

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 15th February, 2023

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

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

Good. Let us proceed.

PETITIONS

ALLEGED FRAUD BY FIRST CHOICE RECRUITMENT
AND CONSULTANCY AGENCY

The Speaker (Hon. Kingi): Hon. Senators, I hereby report to the Senate that a petition has been submitted to the Senate by Mr. Kimutai Kirui and other residents of Uasin Gishu County concerning the First Choice Recruitment and Consultancy Agency.

As you are aware, under Article 119(I) of the Constitution and I quote,

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

Hon. Senators, the salient issues raised in this petition are:

(1) THAT the First Choice Recruitment and Consultancy agents allegedly obtained money from an estimated 500 youth to facilitate them with jobs and studies placement abroad before the start of the 2022 World Cup.

(2) THAT the agency failed to facilitate the said jobs and studies placement leaving the youth and their families wallowing in poverty having committed all they had to the agency in the hope of securing employment.

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(3) THAT the victims of this devious acts and part of the First Choice have made efforts to seek redress through security agencies such as the police and the county commissioner which have borne no fruit. Instead, they have been profiled, threatened and intimidated.

The petitioners therefore pray that the Senate intervenes in this matter with a view to recommend that the youth and their families be reimbursed their money by the agency and the perpetrators be brought to book and that necessary precautions are put in place to ensure that such agencies are properly vetted before they are allowed to transact such businesses.

Hon. Senators, pursuant to Standing Order No.237, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

In this regard, I am going to allow at least three minutes for any Senator who wishes to contribute to this matter. You do not need to contribute if you do not have anything to say, so we save time.

Our Order Paper today is heavy. We have a lot of business to transact so the less we spend time on any agenda item the better so that we can prosecute the entire business contained in today's Order Paper.

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

The Speaker (Hon. Kingi): Yes, Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg your indulgence. I know Standing Order No. 237 permits you to allow comments, observations or clarifications in relation to a petition presented and reported. It says such total term shall not exceed 30 minutes, but it does not expressly provide in a situation such as today where you have more than one petition.

In such instances, as per the Standing Order, we refer back to Standing Order No.1 which gives you the authority to guide the House on how to transact any particular business.

My request is that in light of the fact that on the Order Paper there is another petition, perhaps you could allow for it to be read, then allow all of us to make comments because in the form and text of Standing Order No.237, it is general comments that we are generally making on petitions so Members can speak to either of the Petitions.

Otherwise, the reverse will be that we spend 30 minutes each on both the first and the second Petition. I beg your indulgence if you may permit.

Thank you.

The Speaker (Hon. Kingi): Very well, Majority Leader. Indeed, I am going to call upon Sen. Githuku to present his Petition and thereafter, we are going to make comments on both Petitions within half an hour.

Proceed, Senator.

LINDA SOKA TAPPING INTO KSHS302
BILLION FOOTBALL FUND

Sen. Githuku: Thank you, Mr. Speaker, Sir. Hon. Senators, pursuant to Standing Order No.232 (1) (b), I hereby present the Senate Petition by Mr. James Gakonga and other residents of Lamu, Baringo, Nairobi City, Kiambu counties concerning Linda Soka, tapping into Kshs302 billion football economy.

As you are aware, Article 119(1) of the Constitution says: -

“Every person has a right to Petition in Parliament to consider any matter within its authority including enacting, amending or repealing any legislation”.

Hon. Senators, the salient issues raised in this Petitions are:-

- (a) THAT the Kenya enjoys a well-deserved representation as a sporting nation. However, this representation is not reflected in the football sector.
- (b) THAT the football administration in Kenya has been marred by corruption, mal-administration and lack of accountability which has negatively impacted on the industry, leaving the football players and other public without hope in the sector.
- (c) THAT many youths talented as football players have opted to move to other countries in search of opportunities to play professional football and thus, the transformation of the sector will be quite beneficial to many youths seeking to establish themselves in professional football and in turn the football economy will be boosted.
- (d) THAT the adoption of Linda Soka tapping into Kshs302 billion football economy presents a good opportunity to restore the sector and transform Kenya and the football economy as a whole.
- (e) THAT the petitioners have made efforts to have this matter addressed by the Ministry of Sports, Cultural Heritage, all of which have not been successful.

The Petitioner therefore plays that Senate intervenes in this matter with a view of introducing a legislation on sports management, administration and governance. That will address such matters in sports including football and also propose for allocation of more resources to sports to the counties which will enable county governments invest in its sports development.

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

Sen. Maanzo: Thank you, Mr. Speaker, Sir, for giving me an opportunity to comment on those two Petitions. First and foremost, I support them.

At one time I had an opportunity to be the secretary for youth and sport in this country and I am very familiar with what the hon. Senator is presenting. Sports is an industry which brings serious income into the country and employs youths as well as paying well. A footballer who is well known or is in the right football clubs in the world is likely earning not less than Kshs30 million per month and much more.

Ethiopia has now been rebuilt by its sports people who compete with us very closely. One of the biggest challenges is how we interact with the international community and FIFA.

Sometimes we do get some of the sponsorships we should be getting abroad as well as the tapping and harnessing of talent in this country. The other challenge which has taken some years is the stadia especially well developed ones. We should be having serious stadia of international standards at least in every county since devolution started.

Having good stadia will put Kenya in a position to even hold Olympics. Even different games can be held in different counties such as Nairobi, Mombasa, Kilifi and every other place. We must prepare ourselves so that one time we can be able to hold Olympics in this country. We have done African Championship but we have not got to the level of Olympics.

We really need to invest in stadia. In Makueni County, we have Wote Stadium which has taken many years to build and has not been completed. I am aware of many other stadia in the country which are not complete. That is where the talent is first tapped so that we are able to have a super sportsperson or super footballer who is able to represent the country internationally.

On the first Petition from Eldoret, about these young people who got conned, there are many agents in this country conning people in all manner of ways. Some of these companies have been registered by the Registrar of Companies, and allegedly, they have lawyers.

Young people have been conned by people who pretend that they are going to take them broad to work. They have also been conned by very smart people who pretend that they are able to help them even in the sporting world, to travel or be hired by other countries to represent them. They have ended up losing lots of money.

I warn Kenyans through this podium because I am sure many of them are watching. First, when a deal is too good, think twice. Secondly, the young people to always consult their parents, Senators, leaders, professors or someone else before getting involved in these deals. Nothing comes easy, everything is hard work.

By the time these reports come to the Senate, I believe this makes a *prima facie* case for prosecution. There are relevant Government bodies and I believe that is where this House will send the Petition. The bodies should be able to investigate and arrest these people no matter how powerful or connected they are so that, first and foremost, they can return the money to these young people.

It is not necessary that somebody must end up in jail every time a crime has been committed. They can come to an agreement and have the matter sorted out amicably. They can have their monies returned because I am sure all they want is their money back.

Kenyans, be aware so that you do not lose money in these dubious acts in future.

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

Sen. Kathuri: Thank you, Mr. Speaker, Sir, for this opportunity to comment briefly on the two petitions.

Mr. Speaker, Sir, I will comment on the first Petition from Uasin Gishu County. As you know, our youths are very desperate because there are no jobs. When they hear of overseas job recruitment, most of them become very enthusiastic that they are going for greener pastures.

From the time I was in the National Assembly, the Committee on Labour and Social Welfare has been grappling with this issue of travelling to Saudi Arabia and other Middle East countries. They need to check whether the youth are going to the right destinations.

The Committee on Labour and Social Welfare of this House was in Saudi Arabia and they reported to this House. It is important that this Committee, which is domiciled in

this House, also digs into these matters so that the petitioners from Uasin Gishu can be heard.

Mr. Speaker, Sir, we have also had many issues about football development in this country. My colleague has talked about the stadia. Many stadia were to be developed and this time, most of them will be completed. Those with issues will be sorted out. However, if at all we need to develop football, we need to have academies right from the ward level, constituency and all the way to the county level. From there, such boys can find their way to the national team.

Many Motions pertaining to devolvement of sports academies in constituencies and counties have been passed by these two Houses of Parliament. We really need to move. I am happy this time, the Ministry of Youth Affairs and Arts under the Kenya Kwanza Government has started planning on a tournament right from the ward level.

This should not be the only tournament. I urge them to go and scout for the best footballers right from the local level and get a team at the constituency level. After the constituency level, we will develop very strong county teams. If we have very strong teams from the 47 counties, definitely, we can get 22 players to play in the national team.

I am happy that more Senators in this House are keen on devolvement of sports. My colleague here, the Senate Majority Leader, holds a football tournament every year. I want to work with him closely to domicile the same tournament in Meru County.

I have been doing sports at the constituency level but now I want to go up to the county level. So, my colleague, I will come to you. I will also send my team to Kericho County for benchmarking. As the national Government is trying to do whatever they are doing, we can also chip in in our small ways as leaders.

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

Sen. Osotsi: Thank you, Mr. Speaker, Sir. I have just walked in from the County Public Accounts Committee (CPAC). I did not know what was being discussed but I have heard Senators talking about sports. Football matters are very dear to me and I need to say something about it.

Sports is a very important sector in this country but it has been taken very lightly by those in management starting from the Ministry, federation and clubs. A lot needs to be done because we have talent, especially in the western region where I come from. Sen. (Dr.) Khalwale will tell you that schools like Kakamega and Musingu High Schools and many others which have come up, are actually factories for producing good footballers.

The Government needs to invest more in programmes to nurture more footballers and sportsmen. When we have all these people going out of the country, getting that big money for playing for the big leagues, that money comes to empower our societies. The Government should put in a lot of effort.

Mr. Speaker, Sir, I support sports and it is important to consolidate those tournaments. It is ridiculous that every politician down there – Members of County Assemblies (MCAs), Senators and governors – wants to run his own tournament using the same legs. It is important to consolidate all that and have one major and well organised tournament. We need to even have other processes to it such as scouting to identify the right talent. A lot needs to be done in investing in sports.

We also need to interrogate what the sports fund is doing. This is because we have very good sportsmen and women who need to be funded. Sometimes you will hear them funding things which do not make sense. I know at some point, the Government funded golfers. Golfing is a game for the rich people. We do not need to put money into funding rich people when we cannot fund the national team and serious teams in the league like AFC Leopards and Gor Mahia FC.

(Sen. Osotsi's microphone was switched off)

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

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I rise to support both petitions.

On the Petition by residents of Uasin Gishu County, Mr. Speaker, you will recall that when we were last in Dubai, we had an interactive session with Kenyans living in the United Arab Emirates (UAE) and the Gulf region generally.

Many amongst the reasons that they raised, was the issue of agents who do not adhere to the rule of law for one reason or the other. They do not follow the law when they organize Kenyans to go and work in the Middle East in terms of ensuring that they are well taken care of, well compensated and are working in safe conditions.

(There was a technical hitch)

Mr. Speaker, Sir, there are many agents who take advantage of our young people who are looking for job opportunities. The Committee on Labour and Social Welfare needs to take up this quickly. Already, there is a report of the House on this. I have challenged the Committee on Labour and Social Welfare that they do not even need to travel and waste Kenyans' money. The report is as new as hardly a year old.

Among the very last businesses that we considered in this House during the last Session is a report of the Committee of Labour and Social Welfare on the situation of Kenyan workers in the Gulf region. All the proposals and recommendations are therein. It is just for them to hold the Ministry of Labour and Skills Development to account and ensure that they do the right thing by streamlining this particular sector. They need to have this technology that is available to help them achieve on that end.

Finally, with regard to the Petition by Sen. Githuku of Lamu County, I did not fully understand why they picked only five or six counties. Football is a popular sport across Kenya. I really did not follow through clearly. I wanted to understand why they arrived at Kshs302 billion and the reason they chose five out of the 47 counties.

Nonetheless, I support any proposal, idea or decision that will enable our young people have a sporting chance. Therefore, I wish that we support it wholesomely. I have seen the new Cabinet Secretary (CS) has put in place a Technical Committee to advise it. I have mixed feelings about it but I do not want to speak a lot about it. However, what we need more even before even the technical advice is to pull resources and ensure that our sporting teams and facilities are facilitated in terms of resources to do the right thing.

Mr. Speaker, Sir, it is a shame that Kenya does not have a single stadium that can host an international match. In fact, when the African Nations Championship (CHAN) qualifiers begin later this year, we will have to go as far as either Tanzania or other parts of this country, to play our international matches. I think it will be the first time ever in the history of this country that it happens. Cabinet Secretary (CS) Ababu Namwamba and his team have a lot of work in their hands, to make sure that this succeeds.

I agree with those proposing that we made a commitment as an administration, to support the development of sports. One of the ways through which we made that commitment, was that unlike the previous administration, where 90 per cent of sports fund was being used to do other non-sports related activities, on this particular one, we should do that.

Thank you, Mr. Speaker, Sir.

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise to support both Petitions. I wish to speak to the Petitions from the Senator of Lamu.

Mr. Speaker, Sir, we are not serious about our resources. Sports in general and football in particular is now the emerging giant of social economy. The economy of sports has been underrated in that Petition from Lamu; that it has a potential of Kshs302 billion, which is an equivalent to three per cent of our Gross Domestic Product (GDP).

Mr. Speaker, Sir, if you were to compute that Kshs302 billion which you can attract locally and factor in what the same players once exported to the international market in Germany, China, United Kingdom (UK), Spain and to a small extent, South America, you would hit almost Kshs800 billion to Kshs900 billion per year.

The Government has to be strategic. I would like our new Cabinet Secretary, who is youthful, to tone down on trying to please fellow youths. He should constitute competent and technical people, backed with previous experience in sports, so as to inform this particular resource.

Mr. Speaker, Sir, can you imagine, for argument sake, a football player like Lionel Messi, can sponsor the budget of the Republic of Kenya for six months, simply because of revenue from his talent in football? The budget of a country!

The potential is there and we do not lack the talent. If you go to the Coast –

(Sen. Cheruiyot spoke off the microphone)

I request our leader, Sen. Cheruiyot, to take it easy. Football is in the genes, just like athletics is in the genes of people living around the Rift Valley, Kapsabet and so on. If I was to ask you to try your talent in football - which you love very much; you can stay for exactly 40 minutes without touching the ball, if you were playing in Kakamega.

(Laughter)

Mr. Speaker, Sir, it is with a light touch. I like Sen. Cheruiyot. I normally see him playing soccer with his daughter.

(The microphone was switched off)

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, your time is up.

Proceed, Sen. Chimera.

Sen. Chimera: Mr. Speaker, Sir, I thank you for this opportunity. I rise to support those two Petitions. Allow me to speak directly to the second Petition by my good friend, Sen. Githuku, from Lamu.

Mr. Speaker, Sir, indeed, there can never be a more timely Petition than this. We have all come from quite a long recess. I want to believe that everyone in this House has been running and organizing football tournaments in their respective counties.

It is unfortunate and very shameful that in this day and age, we still continue to engage our youthful members out there, in playing very good football and nothing happens. At the end of the day, we have talent that is wasted. I feel it is time that as a country and the leadership, to make our football pay us. We should make a living out of playing football. It is very shameful that we have a very nice tournament ---

Mr. Speaker, Sir, you can bear me witness together with Sen. Methu, Sen. Chesang and I attended a very beautiful soccer tournament in Kericho. I can imagine the amount of money that was spent there and none of those football players was actually scouted by any foreign or local scouts. For that matter, I urge the Government of the day to consider rolling out a football academy in every county, so that our youthful members do not just play football but they can be scouted, talents nurtured and promoted. Perhaps, we would end up having football players coming from Kwale playing in our mini-league and internationally.

Mr. Speaker, Sir, with those many remarks, I beg to support the Petition.

The Speaker (Hon. Kingi): Proceed, Sen. Okenyuri and that will conclude the half-an-hour.

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I will speak to the Petition by Mr. Kimutai Kirui of Uasin Gishu County on the conning that is going on.

Mr. Speaker, Sir, the conning is not necessarily happening to only young people who are interested in opportunities overseas. It is here with us. The recruitment by Teachers Service Commission (TSC) and the Kenya Defense Forces (KDF) will be coming soon and we anticipate such kind of conning.

I wish to warn young people out there not to succumb to such individuals. You can see such individuals, most of whom are young, driving well-conditioned vehicles and living in houses which they cannot explain their source of wealth or whatever they do to put food on the table.

Mr. Speaker, Sir, the Ministry of Labour and Social Protection needs to conduct a crackdown on some of these agencies, so that we do not have people being conned and no one is held accountable. They are out there walking freely. The Ministry of Labour and Social Protection needs to crackdown, so that Kenyans can have a list of agencies authorized to conduct whatever business they are conducting.

The agencies that have conned unsuspecting Kenyans out there need to be brought to book, arrested and suffer the consequences. We should not just offer advice to people who have lost fortunes that cannot be recovered.

Thank you, Mr. Speaker, Sir.

(Sen. Cheruiyot stood in his place)

The Speaker (Hon. Kingi): The Senate Majority Leader, kindly take your seat.

Hon. Senators, as far as the Petition from Uasin Gishu is concerned, pursuant to Standing Order 238(1), the Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the same be committed to the Standing Committee on Labour and Social Welfare.

In terms of Standing Order 238(2), the Committee is required in not more than 60 calendar days from the time of reading the Prayer, to respond to the Petitioner, by way of a report addressed to the Petitioner and laid on the Table of the Senate. It is so directed.

In regards to the Petition from Lamu, pursuant to Standing Order No. 238(1), the Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Labour and Social Welfare.

In terms of Standing Order No. 238(2), the Committee is required in not more than 60 calendar days from the time of reading the Prayer, to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate. It is so directed.

Next Order, Clerk.

PAPERS LAID

The Speaker (Hon. Kingi): Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate.

The Speaker (Hon. Kingi): Sorry, Senate Majority Leader. Kindly take your seat.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM BUSIA COUNTY ASSEMBLY

I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from the County Assembly of Busia.

The delegation comprises of staff from the Serjeant-at-Arms department who are in the Senate on a full day benchmarking visit with the counterpart department in the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

- | | | |
|-------------------------------------|---|------------------------|
| 1. Mr. Christopher Abele Siandanyia | - | Chief Serjeant-at-Arms |
| 2. Mr. Grison Wanyama Khayoni | - | Commissionaire |
| 3. Mr. Wilberforce Wanyama | - | Commissionaire |
| 4. Mr. William Nzai | - | Commissionaire |
| 5. Mr. Wilberforce Obolla | - | Commissionaire |
| 6. Mr. Onesmus Michael Erone | - | Ward Liaison |

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7. Mr. Shadrack Felex Okeda - Ward Liaison

(Applause)

On behalf of the Senate and on my own behalf, I extend a warm welcome to them and wish them a fruitful visit in the Senate.

I will allow the Senate Majority Leader to welcome you and proceed to lay the Papers.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. A word of welcome for the visiting delegation from Busia County Assembly.

I hope they get to interact with our Serjeant-at-Arms department and any other department that they may find relevant to their study as they visit our House. I hope they make the best use of their time and learn from the best.

I have said many times before and I speak from a position of authority that you will struggle to find the kind of competence that we have in the Parliament. So, take advantage. Their visit has come at a sad time when we are mourning one of their sons, a colleague and member of staff, Mr. Wellington Namage.

As they travel back home, let them take a message of condolence from us, the Senate, knowing that this gentleman served us with tremendous courage and zeal as a Senate and Parliament generally.

I welcome the team from Busia County Assembly.

Mr. Speaker, Sir, having said that, I beg to move to the next business.

PAPERS LAID

I beg to lay the following Papers on the Table of this Senate, today, 15th February, 2023.

THE BUDGET POLICY STATEMENT FOR FY2022/2023

The Budget Policy Statement for FY2022/2023

THE DRAFT DIVISION OF REVENUE BILL

The Draft Division of Revenue Bill

THE DRAFT COUNTY ALLOCATION OF REVENUE BILL, 2023

The Draft County Allocation of Revenue Bill 2023

THE DRAFT COUNTY ADDITIONAL ALLOCATION BILL 2023

The Draft County Additional Allocation Bill, 2023

THE MEDIUM TERM DEBT MANAGEMENT STRATEGY

The Medium Term Debt Management Strategy.
Mr. Speaker, Sir, I beg to lay another set of Papers.

THE EALA ANNUAL LEGISLATIVE CALENDAR
FOR FY 2022/2023 (JANUARY-JUNE, 2023)

The East African Legislative Assembly annual legislative calendar for financial year 2022/2023 (January – June 2023).

THE BUDGET REVIEW AND OUTLOOK PAPER
FOR FINANCIAL YEAR 2023/2024 AND MEDIUM-TERM BUDGET

The Budget Review and Outlook Paper for financial year 2023/2024 and Medium-Term Budget.

THE CRA RECOMMENDATION ON COUNTY GOVERNMENTS
RECURRENT EXPENDITURE BUDGET CEILINGS
FOR FY 2023/2024

The Commission on Revenue Allocation (CRA) recommendation on the county governments' recurrent expenditure budget ceilings for county assemblies and county executives for financial year 2023/2024.

THE CRA RECOMMENDATION ON EQUITABLE SHARING
OF REVENUE BETWEEN NATIONAL/COUNTY GOVERNMENTS
FOR FY 2023/2024

The Commission on Revenue Allocation (CRA) recommendation on the Basis for Equitable Sharing of Revenue between the National and County Governments for financial year 2023/2024.

REPORT OF THE CoB ON THE COUNTY GOVERNMENT BUDGET IMPLEMENTATION
REVIEW FOR THE FIRST QUARTER OF FY 2022/2023

Report of the Controller of Budget (CoB) on the county government budget implementation review for the first quarter of financial year 2022/2023.

REPORT OF THE CoB ON THE ANNUAL COUNTY GOVERNMENT BUDGET
IMPLEMENTATION REVIEW FOR FY 2021/2022

Report of the Controller of Budget (CoB) on the annual county government budget implementation review for Financial Year 2021/2022

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REPORT OF THE COB ON THE NATIONAL GOVERNMENT BUDGET IMPLEMENTATION
REVIEW FOR THE FIRST QUARTER OF FY 2022/2023

Report of the Controller of Budget (CoB) on the national Government budget implementation review for the first quarter of financial year 2022/2023

REPORT OF THE COB ON THE ANNUAL NATIONAL GOVERNMENT
BUDGET IMPLEMENTATION REVIEW FOR FY 2021/2022

Report of the Controller of Budget (CoB) on the annual national Government budget implementation review for Financial Year 2021/2022.

BI-ANNUAL REPORT OF THE CAJ FOR THE PERIOD
JANUARY TO JUNE, 2022

Bi-annual Report of the Commission on Administrative Justice (CAJ) for the period January to June, 2022

REPORT OF THE CAJ ON ELECTIONS
MONITORING AND OBSERVATION, 2022

Report of the Commission on Administrative Justice (CAJ) on elections monitoring and observation, 2022

THE ANNUAL CORPORATE REPORT OF THE
AUDITOR-GENERAL FOR FY 2021/2022

The Annual Corporate Report of the Auditor General for financial year 2021/2022.

REPORT OF THE PSC ON THE STATUS OF COMPLIANCE
WITH THE VALUES AND PRINCIPLES IN ARTICLES 10
AND 232 OF THE CONSTITUTION FOR FY 2021/2022

Report of the Public Service Commission (PSC) on the Status of Compliance with the Values and Principles in Articles 10 and 232 of the Constitution for financial year 2021/2022.

REPORT OF THE AUDITOR-GENERAL ON THE KAKAMEGA
COUNTY SMALL SCALE DEVELOPMENT FUND FOR
THE YEAR ENDED 30TH JUNE, 2022

Report of the Auditor-General on the Kakamega County Small Scale Development Fund for the year ended 30th June, 2022.

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THE SENATE CALENDAR FOR THE SECOND
SESSION OF THE THIRTEENTH PARLIAMENT

The Senate Calendar for the second session of the Thirteenth Parliament.
I thank you.

(Sen. Cheruiyot laid the documents on the Table)

COMMUNICATION FROM THE CHAIR

CONSIDERATION OF THE BUDGET POLICY STATEMENT

The Speaker (Hon. Kingi): Hon. Senators, as you may have noted, the Senate Majority Leader has tabled the Budget Policy Statement for the Financial Year 2023/2024, the Medium-Term Debt Management Strategy, 2023, the Draft Division of Revenue Bill, 2023; and the Draft County Allocation of Revenue Bill, 2023.

Section 25 of the Public Finance Management Act and Standing Order No. 180 of the Senate, requires the National Treasury to prepare and submit the Budget Policy Statement to Parliament by the 15th of February each year.

Hon. Senators, the Budget Policy Statement is an important financial instrument as it sets out the broad strategic priorities and policy goals that will guide the national Government and county governments in preparing their budgets both for the following financial year and over the medium term. It contains, among other things -

(i)an assessment of the current state of the economy and the financial outlook over the medium term, including the macro-economic forecasts;

(ii)the financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;

(iii)the proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;

(iv)the fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt; and, lastly,

(v)the proposed division of revenue, including proposed additional allocations, if any.

In a nutshell, it means that any proposal that Senators have regarding the Budget Policy Statement, Division of Revenue Bill and the County Allocation of Revenue Bill, including funds for additional allocations to the counties, the financing structure thereof, among other recommendations, should be canvassed and forwarded to the Cabinet Secretary for the National Treasury for consideration, when finalizing the budget for the relevant Financial Year.

This is a requirement pursuant to Section 25 (8) of the Public Finance Management Act and Standing Order 186 (9) of the Senate.

Hon. Senators, Section 25 (7) of the Public Finance Management Act provides as follows-

“Parliament shall, not later than fourteen days after the Budget Policy Statement is submitted to Parliament, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments”.

Further, Standing Order No. 186(4) states that-

“upon being laid before the Senate, the Budget Policy Statement shall be committed to each Standing Committee to consider and submit its recommendations to the Standing Committee on Finance and Budget within 7 days”

Pursuant to Standing Order No.186 (5), the Standing Committee on Finance and Budget shall-

“within twelve days following the tabling of the Budget Policy Statement, consider the Budget Policy Statement and the recommendations received under paragraph (4) and table a report for consideration, in accordance with Section 25(7) of the Public Finance Management Act.”

Appreciating the importance of the Budget Policy Statement and the above timelines, I direct that, the Budget Policy Statement be considered by all Standing Committees; each concentrating on its mandate, highlighting any policy and financial recommendations thereof. These recommendations must be forwarded to the Standing Committee on Finance and Budget on or before Wednesday, 22nd February, 2023.

In order to assist the Standing Committees to un-package the contents of the Budget Policy Statement, the Standing Committee on Finance and Budget has organized a breakfast meeting for all Senators, on Tuesday, 21st February, 2023, at 7:30 a.m., in the Senate Chamber.

The Standing Committee on Finance and Budget will be required to consider the recommendations from the other Standing Committees, as well as consult the institutions referred to under Standing Order No. 186(6) in finalizing its report on the Budget Policy Statement.

The Standing Committee will be required to table its report on or before 28th February, 2023.

For the avoidance of doubt, the above processes must be carried out within the 12 days’ window for consideration of the Budget Policy Statement.

Hon. Senators, in conclusion, I urge you all to prioritize the scrutiny of the Budget Policy Statement taking into consideration our most important function of safeguarding devolution.

I thank you.

Next Order.

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

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

POINT OF ORDER

COMMUNICATION ON CHANGE OF LEADERSHIP IN THE MINORITY COALITION

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The Senate Minority Leader (Sen. Madzayo): Thank you, Mr. Speaker Sir. Yesterday, I communicated with your office with regard to the changes that we did in the office of the leadership of the Minority side. I am referring to our Standing Orders No. 23, and in particular, Standing Order. No. 23(5) and (6). With your kind permission if you will allow me, let me read it.

Basically, it talks of the Senate Minority Leader, Deputy Senate Minority Leader, Senate Minority Whip, and the Deputy Senate Minority Whip. When we come to No.5, it says that the removal of a Senator from an office, under paragraph three shall not take effect until a Senator is elected in a manner provided for paragraph one.

No.6 states as follows: -

“Upon a decision being made by the minority party, under this Standing Order, the decision of the party shall be communicated to the Speaker together with the minutes of the meeting at which the decision was made”. I did this in writing.

Number one, in the case of the removal of the Senate Minority Leader or the Deputy Minority Leader by the Senate Minority Whip. In the case of the removal of the Senate Minority Whip or the Deputy Senate Minority Whip by the Senate Minority leader.

Mr. Speaker, Sir, with a lot of respect, there is a precedent we set in this Senate and it was implemented because the Speaker then realized that we had followed the correct process and there was no complaint. The changes were effected. I find it a bit strange that as the Senate Leader of the Minority Party, despite the fact that I wrote to you a letter and enclosed the minutes of the Azimio Party, which is the Minority in this House, you have decided not to effect the letter or to communicate to the House.

Therefore, if you do not communicate with the House right now, this House is missing the Minority Whip and the Deputy Minority Whip. Now, I am left alone here on the Minority side, without my other leaders with me. It portrays very badly on the side of the Speakership. If you will not be in a position to make communications as provided for under our own Standing Orders---

The Speaker (Hon. Kingi): Leader of the Minority, I have been very quiet keenly following your argument and I want to pick your point of order but I am not getting it. What is your point of order?

The Senate Minority Leader (Sen. Madzayo): Mr. Speaker, Sir, I was waiting for the communication and because it was not forthcoming, the only way I would ask for an avenue, as a leader in this House, which I think I am entitled to---

I need a proper explanation as to why the Minority side is not having its leadership in place, as per the letter I wrote to you and as required by our Standing Orders to communicate to the House.

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

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, I have no business whatsoever in what happens in the leadership of the Minority side, but I have an interest in the procedures of this House because we are leaders and we respect the rule of law.

I hear the submissions my brother is making before you but I would wish to caution you that there has been history in this House. There is a history where, when one side of the House had the kind of challenges that the Minority side is currently experiencing; one side of the factions that for whatever reason were wrangling, presented before the then Speaker minutes of a purported parliamentary group meeting, as is expected of Standing Orders done before procedure provided right now.

Later on, and this is just good history because history is good reference material, especially if a man is in your place and you are expected to make a decision in the best interest of this House. Minutes later, the side which I belonged to in our coalition then and we were properly the Majority, we presented also the minutes of our parliamentary group meeting then.

Unfortunately, the then Speaker for whatever reason decided to do what my brother Sen. Madzayo is inviting you to do, that is, hurry the process and to not consider any submissions that have been made before you. He did communicate in minutes actually. It was the most absurd day in this House.

In the midst of our debate that was ongoing, the Speaker walks in, relieves the person who was in the Chair, and goes ahead to make a Communication. It became a stain on the fabric of the Senate as an institution, something that we regret up to date.

This is because after that, there were court battles and debates. In fact, the Speaker found himself in such an awkward situation such that later on, when they were challenged that afternoon and asked to expound, they said that they would give a reasoned ruling. It is now three years after that. That Communication has never come from that Chair. Why am I saying this? I am saying this to warn you against any rush decision in terms of a change of leadership either from the Majority or Minority side.

Mr. Speaker, Sir, if the Senate Minority Leader, as is expected in his right, has written to you, I believe it is within your powers to make a determination in whatever way. I would never have had interest in this matter. I only got concerned when the Senate Minority Leader said that he communicated to you and he expects you to make a ruling right now. I got concerned a bit because we have been there before. It is within their right but the dignity of this House rests in your hand.

I rest my case, Mr. Speaker, Sir.

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

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

Sen. Olekina: Mr. Speaker, Sir, I consider this as a House of union and reason. With humility, I rise to try and persuade us that this House is guided by nothing but these Standing Orders.

(Applause)

Mr. Speaker, Sir, the minority side is defined in the Standing Orders. If you go to Standing Order No.2, it defines what a parliamentary party is. With your permission, I will read it:

“Parliamentary party means a party or a coalition of parties consisting of not less than ten Senators.”

Mr. Speaker, Sir, I beseech you to consider the communication that you received from the Senate Minority Leader following particularly Standing Order No.23(6) which states as follows:

“Upon a decision being made by a Minority Party under this Standing Order, the decision of the Party shall be communicated to the Speaker in writing, together with the minutes of the meeting at which the decision was made-

(a) in the case of the removal of the Senate Minority Leader or the Deputy Senate Minority Leader, by the Senate Minority Whip; and

(b) in the case of the removal of the Senate Minority Whip or the Deputy Senate Minority Whip, by the Senate Minority Leader.”

In this case, the decision was affecting the Minority Whip. The Standing Orders provides for a procedure to be followed.

Mr. Speaker, Sir, my colleague, the Senate Minority Leader, has communicated. Sometimes, communication is something which is a privilege that some of us are given but we have different ways of communicating. We are just coming back from a Parliamentary Group (PG) meeting with our Party Leader and the same information has been communicated.

I know you sit there and sometimes you do not see. A good point in case was yesterday when you were not able to see what was going on until it was pointed out by some of us.

Today, the minority side has communicated to you. It would be prudent for you to communicate to us because the Senate Minority Leader has advised us and we believe that that advice is good.

He told us that he submitted the communication yesterday during the Senate Business Committee (SBC) meeting. He said that he even pleaded with the majority side to hold on their changes which I think have taken effect already or will be taking effect from today, to a point when the minority side will also be submitting their changes. When we approached the Chair to find out whether the communication was done, we realised that it has not been done.

Mr. Speaker, Sir, I request you to take into account the communication given by the minority side as per the Standing Orders. If you want us to give you time, it should be you to advise us on when we can expect the communication, because you sit in that Chair while we sit on this side. This is so that when we go back to our PG, we can communicate.

I do not have a problem with my colleagues from the other side of the isle weighing in on this matter. The history given by my colleague is important, but I think that history also guided the amendments of these Standing Orders.

Mr. Speaker, Sir, I rest my case and request that you consider the argument made by my brother the Senate Minority Leader to effect the changes as per the wishes by the minority side.

I thank you.

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

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

Sen. Abdul Haji: Mr. Speaker, Sir, I will not purport to know what the Standing Order dictates in this particular moment. However, I would like to take this opportunity to talk to the colleagues on my side.

As far as I am concerned, in my personal opinion, this is a rush decision.

(Loud consultations)

Sen. Abdul Haji: Can I finish? May I be protected, Mr. Speaker, Sir?

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

Hon. Senators, we spent time yesterday reminding ourselves about the Standing Orders. We agreed that going forward, we are going to walk the straight and narrow. If you are not going to respect the Standing Orders, I am afraid, I would rather preside over an empty Chamber than preside over a market.

May the Senator be heard in silence?

(Sen. Sifuna spoke off record)

Sen. Sifuna, Sen. Haji is on a point of order.

Sen. Sifuna: What is his point of order?

Sen. Abdul Haji: The same point of order.

The Speaker (Hon. Kingi): Sen. Sifuna, it is the Chair to be concerned about his point of order. It is not your concern. I am the presiding officer here.

Proceed, Sen. Abdul Haji.

Sen. Abdul Haji: Thank you, Mr. Speaker, Sir, for your protection.

I clearly stated earlier that I am talking to my colleagues. I think this is a rush decision because you are basing your decision on the way it is portrayed out there and what you are getting from the media.

As colleagues in the same coalition and as leaders, if you got wind that there is a problem on the side of Jubilee Party, the best thing is to reach out to the Jubilee Party and find out why Members of the party are disgruntled about being in the Azimio la Umoja–One Kenya Coalition Party. However, what you have simply done is to jump into conclusion that the Jubilee Party wants to get out of the Azimio la Umoja–One Kenya Coalition Party and this is the right time to punish individual Members.

Mr. Speaker, Sir, just a few months ago, we had a similar issue in this House. It is the same Secretary General of the Orange Democratic Movement (ODM), Sen. Sifuna, who kept reminding me that as Senators, we are leaders and therefore we should not take direction from the principals.

Now, it seems the same Members are taking directions from people outside this House to make decisions and to chart the way for the Members of the coalition. It seems like certain Members are itching for certain positions of leadership in this House.

The right thing would have been to wait and see if the threat made by a certain Member of the Jubilee Party to exit the coalition was true then make your move on individuals holding positions that you want to take.

(Applause)

I urge the Senate Minority Leader and the Deputy Whip that this is not the time to go against your colleagues in the leadership without getting the substance of the problem that you are having in the coalition.

Mr. Speaker, Sir, just to mention, immediately Members of the Jubilee Party went to the State House--- I think the Senator for Isiolo County addressed this matter yesterday, that there is really nothing wrong with Members of Jubilee Party going to State House like they did.

Instead of the leadership of the Azimio la Umoja–One Kenya Coalition Party calling Members of the Jubilee Party and asking them about the discussions they had at the State House, they opted to go out in public rallies to insult Members of the Jubilee Party calling them political prostitutes.

These are leaders. If Members of Parliament (MPs) cannot interact with the Head of State because of their political affiliation, then it would only be fair that also the governors of the same political affiliations do not interact with the Head of State.

(Applause)

If this punishment is being laid out on *Jubilee* because they have met with the Head of State, why is it okay for some leaders to meet with the Head of State and others no to?

As far as exiting *Azimio*, I have mentioned it here, that it is not a decision that has been reached to the very end. I urge the leadership to hold their horses as well as those who are itching for these positions to also wait because the positions will still be there for the taking.

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

Sen. Kathuri: Thank you, Mr. Speaker, Sir. I do not want to get to the details of the reasons why there are some movements of the leadership in the Minority side. However, I have been struggling to read this Standing Order No. 23 all the way to 6(b). There is nowhere that the Speaker is given time to respond to the request by the Senate Minority Leader.

I find it a bit strange that the Senate Minority Leader can come to the Floor of this House to demand. He is furious that you should give a response to him immediately after he had served you the letter.

Mr. Speaker, Sir, your office is an honourable office. If we will not respect it then we are moving in the wrong direction. I kindly request the Senate Minority Leader to hold his horses and give the Office of the Speaker time.

I am now speaking as the Senator of Meru County not as the Deputy Speaker. So that we can have respect in this House, you must be given time to even understand the reasons because at the end of the day, we will stop at you.

Also, the Senate Minority Leader is out of order to come and reprimand the Speaker to give you an answer on the Floor.

(Applause)

Therefore, I kindly suggest that he apologizes to the Speaker and gives him time to respond to the request.

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

The Speaker (Hon. Kingi): please proceed.

Sen. Osotsi: Mr. Speaker, Sir, I am rising on Standing Order No. 23. Yesterday, you rightly pointed out that you are strictly going to conduct the business of this House using the Standing Orders and we supported.

I implore you to strictly adhere to that directive. This is because the matter before you is defined in the entire Standing Order No. 23 specifically, 23(6).

It says-

“Upon a decision being made by the Minority Party under this Standing Order, the decision of the Party shall be communicated to the Speaker in writing, together with the minutes of the meeting at which the decision was made”.

Mr. Speaker, Sir, I believe we are going contrary to the Standing Orders by allowing debate on this matter. It is simply a communication to you and you verify the documentation and the particulars that have been given to you, then communicate to the House. It is out of order for Senators to debate this matter. The Standing Order is very clear that it just requires a communication.

Secondly, do not be invited to be a judge on a matter that involves a political party. We have had rulings. When I was in the National Assembly, this matter came up, we had a ruling. In the last Senate, this matter came up with a ruling.

The Speaker clearly pronounced that he is not a judge in a matter of a political party. You simply communicate the communication that has been made to you by the respective party.

Mr. Speaker, Sir, based on your pronouncement yesterday, we would want to urge you to strictly adhere to the provisions of the Standing Order.

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, if you look at your Order Paper, it is fairly long today. Therefore, we should not entertain unnecessary points of order. When the Senate Leader of Minority stood on a point of order, I followed very keenly to pick what the point of order was all about. When I could not trace the point of order, I asked him what it was. Still, I could not pick it.

Indeed, I received the communication yesterday evening from the Office of the Senate Minority Leader indicating changes in the Office of the Senate Minority Whip. It was received beyond 5.00 p.m. That communication is being processed in the usual manner that every business of this House is processed.

I take it to be disorderly for the Senate Minority Leader to stand on the Floor of this House to basically and, indeed, frogmarch the Chair by demanding that the Chair makes a communication here and now.

That communication is being processed in the usual manner and a communication is going to be made as per the Standing Orders. There shall be no inordinate delay on that matter. However, having listened to the many points of orders that have been made, while making that communication, I will be making a ruling on this matter.

If the other points of order had not been raised, it would be a straightforward matter because I will just abide by the communication from the Senate Minority Leader. Having listened to Senators rise on points of order, it will only be fair that I also address myself to those points of orders that have been raised.

Therefore, as I communicate on that letter by the Senate Minority Leader, I will be making a ruling on the many points of orders that you have made so that we can rest this matter and move forward.

What is your point of order Senate Minority Leader, Sen. Madzayo?

The Senate Minority Leader (Sen. Madzayo): Mr. Speaker, Sir, as I stated, I know you have made a ruling on this matter on what has been stated here in form of a debate with regards to the letter that I have written to you.

I only want to pray and hope that we stick to the Standing Orders of the House. This is because as you have declined to give your ruling today, I do not know whether this matter really requires an implementation or a ruling. As you can see, on the Minority side, I am all alone because I have already submitted the letter.

(Loud consultations)

I do not understand why I am being interrupted when I am still on my feet. The Standing Order provides that if I stand on a Standing Order, I should not be interrupted.

The Speaker (Hon. Kingi): Senate Minority Leader, kindly take your seat.

Hon. Senators, please, take time to read your Standing Orders. If you do that, we will have minimal interjections as we prosecute business in this House.

When the Chair makes a ruling, you do not revisit that matter. It is here. I allowed the Minority Leader to stand on a point of order, hoping that he was going to pick on a different matter that I have not ruled on. I have already ruled on that matter.

If you rise on a point of order, it must be on a different subject and not that particular matter. That matter rests until the Chair gives its ruling. Thank you.

Next Order.

Sen. Abdul Haji: Mr. Speaker, Sir, on a point of information.

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

Sen. Abdul Haji: Thank you, Mr. Speaker, Sir. Mine is on a different matter because I know you have ruled on the previous matter.

I would like to inform the House that Jubilee Party has equally written a letter regarding this matter. Therefore, I also request your good office to make a ruling, having looked at those letters from the Coalition.

(Loud consultations)

The Speaker (Hon. Kingi): Sen. Abdul Haji and Hon. Senators, maybe I will switch to Kiswahili, so that we may make progress.

Waheshimiwa Maseneta, ninawasihi tusome Kanuni za Kudumu zinazoendesha ratiba ya Bunge la Seneti. Tukifanya hivyo, shughuli yetu ya Bunge itakuwa rahisi sana. Bunge hili liko na sheria zake. Hata tupitie shida aina gani, shida hiyo iko na sheria zake ambazo zimewekwa wazi hapa.

Nimewasikiliza wale waliosimama kwa hoja za nidhamu na nikasema nitatoa uamuzi wangu. Pia nikasema ikiwa una jambo ambalo linahusu lile swala ambalo tayari tumeshazungumzia katika hoja zenu za nidhamu, hakuna haja kusimama na kulizungumzia tena.

Sen. Abdul Haji, unayoyazungumza ni yale ambayo tumeshazungumza. Kwa hivyo, umekiuka nidhamu.

Tafadhali, mambo ya barua iliyoandikwa na Kiongozi wa Walio wachache nimeyazungumzia hapa. Mambo ya barua ambayo Sen. Abdul Haji amezungumzia, pia iko mezani mwangu. Wakati ninatoa uamuzi, hayo yote tutayaweka bayana na hatutachelewa.

Ni kweli kwamba upande wa Walio Wachache wanasema kuwa wako na hamu ya kwamba tulitatie jambo hili na twende mbele. Mimi ninawahakikishia upande wa Walio Wachache, kwamba kamwe sitachukua muda kutatia jambo hili. Uamuzi wangu utakuja kwa haraka na sidhani kwamba tutachelewesha haki yenu.

Kwa hivyo, tafadhali mada hii ambayo tumeshaizungumzia tuiwache pale kisha mnipatie fursa ili nilete uamuzi. Na mimi sitachelewesha uamuzi wangu.

Asanteni.

(Loud consultations)

The Speaker (Hon. Kingi): The Chairperson of the Committee on Justice, Legal Affairs and Human Rights, kindly, proceed.

PAPER LAID

REPORT ON THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO.5 OF 2022)

Sen. Wakili Sigei: Mr. Speaker, Sir, I beg to lay before the House the following Paper, today, 15th February, 2023: -

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the consideration of the Parliamentary Powers and Privileges Amendment Bill, Senate Bills No.5 of 2022.

(Sen. Wakili Sigei laid the Paper on the Table)

The Speaker (Hon. Kingi): Next Order.

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

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

Sen. Olekina: Bw. Spika, hata mimi nitajaribu kunena kwa Kiswahili. Ninasimama kulingana na Kanuni ya Kudumu ya Kwanza, ambayo inasema kwamba Bw. Spika atatoa mwelekeo katika jambo ambalo halijazingatiwa katika Kanuni za Kudumu.

Sijui iwapo nimeharibu Kiswahili ama nimeongea vizuri. Langu ni kwamba, tunapotazama hizi Kanuni za Kudumu ili tuwe na mwelekeo mzuri, ningekusihi kwa heshima kubwa utupatie tarehe kwa sababu ya jambo moja.

(Loud consultation)

The Senate Majority Leader (Sen. Cheruiyot): That is the same issue.

Sen. Olekina: Bw. Spika, ninaomba sekunde 20 peke yake.

The Speaker (Hon. Kingi): Sen. Olekina, tafadhali, rejea kwenye kiti chako, ukae na utulie.

Next Order, please.

Sen. Sifuna: Bw. Spika, Hoja ya nidhamu!

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

Sen. Sifuna: Bw. Spika, ninajua kwamba niko kwenye vitabu vyako vibaya na labda hunioni. Ninaomba tu mwongozo wako. Iwapo Seneta atasimama, azungumze na anitaje ama amtaje Seneta mwingine, mbona huwezi kumpa yule Seneta aliyetajwa, nafasi ya kujitetea, ili uamuzi wako nao ujumuishe maoni ya kila mtu?

Ndugu yangu, Sen. Abdul Haji amezungumza na akataja mambo fulani kunihusu mimi kama Katibu Mkuu wa Chama. Hujanipa fursa nizungumzie madai ambayo ametoa dhidi yangu. Sio kulingana na mada ya barua ya mstahiki Kiongozi wa Walio Wachache. Madai aliyotamka dhidi yangu binafsi kama Katibu Mkuu wa chama cha Orange Democratic Movement (ODM). Hilo ndilo lilikuwa linaniwasha hapa.

Tumefika wakati ambao tunaona iwapo sheria ni msumeno wa kweli, ukate Sen. Sifuna na ukate wale wengine. Mimi ninahisi kana kwamba sisi wengine umetuweka pembeni na maoni yetu hayahitajiki kwenye mijadala katika Nyumba hii.

(Applause)

Ninaomba uamuzi wako. Je, jinsi ambavyo Seneta wa Kaunti ya Garissa amezungumzia maswala ambayo yanaambatana na mimi mwenyewe kama Katibu Mkuu wa chama, nitapata fursa gani? Ni baada ama kabla ya uamuzi ambao unapania kutoa kuhusu swala nzima?

The Speaker (Hon. Kingi): Tafadhali Waheshimiwa Maseneta, ninafikiri tumeijadili hii mada. Nimezungumza na nikawaambia tutakavyoendelea.

Sen. Sifuna, ninataka nikuambie sasa, wakati ninafanya uamuzi, jina lako halitakuwa katika uamuzi huo. Kwa hivyo, usiwe na shaka, kwa sababu katika maamuzi yangu, sitataja majina ya Maseneta.

Uamuzi wangu utaambatana na sheria na Kanuni za Kudumu za Bunge. Usiwe na shaka kwamba pengine katika uamuzi wangu nitakutaja na niamurishe kwamba uchukuliwe hatua za kinidhamu au ushtakiwe. Hilo halitafanyika, usiwe na wasiwasi. Nikifanya uamuzi wangu, yale yote yamezungumzwa hayataguzwa. Uamuzi wangu utaongozwa na Kanuni za Kudumu za Seneti na sheria zinazoongoza taifa letu la Kenya.

The Senate Majority Leader, proceed.

NOTICES OF MOTIONS

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I rise to give notices of the following Motions-

APPROVAL OF THE SENATE CALENDAR FOR THE SECOND SESSION OF THE THIRTEENTH PARLIAMENT

THAT, pursuant to Standing Order 32 (1), the Senate approves the Calendar (Regular Sessions) for the Second Session of the Thirteenth Parliament (February to December, 2023), laid on the Table of the Senate on Wednesday, 15th February, 2023.

APPROVAL OF SEN. DAVID WAFULA WAKOLI, MP, TO SERVE IN THE COMMITTEE ON POWERS AND PRIVILEGES

THAT, NOTWITHSTANDING the resolution of the Senate made on 13th October, 2022 and 15th November, 2022, on the approval of Senators to serve in Select Committees of the Senate, and pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Orders 197 and 199, the Senate approves Sen. David Wakoli Wafula, MP to serve in the Committee of Powers and Privileges in place of Sen. Miraj Abdulahi, MP.

APPROVAL OF CHANGES IN THE MEMBERSHIP OF STANDING COMMITTEES

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 13th October, 2022 and 15th November, 2022, on the approval of Senators to serve in Select Committees of the Senate, and pursuant to Standing Orders 199, 228, and the Fourth Schedule to the Standing Orders, the Senate approves the Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

(i) Standing Committee on Agriculture, Livestock and Fisheries, Sen. David Wafula Wakoli, MP to replace Sen. Maureen Tabitha Mutinda, MP.

(ii) Standing Committee on Devolution and Intergovernmental Relations, Sen. David Wafula Wakoli, MP to replace Sen. Esther Okenyuri, MP.

(iii) Standing Committee on Energy, Sen. William Kisang' Kipkemoi, MP to replace Sen. Veronica W. Maina, MP.

(iv) Standing Committee on Information, Communication and Technology, Sen. William Kisang' Kipkemoi, MP to replace Sen. Gloria Magoma Orwoba, MP.

(v) Standing Committee Justice, Legal Affairs and Human Rights, Sen. Karen Njeri Nyamu, MP to replace Sen. Samson Kiprotich Cherarkey, MP.

(vi) Standing Committee on Labour and Social Welfare, Sen. Gloria Magoma Orwoba, MP to replace Sen. Karen Njeri Nyamu, MP.

(vii) Standing Committee on Trade, Industrialization and Tourism, Sen. (Dr.) Lelegwe Ltumbesi, MP and Sen. Esther Okenyuri, MP, to replace Sen. Danson Mungatana, MP and Sen. Tabitha Karanja Keroche, MP.

APPROVAL OF SEN. WILLIAM KISANG' KIPKEMOI, MP,
TO SERVE IN THE SELECT COMMITTEE ON CPISF

THAT, NOTWITHSTANDING the resolutions of the Senate made on 19th October, 2022 and 15th November, 2022, on the approval of Senators to serve in Select Committees of the Senate and pursuant to Standing Orders 194, 197 and 199 of the Senate, the Senate approves Sen. William Kisang Kipkemoi, MP to serve in the County Public Investments and Special Funds Committee, in place of Sen. James Kamau Murango, MP.

The Speaker (Hon. Kingi): Next Order.

What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Mr. Speaker, Sir, you made a ruling based on a communication that was given to you in what appears as late notification. The changes that are being made by the other side of the House---

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, have you just walked in?

Sen. Oketch Gicheru: Mr. Speaker, Sir, I am referring to the Notice of Motion the Senate Leader of Majority has given.

The Speaker (Hon. Kingi): As you are raising a point of order, do not refer or infer on the other matter.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I apologise. The Order we are discussing was not communicated at the right time. We are observing a situation where they are having changes made, while ours are not being made concurrently.

(The Speaker stood in his place)

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, take your seat, when the Chair is upstanding.

Hon. Senators, yesterday, we spent time constituting the Senate Business Committee (SBC). After electing the SBC, we proceeded to have our first meeting. In the meeting, the SBC looked at the business that is supposed to appear on the Order Paper.

One of the business passed by the SBC to appear on the Order Paper today is what the Senate Majority leader has read. If the Minority Party had a similar issue like the changes done by the Majority Party, nothing would have stopped them from placing the matter before the SBC.

In that meeting, the Senate Minority Leader asked and I told him that he could make changes and convene an extraordinary SBC to carry the changes in the Order Paper. This has not been done. Sen. Oketch Gicheru, stand guided. Whatever you are seeing in the Order Paper is a product of SBC and not one from the Majority side.

Sen. Githuku, proceed.

Sen. Githuku: Asante sana Bw. Spika. Nakushukuru sana kwa muongozo huo. Mimi kama mwanachama wa Jubilee, nafahamu kwamba wakenya wamechoka. Hatutaki maandamano. Umetoa uamuzi na tunafaa turejeele shughuli zetu kwenye Ratiba. Maseneta wameanza kutoka nje badala ya kuendelea na kazi tunayofaa kufanya.

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

Sen. Githuku: Bw. Spika, umetupa mwelekeo naomba tuendelee mbele. Wale wanaotaka kutoka nje wanaweza toka na kutuacha tufanyie wananchi kazi.

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

PROVISION OF FREE SANITARY TOWELS TO END PERIOD POVERTY

Sen. Orwoba: Mr. Speaker, Sir, I beg to give Notice of the following Motion -

THAT, AWARE THAT period poverty refers to the common challenge plaguing women globally, wherein they are unable to attend schools or work as a cause of lack of funds for sanitary products, that is both a health risk and a signal of gender inequity.

(Loud consultations)

The Speaker (Hon. Kingi): May Sen. Orwoba be heard in silence?

Sen. Orwoba: Mr. Speaker, Sir, kindly.

FURTHER AWARE THAT in rural Kenya, two out of three pad users receive pads from sexual partners and 65 per cent of women and girls cannot afford sanitary pads, forcing them to use alternative materials like grass, cotton wool and cloth which lack adequate absorbent qualities resulting in frequent leakage and hygiene issues;

CONCERNED THAT period poverty also referred to as the “shadow pandemic” contributes to global and regional gender inequity, as women are forced to solicit help from men in order to satisfy a basic

health need with 10 percent of 15-year-old girls having sex to pay for sanitary products;

FURTHER CONCERNED THAT, data from the Ministry of Education indicates that a girl that is absent from school for four days a month loses 13 learning days, equivalent to two weeks of learning in every school term. Translating to 39 learning days or six weeks of learning time in a term and up to 18 of 108 weeks in primary and 24 weeks of 144 weeks of learning in secondary school;

NOTING THAT, while the Government, through the State Department for Gender Affairs was charged with the responsibility of procuring and distributing sanitary towels for 3.7 million girls in public primary schools, special primary and secondary schools in the country at a cost of Kshs470 million during the 2017/2018 Financial Year, which amount needs to be increased in order to fully address and mitigate the problem;

NOW THEREFORE, the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action in partnership with the Ministry of Education and the Council of Governors to-

(1) Facilitate provision of feminine hygiene products in all public schools.

(2) Ensure that all schools that do not have bathrooms that facilitate privacy, cleanliness or proper disposal of hygiene products are properly equipped.

(3) Create awareness and take advocacy measures on reproductive health issues related to period poverty.

(4) Include in the curriculum a dedicated lesson per week to teach girls on menstrual hygiene.

(5) Ensure that sanitary products will be obtainable, timely, consistently, and in a way that respects the dignity of concerned persons.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Mohammed Chute.

INSTITUTION OF MEASURES TO CURB INCESSANT HIGH ELECTRICITY COSTS IN KENYA

Sen. Chute: Thank you, Mr. Speaker, Sir. I beg to give notice of the following-

THAT, AWARE THAT energy is an essential factor of production and its total consumption is a major determinant of performance of the economy with its cost and reliability, spurring or stifling economic growth;

FURTHER AWARE THAT, there has been a significant growth in the demand for electricity in Kenya driven by economic growth and increased efforts towards rural electrification while the supply has been constrained due to and among other factors, the over-reliance on hydro-

electric power generating plants that have been negatively impacted by perennial drought experienced in the country;

NOTING THAT the imbalance in the demand and supply of power coupled with payments by the Kenya Power and Lighting Company (KPLC) for produced power not consumed and fluctuation in the foreign exchange rates contribute to the high cost of electricity;

APPRECIATING THAT Kenya has made strides in diversifying its power sources with geothermal plants, offering tremendous potential for zero-carbon source of power, already producing nearly one Gigawatt (GW) of power;

CONCERNED THAT private power generating companies popularly referred to as Independent Power Producers (IPPs) only supply 28 per cent of power to KPLC but account for 47 per cent of power purchase costs calling for the need to enhance energy management in Kenya;

NOW THEREFORE, the Senate resolves that-

- (a) The Standing Committee on Energy to undertake an inquiry into:
- (i) Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements; and their implications on affordability of electricity in the country;
 - (ii) Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs, and
 - (iii) The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, bypassing the inadequately supplied northern frontier counties of Marsabit and Samburu.
- (b) The Ministry of Energy to come up with a policy framework aimed at-
- (i) Lowering the cost of electricity as a way of addressing the high cost of living; and
 - (ii) Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy and among others as a way of reducing the carbon footprint.

Thank you, Mr. Speaker, Sir.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to indulge you together with my colleagues. The Order Paper is quite heavy and we are still doing notices of Motion.

If you were to approve the same notices of the same Motions, chances are that between now and the rise of the House at 6.30 p.m., we may not debate any of those Motions.

While handling that and taking into consideration what is happening in the House, one important factor is the fact that there are also two colleague Senators who are not serving in any Committee whatsoever. They are Sen. Wafula and Sen. Kisang. We have proposed that in Orders No.11 and 12.

Mr. Speaker, Sir, would I be in order to request you that we re-arrange the Order Paper in order to allow us prosecute those particular businesses in that order? Once we conclude on those changes, our Committees can start work even as our colleagues in the Minority side rearrange and plan themselves.

I humbly request that we do that. If we conclude in good time, we will have a few procedural Motions as well, which we do not intend to debate. They are mundane, but important things like the Parliamentary Calendar and limitations of debate time; basic things which we do not need to debate about.

That is my humble request to you if you so permit.

The Speaker (Hon. Kingi): Senate Majority Leader, kindly approach the Chair.

*(The Senate Majority Leader
(Sen. Cheruiyot) approached the Chair)*

Hon. Senators after consulting the Senate Majority Leader, we will proceed with the Order Paper as drawn.

The Chairperson of the Standing Committee on Finance and Budget, proceed.

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

We are going to defer Sen. Wamatinga's Notice of Motion.

Next Order.

STATEMENTS

RESTRICTION OF MUSLIM GIRLS FROM WEARING THE HIJAB IN PUBLIC INSTITUTIONS

Sen. Mariam Omar: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order 52 (1) to make a Statement on a matter of national concern, namely; to register my displeasure in the manner in which our public educational institutions are treating our Muslim girls, by restricting the observance of their faith through banning them from wearing the *hijab*, which is a blatant discrimination of enjoyment of their right to education.

Mr. Speaker, Sir, whereas Kenya is a secular State, it is not founded on hostility to religion. Rather, the Constitution itself, in the Preamble, acknowledges the supremacy of Almighty God and contains in its Second Schedule, the National Anthem, which is a prayer invoking God's Lordship over the Nation. The people of Kenya in the Preamble to the Constitution proclaim that we are:-

“Proud of our ethnic, cultural and religious diversity and determined to live in peace and unity as one indivisible sovereign Nation.”

This shows that it is incumbent upon all schools to teach students from an early age determination to live in peace undivided in spite of diversity at micro and national level, must be translated even at micro school community.

Mr. Speaker, Sir, diversity is further amplified in Article 10(4) of the Constitution, which declares that among the national values and principles of governance, which are binding on:

“All persons whenever any of them makes or implements public policy decisions” is “(b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.”

The *hijab* is not a matter of choice but a religious obligation, which should not be hindered. It is the instrument by which women are able to effectively participate in society as supported by Islam.

School uniforms play a significant and critical role in the observance of rules in controlled environments, which one can expect to find in any national secondary school in Kenya. It is not disputed that school uniforms assist in the identification of students and gives them a sense of belonging to one community of students. It promotes discipline, unity and harmonious co-existence among students. It instills a sense of inclusivity and unity of purpose. In my view, the most important role played by standardized school uniforms is that they create uniformity and visual equality that obscures the economic disparities and religious backgrounds of the students who hail from all walks of life.

But it is impractical to expect that a parent or a new student joining a school in Form One will have a meaningful opportunity to engage in a negotiation, pre-admission, of whatever exemptions, be it in uniform or other activities that they may need for religious reasons. The wearing of the *hijab* is genuinely and deeply considered to be a matter of exceptional, religious significance to our girls. Their desire to wear *hijab* is not born of skin-deep artificial or passive fashion, but rather serious concessions to obey religious requirements. They, therefore, deserve both respect and protection.

Mr. Speaker, Sir, I am of the opinion that schools are not enclaves that are outside the reach of the sunshine of liberty and freedom that the Constitution provides for. Students do not abandon their constitutional rights when they enter the school gate to regain them when they leave; nor can fundamental rights and freedoms be contracted away in the name and at the altar of education. Schools cannot rise against the Constitution. No one can. Students in Kenya are bearers and exercisers of our Bill of Rights and they are no less entitled to those rights by reason only of being within school gates.

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

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

The 2019 Supreme Court ruling that every school had the right to determine its own dress code, overturning a 2016 judgment by the Court of Appeal which allowed Muslim students to wear *hijabs* in non-Muslim schools, and directed the Government to frame guidelines, did not promote integration, peace and tolerance in our schools and communities.

The protection of the rights of the minority through appropriate accommodation should be upheld. It is important that the values of diversity and cohesiveness, which

extend to all spheres of life, including schools, should be enriched. This is also found in Section 4(2) of Basic Education Act, which upholds the principle of cohesiveness and diversity and Section 27(4) of the same Act obligates the sponsors to respect the religious diversity of others.

Kenyan girls, including those from Muslim communities, already face multiple barriers to completing their education. Traditional practices such as Female Genital Mutilation (FGM) and child marriage often force adolescent girls to drop out of school. That said, schools banning *hijabs* could lead to higher drop-out rates.

The Supreme Court in its judgement missed a landmark opportunity to entrench women's right to privacy and the right to choose what any woman wants to wear. I believe a person's religious convictions need not to make sense to us in order for us to accord them the necessary respect and space for them to flourish.

An issue that may appear tripling to one maybe---

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Mariam Omar. Can you kindly summarize because the Statement that I have here is brief?

Sen. Mariam Omar: Mr. Deputy Speaker, Sir, I am almost done.

The Deputy Speaker (Sen. Kathuri): Kindly skip what you can.

Sen. Mariam Omar: Okay, Mr. Deputy Speaker.

The validity and the right to hold religious beliefs are not dependant on general acceptance on majority votes. They are personal to the individual in accordance with their inner life and must be respected because they are clear not to observers, but to believers.

I am pleading with our educational institutions that Muslim girls be allowed to wear a limited form of *hijab* (a scarf and a trouser) as a manifestation, practice and observance of their religion consistent with Article 32 of the Constitution of Kenya and the right to equal protection and benefit of the law under Article 27(5) of the Constitution.

All these provisions and pronouncements in the Constitution are not mere platitude. They are not words devoid of significance, rather they are firm commitments made by the people of Kenya as part of the vision of the societies they wish to live in. They are mutual reciprocal promises made by and to all Kenyans and they are binding rules.

It is my considered opinion that the duty of the courts in interpreting the Constitution ought to ensure the value which finds expression to the Bill of Rights be given a broad meaning and be considered as a living, active essential and not a lifeless form. The court must breathe into to the constitutional text to give it relevancy.

Mr. Deputy Speaker, Sir, in conclusion, in the words of the former Chief Justice of South Africa, Pius Langa, who raised vital questions about the nature of discrimination in court; "the display of religion and culture in public is not a parade of horrible, but pageant of diversity which will enrich our schools and in turn our country."

I thank you.

The Deputy Speaker (Sen. Kathuri): The Statement stands committed to the Committee on Education.

(The Statement was committed to the

Standing Committee on Education)

The next Statement by Sen. Wamatinga and two Statements by Sen. (Prof.) Tom. Ojienda, SC, are pursuant to Standing Order No.53(1). To the best of my knowledge, they are not around. Therefore, we will defer them.

FORM ONE INTAKE IN THE COUNTRY

DISASTER MANAGEMENT
PREPAREDNESS IN KISUMU COUNTY
INVASION OF AHERO
RICE FIELDS BY QUELEA BIRDS

(Statements deferred)

The Deputy Speaker (Sen. Kathuri): Let us move to the next Order.

PROCEDURAL MOTIONS

LIMITATION OF DEBATE ON MOTIONS

The Deputy Speaker (Sen. Kathuri): Please proceed, Majority Whip.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I beg to move the following procedural Motion-

THAT, pursuant to Standing Order 111(1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party official responder, twenty minutes for the Minority Party official responder and fifteen minutes for each other Senator speaking; and further that fifteen minutes before the time expires, the Mover shall be called upon to reply.

Mr. Speaker, Sir, this is a purely Procedural Motion. It is in keeping with the traditions and customs of this House, that a Motion like this one is normally dispensed with the soonest.

Mr. Deputy Speaker, Sir, I beg to move and invite Sen. Tabitha Mutinda to second.

The Deputy Speaker (Sen. Kathuri): Please proceed, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Cherargei. Do you want to contribute? Okay, proceed.

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Sen. Cherargei: Mr. Deputy Speaker, Sir, I rise to support this Procedural Motion. I thank the Majority Side for bringing this Motion. We agreed that 20 minutes is sufficient for the Mover, the Majority and Minority side, although I can see they are not there. They must be busy with other things and thus betraying the trust of many Kenyans that voted for them.

Mr. Speaker, Sir, for us Senators, it is 15 minutes. It will allow us to coalesce and collate our ideas, so that we can give substantive arguments when we come to speak in the House. I think 15 minutes is sufficient for anybody to come up with issues.

Our Standing Orders are flexible at some point, on the 30 minutes, which is provided for Petitions and Statements. In future, I will request the Senate Business Committee (SBC) and your Office, to look into the issues of Statements because sometimes, some of the Statements coming before the House are live issues. Therefore, an opportunity should be given to matters of county or national concern.

If you even look at the Petition that was presented today these are some of the live issues, we want to talk about. It was on the alleged fraud by the First Choice Recruitment and Consultancy Agency as read by the Speaker.

Over 500 people were affected. Allegedly, some of them were lied to go and work during the World Cup event. Many widows, single mothers and orphans sold their land in Uasin Gishu, so that they could go to work during the World Cup event.

Mr. Deputy Speaker, Sir, these are some of the issues that we really want to grapple with. The Senate is being trusted. This Petition is very crucial, just like any other Motion or Statement that we bring to the House.

As you can see, the Petition has indicated that the DCI, the EACC and other agencies have failed in their job. The sad reality is that among the traitors and those who betrayed the people of Uasin Gishu some are in leadership positions.

I believe that going into the future, when we bring serious issues that are alive, such as today's Petition, we will come up with a report. If it is a report on First Choice Recruitment and Consultancy Agency, I request your office and SBC to follow up on implementation. If an implementing agency has failed to do their job, let them be held accountable because corruption can be nurtured when action is not taken on such cases.

I laud the Majority Whip for bringing this Motion. These are issues that we can dispense with and proceed with substantive Motions.

I support.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Cherargei. Actually, these three Motions are Procedural. From where I sit, I can see that no other Senator is interested. Sen. Wakili Sigei, before I bring it to closure, do you still want to contribute to this Motion?

Sen. Wakili Sigei: Mr. Speaker, Sir, I thank you for giving me an opportunity to respond. I had initially wanted to contribute, but when I felt there was no opportunity, it came.

I support the Motion. It is a Procedural Motion. Twenty minutes for a wise man or woman is sufficient to drive a point home. I am aware that the same Standing Orders also reserve upon the seat of the Speaker, the authority to extend, when need arises.

I support and laud the desk of the Senate Majority Leader, which has brought this up, so that we can transact as much business of the House, during this Session of the Senate and in good time.

I support.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Wakili Sigei. I now call upon the Mover to reply. Sen. (Dr.) Khalwale, you must be very attentive because you are the owner of this Motion.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I beg your pardon.

The Deputy Speaker (Sen. Kathuri): I request the Mover to reply.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I thank the three Members who have contributed to this Motion.

I beg to reply.

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Next order.

Proceed, Senate Majority Whip.

LIMITATION OF DEBATE ON ADJOURNMENT MOTIONS

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I beg to move the following procedural Motion on the Limitation of Debate on Adjournment Motion-

THAT, notwithstanding the provisions of Standing Order 111(4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day, in accordance with the calendar of the Senate, shall be limited to a maximum of two hours, with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put; Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

Mr. Deputy Speaker, Sir, again, this is a purely Procedural Motion. In keeping with the traditions and customs of this House, I request that we dispense with this quickly.

I wish to remind Members that limitation of debate has a rich history in this Parliament. The late President Mwai Kibaki, as the leader of opposition, would address the House for two hours, uninterrupted, without reference to any notes. The House would just sit and listen.

The late Hon. Martin Shikuku once addressed Parliament for seven days. It then forced the Rules and Procedure Committee to introduce the issue of limitation of debate. It was never a custom of this House.

Mr. Deputy Speaker, Sir, with those remarks, I move the Motion and invite the Vice-Chairperson of the Committee on Finance and Budget, Sen. Tabitha Mutinda, to second.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): From where I sit, no Senator is willing to contribute. So, I call upon the Mover to reply.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. I rise to reply and wish to thank the House for being united in the urgency of this matter.

I beg to reply.

The Deputy Speaker (Sen. Kathuri): Pursuant to Standing Order No.84(2), I determine that this matter does not affect counties. Therefore, I will put the question.

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Next Order.
Proceed, Senate Majority Whip.

LIMITATION OF DEBATE ON
MOTION ON THE ADDRESS BY THE PRESIDENT

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. I beg to move the following procedural Motion-

THAT, pursuant to Standing Order 27(6), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than 15 minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to 30 minutes in either case and that the Senate Majority Leader and the Senate Minority Leader, shall be limited to 30 minutes each.

Mr. Deputy Speaker, Sir, again, it is a purely procedural Motion limiting the debate on Motion on the address by the President. It is in the tradition and custom of this House to dispense with such Motions on procedure expeditiously, so as to allow time for more pressing and substantial Motions to be dealt with.

As I move this Motion, I remember President Uhuru Kenyatta addressed a Joint Sitting of the Houses in the 11th Parliament. Never have I ever seen a united Parliament in my life in this Parliament. Parliament was united behind the President because he was now dealing aggressively with the then trending matter, which had captured the imagination of this country; the fight against corruption.

The entire House broke its own rules and gave President Uhuru a standing ovation. Ooh! Satan is real. I do not know where he came from and changed President Uhuru.

I beg to move.

The Deputy Speaker (Sen. Kathuri): Majority Whip, was that part of this Motion? I am trying to read this Motion and it has nothing to do with what happened then. This is a procedural Motion on the way forward. How do we handle our business on such a Motion? Who is seconding?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I sat because you started talking. I could not remain standing when the authority of the Chair was having the microphone.

Mr. Deputy Speaker, Sir, I invite the Vice Chair of the Standing Committee on Budget and Finance, the distinguished Sen. Tabitha Mutinda, to second.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. I second.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Cheptumo.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, I support the Motion. However, in my experience, we have had a serious problem with time, even when we debated the last Presidential Address in the House.

Essentially, the Presidential address touches on important issues on which Members want to contribute. Fifteen minutes is a short time, but in this particular one, I support. However, in future, we should increase the time limit because last time I could not say as much as I wanted to.

I support.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Cheptumo. From experience, every Senator is always interested in contributing. At times, Members even propose that contribution time for each Senator be reduced to five minutes.

Let us hear from Sen. Wakili Sigei.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, ordinarily, the President is expected to address the House once every year. In that particular Address, he addresses all sectors affecting the country.

Limiting the time is for a good reason. Therefore, as and when the President has addressed the House, it is also appropriate to limit the time which the Members can speak to the speech.

I support the timeline given so that the House can transact its business, debating it for three days. This could mean discussing the matters affecting the nation as at the time and thereafter, revert to its normal business.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir for this opportunity.

Limitation is very important. However, in future, in the interest of time, and to dispense of the business; the Senate Business Committee (SBC) and the House leadership can decide to standardise it to 20 minutes for both Majority and Minority sides.

As my colleagues have said, this is the only time that the President has the opportunity to address Parliament and it is once. There are many reports that the President brings on board. He is tabling reports and there are also issues he is raising. For example, prevailing issues and issues that have happened. This is a constitutional obligation. It is in the interest of all of us that every Senator should at least say something about the State of the Nation Address.

It is a tradition practiced all over the world. You saw what was happening in the United States of America (USA) and other many jurisdictions. In my opinion, we must limit the debate. I think that the drafters of the Standing Orders assume that the Majority

and Minority sides carry heavy agenda on behalf of Members. It was just being given at the comfort that this is leadership and they have much more information that they can relay to the public and to the House.

I agree with Sen. Cheptumo who is the longest serving Member of Parliament and now as a Senator and he was also the former Chairperson of a powerful Committee, limiting time is important. He was my Co-Chairperson of Senate Justice and Legal Affairs in the National Assembly. When he says something, we do not take it lightly.

I have agonized over what he said. I believe in the right to listen to everybody analyze. When you see Sen. Cheptumo rising, I think the Majority Whip, the House Leadership and SBC where our sister Sen, Mutinda sits and, of course, yourself or the Office of the Speaker as the Chairperson. I think we should consider this because this comes with practice and tradition that have been carried over time. You also have serious experience with the same.

Mr. Deputy Speaker, Sir, in conclusion, I want to appeal honestly, we need to be fair. You find that we have given the Majority and Minority Leaders 30 minutes each, and then fifteen minutes for the rest of us. However, along the way, some of us ordinary ranking Members; ordinary hustlers, we are limited to two minutes or one minute.

I hope that the Majority Whip is taking note of our concerns. Some new Members in this House like Sen. Esther Okenyuri or Sen. Wakoli might be trying to organize their notes in the two minutes allocated. Some of them might not speak very fast. Some of us are not blessed. We are not all orators. Not all of us might have an advantage. In all honesty, and fairness just an observation that I saw.

When the Majority and Minority and senior House leadership when finish speaking, they come and whisper to you on your seat and tell you *kata*. Remember us in the kingdom so that at least we give everybody a fair chance. When you must reduce the 15 minutes, you can cut it to ten. That is just an observation notwithstanding.

Mr. Deputy Speaker, Sir, to allow the progress of the House and in the interest of the heavy agenda we have, I support the Motion and we should proceed.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, to defend this seat that I am sitting on, the Speaker has no vote. When you are told *kata*, it is not the Speaker who does the '*kataring*'. It is the House that makes the decision because the Speaker always puts question whether the Members allow two minutes or five minutes.

Next time you should mobilize these normal low-ranking Members to refuse that decision. I can see that there is no other Senator interested. I want to determine that this matter does not affect counties so that we do not contravene Standing Order No. 84(2) and then I put the question.

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

Oh! Sorry. The Mover should reply first.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, you have captured the mood correctly. We are trying to move as fast as possible. I want to thank all the Members for their contribution. So that does not look like I was being selective, President Mwai

Kibaki, in his address, after he won reelection and booed by the success of his first term that led to the rapid growth of the economy, addressed us.

The thing he spoke to up to this day, changed Equity Bank. President Kibaki spoke to the issue of the SACCOs and Societies Bill which he brought. That Bill introduced regulations and permission to allow SACCOs in taking deposits and continue giving loans. In the process, Peter Munga's Society SACCO which I think was very active in Murang'a changed into Equity Bank. The Equity Bank is today the single largest Bank in East and Central Africa.

That shows what Parliament can do. It shows the opportunities that we can open this country to if we pursue legislation. I say this because this afternoon's proceedings have been very nice. They have been so orderly. You have been so much in control. So much in control that the people who have been actually disrupting the proceedings are not in the House because they wanted to be allowed to continue misbehaving.

I beg to reply, Mr. Deputy Speaker, Sir.

(Laughter)

The Deputy Speaker (Sen. Kathuri): You can see now you are now almost spoiling the good mood the whole afternoon. This Bill does not concern counties. I put the question.

(Question put and agreed to)

Next Order.

BILLS

First Reading

THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES BILL (SENATE BILLS NO. 12 OF 2022)

*(Order for the First Reading read – Read the First Time
and ordered to be referred to the relevant Senate Committee)*

The Deputy Speaker (Sen. Kathuri): Next order.

First Reading

THE MUNG BEANS BILL (SENATE BILLS NO. 13 OF 2022)

*(Order for the First Reading read – Read the First Time
and ordered to be referred to the relevant Senate Committee)*

The Deputy Speaker (Sen. Kathuri): Next order.

*First Reading*THE START-UP BILL
(SENATE BILLS NO. 14 OF 2022)

*(Order for the First Reading read – Read the First Time
and ordered to be referred to the relevant Senate Committee)*

The Deputy Speaker (Sen. Kathuri): Next order.

*Second Reading*THE COUNTY VOCATIONAL EDUCATION AND
TRAINING BILL (SENATE BILLS NO. 3 OF 2022)

The Deputy Speaker (Sen. Kathuri): This Bill is sponsored by the Senator for Homa Bay County, Sen. Moses Kajwang. I can see he is not in the Chamber for reasons better known to him. Therefore, this Bill is deferred to a later date.

(Bill deferred)

Next Order.

*Second Reading*THE PARLIAMENTARY POWERS AND PRIVILEGES
(AMENDMENT) BILL (SENATE BILLS NO. 5 OF 2022)

The Deputy Speaker (Sen. Kathuri): This Bill is sponsored by Sen. Danson Mutangana, the Senator for Tana River County, who is not in the Chamber. The Bill is, therefore, deferred.

(Bill deferred)

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

The Deputy Speaker (Sen. Kathuri): What is out of order, Sen. Tabitha Mutinda?

Sen. Tabitha Mutinda: Mr. Deputy Speaker, Sir, on the same that you have guided the House on the Mung Beans Bill (Senate Bills No.13 of 2022), the Senator is also not in the House.

The Deputy Speaker (Sen. Kathuri): It was just the First Reading, but the others, which were ripe for debate were Nos.14 and 15. That is well executed, Sen. Mutinda.

Sen. Samson Cherarkey, proceed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, looking at the time that we still have, it is like one hour and thirty minutes before the close of business.

Mr. Deputy Speaker, Sir, yesterday when we were forming the Senate Business Committee (SBC), we agreed in unison. Yesterday was a good day because both the Majority and Minority Sides were in the House. Therefore, no one can say they did not agree.

I can see a number of my colleagues who sit in the SBC. Some of us have a number of very serious Bills that can change the lives of Kenyans, but we are dying for the moment to move them. Can we institute a form of punishment to defer orders whose Movers are not in the House to a month so that others who are on the pipeline can move theirs?

The Order Paper comes with the same Bills which are read, but the Movers are not in the House. Therefore, they are deferred. Out of our busy schedule, this is our responsibility. We have come to the Senate to listen and canvass on the main and core business of legislating.

I do not want to talk about whatever the Minority Side is doing. However, my prayer is that, through your office and the SBC, we can have serious and earth-shaking decisions so that Members know that even if they are traveling on an official trip, both locally and internationally, they should write to your office and request that their Statements, Motions and Bills be deferred until when they are available. This also includes when they want to picket or protest.

Therefore, through your office, I request the SBC to reconsider that so that we do not sit here to just read and adjourn when we have a lot of business.

We might be mistaken that we lack business. I do not want to go to that direction. Therefore, I appeal, through the SBC, in consultation with the Office of the Clerk, that we have a ruling or way-forward, be it openly or in SBC so that we do not waste time yet a number of us have businesses that do not appear on the Order Paper.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, when you rule, I will be well guided. I believe when you speak, you will not only do so as the Deputy Speaker of the House, but also as a member of *Njuri Njoke*.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, all these issues you have canvassed are right. I put this matter to SBC whose Members are here and the hon. Speaker is the Chair. It will be well discussed in the next SBC meeting so that we do not waste time. This is because we will be adjourning almost one and a quarter hour to time.

Sen. Wakili Sigei and Sen. Mutinda had point of orders.

Next Order.

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

I had called this order, but there was a point of order from Sen. Tabitha Mutinda. I also said that the Senator for Tana-River County, Sen. Mungatana, is not in the House to prosecute this Bill. Therefore, it stands deferred until he struggles to get some other time through the SBC.

BILL*Second Reading*

THE PARLIAMENTARY POWERS AND PRIVILEGES
(AMENDMENT) BILL (SENATE BILLS NO.5 OF 2022)

(Bill deferred)

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Thursday 16th February, 2023 at 2.30.p.m.

The Senate rose at 5.15 p.m.