



The SENATE Weekly

Nominated MCAs face recall

The Justice Committee has directed the Office of the Attorney General to develop a policy framework that will give people the power to recall ward representatives.



Senator Wakili Sigei, the chairman of the Committee on Justice.

In October 2024, a member of the public submitted a Petition to the Senate seeking to make Members of County Assembly (MCAs) accountable to their voters.

Article 37 of the Constitution gives citizens the right to present petitions to public authorities. Article 119 grants every person the right to petition Parliament to consider any matter within its authority, including to enact, amend or

repeal any legislation.

Mr Laban Musundi, who was the Petitioner, requested the Senate to make the elected leaders more accountable by introducing a framework for recalling nominated MCAs.

Whereas there exists laws and frameworks for recalling, impeaching or removing political leaders from their respective constitutional offices, he pointed out that such provisions do not

apply to ward representatives nominated by their political parties.

He further pointed out that while elected MCAs can be recalled by their respective constituents, there is no structure in place for the youth or Persons with Disability (PwD) to recall nominated members.

A Committee of the House has agreed with Mr Musundi and in the report containing its findings on its consideration of the Petition, has granted the prayers.

The report, tabled in the House last week, the Committee on Justice, Legal Affairs and Human Rights has promised to initiate twin amendments to the Elections Act and the County Governments Act to give effect to the right of recall in respect to both Members of Parliament and MCAs.

The Committee has directed the Office of the Attorney General to engage stakeholders with a view of developing a policy framework that will give their constituents the power to recall the elected leaders.

The finding of the Committee means that MCAs and MPs face the possibility of enhanced scrutiny as they execute their duties should the House adopt the report.

The Committee, which is chaired by Senator Wakili Sigei, observes that the right of recall cannot currently be exercised with regard to both directly or specially elected MPs and MCAs after the High Court in 2016 annulled several provisions of the County Governments Act.

“The right of recall remains incapable of being exercised through the remaining provisions of the Elections Act and the County Governments Act since there are not only no grounds for recall but also there exists huge procedural gaps,” says the committee in its report to the House.

It notes that while the Act provides mechanisms for the recall of MCAs, it is

silent on the grounds and procedure for the recall of nominated Members representing special interest groups.

The Committee notes that the absence of provision on the recall has created disparity in accountability mechanisms between directly and specially elected MCAs, despite both of them equally exercising the representative, legislative, budget-making and oversight roles of the county assemblies.

“The absence of such provisions should not exempt nominated MCAs from the Constitutional values and principles applicable to all public officers. There ought to be in place a mechanism through which such leaders can be held accountable, including through the process of recall.”

In developing the policy framework, the Committee directed the Office of the Attorney General to liaise with electoral commission, the Kenya Law Reform Commission (KLRC), the National Gender and Equality Commission (NGEC), the Office of the Registrar of Political Parties (ORPP), the Political Parties Liaison Committee and other relevant stakeholders.

The team will be charged with the responsibility of developing the grounds and procedure for the recall of directly and specially elected MPs and MCSAs, including undertaking public participation, and to submit the policy framework and any draft Bills for consideration by Parliament.

To safeguard the process, the Committee directed the Office of the Attorney General to submit a status report to the Senate within six months from the tabling of the report.

On the proposal to amend the Elections Act and the County Governments Act, the Committee promised to introduce the Bill not later than February 2026, whether the policy framework will have been submitted to Parliament

or not.

Sections 27, 28 and 29 of the County Governments Act give guidance on recall of an MCA which are similar to those for an MP.

They include violation of Chapter Six of the Constitution, mismanagement of public resources and conviction of an electoral offense.

The procedure for recall mirrors that in the Elections Act and includes filing of a written petition with IEBC, collection of required signatures from ward voters, after which a recall election is conducted by IEBC if conditions are met.

The Act further gives a nod to an MCA who has been recalled to run in the by-election.

In the Constitutional Petition filed by Katiba Institute in 2016, the court nullified sections 45(2)(3) and (6), 46(1)(b)(ii) and (c) and 48 of the Elections Act and sections 27(2)(3) and (6) and 28(1)(b)(ii) and (c) of the County Governments Act.

The court ruled that the provisions

were unconstitutional on the grounds that they were meaningless, superfluous and fell far short of the constitutional imperative in Article 104 of the Constitution.

The court further found the provisions discriminatory.

Revenue formula: Senators ring fence Sh2B for 'small counties'



Senator Godfrey Osotsi



Senator Moses Kajwang'



Senator Edwin Sifuna



Senator Ali Roba, chair, Finance Committee and Senator Tabitha Mutinda, the vice chair.

Senators have introduced another parameter in the Fourth Basis of Sharing Revenue as they push to make the process inclusive.

Dubbed the Affirmative Action Allocation, the parameter targets the so-called 11 small counties and is meant to ensure that no county loses out on its previous allocations.

The parameter was created on the basis that the 11 counties face challenges in remaining viable unless they receive some form of cushioning in financial terms.

Under the proposal, the House will ring fence Sh2 billion of the county equitable share which will be shared equally among the 11 counties in order to allow them get meaningful allocation so that they implement projects and not just deal with recurrent expenditures.

To further boost allocation to the 11 counties, the Committee on Finance and Budget has proposed to push the baseline allocation to Sh387 billion from the current Sh158 billion. The baseline figure will be shared equally among the 47 counties and the balance of the allocation be subjected to the fourth basis revenue sharing formula.

The new parameter was the compromise that broke the ice in the standoff that was threatening to stall debate on

the formula between the big and small counties, in terms of financial allocation. The proposed formula is supposed to facilitate sharing of revenue among counties for the next five financial years, starting with the 2025/26 financial year.

Debate on the formula has in the last one month be stuttering as Senators from 11 counties protested, arguing that the formula as proposed by the Committee on Finance and Budget was prejudicial to small counties.

They claimed that small counties are basically "employment bureaus".

"They employ people, but they cannot do any development. Staff establishment in all these counties is the same, but the money that remains for development in the 11 counties is very little," said Senator Godfrey Osotsi who has emerged as the defender of the 11 small counties.

The small counties are: Nyamira, Samburu, Taita-Taveta, Tharaka-Nithi, Vihiga, Elgeyo-Marakwet, Embu, Isiolo, Kirinyaga, Laikipia and Lamu.

The Senators say 11 have traditionally received inadequate sharable revenue to implement development projects and they note that this should be addressed as it is becoming untenable to manage small counties.

"This Affirmative Action Allocation is meant to boost the 11 counties, which

receive below Sh5 billion in allocation. They literally spend on recurrent expenditure. There is no much development that you can talk about," said Senator Boni Khalwale told the House.

"An Affirmative Action Allocation will attract some more funds, but not lead to the rest of the counties losing. Whereas all of us are winning, the 11 counties will be brought up, so that they have slightly more money for development."

Senator William Kisang, while supporting the proposal on Affirmative Allocation, pleaded with the House to raise the ring-fenced figure to Sh4.7 billion instead of the Sh2 billion.

"The Committee proposed Sh2 billion. We are saying that we should improve the Sh2 billion that has been proposed and put it up to Sh4.5 billion although our desire is Kshs6.7 billion," said the Senator, whose Elgeyo Marakwet county is one of those in the league of 11.

He said raising the figure to Sh4.7 billion will mean that all the counties, apart from Lamu will be at a minimum of Sh6 billion. Lamu county will from about Sh2.7 billion to about Sh5 billion.

"We are asking if we can look at the affirmative action of Sh2 billion for the 11 counties and improve it. Even if we

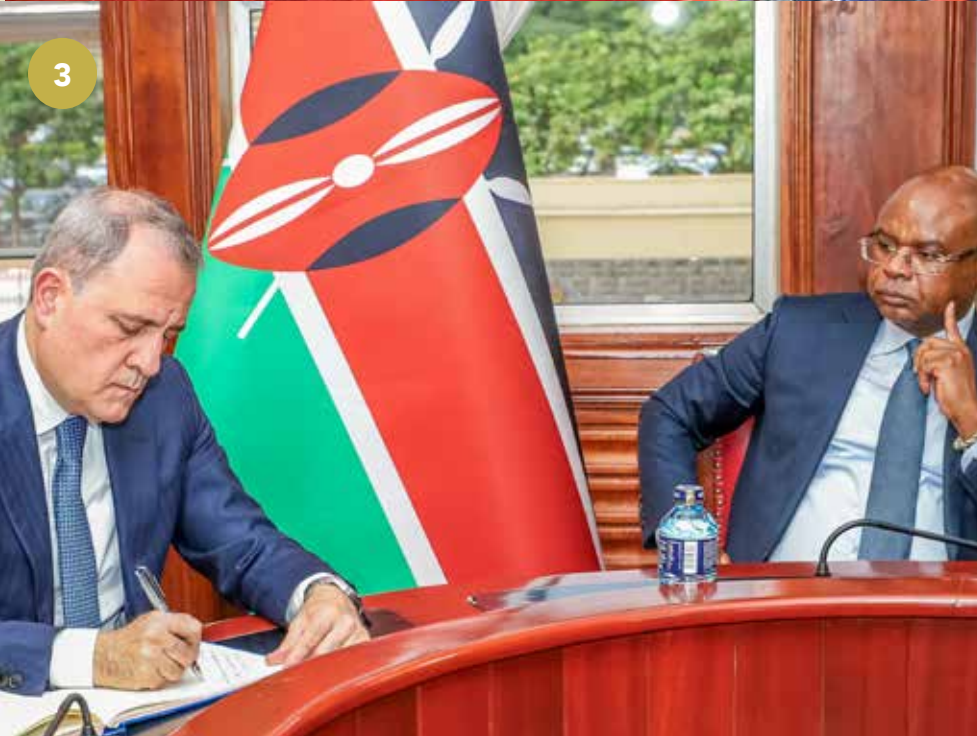
do not go to Sh6.7 billion, we should agree and have a middle ground, like Sh4.7 billion. This is so that, before we share the amount that is above Sh387 billion, each of the smaller 11 counties gets a minimum of Sh500 million. From there, we subject the formula to anything above what we had agreed on," he said.

Senator Moses Kajwang said the solution to the impasse is an increase on the baseline allocation. "We are fighting over small fragments because we think that counties should only get Sh387 billion or Sh405 billion.

"We must give effect to devolution as captured in the Constitution. If we are to be faithful to the Constitution, we must give resources to our county governments. We have made it clear that Sh450 billion is a bare minimum," he said.

The Senate has recommended Sh465 billion while the National Assembly has proposed Sh405 billion.

"The instructions I have is to allocate Sh450 billion to counties. Something could be more, but nothing less. With Sh450 billion, we would not be having this conversation or contention of discussing a formula that is only going to apply to 4 per cent of the funds."



Speaker Amason Kingi last week hosted Hon Jeyhun Bayramov, the Foreign Affairs Minister of the Republic of Azerbaijan who paid him a courtesy call at his office in Parliament Buildings.

1. *Speaker Kingi poses for a picture with the delegation from Republic of Azerbaijan, which was led by the Foreign Affairs Minister Hon Jeyhun Bayramov. Others in the picture are Senator Beatrice Ogola (second right), Senator Raphael Chimera (third right), Senator Fatuma Dullo (fourth right) and Senator Hamida Kibwana (third left).*
2. *Speaker Kingi welcomes Hon Jeyhun Bayramov, the Foreign Affairs Minister of the Republic of Azerbaijan, to his office.*
3. *The Foreign Affairs Minister of the Republic of Azerbaijan, Hon Jeyhun Bayramov, signs a visitors' book in the Senate Speaker's office flanked by Speaker Kingi.*
4. *Speaker Kingi and Hon Jeyhun Bayramov lead their delegations to the meeting in the Senate Speaker's office.*
5. *Speaker Kingi speaks during the meeting with the delegation from Republic of Azerbaijan which was led by Hon Jeyhun Bayramov, the Foreign Minister.*

CS Mbadi explains late county cash disbursements

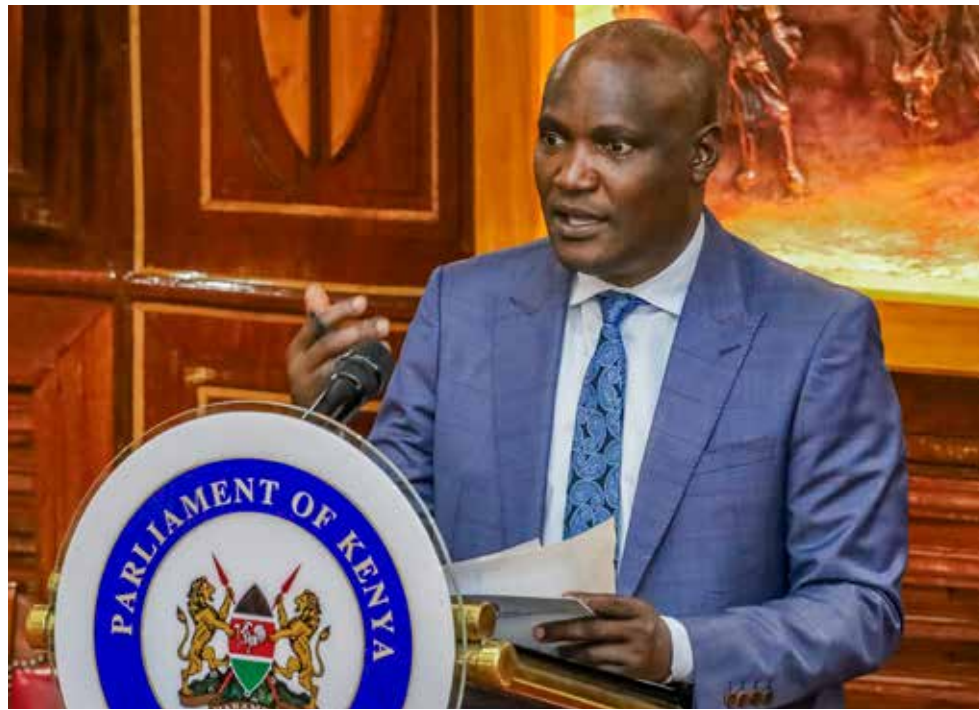
National Treasury Cabinet Secretary John Mbadi has said cash flow challenges arising from the failure by the Kenya Revenue Authority (KRA) to meet revenue targets is the major constraint that has perennially delayed cash disbursement to counties.

The Cabinet Secretaries told the House on Wednesday that the country has many cash demands where the country is repaying loans. “We usually have challenges in the months of January, February, serious challenges in the month of May, and then July. Those are months where we repay the Chinese loan on the Standard Gauge Railway (SGR),” he said.

In January, the government pays capitation to schools, which is at times almost Sh50 billion. Giving the maths, the CS told the House that Sh80 billion is the monthly cost of salaries, adding to the Sh50 billion, the figure moves to Sh120 billion. “If you add that to debt repayments of approximately Sh60 billion, that already is over Sh200 billion, yet revenue collection in a month is an average of approximately Sh200 billion.

This poses a problem to funding counties and other development expenditures, he said.

Mr Mbadi was responding to questions from members after Senator God-



Cabinet Secretary John Mbadi.

frey Osotsi wanted him to explain to the House the constraints in disbursing monies to the counties.

“You can elaborate to this House the constraints the Ministry is facing, particularly in disbursing the money under additional allocation that we passed in the Disbursement Schedule last week.”

Mr Mbadi said that despite the constraints, the Ministry still works hard to make sure that counties get priority

in terms of funding. “When we have limited resources, sometimes we look at even the balances of counties and release some funds to some counties, which have low balances,” he said, noting those with high balances are forced to wait.

“When they spend, we give them. As we speak, we have paid all the monies to all the counties up to the end of April, but we still have outstanding disburse-

ments for May and June.”

This year, particularly, has been a terrible year. Apart from the economic shutdown that led to a slowdown in the economic growth and Kenya failed to meet its targets in terms of revenue collection, It also did not conclude the ninth review with the IMF, therefore, it lost US\$765 million dollars going to budgetary support.

The World Bank’s funding of Balance of Payments has been pushed to July because some of the legislations that were precedent to the release of the funds are stuck in the legislative process.

The Conflict of Interest Bill was a key Bill for the World Bank to give funding. It was unlocked but there was no time to take approval to the board of the World Bank, he said.

As a result, Kenya goes to June 30 with a Sh97 billion hole.

“These are the challenges that inhibit our release of funds. Even when the National Assembly puts pressure on me on the National Government Constituencies Development Fund (NG - CDF), I don’t even know what to do because the resources are constrained and we have to balance needs. Do you pay salaries or release money to the NG-CDF or release money to the counties? Do you pay salaries, or do you stop paying salaries?”

Ministry to amend law on mineral royalty, reveals CS Joho

Mining Cabinet Secretary Hassan Joho says that weakness in the law has delayed the sharing of royalty emanating from mineral revenue.

CS Joho told the House that the Ministry is negotiating with the National Assembly to undertake the necessary reforms in the mineral revenue sharing regime.

This is to ensure that when royalties are paid, they are disbursed to the rightful places on time, so that communities do not have to depend on the national treasury.

“I will be consulting and seeking your support to amend the law, so that if someone pays royalty, 70 per cent goes to the national Government, 20 per cent should go to counties, and 10 per cent should go to communities,” he said.

He said the matter requires reform in the law. “I am already in discussion with the relevant Committee in the National Assembly, and looking forward to engaging you, the Senate,” he said.

Mr Joho was responding to a question from Senator Edwin Sifuna and Senator Ledama Ole Kina who an explanation on the delay in releasing mineral royalty to



Cabinet Secretary Hassan Joho.

counties most of which have never received the funds.

Senator Ole Kina said Narok county was never allocated money in the additional allocation of revenue in terms of royalties, yet the county has the majority of gold mining activities in the country.

“Does the National Treasury and Economic Planning consult you to give a list of the counties and how much has been collected in terms of royalties from the 47 counties, so that they make a decision on which counties to give money, or it does not?” asked the Senator.

The CS said there is not have the data

on whether Narok is the biggest gold producer in Kenya. “We really do not have the data, but that said and done, you still deserve to be paid royalties on time.”

He said he had taken the tough decision to terminate some of the licenses of some of the companies because of failure to comply with royalty’s payment.

The Ministry is in the process of identifying good and reliable companies that will take the liabilities of the companies delayed in paying the communities, fulfill the obligations, and to get a fresh license.

He said the Ministry has had to stop some mining operations such as the one for gypsum because of how the mining activities were being conducted.

The gypsum one, it is in the manner where the mining activities had been conducted earlier. “Lands have been turned to barren land and abandoned quarries. It is interesting because the pastoralist communities such as those in Garissa and Tana River and others suffer lots of losses in livestock that fall into the pits. That is one of the reasons we have cancelled operations.

The Ministry has a unit within DCI that pursues culprits who defy the ban.

Governor Fatuma Achari told the County Public Accounts Committee that her county has never received the royalties amounting to Sh1.7 billion

“We have been pushing to have the funds allocated but nothing has been forthcoming. We have pushed it to the level of the President,” she said.

The Senate is concerned that nearly 10 years since the Mining Act was enacted in 2016, little progress has been made to ensure that counties or communities gain access to the resources which have accumulated to Sh5.7 billion.

Government to address Marsabit electricity challenges – CS Wandayi

President William Ruto administration has taken deliberate steps to ensure that affirmative action is applied to bring parity to achieve equity in so far as development is concerned generally, but specifically to ensure that matters electrification are dealt with in an equitable manner.

Citing Marsabit County, Energy Cabinet Secretary Opiyo Wandayi said the entire northern region has been left behind by the successive administrations since independence and that has made them not to compete effectively with the rest of the country, especially on matters electrification.

“This administration has adopted a multi-pronged approach, specifically for Marsabit County. We will ensure that Marsabit County is connected to the national grid for the first time since Independence,” he told the House during last week’s Question Time.

The programme will start with the construction of a 45-kilometre transmission line from Lake Turkana Wind Power (LTWP) Project in Loiyangalani Town; a project he said has delayed inordinately.

The CS committed will be completed in December 2025.



Cabinet Secretary Opiyo Wandayi

“This will enable Loiyangalani Town and its environs to enjoy quality, affordable and reliable power from the national grid for the first time,” he explained, adding that it is not conceivable that power can flow from LTWP in Loiyangalani, all the way to Suswa in Narok by passing the entire stretch of Marsabit land. “That is what we want to correct under this administration.”

The programme will also unlock an important transmission line project that runs from LTWP in Loiyangalani, all the

way to Marsabit and equally from Isiolo to Marsabit.

Through this, the project will make it possible for power from the national grid to extend to most parts of Marsabit County.

The project is being financed by Exim Bank of India and is at the tail end of conceptualisation. What has delayed it a bit is just the matter of scoping, which had to happen.

“We are more than convinced because as I speak, Exim Bank of India is going through the paperwork. We hope

that before the end of this year, we shall do groundbreaking. That is another commitment I want to make to the people of Kenya.

Marsabit County, which comprises four constituencies; Saku, Moyale, North Horr, and Laisamis, has one of the most interesting disparities in terms of access to electricity. Saku, the smallest of the constituencies, has a high access of about 60 something per cent. The extreme end of the county; North Horr and Laisamis, have 1.2 per cent and 1.8 per cent access rate.

The CS described the situation as serious, massive disparity and promised that the Ruto administration has made deliberate plans to address it, through the efforts put in place.

The CS was responding to questions from Senator Mohamed Chute who wanted an explanation as to why areas of Tari Adhi, Dub Gindole, Dogogicha, Isacko Umuro, Old Gabra Scheme, Sales Wario, Konso Banchale and other villages in Marsabit County remain without electricity connection, despite the installation of electricity transformers in the said villages. He also wanted to know steps taken by Government to operationalise all the electricity trans-

This Week in History - On June 9, 2022

Senators question GSU on killings in Kajiado county



Senator Judith Pareno

On June 9, 2022 Senator Judith Pareno sought a statement from the Committee on National Security Defence and Foreign Relations on the killing of five by-standers by General Service Unit (GSU) officers in Masimba Area in Kenyawa Poka Ward in Kajiado county. She wanted the Committee to appraise the House on the circumstances that led to the killing of five bystanders during demonstrations by women who were protesting the murder of another seven persons killed by rogue elephants in the area. She also wanted the House briefed on the progress of the investigations into the alleged use of excessive force and live bullets against the demonstrators by police officers during the demonstrations, stating why arrests had not been made, the reasons and measures put in place to ensure that the officers responsible for the deaths are held responsible. “Initially, the elephants killed some people and there were demonstrations. The GSU came and killed more people,” she told the House. The people who were killed by the elephants are: Pellow Muterian, Sonke Marona, Tarkor Purkusalie and Felix Molowma Kilapai. Those who were injured and are still at Makindu Hospital. They are Kibaki Kindi and Kindi Mollomaa. During the demonstrations, the police killed Tindu Terreu, Lemomir Topoika, and Duncan Munge. “The committee should outline the measures being taken to compensate the families of the deceased whose deaths were caused by the elephants and those whose deaths were caused by the GSU officers,” she said, adding that the committee should explain measures taken by Kenya Wildlife Service (KWS) to move and contain the rogue elephants in the area as they continue to cause mayhem and kill more people.



Senator Gertrude Musuruve said:

“It is clear that the genesis of that incident was human-wildlife conflict. As a country, we must see how to resolve such conflict because wildlife attracts tourists and helps in generating revenue. However, that should not be at the expense of wananchi. There is need to have officers of the Kenya Wildlife Service (KWS) appear before us. Even when the Senate goes on recess, sine die, this is an issue that needs to be interrogated. The KWS should be sanctioned for any human life lost because of wildlife. They need to be sanctioned so that they are careful, so that people do not die.”



Senator Naomi Shiyonga said:

“In as much as those animals are taken care of and they give the Government a lot of money through the tourism sector, we need to be protected as human beings. This is not the first or the second time we have seen people being killed haphazardly. Since I came to this Parliament and previously, members of the community that live near the game parks and the game reserves have been killed. We have had so many complaints of people being killed by the wild animals and the officers who take care of these game parks.”



Senator Mutula Kilonzo said:

“My understanding is that the President of USA is coming to Kenya for a conference on entrepreneurship. The conference happens to be in Nairobi which also happens to be the homeland of his father. No clear statement is being made by the Government on this issue because as far as I understand it, while he is here, he will spare time to meet our President. That is the only information available. So, all these other proposals that are being made are completely flying in the face of the facts. If, indeed, Kenya wanted President Obama to come here for a much more extensive visit, it should not be prefaced on his visit for a purely international conference. I think we are missing the point.”

House to probe SHA recruitment

The House has directed the national Government to consider former staff of the defunct National Health Insurance Fund (NHIF) when recruiting staff to the entities created under the new Health laws passed by the House in 2023.

The Social Health Agency (SHA), the successor of the NHIF, is redeploying what they call excess staff.

Senators say new agencies that were created to support the roll out of UHC, such as the digital agency should consider absorbing former officers who served NHIF and within the Ministry instead of recruiting new staff.

“As the Health Committee we made it clear that no staff working under NHIF should lose their jobs,” said Senator Jackson Mandago, who chairs the Health Committee.

The Senator was contributing to the debate on the request for Statement sought by Senator Boni Khalwale on the ongoing employment of staff in SHA.

In a letter dated November 21, 2024,

The Public Service Commission (PSC) has written to former employees of NHIF giving them new offers as it seeks to cut the staff burden in SHA.

In the letter, the CEO required the staff to acknowledge the receipt, immediately they got the letters and state whether



Senator Ledama ole Kina (left) and Senator Boni Khalwale.

they accept or reject the terms of their temporary deployment. The letter has caused anxiety, panic and confusion among those concerned

Senator Khalwale wants the Committee on Health to give details of the total number of staff that SHA plans to recruit to fill its approved staff establishment and an explanation on whether the employees to be recruited will be entirely sourced from staff of the defunct NHIF.

The Senator further wants the Committee to explain the approved exit package for those who will not be appointed



by SHA and opt to retire from the public service and the House furnished with details of the redeployment plan for those who will not be appointed by SHA and who wish to be redeployed within the public service.

“The details should include the capacities or positions they will hold and whether they will retain the current terms of employment,” said Senator Khalwale.

The staff that worked under NHIF were more than 2,000 and Senators argue that there is a pool of experienced staff that the agencies within the health

sector can draw from instead of recruiting.

“There is a need for the Ministry and SHA to communicate in a manner that is not going to cause anxiety. They must guarantee the workers that they are going to continue earning,” said Senator Mandago, adding that as the deployments are done, the benefits that have already been conferred to the staff should not be lost or reduced as that is a right under the Employment Act and the International Labour Organisation (ILO) requirements.

Senator Ledama ole Kina challenged NHIF or SHA to make a determination of how many of the NHIF employees are going to be absorbed permanently.

He said SHA should opt for a process that will avoid serious legal battles. “These people are uncertain; they do not know about their tomorrow. They were employed on a permanent basis in NHIF. Now, when transitioning into the new entity, SHA, they must also be based on the same terms. It is, therefore, imperative that we look at that to end the uncertainty.”

Senator Aaron Cheruiyot said vetting should be done to weed out employees who were involved in the business of handling fictitious claims that brought down NHIF.

Lawmakers’ red flag on bank fraud targeting retirees

The House is set to probe claims of fraudulent activities in some banks targeting lump-sum pension payouts for retirees.

The probe, to be conducted by the Committee on Finance and Budget, will seek to establish the circumstances under which Mrs Violet Akoth Nyatol, a retired teacher, fell victim to a fraudulent scheme and lost her entire pension payouts of Sh2.4 million which had been deposited into an Absa Bank Kenya PLC account.

The probe by the House has been necessitated after Senator Eddy Oketch raised the red flag over the trend where fraudsters are increasingly targeting retirees and defrauding them their pension benefits.

“Concerns are growing on how criminals are able to access sensitive personal banking details, which enable them to monitor bank transactions and execute the fraud promptly after lump-sum pension pay outs are deposited in the beneficiaries’ bank accounts,” said Senator



Senator Eddy Oketch.

Oketch while seeking a Statement on the issue on the floor of the House.

The Committee, which is chaired by Senator Ali Roba, is to establish whether the Central Bank of Kenya (CBK) and the Directorate of Criminal Investigations (DCI) are aware of the cases.

He wants the Committee to obtain information on the actions taken by the institutions in addressing the issue.

“The Committee should establish the steps taken by Absa Bank Kenya PLC to address the systemic lapses that allowed the fraudsters to access sensitive personal banking details and monitor bank transactions.

The Committee will establish the internal investigations taken by the Bank, including whether it has investigated and established a potential coalition between its staff and the fraudsters.

The lawmaker wants details of the oversight mechanisms put in place by the CBK to ensure that banks take adequate steps to guarantee the safety of customer deposits and

Pointing out that this type of fraud is universal, Senator Ledama ole Kina challenged Absa Bank to train its staff so that they have the capacity to trace and detect suspicious withdrawals.

“Although this is a big problem worldwide, we need to look at how jurisdictions have addressed the problem,” he told the House even as he supported the Statement.

“The committee that will investigate this matter will sit down with the Competition Authority of Kenya (CAK) to understand. Are they just collecting money or do they engage in educating citizens on how to protect their wealth?” he asked. He proposed that, besides the CAK, the Committee should invite Absa Bank, other financial institutions and consumer protection bureaus to understand what they should do to protect senior citizens.

Senators fault Treasury for cash disburse delay



Majority Leader Aaron Cheruiyot

Senators have raised concern over the failure by the National Treasury to implement resolutions of the House relating to Cash Disbursement Schedule – a legal instrument that facilitates disbursement of funds from the National Treasury to counties once the County Allocation of Revenue Bill and County Governments Additional Allocation Bill are passed by Parliament.

Section 17 (6) of the Public Finance Management Act mandates the National Treasury to disburse monies to county governments not later than the 15th day of every month.

The process of disbursement is done in accordance with the Schedule, which is prepared by the National Treasury in consultation with the Intergovernmental

Budget and Economic Council, (IBEC) with the approval of the Senate, and published in the Gazette not later than May 30 every year.

However, Senators say even after approving the instrument every year, the National Treasury has never disbursed money to counties as in line with the Schedule.

“I do not know whether this ritual that we engage in every year has any meaning at all. County governors will tell you they have never received their allocations on time. Why do we engage in this ritual?” asked Senator Edwin Sifuna during the debate on the approval for the Schedule for the County Governments Additional Allocation Bill, 2025.

“I hope that Senators who have been here before or longer can explain to us. Do we need to do this? This ritual has never made sense to me because no one listens to us.”

The two Houses passed the County Governments Additional Allocations Bill, 2025 effectively giving counties an additional allocation of Sh50.5 billion in both conditional and unconditional grants.

The Act provides for the mechanism of transferring conditional and unconditional allocations from the national government’s share of revenue and grants from proceeds of loans and grants from development partners to the county governments.

The Act includes Sh7.54 billion to counties from the National Government’s share of the revenue raised nationally. Out of which Sh532 million will supplement the construction works of county headquarters in five counties – Nyandarua, Tana River, Tharaka Nithi, Isiolo, and Lamu.

A further Sh3.2 billion is meant for the Community Health Promoters (CHPs) programme to be shared among the 47 counties; the County Aggregation and Industrial Parks (CAIPs) programme has been allocated Sh2 billion, while Basic Salary Arrears for County Government Health Workers has been awarded Sh1.759 billion.

“The disbursement schedule that we pass for equitable share and additional allocation have become a ritual. No one takes them seriously, especially at the National Treasury, not in terms of the amounts, but in terms of the time when the money is sent,” observed Senator Godfrey Osotsi when contributing to the debate.

“Something has to be done because it seems as if junior officers in the National Treasury are exercising powers that they do not have. When we pass this Schedule, it is like law, but it is never followed by the National Treasury.”

Senator Jackson Mandago promised to push for an amendment to the law to make it compulsory for the National

Treasury to send the money to counties, as per the Schedule.

He also proposed to amend the Public Finance Management (PFM) Act, to exclude the National Treasury from the business of managing finances of the national Government.

Under the law, the National Treasury is mandated to serve the two levels of government in an equal measure.

“There is confusion in the National Treasury. It behaves as if it is a treasury of the national Government and county governments have to go there and beg,” he said.

Senators said delay in disbursement has compromised service delivery in counties, accumulated pending bills in counties and created a situation where businesses are collapsing.

“We have had many problems with delayed salaries for those that work for county governments and, sometimes, counties are forced to borrow money from banks to their employees, which attracts interest,” said Senator Joe Nyutu.

Majority Leader Aaron Cheruiyot questioned the National Treasury’s inability to comply with the Schedule to the exact date and time but challenged the Committee on Finance and Budget to develop a better solution beyond waiting for the exchequer releases.



Senators follow discussions when the Finance and Budget Committee hosted them during the sensitisation of its recommendations in the report on the Fourth Basis Revenue Sharing formula.

Petitioners seek Senate help in research rights protection

Speaker Amason Kingi has directed the Committee on Health to urgently consider the Petition filed in the House concerning the propagation and commercialisation of new generation (Muthea) Antivenom in Kenya and report back within 60 days.

This is after Senator Okiya Omtatah submitted the Petition on behalf of three Kenyans who want the Senate to protect their rights to research, innovate and commercialise the traditional Antivenom.

Mr Patrick Musilu, Mr Tom Babu and Mr Alfred Dosso argue that for the past five years, they have been developing a new generation antivenom derived from a chemically synthesised version of the traditional Muthea Antivenom.

The innovation was inspired by a snake bite death of a neighbour at Machakos Level 5 Hospital and further motivated by the 2019 Ministry of Health Policy document on snake bites, which led them to formalise and register their Antivenom with the Pharmacy and Poisons Board (PPB).

Although their snake bite treatment initiative is lawful and has demonstrated preclinical efficacy, their efforts to further research, innovate and commercialise the Antivenom have faced persistent obstruction and sabotage from individu-



Senator Okiya Omtatah (left) who submitted the Petition to the House on behalf of the three petitioners. He is with Senator Samson Cherarkey.

als within key public health institutions.

“The Antivenom, which is based on a formulation that has been used effectively for over 100 years, with zero death outcomes in areas such as Machakos and Kwale, has not been recognised or supported under the Universal Health Coverage (UHC) framework,” reads their Petition which was read to the House by the Speaker.

They claim to have experienced multiple forms of administrative abuse, including being unlawfully required to

pay Sh100,000 to obtain a nondisclosure agreement, having their intellectual property rights violated through unauthorised experiments and being denied formal partnership opportunities despite proven efficacy of their products.

They say that samples have been used without their consent and that they have been denied access to the Kenya Medical Research Institute (KEMRI) premises without due process.

While they have made efforts to resolve the matters through the relevant

institutions, all efforts have been unsuccessful.

The three allege criminal abuse of office, sabotage and potential patent theft by some individuals within public research institutions and have asked the Senate to conduct an inquiry and make recommendations on the same.

They want the House to recommend measures to support initiatives that would enable Kenya to transition from being a net importer of animal plasma-based Antivenom to being a global exporter of reliable chemically synthesised alternatives.

They also want the lawmakers to push for the development and implementation of regulatory guidelines to ensure that indigenous African inventors and non-institutional innovators have equitable access to research and development facilities through institutionalised partnerships with publicly funded research institutions.

The Speaker committed the Petition to the Committee on Health.

“The Committee is required in not more than 60 calendar days from the time of reading the prayer, which is today, to table its report in the Senate for consideration. The Senate shall thereafter consider and adopt the report of the Committee,” ruled the Speaker.

KURUNZI

Seneti yaombwa kuchunguza vituo vya kupigia kura nje ya nchi



Seneta David Wakoli na Seneta James Murango.

Seneta Richard Onyonka amewasilisha ombi akitaka Kamati ya Haki, Masuala ya Kisheria na Haki za Kibinadamu kufafanua namna Tume Huru ya Uchaguzi na Mipaka nchini Kenya (IEBC) inavyoteua vituo vya kupigia kura kwa wakenya wanaoishi ughaibuni.

“Tume hiyo kwa mujibu wa sheria inawajibika kuhakikisha kuwa usajili wa wakenya walioko nje ya nchi unaendelea,” alisema Seneta Onyonka.

Seneta Onyonka alitaka Kamati hiyo ifafanue vigezo vinavyotumika katika kuchagua na kuidhinisha vituo vya kupigia kura vya ughaibuni. Vilevile alitaka

kueleza taratibu zinazotumika katika usajili wa wapiga kura wa walio ughaibuni, elimu ya wapiga kura na zoezi la upigaji kura.

Seneta huyo alisisitiza haja ya kuwa na masharti ya wazi ili kuhakikisha uwazi, uwajibikaji na upatikanaji wa taarifa kwa Wakenya wanaoishi nje ya nchi. Alisema ni muhimu kwa wapiga kura walioko nje ya nchi kufahamu haki zao, yanayohitajika kwa wao kupiga kura na maeneo halisi ya vituo vya kupigia kura.

Huku hayo yakijiri, Seneta Wafula Wakoli ameomba taarifa kutoka kwa Kamati ya Barabara, Uchukuzi na Makazi kuhusu hali ya kusikitisha ya Barabara ya Bungoma-Mumias, akisema hali hiyo inahatarisha usalama na kuvuruga huduma muhimu za usafiri katika Kaunti.

“Ninasimama kuomba taarifa kutoka kwa Kamati ya Barabara, Uchukuzi na Makazi kuhusu hali mbaya ya Barabara

ya Bungoma-Mumias,” alisema Seneta Wafula.

Barabara hiyo ni muhimu kwa kunganisha Kaunti ya Bungoma na Kakamega, Busia, Kisumu, Vihiga na maeneo mengine ya Magharibi mwa Kenya. “Licha ya umuhimu wake, barabara hiyo iko katika hali mbaya sana. Imejaa mashimo mengi na sehemu zilizoharibika, hali inayohatarisha usalama na kuvuruga huduma za usafiri wa umma na biashara,” alikariri.

Seneta huyo aidha anaitaka Kamati hiyo chini ya Uenyekiti wa Seneta Eddy Oketch kufafanua hatua za dharura zilizowekwa za ukarabati, fedha zilizotengwa kwa ujenzi upya na tathmini zozote zilizowahi kufanywa kuhusu hali ya barabara hiyo. Kadhalika, anatafuta taarifa kuhusu wakandarasi waliotekeleza kazi hiyo na mipango ya Wizara kuitunza mara kwa mara barabara hiyo na zingine wenye Kaunti.

Kamati ya Sheria Andamizi yajadili Kanuni za Mazingira



Kamati ya Sheria Andamizi ilifanya kikao na Waziri wa Mazingira, Mabadiliko ya Tabianchi na Misitu Deborah Mulongo Barasa, kujadili Kanuni nne za mazingira zilizochapishwa chini ya Sheria ya Usimamizi na Uratibu wa Mazingira (EMCA).

Kikao hicho, kilichoongozwa na Seneta Mwenda Gataya, ambaye ni Mwenyekiti kilichunguza athari za kisheria, kiutaratibu na kiuchumi za Kanuni hizo mpya zinazohusu miongoni mwa mengine ukaguzi wa mazingira, upatikanaji wa rasilimali hai na dhama na za amana.

Katika mawasilisho yake, Waziri Mulongo alijibu maswali kuhusu mapungufu ya kisheria na kutokuwepo kwa mwafaka katika uandishi na uchapishaji wa Kanuni hizo. Kwa mfano, Kanuni kuhusu bidhaa za kudhibitiwa ilikosolewa kwa kuruhusu, chini ya Kanuni ya 6, uendeshaji wa shughuli zinazohusiana na bidhaa zote zilizoainishwa mradi tu leseni itolewe, licha ya Kiambatisho cha kwanza cha ratiba hiyo kupiga marufuku baadhi ya bidhaa. Waziri alikiri kuwepo kwa utata huo na akaweka mezani toleo lililorekebisha la Kanuni ya 6 ili kulinganisha na masharti ya Ratiba ya Kwanza.

Wanachama wa Kamati pia walieleza hofu kuhusu kucheleweshwa kwa mchakato wa kuandaa Kanuni hizo, wakisema kuwa mashauriano ya umma yalifanyika mwaka 2020, lakini Kanuni zilichapishwa mwaka 2025. Waziri Mulongo alihusisha kuchelewa huko na janga la COVID-19 lililovuruga shu-

ghuli za kisheria na kueleza kuwa shughuli mpya za kutunga sheria mwaka 2024 ziliambatana na utathmini wa Sera ya Mazingira ya mwaka 2013 na sheria ya EMCA. Aliongeza kuwa Katiba wala Sheria ya Vyombo vya Kisheria haiweki kikomo cha muda kati ya ushirikishwaji wa umma na uchapishaji.

Kanuni za Dhamana ya Amana za mwaka 2025 zilizua hisia huku Maseneta wakihoji kwa nini mashauriano ya umma yaliyotajwa katika maelezo yalifanyika mwaka 2015, bila ushahidi wa mashauriano mapya licha ya kupita kwa muongo mmoja. Waziri alisema Katiba haijaweka muda maalum kwa mashauriano, lakini alikiri kuwepo kwa mapungufu katika uandishi wa kumbukumbu na akaahidi kuwa sasa kuna mifumo ya kuweka rekodi sahihi za kisheria.

Kuhusu kujumuishwa kwa kambi za wakimbizi katika Ratiba ya Kwanza kama shughuli zinazohitaji dhamana ya amana, Maseneta walitaka kubaini ni nani kati ya Serikali, UNHCR au mashirika yasiyo ya kiserikali (NGOs) atakayewajibika kwa malipo hayo. Waziri alifanua kuwa Kanuni hizo zinamtaja mwasilishaji wa mradi kuwa ndiye mwajibikaji, akifichua kuwa shirika lolote linaloendesha mradi ndilo litawajibika.

Kanuni kuhusu Tathmini Shirikishi ya Kimkakati na Ukaguzi wa Mazingira ilizua mjadala wa kisheria kuhusu vifungu vinavyowezesha Kanuni hizo. Ingawa Kanuni zilitungwa chini ya mamlaka ya jumla ya kifungu cha 147 cha EMCA, Seneti ilibainisha kuwa vifungu 58(6A) na (6B), ambavyo vinahusu moja kwa

moja tathmini shirikishi na usajili wa wataalamu, vilifaa zaidi. Waziri alikubaliana na hilo na akaunga mkono kufanyiwa marekebisha kwa Kanuni hizo ili kuonesha msingi sahihi wa kisheria.

Maseneta pia walieleza wasiwasi kuhusu ongezeko la ada za udhibiti. Ada ya jumla ya Shilingi milioni moja kushughulikia maombi ya Tathmini ya Kimkakati ya Mazingira (SEA) ilitajwa kuwa ya juu mno. Hata hivyo, Waziri aliitetea ada hiyo kwa kusema kuwa mchakato wa SEA unahusisha hatua nyingi ikiwemo uchunguzi, upeo, uhakiki na ufuatiliaji ambazo huhitaji rasilimali kubwa na ushirikiano wa mashirika mbalimbali.

Alisema ada hizo zinalingana na viwango vya kimataifa na zinatokana na misingi ya haki ya vizazi vijavyo. Kadhalika Kamati ilieleza hofu kuhusu ongezeko la ada za leseni kutoka asilimia 0.05 hadi 0.1 japo Waziri Mulongo alifanua kuwa ada hiyo ya asilimia 0.1 tayari ilikuwa inatumika kabla ya uchapishwaji wa Kanuni. Alisema fedha hizo ni muhimu kwa uchambuzi wa kitaalamu, ziara za ukaguzi, mikutano ya wadau na ushirikishwaji wa umma kati ka ngazi ya Kaunti, hasa kwenye miradi yenye hatari kubwa.

Kuhusu Kanuni za Upatikanaji wa Rasilimali Hai na Mgao wa Faida, 2025, Maseneta walihoji iwapo ada kubwa za kibiashara ni kikwazo kwa waendeshaji wadogo. Waziri alisisitiza kuwa ada hizo, zinazojumuisha gharama za uchakataji na ufuatiliaji ni muhimu kwa ulinzi wa viumbe hai. Alisema kiasi hicho kilikadiriwa ili kuzuia unyonaji kupita kiasi na kufadhili juhudi za

utekelezaji wa sheria kama ukaguzi wa maeneo na ufuatiliaji.

Saula la hofu kuwa jamii zinaweza kunyimwa haki ya kutumia rasilimali za misitu kutokana na Kanuni hizo, Waziri alihakikishia Kamati kuwa haki hiyo imelindwa. “Kanuni ya 4(2) inatoa msa-maha kwa matumizi ya rasilimali hai na mabadilishano ya kijamii kwa faida binafsi,” alifichua Waziri Mulongo.

Aliongeza kuwa kuna mifumo kama Sheria ya Uhifadhi wa Misitu inayowapa nguvu Vyama vya Jamii vya Misitu (CFAs).

Waziri Mulongo pia alijibu hoja kuwa Kanuni hizo hazikutaja wazi mkataba wa kimataifa zinazolenga kuutekeleza. Alieleza kuwa Mkataba wa Nagoya unaolenga mgao wa haki na usawa wa faida kutoka kwa rasilimali za kijeni ndio mkataba husika. Maseneta walihoji iwapo Serikali za Kaunti zitashirikishwa kikamilifu kabla ya utoaji wa vibali vya kibiashara vya kufikia rasilimali, Dkt. Mulongo akiwahakikishia kuwa mchakato wa idhini unahitaji ushiriki wa wadau wote, ikiwemo Serikali za Kaunti na jamii za wenyeji asilia.

Waziri huyo alitumia fursa hiyo kuiomba Kamati na Seneti kwa ujumla kuziithinisha Kanuni hizo, akisema kuwa zinalingana kuoanisha utawala wa Mazingira na Katiba, Mikataba ya Kimataifa na haja ya dharura ya maendeleo endelevu.

Kamati hiyo sasa itatafakari kuhusu mawasilisho hayo kabla ya kutoa mapendekezo kwa Bunge la Seneti kuhusu kuidhinisha au kuharamisha Kanuni hizo.

House eulogises Ngugi wa Thiong'o, Professor of the world



Senate in session.



Senator Danson Mungatana and Senator Veronica Maina co-sponsored the Motion

Senators have eulogised the late of Professor Ngũgĩ wa Thiong'o as a literary giant who never stopped thinking, did a lot of political thinking and continued to dream, even in his old age.

During the debate on the Motion in which the House expressed its deep sadness at his death, recorded its celebration and appreciation of his remarkable life, the lawmakers described as one literary artist who believed that language is not just a tool of communication, but also a carrier of people's culture and that it is at the centre of shaping of a people's identity.

"We mourn the passing away of this literary giant. We mourn the long-gone days of men who stood for what they believed in. Men who did not falter; did not think twice. Once they follow a path, they never back off from what they believed," said Senator Danson Mungatana while moving the Motion.

"They never gave statements today, tomorrow, to deny them before this very same press where they gave those statements. Men who pricked our conscience as a nation. Men who developed a certain resistance that said, "we can be better." We can be better."

A prominent author, academician and human rights defender, globally recognised for his foundational contributions to literature and good governance, Professor Thiong'o passed away on May 28, 2025, aged 87.

Until his death, he had an illustrious career in writing and teaching literature spanning over 6 decades where he authored landmark novels, plays and poems that shaped postcolonial studies, contributed to social justice and inspired generations of writers and thinkers across the world.

The late Professor advocated for indigenous languages and even took up writing in his mother tongue. His legacy in inspiring many generations towards cultural sovereignty and the power of indigenous languages in literature and thought, led to numerous international awards being bestowed upon him.

In his contribution, Senator Mungatana, who sponsored the Motion together with Senator Veronica Maina, said alongside writers such as Chinua Achebe and Wole Soyinka, Professor wa Thiong'o was part of a literary scene that flourished in the 1950s and 1960s during the last years of colonialism in Africa.

"Professor Ngũgĩ wa Thiong'o, unlike the literary geniuses of that time like Chinua Achebe and Wole Soyinka, he was a militant because he wrote with a feeling. His books were cutting. It was like a panga against colonial and post-independence dictatorship and against the ruling elite at that time," said Senator Mungatana.

He called on the Government to honour our Professor Ngũgĩ wa Thiong'o and others, even posthumously because they

are deserving of national, East African and African recognition, for what they contributed in this life when they lived it.

He also urged institutions where the Professor served to preserve his books and works in a digital format so that they will never be forgotten and they can form part of Kenyan history. "People of stature like Professor Ngũgĩ wa Thiong'o should be celebrated in some of these important museums. They should be recorded as people who have made their contribution to this nation. They should be honoured even posthumously."

Senator Peris Tobiko, who seconded the Motion, described the late as East Africa's leading novelist and an important figure in modern African literature who was able to capture the undiluted African society and set up through his books.

"His life will live on through his books," she said, adding that it was ironic that although he was against colonialism and wrote a lot about colonialism, he was forced by circumstances to leave his homeland and stay in the land of the colonisers.

Professor Professor Ngũgĩ wa Thiong'o wrote quite a number of works in his mother tongue. He talked a lot and fought so much for indigenous languages. He talked about Africa and the fact that the African civilisation is just as good, if not better, than the European civilisation.

Senator Enock Wambua eulogised the late Professor as a scholar who used the platform of literature to communicate the social messages that touched on politics, economics and development of the country and the region.

Senator Oburu Oginga said the Professor was more known for fighting against mental colonisation and cultural colonisation.

"This was a great Professor of the world. He had a great passion for our country because he believed that even after independence and when the colonial flag was brought down, our people were still culturally colonised, when you lose your culture, you are like a slave."

Beatrice Ogola said one outstanding characteristic of Professor Ngũgĩ wa Thiong'o is that he believed in what he wrote about. He believed in the contents of the teachings that readers would get from his books.

As we celebrate Professor Ngũgĩ wa Thiong'o, I call upon all of us to celebrate and appreciate such great writers that we have had. He plays in another league," she said, even as challenged the Government of Kenya to join in and recognise him.

Some of the most famous books of the late Professor include *Weep Not, Child*; *The River Between* and *A Grain of Wheat*. *Weep Not, Child* and *A Grain of Wheat*.



1. Students from various institutions of higher learning who are on attachment in the Parliamentary Service Commission pose for a picture after they completed the orientation process.
2. A Parliamentary Public Communication Officer educates students on attachment on the law-making process.
3. Students from Moi Girls School, Isinya, Kajiado County, follow proceedings in the Senate Chamber during their tour of Parliament.
4. Students from The Nairobi Academy, Nairobi County, follow debate in the Senate chamber.
5. Teachers and students from St Benedict Wamutitu School, Nyeri County, in the Senate Chamber.
6. Senator Wahome Wamatinga with students from Ruthagati Secondary School during their tour of Parliament Buildings. The Senator is a former student at the School.
7. Girls from Lily Academy, Nairobi County at the Senate.
8. Boys from Lily Academy, Nairobi County, pose for a picture with their teachers at the Senate.



1. Students and teachers from Kagio Boys, Kirinyaga County at the Senate during their tour of Parliament.
2. Narok North MP Agnes Pareiyo with students from Sekenani Junior School outside the Senate Chamber.
3. Students from Tangulbei High School, Baringo County.
4. Students and teachers from Nginda Mixed Secondary School, Murang'a County.
5. Students from Nginda Girls in the Senate Chamber.
6. National Treasury CS John Mbadi is welcomed to Parliament Buildings by staff to respond to questions from Senators.
7. Senator Beatrice Ogola with some of the youths from Ndhiwa, Homa Bay County, who visited her at Parliament Buildings.



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