

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 14<sup>th</sup> February, 2023

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

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

### PRAYER

### COMMUNICATIONS FROM THE CHAIR

WELCOME TO HON. SENATORS TO THE  
SECOND SESSION OF THE THIRTEENTH PARLIAMENT

**The Speaker** (Hon. Kingi): Hon. Senators, it is my pleasure and privilege to welcome you to the Second Session of the Senate. It has indeed been a working recess with numerous activities running and a number of Special Sittings convened pursuant to Standing Order No.33. However, I trust that you have had time to rest and re-connect with your family and constituents over the Christmas and New Year festivities.

I take this early opportunity to thank each one of you individually and collectively for the commitment, enthusiasm and the solid foundation that we established during the First Session, as part of the legacy of the Fourth Senate. I saw a resolute Senate that worked as one to execute its constitutional mandate. I commend you all and look forward to this commitment throughout the Second Session and the sessions to come.

Hon. Senators, as we commence the Second Session, and as it has been the tradition at the commencement of each Session, we are called upon by our constituents to play one of the fundamental roles of a legislator; that is budget making. As per the budget framework and calendar, we will shortly receive and consider the Budget Policy Statement, the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the Cash Disbursement Schedule.

*(Several Hon. Senators stood at the Bar)*

Hon. Senators, you may walk in.

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*(Several Senators walked into the Chamber)*

As we receive and consider these fiscal documents, we must be cognizant of the challenges facing Kenyans; one of which is the high cost of living. Another challenge that we are facing and has dragged on from around August, 2022, is drought and famine, among others. It would be irresponsible of the Senate not to take action. As national leaders and servants of the people, we must facilitate dialogue and institution of fiscal policy measures that address these challenges by channeling the resources that we have where they are most effective for efficient Government services.

Additionally, we have a duty to oversight the budget process and ensure that there is prudent public finance management as the budget is critical in delivering the promises of devolution as espoused in the Constitution of Kenya. Therefore, we must be vigilant to scrutinize the budget of the last financial year to determine the impact of resources allocated to service delivery and realization of the various devolved functions and to scrutinize the current policy programmes outlined in the Budget Policy Statement (BPS) that will be presented to this Senate.

This will ensure that these are aligned to the devolved governance structure, economic development and recovery and principles of inclusion, equity and equality.

I urge all hon. Senators to be available to consider the aforesaid budget documents in order to approve this particular business within the required timelines for our counties to receive the necessary funding for critical projects and programmes.

*(Several Hon. Senators stood at the Bar)*

Hon. Senators, you may walk in.

*(Several Senators entered the Chamber)*

Hon. Senators, in the Second Session, we look forward to reporting by various Select Committees of the Senate on their activities and the business referred to them for consideration. During the First Session, 12 Bills were published. Out of these, the County Governments Additional Allocations Bill (Senate Bills No.4 of 2022) was considered by both Houses of Parliament and enacted into law.

Three Bills have gone through the concurrence process contemplated under Article 110(3) of the Constitution and are now ready for First Reading. Four other Bills have since matured for Second Reading. The Senate Business Committee (SBC) will schedule these Bills in the Order Paper in the coming days. Another four Bills are undergoing the concurrence process and will be scheduled in the Order Paper by the SBC upon completion of this process.

Other business transacted in the First Session include two Petitions presented and referred to the relevant Standing Committees, as well as 40 Motions, of which 36 were adopted. In addition, 115 Statements on diverse issues were canvassed of which 20 were

issued under Standing Order No.52(1); 89 pursuant to Standing Order No.53(1); four under Standing Order No.56(1)(a); and two Statements under Standing Order No.58.

At an opportune time, the SBC will publish a reporting schedule by select committees as required under Standing Order 56 No.(1)(b), for Committee Chairpersons to apprise the House on the above business and other activities relating to Committees.

Hon. Senators, I am particularly excited and looking forward to this Session as this is when we will experience application of the knowledge and skills that you have been equipped with during the elaborate induction programmes that have been carried out.

The inductions begun at the House level and were cascaded to each Select Committee. I take this opportunity to thank the Secretariat for the rich and tremendous programmes that have been mounted for us. Our only response following the induction events is to get down to business.

A good place to start would be from the resolutions arrived at during the induction programme which were assigned to the relevant dockets for action. Allow me to use this platform to urge all those to whom the resolutions were directed to, including the Office of the Speaker, the Senate Leadership, the SBC, the Liaison Committee, and various select committees, to critically scrutinize them and institute measures for their implementation. It is only by so doing that we shall address the identified challenges and gaps, and ultimately, emerge stronger as a constitutional body.

*(Several Hon. Senators stood at the Bar)*

Hon. Senators, you may walk in.

*(Several Senators entered the Chamber)*

Hon. Senators, aside from plenary and committee business, and in keeping with its mandate of protecting devolution and the interest of counties and their governments, the Senate will participate in two major events in our annual calendar of events, namely, the Devolution Conference and the Legislative Summit.

These two events afford us not only a platform for the Senate to be heard, but also to interact with other key players in devolution, celebrate the gains and successes accomplished, reflect on the challenges encountered, and come up with concrete plans of action on the way forward.

These events must not be talking shops, but an opportunity for the Senate to influence and change Government policy as regards devolution. Our participation must translate to policy and legislative interventions. I look forward to this as preparations for these events begin.

*(Several Hon. Senators stood at the Bar)*

Hon. Senators, you may walk in.

*(Several Senators entered the Chamber)*

Hon. Senators, as I conclude, I challenge this august House to move our discussions and considerations to issues beyond borders. We have a responsibility, through the ambit of parliamentary diplomacy to discuss matters of global concern that are emerging in other parts of the world.

For instance, I welcome the relevant committees to engage in discourse on matters such as peace and conflict resolution in the African Continent, economic recovery and growth and how as a country we can leverage on the existing frameworks on trade and movement of goods across the Continent, equipping a labour force for the future of work, strengthening Africa food systems, African cities and realizing the new urban agenda, amongst others. It would be interesting to bring out perspectives on how issues facing other parts of the world entwine and impact us as a country.

Finally, I impress upon each of us to rededicate ourselves to the execution of our constitutional mandate and to undertake the task ahead of us with utmost integrity and service to our great country, as we strive to mould the legacy of the Fourth Senate.

I thank you and wish us all a fruitful session.

Hon. Senators, I also have a further communication.

VISITING DELEGATION  
FROM THE PARLIAMENT OF UGANDA

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a visiting delegation from the Parliament of Uganda. The delegation consists of the staff of the Hansard Department who are on a five-day attachment programme with their counterpart department in the Senate, from 13<sup>th</sup> to 17<sup>th</sup> February, 2023.

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

1. Ms. Carol Amulen, Assistant Editor of Hansard.
2. Mr. Stephen Liila, Assistant Editor of Hansard.

On behalf of the Senate and on my own behalf, I welcome the delegation and wish them well for the remainder of their visit.

I thank you.

*(Applause)*

I will allow the Senate Majority Leader to welcome the delegation from Uganda.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I thank you for this chance to welcome our visitors who are on a working trip to the Parliament of Kenya and specifically the Senate. I wish them well.

It may benefit them to know that under the East African Community Protocol, the Kenyan Parliament has been granted the honour to host the East African Parliamentary Institute (EAPI) where parliamentary practices in the region are taught. Therefore, they

have made the right decision by deciding to come work with and study in the Parliament of Kenya. An even more correct decision was to come to the Senate. Parliament of Kenya has two Houses.

Mr. Speaker, Sir, I can say without any fear of contradiction that this is the best place to learn. You will learn a lot by interacting with our staff. Some of the best brains that you can find in public service are actually found in the Parliament of Kenya.

I say this because I have worked and interacted very closely with them for five years as their Chairperson of Staff Welfare. They have expertise and all that you need to learn in regards to parliamentary practice.

To our visiting delegation, you are most welcome.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Proceed, the Senate Minority Leader.

**The Senate Minority Leader** (Sen. Madzayo): Asante, Bw. Spika. Najiunga na wewe, kuwakaribisha ndugu zetu wa karibu sana ambao ni rafiki zetu kutoka Uganda.

**The Speaker** (Hon. Kingi): Senate Minority Leader, you need to ask yourself whether Kiswahili is the mode of communication in Uganda. Otherwise, the delegation may not hear the good words that you are saying.

**The Senate Minority Leader** (Sen. Madzayo): Mr. Speaker, Sir, Ugandans speak fluent Kiswahili. We have been to their Parliament. Kiswahili kitukuzwe.

Bw. Spika, ninawashukuru ndugu zetu kutoka Uganda. Natumai wanaelewa tunapongea Kiswahili. Tunawafurahia kama wageni wetu wa Bunge la Seneti. Najua waliokuja ni Waandishi wa Taarifa Rasmi ya Bunge. Niko na Imani kwamba, waliyoyaona katika Bunge la Seneti, yanadhihirisha kwamba hili ndilo Bunge la juu Kenya.

Tukiwa hapa, sisi huwa na mijadala tofauti. Najua nyinyi kazi yenu ni ya kuweka rekodi za Bunge kisawasawa. Niko na imani kwamba, mtabeba yale mazuri mnayojifunza na kuona hapa na kwenda kuyaendeleza katika Bunge lenu. Tumewafurahia sana kwa sababu mmekuja katika nchi yetu. Mumekaribisha sana hapa Seneti.

Ninawaomba msimalizie shughuli zenu hapa Nairobi. Mkipata nafasi, kuna mandhari mazuri hapa nchini ambapo mnaweza kuzuru na kujionea, kwa mfano, kule Mombasa na Kilifi. Pia mnaweza kuzuru mbuga la wanyama la Maasai Mara wanapoishi Wamaasai. Pia tuna Samburu National Park na sehemu zingine. Mkitembea sehemu zote za Kenya mtaona vile Wakenya wanavyoishi.

Mumekaribishwa sana Kenya, hasa katika Bunge la Seneti.

Asante, Bw. Spika.

**The Speaker** (Hon. Kingi): Next order.

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

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

**Sen. (Dr.) Khalwale**: Mr. Speaker, Sir, my gadget is not working. I had hoped to capture your eye or attention, so that I can be allowed to make a comment. Can I, Mr. Speaker, Sir?

**The Speaker** (Hon. Kingi): Proceed.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. May I join you and the two colleagues who have spoken before me, in welcoming the Delegation from Uganda.

Allow me to request them to pass our greetings to our colleagues in the Parliament of Uganda and especially the colleagues in Parliament. Ordinarily, they should have been colleagues in this House, but the colonial government curved out 13 of our constituencies, which would have been in Kenya into Uganda. I greet them.

Secondly, I also join you in welcoming colleagues back to the House. As we do so, I laud Members for the First Session. In that very short time, they stood out. We need to congratulate ourselves. We were able to give our counties an additional allocation of revenue. In fact, my County of Kakamega received a whopping Kshs892,970,000.

We also need to laud and congratulate ourselves for the fact that during that time, we were able to pass a very critical Bill, which has now been signed into law - the amendment to the Independent Electoral and Boundaries Commission (IEBC) Act.

Finally, but not least, we have sent a clear message through deliberations of last Session. Now, our Members of County Assembly (MCAs) are finding it necessary to consult better, smarter and more with governors, so as to work together. It arose from the proceedings of the Impeachment Motion of the Governor of Meru.

Mr. Speaker, Sir, finally, I have a request before I sit down. This is a very difficult day. We have lost one of our senior officers, Mr. Wellington Namenge. He was a senior research officer, who has worked with us in this House - especially myself - for almost twenty years. He has left a wife Evelyne, sons Morgan and Wesley, daughters Phanice and Daisy.

I send my condolences.

Mr. Speaker, Sir, with your permission, so that members of staff do not think we do not carry them along, maybe, could you accept to allow the House to do as we would do, if a Members of Senate passes on. I request the House to observe a minute of silence.

**The Speaker** (Hon. Kingi): Okay, hon Members, may we rise for one minute in honour of our departed officer.

*(Hon. Senators stood in their place and  
observed a moment of silence)*

**The Speaker** (Hon. Kingi): Thank you. You may be seated.

Next order, Clerk.

Hon. Senators, there is a Supplementary Order Paper. Kindly switch to that. It is the one we are going to use to prosecute today's business.

## MESSAGES FROM HIS EXCELLENCY THE PRESIDENT

NOMINATION OF MS. EMILY MWENDE WAITA, MR.  
JOHN KIOLI, MS. UMAR OMAR AND DR. GEORGE ODERA  
OUTA FOR APPOINTMENT TO THE NATIONAL CLIMATE CHANGE COUNCIL

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**The Speaker** (Hon. Kingi): Hon. Senators, I received a Message from His Excellency the President, on the nomination of Ms. Emily Mwende Waita, Mr. John Kioli, Ms. Umar Omar and Dr. George Odera Outa, for appointment to the National Climate Change Council.

Hon. Senators, I wish to report to the Senate, that pursuant to Standing Order No.47, I received a Message from His Excellency (Dr.) Hon. William Ruto, PhD, CGH, and President of the Republic of Kenya and Commander in Chief of the Kenya Defense Forces, on the nomination of persons for appointment to the National Climate Council.

The Message was transmitted to the Senate vide the letter reference SH/NA/1(22) dated 8<sup>th</sup> December, 2022 by the Chief of Staff and Head of Public Service. Pursuant to Standing Order 47(2) of the Senate, I shall now report the Message to the Senate.

It is notified that His Excellency Hon. (Dr.) William Samoei Ruto, PhD, CGH, President and Commander in Chief of the Kenya Defense Forces has pursuant to Section 7(1) of the Climate Change Act No.11 of 2016, and upon the recommendation of the relevant bodies exercise the constitutional prerogative vested in the Head of State and Government and cause nomination to the membership of the National Climate Change Council.

In that regard, and pursuant to Section 7(4) of the Climate Change Act (No.11 of 2016) and in accordance with the procedure set out in Section 3 and 5 of the Public Appointments (Parliamentary Approval) Act (No.3 of 2011); I am hereby pleased to convey His Excellency the President's nomination of –

- (1) Ms. Emily Mwende Waita;
- (2) Mr. John Kioli;
- (3) Ms. Umar Omar;
- (4) Dr. George Odera Outa

to be members of the National Climate Change Council pursuant to Section 7(2)(f), (g), (h) and (i) of the Climate Change Act, 2016, respectively.

To aid the august House in its consideration and approval process, we have the pleasure of enclosing herewith, the letters of recommendation from the relevant bodies, Certificate of Presidential Nomination No.9 of 2022 and the Curriculum Vitae (CV) of each nominee.

Accordingly, and by way of this letter, you are most kindly requested to expeditiously consider the nominees, so as to enable His Excellency the President constitute the Council.”

*(Sen. Orwoba stood at the Bar)*

**The Speaker** (Hon. Kingi): Hon. Senator, you may walk in.

*(Sen. Orwoba walked into the Chamber)*

Hon. Senators, Section 5 of the Climate Change Act, establishes the National Climate Change Council. Section 7(2) of the Act provides that Members to the Council shall be-

- “a) the Cabinet Secretary responsible for environment and climate change affairs
- b) the Cabinet Secretary responsible for the National Treasury;
- c) the Cabinet Secretary responsible for economic planning;
- d) the Cabinet Secretary responsible for energy;
- e) the chairperson of the Council of Governors;
- f) a representative of the private sector nominated by the body representing the largest number of institutions in the private sector;
- g) a representative of the Civil Society nominated by the most representative registered national umbrella association of civil societies working on climate change;
- h) a representative of the marginalized community within the meaning of Article 260 of the Constitution who has knowledge and experience in matters relating to indigenous knowledge; and
- i) a representative of the academia nominated by the Commission for University Education.

Hon. Senators, Section 7(4) of the Climate Change Act states that “the names of persons nominated for appointment under subsection (2) (f), (g), (h) and (i) shall be submitted to Parliament for approval.”

*(Several Hon. Senators stood at the Bar)*

Hon. Senators, kindly come in

*(The Senators walked into the Chamber)*

Hon. Senators, Standing Order No.77(1) of the Senate Standing Orders provides that upon receipt of a notification of nomination for appointment to a public office required to be approved by the Senate under the Constitution or any other legislation, the nomination shall stand committed to the relevant Standing Committee for consideration.

As was agreed and executed during previous approvals for such nominations such as the position of the Inspector General (IG) of the National Police Service (NPS) and previous nominees to the Council, the Message from His Excellency the President, together with CVs of the nominees, stands committed to the relevant Committee, in this case, the Standing Committee on Land, Environment and Natural Resources for approval hearing.

The Committee will hold the approval hearing jointly with the Departmental Committee on Environment, Forestry and Mining of the National Assembly, in accordance with the provisions of the Climate Change Act and the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the Houses of Parliament.

Hon. Senators, as such, therefore, Section 8 of the Public Appointments (Parliamentary Approval) Act, provides that-

“(1) Unless otherwise provided in any law, a Committee shall consider nomination and table its report in the relevant House for debate and



decision within fourteen days from the date on which the notification of nomination was given in accordance with Section 5.

- (2) At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the Committee may consider necessary.”

Hon. Senators, in this regard, the period on the matter that is now before Parliament, starts running upon the Speakers of the Houses of Parliament committing the names of the nominees to the relevant Committees in the Senate and in the National Assembly.

Standing Order No. 230 on Joint Sitzings of corresponding Committees of the Senate and the National Assembly, of the Senate Standing Orders shall apply during the approval hearing. I urge the Committees to expeditiously consider the matter and table a report thereon within the stipulated timelines.

Thank you.

Senate Majority and Minority Leaders, kindly acquaint yourselves with the Standing Orders.

Next Order.

Hon. Senators, I have a further message from His Excellency.

NOMINATION OF DR. SUSAN JEMTAI  
KOECH TO THE POSITION OF CBK DEPUTY GOVERNOR

**The Speaker** (Hon. Kingi): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order 48, I received a Message from His Excellency Hon. William Ruto, PhD, CGH, President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces on the nomination of Dr. Susan Jemtai Koech to the position of Deputy Governor of the Central Bank of Kenya.

The Message was transmitted to the Senate vide a letter reference OP/CAB.26/4A VOL.I/(63) dated 25<sup>th</sup> January, 2023 by the Chief of Staff and Head of Public Service.

Pursuant to Standing Order 48(4) of the Senate, I shall now report the Message to the Senate:

“It is most graciously notified that His Excellency Hon. William Samoei Ruto, PhD, CGH, President and Commander-in-Chief of the Kenya Defence Forces, has in exercise of the constitutional prerogative vested in the Head of State and Government, caused a nomination to the position of Deputy Governor of the Central Bank of Kenya.

In this regard and pursuant to the Section 13B of the Central Bank of Kenya Act (Cp.491 of the Laws of Kenya) and the procedure set out in Section 3 and 5 of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011); we submit to both Houses of Parliament, the Presidential Nomination of Dr. Susan Jemtai Koech, for appointment as the Deputy Governor of the Central Bank of Kenya.

To aid the august House in its consideration and approval processes, we have the pleasure to forward, herewith, the Certificate of Presidential Nomination, together with the nominees' curriculum vitae and testimonials, as well as the report of the Public Service Commission on the recruitment of the Deputy Governor of the Central Bank of Kenya.

Accordingly, and by way of this letter, you are most kindly requested to consider His Excellency's nominee on a priority basis."

Hon. Senators, Section 13b (1) of the Central Bank of Kenya Act provides and I quote, 'There shall be two Deputy Governors who shall be appointed by the President through a transparent and competitive process and with the approval of the Parliament.' In relation to this Section 3 of the Public Appointments Parliamentary Approval Act, states 'that an appointment under the Constitution or any other law for which the approval of Parliament is required shall not be made unless the appointment is approved or deemed to have been approved by Parliament in accordance with this Act.'

Hon. Senators, Standing Order No.77 (1) of the Senate Standing Orders provides that upon the receipt of the notification of nomination for appointment of public office required to be approved by the Senate and the Constitution or any other legislation, the nomination shall stand committed to the relevant Standing Committees for consideration.

As was agreed and approved and executed during previous approvals for nominations such as the position of the Inspector General of the National Police Service (NPS), the message from His Excellency the President together with the Curriculum Vitae (CVs) of the nominee, stand committed to the relevant Committee and this case, the Standing Committee on Finance and Budget for approval hearing.

The Committee will hold the approval hearing the jointly with Department of Committee on Finance Planning and Trade of the National Assembly in accordance with the provision of the Central Bank of Kenya (CBK) Act and Public Appointments Parliamentary Approval Act and the Standing Orders of the Houses of Parliament.

Hon. Senators, Section 8 of the same Act Provides

1. Unless otherwise provided in any law, a Committee shall consider nomination and table its report in the relevant House of debate for debate and decision within 14 days from the date on which the notification of the nomination was given in accordance with section five.
2. At the conclusion of the approval hearing, the Committee shall prepare its report on suitability of the candidate to be appointed to the office to which the candidate has been nominated and shall include in the report such recommendations as the Committee may consider necessary.

Hon. Senators, in this regard, the period on the matter that is now before the Parliament, starts running upon Speakers of the Houses of Parliament committing the name of the nominee to the relevant Committees in the Senate and in the National Assembly.

Standing Order 230 on Joint Sitzings of the Corresponding Committees of the Senate and the National Assembly shall apply during the approval hearing. I urge the

Committee to expeditiously consider this matter and to table a report on the hearing within the stipulated timelines.

I thank you, hon. Senators.

## POINT OF ORDER

### INADMISSIBLE DRESSING BY AN HON. SENATOR

**Sen. Tabitha Mutinda:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, I do stand seeking your guidance on the Speakers Rules; Rule No.5 in regards to the dress code. I need to seek your advice on whether Sen. Gloria Orwoba is appropriately dressed for the House.

I thank you.

**The Senate Minority Leader** (Sen. Madzayo): On a point of order Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): What is your point of order, Senate Minority Leader?

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, hoja yangu ya nidhamu ni kwamba kuambatana na sheria za hapa ndani yaani *Standing Orders* zetu na pia zile sheria ambazo ni za Spika, tunatambua ya kwamba ni lazima mtu awe amevaa kisawasawa.

Hatuwezi kuingilia katika maisha ya mtu vile anavyotaka kuvaa, lakini hapa Seneti---

**The Speaker** (Hon. Kingi): The Senate Minority Leader, just have your seat. I will let you have your day. Before I allow the Senate Minority Leader to speak, let me look at Speaker's Rules Rule No.5. I want to know how it is admissible in this regard. Sen. Tabitha, can you guide us. Explain to us how Speaker's Rules Rule No.5 is relevant in this regard. What is inappropriate with Sen. Gloria Orwoba so that we take it up from there?

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, the Speaker's Rules are very clear on our dress code for both for the male and female Senators. As a woman and Senator, I find it very uncomfortable and inappropriate for our colleague Sen. Gloria to come to the House in a stained pant. I do not understand if she is on a normal woman cycle or is she faking it? She is so indecent because these are natural things that as women we go through.

Our society and our culture as women require privacy. I am disturbed as a woman. What are we showing our younger generation who looks upon us on how we dress as leaders in this House? What kind of picture are we portraying to the young leaders? I understand that the young generation go through a lot, but there is a better way as a leader to bring this out. That mode of communication is---

**The Speaker** (Hon. Kingi): What is out of order about Sen. Gloria Orwoba's dressing?

*(Loud consultations)*

The Chair wishes to know. What is out of order about, Sen. Gloria Orwoba's dressing? I do not want to do guesswork.

*(Loud consultations)*

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, I am disturbed because there are things that we women do not discuss in public. However, since the House requires me to state it openly, I will do it.

Our colleague, Sen. Gloria Orwoba, is either on her cycle or not, but she is indecent. The way she is also moving in and out of the House is so indecent. It is not a good conduct.

**The Speaker** (Hon. Kingi): Sen. Tabitha, you know, the Chairperson is in glasses. He may not catch the finer details of what you are talking about. Are you saying that the dress code of Sen. Orwoba is transparent and therefore, revealing? I can see that she is in a suit. What is wrong with her suit?

**Sen. Tabitha Mutinda:** I request that ask Sen. Gloria Orwoba to step in front of you for you to see how her dress is messed up and indecent.

**The Speaker** (Hon. Kingi): It is okay. The Senate Minority Leader, what is your point of order?

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, Kiswahili safi ni kwamba, mwanamke akiwa vile, huwa anamwaga damu na hatakikani hata kidogo kuonyesha umati wa watu ama ndugu zangu hawa wanaume wako na wake zao na madada zao wa heshima. Saa hizi, mke wa (Dr.) Khalwale, anatutazama na anaona vile mheshimiwa ameingia hapa akiwa anavuja damu kutoka sehemu zake za siri. Je, hii ni haki ndani ya Bunge hili la Seneti?

**The Speaker** (Hon. Kingi): I now get it.

Sen. Wambua, you may proceed.

**Sen. Wambua:** Mr. Speaker, Sir, respect should be given where respect is due. However, in circumstances where respect is not due, then we do not ascribe respect. This is a House of respect. There are things that should never be allowed in the Senate of the Republic of Kenya.

Mr. Speaker, Sir, some things must just be said as they are. We have women here. We have wives and daughters here.

We have ladies, wives and daughters who go through these cycles. Whether they go through these cycles is a matter to be managed personally without exposing it to other people. What Sen. Orwoba has done to this House today is disgraceful and shameful.

Mr. Speaker, Sir, if you consider, I invite you to invoke Standing Order No. 123. Whatever that has happened should never be allowed to happen.

*(Several Senators stood on a point of order)*

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

**Sen. Orwoba:** Mr. Speaker, Sir, on a point of order. I am dressed as per the Standing Orders. I am covered, I have a suit and collars. I am just short of a tie.

I am very disappointed. I am actually more disappointed because the point of order that is being raised is to try and attack an accident that is natural. I have stained my clothes.

At the end of the day, I just want to know why we are discussing this issue that is not even in the Order Paper. Is it because Senators are not women who have periods? Then, I should not be in this House because I have periods. On my way here, I actually stained my dress.

Mr. Speaker, Sir, this is the period stigma that is making our girls kill themselves. We have a girl who killed herself because of the same issue that I am going through. I now understand why because it is the women who are trying to make this a crime. Maybe, it is because it is Valentine's Day and we are not supposed to have our periods.

I am shocked that someone can stand here and say that the House has been disgraced because a woman has had her periods. So, women are not supposed to be in the Senate because we have periods? I do not understand. I am in trousers and I am covered.

Honestly, the most someone can do is come to me and tell me "I am sorry, are you having period cramps or shall I give you pain killers". Instead, I am being castigated for having my periods.

We now need to talk about whether women belong in the Senate. We cannot pretend that women do not have periods because they are in the Senate. This is a very natural thing. I am very embarrassed and upset.

Mr. Speaker, Sir, protect me.

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

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

**Sen. Olekina:** Mr. Speaker, Sir, someone once said that as leaders, we should be judged by the content of our speech.

It is quite evident that the distinguished Senator is picketing. From her words, she is actually raising something. She is not on her menstrual cycle.

*(Sen. Orwoba spoke off record)*

It is quite clear that from what she is trying to share with the rest of the world is that she is picketing. We see these things on social media, for example, *Tik Tok* and all over. We are not blind nor stupid.

We need to ask ourselves whether we should be having that debate today. Should we be focusing on trying to constitute the Senate Business Committee?

Mr. Speaker, Sir, if it is an important matter that needs to be discussed, I beseech you, that you direct the Senator to bring a Motion so that we can speak about it.

The distinguished Senator cannot attempt to disrupt the House. I will be very respectful and call her the distinguished Senator. She has been walking up and down and all of us are looking. She is not being honest in this case.

If any mature person realizes that she is going through something that is culturally a taboo to be discussed, she would have gone to the bathroom and covered herself. The other distinguished female Senators would have given her something to wear. However, they know that she is picketing.

Mr. Speaker, Sir, I request that you save this House so that men and women who sit in this House can be a good example to the millions of Kenyans that we represent. I beseech that you rule the distinguished nominated Senator out of order.

If she wants to picket, it should be outside. Every so often when we raise matters outside this House, we are told, “you are the Senators, go to the Senate and pass laws”. Why are we then coming in to reduce ourselves to demonstrators on the Floor of the House? This is very discouraging. I request that you rule her completely out of order.

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

**Sen. Mumma:** Thank you, Mr. Speaker, Sir. Whatever is going on, Sen. Orwoba has achieved to get the Senate to discuss something that is pertinent. The manner in which she has done it, may be not acceptable to the Senators. However, periods are a natural process that women go through in this country. There are many girls who cannot access pads and get into the situation that Sen. Orwoba has modelled today in the Senate. What happens is that they get shamed and many of them have dropped out of school.

Sen. Orwoba may have done it in the gory manner to us, as a Senate, but I plead that we rule that she possibly brings a substantive Motion that can enable us in this country to discuss issues that we call taboo and shameful but affect millions of girls in this country who need support from us.

Even as we rule, I will plead that you look at the bigger picture than at the offending aspects of Sen. Orwoba or the person who is bringing the issue.

*(Applause)*

**The Speaker** (Hon. Kingi): Thank you, Senators. Indeed, menstrual cycle is a natural act. However, there is a behavior that a woman is expected to uphold whenever they are going through that cycle period.

Sen. Orwoba, you have said that you are at that period. Maybe, four or five of our lady Senators are in that period too but they are not showing it. Which means they have taken the proper steps to deal with it. Having a period is never a crime. How to handle those periods is where we begin to differ.

If you read the Bible and even the Quran, if a woman is going through her periods, they are not even allowed to touch the Bible or the Quran. Therefore, you cannot say that you are being discriminated against.

Sen. Orwoba, I sympathise with you, that you are going through the natural act of menstruation and you have stained your wonderful suit. I am not asking you to leave because you are out of order. I am asking you to leave so that you go change, and come back with clothes which are not stained.

*(Applause)*

We appreciate you. Kindly proceed to go change and come back to the Chamber.

*(Sen. Gloria Orwoba walked out of the Chamber)*

Next Order.

### POINT OF ORDER

#### IRREGULAR PROCESSING OF BUSINESS BEFORE CONSTITUTION OF THE SBC

**Sen. M. Kajwang’:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): What is your point of order, Sen. M. Kajwang’?

**Sen. M. Kajwang’:** Mr. Speaker, Sir, what a way to start a session! My point of order is based on the traditions and customs of Parliament which you are very well versed with.

On the first day of a session, the main business is constitution of the Senate Business Committee (SBC) which then processes the business that comes before the House.

Mr. Speaker, Sir, I appreciate that the Messages that you read are in the Standing Orders and that there is a requirement that they be read at the first instance when the Senate sits. However, the next Order that we are going into, which is laying of Papers, is neither urgent nor critical.

Even though some of the papers that the Majority Leader is about to lay are things that we should have done before, I wanted to get your guidance because in the absence of a SBC - as we speak, we do not have a SBC, it died in the last session - would it be in order for this House to process business in the form of papers or any other subsequent order?

This is because, what we have done is; the first day of the first session is usually two or three minutes. It is just to allow the SBC to be put in place. The SBC can then schedule and agree on what should be in the Order Paper.

*(Loud consultations)*

Mr. Speaker, Sir, I beg for your protection because---

**The Speaker** (Hon. Kingi): Can the Senator be heard in silence, please? If you have an issue, you can make the intervention through the system and I will pick it up from there.

**Sen. M. Kajwang’:** This is our first substantive---

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

**Sen. M. Kajwang’:** I am on a point of order.

**The Speaker** (Hon. Kingi): Yes, he is on a point of order.

**Sen. Sifuna:** Mr. Speaker, Sir, I request to speak. I am allowed to express my disgust visually. I am just disgusted!

**The Speaker** (Hon. Kingi): Well then have your seat. Sen. M. Kajwang', please, proceed.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, for avoidance of doubt, I am rising on Standing Order No. 43 as read with---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Can the Senator be heard in silence? He is on a point of order.

**Sen. M. Kajwang'**: Standing Order No. 43 as read alongside Standing Order No.190. The manner in which we begin a session will determine and dictate how this House is going to run for the next one session. Honestly, I am fairly disappointed that on the first day of the first session, instead of focusing on the critical business of constituting the SBC, we have veered off into issues that can best be prosecuted using other tools that are available to us, as legislators.

Mr. Speaker, Sir, I beg that we stand down the Papers that are to be tabled. It is not that those papers are harmful but we might put in place a dangerous precedent where this House considers business when the SBC has not been established.

Mr. Speaker, Sir, I beg your guidance.

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

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I do not know if my colleague, Sen. M. Kajwang', has the same Supplementary Order Paper that has just been circulated. As per the Order Paper, once we finished listing the Messages, we moved to Petitions. Immediately after Petitions, we moved to Papers which I guess is what is subject to his protestations.

If you go to appendix of the Order Paper and read through these Papers that are being laid, I do not think they fall under the ambit of what you call substantive business. These are ordinary reports that we receive in the Senate. In any case, there will be a scheduled time for either in regards to number 2; the report to be substantially considered or in number 1; the same to find its way to a Committee where he is a Member.

I do not think this falls under the ambit of what you would consider to be substantive business of Parliament. If it was a Motion or a piece of legislation that we want to process, then I would be just as concerned as you. However, I would wish to convince my brother, Sen. M. Kajwang, that while his warning may be good for the order of processing business in this House on this particular matter, I do not think there is anything for him to be gravely concerned about.

**The Speaker** (Hon. Kingi): Sen. M. Kajwang', on your point of order, what is going to happen today is laying of the papers. It is upon the SBC after we have constituted it, to prioritise for discussion, debate and committing of the same to the committees.

Therefore, I do not see what prejudice we are going to suffer as a House by laying procedurally of these papers. The substantive business that is supposed to be carried on this papers that are going to be laid today is going to be determined by SBC.



Nevertheless, I do not see how we are going to suffer damage or any prejudice as a House today if we allow the laying of the papers today. Just laying the papers.

Kindly, let us proceed to lay the papers. Immediately we constitute the SBC, then it will be upon SBC looking at the papers to draw substantive business out of the Papers that have been laid here procedurally.

### PAPERS LAID

#### THE COUNTY GOVERNMENT ADDITIONAL ALLOCATION CASH DISBURSEMENT SCHEDULE FOR FY 2022/2023

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 14<sup>th</sup> February, 2023.

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

### POINT OF ORDER

#### INADMISSIBLE DRESSING BY AN HON. SENATOR

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I will be quick. Under the Speaker's rules, I invite your attention to guide the House whether Sen. Karen Nyamu is properly dressed.

Mr. Speaker, Sir, I am getting really concerned with the kind of leadership that the Majority side is showing this House. We are degenerating to really watering down the sense of Parliament. I beseech the Majority Leader as well as the Majority Whip to have a conversation with their Members. What we are seeing in this House is very embarrassing.

**The Speaker** (Hon. Kingi): Sen. Oketch Gicheru, kindly quote the rule that has been breached and specifically tell us the page.

**Sen. Oketch Gicheru:** Under Rule number 5, Sen. Nyamu is not properly dressed. She has entered this House with a sleeveless dress. The Speaker can rule whether that is appropriate or not, but my advice and plea is to the Majority side to take Kenyans seriously. We have been elected into this House to bring honour to the people of Kenya. Enough is enough in this House.

*(Applause)*

**The Speaker** (Hon. Kingi): Sen. Munyi Mundigi, if it is related to that point of order, then proceed.

**Sen. Munyi Mundigi:** Bw. Spika, tuko Maseneta 67 katika Seneti hii. Nataka kumkosoa Seneta kwamba hiyo sio mambo ya *Kenya Kwanza*, ni mambo ya mtu binafsi. Kama mtu amevaa vibaya, sio Maseneta wote wa *Kenya Kwanza* wamevaa vibaya.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Can the Senator, please, be heard in silence?

**Sen. Munyi Mundigi:** Ni ukweli kwa sababu angesema Sen. Nyamu.

**The Speaker** (Hon. Kingi): Can you please have your seat?

*(Loud consultations)*

Order, Senators!

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Sen. Mundigi! Sen. Mundigi, can you take your seat!

*(Loud consultations)*

Hon. Senators, the Senate leadership has taken time to take you through various inductions. I am shocked that whatever...

*(Loud consultations)*

Can the Chair be heard in silence? Sen. Sifuna, you are out of order. If you continue, I will throw you out of the Chamber.

*(Sen. Sifuna Spoke off record)*

Sen. Sifuna, kindly leave the Chamber now.

*(Sen. Sifuna walked out of the Chamber)*

Hon. Senators, this is a House of integrity and decorum. Our debate is based on our Standing Orders, which define how we should debate, how we should carry ourselves and how we should dress.

After few months of sitting in this Chamber, I expect us to do better. Just like Sen. M. Kajwang' has said, what a way to start the Second Session! The way we have started our proceedings today, it is like we have just been sworn in and all of us are new.

Every now and then, you talk about being respected. You need to respect yourself first. If you have a point of order, there is a way you can prosecute it. Shouting at each other is a disorderly conduct as per our Standing Orders.

Sen. Mundigi, you have come of age. When the Chair is standing, you should freeze or sit. I was on my feet and you were busy yelling and throwing your hands in the air. That is a disorderly conduct which will not be tolerated.

Regarding Sen. Nyamu, I am going to read the Speaker's Rules No.5 for clarity. It states as follows:

“Senators are required not to enter the Chamber, lounge or dining room without being properly dressed. This means that a male Senator will be dressed in a coat, with collar tie, long trousers, socks and shoes or service uniform, religious attire or such other decent dressing as may be approved by the Speaker from time to time.”

Once the Speaker approves any dress code, it is normally communicated beforehand.

“An equivalent standard shall apply in respect of women Senators who may also wear *kitenge* or such other African attire.”

Sen. Nyamu, I am afraid that you do not fit the bill. I am going to ask you to leave the Chamber to go and get properly dressed and come back. Sen. Nyamu, I have already ruled. Kindly, abide by the ruling.

*(Sen. Nyamu walked out of the Chamber)*

Before you proceed, Senate Minority Leader, as for Sen. Sifuna, he will remain out of this Chamber for the remainder of today’s sitting. He may resume tomorrow.

**The Senate Minority Leader** (Sen. Madzayo): Bw. Spika, hatupingi uamuzi uliotoa kwamba Sen. Sifuna atoke nje kwa sababu amejibizana nawe. Ningependa kusema kitu kimoja. Aliyeanzisha fujo hakutolewa licha yake kufanya hivyo mara mbili akiwa hapa ndani.

Alitoka pale alipokuwa ameketi akaja hapa na kusema alivyosema na ukamwambia aketi lakini hakukaa. Ulipoendelea kuongea, alirudi hapa mara ya pili na akaendelea kujibizana nawe. Amejibizana na upande huu kwa mara ya tatu kwa sababu alikuwa anamwambia asikilize amri ya Spika.

Kama wangekuwa wachezaji wa mpira, basi wote wawili walifanya makosa. Ukipeana kadi nyekundu huku, unafaa kupeana kule pia ili wote wawili watoke nje. Hiyo itaonyesha kuwa haki imetendeka.

Sipingi uamuzi uliofanya. Hata hivyo, kuna yule aliyeanzisha fujo mpaka yule Seneta akatolewa nje. Hatufai kuwa na ubaguzi wa aina yoyote.

*(Sen. Cheruiyot spoke off record)*

Tafadhali, Seneta kiongozi mwenzangu, siwezi kujibizana nawe ukiwa umepewa nafasi kuongea. Nitanyamaza mpaka wakati wangu ufike.

Bw. Spika, kwa hisani yako, na ninajua sheria inauma pande zote mbili, kwanza, yule amefanya makosa makubwa. Alipojibizana nawe mara ya kwanza, ulifaa kumtolea kadi nyekundu na kuamuru aende nje.

Inaonekana kwamba umelemea upande huu na kupendelea upande ule mwingine. Aliyeanzisha fujo ni Seneta wa Embu. Hata Wakenya wote wameona.

Nakuomba, Bw. Spika, adhabu uliyotoa kwa upande wa walio wachache inafaa kutolewa pia kwa upande wa walio wengi.

Asante sana.

**The Speaker** (Hon. Kingi): Sen. Cheruiyot, Proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I completely agree with the Senate Minority Leader. If it were as he has explained, then I would agree with him. Unfortunately, that is not what happened in this Chamber.

When Sen. Mundigi rose to speak, the Minority side was actually heckling him. It was because of the heckling and the noise that was being made that he missed your instructions.

Mr. Speaker, Sir, you know very well that Sen. Mundigi is extremely respectful. Anytime you, as the Speaker, has guided him on what to do, he has always respected you.

The issue is that when he was speaking, Sen Olekina and Sen. Oketch Gicheru were engaging him in a shouting match. Therefore, he did not realise that you were on your feet.

Secondly, this is why I agree with the verdict on Sen. Sifuna. The day I will directly engage you, as the Speaker of this House, please throw me out for as long as it is possible by law.

The Speaker is the symbol of authority in this House. If Sen Mundigi had stood here and you had told him to sit down and he engaged you and told you that he was not going to sit down, you could have been right to throw him out even for a month but that is not what he did. He may not have heard you clearly and that is why he continued engaging with that side.

Let us paint a situation where you, as a Senator, want to challenge the authority of the Speaker seated there and engage him in a shouting match without being given the opportunity to speak. I do not think there is any debate for that particular matter.

Therefore, Mr. Speaker, Sir, I agree with your verdict but the fact remains that Sen. Mundigi did not contravene any of your guidance. He did not shout back at you, and he was respectful to the Speaker unlike our colleague Sen. Sifuna.

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

**Sen. Wambua:** Mr. Speaker, Sir, there is a way that we can be borne out by records of this House. I will be the last person to engage the Speaker in a manner that I have seen some Senators do. The dignity of this House must be retained at all cost, all the time.

Sen. Munyi Mundigi is my friend, neighbor and Vice Chairperson in the Committee on Agriculture and I respect him. However, what he did on the Floor today should never be allowed. Running up and about the isle, exchanging words with everyone which provoked Sen. Sifuna to demand of him to respect the Chair.

Sen. Sifuna was disgusted that Sen. Munyi Mundigi was disrespecting the Speaker and throwing up arms against other Senators. I do not support the action of any Senator to engage the Speaker in that manner. For that reason, Sen. Sifuna was asked to leave which he did respectfully.

Mr. Speaker, Sir, to send the right message in this House at the beginning of a new Session, we should not tolerate this kind of behavior in this House. I do not direct you but plead. For purposes of you being seen to be fair, give Sen. Munyi Mundigi the same fate that has befallen Sen. Sifuna.

**The Speaker** (Hon. Kingi): Senators, we need to dispense of this point of order so that we proceed on more serious matters. For the few months I have presided over this House, if you noticed, I have been lenient and patient to the extent that some of you have developed a habit of engaging the Chair. I am going to make it clear in this Second Session that the business of the House is going to be conducted strictly according to our Standing Orders.

I will give you the difference between the acts of Sen. Munyi Mundigi and those of Sen. Sifuna and why I chose to send away Sen. Sifuna and not both of them. Sen. Sifuna engaged the Chair directly, which you cannot do. If you noticed, for the few months we have been here; both sides engage each other and I call for order and you calm down, I do not throw you out.

The moment you go beyond engaging your colleagues and engage the Chair, then certainly that is a line I will not allow you to cross. Sen. Mundigi did not engage me directly, he was engaging the colleagues. He was shouting just like you were shouting. If I am to send Sen. Munyi Mundigi out, I will send five of you from this side which I do not think is the proper way to handle business.

Hon. Senators, let us prosecute our business with dignity and decorum. It is extremely painful for me to ask a Senator to leave the Chamber. Sen. Sifuna is not an individual, he is here on behalf of millions of people in Nairobi City County. Sending him out means shutting out millions of *Nairobians*, it is that painful.

This is why for the few months I have been with you, I have exercised restraint, not wanting to throw out anyone of you. Members, do not take that as a weakness of the Chair. I will always exercise my discretion with a lot of restraint but also expect you to behave in a manner as stipulated in our Standing Orders. Let the matter rest there.

Next Order.

Senate Majority Leader, you were on the Floor. Please, conclude.

### PAPER LAID

#### REPORT ON NOMINATION OF HON. JOHNSON MUTHAMA, FOR APPOINTMENT AS A NON- MP COMMISSIONER TO THE PSC

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, in conclusion, I beg to lay the following Paper on the Table of the Senate, today, Tuesday, 14<sup>th</sup> February, 2023-

Report of the Parliamentary Service Commission on the nomination of Hon. Johnson Muthama, for appointment as a Non-Member of Parliament Commissioner to the Parliamentary Service Commission.

*(Sen. Cheruiyot laid the document on the Table)*

## COMMUNICATION FROM THE CHAIR

### NOMINATION OF HON. JOHNSON MUTHAMA, FOR APPOINTMENT AS A NON- MP COMMISSIONER TO THE PSC

**The Speaker** (Hon. Kingi): Hon. Senators, as you may have noted, the Senate Majority Leader has tabled the report of the Parliamentary Service Commission on the approval for appointment of Hon. Johnson Muthama to the position of male non-member Commissioner of the Parliamentary Service Commission.

The composition of the Parliamentary Service Commission is detailed in Article 127 of the Constitution of Kenya. Article 127(2)(d) of the Constitution provides that the composition of the Commission shall include -

“one man and one woman appointed by Parliament from among persons who are experienced in public affairs, but are not Members of Parliament.”

Honourable Senators, public appointments such as this must be approved by Parliament as provided for in Article 127(2)(d) of the Constitution and Section 3 of the Public Appointments (Parliamentary Approval) Act. Further, Standing Order 77 of the Senate Standing Orders provides the procedure for approval hearing by a select committee.

From the foregoing, this matter stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration. Pursuant to Section 8 (1) of the said Act and Standing Order 77 (3), the Committee has 14 days from today to consider this matter and report to the Senate on the suitability of the candidate for appointment to the Parliamentary Service Commission.

I thank you.

Next Order.

## NOTICE OF MOTION

### APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to give 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 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. Ali Ibrahim Roba EGH, MP           | - | Member |
| 2. Sen. Veronica Maina, MP                 | - | Member |
| 3. Sen. Wakili Hillary Kiprotich Sigei, MP | - | Member |
| 4. Sen. Maureen Tabitha Mutinda, MP        | - | Member |
| 5. Sen. Agnes Kavindu Muthama, MP          | - | Member |

6. Sen. Mwinyihaji Mohamed Faki, MP - Member
7. Sen. Edwin Watenya Sifuna, MP - Member

**The Speaker** (Hon. Kingi): Who is the seconder of the Motion?

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, it is a Notice of Motion.

**The Speaker** (Hon. Kingi): Okay. Sen. Thang'wa, proceed.

*(Sen. Nyamu walked into the chamber)*

*(Applause)*

**Sen. Thang'wa:** Thank you, Mr. Speaker, Sir. I rise on a point of Order. Standing Order No.255 prescribes the sitting arrangement in the House. I seek your indulgence to advise my good friend, Sen. Githuku, the Senator for Lamu County. Is the Senator in order to sit on that side, considering the Jubilee Party of Kenya is now in Kenya Kwanza, yet we sit on this side?

*(Laughter)*

Mr. Speaker, Sir, kindly, advise.

**The Speaker** (Hon. Kingi): Sen. Thang'wa, if you read the Standing Order that you have just quoted, certain leadership positions must take their rightful positions. Otherwise, any other Senator can sit as they see fit.

Let us proceed. The Senate Majority Leader, proceed.

## MOTION

### APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg 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 (SBC). 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. Ali Ibrahim Roba
2. Sen. Veronica Maina
3. Sen. Wakili Sigei
4. Sen. Maureen Tabitha Mutinda
5. Sen. Agnes Kavindu Muthama
6. Sen. Mwinyihaji Mohamed Faki

## 7. Sen. Edwin Watenya Sifuna

Mr. Speaker, Sir, as has been previously observed by Sen. Kajwang', this is always the main business every first day for all sessions in this House as per our tradition. In the usual flow of business, we should have got to this Order by 2.35 p.m. However, as you have already pointed out, this afternoon was troublesome and there were challenges. Matters of dressing and such like things do not have to be canvassed on the Floor of this House. This also includes matters on how to behave as a Senator in the presence of the Chairperson and fellow Senators.

Mr. Speaker, Sir, I am moving this Motion so that the SBC can move business in this House and make Members as busy as possible, transacting business that makes better the lives of citizens who elected us. It will be extremely troubling if nothing of note is recorded to have been transacted for close to two hours. It is not what we expect of our colleague Senators, particularly the new Senators. Perhaps, they are struggling with issues they hold dear but are dependent on the traditions and customs of this House.

I urge my colleagues that we quickly dispense of with this Motion. We have nominated our colleagues to serve, separate from those who are there by dint of office as listed in the Motion. Those Senators are nominated from the Minority and the Majority sides, to meet, agree and set forth the business to be transacted in this House.

Mr. Speaker, Sir, this is now the business end of your term in Parliament. Many of us might have been excused in the first three months of this House. We would commence sittings by 2.30 p.m. and by 4.00 p.m., we would adjourn for lack of business either because of lack of quorum or other reasons. This cannot be tolerated anymore.

The SBC shall approve many business items as possible – Bills, Motions and any other business expected of us as the legislative arm of this country. We will ensure we transact business in tandem with what every Senators promised and what this institution has promised to Kenyans. I look forward to an engaging afternoon every Tuesday, Wednesday and Thursday as we begin this particular Session.

I want to listen to ordinary Kenyans speak of the challenges that they continue to face and how we can make this country better through their representatives.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): I thought the Senate Majority Leader was moving a Motion.

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

*(Loud consultations)*

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

**Sen. Dullo:** Mr. Speaker, Sir, Sen. Wambua has no right to abuse me. He is not the Speaker of the House.

*(Sen. Wambua spoke off record)*



Point of Order, Mr. Speaker, Sir!

**The Speaker** (Hon. Kingi): Senators, I have taken time to talk to you but clearly, you were not listening. Hon. Senators, do not make the Second Session bumpy and difficult.

From what I am seeing and going forward, we may have to go the straight and the narrow jacket way. Leniency will not be the case and we will just apply the Standing Orders as they are.

When a Member stands on a point of order and another interjects, they will be asked to move out. That is disorderly conduct. Please, Senators, let us conduct the business of the House as per our Standing Orders.

Sen. Dullo, proceed.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I rise on a point of order. There is no formal communication to this House that Jubilee Party has left the Azimio Coalition.

Secondly, I see the list has been changed and the Jubilee Party is not properly represented in the SBC. Based on that, I am objecting to the list of Senators that has been read here to serve in the SBC.

**The Speaker** (Hon. Kingi): Sen. Dullo, Senators will have an opportunity to debate the moment this Motion is moved. Kindly rise at that time and raise your objection. I will kindly hear you.

Senate Majority Leader, please proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I was almost concluding moving the Motion.

May I remind my colleagues that Parliament consumes about Kshs38 billion annually in terms of budget and support from the Exchequer to run this House. This keeps our business and affairs properly minded. That is money that would ordinarily serve Kenyans in other duties.

It is incumbent upon to us to come to that realization – that amount of money needs to be put to good use; be it in Committees or the Plenary sittings and any other parliamentary business.

This is the beginning of actual work as per the dictates of our Constitution, under Article 94 on the establishment of Parliament and Article 96 on the establishment of the Senate. It is upon us now to live up to the constitutional expectations of Kenyans. We need to properly represent counties and take care of their interests. We need to pass legislation that supports what Kenyans want to see in their leaders, as well as transact business that is meaningful to them.

Mr. Speaker, Sir, it is my sincere hope that as we put together this Committee, that will be the business we shall be considering on many afternoons. I look forward to a time when we shall have proper debates. By the time a policy document – whether in the form of a Motion, Bill or policy paper – finds its way to the Floor of this House, Members will have been properly informed of the same debate, engage each other and finally make a decision in the best interest of Kenyans.

There should be no more excuses even from our newest Members who might say they are yet to learn. Three months is enough time for a good mind to learn. This is the

time to get down to business and ensure that we do things that are beneficial to our country.

I urge Members to participate and sit in their committees. I will be quick to note that there are many committees and each one of us is a Member of the various committees that have Bills being transacted at various stages.

If this Moton is successfully carried, we shall be transacting business and requesting for Bills to be debated. We expect that by the time we come to debate any particular Bill, we shall transact business without having a report of the committee unless there is very good reason. It will take the convincing of the whole House to know why they are being asked to process and move forward with a particular Bill without a Committee concluding its report.

There is a lot of work. This is the month of February. We are handling the Budget Policy Statement (BPS) in various committees with Members and stakeholders coming to present before the various committees on the various budget ceilings and proposals. I expect Members to be busy in the House. I believe people have toured every corner of the world for those that were interested and the excitement should now be dying out.

Let traveling outside the country be when it is extremely necessary. This business of competing, changing bags at the airport from one trip to the other needs to be a thing of the past. Actual work needs to be done and most of it, for all intents and purposes, those who have been long in Parliament know it is done actually in the country. There is hardly anything extremely useful that you will learn outside the borders of Kenya.

The truth must be said. We must challenge ourselves as Parliament. This is the time to tell each other the truth. Most committees will exhaust their foreign travel budget, leaving a surplus in their local travel budget. What does that say? They say that we only speak about Marsabit, Isiolo, Lamu, Kisumu, Kericho and the various parts of the country in this House.

It cannot be that you are a Senator in the Republic of Kenya yet you cannot place certain towns of this country. While you cannot get lost, for example, in New York, you would struggle to find your way to Rumuruti from Nanyuki town. That cannot be excused. Let us find meaning in traversing this country, listening to the needs of our citizens, engaging them where they can easily be found, which is back in *mashinani* as various committees. I said this during the induction and I repeat the same to our colleagues.

We are Parliament. People respect us. When we speak, Kenya listens. It cannot be that Kenyans continue to complain about various issues without the Committees of Parliament responding to them. This is the time to summon the various Cabinet Secretaries (CS) and take them to task. Let them file a plan before this House and explain to us up to when Kenyans will continue paying high costs for electricity bills and the various promises. You can work about it in terms of any departmental committee for which we have ensured that at least as a leadership, each Member belongs to a particular committee where they can exert their influence and ensure they offer service to the country.

This is a straightforward matter. I do not wish to take long on this matter. I urge my colleagues to get down to business. We shall be judged either to have succeeded or failed depending on how we execute in the next few months that are ahead of us. Looking forward to a properly engaging session as we do the best for our nation.

With those very many remarks, I beg to move and request my brother, the Senate Leader of Minority, to second this Motion.

Thank you.

**The Senate Minority Leader** (Sen. Madzayo): Asante Bw. Spika. Naunga mkono yote yaliyosemwa na ndugu yangu kiongozi wa walio wengi, Sen. Cheruiyot.

Kwanza, nawashukuru maseneta ambao wako hapa sasa hivi. Wale saba ambao wako kwenye *list* hii ni maseneta ambao wamechaguliwa na upande ule mwingine na upande huu wa walio wachache pia.

Nikiangalia hii *list* ya hawa maseneta saba, ni watu waliojukumika, walio na taaluma tofauti tofauti ambazo wataleta katika *Senate Business Committee* (SBC). Nataka kuwapatia kongole kwamba ni watu ambao wamekamiliwa kisawa sawa. Kuna Sen. Ali Roba, aliyekua gavana. Dadangu Sen. Veronica Maina ni wakili mkubwa. Ndugu yangu Sen. Wakili Segei ni wakili mkubwa. Dadangu Sen. Tabithe Keroche ni mtu mwenye taaluma kubwa sana ndani ya nchi yetu ya Kenya. Mamangu, Sen. Kavindu Muthama, pia ni mmoja wa wale wenye taaluma ya juu sana. Sen. Faki ni wakili mkubwa naye Sen. Sifuna akiwa pia ni mmoja wa mawakili waliojitambulisha juu sana hapa Kenya.

Sen. Sifuna alikua ni mwandishi mkuu katika chama cha Orange Democratic Movement (ODM) na utendakazi wake ulikuwa wa hali ya juu sana. Nampongeza vile vile kwa kuja katika kamati hii ya SBC. Vilevile yeye husema ukweli lakini hasira zikizidi ni kama za binadamu. Kuna samaki mmoja kwenye maji anayeitwa mkizi. Wanasema hasira za mkizi saa zingine inakuwa furaha kwa mvuvi. Lakini hapa, Sen. Sifuna amejitambulisha kama seneta mshupavu. Jukumu letu---

**Sen. Faki:** Hoja ya nidhamu.

**The Speaker** (Hon. Kingi): Sen. Faki, ni nini hoja ya nidhamu yako?

**Sen. Faki:** Bw. Spika singependa kumtatiza ndugu yangu Sen. Madzayo, lakini msemu ambao ameutumia haufai kutumika hapo.

Hawezi kusema hasira ya mkizi furaha ya mvuvi. Yaani hasira za Sen. Sifuna ilikua ni furaha kwa Spika. Haiwezekani kuwa hivyo.

(*Applause*)

Msemu aliotumia Sen. Madzayo haufai kutumika hivyo.

Asante Bw. Spika.

**The Speaker** (Hon. Kingi): Senate Minority Leader, is that what you meant?

**Sen. Madzayo:** La, Bw. Spika.

**The Speaker** (Hon. Kingi): Okay.

**The Senate Minority Leader** (Sen. Madzayo): La, tena kubwa sana. La.

Bw. Spika nataka pia kuwahimiza ndugu zangu maseneta ya kwamba majukumu tulionayo ni ya wakenya. Litakua jambo jema ikiwa hivi sasa, muhula huu wa pili ambao

tuko, tukitia bidii. Tulienda *induction* ama kufunzwa na kupata taaluma za juu zaidi ili tukija hapa, tuchape kazi vyema. Ndugu yangu Sen. Cherargei ana taaluma ya juu, ili hawa wengine wawe na taaluma kama Sen. Cherargei, lazima tuelimishane.

Hii kamati italeta mambo mazuri ndani ya Bunge la Seneti. Sisi tunatakikana kuiga mfano mwema. Mifano ya kusikitisha ni ile tumefanya leo ambayo Bw. Spika ametoa uamuzi wake na tumekubaliana. Nidhamu ni kitu muhimu. Sisi kama maseneta katika ‘nyumba ya juu’, nataka tubaki hapo juu kuliko Bunge la Taifa.

Nakumbuka ule muhula wa kwanza ambao tulikuwa na wale wengine ambao walikua maseneta pia. Kulikua na ndugu zangu Sen. (Dr.) Khalwale na Sen. Cheruiyot. Seneti hilo lilikuwa la hali ya juu sana na liliheshimiwa Kenya nzima. Sisi pia twaweza kuwa hivyo na tukaheshimika. Ukiangalia hapa alipoketi ndugu yangu Sen. (Dr.) Khalwale, GG Kariuki alikua anaketi pale.

Pale pengine alikua anaketi Kiraitu Murungi. Kule kwingine kulikua kunaketi Mutahi Kagwe. Upane huu wa walio wengi ilikua kuna misingi ya watu ambao waliongoza Kenya na walileta mafanikio mpaka hivi leo tumejikuta hapa.

Bw. Spika ukiangalia kwa upande mwingine tulipoanza, tulikuwa katika *garage* ingine ya Kenya International Convention Centre (KICC), mahali pengine kama tundu. Ilikuwa hatuwezi kuketi mahali kama hapa. Lakini kwa nguvu na juhudu ya wale waliokuweco tumefika hapa. Ni jambo la kujivunia kama *Senate*.

Kwa hivyo, mimi nataka kuwaambia ndugu zangu, tuko hapa kuleta mageuzi ndani ya Kenya, ili Wakenya wapate vitu muhimu au maisha yao iwaletee afueni.

Kwa hivyo, ninaunga haya majina yaliyoletwa hapa kuwa kwa *Senate Business Committee* (SBC) ili tuweze kupata mafanikio kama Maseneta na pia tuweze kuwafanyia Wakenya kazi.

Asante.

*(Question proposed)*

**The Speaker** (Hon. Kingi): Hon. Senators, you may now proceed to make your contributions starting with, Sen. Maanzo.

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

The constitution of the SBC provides an opportunity for the House to plan its business and execute it for the benefit of serving Kenyans appropriately.

Mr. Speaker, Sir, I must commend the Senate for being very efficient. I must also commend you for handling the Senate well and being a symbol of unity of this House.

My experience from the National Assembly was very different in the last 10 years. It was very difficult to even get an opportunity to contribute on the Floor of the House, out of the many numbers. In fact, if that happened, it was for a very short while.

Mr. Speaker, Sir, while in this House, you are able to express yourself, represent your people and lobby for resources for the counties.

The job of the Senate is so serious such that we are handling devolution in the country and a lot of development activity is happening through the governors. The

survival of the counties purely rests on Division Revenue Bill and how Senators support the counties to have resources to be able to function.

This House and its duties are very important when it comes to devolution. It has also given hope to Kenyans that development is able to reach every part of the country irrespective of your political party or your affiliation. This is because the governors are elected and their support, heavily relies on this House.

Additionally, this particular list enables the political parties to be represented accordingly. Each side of the coalition makes its own decision to its membership. It goes back to the leadership of the coalition. The instructions and discussions make sure that each coalition is properly represented.

Mr. Speaker, Sir, I believe that this will be useful to the country. There are only seven Senators together with the House leadership. Each one of us may want to serve in that particular Committee. However, sometimes it is good to give a chance to others also to serve in that particular Committee. This opportunity is accorded by respective coalitions as envisaged in the constitution of political parties in respective coalitions.

Therefore, I believe those few Members who are taken there represent the Senate. All of us cannot sit in that particular Committee and the few who sit there represents us.

I believe the list provided is well balanced. It has very experienced and respected Members of this House. I am sure they are going to do a good job for the benefit of devolution in this country. The Senate is very important under the Constitution, 2010. It has shown a lot of maturity so far and I believe we are going to do better.

Mr. Speaker, Sir, finally, the future leaders of this country are in this House including you. Kenyans are watching what we do and the qualities displayed here.

I must thank Sen. (Dr.) Khalwale, for very good debates inside and outside the House. Nonetheless, on this other side, Sen. Wambua, the Senate Deputy Minority Leader has shown a lot of maturity.

I support.

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

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. From the onset, the House cannot proceed with any matter until and unless the SBC, as per Standing Order No. 190, is in place.

Many Kenyans and people who are following the proceedings should know that this is a very important Motion. It is an important business of the House.

Mr. Speaker, Sir, I have a few comments. As we proceed with SBC, my appeal is that we have so many Statements, Motions and Bills. Therefore, the Committee Chairs or the SBC should assist through the Liaison Committee where the Deputy Speaker is the Chair.

This is so that when the responses to Statements are being brought, it is the tradition and with respect that all the individuals should be communicated to. For instance, if the Senator for Mombasa sought a Statement from the Committee on Lands, Environment and Natural Resources, it should not proceed without his consent.

The Standing Orders have also allowed virtual sitting. Therefore, sometimes Committees proceed without the input or satisfaction of specific Committee Chair.

I agree with Members that have said that sometimes Motions, Statement and Bills are being called---

I do not want to say that my colleagues are busy with other things. They are also busy serving people. However, they should teach their people that they also have business to transact.

Sometimes in the Order Paper as per Standing Order Nos. 45, 43 and 41, you find a Statement that has overstayed longer than the ordinary *ugali* that is eaten in the morning yet it has been cooked in the evening.

We need to agree as colleagues that it is in the interest of saving time for the House. If you are a Member and you cannot make it to move your Motion, Bill or Statements, kindly indicate to SBC or even through the Speaker's or Clerk's office so that you do not waste the time of the House.

Mr. Speaker, Sir, we do not have a Committee on Implementation. However, I appeal to the SBC to follow up on some of the Committee reports and resolutions that we make so that they do not end up gathering dust in most of our offices.

I note with a lot of respect that we have many people who are serious and experienced serving in this Committee.

Mr. Speaker, Sir, you can find that there is a fire outbreak somewhere in the Aberdare. Let me not say Nairobi because somebody might read mischief. Aberdare could be burning, either accidentally or coincidentally. Why should we wait for 14 or seven days to get a response?

I ask the Senate Business Committee (SBC), that when they sit to consider urgent matters, they should at least bend their rules. If that matter has been brought on a Thursday, you should order a progressive report to be brought on Tuesday's Order Paper so that if it is an emergency, we can deal with it. The Senate should not behave like morticians, who come only to do postmortem.

I appeal to committees to be proactive. Do not also go to bed with clients. I have seen some committees are excited and want to be proactive but at the end of the day, they interfere with some cases by going to bed with the clients.

Mr. Speaker, Sir, I have curiously noted that the majority side has no problem. As I make my concluding remarks, I would like to inform my very good brother and the Senate Minority Leader, whom we look up to because of his seniority that some serious names that were there are missing. I think it is not fair for people to serve shortly, for a session like the Senate Minority Whip, Sen. Dullo. These are people who have experience. I think she has served for almost the entire life of the Senate.

Therefore, I appeal to our colleagues and Section 14 of Political Parties Act is very clear that if somebody resigns from a political party, there is a procedure. I appeal to the minority side to follow the rule of law. You have been going to public rallies and telling us to respect the rule of law. Why should you then bend the rule of law? I am happy that Sen. Kavindu Muthama is in the Senate Business Committee because we need that experience.

Mr. Speaker, Sir, even Martin Luther King said---

**The Speaker** (Hon. Kingi): Sen. Cherargei, are you in support of the Motion or you are opposing the Motion?

**Sen. Cherargei:** Mr. Speaker, Sir, I said ‘curiously’ at the beginning of my statement. I am just noting; I am yet to conclude.

**The Speaker** (Hon. Kingi): The question I asked you, is: Are you supporting or opposing?

**Sen. Cherargei:** Mr. Speaker, Sir, I am yet to conclude. I am coming to that in one minute. That is why I was saying that let us follow the rule of law. Mr. Speaker has given direction that we must conduct our businesses through respect and fidelity to the rule of law. That is what Justice David Maraga said in the ruling of the presidential petition of 2017.

If some names are missing because of political witch-hunt, then it should not be allowed.

*(Loud consultations)*

We cannot be a House that is used for vindictiveness. We should respect women leadership. It must be respected. We cannot allow harassment of women leaders in this House for political convenience.

Finally, on our side, I think a number of colleagues are serving. I do not have a problem with them. A number of them are seasoned. The likes of Sen. Ali Roba, a former governor, just like yourself and Sen. Veronica Maina, who is studious. We believe in women leadership. She is the Secretary General of the ruling party and coalition. That is how we treat our women. She is a Senator, who sits in the Speaker’s Panel, where you work closely. Sen. Wakili Sigei is also a high ranking member and the chairperson of Committee on Justice Legal Affairs and Human Rights.

Mr. Speaker, Sir, it is worth noting that those days when I was being harassed by President Uhuru Kenyatta and Dr. Matiang’i, he was one of my lawyers on record. There is no police station that I have not slept in Kenya. I had approached Sen. Maanzo then but because of political interest, he feared appearing on record for me. I however thank Sen. Omogeni and Sen. Wakili Sigei. These are people that I know. They are very efficient.

Sen. Tabitha Mutinda is a new and nominated Senator but catching up very fast. I think that is what we want to see.

Finally, I appeal to the House Leadership, let us rotate. I do not know why Sen. Wambua is looking at me suspiciously. I would wish to see Sen. (Dr.) Oburu serve in Senate Business Committee. He will give us not only local but international experience from Tanzania. I think Sen. Olekina has served in the Senate Business Committee. My brother Sen. Oketch Gicheru is at the learning curve. I wish to advise him not to run too fast. In politics, you need to consult.

Mr. Speaker, Sir, I look forward to voting. Thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, let me give guidance on how we will debate this Motion and more particularly to those who do not want to take time to read the Standing Orders.

Standing Order No. 199 (2) states –

“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.”

What does this mean? You cannot debate to object to just a single, two or three names. It is either you reject or support the entire list. Please, stand guided accordingly.

Proceed, Sen. Osotsi.

**Sen. Osotsi:** Mr. Speaker, Sir, I thank you for giving me the opportunity to also support this Motion. The Senate Business Committee is the heart of this Senate. Without it, we cannot even commence our work here as Senators. That is why, it is the first programme to be executed before we do any other thing. Therefore, it is a very important Committee. It is one of the two Committees where you are the Chair and that signifies the importance of the Senate Business Committee.

Mr. Speaker, Sir, in future, we need to consider amending the Standing Orders so that we have a proper linkage between the Senate Business Committee and the Liaison Committee. I am saying that because it will help us in processing enough business for this House to debate.

I am a Member of the Liaison Committee. We have raised this concern and said that maybe we need to consider having the Deputy Speaker, who is the Chairperson of the Liaison Committee, sitting in the Senate Business Committee. He will then be the link between the Liaison Committee, where business is processed and the Senate Business Committee.

Mr. Speaker, Sir, I served in the House Business Committee of the National Assembly for the entire term of five years and I learnt a lot of things there. One of the things I learnt is that being given an opportunity to serve in the House Business Committee is a big privilege. Therefore, Members who serve in that Committee must be ready to demonstrate that they are capable, have high integrity and that they can keep secrets because a lot of secrets are going to be discussed in that Committee.

Looking at the list that is before us, I have no doubt that the Members who have been selected by their respective parties have the ability to perform their role as Members of the Senate Business Committee (SBC).

Mr. Speaker, Sir, about two weeks ago, I had the opportunity to visit the Senate of the Republic of Nigeria. I realised that there are many things that this Senate can borrow from them, especially on the conduct of their equivalent SBC.

The Senate is respected in that country because of the way members of their equivalent SBC behave and interact and generally the way they conduct themselves. There are many things we can borrow from other jurisdictions in the Commonwealth that can help us make our SBC operate and instill good virtues in our Members.

We have seen what has happened today in this House. It is not something you would want to see as a Senator. When I was a Member of the National Assembly, I had a lot of respect for Members of the Senate because I perceived it as a House of reason and one with mature people.



However, Mr. Speaker, Sir, I think gradually we are degenerating. The SBC which you Chair should help us in getting back to where we were and claiming our space. I know that Members who have been selected are capable of ensuring that the Senate remains a House of reason.

Members who serve in the SBC do so on behalf of their parties. They do so because the parties have decided that those are Members who can protect their interests. Those are Members who have fidelity and loyalty to the parties. There should not be any question about this.

We have made changes as the minority side. I know that at some point, the Senate Minority Leader will talk about that. We have made changes because we want to have Members who will represent and protect our interests.

As the minority, we have a serious agenda to achieve and this is not the time to allow irritants to stop us from implementing it effective from this session onwards. We have made changes and the Members we have chosen are up to the task. Sen. Kavindu Muthama and Sen. Sifuna will represent us effectively in the SBC and we fully support them.

Mr. Speaker, Sir, you cannot have your cake and eat it. You cannot announce in public that you are moving from this coalition to another then go to the Chamber and expect things to not change. Things will certainly change.

I support.

**The Speaker** (Hon. Kingi): Proceed, Sen. Cheptumo.

**Sen. Cheptumo:** Mr. Speaker, Sir, I rise to support this Motion. Initially I held the view that the Liaison Committee is more superior than the SBC. I used to think that it is the “Cabinet” of the House. However, looking at the Standing Order No.194, it is indeed true that this is the apex committee of the House.

If you look at its composition, the Speaker is the Chair. We also have the House leadership from both the Minority and Majority sides together with other seven Members.

I would like to add my voice in support of this Motion because this committee plays a critical role. In fact, it can decide to postpone any business. That means that it is very powerful.

I served as a Member of the House Business Committee (HBC) of the National Assembly for two terms. It is an important committee. For the short time we have been in this House, the SBC has done a good job. As they proceed under new membership, I want to believe that they are going to continue doing what they are supposed to.

Another issue is the impression we create to the public because our proceedings are live. Whatever transpired today in this House was seen by the public; by our sons, daughters and even those who aspire to join politics in future and serve the nation.

Mr. Speaker, Sir, I agree that beginning from this session, you need to apply the Standing Orders strictly. When you do so, there will be order and discipline to sustain the respect of the House.

This House is perceived as a lesser one. According to us, this is the “Upper House”. Therefore, that can only be the case if we conduct our business in a mature manner.

When you sit as a committee, it is important that you apply fairness, so that matters that come forward, whether it is Bills, Motions or Statements, are approved in that order.

When I was a Member of the National Assembly, sometimes we used to have controversial matters but the HBC could not tell a Member beforehand. The Member could wait for their matter to be brought to the House without it happening.

A transparent way of doing your business is important. If any Member's Bill or Motion has a challenge, they should be notified to avoid delay without their knowledge. Fairness is critical. I believe that we are going to move forward together in this second session of the House.

I like the engagements going on. We have Members moving from one coalition to the other. In this country, people have the freedom to express themselves and to belong to a political party or coalition of their choice.

Once the procedure is followed, let us not condemn people who make choices to belong to certain coalitions. It does not matter whether you belong to a certain coalition. What Kenyans require is for us to debate and deal with matters as a House and not as coalitions.

This is an assembly of elected Senators of the Republic of Kenya. It is not an assembly of the Kenya Kwanza Coalition, the Orange Democratic Movement (ODM) or Wiper parties. It is an assembly of elected and nominated Members and leaders of this country.

Mr. Speaker, Sir, I agree that you are our leader. Anyone attempting to undermine the authority of your Office should be dealt with. Your direction to have Sen. Sifuna leave the Chamber was in order. That should not only apply to him but all of us, so that there is order, which will enable us to gain our respect as a House.

I support.

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

**Sen. Wambua:** Mr. Speaker Sir, I thank you for this opportunity to also make a contribution to this Motion. From the onset, let it go on record that I am in support of the Senators who have been nominated to serve in the Senate Business Committee (SBC). A lot has been said about all these Senators and I do not need to repeat it.

I am in total agreement that the persons named to serve in this Committee are fit for purpose. They will be able to execute the mandate of the Committee in the best interest of this House and Country.

I also wish to say two or three things that are important. Firstly, I thank you for the way we have started the first day of this Session. You said that it is a painful thing to ask a Member of the Senate to exit the House on account of disorderly conduct. However, it is a good thing because it also sets us on in the right footing as we transact real business in this Session.

There are examples to show for real. I wish Sen. Cherarkey were here. I would have used him as an example. Since the last time that you asked him out, he has behaved very well today. It is a good thing. Do more of these things. Even if Sen. Wambua misbehaves, ask him out. Next time, I think they will behave well.

Secondly, at the beginning of this Motion when Sen. Cheruiyot was moving it, a wrong impression was created on my part. It is my understanding of the Standing Orders. I can be corrected because we are all learning every day. That when a Senator is moving a Motion, it is not right to stand on a point of order to raise an issue on the Substantive Motion because it is still being moved.

You can rise on a standing order or a point of order to challenge something else outside what the Mover is doing. So, when I said that was premature making reference to what my senior, Sen. Dullo was doing, I meant is that it is premature to raise a point of order when a Motion is being moved.

I did not mean to refer to her as being premature. Mr. Speaker Sir, and these Senators know me. I am not capable of saying such things about other Senators. So, that impression should be corrected.

Lastly, Mr. Speaker Sir, I have heard Senators stand here in support of this Motion but also questioning the names and the representation of Political Parties. For avoidance of doubt, first of all, Jubilee as a Party is represented in this SBC by the Whip.

Yes, we have changed a name belonging to Jubilee but one thing I want to congratulate and thank you for is that you will not allow yourself to be invited to preside over Political Party issues on the floor of this House. Your business here would be to moderate debate, call us out of order when we are out of order, and make sure we make progress.

Political Parties and Coalition of Political Parties will have to transact their business outside the Floor and least of all, they should never expect that the Speaker will preside over that business.

The Jubilee Party and I am not here to discuss Political Parties, has made an expression of interest. It is their democratic right to join the Ruling Coalition. They have a right to do that.

They are saying that they are not formally out. They have just expressed interest. So, maybe they may change their minds or not or go the full course. However, for us in the Azimio Coalition, we have also expressed an interest to disengage with the people that are not loyal to our cause.

If Jubilee has decided to express an interest to work with the Party that has sponsored Sen. (Dr.) Khalwale to the Senate, it should be okay for the Azimio One Kenya Coalition to express an interest to disengage with the irritants. When that happens, it should not come to the floor of this House.

We called a meeting as leadership to decide on the names that will serve in the SBC and briefed them properly. This time around, it is not going to be business as usual. We needed to brief our Members properly. The Jubilee Members belonging to the Azimio Coalition for now, did not turn up.

It is not in our business to force people to belong where they do not. When we remove them from Committees, I want to put it on record that in the Fourth Schedule; Standing Order No. 238(3), Sen. (Dr.) Khalwale, there are 14 Standing Committees.

In the scheme of things, Jubilee Members have been assigned Committees by the Azimio One Kenya Coalition. Going forward, we shall rethink that position. They can

be assigned to Committees where they are going, and serve there if that is what they want.

Mr. Speaker Sir, with those many remarks, I support.

**Sen. (Dr.) Khalwale:** Mr. Speaker Sir, I rise to support this Motion. As others have said, it is an important one. Ordinarily, once this it is moved by the Majority and gets the backing of the leadership of the Minority, it quickly becomes a point of convergence and calls upon us to remain brief so that we can discharge the business.

However, because of what has transpired this afternoon, I wish to make a few comments. The first one is that, yes, on our side the Majority, we have not changed the names. We had reasons to do so. On the side of the Minority, changes have been made. I am confident that the leadership of the Minority did the necessary consultations to arrive at these changes.

If such consultations were not done, that should not be expected to be solved on the Floor of the House. Even if one wanted to achieve the same, it is not possible because the Motion that is being moved is as it is with the names as stated.

Sen. Wambua is very loud and clear about his expectations on his side. Allow me to assure Members of Jubilee, should it come to pass that you leave the Minority side and come to the Majority side, I am ready and willing to assign you responsibilities in various Committees. You will be warmly received. You will enjoy the same privileges if not better than you are enjoying on the other side.

I also want to thank the Minority side. In the last Session, they have taken issues blow by blow. They have supported the things they were convinced they needed to support and opposed when they had to. If we carry this maturity to the current Session,

I am confident that we will help the SBC to discharge more business for us for the interest of the public.

Mr. Speaker, Sir, I have three points. First, we must get business going. We have inherited a country that is faced with serious problems. As Government, we have inherited a country that is facing severe insecurity in the Rift and northern parts of the country. We need to fix it. It is only this Parliament that can give the necessary infrastructure.

We have inherited a country that is in a total economic mess and requires a lot of fixing. The President has even proposed budgetary cuts, so as to see how best to get the economy going. The President is very loud, and correctly so, that all Kenyans must pay taxes.

Mr. Speaker, Sir, I remember President Mwai Kibaki with nostalgia. He was also very clear and firm that companies, people – small and large – should pay taxes. We did so and we turned the economy around. If companies pay taxes, it is just a matter of time and we turn our economy for the interest of the minority and the majority. That is where we want to take our country.

We have inherited a country that the Government has left the education sector in total chaos. They have even introduced a programme called the Competency Based Curriculum (CBC).

I made it a point to do spot checks all the time in my county. When I talk to the teachers about CBC, they tell me they do not know it. When I talk to the parents, they tell me they cannot afford. When I talk to the students and the pupils, especially the pupils, they say they do not know if they were number one, two, seven or last. I then ask them, what the problem is. One of them told me: “I used to beat Maria, but now I do not know whether Maria did better than me or not.” This confusion requires time.

I encourage the Special Committee that His Excellency the President put in place, led by Prof. Munavu – my lecturer at the University of Nairobi – to be firm and make realistic recommendations that will deliver our children to the dreams of their lives. The Committee should not recommend decisions that will help some business people who thought they could make a quick kill through the education sector, to make an extra buck.

Mr. Speaker, Sir, as we go into this Committee to bring more business, I implore Members of this House that if we are not going to be very serious, somebody will start to think that Senate is not up to it.

One of the cardinal Bills that this House is supposed to deliver is the Division of Revenue Bill. It decides how much money will remain with the National Government *vis-a-vis* the devolved structure.

It should not surprise any Senator who has refused to follow current affairs, that somebody is starting to think that we are not doing it. If governors were confident that we can do this job of division of revenue, why would they be disturbing the Deputy President in meetings of Intergovernmental Budget and Economic Council (IBEC), asking him for more money? Why would they go further and also disturb the President when they know that the division of revenue is our responsibility?

The National Treasury is saying that it can only give Kshs380 billion. The Commission of Revenue Authority (CRA), which is our technical arm – not the technical arm of the Executive under this Constitution – is asking them to accept Kshs407 billion, while the Governors want Kshs425 billion.

This conversation should not be taking place at State House or at retreats chaired by the President. Those conversations are supposed to take place in the Senate through the Committee of Finance and Budget, so that the National Treasury, CRA and the Council of Governors (CoG) can come and state their case. Our Committee will then inform this House and we shall decide how much money to allocate to the Division of Revenue Bill.

We are allowing ourselves to look irrelevant. We look like we are not up to it. I look at some of the governors that I respect, even though some of them are my younger brothers. However, they have no idea how revenue is divided between the two levels of Government. They are walking in corridors going to see the Chief Minister, the Cabinet Secretary for Finance and the Deputy President, hoping that they will get access to the President. That is not the way. Let them talk to us. That is our job. They cannot take away our job and then go in funny meetings and funerals and say how it is them who get money for counties. Since when and how?

Mr. Speaker, Sir, I conclude by speaking to the last point. It is what has transpired this afternoon. I beg you, Mr. Speaker, Sir. You are my younger brother and I have

worked with you for many years. Do not allow this Senate to be defined by the immaturity and excitement of just a few potatoes.

I saw you pained while speaking to the issue of menstruation that was being canvassed on the Floor of the House. It should never happen again. We know that our girls are suffering because of the challenges of poverty due to menstruation. At the same time, we also have Kenyans who are suffering because they do not have toilets.

Mr. Speaker, Sir, are you going to expect a male Senator to come here having defecated on himself, walking on stool to show that people do not have toilets at home? Would you tolerate him? You cannot. Let me inform some of these young Senators, that we will not allow you. We are not going to be demeaned collectively. We will call you out.

Mr. Speaker, Sir, I recall that time you were with me in the National Assembly. A young Member of Parliament (MP) came to the House very excited one afternoon in tatters. You and I were there. He came with rags of clothes looking like a *chokoraa*.

The Serjeant-at-Arms tried to throw him out and the Member struggled. He was playing to the gallery in the streets; that they would say they had elected an MP who goes to the House in rags like them and, therefore, representing them. He was thrown out the way you have thrown out Sen. Orwoba. That Member of Parliament, whose name I do not wish to mention here, has tried to win an election in Nairobi County and even changed constituencies. The voters whom he thought he was representing and impressing, have said no.

If Sen. Orwoba wants to begin a career in politics, she will have to do it differently. I appeal to all of us. I look at as Sen. Kavindu Muthama and wonder what must have gone through her mind when she saw her own daughter doing what she was doing. We should not allow that collective embarrassment to colleagues.

Mr. Speaker, Sir, I am glad that this House and the National Assembly both have strong legal minds. Let these two Houses converge, so that where the National Assembly is right, we support. We do not fight them simply because we want to be seen to be the “Upper House”. A ‘Lower House’ can have an “upper” idea and an “Upper House” can have an inferior idea. The reason will not be because the House is called ‘lower’ and the other one is called ‘upper.’ It is because if the MPs in the Upper House have inferior ideas, the inferior ideas will define the “Upper House” and there is no way it will outshine the “Lower House”.

If the intention is to picket, there is room for picketing. If she had asked me, I would have helped her how to picket on the same thing. I got her in the corridors. I am a doctor of medicine and so, I pulled her to Sen. Dullos’ office and asked her to please change. She told me, ‘No, I am going to show them.’

Mr. Speaker, Sir, if she wanted to picket, she would have bought a well-designed ribbon. I would have worn one ribbon for her. I am sure several of us would have worn a ribbon too, to send a message to our children that we care. The ribbon would have been written ‘support the poor children who have challenges during menstruation.’

People must behave with decorum. If they are not prepared, let them resign and go away. I can assure the Secretary General of United Democratic Alliance (UDA) – she

is around, thank you Madam – as your Chief Whip, I will insist that you direct me and I help you. I direct you to help the President and the Deputy President to cease this embarrassment, so that the people we nominated know that we sweated for those positions that afforded them a chance to be nominated.

I support.

**The Speaker** (Hon. Kingi): Sen. Dullo, please, proceed.

**Sen. Dullo:** Thank you Mr. Speaker, Sir. From the outset, I reject this list. First, we have been elected to represent the people of Kenya in this House. Second, we have a democratic right to belong wherever we want to belong. Third, this House is guided by the rule of law and procedures. There was no formal communication on the Floor of the House to effect changes to the list that was submitted one week ago on the Senate Business Committee (SBC).

Mr. Speaker, Sir, it is not your position to discuss matters of political parties here. However, as the Head of this institution, you have a right to give guidance as far as political parties are concerned and guided by the rule of law. I know that when we made our way to State House, it was not by mistake. We knew what we were doing. We know the consequences, but the law must be followed to the letter. This is my fourth month having been elected to the Opposition side and my third term to serve in this House. I have even served in SBC before. The list that has been presented to this House was doctored this afternoon without proper consultation.

Mr. Speaker, Sir, as a person and a leader, I am tired of the forced marriage, intimidation and abuse by a certain quarter of this side. I do not fear anybody. However, what we really want is the law to be followed to the letter. We were in *Azimio*. We have actually been debated on the Floor of this House that *Jubilee* contributed nothing to *Azimio*. Shame on those saying that.

I have kept quiet on this for a very long time. Isiolo County has a Governor, a Senator and a Woman Representative. All the Members of Parliament (MPs) are from the *Jubilee* party and we contributed to *Azimio*. Since I was given the leadership position, there has been abuse and intimidation that ‘this is our seat, and we can take it.’ You can take it for all I care, but the law must be followed. We will fight as *Jubilee* that our rightful share in this House must be given to us.

Mr. Speaker, Sir, the Parliamentary Service Commission (PSC) position was taken away from us, as *Jubilee*, yet we are the third largest political party in this House. It was wrong, falsehood, intimidation and harassment. That is how that position was taken away from us. Unfortunately, that day I was not here.

Enough is enough. What happened to *Jubilee* has never happened in so many years. We are ready to walk that path. Personally, as Fatuma Dullo, elected by people of Isiolo County, for the third term I am serving in this House, I will not allow intimidation, abuse, harassment or name calling.

Mr. Speaker, Sir, I request you, as the head of this institution, to consider that we have a right as the *Jubilee Party*. We must be given our rightful share as the members of the *Jubilee Party* in this House. We must get a ruling on where Members of the *Jubilee*

*Party* should seat or be positioned. This is because Sen. (Prof.) Kamar is a very senior Member of this House.

In the last Senate, she was the Deputy Speaker. For her to be nominated, it does not mean she is a lesser Member of this House. There is a reason she did not go for an elective position. Nevertheless, today, it is embarrassing that Sen. (Prof.) Kamar was removed from SBC because she went to State House. It is wrong to have double speak.

When the President went to Luo Nyanza, the people who were dancing, celebrating and calling all the praises to none other than William Samoei Ruto are Orange Democratic Movement (ODM) members, and they have taken goodies from this Government. We are being told that was the visit to Luo Nyanza. Which visit is better than the other? If they are going to discipline those who went to State House, they should start with Governors of Luo Nyanza.

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

**Sen. Dullo:** Mr. Speaker, Sir, I am winding up. There is no need for a point of order, Sen. Osotsi. Those who are dying for the Senate Minority Whip or Committee Member positions, you can prepare yourself and take those positions. However, I am appealing to you, as an elected Member of this House, who is serving a third term, that I would expect the Speaker to give a ruling that *Jubilee Party* should be recognised in this House as a political party that has the third largest number of Members in this House.

Having said that, we do not regret to have walked to Statehouse. We will walk even right now if we want. Thank you for having democracy. We are elected by the people. Sometimes, we have to look at the people who elected us, not the matters of political parties. We have experience where Nominated Members walked out of political parties in the last Senate, yet nothing happened to them. They served their full term. I can walk out of this House to be just a Member who represents Isiolo County, and I am so proud of that.

I am elected as a second term Member of the Senate having contested with more than seven men in my county. I am proud.

I oppose this list because it is not properly represented. You can take the Senate Minority Whip position; I do not care. The rule of law must be applied. You are a legal mind in this House and that should be done properly.

I thank you.

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

**Sen. Cherarkey:** Mr. Speaker, I hope you have listened to the damning revelations by the Senate Minority Whip, Sen. Dullo.

I seek clarification. I am not on a point of order. Sen. Dullo has stated – it is on record and HANSARD - that the list that we are discussing was doctored.

For neatness and integrity of the House processes, can you give guidance on how we should proceed? Is it true, as Sen. Dullo has alleged, that the list was doctored because of her political affiliation or working with the President and going to the State House, which anyway is a public office? What should we do in such a situation where a Member who sits in a leadership position reveals such information?



As ordinary Members of the House we take those statements seriously. Just the way if it was the Senate Minority or Majority Leader today would make such statements and say that the list was doctored.

Therefore, for neatness of the process, I request that you give us proper direction, so that when we put SBC in office, we should have absolute faith.

I urge my colleagues that want to bring politics of rallies to allow Sen. Dullo be. This is not the first time. We were intimidated in Jubilee when retired President Uhuru Kenyatta and others were there. Now, Sen. Dullo is working with the President. Anyone can go to State House.

If people want to work with President William Ruto, they can do so. Surprisingly, *Azimio*-One Kenya Alliance leader, the Rt. Hon. Raila Odinga and Hon. Kalonzo Musyoka have told governors to work with the Government of the day and President William Ruto. What is wrong with the Senate Minority Whip, Sen. Dullo, working with President William Ruto? Why is she being frustrated?

Sen. Dullo, do not be intimidated. It looks like the *Azimio*-One Kenya Alliance is looking down upon women leadership, and we shall not allow it to happen.

**The Speaker** (Hon. Kingi): Hon. Senators, if a Senator is on a point of order, you do not have to shout 'on a point of order' because I will not yield. The Standing Orders are very clear. That is why I insist that we read our Standing Orders, so that we can have a neat engagement in the Senate.

Allow me to address myself to the matter raised by Sen. Dullo. Hon. Senators, allow me to invite you to Standing Order No.190 where the SBC is constituted.

The SBC comprises of the Speaker, the Majority Leader, the Minority Leader, the Majority Whip, the Minority Whip, and seven other Members who shall be nominated by the parliamentary parties. Therefore, it is assumed that when the list comes to the Senate, the political parties have sat and nominated. What is left to the Senate is merely to approve or to reject the whole Committee.

Sen. Dullo, I am not aware of any dispute between you and *Azimio*. If indeed there is a dispute, kindly bring it forward. At that point, I will be able to make a ruling. As it is now, I am not seized of any dispute. I have not received any letter to the contrary.

So, kindly, be guided that if you feel aggrieved and if there is a dispute between Jubilee and the other constituent parties of *Azimio*, write the relevant correspondence to me and I will make a ruling in that regard,

As it is now, it is assumed that in the absence of any registered dispute that the list that has been tabled before, coming from the minority and majority must have gone through the processes of nomination. So, the Senate cannot be dragged, unless moved by a dispute within your coalition.

Let us proceed.

**Sen. Oketch Gicheru:** Thank you Mr. Speaker, Sir. I rise to support this Motion. As we all know, and as it has been illustrated by everyone here, this is the most important Committee of this House. The running of this House, as is for its other select Committees, are definitely determined by this particular Committee.

Above that, I want to register that the second session that we are going to have, given how we have started this session, will be critical to have some more ambitious, ideological, organized and dispassionate engagements.

I say this because I have listened to our elders speaking. I listened to elder, Sen. (Dr.) Khalwale, who, with a lot of respect was tempted to make what I will call an ageist comment about the behaviour of some young Members of this House who have behaved in an inappropriate way. In both sides of the House, I see wonderful Senators who are equally young. I have had an opportunity to work with Sen. Thang'wa from the other side of the House who is an amazing individual and a very level-headed leader and is young.

I have had the opportunity to work with Sen. Tabitha, who is equally talented, very passionate, organized, and above all, committed to the function of this House and she is also young.

I have worked on this other side with Sen. Sifuna, who by all means possible, qualified to be in that list, has always been very keen and pays attention to details and he is equally young.

I have worked with Sen. Lemaltian, who is also very passionate about the issues of the North. She has advanced a lot of courses in the cause of conducting business that regards the people who are marginalized in the North and she is young.

I urge that as we start the business of this House, not to be lured into this ageist comments. It will be critical that this particular Committee finds ways of weaving conversations that can make us a House that sees women, youth, any racial or tribal communities as able to contribute to this House.

I have also listened to the comments that have been made by a few Members who are discontented with the agenda that the changes that we have had might have targeted some people especially from the Minority side.

My heart bleeds when I listen to those comments. This is because the sanctity of this House is measured by how well we are alive to Article 27 of the Constitution.

Article 27 of the Constitution invites this House to ensure that in every dealing that we have, we must ensure that there is equality and freedom of all Kenyans. We are not in those committees just to serve our parties. Our parties are mere vehicles that we used to get to this House. The major reason we are in this House is because we have been employed by our bosses who are the people of Kenya.

Article 27(4) of the Constitution clearly states that we shall not have a stage that both directly and indirectly discriminates upon the people of Kenya. Where discrimination can happen in this House is in scheduling business for this House. You can be tempted to directly or indirectly discriminate against the people of Kenya by the agenda you bring in this House.

It has been said that the Majority and Minority side of this House represent certain aspirations of our people in different ways. It cannot be that some Members of the Minority

Side who for whatever reason that best fits them have chosen to cross to the other side of the House whether directly or indirectly then, seek to still sit in the Senate Business

Committee (SBC). We will be indirectly having more voices and agenda of the Majority side represented in the SBC.

Furthermore, I would like to advise some people who might think that we are young, that we have also taken time to go through the HANSARD reports of this House that do show how previous SBCs have operated in the past.

There used to be a time in this country when a simple issue as the budget process of this country used to be dictated by State House. Sen. (Dr.) Khalwale, the Senate Majority Whip will tell you that the technical teams in the National Treasury would come up with a budget without having an input from Parliament.

Sen. Dullo who has just stepped out knows well that one of the reasons Isiolo County ranks as a marginalized county in this country is because State House - under Executive Order that forms Sessional Paper No.10 of 1965 which came from State House - forced some counties in this country to be considered as non-performing counties without any input in our economy; to the extent that today Article 204 of our Constitution is dedicated to deal with issues of marginalization.

It is important that as we start the business of this House Members of both sides understand that the independence of Parliament, and more so, the independence of the Senate that some of us are agitating for is extremely critical for the advancement of your own people just as it is for the people that you perceive are from the opposition side.

As I conclude, in the same manner that I want to advocate for the independence of Parliament from the executive, the idea that development comes from State House; the notion that has been propagated in the last one week in the media by members joining different coalitions; I also want to say that the Constitution of Kenya is very clear about the arms of Government. These arms of Government have got an absolute demonstration of their seat of power.

The biggest symbol of the Executive is the presidency. One of the symbols that makes us admire the presidency as a people of Kenya, as a symbol of national unity, as an authority is the State House. If today Kenyans go to demonstrate or picket in State House, I do not know what the Majority side will call that. We will say that the authority of the State House is gone. It will be anarchy, problematic and the authority of the President will have gone.

The second arm of Government is the Judiciary. The symbol of that authority that we call the Judiciary is our courts. If today we could allow our citizens to go and demonstrate inside any of our courts, then the authority of our courts cease to exist.

Lastly, Parliament comprises of the Senate and the National Assembly, and the symbol and authority of this arm of Government lies within this House. It is very unfortunate that we can even laugh about and administer a small punishment to a Senator of being sent out of the House for coming to demonstrate within this House. That was nothing short of demonstration. In my own understanding, that is equal to somebody taking this Mace out of this House, which in turns means taking the authority of the House.

I urge you, together with the Senate Business Committee that we are putting together, to help this House to remain an authority that is enshrined within the

Constitution by not having this House being reduced to some businesses that are indeed enshrined in the Constitution, but have boundaries within where they must happen.

As the Senate Majority Leader has mentioned, while we had our time to go for holidays, to relax, have Christmas and celebrate the New Year, some Kenyans did not have an opportunity to celebrate Christmas and the New Year. It is not because they did not want to, but because they did not have the means and the privileges that we have in this House to have those celebrations.

Therefore, we must get back to business and this House should make it possible to avail equal opportunities for Kenyans to thrive than just survive.

I support the Motion.

**The Speaker** (Hon. Kingi): Thank you, Sen. Cherarkey, what is your intervention?

**Sen. Cherarkey:** Mr. Speaker, Sir, looking at the mood of the House and considering that the Senate Business Committee is critical, I presume that as per tradition the Committee might need to meet to schedule the business of the House for tomorrow. Is it in order to request that we go for voting as per the Standing Orders, so that we can proceed?

**The Speaker** (Hon. Kingi): Sen. Cherargei, unfortunately, having contributed to the Motion, you are not the right person to raise that point of order. Perhaps another Senator should raise such a point of order.

Proceed, Sen. Wafula.

**Sen. Wafula:** Mr. Speaker, Sir, I would like to reiterate what my senior brother has said. This country is in a turmoil and needs a lot of panel beating. Issues have been raised about consultation and partisan positions in the House. I would like to request that we have the Senate Business Committee and not “Azimio party Business Committee.

Mr. Speaker, Sir, we were elected for a reason and I request that we stick to this agenda of the SBC. We should proceed to vote, so that we allow this Committee to continue with its work.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Wafula, you cannot rise to contribute and shut other Members. We will consider you as having contributed, but you cannot be the one to move that point of order.

What is your point of order, Sen. Veronica Maina?

**Sen. Veronica Maina:** Mr. Speaker, Sir, I rise to support this Motion. I also request that the Mover of this Motion be called to reply, so that we proceed to vote.

**The Speaker** (Hon. Kingi): Hon. Senators, allow me to put the question. Let us dispense with that point of order and be guided by our Standing Orders. A point of order has been put across and has to be dispensed with.

The point of order is that the mood of the House dictates that the Mover be called to reply.

*(Sen. Veronica Maina spoke off record)*

Sen. Veronica Maina, I need to hear you correctly.

**Sen. Veronica Maina:** Mr. Speaker, Sir, I propose that the Mover of the Motion be called to reply.

**The Speaker** (Hon. Kingi): Hon. Senators, please walk in.

*(Several Senators walked into the Chamber)*

Sen. Veronica Maina has risen on a point of order to seek that we allow the Mover to reply.

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

Proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I want to appreciate Members who have taken time to contribute. This is not a matter to be agitated to especially by Sen. Faki who has had opportunities to speak on many important issues in this House.

If we ask that he forgoes a chance to contribute this afternoon, so that we formulate the SBC to generate business for the House to consider, then that is not too much to ask from a senior colleague. I would have understood if someone had said that it was their chance to speak.

Mr. Speaker, Sir, I appreciate the contribution of our colleagues. We did not have a good start of the session, but they say all is well that ends well. We have had a good ending and Members have spoken to this matter. The SBC can quickly convene and set the agenda, so that we do what we were elected to do; to represent Kenyans, legislate and oversight. That ought to be our focus.

Mr. Speaker, Sir, with those few remarks, I beg to reply.

**The Speaker** (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 84(2), I do make a determination that this matter does not affect counties. Therefore, voting shall be by voice. I will proceed to put the question.

*(Question put and agreed to)*

Hon. Senators, the Members whose names have just been approved to sit in the SBC shall, upon the rise of the House, proceed to Committee Room No.4.

### ADJOURNMENT

**The Speaker** (Hon. Kingi): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Wednesday, 15<sup>th</sup> February, 2023, at 2.30 p.m.

I thank you.

The Senate rose at 5.47 p.m.