

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 4th October, 2022

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

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

PRAYER

QUORUM CALL AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Hon. Senators, we have the quorum. Clerk, you may proceed with the next Order.

ADMINISTRATION OF OATH

*(The nominated Senator (Crystal Kegehi Asige) entered the
Chamber escorted by Sen. (Prof.) Kamar and Sen. Faki)*

Sen. (Prof.) Kamar: Mr. Speaker, Sir, we present to you, Sen. Crystal Kegehi Asige.

The Oath of Allegiance was administered to the following Senator-
Sen. Crystal Asige.

(Applause)

*(Sen. Crystal Asige approached the Bar, bowed
to the Chair and took her seat)*

COMMUNICATIONS FROM THE CHAIR

WELCOME TO HON. SENATORS TO THE FIRST REGULAR SITTING OF THE SENATE

The Speaker (Hon. Kingi): Hon. Senators, it is my pleasure and privilege to welcome you to this first regular Sitting of the Senate, following the opening of the 13th Parliament on Thursday, 29th September, 2022.

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Shortly, the Senate Business Committee (SBC) will deliberate on and submit to the House a Calendar which definitively sets out the dates for regular sittings and recesses, to aid in planning and scheduling of the business of the Senate.

COMMUNICATION FROM PARTIES/COALITIONS ON
HOUSE LEADERSHIP

The Speaker (Hon. Kingi): Hon. Senators, before we proceed with the core business of today's Sitting as listed in the Order Paper, I take this opportunity to inform the Senate, that vide a letter dated 29th September, 2022, the Majority Party submitted the names of Senators to serve in the Majority Party Leadership.

The Senators are as follows -

| | | |
|-----------------------------------|---|-------------------------------|
| Sen. Aaron Cheruiyot, MP | - | Senate Majority Leader |
| Sen. Tabitha Keroche Karanja, MP | - | Deputy Senate Majority Leader |
| Sen. (Dr.) Boni Khalwale, CBS MP, | - | Senate Majority Whip |
| Sen. (Dr.) Lelegwe Ltumbesi, MP, | - | Deputy Senate Majority Whip |

(Applause)

Senators, you may walk in.

(Several Senators walked into the Chamber)

Likewise, vide a letter referenced AZIMIO/ADMIN 2022 dated 26th September, 2022, the Minority Party submitted the names of the Senators to serve in the Minority Party Leadership.

The Senators are as follows: -

| | | |
|--|---|-------------------------------|
| Sen. Justice (Rtd.) Stewart Madzayo, CBS MP, | - | Senate Minority Leader |
| Sen. Enock Wambua, MP | - | Deputy Senate Minority Leader |
| Sen. Fatuma Dullo, CBS MP, | - | Senate Minority Whip |
| Sen. Ledama Olekina, MP, | - | Deputy Senate Minority Whip |

(Applause)

Hon. Senators, I take this opportunity to congratulate the House, the Hon. Senators for appointment to these high offices and assure them of the co-operation and the support from the Office of the Speaker.

I am confident that you will steer your respective parties and in turn the Senate in advancing a robust legislative agenda that will strengthen our devolved system of governance.

PROCESSING OF MOTION ON APPOINTMENT OF SENATORS
TO THE SENATE BUSINESS COMMITTEE

The Speaker (Hon. Kingi): Hon. Senators, as regards to the business before the House this afternoon, the Senate will consider the names of the Senators to serve in the Senate Business Committee (SBC). The Committee is charged with the responsibility of

—
(1) Preparing and if necessary, adjust the Senate Calendar with approval of the Senate.

(2) Monitoring and overseeing the implementation of Senate Business and programs including the legislative programs.

(3) Implementation of the Standing Orders respecting the scheduling or programming of the business of the Senate and the functioning of its' Committees.

(4) Taking decisions and issuing directives and guidelines to prioritize or postpone any business of the Senate in consultation with the Speaker.

(5) Considering such matters, as may from time to time arise, in connection with the Business of the Senate, and shall have and perform such powers and functions as are conferred on and ascribed to it by the Standing Orders or by the Senate.

Standing Order No. 199(2), on the approval of nomination of Senators to serve in the Select Committees provides as follows: -

“Whenever Motion for approval of list under Paragraph one is moved in the Senate, no objection against the proposed membership of a Senator in a Select Committee shall be permitted, and objections if any, shall be formulated against the proposed membership as a whole.”

The import of this Standing Order is that amendments to the Motion appearing at Order No. 8, in today's Order Paper, to omit the name of a Senator or replace the name of a Senator with another are not permitted.

I thank you.

Next Order, please.

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

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

POINT OF ORDER

DESIGNATION OF THE MAJORITY PARTY/COALITION IN THE SENATE
IN LINE WITH ARTICLE 98(1) OF THE CONSTITUTION, THE
ELECTIONS ACT AND THE POLITICAL PARTIES ACT

Sen. (Prof.) Tom Ojienda, SC: Mr. Speaker, Sir, my point of order emerges from a reading of Standing Orders No. 22 and 23. The point of order relates to your direction and communication of the Majority and the Minority party.

(Loud consultations)

I wish to be heard on this point.

Mr. Speaker, Sir, the standing numbers in Senate is as follows; Azimio Coalition elected Members are 22, 10 nominated Members, totaling to 32 Members. Kenya Kwanza Coalition Party, has 24 elected Members and 10 nominated Members. The totals are therefore, 32 Against 34.

However, one Member of Senate, the Member representing Bungoma County, is now the Speaker of the National Assembly. That brings the number to 33 against 32.

Further, we are all aware that two Senators from this House, Sen. Murkomen, has been nominated to serve as the Minister for Roads, Transport and Public Works. Congratulations to him. Another Senator, Sen. Roselinda Soipan Tuya, has been nominated to serve in the Ministry of Lands and Environment.

Mr. Speaker, Sir, the net effect of these nominations is that we are going to have an aggregate of 32 Senators for Azimio Coalition and 31 Senators for Kenya Kwanza Coalition. That will make Azimio Coalition, in line with Section two of the Political Parties Act, the Majority Party.

Mr. Speaker, Sir, I am aware that under Article 98(1) of the Constitution, this House and the Speaker are enjoined to only direct a majority from the party with the majority number of Members in this House.

Mr. Speaker, Sir, I am aware that both Sen. Murkomen and Sen. Roselinda Soipan Tuya, would have to resign as Senators before being appointed as Cabinet Secretaries (CSs). It would take a period ordained by the Constitution for a by-election to be held in Elgeyo Marakwet County to replace Sen. Murkomen. It would also take the same 14 days to replace Sen. Roselinda Soipan Tuya.

We are then going to face a problem of a Minority in the House being designated as a Majority. This is because the Azimio Coalition will have a majority in the House and the Kenya Kwanza Coalition will be a minority in the House.

Of course, the outcome of the elections in Bungoma County may tilt in favour of Azimio Coalition and add the numbers. This is a serious legal issue that you may have rushed to designate a Minority as a Majority. It may be premature but is an important point.

The situation that we have now is comparative to the experience of the 83rd Senate of the United States (US) Congress, which served in 1953 to 1955. This Congress had 47 Senators for the Democrats and 48 for the Republicans. The Senate had one Independent Member, as we have in this House, Sen. Okiya Omtatah. The submission before that House then, which is the one I am making here, is that the Senate got into a power sharing arrangement which was applied to Committees.

As in this case---

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

I wish the Clerk could give me time so that the Speaker could hear me.

(Sen. Cherarkey spoke off record)

Sen. Cherarkey, give me time. I am on a point of order. As in this case, the membership is as close. The House should create a balance in the leadership of the House. Where the membership is 31 to 32, then this House will have to come up with an ingenious method---

The Speaker (Hon. Kingi): Senator, I have been listening and I want to get your point of order. What is your point of order?

Sen. (Prof.) Tom Ojienda, SC: Mr. Speaker, Sir, my point of order is that it is premature to designate Kenya Kwanza as the Majority Party. It is also premature to designate Azimio as the Minority Party. This stems from a reading of the Constitution, the Standing Orders and the Elections Act.

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

Sen. Cheruiyot: Mr. Speaker, Sir, I did not want to interrupt my colleague when he was speaking, much as what he is canvassing does not pass for a point of order.

I did not want to interrupt him because this is a learning curve for many of our new colleagues. It behooves us that we indulge them even in difficult times when they try to raise things that, in my estimation, are rumours before this House. This House discusses facts and matters that are properly placed before it.

I have been in this Chamber since you walked in at 2.30 p.m. and I listened to your Communication. I did not hear any communication informing us that any Member of this House has been nominated to the Cabinet.

Mr. Speaker, Sir, by practice, we do not discuss news articles, newspaper cuttings, stories on *Facebook* and *tweets*. The distinguished Senator is indulging you in a discussion of rumours. It is not proper for you to give him any hearing beyond what you have already granted. This matter should rest.

While at it, one of the things that I wish to remind him; as per our count as Kenya Kwanza, this coalition has 36 Senators. For Azimio, first of all we are not sure whether there is a coalition party called Azimio. I know of Orange Democratic Movement (ODM), Wiper Democratic Movement and other parties. However, Azimio, the coalition Party, has no Senator in this House.

Secondly, as per our count, they have only 29 Senators. Then we have an Independent Senator; a non-aligned Senator. That is Sen. Okiya Omtatah. Therefore, even if you were to do what is commonly referred to in this country as the “Cherera Mathematics”, there is no single imagination upon which Azimio can be the majority in this House. I wish to request that this matter be laid to rest.

Mr. Speaker, Sir, please do not engage in any discussion based on rumours, until such a time as the distinguished Member brings something substantive. Otherwise, I would have requested that his long prose be struck off from the deliberations of the House. However, given that this is a new Member trying to learn his ways, let it remain on record. Nonetheless, do not indulge him any further.

(Laughter)

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

Sen. Olekina: Thank you, Mr. Speaker, Sir. It is interesting for the Minority or Majority Leader – because we are not so sure at this point – but following your own declaration, it is quite ridiculous for the Majority Leader to purport that the President of this Republic is a rumour monger. It is in the public domain that the President of this Republic, who is his Party Leader, nominated two Senators from this House to serve in his Cabinet.

The point of order raised by the distinguished Senator from Kisumu County is in order. The issue is whether to deal with it now or you give us guidance on what will come tomorrow. We have not heard the two Senators responding to the presidential nomination. If they accept and resign tomorrow and you give us a communication, what will become of the two sides of the aisle?

(Loud consultations)

Mr. Speaker, Sir, I am on a point of order. The consequences of this are far reaching because we have issues of Committee leadership. The point of order raised by the distinguished Senator from Kisumu County is valid. It would be proper for you to guide this House on how we will deal with that issue when the time comes.

It is true that at the moment, we have not received a communication from you that the two distinguished Senators have accepted the President's nomination.

However, it is wrong. I know we all subscribe to the principle of separation of powers. It is wrong for the 'Senate Majority Leader' to purport that his Party Leader, the President of this Republic, is a rumor monger.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. With utmost respect for the House and Sen. (Prof.) Tom Ojienda, the Point of Order that he has raised only exists in merit in his imagination or in the streets of rumors, social media and all manner of virtual streets. He has spoken on two points; your ruling and the Communication where you directed the House.

From this day going forward, if Sen. (Prof.) Tom Ojienda wants to raise a matter and challenge it on the Floor, he has to do so when the matter is alive. I expected him to rise on that point of order when the Speaker gave that directive, guided the House and sat down; before the new Order was read. The second issue that the Hon. Member has raised, which has got merit, is the actual numbers in the House. We all know that it is 36 against 39.

(Members spoke off record)

You are free to do your communication but that---

(Sen. Wambua spoke off record)

Mr. Speaker, Sir, kindly protect me from Sen. Wambua.

The Speaker (Hon. Kingi): Hon. Senators, kindly let us listen to Sen. (Dr.) Khalwale in silence.

Sen. (Dr.) Khalwale: Be patient Sen. (Prof.) Tom Ojienda, you will have your chance.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, kindly address the Chairperson and not the individuals.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I apologize for addressing them directly. I thought I could help them through eye contact.

On the issue of numbers; why are they running ahead of themselves? In this House, we have the principle of anticipation of debate. They can wait until such a time when you have to make a ruling on such a point of order which can only happen when the Senator of Elgeyo Marakwet ceases being a Senator. He is still the Senator today. They will be free to seek your guidance the moment Sen. Soipan ceases being a Senator.

On the principle of anticipation of debate, I request that you rule him out of order and we proceed. However, invite him at the right time to bring the matter forward. Knowing your background, I am sure that you will rule on the issue at that time.

(Laughter)

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

Sen. Wambua: Thank you, Mr. Speaker, Sir. Sen. Cheruiyot was doing so well until he introduced rumors in his speech. Sen. (Dr.) Khalwale was also doing well until he got it completely wrong on the issue of numbers. He gave us 36 against 39 which adds to 75. We do not have that kind of number in this House.

I am standing because this is a House of record. We shall be guided in our deliberations by the Constitution of the Republic of Kenya, the Standing Orders and traditions. Standing Order No.101(4) is very clear. It states that no Senator can impute improper motives on a colleague while contributing to any matter on the Floor of the House.

Sen. Cheruiyot was doing well until he said that our colleague, Sen. (Prof.) Tom Ojienda, is trading in rumors on the Floor of the Senate. We do not trade in rumors in this House unless Sen. Cheruiyot wants to confirm that all that was announced by the President of the Republic of Kenya on the nomination of Cabinet Secretaries (CS) was rumors and a phantom.

If that is not the case, I request that Sen. Cheruiyot withdraws the statement from his speech and we continue with the debate. I thank you.

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

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I have tremendous respect for my conveyancing law lecturer, Sen. (Prof.) Tom Ojienda, but it is embarrassing that he is engaging in rumor mongering. There are two issues---

(Laughter)

(Several Senators shouted across the aisle)

You are not in Oloitokitok my friend; can you behave like you are in the House? Mr. Speaker, Sir protect me from these hecklers. I want to make two comments---

(Several Members consulted loudly)

The Speaker (Hon. Kingi): Order! Hon. Members, Sen. Cherargei is on a point of order. Allow him to conclude then you will be given an opportunity.

(Several Members consulted loudly)

The Senator is on a point of order.

Sen. Cherarkey: Kindly relax. Mr. Speaker, Sir, there are two things I want to mention. First, we are engaging in speculations. As we are aware, the Independent Electoral Boundaries Commission (IEBC) does not have resignation letters of the two Senators. It would have been easier if that communication had been effected before you. The Standing Orders of the Senate also provides the procedure on how the Minority and Majority can be achieved.

Sen. (Prof.) Tom Ojienda talked about *Azimio* Coalition Political Party yet we do not have such a coalition party. That point of order is misplaced because that party does not exist on the Floor of the House. I want to remind my colleagues that Section 3 of the Political Parties that we amended is clearly states that a coalition political party is a party. By the time he is bringing *Azimio* Coalition Political Party---

(Several Members consulted loudly)

Mr. Speaker, Sir, kindly protect me from these gentlemen. I expected Sen. Wambua to behave with decorum because he is now a leader in this House.

I do not want us to belabor this point. We are engaging in a wild goose chase. The numbers we have here, as *Kenya Kwanza*, are crystal clear; 36 against 29. We do not need to engage in other issues. I know that there is a hangover of the Handshake Government.

(Laughter)

Last time when we had chaos in leadership, there were people who benefitted by being the chairmen of the majority side yet they were in the minority side. I want to ask my colleagues in the minority side not to bring the Handshake Government hangover arrangement that was with Hon. Uhuru Kenyatta and Rt. Hon. Raila Odinga before the House. I thank you.

The Speaker (Hon. Kingi): Hon. Senators, the submissions by Sen. (Prof.) Tom Ojienda were very powerful yet inappropriate at this time. I have not received any notification from any Senator that they have resigned. As we sit here no Senator has passed on or resigned.

The resignation of Hon. Wetangula did not tilt the balance. Therefore, my communication was right. In fact, the *Azimio* Coalition confirmed through a letter that they are the minority.

The names that I have read out actually came from the Azimio Coalition, indeed confirming that they are playing the role of the minority side in the Senate. For the Azimio Coalition to write that letter confirming that they are the minority in the Senate, they cannot then purport to turn around and start raising points of order that we are being entertained to.

That being the case, the Communication as read by the Chair regarding who are the minority and the majority reflects the position.

Let us go to the next Order.

PAPER LAID

THE PRESIDENT'S ADDRESS ON THE OPENING OF THE 13TH PARLIAMENT

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Tuesday, 4th October, 2022. This is the President's Address on the opening of the 13th Parliament delivered on Thursday, 29th September, 2022, during a Joint Sitting of the Parliament.

(Sen. Cheruiyot laid document on the Table)

The Speaker (Hon. Kingi): Let us go to the next Order.

NOTICE OF MOTION

APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to give notice of the following Motion-

THAT, pursuant to Standing Order 190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee---

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, let us have some order please. Sen. (Dr.) Khalwale, please proceed.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I was giving notice of the following Motion-

THAT, pursuant to Standing Orders 190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who pursuant to Standing Order No.190(1), shall be the Chairperson of the Committee, the

Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip: -

1. Sen. Roba Ali Ibrahim, MP – Member
 2. Sen. Veronica Waheti Nduati, MP – Member
 3. Sen. Wakili Hillary Kiprotich Sigei, MP – Member
 4. Sen. Maureen Tabitha Mutinda, MP – Member
 5. Sen. (Prof.) Margaret Kamar, EGH, MP – Member
 6. Sen. Mwinyihaji Faki, MP – Member
 7. Sen. Ledama Olekina, MP – Member
- I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Let us go to the next Order.

MOTION

APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to move the following Motion- THAT, pursuant to Standing Orders 190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who pursuant to Standing Order No.190(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip -

1. Sen. Roba Ali Ibrahim, MP – Member
2. Sen. Veronica Waheti Nduati, MP – Member
3. Sen. Wakili Hillary Kiprotich Sigei, MP – Member
4. Sen. Maureen Tabitha Mutinda, MP – Member
5. Sen. (Prof.) Margaret Kamar, EGH, MP – Member
6. Sen. Mwinyihaji Faki, MP – Member
7. Sen. Ledama Olekina, MP – Member

Mr. Speaker, Sir, this is a Procedural Motion without which this House cannot begin its business. I therefore have no doubt in my heart that the Opposition will join the Majority in support of this Motion.

Mr. Speaker, Sir, being that clear---

(Loud consultations)

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, can you conclude moving the Motion?

(An hon. Senator spoke off record)

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, protect me because I want to concentrate.

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, the reason we are called honourable people is because we are expected to act honourably. You do not need to shout because we have the technology. If you look in front of where you are seated, there is a gadget which you should press if you have any intervention.

I will only pick out the ones who have interventions and have done so using the technology. Shouting will not in any way get my attention.

Sen. (Dr.) Khalwale, you may proceed.

Sen. (Dr.) Khalwale: Mr. Speaker Sir, in conclusion, I was just confirming that this Motion is for the benefit of the entire House. Therefore, I have no doubt that the Minority and the Majority will agree on it.

For that reason, I beg to move the Motion and request Sen. Madzayo to second.

Sen. Madzayo: Bw. Spika, asante sana. Kitu cha kwanza umesema ya kwamba lazima mtu abonyeze kidole ili uweze kuona katika kile kioo chako ulicho nacho hapo mbele. Utaweza kuona ni nani amefinya kibonyezo cha hoja ya nidhamu.

Bw. Spika, katika Bunge hili, ni kawaida ya kwamba upande ya walio wachache na walio wengi, mtu yeyote anaweza kubonyeza kidole. Lakini, kwa mara ya kwanza, ninaona ya kwamba huyu ndugu yangu Sen. Olekina alikuwa amebonyeza kidole cha komputa lakini pengine wewe umeona ama pengine umefinya jicho lako moja hukuweza kuiona.

(Laughter)

Nasema vile ilivyo. Hiki ni Kiswahili. Umefinya jicho lako moja hukuweza kuona ndio sababu ukakosa kumtaja. Lakini nadhani kwamba ikiwa hoja ya nidhamu iko upande hii au upande ule---

The Speaker (Hon. Kingi): The hon. Senator for Kilifi, are you therefore trying to impute improper motive on the part of Speaker?

Sen. Madzayo: Bw. Spika, siwezi kufanya hivyo. Siwezi kufanya namna hivyo wala kusema kitu kama hicho lakini najua binadamu sio kamili. Pengine umepitiliwa na hukuona kama alikuwa amefinya hicho kidole. Sina shida na yale aliyotamka ndugu yangu Sen. Khalwale.

Asante Bw. Spika.

The Speaker (Hon. Kingi): The Senator for Kilifi County, you left your statement hanging. We are not sure whether you are supporting, seconding the Motion or not.

Sen. Madzayo: Bw. Spika, naunga mkono.

(Question proposed)

The Speaker (Hon. Kingi): I will allow Senators to make their contributions before we move on.

Sen. Cheptumo for Baringo County, you may have the Floor.

Sen. Cheptumo: Thank you, Mr. Speaker Sir. I support this Motion. We know the role of this very important Committee. If you look at the membership of this Committee, they are Members that we know their capacity. We know this House is going to deal with very many serious matters which are going to impact positively on our country.

Mr. Speaker Sir, the House Business Committee of the Senate is a very important Committee. We applied Standing Orders 190 and 199. Apart from these Members, there are those in the House leadership who are also going to be part of this Committee. It is a procedural Motion. We may not have much to say about this Motion because we know these Members.

My appeal to the Members is that they give you the support as the Chairperson of the House. As a House, having discussed a lot during our induction, we realized that this House is actually the upper House.

Mr. Speaker Sir, as you guide the House together with this very able men and women of this Committee, I have no doubt in my mind that you are going to be guided well and you are going to move and be able to demonstrate to the country that this is indeed the upper House.

Mr. Speaker Sir, I support the list of Senators proposed to this Committee.

Sen. (Dr.) Oburu: Thank you, Mr. Speaker Sir, for the opportunity. Since my leader has already supported the Motion, I am also standing to support the Motion.

However, I would like to just express a concern on one of the Members who has been proposed to the Committee, Sen. Ali Roba. Sen. Ali Roba is a member of the Azimio Coalition. He knows he signed the coalition agreement which only expires three months after the inauguration of Parliament. His Excellency the President has said that he does not need us in the ruling party; that he needs us in the opposition so that we can oversight the Government. Why is he accepting people from the opposition joining him? Is it only Raila with whom he does not want a handshake?

The Speaker (Hon. Kingi): Hon. Senator---

Sen. (Dr.) Oburu: It should mean everyone including Sen. Ali Roba.

The Speaker (Hon. Kingi): Sen. (Dr.) Oburu Odinga!

Sen. (Dr.) Oburu: Thank you Mr. Speaker Sir, I beg to support.

(Laughter)

The Speaker (Hon. Kingi): Sen. (Dr.) Oburu, at some point I thought you are opposing.

Sen. Gloria you may have the Floor.

Sen. Orwoba: Thank you, Mr. Speaker Sir, for giving me this opportunity. I support the Motion and urge the Members of the House Business Committee to understand that this Senate is made up of young, energetic Senators, who have already put in a lot of work even before we open the House and we have Bills.

We hope that it is not going to be a matter of trying to find out what is the fastest way to get your Bill on the Order Paper. I would like to urge Senators that I hope this time around in this Senate it will not be about trying to push your Bill to be sponsored by

a political party in order for it to move faster. I am appealing to the Members to note that we are young, energetic and we have a lot of Bills to pass in five years if they can assist us.

I support the Motion.

Sen. Maanzo: Thank you, Mr. Speaker Sir, for giving me an opportunity to contribute on this very important Motion.

Mr. Speaker, sir, the work of the Senate Business Committee is to set the pace and business of this House.

Mr. Speaker, sir, what has been happening over the years is that Bills that originate from this House take five years in the National Assembly and never become law. However, there have been efforts to amend the Standing Orders to quicken such business or to find a way of it being inherited.

I urge the new set Senate Business Committee to put commitment so that the Bills we move in this House can see the light of day at the earliest time possible so that when they go to the National Assembly, they become law and be useful to the Nation.

I thank you, Mr. Speaker, Sir.

I support.

POINT OF ORDER

COMPOSITION OF THE SBC PURSUANT TO STANDING ORDER NO. 190

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

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

Sen. Omogeni: Mr. Speaker, Sir, I am rising on a point of order under Standing Order No. 190 which refers to the composition of the Senate Business Committee.

Mr. Speaker, Sir, there is an issue I want you to deal with as a preliminary before I am able to either support or oppose this Motion.

The composition of the Senate Business Committee other than the leadership, should have seven other Senators that should reflect the relative majorities of the seats held by each of the parliamentary parties in the Senate.

The name of Sen. Ali Roba has been read but listening to the Motion as prosecuted on the Floor, I am unable to know whether he has been picked by the majority or the minority side.

This point is important because when we were picking this membership, it should reflect the way the numbers are constituted in this House. To the best of my knowledge, Sen. Ali Roba is a Member of the *Azimio* Coalition.

(Applause)

Mr. Speaker, Sir, from the onset, it is important since this is a House of record. I know that Sen. Ali Roba is also a Muslim and he reads the Koran. We want to transact business in this House in a very honest manner. So, before we proceed, we need it to be

on record, whether Sen. Ali Roba has been nominated by the majority or by the minority side.

I was in this House when we enacted the amendment to The Political Parties Act. The law as it stands today says that if the Speaker is in doubt as to which side a Member belongs in any coalition or a political party, we can seek communication from the registrar of political parties.

So that this matter is put to rest to finality and we transact business while respecting the Constitution, our laws and our Standing Orders, we need to know which side has nominated Sen. Ali Roba.

Mr. Speaker, Sir, additionally, for the record, not just for today, we need to know which side United Democratic Movement(UDM) and the Senators elected on that party belong to in this House.

As I have said, Mr. Speaker, Sir, if you are in doubt, a communication should be sent to the registrar of political parties to communicate to the House so that we know.

So, before we proceed further, I am seeking your direction. We need that issue to be disposed of as a preliminary matter before we proceed to approve the names as read on the Floor.

I thank you.

(Loud consultations)

Sen Omogeni: Mr. Speaker, Sir, I rose on a Point of Order.

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

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

Sen. Murkomen: Mr. Speaker, Sir, thank you very much. I was ready to make my contribution to the main Motion but in response to the point of order raised by Senior Counsel, Sen. Omogeni, allow me to re-read Standing Order No.190 for him to appreciate and distinguish the argument that he is making from what the Standing Order itself expects.

Standing Order No. 190(1)(f), says that-

“Seven other Senators reflecting the relative majorities of the seats held by each of the parliamentary parties in the Senate which shall be nominated by the parliamentary parties and approved by the Senate at the commencement of every session.”

First, before we discuss on the merits, if this issue will lead our colleague to oppose the name of Sen. Ali Roba as a Member of this Committee, then you need to guide the House whether this argument should be subsumed to the arguments of opposing his name or we should separate this debate now.

I believe if we were to go to that direction, it will be a major debate requiring contribution on both sides of the House. If I can frame the debate, it would be whether UDM is a member of the majority or minority side, whether in the first place, it is a parliamentary party or whether *Azimio* exists as a parliamentary party.

So, if we were to go to that direction, it will take us completely away from the conversation on the approval or disapproval of the names.

I am just giving my contribution for the sake of your consideration. We can either continue with the debate on the point of order which then each one of us will make

contribution on the substance of that point of order or subsume this debate on the approval of the names and therefore, applied by Members in determining whether or not they want to support Sen. Ali Roba.

(Loud Consultations)

Mr. Speaker, Sir, I am on a point of order, please give me a few minutes.

The Speaker (Hon. Kingi): Hon. Senators, Sen. Murkomen is on a point of order.

Hon. Senators: Point of Order! Point of Information!

Sen. Murkomen: Thank you, Mr. Speaker, Sir. You cannot have a point of order on a point of order.

Shortly, I will be willing to be informed by the Senator after I have made my point.

The Speaker (Hon. Kingi): Sen. Murkomen please address the Chair not---

Sen. Murkomen: Thank you, Mr. Speaker, Sir. I will be willing to be informed but not before I make this point. We had this debate in this Chamber in the presence of Sen. Wambua and Sen. Olekina. We had a lengthy debate on whether to form a coalition political party that the then minority side did not want to entertain.

I want Sen. Omogeni to go back, if given a chance, to inform this House on what basis he is objecting Sen. Ali Roba's membership on the majority side. Is it because Sen. Ali Roba---

Mr. Speaker, Sir, is it because Sen. Ali Roba belongs to a coalition with Sen. Omogeni's party called Orange Democratic Movement (ODM). What coalition is that? I belaboured this point here and I said some people would come back here crying.

The next question you ask yourself is that there is no single Member here elected on Azimio Coalition Party. When we passed this legislation in this Chamber, we were told that we wanted to create a new entity - which most of us opposed then - that was going to be called Azimio Coalition Party.

That party would be a standalone party to compete with ODM, Wiper, United Democratic Alliance (UDA), Pan African Alliance (PAA) and United Democratic Movement (UDM).

So, when a Member comes to this Chamber to say that Sen. Ali Roba is a Member of a Parliamentary Party---. I assume the argument being made here is that he is a Member of a Parliamentary Party whose majority should be reflected according to Article 190(f) on the side he is going to seek.

Mr. Speaker, Sir, I argue that, one; for this purpose, Sen. Ali Roba does not belong to any other party except UDM. Senator Ali Roba and UDM do not belong to any coalition of parties to warrant a debate as to which side they should belong.

. However, rightfully and to the best of my knowledge, there is a post-election coalition agreement signed by UDM to be part and parcel of the Kenya Kwanza Coalition. The Senate Majority Leader, Sen. Cheruiyot will inform this House accordingly. Kenya Kwanza composes of this side of the Coalition. Sen. Ali Roba does not belong to any other Coalition and by right, sits on this side.

Mr. Speaker, Sir, if you rule that this House should now debate on this point of order, I urge you to dismiss it with the contempt it deserves. This is because the argument is based on error of law, on the presumption that there exists any Member of this House of a party called Azimio Coalition Political Party. There is none! In any case, the Azimio Coalition Political Party exists in the register of political parties, but it did not get any elected Member to this Chamber. It does not have any elected Member.

I am willing to listen to arguments from ODM, Wiper, UDM, UDA and other political parties - including the Democratic Party - represented in this House but not about an entity that does not exist and is not represented in this House.

Mr. Speaker, Sir, I beg to submit.

The Speaker (Hon. Kingi): Sen. Sifuna, what is your point about?

Sen. Sifuna: My senior, Sen. Murkomen, likes to tell us that we are new people. We may be new in this Senate but we are not new to reading. It is very straightforward here. Perhaps, when you began with your communication on leadership, you started by telling us who wrote you what letter.

All that Senior Counsel Sen. Omogeni is saying is, even in the communication on the Membership of this Committee, could you please as the Chairperson tell us that a letter was received from X coalition listing the following Members as its nominees in the language of Standing Order 190?

Mr. Speaker, Sir, that is all we are asking.

Secondly, “the custodian of all agreements”, Sen. Murkomen cannot come here to tell the House who is in which coalition and who is not. I happen to be not just the Senator of Nairobi City County but also the Secretary General of ODM.

Sen. Murkomen, I know what we signed. We are the authority on the coalition documents that we signed. Without any fear of contradiction, I can say that I know all the Secretary Generals of all the political parties who signed onto the Azimio Coalition.

Mr. Speaker, Sir, in your own decision on the question of the leadership, you have recognised an entity called Azimio that wrote to you and set the leadership of the House. You said that that is the Minority coalition. You have already decided.

So, could the Chairperson please tell us who nominated Sen. Ali Roba? Is it the Minority side? Is it under the same hand that nominated my colleague sitting in the front row or did it come from some other political entity?

Lastly, if there is a question as to which political party belongs where, the authority is certainly neither Sen. Murkomen nor you. It is the registrar of political parties who is the custodian of all the agreements including the ones that Sen. Murkomen wants to purport to have been signed between UDM and UDA.

Mr. Speaker, Sir, we are at the beginning of this House. We must have some sanctity and respect for the marriages people enter into. If we continue not respecting institutions, the next thing you will hear is that peoples’ wives are being taken left right and centre.

(Loud consultations)

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

Sen. Thang'wa: Thank you Mr. Speaker, Sir. I rise on a point of order in regards to what Hon. Senators are discussing. I remember before we started this Motion, you had indicated that pursuant to Standing Order 199, we should not at any time discuss any Senator who has been nominated to be on that list but the whole list in totality.

Mr. Speaker, Sir, if I want to take the Hon. Senator back to Standing Order 190(1)(f), it talks about seven other Senators reflecting the relative majorities of the six held by each of the Parliamentary Parties in the Senate.

Mr. Speaker, Sir, even if you remove Sen. Ali Roba, it remains half-half. So, I urge you to disregard that point of order that has been raised against one Sen. Ali Roba because, of course, it is touching on a Motion that has being brought before us. In that Motion, we have been prohibited from discussing a single Senator.

The Speaker (Hon. Kingi): Sen. M. Kajwang', please proceed.

Sen. M. Kajwang': Mr. Speaker, Sir, I agree with the Senator of Kiambu County and his interpretation of Standing Order 199(2), that the conversation about Sen. Ali Roba as an individual should be declared out of order.

However, the conversation should be about the principle in Standing Order 190(1)(f). The principle, not the person. I believe that is what my colleagues on this side have been trying to canvass.

Mr. Speaker, Sir, if I was to rise or to debate on this Motion, I will strongly oppose it. Not because of the Members that have been listed there but because of the principle.

Sen. Murkomen has been very articulate on the issue of Parliamentary Party but he has forgotten to read Standing Order No.2 two which is entitled Interpretation and defines what a Parliamentary Party is and says it is a party or a coalition of parties consisting of not less than 10 Senators.

Even if you are to discuss a party, there are only two parties that qualify to be Parliamentary Parties in this House. Even if you are talking about coalitions, there are only two coalitions that qualify to be parliamentary parties in this House.

Mr. Speaker, Sir, the principle is this: There is no way a Member of the Azimio Coalition can be appointed by the other coalition. Even if that were the case, then you will have contradicted your earlier ruling by saying that the Kenya Kwanza side is the Majority. The principle in Article 191(f) talks of seven Senators that reflect the strength of parties in the House. The minute you have four out of seven Senators coming from Azimio, you are saying Azimio is the Majority.

To cure this debate--- and I want to encourage the Leader of Majority; my good friend Sen. Cheruiyot, either there is mischief or there is some laziness in crafting of this Motion. Either mischief to rub it in our face that even though Sen. Ali Roba has filed for decree, he has not been given decree absolute. He is still our wife and they are walking with him in parties, weddings, event and factions. That is bigamy. Bigamy is an offence under the law, punishable by five years in prison.

Even if he has filed papers, perhaps he has decree nisi. Wait for decree absolute. That is why I am saying that it could that mischief that Sen. Cheruiyot wants to show us that our wife has left us. However, our wife has not been discharged.

(Laughter)

Mr. Speaker, Sir, I really urge that we go back, redraft this Motion and put names that are not controversial. I have no personal problems with Sen. Ali Roba. He is a fine gentleman but putting him on this list, means you are admitting that Azimio is the Majority in this House.

Going by the principle in Article 191(f), if the Motion goes the way it goes, then this side is the Majority of the House.

The Speaker (Hon. Kingi): Sen. Methu, you have the Floor

Sen. Methu: Thank you, Mr. Speaker, Sir. First and foremost, I wish to state that we are now engaged in a debate of not appreciating the times we are living in. They want to force a marriage that is already broken.

(Loud consultation)

You have to listen to me, my colleagues.

Mr. Speaker, Sir, the Senator in question; Sen. Ali Roba, is in this House. He is the Party Leader of the Party in question. The Constitution has given him the freedom of choice of where he wants to belong.

That notwithstanding, we also find ourselves in a situation where a person stands here and tells us that he is the Secretary General of a Party and that he signed whatever document that he signed. However, at the tail end of his speech, he wants you to tell him what the coalition has written or what their coalition has brought as Members. Sen. Ali Roba wants you to say whether he has been brought by the ruling coalition or by the other coalition.

I submit that Sen. Omogeni brought a good point of order which is straight forward. The Majority Party has brought in Sen. Ali Roba and he will be in that Committee. As my colleague has also mentioned, we are not discussing Sen. Ali Roba as a person because in Article 191(2), we cannot single him out of the list of seven. So, we shall have him. When we come to contribute to the substantive Motion, we will be here to support the Motion. However, on the face of it, our colleagues on the Minority side are wrong to insinuate – by whatever means – that Sen. Ali Roba is from this Coalition.

The Speaker (Hon. Kingi): Sen. Ali Roba, please, proceed.

(Loud consultations)

Hon. Senators, I might even give you ten more chances.

Sen. Ali Roba: Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Let us not blow hot and cold at the same time. At one point, Sen. Ali Roba is being claimed on this side. At another point, he is being pushed by the very same side to the other side. Let us be consistent and not blow hot and cold at the same time.

Sen. Ali Roba, please, proceed

Sen. Ali Roba: Thank you, Mr. Speaker, Sir. First and foremost, I sincerely appreciate the admiration shown by my colleagues from the other side.

I stand to clarify a few issues. A few Senators, including Sen. M. Kajwang', have made derogatory statements referring to Sen. Ali Roba as a wife or something similar to that.

(Loud consultations)

Mr. Speaker, Sir, there are professional references that can be made in regards to agreements signed with any individual. I would like Hon. Members to make such references even when they make arguments.

Now, I stand in my position of authority as the Party Leader of the United Democratic Movement (UDM). For purposes of clarity, we do not have anything on record in our file in UDM, as a purported agreement between Azimio and us. However, we have a post-election agreement between Kenya Kwanza and us, which has been publicly executed with every clause and detail known. We have also deposited the same with the Registrar.

In as far as any purported agreement between UDM and Azimio is concerned, I want to put something on record. Constitutional Petition No.E041 of 2022, is in court for purposes of clarity. A letter dated 9th September, 2022 written to the Secretary General of Azimio, clearly states that the Registrar of Political Parties has refused to make any commitment to that effect.

As far as I am concerned, using the principles of free association, it is about willing buyer, willing seller. You do not have to claim Sen. Abbas, Sen. Mariam Omar or I, as belonging to you. We have refused and moved on. Get used to it, we will settle that matter.

(Laughter)

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

Sen. Faki: Asante, Bw. Spika kwa kunipa fursa ya kuchangia katika swala hili la hoja ya nidhamu.

Katika nchi yetu ya Kenya, tumebahatika kuwa na sheria tofauti ambazo zinahusiana na ndoa. Tunaweza kulinganisha maswala yanayomkumba Sen. Ali Roba na wenzake hivi sasa, na ndoa katika jamii. Ndoa ya Kiislamu inampa fursa mwanamume kuoa wake zaidi ya mmoja. Unaweza kuoa hata mpaka wa nne. Lakini ndoa ambayo hufungwa kwa Msajili wa Ndoa, huwa ni mke mmoja na mume mmoja.

Mkataba uliofanyika chini ya sheria ya *Political Parties*, ambao tuliufanyia marekebisho Januari mwaka huu, hapa katika Bunge hili la Seneti, hairuhusu chama kuwa katika *coalition* mbili wakati mmoja.

Sen. Ali Roba amesema hapa kwamba, tayari wameshapeleka kesi mahakamani kuomba mkataba uvunjwe. Ushaskia hayo? Wako mahakamani wakitaka mkataba wao na *Azimio-One Kenya Coalition Party* ubatilishwe. Kabla ya hayo kuamuliwa, bado wao wako katika *Azimio-One Kenya Coalition Party*. Sisi tunakuhesabu kama mwana *Azimio-One Kenya Coalition Party*.

(Laughter)

Bw. Spika, hata Rais wa *hustlers* amesema kwamba ataiendesha nchi kwa sheria na Katiba. Tayari wameshaanza kuikiuka Katiba. Hapa katika Bunge hili, tunaruhusu watu wanajisi Katiba. Hiyo siyo sawa. Usawa ni kwamba, ikiwa Sen. Ali Roba na chama chake wamekosana na *Orange Democratic Movement (ODM)*, wakae pale walipo mpaka Mahakama au *Registrar of Political Parties* waseme kwamba hawako tena pamoja.

Talaka likishapita, hakutakuwa tena na mazungumzo. Sisi pia katika ODM tutuaona kuwa hamna haja ya kuwa na bibi ambaye hataki hiyo uhusiano. Sisi pia kama *Azimio-One Kenya Coalition Party*, hatuna haja ya kuwa na mtu ambaye hana haja na sisi. Kwa sasa, hao bado ni wanachama wa *Azimio-One Kenya Coalition Party* na lazima wabaki ndani ya *Azimio-One Kenya Coalition Party* mpaka wakati utabatilishwa.

Bw. Spika, swali hili liliulizwa mapema na Sen. (Prof.) Tom Ojienda, SC. Swala hili lilipozungumziwa, tulilichukulia kama minongono. Sen. Cheruiyot ndiye Seneta mnongono.

(Laughter)

Bw. Spika, Sen. Cheruiyot alizungumza maswala ya *rumour mongering*. Swala lililokuwepo lilikuwa ni la kikatiba ambalo lazima litatuliwe kabla ya kusonga mbele. Swala hili litarejea pale. Tutazunguka mzunguko na hatutoki.

Sen. M. Kajwang' alipendekeza ya kwamba jina la Sen. Ali Roba liondolewa, kwa sasa, katika Kamati hilo mpaka wakati atakaposahihisha mambo yake ndipo arejee katika Kamati hilo.

Asante, Bw. Spika.

The Speaker (Hon. Kingi): Hon. Senators, nothing new has been brought up by the first four Senators who have tried to canvass this particular point of order. We are repeating the same thing. Therefore, hon. Senators, the Speaker does not manage political parties. Any senator can be nominated to serve in any Committee. It is up to the Senate to either reject or approve.

The consequences, if any, to a Senator nominated by another party is a matter of internal politics of that political party. Do not invite me to that arena. It is an arena that is preserved for the political parties and the Chair does not dance in that arena.

Let us move to the substantive Motion.

Proceed, Sen. Abass.

(Resumption on debate on Motion)

Sen. Abass: Mr. Speaker, Sir, thank you for giving me this opportunity. I can confirm and affirm to this House that the United Democratic Movement (UDM) is officially in *Kenya Kwanza* Coalition. I am a member of that coalition and we do not fear or owe favours to anybody. *Azimio-One Kenya Coalition Party* has failed to retain its own members. Therefore, *Kenya Kwanza* has moved on.

(Several Senators consulted loudly)

Mr. Speaker, Sir, kindly protect me.

I wish to resume with the debate on the substantive Motion. I support the Motion. The Senate Business Committee (SBC) is an important and crucial Committee and it does not serve any party interest. It serves the interest of the Senate. I, therefore, request our colleagues in the opposite side not to be partisan to any decision. Let us serve the interest of this House.

When we were in Naivasha, we heard that this House has a lot of pending issues such as Motions that were passed but did not go anywhere. We need to make a difference this time. We must, therefore, work as a team, despite our affiliations.

I support the Motion.

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

Sen. Nyamu: Thank you, Mr. Speaker, Sir, for giving me this opportunity.

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

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

Sen. Olekina: Mr. Speaker, Sir, Sen. Nyamu will have to forgive me for this ---

The Speaker (Hon. Kingi): Sen. Olekina---

Sen. Olekina: You have allowed my point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Absolutely and I reserve the right to recall it. Sen. Olekina, you are a senior seasoned Senator. Please note that Sen. Nyamu is making her maiden speech.

Proceed, Sen. Nyamu.

Sen. Nyamu Karen Njeri (Nominated Senator): Thank you, Mr. Speaker, Sir, for your intervention. I underscore the importance of this Committee and reiterate what the other Members have said. I observe that all women in this Committee happen to be Nominated Senators and with that, I support the Motion.

Thank you.

(Applause)

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir. I rise to oppose this Motion.

We are a House of rules, guided by the law and most importantly precedence. The practice that you set today with the first Committee that we are going to constitute will set the tone for everything.

I have it on good authority, from the leadership of the minority side, that in fact, the name of Sen. Ali Roba did not originate from them. We, therefore, do not want to begin on this particular note where the constitution of a basic Committee such as the Senate Business Committee does not follow our Standing Orders. What will we be told, as new Senators, about the Standing Orders, if we disregard them in the manner that we are doing?

Mr. Speaker, Sir, this is a simple exercise. Let us send this exercise back to the originators. Let the names of these Members be communicated in the same manner as how the leadership of this House was done.

I do not know why you are shy to disclose who wrote which names, just the same way the leadership of the House was done. It would have helped us, as a House, to determine whether or not we are proceeding in accordance with our own rules. I do not think we are in a rush. It is better to take time to do the right thing than to appear to be in a rush.

I can see Sen. Roba smiling because he is enjoying the fruits of infidelity, but we should not allow that to happen. Let us respect our own rules. Let us proceed on the basis of those rules, so that we set a precedent for this Senate as a House that respects its own rules.

Mr. Speaker, Sir, I oppose.

Sen. Murgor: Mr. Speaker, Sir, I rise to support the Motion, which is important, because it is about the business of this House.

Since we are anxious to proceed, we cannot continue beating around the bush. The Minority side wants to take us in circles, but that is water under the bridge. I think we should move on.

Sen. Wambua: Mr. Speaker, Sir, before I make my contribution to this Motion, I would like to say that we started very well. We constituted the leadership of the House and letters written to you were read.

Mr. Speaker, Sir, there is information I want to give, and I beg to be heard in silence. Before I do that, I would like to say that Sen. Ali Roba is a good friend of mine. However, he was elected on a United Democratic Movement (UDM) ticket, under the Azimio la Umoja-One Kenya Alliance.

The question that was asked by Sen. Omogeni was a matter of who exactly nominated---

(Loud consultations)

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

Sen. Wambua: Mr. Speaker, Sir, these Senators clouded this Motion. We should be allowed---

The Speaker (Hon. Kingi): Sen. Wambua, you should address the Chair.

Sen. Wambua: I am addressing you, Mr. Speaker, Sir. I am telling you that the Senators on the Majority side clouded this Motion.

The Speaker (Hon. Kingi): Sen. Wambua, we have given room for ventilation on that particular issue and a ruling was made by the Chair. We are now contributing to the main Motion. It is either you oppose or support.

Please, proceed, Sen. Wambua.

Sen. Wambua: Mr. Speaker, Sir, I will proceed this way. I would like to seek clarity and guidance from the Speaker on what we should do in this House when the Speaker makes a ruling that is considered unfair by a section of the House.

The Speaker (Hon. Kingi): Sen. Wambua, the ruling stands. Let us listen to Sen. Gataya.

Sen. Gataya: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I have looked at the composition of the entire membership of the Senate Business Committee

(SBC) and I am happy that this is a strong Committee for this House, including the disputed Member, Sen. Ali Roba.

I support the entire leadership. I am sure that this Committee will be the engine of the House business. As the Senator for Tharaka-Nithi, I strongly support the team, so that we can move with speed. They need to develop the Calendar and come up with the business of the House.

I support.

Sen. Dullo: Mr. Speaker, Sir, you have already given a ruling on this matter. I do not want to go against your ruling, but this is something that will set a precedent. Therefore, we should not gloss over it.

The Senator for Mandera said that he has already gone to court because he wants to withdraw from the Azimio la Umoja-One Kenya Alliance. Secondly, there are institutions that are mandated to clarify this matter.

Mr. Speaker, Sir, I agree with your ruling, but this is a House of rules and procedures and we are guided by the Standing Orders and the law. We must look into this. We should not gloss over it.

I thank you.

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

Sen. Murkomen: Finally, I get a chance to contribute to the Motion.

Mr. Speaker, Sir, I support this Motion. I have served as a Member of the SBC. I know the committee Members who have been chosen, except the ones identified by the Standing Orders, who will be serving for two to three months before the Committee is reconstituted in January or February when the session ends.

Those chosen by the House to serve in the SBC must demonstrate the requisite leadership skills that can enable them have another chance to be considered by the leadership to continue serving in the Committee after February.

The Committee is extremely important in scheduling the business of the Senate. I urge my colleagues who have had the privilege to serve in the Committee to take seriously the business that comes from Members, particularly Private Bills.

I also hope that the SBC will work with the secretariat, which is led by the Clerk and his team. They should assist especially Members of the Majority side, whom I have interacted with. Most of them are new, especially the nominated ones. They have come with new energy and vigor and are ready to bring Bills on issues they promised their constituents.

The necessary support should be accorded to them and their Bills should be prioritized and passed in this House, as we have done before. We must make sure that in the first quarter of next year, Members give an account of the number of Bills they would have passed. Finally, the SBC provides the leadership on the relationship between the Senate and the National Assembly.

I mentioned during our swearing in that there is goodwill by the Executive in so far as strengthening this House is concerned. It is not just strengthening by virtue of helping, but by also allowing this House to function as it should. The SBC should liaise with their counterparts in the National Assembly to harness this potential for closing ranks, especially on the functioning of Article 110 of the Constitution.

The SBC should prioritize the case before the Supreme Court. Instead of going through the long haul, we should sign a consent between us and the National Assembly. Sen. Omogeni will be our lead Counsel now that Sen. Orengo is no longer here.

We must quickly move as a team to sign a consent on this matter and allow the National Assembly and Senate to function. That consent should be followed by a Bill that will ensure that a legislation that was sponsored by Sen. Mutula Kilonzo Jnr. and Sen. Sakaja when they were here is made to function. It should be passed to ensure that both Houses work together.

I look forward to having this Senate achieve more than what the Second and Third Senate achieved.

When I came here, the late Sen. G.G Kariuki used to tell us, the younger Senators, “we have been there before, stop rushing and running.” However, that is not the case. This Senate will benefit most by having new Senators. In fact, the new Senators are going to make this Senate shine further. We must allow them to think and imagine anything and everything they want to do because that is how they can grow; through tradition and practice the jurisdiction of this House and make this House attractive to the people of Kenya and useful to the hustlers of this Republic.

Mr. Speaker, Sir, I beg to support and wish the colleagues who are in this Committee the very best as they serve.

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Ojienda, SC proceed.

Sen. (Prof.) Tom Ojienda, SC: Mr. Speaker, Sir, I do not know if I can be heard from here. I prefer to address the House from here. Two issues are important here.

Mr. Speaker, Sir, I rise, of course, noting that we have very wonderful people in the Senate Business Committee, like my good friend, Sen. Wandeti here. However, on a point of order and Sen. Dullo has pointed to the need to ensure that we sanitize every process in this House and it is compliant.

There is communication that has been shared from the Registrar of Political Parties. It has been shared to all of us that Sen. Ali Roba, my former client, is indeed and is still a Member of Azimio Coalition Party. The problem that will arise if the House rules or approves the Senate Business Committee as proposed is that you would have by that decision, stamped your authority and declared Azimio Coalition as the Majority Party.

I say this because I have looked at Sections 2, 6, 7 and 11 of the Political Parties Act. Those sections are to the effect that a coalition party or a coalition of parties, however designated, can find place in the House in the manner existing prior to the election. The Azimio Coalition was a Coalition that presented candidates to the election through various parties that were voted in, and that is why the Number 32 and 34 is instructive.

I know why my learned friend, Sen. Murkomen, my former colleague whom I got his first job at Moi University, is saying that we decide on this matter today. It is because he knows that he will be sworn in next week with Sen. Soipan, and we will be the majority by next week.

Mr. Speaker, Sir, I would urge this House to adjourn this debate or call for a vote. If you call for a vote and an adjournment ensues out of the vote, next week we will be the majority. I confirm that.

Sen. Osotsi: Thank you, Mr. Speaker, Sir. The House Business Committee is a very crucial Committee in any House. I served in the House Business Committee of the National Assembly for four sessions and I know that nothing happens in the House until the House Business Committee is constituted and approved by the House. I remember on many occasions in the National Assembly, sometimes, we had to defeat the Motion on the House Business Committee because of one or two issues here and there.

The membership of the House Business Committee from my experience in the National Assembly, which I think works the same with the Senate, was that the people who were chosen to represent the interest of the parties in the House Business Committee were expected to be of high integrity, who would keep secrets and keep their word.

Mr. Speaker, Sir, this is a House of integrity, records and rules. We are starting our first session today. I would beseech you that we give a chance to reason on this matter because the issues that have been raised by a number of Members are very weighty. We do not want a situation where we make a decision and people seek redress elsewhere. We want to operate as a House of respect and integrity.

I have listened to various contributions, especially from the majority side, coming from colleagues, whom I have a lot of respect for, Sen. Cheruiyot and Sen. Cherargei, on the issue of Azimio not being a party.

I remember in the last Parliament, the 12th Parliament, before we went for recess, we passed a law that was an amendment to the Political Parties Act. If you go to the Political Parties Act, it is very clearly stated that a Coalition Political Party is a Coalition registered by the Registrar of Political Parties as a political party. Therefore, there is no dispute about that.

I want you to call to order, Sen. Murkomen, Sen. Cheruiyot and Sen. (Dr.) Khalwale, for misleading this House. It is against Standing Order No.122 - it is a gross disorder in the House - to give false information to the Speaker.

Mr. Speaker, Sir, because of these many issues which have been raised, I oppose this Motion.

Sen. Veronica Maina: Thank you, Mr. Speaker, Sir, for this opportunity. I have been seated very patiently listening through the debate and the Standing Orders that are being cited, and all the debate that has been brought to the Floor of this House especially by the Minority side.

I have struggled to get the legal basis of the objection that has been given to the Motion that is before this House for two reasons. It is not possible legally in Kenya under the Political Parties Amendment Act to register a coalition political party and at the same time name that coalition political party as a political party. Those are two different tracks of registration.

As the Secretary General of the UDA Party, I was involved in the last general election. I am aware that Azimio is a Coalition Political Party. They had a presidential candidate who vied together with his running mate. They only had that candidature.

They did not have any other candidature at any other level from the gubernatorial up to the MCA level.

Therefore, the debate that you have waded into today is first of all not based on legal facts. What they have proposed or brought to the Floor of this House does not legally exist.

Mr. Speaker, Sir, I want to persuade you that as I was listening and looking for the legal basis on which we could respond, I did not find any. Kenyans are watching today the track that the Senate will take.

We are interested in conducting the business of the Senate and affirming its position to oversee devolution in this nation.

If the Motion that is before this House is rejected today, it may as well be interpreted by Kenyans that the Senate has started on a wrong footing by refusing to pass the Motion to constitute the Senate Business Committee.

(Loud Consultations)

The Speaker (Hon. Kingi): Order, Members!

Sen. Veronica Maina: Allow me to finish. It is my view. When you are seated in this Chamber, you do not have the narrow conscripted view; there is a wider perspective.

I stand here to persuade both sides of the divide to allow the Senate Business Committee to take its position, map out the business of the House from today henceforth. If there are any issues relating to coalitions, they are beyond us and are not before this House today. There is no court order that has ordered UDM to be in the *Azimio* Coalition or not to be in *Kenya Kwanza* Coalition.

The party leader of UDM is in the Senate today and the party is a coalition partner of *Kenya Kwanza*.

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

The Speaker (Hon. Kingi): Sen. Shakila Abdalla, proceed.

Sen. Shakila Abdalla: Thank you, Mr. Speaker, Sir. I have nothing against my brother, Sen. Ali Roba.

I know you are not here to decide on the issues of parties. However, I would like to suggest that the issue of party can only be clarified by the Office of the Registrar of Political Parties (ORPP); it is only fair for ORPP to give us the clarification.

Alternatively, the Speaker can seek clarification from ORPP, so that we put this issue to rest. Otherwise, we will argue here until the cattle come from grazing.

It is important to seek clarification from ORPP on who are the people mandated to tell us which party belongs where constitutionally and as per the Political Parties Act.

The Speaker (Hon. Kingi): Hon. Senators, we cannot continue prosecuting a matter that I have already ruled on. I have allowed the points of order, given time for Members to ventilate and proceeded to rule, and the rule stands.

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

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

Sen. Cheptumo: Mr. Speaker, Sir, my point of order arises from the fact that after you made a ruling that brought us back to the substantive Motion, Members continued to debate an issue that has been ruled on.

Guide this House that any Member who will rise from his or her place should discuss the Motion before the House. Either support or not.

This is a House of procedure. We cannot purport to undermine the ruling of the Chair. We need to move.

The Speaker (Hon. Kingi): Hon. Senators, rising on a point of order is within your right as a Senator. However, you cannot be on your feet on a point of order on a matter that I have ruled. Therefore, opportunities will be given for points of order, but they should not be on the issue that I have ruled.

As we proceed, if I am to give you an opportunity, you will either oppose or support the Motion. If you are to rise on a point of order, it should not be related to a matter that I have ruled on.

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

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

I hope that point of order---

Sen. Olekina: We are guided by Standing Orders!

The Speaker (Hon. Kingi): Sen. Olekina, we know that this Senate is guided by Standing Orders; you need not to scream about it.

Senator for Kilifi, proceed.

Sen. Madzayo: Bw. Spika, Bunge la Seneti ni la hali ya juu kwa sababu ya taratibu zake za *debate*. Ninakusihi uangalie hii barua iliyoandikwa na Bi. Anne Njeri Nderitu ambaye ni *Registrar of Political Parties*.

Hii barua iliandikwa tarehe 7 Septemba, 2022. Iliandikiwa *Clerk* wa Seneti. Barua hii inahusikana na ile barua ambayo yeye alikuwa amepeleka tarehe 6 Septemba, 2022 akitaka kujua vyama viko upande gani. Hii barua inasema kwamba UDM-

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

Barua hii iko na *Clerk* wetu ndani ya Bunge la Seneti. Nataka kumuuliza *Clerk*, ikiwa itawezekena---

Hon. Senators: Point of Order! Point of order!

The Speaker (Hon. Kingi): Order, Members!

Sen. Madzayo: Bw. Spika, barua hii imeandikwa na *Registrar of Political Parties*. Barua iko wazi. Uko na uwezo wa kumwambia *Clerk* ailete hii barua na kuiweka mbele ya Bunge la Seneti ili kila mtu aone Sen. Ali Roba yuko mahali gani.

Hatutakubali Sen. Ali Roba awe anazunguka kila pande. Barua hii inakamilisha. Inasema kwamba Sen. Ali Roba ni mwanachama wa upande huu. Hawezi kwenda upande ule na wewe ukatia tiki. Sen. Ali Roba amesimama hapa na *kukumislead*. Hii ni kosa kubwa sana ndani ya hili Bunge.

(Loud consultations)

The Speaker (Hon. Kingi): Can we have order! Order!

Sen. Madzayo: Bw. Spika, tuko tayari. Unaweza amrisha *Clerk* alete hii barua.

The Speaker (Hon. Kingi): Order, Members! The Senator---

Sen. Madzayo: Bw. Spika, hii barua nimemtumia *Clerk*.

The Speaker (Hon. Kingi): Senator for Kilifi, can you resume your seat please. Hon. Members, and more particularly the Senator for Kilifi. After the Mover moved the Motion, you seconded this Motion.

(Loud consultations)

Hon. Members I have been very clear that it is within your right to stand on a point of order, but do not raise what I have already ruled on. The issues that have been raised by the Senator for Kilifi County are a matter I have already ruled on.

Kindly, as you stand, either support the Motion or oppose it. Any other point of order related to that issue already has a ruling that is binding at its stands.

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

The Senator for Marsabit (Sen. Chute Said Mohamed): Thank you, Mr. Speaker, Sir. I would like to thank Sen. Madzayo for supporting the Motion. I do not know whether there is a *coup* on the other side of the House. If there is one, kindly negotiate and solve your issues. Sen. Madzayo has supported---

(Several hon. Members spoke off record)

The Speaker (Hon. Kingi): Order! Hon. Members, the Senator is making his Maiden Speech. Acquaint yourself with the Standing Orders, Sen. Olekina.

The Senator for Marsabit (Sen. Chute Said Mohamed): Sen. Madzayo supported the Motion fully. If you would like to make any changes on the other side or you do not have somebody who can help, we can provide one for you.

I thank you, Mr. Speaker, Sir, for ruling on this issue. These people are trying to see---

(Loud consultations)

The Senator for Marsabit (Sen. Chute Said Mohamed): My fellow Senators are trying---

(Several hon. Members spoke off record)

The Speaker (Hon. Kingi): Order, Members! Sen. Olekina and Sen. Madzayo, you are stretching the Chair's patience. Kindly allow the Member to conclude his contribution.

(Loud consultations)

The Senator for Marsabit (Sen. Chute Said Mohamed): Fellow Senators, I am a new Senator. Kindly excuse me. Mr. Speaker, Sir, my fellow Senators on the other side are trying to twist things around, so that you can change your mind. Kindly, do not accept that.

On supporting the Motion, in Naivasha, we were told that there were pending issues from the last Senate. I would like to urge my fellow Senators to support this Motion as I also support.

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

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

Sen. Olekina: Mr. Speaker, Sir, synergy is very important. This is a House of precedent and it is important that the Chair recognizes and acts impartial. My good colleague Sen. Wambua asked a very good question. Hypothetically, Mr. Speaker, Sir, suppose the decision that you are making is not one that will be taken kindly by the other side?

It is important that we refer to the Standing Orders. Standing Order No. 98, on a point of order, states that -

“The Speaker shall either give a decision on the point of order forthwith or announce that the decision is deferred for consideration, after which the Senator who was speaking at the time the point of order was raised may continue to speak.”

Mr. Speaker, Sir, I have no beef at all with your decision, but it is proper for us when we are proceeding in this House to be guided properly by the Chair. If we stand here on the point of order, we know that we must prosecute the matter, and we know the consequences. My colleagues on the other side raised a very pertinent issue. I may not want to go back to challenge your decision, however, I think it is proper for you to guide this House on what is next.

I have listened to my sister making her submissions, mentioning the agreements pre and post-election. It is important because we have institutions and authorities on matters, and we try to rely on them rather than the Chair going into a defensive mode saying, “I am not party to political matters.” Anything we do here, from today moving forward, will have serious consequences.

Earlier on, I rose on a point of order, the Chair allowed me to speak on it and I respected that point of order. When the Speaker relied on Standing Order No.1, and asked me to sit and allow my colleague to make her Maiden speech, I did. I have no problem with my brother, Sen. Roba, being in the Senate Business Committee. He is someone I respect and he is also a Senator.

Our good friend and colleague, Sen. M Kajwang’, raised an extremely important matter relating to the Standing Orders. On Standing Order No.190, in terms of the principle, should we continue debating the matter when we have issues or should we be guided on the matter?

Mr. Speaker, Sir, I beseech you to try and develop synergy among all the Senators, so that when it comes to matters affecting all the 47 delegations, it can build synergy. We are another arm of Government and any decision we make here will affect 47 to 50 million people.

On this matter, the preliminary objection and the matter that was raised by my colleague are things that you should have given us time to deliberate on or even seek--- It is alright, I am addressing the Chair.

(Loud consultations)

Mr. Speaker, Sir, it is something that required some consultation. Supporting this matter or not, when we are here to debate on a matter, we are guided by precedent, the knowledge we have and traditions. If my Leader of Majority has indicated to the House that there was a letter addressed to the Clerk, it should not be difficult for the Clerk to Table the letter.

If we proceed with our Standing Orders, on the point of order, if a Member raises an issue that requires to be substantiated, that Member can be given 48 hours to table. As we proceed, anything that we do today should create synergy and not division or lead others to conclude that there is impartiality with the Chair

The Speaker (Hon. Kingi): Hon. Senators, indeed this is a House of procedure, guided by the Standing Orders. As such, it would be improper for a Member, however polite, to challenge the ruling of the Chair. We have given opportunity to Members to canvass and contribute on that particular point of order. Indeed, if we are a House of procedure, then procedurally, this matter ought to rest because a ruling has been made.

Members, it is within your right to rise on a point of order. However, let that be a different one, unrelated to a matter that has already been ruled upon.

Members, we will proceed to prosecute the Motion that is before us.

Sen. Joe Nyutu, you may proceed.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I had requested to speak, to say exactly what you have said; that the Minority side seems to be taking us in circles, a game of musical chairs. That keeps us busy but takes us nowhere.

Mr. Speaker, Sir, you have already made a ruling on this issue. The Minority side should be rising to say that they accept your ruling, though they may not agree with it, just like the head of *Azimio* after the ruling of the Supreme Court. You will then give us direction on how to proceed.

Otherwise, we cannot keep debating an issue that you have already ruled on. They should accept your ruling in spite of not agreeing with it. I think that is what they are trying to say.

Can we proceed?

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

Sen. Cherarkey: Mr. Speaker, Sir, of course, I will cite Sen. Kajwang.

(Loud consultations)

Hold your horses. Looking at the importance of this Motion; the Business that needs to start rolling; with tremendous respect to Members who have been nominated to the Senate Business Committee (SBC) and in line with Standing Order 109, I request that the Mover of the Motion be called to reply. Thereafter, let the question be put, so that we can now move and see who has the numbers.

Standing Order No.109(3) says:

“A Motion for closure of debate under paragraph (1) or (2) may not be moved by a Senator who has spoken to the Motion under consideration.” Since I have not spoken to this Motion, I am within the right to call that the Mover be called to reply and then we put the Question to this Motion. It boils down to numbers. The Majority Side has numbers. Let us dispense off this matter and have it settled. That is my consideration that you can rule on now or before the end of debate.

The Speaker (Hon. Kingi): Hon. Senators, I will allow debate to proceed under Standing Order No.101. I still believe that there are quite a number of issues that Members wish to ventilate. Therefore, I will allow the debate to continue.

Sen. Mariam Omar, you may proceed.

The Nominated Senator (Sen. Mariam Omar): Thank you, Mr. Speaker, Sir.

(Loud consultations)

Kenya Kwanza by choice.

Mr. Speaker, Sir, I support the Motion and congratulate my Party Leader, Sen. Ali Roba, for this position.

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Mr. Speaker, Sir.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, it is just a simple point of procedure. You recognise that there are colleagues of ours who are making their Maiden Speech.

I wish to request you to protect them from our colleagues who are over-enthusiastic about nothing. This is especially Sen. Olekina and Sen. Wambua, who should know better.

(Loud consultations)

Mr. Speaker Sir, please, protect especially the women Senators. When they rise to speak, I have seen the kind of intimidation that is being meted on them. Just like on this side, we are allowing our colleagues to say things that we do not necessarily agree with. However, given the traditions of the House, we allow them. When Sen. Mariam Omar rose to speak, you should have seen the kind of the faces that Sen. Olekina made.

(Laughter)

I do not want to say that he is not extremely handsome, but he changed the look on his face. Sen. Wambua was fiddling in his pocket, and you know the part of the country he comes from. It can be scary. You never know what he can bring out of his pocket.

(Laughter)

Mr. Speaker, Sir, I plead that you protect the Hon. Senators who are making their Maiden Speech. It is a very simple request.

The Speaker (Hon. Kingi): Sen. Dullo, you may proceed

(Loud consultations)

Hon. Senators, let us have some order.

(Sen. Cherarkey spoke off record)

Senator for Nandi County, you will address the Chair. Kindly allow the Senator for Isiolo County to speak. She has risen on a point of order and we want to hear what her point of order is.

Sen. Dullo: Thank you, Mr. Speaker, Sir, for protecting me. My point of order is a rider on what Sen. Cheruiyot has said. We accept the new Members to make their Maiden Speech. However, if they make controversial statements, we have a right to intervene. You should allow us to do that.

(Loud consultations)

No! The tradition of the House is very clear. *Siwezi wacha!* That is my opinion. You cannot intimidate me, Sen. Cheruiyot.

(Loud consultations)

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

Sen. Dullo: Thank you, Mr. Speaker, Sir. I am addressing the Chair.

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda, you may proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. You have ruled on this matter.

As a new Member, I observed with surprise that in our first Sitting, our colleagues from the Minority Side walked out from this side. On this Sitting, during the discussion of a very important Committee that is supposed to set the Business of this House, the same colleagues, who are senior for that matter, are already prepared to sabotage the House Business.

(Laughter)

The Speaker (Hon. Kingi): Order, Members!

Sen. Tabitha Mutinda: This House, Mr. Speaker, Sir, ---

The Speaker (Hon. Kingi): Order, Members!

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. This House is the 'Upper House' and as the 'Lower House' is also sitting, what precedent are we setting as the 'Upper House?' There are 67 Members of the Senate serving over 14 million Kenyans---

(A Member spoke off record)

I used the English word “over”.

We are here discussing one Sen. Ali Roba. My question is: If this is the beginning, how will the end be?

I request my colleagues to look at it from this perspective; Sen. Ali Roba can be a Member of this Committee, just the way they can be in leadership of other Committees, even though they are from the minority side because this House is going to be fair through its leadership. Sen. Olekina should know that it is good to be optimistic.

Thank you, Mr. Speaker, Sir.

(A Member spoke off record)

I have not finished. I just said, ‘thank you’. As I conclude, I wish to state that, I, Hon. Tabitha Mutinda, do hereby strongly support this Motion.

Thank you.

The Speaker (Hon. Kingi): I wish to give our new Members, especially from this side, an opportunity, but I do not see them indicating their intention.

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

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

Sen. Faki: Nimeona baadhi ya Maseneta wakiinua mikono ni kama tuko kwenye darasa. Mwongozo uliotolewa mapema na Spika ulikuwa kwamba kama unataka kuongea ama kuchangia Hoja iliyoko kwenye meza, ni lazima ubonyeze kidude kilichoandikwa ‘*microphone.*’

Nimeona Sen. Tabitha Keroche akipata shida. Anainua mkono akiregesha. Juzi tulipokuwa Nakuru *County* alitukaribisha vizuri sana. Kwa hivyo, nasikitika kwamba hajaweza kupata utaalumu na nafikiri hasaidiki pale. Mimi nimekaa na Sen. Betty Montet na Profesa na ninawaongoza jinsi ya kuchangia. Mimi nashangaa kwamba Sen. Tabitha Keroche, *Deputy Minority Leader*, ameshindwa kujieleza.

The Speaker (Hon. Kingi): Sen. Tabitha Keroche, you may have the Floor.

Sen. Tabitha Keroche: Thank you, Mr. Speaker Sir, for giving me this opportunity. *Nataka kuchukua nafasi hii, I support---*

The Speaker (Hon. Kingi): Sen. Tabitha Keroche---

(Several Senators consulted loudly)

Sen. Tabitha Keroche: Sorry, I am learning

The Speaker (Hon. Kingi): You need to use one language. If you choose to use English, then you have to use it all the way.

Sen. Tabitha Keroche: I will use English.

The Speaker (Hon. Kingi): If you choose to use Kiswahili, then you will use it all the way---

Sen. Tabitha Keroche: Okay, Mr. Speaker, Sir.

(Loud consultations)

The Speaker (Hon. Kingi): You do not have to shout at her on such an issue, hon. Members.

Sen. Tabitha Keroche: I apologise, Mr. Speaker, Sir. I support the Motion. I am surprised by all these. When I looked at those names, I did not consider the tribe or political parties of those Members. Instead, I looked at their qualifications. I believe they have what it takes to schedule the Business of the House.

Let us not waste a lot of time. Let us support this Motion and move on. I believe that we have many Bills that we want to bring to this House. We should use our time well when in this House.

As Sen. Murkomen said, we make a difference of what was there before and can do that by comparing the previous House and this House. I am a 'mono' and should be allowed to make mistakes, though I am sure that I will catch up.

I support the Motion. Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Mumma, you have the Floor.

The Nominated Senator (Sen. Catherine Muyeka Mumma): Thank you, Mr. Speaker, Sir, for this opportunity. Allow me to thank my colleagues for their contributions. As a new Member, I have listened to the descriptions that have been given to this House. It is a House of order, rules, the 'Upper House' and other flattering descriptions.

Sen. Tabitha Mutinda has talked of 47 million people out there. I would like to state that those people want us to model the rule of law and you should help us bring back this country to the rule of law. We must begin on the right note by respecting the rules in the Standing Orders and the legislation that has been passed by these honourable Houses and the Constitution.

I know that you have made a ruling, but I request that you candidly look at what you have done and satisfy yourself that we are respecting the rule of law in this country.

I oppose. Thank you.

The Speaker (Hon. Kingi): Sen. Syengo Kalunda, you may speak.

The Nominated Senator (Sen. Beth Kalunda Syengo): Thank you, Mr. Speaker, Sir. Allow me to start with the point that was raised by the Senate Minority Leader. He indicated that women should be protected. I believe that this is a House of hon. Members and it does not matter whether we are new or old; we are all serving the nation. We do not need any protection. We can speak for ourselves and pass our points across.

Secondly, it is important that we set the right precedent in this House. You should not appear to take sides. Let us be clear on what should be done on this first Sitting.

For that reason, I oppose the Motion.

The Speaker (Hon. Kingi): Senator for Embu, you may have the Floor.

Sen. Munyi Mundigi: *Mr. Speaker Sir, Bibilia inasema ya kwamba tuko na macho na hatuoni. Tuko na masikio na hatusikii. Kuna usiku na mchana---*

(Several Senators consulted loudly)

The Speaker (Hon. Kingi): Members, can we give an opportunity to the Senator for Embu to---

Sen. Munyi Mundigi: Leo hii ni mchana na yule haoni ajue ya kwamba kuna mwangaza. Seneta ambaye tunampeleka mahakamani amejitetea akasema ya kwamba anataka kuwa kwa walio wengi. Hiyo ni kama kusema ya kwamba walio wachache wako na macho lakini hawaoni. Pahali pengine ni kama kumaniisha---

(Laughter)

Bw. Spika, katika Biblia, kuna hadithi ya kina mama wawili waliopigania mtoto. Mfalme alipowauliza jinsi wangependa aamue kesi, mmoja alisema kuwa mtoto huyo akatwe vipande viwili. Mwingine naye alinyamaza kwanza.

Bw. Spika, tunakuomba ukate kauli kwa njia inayofaa. “Mtoto” amesema upande aliko, nasi tulio wengi tumenyamaza. Kwa hivyo “mtoto” ni wetu. Tumekuwa hapa kwa muda huu wote na tunaomba utuangelie.

Naunga mkono Hoja hii.

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

Sen. Mandago: Mr. Speaker, Sir, this is an important Motion. As the Senator for Uasin Gishu County and having served as a governor, the importance of the SBC cannot be understated. We need to get the Senate to its feet in order to discharge its mandate.

The blame should not be on us when county governments are waiting for this House to make important decisions to enable them unlock some funds that are being held because of the laws that we need to amend. We need to have the SBC as soon as possible.

I would like to persuade my colleagues on the other side of the House to accept that the Senator for Mandera, Sen. Ali Roba, in his consciousness and as a party, made a decision to join the Kenya Kwanza Coalition. That decision should be respected and he should be allowed to serve in the SBC.

I, therefore, support the Motion that Sen. Ali Roba sits in the SBC.

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

Sen. Lomenen: Thank you, Mr. Speaker, Sir, for this golden opportunity that you have given me. As my colleagues have said, it is important to understand the issue at hand.

Mr. Speaker, Sir, you have made it clear. I would like to urge my colleagues that this House should be in order, so that we give direction to Kenyans because they listen to what we say as Senators. We should qualify that they made the right choices.

Mr. Speaker, Sir, as I support this Motion, it should be clear that I am not just supporting for the sake of it, and I would like my colleagues to listen.

Where I come from, the people who elected me, that is the people of Turkana County, are bleeding. You know that some people have been killed while others have lost their property. People there are thirsty and some are dying.

I support this Motion so that we have the SBC, which will ensure that we have business in this House. People should stop bleeding and those who are hungry should stop facing starvation. Those who are insecure should also feel secure. I support this Motion, so that this House can perform its functions.

I was sent by the people of Turkana County to represent them in this House and not for any other business. I am here to ensure that whatever we do here is for their

benefit. I am here not to laugh at anybody because this is not an English class. As you put it, it does not matter whether you speak in Kiswahili or English. We are here to state facts.

I would like to acknowledge the Senate Majority Leader who was my classmate in a philosophy class. In philosophy, they say that right is right even if everybody is against it, and wrong is wrong even if everybody is for it.

(Laughter)

In that respect, I stand to support this Motion. Additionally, I hope that the proposed Members of the SBC will bring business to do with issues affecting the citizens of Kenya and not their own.

I also heard people talking about young and old people. I have something to say regarding that. We do not have young or old representatives. We are here to represent our counties, which are all important. When someone talks of young, are they referring to a county or an individual?

We have to respect the counties that we represent. These are people of different cadres and we are among the best. That is why we are here.

Mr. Speaker, Sir, having said all that, I support this Motion.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Murango, Senator for Kirinyaga.

Sen. (Dr.) Murango: Mr. Speaker, Sir, allow me to join the Senate Majority Leader, Sen. Cheruiyot, the Senate Minority Leader, Sen. Madzayo, and Sen. (Dr.) Oburu in supporting this Motion.

I come from Kirinyaga County. I am a former Member of County Assembly (MCA). I was the majority leader and used to sit in the House Business Committee of Kirinyaga County Assembly.

When I saw the names of Members proposed to serve in the SBC, I did not look at the individuals. What I saw is the people who will be Members of the SBC.

Sen. Ali Roba is the first one on the list. He is the only former governor proposed to be a Member of the SBC. I tend to think that having been a governor, he will contribute much in the SBC.

The richness and beauty that will be brought there by Sen. Veronica Maina and the elegance brought by Sen. Tabitha Mutinda and others, is important in this Senate Business Committee.

Mr. Speaker, Sir, my people of Kirinyaga County do not care who sits in the Senate Business Committee. We are bothered by a Gazette notice preventing the cultivation of rice in Mwea, which was issued by the former Government. Those are the things I would like to discuss when it comes to issues being taken to the Senate Business Committee.

Mr. Speaker, Sir, I also want to reiterate that the Senate Business Committee is a non-partisan committee, which will look at issues and matters that the Senate should deliberate upon.

We have a role to play. We still have devolved functions, which are still held by the Executive. We have things that we are supposed to deliberate upon; health, water,

agriculture, which are still being done by the National Assembly, yet we believe it should be the work of the Senate.

I beg to support this Motion, so that we can proceed.

Sen. Chimera: Mr. Speaker, Sir, I rise to fully support this Motion. I have looked at that list of the nominees to the Senate Business Committee and it goes without saying that this is a very crucial Committee in this House. I have had the chance to work with a few of the nominees in person and from my own interactions, these are people that are beyond reproach. I wish to urge this House to move with speed and approve this list because there is a crucial agenda that we need to push as a Senate.

Finally, I do not know why our colleagues on the other side of the divide are getting jittery with these names. These are men and women of great honour. They are beyond reproach and I believe that by the time they have made it to the list, a lot of canvassing has happened in the background. I do not see why our colleagues who are seniors and should be an example to those making their first debut into this House, are really concerned with the names on that list.

I wish to say that you earn your leadership every day. I urge the minority side to earn their leadership today. Allow us to pass this, Hon. Members, so that we can proceed with the core business of legislating in this House.

Mr. Speaker, Sir, thank you. I fully and strongly support the Motion.

Sen. Githuku: Mr. Speaker, Sir, I thank you for giving me an opportunity to speak and ventilate on this very important Motion. I am here because of the people of Lamu County. I believe that I was sent into this House by the good people of Lamu County to ventilate on some issues, which are very important.

Mr. Speaker, Sir, I believe and know that there are so many pending Bills in this House that need to be undertaken. I have been sitting and watching carefully as a new Member of this House and made the conclusion that we need to move on because there are so many pending Bills waiting for us to deal with.

The good people of Lamu County are looking up on me. They want me to represent them here accordingly and that is why I believe that by supporting this Motion, we shall make progress.

I, therefore, wish to support this Motion.

Sen. Kathuri Murungi: Thank you Mr. Speaker, Sir. On the onset as Senator for Meru County, I stand to support this important Motion. Standing Order No.190(4) gives the functions of the Senate Business Committee, and if you read it you will learn that this Committee is the engine of the Senate.

Sen. Maanzo and other colleagues here who were serving with me in the National Assembly will agree that this is the kind of Motion that we could not even waste five minutes on before we dispensed of it and set the Committee moving. This Committee could have sat yesterday, so that they generate business for this House.

Where I have come from, I can see it is a bit different because if we do not have business to transact tomorrow, then we are actually misusing taxpayers' money. Why are we supposed to come to this House tomorrow if we have no business to transact?

I would plead with my colleagues that this is not a matter to try to flex our muscles on. I humbly submit that this Committee should be set in motion. Whoever is a

Member of the Committee is not the main issue. If I look through this list, these are credible Members who have come to this House due to a lot of respect from Kenyans.

Mr. Speaker, Sir, looking at the mood of this House as at now, most Members are composed and relaxed. You can see that the Secretary-General of ODM party is now very relaxed. I believe that we are set to put the question, so that we can move on. If we use our Standing Orders and also noting we have spent a lot of time on one Motion and maybe through the Clerk there is a Standing Order which gives the timeframe that we should spend on every Motion.

Mr. Speaker, Sir, with all the guidelines that are in our Standing Orders, I believe that we are ripe for the question. Maybe through your authority - I do not want to give you guidance - but any Member can stand from wherever he or she is using our Standing Order No.109, so that we can dispense of this Motion.

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I have listened through the debate this afternoon about the membership to the Senate Business Committee. I have also read through the provisions of Standing Order No.190. Listening to the Members, I have not heard anyone contravening Standing Order No.199(4) in particular, opposing the membership of the hon. Senator to the Senate Business Committee.

Mr. Speaker, Sir, allow me to read Standing Order No.199 (2), which states as follows: -

“Whenever a Motion for approval of a list under paragraph (1) is moved in the Senate, no objection against the proposed membership of a Senator in a Select Committee shall be permitted and objections, if any, shall be formulated against the proposed membership as a whole.”

I have agonised over this debate. None has opposed the proposed membership to the Senate Business Committee.

As regards the issue of whether the Hon. Member belongs to the Majority or Minority side, it is not a subject of further debate because you have already ruled.

I, therefore, stand to support the Motion that the list as presented by the Senate Majority Leader be approved.

The Speaker (Hon. Kingi): Sen. Methu, you can proceed.

Sen. Methu: Mr. Speaker, Sir, I had spoken to the point of order of Sen Omogeni. I now support the Motion as has been presented by the Senate Majority Leader, seconded by the Senate Minority Leader and supported by the Senator for Siaya, Sen. (Dr.) Oburu Odinga.

From the onset, I state that I was sent here by the people of Nyandarua County to come and represent them. As somebody has already mentioned, the people on Nyandarua County are not interested on who is the Member of the Senate Business Committee; they are interested in the business that we shall be transacting here.

As I rise to support, please, allow me to also acknowledge our colleagues from the other side who have been very patriotic. I have seen the Senator for Turkana County and the Senator for Lamu County despite the fact that they have been there, they have chosen to stand with what they think is true.

I already spoke about the nomination of Sen. Ali Roba into the Senate Business Committee. He has been here and also spoken to this matter. He has chosen the side that

he wants to be, just like any other Senator who is in this House has chosen the side that they would want to be in.

We should respect his choice. In that regard, his nomination and indeed and that of the other members who are in the Senate Business Committee is in order.

I support.

I would not want to speak about the colleagues who are on the other side. I will speak for my colleagues who are on the Government side. We are interested in pushing the legislative agenda of the Government of *Kenya Kwanza* on whose ticket we are sponsored.

We have seen our colleagues walk out of this Chamber some other time. Therefore, we do not know whether it is by design that they want to delay the formation of the Senate Business Committee.

However, from this side, our colleagues are very ready. We are willing and well prepared to come and present the business that brought us here. It is in that regard that I support the membership of that Committee.

Our members from this side will tell you that I was interested in coming in because I ran for the position of the Senate Majority Leader. However, when I looked at the person that I was running against, Sen Cheruiyot, I chose to wait until some other time.

(Laughter)

I will come in some other time because there is still time. The Senator for Turkana mentioned young and old Senators who are here. I might be one of the youngest at 31 years, as a Senator representing the people of Nyandarua County. However, there is something we call the equality of the vote. I am the youngest.

I have tremendous respect for the Senator for Siaya. Both of us are colleagues despite our age differences. Therefore, we shall discharge our mandate. We shall use his experience and he shall depend on my energy and then move this Senate to the next level.

I support.

The Speaker (Hon. Kingi): Sen. Omogeni, please. Proceed.

(An hon. Senator spoke off record)

Sen. Omogeni: Mr. Speaker, Sir, I stood on a point of order. I have not spoken on this question. He is my senior and so he understands this Standing Orders more than myself or my neighbour from Kericho.

I want to be on record as opposing the Motion that is on the Floor.

On 8th September, 2022, we took an oath before the Floor of this House and the words were that we shall obey, respect, uphold, preserve, protect and defend the Constitution and laws of this country.

When the people of Kenya enacted this Constitution, if you read the preamble, it says that-

“We, the people, exercising our sovereign and inalienable right to determine the form of governance that our country wants, enact this Constitution.”

Mr. Speaker, Sir, while I was seated here, the Senate Minority Leader, Sen. Madzayo, in invoking the provisions of Standing Order No.105 on a Statement of fact, tabled a letter before this House with communication from the Registrar of Political Parties, where a communication has been made to this House through the Clerk, informing this House that UDM is a member of the *Azimio* Coalition.

I know that Sen. Ali Roba is a practicing Muslim. I am also a Christian. I know that under the Koran lying is a serious sin. If the people of Mandera County or Muslims are watching, they know the consequences of committing a sin while you know it; the Muslims in this House know.

I cannot support this Motion because doing so will be supporting the sin that is being committed by one of us, which according to the Koran is *Haram*. That is something that I am not willing to do as the Senator for Nyamira and a citizen of this country.

If you read the Constitution---

(Loud Consultations)

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, clearly, the hon. Senator for Nyamira is casting serious aspersions against a distinguished Member of this House. To make it worse, he is founding it in religious faith. If he has no regard for the hon. Member, he should have regard for the Islamic faith.

I request that you ask him to withdraw his remarks.

Sen. Omogeni: Mr. Speaker, Sir, with tremendous respect for the Senator for Kakamega and whose son was a faithful member of the Law Society of Kenya (LSK), I do not see any point of order in what he has just said.

I beg that I proceed.

If Sen (Dr.) Khalwale wants me to go further, I will challenge him to request the letter that has been tabled on the Floor of this House to be read because what I am saying is a fact.

Therefore, this Motion as presented, creates the erroneous impression that *Kenya Kwanza* Coalition has forwarded the name of Sen. Ali Roba as Member of the *Kenya Kwanza* Coalition, which is not correct.

Mr. Speaker, Sir, even if we were to forget our Standing Orders, I wish to read Article 94(4) of the Constitution. It states-

“Parliament shall protect this Constitution and promote the democratic governance of this Republic.”

Mr. Speaker, Sir, it is very undemocratic to un-procedurally poach Members from our side to the Majority side. If anything, you sitting as our Chair and having been elected pursuant to Article 106 of the Constitution, you must enforce good behaviour.

If the Registrar of Political Parties has given a communication to the House indicating that Sen. Ali Roba belongs to the Azimio-One Kenya Coalition, there is no way that his name can be forwarded by the Majority side.

Mr. Speaker, Sir, whatever we do on this Floor will come to haunt us tomorrow. If we go on record today as ignoring communication from an office that is recognized under our laws, that will come to bite us one day. Therefore, on the basis of those facts that are on record, I stand to oppose the Motion on the Floor.

Mr. Speaker, Sir, I have sat here this afternoon and on a number of occasions, Hon. Members from the majority side have used unparliamentary language. We rose on points of orders severally to draw your attention to the usage of unparliamentary language on the Floor, but you ignored us. The tragedy of it is that it goes on record. If tomorrow somebody from the minority side uses the same language, we will go back to the HANSARD of today and refer you to that record because this is a House of record.

Mr. Speaker, Sir, I have been your chairman at the Law Society of Kenya (LSK). You have been my faithful member. The moment you sit on the Chair; you are there to serve all of us.

Mr. Speaker, Sir, pursuant to Article 124 of the Constitution, we have enacted Standing Orders to allow all of us, as elected Senators, to be given a right to debate on this Floor. The provisions of Article 98 are very clear. That when a Senator is on the Floor, he has a right to rise on a point of order. That is what the Standing Orders say and they have the force of the Constitution of the Republic of Kenya because they have been enacted pursuant to Article 124 of the Constitution.

Mr. Speaker, Sir, we worked very hard to be elected as Members of this House. I plead with you to be fair to all of us. We do not mind the majority having their way, but let the minority have their say.

Mr. Speaker, Sir, if you read history, there was a Republican Speaker in the United States of America (USA) - Newt Gingrich - who served from 1995 to 1999. He led debates in the House of Representatives and by the time he was leaving, the Republican Party was very unpopular in the USA. It is good that you allow us to ventilate. Let us do the right things that we have been elected to do which is to push for the right things to be done.

Mr. Speaker, Sir, at one time in this House, there was a Member of Parliament called hon. Elijah Mwangale. He once told us the story of the hyena and the stone. The hyena spoke to a stone, but it did not respond. It then went away and said, "even if you do not respond, you have heard."

We have tabled a letter before the House. It is on record. It is a communication from the Registrar of Political Parties. It clearly indicates that United Democratic Movement (UDM) is not in Kenya Kwanza Coalition, but Azimio-One Kenya Coalition.

Mr. Speaker, Sir, to those who read the Quran or are Christians, even if you do not listen to us, you will be haunted forever.

(Laughter)

I oppose the Motion.

Sen. Korir: On a point of Order, Mr. Speaker, Sir.

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

Sen. Korir: Thank you very much, Mr. Speaker, Sir. Having read the mood of the House, I rise pursuant to Standing Order No.109 that you may call the Mover to reply.

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Members, please let us be orderly. We can as well move to Kilimani Market, if we have to shout at each other.

I will now proceed to put the question.

(Question, that the Mover be now called upon to reply put and negatived)

The Speaker (Hon. Kingi): Hon. Members, let us proceed with the debate. I will allow three minutes each, so that we can have as many of us contribute to the Motion.

Proceed Sen. Oyomo.

Sen. Oyomo: Mr. Speaker, Sir, I thank you for giving me this opportunity to add my voice to the ongoing discussion. From the onset, I oppose this Motion. It is because the Bible says what God has put together, let no man put asunder.

(Applause)

Even though there is an active marriage---

(Sen. Murkomen spoke off record)

Mr. Speaker, Sir, save me from *Waziri*. There is an active marriage between Sen. Ali Roba and Azimio-One Kenya Coalition. It is worse that he comes and denounces the partner. Even worse, the offsprings from that marriage, Members of his Party, follow suit.

I want to follow my heart. That is unacceptable. I have been reminded so many times that this is a House of procedure and rules. Let us give Sen. Ali Roba time to sort himself out and join us when the time comes.

I oppose this Motion.

The Speaker (Hon. Kingi): Sen. Abass, you are next.

Hon. Senators, all those Senators appearing on my screen have contributed to this Motion.

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

Hon. Senator, you spoke to the Motion.

Hon. Senator for Machakos County, Sen. Kavindu Muthama, your name keeps coming and disappearing.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this.

First of all, this is an important Committee of the House. Without it, the House cannot start its business. Many Senators are not very happy with the name of Sen. Ali Roba. They are not complaining about any other Member. If that is the only contention, kindly see what you can do so that this Committee is put in place and the House takes off. We need to move and deliberate on the Business of the House.

Mr. Speaker, Sir, I join the rest who have an issue with the same. Sen. Ali Roba belonged to Azimio-One Kenya Coalition before moving out and the issue is pending in court. If we pass this Motion, I do not think we will be doing the right thing.

I oppose.

Sen. Kibwana: Asante, Bw. Spika. Naomba kupinga Hoja hii mara tatu. Kiislamu, kakangu, Sen. Ali Roba, talaka ni tatu. Harusi bado haijaiva vizuri na ushapeana talaka ya kwanza. Kwa hivyo, kuna talaka ya pili na ya tatu. Kaka, njoo tumalize harusi, ukamilishe mambo yako, ndio tujue kama utapeana talaka ya pili na ya tatu.

(Laughter)

The Speaker (Hon. Kingi): Hon. Senators, I wish to see those who are yet to contribute to this Motion.

Sen. Montet Betty, proceed.

Sen. Montet Betty: Thank you, Mr. Speaker, Sir. We have heard Members from the other side urging us to join them. Mine would be an appeal to the Hon. Senator to kindly save the House time. Please cross over, we finish this business and move on.

The Speaker (Hon. Kingi): Sen. Thang'wa.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I am Sen. Karungo Wa Thang'wa from Kiambu County.

As I stand here to support this Motion, let me remind you of a story in the Bible. A woman stood in front of King Solomon, saying the child was hers, but asked the king to kill it.

Everybody from Azimio-One Kenya Coalition side is claiming Sen. Ali Roba is theirs, but they are saying; "shoot him." I urge this House, especially the Opposition, to be honest with themselves and support this Motion. If at all, he was yours, why would you deny him an opportunity to be in that Committee?

This SBC will determine the programmes of the House. As I speak, there are many issues that need to be debated in this honourable House. If we do not have SBC, we may not have the Bills and Motions that we expect this House to pass.

The hustlers out there are waiting for the hustler fund. Without this SBC, we cannot move forward. This hustler fund will not be for Kenya Kwanza only, but for the whole country.

The President was in Homa Bay County over the weekend. The hustlers in Homa Bay County told him they were waiting for the hustlers' fund. If we do not have SBC, we will delay their right to do business and fund innovations.

We are waiting to discuss the Presidential Address of the House. With that, we are going to formulate many policies and pass many Bills to actualise the plan of Kenya

Kwanza. However, we cannot do that without this SBC. I urge the Azimio-One Kenya Coalition side to kindly support this Motion.

In Kiambu County, for example, there is wildlife conflict. Hyenas are mauling our children every day. If we cannot discuss that right here, today or tomorrow, then we are doing injustice to the people who voted for us.

(Sen. Thang'wa's microphone went off)

Sen. M. Kajwang': Mr. Speaker, Sir, I also oppose this Motion. I want to quote the Speaker in Naivasha. You told us; "Things do not go wrong. Things start wrong." We cannot start wrong this time round. We want to have a Senate that will assert itself. We want an SBC that will represent the interests of the Senate as an institution and not just political formations.

Mr. Speaker, Sir, what is it that we are tussling over? The SBC is not just like any other Committee. If you look at other jurisdictions like the United States of America (USA), in the House of Representatives, the Speaker, Hon. Nancy Pelosi, has almost all the rights available to set the agenda of the House.

If you go to the USA Senate, the Leader of the Majority of the Senate has the powers that we have assigned to our SBC. The drafters of our Constitution and Standing Orders realized that you could not give such power to an individual. That is why they decided that there would be a SBC chaired by the Speaker.

Mr. Speaker, Sir, remember that the job description of the Speaker is in the Constitution. The Speaker is an *Ex-officio* Member of this House. So, the Speaker chairing the SBC does not mean that the Speaker sets the agenda for the Senate. That is why the people we send to the SBC should be people who have passed the test of integrity and acceptability across the aisle. This should not be a partisan matter.

(Applause)

Sen. Cheruiyot and the Senate Minority Leader should know that we have had moments like this where we have had stalemates and people do not understand why. Sen. Orenge and Sen. Murkomen, who were leaders back then, would call some time off and ask Senators to meet and agree on the matter for it not to be divisive.

(The amber light went on)

Mr. Speaker, Sir, I want to say before that light goes off that I will oppose a situation where a former governor is sitting in Select Committees that are supposed to oversight matters in this House. The SBC is such a Committee because it provides directions to all Committees. I wish the leaders of both sides could agree so that we can come back here tomorrow and have a SBC that will stand for the institution called the Senate and not for political formations.

Mr. Speaker, Sir, I oppose and propose that Sen. Cheruiyot and Sen. Madzayo call some time out. It has been done before. Otherwise, we are going to have a defeat here

and someone will argue that it will take six months to bring back this Motion. What will happen to the Senate if we do not have a SBC and a Motion cannot be brought back---

(Sen. M. Sen. Kajwang's microphone went off)

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

Sen. Cheruiyot: Mr. Speaker, Sir, I know we are pressed for time. I would have made arguments to explain why my colleagues, on the minority side, are extremely wrong to imagine that Sen. Ali Roba belongs to their side of the coalition. However, I will stick to only one.

The membership of the SBC is determined and set out. Our Standing Order No.190 sets out the membership of this Committee. I did the nomination for Sen. Ali Roba in full consciousness that Kenya Kwanza Coalition includes United Democratic Movement (UDM), the Party that Sen. Ali Roba belongs.

Secondly, I wish to direct my colleague, Sen. Omogeni, because he is a Senior Counsel and he respects this Constitution, to read Article 2(4) on what happens when Parliament passes laws that are inconsistent with it. That Article states that inconsistency of that particular law to the statutes of the Constitution makes it a nullity. The law upon which the gentlemen in Azimio-One Kenya Coalition want to rely upon, to claim Sen. Ali Roba, is that he bound himself to some form of marriage and he cannot leave. Article 36 of our Constitution gives Members---

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

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir. My point of order is that Sen. Cheruiyot cannot abrogate himself the powers under the Constitution reserved for the High Court to determine unconstitutionality of any law. It is not in his place. He should sit down.

(Loud Consultations)

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

Sen. Sifuna, make your point of order.

Sen. Sifuna: Mr. Speaker, Sir, my point of order is that it is not in the place of Sen. Cheruiyot or any of us here to determine the unconstitutionality of any law or tradition as set out under Article 2 that he is quoting for you. So, if---

(Loud Consultations)

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

Sen. Cheruiyot: Mr. Speaker, Sir, he is eating into my time with trivialities.

I want to point out one final thing. Article 36 of our Constitution provides for freedom of association. Sen. Ali Roba has chosen to associate with Kenya Kwanza Coalition. The Constitution is the supreme law of this land. There is no other law that one can quote anywhere that denies him that right.

Finally, Sen. M. Kajwang' said that Sen. Ali Roba is married to Azimio-One Kenya Coalition. In Nairobi, for example, there is something called "kukula fare." If you gift a lady and she accept it, that should not be considered to be consent to full rights of her body. Therefore, the fact that Sen. Ali. Roba went on a date with Azimio-One Kenya Coalition does not mean that he is married to them. He has chosen which side he belongs to.

(Laughter)

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. Faki. I thought you had spoken.

(Loud Consultations)

Sen. Faki: Bw. Spika, sijachangia Hoja hii ya kuundwa kwa Kamati. Nimezungumza kwa hoja ya nidhamu.

The Speaker (Hon. Kingi): Just a minute, Sen. Faki.

(The Speaker Consulted the Clerk at the Table)

The Speaker (Hon. Kingi): He spoke on a point of order and not the substantive Motion.

Proceed, Sen. Faki.

Sen. Faki: Bw. Spika, Kamati inayobuniwa ni muhimu kwa Bunge la Seneti. Ni Kamati ambayo itatoa mwongozo kwa kazi yote inayoendeshwa katika Bunge hili. Kwa hivyo, hatuwezi kupuuza hii Kamati. Kama Bunge la Seneti na ikiwa hili ndilo swala letu la kwanza ambalo liko mbele yetu, ni lazima tufuate sheria kulingana na Katiba na Kanuni zetu za Bunge la Seneti.

Tumeona kwamba baadhi ya majina yaliyopendekezwa yameleta utata. Utata ni kwamba; je, Sen. Ali Roba amependekezwa na upande wa walio wengi ama upande wa walio wachache? Mheshimiwa Spika, swala la ni nani walio wengi au wachache katika Bunge hili ni swali ambalo litatatuliwa kutokana na mwongozo utakaotoka kwa mkurugenzi wa vyama vya kisiasa.

Mambo mengi yamezungumziwa hapa. Swala ni je chama cha United Democratic Movement (UDM) kiko katika mrengo gani katika Bunge hili? Mpaka sasa, mwongozo uliotoka kwa mkurugenzi wa vyama vya kisiasa ni kuwa chama cha UDM bado kiko katika mrengo wa Azimio-One Kenya Coalition. Hili swala hata Sen. Ali Roba mwenyewe amelizungumzia akasema kuwa tumepeleka kesi mahakamani na mahakama bado haijatoa mwongozo. Kwa hiyo---

(Loud Consultations)

Bw. Spika, ungenilinda kwa sababu ya Sen. Cherarkey. Tafadhali naongea.

Kwa hivyo, mpaka sasa na kulingana na stakabadhi zilizotolewa ni kwamba chama cha UDM bado kiko katika mrengo wa Azimio-One Kenya. Sheria inawatambua kama wanachama wa mrengo wa Azimio-One Kenya mpaka watakapojitoa katika mrengo huo. Kwa sababu hiyo, mwanachama wa mrengo wetu hawezi kupendekezwa na upande wa pili.

Sen. Cheruiyot amesema ya kwamba amekula nauli ya huku. Kwa hivyo, hawezi kula nauli mbili. Ni haramu kula nauli mbili.

(Laughter)

Kwa hivyo, swala hili ni rahisi iwapo tunataka kusonga mbele.

(Loud Consultations)

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

Sen. Faki: Nakubaliana na ndugu yangu Sen. M. Kajwang' kwamba tunataka kufanya mambo kisawasawa. Hatujakataa kuchaguliwa Seneta mwengine yoyote. Kile tunachosema ni kwamba ni haramu Sen. Ali Roba na chama chake cha UDM kuwa katika Kamati hii.

The Speaker (Hon. Kingi): Sen. (Prof) Kamar, proceed.

Sen. Osotsi: On a point of order, Mr. Speaker, Sir. I have looked at the letter tabled by the Senate Minority Leader---

(Sen. Cheruiyot spoke off record)

Mr. Speaker, Sir, kindly protect me from the Senate Majority Leader. The letter was in soft copy.

The Speaker (Hon. Kingi): Sen. Osotsi, I have ruled on that particular matter. The other Senators were navigating through debate using the same issue to oppose the Motion. Unless you are raising it to oppose the Motion, it cannot be a point of order because I have ruled on that issue. You can use it as a reason either to support or oppose the substantive Motion.

Sen. Osotsi: Mr. Speaker, Sir, this is a new matter which I would like to put across.

The Speaker (Hon. Kingi): Sen. Osotsi, I gave you an opportunity to make your point of order and nothing new was raised. It was the same matter that I had ruled on. Kindly take your seat.

(Sen. Osotsi sat in his place)

Sen. Madzayo: On a point of order, Mr. Speaker, Sir. We have listened to both sides. I have approached my brother and we have had a discussion. Whether we agreed or not, I thought it is wise to bring it to the attention of the House.

Mr. Speaker, Sir, I will quote if you allow me to. It is stated that at any time during the proceedings, a Senator, may for reasons stated, move that the Senate do

suspend its proceedings for the time being in order to find a solution. I am asking for wisdom to prevail because it appears we are not making any headway. I seek your intervention.

(Sen. Cherarkey stood in his place)

Sen. Cherarkey, you have been in this House long enough. If I am on my feet, please show respect.

(Sen. Cherarkey spoke off record)

The Speaker (Hon. Kingi): Sen. Cherarkey, kindly address the Chair. Can we be orderly?

Sen. Madzayo: You are acting like a hooligan and not a Senator!

The Speaker (Hon. Kingi): Sen. Cherarkey, be orderly. The Senator for Kilifi is on his feet. Allow him to make his point of order.

Proceed, Senator.

Sen. Madzayo: Mr. Speaker, Sir, it is in that regard that I am asking for timeout, so that we have this matter discussed and agreed upon.

The Speaker (Hon. Kingi): Sen. Cheruiyot and Sen. Madzayo kindly approach the Chair.

(Sen. Cheruiyot and Sen. Madzayo approached the Chair)

Hon. Senators, kindly resume your seats. Senators, the Speaker is upstanding kindly do what the Standing Orders require of you.

Hon. Senators, the Senator for Kilifi County rose on a point of order seeking to suspend debate. I thought maybe he would proceed to say that they had had an agreement between the Senate Leader of Majority and the Leader of Minority in that regard. However, that particular point of order is coming at the tail end when we are concluding debate on this Motion. In fact, we only have one Senator to go, Sen. (Prof.) Kamar, so that we can conclude this debate. I wish it was raised earlier having seen how things were moving.

(Sen. Cherarkey spoke off record)

Sen. Cherarkey, kindly the Speaker is speaking.

Hon. Senators, I will decline that request and allow Sen. (Prof.) Kamar to proceed so that we conclude the debate on this Motion and take it forward thereafter.

Proceed, Sen. (Prof.) Kamar.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I go by what the Senator for Turkana County said, that right is right and wrong is wrong. It is very important for us to determine what is right and what is wrong. For that reason, I was very concerned during this debate when we were informed that a letter went to the Clerk and it has not reached the Speaker.

Mr. Speaker, Sir, I had hoped that you would tell us if you got that letter. I want to appeal that even as we come tomorrow; we are very fortunate that we have two secretary-

generals in this House who have documents that are very privileged. I am being informed that we have three secretaries-generals.

Mr. Speaker, Sir, I want to request that you demand that, not the phone, but a copy of the letter be tabled so that you can rule on it.

In the event that we are not able to rule on that, on this side, we will keep on asking Sen. Ali Roba to come back home. Most likely, you will also be divided because he does not know whether the ruling was correct.

My son-in-law is already telling him to come home. So, Sen. Ali Roba, come home so that we finish this debate.

The Speaker (Hon. Kingi): Hon. Senators, I believe that all Senators have had an opportunity to contribute to this Motion. I, therefore, call upon the Mover to reply.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. The contributions that have taken place this afternoon have converged, apart from only one point. That is the so called suspect membership of one of the Members. So, Members before you vote, let us remember who we are. We are formed by the Constitution of Kenya.

The Standing Committees of this House are drawn from Article 124 of the Constitution which speaks to two points. I request Sen. Omogeni to reflect on those two points as he votes 'yes'.

Sen. Cheruiyot, reflect on Standing Order No.199 that found itself on our booklet because of Article 124. It says that when we vote this afternoon, we do not vote to the exclusion of any Member of that Committee. We only vote for the list of the Members.

Number two and finally, Article 124 says that if for whatever reason the Senators have disagreed with what was not supposed to be there, it says that it does not matter. The proceedings will still go on. It will not prevent us from proceeding.

For that reason, I request the whole House to vote 'yes' so that we are respected by Kenyans as people who know what we are doing.

Mr. Speaker, Sir, I beg to reply.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No.84 (2), I now make a determination that this particular matter does not affect counties. Therefore, voting shall be by voice.

(Question put and agreed to)

(Several Senators rose in their places)

Hon. Senators: Division! Division!

The Speaker (Hon. Kingi): The Nays have the numbers. Therefore, under Standing Order No. 88, may the Division Bell be rung for five minutes.

(The Division Bell was rung for five minutes)

Hon. Senators, can we take our seats please.

(Loud consultation)

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Can we have the name of the tellers, please?

Sen. Madzayo and Sen. Cheruiyot, can we have your proposed tellers?

*(Sen. Beth Syengo and Sen. Cherarkey walked
to the Dispatch Box)*

Hon. Senators, we have the tellers. Teller for the “Noes” is Sen. Beth Syengo and Sen. Cherargei for the “Ayes”.

You may now proceed to lock the Doors and draw the Bar.

(The Door was locked and the Bar drawn)

(Loud consultations)

Order, Senators! Sen. Madzayo, you have proposed your Teller. What the other side proposes is not---

(Question put and the Senators proceeded to vote by Roll Call)

The Speaker (Hon. Kingi): Clerk, you may now proceed to call the individual Senators in the alphabetical order.

(Roll Call voting in progress)

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Members, let us allow Sen. Ali Roba to make his vote count.

(Roll Call voting in progress)

DIVISION

ROLL CALL VOTING

APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

(Question, that pursuant to Standing Order Nos.190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who pursuant to Standing Order 190(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip-

- | | | |
|--|---|--------|
| 1. Sen. Roba Ali Ibrahim, MP | - | Member |
| 2. Sen. Veronica Waheti Nduati, MP | - | Member |
| 3. Sen. Wakili Hillary Kiprotich Sigei, MP | - | Member |
| 4. Sen. Maureen Tabitha Mutinda, MP | - | Member |
| 5. Sen. (Prof.) Margaret Kamar, MP | - | Member |
| 6. Sen. Mwinyihaji Faki, MP | - | Member |
| 7. Sen. Ledama Olekina, MP | - | Member |

put and the Senate proceeded to vote)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chimera; Sen. Chute, Marsabit County; Sen. Gataya, Tharaka Nithi County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Korir; Sen. Lomenen, Turkana County; Sen. Mandago, Uasin Gishu County; Sen. Mariam Omar; Sen. Mbugua; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Nyamu; Sen. Orwoba; Sen. Tabitha Keroche, Nakuru County; Sen. Tabitha Mutinda; Sen. Thang'wa, Kiambu County; Sen. Veronica Maina; and, Sen. Wakili Sigei, Bomet County;

Tellers of the Ayes: Sen. Cherarkey.

NOES: Sen. Beth Syengo; Sen. Crystal Asige; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Githuku, Lamu County; Sen. Hezena M. Lemaletian; Sen. (Prof.) Kamar; Sen. Kavindu Muthama, Machakos County; Sen. Kibwana; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Montet Betty; Sen. Mumma; Sen. (Dr.) Oburu, Siaya County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Oyomo; Sen. Shakila Abdalla; Sen. Sifuna, Nairobi County; Sen. (Prof.) Tom Ojienda, SC, Kisumu County; and, Sen. Wambua, Kitui County.

Teller of the Noes: Sen. Beth Syengo.

The Speaker (Sen. Kingi): Hon. Senators, the results of the Division are as follows-

AYES: 29

NOES: 23

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 29 votes to 23)

Hon. Senators, having approved the Senators to serve in the Senate Business Committee (SBC) and therefore, dispensing with the scheduled business of the House for the day, this is to inform the Members of the said Committee of a meeting immediately

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after the rise of the Senate. The meeting will take place in Committee Room No.4, first floor, main Parliament Buildings.

ADJOURNMENT

The Speaker (Hon. Kingi): Hon. Senators, there being no other Business on the Order Paper, the Senate stands adjourned until Wednesday, 5th October, 2022 at 2.30.p.m.

The Senate rose at 7.02 p.m.