

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 6th May, 2021

Special Sitting

*(Convened via Kenya Gazette Notice
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*The House met at the Senate Chamber,
Parliament Buildings, at 10.00 a.m.*

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

PRAYER

COMMUNICATION FROM THE CHAIR

ACKNOWLEDGEMENT OF INTERNS TAKING PART IN THE SENATE INTERNSHIP PROGRAMME

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this morning of 13 young men and women who have commenced the Senate internship programme for a period of six months.

The objective of the programme is to provide young people with firsthand experience in the legislative process and to expose them to the intricate world of public policy and public service.

I request each member of the group to stand when called out so that they may be acknowledged in the Senate tradition.

They are-

1. Mr. Perter Mbutia
2. Ms. Sharfida Ingosi
3. Ms. Linda Akinyi Ouma
4. Mr. Charles Okwemba
5. Mr. Jeffer Imbati Momanyi
6. Ms. Brenda Mishira
7. Mr. Patrick Idaki
8. Ms. Elizabeth Njambi Kimiti
9. Mr. Furgerson Olerampa
10. Mr. Charles Otieno Oyosi
11. Mr. William Zentone Omondi

12. Mr. Kevin Moore Mumelo

13. Ms. Lynn Aseka

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well during their internship programme.

I thank you.

Proceed, Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Mr. Speaker, Sir, allow me to join you in welcoming these young people to their internship programme. The future of Kenya lays on our young people. Seeing such a group that has interest in legislative work, is key.

Legislative work is a process that involves many things. They will learn that a Bill goes through a long process from the First Reading, Second Reading, Committee of the Whole, Third Reading before being assented to law.

The various Bills we make are meant to serve the country and various interests be they social or economic that are key in driving this country. As much as it is the Members of Parliament who will draft this legislations, it is upon them as interns to be diligent, interested, focused and loyal in what they do. Legislative work is a lot but I believe the interns are determined because they are in the right environment for it.

I welcome the interns and wish them well even as they begin this internship programme. I thank you.

The Speaker (Hon. Lusaka): Proceed, Sen. Wario.

Sen. Wario: Mr. Speaker, Sir, I thank you for giving me this chance to welcome the young people who have joined the Senate Internship Programme. I hope that they will learn from the good minds of Kenya here in the Senate. This is an enabling environment so I hope that they will enjoy their time here.

I thank you.

The Speaker (Hon. Lusaka): Proceed, Sen. Malalah.

Sen. Malalah: Mr. Speaker, Sir, on behalf of the young Senators of this House, I take this opportunity to welcome the young men and women to this very noble exercise. Internship offers us an opportunity to expose the young men and women of this country to an environment that is going to enable them have better experience as they prepare for their future.

I urge the young men and women who have been recruited for this important exercise to concentrate on their work as well as be flexible to be molded. So many young people have been given opportunities before which they ended up misusing.

I advise the young interns to take their work seriously because this is the best place to be. Parliament has got all the aspects of a job environment. These interns will have a better experience than any other place that they would wish to be in the job environment.

I encourage the Government of Kenya to ensure that when they give opportunity to interns, they should have a modality and framework to absorb the same interns into the mainstream jobs.

Many at times, we see the Government recruit so many interns such as the intern teachers that the Teachers Service Commission (TSC) recruits. However, when it comes to the recruitment of permanent and pensionable staff, many interns are disadvantaged. I would like us to have a framework where we are going to ensure that we cushion the

interns. The interns must be assured of a place in the mainstream service when job opportunities are available.

I take this opportunity as a young Senator on behalf of the other young Senators in this House such as Sen. Cherargei to say that we shall guide them through the workings of the Senate. I wish them all the best.

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

Sen. Cherargei: Mr. Speaker, Sir, my neighbour, Sen. Malalah, wants to overreach his powers, which he only enjoys as the head of delegation of Kakamega.

I join you, on behalf of my colleagues, to welcome the interns and wish them well. I pick from where Sen. Malalah has left. We use public resources, institutions and utilities to train these young people. We should not train them and then leave them at the mercy of vagaries of what is happening outside there.

The best Government policy should be, if you have been trained within a Government institution, you should be given an opportunity to continue working for the Government, so that you do not lose the training and skills. Everybody even in the private sector should work in the public service because it is where there is career development and opportunities. This is significant.

Mr. Speaker, Sir, we do not have many opportunities in the country. We appreciate that in as much as we would want to hire many people, there should be money for development. The interns should go to school to learn, not to get jobs, but to expand knowledge, have a vision and mission in life. If they train and are not absorbed within the Government, I challenge them to use the art and skill to make something and create themselves.

Mr. Speaker, Sir, I watch the proceedings of Tanzania. As leaders, we tell young people to look for jobs and hire themselves. The question is, why should we not hire ourselves? We went to *wananchi* to look for employment. So, how do we expect young people to employ themselves?

I challenge leaders to stop the narrative of telling young people to create their own employment. We should ensure that we give them opportunities both at the county and national level.

Finally, we have been arguing about the 30 per cent on Access to Government Procurement Opportunities (AGPO). I am happy that Sen. Sakaja is here. We should actualize it. This is because in the counties, the people who are given tenders and opportunities are only young at heart. The number does not match the below 35 years that is recognized by the United Nations (UN).

I challenge county governments and Ministries. When they say that they should give 30 per cent to people living with disabilities, youth and women, they should make it a reality so that when our young people do not get jobs, they get the opportunities.

I thank you and wish our interns all the best. The Senate is the right place that has the best of the brains.

On behalf of the young people, we welcome them. We wish them all the best.

I hope some of us will get an opportunity to directly or indirectly mentor them. This includes, Sen. Mutula Kilonzo Jr., whom I am not sure whether he is a youth.

Sen. Mutula Kilonzo Jr.: Sen. Cherargei should have been mentored.

Mr. Speaker, Sir, it is useful to have interns. I am not sure whether this is the first time. Sen. Wetangula and I have been here long enough and we have never seen interns before.

More importantly is that they should be attached at some level to the Senators because we do the drafting and debate.

Sen. (Prof.) Kindiki is a law teacher and there is a lot to learn from him. Sen. Wetangula does not say this as much but he interned with my late father. Therefore, there should be another Sen. Wetangula created through these good people.

Our clerk, Mr. Nyegenye, is an expert in drafting. We have a weakness in Kenya on legislative drafting. Therefore, it is important as they intern, to get people who are good draft persons. This is because Senators need people who can help them to draft legislation. It is always a challenge.

I hope that you can give them good certificates once they leave the Senate for purposes of the work that they have done. I also expected my Chairperson to write a good report about the people who drafted our report, like we did, with Sen. Sakaja when we got an excellent report from people working under our good Clerk on the Solai Report. We wrote a recommendation to say that we appreciate the work of the secretariat.

I want to say on the Floor that Deputy Clerk, Ms. Eunice Gichangi and Dr. Okello did a good job on our report. When we were doing the Constitution (Amendment) Bill, we should have had these interns in the room. I did not see them.

Let us hope that you will attach them to every Committee. Let them participate and give them work to do. Let them draft legislations. The clerk should give them work to do. Let them draft anything under the sun and grade them so that by the time they leave here, it will be a useful course for them

Bill Clinton became the President by visiting the Congress. So, there is a lot to learn. It is also a privilege to sit in the Speaker's Chamber. I wish that it will be useful to them and we wish them well.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I have a problem with my card.

Allow me to join colleagues in welcoming this cohort of interns to the Senate of the Republic of Kenya. As Sen. Mutula Kilonzo Jr. and other colleagues have said, I encourage them to never despise humble beginnings. Sen. Mutula Kilonzo Jr., used to be a messenger in his father's law firm. He even cleaned windows.

I started my political career lower than an intern. I was a driver in President Kibaki's times. Many others have such stories.

I recommend to them a book that I am currently reading. When they get time, they should look for a book called '*The power Broker*'. It is a story of Robert Moses on the fall of New York City. They will see what they are doing not as a destination but as part of a beginning of a journey in case they are interested in public service.

Additionally, I encourage them that it might not always be easy. However, once they have a vision of where they want to be, they should act as if they are already there. If you want to be a Senator, President, MP or lawyer, do not wait to get there. Wherever you are right now, walk, dress, talk and read like one and you will get there. If you can perceive it, you will be it and you will get there.

Mr. Speaker, Sir, we are all testaments of that simple fact. I hope that we will interact with them. I urge them, unlike others, not to be like us. Please be greater than us.

Do not seek to copy but to top us and excel beyond where we have reached. That is what generation transformation and reengineering is all about.

Asanteni. I pray that as has been suggested, during the course of their work, you can attach them to different offices for them to learn what we deal with first hand.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support you in welcoming the youth in this House. This is an essential prerequisite in the world of work because they will have hands on experience on the job.

There is nowhere to get the practical aspect of working other than when one is an intern or interacting in the industry. This youth have an opportunity to interact with the industry and get the practical and pragmatic aspects that they cannot get in learning institutions and other areas of learning. It is their time to get practical knowledge, which is important. Knowledge is power when it is shared and utilized.

I urge them to make maximum use of their stay here to ensure they have passion for working. They should ask for more work because the more you work the more experience you get.

Once you get experience in the world of work, it becomes a seamless way of getting into the industry and eventually perfecting your skills.

Mr. Speaker, Sir, it is an opportunity for them to also see what happens in the industry, in terms of verbal and non-verbal communication. I urge them to have their eyes open and see what good they can pick from legislation.

Thank you for the opportunity, I support and I welcome the youth.

The Speaker (Hon. Lusaka): Sen. Murkomen, you may take the Floor.

Sen. Murkomen: Mr. Speaker, Sir, one of my memorable experiences as a student, is sitting in the Gallery in the National Assembly and watching Sen. Orengo, Hon. (Prof.) Anyang' Nyong'o, Hon. Mukhisa Kituyi, Sen. Wetangula and Sen. Wako, the Attorney-General then. As a student, I was so inspired.

I had just come from university and I was not even there officially as an intern. I just got inspired and did not want to go back to Embobut, after coming to Nairobi City for the first time. Some of us came to Nairobi City for the first time to join university. I told myself that I must go to the village and give a real story about how Parliament works.

It is while seated at that Gallery in the National Assembly, that I got inspired and wished to be a Member of Parliament (MP). I did not imagine that in less than a few years, I would sit here with the same heroes I looked up to and who have continued to be a great inspiration.

I believe the interns are not just here to learn and write reports for purposes of academic papers. I believe they are also here for inspiration as they watch what we do and particularly, while we debate a very important subject matter that is the amendment of our Constitution. I wish they were here earlier when we were debating the Divisions of Revenue because it was very heated and I know many Kenyans followed.

I would like to tell the interns that this is an opportunity for them to also get inspired. Be ready to come here and join others and I that you are watching now while in university, just like I joined others who were ahead of me. Most importantly, let them be inspired and prepare themselves for a path of changing this country. In whatever they do even if they do not join politics, they will have an opportunity to inspire this nation.

One of my most memorable and inspiring jobs is lecturing at the university. It was an honest, straightforward and inspiring job. I got inspired by students and also had an opportunity to inspire them. I hope in Parliament, we can try as much as possible to apply the little we knew or even half of the theory we used to teach. May I tell them not to copy the bad manners in us in politics. Pick the positive things and continue to inspire in whatever you do in life.

The Speaker (Hon. Lusaka): Sen. Wambua, proceed.

Sen. Wambua: Thank you, for this opportunity to also join my colleagues to congratulate the interns who have joined us.

I will only say three things. One, an internship programme is very important for people who are interested in organic career growth. Organic growth is where you go through the stages right from the bottom to the top most position that you can ever achieve.

May I inform the interns that I am personally a good product of internship. I was inscripted into politics and went through a very serious, rigorous internship programme for more than 24 years, sitting at the feet of my brother who was an MP, being given opportunities to make and learn from my own mistakes. May I call upon and challenge the interns to aspire to do whatever job or task put ahead of them without necessarily worrying too much about the mistakes that may accrue in the process of undertaking the task. It is through those mistakes that you learn and sharpen your skills.

The second thing I want to say has been said by my colleagues. Do not try to be like any one of us or any other person. Just be yourself. My lecturer at the university told me that you cannot ape and hope to create. For you to be innovative and creative, just be yourself, do what is right to do.

Lastly, I heard Sen. Murkomen wish that you were here during the debate for the Third Basis for allocation of resources to counties because it was robust. However, you have not missed anything. Sen. Murkomen should have told you that we are in the middle of an equally robust debate on the BBI Bill. So, take your time, learn the ropes and aspire to be creative.

The Speaker (Hon. Lusaka): Sen. Kavindu Muthama, proceed.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for this opportunity to join you and the rest of my colleagues to welcome the interns to this House.

This is an opportunity that many young people cry for. They have always said they want to be on the table where things are being discussed. So, this is an opportunity for you to learn and encourage others to join. I am sure God will be with you and you will go very far as you learn from this Senate. Please, take your time, do what is right and desire to learn more.

The Speaker (Hon. Lusaka): Sen. Iman, take the Floor virtually.

Sen. Iman: Thank you, Mr. Speaker, Sir. Can you hear me?

The Speaker (Hon. Lusaka): Yes, we can hear you but we cannot see you.

(Laughter)

An Hon. Senator: We do not know who is talking.

Sen. Iman: Thank you, Mr. Speaker, Sir, for giving me the opportunity to join my colleagues to welcome the interns in the Speaker's Gallery today.

It is very important for the interns to be in at the moment because there is a crucial constitutional amendment discussion going on. Let us not only welcome them in the Chamber - As Sen. Mutula Kilonzo Jnr. said - we can as well assign them to different Committees for them to learn more and be better. These youth are the future leaders and at the same time, they are people who will drive the country.

I welcome them.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! May I reiterate what I said in my communication about virtual contribution; that you must be in an environment that is clearly an office and not some funny motorbike, bicycle or something else. I will not allow that. I know there are people who can use motorbikes.

(Laughter)

Sen. Shiyonga, proceed.

Sen. Shiyonga: Thank you, Mr. Speaker, Sir, for giving me this opportunity to join you and my colleagues in welcoming the young men and women who are seated in the Speaker's Gallery. They are fortunate to join this institution and I know that they will learn a lot.

The decision to join this institution is a noble idea and they should make use of the opportunity that has been given to them because there are many youths who are unable to get such an opportunity. This institution can help them get wings to fly. They can join us one day and be the best of themselves. They should be great men and women in Kenya. I welcome and thank them for joining this institution.

Sen. Olekina: Thank you, Mr. Speaker, Sir. Allow me to share my experience with these young men and women. In 1994, I was given an opportunity to work as an intern at Reuters International and while there, we started a program called African Journal. My adopted father, Jared Williams, asked me to stand behind him and watch everything that he did. I did that and I credit my success in life to what I learnt as an intern.

I challenge them to think out of the box. They should ask themselves what they need to do as interns. An intern needs to take in what the mentor is doing then do it better. They have an opportunity that we did not have. This is where we make laws. It is about time that they immerse themselves into the art of research. They should not wait to be told what they should do.

In the corporate world, an intern is perceived as a coffee person. I did that in the United Kingdom. They now have an opportunity to change their future. They should make friends who will be meaningful to their lives when they are here. I sit in the Committee on Health and we are dealing with issues that require the national approach. They should do research and ask themselves what they can do better. They have a lot of time and they can carry out research that can enrich our discussions in this House.

They have an opportunity to determine how the Members contribute in this House. They should talk to the Clerks of the Committees and find out how they can help in research. They can even suggest to assist in drafting the letters of invitation. That will propel them to greater things. I welcome them and challenge them to continue using us.

They can either come back or move to the Civil Service where they can leave a mark. At the end, they will remember that their journey started here.

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

(Sen. Poghiso on 28.4.2021)

(Resumption of debate interrupted on 4.5.2021)

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is it Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I thought that---

(A number of Senators moved from their places)

The Speaker (Hon. Lusaka): Order, Senators. There is a lot of movement. Let us listen to Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I had this discussion with Sen. Sakaja a few minutes ago. Would I be in order to propose that you cause the Speech of the President of Tanzania to be tabled, debated or noted because of the international obligations that were referred to in that Speech and our role in those international obligations? We can also appreciate that Speech because it was one of its kind. I thought that you would make some communication on it.

The Speaker (Hon. Lusaka): Order, Senators. Sen. Mutula Kilonzo Jnr. has raised a valid point. That is why you are told to listen. Listen to the debate. That is allowed.

In fact, Standing Order No. 24(5) says that:

‘Whenever the President delivers an Address, a Senator may, as soon as practicable thereafter, lay the Presidential Address on the Table of the Senate following the reading of such Address.’

The key words there are, ‘as soon as practicable’. We will have it laid on the Table and discussed once we are done with the discussions on the BBI because it is also important and we cannot disrupt its contributions. We will have it as soon as practical though I do not foresee it happening today. This is a Special Sitting. That can only happen next week when we resume.

Sen. Malalah: Thank you, Mr. Speaker, Sir. In the history of mankind and in various jurisdictions around the world, constitutional amendment processes are always a very important moment and this calls for us, leaders, to participate and contribute in this important debate. I was elected to represent the people of Kakamega County in August, 2017 through my beloved party, ANC. Article 1(2) of the Constitution is clear.

It states that:

‘The people may exercise their sovereign power either directly or through their democratically elected representatives.’

These submissions are basically the voice of the people of Kakamega County and the position of my party, ANC.

Mr. Speaker, Sir, I want to make it crystal clear today that my party position is that we do support BBI. We support the constitutional amendment Bill that is before us and that is the position of my party.

We have cited various reasons as to why we support this very important document. However, just before I highlight one or two issues that we do take as a focal attention, allow me first to comment on the process of amending a Constitution.

The drafters of the 2010 Constitution were cheeky because I wonder how they provided for it. Some of them are seated in this House complaining why we cannot even amend this document and yet they participated in drafting the 2010 Constitution.

I wonder why such an important process can come through Parliament and yet we cannot amend the proposals as brought before us. Parliament has been given a ceremonial role in this matter. I wonder why we spent a lot of time committing this very important document to the JLAC Committee.

They sat in very expensive hotels in this town trying to consider this matter only for us to be told that we do not have powers to amend even a comma.

Mr. Speaker, Sir, nevertheless, I want to commend the JLAC Committee who have interrogated and dissected this document and come up with a very good Report. It is sad that the findings of the JLAC Committee are not going to help this document improve its current value.

It is important that in future even as we amend the Constitution, let us look at possible ways in which we can allow Parliament to interrogate and---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators. Respect the House. Sen. Cherargei, you have become so nomadic. Whatever you are doing we may need to know.

Proceed, Sen. Malalah.

Sen. Malalah: Thank you, Mr. Speaker, Sir, for protecting me. I was submitting as follows, that it is important in future, when we shall have another opportunity to amend the law, let us give Parliament powers to amend and correct the inconsistencies of a Bill that is brought before this House.

It is my humble submission that in future even before the Bill goes for signatures, let the Bill come through this House. Let us do all the amendments that we are supposed to do before we go to collect signatures and subsequently go to county assemblies so that we have an opportunity as Parliament to ensure that we exercise our powers as enshrined under Article 94 of the current Constitution.

I want to go back to the reason why we support this document as a party. One, because of the aspect of devolution. I am a product of devolution. I was first elected as a member of the county assembly. I became the Deputy Speaker for Kakamega County Assembly and here I am, the Senator representing the people of Kakamega. Therefore ---

Sen. Linturi: On a point of order, Mr. Speaker, Sir. I have had a lot of interest for a long time in following up the debate for my good friend Sen. Malalah, but I am lost because I am not able to follow him clearly.

In this Chamber we are discussing the Constitution (Amendment) Bill. He is supposed to give us his ideas or opinion as a Member of Parliament. I have even looked at the Constitution under Article 96 on the role of the Senate. Having listened to him, the position he is advancing before this House is a position of a political party.

Is he in order to come here and push for a position of a political party while he is supposed to debate this Bill as a Member of Parliament representing the people of Kakamega? He should not advance a political party position.

Sen. Malalah: Mr. Speaker, Sir, I wonder why some people call themselves learned friends. We are in this House because we have been elected by the---

The Speaker (Hon. Lusaka): Senator, do not impute improper motives on a colleague.

Sen. Malalah: Mr. Speaker, Sir, I was elected to this House by the people of Kakamega through a political party. Even when it comes to voting on the Floor of this House we are Whipped based on our political parties. Therefore, it is not a crime for me to come and make submissions and elaborate the position of my party. I am a member of ANC and I will still remain a member of ANC---

The Speaker (Hon. Lusaka): Sen. Cherargei what is your intervention?

Sen. Cherargei: Mr. Speaker, Sir, since I have settled down, I remember you have ruled before that we should desist from bringing party issues to the Floor of the House. On many occasions, you have ruled us out of order when we have raised issues based on party positions.

Is Sen. Malalah in order to raise party issues before the Floor of the House yet he should just debate on the issues that concern the constitutional amendment?

The Speaker (Hon. Lusaka): Order, Senators. Let us not divert attention. He is not barred from making his views and occasionally referring to his party, which brought him here. However, he should not over-emphasize the aspect of the party.

What is your intervention, Sen. Murkomen?

Sen. Murkomen: Mr. Speaker, Sir, I agree and sympathize with your position only that I do not know whether Sen. Malalah is in order to spend a lot of time praising ANC of late.

It is a phenomenon that has come in, in the last six months yet in the past he was more focused on most of the time talking about NASA or ODM. If he can just focus on the issues, it would save him a lot of comparison from his past life.

The Speaker (Hon. Lusaka): Hon. Senators, you know people have different ways of surviving.

(Laughter)

Sen. Malalah is surviving. He knows what he is doing. Let us allow him to proceed.

Sen. Malalah: Thank you, Mr. Speaker, Sir. If you realized, most of these Senators who are uneasy with me taking a party position do not have a definite political party at the moment. That is why they are envious.

I was making my submission as to why I, the Senator of Kakamega elected on an ANC party ticket is supporting the BBI. My focal attention was drawn to the fact that this document provides that we are going to strengthen devolution in the sense that the resources that are now going to go to our counties are going to be increased.

Our counties have been surviving with a mere 15 percent and sometimes even less. However, this document has provided for a 35 percent provision whereby county governments will gain in a very big way when this Bill is passed.

As we pass this Bill, it is also important to remind the players of devolution that giving you 35 percent is not enough. The solutions to the problems facing our counties will not be achieved when we pass this Bill. Yes, we are giving you 35 percent but it is important for the county governments to use this money appropriately.

We have seen county governments misusing and misappropriating funds that is why in this dispensation we have had so many cases of impeachment. Our role as the Senate is first to defend devolution. However, we need to ensure that the money that goes to the county governments is well spent.

This brings me back to what I saw when we were converging in Naivasha. Members of the National Assembly ganged up and insisted that the National Government-Constituencies Development Fund (NG-CDF) had to be in the Bill to amend the Constitution. I blame ourselves for being unable to ensure the oversight fund was encapsulated in this document. It is important to know that most of the Senators are unable to conduct their oversight roles in the county governments because they lack the infrastructure and monetary muscle.

Kakamega is a very vast county---

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

The Speaker (Hon. Lusaka): I can see a point of order from Sen. Cherargei.

Sen. Cherargei: As the Chairperson *Emeritus* of the Senate Committee on Justice, Legal Affairs and Human Rights, we drafted submissions that were presented by the then Deputy Speaker Sen. (Prof.) Kindiki in KICC before the BBI Secretariat. Is it in order for the hon. Senator and leader of the Kakamega Delegation to tell this House that the Senate did not make their position known, yet we submitted before the BBI Secretariat with your directions?

Is he in order to mislead by referring to a forum where people were taking *chai* and *mandazi* in Naivasha as a serious one?

Sen. Malalah: Mr. Speaker, Sir, I think we have various ways of achieving---

The Speaker (Hon. Lusaka): There is another intervention from Sen. Omogeni.

Sen. Omogeni: Mr. Speaker, Sir, this is a House of records. Sen. Malalah, who is my good friend, is creating an impression before the House that in Naivasha when Members of the National Assembly were agitating for the NG-CDF, we never agitated for an oversight fund for the Senate. Everybody who was in Naivasha – and I have Senators around here - will confirm that we made a presentation.

I spoke on behalf of Senators and indicated that the oversight fund should be included in the Constitution of Kenya (Amendment) Bill. Whereas the position of the Members of the National Assembly was taken on board and included in the proposed amendments to Article 206 (a), the position of the Senate was not taken on board.

Therefore, it is misleading to state that Senators did not agitate. The correct position should be that we put forth our position, but the drafters of this Bill, for reasons

we do not know, opted to take on board the position of the National Assembly, but left out the request put forth by the Senate.

If you read the BBI Report, my name appears on Page 166 as one of the Members of Parliament who made a detailed presentation before the BBI Taskforce. Therefore, the Member should not be left to mislead the House.

Sen. Sakaja: Mr. Speaker, Sir, I know that we are cautious of COVID-19, as we should be, but my good Chairperson, Sen. Omogeni, is doing us a great disservice. We love hearing his contribution, but when he wears five masks, he is muffled and we cannot hear his voice.

(Laughter)

I am sure he had a good point. Could you just assure him to reduce, even three masks and use one, so that we can hear him when he is speaking? I have heard nothing at all, and he is our Senior Counsel. Do not deny us the benefit of hearing you, Sen. Omogeni.

The Speaker (Hon. Lusaka): At least he has spoken. One mask is enough. It is like closing your eyes at night.

Sen. Omogeni: I am just wearing two, not five.

The Speaker (Hon. Lusaka): Proceed, Sen. Malalah.

Sen. Malalah: Mr. Speaker, Sir, I am well guided by my colleagues. It is important that the 35 per cent of the resources that we shall be pumping to the county governments be used appropriately.

We have seen county governments, and I will not mention names today, which have not fulfilled their promise since they were inaugurated in 2017, and others even in 2013. We have seen governors being brought before the CPAIC Committee and in this House for impeachment, having very grave allegations on misuse of public funds.

We give them notice that the 35 per cent we are taking to counties is not money meant for corruption and personal accumulation of wealth. It is very important for the county governors to know that we have fought for this 35 per cent and it is meant to help the *mwananchi*.

Prioritization of county projects is key. We have seen county governments that prioritize only brick and mortar development. County governments are unable to initiate projects, which will stimulate respective economies at the county level.

I have seen counties that have tried coming up with cottage industries, but others-- - I want to be specific on this issue. When one comes to Kakamega County, since 2013 we have no single flagship project that was launched and is functioning at the moment. It is very important as we take the 35 per cent to the county governments to ensure, as Senators, that the county governments use the money in appropriate ways.

I am alive to the fact that this is the last financial year to the 2022 elections. It is important that as Senators, having been given powers to oversight the county governments, to ensure that when the county governments will be making their budgets of FY2021/22, we compel them to complete their flagship projects.

The second reason we are supporting BBI is that we need to walk down memory lane and remind ourselves how this BBI concept came up. The process began through the "Handshake" between President Uhuru Kenyatta and Rt. Hon. Raila Amolo Odinga. This came up after a very divisive election in 2017 and in the previous years.

The “Handshake” that gave birth to BBI was meant to solve certain problems. We need to ask ourselves if this document has offered solutions to the said problems. One of the problems that we faced before the “Handshake” was that this country was getting into a divisive election every electioneering year.

I remember the 2007 elections where blood was shed just because of a vote. I remember the 2017 elections where we ran around this country protesting. We even risked our lives to go and swear in a “people’s President”. These are the reasons this document was brought forth.

Has this document sorted out the issue of divisive elections? Among the key issues that the “Handshake” brought about was the shared prosperity. We need to speak. I wish to talk to the young Senators of this House; Sen. Cherargei, Sen. Sakaja and Sen. Loitytip. We need to have an opportunity to speak out our minds at this time. This is our moment.

When Rt. Hon. Raila Odinga was a youth, he spoke his mind. I urge the youth of this House to speak their mind. I want to speak my mind on this particular issue of shared prosperity. If we do not sort out this problem at this juncture, we are lying to ourselves. This document will remain to be an academic document.

We need to remain focused on the issue of putting our country together through cohesion and integration. The only way we can achieve this is by ensuring the resources and the opportunities that are available for this country are shared equitably.

The Speaker (Hon. Lusaka): Sen. Kinyua, what is your point of intervention?

Sen. Kinyua: Mr. Speaker, Sir, I just wanted to get clarification from the Senator of Kakamega whether Sen. Loitytip, Sen. Sakaja, Sen. Cherargei---

The Speaker (Hon. Lusaka): Sen. Malalah, you are being addressed. So, take your seat.

(Sen. Malalah sat at his place)

Sen. Kinyua: Mr. Speaker, Sir, I was wondering whether the Senator for Kakamega is in order to ask whether Sen. Sakaja, Sen. Loitytip and Sen. Cherargei have not spoken their mind. I am wonder whether he is speaking on their behalf. Have they not spoken their mind? I did not get it.

The Speaker (Hon. Lusaka): I think he just made reference to the youthful Senators who are here that this is their moment to speak. It does not mean they have not spoken. The old ones have already spoken their mind. That is what he said. They spoke their mind when they were youth.

Sen. Malalah please conclude.

Sen. Malalah: Mr. Speaker, Sir, I hope they are not eating into my time. Those interventions disrupt my thought process.

If we do not solve the problem of unequal distribution of resources and opportunities in this country, then this BBI document will remain to be an academic document. We must tell our people right now that there are certain parts of this country which have been neglected. I want to speak for my people here.

As I speak, the Western Region has been neglected by this Government. There is no single factory that is operating in the Region. The sugarcane farmers are languishing in abject poverty. It is true we do not have a single industry to employ our youth in the entire Region. Nzoia Sugar Company, Mumias Sugar Company, Chemilil Sugar Factory,

Muhoroni Sugar Company, Sony Sugar Company, and Webuye Pan Paper Factory are closed. We have not seen the enthusiasm of the Government to sort out the problems in the former Western Province.

We have seen a lot of energy in this Government---

Sen. Linturi: On a point of information.

The Speaker (Hon. Lusaka): Do you want to be informed, Sen. Malalah?

Sen. Malalah: Mr. Speaker, Sir, they are interrupting my thought process.

The Speaker (Hon. Lusaka): I will add you some more time. Do you want to be informed?

Sen. Malalah: Yes, I can listen to him.

The Speaker (Hon. Lusaka): Okay, Sen. Linturi.

Sen. Linturi: Mr. Speaker, Sir, this is a powerful legislator and a good man who at times speaks for the good of his people. However, when he gets to a situation where he laments about what is happening and continues to happen, I think he should take his people on a different trajectory considering that their major problem has been failure to read the signs of the day. As they complain, they are waiting for an endorsement, but they cannot see that the presidency itself is divided and that document is not meant to bring unity because the centre is not holding.

Sen. Cherargei: On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Malalah, the former Deputy Senate Minority Leader, to say that the BBI brought economic prosperity, unity and peace, but then go ahead to lament that nothing is happening in western Kenya?

Why is he having double speak? He said that the “handshake” has promoted peace, unity and development. Is it in order for him to double speak on this issue? He should not be a hermaphrodite by supporting the BBI, but then goes ahead to bash it. He is giving us a kiss of Judas.

The Speaker (Hon. Lusaka): Sen. Malalah, I know you are equal to the task in terms of language. You can respond to that.

Sen. Malalah: Mr. Speaker, Sir, I am just taking cue from my father Sen. Wetangula who speaks his mind and votes otherwise.

(Laughter)

Sen. Wambua: On a point of order, Mr. Speaker, Sir. Is the Senator for Kakamega in order to impute improper motives on his uncle Sen. Wetangula? Can he give an example where Sen. Wetangula spoke different from how he voted?

The Speaker (Hon. Lusaka): I hope you are not holding brief for Sen. Wetangula. I know Sen. Wetangula will come and tackle him appropriately.

Proceed, Sen. Malalah.

Sen. Malalah: Mr. Speaker, Sir, back to my point, I was trying to illustrate how certain regions in this country have been neglected to the advantage of others. I would want to live in a country whereby the sugarcane farmer in western region---

(Sen. Wetangula walked into the Chamber)

(Applause)

Mr. Speaker, Sir, I was talking about the issues of the sugarcane farmers. I have said on the Floor of this House that Sen. Wetangula has been on the forefront, fighting for the farmers of the western region. I take cue from him and join him in saying that I would like to see a day when a sugarcane farmer in Kakamega will be treated the same way as a coffee farmer in the former Central Province. I want to see a day in this country when a sugarcane or maize farmer in Kakamega County will be treated the same way as an Irish potato farmer in Kirinyaga County. That is what we call shared prosperity.

When you look at the public service, it is quite a shame that some of the communities in this country are not well represented. I hope that the BBI will sort out this problem. Let us not use this exercise to hoodwink some of us to pass it and then go back to the normal practices we have had.

The Speaker (Hon. Lusaka): What is your intervention, Sen. Wamatangi?

Sen. Wamatangi: Mr. Speaker, Sir, I know the Senator for Kakamega was just about to conclude his contribution. However, he misleads this House and the country when he creates the impression that there is preferential treatment of farmers of central Kenya. He said he would want to see a time when a sugarcane farmer in Kakamega will be treated like a coffee farmer in Mt. Kenya Region.

The coffee farmers of Mt. Kenya Region have tremendous and multiple problems that we are trying to address which date back many years ago. To create the impression that there is any preferential treatment of any farmers in Mt. Kenya region is wrong. I am seeing Sen. Wetangula in the usual style of coaching, Sen. Malalah, on how to answer and say that there is money that has been given in a preferred way to the farmers of Mt. Kenya Region.

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

Sen. Wamatangi: Mr. Speaker, Sir, my point of order is simple. There is no preferential treatment that is preferred against the farmers of Mt. Kenya Region. The problems and challenges that the farmers of this country are facing are uniform. We should be addressing the problems of the farmers, who largely contribute to the welfare of the country and not create division in between.

The Speaker (Hon. Lusaka): There is another point of order, from Sen. Wetangula.

Sen. Wetangula: Mr. Speaker, Sir, the Bible says 'a wicked man is always running even when he is not being chased'.

(Laughter)

Charles Dickens said 'a coward will always whistle in the dark hoping to scare away invisible enemies and ghosts.'

The distinguished Senator for Kiambu, a great friend of mine, knows very well that the inequality that we keep crying about is real. I brought a question to this House and it is still pending before the Committee on Agriculture, Livestock and Fisheries.

When the Senator for Kiambu stood up and attempted to dispute the facts, he fell flat on his face. Kshs3.6 billion Cherry Fund from the World Bank was given to one region of the country to revive coffee, to the total exclusion of everybody else. Areas that grow coffee, for example, Nyamira, Kisii, Nandi, Kericho, Vihiga, Kakamega, Bungoma, Trans Nzoia, West Pokot and Uasin Gishu were completely left out. All the Kshs3.6

billion went to one region. If that is not marginalization and exclusion, then English has lost meaning.

Sen. (Eng.) Maina: On a point of order, Mr. Speaker, Sir.

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

Sen. (Eng.) Maina: Mr. Speaker, Sir, my point of order is in regards to what Sen. Malalah has said.

I have listened to the mistaken notion which is always propelled that Central Province was favoured during colonial days and it also enjoys some favouritism. The way the sugar farmers are suffering in Western Kenya is the same way our coffee farmers in Central and Ukambani are suffering. Therefore, let them bring out their issues, but not insinuate that the favouritism in Central Region is causing their suffering.

I want to remind Sen. Malalah of what they have been told many times. At one time during President's Moi Government, they had seven Cabinet Ministers and they have been in Government more than the people of Central Kenya. So, they could have sorted themselves out. Therefore, is he in order to bring this divisive issue and propagate it to the whole nation?

Sen. Mutula Kilonzo Jr.: Mr. Speaker, Sir, we are splitting hairs. In recognition of marginalization in the country, the BBI acknowledged that Kenya has marginalization.

There is a report that was tabled that shows the rest of the country has red and a small portion of the country has green. It was tabled by the Commission on Revenue Allocation (CRA). I have said on the Floor the verse in the Bible that says that those who have more, more shall be given and those who have little, even the little they have shall be taken away from them. This is the true story of Kenya.

So, Sen. Malalah is saying that we hope that in the BBI, the disparity will be bridged. Is it not a fact that there is 2,500 kilometers of tarmac roads in Sen. Wamatangi's county whereas there is 750 kilometers tarmacked roads in Kakamega? It is a fact! So, let us not go to those details. If we do, this debate will degenerate into why the rest of the country is red and some parts are green. I will bring the marginalization policy which I have in my office.

Sen. Halake: Thank you, Mr. Speaker, Sir. My good friend Senator for Makueni stole my thoughts.

Sen. Malalah has said how Western Kenya has been marginalized. Who is talking about the livestock farmers who have not been mentioned and have been in the periphery and have not been mentioned even in the BBI? So, it is about time we stop lamenting and start to properly and equally look into these things.

Sen. Wetangula: Mr. Speaker, Sir, we should not let facts be swept under the carpet. The distinguished Senator for Nyeri County, the tycoon, and that of Kiambu are contradicting the President of the Republic of Kenya whom they profess to support. This is because the President of the Republic of Kenya whom we support, sat down with the leader of ODM and among the many things they listed for BBI, was that there was marginalization, unequal development and opportunities to Kenyans and many other historical wrongs that we need to change.

When we live a lie and in denial, we will not solve the problems of this country. When we stand here and say that some areas have a comparative advantages over the other areas for the following reasons, it is a fact. For example, while Nairobi is rich, the highest concentration of poor people in Kenya are in Nairobi. This is a fact. We want to

see Kibra, Mathare, Mukuru and all become part of our history and not part of our present and future.

I urge Sen. Wamatangi and Sen. (Eng.) Maina not to live a lie. The President acknowledged it. He did not say which area is advantaged and which one is not. However, he said that there are areas that are advantaged and others are not. So, let us proceed with what Sen. Malalah, my distinguished son, is saying.

To support the BBI Bill does not take away your ability to be critical about issues in it. If we do not do that, then the Bill would have been put on the Table and we would have noted and voted. That is why we are debating. That is why Sen. Halake is talking about the issue of livestock farmers. That is why young Sen. Cherargei was yapping and crying about tea. Let us not live a lie, for heaven's sake.

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

The Speaker (Hon. Lusaka): What is your point of order? Try to keep it short so that we make progress.

Sen. Wamatangi: I am raising my point of order on what Sen. Wetangula has said. I will not go into the details of narrating to this House and tell a story of how the coffee they speak about is being uprooted in Kiambu and Nyeri by farmers who are desperate.

Let me go straight to the point that I want to raise, especially about Sen. Wetangula. He has served in this House for two terms and in the National Assembly as well. First, he is out of order for coming to the Dispatch Box to tell this House that we are out of order because he bases his argument on a question he posed to a Committee. The question is yet to be responded to, but he comes here with an answer.

Mr. Speaker, Sir, he then says that he sent a question saying that money has allegedly been taken to one region. That question is still with the Committee on Agriculture, Livestock and Fisheries.

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

Sen. Wamatangi: Mr. Speaker, Sir, I am on a point of order. The Senator for Bungoma County is absolutely out of order. He cannot pretend to come here and provide the same answer he is seeking.

Lastly, when the history of this country about marginalization is told – I think that is the way it should be – the people of Mt. Kenya Region should speak. We should say how we live on portions of quarter acre land while other people in this country still live on thousands of acres of land.

(Loud consultations)

Mr. Speaker, Sir, in each region, people have areas they can claim there is marginalization. If we try to pick specific places where we will be saying this section is marginalised because they have this or that problem, we can all historically claim there are areas where we have not been treated right by the systems which were there since colonialism. We cannot attempt to bring another narrative.

The Speaker (Hon. Lusaka): Order, Senator!

Sen. Wamatangi: Mr. Speaker, Sir, I urge my colleagues, if you want us to build a good country for all of us, let us focus on how we will build a modern-day country with

equal opportunities, with our new devolution and Constitution. Let us not dwell on the past and paint a wrong picture that divides this country and sends the wrong impression.

The Speaker (Hon. Lusaka): Order, Senators!

Please, let us keep our points of order brief because time is of the essence. We are about to adjourn.

Sen. Sakaja, proceed.

Sen. Sakaja: On a point of order, Mr. Speaker, Sir. This is the Senate of the Republic of Kenya. This a House of equalization. While facts can be stated, there is a difference between knowledge and wisdom. Knowledge is knowing that a rose flower smells better than cabbage. Wisdom is also knowing that it might not taste better if you cook it.

As we speak about the situations in this country, what does BBI present us? It is an opportunity to change. We cannot be merchants of despair in this House and perpetuate an “us” versus “them” narrative.

(Applause)

The politics of seesaw that you are up because I am down, and I am down because you are up, is what we are trying to move beyond in this country.

It is true many parts of this country, including Nairobi City County, have been marginalised. As the people whom Kenyans are looking up to today, what hope are we spreading? I cannot say that my farmer does not have because the other person has. We are creating further division.

As Sen. Mutula Kilonzo Jnr. said, I pray that instead of splitting hairs, let us take cognizance of where we have been as country, but then perpetuate hope and present a future for this country by saying this is what BBI is presenting and this is where we want to go. That is *siasa safi*. Otherwise, everyone can complain. I can complain about Kibera and Kawangware. Are we then selling despair or hope to those people?

Mr. Speaker, Sir, let us not dwell on that. Sen. Malalah has given a very good illustration of his points on BBI. Let us accept reality. We cannot change history, but as Senators and leaders in this House, we have the opportunity to design the future. That is why we are here.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators!

What you are raising are not points of order. They are just points of argument and positions you are taking. I direct that Sen. Malalah concludes his debate.

Sen. Malalah: Thank you, Mr. Speaker, Sir. In my valedictory remarks, I hope this document will sort out the mess we have had in the public service. Facts are facts, Sen. Wamatangi. In the evening, ask yourself who are the heads of the Executive, the Public Service Commission (PSC), the Parliamentary Service Commission (PSC), the Judiciary, the Chairman of the Kenya Revenue Authority (KRA), the Director-General of KRA, the Governor of the Central Bank of Kenya (CBK) and the Chief of Staff General of the Kenya Defense Forces (KDF)?

Who is the Attorney-General and where does he come from? Who is the Solicitor-General? Who is the Cabinet Secretary (CS) for Public Service and Gender? Who is

Kenya's ambassador to the United States of America (USA)? We cannot lie to ourselves, Sen. Wamatangi. Answer those questions and you will come to a reality that we have marginalization in this country.

Mr. Speaker, Sir, we have had recruitment of army officers across the country in all districts. However, since Independence, we have not had a Wanyonyi or Wafula heading the Kenya Army. We have not had an Inspector-General of Police called Walubengo. Is it that certain people from certain communities qualify more than others?

As I finish, I would like to request that---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! Let him conclude so that we are able to finish. I will give you an opportunity to bring statements so that you argue.

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

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

Sen. Wamatangi: Mr. Speaker, Sir, I thought you just gave a ruling a few minutes ago on the way to proceed. However, I am unsettled when again, you allow the Senator for Kakamega County on the same trajectory. You alluded very well to what Sen. Sakaja said. Now, he is naming people and saying we have never had this and that. Why is he not questioning why we have a Lusaka as the Speaker of the Senate?

(Laughter)

If he wants to send us on the same journey, we can get a list of every person from the people you are naming who has served and who is serving in the positions in Kenya. That narrative is a lost one and one to divide the country. That cannot be allowed in modern day. We are doing the wrong thing. He cannot be allowed to continue to tell this country that we are divided along tribal lines in modern day Kenya and get away with it in the Senate.

The Speaker (Hon. Lusaka): Okay! You have made your point.

What is your point of order, Sen. Cherargei?

Sen. Cherargei: On a point of order, Mr. Speaker, Sir. I would not want to take that trajectory. Is it in order for Sen Malalah to mislead Kenyans that under Clause 11A, the issue of marginalization and under development in some regions has been addressed by this constitutional amendment? There is nowhere under shared prosperity that has even remotely addressed issues of marginalization. Is he in order to mislead Kenyans that the current Constitution has tried to address issues of marginalization? Is it in order to mislead Kenyans that Clause 11A of the Bill, on economic and shared prosperity, addresses marginalization?

Finally, Mr. Speaker, Sir, I agree with Sen. Wetangula because we sat in the same Committee where Kshs3.6 billion Cherry Fund was given to one region. Nandi County never received a single cent from the World Bank. I advise my colleagues that some facts are very stubborn and you cannot change them.

The Speaker (Hon. Lusaka): Sen. Malalah, conclude.

Sen. Mutula Kilonzo Jnr.: He is equal to the task.

Sen. Malalah: Mr. Speaker, Sir, I assure you that I am finishing, but I have realised that facts disturb even the dead. We need to ask ourselves why we are in this situation. I think that the BBI Bill is giving a solution to this. The BBI has provided for a substantive position for the Leader of Opposition. It is important for this country to have an opposition. We have problems right now because we do not have an opposition in this country. When I was in standard six, I learnt in my civics lesson that Parliament is made up of the Speaker, the Government side and the opposition side, but I saw the opposite when I came to this Senate. That has made me think that my civics teacher---

The Speaker (Hon. Lusaka): You only have one minute. I know that you were interrupted for one minute.

Conclude.

Sen. Malalah: I am about to finish, Mr. Speaker, Sir. We do not have an opposition that checks the Government. In this House, the Senate Majority Leader and the Senate Minority Leader walk majestically in the corridors of this Parliament as conjoined twins. Nobody is checking on the other. It is important that we provide a slot for the opposition as we pass the BBI Bill.

We support the BBI process. I will vote yes because this document will unite Kenyans. I will join and follow the directions that have been given by my leaders, Hon. Musalia Mudavadi and Sen. Wetangula. If they say left, I will go left. Thank you.

(Laughter)

The Speaker (Hon. Lusaka): Order, Senators. This House is well endowed with talent. I want to appreciate that.

(Interruption of debate on the Bill)

POINT OF ORDER

RULING ON PROPOSED AMENDMENTS TO THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

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

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

Sen. Wambua: Thank you, Mr. Speaker, Sir. I rise to seek your guidance. On 29th April, 2021, I presented to your office the proposed amendments to the Bill that we are debating today.

I rise to request that you give an indication as to when you will give a reasoned ruling on the fate of the proposed amendments. I tabled five proposed amendments. For us to be certain of the direction that you are taking, I request that you give a reasoned ruling on each of the proposed amendment for us to know where we stand on this matter.

I thank you.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I want to concur with Sen. Wambua. I do not support what he is asking for in terms of the content, but I support the reason he is asking for it.

The day before yesterday, the Speaker of the National Assembly gave a reasoned and well researched two-hour ruling on the processing of the BBI and the questions that had been asked by the Members of the National Assembly. It is not on whether we agree with the contents of it or not, but the ruling gave directions to his House in terms of how they are to process the debate. If you do remember, I asked for the same in the Senate Business Committee (SBC) on Monday.

This House is not subservient to any other House. It is not an appendage of the National Assembly. The Speaker of the National Assembly is not your senior. Article 257 of the Constitution states that each House shall process the Bill. It will be important for you to respond to all the questions that were asked from the day when the Bill was tabled and you can get them in the HANSARD. You should respond to all those who have spoken during the Second Reading before we get the vote on the Second Reading.

That will give clarity to the Members and they will know if they can prepare any amendments. I personally hold that there should be none, but it is important for you to give us that direction as we move forward.

Sen. Wetangula: Mr. Speaker, Sir, it is good to move with precision and clarity. Sen. Wambua's request is well founded. You should give direction. Many of us who support this Bill have voiced concerns about certain issues in the Bill that can create problems. I cannot see the Senate Majority Leader or the Senate Minority Leader, but their offices are represented here. As we move towards the end of this debate, I want to respectfully submit to this House that a process of legislation, particularly on a Constitution, is supposed to solve problems and not to create problems.

Sen. Wamatangi sits here as the Senate Majority Whip and he is here together with his team. I want to tickle his mind on two points that he needs to look at and see if we are creating a problem for the future or not. Articles 152, 153, 154 and 155 of the Constitution are being amended to remove the approval by the National Assembly of appointment of Cabinet Secretaries, the Permanent Secretaries and others.

Fundamentally omitted is an amendment to Article 132(2) which remains intact in the Constitution. It will remain embedded in the Constitution and it says that;

'The President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss—

- (a) the Cabinet Secretaries, in accordance with Article 152;
- (b) the Attorney-General, in accordance with Article 156;
- (c) the Secretary to the Cabinet in accordance with Article 154;
- (d) Principal Secretaries in accordance with Article 155;
- (e) high commissioners, ambassadors and diplomatic and consular representatives; and'

How are we going to reconcile the provisions of the Constitution when you have removed vetting in the other Articles that I have cited, but left it intact in Article 132?

I am being gratuitous to Sen. Wamatangi and the others. Someone will walk to court and say that, 'Sen. Linturi has been appointed as a Cabinet Secretary, but he has not been vetted in accordance with Article 132 of the Constitution hence he cannot hold office'. These are some of the things that those who say that 'as is where is' must look at broadly and see if we are creating a future problem or not.

They have also put the Schedule in the draft Bill of the constituencies created, but they have left the constitutional authority of the Independent Electoral and Boundaries

Commission (IEBC) in the Constitution intact. As such, IEBC will have the sole authority to delimit and allocate constituencies. That creates a problem. We want this Bill to go through, but let us not create future problems. Let it go through and make it easier for us to run our country.

I am not bringing an amendment, but I have asked those who are dealing with the issues to bring amendments if they wish though you are the one to make the ruling. As Sen. Sakaja says, you are not subordinate to any other House. You are not subordinate to any other Speaker. Your ruling must be grounded and founded on your thought process, as the Speaker of the Senate.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. These are the kind of things that make my day as a lawyer. They make you think and develop your mind. These are the things we were taught in school, a subject called ‘Interpretation of the Law.’

Mr. Speaker, Sir, the point raised by Sen. Wambua is not idle because it was going to be raised. Unfortunately, other than Sen. Wako, who is here, we actually cannot tell what the intention of the Committee of Experts at the time was in drafting Article 257, in the manner that it is drafted.

I know you have deferred many rulings, but this one you will not defer. This one you must issue. In issuing your ruling, the Committee led by Senior Counsel Sen. Omogeni made a finding. We have quoted various jurisdictions including Latvia, a country that I do not even know where it is. We have quoted Article 368 (1) (2) (3) and (5) in the Indian Constitution on limitation of Parliament in terms of constitution making.

The Speaker has an opportunity. Sen. Sakaja, please, do not mislead the Speaker of the Senate by quoting somebody from the neighbourhood that has issued a ruling. We are not aware, have not seen and do not know whether it is detailed because it is not here.

Mr. Speaker, Sir, we are calling upon you to go into the books. This debate is important and I have given my position about this. I am strictly speaking as a lawyer who has read this; that you are now giving a finding on a matter raised. You remember a finding made by your predecessor, Speaker Marende, on an issue that was raised in Parliament at some point, so that Article 259 permits the development of law, contributes to good governance and advances the rule of law is inputted into this process. Could you amend a Constitution Amendment Bill under Article 256 and Article 257? Is there a proviso? What did they intend? We have also dealt with unconstitutional provisions in the Constitution. We have said so in our Report.

Mr. Speaker, Sir, spare some time; get the Clerk of the Senate, Mr. Nyegenye, Ms. Gichangi and our best draftsman, Dr. Okello, and you will be remembered for your ruling on this matter because it is important.

I wanted to say that those Members who have come to your office with amendments should have been given an opportunity to say what it is they are trying to amend and why, so that you can make a finding. We do not know what they are trying to amend, but for posterity so that we guide another popular initiative and one day somebody does not relocate Kenya to another place, it is important that we know at what point we make an entry as Parliament.

What the Indian Supreme Court was saying in the Minerva case, and I am quoting this so that if you write a ruling please also quote a case like I have quoted--- Minerva means---

The Speaker (Hon. Lusaka): I hope you are not trying to direct what I should do.

Sen. Mutula Kilonzo Jnr.: I am not directing you. I am trying to help you.

The Speaker (Hon. Lusaka): I do not need help.

Sen. Mutula Kilonzo Jnr.: You do, by the way. I am helping you so that you quote; Minerva means when it was quoting and saying this is the limit, and this is the basic structure of this constitution, that there is a limit to what you can amend even in a popular initiative. The basic structure that should be the body of your ruling. I am not trying to guide you; I am making a submission. Now you are a Judge. When you are a Judge, you listen and take notes. It is a submission so that we can guide other popular initiatives.

We might have good promoters, but a time might come when you have a bad promoter, a dictator who will want to change the Constitution by using a popular initiative. This is critical.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): I want to respond to what Sen. Wambua has raised. At second stage there are no amendments that have been proposed. The amendments have been proposed at the Committee of the Whole. I want to assure this House that I will make a ruling before the Committee of the Whole Stage. It will be a well-researched and well-reasoned ruling. I am not a Speaker by accident. I have a competent team and I will give a reasoned ruling.

Proceed, Sen. Kamar.

(Resumption of debate on Bill)

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this amendment of the first amendment of the Constitution.

It has taken us about eight years before we did the amendment. This is a long time compared to what other countries have done. We know that the United States (US), in the first year, did six amendments and there is nothing wrong with amendments.

Mr. Speaker, Sir, I do not want to anticipate your ruling on the issue of Article 257, but it is also possible for this House, when it comes to amendments, to use Article 256 to correct Article 257 at any other time.

The beauty of amendments according to this Constitution is that they can be introduced at any time. They can be introduced by anybody and should not be limited. Even as we discuss these amendments, my feeling is that we should not try to overload it. We should deal with it as it is because we have opportunities to amend and change whatever we wish to change even later.

I stand here the way I stood in the year 2010, in the 10th Parliament, knowing that the Constitution of Kenya 2010 was not perfect but supported. I will always be very grateful to one of our Members here, Sen. Murkomen, who assisted me in popularizing the Constitution because I believed in it despite the few errors that we thought should have been corrected.

There are a few issues including the position of the Senate; why the Senate has been left the way it was and yet we had very good submissions. Those would be issues that some of us would say needed to be corrected. However, I do not think this is the end of amendments. We can still go back and use Article 256 and amend whatever we want to amend.

I really would like to challenge this House that if it is not this 12th Parliament, it should be the next Parliament that should put the Senate in the right position because it is very important that as we do more devolution, we actually do more of oversight.

Mr. Speaker, Sir, why do I support this amendment? I support it for a few reasons; the gains that we have got from it. However, remember the fact that anything that has not been done properly should be corrected in later amendments. I think we should actually tell ourselves that the 2010 Constitution has given us opportunities to change anything that we wish to change, either by popular initiative or by Parliament, and we should utilize those clauses.

Reason number one for me is the same reason I had in the year 2010, the issue of devolution. Devolution for those of us who were in the Bomas process was a very dear matter. It was very important because the same comments that we are hearing across the House today of marginalization were raised. Issues of imbalance in development were raised.

In fact, I am not surprised that Article 257 was crafted the way it is because for those of us who were in Bomas, we had a delegation of 600 Kenyans who were not very comfortable with Members of Parliament. In fact, they were actually very bitter with the way Members or Parliament were behaving.

Most of their contributions, if anything, was to distance the MPs from amending on their behalf. This should be a big lesson for us.

I remember an articulation of that in the House by my friend, the late Sen. Mutula Kilonzo Snr., who explained to us that for the pain people are going through, we should not change some of the clauses for our own sake. We had some changes that caused a lot of damage when the Constitution went to Naivasha.

For devolution to serve the intentions that were raised at the Bomas of Kenya, we were pushing for a 50-50 division of revenue of this country between the national Government and county governments. We agreed that 15 per cent was useful, so that we could start training and building capacity at the county level.

For me, the gains that are coming from this Constitution of Kenya Amendment is the 35 per cent, which is very important for us. That means we are taking resources and starting to balance the development of this country. For us to do that, we must ask the big question to Senators.

(Loud consultations)

The Speaker (Hon. Lusaka): Let us consult in low tones, so that Sen. (Prof.) Kamar can be heard.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir. Who is going to oversight when we move 35 per cent to the counties? That is why we must quickly come up with a way in which we cause an amendment to make this the Upper House that it should be and ensure there is oversight. Thirty-five per cent of any country's resources is a very high figure.

Secondly, to me, the expansion of Senate to 94 Senators is very important. For 35 percent of the revenue of this country to be shared equitably, we must have 35 per cent of representation inside this House. Ninety four Members will not even be 35 per cent. Removing Women Representatives and creating seats in the Senate, to me, has done the

balance of gender, but the most important is the amount of resources that are here. Those resources must be dealt with properly together with our governance.

The third reason, which I find very important, is the Ward Development Fund (WDF). We have had issues with governors in this House as per the audit reports we have received. We have even had governors coming before us and seen how funds are being misused in this country.

The worst situation is when there is internal imbalance in a county. We have just talked about imbalance of development in the whole country, but we have also observed it within the counties.

I was very fortunate to have been a consultant for the Council of Governors (CoG) and the Transition Authority (TA) in the five years, when the Constitution had just been enacted in the first Senate. My observation, which is still current, was that there was a lot of imbalance within the counties as far as development was concerned.

For us to deal with that, having a WDF is the most important cure. In the last Legislative Forum, we listened to Members of County Assemblies (MCAs) and Speakers from counties requesting that we develop the funding to the wards. All they told us was that there was a lot of imbalance within the county itself. A governor looks at the ward that elected him more favourably than the one that did not, and yet the resources belong to the whole county.

That is my third point that I believe should deal with unequitable development in the country. Even if we redistribute 50 per cent of the resources to the counties, the worst is when there is imbalance within the county. When that happens, it degenerates to imbalance of development. We will come back here and our wards will not be as developed as others.

It is very important that we put structures that create a good environment for development to be equitable in the whole country because that was the reason for the Kenya Constitution, 2010, to begin with.

In Bomas of Kenya, there was the question of expanded Executive, which I know everybody is running away from. That was in the draft Bomas of Kenya resolutions before it was changed in Naivasha. The reasons were the same.

The agreement in Bomas of Kenya was so high that it necessitated balancing both the development resources and even the Executive itself. This is something that is not new. It is just being replicated here because it was already in the Bomas of Kenya draft. I do not see anything that is negative in it.

Mr. Speaker, Sir, I will be brief because I know we still have the numbers and need to be winding-up. I want to persuade our male colleagues that have made a number of comments about the expansion of the Senate being women oriented. It is very important to note that the development of a county also requires both gender.

It is very important because there are issues that are gender related. In fact, when we look at what was devolved, including agriculture, health and water, they affect women more than men when one goes to the grassroots.

To me, this was the best thing that happened. When I heard my colleagues asking why we needed to have more women here, I almost said that maybe we need to elect women first and nominate men to the counties because of the fact that the development that is expected in the counties affects women more than anything.

Health affects a woman who is well, supposed to go to maternity and be having family planning more than anybody else. I believe that whatever is remaining in BBI that is not as accurate as we wished, we have the opportunity to use Article 256 to correct Article 257.

I support.

Sen. Wako: Thank you, Mr. Speaker, Sir, for giving me this opportunity to speak on this very important Bill. First of all, let me tell this august House that I am under some handicap in that I cannot now see you because I must have left my glasses in the plane when I was coming, and I am yet to get new ones.

I thank the President and my party leader for having seen it fit to appoint me---

The Speaker (Hon. Lusaka): I am sorry to interrupt you, Sen. Wako. I know we will be rising at 12.30 p.m., and we have another weighty matter at 2.30 p.m. I still see interest and I promised to give everybody an opportunity to contribute.

Sen. Wako: How much time do I have?

The Speaker (Hon. Lusaka): I was just interrupting. Those who will not have an opportunity to speak this time will have an opportunity to speak next week, so that everybody gets an opportunity.

Proceed, Sen. Wako.

Sen. Wako: Can I start and continue next week or must I complete?

The Speaker (Hon. Lusaka): Continue, you still have time.

Sen. Wako: Thank you very much. I was getting worried.

I want to thank the President and my party leader for having seen it fit to appoint me to the BBI Task Force. I assure you that the late Senator for Garissa, Sen. Yusuf Haji, and I gave it our all.

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

[The Deputy Speaker (Sen. (Prof.) Kamar) in the Chair]

Hon. Members, I also assure you that we did make appropriate recommendations to restore the full status of this Senate to where it should be. Ours was merely to recommend, but there are others to decide. So, if you see any shortcomings---

Sen. Omogeni: On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): There is a point of order from Sen. Omogeni.

Sen. Omogeni: Madam Deputy Speaker, I must appreciate the submissions. I think this will be the most important submission on this Bill from my good friend, Sen. Wako.

Sen. Wako has stated that they made recommendations as the BBI Task Force to restore full legislative powers to this House, but somebody somewhere interfered. Can we benefit from his knowledge because I know he has the facts and history? At what stage did that somebody interfere and remove the proposals to give powers to the Senate?

Sen. Wako: I am sorry, Madam Deputy Speaker, I cannot answer that question. Ours was to make recommendations, but other people made decisions thereon.

The point I am trying to make is this. In a constitution amendment, which has so many provisions. One is bound to have one or two amendments that you may not like, but

your perspective ought to be the overall picture of the amendments. To me, the overall picture of all these amendments should be to move the country forward if enacted. Therefore, I do agree with the Report of the Joint Committee that we should pass this constitutional Bill as it is.

This was a popular initiative. If you read Article 257(10), it will give you a hint that when it comes to a popular initiative, the intention was not to frustrate or amend it completely by Parliament. A popular initiative emanates from the citizens of this country in whom the sovereign power of this country is vested. We are mere delegates.

They thought it fit to delegate legislative power to us, but they can at any time take it. When it comes to matters of legislation, they can take the delegated authority to make proposals. That is why Article 257(10) was drafted the way it is. Parliament is not supposed to interfere with a popular initiative.

The history up to that time was that Parliament was interfering a lot with the popular initiatives and we wanted to put an end to that. That is why we drafted Article 257(10) to say that whether or not Parliament amends or fails to pass, whatever happens in Parliament, it must go to the people the way it is. I am glad that the Committee realised that. They pointed out a few errors here and there, but they realised that and recommended that it should go to the people as is. Therefore, I support the words “as is”.

I also support their second amendment, which is that there should be some legislation providing details on how this should be governed and dealt with, and that is for the future. We shall amend and improve it with time. A country that is stagnant does not develop. We must improve all the time.

Madam Deputy Speaker, a lot has been said, but I want to touch on a few attractive issues in this Constitution of Kenya (Amendment) Bill, 2020, which nobody has or very few have talked about because I have not been around. I will explain why, but I want it to go on record. The first proposal is 10A under Clause 2, where we have regional integration and cohesion. It states as follows-

“(1) This Constitution embraces the goals of African Unity and political confederation of the eastern Africa region as integral towards attainment of sustainable development, prosperity for all and stability.”

To me, a political federation is very important. As you know, Kenya is a member of the East African Community (EAC). Under the Treaty, we are supposed to go through the stages of customs union, common market, monetary union and ultimately a political federation. I am talking about this because of the state visit by the neighbouring President, a lady that we were all happy to listen to.

She confirmed that she is supportive and will ensure that the relationship between Kenya and the United Republic of Tanzania, and by extension East Africa as whole, is smooth to enhance free movement of people and goods and services. The amendment clearly states our commitment to that goal.

I have been touring Uganda in the past, slightly over 14 days. We canvassed the whole of Uganda and went to various towns, including Kabale, Mbarara, Lira, Soroti, Gulu and Arua in the north, Kampala and many others, soliciting people’s views on how they would like the confederation to be and what it should provide. We heard supportive statements from everybody.

They said they wanted the federation like yesterday, but it is we, leaders, who are frustrating them. When you talk about a people’s initiative, that is what it is all about.

The people of the East African region support the political confederation as a transition to political federation. They support that and it has been confirmed.

We visited Burundi and last week we were in Uganda. We shall visit Rwanda, South Sudan, Kenya and United Republic of Tanzania. The views we are getting are more or less the same. When I say “we” it is the Committee of Experts appointed by heads of state of East Africa to look into this issue.

I thank the President for appointing me to represent Kenya together with Mr. Kiguta, who for ten years, was the Director-General of the East African Customs Management. Together, we represent Kenya on that particular Committee. That is what we are doing.

I am happy that we have specific laws in our Constitution, which underpins that. As you have heard, the people wanted this.

Madam Deputy Speaker, on the issue of integration, there is a New Clause 18 (a) (2) (h). It will be the duty of all of us to promote unity and dignity of Africa and her people. It is now clearly stated in this amendment. I totally support this.

For the first time, we have provided a whole paragraph on economy and shared prosperity. If you read the BBI report, which led to this particular recommendation to amend our Constitution to include that, you will realize that the BBI reported a bottom-up approach to our economy. It is not a monopoly of one wing of a political party. It was the BBI that recommended a bottom-up approach to our economy.

It said in its Report that we should have an economic revolution in the country because of the widening gap between the rich and poor. As we go on, the rich will become less and the middle class will drop down to the poor. That is a big recipe for revolution in any country. Therefore, unless we have an economic revolution to correct this, our future could be at stake as a country. It can provide the instability and breakdown in the social fabric and economic unity of Kenya, as we know it today.

Madam Deputy Speaker, I recommend and support Clause 3 (11) (a), which proposes economic and shared prosperity. On the issue of shared prosperity, the Chair of that Committee in BBI has now become the Senator of Machakos. Therefore, I ask her to support this Bill.

It is stated under economic and shared prosperity, which emanates from the report---

(Sen. Wakos' phone rang)

Clause 11(a) is on economic and shared prosperity and a number of things have been stated, which will lead us to that. However, one of the things is that any economic system shall support the small and micro enterprises, *mama mboga* and the rest.

Therefore, BBI was there before people began to promote the bottom-up approach. We recommended it. The problem with this country is that people do not read what is in the document. They come up with other ideas without realizing that they are already there. On one hand, you read that another person is opposing the document, but also promoting the bottom-up approach. Therefore, when it comes to the economy, this Bill supports those issues

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Kavindu, are you on a point of order or you are queuing?

Sen. Kavindu Muthama: Madam Deputy Speaker, I would like to comment and support after he finishes.

Sen. Wako: Mr. Speaker, Sir, the other thing that people have not talked about in this Bill, which I support, is a whole chapter under Clause 4, on responsibilities of a citizen. This Constitution recognizes the responsibilities of a citizen as key to building a prosperous, fair and secure nation.

In those responsibilities of a citizen, one of the duties is to practice ethical conduct and combat corruption. One of the two evils that we have in our society is negative ethnicity and corruption. It is now clearly stated in our proposals under this constitutional Bill that every citizen must practice ethical conduct and combat corruption. It is also stated that every citizen has a responsibility to cultivate national unity on the basis of respecting Kenya's ethnic, intellectual, economic and cultural diversity.

The Deputy Speaker (Sen. (Prof.) Kamar): You only have one minute.

Sen. Wako: Madam Deputy Speaker, I want to submit on this Bill. I was not here when Senators spoke for ten to 15 minutes. As I explained, I was out of the country on an important mission.

The Deputy Speaker (Sen. (Prof.) Kamar): You have finished your 20 minutes.

Sen. Halake: Madam Deputy Speaker, could he be added five minutes, given that he is part of the BBI Taskforce? Some of us are sitting here because of him. We want to learn more from him.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. We give you five more minutes, Senator.

Sen. Wako: Thank you, Madam Deputy Speaker, for your understanding.

On the issue of corruption, we have stated under Clause Six that there should be an effective and expeditious investigation, prosecution and trial of cases relating to this Chapter. This is the chapter that deals with national values.

We have seen many cases come, and two years down the line, we forget about them. Elections come and the people involved in those corruption deals stand and use that money to destabilize you in your Constituency and so on. Now, as a constitutional principle, investigations and prosecution relating to corruption and offences under that Chapter, should be expedited.

Therefore, it will be incumbent upon the various constitutional bodies dealing with investigations and prosecution and even the Judiciary, dealing with actual cases, to expedite at every stage of the investigations, prosecution, hearing and disposal of those cases.

In order to assist to achieve the two-thirds gender rule and so on, we have very many provisions. I will not go into them now because of the five minutes. However, let me draw the attention of the Members to Clause 7. It deals with sanctions for a political party that fails to comply with the principle that not more than two-thirds of party candidates should be of the same gender. This is because many of the failures have been about some political parties submitting names of just one gender.

Madam Deputy Speaker, if enacted, it will now be incumbent upon them under this Constitution, that they submit a list of names that complies with the gender rule. I think it is a step forward.

Let me not go into the details of elections. I will not talk about the structure of the Prime Minister because everybody has talked about that. I will talk briefly on the issue of

the Ombudsman. When this Constitution was made public for the first time, it simply stated that there will be a judicial ombudsman appointed and reporting to the President and Parliament.

Obviously, introducing a person appointed by the President, sitting in the Judicial Service Committee (JSC) and reporting to the President and Parliament was going to undermine the judicial independence. I am glad that a number of people made submissions thereafter and the original formulation was changed. Now, the judicial ombudsman reports to the JSC and not the President. Even though a report goes to Parliament, the President is the appointing authority.

Madam Deputy Speaker, my preference is that the Chief Justice nominates the ombudsman, with extra cautions that have now been placed since the first draft came out. That way, all he does is just investigate and give it to the JSC. It is not very different from what is there now because as we speak, JSC has an ombudsman. Somehow, maybe he is not very much known and maybe because of the low level status, he does not carry the weight that it is.

This Constitution gives the ombudsman some status and let everybody know that at least there is somebody they can go to lodge a complaint to which will be investigated. Once investigated, it will go to JSC. Part of the complaint we received was that JSC, because they have representatives from the bench; Court of Appeal, magistrates court and the High Court, they tend to protect their own, people who voted for them. Therefore, there may be many complaints lying there, which they have not dealt with because of that.

Madam Deputy Speaker, the ombudsman is a good institution, although he should have been appointed by the Chief Justice and prepared to go with it in view of the amendments that have been made on it, under the current Constitution. Had the original formulation remained, I would have been here to totally oppose it. They have now softened it *kidogo*. Let us hope it will work and that he will now go through JSC, who will make a determination about it.

We have the extra constituencies. According to the report that was received, there are a number of counties that ought to have received additional members also. That is if the same criteria was to be applied throughout. I know that Kitui is one such county. It got zero whereas according to the population, it should have received at least one. There is also Migori - there are three of them in the Report.

A way has to be found how that can be rectified, but it will not be by amending this. I am quite sure that if this goes through, they can be given priority. I am glad that one of the protected constituencies in my county--- If that formula had been applied, that constituency would have gone. I am happy that Budalangi and Samia constituencies have been protected under this Report.

Madam Deputy Speaker, my five minutes are almost finished. I think we have Vihiga County---

Sen. Wambua: On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): There is a point of order.

Sen. Wako: Madam Deputy Speaker, with those few remarks, I support the Report as recommended by the Joint Committee.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Wambua, what was your point of order? Is it in relation to the contribution on the Floor?

(Sen. Madzayo spoke off record)

Sen. Wambua: Yes, Madam Deputy Speaker. Sen. Madzayo, we have one Chair and I sort guidance from the Chair. I got a point of order before the Senator, Attorney-General *Emeritus*, concluded his submission.

The Deputy Speaker (Sen. (Prof.) Kamar): Then submit to the Chair and not Sen. Madzayo.

Sen. Wambua: Yes, I am addressing the Chair. Is it order for Sen. Wako, Senior Counsel, to keep telling this House and the country that a way must be found to rectify the wrongs in this document and not tell us which that way is? That includes giving Kitui County an extra constituency as envisaged in the Report. If that way is not this House, which is the way?

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senators. Senator for Kitui County, unfortunately, your point of order came outside Sen. Wako's time, but you have said it.

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, it is now 12.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until today, Thursday, 6th May, 2021, at 2.30 p.m.

The Senate rose at 12.30 p.m.