know, the way funds are appropriated and withdrawn from the County Revenue Fund, requisitions are prepared by the Clerk of the County Assembly, and only transmitted to the CoB through the Chief Executive Committee Member (CECM) Finance.

Mr. Temporary Speaker, Sir, on money or requisitions that go to the County Assembly there is no comma or full stop that is added by the CECM. Therefore, if indeed the CoB wanted to help in ensuring that money is not misappropriated in the County Assembly of Nyamira, she had the onus and the responsibilities on her. This is not an isolated case.

May I invite you to look at our Constitution, Article 207(3), which states that-

“Money shall not be withdrawn from a revenue fund unless the Controller of Budget has approved that withdrawal.”

Every money that shall be misappropriated in the County Assembly of Nyamira, the responsibility will be on the CoB because she will have released that money and allowed the withdrawal of these funds from the County Revenue Fund.

It is this Constitution that gives the CoB the powers she enjoys. I also want to draw your attention to Article 228(5) of the Constitution of Kenya, 2010 which states that

“The Controller of Budget shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorized by law”

All the monies that are going to the County Government of Nyamira, be it the County Assembly or the County Executive, the CoB must be satisfied. That is the reading of the law. It is not me who wrote this Constitution. If anything, I am just a farmer. There are many good advocates in this House.

So the monies going to the County Government of Nyamira, be it the County Executive or the County Assembly, the CoB must say, “I am satisfied 100 percent that these withdrawals that are happening at the county level fund are backed by the law.”

It is a very defeated argument by the Chairman of the Committee on Devolution and Intergovernmental Relations to come and say that the CoB said that she was helpless. It is not true.

Requisitions that are coming from the county assembly are never prepared by the CECM for Finance, but by the Clerk who is the accounting officer of the county assembly.

Many people want to say “oh, there is politics, there is a group that is aligned to the governor. There is another group that is aligned to where.” It does not matter. The matter has been brought to the Senate. It is for us to decide the legitimate of these two groups, so that the other group cannot continue withdrawing this money.

Mr. Temporary Speaker, Sir, some people are sitting in a corner calling themselves a county assembly. They have no legitimacy or conservatory order that stayed the impeachment of the Speaker. How, therefore, does the Speaker continue withdrawing money from the County Revenue Fund?

There is no explanation that the Committee on Devolution and Intergovernmental Relations can give to this House. They do not even require to go to Nyamira. What are they going to do?

I want to ask as Sen. Wambua - is Senator Omogeni so inaccessible that we have to go and look for him in Nyamira? What does the Governor have to do in determination of a matter as to who is the legitimate County Assembly of Nyamira? I am disappointed. In fact, had we not got this amendment from Sen. Ojienda, that report of the Committee on Devolution and Intergovernmental Relations in my opinion, was completely underwhelming.

Had we not got this amendment from Sen. Ojienda, I do not think we would have done justice to the people of Nyamira and the County Assembly. This is because the people who have the primary responsibility of oversight is the county assembly, not even the Senate. If the County Assembly cannot play their oversight role on the County Executive, therefore, even the reports that we shall be looking at, CPIC Chaired by Sen. Osotsi and CPAC Chaired by Sen. M. Kajwang’---

(Sen. Methu’s microphone was switched off)

Sen. (Prof.) Kamar: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to contribute to this interim report. May I confirm to the House that I am a member of this Committee and that I was present when we interviewed the team that came from Nyamira.

As Sen. Thang'wa said before he was stopped, we were dealing with two illegal groups and I think we made those observations. The first Mr. Temporary Speaker, was suspended, but there is nothing called suspension. Therefore, the Members of the Assembly were wrong to do the suspension. That was the first thing that we noted.

The second thing is that they seem to have noted that because after suspending and crudely ejecting the Speaker, they were called to go to court and they went to apologize. It was after their apology that they came back and did the right thing - to impeach. According to the Standing Orders of Nyamira, which are like our Standing Orders, the Assembly has a right to impeach.

During the impeachment, they even invited the Speaker and allowed Okero to defend himself. After the defense and after it was done procedurally, he was impeached procedurally. What happened and which surprised the committee, is the fact that at the point of being impeached, this Speaker who had been impeached, went to court and when he was given a small breather, although there was no ruling because we went through the court statements and there was nothing giving a stay, took advantage and suspended the clerk. That is how he came up with his own clerk and a parallel group started emerging.

If you read the report, at the same time, after the Assembly had impeached successfully and according to the Standing Orders, they elected the Deputy Speaker to be the Speaker. Remember, the Deputy Speaker is a member of the county assembly. So, we are dealing with another illegality, because he was elected when he was still an MCA. Again, the Committee observed that we are now dealing with two illegal leaders. The impeached Speaker started holding his meetings because he could not be allowed to come to the premises by the MCAs who had elected their own Speaker.

If you look at the recommendations and I will go straight to them, so that the committee is not blamed for the things that they did not do. If you read our observations properly, we have brought issues out, but if you go to the recommendation, I dare say I am the one who laid the report in this House on the 17th April, 2025.

We have been blamed for 45 days, but we brought this report in 17 days. On 17th April, is when I laid the report on the Table. It is this House that delayed so the 45 days do not belong to us. We did our work within 17 days. We laid the report and we are waiting for our recommendations to be either accepted or rejected. These meetings should have taken place soon after the 17th.

For that reason, Sen. Omogeni - and they are disrupting him now - it should come out very clearly that since we laid the report on the Table of the House on the 17th April, we cannot talk about 45 days. We gave our report on time. After giving the report on time, we gave two very strong recommendations, which no one is referring to in this House. Please do not blame the Committee for what they did not do.

Mr. Temporary Speaker, Sir, what did we say in recommendation number one? We said pursuant to Section 7(b)(2) of the County Governments Act; whereas the sitting

of the County Assembly be held at the County Assembly premises. That was what we agreed on. The second one---

The Temporary Speaker (Sen. Abdul Haji): Give the Senator one minute to conclude.

Sen. (Prof.) Kamar: Please give me one minute because I am a Member of the Committee and I want to clarify two things. That is what we agreed as a Committee and that is what we accepted. We wanted this House on the 17th to come and rule on because if you had accepted, this communication should have gone to Nyamira and the Assembly of Nyamira should have been in the right venue.

Number two was that pending the determination of the court cases, the County Assembly resumes its normal operations in accordance with the Constitution. What is the Constitution? The Constitution is to use the right venue and the MCAs have a right to follow their Standing Orders. In the Standing Orders, there are two things that are clear. The first one is that in the absence of the speaker, because they did not have a speaker considering the two of them had already been dismissed and in our observations, they could have a member of the Speaker's Panel. So, they had a right to move to the right venue and continue until we went back, because we wanted to visit and clear this thing with the Assembly.

In fact, we were talking of going to see the Governor. A governor has nothing to do with the county assembly. It is only a pity that the CoB was put in a very awkward situation, because the CoB came out clearly and said---

The Temporary Speaker (Sen. Abdul Haji): Your one minute is up, Sen. (Prof.) Kamar.

Sen. Joyce Korir, proceed.

Sen. Korir: Thank you, Mr. Temporary Speaker Sir. I rise to support the report of the Committee on Devolution and Intergovernmental Relations with amendments. I have heard a number of colleagues speak to this report and I would like to say that the entire is waiting for this House to give directions to the Assembly in question, in terms of how best they can discharge their mandate.

I also congratulate the Senator of Nyamira County, Sen. Omogeni for taking lead in making sure that he assists the Committee in getting a lasting solution. However, there are a number of questions that are running through my mind. The first one is that we do not cap in terms of statutory instruments that are supposed to guide us on where the Assembly is supposed to be sitting.

Secondly, we do not have a cap on directing the CoB in terms of remittance of the monies to the assemblies. The statutory instruments are there, it is well stipulated and the only problem that we have in this country is the implementation part. We will keep blaming each other. We are blaming the Assembly and we are blaming the two groups within the County Assembly. We are also blaming the Senate and the committee. The

blames are all over and yet we have the instruments that can assist us in making sure that things work the right way.

Mr. Temporary Speaker, Sir, a number of colleagues have spoken. This is a problem that will spill over to the 47 counties. Remember, we are a House that is supposed to set a precedence that will be followed another day if we have an occurrence such as this one. By saying so, I stand with the amendments that have been suggested by Sen. Ojienda and despite the fact that we are saying it was tabled on the 17th, it has taken time. I would want to see instruction by the Senate Committee instructing the counties to do what is right.

These blame games should stop. We are using public resources. We are mistreating members of the public. We are crying day and night about the prudent use of resources. It is high time that this Senate wakes up and does what it is entailed to do. It has been a blame game despite the fact that the Committee is supposed to move to the ground. I was waiting to see a number of recommendations that are supposed to be undertaken by the County Assembly.

That is the only way out. We are not talking here to please one another. We are not just talking because we want to debate. We do not want just to be seen because we are a Senate that is in charge of devolution. We need to see actions taken. We need to see a serious recommendations by the Committee to make sure that things work the right way.

Mr. Temporary Speaker, Sir, I will not say much, but I would ask the Committee to re-look at this matter. Let us work. Forty-five days is a long time. This is something that needs to have a timeframe. It is affecting MCAs, the residents of Nyamira County, the name and role of the Senate.

Thank you, Hon. Temporary Speaker, Sir.

Sen. Mungatana, MGH: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Mungatana?

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, I did not want to interrupt Sen. Korir because she is a great Senator, but is she in order, under Senate Standing Order No.105, to suggest that the report stayed for 45 days?

She says that yet a Member of this Committee has clarified that they tabled it within 17 days and they acted very swiftly. It is this House and the Senate Business Committee (SBC) that did not bring it for debate. They have now changed everything to say that it took 45 days. They have crucified the Committee unfairly. I thank, Sen. (Prof.) Kamar for bringing the truth to this House. Is she in order?

The Temporary Speaker (Sen. Abdul Haji): Sen. Joyce Korir, I will allow you to proceed. The point of order raised by Sen. Mungatana is valid. Sen. (Prof.) Kamar spoke just before you rose up and she gave a clarification on the matter of 45 days. That

was for the benefit of the House and it was to guide the House not to keep saying that the Committee took 45 days.

So, could you please withdraw that and continue with your submission?

Sen. Korir: Thank you, Mr. Temporary Speaker, Sir. I will not withdraw because the report that they have presented is a progressive report. They have not concluded it. I would have withdrawn if they tabled a concluded report. This matter is taking more time than expected.

(The Clerk-at-the-Table consulted the Temporary Speaker)

The Temporary Speaker (Sen. Abdul Abass): Sen. Joyce Korir, the fact of the matter is that this matter was sent to the Committee on 1st April, 2025. They came back to the House on 17th April, 2025 to make a progress report. Thereafter, we went for recess. So, 45 days have not elapsed.

In that order, the point of order that Sen. Mungatana rose on and the clarification that was given by Sen. (Prof.) Kamar would have guided you in not falling into that trap of 45 days. Do not say you will not withdraw because this is the order of the Chair. If you do not withdraw, I will find you grossly out of order and you might face the same fate that Sen. Oketch Gicheru faced this morning. So, Sen. Joyce Korir---

Sen. Korir: Mr. Temporary Speaker, Sir, I hope it is not a threat.

The Temporary Speaker (Sen. Abdul Haji): It is not a threat. I was guiding you and even my tone indicates that.

Sen. Korir: It is a guide and not a threat. Mr. Temporary Speaker, Sir, I withdraw the 45 days. However, the only thing that has given life to this report is the amendment by the Sen. (Prof.) Odhiambo Ojienda. That is the only thing.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Sen. Joyce.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. I rise to make some brief comments on this report, which is highly unprecedented. We are faced with a challenge which, legally, is an issue that can be resolved easily.

The process of moving funds to a county assembly are clearly defined in the Public Finance Management Act. If you read Section 103 of the Public Finance Management Act, it sets up the treasury of the county assembly.

Section 104 puts or places the County Executive Committee Member for Finance as the head of the treasury. This is the person who communicates and deals with the CoB.

I have taken some time to try and understand the problems we are facing. I have looked at the recommendations given by the Committee, but they do not solve the problem. They are interim recommendations that do not provide a solution to the problem that we are having in Nyamira County.

This is an issue of fiduciary responsibility. My brother from Nyandarua County attempted to guide this House on how we should look at it. I hope the Committee

Members listened keenly because the distinguished Senator from Nyandarua led the House to where we should resolve this problem.

When a county that has two assemblies, we should first ask ourselves what our role as a Senate is. This is because we are the House that is supposed to protect devolution. When you have two assemblies, then the issues of lack of accountability or fiduciary responsibility arise.

I have taken some time and consulted with the area Senator and he has explained to me where the problem is. We have two assemblies. There is one with 12 members and the other one has 22 members. The 22 members attempted to impeach the governor and when they did not succeed to impeach him, he decided to deal with those 22 MCAs.

When he was about to deal with the 22 MCAs, the 22 MCAs decided to impeach the speaker. The speaker then went to court and said that the 22 MCAs had not met the threshold. He was not given a stay and when that happens, legally speaking, he could not proceed serving as the speaker. He was impeached. That is it.

Mr. Temporary Speaker, Sir, there is a lot of collusion and we have to figure out where this collusion is coming from. That Assembly has two clerks and what I know is that before an assembly is funded, their money is tied to the exchequer, which is released to the county assemblies. The next thing is that before that money is released, the county executive committee member in charge of finance, who is the head of treasury of that county, has to release a Form C for money to be sent to the assembly.

We have a situation where there is either incompetence in the part of the county executive committee member in charge of finance--- I wish Sen. M. Kajwang' was here. According to Section 199 of the Public Finance Management Act, there are serious consequences that befall anyone who violates the Public Finance Management Act.

Mr. Temporary Speaker, Sir, here is a very simple process that we need to proceed with. Instead of beating around the bush and making recommendations that will not effectively solve this problem, we should focus on the bottom line. Why is the CECM, Finance issuing Form C to allocate funds to individuals sitting in a location gazetted by an impeached speaker? That is where the problem lies.

What we need to do is very simple. If this Senate cannot pass a resolution and ensure its implementation, other agencies should move expeditiously and make arrests where necessary. The CoB should also not be releasing funds because the law, Article 226(5) mandates her to release money only when she is satisfied that the allocation is authorized by law.

Mr. Temporary Speaker, Sir, grant me 30 more seconds because this issue is very key. We will not be able to resolve this matter if we continue going back and forth without implementation. What we need to do is clear. The Standing Committee on Devolution and Intergovernmental Relations should work closely on this issue or alternatively establish an *ad hoc* Committee. The first step is to invoke Article 125 of the

Constitution to summon the governor to appear alongside the CECM, Finance. At the same time, we must also summon the CoB, so that we bring sanity---

The Temporary Speaker (Sen. Abdul Haji): Your 30 seconds are up, Senator.

Sen. Sigei Hilary, proceed.

Sen. Wakili Sigei: Thank you so much, Mr. Temporary Speaker, Sir. I also rise to support the Motion as amended. From the onset, I would like to defend the Committee. The Committee handling this matter has been bashed by Members over allegations that they have taken more than 45 days, which is not true. As a matter of fact, I have reviewed the HANSARD and the statement was sought by Sen. Okongo Omogeni, on the 1st April, and a preliminary report was tabled on 17th April, barely 17 days later.

Interestingly, this is what the HANSARD says. I want to quote what Sen. Okongo Omogeni said on that day. I also wish the Chairperson of the Committee were in the House because both he and his Members deserve to be defended for the good work they have done, while being blamed for any delays, if indeed there have been any.

Sen. Omogeni confirmed that it is a progress report on the operational and leadership crisis affecting the County Assembly of Nyamira.

“On the 1st of April, I rose on a point of order and sought the Committee’s indulgence to address four key issues. I have had the opportunity to peruse through the report. I thank the Chairperson of the Devolution and Intergovernmental Relations Committee and his Members for the attention they gave this matter and the speed at which they have tabled the report before the House.”

To that extent, I want to appreciate the Members of the Committee. However, I also wish to acknowledge and appreciate the Senator for Kisumu County. Had the report, as tabled earlier by the Chairperson, remained unchanged, it would not have served the purpose of the statement sought by the Senator for Nyamira County. The reason is as black and white. It did not reflect the concerns that were raised.

Mr. Temporary Speaker, Sir, this is one of the issues that led to the Senator’s concern on that day, prompting him to seek the intervention of the Speaker. Two issues were subsequently referred to the Standing Committee on Justice, Legal Affairs and Human Rights. Such issues would have been substantially addressed if this report were adopted today through the amendment sought by Sen. (Prof.) Ojienda. The amendment has been adopted and that is what we are debating. Given the circumstances, the committee did what they could and in terms of time, they did their best.

Secondly, the amendment has indeed given life to the report. That is why we are supporting it. The questions sought by Sen. Omogeni are threefold. If we approve the report as amended, which I fully support, the issue regarding the legality of sittings held by a version of the assembly outside the precincts of the gazetted assembly, will be deemed null and void.

Concerning the impeached speaker, it does not matter whether he has managed to challenge the impeachment proceedings or not. The fact remains that upon being

impeached, he went to court, but was unable to secure an injunction. Therefore, he cannot, in any way, purport to sit.

Whether he gazetted the sittings as he purported, naming three locations and referring to them as 'Sittings Mashinani', the process itself is illegal. Any proceedings that transpired in those sittings are illegal. Therefore, even as we ask that the report affirms the nullity of those sittings, it is upon the rightful Speaker of the House to ensure that those proceedings are officially declared void.

Lastly, regarding the issue raised by Members, we are dealing with two assemblies and the Chairperson of this committee alleged that the CoB indicated that she had received requisitions. Sen. Methu has attempted to walk us through the process of requisitioning funds from the CoB and the subsequent approval of such funds.

There is a high likelihood of collusion between the office of the CoB and the legal team within the assembly. This is a serious issue that this House must thoroughly investigate as we work toward resolving this matter. I also agree with Sen. Olekina that, besides their---

The Temporary Speaker (Sen. Abdul Haji): Your time is up, Senator. We are running out of time. Please indulge me.

Sen. Catherine Mumma, proceed.

Sen. Mumma: Thank you, Mr. Temporary Speaker. I am the Vice-Chairperson of the Devolution and Intergovernmental Relations Committee. I would like to support the Motion as amended. I bring to the attention of the House that it is important we get the record right. I urge every Member to read the report thoroughly and examine the observations.

Observation No.10(7) speaks to the nullity and illegality of county assembly sittings that were done outside the right location. That is part of what Hon. Sen. Ojienda has brought forward.

The only observation missing pertains to bringing in the Ethics and Anti-corruption Commission (EACC). This is because the Committee resolved to visit Nyamira to find out what is happening on the ground. As it did so, we were aware that it has a myriad of cases before the courts. We are also cognisant of the need for some of those cases to be resolved. I believe some of those who have spoken have not even referenced the observations we made. They have instead erroneously bashed the committee's on what it has said.

As I conclude, it is important to state that the report was tabled and the House Business Committee scheduled it for discussion today. On the day the report was tabled, the hon. Senator for Nyamira County expressed dissatisfaction and requested the Hon. Speaker to refer the legal matters to the Standing Committee on Justice, Legal Affairs and Human Rights.

You will agree with me that every observation in our report pertains to legal matters. Therefore, even as the Committee prepares to visit Nyamira, the standing

Committee on Justice, Legal Affairs and Human Rights is also preparing to examine this issue. I urge all of us to converge and understand that no Committee is unwilling to get to the bottom of the truth of this matter.

As a House, we need to come together and take necessary action while respecting matters before the courts. At the same time, we must do whatever is within our power to ensure this issue moves forward.

Mr. Temporary Speaker, Sir, as a decision is made and the Report is adopted, you might want to guide the Committee on Devolution and Intergovernmental Relations on whether its planned activities to finalise this issue are still valid, given the comments that we have heard from colleagues. I support the Report and I will stop there for the time being.

I thank you.

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I also rise to support the report as amended. As much as we fight for the county assemblies to be semi-autonomous, we do not encourage this kind of behaviour displayed by this county assembly. Sitting outside the gazetted area for a county assembly is illegal.

I went through the report, but the report is only showing what they have observed from the stakeholders. Without the amended report, which has been given by the Senator of Kisumu, the report has no other action. However, when it is amended, it has recommendations on the action to be taken. On the issue of facilitation of funds, we cannot stop the blame on the CoB. There is also the County Executive Committee Member (CECM) of Finance, who is the approver and releaser of the funds to the county assembly.

When they do the Bunge Mashinani, before it is even gazetted, it must be passed through Motions by the county assembly. There must be concurrency, that there must be a Bunge Mashinani. After that, the gazetting must be done. If there is no concurrence with the county assembly, it is illegal for the Bunge Mashinani to take place.

Mr. Temporary Speaker, Sir, as the action has concluded, we need to investigate on misappropriation of funds. We send the money for proper use, not for the political parties to fight each other and to divide the county assembly for their own agenda, so that they can benefit in one way or another.

Mr. Temporary Speaker, Sir, to avoid this, the Committee on Justice, Legal Affairs and Human Rights (JLAHRC) and the Committee on Devolution and Intergovernmental Relations must have a stand.

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

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

They are not supposed to give us the progressive report the way they did. They must have a concrete action for these matters to come to an end. If we leave matters as they are, other county assemblies might follow the example of the County Assembly of Nyamira. Subsequently, to avoid this, the two committees which have been assigned to work on this Motion, must give a very strict way forward on which action will take place.

With these remarks, I support the report.

Sen. Ogola: Thank you, Madam Temporary Speaker. I was almost going to depict a character that is not mine, because I only realised that my lights had gone off. As a result of that, I think Sen. Eddy should just stick to his seat, because the day has not been very favourable around him.

Madam Temporary Speaker, I rise to support this progress report with the amendments as approved. However, from onset, I want to say that the Nyamira County Assembly is a crime scene. What is happening there is unacceptable.

When we reflect back to the role of the Senate, the Senate is here to represent the counties and to protect the interests of the counties and their governments. I am a teacher and there has long been this thinking around the leadership of schools. We used to say that the school is as good as the head and the head is as good as the school. I want to relate this to the County Government of Nyamira. The County Government of Nyamira has a head of a government and how Nyamira is run reflects on this head of government.

The county assemblies perform constitutional functions, which are oversight, representation and legislation. They do this on behalf of the people that elected them. As we sit here, with the kind of scenario that is Nyamira, it means that the people of Nyamira are not adequately being represented. It means to me, that the executive or the County Government of Nyamira is not adequately being oversight and that the people of Nyamira are suffering.

There is separation of powers. We have the Executive of Nyamira and we have the legislature. I call it a crime scene because it has been brought out in the report that we have an impeached Speaker and when one is impeached, it means they are out of office. I do not accept that an officer that has been impeached can send out gazette notices. Where does the speaker who is impeached get the powers to send out gazette notices?

There is literally confusion that to me is by design, set out in the Nyamira County Assembly. The question I ask myself is this: Who is causing this confusion and for what reason?

I began by saying there is a head of government in Nyamira. What is this head of government doing? Is it by design that this is a governor that does not want to be oversight? Why does this governor encourage the running of a county without a legislative arm of government?

Madam Temporary Speaker, it is unacceptable because we know the mandate that the county assembly has. The county assembly approves budgets, development plans and it even vets county executives. On their functionality, there are varied mandates that the

county assembly oversees. What then happens if we have a county assembly that is illegal and non-functional?

I say it is illegal because it is not clear who is running this county assembly. The county assemblies are definite. We have them referred to as the county assembly---

(Sen. Ogola's microphone was switched off)

The Temporary Speaker (Sen. Mumma): Please allow the Senator one minute to conclude.

Sen. Ogola: Thank you, Madam Temporary Speaker. I want to end by talking to the Governor of Nyamira. Put your house in order and let the County Assembly of Nyamira to run. Your time will come to an end. Whether you want that assembly not to be disarmed, as a Senate, what we are saying is that things must run in the County Assembly of Nyamira, so that the people of Nyamira are served well.

Madam Temporary Speaker, I want to end by saying that I found the submissions by the CoB to be reckless and irresponsible. That is a state officer who must be in office to serve the people, and the people of Nyamira County are part of the people that she is in office to serve.

I support.

The Temporary Speaker (Sen. Mumma): Next is Sen. Mwaruma.

Sen. Mwaruma: Asante, Bi. Spika wa Muda, kwa fursa hii ili kuchangia na kuunga mkono moja kwa moja ripoti hii ya kamati kuhusu Kaunti ya Nyamira.

Swala hili lilibuka wakati Gavana wa Nyamira alipokuja katika Kamati ya Bajeti na Fedha ambapo tunaketi na Seneta wa Nyamira, Sen. Omogeni. Tuligundua kwamba kuna vikao viwili tofauti. Kikundi cha kwanza kinaketi katika Bunge la Kaunti ya Nyamira lililo mkabala na Jengo la KIE na bunge lingine linaketi mahali tofauti tofauti. Linaitwa Bunge Mashanani.

Ningependa kushukuru Sen. Omogeni kwa kuleta Taarifa hii ambapo aliuliza maswali matatu. Kwanza, alitaka kujua ni kikao gani kinachofaa kuketi katika Bunge la Kaunti ya Nyamira ambalo liko katika Taarifa ya Gazeti la Serikali. Pili, alitaka kujua uhalali wa sheria ambazo zinapitishwa na mabunge yote mawili, ikiwemo bajeti ya ziada. Tatu, aliuliza Kamati ya Ugatuzi na Mahusiano ya Kiserikali njia ambazo zilitumika kuchagua Spika na Katibu wapya.

Bi. Spika wa Muda, kamati hii imefanya kazi nzuri ingawaje imepata mapigo. Najua wewe ni Memba wa kamati hiyo. Kwa kujibu swali la kwanza, wamesema kuwa bunge ambalo ni halali ni lile ambalo linaketi mkabala na Jengo la KIE huko Nyamira. Kwa kikundi kinachofanya vikao vyake mashinani, hakukuwa na *resolution* yoyote ya Bunge la Kaunti ya Nyamira.

Swali la pili kuhusu uhalali wa sheria zinazopitishwa na kikundi kinachoenda mashinani limejibiwa---

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, you should have an interest in listening, but you are talking.

Sen. Mwaruma: Swali hilo limejibiwa na mabadiliko katika Hoja ya kwamba sheria zote zilizopitishwa na bunge hilo ambalo siyo halali basi pia siyo halali. Nakubaliana mia kwa mia na pendekezo hilo. Je, sheria hizo ambazo tunasema siyo halali zitachukuliwa namna gani? Kwa mfano, kuna bajeti ya ziada, ama *supplementary budget*, ambayo ilipita na tayari inatumika. Je, wale ambao wanatumia pesa watachukuliwa hatua aina gani?

Sen. Omogeni alitaja mambo ya Taita-Taveta. Ni kweli kuwa kuna shida katika bunge hilo ingawaje siyo kama Bunge la Kaunti ya Nyamira kwa sababu kule Taita-Taveta, Spika alibanduliwa kupitia kwa *impeachment* kisha akaenda kortini. Alipoenda kortini, saa hii aliyekuwa Naibu wa Spika ni *Acting Spika*.

Tunafaa tuangalie sheria ili kukiwa na kesi katika korti itachukua muda gani ili yule ambaye ni Naibu wa Spika awache kuwa *Acting Speaker*? Ikiwa kesi itachukua muda sana kama hii ya Nyamira County, huo mkanganyiko unachukua muda mrefu na katika sheria hakuna *Acting Speaker*. Kuna Spika na wakati Spika ametolewa lazima kuchaguliwe Spika.

Kwa hivyo, hii Kamati pia inaweza ingilia mambo ya Kaunti ya Taita Taveta kuona uhalisi wa mambo ambayo yanaendelea huko. Naunga mkono moja kwa moja ya kwamba, Tume ya maadili la kupigana na ufisadi iingilie ili mambo yanayotokea Kaunti ya Nyamira, yakiwemo kutolewa pesa na CoB kwenda kwa bunge na pia Waziri wa Serikali ya Kaunti ya Nyamira kupeana Form C na kujaza ili bunge hilo lipewe pesa.

(Sen. Mwaruma's microphone was switched off)

The Temporary Speaker (Sen. Mumma): Please add him one more minute to finish.

Sen. Mwaruma: Asante, Bi. Suka wa Muda.

The Ethics and Anti-Corruption Commission (EACC) inafaa iingilie kati na kuangalia uhalisia na maadili yanayotokana na hilo jambo.

Bi. Spika wa Muda, naunga mkono hii ripoti. Ni kweli kwamba, lazima iwe ni interim kwa sababu bado wanataka kwenda kule ili kuangalia kama wanaweza suluhisha yale mambo yaliyoko huko kisiasa.

Nashukuru.

The Temporary Speaker (Sen. Mumma): Sen. Eddy Oketch Gicheru, the Senator for Migori County, please proceed.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker. I would like to thank you for readmitting me back to the House. I recognize that I was more passionate about the Universal Health Care (UHC) issue that has bedeviled the workers, and

emotions ran high. However, I am grateful that you have readmitted me. It was not disorderly, but rather a misunderstanding. I would like to thank you for that.

That said, for you to have any requisitions made in any County Assembly, we have a County Assembly Service Board, which gets these requisitions and then writes to the Head of the Treasury as established by the County Governments Act. The Head of the Treasury in the County is the County Executive Committee Member (CECM) for Finance and Economic Planning who then prepares Form C, signs and sends it to the CoB. However, it does not stop there. Anything that the County Assembly will request, among others that are sent to the CECM, Finance and Economic Planning is also coming from the Executive side who is the Governor. Those issues are canvassed within the Assembly, which in this case in Nyamira County, has been found that it was the Assembly, ran by these 12 Members of the County Assembly in Nyamira.

Madam Temporary Speaker, what we are realizing here is simple. The biggest finding of this report is that these 12 MCAs who call themselves *Mashinani* team, and the impeached Speaker, were sitting illegally under Section 7(b) of the County Governments Act.

So, why are we sugarcoating this issue? There is a criminal enterprise that is running in Nyamira County. This is what we must stand by as a House. This criminal enterprise is constituted of the Governor because it is him who makes executive decisions that go to the County Assembly that is rogue, the 12 MCAs who are meeting and making these decisions, the Speaker who has been impeached and the CECM, Finance and Economic Planning of Nyamira County. The fifth person who must be held liable is the County Assembly Service Board of Nyamira. These people must be arrested and taken to court. The EACC and the DCI must investigate their intention of building this criminal enterprise to siphon public money from Nyamira County.

I am not making this statement lightly. I am informed that the Governor of Nyamira County is actually the Party Leader of UPA, which has been shown, time without number, to be fronting a presidential candidate. It is nothing personal. This is the party that Hon. Matiang'i is going to run on. I do not know whether this money is being siphoned deliberately to finance a presidential campaign for Hon. Matiang'i. So, this investigation must be done by the EACC and the DCI. I can tell you point blank, that this is a criminal enterprise---

The Temporary Speaker (Sen. Mumma): Sen. Eddy, I would suggest you do not insinuate anything that you may not be able to substantiate.

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker. There is a deliberate siphoning of funds here. All these people cannot be wrong to the extent that even the CoB claims to be wrong, where the report says that the 22 MCAs have written to Madam Nyakang'o to inform her that these people are sitting illegally. I am insisting that it is a criminal enterprise. They cannot say that they are ignoring the law, right from the County Assembly Service Board, all the way to these MCAs.

This matter must be treated as such, we must enhance the amendments of Sen. (Prof.) Tom Ojienda to make sure that there is a criminal liability on the heads of these individuals, because that is what it is.

I thank you, Madam Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, you may proceed.

Sen. Omogeni: Madam Speaker, I want to begin by thanking all the Senators who have made a contribution towards the Motion that is on the Floor of the House. I would like to emphasize only two things.

Madam Temporary Speaker, you are a member of the Senate Committee on Devolution and Intergovernmental Relations and you know that even the law that was cited in gazetting sittings outside the County Assembly premises was lacking in any legal basis.

The Speaker cited Article 126(1) of the Constitution. You and I know that Article 126(1) makes reference to sittings of Houses of Parliament and under our Constitution, the only Houses of Parliament that are known in this Republic is the National Assembly and the Senate.

Issues dealing with sittings of any county assembly outside the gazetted premises is governed by the provisions of Section 2(b) of the County Governments Act, which requires the county assembly to put a Motion on the Floor, pass a resolution before they proceed to sit in any sittings outside the county assembly gazetted premises.

I agree with the committee when you make a finding on page 29, that any sittings that may have been held contrary to the provisions of Section 7(b) are invalid and contrary to the law.

The amendment of Sen. (Prof.) Tom Ojienda is simply to bring that finding of the Committee to be part of the interim Committee recommendation. It does not go contrary to the findings of the Committee.

Secondly, it seems that the County Assembly of Nyamira, together with the County Government of Nyamira are running a criminal enterprise. There is no way you can use a team of 12 MCAs to sit outside the gazetted premises and pass a budget.

You saw the report that was brought by the other 22 MCAs where it is alleged - and I am using the word carefully - that the governor is supporting some companies associated with a certain clique of MCAs that are aligned to him.

Madam Temporary Speaker, that does not support devolution. You hear allegations being made that businesses supposed to be done by youths in the County Government of Nyamira are being done by companies associated with a clique of a few MCAs. We have an obligation as a Senate to defend devolution and protect the resources we send to our counties. I fully agree with the amendments that were introduced and that have been approved by the House that EACC and DCI should pitch camp in Nyamira.

As you heard from the other team of MCAs, it is the governor who opts to send the approval of the budget to the group that illegally sits outside the County Assembly

premises. If we allow that to happen, then it would have been better to remain with the constitution that preceded 2010.

The Constitution of Kenya, 2010 was supposed to address impunity. What impunity can we talk of as a Senate, other than a situation where a county assembly holds sittings outside the parameters of the law; goes on to process a budget, appropriation is done and money withdrawn and we do not see arrests. That is the highest level of impunity.

Madam Temporary Speaker, if it can happen at the County Assembly, the national Government will also employ the same tricks where we will say a team of Members of the National Assembly can go and sit somewhere else, pass a budget and then money is withdrawn. I urge Government institutions that have been cited in this report, that is the DCI and EACC, to move to Nyamira as soon as yesterday and conduct investigations. Where arrests have to be made, let them be made and those who must face the full force of the law do so.

We are here to protect devolution. I have nothing personal against any group of MCAs or the Governor of Nyamira. It is in the interest of I, as Senator of Nyamira and the other Senators, to ensure we do not have a situation where impunity reigns in the County Government of Nyamira.

Finally, as late as yesterday, even after the initial recommendation that was made by the Committee, we are still having a situation where we have two sets of county assemblies, speakers, clerks and two maces in that Assembly. It is something that we cannot be proud of as Senate. We have a role of ensuring that there is sanity. If this persists, we should be more drastic in our recommendations and ensure that no funds will go to the County of Government of Nyamira if the governor does not put his Assembly in order. We cannot allow this degeneration of chaos and negative reporting every day about a great county as Nyamira.

I thank you for protecting Dr. Matiang'i from the insinuations that were being made by Sen. Oketch Gicheru that he could be part of the enterprise of Governor Nyaribo. He is a clean man and we do not want him to be associated with the level of incompetence being displayed in the County Government of Nyamira.

Sen. Tobiko: Thank you, Madam Temporary Speaker for giving me this opportunity to reply on behalf of the Chair and on behalf of the Committee. The situation in Nyamira is complex. As the House has now heard, the County Assembly is divided into two; one group is holding meetings outside the usual Chamber and the other team, with a sitting MCA purported to be a speaker and court rulings that seem to complicate the situation further.

Members of the Committee on Devolution and Intergovernmental Relations have listened carefully to the contributions of Members. For the comfort of the many Members who have spoken passionately, the committee will take into consideration the views of the Members before doing the final report. The Committee is fully committed to

protecting devolution and solving disputes amicably in the devolved units. I am also sure that it has come to the knowledge of this House that it is not only in Nyamira that we have had complicated situations, but we successfully brokered a peaceful situation in Trans Nzoia.

Madam Temporary Speaker, the Committee will work closely with JLAC on the arising legal issues. I believe this House collectively, because the Committee sits on behalf of this House, will find a solution for Nyamira and for the other county assemblies or county governments that are having issues. Therefore, we are determined to listen to every view that has been given on this Floor.

For obvious reasons, I would ask that the Question be deferred to an appropriate time.

I thank you.

The Temporary Speaker (Sen. Mumma): It is so deferred.

(Putting of the Question on the Motion as amended deferred)

Next Order. Sen. Mwaruma?

Sen. Mwaruma: Thank you, Madam Temporary Speaker, when I was presenting, I mentioned the issue of Taita Taveta and using Standing Orders, but not limited to Standing Order No.1, I would request if you could direct that the Committee of Devolution and Intergovernmental Relations follows up on the issue of the County Assembly of Taita Taveta.

This is because the acting Speaker has been acting for a while. We need to know whether how they are working is legal and we get a report to that effect. You may order so that they take over the issue.

The Temporary Speaker (Sen. Mumma): Sen. Mwaruma, kindly prepare a statement to submit to the House, so that the Committee can pick it up because as the Senator for Taita Taveta, you have the nitty gritty you would want the committee to pay attention to. You can proceed and we will guide the Committee accordingly.

Hon. Members, we defer Orders No. 8, 9 and 10.

BILL

Second Reading

THE PROVISION OF SANITARY TOWELS BILL (SENATE BILLS NO.7 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE SPORTS (AMENDMENT) BILL
(SENATE BILLS NO.33 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE SPORTS (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.45 OF 2024)

(Bill deferred)

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

BILL*Second Reading*

THE CREATIVE ECONOMY SUPPORT BILL
(SENATE BILLS NO.30 OF 2024)

(Sen. Oketch Gicheru on 7.5.2025 – Afternoon Sitting)

(Resumption of debate interrupted on 13.5.2025)

The Temporary Speaker (Sen. Mumma): Sen. Wakili Sigei.

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker. Yesterday, before the House rose, I appreciated Sen. Oketch Gicheru for a well thought-out legislation seeking to support and create an opportunity for the current and future generations who are in the creative arts.

I had begun laying down the economic value of the sector, both within the country and outside. I further wish to highlight that the global world has lately recognized that we can create employment by streamlining this particular sector. From the statistics

that I got, the creative economy has availed over 679,000 job opportunities for the young and the old in South Africa.

Interestingly, in Indonesia, the world statistics provides that 24 million Indonesians are actually employed within the creative sector economy. In Nigeria, 3.2 million people have full-time employment and are earning a living and establishing their future through this sector.

Madam Temporary Speaker, 3.2 million is such a great number. We will meet Kenyans on one hand when we streamline this legislation. This legislation is a way of dealing with those involved in this sector and it is a way of establishing opportunity for the youth, which is the Kenya Kwanza agenda.

I appreciate Sen. Oketch Gicheru for recognizing that this sector needs a law to establish its procedures, manage it and enhance its growth. This law will also unleash the full potential that is available because it will identify and nurture talents. It will also ensure that those involved in the industry do monetize their talents, which will enhance the sustainable nature of this sector.

The Government launched the Talanta Hela programme and the World Sports Day, which has been decentralized to our counties. During national days, young Kenyans in performing arts, music industry and creative industry are allowed to perform at a fee. Sen. Mungatana yesterday raised a Statement where he said that people who performed in one of the functions in his County took the microphone after their performance and said that they will not accept to be paid Kshs5,000. Instead, they asked for Kshs10,000. This Bill, once it becomes law, will help those in creative arts to know beforehand what the amount they have negotiated for. They will, therefore, be able to plan.

Sen. Oketch Gicheru, you should know that you have done a great deal to thousands and millions of Kenyans whose future is entirely reliant on the creative arts. This Bill also helps the young generation in this country to appreciate that they do not only have to rely on the white-collar jobs to earn a living. We will create a lot of job opportunities in this industry.

Part of the statistics which I picked indicate that the International Labour Organization (ILO) estimates that 1.4 per cent of the global employment comes from the creative sector. That tells you that we are dealing with a lucrative area. A futuristic law like this one will ensure that we streamline the industry and make Kenyans and the global world to support the young ones who are keen on this.

Madam Temporary Speaker, where I come from, Bomet, as I said yesterday, is the home of music. It holds this title because across Bomet, Kericho and Narok, secular musicians not only entertain Kenyans, who speak the Kalenjin dialect or would naturally understand it, but people from all backgrounds. From the time of the first president of this country, the late Mzee Jomo Kenyatta, to the era of the late President Moi, this tradition has continued.

Currently, we have a great number of artists, beginning with Kipchamba, a true legend. He has earned his place in history books. He has been honored by previous governments for his remarkable ability to transform ideas into music, produce and generate immense knowledge and information through his artistic talent. Many artists have drawn inspiration from him.

I mentioned yesterday one whom we are going to bury this Saturday, Solomon Manori, who has been a great singer. Through his songs, he has brought out the rich culture of the Kipsigis community. Lately, a new generation of young artists has emerged, making strides in the industry. We have Kilel Jazz, the Makiche and the Vicky Brilliance of this world, talented individuals who are running the industry and earning a livelihood out of it.

The moment we have a law in place that recognizes talent and provides artists with a structured way of engagement, they will, at any given time, be able to negotiate and participate in national functions or other events at a fair fee. This will ensure that aspiring musicians and artists appreciate that they can earn a living from their craft. They will not have to compete with other Kenyans for white-collar jobs, as I have said. Instead, they will recognize that their craft provides a livelihood, helping to reduce the fights we currently face in addressing this issue. Besides musicians, Masters of Ceremonies (MCs) who host programs in various institutions and organized events can also benefit greatly from this particular law.

Madam Temporary Speaker, allow me to now make certain comments on the various provisions of this Act. As I have stated, the definition under Clause 2 recognises almost all aspects of activities or trade within the creative economy. These includes artistic, cultural, innovative, fashion, industry, publication, advertisement, crafts, music and audio. In this definition, Sen. Eddy has made an effort to encompass nearly all areas that fall within the creative sector and economy.

I would like to highlight a few specific clauses, starting with Clause 7. I would like to propose to Sen. Eddy that, instead of referring to the guild, Clause 7 should refer to establish a council. This council will be the head, where the guilds, representing various sectors identified under Clause 19. I will address Clause 19 in a moment. Clause 7 should therefore read as, "There is established a creative industry council."

This council would operate under the relevant ministry, with an established board serving as its governing body. By structuring it this way, we would retain guilds at the lower level while ensuring that the council serves as the apex entity providing oversight and support. This proposal, would ensure that, besides naming the guilds, the council itself functions as the main governing body.

I appreciate the provisions of Clauses 7D, 7E and 7F, which grant the council the responsibility to protect the intellectual property of creative artists. If you approve or agree with this proposal for an amendment, it will ensure that part of the council's role is to safeguard their intellectual property. By doing so, it will sensitize the importance of

registration, ensuring that creative works are properly produced by registered entities. That is covered under Clauses D, E, and F. I only propose that we make this amendment.

Similarly, regarding the promotion of programmes, once the council is established, its objective should include running programmes to promote various categories of artists and creative arts. This will enable the council to ensure that any funds or resources generated are properly managed.

Clause 8 gives the guild that provides advice to the Board. You have proposed that a membership of nine members be created, one being a member nominated by the film industry. I would like to propose, subject of course to your approval Sen. Eddy, that you combine the opportunity given to persons representing literary arts industry and those representing visual arts industry. The extra position that is availed thereafter goes to those representing the music industry that is under Clause 8(c).

The reason for this is that we have got a good number of artists who are in this sector coming from the music industry. Then we will have one person representing those in the film industry, two members representing those in the music industry, one representing the fashion industry and another one representing the software development and gaming industry. After which, we combine literary and visual arts to bring one member to this Board. Finally, those in the dance industry can be a standalone.

Further, I would wish that we also ensure that we provide for a manner in which these respective groups can nominate their representatives. If it is possible, introduce a clause that allows them at their grassroots level to conduct an election. They do their own independent election as members of the film industry and forward to the Council one member. Those who are involved in the music industry conduct their grassroots elections and forward one member.

If the Senator were to agree, we can introduce a clause after Clause 8 to be Clause 8(2), that Clause 8(2) is Clause 8(1)(a). Introduce Clause 8(1)(a), that will give the sector an opportunity to elect their representatives from the grassroots level and forward the elected member's name to the Cabinet Secretary for appointment as a member of the Council. That way, you will avoid the Council being involved in sector nominations of representatives who will sit in the Council.

In terms of the term of office, four years is a reasonable period for members of a board to work towards changing policy and implementing such a policy. I would agree with the proposal under Clause 10 that their term of office be a period of four years. However, whoever has been elected should not be re-elected. That way, it will give an opportunity to as many members of these various groups to participate in leadership.

I like the proposal that there is a representative appointed by the Law Society of Kenya (LSK). However, I do not understand the justifications under this particular clause, that you have given them a slot. Nonetheless, I appreciate the fact that the person representing the LSK, as well as the public officer who has been appointed by the Cabinet Secretary, do not stand an opportunity to be elected as chairperson or vice-

chairperson of that committee, because this is an appointed person. Therefore, it is prudent to allow the members to have their own to be elected as chairperson, as long as they are not appointed.

Under Clause 13, I am very happy about this particular clause, Sen. Eddy. This is because unlike the other organisations and other established councils we have created in the previous Bills or Acts, you have not created another body that will require an appointment of a CEO and resources. This is because this Bill seeks to make sure that the money that is obtained out of the creative arts goes directly to the people who are benefiting.

Having the Cabinet Secretary to designate an appropriate administrative unit is quite a very good provision. I appreciate you for this because this way, we are not creating an agency. We are not utilising public resources to create another position for a CEO or generating---

ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday, 15th May, 2025 at 2.30 p.m.

Sen. Sigei, you have three and a half minutes left before you finish.

The Senate rose at 6.30 p.m.