

COUNTY ASSEMBLY OF SAMBURU



THE HANSARD

Tuesday, 20th February, 2024

The Assembly met at the County Assembly Chambers at 2:30 pm

The Speaker, (Mr. Lenamarle Stephen), in Chair

PRAYER

COMMUNICATION FROM THE CHAIR

The Speaker, (Mr. Lenamarle Stephen): Hon. Members, I would like to acknowledge the presences of students and teachers from Lorukoti Juniour Secondary School, Suguta Marmar Ward, and Samburu Central Sub-County in our public gallery today.

In our usual tradition of receiving and welcoming visitors to the Assembly; I extend a warm welcome to them and on behalf of County Assembly of Samburu and on my own behalf I wish them a fruitful visit, thank you. Hon. Leleruk, you can welcome the students since they are from your Ward.

MCA, Suguta Marmar Ward, (Hon. Leleruk James): Thank you Mr. Speaker, I am the area MCA of the said school and on my behalf, I would like to welcome our teachers, parents and students of Lorukoti Juniour Secondary School to this House. Feel welcomed, I am very proud of you coming to visit this Honorable House and see what the Members will deliberate and at the end you will get something that you will take to our school. So, feel welcomed and feel free, thank you.

(Applause)

The Speaker, (Mr. Lenamarle Stephen): We can have any other Member who would like to welcome them before we proceed. Hon. Lorunyei.

MCA, Nachola Ward, (Hon. Lorunyei Lawrence): Thank you Hon. Speaker, I also follow the steps of Hon. Leleruk of Suguta Marmar for welcoming the students of Suguta Marmar to this Honourable House to see how we are doing things here, how we are presenting the people here because tomorrow you will be here, you are the leaders of today, tomorrow and the future

It is good that you have come to benchmark and see so that in the next election coming when we see you here representing youths as a lady or as a gentleman you know what you will be doing, thank you.

STATEMENTS.

The Speaker, (Mr. Lenamarle Stephen): It is notified, that the following statements are due for response today on 20th February, 2024 at 2:30 PM pursuant to Standing Order No. 45 (c):

1. Statement No. 024/2023, requested by Hon. Lekuchula to the Chairperson Committee on Agriculture, Livestock, veterinary Services, irrigation and Fisheries regarding distribution of livestock breed during the Financial Year 2022/2023.

Chairperson, Committee on Agriculture, Livestock, veterinary Services, irrigation and Fisheries, (Hon. Lenamparasio Phelix): Thank you Mr. Speaker. Before I respond, I just want to take this opportunity to welcome our kids, parents and the teaching fraternity of Lorukoti Junior Secondary School to the County Assembly of Samburu. Feel free, this is where we represent our people and has Hon. Lorunyei said, it is good now that you are here; just be keen maybe you never know one of you may come to this Assembly sometimes so that you see what we do here, thank you Hon. Speaker.

Hon. Speaker, the statement that was requested by Hon. Lekuchula through me, the response has not been delivered to me. As you know, we went to a very long recess and the whole of last week and the whole of this week, the Governor has been going across the County distributing camels and sehwal and the whole Department with him.

The whole of last week has been Samburu North, today in the morning I went to the office and all of them are I think in Barsaloi that is Baawa Ward. I kindly request Hon. Lekuchula to give some time so that on 5th of March I will bring a very comprehensive report to this House concerning the statement, thank you Hon. Speaker.

MCA, Lodokejek Ward, (Hon. Lekuchula David): Thank you Hon. Speaker. On behalf of Lodokejek residents I take this opportunity to welcome Lorukoti Junior Secondary School students to this County Assembly of Samburu, we appreciate your presence here, we welcome you and feel at home.

Hon. Speaker, I go back to my statement. I want this House to understand that, during the presentation of response; it was evident that not only the twelve livestock from Lodokejek Ward are missing, even Suguta Marmar Ward had four less and Poro Ward had six less. So, the Chairperson Agriculture should also include in his inquiry and report the whereabouts of the missing livestock in the said Wards, thank you Hon. Speaker.

Specially Elected MCA, (Hon. Lenamatiyio Silapia): Thank you Hon. Speaker. I also take this opportunity to welcome the teachers and pupils from the Lorukoti Junior Secondary School, you are welcome to this House.

Hon. Speaker, I rise on the matter of the statement sort by Hon. David Lekuchula, on the issue of the distribution of livestock breed during the year 2022/2023. I know the Department forwarded the response I think six months ago and then the response was not sufficient. We took back the response to the Department and yet they did not bring back again and we went for a long recess and we resumed last week.

I want to tell Hon. Lekuchula, I know he is representing his people and that is his mandate to ask whichever thing that is missing in his Ward. I just want to ask and also to request the Honorable House and also the Hon. Member to give us until 5th March as the Hon. Chair said, we will take that as the Committee and we will bring it back to this House as mentioned by the Hon. Chair, thank you.

The Minority Leader, (Hon. Leleruk James): Thank you Mr. Speaker, I also stand to support the postponement of the said statement. However Mr. Speaker, I know last time when the report was brought we rose some issues and that is when I realized as the MCA for Suguta Marmar Ward that I still need to know the where about of my five bulls, and we will like to tell the Chairman to work with speed so that when we come on 5th March that report is available so that we can dispense this issue because it has taken a long time before we take a stand and also get the correct response.

I support, the only issue I want to raise is that let the bulls for Suguta Marmar Ward be included, thank you.

Chairperson, Committee on Agriculture, Livestock, veterinary Services, irrigation and Fisheries, (Hon. Lenamparasio Phelix): Thank you Hon. Speaker and Hon. Lekuchula for agreeing to give us up to 5th, but I just wanted to request that as Hon. Leleruk said and as raised by Hon. Leerte that there were some bulls missing in their distribution list, so I wanted kindly if Hon. Lekuchula can maybe edit the statement then include the bulls for Suguta and Poro.

Hon. Speaker, I do not think it is good if we deal with the Executive by a way of locally like that one, I think it would be good if we edit that statement to include the bulls for Suguta and Poro. I

do not know if Hon. Lekuchula will agree because we just want to deal with the Executive in a very official way because the statement only raised the issue of distribution for Lodokejek Ward; there was no inclusion of Poro and Suguta.

So, kindly Hon. Lekuchula, if you could allow me I just wanted to have that edited statement to include Poro and Suguta so that when I forward to the CEC their response should include Suguta and Poro as a one statement, thank you Hon. Speaker.

The Speaker, (Mr. Lenamarle Stephen): Hon. Lekuchula, is that okay?

MCA, Lodokejek Ward, and (Hon. Lekuchula David): Thank you Hon. Speaker, I accept the corrections that the Hon Chairperson is requesting me to do. Hon. Speaker I think I will do that statement tomorrow on Wednesday; and I do not know what more I require because I already have the information with me here.

I want to the Chairperson that unless the Department comes with the cows because the report is already here, it was not sufficient for us the other day, the names are here and have already signed against the names of beneficiaries which I think it crime to do forgery, so I think maybe the Department need come with the cows. If there is no cows, I have the information here, I can even go to the court of law, so I will do my statement tomorrow, thank you Mr. Speaker Sir.

The Speaker, (Mr. Lenamarle Stephen): That is okay, so do the statement tomorrow

MOTION.

MCA Nachola Ward, (Hon. Lorunyei Lawrence): Thank you Hon. Speaker, pursuant to Standing Order No. 48 (1), I beg to give a notice of the following Motion:

AWEARE THAT, Samburu County has started the formation of Village Resource Distribution Unit,

AWARE THAT, there is already an established Village Unit under the Samburu Village Delineation Act, 2015.

NOTICING THAT, these village units are established pursuant to section 48 of County Government Act, 2012.

FURTHER NOTING THAT, section 43 of the County Government Act, 2012 establishes for each village unit a village council.

DISTURBED THAT, the establishment of Village Unit Resource Distribution Units formed by the County Government incur unnecessary resources that could greatly help in executing so many other important activities within the County especially the October- December Elnino rains that has wrecked and havocked across the County.

AWARE THAT, the responsibilities of the Village Resource Distribution Unit are same as those of the already established Village Units and Bursary Committee, hence distribution of roles;

FURTHER NOTING THAT, the County Government has established units that are not formed under any County legislation, or so, no approval from the County Assembly.

ACKNOWLEDGING THAT, the Village Delineation Unit needs capacity building to perform functions as stipulated by the County Government Act;

CONCERNED THAT, The County Government is continuously performing functions that were not budgeted for in the previous Budget circle, such as formation of this unit.;

SERIOUSLY CONCERNED THAT, this will greatly affect the implementation of the current Budget and contradict both national legislations and already passed County legislations;

I THEREFORE, urge Assembly to **RESOLVE:**

1. **THAT,** establishing of the Village Resource Distribution Unit by the County Executive is contradiction of existing legislation hence the formation is null and void.

(Applause)

2. **THAT,** the Samburu County Government should forward a detailed report of all the budgetary spending towards the formation of the already existing Village Resource Distribution Unit.
3. **THAT,** the County Government should forward a detailed report of the current situation of the Village Councils and Bursary Ward Committees.
4. **THAT,** The Samburu County Government concentrates in improving the already available Government structures by capacity building Village Councils.

5. **THAT**, Ensure that they work within the provided legal framework that is; ensure that all actions conform to the National and County laws.
6. **THAT**, there is no more budget deviation from what was approved by the County Assembly.

Hon. Speaker, I beg Hon. Loloju to second this Motion

The Speaker, (Mr. Lenamarle Stephen): Hon. Members I now propose the Motion that Samburu County has started the formation of Village Resource Distribution Units. Aware that there is already established the Village Units under the Samburu County Village Delineation Act of 2015 noting that this village units are established Pursuant to Section 48 of County Government Act 2012.

FURTHER NOTING THAT, Section 53 of the County Government Act 2012 establishes for each village unit a village council disturbed that the established Village Resource Distribution Unit formed by the County Government incurs unnecessary resources that could greatly help in executing so many other important activities within the County especially the October-December *El'nino* rains that has wreaked a havoc across the County.

AWARE THAT, the responsibility of the Village Resource Distribution Units are the same as of those already established village units and Bursary Committees hence duplication of roles.

FURTHER NOTING THAT, the County Government has established units that are not formed under any County Legislations and so no approvals from the County Assembly.

ACKNOWLEDGING THAT, the Village Delineation Units need capacity building to perform functions as stipulated by the County Government Act.

CONCERNED THAT, the County Government is continuously performing functions that were not budgeted for in the previous Budget cycle, such as the formation of these units.

SERIOUSLY CONCERNED THAT, This will greatly affect the implementation of the current budget and contradict both National and Legislation and already passed County Legislation. I therefore urge the Assembly to resolve;

1. That the establishing of the Village Distribution Units by the County Executive in in contradiction of existing legislations hence their formation is null and void.
2. That the Samburu County Government should forward a detailed report of all Budgetary spending towards the formation of the already existing Village Resource Distribution Units.
3. That the County Government should forward a detailed report of the current situation of the Village Councils and Bursary Ward Committees.
4. That the Samburu County Government concentrates in improving the already available Governance structure by capacity building Village Councils.
5. That ensure that they work within the provided legal framework that is ensure all action conform to all National and County laws.
6. That, there is no more Budget deviations from what was approved by the County Assembly.

MCA Nachola Ward, (Hon. Lorunyei Lawrence): Thank you Hon. Speaker. The purpose and object of this Motion is about the lawfulness of these Resource Division Units. This Government works systematically and in law and not in guess work. Going to Article 129 of the Constitution;

- 1) The principle of Executive Authority- the Executive Authority drives from the people of Kenya and shall be exercised according to this Constitution.

Article 2/1 of the Constitution on the supreme of this Constitution. This Constitution is the supreme law of the republic and binds all persons and all state organs at both level of the Government. If you go to two it says that no person may claim or exercise state authority except as authorized under this Constitution. Four says any law including customary law that is inconsistence with this Constitution is void to the extent of the inconsistency and any act or omission in contravening this Constitution is invalid.

A Government has a format on how it operates down in the Constitution 2010 and the County Government 2012 and other written laws. What is a Government Mr. Speaker? A Government is for the people, by the people for the people. Here we are the representatives of the people.

If you go to Article 176; I have the Constitution with me. What is County Government; it says that:

1. There shall be a County Government for each County; we have 47 County Governments, there shall be a County Government for each County consisting of County Assembly and County Executive so we are the arms of Government and not one arm saying that it is the Government.

If you go to Article 179 on the structure or how the Government works or the Government's organization in 179/1, the Executive authority of the County is vested in an exercise by the County Executive Committee and it consists of the County Governor and the Deputy Governor and Members appointed by the County Government with the approval of the County Executive and from among persons who are not members of the County Assembly.

If you go 4 still in Article 179 of the Constitution, the County Governor and the Deputy County Governor are the Chief Executive and the Deputy Chief Executive of the County respectively. If you go to Article 6 the members of County Executive Committee that is CEC are accountable to the County Governor for the performance of their functions and exercise of their power; that is we can call them the Department or the Division or the Unit of the formal working standard of working in the Government.

If I can go further to Article 183 about the work of the Government that is function of the County Executive Committee 1(a) the County Executive Committee shall, where shall means must implement County legislation and (b) implement National legislation to the extent that the legislation are required, (c) manage and coordinate the County Administration and its departments, (D) perform any other function conferred on it by this Constitution or National legislation.

If you go to the County Government Act Article 34 on exercise of Executive Authority the County Executive Committee shall exercise executive authority;

- a) According to the authority and relevant County and National legislation.
- b) For the wellbeing and benefit of the people.

Further I can say the accountability of the CECMs if you go Article 139 of the County Government Act on accountability of the Executive Committee;

1. The Member of the Executive Committee are individually and collectively accountable to the Governor in the exercise of their powers and performing of their duties and their responsibilities.
2. 2(a) A Committee of the County Assembly may require Members of the Executive Committee to;
 - A. Attend and appear before the Committee.
 - B. Answer any question relating to the Member responsibility of that Department.

So, going outside of other things is not good. Further Article 46 of the County Government say the County Executive Committee to determine organization of the County.

- a) Establish, continue or vary any Department and determine the object and purpose of the Department.
- b) Determine the numbers and the nature of Department and decentralization units.
- c) Abolish any Department.
- d) Determine or change the name of any Department.

Mr. Speaker we have decentralized units which is in 48 on how the flow of giving services to the Government can go; 48 subjects to (3) the function and provision of service of each County Government shall be decentralized. 1(b) the Sub County equivalent to the Constituency within the County established under Article 49 of the Constitution, (c) the ward within the County established under Article 89 of the Constitution and section 26 of this Act; (d) certain number of village units in each County as maybe determined by the County Assembly of the respective County; (e) such other or further unit as the County Government may determine.

If you go to Article 50 on the office of the Sub County Administrator; you know the Government works at the County level in the devolved Government, Sub County level, Ward level, Village Unit level and Village Council. If I can read the functions of the Sub County, there shall be established at the level of each Sub County the office of Sub County Administrator. Let me skip two and go to three, the Sub County administrator shall be responsible;

- a) For coordinating, managing and supervision of general administration functions in the Sub County Unit including the development of policy, plan.
- b) Service delivery.

- c) Developmental activities to empower the community.
- d) Provision and maintenance of infrastructure and facilities of the public service.
- e) County Public Service.
- f) Exercise any further functions and powers delegated by the County Public Service Board under Section 186...

MCA Nachola Ward, (Hon. Lorunyei Lawrence): If I can go to 4, the same Article 50, in carrying out the functions and obligations in sub-section 3, the Sub-County Administrator shall be responsible to the relevant Chief Officers. So it has been taken care of. In Article 51 it is about the establishment of office of the Ward Administrator. I cannot read that one, it is the same function. Article 52 is the establishment of the office of the office of the village administrator.

I am however, interested in Article 53. It is about the establishment of Village Council and I read:

“There is established for each Village Unit a Village Council. Let us see how it is comprised.

- a) The Village Administrator who shall be the Chair of the Village Council,
- b) Not less than three and not more than five elders competitively appointed by the Village Administrator with the approval of the County Assembly taking into account gender balance.

They are five. Not seven as the new one which I do not know the law it is based on. If I can go to 2, the Village Council shall be responsible for:

- a) Ensuring and coordinating the participation of the village unit in governance.
- b) Assisting the village unit to develop the administrative capacity for the effective exercise of the functions and participation in government at the local level.
- c) Monitoring the implementation of policies at the village level.
- d) Advising the Ward Administrator and Sub-County Administrator on matters pertaining the village and
- e) Any other functions necessary for better of administration.

Mr. Speaker, if I can go to Article 61, criteria of establishing public offices.

The County Public Service Board shall establish a public office within the County Public Service. If it is satisfied, the established public office shall serve public interest in line with the core function of the County Government.

1. There exists no other public office in the County Public Service discharging or with the capacity of discharging the duties for which the County is requested to establish another office.
2. Upon the establishment of the office ... or I go to 3. I will skip that one. The establishment of the office including the level where that office is going to be established can fit in.
3. Establishment of the office shall not... or I leave that one again I go to F.
4. The County government entity has prudently utilized offices previously provided in the establishment. If there was no village council now we have village council. So we have not used it to the maximum.
5. Funds for the office to be established are duly provided.

Mr. Speaker I can go Article 62 of the County Governments Act, Powers of the Public Service Board to establish or abolish.

1. Taking into account the provision of this part the County Public Service Board on its own motion may establish or abolish any office in the County Public Service.
2. If the board intends to establish or abolish an office it shall submit its proposal to the County Assembly for approval through the County Executive Committee member responsible for the County Public Service.
3. The County Public Service shall give the County Chief Officer of the department concerned an opportunity to make presentation in reference of any action to be taken under this section before making a decision in that regard.

Mr. Speaker, because I have taken long, I want the legality or the lawfulness of this parallel unit because from the County to Sub-County, to the Ward, to the village. How the government can operate and discharge services is in the law. We are here through the rule of the law not absolute

rule of a man. This is my opinion. If there is any contrary opinion from the other side we are ready to listen and if it is according to the law, we follow.

But for this time I ask this honorable house, because (VRDU) is a parallel structure and we have got the formal one. So I ask this honorable house to say that it is null and void because there is conflict between the village council and the VRDU. In every village there are men and women responsible for delivery. I do not know this other parallel unit. So, I ask this honorable house to declare this unit as null and void. It is unconstitutional until further notice. Thank you Hon. Speaker.

MCA Loosuk Ward, (Hon. Lenamparasio Phelix): thank you, Mr. Speaker. I stand here to support my senior, Hon. Lorunyei in this motion. I just want to ask the house that we support Hon. Lorunyei on this motion. As I stand here I am one of the MCAs that were elected by the ruling party in this County. I will be very unfair if see them doing wrong and I keep quiet. I stand here as a supporter of the government to let them know that there are some things that are not going right here.

I am not opposing the government but I am just saying that something is not right. That should be the way that we should all do. As much as we support the government whenever they go wrong we just tell them that they are wrong. Mr. Speaker, I am the Chairperson for the Sectorial Committee on agriculture, livestock and fisheries. Some minute ago we were discussing the statement by Hon. Lekuchula the member for Lodokejek Ward asking about the distribution of sahiwals last year.

The reason Hon. Lekuchula and every other member has the right to ask that question here is because as the chairperson I have the authority and the right to go to the department and get whatever information that any member wants to because

1. The department is constituted under the law. Whatever information we want from that department they have to share.

Hon. Lorunyei I think the entity is known as VRDU. It sounds like GSU, it is VRDU. For the village delineation unit they have the village administrator as their chairperson. If they distribute these camels at Lodokejek Ward, the same information the village council gets there is taken to the village administrator, the administrator takes it to the department so that if want to go and ask

how the distribution in Lodokejek was done, the department has a way of getting that information. Who got what in which Ward?

As I speak here, three members who already have distribution done in their Wards have come to me asking about the distribution. Where should I go to get that information from? Who does the VRDU report to? The village councils reports to the village administrator, Ward administrator, the Sub-County administrator all the way to the Governor. What about this Village Resource Distribution Unit, who do they report to? We were elected by our people from different wards to come and represent them here. The 47 assemblies are houses of rules. Our core mandate is legislation. If we sit here as the County Assembly of Samburu and just watch the Executive doing a lot of things that are not anchored in law we will be cheating the people who elected us.

The Executive has to follow the law in everything that they do, whether it is through the constitution or the County Governments Act. Everything that has to be done has to be confined to law. If the Executive does things outside the law and the County Assembly keeps quiet then we are failing. In April last year there was that training and the handing over of appointment letters to the bursary committee. I remember very well it was at the Samburu Guest House.

There was a team that was appointed by the then CO for education given appointment letters to represent different wards in the bursary committee. The recent bursary that was distributed was done by different people. In case there are people who will miss that bursary, who are we supposed to ask? If it's the committee that was given appointment letters then you can just follow up from them upwards to the CEC education. What of this committee now? They were not appointed by anybody. They were just appointed maybe under a tree. If anything happens now with the release of the bursary soon, where do we go to complain? Their roles are exactly as those of the bursary committee.

The bursary committee in the Act, it is given the power to distribute bursaries and this committee is doing the same thing. This begs the question does this County Government have the office of the County Attorney? Who advises the Executive in matters law? We have a very established office of the County Attorney in the County Government of Samburu but why are they doing such things knowing very well that this is against the law?

I call upon this house that we resolve to not only support these prayers by Hon. Lorunyei but to also make sure the people responsible for the formation of this committee to come to this house and explain to us where they got the funds to do all that work. Where are the allowances they are paid coming from? We need to know because we pass the budget here. There was no budget for such a committee. They are still paying this committee allowances each and every time.

As much as we support Hon. Lorunyei, it will be in order if we have whatever person in the Executive to appear before this house, explain to us where they get the funds from that were used to establish the committee, the allowances they are being paid. As the agriculture department that is the department that distributes livestock, seeds and each and every time from the delineation Act there are some allowances that were stipulated there to be paid to the village councils every time they do the distribution. What of the VRDU? How are their allowances arrived at?

I want to be very brief. I support this thing because there are a lot of issues. As an elected member for Loosuk Ward tomorrow we will be distributing sahiwals in Loosuk Ward. As I speak here there are a lot of issues concerning the same distribution, same issues brought by this committee so if at all it was done in a different ward and I am the chairperson for agriculture then where should I get the information from if someone asked me? I think the Hon. Member for Baawa and two other MCAs came to me last week because they have a lot of issues in distribution....

MCA Loosuk Ward, (Hon. Lenamparasio Phelix): I tried calling the C.O he said he is not even aware of how the distribution is being done then how should we as an assembly hold the Departments accountable? These are taxpayers money these are the monies we usually pass here as the budget.

Mr. Speaker let me just be brief and I beg this House that we support this motion not this motion that each and every any other day anything to be done by the county government of Samburu has to be confined to the law. We have many laws here we have the constitution of Kenya, county government Act, whatever law we have to be confined to the law because the assembly we are in representing our people this is the House of laws thank you Mr. Speaker.

The Speaker, (Lenamarle Stephen): Hon. Loloju.

MCA Maralal Ward, (Hon. Loloju Joseph): thank you Mr. Speaker sir, I rose to support the motion and in special occasion I extend my gratitude to the young souls seated in front of us from Lorukoti welcome to Maralal that is on behalf of Maralal residence, on behalf of Maralal ward, feel at home.

Mr. Speaker I feel a lot with my uncle here Hon. Lekuchula for his bull stolen I do not know... its terrible *apiyolai*... but I want to tell you, you have my support in whatever you want us to do in whichever length you want us to go for you to recover this bull I will always be with you.

I rose to support Hon. Lorunyei, indeed he has spoken in length at first some of us were even becoming confused where these verses of the law but what stands out Mr. Speaker Sir is very clear the village elders vs the VRDU. It is written in the constitution very clearly if I can remember village elders are 5, these particular people went and selected 7 if I am not wrong something of the sort. Is that the constitution really? Are we following the law?

Are they following the law? hii imekuwa madharau ya hali ya juu sana. Na Hon. Speaker these people are playing duplicating roles, same roles but it is the village elders that carry the day. They are the ones who are in the constitution. This thing was done in a hurry if my mind can serve me right for 1, I think all the Honorable Members here including me personally, is sat with my village admins and we draft the names of the village elders those names are still hanging what was required was for them to be tabled here and in fact they were supposed to brought in a weeks' time that is when the VRDU was created in Samburu Lodge, I was there, I went there.

Mr. Speaker Sir hiyo ni haki? Tunafanyia wasamburu haki? Honorable Members it is time to wake up, it is time to speak up the reality. About these particular people let me just quote them "the GVN and his cronies", they are working against the law yes it is true they may have their way but we have our say and they are forgetting that these particular House is the one mandated to create the laws in this county, they have forgotten that Mr. Speaker sir.

It is good if I can read the mode of the members they are completely against this particular law this particular question, Hon. Silapia ni kweli? Yes I can see you are smiling. If you look at contradiction it has gone too far, look at even the budget, what is being presented in this particular House is something different that is going to be done outside there, true or false? And

they are doing it punitively aibu kubwa sana hii. We have to condemn it na hivyo basi naomba hiki kipengeo kilale katika...

The Speaker, (Mr.Lenamarle Stephen): order Mr. Loloju, just stick to one language.

MCA Maralal Ward, (Hon. Loloju Joseph): Yes sir, ok thank you I say that this particular motion should rest in peace, I say let it rest in peace meaning we should forget about it, let us burry it, thank you Mr. Speaker.

The Speaker, (Lenamarle Stephen): Hon. Deputy Speaker.

MCA Wamba East, (Hon. Lelenkeju Jackson): Thank you Mr. Speaker, first I recognize the presence of Lorukoti junior secondary school welcome to this assembly the bible says educate them in the truth and the truth shall set them free I stand here to support the motion by Hon. Lorunyei based on few reasons here and there my role as a Member of County Assembly is to give guidance to the people we represent and also guide the government through legislation.

The formation of Village Resource Distribution Units (VRDU) it contravenes the laws of this county government and it also contravenes the supreme constitution of Kenya article 179, article 12 and county government Act 46- 48 and 50 subsequently. We cannot stand as Honorable House and operate against the laws Established in this county; we have village council and Mr. Speaker sir I had an opportunity of being among the pioneers of this first assembly. I was among the first MCAs in 2013 and I remember we ...(power interruption)): thank you Mr. Speaker sorry from the obstruction of power and for the sake of Members in the gallery we do not transact any business in this House when the power is off that is why we had a break just for your knowing. I think is that is an additional learning that you are learning from what you are viewing here.

As I said, I happened to have been a Member of the pioneer Members of County Assembly (MCAs) and we passed a law an Act of County government created the village council. These village council used to be operational but now in the formation of this current government has not put them into use and I remember we also passed an Act in this assembly that created the bursary committee and went further on to create ward bursary committees that are also not doing any viable work now.

The VRDU is purported to replace both the council and the bursary committee both at the county level and the ward level if itself not covered or not supported by any law. It is because of this purpose that, we are of the opinion that we are not opposing the government we are opposing the illegality and we want the right laws to be followed. We want the village council put into use because the mandate is (*inaudible*) very clear they can do are everywhere (*inaudible*) from the smallest unit and this captured in the budget and it is budgeted for even members of the committee is highlighted that (*inaudible*).

VRDU is not allocated any budget and I do not think it sounds good for any government to use any member of the public to work, to perform duties and go home unpaid because we do not have money to pay them. That is one of the basic reason that we are not and for this because Village Distribution Resource Units (VRDUs) has no budget the assembly has not passed any budget to support them and we are not ready to let people work when they have no budget to pay their allowances while they are at work.

The contravention of this law or of this thing jeopardize all the operations of the laws that are stipulated while in our supreme constitution has supersede any other Law if it is not within the law, then who are we to support it to be put into use. We are only saying we have our legal department in our county executive that draws budget from the coffers of the public, they should advice the government correctly and timely.

They should even at times consult this assembly we have the head of the assembly being the Speaker, he can be consulted and together with his consultation and the Laws that is established in this House he can as well and advice the government if called upon am sure he could have sufficient reasons to support them if he is involved. So, Mr. Speaker without taking long I support the motion by Hon. Lorunyei.

MCA Wamba West, (Hon. Lemartile Francis): Thank you Hon. Speaker may I take this opportunity to welcome Lorukoti Junior Secondary School family to this House. I stand to support this motion, formation of this animal called VRDU is non-existing, it is null and void because it is contradicting the existing laws as it was said by my colleagues because resource distribution goes by Department, each Department has its own line up. If we say to Agriculture,

like now they are giving out camel, Sahiwal's and goats they have their committees down to the ground which will be answerable to the CEC of that Department. Same like to Education.

This VRDU I do not know it will be under which Department specifically, because if giving out the bursary we have the existing Act, Samburu Bursary Act which stipulates to ward level committees. I see that this contradicts a lot of existing laws. If we say about the village units we have the existing laws, which establish that who appoints these people? What are their terms? What are the criteria of choosing? But with this VRDU no stipulated procedures of formation who appoints? And how do we appoint? They will be answerable to whom? This formation of this committee is against the existing laws.

Secondly, for county government to perform its functions should make sure that it has financial allocation. So, from forming this committee no any financial budgetary allocation was done to this committee I do not see how they will work or perform their duties without that.

Thirdly every unit formed laws should come to this House which comes first are we waiting the list? Are they still submitting the list for us to approve in this House? Because we have already heard that it has started functioning. It has already started giving duties there. I see continuing using this committee will lead to misappropriation of public resources and public funds. I beg my colleagues to support this motion so that we give county government a direction to be within the laws, thank you Mr. Speaker.

The Speaker, (Lenamarle Stephen): Hon. Esther.

Specially elected MCA, (Hon. Lenolkulal Esther): Asante sana Mheshimiwa Spika, nachukua nafasi hii kuwakaribisha walimu na wanafunzi kutoka Lorukoti junior secondary school nasema karibuni mjiskie mko huru nasimama hapa kuunga mkono motion ambayo mheshimiwa Loruyei ameleta kwa kweli, ni kama huko mashinani tunachanganyikiwa kiasi, kwa sababu tulikuwa tunangojea list ya village elders ambayo ndiyo tumezoea na ndio tunajua wako kwa sharia na wakati tuliskia kuna kamati wamechaguliwa huko kwa vijiji. Mimi mahali nimetoka nilimpata mmoja hapa ambay anaishi karibu na mimi na ni kama hata hawajui kazi yao ni nini kabisa.

Kwa hivyo, tunaona hiyo kamati kabisa haifai na kaunti walete tu village council wale ambao wako katika sheria na pia kwa mashinani pale wanajulikana kwa sababu hatuelewi kwanza hii ni

nini hata hiyo jina mimi ninashindwa kulitamka. Kwa sababu hakuna hatujawahi sikia na ni kama hakuna hata kwa sheria. kwa hivyo naunga mkono asante.

The Speaker, (Mr.Lenamarle Stephen): Hon. Silapia.

Specially Elected MCA, (Hon. Lenamatiyo Silapia): thank you Mr. Speaker let me first just mention the issue of power. I think this one is not a good way to go so next time that we normally have another alternative if the power is off; we have the generator in the assembly it should be working all the time when the House is on. I do not know how the Honorable Members will bear with this situation but mine I stand here to support the motion which was brought by Hon. Lorunyei, I know the formation of this white elephant is not guided by any law either in national or county government when you look at the county legislations the normal national legislation that are guiding the counties and also the national government to deliver services to the people.

There is no anything anywhere that you can get the formation of this white elephant that is called the... (I do not know what is the name of the)...VRDU. I stand here and say that the formation of the VRDU is null and void. Just because we have the county government which is very well structured from the governor, to the village council and I do not see any need of coming up again with another committee that really contradicts the work of the village council.

We have the governor, the deputy governor, the executive committee members, the COs, the Directors and then we come to the sub county level we have the sub county administrators, ward administrators, village administrators and then the village council so where are we getting again another formation of another committee when we have the village council that are mandated and also that are guided by the law to form them so I just want to tell the honorable members let us perform our duties as Honorable Members.

Let the executive respect this House, by not performing any other issue out there, or forming other committees that are doing other activities that are supposed to be done by the village council.

So, Hon. Speaker, I urge Hon. Members let us support the motion, just because we are getting so much complaints during the formation of this animal called the VRDU, it happened that we have a village in our Ward, Wamba North called Ngare Narok and when those people who are called

the Government delivery unit went there, they just picked people who were on their side during election. So, this thing again is just political.

Here, even though we come in different parties whichever it is, but service delivery should be done according to the rules and also in the law of Kenya, that is 2010 constitution and also the County Government Act that is really guiding us on how are we delivering or how the County Government should deliver their services to the people. So, Hon. Speaker, when you look again at the Samburu County Bursary Act, it has already shown the formation of the bursary committee which is available in all the 15 Wards.

Why do we have again another committee that us doing the same and we have a committee that is formed legally and we have the other one that was just formed by a person and it is functioning, I do not know what it is doing. Distribution of camels, we saw the committee that was in the villages distributing those camels which are illegal in the law Hon. Speaker. There is no any legal framework that guide to form this animal.

So, Hon. Speaker, I sit and say the formation of VRDU (Village Resource Distribution Unit) is null and avoid and I call upon the Hon. Members to support the motion so that even the Executive can know that we have Hon. Members in this House. We are here to legislate, to oversight and also to represent. We are representing people here who should know that today we have distribution in Wamba North Ward or even we have distribution in Nyiro Ward and you know that we have village council, we have village administrator, Ward administrator and that is how the Government should deliver or should work through those structures that are being confined by the law.

So, Hon. Speaker, I know you are here to guide also the Assembly and you are here to be an emperor of the Assembly. So, Hon. Speaker, we need also your support, so that the Hon. Members can support their duties in this House not just being the rubber stamp of the County Government Hon. Speaker, we are not rubber stamp of the Governor, just because the Governor wants to undermine the works of the Village admin, village council, Ward administrator, why so and it is being guided by the law, it is being given by the law. So, Hon. Speaker, I sit and say the formation of VRDU is null and avoid. Thank you.

Specially Elected MCA, (Hon. Lenyakopiro Charity): Thank you Hon. Speaker, I rise to support the motion and clearly, I do not oppose the Government, I give my opinion and I have two options for supporting;

- i. These units need to be dismissed.
- ii. I know most Members will not like it but that is my opinion. To be postponed and see if there is room for deliberation and see if we can get another solution for this before dismissing it.

Hon. Speaker...

Specially Elected MCA, (Hon. Lenamatiyo Silapia): Point of order Hon. Speaker! Thank you. I just rise on a point of order for the Hon. Charity Lenyakopiro either to support the motion or to oppose that is it, there is no being on supportive and also being on opposing. Thank you, Hon. Speaker.

MCA Maralal Ward, (Hon. Loloju Joseph): Thank you Mr. Speaker sir. As my good uncle Lemantaan has said, you cannot put water in your mouth, hot this side, cold this side, then you tells your tongue to split it. Hon. Charity should wake up and say her mind not telling us a matter of postponing. Since when it was time for inception, it was never postponed, so please, be clear on this point, you are either supporting or not supporting.

Specially Elected MCA, (Hon. Lenyakopiro Charity): Thank you Hon. Speaker, Hon. Speaker, I speak my mind and my opinion so that is why I have given that option two. Hon. Speaker, the people down at the Ward level are waiting on the Village council to be appointed and now I do not if know this one is changing the name from village council to village resource units and that is why I rise to say, I gave my option of postponement. Thank you, Hon. Speaker.

MCA Waso Ward, (Hon. Lemantaan Kelvin): Thank you Hon. Speaker, first I would like to recognize the presence of teachers and pupils of Lorukoti Junior Secondary school, feel welcome and feel at home. I also stand to support the motion brought by Hon. Lorunyei, I have only one reason to support and I am not opposing the Government, I am here for the Government and for the people of Samburu. But it is also another way of us as Hon. Members to show those who advises the Governor His Excellency Lati Lelelit, that it is not everything that we all say yes, when things are not yes, we are here to say no and we are here to say yes when it is yes.

I think whoever is advising the Governor, is so maybe friendly to the Governor that he or she cannot say no, he or she only says yes and this is another way of us supporting the Government to make sure that it is moving and going to the right direction. Thank you.

MCA Nyiro Ward, (Hon.Lemoosa Jonathan): Thank you Hon. Speaker sir. On behalf of the great people of Nyiro residence, my own behalf, I do welcome and appreciate the Prescence of teachers, students and staffs from Lorukoti junior secondary school, please feel appreciated and welcomed.

Speaker, as much as we ventilate into this issue, there are some concerns that beg for some answers, just like the Hon. Lawrence, the mover of the motion has put it. That;

- i. With your permission I refer, that beside the issue to resolve. I refresh the Hon. Members to two
- ii. With your permission I read, that the Samburu County Government should re-forward and detail report of all budgetary spending towards the information of the already village distribution resource unit.
- iii. The County Government should forward a detailed report of the current situation of the village council and the bursary committee.

These are some very vital insights that call for answers. In the event Speaker sir, that we should have a motion, which of course we support but what will happen to this other very important information that this House needs to understand. This actually I leave to your wisdom, guidance on how we shall actually have facts on how much was spent and what is the position of the village committee which is actually in the act.

So, Speaker, it is prudent to understand that the village council established pursuant to section 48 (53) is actually within or anchored in our constitution, the County Government Act of 2012. Now, my worry which really Speaker, which really hunts or creating that vacuum, how do we get this other information, we should be guided on how we shall now have this other spending which we want to believe it is illegal and this is very paramount, because two illegalities cannot make a right.

If actually creation of the VRDU was illegal it involved finances, what is the position of the legal village council which is enshrined in the law but this does not give us a space to interrogate

further to these other matters that are underlying Hon. Members. Nevertheless, I wish to join the colleague saying, it is an illegality, it is yes and we need to support the motion. Thank you.

MCA Suguta Ward, (Hon. Leleruk James): Thank you Mr. Speaker. I would like to again welcome our teachers, students and parents of Lorukoti junior secondary school.

Mr. Speaker, I stand as the Government representative, same time the defender of the Government, but I feel disappointed area MCA because the issue that we are discussing here, and the reason why Members are not supporting and even me I am supporting the motion.

However, we have concern as a Government because we need your guidance Mr. Speaker because the drafter of this motion should have not included; I think from number two to five. If we needed to get the value for money of our people, because if we resolve now and say everything is null and void here, then I do not see the window where we can ventilate the other issue because Mr. Speaker, really this is a very serious matter that also this House needs to focus and even ad hoc committee should be formed to probe what already this team has done.

Mr. Speaker, if we do now because I have seen the mood of the House, no Member of this House is not supporting this motion because we want our Government to work and we want the Government to follow the law and if the law is not followed, we as the representative of the people we will make them follow the law.

So, the issue now that Mr. Speaker we need you and also as the representative of the Government on these five issues because it needs to be answered and if it needs to be answered and if we go by the resolution of this House that everything is null and void, I do not see the reason how we can come again and claim that we want to ask these questions because the mover of the motion has a good intention but he also wanted to...

MCA Loosuk Ward, (Hon. Lenamparasio Phelix): Point of order!

MCA Maralal Ward, (Hon. Loloju Joseph): Point of order! Mr. Speaker.

The Speaker, (Mr. Lenamarle Stephen): Point of order from Hon. Lenamparasio.

Thank you Hon. Speaker, I stand here on a point of order, I just wanted my brother Hon. the Minority leader to understand that if we support the whole of this motion, we are supporting that

the County government should forward a detailed Report of all budgetary pending to this House. It does not mean that if you support this motion, then we are shooting all this two to number five down no, we are only supporting it to have the committee being null and void, but again never the less, the County should forward a detailed Report on budgetary allocation spending's.

The County government should forward a detailed Report on current situations on village elders, that one we are supporting so that from may be next week, then from number two to number five, the people concern should come to this Assembly and then do the same, so Hon. my brother, we are just saying that let us support it as it is , the committee to be null and void but from number two to number five, maybe we will be guided by the Hon. Speaker on how the 2nd, 3rd and up to the 6th will be done. Thank you Hon. Speaker.

The Speaker, (Mr. Lenamarle Stephen): Hon. Lorunyei

MCA Nachola Ward, (Hon. Lorunyei Lawrence): Thank you Hon. Speaker, the literature of this motion is two to six. That is the flesh which is supporting, which is making this motion to come because without reference of misappropriation of illegality, how can a motion come?

So it is a literature of this Motion.

MCA Suguta Ward, (Leleruk James): Mr. Speaker you know to me the way now the mover has explained, and also to me I support this motion. Now if the motion goes down, to me what I am asking the Speaker to give us guidance if he motion goes now down I think it is done like this unless I am being advised that this thing can come gain here and then we discuss. That is all my concern about because there are very important and pertinent issues that have been raised in this motion.

So the concern is if the Speaker guides so, it still comes out and we can debate it then it is okay but as a concern MCA and also the leader of government because this thing has not been answered. The other five have not been answered, so that is the only concern that I have as an elected MCA and also as the representative of the government. If we shoot now down this one, where is the window that we can bring this again? Thank you. I support it.

The Speaker, (Mr. Lenamarle Stephen): Hon Minority leader you need to put down the points, do not anticipate the outcomes of a Motion.

MCA Suguta Ward, (Leleruk James): Mr. Speaker my concern is number two, three four, five and six.

The Speaker, (Mr. Lenamarle Stephen): Just put down your points then we will look forward.

MCA Ndoto Ward, (Hon. Lealmusia Ali): Thank you Mr. Speaker sir, I rise to also to add my voice on this particular Motion but before this, let me welcome the Junior Secondary School (JSS) students from Lorukoti. Kindly feel welcomed. Mr. Speaker sir, the role of an MCA in oversight is to consider public interest over and above party loyalty, enhance effectiveness of the so called oversight.

For the first time in this Hon. House, I really thank the Hon. Members for adhering to this oversight role because this one, I see it has no boundaries as far as that lines are concerns. The Motion before us here is about the village Resource Distribution Units (VRDU) which was established out of the law and my question was why this village resource distribution unit was established, what informed the establishment of this role?

Again the Executive got it wrong in this. Because what they should have been done is to find out if the established and the legal village councils that are within our Samburu County Act is well established. I read do not see this VRDU was already established because already we have the village councils which were existing and they are within our laws here and established under the section 53 of the Country Government Act of 2012.

This establishment of VRDU has financial implications and which this House cannot condone because we are already paying the village councils and it is within the law, they already exist. You cannot create or established a body on top of a body that has already been established by the law of this Hon. House. I also see that the VRDU clashes with village councils roles and it is not very clear. The role of VRDU is not clear. We do not have a role for this particular unit. Because we are meant to believe that the village admins are the secretary of this same VRDU which in our laws here is supposed to be the head of that village unit within our established laws.

So I stand here to support this Motion and I have nothing against this government but we are just trying to rectify and point out that whatever that was planned to be established this VRDU was wrong in the first place and we should have if the was a necessity which I do not think there was? This House should have been consulted because this House has a leadership of our Speaker

and also we have legal minds within this setup. What I am saying is that supporting this Motion because;

1. The VRDU was not established within the law.
2. The VRDU has financial implications.
3. The VRDU clashes with village councils

And therefore I stand here and I represent Ndoto Ward, I cannot accept because I represent people. Somebody working or rather be in this VRDU, and expecting again to do this without money, I know this one is going to be very tedious, so I do not want to agree that the VRDU should continue doing what they are doing. Let us stick to the law and I beg this Hon. House to support. Thank you Sir.

The Speaker, (Mr. Lenamarle Stephen): Hon. Members, I now put the question that Samburu County has started the formation Village Resource Distribution Units, aware that they are already established the village units under the Samburu County village act 2015. Noting that these village units are established pursuant to section 48 of the County Government act 2012. Noting that section 53 of the County Government act 2012 establishes for each a village unit a village council.

The establish VRDU formed by the County government incurs unnecessary resources that could greatly helped in executing so many other importance activities within the County especially on October December El Nino rains that has rain across the County.

Aware that, the responsibilities of VRDU are the same as those of the already existing established village units and bursary committees, brings duplications of roles

Further noting that the County government has established units are not formed under any County legislations and so no approval from the County Assembly acknowledge that the VRDU need needs capacity buildings to perform functions as stipulated by the County government Act. Concern that the County government is continuously performing functions that are not budgeted for in the previous budget cycle such as the formation of these units.

We are seriously concern that this will greatly affects the implementations of the current budget and contradict both national legislation and already passed County legislations. I therefore ask this Assembly to resolve;

1. **THAT** the establishment of the Village Resource Distribution Unit by the County executive is in the contradiction of the existing legislations hence there formation is dull and void.
2. **THAT** the Samburu County government should forward a detailed Report of all budgetary spending's towards the formation of already existing VRDU.
3. **THAT** the County government should forward a detailed Report of the current situation of the village councils and bursaries Ward committees
4. **THAT** the Samburu County government to improve the already available governance structure like capacity building village councils.
5. **THAT** ensure to work within the provided legal framework that ensure all conforms to nationals and County laws.
6. **THAT** there is no budget deviation from what was approved by the County Assembly.

(Question proposed, put and passed)

MCA Nachola Ward, (Hon. Lorunyei Lawrence): Thank Hon. Speaker, I thank this Hon. House for bringing back the respect of this Hon. House. In Article 9 of the County government Act, tells about the functions or the roles of the County Assembly. And they are not extended, it say that;

1. A Member of County Assembly shall not be directly or indirectly involved in the executive functions of the County government and her administration.
2. Delivery of services as if the Member were an officer or employee of the County Government.

When I say this one, we are bringing back the dignity of this Hon. House. And as Hon. Leleruk have said for the term of reference whereby two to fight number. Mr. Speaker I request because I am the supporter of the government. I am the diehard of the governor, I am the chip whip and so I do not want to be a slave to say yes, I say breath my governor. I appeal for us to get light on the

side, that the County Attorney to come and give some lights on the advices she gave to the Governor.

The Secretary should come again to give light on the advice she has been giving the Governor. The secretary and the board and may be the CECM in charge of Education. The workload it has for the Bursary Committees from the County, from the Sub-County and from the wards, and also the department of agriculture because who are they reporting to? We are here to oversight. So we need to know the immediate supervisor of every unit. That one Hon. Speaker, I am worthy for the Member to resolve that one and then we shall move to the next step. Thank you.

ADJORNMENT

The Speaker (Mr. Stephen Lenamarle), Hon Members, the time being two minutes to 5 O'clock and there being no other business, this Assembly adjourns until Wednesday, 21st February 2024, at 9.00 am.